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

Proceeding	91195527
Party	Defendant Alice Dendinger Alliance Group, L.L.C.
Correspondence Address	JUSTIN M WELCH BLAZIER CHRISTENSEN BIGELOW & VIRR PC 221 WEST 6TH STREET, SUITE 2000 AUSTIN, TX 78701 UNITED STATES jwelch@blazierlaw.com
Submission	Opposition/Response to Motion
Filer's Name	justin m. welch
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Date	10/27/2010
Attachments	MOTION FOR SANCTIONS - RESPONSE - jmw.pdf (4 pages)(112850 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In re Application of: Alice Dendinger Alliance Group, L.L.C.

Serial No.: 76/697692.

Filed: June 1, 2009.

Mark: TIMELINE TRAINING.

Published for Opposition: April 27, 2010.

EVERETT W. JAMES, *Opposer,*	§ § §	
v.	§ §	OPPOSITION NUMBER:
ALICE DENDINGER ALLIANCE GROUP, L.L.C., *Applicant,*	§ § §	91195527

RESPONSE TO OPPOSER'S MOTION FOR SANCTIONS

COMES NOW, APPLICANT, Alice Dendinger Alliance Group, L.L.C. ("Dendinger"), and file this her Answer to the Notice of Opposition filed by Everett W. James ("James"), and in support will show as follows:

I. UNDERLYING FACTS.

1. Opposing counsel's recitation of his attempts to set up the required scheduling conference are correct. However, the failure to hold that conference has not been due to conscious indifference, but rather the undersigned's extremely full litigation calendar. Moreover, the situation has been exacerbated by the fact that Opposer's counsel is located in Hawaii, which is five hours behind Austin, Texas, thereby limiting the available hours in a given

day the conference can be held.

2. Regardless, Applicant has, as of the date of this filing, taken steps to rectify the situation. Specifically, the undersigned has left a phone message with Mr. Martin Hsia, Opposer's counsel, to schedule the conference, and get him anything he feels he is entitled to, and has not received.

3. The argument below addresses Opposer's request for a default judgment.

II. ARGUMENT & AUTHORITY.

i. Applicant's Intent to Dispute Opposer's Claims.

4. Opposer contends that "it is apparent from Applicant's minimalist answer . . . that Applicant does not seriously intend to dispute Opposer's claims." Applicant's answer was "minimalist" because TBMP Rule 311.02(a) dictates that it should be:

> "The defendant should not argue the merits of the allegations in a complaint but rather should state, as to each of the allegations contained in the complaint, that the allegation is either admitted or denied."

Applicant's answer complies with this requirement, admitting and denying Opposer's allegations as contained in its complaint.

5. Furthermore, in the event Opposer contends that Applicant's general denial of Opposer's opposition, he is mistaken. Here, Applicant generally denied Opposer's allegations, but specifically noted those allegations which it could neither admit nor deny, or which it admitted. This type response is expressly allowed under TBMP Rule 311.02(a).

ii. Lack of Prejudice or Injury to Opposer.

6. Opposer has failed to set forth any prejudice or other injury to his opposition that may have been caused by the lack of conference. The conference is not a prerequisite to conducting discovery under TBMP Rule 403.02, which provides "[i]nterrogatories, requests for

production of documents and things, and requests for admission may be served on an adversary from the day the discovery period opens . . ." So, the lack of the conference has not delayed Opposer's investigation of its allegations. Indeed, Opposer has sent no discovery requests.

PRAYER

WHEREFORE, Applicant prays that its Response be well taken, and that Applicant's motion be denied.

Respectfully submitted,

By: _____

Justin M. Welch
State Bar No. 24003876
Attorney for Applicant

a member of the Firm of:

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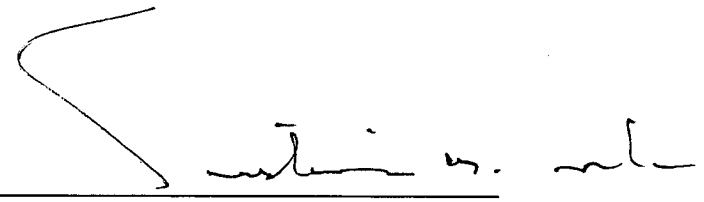
CERTIFICATE OF SERVICE

The undersigned represents that a true and correct copy of the foregoing document was transmitted to those individuals set forth below pursuant to TBMP 311.01(c) on this the 27TH day of OCTOBER, 20 10, by electronic notification or in the manner so indicated.

Martin E. Hsia
Cades Cschutte, L.L.P.
1000 Bishop Street, Suite 1200
Honolulu, Hawaii 96813
Via facsimile to 808.540.5011



Justin M. Welch