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

Proceeding	91203462
Party	Plaintiff Raj Abhyanker
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK TRIAL AND APPEAL BOARD**

<p>RAJ ABHYANKER</p> <p style="text-align:center">Opposers,</p> <p style="text-align:center">v.</p> <p>NEXTDOOR.COM INC.,</p> <p style="text-align:center">Applicant.</p>	<p>Opposition Nos. 91214783 and 91203462</p> <p>Mark(s): NEXTDOOR</p> <p>Serial No. 85/236,918</p> <p>Published: January 10, 2012</p>
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**OPPOSER’S OPPOSITION RESPONSE TO APPLICANT NEXTDOOR.COM,
INC.’S NOTICE OF JUDGMENT IN FAVOR OF NEXTDOOR.COM AND RAJ
ABHYANKER’S DISMISSAL WITH PREJUDICE OF ALL CLAIMS**

On November 6, 2012, the Board stayed Opposition Nos. 91203462 and 91203762 pursuant to a “CONSENTED MOTION TO SUSPEND PENDING TERMINATION OF RELATED FEDERAL TRADEMARK LITIGATION” between the parties: *Nextdoor.com, Inc. v. Raj Abhyanker*, Case No. CV-12-5667. Specifically, the parties agreed that stay is necessary, because the at issue Civil Action would require resolution of the following issues:

1. Whether Applicant is lawfully using the NEXTDOOR mark and not committing infringement of any purported trademark rights held by Abhyanker;
2. Whether Applicant has priority of use of the NEXTDOOR mark in the relevant filed of use;

3. Whether there is a likelihood of confusion between Applicant's use of NEXTDOOR and Abhyanker's purported rights, if any exist, in the terms "fatdoor" or "fatdoor get to know your neighbors.";
4. Whether Abhyanker has standing to assert any rights in the marks he claims;
5. Whether Abhyanker's use of the .cm Domain constitutes cyberpiracy in violation of 15 U.S.C.A. § 1125(d)(1);
6. Whether Abhyanker's use of the .cm Domain constitutes infringement of Nextdoor.com's rights in the NEXTDOOR mark;
7. Whether Abhyanker's inclusion of Applicant's NEXTDOOR mark and reference to the Nextdoor.com name and domain name in various websites owned and operated by him constitutes infringement of Nextdoor.com's rights in the Nextdoor mark.

Although Applicant is correct in asserting that Opposer's claims in the Civil Action have been dismissed with prejudice, and that all claims regarding ownership of the NEXTDOOR mark have been resolved in Applicant's favor, this does not resolve all of the still pending claims in the Civil Action, nor in the TTAB proceedings with respect to likelihood of confusion as to Applicant's NEXTDOOR and Opposer's FATDOOR and FATDOOR GET TO KNOW YOUR NEIGHBORS marks.

More specifically, Count I of Opposer's amended notice of opposition, filed with the TTAB on September 26, 2012 alleges Priority and Likelihood of Confusion as between Opposer's marks FATDOOR, U.S. Registration No. 4505281 and FATDOOR GET TO KNOW YOUR NEIGHBORS *stylized*, U.S. Registration No. 4287987 and Applicant's mark NEXTDOOR, U.S. Serial No. 85/236,918. On June 19, 2014, Opposer

and Applicant filed a Joint Case Management Conference Statement with the Court confirming that Applicant's Affirmative claims counts 2 – 4 remain in the case, attached hereto as Exhibit A. Count 2 of Applicant's Affirmative Claims is for a declaratory judgment under 28 U.S.C. § 2201 seeking "...declaration from this Court that it is lawfully using the NEXTDOOR Mark and is not committing infringement of any purported trademark rights held by Abhyanker because, inter alia, there is no likelihood of confusion between the Company's use of the mark NEXTDOOR and Abhyanker's purported rights, if any, in the terms "fatdoor" and fatdoor get to know your neighbors", attached hereto as Exhibit B.

Therefore, Applicant's assertion that all factual allegations and claims relevant to the TTAB oppositions have been adjudicated in the Civil Action in Applicant's favor is unsupported and without merit.

According to the Board's order issued on November 6, 2012, "...proceedings are suspended pending final disposition of the civil action. Within twenty days after the final determination of the civil action, the interested party shall notify the Board so that this case may be called up for appropriate action." In addition, pursuant to TBMP 510.02(b), the board requires that "A proceeding is considered to have been finally determined when a decision on the merits of the case (i.e., a dispositive ruling that ends litigation on the merits) has been rendered, and no appeal has been filed therefrom, or all appeals filed have been decided."

Since Count 2 in the Civil Action seeks a declaratory judgment that Applicant's NEXTDOOR mark does not infringe on Opposer's FATDOOR and FATDOOR GET TO KNOW YOUR NEIGHBORS marks, and because the resolution of Count 2 in the Civil

Action is dispositive of Count 1 of Opposer's Opposition proceedings filed with the Board, the Civil Action has not had a final determination pursuant to TBMP 510.02(b). Furthermore, trial in the Civil Action is set for December 1, 2014, attached hereto as Exhibit C; even if the court in the Civil Action were to find in Applicant's favor, Opposer would have the opportunity to file an appeal, and a final determination will therefore not be issued until a decision on the appeal or appeals is made.

Finally, according to the record, at least 266 docket entries have been entered in the Civil Action through July 16, 2014, attached hereto as Exhibit D. Hence, the parties remain actively involved in the Civil Action based on relevant issues and claims before the U.S. District Court, Northern District of California.

In the interest of judicial economy and judicial consistency, and pursuant to TBMP 510.02, Opposer requests that the Board continue its suspension of Opposition Nos. 91203462 and 91203762 until final termination of the Civil Action.

Dated: July 17, 2014

Respectfully submitted,

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