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

Proceeding	92056168
Party	Defendant Quentin Davis
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Date	06/11/2013
Attachments	REGISTRANTS_OBJECTION_TO_PETITIONERS_MOTION_TO_COMPEL INTERROGATORIES AND REQUESTS FOR PRODUCTION with BRIEF.pdf(1840532 bytes )

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

IN THE MATTER OF REGISTRATION NO.: **4,106,459**

for the mark **LEGENDARY**

**Date of Issue: February 28, 2012**

LEGEND PICTURES, LLC,	)	
	)	
Petitioners,	)	
	)	
v.	)	Proceeding No. <u>92056168</u>
	)	
	)	
QUENTIN DAVIS	)	
Registrant.	)	
	)	

**REGISTRANT’S OBJECTION TO PETITIONER’S MOTION TO  
COMPEL INTERROGATORIES AND REQUESTS FOR PRODUCTION**

In accordance with TBMP 405.03(d), 405.03(e), and 403.05(e) Registrant has filed objection to Petitioner’s interrogatories and accompanying document requests on the grounds of excessive length.

Registrant does respectfully request that the Board deny Petitioner’s requests listed in Petitioner’s 5/30/2013 MOTION TO COMPEL for the reasons listed in accompanying brief.

Registrant has attached a brief in support and explanation of the actions and requests Registrant has presented.

Respectfully submitted,

/Quentin Davis/  
Quentin Davis – Registrant  
P.O. Box 47893  
Tampa Fl. 33646

6/11/2013

Date

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QUENTIN DAVIS	)	
Registrant.	)	
	)	

**BRIEF IN SUPPORT OF REGISTRANT’S OBJECTION TO  
PETITIONER’S MOTION TO COMPEL INTERROGATORIES AND  
REQUESTS FOR PRODUCTION**

Out of respect and consideration for the time of the Board, I will attempt to keep this brief as abrupt as possible.

I would like to begin this brief by swearing under oath and risk of penalty of perjury to the Trademark Trial and Appeal Board that **I have not been assisted, instructed, advised, or managed in any way, shape, form, or matter by any legal counsel or attorney or any person through the entirety of this proceeding nor do I have any substantial legal training.** The only assistance I have had whatsoever has been clerical (printing of documents, certificates of service etc.). The actions, statements, filings, and written correspondences occurring on my behalf within this proceeding have been the product of much research and effort solely on my part. I am making this fact expressly aware due to Petitioner’s several remarks alleging otherwise.

I revealed information concerning my personal income (<12,000 annually – please see exhibit D) with the Petitioner to express that had I the funds for such; I would have hired legal counsel. I am not without counsel by choice, but circumstance.

On 5/22/2013 I offered my sincere apology to the Petitioner for my lack of knowledge of how to retract my 'Notice of Taking Testimony' (please see exhibit H). Had I any legal counsel in this matter, Not only would I have refrained from submitting a 'Notice of Taking Testimony' to begin with, I would also have known the proper method to retract posts to the TTAB that are no longer desired or submitted in error (thus eliminating the need for the apology).

While the Petitioner would insult my intelligence as alleged proof that I have legal counsel...

*"Davis is playing fast and loose with counsel for Petitioner and the Board. As the Board clearly will note from Davis' Answer to the petition to cancel, he has legal assistance in this proceeding. No pro se without legal training or assistance could have drafted the Answer filed – or other papers served - in this case."*

(please see page 16 [paragraph 3] of Petitioner's 5/30/2013 MOTION TO COMPEL - TTAB document #19)

...I will accept this as a compliment to my diligence in this proceeding. Although I do not have the legal savvy and experience of the Petitioner's counsel, I have done and will continue to do my best to comply with the guidelines and rules for civil procedure. I do assure the Board that I currently am and have been without any legal counsel whatsoever during this entire proceeding. I will hereafter refer to myself as 'Registrant'.

Below is a timeline of events which Registrant has determined as relevant concerning Petitioner's MOTION TO COMPEL and Registrant's OBJECTION TO PETITIONER'S MOTION TO COMPEL.

#### TIMELINE OF EVENTS

1. 11/23/2012 – Discovery opened
2. 12/23/2012 – Initial disclosures due
3. 3/14/2013 – Petitioner served discovery requests upon Registrant (Exhibit A)
4. 4/10/2013 – Petitioner contacted Registrant by phone to discuss receipt of discovery requests
5. 4/13/2013 – Registrant filed objection to Petitioner's production requests
6. 4/27/2013 – Registrant served discovery requests upon Petitioner (Exhibit B)
7. 4/29/2013 – Petitioner contacted Registrant to dispute objection (Exhibit C)
8. 5/1/2013 – Registrant offered resolution to Petitioner's dispute (Exhibit D)
9. 5/2/2013 – Petitioner declined Registrant's offer and offered re-count of interrogatories (Exhibit E)

10. 5/3/2013 – Registrant disputed re-count and offered another resolution to Petitioner (Exhibit F)
11. 5/7/2013 – Petitioner declined Registrant’s second offer (Exhibit G)
12. 5/22/2013 – Discovery for Proceeding 92056168 closed.
13. 5/22/2013 – Petitioner filed MOTION TO COMPEL expert witness
14. 5/22/2013 – Registrant contacted Petitioner to apologize for any misunderstanding concerning expert testimony. (Exhibit H)
15. 5/27/2013 – Registrant withdrew NOTICE OF TAKING TESTIMONY
16. 5/28/2013 – Petitioner served inadequate response to Registrant’s discovery requests
17. 5/30/2013 – Petitioner filed MOTION TO COMPEL discovery requests.

