

ESTTA Tracking number: **ESTTA697497**

Filing date: **09/22/2015**

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

| | |
|------------------------|--|
| Proceeding | 91222833 |
| Party | Plaintiff Avido, LLC |
| Correspondence Address | KEVIN S LANCE AVIDO LLC 11622 LOG JUMP TRAIL ELLCOTT CITY, MD 21042 UNITED STATES info@avidopower.com |
| Submission | Motion to Extend |
| Filer's Name | Bruce A. McDonald |
| Filer's e-mail | bmcDonald@sgrlaw.com |
| Signature | /Bruce A. McDonald/ |
| Date | 09/22/2015 |
| Attachments | Motion for 30-Day Extension of Trial Calendar & Attached Email Correspondence.pdf(194013 bytes) |

| | |
|---|-----------|
| Plaintiff's 30-day Trial Period Ends | 7/20/2016 |
| Defendant's Pretrial Disclosures | 8/4/2016 |
| Defendant's 30-day Trial Period Ends | 9/18/2016 |
| Plaintiff's Rebuttal Disclosures | 10/3/2016 |
| Plaintiff's 15-day Rebuttal Period Ends | 11/2/2016 |

Respectfully submitted,

AVIDO, LLC



By: _____

Bruce A. McDonald
SMITH, GAMBRELL & RUSSELL LLP
1055 Thomas Jefferson St., N.W., Suite 400
Washington, D.C. 20007
Tel.: (202) 263-4362
Fax: (202) 263-4372
Email: bmcdonald@sgrlaw.com

Attorneys for the Opposer

Date: September 22, 2015

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on September 22, 2015, a copy of the foregoing Opposer's Motion for 30-Day Extension of Trial Calendar was served by U.S. mail, first class postage prepaid, on the following counsel of record for Applicant:

Scott H. Kaliko, Esq.
KALIKO & ASSOCIATES, LLC
883 Hilltop Terrace
Franklin Lakes, NJ 07417



Bruce A. McDonald
Attorney
SMITH, GAMBRELL & RUSSELL, LLP

McDonald, Bruce

To: McDonald, Bruce
Subject: FW: Opposition No. 91222833 AVIDO 2/2
Importance: High

Begin forwarded message:

From: "skaliko@kalikolaw.com" <skaliko@kalikolaw.com>
Subject: Re: Opposition No. 91222833 AVIDO
Date: September 21, 2015 at 11:13:29 PM EDT
To: "info@avidopower.com" <info@avidopower.com>

Dear Mr. Lance:

My apologies that you find my emails intimidating, perhaps you should retain counsel to explain the Lanham Act and TTAB procedure to you. As for rescheduling the conference, I explained that I could not accommodate you. You had three days to choose from when we initially scheduled this conference on August 19, 2015. In addition, I even made availability to speak with you today (September 21, 2015). I have been as accommodating as I possibly can. The TTAB Order specifically states, this Discovery Conference needs to be conducted by September 24, 2015, I have no authority to change the TTAB Order.

Very truly yours,
Scott Kaliko

KALIKO
& ASSOCIATES
ATTORNEYS AT LAW

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883 Hilltop Terrace
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O 201-739-5555
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From: "info@avidopower.com"
Date: Monday, September 21, 2015 at 10:55 PM
To: SCOTT KALIKO
Subject: Re: Opposition No. 91222833 AVIDO

Mr. Kaliko,

I have been traveling all day today and am quite surprised to see your email.

I find your emails intentionally intimidating and unprofessional, and I believe some of your facts are incorrect. Just because I am pro se does not mean that I am uninformed on trademark matters. Are you suggesting that my request to remove a personal cell phone number from an improperly filed document is sanctionable behavior? And now because I want to reschedule our conference call due to an unexpected conflict, my case should now be dismissed? Please explain the legal basis for your claims.

The way that I understand your message is that you are holding me hostage to the time we set for Wednesday. This is not a large company, there are no other representatives who can attend. I am sure you can understand that conflicts do come up and fortunately, it was not last minute, it is two days in advance.

Please advise if you have any flexibility for later on Wednesday afternoon or anytime on Thursday.

Kevin Lance
info@avidopower.com

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Visit our [Amazon.com](http://www.amazon.com) store anytime: <http://goo.gl/UVJ3UD>

On Sep 21, 2015, at 10:23 PM, skaliko@kalikolaw.com wrote:

Dear Mr. Lance:

Since you did not respond to my offer to conduct our discovery conference today, I can only assume that you will be available at our originally scheduled conference as agreed upon on August 19, 2015. Please let me know if you intend to be available at that time, as not responding is completely unprofessional and is a waste of everyone's time and money. Please note that if you do not attend our previously scheduled call or have an authorized representative from Avido, LLC attend the call on your behalf, my client will file a Motion to Dismiss all claims for failure to prosecute this matter.

