

ESTTA Tracking number: **ESTTA716444**

Filing date: **12/22/2015**

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

Proceeding	91221325
Party	Defendant JORDI NOGUES, S.L.
Correspondence Address	NICHOLAS D WELLS KIRTON MCCONKIE 60 E SOUTH TEMPLE , SUITE 1800 SALT LAKE CITY, UT 84111-1032 UNITED STATES nwells@kmclaw.com, abrimhall@kmclaw.com
Submission	Other Motions/Papers
Filer's Name	Nicholas D. Wells
Filer's e-mail	nwells@kmclaw.com, jrupp@kmclaw.com, sglendening@kmclaw.com
Signature	/Nicholas D. Wells/
Date	12/22/2015
Attachments	PLD005 Motion to Reconsider.pdf(190046 bytes ) Red Bull OPP - Exhibit A to Motion to Reconsider.pdf(210129 bytes )

Nicholas D. Wells  
[nwells@kmclaw.com](mailto:nwells@kmclaw.com)  
Joshua S. Rupp  
[jrupp@kmclaw.com](mailto:jrupp@kmclaw.com)  
KIRTON | McCONKIE, P.C.  
60 East South Temple, Suite 1800  
Salt Lake City, Utah 84111  
Phone: (801) 328-3600  
Fax: (801) 321-4893

*Attorneys for Registrant/Applicant  
Jordi Nogues, S.L.*

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

<p>RED BULL GMBH,</p> <p>Petitioner/Opposer,</p> <p>v.</p> <p>JORDI NOGUES, S.L.</p> <p>Registrant/Applicant.</p>	<p><b>Consolidated Proceeding No.: 91/221,325</b></p> <p>Cancellation No: 92/061,202 Registration No.: 4,471,520 Trademark: BADTORO (and Design)</p> <p>Opposition No.: 91/221,325 Serial No.: 86/324,277 Trademark: Bull Design</p>
---	--

**REGISTRANT / APPLICANT JORDI NOGUES, S.L.’S  
MOTION TO RECONSIDER AMENDED SUSPENSION ORDER**

Pursuant to Federal Rule of Civil Procedure 7(b) and Trademark Rules 2.116, 2.120, 2.126 and 2.127, Registrant / Applicant Jordi Nogues, S.L. (collectively, “Registrant”), by and through undersigned counsel, hereby respectfully moves the Trademark Trial and Appeal Board (the “Board”) to reconsider and modify its amended suspension order dated December 14, 2015 (16 TTABVUE, the “Amended Order”). By the Amended Order, the Board changed its prior suspension order (13 TTABVUE, the “Original Order”). Specifically, the Original Order

explicitly stated that “[t]his suspension order does not toll the time for either party to respond to any outstanding discovery....” (13 TTABVUE at 3.) Nevertheless, with essentially no explanation, the Amended Order states that “the suspension of the proceeding as of November 12, 2015, also tolls the time to respond to any outstanding discovery requests....” (16 TTABVUE at 2.) Through the instant motion to reconsider and modify (hereinafter, the “Motion”), Registrant respectfully seeks reconsideration and a modification of the Amended Order reinstating the discovery deadlines which were pending when the Original Order was entered. Pursuant to 37 CFR § 2.127(a), the foregoing Motion is accompanied by, or otherwise embodies, the following brief of Registrant in support thereof.

#### **STATEMENT OF RELEVANT FACTS**

1. After receiving extensions of time for three (3) weeks to respond to Registrant’s first set of written discovery requests, Petitioner / Opposer Red Bull GmbH’s (collectively, “Petitioner”) responses were due on November, 12, 2015. (*See* 12 TTABVUE.)

2. Instead of responding on November 12, 2015, Petitioner filed a motion for judgment on the pleadings on that same day. (*See* 10 TTABVUE.)

3. More than two weeks later, the Board entered the Original Order on December 1, 2015. (*See* 13 TTABVUE.)

4. The Original Order stated that “[t]his suspension order does not toll the time for either party to respond to any outstanding discovery....” (13 TTABVUE at 3 (emphasis added)).

