

ESTTA Tracking number: **ESTTA24634**

Filing date: **01/28/2005**

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

<b>Proceeding</b>	91151109
<b>Party</b>	Defendant MACK, JAY  5495 PINEHURST DR. RIVERSIDE, CA 92504
<b>Correspondence Address</b>	MARK W. GOOD ROBERTS AND ELLIOTT, PLC TEN ALMADEN BLVD, SUITE 500 SAN JOSE, CA 95113
<b>Submission</b>	Motion to Dismiss 2.132
<b>Filer's Name</b>	Mark W. Good
<b>Filer's e-mail</b>	mwgood@robertsellott.com
<b>Signature</b>	/Mark W. Good/
<b>Date</b>	01/28/2005
<b>Attachments</b>	motion to dismiss.pdf ( 5 pages )

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

MARK D. TANNEN,

Opposer,

vs.

JAY MACK,

Applicant.

Opposition No.: 91151109  
Serial No.: 75/845,350

**APPLICANT'S MOTION TO DISMISS FOR FAILURE TO PROSECUTE**

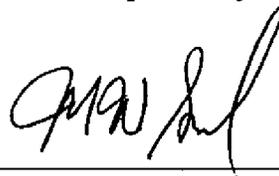
Applicant, Jay Mack, hereby moves to dismiss the Opposition filed by Opposer, Mark D. Tannen, against application for registration of Applicant's trademark INTELLIWEAR, Serial No. 75/845,350, filed on December 1, 1999 and published in the Official Gazette on October 30, 2001.

**OPPOSER HAS FAILED TO TAKE TESTIMONY OR OFFER EVIDENCE**

Opposer Mark D. Tannen's 30 day testimony period closed on December 30, 2004. No testimony was taken during this period, and Opposer has offered no evidence

in support of his opposition. (See Declaration of Mark W. Good) Applicant hereby moves for judgment under 37 CFR § 2.132(a) for dismissal of Opposer's opposition to Applicant's mark.

Respectfully submitted,



Date: January 28, 2005

---

Mark W. Good, Esq.  
ROBERTS & ELLIOTT  
Ten Almaden Boulevard, Suite 500  
San Jose, CA 95113  
(408) 275-9800 voice  
(408) 287-3782 facsimile  
email: mwgood@robertsellott.com

Attorneys for Applicant,  
JAY MACK

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

MARK D. TANNEN,

Opposer,

vs.

JAY MACK,

Applicant.

Opposition No.: 91151109  
Serial No.: 75/845,350

**DECLARATION OF MARK W. GOOD IN SUPPORT OF APPLICANT'S  
MOTION TO DISMISS FOR FAILURE TO PROSECUTE**

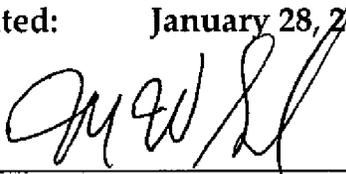
I, Mark W. Good, declare:

1. I am an attorney associated with the law firm of Roberts & Elliott, in San Jose, California. I am counsel of record for applicant Jay Mack with regards to this opposition, and have been in that capacity since at least May 26, 2004.

2. As of the date of this declaration, I have received no testimony or evidence from Opposer Mark Tannen.

Pursuant to 28 U.S.C. § 1746, I, Mark W. Good, further declare under penalty of perjury that the foregoing is true and correct.

Dated: January 28, 2005

A handwritten signature in black ink, appearing to read 'Mark W. Good', written over a horizontal line.

Mark W. Good

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing APPLICANT'S MOTION TO DISMISS FOR FAILURE TO PROSECUTE , and DECLARATION OF MARK W. GOOD IN SUPPORT OF APPLICANT'S MOTION TO DISMISS FOR FAILURE TO PROSECUTE was mailed by FIRST CLASS mail, postage prepaid, this 28th day of January, 2005 on Opposer as follows:

MARK D. TANNEN  
P.O. BOX 199  
NEW YORK, NY 10044-0204



---

Mark W. Good