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

UNITED PARCEL SERVICE
OF AMERICA, INC.,

Petitioner,

v.

MARIA ELENA AUBLE,
d/b/a SIGN UPS,

Registrant.

Cancellation No. 32,823



06-09-2004

U.S. Patent & TMO/TM Mail Rcpt Dt. #34

**PETITIONER'S REPLY TO REGISTRANT'S OPPOSITION
TO PETITIONER'S MOTION TO EXTEND THE TESTIMONY PERIODS**

Petitioner, United Parcel Service of America, Inc. ("Petitioner" or "UPS"), by its attorneys, respectfully submits this Reply to the Opposition of Registrant, Maria Elena Auble, d/b/a/ SIGN UPS ("Registrant") to Petitioner's Motion to Extend the Testimony Periods.

Although mindful that the Board generally discourages the filing of reply briefs on motions, Petitioner submits this brief reply for the Board's consideration.

Since this proceeding was commenced on November 30, 2001, only two 60-day consented motions to extend the discovery and testimony periods were filed with the Board (on September 13, 2002 and November 14, 2002, respectively) while the parties jointly explored settlement. The proceeding was then suspended by the Board *sua sponte*.

Following suspension, an additional 14-day consented motion to extend the discovery and testimony period was filed with the Board on March 8, 2004, to afford Registrant additional time to respond to Petitioner's outstanding discovery requests. Despite the additional time to respond and Petitioner's letters to Registrant urging appropriate responses, Registrant has yet to

provide proper and adequate responses to Petitioner's discovery requests. Other than the three consented extension requests, aggregating 134 days, Petitioner has not requested any additional extensions of time, nor has Petitioner contributed to any intentional delay in this proceeding.

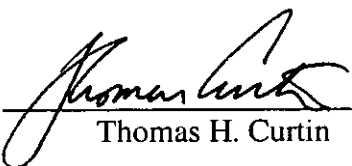
Furthermore, Registrant's statements regarding its alleged inability to develop good will in her trademark are without foundation. It is axiomatic in trademark law that good will accrues in a mark through its use, not through registration. There is no prejudice to Registrant in granting this brief extension of the Petitioner's testimony period particularly in light of Registrant's failure to provide proper, timely responses to Petitioner's discovery requests.

WHEREFORE, Petitioner reiterates its request for an order extending the testimony periods for thirty (30) days from the date on which this motion is decided.

Dated: New York, New York
June 4, 2004

Respectfully submitted,

KING & SPALDING LLP
Attorneys for Petitioner

By: 
Thomas H. Curtin


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New York, New York 10036
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CERTIFICATE OF SERVICE

It is hereby certified that a true copy of the foregoing Petitioner's Reply to Registrant's Opposition to Motion to Extend Testimony Periods has been deposited with the United States Postal Service as first class mail, postage prepaid, in an envelope addressed to:

Richard Esty Peterson, Esq.
1905-D Palmetto Avenue
Pacifica, California, 94044

on this 4th day of June, 2004.

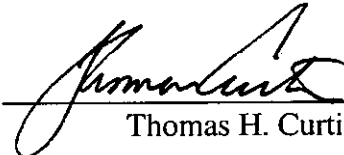

Thomas H. Curtin

CERTIFICATE OF MAIL

It is hereby certified that a true and complete copy of the foregoing Petitioner's Reply to Registrant's Opposition to Motion to Extend Testimony Periods is being deposited with the United States Postal Service as first class mail, postage prepaid, in an envelope addressed to:

Commissioner for Trademarks
2900 Crystal Drive
Arlington, Virginia 22202-3514

on this 4th day of June , 2004.


Thomas H. Curtin