5. Based on the applicable rules of procedure and associated case law, both consistent with and supported by the express language of the Original Order, Registrant filed (a) a motion to compel Petitioner’s discovery responses, (b) a motion to dismiss premised on

Petitioner's admissions by operation of law, and (c) opposed Petitioner's motion for judgment on the pleadings. (11, 12, 14, and 15 TTABVUE.)

6. Circa December 8, 2015, via *ex parte* communication, Petitioner requested "a brief telephone conference to discuss this proceeding..." (See email correspondence dated December 8-10, 2015, attached hereto as **Exhibit "A"**.)

7. After Petitioner refused to disclose what the "conference" or "hearing" was about, what would be discussed therein, and what authority would be relied on, Registrant raised specific concerns with the Board regarding the substance of the hearing in an effort to ensure that Registrant could adequately prepare to defend its positions during the same. (See *id.*)

8. Premised on assurances that due process would be provided, the hearing was held on December 11, 2015. (See *id.*)

9. During the hearing, substantive issues fully addressed in Registrant's (a) motion to compel Petitioner's discovery responses, (b) motion to dismiss premised on Petitioner's admissions by operation of law, and (c) opposition to Petitioner's motion for judgment on the pleadings were discussed at length.

10. Moreover, without the presentation of any written arguments or any authority whatsoever, Petitioner represented that the Original Order should have triggered an automatic and retroactive stay tolling the time for Petitioner's now long overdue discovery responses.

11. Apparently taking Petitioner at its word, any without any additional briefing or authority, the Board entered the Amended Order reversing course and—notwithstanding the express language to the contrary in the Original Order—retroactively tolling the time for Petitioner's discovery responses. (16 TTABVUE at 2.)

12. By the instant Motion, Registrant respectfully seeks a modification of the Amended Order reinstating the discovery deadlines which were pending when the Original Order was entered.

### **ARGUMENT**

TBMP Sections 502.04 and 518 and Trademark Rule 2.127(a) – (b) permit any party that is dissatisfied with a decision to seek review thereof by the same interlocutory attorney. Pursuant to the foregoing, Registrant hereby respectfully requests reconsideration and modification of the Amended Order reinstating the discovery deadlines which were pending when the Original Order was entered.

#### **I. Registrant was Denied Due Process During the December 11, 2015 Hearing**

At the outset, “[d]ue process standards guide and limit the acts and proceedings of agency tribunals.” *See, e.g., Super Bakery Inc. v. Benedict*, 665 F.3d 1263 (Fed. Cir. 2011) (“an individual is entitled to fair and adequate notice of administrative proceedings that will affect his or her rights, in order that he or she may have an opportunity to defend his or her position”).

To this end, Registrant notes that it had grave concerns about participating in the December 11, 2015 hearing without the opportunity to be fully informed about the issues, arguments and authorities that would be discussed therein. (*See Ex. A.*) Unfortunately, Registrant’s concerns were ultimately realized. Specifically, in addition to a protracted discussion regarding the merits of various issues fully briefed in motions pending before the Board (which was not supposed to occur, *see Ex. A.*), it turns out that the clandestine but central thrust of Petitioner’s position was that the Board’s Original Order was somehow at odds with the plain language of Trademark Rule 2.127. In effect, during the hearing, Petitioner asserted—for

the first time and without any supporting authority—that Trademark Rules 2.120 and 2.127 establish a “bright line rule”: potentially dispositive motions automatically stay any and all case matters until the motion is resolved while non-dispositive motions leave discovery obligations pending. In view of this supposed bright line or automatic rule, Petitioner suggested that the Board’s Original Order was flatly mistaken—that because Petitioner’s motion for judgment on the pleadings is potentially dispositive of at least some issue, Trademark Rule 2.127 results in an automatic stay of any and all consolidated case matters, including Petitioner’s discovery obligations which were pending when the motion for judgment on the pleadings was filed.

