

ESTTA Tracking number: **ESTTA497255**

Filing date: **09/28/2012**

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

Proceeding	91204897
Party	Defendant Laguna Lakes Community Association, Inc.
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Submission	Other Motions/Papers
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Date	09/28/2012
Attachments	Notice of Service of Initial Disclosures and First Set of Discovery Requests by Applicant.pdf ( 3 pages )(257500 bytes )

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

<b>John Gerard Marino,</b>	)	
	)	
<b>Opposer,</b>	)	<b>Consolidated Opp. No. 91/204,897</b>
	)	<b>91/204,941</b>
	)	
<b>v.</b>	)	<b>NOTICE OF SERVICE OF INITIAL</b>
	)	<b>DISCLOSURES AND FIRST SET</b>
<b>Laguna Lakes Community Association,</b>	)	<b>OF DISCOVERY REQUESTS BY</b>
<b>Inc.,</b>	)	<b>APPLICANT</b>
	)	
<b>Applicant.</b>	)	

Now comes Applicant, Laguna Lakes Community Association (“Applicant”), by and through undersigned counsel, and hereby give notice that on September 28, 2012, Applicant served upon Scott Behren, attorney for Opposer John Gerald Marino (“Opposer”), its Initial Disclosures by U.S. Regular Mail and e-mail. Applicant also served Scott Behren, attorney for Opposer, with Applicant’s First Set of Interrogatories, Requests for Production, and Requests for Admission to Opposer.

Applicant further states that Scott Behren, attorney for Opposer and in the position of Plaintiff, has not initiated and in fact has ignored repeated requests from counsel for Applicant to engage in the discovery conference, which was to be held by Saturday, September 22, 2012 pursuant to Board Order. Fearing the deadline would pass, and having heard nothing from Plaintiff’s counsel, Applicant’s counsel attempted to schedule the conference by e-mail to Mr. Behren on Thursday, September 20, 2012, and subsequently by telephone calls on Tuesday, September 25, 2012 and Wednesday, September 26, 2012. As of the date of this Notice, Opposer has yet to even extend the courtesy of a response let alone discuss the substance of the ordered conference.

As the Board is aware, the parties were to discuss the following at the discovery conference:

(1) the nature of and basis for their respective claims and defenses, (2) the possibility of settling the case or at least narrowing the scope of claims or defenses, and (3) arrangements relating to disclosures, discovery and introduction of evidence at trial, should the parties not agree to settle the case.

Mr. Behren's failure to follow the rules governing practice and procedure before the TTAB evidences a pattern of disinterest at best – or calculated delay designed to prejudice Applicant at worst. Applicant interprets Mr. Behren's aversion to participating in the Board ordered discovery conference as an indication that Opposer is: (1) unwilling to settle this Consolidated Opposition Proceeding, (2) unwilling to narrow the scope of any of Opposer's claims, and (3) consents to proceeding with the standard disclosure, discovery, and trial procedures set out in the Trademark Rules and Federal Rules of Civil Procedure.

Based on such implied consent exhibited by Opposer and his attorney, Applicant has moved forward with serving its Initial Disclosures and First Set of Discovery Requests in the manner and as discussed above.

Respectfully submitted,



Dated: September 28, 2012

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*Attorneys for Applicant*

**CERTIFICATE OF SERVICE**

I hereby certify that on the 28 day of September 2012, a copy of the foregoing *Notice of Service of Initial Disclosures and First Set of Discovery Requests by Applicant* was served via first class U.S. mail postage prepaid and by e-mail upon:

Scott Behren, Esq.  
Behren Law Firm  
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*One of the Attorneys for Applicant*