

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

Plaintiff Trademark: LOVE IS FOREVER
 Serial Number: 86285762
 Filing Date: May 19, 2014
 Refusal Issue/Mailing Date: August 27, 2014

Defendant Trademark: LOVE IS FOREVER ®
 Registration No.: 3811074
 Filing Date: May 13, 2009
 Registration Date: June 29, 2010
 Trademark Creator, Owner, User

Plaintiff	L.A.Gem and Jewelry Design, Inc.
Assigned Attorney	MR. MILORD A. KESHISHIAN Cancellation No.: 92060328
Defendant	Souki Manufacturing Inc.
No Assigned Attorney	Nobuhiko Minaki (Mr.) Representative Director Trademark Creator, Owner, User

April 09, 2015

Ref number: Souki 150405

MADAM MARY CATHERINE FAINT
 INTERLOCUTORY ATTORNEY

Amendments

Dear Madam,

I would like to amend as follows, and Amendment by Handwriting and Amendment by Typewriting will be attached for/of each amendment.

I had tried to send this 19 pages document on/through ESTTA on April 08, 2015, but it seemed, the quantity was too big for ESSTA to treat.

- 1) In DEFENDANT'S RESPONSE to/for PETITIONER'S MOTION TO STRIKE RESPONDENT'S ANSWER AND AMENDED ANSWER dated March 19, 2015 Ref

1/3



U.S. Patent & TMO/TM Mail Rcpt Dt. #22

1/19

number: Souki 150303:

<u>Amendment page</u>	<u>before amendment</u>	<u>after amendment</u>
(1) page 2/29	plaintiff .	→ plaintiff.
(2) page 9/29	stand	→ stands
(3) page 10/29	f or	→ for
(4) page 11/29	“hypothetical”	→ a “hypothetical”
(5) page 23/29	“hypothetical”	→ a “hypothetical”
(6) page 23/29	nor does	→ nor and does

- 2) In Certificate of Service to prove the document concerned mailed to the assigned attorney Mr. Milord A. Keshishian for plaintiff March 19, 2015:
- (7) DEFENDANT' → DEFENDANT'S
(8) DEFENDANT' → DEFENDANT'S
- 3) The report submitted to MADAM MARY CATHERINE FAINT Ref number: Souki 15403:
- (9) page 1/2 April 06, 2015 → April 07, 2015
- 4) In Certificate of Service to prove the document concerned mailed to the assigned attorney Mr. Milord A. Keshishian for plaintiff April 06, 2015:
- (10) DEFENDANT' → DEFENDANT'S

<u>Attached:</u>	<u>Handwriting</u>	<u>Typewriting</u>	<u>Ttl</u>
(1) page 2/29	1 page	1 page	2 pages
(2) page 9/29	1 page	1 page	2 pages
(3) page 10/29	1 page	1 page	2 pages
(4) page 11/29	1 page	1 page	2 pages
(5) page 23/29	1 page	1 page	2 pages
(6) ditto		ditto	
(7) Certificate of Service	1 page	1 page	2 pages
(8) ditto		ditto	
(9) page 1/2	1 page	1 page	2 pages
(10) Certificate of Service	1 page	1 page	2 pages
Ttl	8 pages	8 pages	16 pages

Very truly sincerely yours,

N. Minaki

Defendant

Souki Manufacturing Inc.

Nobuhiko Minaki (Mr.)

Representative Director

Trademark Creator, Owner, User

326-6 Sakamoto-cho, Hodogaya-ku, Yokohama-shi

Kanagawa, 240-0043, Japan

TEL 81-45-333-4525 81-45-332-7890 direct

FAX 81-45-515-0047 E-MAIL mina-csj@nifty.com

follows.



NB 1. ~ 14.:

1. Brief prosecution history:

05/19/2014: Same trademark to my trademark, LOVE IS FOREVER, was applied by plaintiff.

08/27/2014: Plaintiff application was refused.

I think, this refusal is a purely consequent matter because Mr. Milord A. Keshishian is an attorney, a pro, regarding trademark matter.

11/05/2014: Petition to cancel LOVE IS FOREVER ® was applied by ~~plaintiff~~ ^(plaintiff.)

02/13/2015: I filed the ANSWER, receiving high kindness of many people of TRADEMARK TRIAL APPEAL BOARD, receiving extension of time to ANSWER, I filed my ANSWER. *The period placed closer to f of plaintiff.*

03/05/2015: This MOTION TO STRIKE was raised by PLAINTIFF.

03/19/2015: This RESPONSE of Defendant is to be mailed by post for TRADEMARK TRIAL APPEAL BOARD.

2. Regarding the style/manner of sentence of my ANSWER:

Regarding the style/manner of sentence of my ANSWER presented/mailed 02/13/2015 for TTAB and Amendments presented/mailed 03/03/2015 for TTAB, I requesting respectfully/sincerely advice of TM information specialist of 571-272-8500 of TTAB, I received the words, No Problem, and I have been relieved now.

3. Character of this REPORT/RESPONSE for/to the PLAINTIFF'S MOTION TO STRIKE:

This REPORT/RESPONSE is prepared according to the following conditions etc.

1) Fundamentally, according to laws, history/facts, unwritten laws, Common Sense, Public Order and Morals, First Come First Served Rule etc, including criminal law etc, I would like to sincerely report/respond including for/to this PLAINTIFF'S MOTION TO STRIKE dated March 05, 2015 as follows.

