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

Opposition No. 91170363

Serial No. 78/544,617

KENNETH C. CANTAMOUNT, dba PRIVATE EYES

Opposer

v.

SWAIM390 INVESTIGATIONS, INC.

Applicant

Service Mark: YOUR PRIVATE EYES AND EARS



11-27-2006

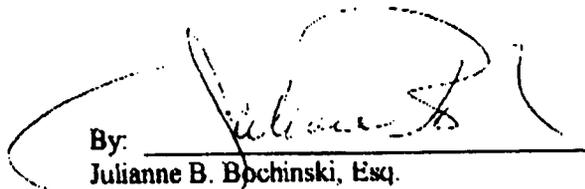
U.S. Patent & TMO/TM Mail Rcpt Dt. #74

STIPULATED DISMISSAL OF OPPOSITION

It is hereby stipulated by and between all parties, through their undersigned counsel, that the opposition is dismissed without prejudice upon the acceptance by the Trademark Examining Division of a Consent Agreement to register between the parties, and the removal of Applicant's U.S. Serial No. 78/544,617 as a reference against the registration of Opposer's U.S. Serial No. 78/635,611. Each party shall bear its own costs and attorneys fees.

Respectfully submitted,

By:


Julianne B. Bochinski, Esq.
Attorney for Opposer
Colonial Green
250 Post Road East, Suite 102
Westport, CT 06880

By:


Paul D. Supnik, Esq.
Attorney for Applicant
9601 Wilshire Blvd., Suite 828
Beverly Hills, CA 90210-5210

CONSENT AGREEMENT

This Agreement is made as of the last date signed below, by and between

Kenneth C. Cantamount, dba Private Eyes
Having a place of business at
P.O. Box 620944
Woodside, CA 94062

And

Swaim390 Investigations, Inc.
Having a place of business at
4223 Glencoe Ave., Suite C203
Marina Del Rey, CA 90292

WHEREAS, Kenneth C. Cantamount, dba Private Eyes is the applicant in U.S. Trademark Application Serial No. 78/635,611 for the mark PRIVATE EYES for use in connection with LICENSED PRIVATE INVESTIGATIVE SERVICES FOR CIVIL AND CRIMINAL MATTERS; SECURITY AND PROTECTION SERVICES, NAMELY PERSONAL SECURITY CONSULTATION; PROVIDING INFORMATION IN THE FIELD OF PRIVATE INVESTIGATIVE RESEARCH, IN INTERNATIONAL CLASS 45; said mark was first used in interstate commerce on November 1, 1995.

WHEREAS, Swaim390 Investigations, Inc. is the applicant in U.S. Trademark Application Serial No. 78/544,617 for the mark YOUR PRIVATE EYES AND EARS in connection with, PRIVATE INVESTIGATION SERVICES, INVESTIGATION OR SURVEILLANCE ON BACKGROUND PROFILES, IN INTERNATIONAL CLASS 45; said mark was first used in interstate commerce on January 31, 2006.

NOW THEREFORE, in consideration of these premises and mutual covenants herein contained, the parties mutually agree as follows:

1. Swaim390 Investigations, Inc. hereby consents to use and registration in the United States by Kenneth C. Cantamount, dba Private Eyes of U.S. Trademark Application No. 78/635,611 for the mark PRIVATE EYES for use in connection with LICENSED

PRIVATE INVESTIGATIVE SERVICES FOR CIVIL AND CRIMINAL MATTERS; SECURITY AND PROTECTION SERVICES, NAMELY PERSONAL SECURITY CONSULTATION; PROVIDING INFORMATION IN THE FIELD OF PRIVATE INVESTIGATIVE RESEARCH, IN INTERNATIONAL CLASS 45;

