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

Proceeding	91209633
Party	Plaintiff Cervezas Cuauhtemoc Moctezuma SA de CV
Correspondence Address	SCOTT W PETERSEN HOLLAND & KNIGHT LLP 131 S DEARBORN STREET, 30TH FLOOR CHICAGO, IL 60603-5517 UNITED STATES scott.petersen@hklaw.com, david.donoghue@hklaw.com, stephen.jeffries@hklaw.com
Submission	Other Motions/Papers
Filer's Name	Scott W. Petersen
Filer's e-mail	scott.petersen@hklaw.com
Signature	/Scott W. Petersen/
Date	07/09/2013
Attachments	Stay hydrated - opposition to motion to suspend.pdf(243655 bytes)

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

CERVEZAS CUAUHTÉMOC)	
MOCTEZUMA SA DE CV,)	
)	Opposition No. 91209633
Opposer)	
v.)	Serial No. 85/656,471
)	
)	Mark: STAY HYDRATED MY
BRANDEN WEAVER,)	FRIENDS
)	
Applicant)	
<hr/>		

OBJECTION TO APPLICANT'S "MOTION TO SUSPEND W/OUT CONSENT"

In the matter of Application Serial No. 85/656,471 for registration of the mark STAY HYDRATED, MY FRIENDS, filed June 20, 2012, by Branden Weaver of 2C 398 13th Street, Brooklyn, New York 11215 (hereinafter "Applicant"), the Applicant has filed a "Motion to Suspend w/out Consent." This Motion was received by Opposer in the United States Mail on July 8, 2013.

The Opposer, Cervezas Cuauhtemoc Moctezuma S.A. de C.V. objects to this "Motion" and asks that the Motion be denied.

The Opposer has on *numerous* occasions sent emails to the Applicant inviting discussion on this matter -- both before and after the filing of the Opposition. Opposer's first email was sent on August 8, 2012 (see Exhibit A). Only once -- on September 18, 2012 -- did the Opposer receive an email from Applicant (see Exhibit B). No further emails and no telephone calls have been received despite repeated requests to hear from Applicant.

The Opposer had no objection when the Applicant requested an extension of time in which to file an Answer to the Notice of Opposition. After all, the Applicant was representing himself *pro se* and the Opposer is aware that reasonable requests for extensions will often be granted by this Board.

However it is nearly one year since the Opposer first contacted Applicant to express concern about the instant application. Numerous requests for contact were sent to Applicant by email. The Applicant's response? Apart from that lone email (Exhibit B) -- there has been silence.

The TBMP §510.03(a) provides as follows:

". . . . the Board generally will not approve a motion or stipulation to suspend [proceedings] filed after the answer and before the discovery conference without a sufficient showing of good cause."

The Applicant here filed an Answer to the Notice of Opposition but there has been no discovery conference. The Opposer has sent several emails in an effort to "reach out" to Applicant to discuss the parameters of a discovery conference -- which has still not been held. Again, there has only been silence -- until the presentation of this Motion.

The Motion itself has no recitation of "good cause" and *inter alia* states that Applicant wishes to "*meet with counsel*" to prepare for his defense. Yet in his lone email of September 18, 2012, Applicant states that "*Upon review with counsel, it is my opinion that*" (See Exhibit B). Thus, at least as early as ten months ago, the Applicant had met with counsel and concluded that his trademark did not infringe the Opposer's mark(!). It is not only the Applicant's

refusal to communicate with Opposer that urges denial of this Motion, it is the disingenuous allegations which demand it.

Opposer, Cervezas Cuauhtémoc Moctezuma SA de CV, prays that the Applicant's Motion to Suspend be denied and that this Opposition be sustained and that the registration sought by Applicant be refused.

Respectfully Submitted,

**Cervezas Cuauhtémoc Moctezuma
SA de CV**

DATE: July 9, 2013

By: 

Scott W. Petersen
R. David Donoghue
Stephen J. Jeffries
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CERTIFICATE OF FILING AND SERVICE

I hereby certify that the on July 9, 2013, the above Notice of Opposition is being electronically filed with the United States Patent and Trademark Office, Trademark Trial & Appeal Board. I further certify that a true copy of the foregoing Notice of Opposition has been served by first class mail, postage prepaid, at the following address:

Mr. Branden Weaver
398 13th Street, Apt. 2C
Brooklyn, NY 11215-5175



Scott W. Petersen

#12110920_v2

EXHIBIT A

Petersen, Scott W (CHI - X66689)

From: Petersen, Scott W (CHI - X66689)
Sent: Thursday, August 16, 2012 1 28 PM
To: BrandenW1@aol.com
Cc: Masiello, Anthony R (WAS - X72405), Holden, Jaylon A (CHI - X66690)
Subject: Please

Branden,

Please give me a call as soon as possible.

Scott Petersen

Scott W. Petersen | Holland & Knight
Partner
131 South Dearborn Street, 30th Floor | Chicago IL 60603
Phone 312.578.6689 | Fax 312.578.6666
scott.petersen@hklaw.com | www.hklaw.com

EXHIBIT B

Petersen, Scott W (CHI - X66689)

From: brandenw1@aol.com
Sent: Tuesday, September 18, 2012 9:53 PM
To: Petersen, Scott W (CHI - X66689)
Cc: Masiello, Anthony R (WAS - X72405)
Subject: Re: Please

Dear Mr. Petersen:

Upon review with counsel, it is my opinion that the domain name does not violate the Anti-cyber squatting Consumer Protection Act and there shall be no transfer of ownership. Moreover, it is my opinion that the pending trademark application for 'Stay Hydrated My Friends' does not infringe upon your client's rights in its registered trademarks and there shall be no Notice of Abandonment with respect to the application. I am also of the opinion that the pending trademark application for 'Stay Hydrated My Friends' and the proposed use shall cause no dilution of your client's registered trademarks.

Should you wish to amicably discuss this dispute re: my trademark and domain name, you may contact me.

Sincerely,
Branden Weaver

-----Original Message-----

From: scott.petersen <scott.petersen@hklaw.com>
To: BrandenW1 <BrandenW1@aol.com>
Cc: Anthony.Masiello <Anthony.Masiello@hklaw.com>
Sent: Thu, Sep 13, 2012 4:17 pm
Subject: FW: Please

Branden,
Will we hear from you? I do suggest you give me a call. . . .
Scott

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From: Petersen, Scott W (CHI - X66689)
Sent: Wednesday, August 29, 2012 3:57 PM
To: BrandenW1@aol.com
Cc: Masiello, Anthony R (WAS - X72405); Holden, Jaylon A (CHI - X66690)
Subject: RE: Please

Mr. Weaver,
This is a follow up to the UPS delivery that was made a few minutes ago.
Scott Petersen

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From: Petersen, Scott W (CHI - X66689)
Sent: Thursday, August 16, 2012 1:28 PM
To: BrandenW1@aol.com
Cc: Masiello, Anthony R (WAS - X72405); Holden, Jaylon A (CHI - X66690)
Subject: Please

Branden,
Please give me a call as soon as possible.
Scott Petersen

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