

ESTTA Tracking number: **ESTTA388126**

Filing date: **01/13/2011**

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

Proceeding	92048777
Party	Defendant Michael Calmese
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Submission	Other Motions/Papers
Filer's Name	Michael Calmese
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Date	01/13/2011
Attachments	adidas_Reply_PTO_motion_1_13__2011.pdf (3 pages)(73384 bytes)

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

Adidas America, Inc., a Delaware Corporation,)	Cancellation No.: 92048777
Petitioner,)	Registration No.: 2,202,454
)	Registration Date: November 10, 1998
-against-)	Mark: PROVE IT!
)	
Michael D. Calmese, a resident of Arizona,)	
Respondent)	
_____)	

Pursuant to the Board’s December 23, 2010 Order, Trademark Rule § 2.117, and TBMP § 510.02(a), Registrant, Michael D. Calmese (“Calmese”), hereby replies to Petitioner’s Response to Calmese’s Notice of Disposition of the Civil Action filed December 14, 2010 (and supplemented on December 28, 2010), and request that the Board DENY adidas’s request to maintain the suspension of its cancellation proceeding, accordingly.

As grounds for Registrant’s request, Calmese states as follows:

1. On December 14, 2010, the Oregon District Court entered Judgment in Registrant’s favor as to Petitioner’s Third Cause of Action for cancellation of Calmese’s registered trademark.
2. On January 11, 2011, Calmese filed his Notice of Appeal that will not affect the higher Court’s Final Judgment regarding Calmese’s “VICTORY” in maintaining

Registrant's registered trademark. A copy of Calmese's Notice is attached to Petitioner's opposition as Exhibit A.

3. Petitioner adidas has not filed its own Notice of Appeal in the Ninth Circuit Court and therefore, the Board should not maintain the suspension of the cancellation proceeding because there is no pending disposition in the appellate proceedings that will change the Final Judgment regarding adidas's Third Cause of Action for cancellation of Calmese's trademark. Accordingly, Calmese respectfully requests that the Board grant Calmese the relief sought in Registrant's summary judgment.
4. The district litigation has determined the merits of the case regarding Cancellation of Calmese trademark which was the only issue tied to this cancellation proceeding.
5. Accordingly, Calmese respectfully request that the Board vacate the suspension and dismiss this cancellation proceeding immediately.

RESPECTFULLY SUBMITTED this 13th day of January, 2011.

s/Michael D. Calmese/
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the above and foregoing was forwarded on this the 13th day of January, 2011, addressed as follows:

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s/Michael D. Calmese/
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