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Filing date: **03/20/2014**

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

Proceeding	92056168
Party	Defendant Quentin Davis
Correspondence Address	QUENTIN DAVIS PO BOX 47893 TAMPA, FL 33646 UNITED STATES nevisbaby@hotmail.com, ThaRilest@yahoo.com
Submission	Opposition/Response to Motion
Filer's Name	Quentin Davis
Filer's e-mail	nevisbaby@hotmail.com,tharilest@yahoo.com
Signature	/Quentin Davis/
Date	03/20/2014
Attachments	REGISTRANTS RESPONSE TO PLAINTIFFS 3_10_2014 MOTION.pdf(647240 bytes ) Exhibit_D_REGISTRANT'S FIRST SET OF INTERROGATORIES & DOCUMENT REQUESTS.pdf(242555 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,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Proceeding No. <u>92056168</u>
	)	
	)	
QUENTIN DAVIS	)	
Registrant.	)	
	)	

**REGISTRANT’S RESPONSE TO PLAINTIFF’S 3/10/2014 MOTION**

On 3/10/2014 the Plaintiff did submit to the Trademark Trial and Appeal Board a motion to extend discovery on the Plaintiff’s behalf and sole benefit, and did also reveal that Plaintiff is currently filing a motion for sanctions on the Plaintiff’s behalf that would include a request for default judgment. The Registrant) does hereby respond to this motion.

I would like to once again state clearly and expressly before the Board that I have been without legal counsel during the entirety of this proceeding. In an attempt to respect the formalities of civil procedure, I have referred to myself as “the Registrant”. The Plaintiff appears to be utilizing this 3<sup>rd</sup> person method of reference as a tool to convince the Board otherwise (as Plaintiff’s mentions in the current motion and several past would confirm) so I will further refer to myself as “I” or “me”. I make this point clear and known because though the Plaintiff is fully aware of my pro se status, In an attempt to exploit my lack of experience with matters of civil procedure, the Plaintiff would seek sanctions against me for responsibilities that the Plaintiff is itself in violation of.

In its 3/10/2014 motion, the Plaintiff did include what it referred to as 'background facts' but in an attempt to encourage the Board's reproof of me, the Plaintiff did neglect to mention several important occurrences during that timeline. The following are several extremely relevant occurrences which were not included...

Plaintiff claims that I refused to answer any of its discovery requests yet on 04/13/2013 I did submit a timely and compliant objection to the Plaintiff's discovery requests on the grounds of excessive length. (Please see TTAB documents #9 and #10)

4/27/2013 - I served discovery requests to the Plaintiff including interrogatories and document requests. Please see exhibit A - (certificate of service showing date I served discovery requests to Plaintiff)

There are several facts concerning these requests and the Plaintiff that the Plaintiff has neglected to mention.

1. 5/28/2014 Plaintiff served inadequate response to my discovery requests. Civil procedure requires that discovery requests be responded to within 30 days but Plaintiff served no documents to me on this date. Please see exhibit B - (Plaintiff's unsigned certificate of service showing date of service [No documents were served to me at this time. Plaintiff only served objections and claims of privilege without privilege log])

**PLEASE NOTE - PLAINTIFF SERVED ABSOLUTELY NO DOCUMENTS WHATSOEVER TO ME AT THIS TIME.**

2. Plaintiff's 5/28/2014 responses were all but entirely objections and claims of privilege.

**PLEASE NOTE - PLAINTIFF'S RESPONSES CONTAINED SEVERAL CLAIMS TO PRIVILEGE BUT CONTAINED ABSOLUTELY NO PRIVILEGE LOG.**

(I will submit proof of the Plaintiff's lack of compliance at the Board's request)

3. 7/23/2013 Plaintiff served via U.S. Postage a USB flash drive containing non-searchable pages of documents which appear to be film scripts. Please see exhibit C – (Plaintiff’s certificate of service showing date of document service [an unrequested, unexcused delay of 2 months after Plaintiff was required to serve these documents])

**PLEASE NOTE – PLAINTIFF FAILED TO SERVE A SINGLE RESPONSIVE DOCUMENT FOR THREE WHOLE MONTHS FROM THE DATE IT HAD BEEN SERVED.**

As I am pro se and unfamiliar with many of the practices of civil procedure, I believed the Plaintiff’s actions to be mostly compliant. I am unfamiliar with what constitutes a privilege log and I was also under the impression that it must be customary to allow the respondent an undefined period of time to serve the documents they deem necessary. I was under the impression that a privilege log meant stating what privileges the requested information is entitled to. As this is the only method the Plaintiff employed, I likewise believed my submission to contain a privilege log. I had absolutely no intention of excluding an actual privilege log. I did also inform Plaintiff within the time specified that I was having trouble with drives containing certain documents and that I had full intentions of serving applicable documents to the Plaintiff as soon as possible.

