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Filing date: **07/22/2014**

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

Proceeding	91214578
Party	Plaintiff LeMans Corporation
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Submission	Response to Board Order/Inquiry
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Date	07/22/2014
Attachments	LEMA.260USOP - Opposer's Response to Order and Self-Representation Letter.pdf(589775 bytes)

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

LeMans Corporation,)	
)	Opposition No. 91214578
Opposer,)	
)	
V.)	Mark: THORO
)	Serial No. 85/956,925
Lemar Xavier Lewis,)	
)	
Applicant.)	

OPPOSER’S RESPONSE TO ORDER AND SELF-REPRESENTATION LETTER

On June 18, 2014, the Board allowed Applicant thirty days in which to show cause why default should not be entered against Applicant based on his apparent loss of interest in this case after the withdrawal of Applicant’s counsel of record.

On June 30, 2014, the service copy of the Board’s Order to Applicant, which was sent to Applicant’s address of record with the Office, was returned as undeliverable.

On July 14, 2014, the Board indicated it had conducted a thorough search and was unable to obtain a new address for Applicant. Accordingly, the Board allowed Applicant an additional thirty days in which to show cause why default should not be entered against Applicant based on his apparent loss of interest in this case.

On July 17, 2014 (the thirtieth day following the June 18, 2014 Order), Applicant filed a response with the Board stating that he wished to represent himself in this proceeding moving forward. Applicant’s communication failed to indicate proof of service on Opposer’s counsel, as required by Trademark Rule 2.119. Opposer did not receive a service copy from Applicant. To expedite the matter, the Board forwarded a copy of the July 17, 2014 filing to Opposer’s counsel.

Applicant's mailing address of record is not current -- mailings by both the Opposer and the Board to this address have been returned as undeliverable. Applicant has failed to update his address of record as required by TBMP §117.07, notwithstanding this history of unsuccessful service. Moreover, there is no agreement on electronic transmission being acceptable. To the contrary, Applicant's former counsel insisted on service by mail at the Discovery Conference held on March 11, 2014. Accordingly, Opposer is left unable to effect proper service on Applicant under Trademark Rule 2.119(b).¹

On April 24, 2014 Opposer served by mail (with courtesy copy by email) its Initial Disclosures (due May 2, 2014) and Initial Set of Discovery Requests upon Applicant's counsel. These documents were served 30 days prior to the filing of the counsel's withdrawal request. Opposer did not receive any Initial Disclosures from Applicant by the May 2, 2014 deadline nor has Opposer received any responses to its Discovery Requests (as the Board proceedings were suspended during the response period.)

Accordingly, Opposer requests the Board issue an Order:

- (i) requiring Applicant to submit an updated address with the Board as specifically required under TMBP §117.07;
- (ii) resetting the discovery deadlines; and
- (iii) reminding Applicant that he will be required to abide by the rules governing this proceeding.

¹ Opposer's counsel contacted Applicant's former counsel by phone, on July 14, 2014 and July 16, 2014 in an attempt to determine whether Applicant's former counsel had forwarded either the June 18, 2014 or the July 14, 2014 Orders to Applicant, and, if so, by what means. Opposer has received no response from Applicant's former counsel. Consequently, Opposer can only speculate that Applicant received a copy of the Board's June 18th Order (which was served on Applicant's former counsel) through former counsel for Applicant.

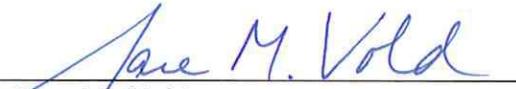
Since Applicant was properly served with Opposer's initial disclosures and discovery requests nearly three months ago, Opposer requests that the discovery deadlines be reset concurrently with the updated address requirement.

Respectfully submitted,

LeMans Corporation

Date: July 22, 2014

By:



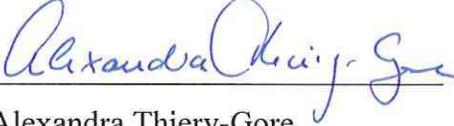
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Attorneys for the Opposer

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing OPPOSER'S RESPONSE TO ORDER AND SELF-REPRESENTATION LETTER was served via first class mail on this 22nd day of July, 2014 to the Applicant's address of record:

LEMAR XAVIER LEWIS
1655 CRESTHAVEN DRIVE
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Alexandra Thiery-Gore