Unfortunately, this simple and straightforward issue (and the corresponding Trademark Rules) was never articulated to Registrant and Registrant had no opportunity to meaningfully prepare to discuss this issue in advance of the December 11, 2015 hearing. Indeed, notwithstanding repeated efforts to ascertain the issue to be discussed during the conference and associated authority, Registrant never had notice of Petitioner’s position on the distinction between Trademark Rules 2.120 and 2.127 or any authority supporting the same. (*See Ex. A.*) It was only during the conference that Registrant first learned of Petitioner’s position.

Having been denied due process, Registrant now brings the instant Motion seeking reconsideration in view of the legal standards discussed more fully below, which would have been raised during the hearing had Registrant been given the opportunity to prepare. *See, e.g., Super Bakery Inc. v. Benedict*, 665 F.3d 1263 (Fed. Cir. 2011) (“an individual is entitled to fair and adequate notice of administrative proceedings that will affect his or her rights, in order that he or she may have an opportunity to defend his or her position”).

## **II. Petitioner’s Suggested “Bright Line” Rule Does Not Exist and Is, Instead, Contradicted By the TBMP and Associated Case Law**

As it turns out, now having had an opportunity to review Trademark Rules 2.120 and 2.127 in more detail—an opportunity Registrant was deprived of before the hearing—it is clear that Trademark Rules 2.120 and 2.127 do not establish the bright line or automatic rule that Petitioner suggested during the hearing. For this reasons, Registrant has respectfully brought the instant Motion to apprise the Board of additional helpful information and authority. Specifically, both Rules provide the following nearly identical language:

Rule 2.120: “When a party files a [non-dispositive] motion ... the case will be suspended by the Board with respect to all matters not germane to the motion. After the motion is filed and served, no party should file any paper that is not germane to the motion, except as otherwise specified in the Board’s suspension order.”

Rule 2.127: “When a party files a [dispositive or potentially dispositive] motion ... the case will be suspended by the ... Board with respect to all matters not germane to the motion, and no party should file any paper that is not germane to the motion except as otherwise specified in the Board’s suspension order.”

*See* 37 C.F.R. §§ 2.120 and 2.127 (emphases added). While it is true that Rule 2.120 goes on to state that no “additional discovery” should be served during the period of suspension and notes that suspension does “not toll the time for a party to comply with any ... outstanding discovery requests,” this additional language in Rule 2.120 does not foreclose a similar outcome under Rule 2.127. Indeed, far from creating a bright line or automatic rule, Rule 2.127 is simply silent on the issue of pending discovery obligations. *See* 37 C.F.R. § 2.127

To this end, Registrant submits that the question of how pending discovery requests are treated when a potentially dispositive motion is filed remains open and subject to Board discretion. To this end, and directly on point, TBMP 510.03(a) recognizes that, under Rule 2.127, “[t]he filing of ... a potentially dispositive motion does not, in and of itself, operate to

suspend a case; until the Board issues its suspension order, all times continue to run.” (all emphases added.) Moreover, there is no bright line rule; instead, TBMP 510.03(a) specifically states that, “[o]n a case-by-case basis, the Board may find that the filing of a potentially dispositive motion provides a party with good cause for not complying with an otherwise outstanding obligation, for example, responding to discovery requests.” (emphasis added.) In short, as explicitly stated in the TBMP, the “bright line” or automatic rule suggested by Petitioner during the December 11, 2015 hearing simply does not exist. Instead, the Board is to make a determination on a case-by-case basis.

For example, in *Super Bakery Inc. v. Benedict*, 96 USPQ 2d 1134, 1136 (TTAB 2010), *clarified*, 665 F.3d 1263 (Fed. Cir. 2011), the Board held that the filing of a motion for summary judgment one day before Board ordered discovery responses were due, and prior to issuance of a Board suspension order, did not establish good cause for failure to comply with discovery obligations. Similarly, in this case, while Petitioner’s discovery responses had not been ordered by the Board, there can be no dispute that Petitioner waited until the very day its discovery responses were due to file the motion for judgment on the pleadings, which incidentally could have been filed nearly seven (7) months earlier. Moreover, Petitioner did so only after waiting until it received Registrant’s discovery responses. Furthermore, Petitioner allowed its discovery deadline to lapse prior to issuance of a Board suspension order. In short, akin to *Super Bakery*, Petitioner has not established good cause for its failure to comply with its pending discovery obligations. Indeed, Petitioner has not even attempted to make any “good cause” showing whatsoever. This is particularly true in view of the explicit statement in TBMP 510.03(a): “[t]he

filing of ... a potentially dispositive motion does not, in and of itself, operate to suspend a case; until the Board issues its suspension order, *all times continue to run.*” (emphasis added).

