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

Proceeding	92047342
Party	Defendant Joyce Lopeteguy
Correspondence Address	Dennis B. Haase Law Offices of Dennis B. Haase Post Office Box 6206 Hot Springs, AR 71902 UNITED STATES
Submission	Other Motions/Papers
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Date	11/01/2007
Attachments	MotDismiss2.pdf ( 7 pages )(309149 bytes )

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

JOYCE LOPETEGUY  
6717 Kimberly Street  
Bakersfield, California 93308

Cancellation No. 92047342  
Registration No. 1,694,622

Vincent M. Amberly  
Litman Law Offices, Ltd.  
Post Office Box 15035  
Arlington, Virginia 22215

Imagination Holdings Pty. Ltd.

v.

Joyce Lopeteguy

**MOTION OF REGISTRANT FOR DISMISSAL OF PETITION  
FOR FAILURE TO RESPOND TO DISCOVERY OR, IN THE  
ALTERNATIVE, FOR SANCTIONS**

COMES NOW, Registrant, Joyce Lopeteguy, and requests that this Cancellation proceeding be dismissed for failure of the Petitioner to respond to discovery requests.

Petitioner, Imagination Holdings Pty. Ltd., filed its Petition for Cancellation on April 3, 2007. A Notice from the Board was mailed on April 6, 2007, setting forth the time frame for Registrant's Answer, as well as discovery and testimony periods. The

discovery period opened on April 26, 2007 and closes on October 23, 2007. In keeping with that schedule, Registrant served a First Set of Interrogatories to Petitioner on June 12, 2007. A copy of those Interrogatories were provided to the Board by a previous motion filed on August 13, 2007.

Having not received a response to the Interrogatories, on July 24, 2007, a letter to counsel for Petitioner, Vincent M. Amberly of the Litman Law Offices, Ltd., was prepared requesting a response not later than August 1, 2007. That letter was sent to counsel by email and by regular mail, and a copy of that communication was attached to Registrant's previous motion. A check was also made of the TTAB website in an effort to determine whether or not Petitioner had filed a request for an extension of time, and no filing was found.

Registrant filed a Motion to Dismiss the Petition for failure to respond to the outstanding discovery. By an action mailed on August 27, 2007, the Board denied Registrant's Motion, chastised counsel and gave Petitioner 20 days from the date of mailing of the order within which to respond to the outstanding discovery. The silence was deafening.

Still not having received responses to the outstanding discovery, a second letter was sent to counsel for the Petitioner, by Certified Mail, on September 24, 2007. The return receipt shows a delivery date of September 28, 2007. A copy of that letter, together with a copy of the return receipt, is attached hereto as Exhibit A. Because of

the lack of prior response from opposing counsel, Registrant chose to write rather than call so that a record of what was said would exist.

As of this writing, there has been no communication from counsel for Petitioner with regard to the discovery responses. In view of the lack of communication from Petitioner and their failure to respond to the Interrogatories, even after being prompted by Registrant and under order by the Board to respond, Petitioner has failed and refused to do so.

It should further be noted that Petitioner, at the eleventh hour, found the time to serve a Request for Admissions to Registrant, but giving no indication as to when, or if, it is their intention to respond to the Interrogatories propounded by Registrant.

Petitioner has not only failed and refused to respond to Registrant's Interrogatories, it has utterly ignored the order of this Board that its responses be filed within 20 days from August 27, 2007.

In the event the Board is not of a view that this Petition should be dismissed, then it is respectfully requested that Petitioner be ordered to pay sanctions to Registrant in the sum of \$1,000.00, or such other sum as the Board may deem just and proper, and Petitioner's discovery demand be deemed not timely served, at least until answers to interrogatories have been served..

It is further requested that if the Board is not of a view to dismiss this Petition, that Petitioner be given a date certain within which to respond to the

Interrogatories and that an order be issued that Registrant shall have a period of 30 days after receipt of Interrogatory responses within which to respond to the Request for Admissions.

Dated: November 1, 2007

Respectfully submitted,

Dennis B. Haase  
Registration No. 22,037  
Post Office Box 6206  
Hot Springs, Arkansas 71902  
[501] 609-0404  
Attorney for Registrant

LAW OFFICES OF

**DENNIS B. HAASE**

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September 24, 2007

BY CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Vincent M. Amberly, Esq.  
Litman Law Offices, Ltd.  
Post Office Box 15035  
Arlington, Virginia 22215

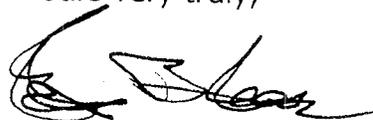
*Re: Imagination Holdings Pty. Ltd. v. Joyce Lopeteguy Cancellation*

Dear Mr. Amberly:

As you know, I have been chastised by the TTAB for not begging you to respond to my inquiry in the above subject matter. Candidly, I see no reason to spend my client's money attempting to get an answer from you regarding your intentions in this matter when you are the provocateur. I believe that you are well aware that if this were in federal court, your lack of response would be taken as an indicia of your intent to not pursue this matter.

In any event, your 20 days are gone and, once more, I am requesting that you do the right thing and dismiss this improvident action.

Yours very truly,



Dennis B. Haase

DBH:mh  
Enclosure

cc: Mrs. Joyce Lopeteguy  
Vincent M. Amberly, Esq. By Regular Mail

**EXHIBIT A**

SPECIALIZING IN PATENT, TRADEMARK, COPYRIGHT AND UNFAIR COMPETITION CAUSES  
ADMITTED IN ARKANSAS, CALIFORNIA, ILLINOIS AND BEFORE THE PATENT & TRADEMARK OFFICE

**U.S. Postal Service**  
**CERTIFIED MAIL RECEIPT**  
*(Domestic Mail Only; No Insurance Coverage Provided)*

7002 0510 0001 6797 1334

OFFICIAL USE

Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
<b>Total Postage &amp; Fees</b>	<b>\$ 4.64</b>

Postmark  
Here  
**9/24/07**

Sent To: **Vincent M. Granberry**  
 Street, Apt. No.,  
 or PO Box No. **Litman Law Offices, Ltd.**  
 City, State, ZIP+4

PS Form 3800, January 2007 See Reverse for Instructions

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:  
**VINCENT M. GRANBERRY, Esq.**  
**LITMAN LAW OFFICES, LTD.**  
**P.O. Box 15035**  
**ARLINGTON, VA 22215**

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature **Jerry Thompson**  Agent  
 Addressee

B. Received by (Printed Name) **Jerry Thompson** Date of Delivery **9/28/07**

D. Is delivery address different from item 1?  Yes  
 If YES, enter delivery address below:  No

3. Service Type  
 Certified Mail  Express Mail  
 Registered  Return Receipt for Merchandise  
 Insured Mail  C.O.D.

4. Restricted Delivery? (Extra Fee)  Yes

2. Article Number (Transfer from service label) **7002 0510 0001 6797 1334**

## CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion of Registrant For Dismissal Of Petition For Failure To Respond To Discovery Or, In The Alternative, For Sanctions, has been served on counsel for Petitioner on November 1, 2007, by email as follows:

Vincent M. Amberly, Esq. - [efile@4patent.com](mailto:efile@4patent.com)

/s/ Dennis B. Haase

Dennis B. Haase