Petitioner served discovery requests to the Registrant and did contact Registrant by phone to discuss receipt of requests and delivery of responses. In that conversation, Registrant did express some concerns involving Petitioner’s discovery requests. Petitioner expressed that all of Registrant’s further concerns needed to be in writing and that Petitioner would contact Registrant if there were any disputes. Registrant was not aware of the guidelines concerning relief for overly extensive interrogatories at the time of the conversation but was informed by Petitioner that further concerns were required to be in writing. Upon discovery of guidelines for relief concerning extensive interrogatories accompanied by Petitioner’s revelation that concerns were to be in writing, Registrant filed the objection on 4/13/2013.

Registrant’s actions in filing objection to Petitioner’s discovery requests were in compliance of TBMP 405.03(e).

*Jan Bell Marketing, Inc. v. Centennial Jewelers, Inc.*, 19 USPQ2d 1636, 1637 (TTAB 1990)

*opposer was required only to have an honest belief that the interrogatories exceeded the limitation imposed by Trademark Rule 2.120(d)(1) and was under no further obligation to allege that the interrogatories were burdensome.*

When Petitioner finally did contact Registrant on 4/29/2013 concerning the objection, the written correspondence did not contain any explanation whatsoever concerning the Petitioner’s **16 day delay** to respond. In the correspondence Petitioner quoted a very small and contextually inaccurate portion of TBMP 405.03(d) and demanded that Registrant consent to extension of discovery. (please see exhibit C ). This correspondence appeared to be an attempted intimidation tactic toward the Registrant as Petitioner did not seek to come to any amicable resolution. The Petitioner’s correspondence was filled with “demands” and flagrant tones including a parting vow to “vigorously pursue [Petitioner’s] remedies against [Registrant]”.

**Petitioner offered absolutely no response whatsoever to Registrant’s objection for a period of sixteen days.** Petitioner claims that Registrant is acting under legal counsel yet Petitioner’s behavior is absolutely contradictory to this claim. Surely the Petitioner would not be so lax in responsive action if there was truly a concern of Registrant having legal counsel.

Petitioner’s unexplained delay of response displayed a lack of reverence for Registrant’s pro se status as well as it displayed lack of urgency in resolving any alleged dispute Petitioner may claim to have. **Petitioner may not accuse Registrant of hindering discovery when Petitioner deprived itself of over 2 additional weeks of discovery for no apparent reason at all.**

Registrant did respond to Petitioner on 5/1/2013 and did explain to Petitioner why the objection was asserted. Registrant quoted a section of TBMP 405.03(d) to explain why Registrant disagreed with Petitioner’s interrogatory count...

*If an interrogatory requests information concerning more than one issue, such as information concerning both “sales and advertising figures,” or both “adoption and use,” the **Board will count each issue on which information is sought as a separate interrogatory.** TBMP 405.03(d) [Note 7] (please see exhibit D)*

Registrant also reminded Petitioner that TBMP 405.03(d) contains seven paragraphs (in the form of 8 Notes) all pertaining to the issue of current dispute...

*“I find it extremely peculiar (especially given your experience and employment history with the USPTO) that although TBMP 405.03(d) contains **seven** paragraphs in the form of 8 notes, you chose to list only the latter half of, and contort the context of a single paragraph - paragraph 6 which is also Note 7. Surely if you had even considered just that single paragraph in its entirety (Note 7), you would have clearly understood that **the interrogatories you served were FAR from reasonably and acceptably compliant with TBMP 405.03(d).**” (please see exhibit D)*

Registrant displayed a recount of the first 2 of Petitioner’s interrogatories and requested that Petitioner see TBMP 405.03(d) in its entirety to reference Registrant’s count...

*“(For any confusion involving re-count #s 7, 14, and 15, please see specifically TBMP 405.03(d) Notes 1 and 2 concerning subparts. For any confusion involving re-count # 10, please see specifically TBMP 405.03(d) Notes 3, 4, and 5 concerning two or more questions combined in a single compound interrogatory and follow-up questions. For any confusion involving all other re-count #s, please see TBMP 405.03(d) in its entirety [most relevantly Notes 6 and 7])” (please see exhibit D)*

Registrant also offered to answer a properly revised set of interrogatories and document requests in this correspondence. Registrant performed these actions in good faith effort to resolve Petitioner's alleged dispute.

In Petitioner's 5/2/2013 response, Petitioner challenged Registrant's interpretation of TBMP 405.03(d) [Note 7] but refused entirely to address any other portion of TBMP 405.03(d). Petitioner also served a confusingly revised (yet still inaccurate) count of Petitioner's interrogatories that increased their number from 21 to at least 61 (please see exhibit E).

