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

Proceeding	92058411
Party	Defendant Opici IP Holdings, LLC
Correspondence Address	STEPHEN L BAKER BAKER AND RANNELLS PA 575 ROUTE 28, SUITE 102 RARITAN, NJ 08869 UNITED STATES officeactions@br-tmlaw.com, baker@tmlaw.com,p.chang@br-tmlaw.com, k.hnasko@br-tmlaw.com, s.cesaro@br-tmlaw.com, k.Drogwoski@br-tmlaw.com
Submission	Response to Board Order/Inquiry
Filer's Name	Jason DeFrancesco
Filer's e-mail	jld@br-tmlaw.com, k.hnasko@br-tmlaw.com
Signature	/Jason DeFrancesco/
Date	08/06/2014
Attachments	Motion to Clarify.pdf(80661 bytes)

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

LUXCO, INC.,	:	
	:	
Petitioner/	:	Cancellation No. 92/058,411
Counter Registrant,	:	
v.	:	
	:	
OPICI IP HOLDINGS, LLC,	:	
	:	
Registrant/	:	
Counter Petitioner.	:	
	:	

MOTION TO CLARIFY ORDER DATED JULY 29, 2014

COMES NOW, Opici IP Holdings, LLC (“Opici”), by and through the undersigned, seeks clarification of the Board’s Order dated July 29, 2014 (“The Order”). In particular, Opici is confused as to implications of The Order regarding its ability to (i) take future discovery directed to abandonment issues and/or (ii) amend pleadings based on additional facts obtained during discovery.

The Order dismissed allegations that the Board did not find sufficient — particularly paragraph nos. 26, 27 and 28 of *Registrant’s Answer and Affirmative Defenses to Petition for Cancellation and Counterclaims*, which all concern abandonment issues. The Order however allowed Opici the opportunity to amend its pleadings before August 29, 2014.

Opici intends to take discovery concerning abandonment issues and is concerned that the Board’s decision may bar Opici’s right to (1) take discovery on the issues and (2) seek leave to amend its pleadings to assert counterclaims in abandonment (as may be revealed during discovery). The Order as written could be construed to prevent Opici from seeking discovery related to abandonment, and also prevent Opici from amending the pleadings at a later date.

WHEREFORE, OPICI IP HOLDINGS, LLC, respectfully requests the Board clarify its Order acknowledging Opici's ability to seek discovery regarding abandonment and upon a sufficient showing, it may be permitted to seek leave to amend to assert abandonment counterclaims after August 29, 2014.

Dated August 6, 2014

Respectfully submitted,

BAKER & RANNELLS, PA

By: /Jason DeFrancesco/
Jason DeFrancesco
Attorneys for Opposer
575 Route 28
Raritan, NJ 08869
(908) 722-5640

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of Registrant's MOTION TO CLARIFY was forwarded by first class postage prepaid mail by depositing the same with the U.S. Postal Service on this 6th day of August, 2014 to the Applicant's counsel of record, Michael R. Annis, Esq., at the following address:

HUSCH BLACKWELL LLP
190 CARONDELET PLAZA, STE 600
ST LOUIS, MO 63105

/Jason DeFrancesco/
Jason DeFrancesco