Notably, the circumstances before the Board are further exacerbated by the Board’s Original Order. Specifically, even if Trademark Rules 2.120 and 2.127 created the bright line rule which Petitioner suggests (which they do not), the Board has the discretion to modify the “default” strictures of these Rules. *See* 37 C.F.R. §§ 2.120 and 2.127 (“except as otherwise specified in the Board’s suspension order...”). In this case, not only does the “bright line” rule suggested by the Petitioner not exist, any such bright line rule was explicitly contradicted by the Board’s Original Order. Indeed, it cannot be disputed that the Board’s Original Order explicitly stated, in no uncertain terms, that “[t]his order does not toll the time for either party to respond to any outstanding discovery ....” (13 TTABVUE at 2.) Simply put, the Board’s Original Order made it clear that Petitioner’s pending discovery obligations remained outstanding. And Registrant relied on that order incurring substantial time and expense to respond accordingly (*see* Facts, *supra*, at ¶ 5) while Petitioner continued to ignore its discovery obligations contrary to the express language of the Board’s Original Order. Petitioner should not now retroactively get the benefit of willfully ignoring the Board’s Original Order merely because the Original Order was apparently a “mistake,” particularly where Rule 2.127 does not firmly establish that any mistake ever occurred. Put otherwise, it is unfair to Registrant to simply change the Original Order after-the-fact, which Original Order Registrant relied upon, particularly where the Original Order was facially fully consistent with Rule 2.127 and a motion to compel had already been filed. To hold otherwise would be punitive: Registrant would be punished for following the Original Order while Petitioner’s willful conduct in derogation of the Original Order would be legitimized.

Notably, had Registrant had the opportunity to prepare adequately for the December 11, 2015 hearing, the foregoing issues could have been addressed in full at the hearing. Nevertheless, being deprived of that opportunity up front, Registrant now deems it prudent to advise the Board, in writing, of its position. *See, e.g., Super Bakery Inc. v. Benedict*, 665 F.3d 1263 (Fed. Cir. 2011) (“an individual is entitled to fair and adequate notice of administrative proceedings that will affect his or her rights, in order that he or she may have an opportunity to defend his or her position”).

Finally, Registrant again takes this opportunity to note that Petitioner’s motion for judgment on the pleadings is only, at best, potentially dispositive of the opposition proceeding, not the cancellation proceeding. As such, since Petitioner has not even filed a motion which will potentially dispose of the cancellation proceeding, Rule 2.127 has not even been triggered but for consolidation, which does not strip the two matters of their unique status and character. To this end, Petitioner lacks any good cause showing whatsoever for its refusal to respond to discovery in the cancellation proceeding.

### **CONCLUSION**

In view of the foregoing, Registrant respectfully requests reconsideration of the Board’s Amended Order (16 TTABVUE). Specifically, Petitioner’s discovery obligations should not be tolled under the circumstances of this case as Petitioner has provided no good cause showing justifying any such toll. The Board should exercise its discretion under Rule 2.127 and TBMP 510.03(a) and reinstate the Board’s Original Order.

Should an additional hearing and/or briefing further addressing these issues be deemed prudent, Registrant would be happy to provide any additional briefing and to participate in an additional hearing with the Board.

Respectfully submitted on December 22, 2015.