**The Plaintiff’s argument to deprive discovery**

The Plaintiff mentioned its 10/31/2013 Motion which was filed on a basis of contingency.

*“**Assuming the Director denies Davis’ Petition,** Legend also moves to extend discovery solely on Legend’s behalf.”*

(Please see Plaintiff’s 10/31/2013 motion. TTAB Document #30, Page #3, paragraph 3)

Plaintiff makes the argument that I have no need for further discovery because I did not file an objection to its motion. As the Plaintiff’s motion was contingent pending the Director’s decision concerning the 10/4/2013 petition, I was under the understanding that a response was not required until a decision was presented. Seven days after the Director’s 12/31/2013 decision had been presented

(and also as I was drafting a response of opposition to the contingent motion) an interlocutory decision had been presented concerning the contingent motion. The Plaintiff should not be at liberty to decide whether or not I require additional discovery for any reasons or basis it may convey.

### **The Plaintiff's argument concerning timeliness**

The Plaintiff falsely claims that the 1/7/2014 Interlocutory order specified my required response by 1/22/2014 when in fact the order specified that my responses be served within 15 days of the order. My 10/23/2014 response to the Plaintiff was timely within 15 days as January 20<sup>th</sup> is a Federal Holiday. (Please note that Plaintiff did also serve discovery responses 'late' while claiming 2013's Memorial Day as an excusable federal holiday)

### **The Plaintiff's argument concerning objections**

The discovery requests that I served to the Plaintiff were extremely concise and direct. However, Plaintiff's responses to every single one of my requests included several objections, many with claims of privilege and still excluding a privilege log. Please see additionally posted exhibit D (Registrant's discovery requests).

I did not object to any of the Plaintiff's discovery requests for effort of mere defiance. All of my objections which were not asserted due to privilege were for the fact that Plaintiff's requests were heavily convoluted and too confusing to accurately answer, or they called for me to make factual statements on the behalf of individuals that I am unfamiliar with.

If it does please the Board, I will make any necessary alterations to my responses to the Plaintiff's discovery requests.

### **Important Facts**

While the Plaintiff has inaccurately summarized and belittled many of the exhibits I served as supporting documents of use, Plaintiff neglected to mention that **I did serve several exhibits proving my irrefutable use of the mark LEGENDARY before the date application for Registration #4106459.** Some of these include:

1. An excerpt of live stage performance occurring in 2009 in which I identify myself on stage as Legendary and,
2. A link to a music video which is posted and dated June 9, 2010 on the internet in which I refer to myself as “Legendary” and which also contains dated comments from several individuals referring to me as “Legendary”. Accompanying the video description, I did also ask individuals to contact me if they are interested in acquiring my services (also on June 9, 2010)

### **Summary and conclusion**

Plaintiff did not bring any of its concerns to my attention prior to its motion. If the Plaintiff had discussed its concerns with me amicably, I believe we could have come to an understanding. It is disturbing that Plaintiff would seek sanctions against me for responsibilities that it is itself in violation of, but violations that the Plaintiff has itself committed first.

- Plaintiff objected to all of my discovery requests without merit
- Plaintiff excused itself for a federal holiday but would attempt sanctions against me for the same
- Plaintiff delayed discovery to me for 3 months from date Plaintiff was served
- Plaintiff **did not produce** and **still has not** produced a privilege log for any of its claimed privileges.

If and when the Plaintiff moves for summary judgment on its behalf, I will oppose with the inclusion of these merits.

While it is quite clear that the Plaintiff is a professional in this field, I have maintained a pro se status during the entirety of this proceeding. I have and will continue to do my best to comply with the requirements of civil procedure but I do humbly ask the Board not to punish my mistakes for lack of knowledge while turning a blind eye to the Plaintiff's intentional indiscretions.

In light of this information which was previously unrevealed to the Board, I do respectfully implore that the Board deny Plaintiff's 3/10/2014 motion for unilateral discovery extension.

