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

Proceeding	92043516
Party	Defendant Stich, Willi Lorenz Stich, Willi Lorenz 950 Jennings Street Bethlehem, PA 18017
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7 **IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**
8 **TRADEMARK TRIAL AND APPEAL BOARD**

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11 JZCHAK N. WAJCMAN d/b/a BILL
12 LAWRENCE PRODUCTS and BILL
13 LAWRENCE GUITAR PICKUPS,

14 Petitioner,

15 vs.

16 WILLI LORENZ STICH a/k/a BILL
17 LAWRENCE,

18 Registrant/Respondent.

) Cancellation No.: 92043516
)
)
)

) **In the matter of Registration No. 2,303,676**
) **Mark: BILL LAWRENCE**
) **Date Registered: December 28, 1999**
)

) **BILL LAWRENCE'S OBJECTION TO**
) **PETITIONER'S IMPLIED REQUEST**
) **FOR JUDICIAL NOTICE CONTAINED**
) **IN DECLARATION OF JZCHAK N.**
) **WAJCMAN IN OPPOSITION TO**
) **REGISTRANT'S MOTION FOR**
) **SUMMARY JUDGMENT AND IN**
) **SUPPORT OF PETITIONER'S MOTION**
) **FOR SUMMAR JUDGMENT, OR**
) **ALTERNATIVELY MOTION TO**
) **STRIKE EXHIBITS 1 THROUGH 12.**
)

21
22) Filed: September 6, 2006
23)

24 Petitioner WILLI LORENZ STICH a/k/a BILL LAWRENCE (hereinafter Bill Lawrence)
25 respectfully submits the following objections to the exhibits attached to Petitioner's Declaration

1 of Jzchak N. Wajcman In Opposition to Registrant’s Motion for Summary Judgment and In
2 Support of Petitioner’s Motion for Summary Judgment. The grounds for this objection are that
3 the TTAB may not consider these documents unless judicial notice is taken of them and that
4 since they are not proper subjects of judicial notice because the facts contained therein are
5 subject to reasonable dispute and the documents themselves are hearsay, unauthenticated, and
6 irrelevant.

7 The types of evidence that may be submitted in support of, or in opposition to, a motion
8 for summary judgment include “the pleadings, depositions, answers to interrogatories, and
9 admissions on file, together with affidavits, if any.” TTMP § 528.05(a). These documents
10 constitute facts that are reasonably subject to dispute. Exhibits 1 through 12 should be stricken
11 and not considered by the TTAB.

12
13 **I.**

14 **DOCUMENTS SUBMITTED IN SUPPORT OF PETITIONER’S DECLARATION**

15 In apparent support of Petitioner’s opposition to Lawrence’s Motion for Summary
16 Judgment, the Petitioner has submitted a declaration supported by various exhibits.

17 Exhibit 1 is a copy of a German patent application.

18 Exhibit 2 is a purported copy of a statement allegedly made by Willi Stich.

19 Exhibit 3 contains several purported letters from the certified public accountant of
20 Lawrence Sound Research.

21 Exhibit 4 contains a purported stock transfer involving Lawrence Sound Research.

22 Exhibit 5 contains an alleged agreement with Kent Musical Corporation.

23 Exhibit 6 of an alleged agreement between Lawrence Sound Research and The Lawrence
24 Connection.

25 Exhibit 7 contains an alleged copy of an alleged purchase agreement between the Third
National Bank and a company called Degalim.

1 Exhibit 8 contains an alleged copy of an bill of sale between the Third National Bank and
2 a company called Degalim.

3 Exhibit 9 is an alleged copy of alleged resolution of the board of Lawrence Sound
4 Research.

5 Exhibit 10 is an alleged copy of an alleged agreement between a copy called Degalim and
6 the Third National Bank.

7 Exhibit 11 is an alleged copy of an alleged general lien release and assignment from the
8 Third National Bank.

9 Exhibit 12 is an alleged printout of fictitious business name that use the Bill Lawrence
10 Mark.

11 II.

12 Synopsis of Judicial Notice.

13 Although these documents are attached to a declaration, the TTAB may not take
14 improper judicial notice of these documents or any alleged facts contained therein. Since these
15 documents are not part of the pleading Petitioner for Cancellation, these documents should be
16 stricken and the TTAB may not consider them. The rules of evidence will preclude the
17 admission of these documents for lack of foundation, lack of authenticity, not being the best
18 evidence, and irrelevance. These documents that are contracts were not pled in the Petition for
19 Cancellation, so their terms were not part of the allegations. Since neither their conditions
20 precedent nor the full execution by both parties of the terms were not even properly pled, any
21 agreements or contracts submitted should be stricken. See **FRCP 9**.

