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

Proceeding	92052260
Party	Defendant Edgar Alexander Barrera
Correspondence Address	EDGAR ALEXANDER BARRERA BY MELISSA BARRERA POWER OF ATTORNEY 22159 LADERA STREET GRAND TERRACE, CA 92313 UNITED STATES axlellism@netbusiness.com
Submission	Other Motions/Papers
Filer's Name	Edgar Alexander Barrera
Filer's e-mail	Axlellism@netbusiness.com
Signature	/EdgarAlexanderBarrera/
Date	04/23/2015
Attachments	respondents motion001.pdf(1854127 bytes)

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

STEPHEN A. WESTLAKE,	)	
	)	
Petitioner,	)	Cancellation No. 92/052,260
	)	(Serial No. 77/378,015)
	)	
EDGAR ALEXANDER BARRERA	)	
	)	
Respondent.	)	

RESPONDENT'S RESPONSE TO OPPOSITION OF THE PETITIONER'S MOTION TO ACCEPT DELAYED RESPONSE TO THE ORDER TO SHOW CAUSE

RESPONDENT'S RESPONSE TO OPPOSITION OF THE PETITIONER'S RESPONSE TO TTAB TO SHOW CAUSE

RESPONDENT'S RESPONSE TO OPPOSITION OF THE AFFIDAVIT OF PETITIONER'S ATTORNEY PARALEGAL, AMY MANZAR AND AFFIDAVIT OF PETITIONER'S ATTORNEY, MARK LEVY

I am Edgar Alexander Barrera, the Respondent in this matter, being duly sworn deposed and states:

The Respondent, Edgar Alexander Barrera, (hereinafter the "Respondent") respectfully requests this Honorable Board to consider this motion as the interest of justice can be served.

The Petitioner and his attorneys have used subterfuge. The Plaintiff, Steven A. Westlake has consciously deliberately lied: he fabricated "evidence." False statements either were made recklessly or with knowledge of their falsity. Plaintiff committed perjury to the Trademark Trial and Appeal Board (TTAB).

COMES NOW, "Respondent's Response to Opposition" and files this Motion on Behalf of the Respondent to Deny the "Petitioner's Motion to Accept Delayed Response to the Order to Show Cause," "Petitioner's Response to TTAB to Show Cause," Deny the "Affidavit of Petitioner's Attorney Paralegal, Amy Manzer" and to Deny the "Affidavit of Petitioner's Attorney, Mark Levy" and also files a Motion to dismiss the Plaintiff's Petition for Cancellation and Petitioners Amended Petition to Cancel.

Motion on behalf of the Respondent against the Plaintiff's failure to prosecute or prove case and to cancel the Petitioner's "Respondent's Response to Opposition" and files

this Motion on Behalf of the Respondent to Deny the "Petitioner's Motion to Accept Delayed Response to the Order to Show Cause," "Petitioner's Response to TTAB to Show Cause," Deny the "Affidavit of Petitioner's Attorney Paralegal, Amy Manzer" and to Deny the "Affidavit of Petitioner's Attorney, Mark Levy" and give an Order against the Plaintiff, Steven A. Westlake.

Motion for Judgment on behalf of the Respondent against the Plaintiff's failure to prosecute or prove case and an Order granting a Default Judgment against the Plaintiff, Steven A. Westlake.

For the foregoing reasons, I submit that Plaintiff's appearance in this litigation has completely been a sham; that he has never had a good-faith intention to participate.

The Plaintiff's claims are total shams and everything has been a figment of his crazed imagination, absolutely committed perjury.

The Petitioner has "unclean hands."

The "Dirty Hands Doctrine" refers to an equitable design available to a defendant against the plaintiff.

It is an affirmative defense that the defendant may claim the plaintiff has "unclean hands".

Plaintiff has acted in bad faith or in an unethical manner.

The Respondent has been harmed by this Petitioner.

WHEREFORE, I respectfully request that this Board enter an Order granting on behalf of the Respondent, Edgar Alexander Barrera.

The undersigned by **Edgar Alexander Barrera**, the Respondent in this particular matter:

"AFFIDAVIT OF PETITIONER'S ATTORNEY"

"Mark Levy, attorney for the Petitioner, affirms the following facts."

'1. On February 12, 2015, I completed a Response to the Order to Show Cause dated January 28, 2015 and forwarded same to my paralegal, Ms. Amy Manzer, by email. I expect the completed response would be filing that evening or, at the latest, the morning of February 13, 2015."

"3. In the normal course of business, I often correspond with Ms. Manzer by email."

This is what the Petitioner's Attorney is stating in his own exact words on "Page 1 of 3."

