

TTAB

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

JUDY MCCUTCHIN,

OPPOSER,

V.

JAN DUBELL,

APPLICANT.

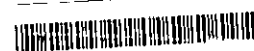
OPPOSITION NO. 91156821

Serial No.: 78/105,321

Trademark: BIG "D" REAL
ESTATE

Filing Date: January 28, 2002

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



05-18-2004

U.S. Patent & TMO/TM Mail Rpt Dt. #78

APPLICANT'S MOTION TO STRIKE NOTICE OF RELIANCE

Applicant, JAN DUBELL, in accordance with Rule 707.02(b)(2); 2.123(l); and 707.02(b)(1) of the Trademark Rules of Practice serves this Motion to Strike Opposer's Testimony First Notice of Reliance.

OBJECTIONS

1. Exhibit A: Printout from Applicant Jan DuBell's website located at www.bigdrealestate.net.

Applicant objects to this evidence in its entirety on the grounds that it does not meet the procedural requirements of Rule 2.122(e) and 707.02(b)(1) of the Trademark Rules of Practice. This Exhibit was untimely filed after the close of Opposer's Testimony Period is therefore not admissible for introduction by Notice of Reliance.

2. Exhibit One: Photocopy Opposer signed Certificate of Service dated April 9, 2004.
3. Exhibit Two: Photocopy Opposer actually mailed First Notice of Reliance in two packages both postmarked April 10, 2004.

Applicant requests, under Trademark Rules of Practice, the evidence offered in Opposer's First Notice of Reliance be excluded in entirety from consideration and stricken from this proceeding.

Respectfully submitted,

Dated: 5/17/04

By: 

Jan DuBell, Applicant
523 Ranch Trail Suite 142
Irving, Texas 75063
972-831-8568

CERTIFICATE OF MAILING

I hereby certify that the foregoing document is being deposited with United Parcel Service in a parcel addressed to: Commissioner for Trademarks, 2900 Crystal Drive, Arlington, VA 22202-3514, on the date identified below.

Dated: 5/17/04


Jan DuBell, Applicant

CERTIFICATE OF SERVICE

I, Jan DuBell, hereby certify that I caused a copy of the foregoing document to be served on May 17, 2004 by first class mail, postage prepaid, addressed to: Kurt Koenig, Koenig & Associates, 220 East Figueroa St., Santa Barbara, CA.

Executed this 17 day of May, 2004 at Irving, Texas.



Jan DuBell, Applicant

EXHIBIT ONE

CERTIFICATE OF MAILING BY EXPRESS MAIL

I hereby certify that the foregoing document is being deposited with the United States Postal Service as "Express Mail Post Office to Addressee" in an envelope addressed to: Commissioner for Trademarks, 2900 Crystal Drive, Arlington, VA 22202-3514, on the date identified below:

Express Mail Mailing Label No. EV066295711US

Dated: April 9, 2004

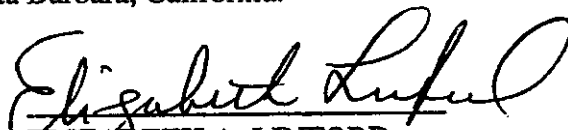

ELIZABETH A. LINFORD

CERTIFICATE OF SERVICE

I, Elizabeth A. Linford, hereby certify that I caused a copy of the foregoing document to be served on April 9, 2004 by first class mail, postage prepaid, addressed to:

Jan DuBell
523 Ranch Trail, Suite 142
Irving, Texas 75063

Executed this 9th day of April 2004 at Santa Barbara, California.


ELIZABETH A. LINFORD

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