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

Proceeding	92053298
Party	Defendant Kimberly Kearney
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Date	03/13/2012
Attachments	WHAT WOULD JESUS DO ANSWER.pdf ( 6 pages )(8514708 bytes )

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

Tyler Perry Studios, LLC.

Petitioner,

v.

Kimberly Kearney  
Registrant

Re: Proceeding Number #92053298  
Mark: WHAT WOULD JESUS DO

As the registrant and owner of record for the mark WHAT WOULD JESUS DO, Registration #3748123 I am responding to the Petitioner Tyler Perry Studios, LLC.'s Petition To Cancel - Proceeding #92053298.

As grounds for Cancellation, the Petitioner alleges that:

1) Petitioner is desirous of using the mark WHAT WOULD JESUS DO, in connection with, entertainment services in a "variety of formats".

However, petitioner filed for use of the mark WHAT WOULD JESUS DO, on May 16, 2008, 4 months after I received written confirmation from the petitioner's representative on January 16, 2008, that petitioner was in possession of and reviewing the entire concept and treatment for my production bearing our mark, the same mark, WHAT WOULD JESUS DO.

We have written documentation and proof of this. This alone shows two things. One, the petitioner should not even be filing an application for a mark that he was clearly aware was already being used by another business entity who presented the mark to them as their own in good faith, if petitioner had even one ounce of business integrity. I point this out to set the precedent, that the petitioner has low moral character, is dishonest, and has been throughout this process and continues to be at any and all costs.

Secondly, this is also proof the petitioner has ill-intent, is adversarial, and clearly trying to steal, bully, and/or take this mark by any means necessary, even if it means misrepresenting the facts as he has in this petition, and abusing the trademark registration process. As we are all aware, I wasn't even properly notified that the petitioner was trying to have my mark canceled, until it was canceled in error, by default. I did not respond by the deadline, since I was not properly notified, that a petition was even filed. I then had to fight to have my mark reinstated because the petitioner, nor his licensed attorney, followed the trademark law requiring them to notify the board that the mail to inform me of their petition to cancel was returned. Again, another attempt by the petitioner to circumvent the trademark rules, proper business etiquette, ethics, and most importantly, trademark law.

Additionally, in their original application for the mark, the petitioner even tried to hide the similarity of their proposed mark and the one they're trying to steal from me, by rewording their description of use for the mark though in the same Class, as if the trademark attorney is too dumb or blind to see the similarity, or that its practically identical. So, when that trick didn't work, and their application was rejected by the trademark attorney, they moved to Plan B and here we are.

Even in this petition they summarized their use as "a variety of formats" to downplay the similarity. But their application clearly includes similar uses as mine and is in the same class. See their description: "ENTERTAINMENT SERVICES, NAMELY, ARRANGING AND CONDUCTING LIVE CONCERTS AND PRODUCING TELEVISION PROGRAM AND MOTION PICTURE FILMS, ALL FEATURING MUSICAL, DRAMATIC AND COMEDY PERFORMANCES; ENTERTAINMENT SERVICES, NAMELY, TELEVISION, MOTION PICTURE FILM AND INTERACTIVE MULTIMEDIA PRODUCTION SERVICES" (Serial #77477214).

2. Petitioner claims that based on "information and belief", they feel we are not using the mark, never did, and/or abandoned the mark. This again is an absurd allegation and claim, since the petitioner is not omniscient and could not possibly know every use of every mark in the trademark system, and if truly interested in information to make that determination, could have easily contacted me, since my contact information for mail as well as email is public record, and the same information has been available via USPTO records since the date of my application and always updated as required.

It is my belief based on the obvious, that the petitioner had no desire or interests in determining if the mark was in use, that's why I was never contacted, nor properly served notification of their intent to cancel. We have never ceased use of the mark nor was it abandoned, or will it ever be. It is a viable and critical part of our mission and operation, and being used as such. And we provided the required statement of use to the trademark commission as required by trademark law and were given a valid and current trademark registration. Petitioner is obviously so desperate to steal this mark from us and has been to the point that he has grown desperate enough to mislead the board to the contrary.

