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

Proceeding	92056168
Party	Plaintiff Legend Pictures LLC
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Date	06/26/2013
Attachments	LEGEND'S REPLY IN SUPPORT OF MOTION TO AMEND.pdf(31369 bytes )

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

LEGEND PICTURES, LLC,	)	
	)	
Petitioner	)	
	)	
v.	)	Cancellation No. 92056168
	)	
QUENTIN DAVIS,	)	
	)	
Defendant	)	

**PETITIONER’S REPLY IN FURTHER SUPPORT OF MOTION FOR LEAVE TO  
AMEND THE PETITION TO CANCEL**

Petitioner files this short reply brief in further support of its Motion for Leave to Amend. As indicated in its moving papers, precedent mandates that leave to amend pleadings should be freely granted, when justice so requires, provided the proposed amendment would not violate settled law or be prejudicial to the rights of the adverse party. See e.g., See, Avedis Zildjian Co. v. D.H. Baldwin Co. 180 USPQ 539 (TTAB 1973).

These requirements are all met here. The motion is clearly timely as it is filed pre-trial. Further, as it will permit the Board to hear all facts pertinent to likelihood of confusion, justice clearly will be served by permitting the amendment. VanDyne Cotty Inc. v. Wear-guard Corp, 926 F2d 1156, 17 USPQ2d 1866, 1867 (Fed Cir 1991); Cudahy Co v August Packing Co. 206 USPQ 759 (TTAB 1979) [Petitioner permitted to plead ownership of registrations acquired after the filing of the Notice of Opposition]. And as he has been aware of these issues by Petitioner since he filed his Answer, and has taken

discovery on these issues, Defendant cannot be prejudiced by allowance of this amendment. *Id.* Where, as here, a party seeks leave to amend the Cancellation to amplify its allegations so that the Board may decide a case based on “the fullest exposure of all pertinent circumstances,” the Board has consistently granted such amendments. See, *Avedis Zildjian Co. v. D.H. Baldwin Co.* 180 USPQ 539 (TTAB 1973).

Defendant’s arguments are meritless. Rather than evading his equitable defenses, the pleadings serve to amplify claims and facts that the parties have been aware of since the commencement of the proceeding. Indeed, Defendant has already extensively taken discovery on these claims and facts, as shown by Defendant’s discovery requests attached to Petitioner’s Motion to Amend as Exhibit A.

Wherefore, Petitioner respectfully requests that the Board grant its Motion for Leave to Amend the Petition to Cancel and set a time for Defendant to answer.

Respectfully submitted,

Legend Pictures, LLC

Date June 26, 2013

By\_\_ /*Carla C. Calcagno*/ \_\_  
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on June 26, 2013 a true and accurate copy of the foregoing:

**PETITIONER'S REPLY IN FURTHER SUPPORT OF MOTION FOR LEAVE TO  
AMEND THE PETITION TO CANCEL**

was served by agreement of the parties on Defendant by emailing a copy of the same to [nevisbaby@hotmail.com](mailto:nevisbaby@hotmail.com) and [tharilest@yahoo.com](mailto:tharilest@yahoo.com).

/Carla Calcagno/