

UNITED STATES PATENT AND TRADEMARK OFFICE  
Trademark Trial and Appeal Board  
P.O. Box 1451  
Alexandria, VA 22313-1451

Mailed: July 25, 2006

Cancellation No. 92045648

Fremantle Media North America,  
Inc.

v.

Phillip Elden and Shain Elden,  
joined as party defendants

**Jyll S. Taylor, Attorney:**

As a preliminary matter, on June 21, 2006, Shain Elden filed a paper requesting that he be substituted as party defendant in this case as assignee of the mark which is the subject of the involved registration.<sup>1</sup> Mr. Elden submitted a copy of an abstract from the Assignment Branch of this Office showing the change in interest.<sup>2</sup> However, inasmuch as the assignment occurred after the commencement of this proceeding, to facilitate discovery, Phillip Elden and Shain

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<sup>1</sup> Ordinarily, the motion to substitute would not be considered because a copy thereof was not served on counsel for petitioner. See Trademark Rule 2.119. However, inasmuch as the request was repeated in respondent's properly served July 20 filing, opposer has been notified of the change in interest.

<sup>2</sup> It should be noted that the abstract shows the change in interest as a change of name rather than an assignment of the entire interest of the mark that is the subject of involved Registration No. 3049295. If an assignment was filed, Mr. Shain Elden should contact the Assignment Branch of the Office to have the record corrected. The relevant document is recorded at Reel/Frame 3315/0993.

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Elden are joined as party defendants. See TBMP 512.01 (2d ed. rev. 2004) and the authorities cited therein.

On June 12, 2006, the Board issued a notice of default in this case. On July 20, 2006, respondent filed a consented motion to accept a late amended answer.<sup>3</sup> In view thereof, the notice of default is hereby set aside and respondent's amended answer, filed July 12, 2006 and refiled July 20, 2006, is now respondent's operative pleading in this case.

Discovery and trial dates remain as set in the institution order.

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<sup>3</sup> Consequently, respondent's previous response to the notice of default will not be further considered. Shain Elden again requested to be substituted as party defendant. That request is moot in view of the June 21, 2006 filing.

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