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

Proceeding	91162780
Party	Plaintiff Message In A Bottle, Inc. f/k/a Gold Shells, Inc.
Correspondence Address	MARK R. LEONARD DAVIS & LEONARD LLP 8880 CAL CENTER DRIVE, SUITE 180 SACRAMENTO, CA 95826 UNITED STATES mleonard@davisandleonard.com
Submission	Opposition/Response to Motion
Filer's Name	Mark R. Leonard
Filer's e-mail	mleonard@davisandleonard.com
Signature	/mark r. leonard/
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE TRADEMARK TRIAL AND APPEAL BOARD

<p>MESSAGE IN A BOTTLE, INC.</p> <p style="text-align: center;">Opposer,</p> <p style="text-align: center;">v.</p> <p>KEITH CANGIARELLA</p> <p style="text-align: center;">Applicant</p>	<p>Opposition No.: 91,162,780</p> <p>Application Serial No.: 78/229,875</p> <p>Mark: MESSAGE IN A BOTTLE</p>
<p>KEITH CANGIARELLA</p> <p style="text-align: center;">Petitioner,</p> <p style="text-align: center;">v.</p> <p>MESSAGE IN A BOTTLE, INC.</p> <p style="text-align: center;">Registrant</p>	<p>Counterclaim for cancellation</p> <p>Registration No.: 2,243,269</p> <p>Mark: MESSAGE IN A BOTTLE</p>
<p><b>OPPOSER MESSAGE IN A BOTTLE, INC.’S RESPONSE TO APPLICANT’S MOTION FOR RECONSIDERATION</b></p>	

OPPOSER MESSAGE IN A BOTTLE, INC. (“Opposer”) hereby opposes Applicant Keith Cangiarella’s (“Applicant”) Motion For Reconsideration (“Applicant’s Motion”), filed October 1, 2010. Applicant filed an application to register the mark MESSAGE IN A BOTTLE. Opposer filed an opposition to that application based on likelihood of confusion with its prior registration for the identical mark. Applicant subsequently brought a counterclaim for cancellation of Opposer’s prior registration on the basis of alleged fraud on the PTO. In its June 15, 2010 decision the Board sustained the opposition and denied Applicant’s counterclaim. On July 13, 2010 Applicant sought

reconsideration of that decision, which the Board denied in its September 7, 2010 Order. Applicant apparently now seeks reconsideration of the Board's Order denying Applicant's prior motion for reconsideration. Applicant's present motion is both substantively and procedurally defective and it should be denied.

A motion for reconsideration should not "be devoted simply to a reargument of the points presented in the requesting party's brief on the case." TBMP § 543. Applicant primarily contends, once again, that certain evidence that was excluded would change the Board's decision granting Opposer's opposition. Applicant's Motion p. 3. The Board expressly stated that even if it had considered Exhibits W, X, and Y it would not change its decision. June 15, 2010 Board Order p. 8 n. 7; September 7, 2010 Order p. 4. Applicant's arguments have been twice considered and rejected by the Board, it should reject them a third time as well.

The Trademark Rules do not "contemplate a second request for reconsideration of the same basic issue." TBMP § 518. Applicant's attempt to seek reconsideration of the Board's order denying reconsideration is therefore procedurally defective as well and his motion should be denied in its entirety.

Respectfully submitted,

MESSAGE IN A BOTTLE, INC.

By its attorneys,

Date: October 15, 2010

By: /mark r. leonard/  
Mark R. Leonard  
DAVIS & LEONARD, LLP  
8880 Cal Center Dr., Suite 180  
Sacramento, CA 95826  
Telephone: (916) 362-9000  
mleonard@davisandleonard.com

### **Certificate of Service**

I hereby certify that a true and complete copy of the foregoing Response to Motion for Reconsideration has been served on Applicant by mailing said copy on October 15, 2010, via U.S. Mail, postage prepaid to: Keith Cangiarella, 331 N. Harrington Drive, Fullerton, California 92831

/mark r. leonard/

Mark R. Leonard