

ESTTA Tracking number: **ESTTA741130**

Filing date: **04/20/2016**

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

Proceeding	91217630
Party	Plaintiff Sturgis Motorcycle Rally, Inc.
Correspondence Address	JASON M SNEED SNEED PLLC 610 JETTON ST, STE 120-107 DAVIDSON, NC 28036 UNITED STATES JSneed@SneedLegal.com, Glacona@SneedLegal.com, litigation@SneedLegal.com, admin@sneedlegal.com
Submission	Opposition/Response to Motion
Filer's Name	Sarah C. Hsia
Filer's e-mail	sarah@sneedlegal.com, jsneed@sneedlegal.com, clandrum@sneedlegal.com, msorokes@sneedlegal.com
Signature	/sch/
Date	04/20/2016
Attachments	2016-04-20 Opposition to Motion to Suspend.pdf(101513 bytes) Exhibit A.pdf(101968 bytes) Exhibit B - final.pdf(218752 bytes) Exhibit C.pdf(154413 bytes)

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

In the matter of Trademark Application Serial No. 86/112,261
Trademark: IT'S A BLACK HILLS THING! YOU WOULDN'T UNDERSTAND,
'TILL YOU BEEN HERE!
Filed: November 6, 2013
Published: April 1, 2014

Sturgis Motorcycle Rally, Inc.,)	
)	
Opposer,)	
)	
v.)	Opposition No. 91217630
)	
Gary St. Martin Hansen,)	
)	
Applicant.)	

**OPPOSITION TO APPLICANT'S SECOND MOTION TO SUSPEND
FOR APPLICANT TO RETAIN COUNSEL**

Opposer Sturgis Motorcycle Rally, Inc. ("SMRi" or "Opposer") opposes Applicant's Second Motion to Suspend (TTABVUE 27). Applicant failed to retain counsel within the time allotted to him, and then waited until *after* Opposer's testimony period began to request another suspension period. Opposer has already taken testimony from its own witnesses, and has a testimonial deposition of Applicant scheduled for April 22nd in Johnson, VT, for which travel arrangements have been made. Applicant has made no indication that he has retained counsel as of the date of this document, even though it is more than two weeks past the deadline that he had to do so. A further suspension of this proceeding at this point would needlessly delay resolution of this matter, and threaten to unwind the effort and investment Opposer has made in adducing testimony and proceeding with its case, thereby causing prejudice to Opposer.

By Order of the Board (TTABVUE 26) on March 4, 2016, Applicant was granted a period of thirty days within which to retain counsel, and proceedings were set to resume (and Opposer's testimonial period begin) on April 1, 2016. On March 17, 2016, Opposer served a deposition notice on Mr. Hansen by first-class mail, in an envelope addressed to him at the Correspondence address for Applicant contained in Board records. Exhibit A.

On April 1, 2016, the day that proceedings resumed, Charles Landrum, an attorney for Opposer, called Mr. Hansen to ascertain whether he had, in fact, retained counsel. Mr. Hansen, however, refused to directly answer whether he had retained counsel and said only that someone was looking at the file, but would not provide the name or contact information for that individual. Exhibit B. Unable to ascertain definitively whether Mr. Hansen had retained counsel or not, Mr. Landrum subsequently sent an email to Applicant cancelling his deposition which was scheduled for April 4, 2016, in Johnson, VT, and again asking for a clear answer as to: i) whether Mr. Hansen was represented by counsel; ii) if so, the contact information for that counsel; and iii) whether Mr. Hansen would voluntarily appear for a testimonial deposition. Exhibit B1.¹

Mr. Hansen responded to the email, again refusing to provide contact information for any attorney, indicating that he still was not formally represented by counsel, and stating that he intended to file another motion for "an extension of time." Exhibit B2.

¹ Mr. Hansen ultimately stated in his Motion to Suspend (TTABVUE 27), filed on April 2, 2016, that he did not receive the deposition notice, despite the fact that it was mailed to him at his address of record in this matter. The envelope containing Mr. Hansen's deposition notice was returned to sender as "attempted—not known" (Exhibit C). Counsel for Opposer promptly emailed copies of all deposition notices that had been served to date to Mr. Hansen, and will continue to serve copies of documents on Applicant by email, given the apparent inability of the U.S.P.S. to deliver mail to Applicant at the address he himself has provided.

