

ESTTA Tracking number: **ESTTA220084**

Filing date: **06/24/2008**

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

Proceeding	91162780
Party	Defendant KEITH CANGIARELLA
Correspondence Address	KEITH CANGIARELLA 331 N. HARRINGTON DRIVE FULLERTON, CA 92831 UNITED STATES 1mib@dreamweaverstudios.com
Submission	Other Motions/Papers
Filer's Name	Keith Cangiarella
Filer's e-mail	kccandrgrn@sbcglobal.net
Signature	/Keith Cangiarella/
Date	06/24/2008
Attachments	with signature opposition to motion to strike.pdf (5 pages)(41234 bytes)



DreamWeaver Studios
Keith Cangiarella
331 N. Harrington Dr
Fullerton, CA. 92831
714-441-3442
714-464-4112

Patent and Trademark Office
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA. 22313-1451

June 24th, 2008

Dear TTAB,

My humble apologies, in my prior filing, I did not sign the document in a single signature area, I am resubmitting the document with both signatures.

My apologies,

Keith Cangiarella

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, Opposer, v. KEITH CANGIARELLA, Applicant.	

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	

Patent and Trademark Office
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA. 22313-1451

APPLICANT'S OPPOSITION TO OPPOSER MESSAGE IN A BOTTLE, INC'S
MOTION TO STRIKE APPLICANT'S NOTICE OF RELIANCE

Come Now!, APPLICANT, KEITH CANGIARELLA ("Applicant") hereby objects to the motion to strike the Applicant's Notice of Reliance and Declaration of Keith Cangiarella("Declaration").

1. Notice of Reliance is a separate document from the Declaration, The Notice of Reliance makes no mention of the Declaration, nor should the two documents be intertwined as Opposer's Counsel has done so.

2. A Declaration is the only method of presenting testimony by an individual acting pro se and is allowable per 37 CFR 1.68 – Declaration in lieu of Oath.
3. The Board nor Opposer’s counsel would expect the Applicant to question himself!, via oral testimony?
4. The only method put in testimony is via a Declaration for one acting pro se.
5. The Opposer counsel himself even stated in Opposition to Opposer’s Motion to Reopen Discovery Period and Extend Trial Schedule – Date 02-09-2006 page 1-2 “Applicant’s counsel has again displayed an apparent desire to make a simple matter seem like a complex one, filing a verbose and unwieldy diatribe in an effort to obfuscate the simple and adequate bases for Opposer’s motion to reopen discovery. Applicant’s counsel even attaches an irrelevant and *self-serving declaration* from the Applicant himself, Keith Cangiarella, which can have no purpose other than to attempt to prejudice the record by *presenting premature testimony* to the TTAB before of Applicant’s scheduled period for so.” (*emphasis added*), see attached Exhibit A. The Opposer’s counsel admits the declaration is testimony and all evidence presented by the Applicant should be allowed.
6. The Notice of Reliance and the Declaration were submitted to the Opposer and TTAB as separate documents, with there own set of exhibits.
7. The Applicant has not presented the Declaration as being blanketed by the Notice of Reliance.
8. In its entirety the Opposer’s Motion to strike rests on the notion that the Notice of Reliance blankets the Declaration, which the any person can see they are two completely separate documents and presented in that fashion.

9. The Opposer has once again gone through great lengths to waste the valuable time of the TTAB and the time of the Applicant. A simple email or phone between the parties could have cleared up these issues.

10. Clearly, the Notice of Reliance has been presented in correct legal fashion as a separate document with its own exhibits. The Declaration of Keith Cangiarella has been presented as a separate document with its own exhibits, in essence written testimony of the Applicant. Most importantly the Notice of Reliance does not mention the Declaration, nor does the Declaration mention the Notice of Reliance. These are two separate documents, the Notice of Reliance being just that, and the Declaration of Keith Cangiarella, being the Testimony of Keith Cangiarella.

The Motion to Strike should be dismissed and be given no merit in the decision of this case.

Dated : June 24, 2008

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

"Pro Se"

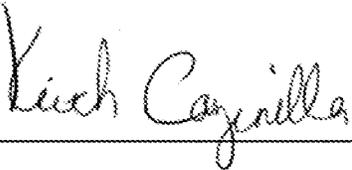
331 N. Harrington Dr

Fullerton, CA. 92831

Certificate of Service

I hereby certify that a copy of the foregoing APPLICANT'S OPPOSITION TO OPPOSER MESSAGE IN A BOTTLE, INC'S MOTION TO STRIKE APPLICANT'S NOTICE OF RELIANCE was emailed to Peter H Smith Attorney at law email – peterhsmith@sbcglobal.net and faxed to 209-579-9524. In an effort to preserve the environment, a hard copy will not be mailed via first class mail unless requested by Mr. Smith.

Date June 24, 2008



A handwritten signature in black ink, reading "Keith Cangiarella", is written over a horizontal line.

Keith Cangiarella