3. As required by the trademark office we did provide a valid statement of use, and a valid and acceptable specimen to prove our use, which is active and still current. We have done exactly, what was required in accordance with the trademark process and law, and the petitioner's desire to steal the mark and/or circumvent that process does not negate that we have already met that requirement and continue to do so. Additionally, the petitioner has no valid information nor reason to believe, anything to the contrary. Simply put, the petitioner wants the mark so bad, they're "grasping at straws", wishing and hoping we weren't and aren't using our mark only because they want it so bad, but not bad enough to acquire it properly or legally, and/or amicably. This is just like a single man hoping a beautiful woman he desires is single and available, but she's not, so that's just his "wishful thinking". And similarly in the same un-godly behavior, he resorts to do anything he can to destroy that which God has created only because he desires it.

4. Petitioner claims, that on “information and belief” contact information on our website is listed as two email addresses [casting@whatwouldjesusdo.tv](mailto:casting@whatwouldjesusdo.tv) and [production@whatwouldjesusdo.tv](mailto:production@whatwouldjesusdo.tv) and goes on to claim that these are not my email addresses. This claim is so untrue, it’s laughable. I have owned those email addresses and all email addresses for the domain [whatwouldjesusdo.tv](http://whatwouldjesusdo.tv), as well as the domain name itself, [whatwouldjesusdo.tv](http://whatwouldjesusdo.tv). We’ve always maintained working email addresses for our site. And I additionally own, similar web related entities including [whatwouldjesusdo.net](http://whatwouldjesusdo.net), and have an additional email address we also use, which is [info@whatwouldjesusdo.tv](mailto:info@whatwouldjesusdo.tv) and have continued to own them all until this day, paying all fees necessary to maintain ownership to avoid conflicts in the marketplace, and always will. All this information is documented by [godaddy.com](http://godaddy.com) the registrar, who is also the host company, and my financial institutions, proving continued payments to maintain the registrations. Ownership of my domain names is also public record.

Petitioner’s attempt to misguide the trademark & appeal board into believing that one, a returned email would guide the sender to the help page of the email registrar Go-Daddy, is devious and absurd. Even if an email failed to deliver under the Go-Daddy system by some technical glitch Go-Daddy has verified to us, that the email sender would just receive an error message, which says, “undeliverable”. Which we also know to be true since we’ve used their system for over 8 years and send emails to our many Go-Daddy addresses internally. You are welcome to contact them directly at: (480) 505-8877 to verify this. An undeliverable email, would not take you to any information that would give anyone “information or belief” as to who owns the email address or the domain name. So for the petitioner to imply that my ownership of the email addresses provided on the specimen provided to the trademark board are fictitious, is slanderous, insulting, and inaccurate!

The only way to determine ownership of a domain is to search the “who is” directory for a given domain name, which is and always has been public record for my domains, though I do have the option to make those private. But I don’t, since I have nothing to hide.

So again, if the petitioner had any sincere desire to verify these allegations before wasting my and the board’s time with these absurdities, they could have in 5 minutes or less, simply picked any licensed domain registrar in the world and searched the “who is” directory for [whatwouldjesusdo.tv](http://whatwouldjesusdo.tv), and verified it was me, not [info@coolexample.com](mailto:info@coolexample.com) or the registrar Go-Daddy, or anyone else for that matter. And additionally, they could have sent an email to the addresses themselves, and received a proper response as do all the hundreds of people who correspond with us at those working addresses to this day. Their stance, that a so called “failed email” justifies their position to assume we are no longer using our mark, which never happened, and to say our working email addresses resolved to godaddy’s [info@coolexample.com](mailto:info@coolexample.com) as a fictitious email address used in Go-Daddy’s help & tutor system is unbelievable, and sheer fabrication!

It’s a lie also, because our email addresses work, have worked and continue to work, and we have ongoing correspondence at these email addresses and others under the “What Would Jesus Do” brand, associated with these domains to prove this. Also, the registrar Go-Daddy has verified that even if their system went down momentarily, it still doesn’t function that way, so this is still a ridiculous lie and absurd and a deceptive claim to make.

It's as absurd as the petitioner saying, they sent an email to the USPTO, and the email didn't go thru, so the USPTO must not be in the business of processing trademarks applications anymore, but never used any other form of communication, phone, mail, or alternative email address which is publicly available to contact you.

