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

Proceeding	92054683
Party	Plaintiff The Hispanic National Bar Association, Inc.
Correspondence Address	SCOTT W JOHNSTON MERCHANT & GOULD PC PO BOX 2910 MINNEAPOLIS, MN 55402-0910 UNITED STATES sjohnston@merchantgould.com, slindemeier@merchantgould.com, aavery@merchantgould.com
Submission	Opposition/Response to Motion
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Signature	/gcg/
Date	05/01/2015
Attachments	hnba_20150501151334.pdf(871364 bytes)

I. PROCEDURAL AND FACTUAL BACKGROUND

On October 19, 2011, The HNBA filed its Petition for Cancellation, alleging that the HNBF's Registration No. 3,443,817 for the mark HNBF HISPANIC NATIONAL BAR FOUNDATION and Design and Registration No. 3,447,638 for the mark HNBF HISPANIC NATIONAL BAR FOUNDATION IGUALDAD A TRAVÉS DE LA EDUCACIÓN EQUALITY THROUGH EDUCATION and Design were likely to cause confusion with the HNBA's prior rights in its HNBA and HNBA HISPANIC NATIONAL BAR ASSOCIATION marks. The HNBF denied these allegations in its Answer.

The parties immediately began discussing settlement and even met in person for a full-day settlement conference. Johnston Decl. ¶2. A draft agreement was then prepared and circulated. *Id.* at 2. The parties then began a 3 year negotiation over the terms of the settlement agreement. *Id.* at 3. At no time during the years of negotiation did Registrant indicate that it had abandoned its marks. *Id.* at 4.

After settlement negotiations stalled, Petitioner had no choice but to turn its attention to the merits of its case. Petitioner brought an Amended Petition for Cancellation to assert claims based on abandonment. In its answer to the Amended Petition for Cancellation, Registrant denied that it had abandoned either of its marks. Answer Paragraph 23-28. In particular, Registrant denied that:

23. Upon information and belief, the HNBF is not using HNBF's Marks in commerce in connection with HNBF's Services and does not intend to resume use of them.
24. Upon information and belief, the HNBF has not used the mark that is the subject of Registration No. 3,443,817 for more than three years.
25. Upon information and belief, the HNBF has no intention of resuming use of the mark that is the subject of Registration No. 3,443,817.

26. Upon information and belief, the HNBF has not used the mark that is the subject of Registration No. 3,447,638 for more than three years.

27. Upon information and belief, the HNBF has no intention of resuming use of the mark that is the subject of Registration No. 3,447,638.

28. Upon information and belief, the HNBF has abandoned the marks covered by Registration Nos. 3,443,817 and 3,447,638

In its responses to requests for admissions dated August 1, 2014, Registrant further affirmed that it was using the marks:

67. Registrant has stopped using Registrant's Marks for Registrant's Services.

RESPONSE:

Denied.

68. Registrant has stopped using the logo that is the subject of Registration No. 3,443,817.

RESPONSE:

Denied.

69. Registrant has no intention of resuming use of the logo that is the subject of Registration No. 3,443,817.

RESPONSE:

Denied.

70. Registrant has abandoned the mark that is the subject of Registration No. 3,443,817.

RESPONSE:

Denied.

71. Registrant has stopped using the logo that is the subject of Registration No. 3,447,638.

RESPONSE:

Denied.

72. Registrant has no intention of resuming use of the logo that is the subject of Registration No. 3,447,638.

RESPONSE:

Denied.

73. Registrant has abandoned the mark that is the subject of Registration No. 3,447,638.

RESPONSE:

Denied. 74. Registrant intends to use the following logo as the trademark for its organization going forward:



RESPONSE:

Registrant admits that it intends to use the logo depicted in Request for Admission No. 74 as a trademark for its organization. Otherwise denied.

75. To the extent that there is any use of the logos that are covered by Registrant's Marks, Registrant intends to replace such uses with the new logo shown below:



RESPONSE:

Denied.

Johnston Decl. Ex.A.

Registrant's good cause request contains no evidence in the form of affidavits or otherwise. Rather, the good cause request merely makes unsworn allegations that it had good cause. This is not evidence and does not negate or undo the admissions Registrant made in its responses to Petitioner's Requests of Admission. Additionally, the screenshot from Archive.org post dates the filing of the Petition to Cancel. Finally, Registrant never alleges that it had ceased use of the registered marks prior to the filing of the Petition to Cancel, rather, Registrant merely states that it had adopted a new mark, which does not preclude the fact that Registrant was still using its older registered marks.