The Petitioner's Attorney correctly states he had to give a Response to the Order to Show Cause dated January 28, 2015.

The Board stated on that particular date: "In view thereof, Petitioner is allowed fifteen days from the date of this order to show cause why judgment should not be rendered against him for failure in to prosecute this case, failing which judgment may be entered against Petitioner." "Mailed: January 28, 2015"

Wednesday, January 28, 2015 "Petitioner is allowed fifteen days from the date of entry this order" which is allowed until Wednesday, February 11, 2015. Very simple, but the Petitioner's Attorney states he will respond on February 12, 2015 a day later. And states he expect the complete response would be filing that evening or, at the latest, the morning of February 13, 2015. Which is two days after the allowed fifteen days of this order.

The "Affidavit of Petitioner's Attorney Paralegal, Amy Manzer" states she: "was in a severe accident on February 8, 2015, deploying her air bags, injuring her chest and back, and totaling the car. Ms. Manzer visited a physician at the local hospital to receive medical treatment for her back on February 10, 2015. If she was injured why did she wait three days to receive medical treatment? And all of this happened before the evening of February 12, 2015 or the morning of February 13, 2015 which is two days after the allowed fifteen days of the Board order. By in their own words state it was not going to be sent in the correct time before her accident.

Likewise the Petitioner's Attorney also states: ""In the normal course of business, I often correspond with Ms. Manzer by email." He would have then known this already had happened since he corresponds in the normal cause by email daily with her. The whole story does not add up at all about this particular matter.
The Petitioner did not send the **PETITIONER'S MOTION TO ACCEPT DELAYED RESPONSE TO THE ORDER TO SHOW CAUSE** either to the Respondent via First Class Mail, postage prepaid, and also it has not sent to my correct address either and nothing from the Plaintiff to my correct one: Edgar Alexander Barrera, Respondent, 22159 Ladera Street, Grand Terrace, CA 92313. **The Petitioner did not send it properly and thus it should be voided.**

Wendy Boldt Cohen, Interlocutory Attorney sent:
"Mailed: January 28, 2015"

"Notwithstanding the foregoing, the Board notes that the time for Petitioner to take testimony has expired2 and the record demonstrates that Petitioner has failed to submit any evidence or take any testimony during its assigned testimony period. Cf. Trademark Rule 2.132 and TBMP § 534. In view thereof, Petitioner is allowed fifteen days from the date of this order to show cause why judgment should not be rendered against him for failure to prosecute this case, failing which judgment may be entered against Petitioner. Id. Proceedings are otherwise suspended. Any paper filed during the pendency of this

show cause order which is not relevant thereto will be given no consideration. 2 Petitioner's trial period ended July 29, 2014."

WHEREFORE, I respectfully ask this Board for a Motion on Behalf of the Respondent to Deny Petitioner's "Respondent's Response to Opposition" and files this Motion on Behalf of the Respondent to Deny the "Petitioner's Motion to Accept Delayed Response to the Order to Show Cause," "Petitioner's Response to TTAB to Show Cause," Deny the "Affidavit of Petitioner's Attorney Paralegal, Amy Manzer" and to Deny the "Affidavit of Petitioner's Attorney, Mark Levy" and declare be cancelled.

WHEREFORE, I respectfully request that this Board enter an Order Granting on behalf of the Respondent, Edgar Alexander Barrera against the Plaintiff, Steven A. Westlake.

WHEREFORE, Respondent respectfully asks for a Motion against the Plaintiff to enter an Order Granting on behalf of the Respondent based upon the foregoing reasons.

With a dismissal with prejudice is dismissal of a case on merits after adjudication. The Plaintiff is barred from beginning an action on the same claim. Dismissal with prejudice is a final judgment and the case becomes res judicata on the claims that were or could have been brought in it.

The Respondent respectfully requests that the TTAB "Dismiss with Prejudice" the instant case and any other relief the Board deems just and proper.

Certified and Respectfully submitted by:

Edgar Alexander Barrera, Respondent
22159 Ladera Street
Grand Terrace, CA 92313

Dated: April 23rd, 2015 Telephone (323) 272-6817

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing instrument has been served upon all parties, at their address record by U.S. Postage via First Class Mail, postage prepaid, 23rd day of April 2015, addressed to:

Mark Levy, Hinman Howard & Kattel, LLP, 700 Security Mutual Bldg., 80 Exchange Street, Binghamton, NY 13902.

Certified and Respectfully submitted by:

Edgar Alexander Barrera, Respondent
22159 Ladera Street
Grand Terrace, CA 92313

Dated: April 23rd, 2015 Telephone (323) 272-6817