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

Proceeding	92046606
Party	Plaintiff Blair Allison Kitrosser
Correspondence Address	David H.E. Bursik, Esq. 401 Hamburg Turnpike, Suite 210 Wayne, NJ 07470 UNITED STATES dheb@bursik.com
Submission	Other Motions/Papers
Filer's Name	David H.E. Bursik, Esq.
Filer's e-mail	dheb@bursik.com
Signature	/David H.E. Bursik, Esq./
Date	09/10/2008
Attachments	Brief of Petitioner With Certificate of Service.pdf (9 pages)(1268703 bytes)

TABLE OF CONTENTS

	Page
Index of Legal Authorities-----	3
Description of the Record-----	4
Statement of the Issues-----	5
Recitation of Facts-----	6
Argument-----	7
Summary-----	8

INDEX OF LEGAL AUTHORITIES

	Page
15 U.S.C. §1052(d)-----	7

DESCRIPTION OF THE RECORD

The Record consists of the Complaint and Testimony filed on behalf of the Petitioner and the Answer filed on behalf of the Respondent.

STATEMENT OF THE ISSUES

Whether the Registrant's registration of the U.S. Trademark METRO INVITES should be cancelled based upon the Petitioner's prior use of the METRO EVENT PLANNERS trademark.

RECITATION OF FACTS

Registrant asserts a date of first use of September 18, 2003 of the METRO INVITES trademark. See Page 20 of filed Testimony of Plaintiff. Petitioner has used the METRO EVENT PLANNERS trademark since July 31, 1999 and prior to the Registrant's first use. See Testimony of Plaintiff at Pages 1 to 13. The Trademark Office rejected Petitioner's application for registration of the METRO EVENT PLANNERS trademark based upon the Registrant's registration of the METRO INVITES trademark. See Testimony of Plaintiff at Pages 14 to 26. Registrant does not dispute that Petitioner used the METRO EVENT PLANNERS trademark prior to the Registrant's use of the METRO INVITES trademark. See Answer of Registrant.

ARGUMENT

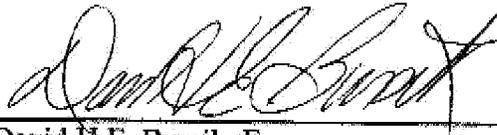
The Trademark Office has rejected Petitioner's application to register the METRO EVENT PLANNER'S trademark based upon the Registrant's METRO INVITES Trademark Registration. Since the Petitioner has used the METRO EVENT PLANNER'S prior to the Registrant's date of first use, this priority of use warrants the cancellation of the METRO INVITES trademark registration in accordance with 15 U.S.C. §1052(d).

Alternatively, neither Petitioner or Registrant contend that there is any actual or likelihood of confusion between the METRO INVITES and METRO EVENT PLANNERS trademark. Accordingly, Petitioner is alternatively willing to convert this proceeding to a concurrent use proceeding to pursue the simultaneous and concurrent registration of these marks.

SUMMARY

Based upon the foregoing, Petitioner requests the Board to either cancel the METRO INVITES trademark or to convert this proceeding to a concurrent use proceeding.

Respectfully submitted,



David H.E. Bursik, Esq.
401 Hamburg Turnpike, Suite 210
Wayne, New Jersey 07470
Tel. 1-973-904-1040
Fax. 1-973-904-1050
Email-dheb@bursik.com
Attorney for Petitioner

Date: September 10, 2008

CERTIFICATE OF SERVICE

I hereby certify that a copy of the within document was served upon Registrant this day by depositing same, postage fully prepaid, for first class regular mail delivery of same to Registrant.



David H.E. Bursik, Esq.
401 Hamburg Turnpike, Suite 210
Wayne, New Jersey 07470
Tel. 1-973-904-1040
Fax. 1-973-904-1050
Email-dheb@bursik.com
Attorney for Petitioner

Date: September 10, 2008