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

Proceeding	92048699
Party	Plaintiff Lester H.Schweiss
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Submission	Motion for Sanctions
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Date	08/16/2010
Attachments	Motion for Sanctions (FINAL).pdf ( 7 pages )(693208 bytes )

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

**Lester H. Schweiss (a/k/a Chip Schweiss)**  
Petitioner,

v.

**Family Watchdog, LLC**  
Registrant.

Cancellation No.: 92048699

**PETITIONER’S MOTION FOR SANCTIONS AGAINST REGISTRANT  
FOR FAILURE TO PARTICIPATE IN DISCOVERY CONFERENCE**

Petitioner Lester H. Schweiss (“Petitioner”) hereby requests that the Board impose any and all appropriate sanctions against Registrant Family Watchdog, LLC (“Registrant”) for the willful failure of Registrant to participate in the required Discovery Conference. The grounds for Petitioner’s Motion for Sanctions are fully set forth below.

1. On June 22, 2010, the Board resumed this proceeding and reset all dates, including the deadline for participating in the Discovery Conference. This deadline was July 17, 2010.

2. On the same day the Board resumed proceedings, Petitioner’s counsel Morris Turek called Registrant at (949) 209-8768 in order to schedule a date and time for the Discovery Conference. Petitioner’s counsel reached Registrant’s voicemail (which sated that Petitioner’s counsel had reached the “Family Watchdog business line”) and left a message requesting that Paul McJunkin (CFO of Registrant) contact Petitioner’s counsel to schedule the Discovery Conference.

3. Having not heard from Registrant, Petitioner's counsel Morris Turek again called Registrant on June 28, 2010 and left a message on Registrant's voicemail requesting that Paul McJunkin contact Petitioner's counsel to schedule the Discovery Conference.

4. Having not heard from Registrant, Petitioner's counsel Morris Turek again called Registrant on July 6, 2010 and left a message with Registrant's receptionist requesting that Paul McJunkin contact Petitioner's counsel to schedule the Discovery Conference.

5. Having not heard from Registrant, Petitioner's counsel Annette Heller sent a letter via Certified Mail with Return Receipt Requested on July 15, 2010 requesting that Paul McJunkin contact Petitioner's counsel to schedule the Discovery Conference (attached as "Exhibit A"). According to the Return Receipt, the letter was signed for by a "K. McBride" on July 19, 2010 (attached as "Exhibit B").

6. On July 27, 2010 (which was 10 days after the deadline had passed), Paul McJunkin left a telephone message for Petitioner's counsel Annette Heller at 6:09am. This message stated that Mr. McJunkin would be calling back later that afternoon to set up the Discovery Conference.

7. Having never heard back from Mr. McJunkin, Petitioner's counsel Morris Turek again called Registrant on August 11, 2010 and left a message on Registrant's voicemail requesting that Paul McJunkin contact Petitioner's counsel to schedule the Discovery Conference.

8. As of the date of this Motion for Sanctions, Petitioner's counsel has not received any further communications from Registrant.

In view of the foregoing, Petitioner respectfully requests that the Board impose any and all appropriate sanctions against Registrant for its willful failure to participate in the Discovery Conference, including granting the cancellation of U.S. Registration No. 3, 157,991.

Respectfully submitted,

LESTER H. SCHWEISS

By:                     /aph72/                    

Dated:           8/16/2010          

Annette P. Heller, Esq.  
Heller & Associates  
14323 S. Outer Forty Dr., Suite 512 S  
Town & Country, MO 63017  
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[tmattorneyheller@aol.com](mailto:tmattorneyheller@aol.com)

**CERTIFICATE OF SERVICE**

I hereby certify that a true and complete copy of the foregoing has been served by mailing said copy on 8/16/2010 via First-Class Mail, postage prepaid, to:

Paul E. McJunkin, CFO  
Family Watchdog, LLC  
1950 E. Greyhound Pass, Suite 18-352  
Carmel, Indiana 46033-7787

                    /aph72/                      
Annette P. Heller, Attorney for Petitioner

# **EXHIBIT A**

HELLER & ASSOCIATES

ANNETTE P. HELLER  
ATTORNEY AT LAW

TRADEMARK, COPYRIGHT  
UNFAIR COMPETITION  
& INTERNET LAW

14323 SOUTH OUTER FORTY, SUITE 512 S  
TOWN & COUNTRY, MO 63017

(314) 469-2610  
FAX: (314) 469-4850

July 15, 2010

Via Certified Mail - Return Receipt Requested

Paul E. McJunkin  
Family Watchdog, LLC  
1950 E. Greyhound Pass, Suite 18-352  
Carmel, IN 46033

Re: Cancellation No. 92048699 - Schweiss v. Family Watchdog  
Our File No.: S317 001LI

Dear Mr. McJunkin:

We have attempted to contact you via telephone several times over the past three weeks and have left messages for you on June 22, June 28, and July 6 requesting that you contact us so that we may schedule a date/time for the required Discovery Conference. As of today, we have not heard from you.

As you know, the deadline for the Discovery Conference is July 17, 2010. If we do not hear from you by July 28, we will have no choice but to file a Motion to Compel with the Board in order to force compliance with the Board's scheduling order.

We look forward to hearing from you no later than July 28.

Sincerely,



Annette P. Heller

APH:met

# **EXHIBIT B**

**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:

Paul E. McKin  
Family Watchdog, LLC  
1950 E. Grayhound Pass  
Suite 18-352  
Carmel, IN 46033

2. Article Number

(Transfer from service label)

7008 1300 0001 9882 7071

PS Form 3811, February 2004

Domestic Return Receipt

5317 0011

102595-02-M-15'

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature

X

*K McBride*

Agent

Address

B. Received by (Printed Name)

*K McBride*

C. Date of Delivery

*7/19/11*

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