

ESTTA Tracking number: **ESTTA83232**

Filing date: **05/31/2006**

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

Proceeding	92045697
Party	Defendant Editorial Planeta, S.A. Editorial Planeta, S.A. 273-277 Corcega St. ESX Barcelona,
Correspondence Address	Editorial Planeta, S.A. 273-277 Corcega St. ESX Barcelona,
Submission	Other Motions/Papers
Filer's Name	Julie B. Seyler
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Signature	/Julie B. Seyler/
Date	05/31/2006
Attachments	Planeta's Motion to Accept Late filed Answer.pdf (3 pages)(57235 bytes)

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

In re Application No. 78/320320
Published October 29, 2005

In re Registration No. 1,324,518
Registered March 12, 1985

Editorial Planeta,	:	
Opposer/Registrant	:	
	:	Opposition No. 91167364
v.	:	Cancellation No. 92045697
	:	
Derek Peck	:	
Applicant/Petitioner	:	

**Opposer's Motion to Accept Late-Filed Answer with Consent
And
Request to Withdraw Motion to Dismiss the Petition to Cancel**

Opposer requests that the Board grant a one month extension up to and including June 23, 2006, to file an Answer to the Petition to Cancel. Applicant has provided consent to the extension. The Answer will be filed on or before June 23, 2006.

Opposer also moves to withdraw the Motion to Dismiss the Petition to cancel filed on May 18, 2006.

BRIEF

On April 12, 2006, Applicant filed an Answer to Opposition No. 91167364, Affirmative Defenses, and a Petition to Cancel Registration No. 1,324,518. With respect to the papers served on Opposer, there was no indication that the official fee for the cancellation had been submitted. The undersigned also checked the status of the opposition proceeding online, but there was no indication that the fee had been paid or that the Board had instituted the cancellation. Based thereon, it was Opposer's good faith belief that Applicant had failed to submit the mandatory filing fee for instituting the Petition to Cancel and Opposer filed a Motion to Dismiss the Cancellation.

On May 25, 2006, Opposer received the service copy of Applicant's Reply to Opposer's Motion to Dismiss Petition to Cancel. The Reply not only stated that Applicant had submitted the fee, but attached the print-out from TTABVUE showing that Cancellation No. 92045697 had been instituted on April 13, 2006 and papers were served on Editorial Planeta, S.A. in Barcelona, Spain. Therefore the undersigned has never received notice of the Petition to Cancel and only became aware that the Answer was due after receiving Applicant's Reply. In addition, because the cancellation was not linked to the opposition, the online information for the opposition did not show the filing of the cancellation.


The undersigned has spoken with Applicant's Counsel. Applicant's Counsel has consented to a one month extension of the term to file an answer to the Petition to Cancel up to and including June 23, 2006.

It is submitted that Opposer has demonstrated that the neglect was excusable, and there has been no prejudice to Applicant. It is respectfully requested that the Board grant the extension and also issue a new trial schedule for the opposition and cancellation.

Opposer also requests that the Motion to Dismiss the Cancellation be withdrawn.

Respectfully submitted,

Date: May 31, 2006


JULIE B. SEYLER

Attorney for Opposer

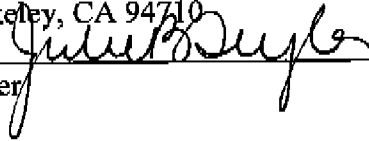
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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing was served by first class mail, postage prepaid this 31st day of May 2006, upon the following:

Tsan Abrahamson, Esq.
COBALT LLP
819 Bancroft Way
Berkeley, CA 94710

Julie B. Seyler

A handwritten signature in cursive script, appearing to read "Julie B. Seyler", is written over a horizontal line.