

EXHIBIT 4

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

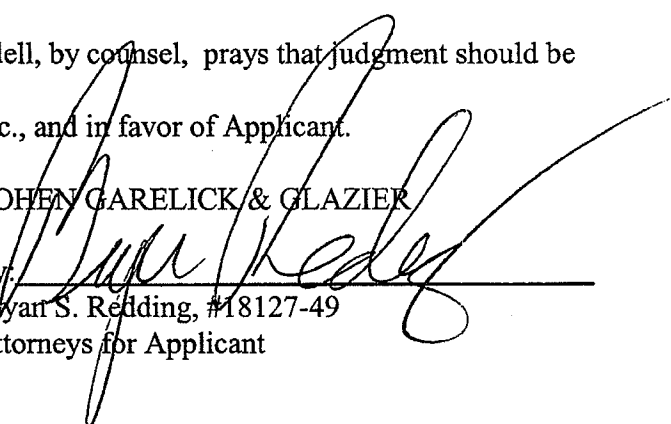
_____)	
STELOR PRODUCTIONS, INC.,)	
)	Opposition No. <u>91157879</u>
Opposer,)	
)	Serial No. 76/453,281
v.)	
)	
KEVIN MENDELL,)	
)	
Applicant.)	
_____)	

MOTION FOR JUDGMENT

Comes now the Applicant, Kevin Mendell, by counsel, and pursuant to Trademark Trial Rule 2.132(b), would move for judgment against Opposer, Stelor Productions, Inc., as the testimony period has passed and Opposer has offered no evidence to support its claims for relief and therefore judgment should be granted in favor of Applicant.

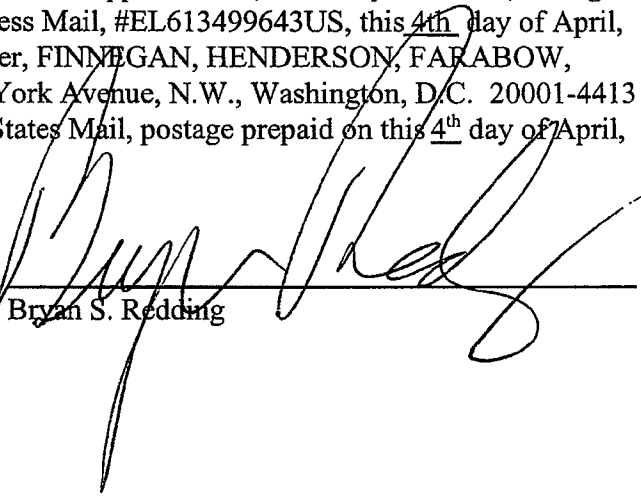
WHEREFORE, Applicant, Kevin Mendell, by counsel, prays that judgment should be entered against Opposer, Stelor Productions, Inc., and in favor of Applicant.

COHEN GARELICK & GLAZIER

By: 
Bryan S. Redding, #18127-49
Attorneys for Applicant

CERTIFICATE OF TRANSMISSION

I hereby certify that a copy of the foregoing Motion for Judgment was transmitted to the Patent and Trademark Office, Trademark Trial and Appeal Board, 2900 Crystal Drive, Arlington, Virginia 22202-3513 by United States Express Mail, #EL613499643US, this 4th day of April, 2005 and was served upon Laurence R. Hefter, FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER, L.L.P., 901 New York Avenue, N.W., Washington, D.C. 20001-4413 by depositing a copy of same in the United States Mail, postage prepaid on this 4th day of April, 2005.



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TTAB

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

Opposition No. 91157879

Stelor Productions, Inc.,

Application No. 76/4533,281

Opposer,

v.

Kevin Mendell,

Applicant.