Respectfully Submitted,

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

March 20, 2014

Date

## CERTIFICATE OF SERVICE

I hereby certify that on this 20th day of March 2014, a true and complete copy of the foregoing **REGISTRANT'S RESPONSE TO PLAINTIFF'S 3/10/2014 MOTION** was served to Plaintiff via electronic mail to:

Carla Calcagno at e-mail addresses:

**carla.calcagno@calcagnolaw.com**

and

**cccalcagno@gmail.com**

Calcagno Law  
1250 24th Street NW, Suite 300  
Washington, DC 20037

/Gloria Walters/

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Gloria Walters  
Administrative Assistant to the Registrant  
P.O. Box 47893  
Tampa, Florida 33646

# EXHIBIT A

**CERTIFICATE OF SERVICE**

I hereby certify that on this 27th day of April 2013, a true and complete copy of the foregoing REGISTRANT'S FIRST SET OF INTERROGATORIES & REGISTRANT'S FIRST REQUESTS FOR PRODUCTION OF DOCUMENTS (Proceeding No. 92056168) was served to Petitioner via electronic mail to:

Carla Calcagno at e-mail addresses:

**carla.calcagno@calcagnolaw.com**

and

**cccagno@gmail.com**

Calcagno Law  
2300 M Street, N.W., Suite 800  
Washington, D.C. 20037

/Gloria Walters/

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Gloria Walters  
Administrative Assistant to the Registrant  
P.O.Box 47893  
Tampa, Florida 33646

# EXHIBIT B

CERTIFICATE OF SERVICE

I hereby certify that on this 28<sup>th</sup> day of May 2013, true and accurate copies of **PETITIONER'S ANSWERS AND OBJECTIONS TO DEFENDANT'S FIRST SET OF INTERROGATORIES; PETITIONER'S RESPONSES TO DEFENDANT'S FIRST REQUESTS FOR PRODUCTION OF DOCUMENTS, and WILLHITE JURAT FOR DAVIS FIRST SET OF INTERROGATORIES** was served by agreement of the parties by emailing copies of the same to Defendant at the following email addresses:

[nevisbaby@hotmail.com](mailto:nevisbaby@hotmail.com)

and

tharilest@yahoo.com

# EXHIBIT C

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on July 23, 2013 a USB containing a true and accurate copy of:

***LEGEND PICTURES LLC's DOCUMENT NUMBERS 0001 to 0007025 in response to DEFENDANT DAVIS' FIRST SET OF DISCOVERY REQUESTS*** was served on Defendant via USPS, First Class Mail to:

Mr. Quentin Davis  
P.O. Box 47893  
Tampa, Florida 33646



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Janet G Ricciuti

# EXHIBIT D

*(Attached Separately)*

**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 FIRST SET OF INTERROGATORIES**

In accordance with Rule 33 of the Federal Rules of Civil Procedure and Rule 2.120 of the Trademark Rules of Practice, Registrant requests that Petitioner serve sworn answers to the following interrogatories. Answers are to be served via electronic mail to:

NevisBaby@hotmail.com

&

ThaRilest@yahoo.com

## DEFINITIONS AND INSTRUCTIONS

For the purposes of this interrogatory, the term “document” shall constitute;

- (a) anything which is not itself a location, and
- (b) anything which does not have a pulse.

For the purposes of this interrogatory, the term “person” (also people) shall constitute;

- (a) any human or group of humans capable of comprehension (i.e. individuals, organizations, groups, etc.)

For the purposes of this interrogatory, the term “identify” shall constitute the thorough revelation of;

- (a) the name, specific subject matter, medium of existence (pamphlet, film, magazine, etc.), source, author, publisher, date of publication (and any other applicable dates), duration (time length, page length, word count, etc.), location, geographic region of circulation.
- (b) In addition to subsection “(a)”, include full URL (website address) for documents which are online.
- (c) **NOTE:** the currently applied conditions for the term “identify” are intended as a means of discovery and are not to be misconstrued or taken out of context in relation to the term “identifying” (i.e... how long has Petitioner been identifying itself as...). The term “identifying” shall be understood to be unaltered from reasonable definition throughout this document.

The term “Registrant” refers to Quentin Davis who is the legal owner of registration # 4106459 for the mark “Legendary”.

