ESTTA Tracking number: **ESTTA649843**
Filing date: **01/13/2015**

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

| | |
|---|---|
| Proceeding | 91215512 |
| Party | Defendant<br>Cox, David |
| Correspondence Address | MARK S HUBERT<br>MARK S HUBERT PC<br>2300 SW FIRST AVE STE 101<br>PORTLAND, OR 97201-5047<br>UNITED STATES<br>markhubert@pacifier.com;nicoleh@pacifie |
| Submission | Motion to Amend/Amended Answer or Counterclaim |
| Filer's Name | Mark S. Hubert, Attorney for Defendant |
| Filer's e-mail | markhubert@pacifier.com |
| Signature | /Mark S. Hubert/ |
| Date | 01/13/2015 |
| Attachments | 15-0113_Motion.pdf(1523887 bytes )<br>15-0113_ExA.pdf(2733106 bytes )<br>15-0113_ExB.pdf(4281630 bytes ) |

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

| | | |
|---|---|---|
| BODY VIBE INTERNATIONAL, LLC | : | |
| | : | |
| Opposer | : | Opposition Proceeding No. 91215512 |
| | : | |
| v. | : | |
| | : | |
| DAVID COX | : | Serial No. 85966358 |
| | : | |
| Applicant | : | |

*Re:* *Trademark Opposition*
Serial. No. 85966352
For: DR. VAPE
By: David Cox
For: Class 011. Electric Vaporizers

**APPLICANT'S MOTION FOR LEAVE TO AMEND ANSWER TO OPPOSER'S FIRST AMENDED NOTICE OF OPPOSITION**

COMES NOW, David Cox ("Applicant"), by and through his attorney Mark S. Hubert, and moves the Trademark Trial and Appeal Board under Federal Rules of Civil Procedure Section 15(a) for leave to amend his Answer to the First Amended Notice of Opposition filed by Body Vibe International, LLC ("Opposer") to clarify/ supplement his answer to the multiple allegations in paragraph 7 and to clarify Applicant's third defense.

Opposer filed his original Notice of Opposition March 19, 2014. Applicant filed his Answer April 24, 2014 and an Amended Answer on April 28, 2014. Opposer filed his First Amended Notice of Opposition on July 25, 2014. Applicant filed his Answer to First Amended Opposition for Registration on October 17, 2014.

December 19, 2014 Opposer sent documentation to Applicant pointing out a perceived inadequacy in Applicant's response to the multiple allegations in paragraph 7 of Opposer's First Amended Notice of Opposition. Opposer threatened filing of a Motion for Rule 11 Sanctions unless Applicant amended his Answer to First Amended Opposition for Registration. (See attached **Exhibit A** which is a copy of Opposer's proposed Motion for Sanctions presented to Applicant December 19, 2014.) In the relief requested, Opposer sought that the TTAB instruct the Applicant to:

"[p]rovide a specific on the record admission or denial of all allegations in paragraph 7 of Opposer's amended notice of opposition. The answer must directly answer the allegation and state whether the video depicts the Applicant, whether the video depicts Applicant at a marijuana conference with his Dr. Vape branded goods and whether the attached FaceBook page depicts Applicant's usage of the Dr. Vape mark in connection with a "bud of the month." Opposer will agree to not file this motion with the Board should Applicant file such an amended answer within the time allotted under Board rules. " *(Underlining added)*

Upon review, Applicant concedes that broken down into its constituent elements, paragraph 7 contains three allegations, one of which is contained in parenthesis. Applicant inadvertently answered only two of these. Applicant now seeks Court's permission to submit the attached Applicant's First Amended Answer to First Amended Notice of Opposition. The allowance of this should not impact the existing schedule in any way and should minimize the court filings, eliminating Opposer's need to file a Motion for Sanctions to accomplish this.

Based on the foregoing, Applicant's First Amended Answer to Opposer's First Amended Notice of Opposition (attached as **EXHIBIT B**) should be granted.