2. Private Eyes hereby consents to use and registration in the United States by Swaim390 Investigations, Inc. of U.S. Trademark Application No. 78/544,617 for the mark YOUR PRIVATE EYES AND EARS in connection with, PRIVATE INVESTIGATION SERVICES, INVESTIGATION OR SURVEILLANCE ON BACKGROUND PROFILES, IN INTERNATIONAL CLASS 45.
3. In order to avoid any likelihood of confusion, Swaim390 Investigations, Inc. hereby agrees not to use YOUR PRIVATE EYES AND EARS, as shown in U.S. Trademark Application Serial No. 78/544,617 for anything other than a tagline or ancillary service mark to its main source identifying name of SWAIM390 INVESTIGATIONS, INC. and further agrees to not separate the term PRIVATE EYES apart from its mark for use in connection with PRIVATE INVESTIGATION SERVICES, INVESTIGATION OR SURVEILLANCE ON BACKGROUND PROFILES, IN INTERNATIONAL CLASS 45. Notwithstanding the foregoing, nothing herein shall prevent SWAIM390 Investigations, Inc. from using its mark YOUR PRIVATE EYES AND EARS significantly separated in its advertising and promotional materials from its main mark SWAIM390 INVESTIGATIONS or its corporate name SWAIM390 Investigations, Inc. and nothing shall prevent SWAIM390 Investigations, Inc. from modifying or changing its main mark or corporate name in the future, so long as that change is not the same or confusingly similar to PRIVATE EYES.
4. In order to avoid any likelihood of confusion, Kenneth C. Cantamount, dba Private Eyes hereby agrees not to use YOUR PRIVATE EYES AND EARS, as shown in U.S.

Trademark Application Serial No. 78/544,617 and will use PRIVATE EYES alone as its main source identifying name in connection with LICENSED PRIVATE INVESTIGATIVE SERVICES FOR CIVIL AND CRIMINAL MATTERS; SECURITY AND PROTECTION SERVICES, NAMELY PERSONAL SECURITY CONSULTATION; PROVIDING INFORMATION IN THE FIELD OF PRIVATE INVESTIGATIVE RESEARCH, IN INTERNATIONAL CLASS 45.

5. Kenneth C. Cantamount, dba Private Eyes and Swaim390 Investigations, Inc., each acknowledge the other's Trademarks as to their respective services, as enumerated above.
6. Kenneth C. Cantamount, dba Private Eyes and Swaim390 Investigations, Inc. each agree that the following reasons exist why no likelihood of confusion exists:
 - a. The marks are different. The mark PRIVATE EYES as applied for by Kenneth C. Cantamount, dba Private Eyes as set forth in U.S. Trademark App. No. 78/635,611 is different from the way SWAIM390 Investigations, Inc. uses its mark YOUR PRIVATE EYES AND EARS as set forth in U.S. Trademark App. No. 78/544,617. Kenneth C. Cantamount, dba Private Eyes uses the mark PRIVATE EYES as its main source identifying service mark with a tagline, LOOKING OUT FOR YOU. Whereas, SWAIM390 Investigations, Inc. uses SWAIM390 as its main source identifying service mark with a tagline, YOUR PRIVATE EYES AND EARS.
 - b. Sophistication of Purchasing Public. The types of persons that purchase the services of each party are relatively sophisticated, this is because private investigative services are often used by attorneys and law enforcement professionals who would not be confused to believe that the services of Kenneth C. Cantamount, dba Private Eyes came from Swaim390

Investigations, Inc., and vice versa.

c. Length of time of concurrent use without evidence of actual confusion.

Kenneth C. Cantamount, dba Private Eyes asserts a date of first use in commerce for U.S. Trademark Application No. 78/635,611 for PRIVATE EYES in connection with LICENSED PRIVATE INVESTIGATIVE SERVICES FOR CIVIL AND CRIMINAL MATTERS; SECURITY AND PROTECTION SERVICES, NAMELY PERSONAL SECURITY CONSULTATION; PROVIDING INFORMATION IN THE FIELD OF PRIVATE INVESTIGATIVE RESEARCH, IN INTERNATIONAL CLASS 45, of November 1, 1995. Swaim390 Investigations, Inc. asserts a date of first use in commerce for U.S. Trademark Application No. 78/544,617 for the mark YOUR PRIVATE EYES AND EARS for use in connection with PRIVATE INVESTIGATION SERVICES, INVESTIGATION OR SURVEILLANCE ON BACKGROUND PROFILES, IN INTERNATIONAL CLASS 45, of January 31, 2006. Therefore, there has been concurrent use for about 8 months, without either party being aware of any evidence of actual confusion.