22 To serve his avaricious objectives, the Petitioner has submitted incomplete, forged, and
23 illegally obtained documents. For example, why would Petitioner WAJCMAN be in possession
24 of letters from a certified public accountant addressed only to Bill Lawrence? Why would these
25 letters each be dated the same? And why would these letters be “created” on the same day as

1 another alleged statement by STICH? WAJCMAN’s presentation of these documents outside
2 the pleadings lacks any foundation for authenticity or relevance.

3 While repeatedly misrepresenting the truth, the Petitioner has deliberately neglected to
4 submit or refer to the most essential documents, including an alleged “assignment” which he
5 used in previous filings, but now fails to include in his pleadings only because Bill Lawrence has
6 pointed out that WAJCMAN presented a forged copy of an alleged “Assignment” in other
7 proceedings. Even now, WAJCMAN refuses to withdraw this false and misleading document.

8 By attaching these documents to the declaration, the Petitioner is only seeking to avoid
9 the rigors of pleading and the federal rules of evidence. The alleged “facts” in these documents
10 that WAJCMAN wants the TTAB to now accept as true must not be considered by the TTAB
11 without properly presentation as allegations subject to challenge.

12 Although the Petitioner does not include these documents in an explicit request for
13 judicial notice, Lawrence now makes his objections clear so that further time is not wasted in
14 considered these irrelevant and, as presented, misleading documents.

15 16 **III.**

17 **Argument and Objections.**

18 Materials outside of the pleadings ordinarily are not considered on a motion for summary
19 judgment. None of the attached documents may be taken judicial notice of because the facts in
20 these documents are subject to reasonable dispute and are not capable of accurate and ready
21 determination by resort to sources whose accuracy cannot reasonably be questioned. *In re*
22 *Immune Response Securities Litigation* (S.D. Cal. 2005), 375 F. Supp.2d 983 (“Courts may only
23 take judicial notice of adjudicative facts that are not subject to reasonable dispute.”).

24 Here, Petitioner’s request strays well beyond a plea for the TTAB judicially to notice
25 mere adjudicative facts. Rather, he asks the TTAB consider the following:

1 • A copy of a German patent without translating it into English (Exhibit 1). This document
2 contains hearsay and is unauthenticated and un-translated and lacks foundation.

3 • An unauthenticated, unsigned, unverified, un-notarized “Statement by Willi L. Stich”
4 with significant missing page parts (dated September 24, 1982) (Exhibit 2). WAJCMAN offers
5 no evidence or testimony to authenticate this document, nor is this document self-authenticating.
6 This document is not admissible because it is not an original. It would be unfair to admit this
7 document because WAJCMAN is the only source of it and it has never been used or relied upon
8 elsewhere. A genuine issue as to the authenticity of this document is raised by WAJCMAN’s
9 prior acts for forgery and fraud on the PTO. This document is hearsay and no exception is
10 available.

11 • An unauthenticated copy of a first document addressed to Respondent Bill Lawrence said
12 to be from a certified public accountant with a mysterious splotch in the upper left had corner
13 (also Dated September 24, 1982) (Exhibit 3). WAJCMAN offers no evidence or testimony to
14 authenticate this document, nor is this document self-authenticating. This document is not
15 admissible because it is not an original, nor is this copy best evidence. It would be unfair to
16 admit this document because WAJCMAN is the only source of it and it has never been used or
17 relied upon elsewhere. A genuine issue as to the authenticity of this document is raised by
18 WAJCMAN’s prior acts for forgery and fraud on the PTO. This document is hearsay and no
19 exception is available.

20 • An unauthenticated copy of a second document to Respondent Bill Lawrence said to be
21 from the same certified public accountant with a mysterious splotch in the upper left had corner
22 (also Dated September 24, 1982) (Exhibit 3). WAJCMAN offers no evidence or testimony to
23 authenticate this document, nor is this document self-authenticating. This document is not
24 admissible because it is not an original. It would be unfair to admit this document because
25 WAJCMAN is the only source of it and it has never been used or relied upon. A genuine issue

1 as to the authenticity of this document is raised by WAJCMAN's prior acts for forgery and fraud
2 on the PTO and the similarity of the date with other documents of questionable provenance.