04-12-2005

U.S. Patent & TMOs/TM Mail Rpt. Dt. #11

**OPPOSER'S RESPONSE TO MOTION FOR JUDGMENT AND
RENEWED NOTICE OF FEDERAL COURT ACTION FILED MARCH 11, 2005
REQUIRING SUSPENSION OF THIS PROCEEDING**

Opposer, Stelor Productions, Inc., hereby replies as follows to Applicant Kevin Mendell's Motion for Judgment, and provides renewed notice of the federal court action filed March 11, 2005, requiring a stay of this proceeding:

1. Opposer filed a federal court action for trademark infringement and other claims in Federal Court involving the trademark application at issue in this matter. The federal action was filed on March 11, 2005, and is pending in the United States District Court for the District of Southern Indiana, Indianapolis Division, and is captioned, *STELOR PRODUCTIONS, INC. v. OOGLES N GOOGLES, KEVIN MENDELL, DANYA MENDELL, and X, Y, Z CORPORATIONS*, Case No. 1:05-cv-0354-DFH-TAB ("Federal Action").

2. Opposer, moreover, immediately put this Board on notice of the Federal Action on March 11, 2005, in order to ensure that this proceeding would be suspended pending determination of the Federal Action.

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3. Rather than respond to that filing by Opposer, or provide any good faith reason why this proceeding should not be stayed in light of the Federal Action, Applicant has attempted to create confusion by filing an unfounded Motion for Judgment.

4. Clearly, moreover, the Federal Action was filed prior to the expiration of the rebuttal testimony period in this action, as was Opposer's immediate notification of the filing to the Board.

5. Accordingly, this proceeding should be deemed suspended as of March 11, 2005. See Trademark Trial and Appeal Board Manual of Procedure ("TBMP"), ch. 510.02; 37 CFR §2.117(a). As the TBMP provides, "[w]henever it comes to the attention of the Board that a party or parties to a case pending before it are involved in a civil action which may have a bearing on the Board case, proceedings before the Board may be suspended until final determination of the civil action." Indeed, the TBMP emphasizes that "[o]rdinarilly, the Board *will suspend* proceedings in the case before it if the final determination of the other proceeding will have a bearing on the issues before the Board."

6. As the Board has repeatedly recognized, moreover, civil actions in a Federal district court involving issues in common with those in a proceeding before the board are typically binding upon the Board, while the decision of the Board is not binding upon the court. TBMP at 510.02(a); see *Goya Foods Inc. v. Tropicana Products Inc.*, 846 F.2d 848, 6 USPQ2d 1950, 1954 (2d Cir 1988).

7. Under these circumstances, therefore, this proceeding should be suspended effective March 11, 2005 when the Federal Action was filed and notice provided to the Board, and the Motion for Judgment should be denied. A proposed form of order is included herewith.

RESPECTFULLY SUBMITTED,

BURLINGTON, WEIL, SCHWIEP,
KAPLAN & BLONSKY, P.A.
Counsel for Stelor Productions, Inc.
2699 South Bayshore Drive, Penthouse
Miami, Florida 33133
(305) 858-2900

BY:



KEVIN C. KAPLAN
Florida Bar No. 933848

CERTIFICATE OF SERVICE

It is hereby certified that a true and correct copy of the foregoing was served by
Telefax and United States mail upon: Bryan S. Redding, Esq., Cohen, Garelick & Glazer, 8888
Keystone Crossing Blvd., Suite 800, Indianapolis, IN 46240, this 11th day of April, 2005.



Kevin C. Kaplan

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

Mailed: August 30, 2005

Opposition No. 91157879

Stelor Productions, Inc

v.

Kevin Mendell

Cindy B. Greenbaum, Attorney:

In response to the June 22, 2005 Board order to show cause why the Board should not enter judgment against plaintiff for its failure to take testimony or offer any evidence in support of its case, opposer filed, under notice of reliance, a transcript of the testimonial deposition of Steven Esrig. Opposer took said deposition on August 5, 2004, i.e., during opposer's testimony period. In view thereof, the order to show cause is discharged, and applicant's motion for judgment pursuant to Rule 2.132(b) is moot.

Opposer's motion (filed March 14, 2005, as renewed on April 12, 2005) to suspend the proceeding pending final determination of a civil action between the parties is hereby granted. It is the policy of the Board to suspend proceedings when the parties are involved in a civil action

which may be dispositive of or have a bearing on the Board case. See Trademark Rule 2.117(a).

Accordingly, proceedings are suspended pending final disposition of the civil action between the parties.

Within twenty days after the final determination of the civil action, the interested party should notify the Board so that this case may be called up for appropriate action. During the suspension period the Board should be notified of any address changes for the parties or their attorneys.