**If Petitioner was truly interested in resolving a dispute, Petitioner's initial response to Registrant concerning Registrant's objection would have contained the extended re-count of Petitioner's overly extensive interrogatories that Petitioner's second correspondence did. Petitioner has far too much experience in these matters to regard an interrogatory miscalculation that determines 21 interrogatories to be at least 61 as mere oversight.**

The fact that Petitioner made several unreasonable demands before even attempting a proper resolution proves that not only is Petitioner aware of Registrant's pro se status, **Petitioner is showing an extreme lack of respect for the Registrant by attempting to intimidate and exploit the vulnerabilities of the Registrant's uninformed nature in this proceeding.** Though Petitioner may find Registrant to be articulate, Petitioner is well aware that Registrant is no professional at law.

On 5/3/2013 Registrant responded to Petitioner and disputed Petitioner's re-count by citing several portions of TBMP 405.03(d) including notes 3,4,and 6. Registrant also raised the question of why Petitioner was clearly avoiding all other portions of TBMP 405.03(d) and was only emphasizing *half* of Note 7 (please see exhibit F) but received no answer. Registrant had previously suggested to Petitioner that if Petitioner would comprehend Note 7 in its entirety, this would alleviate any confusion concerning the disputed re-counts (please see exhibit F). Petitioner had made it very clear that it had absolutely no intention to comply with or address any other portion besides the latter half of TBMP 405.03(d) albeit in poor context.

Despite the regulations listed in TBMP 403.05(e) [Note 6]...

*"... a party may properly refuse to respond to a document request seeking all documents identified or referred to in response to interrogatories if the number of interrogatories is believed to be excessive. [Note 6.]"*

**...Registrant did offer to respond to production requests which were not linked to interrogatories** (please see exhibit F). **Petitioner declined this offer on 5/07/13** (please see exhibit G).

**Registrant will ask the Board to note that even in brief of Petitioner's motion; Petitioner still refuses to even acknowledge any other portion of TBMP 405.03(d) as they do concisely and expressly refute Petitioner's initial and secondary interrogatory calculations.**

Petitioner did allege costliness as a ground for disbelief of Registrant's use of services listed in Registration #4106459 for the mark "LEGENDARY" in the brief.

*"This cancellation proceeding involves Petitioner's claim that Davis, an individual who allegedly makes \$12,000 per year, has not used its alleged LEGENDARY mark and name on the wide variety of expensive entertainment services listed in his registration."*

(please see page 6 [paragraph 3] of Petitioner's 5/30/2013 MOTION TO COMPEL - TTAB document #19)

Petitioner is apparently unaware that although the services listed in Registration #4106459 have the potential to be costly to perform, they are not required to be. Almost every service listed in Registration #4106459 may be performed through the singular or combined utilization of:

1. a laptop computer,
2. a video camera
3. inexpensive computer peripherals (software, hardware, etc.)

The fact that the Petitioner would even imply that any of these services may be out of the Registrant's ability to perform due to monetary constraints is drollery.

Petitioner has made accusations of Registrant's depriving them of discovery and have also referred to their actions in this matter as, "timely and legitimate" yet - **after initial disclosures had been served, Petitioner waited approximately 3 months to issue a single discovery request to Registrant.**

Upon Registrant's objection to Petitioner's discovery requests, **Petitioner waited another unexplained 16 days to respond.** Registrant will ask the Board to notice that **Petitioner voluntarily waived discovery effort for over 3 months without reasonable cause.**

In light of Petitioner's experience in these matters, **the actions Petitioner employed are intentionally irresponsible and do inconvenience and lengthen this proceeding without explanation or necessity.**

Registrant should not be forced to endure another lengthy session of discovery simply because Petitioner squandered its opportunities without cause. Petitioner has also conjured several other false arguments concerning the Registrant that are not necessary to address at this time.

### Conclusion

Registrant asks that the Board recognize the actions of the Registrant as rightfully compliant with civil procedure under the regulations listed in TBMP 405.03(d), 405.03(e), and 403.05(e).

Registrant also asks that the Board deny Petitioner's requests issued in 5/30/2013 'Motion to Compel' as Petitioner's own extensively delayed actions are the cause of any lack of discovery opportunity Petitioner alleges.

Respectfully submitted,

/Quentin Davis/  
Quentin Davis – Registrant  
P.O. Box 47893  
Tampa Fl. 33646

6/11/2013  
Date

**CERTIFICATE OF SERVICE**

I hereby certify that on this 11th day of June 2013, a true and complete copy of the foregoing **REGISTRANT'S OBJECTION TO PETITIONER'S MOTION TO COMPEL INTERROGATORIES AND REQUESTS FOR PRODUCTION & BRIEF IN SUPPORT OF REGISTRANT'S OBJECTION TO PETITIONER'S MOTION TO COMPEL INTERROGATORIES AND REQUESTS FOR PRODUCTION** was served to Petitioner via electronic mail to:

Carla Calcagno and Janet Ricciuti at e-mail addresses:

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and

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