3 This document is hearsay and no exception is available.

4 • An unauthenticated copy of a third document said to be from the same certified public
5 accountant with a mysterious splotch in the upper left had corner (also Dated September 24,
6 1982) (Exhibit 3). WAJCMAN offers no evidence or testimony to authenticate this document,
7 nor is this document self-authenticating. This document is not admissible because it is not an
8 original. It would be unfair to admit this document because WAJCMAN is the only source of it
9 and it has never been used or relied upon. A genuine issue as to the authenticity of this
10 document is raised by WAJCMAN's prior acts for forgery and fraud on the PTO and the
11 similarity of the date with other documents of questionable provenance. This document is
12 hearsay and no exception is available.

13 • A copy of a purported notice of conveyance of stock lacking any official stamp or other
14 indication of authenticity. This document is not admissible because it is not an original.

15 • A copy of an agreement with the apparent date of June 23, 1982. This document is not
16 admissible because it is not an original and is not best evidence. WAJCMAN offers no evidence
17 or testimony to authenticate this document, nor is this document self-authenticating. It would be
18 unfair to admit this document because WAJCMAN is the only source of it and it has never been
19 used or relied upon elsewhere. A genuine issue as to the authenticity of this document is raised
20 by WAJCMAN's prior acts for forgery and fraud on the PTO. This document is hearsay and no
21 exception is available.

22 • A copy of a "Purchase Agreement" purportedly dated June 25, 1984, involving Lawrence
23 Sound Research, the Third National Bank in Nashville, and Degalim, Inc., with missing,
24 incomplete, and differing authentication initials (Exhibit 7). WAJCMAN offers no evidence or
25 testimony to authenticate this document or lay a foundation, nor is this document self-

1 authenticating. This document is not admissible because it is not an original. It would be unfair
2 to admit this document because of its age and the facts that WAJCMAN is the only source of it
3 and it has never been used or relied upon. This document reveals self-dealing in that
4 WAJCMAN is standing to benefit from the transfer of corporate assets to himself individually,
5 without substantiating this transfer with corporate formalities such as minutes and votes of the
6 board of directors. A genuine issue as to the authenticity of this document is raised by
7 WAJCMAN prior acts for forgery and fraud on the PTO. This document is hearsay and no
8 exception is available.

9 • An unauthenticated copy of a “Bill of Sale” involving the Third National Bank in
10 Nashville, but without any bank stamp (Exhibit 8). WAJCMAN offers no evidence or testimony
11 to authenticate this document or lay a foundation, nor is this document self-authenticating. This
12 document is not admissible because it is not an original and is not best evidence. It would be
13 unfair to admit this document because of its age and the facts that WAJCMAN is the only source
14 of it and it has never been used or relied upon elsewhere. This document reveals self-dealing in
15 that WAJCMAN is standing to benefit from the transfer of corporate assets to himself
16 individually, without substantiating this transfer with corporate formalities such as minutes and
17 votes of the board of directors. A genuine issue as to the authenticity of this document is raised
18 by WAJCMAN prior acts for forgery and fraud on the PTO. This document is hearsay and no
19 exception is available.

20 • An unauthenticated copy of purported Action of Directors, Lawrence Sound Research,
21 Inc. with missing authentication initials and not signed by “all the Directors of Lawrence Sound
22 Research, Inc.” (Exhibit 9). WAJCMAN offers no evidence or testimony to authenticate this
23 document or lay its foundation, nor is this document self-authenticating. This document is not
24 admissible because it is not original or best evidence. It would be unfair to admit this document
25 because of its age and the fact that WAJCMAN is the only source of it and it has never been used

1 or relied upon elsewhere. This document reveals self-dealing in that WAJCMAN is standing to
2 benefit from the transfer of corporate assets to himself individually, without substantiating this
3 transfer with corporate formalities such as minutes and votes of the board of directors. A
4 genuine issue as to the authenticity of this document is raised by WAJCMAN prior acts for
5 forgery and fraud on the PTO. This document is hearsay and no exception is available.

