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

Proceeding	92051659
Party	Defendant The Dille Family Trust
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**IN THE UNITED STATES PATENT & TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

NOWLAN FAMILY TRUST,)	
)	
Petitioner,)	Cancellation No. 92051659
)	
v.)	OPPOSITION TO MOTION TO
)	COMPEL
THE DILLE FAMILY TRUST,)	
)	
Registrant/Respondent.)	
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RESPONDENT’S OPPOSITION TO PETITIONER’S MOTION TO COMPEL

Respondent, the Dille Family Trust, (“Respondent”) hereby submits its opposition to Petitioner’s Motion to Compel. The Petitioner in its moving papers has made a very profound admission that the Board should take into account in ruling on this motion. Petitioner states in the first sentence of the first paragraph of page 5 of its motion, the following:

“This is a relatively simple case for cancellation of a trademark on the grounds of abandonment or fraud.”

It is imperative that this admission be understood in its proper context. The two registrations which are at issue in this proceeding are U.S. Trademark Registration No. 714,184 for the mark BUCK ROGERS as applied to a newspaper comic strip, and U.S. Trademark Registration No. 1,555,871 for the mark BUCK ROGERS as applied to boardgames. Thus, the simple issues in this proceeding are:

- i) Did Respondent abandon U.S. Trademark Registration No. 714,184 as applied to a newspaper comic strip;
- ii) Did Respondent abandon U.S. Trademark Registration No. 1,555,871 as applied to boardgames; and
- iii) Did Respondent commit fraud in connection with U.S. Trademark 714,184 by falsely stating that the mark BUCK ROGERS was still in use for newspaper comic strips.

There is no claim for fraud as applied to U.S. Trademark Registration No. 1,555,871 in this proceeding. So distilled to its essence, this proceeding focuses solely on the nature of Respondent’s use of the BUCK ROGERS trademark on boardgames, on newspaper comic strips,

and statements made concerning the use of the BUCK ROGERS mark on newspaper comic strips to the Trademark Office.

Respondent's responses to Petitioner's First Set of Interrogatories and First Request for Production of Documents, are attached as Exhibits D and E to Petitioner's moving papers. These responses set forth, in pertinent part, Petitioner's objections to the scope of discovery propounded by the Petitioner. A further discussion of Respondent's objections to these discovery requests is set forth in Exhibit P, attached to Petitioner's moving papers. The Board must view the scope of Petitioner's discovery requests in light of Petitioner's admission that this **"is a relatively simple case for cancellation of a trademark on the grounds of abandonment or fraud."** This is not a proceeding to determine the full nature of Respondent's rights in its BUCK ROGERS trademark. Petitioner's attempts to turn this proceeding into such an inquisition on a worldwide basis should be denied. Similarly, the Board should not permit the Petitioner to conduct anticipatory discovery in relation to whether Petitioner may have issues with respect to the wide variety of goods and services identified in Petitioner's U.S. Trademark Application, Serial No. 77650082 for the mark BUCK ROGERS. This application contains the following identification of goods and services:

IC 009. US 021 023 026 036 038. G & S: Motion picture films and motion picture films for broadcast on broadcast mediums; audio tapes, audio-video tapes, audio video cassettes, audio video discs, and digital versatile discs featuring music, comedy, drama, action, adventure, and/or animation; stereo headphones; batteries; cordless telephones; audio cassette and CD players; CD ROM computer game discs; telephone and/or radio pagers; short motion picture film mediums; video cassette recorders and players, compact disc players, digital audio recorders and players; radios; mouse pads; eyeglasses, sunglasses and cases therefore; game equipment; video and computer game programs; video game cartridges and cassettes; cellular telephone accessories; encoded magnetic cards

IC 016. US 002 005 022 023 029 037 038 050. G & S: Printed matter and paper goods, namely, books, comic books, magazines; stationery, writing paper, envelopes, notebooks, diaries, note cards, greeting cards, trading cards; lithographs; pens, pencils, cases therefor, erasers, crayons, markers, colored pencils, painting sets for children, chalk and chalkboards; decals, heat transfers; posters; mounted and/or uncounted photographs; book covers, book marks, calendars, gift wrapping paper; Paper party decorations; Printed patterns for costumes, pajamas, sweatshirts and t-shirts

IC 025. US 022 039. G & S: Clothing

IC 028. US 022 023 038 050. G & S: Toys; sporting goods, games; paper party favors

IC 041. US 100 101 107. G & S: Entertainment services; entertainment services, namely, an on-going series provided through broadcast mediums including television, webcasts, and radio broadcasts.

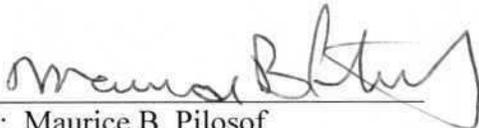
Whether Petitioner will have issues with each of the goods and services identified in such application is not before this Board, in this **“simple case for cancellation.”** Moreover, there were certain statutory requirements that Petitioner had to meet in order to file such application, in declaring its stated rights in the BUCK ROGERS mark. This **“simple case for cancellation”** is not the proceeding for Petitioner to seek to validate such statements.

Respondent has outlined the issues involved in this proceeding. These issues are consistent with Petitioner’s characterization of this proceeding. The Board should limit the discovery in this proceeding to those issues, preserving Respondent’s objections, and its ability to object to the second round of Petitioner’s discovery requests. The Board should tailor the discovery in this proceeding to the issues identified herein, and not permit Petitioner to turn this proceeding into an examination of Respondent’s rights in its BUCK ROGERS trademark on a worldwide basis, in clear contravention of Petitioner’s admission that this is a **“simple case for cancellation”**.

Respectfully submitted,

MAURICE B. PILOSOFF, ESQ.

Dated: September 8, 2010


By: Maurice B. Pilosof

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CERTIFICATE OF SERVICE

The undersigned counsel for Registrant/Respondent The Dille Family Trust hereby certifies that a true and correct copy of the attached Opposition to Motion to Compel was served by First Class mail, postage prepaid, on September 8, 2010 on the following:

John J. O' Malley
Volpe and Koeing, P.C
30 S. 17th Street – United Plaza
Philadelphia, PA 19103
(Counsel for Petitioner)

A handwritten signature in black ink, appearing to read "Maurice B. Pilosof", written over a horizontal line.

Maurice B. Pilosof