II. LEGAL ANALYSIS

a. Registrant has not shown good cause.

Trademark Rule 2.134(b) provides that the Registrant must show good cause why judgment should not be entered against it on all claims. In its good cause filing, Registrant

provides no evidence, relying only upon unsworn argument and web page evidence that post-dates the filing of the Petition to Cancel. Registrant's argument in its good cause request directly contradicts earlier statements in discovery and pleadings in which Registrant claimed to have use of its registered marks and had not abandoned its marks.

Marshall Field & Co. v. Mrs. Fields Cookies, 11 USPQ2d 1154,1156 (TTAB 1989) is different from the instant case. In *Marshall Field*, the Registrant, through testimony, established that it had stopped all use of the marks prior to the filing of the Petition to Cancel. In this case, Registrant has not provided any evidence that it stopped use of the marks prior to the Petition to Cancel filing. At most, Registrant has shown that it had an additional mark at the time of the filing of the Petition to Cancel. Additionally, unlike *Marshall Field*, this case has been pending for nearly 3 years in which Registrant has never indicated to Petitioner that it abandoned the marks. In fact, as recently as August of 2014 Registrant claimed that it had not abandoned the marks.

As registrant has not demonstrated good cause, Petitioner requests that judgment be entered on all of its claims against Registrant.

THE HISPANIC NATIONAL BAR
ASSOCIATION, INC.

By its Attorneys,



Date: May 1, 2015

Scott W. Johnston
Anthony R. Zeuli
MERCHANT & GOULD P.C.
80 South Eighth Street, Suite 3200
Minneapolis, MN 55402-2215
(612) 332-5300

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing PETITIONER'S MEMORANDUM IN OPPOSITION TO THE HISPANIC NATIONAL BAR FOUNDATION, INC'S RESPONSE TO ORDER TO SHOW CAUSE was served upon Registrant by First Class Mail, postage prepaid, this 1st day of May, 2015:

Anna Kurian Shaw
Hogan Lovells US LLP
Columbia Square, 555 Thirteenth St. NW
Washington, DC 20004-1109



Scott W. Johnston

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

The Hispanic National Bar Association, Inc.,	)	Cancellation No. 92054683
)	
Petitioner,	)	Mark: HNBF HISPANIC NATIONAL
	)	BAR FOUNDATION and Design
v.	)	Registration No. 3,443,817
)	
The Hispanic National Bar Foundation, Inc.,	)	Mark: HNBF HISPANIC NATIONAL
	)	BAR FOUNDATION IGUALDAD
Registrant.	)	A TRAVÉS DE LA EDUCACIÓN
	)	EQUALITY THROUGH
	)	EDUCATION and Design
	)	Registration No. 3,447,638

DECLARATION OF SCOTT JOHNSTON IN SUPPORT OF OPPOSITION TO THE
HISPANIC NATIONAL BAR FOUNDATION, INC'S RESPONSE TO ORDER TO
SHOW CAUSE

I, Scott Johnston, being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, declare that all statements made of my own knowledge are true, and all statements made on information and belief are believed to be true. The facts set forth herein are known personally to me or are based on company records.

1. I am currently employed at Merchant & Gould P.C. (“hereinafter “Merchant” or “my Company”), an intellectual property law firm with a principal place of business located at 80 S. 8th Street, Suite 3200, Minneapolis, MN 55412.

2. After service of the Petition to Cancel, the parties immediately began discussing settlement and even met in person for a full-day settlement conference in July 2012. A draft agreement was then prepared and circulated.

3. The parties then began a nearly 3 year negotiation over the terms of the settlement agreement.

4. At no time during the years of negotiation did Registrant indicate to me that it had abandoned its marks.

5. Attached to this declaration as Exhibit A is a true and correct copy of the Registrant's Objections and Responses to Petitioner's First Set of Requests for Admissions dated August 1, 2014.

A handwritten signature in black ink, appearing to be 'S. Q.', written over a horizontal line.

Date: May 1, 2015

1. Registrant objects to any attempt by Petitioner, through definitions, instructions or otherwise, to impose any obligation on Registrant beyond the obligations imposed by the Federal Rules of Civil Procedure. Registrant will respond to the discovery requests in accordance with the Federal Rules of Civil Procedure.