Respectfully submitted this 13th day of January 2015,

By: _____

Mark S. Hubert, OSB No. 982564
Mark S. Hubert P.C.
2300 SW First Ave, Suite 101
Portland, OR 97201
Telephone: (503) 234 7711
markhubert@pacifier.com
Attorney for Applicant, David Cox

**CERTIFICATE OF FILING**

I HEREBY CERTIFY that the foregoing document was filed electronically via the ESTTA, at the United States Patent and Trademark Office, Trademark Trial and Appeal Board's ESTTA electronic filing system, this 13th day of January 2015.

By: _____

Mark S. Hubert, OSB No. 982564
Mark S. Hubert P.C.
2300 SW First Ave, Suite 101
Portland, OR 97201
Telephone: (503) 234 7711
markhubert@pacifier.com
Attorney for Applicant, David Cox

**CERTIFICATE OF SERVICE**

The undersigned does hereby certify that on this 13st day of January 2015, a true and correct copy of this MOTION TO AMEND AND FIRST AMENDED ANSWER TO FIRST AMENDED NOTICE OF OPPOSITION in Opposition 91215512 has been

served upon the Attorney for Opposer by mailing the same by U.S. Mail, first-class, postage paid, to the Attorney at his address of record, as follows:

Thomas P. Philbrick
Allmark Trademark
2089 Avy Ave.
Menlo Park, CA 94025

By: _____

Mark S. Hubert, OSB No. 982564
Mark S. Hubert P.C.
2300 SW First Ave, Suite 101
Portland, OR 97201
Telephone: (503) 234 7711
markhubert@pacifier.com
Attorney for Applicant, David Cox

# EXHIBIT A

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

In re application serial no. 85966358

Filed on June 21, 2013

| | | |
|---|---|---|
| BODY VIBE INTERNATIONAL, LLC | ) | |
| | ) | |
| Opposer, | ) | |
| | ) | Opposition No. 91215512 |
| v. | ) | |
| | ) | Opposed Mark: DR. VAPE |
| Cox, David | ) | |
| | ) | |
| | ) | |
| Applicant. | ) | |
| | ) | |

Trademark Trial and Appeal Board
United States Patent and Trademark Office
P.O. Box 1451
Alexandria, VA 22313-1451

**OPPOSER'S MOTION FOR RULE 11 SANCTIONS WITH REGARD TO APPLICANT's ANSWER FILED ON OCTOBER 17, 2014**

BODY VIBE INTERNATIONAL, LLC, a limited liability company legally organized under the laws of New Mexico, with a principal place of business of 11445 E. Via Linda, Suite 2626, Scottsdale, AZ 85259, (hereinafter "Opposer"), hereby moves the Trademark Trial and Appeal Board (the "Board") for the imposition of Rule 11 sanctions against Applicant and his attorney for the improper pleadings contained in Applicant's Answer to Opposer's first amended opposition that was filed with the Board on October 17, 2014. (See TBMP §527.02)

**A. GOVERNING LAW:**

527.02 Motion for Fed. R. Civ. P. 11 Sanctions

Fed. R. Civ. P. 11...(b) Representations to Court.
By presenting to the court a pleading, written motion, or other paper
--whether by signing, filing, submitting, or later advocating it an attorney
or unrepresented party certifies that to the best of the person's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances:
(1)it is not being presented for any **improper purpose**, such as to
harass, **cause unnecessary delay**, or needlessly increase the **cost of litigation**;
(2)the claims, defenses, and other legal contentions are **warranted by** existing law or by a **nonfrivolous argument** for extending, modifying, or reversing existing l
aw or for establishing new law;
(3)the **factual contentions have evidentiary support** or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and
(4)the **denials of factual contentions are warranted on the evidence** or, if specifically so identified, are reasonably based on belief or a lack of information.

(NOTE: Bold and underline added for emphasis.)

