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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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Submission	Reply in Support of Motion
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Signature	/Keith Cangiarella/
Date	10/26/2007
Attachments	replytoamendlen.pdf (3 pages)(20027 bytes)

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 GOLD SHELLS, INC., a California corporation, Opposer, v. KEITH CANGIARELLA, Applicant.	Opposition No. 91162780 Cancellation No. _____ APPLICANT'S REPLY BRIEF IN SUPPORT OF APPLICANT'S MOTION FOR MOTION FOR LENIENCY AND TO AMEND PETITION TO CANCEL
In the Matter of Trademark Registration No.: 2,243,269 Mark: MESSAGE IN A BOTTLE KEITH CANGIARELLA, Petitioner, v. Gold Shells, Inc, Opposer	

APPLICANT'S REPLY BRIEF IN SUPPORT OF APPLICANT'S MOTION FOR LENIENCY AND TO AMEND PETITION TO CANCEL
"IN PRO PER"

Applicant humbly and respectfully submits the Applicant did not allude to somewhat oblique reference in its original counterclaim. This statement was clear as day then as it is now. Once again the Opposer and its Counsel performs slight of hand, smoke and mirrors to distract the Board from the Applicants sound arguments.

The statement "with the intent to avoid a potential descriptiveness refusal" clearly identifies the mark as possibly being descriptive, in all the research the Applicant has done of the laws and procedures at the United States Patent and Trademark, and the Trademark Trial and Appeals Board, the words descriptive and generic are used together often. Law dictionaries define the word generic as common or descriptive not entitled to trademark, "nonproprietary"

The Opposer argues, that its counsel did object by stating "Applicant Motion for Summary Judgment based on genericness is procedurally defective in that the Applicant has not plead genericness in his pleadings herein" This is a statement, not a bona fide objection as a

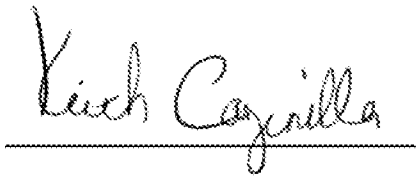
bona fide objection would have ceased there. The Opposer's counsel went on to write a several page argument against genericness. It would appear the Opposer did not actually object but utilize that statement as a precursor or opening statement to its argument.
The Opposer wrote grand argument after the aforementioned statement, citing precedents, law and regulations, this would lay heed that the Opposer was not objecting but defending the charge of generic.

Yet, now after receiving the Applicant's Motion for Leniency and to Amend Petition to Cancel has utilized this as a platform to try to make it sound as an objection.
Evidence present in this Motion for Summary judgment was not available to the Applicant, in 2004 per se, the Applicant in 2003-2004 was represented by legal counsel. The Applicant lacked the experience and knowledge he has now, in these proceeding and legal matters, as well as research skills. If the Applicant had these skills in 2003-2004 these procedures would have been handled differently and would have been completed.
The Opposer states their in no basis for leniency in the law or rules, that is correct, no leniency for seasoned counsel, but for a new comers like myself, it is at the Boards discretion and Board has been lenient to the Applicant in the past, the Applicant thanks the Board.
The Applicant does not possess thirty plus years of legal experience and continued education of the Opposer's counsel. The Applicant takes great offense in the implications made by the Opposer's Counsel.

The Applicant once again, if needs be, asks the Board for leniency with regards to the Amending the Motion for Summary Judgment, based on the evidence the Applicant believes he does not need it based on his arguments here and in the Motions for Summary Judgment, but if so the Applicant whom is acting pro se, asks for it.

For the above reasons, the Applicant respectfully requests that the Applicant's Motion for Leniency and to Amend Petition to Cancel be granted.

Dated October 26, 2007



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Date October 26, 2007
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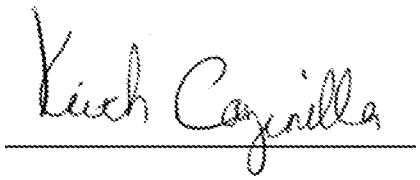
I hereby certify that this correspondence is being deposited UNITED STATES PATENT AND TRADEMARK OFFICE website via the ESTTA.

Certificate of Service

I hereby certify a copy of the foregoing APPLICANT'S REPLY BRIEF IN SUPPORT OF APPLICANT'S MOTION TO DISMISS OPPOSITIONS was faxed only 209-579-9940 to Mr. Peter Smith attorney at law.



Keith Cangiarella
October 5, 2007