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

Proceeding	92045147
Party	Plaintiff Metro Q
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Date	01/09/2006
Attachments	Gay Pages-ResSupMDJ.pdf ( 4 pages )

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

METRO Q	§	
	§	
Petitioner,	§	Cancellation No. 92045147
	§	Registration No. 2,119,139
	§	
v.	§	
	§	
GAY & LESBIAN YELLOW PAGES, INC.	§	
	§	
Respondent/Registrant.	§	
	§	

**PETITIONER'S RESPONSE IN SUPPORT OF ITS  
MOTION FOR DEFAULT JUDGMENT**

Registrant contends that the delay in filing the answer to the cancellation petition was not due to gross neglect, but instead was due to Registrant's attorney's failure to timely file the Answer, notwithstanding the fact that Registrant's attorney had in fact received the Petition for Cancellation and the Board's Order setting the December 22 deadline for filing an Answer. However, there was no explanation as to what procedures were in place in Registrant's attorney's office regarding docketing of matters like the Petition for Cancellation, and how and why the docketing system failed in this particular instance. The only reason given for the failure to timely file an Answer was that Registrant's attorney was enjoying a family vacation. Absent further clarification on these docketing procedures, gross neglect can only be the reason why Registrant's attorney ignored the deadline. This gross neglect of required procedures continues. While Registrant's Response to Motion for Default Judgment was filed with the Trademark Trial

and Appeal Board, this pleading was never served upon counsel for Petitioner. Petitioner's counsel only learned of the filing of this Response through a review of ESTTA.

In support of Registrant's argument that Registrant has a meritorious defense, Respondent/Registrant has responded in its Answer that as of Registrant's filing of the July 1, 1996 Declaration as well as of the filing by Registrant of the June 24, 1997 Declaration, Registrant was not aware of the other long established business entities respectively named "Gay Pages" and "Gayellow Pages". (Registrant's responses to the allegations of paragraphs 3 and 4 of the Petition for Cancellation.) The attached declaration by Registrant's Associate Publisher shows such denials to be untruthful.

For the reasons set forth in its original motion, and as supplemented herewith, Petitioner respectfully requests that default judgment be entered in this matter.

Respectfully submitted,

Date: \_\_\_\_\_

January 9, 2006

Lisa R. Hemphill

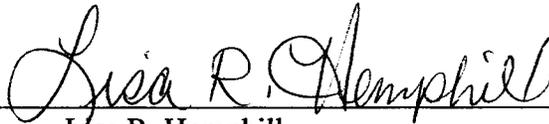
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ATTORNEYS FOR PETITIONER

**CERTIFICATE OF SERVICE**

This is to certify that on the 9th day of January, 2006, a true and correct copy of the above and foregoing document PETITIONER'S RESPONSE IN SUPPORT OF ITS MOTION FOR DEFAULT JUDGMENT was served via U.S. Mail, postage prepaid, to attorney for Respondent as follows:

John C. Cain, Esq.  
Wong, Cabello, Lutsch, Rutherford & Brucculeri, L.L.P.  
20333 SH 249, Suite 600  
Houston, TX 77070

A handwritten signature in cursive script that reads "Lisa R. Hemphill". The signature is written in black ink and is positioned above a horizontal line.

Lisa R. Hemphill

**DECLARATION OF CRISTINA MARTINEZ**

Cristina Martinez declares as follows:

1. I am a Texas resident currently doing business in Pearland, Texas. I have personal knowledge of the facts set forth in this declaration, am fully competent to testify as to these facts, and if called as a witness would so testify.

2. From the Mid 1990s to 2003, I was employed by and was the Associate Publisher for Laura Villagrán in a company named Gay & Lesbian Yellow Pages, Inc. As such, both Laura and I were familiar with other companies doing business in the United States offering directories and directory listings to the gay and gay oriented community. These companies of which we had knowledge at that time included competitive businesses named Gayellow Pages of New York City and Gay Pages of Los Angeles/Long Beach, California and Atlanta, Georgia. Both Laura and I had this knowledge at least as early as May 6, 1996.

I declare that the foregoing is true and correct.

Date: 10/27/05

Cristina E. Martinez  
Cristina Martinez