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Filing date: **04/01/2009**

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

Proceeding	91186018
Party	Plaintiff In-N-Out Burgers
Correspondence Address	Edward O. Ansell Law Office of Edward O. Ansell 427 N. Yale Avenue, Suite 204 Claremont, CA 91711 UNITED STATES anselaw@verizon.net
Submission	Other Motions/Papers
Filer's Name	Edward O. Ansell
Filer's e-mail	anselaw@verizon.net
Signature	/Edward O. Ansell/
Date	04/01/2009
Attachments	Quagliagameindispensibleparty2.mot.pdf (3 pages)(117258 bytes) quagliaindisipensablepartyexhA.pdf (2 pages)(517619 bytes)

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

In-N-Out Burgers)	
Opposer)	Opposition No.: 91186018
)	
v.)	Application No. 76/687,302
)	
Brian Quaglia)	Filed: March 3, 2008
Applicant)	
_____)	

OPPOSER’S MOTION TO JOIN AN INDISPENSIBLE PARTY

To The Trademark Trial & Appeal Board

Opposer, In-N-Out Burgers (“Opposer”) hereby moves the Trademark Trial and Appeal Board (“the Board”) to join Sandra Quaglia, an individual, of 77 Peck Street, Rehoboth, Massachusetts 02769 as an Indispensable Party in the above-captioned matter pursuant to Federal Rules of Civil Procedure 19(a), and to suspend the discovery and following schedule pending consideration by the Board of Opposer’s Motion, and to reset the schedule thereafter.

BRIEF IN SUPPORT OF OPPOSER’S MOTION TO JOIN AN INDISPENSABLE
PARTY

It has come to the attention of Opposer that an assignment of an undivided part of Applicant Brian Quaglia’s interest in said Application Serial No. 76,687,302 was conveyed by Applicant Brian Quaglia of 151 Airport Road, Warwick, RI to Sandra Quaglia, 77 Peck Street, Rehoboth, MA. Said Assignment, a downloaded copy of which, taken from the records of the United States Patent and Trademark Office, and enclosed as Exhibit A, shows receipt on 10/21/2008 and recordation on 09/12/2008 at Reel/Frame: 3874/0485,

each event occurring subsequent to the August 26, 2008 institution of the instant Opposition.

In the absence of said assignee of an undivided interest as a party to the instant proceeding, the Board cannot accord complete relief among the existing parties. F.R.C.P. 19(a). Absent the requested joinder, a judgment entered against Applicant Brian Quaglia would not serve as *res judicata* against an application for the same mark filed by Sandra Quaglia. An assignee may be joined after filing a copy of an assignment which occurred subsequent to commencement of a Board proceeding to facilitate discovery, particularly an inquiry if the circumstances justify ownership of the subject mark by two different parties. See *Western World Wide Enterprises Group, Inc. v. Qingdao Brewery*, 17 USPQ 2d 1137, 1138 n.4 (TTAB 1990); TMBP 512.01.

Proceedings may be suspended for good cause upon motion or upon stipulation of the parties approved by the Board. See: 37 CFR § 2.117(c), TBMP 510.03(a).

NOW THEREFORE, Opposer moves the Board to join Sandra Quaglia, assignee of an undivided interest of the above-captioned mark, as an indispensable party; to suspend the discovery and following schedule pending consideration of the aforesaid motion; and to reset said schedule thereafter.

Respectfully submitted,
In-N-Out Burgers

By /Edward O. Ansell/
Edward O. Ansell
Attorney for Opposer

Date: March 30, 2009
Attachments: Exhibit A

427 N. Yale Ave., #204
P.O. Box 1163
Claremont, CA 91711
Tel: (909) 621-1985
Fax: (909) 624-1664
Email: anselaw@verizon.net

PROOF OF SERVICE:

I hereby certify that on March 30, 2009, a copy of the foregoing Opposer's Motion to Join an Indispensable Party was deposited with the U.S. Postal Service, first class mail postage prepaid, to the Applicant, Brian Quaglia, 151 Airport Rd., Warwick, RI 02886.

_____/Edward O. Ansell/
Edward O. Ansell

PROOF OF SERVICE:

I hereby certify that on March 30, 2009, a copy of the foregoing Opposer's Motion to Join an Indispensable Party was deposited with deposited with the U.S. Postal Service, first class mail postage prepaid, to the Assignee Sandra Quaglia, 77 Peck Street, Rehoboth, MA 02769-2806

_____/Edward O. Ansell/
Edward O. Ansell



United States Patent and Trademark Office

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Trademark Assignment Assignee Details

Assignee Name : QUAGLIA, SANDRA

Total Assignments: 2

Assignment: 1

Reel/Frame: [3874/0485](#)

Pages: 5

Received: 10/21/2008

Recorded: 09/12/2008

Conveyance: ASSIGNMENT OF AN UNDIVIDED PART OF ASSIGNORS INTEREST

Assignor

1 [QUAGLIA, BRIAN](#)

Exec Dt: 09/09/2008

Entity Type: INDIVIDUAL

Citizenship: UNITED STATES

Assignee

1 [QUAGLIA, SANDRA](#)

77 PECK STREET

REHOBOTH, MASSACHUSETTS 02769

Entity Type: INDIVIDUAL

Citizenship: UNITED STATES

Properties

Ser. #	Reg. #								
76664587	3315259	76670431	3296163	76670637	3379937	76680846	3460021	76680968	3460022
76683365	3421182	76683366	3421183	76686218	NONE	76687302	NONE		

Correspondence name and address

BRIAN QUAGLIA

151 AIRPORT ROAD

WARWICK, RHODE ISLAND 02886

Assignment: 2

Reel/Frame: [3874/0525](#)

Pages: 4

Received: 10/21/2008

Recorded: 09/12/2008

Conveyance: ASSIGNS THE ENTIRE INTEREST

Assignor

1 [QUAGLIA, BRIAN](#)

Exec Dt: 09/09/2008

Entity Type: INDIVIDUAL

Citizenship: UNITED STATES

Assignee

1 [QUAGLIA, SANDRA](#)

77 PECK STREET

REHOBOTH, MASSACHUSETTS 02769

Entity Type: INDIVIDUAL

Citizenship: UNITED STATES

Properties

Ser. # Reg. # Ser. # Reg. #

[75171452](#) [2119407](#) [76691584](#) [3582069](#)

Correspondence name and address

BRIAN QUAGLIA
151 AIRPORT ROAD
WARWICK, RHODE ISLAND 02886

Search Results as of: 03/27/2009 06:14 PM

If you have any comments or questions concerning the data displayed, contact PRD / Assignments at 571-272-3350.
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