

TTAB

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

STEVEN R. HYKEN,)
)
 Petitioner)
)
 v.)
)
 AST SPORTSWEAR, INC.,)
)
 Respondent.)

Cancellation No. 32,513

Honorable Commissioner for Trademarks
BOX TTAB NO FEE
2900 Crystal Drive
Arlington, VA 22202-3513

02 SEP 18 AM 1:39
TRADEMARK TRIAL AND APPEAL BOARD
09-11-2002
U.S. Patent & TMO/c/TM Mail Rpt #66

MOTION FOR JUDGMENT AND
BRIEF IN SUPPORT THEREOF

M A D A M :

In accordance with Rule 2.120(g) (1) of the Trademark Rules of Practice, Respondent hereby moves this honorable Board for an Order entering judgment against the Petitioner for his failure to comply with the Board's Order of August 8, 2002, compelling Petitioner to serve his responses to Respondent's third set of interrogatories and third set of requests for the production of documents. A copy of the aforementioned Order is enclosed.

Petitioner has forwarded to Respondent's attorney a letter dated August 29, 2002, stating that he had sent the Board a letter requesting a suspension or delay of the captioned proceeding. (See attached). Petitioner failed to serve Respondent with a copy of the letter for suspension or delay sent to the Board. Accordingly, Respondent respectfully requests that Petitioner's request to suspend or delay the captioned proceeding be denied, since Petitioner failed to comply with 37

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CFR §2.119(a), requiring proper service in inter partes proceedings. Additionally, since there is no good cause for suspension or delaying the captioned cancellation proceeding, Respondent respectfully requests that even if Petitioner's "motion" is considered by the Board, it be denied.

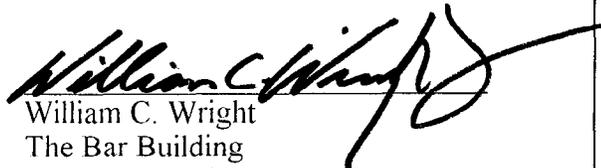
WHEREFORE, Respondent prays that the Board enter judgment in favor of Respondent dismissing the captioned Petition for Cancellation with prejudice, on the merits, and without leave to replead.

Respectfully submitted,

GRAHAM, CAMPAIGN P.C.
Attorneys for Respondent

Date: September 9, 2002

BY:


William C. Wright
The Bar Building
36 West 44th Street
New York, New York 10036-8178
(212) 354-5650

CERTIFICATE OF MAILING

I hereby certify that a true and correct copy of the foregoing MOTION FOR JUDGMENT AND BRIEF IN SUPPORT THEREOF in Cancellation No. 32,513 is being deposited with the U.S. Postal Service, via first-class mail, with sufficient postage prepaid, in an envelope addressed to: BOX TTAB NO FEE, Assistant Commissioner for Trademarks, 2900 Crystal Drive, Arlington, VA 22202-3513, this 9th day of September, 2002.

BY:  _____

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing MOTION FOR JUDGMENT AND BRIEF IN SUPPORT THEREOF in Cancellation No. 32,513 was served by first class mail, postage prepaid, this 9th day of September, 2002 upon Petitioner:

Steven Hyken
8637 Kester Ave.
Panorama City, CA 91402

BY:  _____

APR 13 2002

W/D

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
Trademark Trial and Appeal Board
2900 Crystal Drive
Arlington, Virginia 22202-3513

Hassan

Mailed: August 8, 2002

Cancellation No. 92032513

STEVEN HYKEN AKA JOHNNY
BLAZE

v.

AST SPORTSWEAR, INC.

Jyll S. Taylor, Attorney:

Respondent's motion to compel (filed May 13, 2002) is granted as conceded. See Trademark Rules 2.127(a).

In view thereof, applicant is hereby ordered to serve no later than **THIRTY DAYS** from the mailing date of this order its responses, without objections, to respondent's third set of interrogatories and third request for production of documents. See *Bison Corp. v. Perfecta Chemie B.V.*, 4 USPQ2d 1718, (TTAB 1987).

In the event petitioner fails to respond to respondent's requests as ordered herein, respondent's remedy lies in a motion for judgment pursuant to Trademark rule 2.120(g)(1) 37 CFR Section 2.120(g).

Cancellation No. 92032513

Trial dates are reset as indicated below:

THE PERIOD FOR DISCOVERY TO CLOSE:	September 20, 2002	D _{ML}
30-day testimony period for party in position of plaintiff to close:	December 19, 2002	P _{ML} D _{ML}
30-day testimony period for party in position of defendant to close:	February 17, 2003	D _{ML} D _{ML}
15-day rebuttal testimony period for plaintiff to close:	April 3, 2003	

In each instance, a copy of the transcript of testimony together with copies of documentary exhibits, must be served on the adverse party within thirty days after completion of the taking of testimony. Trademark Rule 2.125.

Briefs shall be filed in accordance with Trademark Rule 2.128(a) and (b).

An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.

August 29, 2002

AST Sportwear Inc.
Attorney William C. Wright
Graham Campaign P.C.
36 West 44th St.
New York, New York, 10036- 8178

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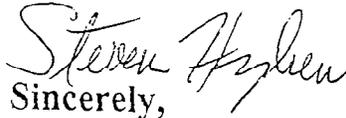
Dear Mr. Wright,

This is in regard to the Steven Hyken aka Johnny Blaze vs AST Sportwear, Inc. Cancellation number is 92032513.

I have sent a letter to the Assistant Commissioner for Trade Marks (U.S. Department of Commerce Patent and Trade Mark Office).

I requested a motion to suspend or delay cancellation for a Trade Mark hearing for a future date.

Your prompt reply is appreciated.


Sincerely,

Steven Hyken aka Johnny Blaze

Contact information:

Steven Hyken
8637 Kester Avenue
Panorama City, CA 91402