Having received no objections from Applicant to the other testimonial depositions which were duly noticed and served by Opposer, and actual notice of which was received by Applicant on April 4, 2016, Opposer conducted its testimonial depositions, and obtained Mr. Hansen's consent to appear voluntarily for a testimonial deposition on April 22nd, after which Opposer will have adduced all of its planned testimony. To allow Applicant a further suspension period would do nothing more than allow Applicant to continue to needlessly delay adjudication of this dispute, and give Applicant a strategic advantage, and for this reason, Opposer opposes the motion.

Opposer requests, however, that should the Board grant Applicant's motion for a further suspension to obtain counsel, the Board also issue an Order requiring Mr. Hansen to show cause why default should not be entered, and the subject application refused, if he fails to retain counsel to represent him within the next suspension period.

Dated: April 20, 2016

Respectfully Submitted,

/s/ Sarah Hsia

Jason M. Sneed, Esq.

Charles Landrum, Esq.

Sarah C. Hsia, Esq.

SNEED PLLC

610 Jetton St., Suite 120-107

Davidson, North Carolina 28036

Tel: 704-779-3611

JSneed@SneedLegal.com

CLandrum@SneedLegal.com

Sarah@SneedLegal.com

Attorneys for Opposer, Sturgis

Motorcycle Rally, Inc.

Exhibit A

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

_____)	
Sturgis Motorcycle Rally, Inc.,)	
)	
Opposer,)	
)	Opposition No. 91217630
v.)	
)	
Gary St. Martin Hansen,)	
)	
Applicant.)	
_____)	

**NOTICE OF TESTIMONIAL DEPOSITION OF
GARY HANSEN UPON ORAL EXAMINATION**

YOU ARE HEREBY NOTIFIED THAT pursuant to 37 C.F.R. § 2.123 and TBMP 703.01, Opposer Sturgis Motorcycle Rally, Inc. (“SMRi” or “Opposer”), by and through its counsel, will take the testimonial deposition upon oral examination of Gary Hansen, Applicant, 399 Lower Main West, Johnson, VT 98110. The examination will take place at Johnson State College, 337 College Hill Rd., Johnson, VT 05656 on April 4, 2016 at 10:00 a.m. The examination shall take place before a certified court reporter, shall be recorded by stenographic and/or video means, and shall continue from day to day until completed. Should Applicant retain counsel, counsel is invited to attend and cross-examine.

Dated: March 15, 2016

Respectfully Submitted,

/s/ Jason M. Sneed
Jason M. Sneed, Esq.
SNEED PLLC
610 Jetton St., Suite 120-107
Davidson, North Carolina 28036
Tel: 704-779-3611
JSneed@SneedLegal.com
Attorneys for Opposer, Sturgis
Motorcycle Rally, Inc.

Certificate of Service

The undersigned counsel of record hereby certifies that a copy of the foregoing *Notice of Testimonial Deposition on Oral Examination* was served by placing a copy in U.S. Mail, postage prepaid, this 17th day of March, 2015, and addressed to the following:

Gary St. Martin Hansen
399 Lower Main West
Johnson, Vermont 05656

/s/ Sarah Hsia
An Attorney for Opposer

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

In the matter of Trademark Application Serial No. 86/112,261
Trademark: IT’S A BLACK HILLS THING! YOU WOULDN’T UNDERSTAND, ‘TILL YOU
BEEN HERE!
Filed: November 6, 2013
Published: April 1, 2014

_____)	
Sturgis Motorcycle Rally, Inc.,)	
)	
Opposer,)	
)	Opposition No. 91217630
v.)	
)	
Gary St. Martin Hansen,)	
)	
Applicant.)	
_____)	

I, Charles Landrum, declare and state as follows:

1. I am over the age of 21 and suffer from no legal disability that would prevent me from making the statements set forth herein.

2. I am an Attorney at Law, licensed to practice in the highest courts of the State of Georgia and numerous federal courts of the United States, and I am Of Counsel to the law firm SNEED PLLC, with an address of 610 Jetton St., Suite 120-107, Davidson, North Carolina 28036. SNEED PLLC represents Opposer, Sturgis Motorcycle Rally, Inc. (“SMRi” or “Opposer”).

