

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

Adidas America, Inc., a Delaware Corporation,
Petitioner,
-against-
Michael D. Calmese, a resident of Arizona,
Respondent

Cancellation No.: 92048777
Registration No.: 2,202,454
Registration Date: November 10, 1998
Mark: **PROVE IT!**

75145058

RESPONDENT'S RESPONSE TO PETITIONER'S MOTION TO STRIKE
REGISTRANT'S RESPONSE TO PETITIONER'S REPLY

Respondent, Michael D. Calmese ('Registrant'), filed its Response to Petitioner's Reply Memorandum in support of Petitioner's Motion for Entry of Default Judgment. Respondent's Response should not be stricken. Respondent's Response is legally sufficient and explains that Registrant actions can not be defined by Petitioner as a lack of participation simply because Petitioner did not take my call. As confirmed by Respondent's concurrent participation in discovery for the same case in an Oregon District Court Case No. 3:08-cv-00091, clearly proves Respondent has and is participating in this discovery process. Petitioner's claim is not only disingenuous it is also false and is not supported by Respondent's action in a higher court for the same claim. Respondent has additionally filed its Request for Admission on May 5, 2008.

Again, Alternatively, Respondent respectfully moves the Board to order Petitioner to appear and show cause why they should not be sanctioned for bringing forth these bogus claims for the following reasons:

- a. Petitioner consented to Respondent's cease and desist demand letter to stop using the registered trademark "PROVE IT!", Reg. No. 2,202,454 on ADIDAS clothing products in 2007.
- b. In 2007, Petitioner confirmed there was some distribution of the offending product branded with Respondent's Trademark PROVE IT! which generated thousands of dollars.



06-09-2008

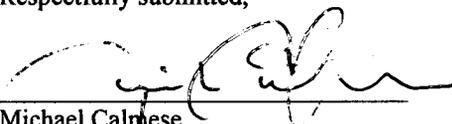
c. In 2007, Petitioner asked Respondent how much money Respondent would require to settle this matter.

d. In 2007, Petitioner stated it had no future plans to utilize the trademark PROVE IT.

NOW, Petitioner wants to cancel my trademark and win a Motion for Default, this is not only frivolous it is down right bogus. Respondent believes a Motion To Dismiss may be appropriate. Again, Respondent request that the Petitioner's Motion for Default Judgment and Motion To Strike be denied.

Dated June 5, 2008

Respectfully submitted,



Michael Calmese
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ATTORNEY PRO SE

CERTIFICATE OF SERVICE

Copy mailed this 5th day of June 2008 to:

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Michael D. Calmese