

ESTTA Tracking number: **ESTTA594522**

Filing date: **03/25/2014**

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

Proceeding	91205046
Party	Plaintiff Christina Sukljian
Correspondence Address	CHRISTINA SUKLJIAN 13 MANOR STREET ALBANY, NY 12207 UNITED STATES info@zela.com
Submission	Opposition/Response to Motion
Filer's Name	Christina Sukljian
Filer's e-mail	info@zela.com
Signature	/Christina Sukljian/
Date	03/25/2014
Attachments	Respondent's Opposition Reply to Petitioner's Motion To Extend Time To Depose in Cancelation 92055279.pdf(858966 bytes)

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

In the Matter of U.S. Registration No. 2898544
Mark: GAGA PURE PLATINUM

-----X

CHRISTINA SUKLJIAN,	:	
	:	Opposition No. 91205046
Opposer,	:	
	:	
v.	:	
	:	
ATE MY HEART, INC.,	:	
	:	
Applicant.	:	

ATE MY HEART, INC.,	:	
	:	Cancelation No. 92055279
Petitioner,	:	
	:	
v.	:	
	:	
CHRISTINA SUKLJIAN,	:	
	:	
Respondent.	:	

-----X

**RESPONDENT’S OPPOSITION TO PETITIONER’S MOTION FOR EXTENSION OF
TIME TO DEPOSE OPPOSER/RESPONDENT SUKLJIAN**

Respondent Christina Sukljian, hereby submits this Opposition reply to Petitioner, Ate My Heart, Inc.’s, Motion For Extension of Time to Depose Opposer/Respondent Sukljian and Respondent, Christina Sukljian, respectfully requests that Petitioner's motion be denied.

The Board has permitted Petitioner time to depose Respondent at the Petitioner's convenience since the opening of Discovery on July 16, 2012. The first deposition was scheduled for September 19, 2013. Respondent went to the scheduled deposition at 10:00 a.m. at the Albany, New York Marriott, however the Petitioner was not there. The deposition notice is annexed hereto as Exhibit A. The Board, in its January 28, 2014 Order, allowed Petitioner another opportunity to depose Respondent at a date at time of Petitioner's convenience by extending the time to depose Respondent by 40 days. Petitioner canceled the second deposition less than 48 hours before the March 5, 2014 scheduled date.

On January 28, 2014, The Board, in its Order, ordered that Petitioner, Ate My Heart, Inc., was allowed twenty days from the Order's mailing date of January 28, 2014 to serve Respondent with a discovery deposition notice and forty days from the same Order's mailing date of January 28, 2014 for said deposition to occur in Albany, NY or wherever the parties may agree.

On February 11, 2014 Petitioner served a copy of the deposition notice scheduled for March 5, 2014 at 10:00 a.m. in Albany, NY. This deposition date was set by the Petitioner and the Petitioner alone according to the convenience of Petitioner's schedule. The deposition notice is annexed hereto is Exhibit B.

On March 3, 2014, less than 48 hours before the scheduled deposition for March 5, 2014, the Petitioner, specifically a Mr. Ryan Klarberg, emailed the Respondent, at Respondent's email address on record with the TTAB info@zela.com, notifying Respondent that the scheduled March 5, 2014 deposition was canceled. The email is annexed hereto is exhibit C.

On March 3, 2014, Respondent's office received a telephone call at approximately 3:23 p.m. from a Mr. Ryan Klarberg. Mr. Klarberg was informed by the receptionist that the

Respondent, Christina Sukljian, was out of the office. The receptionist asked Mr. Klarberg if he would like to leave a message and accordingly Mr. Klarberg left a message including his name, law firm and telephone number, specifically notifying the receptionist that the appointment they had was canceled.

On March 4, 2014 at approximately 12:20 pm a gentleman called Respondent's office inquiring to speak with the Respondent. The receptionist informed the unidentified caller that the Respondent was out of the office. The caller inquired to know if the email address zelaintl.co@verizon.net was active. The receptionist informed the caller that she did not have this information. The receptionist then inquired as to whom is calling and the caller then identified himself as Ryan Klarberg. The receptionist asked if Mr. Klarberg would like to leave a message and accordingly he left his name, law firm, telephone, with the specific message inquiring to know if the email address zelaintl.co@verizon.net was active or not. The only email address on record with the TTAB for the Respondent is info@zela.com. Furthermore, Respondent has never received a March 7 letter nor any letters from Petitioner regarding this canceled deposition.

In its March 10, 2014 Motion to Extend Time, the Petitioner states to The Board that it was defending another deposition, however to Respondent's understanding depositions are not scheduled less than 48 hours prior to a deposition date, but well in advance.

The first scheduled deposition the Petitioner was not there, The Board allowed the Petitioner a 40 day extension of time to depose, the second scheduled deposition was canceled by Petitioner less than 48 hours before the scheduled date. Discovery has been open for nearly 2 years and Petitioner has had ample time.

WHEREFORE, for the reasons set forth herein, Respondent Christina Sukljian

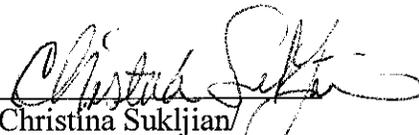
respectfully requests that Petitioner's Motion to Extend Time To Depose Opposer/Respondent be denied in its entirety.