**B. Analysis of Applicant's Averments that Violate Rule 11**

In Opposer's First Amended Notice of Opposition which was filed at the Board on July 25, 2014 and approved via Board Order on October 3, 2014, a series of averments were made in Paragraph 7 under "COUNT TWO" that relate to Applicant's YouTube and FaceBook postings. (See full text of Opposer's First Amended Opposition attached as **Exhibit A**) These averments discuss a YouTube video that appears to depict Applicant David Cox pitching his DR. VAPE branded goods at a marijuana convention in Oregon. If true, this evidence would support Opposer's allegation that Applicant's goods are not in lawful use in commerce. Further, Opposer alleges in Paragraph 7 of its amended opposition that the "attached Exhibit B" depicts Applicant's FaceBook page that discusses a "Bud of the Month" club. If true, this evidence would further support Opposer's "unlawful use in commerce" claim as it would be quite unusual for a company to promote varieties of marijuana if the underlying products sold were not intended for use with it. In short, it would be nonsensical for a business to promote the use of marijuana if its goods were not related to this market in any way.

In its answer to paragraph 7 of the amended notice of opposition, Applicant's response consisted of the following statements....

"Admit the existence of said YouTube video. Deny Applicant's device is marketed and sold primarily for use with cannabis." (See attached **Exhibit B** which is a copy of Applicant's complete answer to Opposer's first amended opposition.)

The above referenced response violates Rule 11 for several reasons. First, via this answer which was signed by Applicant's attorney, when only admitting the "existence" of the YouTube video, Applicant is not answering the averment with an affirmative or negative response, or a lack of information or belief denial. The video either depicts the Applicant David Cox or it does not and it either depicts him marketing his Dr. Vape branded goods at a marijuana conference or it does not. There is no in between answer to paragraph 7 of the amended notice of opposition and Applicant should be expected to provide a good faith substantive response to the allegation under the TTAB rules. By attempting to dodge the averment in the opposition, Applicant is presenting the answer for the improper purpose of increasing delays and costs associated with the litigation. Opposer should have a substantive affirmative or negative answer to the averment, however, at present it must conduct costly discovery and/or depositions to confirm its suspicions.

Second, via a subtle answer contained in Applicant's answer to amended notice of opposition labeled "paragraph 15," it has apparently expressly denied that the asserted YouTube video depicts the Applicant David Cox at a marijuana convention. Apparently, it has also expressly denied that the asserted Facebook postings are from the Applicant and promote the use of cannabis with Applicant's goods. The Applicant's paragraph 15 averment reads as follows....

"Applicant denies any allegations in the Opposition that have not been explicitly admitted."

This answer clearly violates rule 11 because the YouTube video and Facebook posts appear to clearly be attributable to the Applicant. Such an answer is frivolous and violates Rule 11 as it is a denial of "factual contention not warranted by the evidence." There are no specific denials of the Facebook postings or the person depicted in the YouTube video of amended opposition paragraph 7, so this automatically triggers Applicant's paragraph 15 "catch-all denial clause" that apparently denies anything not explicitly admitted. On information and belief, this is Applicant's attempt to deceive the Board and the Opposer with a subtle express denial of certain things it knows to be true. Opposer is entitled to a clear answer of the averments such as "admitted, the attached YouTube video depicts Applicant selling his merchandise at a marijuana convention," or "denied, the video does not depict the Applicant." At present, given the paragraph 15 "catch-all denial," it is unclear as to whether Applicant has expressly denied the averments in paragraph 7. Such gamesmanship is impermissible under Rule 11 as the deceptive response avers facts that are not supported by evidence.

**C. Relief Requested**

In view of the above outlined arguments and evidence, Opposer respectfully requests an order from the Board that instructs the Applicant to respond as follows.....

1. Provide a specific on the record admission or denial of all allegations in paragraph 7 of Opposer's amended notice of opposition. The answer must directly answer the allegation and state whether the video depicts the Applicant, whether the video depicts Applicant at a marijuana conference with his Dr. Vape branded goods and whether the attached FaceBook page depicts Applicant's usage of the Dr. Vape mark in connection with a "bud of the month." Opposer will

agree to not file this motion with the Board should Applicant file such an amended answer within the time allotted under Board rules.

2. Should the Applicant not agree to file an amended answer bringing its answer into conformity with TTAB rules (Rule 11 included), Opposer respectfully requests that the opposition be sustained in its favor and that such a terminating sanction be promptly issued by the Board.

DATED this 19th day of December, 2014.