By: /Nicholas D. Wells/

KIRTON MCCONKIE, PC  
1800 World Trade Center  
60 E. South Temple  
Salt Lake City, Utah 84111  
Tel: (801) 328-3600  
Email: nwells@kmclaw.com

*Attorney for Registrant / Applicant*  
*JORDI NOGUES, S.L.*

**CERTIFICATE OF SERVICE**

I hereby certify that on this the 22<sup>nd</sup> day of December, 2015, I served a copy of the foregoing **REGISTRANT / APPLICANT JORDI NOGUES, S.L.'SMOTION TO RECONSIDER AMENDED SUSPENSION ORDER** on the attorney for Opposer, as designated below, by placing said copy in the United States Mail, first class, postage prepaid, with an advance copy via email, addressed as follows:

Neil D. Greenstein  
[NDG@TechMark.com](mailto:NDG@TechMark.com)  
Martin R. Greenstein  
[MRG@TechMark.com](mailto:MRG@TechMark.com)  
Angelique M. Riordan  
[AMR@TechMark.com](mailto:AMR@TechMark.com)  
Leah Z. Halpert  
[LZH@TechMark.com](mailto:LZH@TechMark.com)  
**TechMark a Law Corporation**  
4820 Harwood Road, 2<sup>nd</sup> Floor  
San Jose, CA 95124-5237

By: /Nicholas D. Wells/

Consolidated Proceeding No.: 91221325  
*Red Bull GMBH v. Jordi Nogues, S.L.*

# Exhibit A

Exhibit A to Registrant / Applicant Jordi Nogues, S.L.'s Motion  
to Reconsider and Amend the Suspension Order

## Sherry Glendening

---

**From:** Okeke, Benjamin U. <Benjamin.Okeke@USPTO.GOV>  
**Sent:** Thursday, December 10, 2015 2:18 PM  
**To:** Joshua S. Rupp; 'Angel Riordan'  
**Cc:** Nicholas Wells; Angela Brimhall; Sherry Glendening; ndg@techmark.com; mrg@techmark.com; lzh@techmark.com; dmp@techmark.com  
**Subject:** RE: Consolid. Opposition No. 91221325 \*BADTORO\* - Telephone Conference Friday, December 11 between 1 PM and 2:30 PM (EST)

Mr. Rupp,

Thank you for your email. I fully understand your concerns. Please be assured that Petitioner has been made aware that no substantive issues of any sort will be discussed during tomorrow's call. Therefore, the call should not involve the merits of any pending motion. To my knowledge the crux of tomorrow's call is to discuss certain scheduling issues. Indeed, I am not exceedingly "prepared" for the discussion tomorrow, but will do my best to address any confusion/issues that may involve the procedural posture of the case. Again, however, to the extent that this would result in a discussion of the merits of any pending motions, the call will promptly be adjourned. Additionally, to the extent that a ruling on even a procedural matter would be necessary, the parties will be given full opportunity to pose arguments, and if necessary the call will be adjourned to allow for briefing. I am taking the call principally to get an idea of where the proceeding stands, not to rule on anything. If we resolve any issues on the call, that will simply be gratuitous.

It should be noted, however, that any indication that either party is wasting or abusing the Board's time or resources will be looked at with extreme disfavor.

I look forward to speaking with the parties tomorrow.

Regards,

**Benjamin U. Okeke**  
**Interlocutory Attorney**  
**Trademark Trial and Appeal Board (USPTO)**

---

**From:** Joshua S. Rupp [mailto:jrupp@kmclaw.com]  
**Sent:** Thursday, December 10, 2015 4:04 PM  
**To:** 'Angel Riordan'; Okeke, Benjamin U.  
**Cc:** Nicholas Wells; Angela Brimhall; Sherry Glendening; ndg@techmark.com; mrg@techmark.com; lzh@techmark.com; dmp@techmark.com; Joshua S. Rupp  
**Subject:** RE: Consolid. Opposition No. 91221325 \*BADTORO\* - Telephone Conference Friday, December 11 between 1 PM and 2:30 PM (EST)

Mr. Okeke:

We respectfully write on behalf of Registrant/Applicant Jordi Nogues, S.L. (collectively, "Registrant") in reference to the above-identified consolidated opposition and cancelation proceedings, and particularly the conference set for 1:30-2:00 p.m. EST tomorrow, December 11, 2015.

