ESTTA Tracking number: **ESTTA499970**
Filing date: **10/15/2012**

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

Proceeding	92055899
Party	Plaintiff Jayson Koss
Correspondence Address	ANDRE DREYFUSS ZARCO EINHORN SALKOWSKI & BRITO PA 100 S E 2ND STREET, BANK OF AMERICA TOWER 27TH FLOOR MIAMIA, FL 33131 UNITED STATES adreyfuss@zarcolaw.com, reinhorn@zarcolaw.com
Submission	Withdrawal of Cancellation
Filer's Name	Andre Dreyfuss
Filer's e-mail	adreyfuss@zarcolaw.com
Signature	/s/ Andre Dreyfuss /Andre Dreyfuss/
Date	10/15/2012
Attachments	Withdrawal of Petition to Cancel.pdf (14 pages)(2019514 bytes)

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

In the matter of Trademark Registration No:.4101367
For the mark: Delivery Dudes, LLC
Date Registered: February 21, 2012.

JAYSON KOSS,

Petitioner,

v.

MARC VINCENT VENEZIANO,

Respondent.
_____/

PETITIONER'S WITHDRAWAL OF PETITION TO CANCEL, DISMISSAL OF CANCELLATION PROCEEDING AND NOTICE OF ASSIGNMENT OF TRADEMARK

Petitioner, JAYSON KOSS (the "Petitioner"), by and through undersigned counsel, hereby submits his Withdrawal of Petition to Cancel, Dismissal of Cancellation Proceeding and Notice of Assignment of Trademark and, in support thereof, states as follows:

1. Petitioner hereby withdraws his Petition to Cancel and dismisses this Cancellation Proceeding.

2. Respondent executed a September 17, 2012 Assignment Agreement reflecting the assignment of the trademark at issue (the "Mark"), "Delivery Dudes, LLC," trademark registration no. 4101367, to Petitioner's company, Delivery Dudes, LLC, a Florida limited liability company whose address is 169 S.E. 1st Ave., Delray Beach, FL 33444. See Exhibit A. As such, Petitioner no longer desires to cancel trademark registration no. 4101367 since Petitioner has been assigned the rights corresponding to trademark registration no. 4101367.

3. Petitioner has recorded the September 17, 2012 Assignment Agreement and filed a Trademark Assignment with respect to the Mark via the U.S. Patent and Trademark Office's

("USPTO") Electronic Trademark Assignment System ("ETAS") reflecting the assignment of the Mark from Respondent to Petitioner's company. See the Trademark Assignment Confirmation Receipt attached hereto as Exhibit B, and the Notice of Assignment attached hereto as Exhibit C.

4. The TTAB issued a September 19, 2012 Notice of Default against Respondent providing Respondent 30 days from September 19, 2012 to file an Answer to Petitioner's Petition to Cancel before the TTAB enters a Default Judgment against Respondent. Petitioner submits that a Default Judgment should not be entered so that Petitioner may keep its rights derived from the Assignment Agreement and because Petitioner hereby dismisses this Cancellation Proceeding and withdraws his Petition to Cancel. Finally, the TTAB issued the September 19, 2012 Notice of Default because Respondent never filed an Answer to the Petition to Cancel by the September 4, 2012 deadline established by the TTAB. The Notice of Default should not have been entered and a Default Judgment should not be entered because Petitioner granted Respondent an extension of time to file an Answer up to October 17, 2012 in order to provide the parties time to draft and execute the Assignment Agreement and other related settlement documents. See Exhibit D.

WHEREFORE, and for the foregoing reasons, Petitioner, JAYSON KOSS, requests that the TTAB: (1) withdraw the Petition to Cancel filed by Petitioner and dismiss or otherwise terminate this Cancellation Proceeding and refrain from entering a Default Judgment against Respondent; and (2) such other and further relief as is deemed just and proper.

Dated: October 15, 2012.

Respectfully submitted,

ZARCO EINHORN SALKOWSKI & BRITO P.A.
Counsel for Petitioner
Bank of America Tower
100 S.E. 2nd Street, 27th Floor
Miami, Florida 33131
Telephone: (305) 374-5418
Facsimile: (305) 374-5428

By: /s/ Andre Dreyfuss
ANDRE DREYFUSS
adreyfuss@zarcolaw.com
Florida Bar No. 0094868
Counsel for Petitioner

CERTIFICATE OF TRANSMISSION

I hereby certify that, on this 15th day of October, 2012 a copy of the foregoing is being electronically transmitted to the United States Patent and Trademark Office

/s/ Andre Dreyfuss
Andre Dreyfuss

CERTIFICATE OF SERVICE

I hereby certify that on this 15th day of October, 2012 a copy of the foregoing was served, on the date indicated below, by US Mail, in packages addressed as follows:

Marc V. Veneziano and Matthew H. Swyers, Esq.
P.O Box 51383
Boston, MA 02205

and

Matthew H. Swyers, Esq.
The Trademark Company
344 Maple Avenue West, Suite 151, Vienna, Virginia 22180