The term “Petitioner” refers to Legend Pictures, LLC and any person hired or performing on their behalf.

Interrogatories including terms “Legendary” and “Legendary Pictures” are to be applied to all instances involving the terms within the scope of the interrogatory whether or not an identifying mark (i.e. medallion) is or was also present in those instances.

## INTERROGATORIES

### Interrogatory No. 1

List the release date of the first motion picture in which Petitioner began advertising itself as “Legendary Pictures”.

### Interrogatory No. 2

Identify the motion picture that pertains to Interrogatory No. 1.

### Interrogatory No. 3

List the release date of the first motion picture in which Petitioner began advertising itself as only “Legendary”.

### Interrogatory No. 4

Identify the motion picture that pertains to Interrogatory No. 3.

### Interrogatory No. 5

Identify the first document in which Petitioner began advertising itself as only “Legendary”.

### Interrogatory No. 6

Identify all media outlets that have referred to Petitioner as only “Legendary”.

### Interrogatory No. 7

Identify all documents in media outlets referring to Petitioner as only “Legendary”.

### Interrogatory No. 8

Explain why Petitioner altered counsel during the discovery phase of proceeding # 92056168.

Interrogatory No. 9

Explain why Registrant's trademark was unopposed by Petitioner during the opposition period of registration # 4106459.

Interrogatory No. 10

Explain why Petitioner's registrations #3656926 & #3621043 were altered from "Legendary Pictures" to "Legendary" after Petitioner was made aware of Registrant's established mark.

Interrogatory No. 11

Identify any actual confusion concerning the Petitioner's marks and registration #4106459.

Interrogatory No. 12

Identify any proof of fraud concerning the Registrant.

Respectfully Submitted,

/Quentin Davis/

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

4/27/2013

Date

**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,	)	
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Petitioners,	)	
	)	
v.	)	Proceeding No. <u>92056168</u>
	)	
	)	
QUENTIN DAVIS	)	
Registrant.	)	
	)	

**REGISTRANT’S FIRST REQUESTS FOR  
PRODUCTION OF DOCUMENTS**

In accordance with Rule 34 of the Federal Rules of Civil Procedure and Rule 2.120 of the Trademark Rules of Practice, Registrant requests that Petitioner produce the following documents. Documents are to be served via electronic mail to:

NevisBaby@hotmail.com  
&  
ThaRilest@yahoo.com

Documents which are unable to be sent via electronic mail shall be mailed to:

Quentin Davis  
P.O. Box 47893  
Tampa, Fl. 33646

## **DOCUMENT REQUESTS**

### Document Request 1

Send all documents evidencing and relating to Interrogatory No.1

### Document Request 2

Send all documents evidencing and relating to Interrogatory No.2

### Document Request 3

Send all documents evidencing and relating to Interrogatory No.3

### Document Request 4

Send all documents evidencing and relating to Interrogatory No.4

### Document Request 5

Send all documents evidencing and relating to Interrogatory No.5

### Document Request 6

Send all documents evidencing and relating to Interrogatory No.6

### Document Request 7

Send all documents evidencing and relating to Interrogatory No.7

### Document Request 8

Send all documents evidencing and relating to Interrogatory No.8

### Document Request 9

Send all documents evidencing and relating to Interrogatory No.9

### Document Request 10

Send all documents evidencing and relating to Interrogatory No.10

### Document Request 11

Send all documents evidencing and relating to Interrogatory No.11

Document Request 12

Send all documents evidencing and relating to Interrogatory No.12

Respectfully Submitted,

/Quentin Davis/

Quentin Davis – Registrant

P.O. Box 47893

Tampa, Fl. 33646

4/27/2013

Date

**CERTIFICATE OF SERVICE**

I hereby certify that on this 27th day of April 2013, a true and complete copy of the foregoing REGISTRANT'S FIRST SET OF INTERROGATORIES & REGISTRANT'S FIRST REQUESTS FOR PRODUCTION OF DOCUMENTS (Proceeding No. 92056168) was served to Petitioner via electronic mail to:

Carla Calcagno at e-mail addresses:

**carla.calcagno@calcagnolaw.com**

and

**cccagno@gmail.com**

Calcagno Law  
2300 M Street, N.W., Suite 800  
Washington, D.C. 20037

/Gloria Walters/

Gloria Walters

Administrative Assistant to the Registrant

P.O.Box 47893

Tampa, Florida 33646