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

Proceeding	92060328
Party	Plaintiff L.A. Gem and Jewelry Design, Inc.
Correspondence Address	MILORD A KESHISHIAN MILORD & ASSOCIATES PC 2049 CENTURY PARK EAST, SUITE 3850 LOS ANGELES, CA 90067 UNITED STATES uspto@milordlaw.com
Submission	Other Motions/Papers
Filer's Name	Milord A. Keshishian
Filer's e-mail	uspto@milordlaw.com, stephanie@milordlaw.com
Signature	/Milord A. Keshishian/
Date	04/03/2015
Attachments	LAR08-061T Reply re Motion to Strike.pdf(126174 bytes)

I. ARGUMENT

A. RESPONDENT DID NOT ADDRESS ANY OF THE ISSUES RAISED IN THE UNDERLYING MOTION

In keeping true to form, Respondent's "Opposition" did not respond to the substantive argument advanced by Petitioner in its Motion, namely that, Respondent's purported "Answers" consist entirely of immaterial matter that fail to conform to the requirements of Rule 8(b) of the Federal Rules of Civil Procedure. Without enumerating the particulars and lengthy detailed assertions found in Respondent's "Opposition," both the "Answers" and "Opposition" fall far short of what is required under the rules of Court.

Courts have held that, "[p]leading deficiencies that warrant dismissal include (1) "confused and rambling narrative of charges and conclusions," (2) "untidy assortment of claims that are neither plainly nor concisely stated, nor meaningfully distinguished from bold conclusions, sharp harangues and personal comments..."¹ *Poblete v. Goldberg*, 680 F. Supp. 2d 18 (D.D.C. Dec. 29, 2009) (dismissing with prejudice the complaint where the complaint was comprised of confusing legal theories and insufficient factual pleadings). Here, Respondent's "Opposition" is a 29 page rambling tirade, which is very similar to its 35 page "Answer," and asserts various preposterous allegations and claims:

"That is, regarding 2 case, it seems that the people of the plaintiffs have no consideration for importance of Common Sense and Public Order and Morals, First Come First Served Rule etc and seem to abuse the trademark law etc, I feel hypothetically." Answer, Page 5, Opposition, Page 6.

"I think the attorney has a big possibility to become the seller hypothetically."¹ Answer, Page 5, Opposition, Page 7.

¹ Although Respondent's "Answers" and "Opposition" contain a number of personal attacks and hypothetical scenarios relating to Petitioner's counsel, Petitioner will not respond in kind. Petitioner's counsel objects to the attacks and hypotheticals as irrelevant to the issues before the TTAB.

“This conversation/transaction is a hypothetical one of course.” Answer, Page 6, Opposition, Page 7.

“LOVE IS FOREVER ® has fascination. So, sometimes it makes people to lose power of proper/sane judgment in mind and to be mad and/or insane. And this case, 92060328, might be a case invited by the power of the trademark fascination to make people mad and/or insane, hypothetically I feel.” Answer, Page 6, Opposition, Page 8.

“And an INFANT will angry if you, Mr. Milord A. Keshishian, taking away a cookie the INFANT is going to eat, I think.” Opposition, Page 15.

Petitioner is only asking the TTAB to ensure that Respondent adhere to the TTAB rules, as well as obligations set forth in the Federal Rules of Civil Procedure, which require that pleadings be concise and direct, of a minimal standard, which serves to give fair notice of the claim or claims being asserted. FRCP 8(e). Respondent’s improper Answers should be stricken.

B. RESPONDENT’S “OPPOSITION” SHOULD BE STRICKEN

Petitioner notes that on April 29, 2014, in Cancellation No. 92058656, Respondent was advised in the Order Setting Trial Dates to either retain counsel or become “familiar with the authorities governing this proceeding...” *Samuel Aaron, Inc. v. Souki Manufacturing Inc.*, Cancellation No. 92058656, ECF No. 8. Almost one year later, Respondent has not retained counsel, nor has he become familiar with the authorities which govern this proceeding.

Under Rule 2.127(a), a brief on a motion may not exceed 25 pages in length, including table of contents, index of cases, description of record, statement of the issues, recitation of the facts, argument, and summary. Here, Petitioner further objects to Respondent’s “opposition” brief because it is excessive at 29 pages in length. Even if Petitioner did not object to the length, the page limitation on a brief cannot be waived by action, inaction, or consent of the parties. *Saint-Gobain v. Minnesota Mining and Manufacturing Company*, 66 USPQ2d 1220 (TTAB 2005). Since Respondent’s “Opposition” violates the Board’s rule regarding page limitations for a brief on motion, it should not be considered.

II. CONCLUSION

For the reasons set forth above and in Petitioner's Motion, Petitioner respectfully requests that this Court strike Respondent's "Answers" and give no consideration to its "Opposition" brief.

Dated: April 3, 2015

Respectfully submitted,

MILORD & ASSOCIATES, PC

/Milord A. Keshishian/

Milord A. Keshishian, Esq.

Attorneys for Petitioner

L.A. GEM AND JEWELRY DESIGN, INC.

2049 Century Park East, Suite 3850

Los Angeles, CA 90067

Telephone: (310) 226-7878

Facsimile: (310) 226-7879

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on April 3, 2015, I caused a true and correct copy of the foregoing **PETITIONER'S REPLY BRIEF IN SUPPORT OF ITS MOTION TO STRIKE RESPONDENT'S ANSWER AND AMENDED ANSWER** sent via First Class International Mail, postage prepaid, to Registrant's Correspondence of Record as follows:

Souki Manufacturing, Inc.
326-6 Sakamoto-cho
Hodogaya-ku, Yokohama-shi
Kanagawa 240-0043
Japan
Email: mina-csj@nifty.com

/Milord A. Keshishian/
Milord A. Keshishian
2049 Century Park East, Suite 3850
Los Angeles, CA 90067
Telephone: (310) 226-7878
Facsimile: (310) 226-7879