/s/ Andre Dreyfuss
Andre Dreyfuss

ASSIGNMENT

WHEREAS, Marc Vincent Veneziano, whose address is P.O. Box 51383, Boston, MA 00205, has adopted and used in his business a trademark and/or service mark which mark is identified as "Delivery Dudes, LLC" (the "Mark"), which is registered under number 4101367, dated February 21, 2012, in the United States of America; and has agreed to sell said Mark; and

WHEREAS, Delivery Dudes, LLC, a Florida limited liability company, whose address is 169 SE 1st Ave., Delray Beach, FL 33444, has agreed to purchase said Mark and the good will of said Mark;

NOW THEREFORE, to all whom it may concern:

Be it known that for and in consideration of the sum of Ten Dollars ($10.00) and other good and valuable consideration to him in hand paid, the receipt of which is hereby acknowledged, Marc Vincent Veneziano, by these presents does sell, assign, and transfer unto Delivery Dudes, LLC, a Florida limited liability company, the entire right, title and interest in and to the said Mark and the registration thereof, under number 4101367, together with the good will of the Mark and business in connection with which the said Mark was and/or is used.

Executed this 17 day of September, 2012.

By: _____
Marc Vincent Veneziano

MARC V. VENEZIANO
Print Name:

Edward Murphy
Print Name:

STATE OF Massachusetts

COUNTY OF Worcester

The foregoing instrument was acknowledged before me this 17 day of September, 2012, by Marc Vincent Veneziano, who [ ] is personally known by me, or who [X] produced a driver's license as identification.

EDWARD J. MURPHY
Notary Public
COMMONWEALTH OF MASSACHUSETTS
My Commission Expires
April 9, 2013

_____
NOTARY PUBLIC
State of 4/6/13
My Commission Expires:

(Seal)

EXHIBIT
A

Electronic Trademark Assignment System

Confirmation Receipt

Your assignment has been received by the USPTO.
The coversheet of the assignment is displayed below:

TRADEMARK ASSIGNMENT

Electronic Version v1.1
Stylesheet Version v1.1

SUBMISSION TYPE:	NEW ASSIGNMENT
NATURE OF CONVEYANCE:	Assignment

CONVEYING PARTY DATA

Name	Formerly	Execution Date	Entity Type
Marc Vincent Veneziano		09/17/2012	INDIVIDUAL:

RECEIVING PARTY DATA

Name:	Delivery Dudes, LLC
Street Address:	169 SE 1st Avenue

EXHIBIT
B

City:	Delray Beach
State/Country:	FLORIDA
Postal Code:	33444
Entity Type:	LIMITED LIABILITY COMPANY: FLORIDA

PROPERTY NUMBERS Total: 2

Property Type	Number	Word Mark
Serial Number:	85269106	DELIVERY DUDES, LLC
Registration Number:	4101367	DELIVERY DUDES, LLC

CORRESPONDENCE DATA

Fax Number:
Phone: 5619007060
Email: jkoss@delraydeliverydudes.com
Correspondence will be sent to the e-mail address first; if that is unsuccessful, it will be sent via US Mail.
Correspondent Name: Delivery Dudes, LLC
Address Line 1: 169 SE 1st Avenue
Address Line 4: Delray Beach, FLORIDA 33444

NAME OF SUBMITTER:	Jayson Koss
Signature:	/Jayson Koss/
Date:	09/24/2012

Total Attachments: 1
source=delivery dudes assn#page1.tif

RECEIPT INFORMATION

ETAS ID: TM246595
Receipt Date: 09/24/2012
Fee Amount: $65

UNITED STATES PATENT AND TRADEMARK OFFICE
UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE

SEPTEMBER 28, 2012

PTAS

DELIVERY DUDES, LLC
169 SE 1ST AVENUE
DELRAY BEACH, FL 33444

900234162

UNITED STATES PATENT AND TRADEMARK OFFICE
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THE ENCLOSED DOCUMENT HAS BEEN RECORDED BY THE ASSIGNMENT RECORDATION BRANCH OF THE U.S. PATENT AND TRADEMARK OFFICE. A COMPLETE COPY IS AVAILABLE AT THE ASSIGNMENT SEARCH ROOM ON THE REEL AND FRAME NUMBER REFERENCED BELOW.

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RECORDATION DATE: 09/24/2012

REEL/FRAME: 4865/0901
NUMBER OF PAGES: 2

BRIEF: ASSIGNMENT

ASSIGNOR:
VENEZIANO, MARC VINCENT

DOC DATE: 09/17/2012
CITIZENSHIP: NONE
ENTITY: INDIVIDUAL

ASSIGNEE:
DELIVERY DUDES, LLC

169 SE 1ST AVENUE
DELRAY BEACH, FLORIDA 33444

CITIZENSHIP: FLORIDA
ENTITY: LIMITED LIABILITY COMPANY

SERIAL NUMBER: 85269106
REGISTRATION NUMBER: 4101367
MARK:
DRAWING TYPE:

FILING DATE:
REGISTRATION DATE:

SERIAL NUMBER: 85269106
REGISTRATION NUMBER: 4101367
MARK: DELIVERY DUDES, LLC
DRAWING TYPE: STANDARD CHARACTER MARK

FILING DATE: 03/17/2011
REGISTRATION DATE: 02/21/2012

EXHIBIT
C

ASSIGNMENT RECORDATION BRANCH
PUBLIC RECORDS DIVISION

Andre Dreyfuss

From: Andre Dreyfuss
Sent: Monday, September 24, 2012 6:27 PM
To: 'Anthony M. Verna III'
Subject: RE: FW: Marc Veneziano-Delivery Dudes

Mr. Verna: I agree to your below request for a 30 day extension so that the Answer isn't due until October 17, 2012.

