

ESTTA Tracking number: **ESTTA449346**

Filing date: **01/04/2012**

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

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|------------------------|---|
| Proceeding | 92054551 |
| Party | Plaintiff Andrey Pinsky |
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| Submission | Other Motions/Papers |
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| Signature | /Andrey Pinsky/ |
| Date | 01/04/2012 |
| Attachments | 2012-01-04 (Motion to Compel Disclosure dated 2012-01-04).pdf (3 pages) (16087 bytes) |

**UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of mark Registration No. 3981394
For the mark: KONCEPT
Date of First Use: June 12, 2010
Date of Registration: June 21, 2011

ANDREY PINSKY,

 Petitioner,

 v.

DOUGLAS BURDA

 Registrant.

Cancellation No. 92054551

**MOTION TO COMPEL REGISTRANT TO SERVE AND FILE
EXPANDED INITIAL DISCLOSURE**

I. BACKGROUND

On November 29, 2011, during the Discovery Conference, Registrant and Petitioner agreed to expend initial disclosures required by *Federal Rule of Civil Procedure* 26(a) to include proof of the first date of use of their marks in commerce. As was stated in the Discovery Conference Summary released on December 1, 2011, "this stipulation is intended to save both parties time and money but does not replace or prevent discovery on the issue of first use if either party believes it necessary."

Expanded initial disclosures were due on January 1, 2012.

The Petitioner served the Registrant with the Petitioner's expanded initial disclosure via FedEx on December 29, 2011, and also filed the expanded initial disclosure via ESTTA on December 30, 2011.

The Registrant failed to serve the Petitioner with the Registrant's expanded initial disclosure and also failed to file the expanded initial disclosure via ESTTA.

II. ARGUMENT

The Petitioner has written to the Trademark Trial and Appeal Board (TTAB) on numerous occasions about questionable conduct of the Registrant and the Registrant's stall and delay tactics adopted by the Registrant since commencement of this cancellation proceeding. Copies of Petitioner's correspondence to the TTAB in respect of these issues are available through the ESTTA.

The Petitioner does not view the Registrant's failure to file expanded initial disclosure by the due date as an accident, given the protracted history of questionable conduct exhibited throughout this proceeding by the Registrant. Consequently, the Petitioner respectfully requests the TTAB to make the following orders:

1. Order compelling the Registrant to serve the Petitioner with the Registrant's expanded initial disclosure by way of a declaration or an affidavit not later than January 11, 2012;
2. Order striking with prejudice, and without a right to file new answers, the Registrant's Answer, First Amended Answer, and Second Amended Answer if the Registrant fails to serve the Petitioner with the Registrant's expanded initial disclosure by January 11, 2012;
3. Order finding the Registrant in default if the Registrant fails to serve the Petitioner with the Registrant's expanded initial disclosure by January 11, 2012;
4. Order cancelling the Registrant's registration for the trademark Konzept (No. 3981394).

It is only in this way that the TTAB can effectively deal with such abuses of the cancellation process.

January 4, 2012

Respectfully submitted



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CERTIFICATE OF ELECTRONIC FILING

I hereby certify that a true and complete copy of the foregoing PETITIONER'S MOTION filed pursuant to the Order of the Trademark Trial and Appeal Board dated December 1, 2011 is being electronically transmitted to the Trademark Trial and Appeal Board, U.S. Patent and Trademark Office on January 4, 2012.

By:



Andrey Pinsky

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing PETITIONER'S MOTION filed pursuant to the Order of the Trademark Trial and Appeal Board dated December 1, 2011 has been served on Douglas Burda by sending a copy via mail on January 4, 2012 to:

DOUGLAS BURDA
KONCEPT INNOVATIVE LAW
UNIT 1009
900 LAS VEGAS BOULEVARD SOUTH
LAS VEGAS, NEVADA, 89101
USA

By:



Andrey Pinsky