

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451
General Contact Number: 571-272-8500

EJW

Mailed: February 2, 2015

Cancellation No. 92060018

Todd Sean White

v.

Gary L. Pifer

ELIZABETH J. WINTER, INTERLOCUTORY ATTORNEY:

On January 9, 2015, Petitioner contacted the Board, stating that it had been unsuccessful in scheduling a discovery conference with Respondent. Petitioner asked for the Board's participation in the discovery conference. Petitioner's request has been made of record.

In response to Petitioner's request, the Board sent an emailed request to the parties seeking their respective responses to arrange a mutually convenient time to conduct the conference. In the same communication, the Board also provided information regarding the nature of discovery conferences. As of the date of this order, Respondent has not contacted the Board directly, although Respondent initially contacted Petitioner's counsel.¹

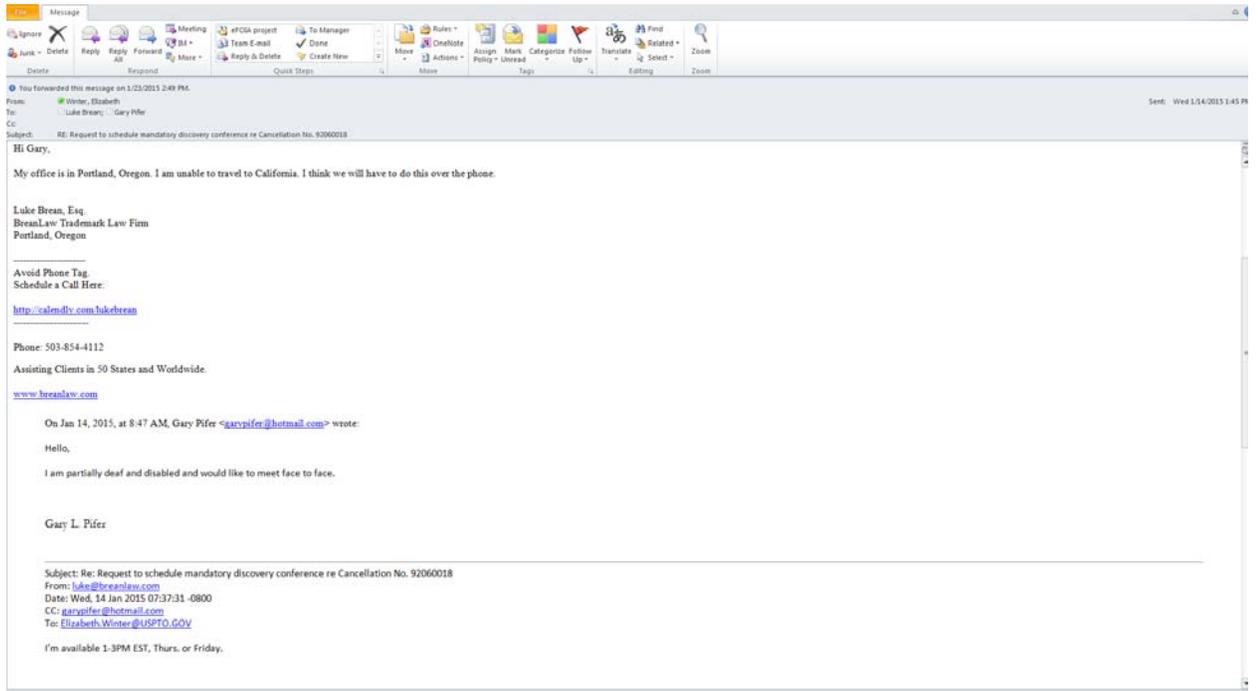
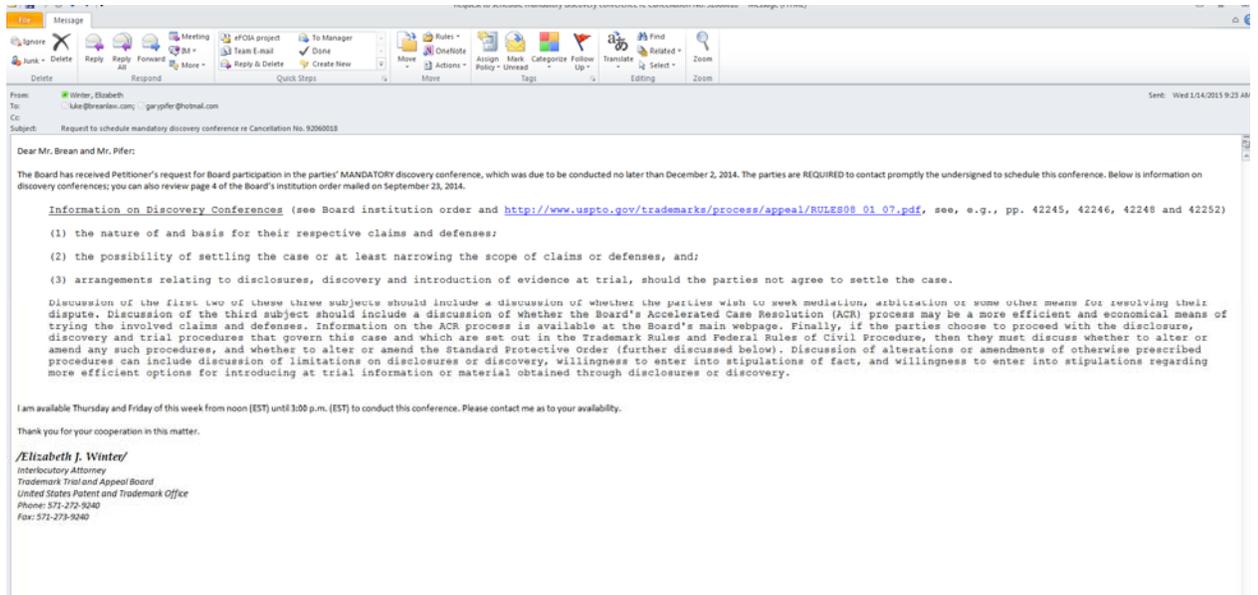
¹ The Board notes that Respondent is partially hearing impaired. Respondent should note that the Board is amenable to conducting the telephone conference in a manner that would be helpful to Respondent.