3. This declaration is submitted in support of Opposer’s Opposition to Applicant’s Second Motion to Suspend for Applicant to Retain Counsel.

4. On April 1, 2016 I called Mr. Hansen, Applicant in this Opposition, to ascertain whether he had, in fact, retained counsel within the period allotted to him to do so. Mr. Hansen refused to directly answer, and said only that an attorney was “looking at the file.”

Subject: SMRI v. Hansen [S0244]
Date: Friday, April 1, 2016 at 4:36:47 PM Eastern Daylight Time
From: Charles Landrum
To: Gary St Martin
CC: Jason M. Sneed, Sarah Hsia, Megan E. Sorokes
Priority: High

Gary,

You and I spoke this morning on the telephone regarding the resumption of proceedings before the Trademark Trial & Appeal Board.

I asked whether you had retained an attorney. You responded that an attorney was "looking at the file," but you would not state clearly whether you were represented by counsel. When I requested the name of that attorney, you refused to provide it. I also asked whether you would consent to a further extension of time. You gave your consent. Our conversation lasted approximately two minutes.

In view of the fact that we cannot get a clear answer as to whether you are represented by counsel with respect to this matter, we are postponing your deposition, which we had noticed for Monday, April 4, 2016.

Are you represented by counsel with respect to this matter? If so, what is the name and contact information for the attorney? If you are not represented by counsel, are you willing to appear voluntarily for a deposition?

Sincerely,

Charles M. Landrum III

SNEED PLLC, *of counsel*
610 Jetton St., Suite 120-107
Davidson, North Carolina 28036
Tel.: 404-993-3363
Email: CLandrum@SneedLegal.com

Subject: Re: SMRI v. Hansen [S0244]

Date: Friday, April 1, 2016 at 10:54:42 PM Eastern Daylight Time

From: Gary St Martin

To: Charles Landrum

Charles, what I said was that there is an attorney reviewing the motions etc I have filed over the past years. I further explained that as of yet, the attorney has not committed to take the case, and because the attorney has had previous dealings with Jason Sneed and SMRI, it is this attorney's desire to remain **Anonymous** until the decision has been made to represent me.

Furthermore, when was I notified about a deposition on the 4th of April ? **we are postponing your deposition, which we had noticed for Monday, April 4, 2016. ???** And if this Attorney wishes to remain anonymous until the decision is made to go forward, why am I compelled to disclose this information ... ??

I believe I will file a motion for an extension of time until I am satisfied that I am prepared and represented by counsel for the remainder of this ...

On Fri, Apr 1, 2016 at 4:36 PM, Charles Landrum <CLandrum@sneedlegal.com> wrote:

Gary,

You and I spoke this morning on the telephone regarding the resumption of proceedings before the Trademark Trial & Appeal Board.

I asked whether you had retained an attorney. You responded that an attorney was "looking at the file," but you would not state clearly whether you were represented by counsel. When I requested the name of that attorney, you refused to provide it. I also asked whether you would consent to a further extension of time. You gave your consent. Our conversation lasted approximately two minutes.

In view of the fact that we cannot get a clear answer as to whether you are represented by counsel with respect to this matter, we are postponing your deposition, which we had noticed for Monday, April 4, 2016.

Are you represented by counsel with respect to this matter? If so, what is the name and contact information for the attorney? If you are not represented by counsel, are you willing to appear voluntarily for a deposition?

Sincerely,

Charles M. Landrum III

SNEED PLLC, *of counsel*
610 Jetton St., Suite 120-107
Davidson, North Carolina 28036
Tel.: [404-993-3363](tel:404-993-3363)
Email: CLandrum@SneedLegal.com

Exhibit C



610 Jetton St., Suite 120-107, Davidson, NC 28036
www.SneedLegal.com

CHARLOTTE NC 282

17 MAR 2016 PM 3 L



Gary St. Martin Hansen
399 Lower Main West
Johnson, Vermont 05656

NIXIE 015 7E 1 0003/30/16

RETURN TO SENDER
ATTEMPTED - NOT KNOWN
UNABLE TO FORWARD

BC: 28036931899 *2248-02485-17-34

28036931899
0565696363



