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

Proceeding	91203462
Party	Defendant Nextdoor.com, Inc.
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IN THE
UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the matter of
Trademark Application Serial No. 85/236,918 for NEXTDOOR

Raj Abhyanker, Opposer, vs. Nextdoor.com, Inc., Applicant.	)	Opposition Nos. 91203462 and 91203762

NEXTDOOR.COM, INC.'S REPLY IN SUPPORT OF ITS NOTICE OF JUDGMENT IN FAVOR OF NEXTDOOR.COM AND RAJ ABHYANKER'S DISMISSAL WITH PREJUDICE OF ALL CLAIMS

I. INTRODUCTION

Opposer Raj Abhyanker's response to Applicant Nextdoor.com's Notice of Judgment ignores the consequence of: (1) the District Court's Judgment against Opposer; (2) Opposer's dismissal with prejudice of all trademark claims against Nextdoor.com; and (3) Opposer's representations to the District Court regarding this TTAB proceeding.

First, Opposer concedes that he has no basis to assert a claim in the NEXTDOOR mark against Nextdoor.com's application for the NEXTDOOR mark. *See* Dkt. No. 20 at 2. Second, there is no dispute that Opposer dismissed with prejudice all claims based on his purported FATDOOR marks against Nextdoor.com's application for the NEXTDOOR mark. *Id*. (conceding that "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…"). Opposer lost all his claims in the District Court litigation. He has no more rights in his purported NEXTDOOR or FATDOOR marks to assert against Nextdoor.com.

Third, and most significantly, *Opposer already conceded that the parties had resolved each of Opposer's claims in the District Court litigation, rendering it appropriate for proceedings to resume in the TTAB*. As recently as June 19, 2014, Opposer notified the District Court that: "because of the Court's Judgment confirming Nextdoor.com's right to the NEXTDOOR mark [Dkt. Nos. 192-193] and Abhyanker's dismissal of all claims [Dkt. No. 226], the parties are required to notify the TTAB of the resolution of Abhyanker's claims so that the

TTAB proceedings can resume and Nextdoor.com's application for the NEXTDOOR mark can proceed to registration." *See* Dkt. No. 19, Ex. C at 12. Opposer does not dispute this admission.

Knowing that he has no valid basis to continue to block Nextdoor.com's trademark application, Opposer latches onto two thin reeds. First, Opposer claims that the Board should wait until the time for an appeal has run before resuming the Opposition. The time for appeal has now expired. Fed. R. App. P. 4 (providing a party thirty days to appeal a judgment or order). Opposer did not appeal either the District Court's May 16, 2014 Judgment (Dkt. No. 19, Ex. A) or the District Court's June 19, 2014 Order (Dkt. No. 19, Ex. B). This is because there was nothing to appeal. Opposer stipulated to both the District Court's Judgment and Order dismissing with prejudice all trademark claims against Nextdoor.com. Opposer cannot appeal his own stipulation. Second, Opposer turns the analysis upside down by claiming that Nextdoor.com's affirmative claims *against* the Opposer should delay Nextdoor.com's pursuit of its registration. But Nextdoor.com's claims against Opposer are not at issue in this TTAB opposition. Opposer offers no basis for why Nextdoor.com should have to wait for its registration based on the independent misdeeds of Opposer.

Opposer's continued pursuit of his Opposition, after losing all claims against Nextdoor.com, is a baseless attempt to delay the inevitable and thwart Nextdoor.com's imminent registration of the NEXTDOOR mark. With each and every trademark claim by Opposer against Nextdoor.com fully resolved, there is no further judicial economy or judicial consistency benefit to a continued stay of the Opposition. Rather, as the parties already agreed: "the TTAB

proceedings can resume and Nextdoor.com's application for the NEXTDOOR mark can proceed to registration." Dkt. No. 19, Ex. C at 12.

II. ARGUMENT

A. Opposer Lost All Claims Against Nextdoor.com's Application to Register the NEXTDOOR Mark.

Opposer's dismissal *with prejudice* of his likelihood of confusion claims regarding the FATDOOR and FATDOOR GET TO KNOW YOUR NEIGHBORS marks bars his continued pursuit of his oppositions against Nextdoor.com.[1] Specifically, the *res judicata* doctrine protects a party's reasonable expectations as to the finality of judgments and protects against duplicative proceedings. *See Parklane Hosiery Co. v. Shore*, 439 U.S. 322, 326 (1979). At its core, *res judicata* ensures that "a judgment on the merits in a prior suit bars a second suit involving the same parties or their privies based on the same cause of action." *Jet, Inc. v. Sewage Aeration Systems*, 223 F.3d 1360, 1362 (Fed. Cir. 2000), *quoting Parklane Hosiery*, 439 U.S. at 326; *see Lawlor v. National Screen Serv. Corp.*, 349 U.S. 322, 326 (1955).

Even more, the *res judicata* doctrine bars relitigation of claims in an administrative tribunal (*e.g.* the TTAB) in the same way, and to the same extent, that it bars relitigation in a federal court. "The evils of vexatious litigation and waste of resources are no less serious

[1] Opposer originally based his oppositions on his alleged rights in the NEXTDOOR and FATDOOR marks. Opposer's response concedes that he has no basis to assert any further rights in the NEXTDOOR mark. *See, e.g.*, Dkt. No. 20 at 2 (conceding that "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…"). Given Opposer's concessions, the focus of this reply is on Opposer's assertion of rights in the FATDOOR marks.

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