

# TTAB

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

_____	)
TARGET BRANDS, INC.,	)
	)
Opposer,	)
	)
v.	)
	)
NEW AGE COSMETICS, INC.,	)
	)
Applicant.	)
_____	)

# 78820602

Opposition No: 91175637

BOX TTAB  
NO FEE  
Assistant Commissioner for Trademarks  
P.O. Box 1451  
Alexandria, VA 22313-1451

### APPLICANT'S MOTION FOR LEAVE TO FILE ITS ANSWER LATE

Applicant, NEW AGE COSMETICS, INC., by and through its attorney, hereby moves the Board for leave to file its Answer late.

#### INTRODUCTION

On October 26, 2007, the Applicant mailed an answer to the notice of opposition, pursuant to the Board's Order of October 1, 2007, allowing the applicant until thirty days from the Order to file it's answer. See Exhibit A. However, the answer was returned to the applicant undeliverable by the U.S. Postal Service, as counsel for the applicant had inadvertently used the old address, 2900 Crystal Drive, Arlington, VA 22202-3513, for the Board. Herein, applicant moves for leave to properly file the answer at the Board's current address, P.O. Box 1451, Alexandria, VA 22313-1451.

#### MEMORANDUM AND POINTS OF AUTHORITY

1. The Time for Answering Should be Reset.



Under Rule 2.106(b)(2)(ii) of the Trademark Trial and Appeal Board Manual of Procedure (TBMP), the times for pleading, discovery, testimony, briefs or oral argument will be reset or extended when necessary, upon motion by a party, to enable a party fully present. Here applicant mailed the answer to the notice of opposition within the allowed time, however, inadvertently to the Board's old address. On October 31, 2007, the U.S. Postal Service marked the envelop with the mailed answer "No Forwarding Order On File Return to Postmaster of Original Addressee for Review" (See Exhibit B), and on November 4, 2007, the mail was marked "Return to Sender not Delivered as Addressed Unable to Forward." See Exhibit C. The Board can also take note that applicant had previously mailed its prior motion to the Board, in these proceedings, to the same old address, on April 24, 2007, but that motion was not returned as undeliverable.

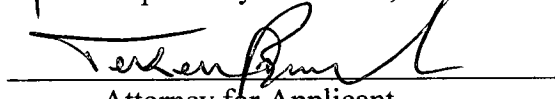
Here, also, resetting the time to answer would enable the applicant fully present its answer, to be tried on the merits. Moreover, opposer is not prejudiced by the delay. Opposer was served with a copy of the answer on October 26, 2007 (See Exhibit A), no discovery requests have been propounded, and the discovery and trial dates are currently set as follows:

DISCOVERY PERIOD TO CLOSE:	April 1, 2008
Thirty-day testimony period for party in position of plaintiff to close:	June 30, 2008
Thirty-day testimony period for party in position of defendant to close:	August 29, 2008
Fifteen-day rebuttal testimony period to close:	October 13, 2008.

#### CONCLUSION

In view of the foregoing, Applicant respectfully requests that it be granted leave to file its answer late, to enable it defend to the Opposition.

Respectfully submitted,




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Attorney for Applicant  
Da'Tekena Barango-Tariah  
25 Bond Street,  
Brooklyn, NY 11201  
Telephone: (718) 625-4200  
Facsimile: (718) 625-2586

Date: November 12, 2007

Certificate of Service

I hereby certify that a copy of the foregoing APPLICANT'S MOTION FOR LEAVE TO FILE ITS ANSWER LATE was mailed first-class mail, postage prepaid, Timothy J. Cruz, Esq., Faegre & Benson LLP, 2200 Wells Fargo Center, 90 South Seventh Street, Minneapolis, MN 55402, attorney for Opposer, this 12<sup>th</sup> day of November, 2007.

A handwritten signature in black ink, appearing to read "Da'Tekena Barango-Tariah", is written over a horizontal dotted line.

Attorney for Applicant  
Da'Tekena Barango-Tariah, Esq.

