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

Proceeding	91217630
Party	Plaintiff Sturgis Motorcycle Rally, Inc.
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Submission	Opposition/Response to Motion
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Signature	/sch/
Date	06/08/2016
Attachments	2016-06-08 Opposition to Motion to Recant.pdf(113136 bytes ) Exhibit A.pdf(121694 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

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

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**OPPOSITION TO APPLICANT'S MOTION TO RECANT AND  
CROSS-MOTION FOR SANCTIONS**

Opposer Sturgis Motorcycle Rally, Inc. ("SMRi" or "Opposer") opposes Applicant's Motion to Recant (TTABVUE 42/43). This is yet another baseless motion filed by a party who refuses to abide by the Rules of Procedure, and who continues to impede the progress of this matter by flouting the Board's Orders and filing meritless motions containing improper and unfounded character attacks against opposing counsel, for no other reason than to harass, unnecessarily delay, and needlessly increase the costs of this proceeding. Opposer thus requests that Applicant's motion be denied in all respects, and that the Board impose judgment in favor of Opposer as sanctions for Applicant's conduct pursuant to 37 C.F.R. § 11.18(c).

## **I. Factual Background and Argument**

On May 23, 2016, Applicant filed a “Motion to Correct,” which purported to seek to correct a misrepresentation that he made to the Board concerning whether or not he had retained counsel to represent him. On June 2, 2016, Applicant filed another Motion to Suspend. On that same day, Counsel for Opposer sought the intervention of the Interlocutory Attorney for a conference to discuss Applicant’s filings in view of the fact that the proceeding was already suspended and Opposer’s understanding that no filings were to be made that were not germane to the already-pending Motion to Strike and issue of Applicant’s representation in the proceeding.<sup>1</sup>

The Interlocutory Attorney scheduled a call for June 9, 2016; however, Opposer’s response to Applicant’s “Motion to Correct” was due on June 7, 2016. In view of this, Counsel for Opposer, Sarah Hsia, sought—and obtained—Applicant’s consent for an extension of time to respond until June 16, 2016. Exhibit A. To memorialize the agreement, and preserve Opposer’s right to respond, Ms. Hsia drafted a Stipulation of Extension of Time to Respond, and sent it to Applicant for signature on June 6, 2016. Exhibit B. Applicant responded but did not attach the fully executed stipulation for filing. *Id.* Consequently, on June 7, 2016—the day that Opposer’s response was due—Ms. Hsia again wrote to Applicant to request that he sign and return the stipulation for filing, and asked that he do so by 3pm so that she would have enough time to prepare a response to preserve Opposer’s rights if he failed to do so. *Id.* Applicant responded with the signed stipulation, which Ms. Hsia promptly filed. TTABVUE 41.

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<sup>1</sup> In addition, during the call on April 19, 2016, the Interlocutory Attorney instructed Applicant that he was not to file any further motions unless they were consented or with the prior approval of the Interlocutory Attorney.

However, in the meantime, Applicant apparently sought the advice of (yet another unretained) counsel, and now attempts to “recant” his consent to an extension of time to respond, accusing Ms. Hsia of deceiving him into signing the stipulation.<sup>2</sup> This is patently ridiculous. Applicant consented to the extension of time to respond, and the stipulation was merely formalizing that consent for consideration by the Board. *See* Exhibit A. Applicant’s allegations that Ms. Hsia’s actions were “mislead[ing],” “fictitious,” “false,” “coerc[ive]” and “deceptive manipulation” are reprehensible and without basis.

This is not a new pattern of behavior for Applicant. Mr. St. Martin Hansen’s conduct over just the last few months that the undersigned has been involved with this proceeding has been designed to unnecessarily delay and needlessly increase the cost of this opposition. For example, Applicant has been given ample opportunity to retain counsel, has not done so, and instead has misled the Board as to whether or not he is represented by counsel (TTABVUE 37). As another example, Applicant, on the April 19, 2016 call with the Interlocutory Attorney, clearly stated that he would not voluntarily appear for a testimonial deposition without representation, and then, after the Interlocutory Attorney cancelled the deposition, causing cost, expense and delay to Opposer in the form of cancellation fees and rebooking charges for travel arrangements that had already been made, accused opposing counsel of lying when she said that he said he would not voluntarily appear for a testimonial deposition.

Applicant, in representing himself and signing papers filed in this proceeding, is subject to the requirements of 37 C.F.R. § 11.18, specifically that the papers are “not

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<sup>2</sup> Opposer notes that this is apparently yet another attorney Applicant is purportedly attempting to retain, making it the third such attorney since early May.



**Certificate of Service**

In accordance with the Board's Order dated April 20, 2016 (TTABVUE 31), the undersigned counsel of record hereby certifies that a copy of the foregoing *Opposition to Applicant's Second Motion to Suspend for Applicant to Retain Counsel* was served by email to [stdrumr@gmail.com](mailto:stdrumr@gmail.com) on June 8, 2016.

\_\_\_\_\_  
/s/ Sarah Hsia  
An Attorney for Opposer

**Subject:** Motion to Correct - extension of time to respond  
**Date:** Friday, June 3, 2016 at 9:31:33 AM Eastern Standard Time  
**From:** Sarah Hsia  
**To:** Gary St Martin  
**CC:** Jason M. Sneed, Charles Landrum, Megan E. Sorokes

Dear Mr. St. Martin Hansen:

Opposer's response to your motion to correct is due on June 7, 2016. In view of the first availability of the Interlocutory attorney for a conference regarding this motion on June 9, 2016, will you consent to an extension of time for Opposer to respond until June 16, 2016?

Also, your certificates of service notwithstanding, we have not been receiving service of your papers by email as agreed by the parties. Please advise immediately if you are receiving any errors from any of our email addresses; otherwise, please be sure to serve all papers that you file with the Board on us by email.

Regards,  
Sarah

**Sarah C. Hsia, Esq.**

SNEED PLLC, Of Counsel  
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**Subject:** Re: Motion to Correct - extension of time to respond

**Date:** Friday, June 3, 2016 at 11:58:28 AM Eastern Standard Time

**From:** Gary St Martin

**To:** Sarah Hsia

I will, but Sneed doesn't give me a damned break ever, like rescheduling my deposition ... etc,  
Now, all the motions etc I have filed have been served by email, I will send a copy of my email records for every service by email, that we agreed upon after you failed to serve me in anyway when the depositions were being held for me, or for those in Rapid April 6th

Please send me the correct email address, if you are not receiving the served email agreed upon Please !  
if you speak with Jason, about my co operative nature, and willingness to settle he would have to say that I am NOT the bad guy here, just a musician writer composer, that made an error in choice for goods and services ... If i knew what I know now, I would have cancelled my application, and refiled with different goods and services to represent my recording publishing for the work I have created based on my extensive past in the " Black Hills "

I have refused several offers for articles in all newspapers in the region, as when I told Jason about a possible interview about my plight with SMRi , he said " oh you don't want to do that " so I haven't. This is not my desire to create a stir publicly in the Black Hills , were I am well respected. I will admit that I began to do such a page on my website in frustration to this on going nightmare, but thought better of it and didn't follow through.

There must be a way to settle this, where as I can have a trademark with the same It's a Black Hills Thing etc without infringing upon your trademarks, which now I realize do not represent the region, but your charity, tee shirt etc marketing .

I have received creditable reports that "It's a Black Hills Thing etc " bumper stickers and some copies of the tee shirt produced as gifts to those who endorsed me are being reproduced, and I have no recourse or anyway to do as you do, and stop them from infringing on my IP ... Thanks Sarah Gary St. Martin