Respectfully submitted,

BODY VIBE INTERNATIONAL, LLC

By: _____

Thomas P. Philbrick, Esq.
John E. Russell, Esq.
Attorneys for Opposer

ALLMARK TRADEMARK®
2089 Avy Ave.
Menlo Park, CA 94025

Telephone: (650)233-2789
Facsimile: (650)233-2791
Email:tom@allmarktrademark.com
allmarktrademark@gmail.com

## CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing **OPPOSER'S MOTION FOR RULE 11 SANCTIONS WITH REGARD TO APPLICANT's ANSWER FILED ON OCTOBER 17, 2014** has been served on Applicant's attorney of record by mailing said copy on December 19, 2014 via First Class Mail, postage fully prepaid to:

Mark S. Hubert, P.C.
Attn: Mark S. Hubert, Esq.
2300 SW First Ave., Suite 101
Portland, OR 97201

By: _____

Thomas P. Philbrick

Dated: December 19, 2014

# EXHIBIT B

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

| | | |
|---|---|---|
| BODY VIBE INTERNATIONAL, LLC | : | |
| Opposer | : | Opposition Proceeding No. 91215512 |
| v. | : | |
| DAVID COX | : | Serial No. 85966358 |
| Applicant | : | |

*Re:* *Trademark Opposition*
Serial. No. 85966352
For: DR. VAPE
By: David Cox
For: Class 011. Electric Vaporizers

**APPLICANT'S FIRST AMENDED ANSWER TO FIRST AMENDED NOTICE OF OPPOSITION**

COMES NOW, David Cox ("Applicant"), by and through his attorney Mark S. Hubert, and files his First Amended Answer to the First Amended Notice of Opposition filed by Body Vibe International, LLC ("Opposer") in the above-identified proceeding. The numbers of the following first five paragraphs correspond to the paragraph numbers of the Opposer's First Amended Notice for Opposition.

1. Admit.

2. Applicant is without knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 2 of Opposer's First Amended Notice of Opposition and accordingly, denies such allegations. Applicant has been unable to locate any form of market presence by Opposer. Internet and printed literature (magazine) searches have not revealed a single mention of Opposer's offer to tender

for sale any goods or services in conjunction with "electric vaporizers" and "electronic cigarette liquid (e-liquid) comprised of flavorings in liquid form used to refill electronic cigarette cartridges, atomizers and vaporizers."

3. Applicant is without knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 3 of Opposer's First Amended Notice of Opposition and accordingly, denies such allegations. Opposer claims irreparable damage and injury if Applicant's mark is registered, but fails to identify how.

4. Applicant is without knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 4 of Opposer's First Amended Notice of Opposition and accordingly, denies such allegations. A "likelihood of confusion" cannot exist if Opposer has no visible goods in commerce. Applicant denies that Opposer is damaged, is being damaged, and will continue to be damaged by Applicant's registration. Applicant admits that Opposer's goods and those for which Applicant seeks registration of the mark Dr. Vape are identical.

5. Applicant is without knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 5 of Opposer's First Amended Notice of Opposition and accordingly, denies such allegations. Product confusion, mistake or deception cannot occur if Opposer has no visible goods in commerce. Applicant also denies that Opposer is entitled to have said registration cancelled.

6. Applicant reiterates his responses to Opposer's allegations in paragraphs 1-5 of his First Amended Answer to First Amended Notice of Opposition as if set forth fully herein again.

7. Admit the existence of said YouTube video. Deny Applicant's device is marketed and sold in interstate commerce primarily for use with cannabis. Opposer has produced no direct evidence of any sales or marketing directed toward the "use of Applicant's device primarily for use with cannabis". Deny that Applicant's device is drug paraphernalia under the Controlled Substances Act. Deny that Applicant has "a Facebook posting that promotes a Bud of the Month cannabis to utilize in connection with his goods." However, admit that the entity "Dr. Vape Inc." has its own small business facebook page. One of the postings thereon depicted a "Bud of the Month" advertisement from a local newspaper. In this advertisement medical marijuana dispensaries can purchase space showing their "bud of the month." Applicant, on behalf of Dr. Vape Inc. purchased a spot on this advertisement as the sponsor. It bears the text "Brought to you by Dr. Vape" but it does not discuss, display or promote the utilization of cannabis in connection with the Dr. Vape goods. Therefore, deny that applicant's June 2014 facebook posting promotes "Bud of the Month" cannabis to utilize in connection with his goods.