2. Registrant objects to these discovery requests to the extent that they seek information or documents protected from discovery by the attorney-client privilege, the work product doctrine, or any other applicable claim of privilege or legal protection. Inadvertent disclosure of any privileged information in response to the discovery requests shall not be deemed a waiver of the applicable privilege or of any other basis for objecting to discovery, or of Registrant's right to object to the use, and seek the return of any such inadvertently disclosed information.

3. Registrant objects to these discovery requests to the extent that they seek confidential or proprietary information. Any production of business records in response to these Requests is made pursuant to the terms of the Protective Order in effect in this proceeding.

4. Registrant objects to these discovery requests to the extent they seek information that is neither relevant to the issues presented in this action nor reasonably calculated to lead to the discovery of admissible evidence.

5. Registrant objects to these discovery requests to the extent they seek information or documents not within Registrant's knowledge, possession, custody or control. To the extent not objected to, Registrant will attempt to respond to all discovery requests to the best of its knowledge.

6. Registrant objects to these discovery requests to the extent that they are overly broad and unduly burdensome.

7. Registrant objects to these discovery requests to the extent that they are vague and ambiguous.

8. Registrant objects to these discovery requests to the extent that they seek to impose an obligation on Registrant to disclose information that is publicly available and/or as easily obtained by Petitioner as Registrant, or that is more appropriately obtained through sources other than interrogatories, such as through expert witnesses, on the grounds that such discovery is overly broad and unduly burdensome. Registrant also objects to these discovery requests to the extent that they seek information or documents that are already in Registrant's possession.

9. Registrant objects to these discovery requests to the extent they call for legal conclusions or questions of law.

10. Registrant objects to these discovery requests to the extent they are cumulative and/or duplicative.

11. Registrant objects to these discovery requests to the extent that they are premature pursuant to the procedural schedule.

12. Registrant reserves the right to supplement its discovery request responses from time to time in the event that it discovers additional information or documents responsive to the discovery requests, and also reserves the right to supplement or correct any answer or any objections herein.

13. Registrant reserves its right to challenge the competency, relevancy, materiality, and admissibility at any subsequent proceeding, of any information it provides in response to these discovery requests.

14. For the Requests for which Registrant states that it lacks sufficient information, Registrant states that it has made reasonable inquiry and that the information it knows or can readily obtain is insufficient to enable it to admit or deny.

SPECIFIC OBJECTIONS AND RESPONSES

Subject to the foregoing General Objections as well as the Specific Objections set forth below, Registrant states as follows:

MATTERS TO BE ADMITTED

1. Admit that Petitioner created Registrant in 1985.

RESPONSE:

Registrant objects to this Request to the extent that it requests information that is neither relevant to the issues presented in this action nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to and without waiving the foregoing general and specific objections, Registrant states that it lacks sufficient knowledge to respond to this Request.

2. Admit that Petitioner selected and chose Registrant's name.

RESPONSE:

Registrant objects to this Request to the extent that it requests information that is neither relevant to the issues presented in this action nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to and without waiving the foregoing general and specific objections, Registrant states that it lacks sufficient knowledge to respond to this Request.

3. Admit that Registrant has been referred to as Petitioner's "sister entity."

RESPONSE:

Registrant objects to this Request to the extent that it requests information that is neither relevant to the issues presented in this action nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to and without waiving the foregoing general and specific objections, Registrant states that it lacks sufficient knowledge to respond to this Request.

4. Admit that Registrant has never been referred to as Petitioner's "sister entity."

RESPONSE:

Registrant objects to this Request to the extent that it requests information that is neither relevant to the issues presented in this action nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to and without waiving the foregoing general and specific objections, Registrant states that it lacks sufficient knowledge to respond to this Request.

5. Admit that Registrant has referred to itself as Petitioner's "sister entity."

RESPONSE:

Registrant objects to this Request to the extent that it requests information that is neither relevant to the issues presented in this action nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to and without waiving the foregoing general and specific objections, Registrant states that it lacks sufficient knowledge to respond to this Request.

6. Admit that Registrant has never referred to itself as Petitioner's "sister entity."

RESPONSE:

Registrant objects to this Request to the extent that it requests information that is neither relevant to the issues presented in this action nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to and without waiving the foregoing general and specific objections, Registrant states that it lacks sufficient knowledge to respond to this Request.