While Registrant looks forward to participating in tomorrow's conference and has made every effort to promptly communicate with counsel for Petitioner/Opposer Red Bull GmbH (collectively, "Petitioner") in order to schedule the conference at a mutually agreeable time convenient to your office, Registrant is concerned at having no advance notice

of the issues or arguments proposed for discussion tomorrow. Specifically, Registrant has not received any indication of what issues, arguments or legal authorities Petitioner intends to present or which you intend to discuss during tomorrow's call. To this end, we have repeatedly asked Petitioner's counsel for some indication of the issues, arguments and legal authorities so that we can be fully prepared for tomorrow's call. Nevertheless, save for stating that it intends to discuss pending motions, Petitioner has either refused or neglected to respond to any of our inquires for more detailed information. (Please see the attached correspondence pertinent to this issue).

This is concerning on multiple levels. First, Registrant is being forced to prepare for tomorrow's conference in the dark while Petitioner presumably knows exactly what it intends to discuss tomorrow. Second, prior to filing its motion to compel, Registrant repeatedly reached out to petitioner for a meet and confer, but Petitioner refused to timely meet and confer. It is unclear why Petitioner now, without any advance notice to Registrant, has requested a conference of unknown scope or subject matter while refusing to engage previously. Third, Registrant has sought to follow the rules of procedure in bringing issues to the Board's attention while Petitioner has refused to comply with its basic discovery obligations, refuses to communicate on various issues, and is now seeking to do an end run around basic procedure.

In view of the foregoing, we write to request your guidance as to how Registrant should prepare for tomorrow's conference. Registrant wants the conference to be an effective and efficient use of your time as well as the parties' time, respectively. Nevertheless, Petitioner's refusal to inform Registrant of the issues, arguments and authorities it intends to raise tomorrow is both prejudicial to Registrant and makes it impossible to adequately prepare for tomorrow's conference.

We look forward to your further guidance and we appreciate your time and attention to these matters, which are of great significance to Registrant.

Thank you,  
Joshua S. Rupp

---

Joshua S. Rupp  
Kirton | McConkie  
1800 Eagle Gate Tower  
60 East South Temple  
Salt Lake City, Utah 84111  
Direct: (801) 323-5989  
Office: (801) 328-3600  
Fax: (801) 212-2041  
email: [jrupp@kmclaw.com](mailto:jrupp@kmclaw.com)

This email communication (and any attachments) are confidential and are intended only for the individual(s) or entity named above and others who have been specifically authorized to receive it. If you are not the intended recipient, please do not read, copy, use or disclose the contents of this communication to others. Please notify the sender that you have received this email in error by replying to the email or by telephoning (801) 328-3600. Please then delete the email and any copies of it. This information may be subject to legal, professional or other privilege or may otherwise be protected by work product immunity or other legal rules. To ensure compliance with requirements imposed by the IRS, we inform you that (a) any U.S. tax advice in this communication (including attachments) is limited to the one or more U.S. tax issues addressed herein; (b) additional issues may exist that could affect the U.S. tax treatment of the matter addressed below; (c) this advice does not consider or provide a conclusion with respect to any such additional issues; (d) any U.S. tax advice contained in this communication (including attachments) is not intended or written to be used, and cannot be used, for the purpose of promoting, marketing or recommending to another party any transaction or matter addressed herein, and (e) with respect to any U.S. tax issues outside the limited scope of this advice, and U.S. tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used, for the purpose of avoiding tax-related penalties under the Internal Revenue Code.

---

**From:** Angel Riordan [<mailto:amr@techmark.com>]

**Sent:** Wednesday, December 09, 2015 6:06 PM

**To:** [benjamin.okeke@uspto.gov](mailto:benjamin.okeke@uspto.gov)

**Cc:** Joshua S. Rupp; Nicholas Wells; Angela Brimhall; Sherry Glendening; [ndg@techmark.com](mailto:ndg@techmark.com); [mrg@techmark.com](mailto:mrg@techmark.com);

[lzh@techmark.com](mailto:lzh@techmark.com); [dmp@techmark.com](mailto:dmp@techmark.com)

**Subject:** Consolid. Opposition No. 91221325 \*BADTORO\* - Telephone Conference Friday, December 11 between 1 PM and 2:30 PM (EST)

Dear Mr. Okeke,

Thank you for your below email and for making yourself available to hold a brief telephone conference to discuss this proceeding. The parties have discussed the dates/times listed in your below email and are available **Friday, December 11, 2015, any time between 1:00 PM and 2:30 PM (EST)**. We assume this block of time still works with your schedule, but please let us know if this is not the case and the parties will discuss alternate times.

