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

Proceeding	91193133
Party	Defendant Revell, Graeme C., Revell, Ashley M.
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Piggyback Interactive Limited, Opposer, v. Graeme C. Revell and Ashley M. Revell, Applicants.	Proceeding No.: 91193133 Application Serial No.: 78/427,793 Mark: PIGGEEBACK Published for Opposition: June 30, 2009
Graeme C. Revell and Ashley M. Revell, Counterclaim Petitioner. v. Piggyback Interactive Limited, Counterclaim Respondent,	Registration No.: 3,264,264 Mark: PIGGYBACK Atty Ref No. 65846-9001

RESPONSE TO COMMUNICATION REGARDING WITHDRAWAL OF
COUNTERCLAIM FOR CANCELLATION WITHOUT PREJUDICE

Graeme C. Revell and Ashley M. Revell (the "Revells"), through their counsel of record, hereby respond to Piggyback Interactive Limited's ("Piggyback") Communication Regarding Withdrawal of Counterclaim for Cancellation Without Prejudice.

The Revells are aware, as are both the Revell's counsel and the Board, that pursuant to Rule 2.1114(c), a request to withdraw a petition for cancellation without prejudice will be denied unless the registrant has provided its consent in writing. However, as the Revells communicated to Piggyback on numerous occasions, they were not willing to request withdrawal of their counterclaim for cancellation without prejudice.

Although they were aware that the Board would deny a request for withdrawal of the counterclaim without prejudice absent Piggyback's written consent and would, instead, enter a

dismissal with prejudice, the Revells were willing to resolve this proceeding by requesting a withdrawal without prejudice.

Piggyback's suggestion that the Revells and their counsel were "underhanded" or otherwise acted in bad faith is both insulting and without basis in fact. Neither the Revells nor their counsel suggested at anytime that Piggyback has consented to the requested withdrawal without prejudice. Additionally, the Board's jurisprudence and procedure with respect to withdrawals with and without prejudice are well established. Thus, there is nothing "underhanded" in the Revells' or their counsel's conduct.

Furthermore, although there was no suggestion that Piggyback ever provided its consent to a withdrawal without prejudice, Piggyback has included numerous emails containing the parties confidential settlement negotiations in order to demonstrate that point. Piggyback's inclusion of these materials is improper, *inter alia*, under Rule 408 and the Revells request that this material be stricken from the record and/or removed from the files, or at a minimum, be filed under seal so that they are not available for public viewing - either physically or electronically.

Date: October 25, 2010

By: /S/ JESSICA C. BROMALL
Rod S. Berman, Esq.
Jessica C. Bromall, Esq.
JEFFER MANGELS BUTLER & MITCHELL LLP
Attorneys for Applicants and Petitioners Graeme
C. Revell and Ashley M. Revell

CERTIFICATE OF SERVICE

It is hereby certified that on October 25, 2010, a copy of the foregoing RESPONSE TO COMMUNICATION REGARDING WITHDRAWAL OF COUNTERCLAIM FOR CANCELLATION WITHOUT PREJUDICE has been sent by first class mail, postage prepaid to the attorney of record for Opposer and Respondent:

Mark H. Tidman
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Dated: October 25, 2010

By: _____
ESTHER SILVERMAN