REVISED

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

TARGET BRANDS, INC.,	)	
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Opposer,	)	Opposition No: 91175637
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v.	)	
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NEW AGE COSMETICS, INC.,	)	
	)	
Applicant.	)	

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Assistant Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, VA 22202-3513

APPLICANT'S ANSWER TO NOTICE OF OPPOSITION

Applicant, NEW AGE COSMETICS, INC., for their answer to the Notice of Opposition filed by TARGET BRANDS, INC., against application for registration of NEW AGE COSMETICS, INC.'s trademark MERONA, Serial No. 78/820,602, filed February 22, 2006 and published in the Official Gazette of October 17, 2006, pleads and avers as follows:

1. Answering paragraph 1 of the Notice of Opposition, Applicant is without sufficient information to form a belief therein, and thus, denies the allegations contained therein.
2. Answering paragraph 2 of the Notice of Opposition, Applicant is without sufficient information to form a belief therein, and thus, denies the allegations contained therein.
3. Answering paragraph 3 of the Notice of Opposition, Applicant is without sufficient information to form a belief therein, and thus, denies the allegations contained therein.
4. Answering paragraph 4 of the Notice of Opposition, Applicant is without sufficient information to form a belief therein, and thus, denies the allegations contained therein.
5. Answering paragraph 5 of the Notice of Opposition, Applicant is without sufficient

information to form a belief therein, and thus, denies the allegations contained therein.

6. Answering paragraph 6 of the Notice of Opposition, Applicant is without sufficient information to form a belief therein, and thus, denies the allegations contained therein.

7. Answering paragraph 7 of the Notice of Opposition, Applicant is without sufficient information to form a belief therein, and thus, denies the allegations contained therein.

8. Answering paragraph 8 of the Notice of Opposition, Applicant is without sufficient information to form a belief therein, and thus, denies the allegations contained therein.

9. Answering paragraph 9 of the Notice of Opposition, Applicant admits the allegation thereof.

10. Answering paragraph 10 of the Notice of Opposition, Applicant admits the allegation thereof.

11. Answering paragraph 11 of the Notice of Opposition, Applicant denies each every allegation contained therein.

12. Answering paragraph 12 of the Notice of Opposition, Applicant denies each every allegation contained therein..

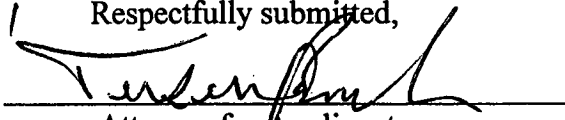
13. Answering paragraph 16 of the Notice of Opposition, Applicant denies each every allegation contained therein.

14. Applicant further affirmatively alleges that there is no likelihood of confusion, mistake or deception because, inter alia, Applicant's mark is for noncompeting goods.

15. Applicant further affirmatively alleges that there is no likelihood of confusion, mistake or deception because, inter alia, MERONA, upon information and belief, has been used and registered by third party in the category Opposer's goods.

In view of the foregoing, Applicant contends that this opposition is groundless and baseless in fact; that Opposer has not shown wherein it will be, or is likely to be, damaged by the registration of Applicant's trademark; that Applicant's trademark is manifestly distinct from any alleged marks of the Opposer or any designation of the Opposer and Applicant prays that this Opposition be dismissed and that Applicant be granted registration of his trademark.

Respectfully submitted,



Attorney for Applicant

Da'Tekena Barango-Tariah

25 Bond Street, 2nd Floor

Brooklyn, NY 11201

Telephone: (718) 625-4200

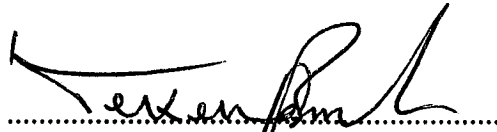
Facsimile: (718) 625-2586

Date: 10/26/07



Certificate of Service

I hereby certify that a copy of the foregoing APPLICANT'S ANSWER TO NOTICE OF OPPOSITION was mailed first-class mail, postage prepaid, Timothy J. Cruz, Esq., Faegre & Benson LLP, 2200 Wells Fargo Center, 90 South Seventh Street, Minneapolis, MN 55402, attorney for Opposer, this 26<sup>th</sup> day of October, 2007.

A handwritten signature in black ink, appearing to read "Da'Tekena Barango-Tariah", written over a horizontal dotted line.

Attorney for Applicant  
Da'Tekena Barango-Tariah, Esq.

RECYCLED



RECYCLED

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NOT DELIVERABLE TO SENDER  
UNABLE TO AS ADDRESSED  
TO FORWARD

BC: 11201580525

\*1409-02970-27-37