Dated: Albany, New York

Respectfully Submitted,

March 25, 2014

By:



/Christina Sukljian/

Christina Sukljian

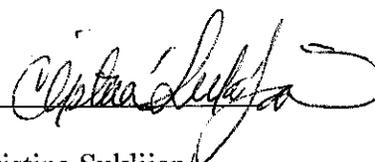
GAGA PURE PLATINUM

13 Manor Street

Albany, New York 12207

CERTIFICATE OF PROOF OF SERVICE

I hereby certify that I served a copy of the foregoing **RESPONDENT'S OPPOSITION TO PETITIONER'S MOTION FOR EXTENSION OF TIME TO DEPOSE OPPOSER/RESPONDENT SUKLJIAN** upon Petitioner Ate My Heart, Inc. by mailing said copy on March 25, 2014 via The United States Postal Service priority mail with signature confirmation in a postage prepaid envelope to: Ate My Heart, Inc., c/o Lisa Buckley Pryor Cashman LLP., 7 Times Square, New York, NY 10036.

By: 
/Christina Sukljan/

Christina Sukljan

13 Manor Street

Albany, NY 12207

Date of Deposit: March 25, 2014
USPS Priority Mail

CERTIFICATE OF MAILING THROUGH ESTTA

I, Christina Sukljian, hereby certify that this **RESPONDENT'S OPPOSITION TO PETITIONER'S MOTION FOR EXTENSION OF TIME TO DEPOSE OPPOSER/RESPONDENT SUKLJIAN** is being filed electronically through ESTTA with The Trademark Trial And Appeal Board, United States Patent And Trademark Office, Alexandria, VA 22313-1451 on the date indicated below.

Date of Deposit: March 25, 2014

Signed: /Christina Sukljian/

EXHIBIT A

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

In the Matter of U.S. Registration No. 2,898,544 for
GAGA PURE PLATINUM

-----X	:	
Ate My Heart Inc.	:	
	:	Opposition No. 91/205,046
Petitioner,	:	
	:	Cancellation No. 92/055,279
-against-	:	
	:	
Christina Sukljian,	:	
	:	
Respondent	:	
-----X	:	

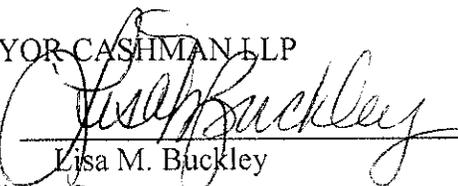
PLEASE TAKE NOTICE, that pursuant to Rules 26 and 30 of the Federal Rules of Civil Procedure, Petitioner will take the deposition upon oral examination of:

Christina Sukljian commencing on September 19, 2013 at 10:00 a.m.

Such deposition will be recorded by stenographic means and by simultaneous audio and video electronic recording and shall proceed before a notary public qualified to administer oaths at the Albany Marriott, 189 Wolf Road, Albany, NY 12205. The examination(s) will continue from day to day until completed.

Dated: New York, New York
September 6, 2013

PRYOR CASHMAN LLP

By: 

Lisa M. Buckley

7 Times Square
New York, New York 10036
(212) 421-4100
Attorneys for Petitioner

EXHIBIT B

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

In the Matter of U.S. Registration No. 2,898,544 for
GAGA PURE PLATINUM

-----X	:	
Ate My Heart Inc.	:	
	:	Opposition No. 91/205,046
Petitioner,	:	
	:	Cancellation No. 92/055,279
-against-	:	
	:	
Christina Sukljian,	:	
	:	
Respondent	:	
-----X	:	

PLEASE TAKE NOTICE, that pursuant to Rules 26 and 30 of the Federal Rules of Civil Procedure, Petitioner will take the deposition upon oral examination of:

Christina Sukljian commencing on Wednesday, March 5, 2014 at 10:00 a.m.

Such deposition will be recorded by stenographic means and by simultaneous audio and video electronic recording and shall proceed before a notary public qualified to administer oaths at the Albany Marriott, 189 Wolf Road, Albany, NY 12205. The examination(s) will continue from day to day until completed.

Dated: New York, New York
February 11, 2014

PRYOR CASHMAN LLP

By: _____

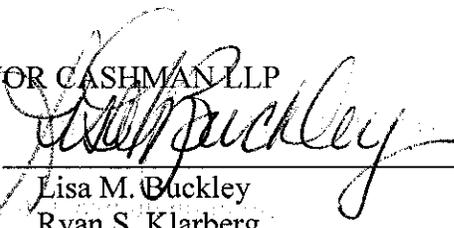

Lisa M. Buckley
Ryan S. Klarberg
7 Times Square
New York, New York 10036
(212) 421-4100
Attorneys for Petitioner

EXHIBIT C

From: Klarberg, Ryan S. [RKlarberg@PRYORCASHMAN.com]
Sent: Monday, March 03, 2014 2:04 PM
To: 'info@zela.com'; 'zelaintl.co@verizon.net'
Cc: Buckley, Lisa
Subject: Deposition of Christina Sukljian - re: GAGA PURE PLATINUM

Importance: High

Dear Ms. Sukljian:

As you are aware, we are scheduled to take your deposition this Wednesday, March 5, 2014. Due to exigent circumstances, we are no longer able to take your deposition on that date.

We would like to re-schedule the deposition at a mutually convenient time and location. Please let us know your availability in the near future.

Please also confirm your receipt of this message. Thank you in advance.

Very truly yours,

Ryan Klarberg

RYAN S. KLARBERG, ESQ.
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rklarberg@pryorcashman.com
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