Very truly yours,
Scott Kaliko

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& ASSOCIATES
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From: SCOTT KALIKO
Date: Monday, September 21, 2015 at 12:42 PM
To: "info@avidopower.com"
Subject: Fwd: Opposition No. 91222833 AVIDO

Dear Mr. Lance:

Thank you for your email today. However, I am not available to switch our conference September 23, 2015, as I have many other clients and obligations and the time you now propose has been taken by other matters I must attend to. This was the day and time that **YOU** selected from the three possible times I provided to you on August 19, 2015. Nevertheless, I am available today from 4:00pm until 5:00. Please let me know if this time works for you.

As for the Initial Disclosures, I am fully aware of the procedural requirements at the TTAB, and respectfully, I am not under any obligation to explain my reasoning as to the filing of such discourses. As for the alleged personal information within the document, this information whether it was filed now or as part of a subsequent motion I might file in the future, would have been disclosed to the Board in either circumstance (Please see TTAB Order No. 2. See Paragraph 5 **PARTIES NOT REPRESENTED BY COUNSEL**. This information is required under Rule 26 of the Federal Rule of Civil Procedures. I suggest you read the federal rules.

Next, as for the written Notice, the Certificate says that I caused the Notice to be sent you on September 18, 2015, as I did. I am fully compliant with all the rules at the TTAB. If you wish you may file any motion you desire with the Board. Nevertheless, please understand that my client will seek attorney fees, sanctions, and/or other relief that the Board may determine appropriate for any frivolous motions filed.

Very Truly Yours,

Scott Kaliko

From: skaliko@kalikolaw.com [<mailto:skaliko@kalikolaw.com>]
Sent: Monday, September 21, 2015 11:59 AM
To: Kaliko, Scott

Scott Kaliko
917-669-5523

Begin forwarded message:

From: <info@avidopower.com>
Date: September 21, 2015 at 11:52:39 AM EDT
To: Scott Kaliko <skaliko@kalikolaw.com>
Subject: Re: **Opposition No. 91222833 AVIDO**

Mr. Kaliko,

If possible, do you have availability for a phone call later in the day on the 23rd, around 2pm or 3pm? I had another obligation come up and would appreciate switching our appointment.

I am also in receipt of today's TTAB order. I understand that you filed a copy of Applicant's Initial Disclosures with the TTAB on Thursday, and the certificate of service states that you sent me a copy by email on September 18, 2015. For your reference, I did not receive a copy and so I did not see the Initial Disclosures until today.

In the Initial Disclosures, you include the cell phone number of my family member and registered agent Wendy Lance. As you know, she spoke with you before this proceeding began in order to amicably resolve this dispute. I am not sure why you included personal contact information as part of your Initial Disclosures, particularly in a public filing with the TTAB (which we know from today's order was incorrect procedurally).

Please immediately contact the TTAB to remove this document from the public record and notify me when completed. Thank you.

Best,
Kevin Lance
info@avidopower.com

Visit our [Amazon.com](http://www.amazon.com) store anytime: <http://goo.gl/UVJ3UD>

On Aug 20, 2015, at 1:00 PM, info@avidopower.com wrote:

Mr. Kaliko,

Thank you for your email. Let's plan for September 23rd at 1:00pm EST. I will plan on calling you with the number in your signature block.

Best,
Kevin Lance
info@avidopower.com

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Visit our [Amazon.com](http://www.amazon.com) store anytime: <http://goo.gl/UVJ3UD>

On Aug 19, 2015, at 1:19 PM, skaliko@kalikolaw.com wrote:

VIA ELECTRONIC MAIL
August 19, 2015

Kevin S. Lance
C/O Avido, LLC
11622 Log Jump Trail Ellicott City, MD 21042

Dear Mr. Lance:

As you may know I represent Mr. Joseph Damiani in the above-identified Trademark Opposition before the United States Trademark Trial and Appeal Board (“TTAB”). Pursuant to the conference, discovery, disclosure, and trial schedule, we have a deadline to conduct a discovery by September 24, 2015. I trust you aware of how this and other matters set for in the schedule are handled before the TTAB. Accordingly, I would like to schedule a discovery conference on or prior the September 24, 2015 deadline. Three available dates that I propose are as follows:

September 11, 2015 from 12:00 pm to 3:00pm;
September 14, 2015 from 9:00am to 11:00 am; and
September 23, 2015nfrom 12:00pm to 3:00pm.

If these dates and times are unacceptable to you, please provide me with three alternate dates and times that are acceptable;e to you.

Ver truly yours,
Scott Kaliko

KALIKO
& **ASSOCIATES**
ATTORNEYS AT LAW

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