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

Proceeding	92054551
Party	Defendant Douglas Burda
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Submission	Opposition/Response to Motion
Filer's Name	Douglas Burda
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Signature	/Douglas Burda/
Date	12/22/2011
Attachments	Opposition to Petitioner's Summary of Telephone Conversation.filed.pdf ( 4 pages )(50536 bytes )

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

**ANDREY PINSKY**

**Petitioner,**

**v.**

**Cancellation No. 92054551**

**DOUGLAS BURDA**

**Respondent.**

**REGISTRANT'S OPPOSITION TO  
PETITIONER'S SUMMARY OF TELEPHONE CONVERSATION**

Respondent, Douglas Burda (Registrant) hereby requests that the Trademark Trial and Appeal Board (Board) deny Petitioner's Summary of Telephone Conversation, filed with the Board by Petitioner in the above-referenced proceeding on December 5, 2011.

REGISTRANT'S OPPOSITION TO PETITIONER'S SUMMARY OF TELEPHONE CONVERSATION (Opposition) is supported by Registrant's BRIEF IN SUPPORT OF OPPOSITION, below, the papers on file with the Board in this matter, and any other matters properly before the Board.

**BRIEF IN SUPPORT OF OPPOSITION**

**I. BACKGROUND.**

On December 6, 2011 pursuant to the Board's Order of December 1, 2011 (Order) and the applicable rules of practice before the Board, Registrant telephoned Petitioner to request Petitioner's consent to file Registrant's amended answer thereby

obviating the Board's involvement in having to consider granting leave to Registrant to do so. Petitioner did not respond and Registrant left a voice message on Petitioner's voice messaging system. When Petitioner did eventually return Registrant's call, Petitioner denied Registrant's request for Petitioner's consent.

On December 7, 2011, Registrant filed Registrant's Motion for Leave to File Second Amended Answer and Affirmative Defenses to Petition for Cancellation. On the same day, Petitioner filed its 2011-12-07 Summary of Telephone Conversation December 7, 2011.pdf (Conversation Summary), to which this paper is in opposition.

## **II. LEGAL STANDARDS.**

The Board has established that "[s]trict compliance with the Trademark Rules of Practice and, where applicable, the Federal Rules of Civil Procedure, is expected of all parties before the Board," see Discovery Conference Summary at 2.

## **III. ARGUMENT.**

### **A. Petitioner's Conversation Summary Should Be Denied because The Nature of Petitioner's Paper is Unclear and May Have Been Filed for An Improper Purpose.**

Registrant notes that the nature and purpose of Petitioner's Conversation Summary is ambiguous and that Petitioner's Conversation Summary is subject to denial on such basis alone. However, as a matter of procedural propriety regarding a response before the Board, Registrant has been forced to respond to the Conversation Summary so as to maintain Registrant's rights, despite that Registrant believes that a response may be unnecessary due to the facts and circumstances surrounding Petitioner's actions.

To the extent Registrant's further substantive response to the Conversation Summary is necessary, Registrant would respectfully reserve Registrant's rights to supplement and/or withdraw all or part of Registrant's Opposition based upon treatment of the Conversation Summary by the Board.

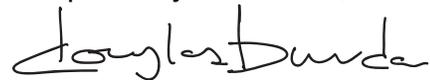
#### **IV. CONCLUSION.**

For the forgoing reasons, Registrant respectfully requests that the Board deny Petitioner's Conversation Summary and take further action as the Board determines is necessary.

Registrant respectfully reserves the right to file additional papers with the Board regarding Petitioner's action(s) and/or representations related to Petitioner's Conversation Summary.

December 22, 2011

Respectfully submitted,



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### **CERTIFICATE OF ELECTRONIC FILING**

I certify that a true and complete copy of the foregoing REGISTRANT'S OPPOSITION TO PETITIONER'S SUMMARY OF TELEPHONE CONVERSATION is being electronically transmitted to the Trademark Trial and Appeal Board, U.S. Patent and Trademark Office on December 22, 2011.

By:   
Douglas Burda

### **CERTIFICATE OF SERVICE**

I hereby certify that a true and complete copy of the foregoing REGISTRANT'S OPPOSITION TO PETITIONER'S SUMMARY OF TELEPHONE CONVERSATION has been served on Andrey Pinsky by mailing said copy on December 22, 2011 via First Class Mail International, postage prepaid to:

ANDREY PINSKY  
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TORONTO, ON M2N 5W9  
CANADA

By:   
Douglas Burda