

**UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451**

Baxley

Mailed: May 14, 2007

Cancellation No. 92047055

Artemis Marketing Corp. f/k/a
Rooms To Go, Inc.

v.

Khazzie Kindle

Andrew P. Baxley, Interlocutory Attorney:

On April 9, 2007, the Board sent a notice of default to respondent because no answer had been filed. Respondent timely responded to the notice of default. However, that response is unsigned and does not include proof of service upon petitioner as required by Trademark Rule 2.119(a) and (e). Accordingly, the Board cannot consider respondent's response at this time.

Respondent is allowed until thirty days from the mailing date set forth in the caption of this order to file with the Board a signed copy of her response to the notice of default that includes proof of service upon petitioner.

A cursory review of respondent's response indicates that it responds to both the notice of default and the petition to cancel. To the extent that the response is intended as an answer, it does not comply with Federal Rule of Civil

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Procedure 8(b), which is made applicable to this proceeding by Trademark Rule 2.116(a).

Rule 8(b) provides, in part:

A party shall state in short and plain terms the party's defenses to each claim asserted and shall admit or deny the averments upon which the adverse party relies. If a party is without knowledge or information sufficient to form a belief as to the truth of an averment, the party shall so state and this has the effect of a denial. Denials shall fairly meet the substance of the averments denied. When a pleader intends in good faith to deny only a part or a qualification of an averment, the pleader shall specify so much of it as is true and material and shall deny only the remainder.

The petition to cancel filed by petitioner herein consists of ten paragraphs which set forth the basis of petitioner's claim of damage. In accordance with Fed. R. Civ. P. 8(b) it is incumbent on respondent to answer the petition to cancel by simply admitting or denying the allegations contained in each paragraph. If respondent is without sufficient knowledge or information on which to form a belief as to the truth of any one of the allegations, she should so state and this will have the effect of a denial.

In view of the foregoing, respondent is allowed until thirty days from the mailing date in the caption of this order to file an answer herein which complies with Fed. R. Civ. P. 8.

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As noted earlier in this order, Trademark Rules 2.119(a) and (b) require that every paper filed in the Patent and Trademark Office in a proceeding before the Board must be served upon the attorney for the other party, or on the party if there is no attorney, and proof of such service must be made before the paper will be considered by the Board. Consequently, copies of all papers which respondent may subsequently file in this proceeding, including its answer to the petition to cancel, must be accompanied by a signed statement indicating the date and manner in which such service was made. The statement, whether attached to or appearing on the paper when filed, will be accepted as prima facie proof of service.

It should also be noted that while Patent and Trademark Rule 10.14 permits any person to represent itself, it is generally advisable for a person who is not acquainted with the technicalities of the procedural and substantive law involved in a cancellation proceeding to secure the services of an attorney who is familiar with such matters. The Patent and Trademark Office cannot aid in the selection of an attorney.

The Trademark Board Manual of Procedure (TBMP) is available online at <http://www.uspto.gov/web/offices/dcom/ttab/tbmp/index.html>.

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The Trademark Rules of Practice are available online at
<http://www.uspto.gov/web/offices/tac/tmlaw2.html>.

Discovery and trial dates remain as set in the Board notice instituting this proceeding.