7. Admit that Registrant has marketed itself as Petitioner's "sister entity" in the past.

RESPONSE:

Registrant objects to this Request to the extent that it requests information that is neither relevant to the issues presented in this action nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to and without waiving the foregoing general and specific objections, Registrant states that it lacks sufficient knowledge to respond to this Request.

8. Admit that Registrant has conducted fundraising activities for Petitioner.

RESPONSE:

Denied.

9. Registrant has raised money for educational scholarships that were awarded by Petitioner.

RESPONSE:

Denied.

10. Admit that Registrant has provided scholarship funding for Petitioner.

RESPONSE:

Denied.

11. Admit that Registrant has provided funds to support Petitioner's annual meeting.

RESPONSE:

Denied.

12. Admit that there is a likelihood of confusion between Petitioner's use of Petitioner's Marks and Registrant's use of Registrant's Marks.

RESPONSE:

Denied.

13. Admit that at least one person has believed Petitioner is sponsored by Registrant.

RESPONSE:

Denied.

14. Admit that at least one person has believed Petitioner is endorsed by Registrant.

RESPONSE:

Denied.

15. Admit that at least one person has believed Petitioner is affiliated with Registrant.

RESPONSE:

Denied.

16. Admit that at least one person has believed Petitioner is the same as Registrant.

RESPONSE:

Denied.

17. Admit that the original By-Laws of Registrant required that any member of its Board of Directors must also be a member of Petitioner's organization.

RESPONSE:

Registrant objects to this Request to the extent that it requests information that is neither relevant to the issues presented in this action nor reasonably calculated to lead to the discovery of admissible evidence. Registrant also objects to this Request on the ground that the phrase "original By-Laws of Registrant" is vague and ambiguous.

Subject to and without waiving the foregoing general and specific objections, Registrant states that the "original By-Laws" speak for themselves.

18. Admit that Registrant's original By-Laws provided that Registrant not amend its By-Laws without giving Petitioner's president thirty (30) days advance notice.

RESPONSE:

Registrant objects to this Request to the extent that it requests information that is neither relevant to the issues presented in this action nor reasonably calculated to lead to the discovery of admissible evidence. Registrant also objects to this Request on the ground that the phrase "Registrant's original By-Laws" is vague and ambiguous.

Subject to and without waiving the foregoing general and specific objections, Registrant states that the "original By-Laws" speak for themselves.

19. Registration No. 2,690,074 claims a date of first use in United States commerce of October 1, 1999.

RESPONSE:

Registrant states that Registration No. 2,690,074 speaks for itself.

20. Registrant does not contest that the first date of use in United States commerce for Registration No. 2,690,074 was October 1, 1999.

RESPONSE:

Registrant states that Registration No. 2,690,074 speaks for itself.

21. Registration No. 3,942,939 claims a date of first use in United States commerce of May 1984.

RESPONSE:

Registrant states that Registration No. 3,942,939 speaks for itself..

22. Registrant does not contest that the first date of use in United States commerce for Registration No. 3,942,939 was May 1984.

RESPONSE:

Registrant states that it lacks sufficient knowledge to respond to this Request.

23. Registration No. 3,892,489 claims a date of first use in United States commerce of December 2, 1998.

RESPONSE:

Registrant states that Registration No. 3,892,489 speaks for itself.

24. Registrant does not contest that the first date of use in United States commerce for Registration No. 3,892,489 was December 2, 1998.

RESPONSE:

Registrant states that it lacks sufficient knowledge to respond to this Request.

25. Petitioner's Registration No. 2,690,074 has priority over Registrant's Registration No. 3,447,638.

RESPONSE:

Registrant objects to this Request on the grounds that it calls for legal conclusions or questions of law.

26. Petitioner's Registration No. 3,942,939 has priority over Registrant's Marks.

RESPONSE:

Registrant objects to this Request on the grounds that it calls for legal conclusions or questions of law.

27. Petitioner's Registration No. 3,892,489 has priority over Registrant's Registration No. 3,447,638.

RESPONSE:

Registrant objects to this Request on the grounds that it calls for legal conclusions or questions of law.

28. Petitioner used its HISPANIC NATIONAL BAR ASSOCIATION mark before Registrant used the HISPANIC NATIONAL BAR FOUNDATION mark.

