

**TREY YARBROUGH**  
**Attorney and Mediator**  
100 E. Ferguson St., Suite 1015  
Tyler, Texas 75702  
(903) 595-3111 Fax: (903) 595-0191  
Email: [trey@treyyarbrough.com](mailto:trey@treyyarbrough.com)

**TTAB**

Board Certified  
Personal Injury Trial Law  
Texas Board of Legal Specialization

Certified Mediator  
State and Federal Courts  
National Mediation Academy

75129229

February 17, 2006

**Via Overnight Mail**

United States Patent and Trademark Office  
Trademark Trial and Appeal Board  
600 Dulany Street  
Alexandria, VA 22313-1451

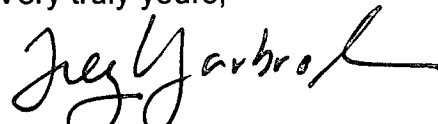
Re: Opposition No. 91155687; B&B Hardware, Inc. v. Sealtite Building  
Fasteners

To the Honorable Members of the Board:

I enclose the original and one copy of Applicant's Motion for Protective Order for filing among the other papers in the above-captioned opposition proceeding. Please return a file-marked copy of this enclosure in the stamped and addressed envelope provided. A copy of this enclosure has been furnished to all counsel in the manner shown below.

Thank you for your kind attention to the foregoing.

Very truly yours,



Trey Yarbrough

TY/ljc

Enclosures

cc: Roger N. Behle (via facsimile)  
Walter Ames (via first class mail)  
Tom Brown (via facsimile)



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

<hr/>	:	
B&B HARDWARE, INC.	:	
Opposer,	:	
v.	:	Opposition No. 91155687
	:	Serial No. 75129229
SEALTITE BUILDING FASTENERS,	:	
Applicant	:	
<hr/>		

Applicant's Motion for Protective Order

To the Honorable Trademark Trial and Appeal Board:

Sealtite Building Fasteners, Applicant herein, makes and files this its Motion for Protective Order and in support of same would respectfully show the Board as follows:

1. Applicant, Sealtite Building Fasteners ("Sealtite"), seeks a protective order from the Board regarding the attempt by Opposer, B&B Hardware, Inc. ("B&B Hardware") to take the deposition of Sealtite personnel at the law offices of counsel for B&B Hardware in Costa Mesa, California. Good cause exists for the granting of such order as set forth below.
2. On January 12, 2006, the Board ruled on B&B Hardware's motion to extend the discovery and testimony periods with respect to this opposition proceeding. The Board denied B&B Hardware's request to extend the discovery period, but granted its request to extend the testimony period. The Board's ruling was mailed to the parties on January 12, 2006.

3. On February 6, 2006, B&B Hardware forwarded by overnight mail B&B Hardware, Inc.'s First Notice of Taking Testimonial Depositions of Sealtite Building Fasteners' Personnel to lead counsel for Sealtite, Walter D. Ames, Esq. A copy of the deposition notice in question is attached as Exhibit A and incorporated by reference for all purposes. The deposition notice seeks to compel Sealtite to designate a person or persons to be presented for deposition examination on February 21, 2006 at the Law Offices of Foley Bezek Behle & Curtis, LLP, at 575 Anton Boulevard, Suite 710, Costa Mesa, California 93101. Counsel for B&B Hardware made no effort, prior to the issuance of the deposition notice, to confer with Mr. Ames<sup>1</sup> regarding an agreeable date, time, or place for the taking of said deposition.

4. Sealtite Building Fasteners is located in Tyler, Texas. Any person who would be designated to appear for a testimonial deposition on behalf of Sealtite works and resides in Tyler, Texas or in close proximity thereto. Sealtite does not maintain any type of office or other location in the state of California. This Honorable Board generously granted B&B Hardware an extension of its testimony period. Sealtite personnel should not be required to travel across the United States, at considerable expense, for purposes of giving a testimonial deposition on behalf of the Opposer. Such depositions may be noticed for any reasonable time and place in the United States. 37 C.F.R. 2.123(c). Costa

---

<sup>1</sup> Walter D. Ames, Esquire, has served as counsel for Sealtite Building Fasteners throughout this opposition proceeding. He will continue to serve as lead counsel. Of recent, Trey Yarbrough has filed a Notice of Appearance as co-counsel and Tom Brown of the firm of Brown, Bauman & Smith has filed a Notice of Appearance as "Of Counsel."

Mesa, California is not a "reasonable" place. Any such deposition of Sealtite should be taken in Tyler, Texas.

5. As of the date of his receipt of the deposition notice, Mr. Ames was scheduled to leave for Florida on February 10, 2006 for a pre-planned two week vacation, preventing his availability to be present for a deposition of his client on February 21, regardless of the situs of the deposition. By fax dated February 8, 2006, Mr. Ames promptly notified counsel for B&B Hardware of his circumstances and Sealtite's position that the deposition situs in Costa Mesa, California is not a reasonable one. A copy of said fax is attached to this Motion as Exhibit B and incorporated by reference for all purposes. Under the circumstances, February 21, 2006 is not a reasonable time for the taking of the deposition.

6. Due to the departure of Mr. Ames for vacation on February 10, the undersigned co-counsel has attempted to confer with counsel for B&B Hardware to determine if this matter could be resolved by the parties without the intervention of the Board. Attached to this motion as Exhibit C is an accurate copy of a February 15, 2006 fax served upon counsel for B&B Hardware. The undersigned co-counsel (Trey Yarbrough) attempted to contact opposer's counsel by telephone on February 15, but was advised that counsel was out of state. The attorneys subsequently exchanged phone calls and left messages, but have been unsuccessful in communicating with one another.

7. Protective orders may be entered as are necessary to protect a party from annoyance, oppression, or undue burden or expense. F.R.C.P. 26(c). Sealtite

respectfully requests that the Board enter a protective order designating that any testimonial deposition of Applicant, Sealtite Building Fasteners, be taken at its attorney's offices in Tyler, Texas, where Sealtite and its personnel work and reside, at a date and time to be agreed upon by the parties or designated by the Board in the absence of such an agreement.

Wherefore, Applicant, Sealtite Building Fasteners, prays that the Board enter its protective order granting Applicant the protection requested herein.

Respectfully submitted,



Walter D. Ames, Esq.  
6718 Wemberly Way  
McLean, Virginia 22101

Of Counsel:

Tom Brown  
Brown, Bauman & Smith  
400 E. Fifth Street  
Tyler, Texas 75701

Trey Yarbrough  
100 E. Ferguson St., Suite 1015  
Tyler, Texas 75702  
903/595-3111  
903/595-0191 Fax

Attorneys for Applicant

Certificate Of Service

It is hereby certified that on the 17<sup>th</sup> day of February, 2006, the foregoing Applicant's Motion for Protective Order was served on Opposer, B&B Hardware, Inc. by sending a copy thereof to Roger N. Behle, Jr., Esq., Foley Bezek Behle & Curtis, LLP, 575 Anton Boulevard, Suite 710, Costa Mesa, California 92626, attorney for opposer, via facsimile transmission.



Trey Yarbrough

# Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

## Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

## Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

## Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

## API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

## LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

## FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

## E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.