

ESTTA Tracking number: **ESTTA643736**

Filing date: **12/10/2014**

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

Proceeding	92059992
Party	Defendant Donald J. Trump
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Date	12/10/2014
Attachments	F1593851.PDF(29166 bytes )

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

SPOONJACK LLC d/b/a SPOONJACK,

Petitioner,

-against-

DONALD J. TRUMP,

Registrant.

Opposition No. 92059992

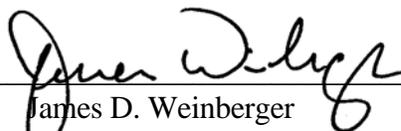
**COMMUNICATION RE: MOTION TO DISMISS**

Pursuant to Registrant's ongoing obligation to keep the Board apprised of developments relevant to this proceeding, we write to advise that, today, Registrant's Petition to the Director to abandon the Trademark Act Section 15 portion of his combined February 28, 2014 Section 8 and 15 affidavit pertaining to the trademark registration at issue in this proceeding, was granted. *See* Petition to Director Granted, Registration No. 3,391,095 (Dec. 10, 2014), Exhibit 1.

Dated: December 10, 2014  
New York, New York

FROSS ZELNICK LEHRMAN & ZISSU, P.C.

By: \_\_\_\_\_



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# **EXHIBIT 1**

# UNITED STATES PATENT AND TRADEMARK OFFICE

**U. S. APPLICATION SERIAL NUMBER:** 77/157334

**U. S. REGISTRATION NUMBER:** 3,391,095

**\*3391095\***

**CORRESPONDENCE ADDRESS:**

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**RETURN ADDRESS:**

Commissioner for Trademarks  
P.O. Box 1451  
Alexandria, VA 22313-1451

**MARK:**

TRUMP

**ISSUE/MAILING DATE:**

December 10, 2014

**APPLICANT/REGISTRANT:**

Trump, Donald J.

**CORRESPONDENT'S REFERENCE/DOCKET NO :**

TRMP 0809438

**CORRESPONDENT'S EMAIL ADDRESS :**

## PETITION TO DIRECTOR GRANTED

Donald J. Trump (petitioner) has petitioned the Director of the United States Patent and Trademark Office (Director) to abandon the Trademark Act Section 15 portion of petitioner's combined Section 8 affidavit or declaration of use or excusable nonuse and Section 15 affidavit of incontestability (combined affidavit) filed on February 28, 2014. 15 U.S.C. §§1058, 1065. The Director has the authority to review petitioner's request. *See* 37 C.F.R. §§2.146(a)(3), 2.165(b). The petition is granted.

### FACTS

On February 28, 2014, petitioner filed a combined affidavit. The Post Registration examiner accepted and acknowledged the combined affidavit on March 20, 2014.

On September 24, 2014, petitioner filed this petition to request that the Section 15 affidavit portion of the combined affidavit be abandoned. Petitioner explained that the Section 15 affidavit portion was inadvertently filed in error because the above-identified registration "was the subject of a counterclaim at the time in Opposition No. 91203345 before the Trademark Trial and Appeal Board; that underlying opposition has been dismissed with prejudice, and applicant's counterclaim was rejected on summary judgment. (Registration No. 3,391,095 is currently the subject of pending Cancellation No. 92059992 before the Trademark Trial and Appeal Board, instituted on September 18, 2014, subsequent to the filing of the combined Section 8 and 15 Declaration.)" (Petition).

## DISCUSSION

Pursuant to Trademark Rule 2.25, documents filed with the United States Patent and Trademark Office (USPTO) become part of the official record and will not be returned or removed. 37 C.F.R. §2.25; TMEP §404. Because the USPTO acts based exclusively on this written record, the USPTO must preserve the integrity of its administrative record and provide the public with a complete application file. *See* 35 U.S.C. §143; 37 C.F.R. §2.191. This responsibility is unquestioned in light of the well-settled principle that review of USPTO decisions is limited to the administrative record below. *See* 15 U.S.C. §1071(a)(4); *see also* *Camp v. Pitts*, 411 U.S. 138, 142 (1973); *United States v. Carlo Bianchi & Co.*, 373 U.S. 709, 714-15 (1963).

Section 15 permits rights in a registered mark in commerce on or in connection with the goods and/or services covered by the registration to become incontestable if the owner of the registration files an affidavit or declaration stating that the mark has been in continuous use in commerce for a period of five years after the date of registration. 37 C.F.R. §2.167(c); TMEP §1605. A registrant is not required to file a Section 15 affidavit or declaration. TMEP §1605. A registrant may, if eligible, either choose to claim incontestability and file an appropriate affidavit or declaration or elect to retain the registration without those benefits. *Id.*

Because filing a Section 15 affidavit or declaration is optional, the USPTO will abandon the Section 15 affidavit portion of petitioner's combined affidavit. *See* TMEP §1605.

Petitioner may file another Section 15 affidavit if he can meet the requirements for filing such an affidavit at a later date.

## DECISION

The petition is granted. The Post Registration Division will abandon the Section 15 affidavit and update the registration record accordingly. Petitioner's Section 15 affidavit, however, will still remain of record.

The requirements for maintaining and renewing a federal registration are not affected by this decision.

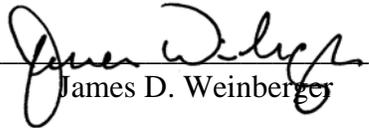
/Carrie Genovese/  
Carrie Genovese  
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For general and other useful information about trademarks, you are encouraged to visit the USPTO web site at <http://www.uspto.gov/main/trademarks.htm>.

**CERTIFICATE OF SERVICE**

I hereby certify that on December 10, 2014, a copy of the foregoing  
COMMUNICATION RE: MOTION TO DISMISS was sent by First Class Mail to Petitioner at  
its correspondence address of record:

Spoonjack LLC  
220 Lombard St. STE 217  
San Francisco, CA 94111

  
James D. Weinberger