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

In the Matter of Trademark Application  
Serial No.: 78/229,875  
Mark: MESSAGE IN A BOTTLE

Opposition No. 91162780

Cancellation No. \_\_\_\_\_

Message in a Bottle, INC.,  
a California corporation,

**APPLICANT'S MOTION FOR  
RECONSIDERATION OF THE DECISION**

Opposer,  
v.

KEITH CANGIARELLA,  
Applicant.

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In the Matter of Trademark  
Registration No.: 2,243,269  
Mark: MESSAGE IN A BOTTLE

KEITH CANGIARELLA,  
Petitioner,  
v.

Message in a Bottle, Inc,  
Opposer

**APPLICANT'S MOTION FOR RECONSIDERATION OF THE DECISION**  
**"IN PRO PER"**

Applicant, Keith Cangiarella, (hereinafter "Applicant") pursuant to 37 CFR § 2.127(b) hereby moves this Honorable Board reconsider its decision on June 15, 2010. This case came before the Board on October 21, 2004 during which time many precedents have been issued by the Board and other courts. The Board in the Applicant's Counterclaim of Fraud held the Applicant to the merits established by Bose Corp., 530 F.3d 1240, 91 USPQ2d 1938 (Fed. Cir. 2009). The applicant submitted many pieces of evidence via several Notices of Reliance, which several exhibits were dismissed for the reasons addressed in the following precedent. All of this evidence complies with *Safer, Inc. v. OMS Investments, Inc.*, 94 USPQ2d 1031, 1039 (TTAB 2010) ("if a document obtained from the Internet identifies its date of

*publication or date that it was accessed and printed, and its source ( e.g., the URL), it may be admitted into evidence pursuant to a notice of reliance in the same manner as a printed publication in general circulation in accordance with Trademark Rule 2.122(e).”) (emphasis in original).*

The Board made no reference to this case and the applicant himself just became aware of this case as of Sept 30, 2010. The applicant acting pro se and not of the legal profession has limited resources to access and determine the precedents and case law being established. This case clearly allows much of the evidence the Board has dismissed, especially evidence that was presented to the Board via a Notice of Reliance on May 27, 2008. All of the applicant's evidence clearly met these standards set by *Safer, Inc. v. OMS Investments, Inc.*

It is with the utmost respect the applicant requests the Board to revisit all of the evidence that Applicant submitted. The evidence from the Applicant's Notices of Reliance on May 27, 2008, and May 14, 2009.

Each piece of evidence that was submitted meets the standards set by *Safer, Inc. v. OMS Investments, Inc.*, since the Applicant has met these standards even prior to this ruling the evidence is of record and is admissible. The applicant was held to the merits of *Bose Corp., 530 F.3d 1240, 91 USPQ2d 1938 (Fed. Cir. 2009)*, the applicant's evidence should have been given the rights afforded to it by the *Safer, Inc. v. OMS Investments, Inc.*

The Board states in its decision the Opposer's registration is overly broad, and the Applicant demonstrates via the evidence that the Board dismissed, that any individual, company or corporation that might have seen the Opposer's application prior to the its statement of use, would have been deceived into believing it was going to be used other purposes. The applicant began using the mark in 1998, one full year prior to the Opposer submitted its statement of use.

It appears the Board has given more weight to the Opposer's Statement of use rather than the actual Intent to Use application and the actual first date of use of the Applicant.

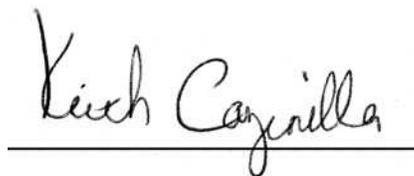
With much respect the Applicant requests the Board review all of the evidence, submitted by the Applicant which was sent in with complete urls and dates. Much of the evidence for this case weighs heavily on internet evidence, since both the Opposer and Applicant do business via the world wide web, it is important.

The applicant would like to request the Board reopen this case to allow the evidence of record to be resubmitted and other evidence that would be pertinent to be submitted. No new briefs just evidence to substantiate the original briefs.

#### CONCLUSION

In view of the facts above Applicant respectfully request and prays the Board reconsider its order, and dismiss the Opposition and grant the Motion to cancel the registration on the grounds of Fraud. Or kindly reopen this case so the evidence and truth may come out.

Respectfully,

A handwritten signature in black ink that reads "Keith Cangiarella". The signature is written in a cursive style and is positioned above a solid horizontal line.

Keith Cangiarella  
"In Pro Per"  
331 N. Harrington Dr  
Fullerton, CA. 92831

Date October 1, 2010  
DreamWeaver Studios  
Keith Cangiarella  
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I hereby certify that this correspondence is being deposited with the US postal service as Priority mail in an envelope addressed to: UNITED STATES PATENT AND TRADEMARK OFFICE Trademark Trial and Appeal Board P.O. Box 1451 Alexandria, VA 22313-1451

Certificate of Service

I hereby certify a copy of the foregoing **MOTION FOR RECONSIDERATION OF THE DECISION** was priority mailed to David & Leonard LLP - Mark R Leonard 8880 Cal Center Drive, Suite 180, Sacramento, CA. 95826 and on October 1, 2010

A handwritten signature in cursive script that reads "Keith Cangiarella". The signature is written in black ink and is positioned above a solid horizontal line.

Keith Cangiarella  
October 1, 2010