This allegation is insulting and silly to any intelligent person, and a government agency nonetheless, and clearly another desperate attempt by the petitioner to mislead the trademark office and board. Everything I'm stating is documented, can be proven, is in writing, and witnessed. I'd also volunteer to take a lie detector test to support my position and claims. I doubt the petitioner would do the same to support their claims.

5. The petitioner also states that based on "information and belief", there is no record of any production or broadcast services specified in the registration. We reserve the right not to disclose all the details of our operation since the petitioner has already made it obvious that they have ill-intent when it comes to this process. However, we have provided the trademark office with the required documents to support our statement of use, not only have a production, but have even gone on to secure a distribution deal to expand our brand to access 80 million households. But again, unless the petitioner is omniscient, they would have no way of knowing this nor have they ever inquired to us in this regard. So not knowing something you have never inquired about when the source is easily accessible and available, but then to make assumptions and take legal action based on such assumptions is sheerly reckless, presumptuous, and again shows the petitioner has no true intent to know the truth, because then he could not justify his misstatement to the board, that "based on information and belief they have reason to think we have abandoned our mark". They didn't seek any accurate information to base their belief on! Again, a deceptive attempt, to manipulate this process. It's disgusting.

6. Lastly, the petitioner states that my registration is blocking their application, and so it should. Outside of the obvious reasons stated by the trademark attorney who initially refused their mark because our application proceeded theirs and their similarity to our mark in name and use, and the fact ours was already in process, thank God, we were not just another blind sheep headed into the "big production company" slaughter house, as so many before us, too blind to cover their legal bases to protect their creations. Which is what the plaintiff is used to, and expected, and what they thought they could do again.

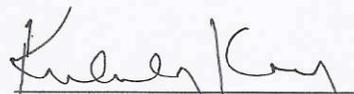
But also, their application is and should be blocked, because, my registration is valid, our mark is in use and will continue to be, and it is shameful that when smaller companies go to these big production companies in good faith to present their God-given concepts and ideas, that they have to deal with the greed & vileness of people like this organization, who though they reflect a public persona of "GOOD SAMARITAN doing GOOD DEEDS", behind the scene they continue to use lies, trickery, deception, and bully tactics to rob and steal from hardworking business people who seek the same American dream they've been blessed to acquire.

Instead of doing the RIGHT THING, and contacting us to see how we could have worked together and used this mark for the GREATER GOOD. Tyler Perry and his "do boy" attorney, resort to these atrocities thinking that they can intimidate, push, bully, manipulate your system, the US TRADEMARK system that has been set up to give EVERYONE the EQUAL right to protect their works and creations, no matter how big or how small.

“So no Mr. Perry, this is one trademark you WILL NOT take, this is one dream you WILL NOT destroy, and one company you will not trample on! Because between GOD & the TRADEMARK LAW you cannot do as you’ve done with so many others. I guess you forgot where your blessings came from since the days you slept in your car! Your reputation of seek & destroy proceeds you, and we’re sure the public would love to know that Mr. Good Deeds is not so good after all, as he tries to steal the name of a CHRISTIAN PRODUCTION, its sad and deplorable”.

Gentlemen, just remember at the end, we will ALL answer for our deeds and you cannot take Oscars, IMBD credits, Money, Status or Trademarks with you when you die. So for everyone involved, do the right thing by this petition. God sees and knows all our hearts and intentions, and we will ALL be held accountable for it, now or later. This trademark is way more than a mark, it is part of a mission to spread God’s word, so you guys can mess with that if you want to, but I’m doing it by the book, and have been all along, because I know I have to answer for it when I take my last breath & you will too.

Date: February 12, 2012



Kimberly Kearney  
Defendant

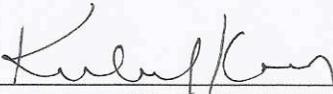
Owner/Creator “What Would Jesus Do”

CERTIFICATE OF SERVICE

It is hereby certified that a true copy of the foregoing Answer To The Petition To Cancel  
Is being transmitted via certified mail addressed to the Petitioner as follows:

TYLER PERRY STUDIOS ("TPS")  
1801 Century Park West  
c/o Ziffren, Brittenham et al.  
Los Angeles, CA 90067

Dated: 3/13/12

  
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Kimberly Kearney,  
Registrant/Defendant