6 • An unauthenticated copy of a purported agreement between Degalim, Inc. and Third
7 National Bank in Nashville (Exhibit 10). WAJCMAN offers no evidence or testimony to
8 authenticate this document or establish its foundation, nor is this document self-authenticating.
9 This document is not admissible because it is not an original and is not best evidence. It would
10 be unfair to admit this document because of its age and the facts that WAJCMAN is the only
11 source of it and it has never been used or relied upon. This document reveals self-dealing in that
12 WAJCMAN is standing to benefit from the transfer of corporate assets to himself individually,
13 without substantiating this transfer with corporate formalities such as minutes and votes of the
14 board of directors. A genuine issue as to the authenticity of this document is raised by
15 WAJCMAN prior acts for forgery and fraud on the PTO. This document is hearsay and no
16 exception is available.

17 • An unauthenticated copy of a purported agreement for a general lien release and
18 assignment (Exhibit 11). WAJCMAN offers no evidence or testimony to authenticate this
19 document, nor is this document self-authenticating. It would be unfair to admit this document
20 because WAJCMAN is the only source of it and it has never been used or relied upon. The age
21 of the document makes it impossible to place it in the correct context. A genuine issues as to the
22 authenticity of this document is raised by WAJCMAN prior acts for forgery and fraud on the
23 PTO and the similarity of the date with other documents of questionable provenance. This
24 document also reveals self-dealing by WAJCMAN.

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IV.

Argument.

A party requesting judicial notice bears the burden of persuading the trial judge that the fact is a proper matter for judicial notice. *In re Tyrone F. Conner Corp., Inc.* (Bkrcty. E.D.Cal. 1992), 140 B.R. 771, 781. The Petitioner has failed to meet this burden. Given that the Petitioner WAJCMAN has presented false, forged, and incomplete documents, it is doubtful whether WAJCMAN could ever meet any burden of proof.

The Petitioner presents these documents as a whole, without specifying what facts contained therein are requested to be judicially noticed. This wholesale presentation of documents in order to prove facts which should have been, but were not, pled in the Petition for Cancellation. This presentation of documents is misleading and intended to confuse.

The source and authenticity of many, if not all, of the documents is uncertain. Many constitute hearsay or multiple layers of hearsay. Portions of some documents seem to strategically cut-off or missing, thus leaving their origin, provenance, and authenticity in doubt. None of these documents are matters of public record. Accordingly, none of the documents are the proper subject of judicial notice.

Even where it is appropriate to take judicial notice of documents, i.e. when they are part of the public record, the court “does not adopt their factual findings or holdings; it simply acknowledges their existence and contents.” *California ex rel. Lockyer v. Mirant Corp.* (N.D.Cal. 2003), 266 F.Supp.2d 1046, *aff’d*, 375 F.3d 831 (9th Cir. 2004), *cert. denied*, 125 S.Ct. 1836 (2005).

No judicial notice should be granted to these private documents, and any notice should not extend beyond the existence of them. *Del Puerto Water Dist. v. U.S. Bureau of Reclamation* (E.D.Cal. 2003), 271 F.Supp.2d 1224, 1233-34. Certainly, to the extent that their contents are in

1 dispute, and also un-pled in the petition for cancellation, such matters of controversy are not
2 appropriate subjects for judicial notice.

3 For these reasons, Bill Lawrence objects to the Petitioner's implied but sweeping request
4 for judicial notice of the diverse collection of documents attached to his declaration and Mr.
5 Lawrence requests that they be stricken and not considered by the TTAB.

6
7 Dated: September 6, 2006

8
9 Gregory Richardson, Esq.
10 Attorney for Respondent,
11 Bill Lawrence

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that a copy of

3 **BILL LAWRENCE'S OBJECTION TO PETITIONER'S IMPLIED REQUEST FOR**
4 **JUDICIAL NOTICE CONTAINED DECLARATION OF JZCHAK N. WAJCMAN IN**
5 **OPPOSITION TO REGISTRANT'S MOTION FOR SUMMARY JUDGMENT AND IN**
6 **SUPPORT OF PETITIONER'S MOTION FOR SUMMAR JUDGMENT, OR**
7 **ALTERNATIVELY MOTION TO STRIKE EXHIBITS 1 THROUGH 12**

8 on the following attorney of record for Petitioner, by depositing same with
9 the United States Postal Service on this 6th Day of September, 2006, addressed
10 as follows:

11 Jay S. Kopelowitz
12 Kopelowitz & Associates
13 12702 Via Cortina, Suite 700
14 Del Mar, California 92014

15 _____
16 Gregory Richardson
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