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

Proceeding	91162780
Party	Defendant KEITH CANGIARELLA
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Date	01/11/2010
Attachments	jan 11 reply brief Keith Cangiarella.pdf (3 pages)(16165 bytes)

BEFORE TRADEMARK TRIAL AND APPEAL BOARD

MESSAGE IN A BOTTLE. INC. Opposer v. KEITH CANGIARELLA. Applicant.	Opposition No. : 91162780 Application Serial No. : 78/229,875 Mark : MESSAGE IN A BOTTLE
KEITH CANGIARELLA. Petitioner. v. MESSAGE IN A BOTTLE. INC. Registrant.	Counterclaim for cancellation Registration No. : 2,243,269 Mark : MESSAGE IN A BOTTLE

**APPLICANT KEITH CANGIARELLA'S REPLY TO OPPOSER MESSAGE
IN A BOTTLE INC'S BRIEF AS DEFENDANT IN THE CANCELLATION
PROCEEDINGS**

Applicant Keith Cangiarella (hereinafter called the Applicant) hereby submits its reply, as plaintiff in the above mentioned cancellation proceeding to the reply brief by Message In a Bottle Inc. (hereinafter called the Opposer) as defendant in the cancellation proceedings filed before the TTAB.

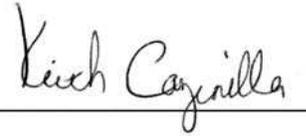
Opposer throughout his reply brief has set out the argument that applicants arguments are simply vague and that applicant is simply confusing the Board as to the statement of difference between the service mark and the trademark. It is respectfully submitted that such a distinction is not the purposeful creation of the applicant to defend his case, but law by itself has created such a distinction for its own purposes. The only thing applicant is doing is to rely upon these distinctions projected by law so that the applicants case may be proven. Throughout the reply brief the Opposer seems to emphasize the point that trademark and service mark are substantially the same and thusly misleads the Board to an erroneous decision. It is humbly reiterated that what the Opposer owns is a servicemark and not a trademark. The service mark corresponds to 'telecommunication' services which has not been used yet in commerce in proper sense so that it could be treated as abandoned and what remains is the trademark to which the applicant has claimed priority.

It is respectfully submitted that there is no intention on the part of the applicant to mislead the Board in any way but applicant has in every possible way attempted to represent his case in utmost legal terms. Applicant is a common man without any legal background representing his case pro se and still not pleading any ignorance or mistake as the learned attorney of the Opposer has pleaded before the Board. The Applicant has tried to the utmost possible extent to stick to the lawful terms and procedures rather than presenting case in a layman's perspective.

Hence for these reasons stated above the applicant most respectfully prays to the Board that this reply brief be treated as supplementing the brief already filed by the applicant in the cancellation proceeding and that the Opposer's registration be cancelled on the basis of the grounds alleged in the brief already filed with the Board.

Date : January 11, 2010

Respectfully submitted



Keith Cangiarella

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing applicant Keith Cangiarella as defendant in the opposition was mailed first – class mail, postage prepaid, to Peter H Smith, Attorney for the Opposer, MESSAGE IN A BOTTLE INC., 3436 Beckwith Road, Modesto, CA 65358, on January 11, 2010.

Dated : January 11, 2010.



Keith Cangiarella