RESPONSE:

Registrant states that it lacks sufficient knowledge to respond to this Request.

29. Registrant was aware of Petitioner's use of Petitioner's Marks before it adopted Registrant's Marks.

RESPONSE:

Registrant lacks sufficient knowledge to respond to this Request.

30. Registrant was aware of Petitioner before it adopted Registrant's Marks.

RESPONSE:

Registrant lacks sufficient knowledge to respond to this Request.

31. Registrant was aware of Petitioner's use of Petitioner's Marks when it applied to register Registrant's Marks.

RESPONSE:

Registrant lacks sufficient knowledge to respond to this Request.

32. Petitioner's Marks are distinctive.

RESPONSE:

Registrant lacks sufficient knowledge to respond to this Request.

33. Registrant's Marks are confusingly similar to Petitioner's Marks.

RESPONSE:

Denied.

34. Use of Registrant's Marks for Registrant's Services creates a likelihood of confusion, mistake or deception with Petitioner's Marks for Petitioner's Services.

RESPONSE:

Denied.

35. Registrant's current use of Registrant's Marks infringes Petitioner's Marks.

RESPONSE:

Denied.

36. Petitioner is likely to be damaged if Registrant uses Registrant's Marks in connection with Registrant's Services.

RESPONSE:

Denied.

37. Registrant has not received Petitioner's consent to use Registrant's Marks.

RESPONSE:

Admitted.

38. Petitioner's Registration Nos. 2,690,074 and 3,942,939 and Registrant's Registration Nos. 3,447,638 and 3,443,817 include the words "Hispanic," "National" and "Bar."

RESPONSE:

Registrant states that Registration Nos. 2,690,074, 3,942,939, 3,447,638 and 3,443,817 speak for themselves.

39. Petitioner's Registration Nos. 2,690,074 and 3,892,489 and Registrant's Registration No. 3,443,817 include the initials "HNB."

RESPONSE:

Registrant states that Registration Nos. 2,690,074, and 3,892,489 speak for themselves.

40. The dominant portion of Petitioner's Registration Nos. 2,690,074 and 3,942,939 and Registrant's Registration Nos. 3,447,638 and 3,443,817 include the words "Hispanic," "National" and "Bar."

RESPONSE:

Registrant objects to this Request on the grounds that it calls for legal conclusions or questions of law.

41. The dominant portion of Petitioner's Registration Nos. 2,690,074 and 3,892,489 and Registrant's Registration No. 3,443,817 include the initials "HNB."

RESPONSE:

Registrant objects to this Request on the grounds that it calls for legal conclusions or questions of law.

42. Consumers encountering Registrant's Services in connection with Registrant's Marks are likely to believe that such services are associated with Petitioner.

RESPONSE:

Denied.

43. Consumers encountering Registrant's Services in connection with Registrant's Marks are likely to believe that such services are affiliated with Petitioner.

RESPONSE:

Denied.

44. Consumers encountering Registrant's Services in connection with Registrant's Marks are likely to believe that such services are sponsored by Petitioner.

RESPONSE:

Denied.

45. Consumers encountering Registrant's Services in connection with Registrant's Marks are likely to believe that such services are endorsed by Petitioner.

RESPONSE:

Denied.

46. Consumers who encounter Registrant's use of Registrant's Marks are reminded of Petitioner's Marks.

RESPONSE:

Denied.

47. Consumers who encounter Registrant's use of Registrant's Marks are reminded of Petitioner's Services.

RESPONSE:

Denied.

48. Consumers who encounter Registrant's use of Registrant's Marks are reminded of Petitioner.

RESPONSE:

Denied.

49. Registrant's use of Registrant's Marks calls to mind Petitioner's Marks.

RESPONSE:

Denied.

50. Consumers who encounter Registrant's use of Registrant's Marks likely associate the use of that mark with Petitioner.

RESPONSE:

Denied.

51. The services offered in connection with Registrant's Marks include "educational scholarships."

RESPONSE:

Admitted.

52. Educational scholarship services are closely related to educational services.

RESPONSE:

Denied.

53. Educational scholarship services are closely related to association services.

RESPONSE:

Denied.

54. Registrant provides its educational scholarship services to the Hispanic community.

RESPONSE:

Admitted.

55. Registrant provides its educational scholarship services to legal professionals.

RESPONSE:

Denied.