Respondent did not respond to the Board's second email, requesting that he contact the assigned Interlocutory Attorney no later than January 26, 2015. Copies of the above-referenced emails are attached hereto.

The deadline to conduct the required conference pursuant to Fed. R. Civ. P. 26(f) was December 2, 2014. Inasmuch as both the Board and Petitioner's counsel has attempted to schedule the mandatory discovery conference, but Respondent has not responded with possible dates and times to participate in the conference, Respondent is hereby **ORDERED** to show cause why judgment should not be entered in favor of Petitioner for Respondent's failure to participate in the conference. Respondent is allowed until **FRIDAY, FEBRUARY 13, 2015**, to communicate with the assigned Interlocutory Attorney, Elizabeth Winter, by telephone or by email (571-272-9240; or elizabeth.winter@uspto.gov) *three* dates and times between 9:00 a.m. (PST) and 12:00 p.m. (PST) on which he can participate in the discovery conference, failing which the Board may impose any of the sanctions provided in Fed. R. Civ. P. 37(b)(2). Such sanctions include entry of judgment against the party who declines to participate in the discovery conference. *See* Fed. R. Civ. P. 37(b)(2)(A)(v). *See also Patagonia, Inc. v. Azzolini*, 109 USPQ2d 1859, 1861 (TTAB 2014).

Proceedings are otherwise **SUSPENDED**.

Cancellation No. 92060018



Cancellation No. 92060018

FW: Request to schedule mandatory discovery conference re Cancellation No. 92060018 - Message (HTML)

From: Winter, Elizabeth
To: garpifer@hotmail.com
Cc: Luke@breatlaw.com
Subject: FW: Request to schedule mandatory discovery conference re Cancellation No. 92060018

Sent: Fri 1/23/2015 2:50 PM

Dear Mr. Pifer:

I have not heard from you regarding the parties' mandatory discovery conference. Please contact me by telephone or email no later than Monday, January 26th regarding this matter.

Thank you for your cooperation in this matter.

Cordially,

/Elizabeth J. Winter/
Interlocutory Attorney
Trademark Trial and Appeal Board
United States Patent and Trademark Office
Phone: 571-272-9240
Fax: 571-273-9240

From: Winter, Elizabeth
Sent: Wednesday, January 14, 2015 1:45 PM
To: Luke Breat; Gary Pifer
Subject: RE: Request to schedule mandatory discovery conference re Cancellation No. 92060018

Gentlemen:

All discovery conferences are conducted by telephone. Once the Board and the parties agree to a time, the Board will initiate the call to both parties and conduct the conference.

Thank you. ew

/Elizabeth J. Winter/
Interlocutory Attorney
Trademark Trial and Appeal Board
United States Patent and Trademark Office
Phone: 571-272-9240
Fax: 571-273-9240

From: Luke Breat [mailto:luke@breatlaw.com]
Sent: Wednesday, January 14, 2015 1:31 PM
To: Gary Pifer
Cc: Winter, Elizabeth
Subject: Re: Request to schedule mandatory discovery conference re Cancellation No. 92060018

Hi Gary,

My office is in Portland, Oregon. I am unable to travel to California. I think we will have to do this over the phone.