7. This Agreement is conditioned on the U.S. Patent and Trademark Office removing all objections to registration by Kenneth C. Cantamount, dba Private Eyes of its U.S. Trademark Application No. 78/635,611 for the mark PRIVATE EYES for use in connection with LICENSED PRIVATE INVESTIGATIVE SERVICES FOR CIVIL AND CRIMINAL MATTERS; SECURITY AND PROTECTION SERVICES, NAMELY PERSONAL SECURITY CONSULTATION; PROVIDING INFORMATION IN THE FIELD OF PRIVATE INVESTIGATIVE RESEARCH, IN INTERNATIONAL CLASS 45. In this regard, Kenneth C. Cantamount, dba Private Eyes is permitted to file a Concurrent Use Proceeding in order to preserve its rights,

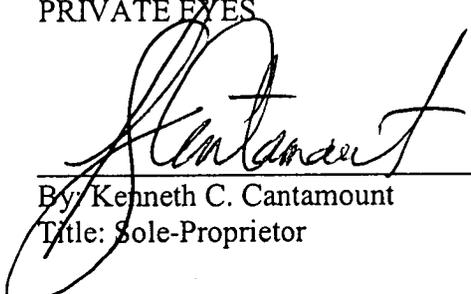
pending a decision by the U.S. Trademark Office removing any refusal to register.

8. This Agreement shall be binding on and inure to the benefit of both parties, their successors and assigns, unless and until Swaim390 Investigations, Inc. and Kenneth C. Cantamount, dba Private Eyes or a successor or assign of either party abandons use of their trademarks as defined by the Lanham Act, at which time the Agreement shall automatically terminate.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year last signed below.

Date: 10-12-06

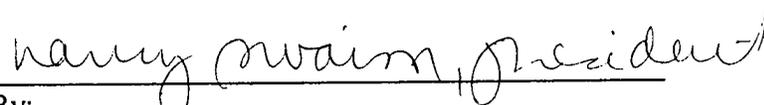
PRIVATE EYES



By: Kenneth C. Cantamount
Title: Sole-Proprietor

Date: 9.27.06

SWAIM390 INVESTIGATIONS, INC.



By:
Title:

DHC-102

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: SWAIM390 Investigations, Inc.

Serial No.: 78/544,617

Mailing Date: November 17, 2006

Mark: **YOUR PRIVATE EYES AND EARS**

CERTIFICATE OF MAILING

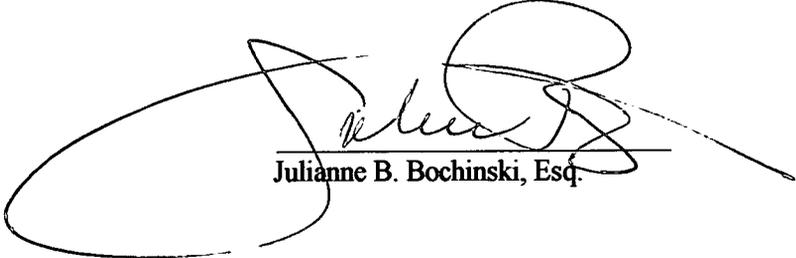
Commissioner for Trademarks:
Box: Responses
P.O. Box 1451
Alexandria, VA 22313-1451

I hereby certify that the following attached correspondence comprising:

-----Stipulated Dismissal of Opposition with Consent Agreement

----acknowledgement post card

Is being deposited with the United States Postal Service as "First Class Mail postage" prepaid in an envelope addressed to: Commissioner for Trademarks, BOX: TTAB, P.O. Box 1451, Alexandria, VA 22313-1451 on November 17, 2006.



Julianne B. Bochinski, Esq.

November 17, 2006
(Date of Deposit)