8. Admit.

9. Admit.

10. Deny.

11. Deny. Opposer's statements do not support that Applicant's device is unlawful or illegal to sell or offer to sell. If so, in light of the fact that Opposer has plead that his device is "identical" to that of Applicant's (see allegation 4 of Opposer's First Amended Notice of Opposition), Opposer's goods would also have

to be deemed "drug paraphernalia." Opposer fails to address the "primarily intended" element in the 21 U.S.C § 863 statutory definition of drug paraphernalia.

12. Deny. Opposer continues to make reference to facts pled in Applicant's Answer not Applicant's Amended Answer. Facts in Applicant's original answer but not incorporated in amended answer are not binding on pleader. The Courts acknowledge that an amended pleading supersedes an original pleading, and parties are free to correct inaccuracies in pleadings by amendment. The original pleading is of no effect unless the amended complaint specifically refers to or adopts the original pleading. Thus, amended pleadings result in "withdrawal by amendment" of any judicial admission omitted therein.

13. Applicant is without knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 13 of Opposer's Notice of Opposition and accordingly, denies such allegations.

14. Applicant denies that Opposer is damaged, is being damaged, and will continue to be damaged by Applicant's registration.

15. Applicant denies any allegations in the Opposition that have not been explicitly admitted.

**DEFENSES**

Applicant asserts that none of the defenses as set forth below (affirmative or otherwise) are to be taken as an admission that Opposer has utilized the trademark "Dr. Vape" in conjunction with the sale of electric vaporizers in class 011 at least as early as January 12, 2013, or with electronic cigarette liquid (e-liquid) comprised of

flavorings in liquid form used to refill electronic cigarette cartridges, atomizers and vaporizers in class 030. In further answer to the Opposition, Applicant asserts that:

**FIRST AFFIRMATIVE DEFENSE**

16. Opposer has unclean hands. Opposer's claim to a superior mark via an earlier date of first use in interstate commerce is not based on any significant commercial sales of Opposer's claimed goods.

**SECOND AFFIRMATIVE DEFENSE**

17. Opposer has falsely marked their goods in an attempt to secure a trademark for the identical mark that Applicant filed for. The specimen sent into the USPTO is clearly a cobbled together label, falling below the standard of branding in such consumer goods, as evidenced by the quality branding used by Applicant on his goods.

**FIRST DEFENSE**

18. Although Opposer purports to have used his mark in commerce before Applicant's mark, there is no evidence that it was indeed used beyond a *de minimis* amount. This is insufficient to establish common law or other trademark rights. Applicant has rights in its mark that are superior to those of Opposer.

**SECOND DEFENSE**

19. Applicant's mark, when used in connection with Applicant's goods, is not likely to cause confusion, or to cause mistake, or to deceive as to the affiliation, connection or association of Applicant with Opposer, or as to the origin, sponsorship, or approval of Applicant's goods by Opposer, because Applicant is

informed and believes, and, on that basis, alleges that the Opposer is not marketing and selling goods bearing the trademark in question.

**THIRD DEFENSE**

20. Opposer has practiced fraud upon the Trademark Office in that it has alleged that it has used the mark "Dr. Vape" as a mark in commerce since January 12, 2013 a mere 139 days before the date of first usage in interstate commerce of the Applicant's mark. Opposer's use of the mark "Dr. Vape" is *de minimis* and not sufficient to qualify as an actual first sale in commerce. Further,the sales made by opposer prior to applicant's first claimed "sales in interstate commerce" do not qualify as a "bona fide use of a mark in the ordinary course of trade, and not made merely to reserve a right in a mark." Opposer's sales were mere "sham" transactions and not made in a good faith effort to develop a business.

**FOURTH DEFENSE**

21. Applicant's electronic vaporizer for which trademark registration is sought is its own category of identification under International Classification 011 and can also be seen trademarked as electronic pipes in International Class 034.

**FIFTH DEFENSE**

22. Applicant's device is also an electric vaporizer, and like all electric vaporizers, is capable of use with any ignitable organic substance. Once sold, Applicant has no control over any alleged unlawful use of his device.