The direct dial numbers are as follows:

**Joshua Rupp and Nicholas Wells** for Jordi Nogues: **801-323-5995**

**Neil Greenstein** for Red Bull: **631-446-0476**

**Angel Riordan** for Red Bull: **408-266-4700\***

\* If for any reason you are unable to conference in a third line, please call Neil Greenstein, who will then conference me in on his end.

We look forward to your confirmation.

Best,

Angel

----- Forwarded Message -----

**Subject:**Consolid. Opposition No. 91221325 \*BADTORO\*

**Date:**Tue, 8 Dec 2015 21:05:14 +0000

**From:**Okeke, Benjamin U. <[Benjamin.Okeke@USPTO.GOV](mailto:Benjamin.Okeke@USPTO.GOV)>

**To:**[MRG@TechMark.com](mailto:MRG@TechMark.com) <[MRG@TechMark.com](mailto:MRG@TechMark.com)>, [AMR@TechMark.com](mailto:AMR@TechMark.com) <[AMR@TechMark.com](mailto:AMR@TechMark.com)>, [LZH@TechMark.com](mailto:LZH@TechMark.com) <[LZH@TechMark.com](mailto:LZH@TechMark.com)>, [DMP@TechMark.com](mailto:DMP@TechMark.com) <[DMP@TechMark.com](mailto:DMP@TechMark.com)>, [nwells@kmclaw.com](mailto:nwells@kmclaw.com) <[nwells@kmclaw.com](mailto:nwells@kmclaw.com)>, [abrimhall@kmclaw.com](mailto:abrimhall@kmclaw.com) <[abrimhall@kmclaw.com](mailto:abrimhall@kmclaw.com)>

Parties:

Opposer's counsel contacted the Board requesting to schedule a brief telephone conference to discuss this proceeding. Opposer requested that the conference be scheduled for a date this week, between December 9-11.

Please be advised that I am available for the telephone conference on the following dates and times:

Wednesday from 12:30 p.m. – 2:30 p.m. ET; and 4:30 – 6:30 p.m. ET;

Thursday from 12:30 p.m. – 2:30 p.m. ET; or

Friday from 12:30 p.m. – 2:30 p.m. ET;

The parties should promptly contact each other and determine a mutually agreeable date and time to participate in the phone conference and advise the Board of such date(s) and time(s) by replying to this

email. Also, the parties should provide direct-dial telephone numbers where they can be reached for the telephone conference. The Board greatly appreciates the parties' prompt attention to this matter.

Regards,

**Benjamin U. Okeke**  
**Interlocutory Attorney**  
**Trademark Trial and Appeal Board (USPTO)**  
**600 Dulany St.**  
**Alexandria, VA 22314**  
**P. 571-270-1524**  
**F. 571-270-2524**

--

Angel M Riordan | Associate  
TechMark a Law Corporation  
Trademark & Intellectual Property Law  
4820 Harwood Road | 2nd Floor | San Jose, CA 95124  
Tel: 408-266-4700 Fax: 408-850-1955  
Email: [AMR@TechMark.com](mailto:AMR@TechMark.com)

=====

This e-mail message is the property of, (c)2015 TechMark. It is for the sole use of the intended recipient(s) and may contain confidential and/or privileged information. Any unauthorized review, use, disclosure or distribution is strictly prohibited. If you are not the intended recipient, please contact sender by reply e-mail and destroy all copies of the original message.



This email has been sent from a virus-free computer protected by Avast.

[www.avast.com](http://www.avast.com)