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Filing date: **04/10/2014**

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

Proceeding	91198852
Party	Plaintiff Erica Chriswell
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Submission	Withdrawal of Opposition
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Date	04/10/2014
Attachments	withdrawalofopposition.pdf(531973 bytes)

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

ERICA CHRISWELL,)	
)	
Opposer,)	Opposition No. 91198852
)	Serial No. 77/751,586
v.)	Mark: ARIKA KANE
)	Filing Date: June 3, 2009
BIG SCORE ENTERTAINMENT, LLC, dba)	
BSE RECORDINGS)	
)	
Applicant.)	
)	
)	
)	
)	
)	
)	
)	

WITHDRAW BY OPPOSER

WHEREAS, BSE, a recording label, claims that it owns and controls the use and goods associated with the Arika Kane™ trademark and service mark. The artist known by the Arika Kane mark is BSE's marquee recording artist.

WHEREAS, Chriswell claims that she has distributed musical recordings under the name "Eryka Kane."

WHEREAS, a dispute has arisen in that the Arika Kane™ trademark and the Eryka Kane name are substantially similar in appearance and identical in sound, and the Parties make cross claims of trademark infringement, among other claims;

WHEREAS, BSE applied for registration of the "Arika Kane" mark with the United States Patent and Trademark Office ("USPTO") on Jun 3, 2009. BSE registered for three classes associated with the "Arika Kane" mark: IC 009 (digital materials), IC 025 (merchandise), and IC 041 (entertainment services).

WHEREAS, Chriswell applied for registration of the "Eryka Kane" mark with the

United States Patent and Trademark Office (“USTPO”) on April 26, 2010. Chriswell registered for one class with the “Eryka Kane” mark: IC:009 (digital materials). On August 7, 2010, Chriswell was notified by the USTPO that no conflicting marks existed. Later, on September 10, 2010, Chriswell was notified by the USTPO that indeed there was the existence of a “likelihood of confusion” between her “Eryka Kane” mark and BSE’s “Arika Kane” mark. BSE’s Arika Kane mark was published for opposition on November 9, 2010 with the Trademark Trial and Appeal Board (“TTAB”). Chriswell filed a request for extension to oppose which was granted on December 7, 2010.

WHEREAS, BSE in December 2010, filed an action against Chriswell in the United States District Court for the District of Connecticut, styled Big Score Entertainment, LLC v. Chriswell, Case No. 10-CV-1993 (which action was later assigned court number 13-CV-211 in the Northern District of Illinois as explained below) (hereinafter “Connecticut Action”);

WHEREAS, Chriswell, filed with the TTAB her opposition to the “Arika Kane” mark, on February 4, 2011, in the opposition filing she opposed registration of only IC 009, at the direction of her attorney.

WHEREAS, Chriswell, in February 2011, filed an action against BSE in the United States District Court for the Northern District of Illinois, styled Chriswell v. Big Score Entertainment, Case No. 11-CV-861 (hereinafter “Illinois Action”);

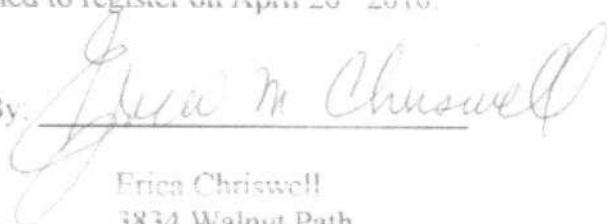
WHEREAS, on March 22, 2011, BSE filed motion to suspend the TTAB proceeding in view of the pending civil actions. TTAB granted BSE’s motion to suspend; it stated that although a federal case may be binding upon the Board, the decision of the Board is not binding upon the court. Therefore, TTAB reasoned that it would be

inefficient and pose a risk of inconsistent judgments if the TTAB action proceeded at the same time as the civil action in Connecticut.

CONCLUSION

On March 26, 2014, BSE and Erica Chriswell reached a settlement agreement and as a part of the agreement, Chriswell hereby withdraws motion for opposition to the Arika Kane mark. Erica Chriswell will also be abandoning the application for registration of the Eryka Kane Trademark, which she applied to register on April 26th 2010.

Dated as of: April 7, 2014

By: 

Erica Chriswell
3834 Walnut Path
Lithonia Ga. 30038
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Attorney for Applicant,
Erica Chriswell

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing withdrawal by opposer was served by electronic mail and deposited with the United States Postal Service, postage prepaid, first class mail, in an envelope addressed to:

Robert H. Muriel, Esq.

Lisa L. Peterson, Esq.

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Kristina M. Chriswell
Kristina Chriswell

this 10th day of April 2014