56. Registrant provides its educational scholarship services to individuals seeking to become legal professionals.

RESPONSE:

Admitted.

57. Registrant's services are closely related to Petitioner's association services, namely, promoting the interests of Hispanic attorneys, judges, law professors, legal assistants, and law students.

RESPONSE:

Denied.

58. Registrant's services are closely related to Petitioner's educational services.

RESPONSE:

Denied.

59. Registrant's services are closely related to Petitioner's association services, including promoting the interests of Hispanics in the legal profession and the Hispanic community such as education, civil rights, political appointments, and political representation, and promoting and sponsoring activities and to increase professional opportunities for Hispanics in the legal profession.

RESPONSE:

Denied.

60. Registrant's Services sold in connection with Registrant's Marks and Petitioner's Services offered in connection with Petitioner's Marks are offered through the same channels of trade.

RESPONSE:

Denied.

61. Registrant's Services sold in connection with Registrant's Marks and Petitioner's Services offered in connection with Petitioner's Marks are offered to the same class of customers.

RESPONSE:

Denied.

62. Registrant's Marks are derived from Petitioner's Marks.

RESPONSE:

Denied.

63. Registrant has encountered third parties who donated money to Registrant with the intention of supporting Petitioner.

RESPONSE:

Denied.

64. Registrant amended its By-Laws to delete any reference to Petitioner.

RESPONSE:

Registration states that its By-Laws speak for themselves.

65. Registrant amended its By-Laws to eliminate the requirement to have members of Petitioners sit on its Board of Directors.

RESPONSE:

Registrant states that its By-Laws speak for themselves.

66. Registrant seeks to have no affiliation with Petitioner.

RESPONSE:

Registrant objects to this Request on the grounds that “to have no affiliation” is vague and ambiguous.

67. Registrant has stopped using Registrant’s Marks for Registrant’s Services.

RESPONSE:

Denied.

68. Registrant has stopped using the logo that is the subject of Registration No. 3,443,817.

RESPONSE:

Denied.

69. Registrant has no intention of resuming use of the logo that is the subject of Registration No. 3,443,817.

RESPONSE:

Denied.

70. Registrant has abandoned the mark that is the subject of Registration No. 3,443,817.

RESPONSE:

Denied.

71. Registrant has stopped using the logo that is the subject of Registration No. 3,447,638.

RESPONSE:

Denied.

72. Registrant has no intention of resuming use of the logo that is the subject of Registration No. 3,447,638.

RESPONSE:

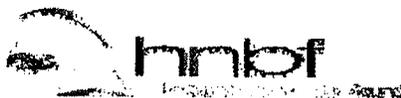
Denied.

73. Registrant has abandoned the mark that is the subject of Registration No. 3,447,638.

RESPONSE:

Denied.

74. Registrant intends to use the following logo as the trademark for its organization going forward:



RESPONSE:

Registrant admits that it intends to use the logo depicted in Request for Admission No. 74 as a trademark for its organization. Otherwise denied.

75. To the extent that there is any use of the logos that are covered by Registrant's Marks, Registrant intends to replace such uses with the new logo shown below:

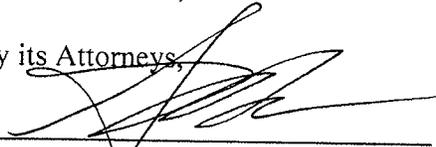


RESPONSE:

Denied.

THE HISPANIC NATIONAL BAR
FOUNDATION, INC.

By its Attorneys,



Anna Kurian Shaw
Lauren C. Chamblee
HOGAN LOVELLS US LLP
555 13th Street NW
Washington D.C. 20004
Telephone: (202) 637-5600

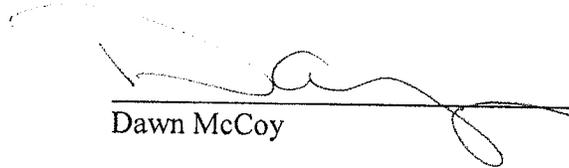
August 1, 2014

Date

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served upon the following attorney of record for Petitioner by First Class Mail, postage prepaid, this 1st day of August, 2014:

SCOTT W JOHNSTON
MERCHANT & GOULD PC
PO BOX 2910
MINNEAPOLIS, MN 55402-0910
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Dawn McCoy