**SIXTH DEFENSE**

23. Electric vaporizers are not illegal to sell under 21 U.S.C § 863 (The Controlled Substances Act) and in fact, an entire industry has grown around them. The Trademark Office has already approved numerous trademark registrations for electric vaporizers and retail outlets for electric vaporizers such as O-VAPE (4576033), Great Lakes Vapes (4508394), Wonder Vape (4521153), and CALI VAPE (4452756) which is prima facie acknowledgement of these device's legality when their primarily intended purpose is for use with non-controlled substances.

**SEVENTH DEFENSE**

24. Opposer has not pointed to a single instance wherein Applicant has directly stated, or marketed his electric vaporizer for use with controlled substances such as marijuana. All Opposer's arguments rely on inferences they have drawn based on Opposer's interpretation of Youtube video footage and FaceBook/Twitter screen capture information. Opposer's argument is based on associations with cannabis but cites not one scintilla of evidence that the primary intention of Applicant's electric vaporizer is for other than use with his E-wax or nicotine fluid.

**EIGHTH DEFENSE**

25. Applicant's electric vaporizer is not drug paraphernalia as established by the Controlled Substances Act. *21 U.S.C. 863 (d).* requires that to be designated as drug paraphernalia, electric vaporizers must be "primarily intended or designed" for use with controlled substances. Applicant's device is not.

**NINTH DEFENSE**

26. 21 U.S.C § 863 (f)(1) allows for the sale or offer to sell "any item that, in the normal lawful course of business, is imported, exported, transported, or sold

through the mail or by any other means, and traditionally intended for use with tobacco products, including any pipe, paper, or accessory." Applicant's electric vaporizer fits into this category.

**TENTH DEFENSE**

27. The fact that the Trademark Office has already been allowing registration of goods, *to wit:* electric vaporizers and pipes in International Class 011, and the registration of services, *to wit:* sales of electric vaporizers and pipes in International Class 034 is prima facie evidence of their legality

**Applicant's Statements**

In addition, Applicant sets forth the following statements in support of its defenses:

28. Opposer claims that Applicant's mark "Dr. Vape" is likely to cause confusion with Opposer's purported mark "Dr. Vape" but cites no acts by any consumer that support this. Applicant, David Cox, has been selling his vaporizer in interstate commerce at least as early as May 31, 2013. Applicant cannot find any trade presence of any "Dr. Vape" trademarked electric vaporizer products other than his own in class 011. This includes industry searches for marketing, customer surveys etc. via the internet and trade marketing publications.

29. There cannot be any likelihood of confusion if there is no such product of the Opposer in the market.

30. Opposer's trademark registrations 86221601 and 86221890 both show specimens that appear to be "cobbled together." Applicant believes that Opposer

will not be found to have any substantial sales of his purported goods bearing the "Dr. Vape" mark in interstate commerce. Most likely, Opposer's electric vaporizer specimen was fabricated for the explicit purpose of applying for a federal trademark and using this as a basis to challenge Applicant's mark.

31. Applicant hereby appoints Mark S. Hubert, a member of the Oregon State Bar, and registered to practice before the United States Patent and Trademark Office, at the firm of:

Mark S. Hubert P.C.

2300 SW First Avenue – Suite 101

Portland, Oregon 97201

to act as the attorney of record in the matter of the Opposition identified above, to respond to said petition, to transact all business in the Patent and Trademark Office or the Trademark Trial and Appeal Board connected with the Opposition to sign his name to all papers which are hereinafter to be filed in connection therewith, and to receive all communications relating to the same.

**RELIEF REQUESTED**

16. WHEREFORE, Applicant respectfully requests as follows:

(a) this opposition be dismissed with prejudice and order such other relief as it deems appropriate.

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(b) a registration for the term Dr. Vape be issued to the Applicant.

Respectfully submitted this 13st day of January 2015,

By: _____

Mark S. Hubert, OSB No. 982564
Mark S. Hubert P.C.
2300 SW First Ave, Suite 101
Portland, OR 97201
Telephone: (503) 234 7711
markhubert@pacifier.com
Attorney for Applicant, David Cox