From: Andre Dreyfuss
Sent: Monday, September 17, 2012 11:17 AM
To: 'Anthony M. Verna III'
Subject: RE: FW: Marc Veneziano-Delivery Dudes

Anthony: I'd like to work with you in providing enough time for the necessary settlement documents to be executed but would like to discuss your below request for a 30 day extension (just left you a voicemail). For example, one issue with your request is that the Board has set an October 4, 2012 deadline for the parties to participate in a discovery conference. At this time I will stipulate to another week extension so that the Answer is not due until September 25, 2012. I am amenable to providing further extensions, but would like to discuss with you before doing so. Please call me at your earliest convenience.

Thank you,

Andre Dreyfuss, Esq.

ZESB
ZARCO EINHORN SALKOWSKI & BRITO, P.A.

Bank of America Tower at International Place
100 S.E. 2nd Street, Suite 2700
Miami, FL 33131
Telephone: (305) 374-5418
Facsimile: (305) 374-5428
adreyfuss@zarcolaw.com
www.zarcolaw.com

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EXHIBIT
D

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From: Anthony M. Verna III [mailto:averna@kravitzverna.com]
Sent: Monday, September 17, 2012 10:53 AM
To: Andre Dreyfuss
Subject: RE: FW: Marc Veneziano-Delivery Dudes

Andre,

May we stipulate this out to 30 days? We're almost done, but I'd rather just have this stipulation so we can notify the board that settlement negotiations are being done in earnest.

Thank you.

-Anthony

Kravitz & Verna LLC
Anthony M. Verna III
averna@kravitzverna.com
Phone/Fax: 212-729-5651

http://www.linkedin.com/in/anthonyverna
http://facebook.com/anthonyvernalaw
http://twitter.com/avernalaw

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From: Andre Dreyfuss [mailto:ADreyfuss@zarcolaw.com]
Sent: Tuesday, September 11, 2012 9:11 AM
To: 'Anthony M. Verna III'
Subject: RE: FW: Marc Veneziano-Delivery Dudes

Yes, you can file that I stipulate that the Answer isn't due until September 18, 2012 in order to give time for the parties to execute the documents reflecting transfer of the mark at issue to my client.

From: Anthony M. Verna III [mailto:averna@kravitzverna.com]
Sent: Monday, September 10, 2012 12:56 PM
To: Andre Dreyfuss
Subject: RE: FW: Marc Veneziano-Delivery Dudes

Mr. Dreyfuss,

Can we file this with the TTAB so no notice of default is filed?

Thank you.

Anthony M. Verna III
Kravitz & Verna LLC
http://kravitzverna.com
http://facebook.com/anthonyvernalaw
Phone/Fax: 212-729-5651

Sent from my Tablet - please excuse any misspellings.

Andre Dreyfuss <ADreyfuss@zarcolaw.com> wrote:

Mr. Verna,

As indicated below, your client has accepted my client's offer to pay for the trademark at issue. I understand that the parties need an additional week to draft the necessary documents. I stipulate to another week extension for Mr. Veneziano to file an Answer to the Petition to Cancel in Cancellation Proceeding No. 92055899 which my client initiated against Mr. Veneziano with the Trademark Trial and Appeal Board ("TTAB"), or until September 18, 2012. I anticipate that the documents reflecting the transfer of the mark to my client will be executed before September 18, 2012, and will file such documents with the TTAB in concluding the case.

Thank you,

Andre Dreyfuss

From: Ryan Sturgis [mailto:ryan.sturg@gmail.com]
Sent: Friday, September 07, 2012 12:42 PM
To: Andre Dreyfuss
Subject: Fwd: Marc Veneziano-Delivery Dudes

From: Anthony M. Verna III [mailto:averna@kravitzverna.com]
Sent: Friday, September 07, 2012 10:43 AM
To: Walter Morgan
Subject: RE: Marc Veneziano-Delivery Dudes

Walter,

As we had discussed on the phone, your client will pay my client $5,000 upon execution and then $2,500 on December 15.

We will accept this offer.

Would you like to draw up the contract?

Also, I would like to file my appearance along with a request to extend the proceeding, just so that the clock is tolled. Will you please confirm that with Mr. Dreyfuss so we can stipulate this?

-Anthony

Kravitz & Verna LLC

Anthony M. Verna III
averna@kravitzverna.com
Phone/Fax: 212-729-5651

http://www.linkedin.com/in/anthonyverna