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

Proceeding	92050207
Party	Plaintiff Michael J. Peter
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Submission	Response to Board Order/Inquiry
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of Registration No. 2,783,766
For the Mark: SG and Design
Registration Date: November 18, 2003

MICHAEL J. PETER,)	
)	Cancellation No. 92050207
Petitioner,)	
v.)	
SUICIDE GIRLS, INC.)	
)	
Registrant.)	
_____)	

PETITIONER’S RESPONSE TO BOARD’S ORDER DATED MARCH 27, 2013

Petitioner, Michael J. Peter, (“Petitioner”), by and through the undersigned counsel, hereby files its response in response to the Board’s Order dated March 27, 2013 and hereby states that Petitioner has not lost interest in this case and respectfully requests that the Board should not treat Petitioner’s failure to file a Brief in this opposition as a concession of the case, in support thereof, Petitioner states:

1. The parties have continued to negotiate a co-existence agreement and Petitioner is currently waiting for Registrant’s response to Petitioner’s latest proposal.
2. As a recap, the Board by Order dated May 17, 2012 [Prosecution History Document #18] indicated that good cause in the form of progress reports

which demonstrate that settlement remains active for any further extension or suspension request.

3. At the time of the May 17, 2012 Order, the terms of the negotiated Co-Existence Agreement had basically been agreed to in principal by the Parties except for the following issues:

- (a) Registrant's desire to use the SG mark for nightclub services, nightclub entertainment services; and adult entertainment services with the SG mark used in connection with the mark SUICIDEGIRLS; and

- (b) Registrant's desire to limit Petitioner's use and own registrations for its SG mark for nightclub services, nightclub entertainment services and adult entertainment only in connection with use of the mark SOLID GOLD.

4. Petitioner's counsel's email correspondence dated November 5, 2012 to counsel for Registrant indicated Petitioner's willingness agree to the above-identified issue (a). As an attachment to the November 5, 2012 correspondence, Petitioner's counsel forwarded a revised proposed Settlement Agreement with the change to issue (a).
5. Registrant's counsel indicated he was going on vacation and would get back to Petitioner's counsel after he had a chance to review the revised Settlement Agreement.
6. Petitioner's counsel sent Registrant's counsel an email on December 4, 2012, inquiring whether Registrant's counsel had read the revised proposed Settlement Agreement.

7. On December 17, 2012, Registrant's counsel indicated by email that he was meeting with his client the next day and hope to have feedback thereafter.
8. By emails dated December 20, 2012 and January 3, 2013, Petitioner's counsel inquired to Registrant's counsel as to whether there was any update.
9. By email dated January 4, 2013, Registrant's counsel indicated he was on vacation and would get back to Petitioner's counsel when he got back.
10. After further email correspondence, Registrant's counsel inquired by email dated January 11, 2013, as to whether Petitioner's counsel would be available for a telephone conference on Monday January 14, 2013.
11. Respective counsels for the parties discussed the above issues by telephone, wherein Registrant's counsel indicated his client was uncomfortable to unilaterally restricting its use of SG to use with SUICIDEGIRLS, without any similar restrictions being placed on Petitioner. Petitioner's counsel, indicated to Registrant's counsel that Registrant could not agree to similar restrictions, given that Petitioner since the 1980's had used the mark SG, with and without the mark SOLID GOLD adjacent to the SG mark.
12. As a compromise, Petitioner's counsel suggested to Registrant's counsel, the possibility of Petitioner agreeing to use its SG mark in connection with SOLID GOLD night clubs. Petitioner indicated to Registrant's counsel that he would have to first obtain Petitioner's approval of such restriction before it could be put into the Settlement/Co-Existence Agreement. Registrant's counsel agreed and also asked for a sample of Petitioner's use of the SG mark by itself and not next to Petitioner's SOLID GOLD mark.

13. After obtaining Petitioner's approval to the restrictions identified in the above Paragraph 12, Petitioner's counsel forwarded a revised Co-Existence Agreement to Registrant's counsel, along with the requested sample of use, by email dated January 30, 2013.
14. Petitioner respectfully believes that the January 30, 2013 version of the Co-Existence Agreement resolves all outstanding issues and should be agreeable to Registrant, particularly since Petitioner is the senior user of the SG mark.
15. Since forwarding the revised Agreement on January 30, 2013, Petitioner has been waiting for Registrant's response.
16. Upon receiving the Board's March 27, 2013 Order [Prosecution History Document #19], Petitioner's counsel sent an email dated March 27, 2013 to Registrant's indicating the urgency to finalize the Co-Existence Agreement.
17. By responsive email dated March 27, 2013, Registrant's counsel indicated that he had seen the Board's March 27th Order and that he would get back to me in the next day or so with comments and that the parties "can power through to get it done."
18. As of today, Registrant has not gotten back to Petitioner, with Registrant's comments regarding the proposed Agreement.
19. Petitioner respectfully submits that the above evidences that Petitioner has not lost interest in the case. Petitioner continues to believe that this matter is better resolved through execution of a Settlement/Co-Existence Agreement and that the Agreement proposed January 30, 2013 to Registrant addressed the outstanding concerns of the parties.

20. Therefore, Petitioner was and continues to remain hopeful that this dispute can be resolved through an Agreement and without the parties having to spend time and expenses for testimony and briefing.
21. At the same time, Petitioner respectfully recognizes that the proceeding cannot remain pending indefinitely. Accordingly, Petitioner respectfully requests for one final suspension/extension for this proceeding with the below deadlines and if no Agreement is reached prior to the deadlines, Petitioner will proceed with taking and filing its testimony and filing its brief in support of cancellation.
22. Petitioner is also receptive to the Board's assigned Interlocutory Attorney becoming actively involved in bringing the parties together to finalize the terms of the Co-Existence Agreement.
23. The proposed new dates for the scheduling are as follows:
- Plaintiff's Pretrial Disclosures: 7/19/2013
 - Plaintiff's 30-day Trial Period Ends: 8/31/2013
 - Defendant's Pretrial Disclosures: 9/15/2013
 - Defendant's 30-day Trial Period Ends: 10/31/2013
 - Plaintiff's Rebuttal Disclosures: 11/15/2013
 - Plaintiff's 15-day Rebuttal Period Ends: 12/15/2013
24. Petitioner respectfully hopes that the above explanation concerning various documents is satisfactory to the Board, without Petitioner having to file any or all of such identified documents. In the event the Board does require one or more of the documents to be filed, Petitioner will immediately file any document(s) required by the Board.

WHEREFORE, Petitioner respectfully requests that the Board accept Petitioner's above explanation as satisfactory and also grant the above requested Extension/Suspension, thus, revising the remaining deadlines as indicated above.

Respectfully submitted,
Attorneys for Petitioner

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CERTIFICATE OF SERVICE

I hereby certify that on the 26th day of April, 2013, a true copy of the foregoing was served via first class email on opposing counsel at the below address:

Paul Loving, Esq.
Paul Loving PC
5055 North Greeley Avenue
Portland, Oregon 97217

Executed on April 26, 2013.

/Daniel S. Polley/
Daniel S. Polley, Reg. No. 34,902