2) Defendant has been encountered the 2 PETITION TO CANCEL cases. The one

follows.



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1. Brief prosecution history:

- 05/19/2014: Same trademark to my trademark, LOVE IS FOREVER, was applied by plaintiff.
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**PETITIONER'S MOTION TO STRIKE RESPONDENT'S ANSWER
AND AMENDED ANSWER**

Commissioner for Trademarks
BOX TTAB
P.O.Box 1451
Arlington, VA 22313-1451

Plaintiff assertion 1/8(portions):

Pursuant to Rule 12(f) of the Federal Rules of Civil Procedure and Section 506.01 of the TBMP, L.A. GEM & JEWELRY DESIGN INC. (“LA Gem” or “Petitioner”) hereby moves the Trademark Trial and Appeal Board(the “Board”) for an order striking the purported answers filed by SOUKI MANUFACTURING, INC.(“SOUKI” or “Respondent”), on the ground that the purported answers consist entirely of immaterial matter that fail to conform to requirements of Rule 8(b) of the Federal Rules of Civil Procedure.

Plaintiff assertion 2/8:

This motion is based upon the attached brief, the Petition for Cancellation filed by Petitioner on November 5, 2014 (Dkt. No. 1), Respondent's purported answer and amended answer, filed on February 19, 2015 (Dkt. No. 9) and March 3, 2015 (Dkt. No. 10), respectively, and such other argument and evidence as may be presented to the Board on this motion.

Plaintiff assertion 3/8:

I. ARGUMENT

On November 14, 2014, Petitioner filed its Petition for Cancellation of the LOVE IS FOREVER registration for “key rings of precious metal; ornaments, namely, earrings, precious metal insignias, precious metal badges, precious meta medals, tiepins, necklaces, bracelets, pendants, jewelry brooches, medals, rings to wear on finger, medallions; cuff links; clocks and watches, namely, wristwatches, table clocks, watches for carrying in pockets, clocks for vehicles, stop watches, wall clocks, alarm clocks” in International Class 14. Petitioner's claim for relief, in 12 numbered paragraphs, is based upon Registrant's failure to use the LOVE IS FOREVER mark in commerce, or that it completely ceased use of the mark, in connection with goods identified in the Registration for a period of at least 3 consecutive years. Further, Petitioner has been damaged and will continue to be damaged if the Registered Mark is permitted to remain on the Principal Register because the Registered Mark ~~stand~~ as a bar to Petitioner's ability to

stands

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federally register and protect its LOVE IS FOREVER mark for its jewelry goods. See Petition ~~for~~ Cancellation, Dkt. No. 1.

Plaintiff assertion 4/8:

On February 13, 2015, Respondent, appearing pro se, served an untitled document by mail that purports to be an "Answer." On March 3, 2015, Respondent electronically filed an Amended Answer. These documents are "answers" in name only because they do not permit Petitioner to determine which of its allegations are admitted or denied, or what claims are at issue. For the reasons set forth below, the purported answers should be stricken and Applicant should be required to file an answer that conforms to the requirements of the Federal Rules of Civil Procedure.

Plaintiff assertion 5/8:

A. APPLICANT'S PURPORTED ANSWERS SHOULD BE STRICKEN

Rule 8(b) of the Federal Rules of Civil Procedure provides in pertinent part as follows:

"A party shall state in short and plain terms the party's defenses to each claim asserted and shall admit or deny the averments upon which the adverse party relies. If a party is without knowledge or information sufficient to form a belief as to the truth of an averment, the party shall so state and this has the effect of a denial. Denials shall fairly meet the substance of the averments denied. When a pleader intends in good faith to deny only a part or a qualification of an averment, the pleader shall specify so much of it as is true and material and shall deny only the remainder."

Plaintiff assertion 6/8:

Fed. R. Civ. P. 8(b).

Under Rule 8(b), an applicant's answer must be directly responsive to the Petition for Cancellation; it should not merely contain arguments in the nature of a brief. See *Thrifty Corporation v. Bomax Enterprises*, 228 USPQ 62,63(TTAB 1985)(requiring Applicant to refile its answer to Opposer's notice of opposition because Applicant's filing lacked a specific response to each averment in the notice of opposition and was "basically argumentative rather than a proper responsive pleading to the notice of opposition"). The Respondent clearly did not meet this standard because as each paragraph of the "Answer" contains bare and conclusory assertion or arguments. Further, the "Answer" does not contain specific responses to each of the averments in Opposer's Petition for Cancellation, but instead contains a confusing recitation

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of events that may or may not have occurred and ^a “hypothetical” argument of “obstruction of business” in an attempt to convince the Board why the registration should not be cancelled. These bald assertions do not provide Petitioner or the Board with fair notice of whether Respondent admits or denies the allegations, nor and does not plead the elements necessary to establish the affirmative defenses. As such, these assertions and “defenses” are not properly pleaded as an answer and affirmative defenses, not sufficiently founded on rules or case law, and should be stricken.

Plaintiff assertion 7/8:

A respondent is allowed to amend its answer once as a matter of course within twenty-one days after serving it. Fed. R. Civ. P. 15(a); TBMP § 507. Respondent's March 3, 2015 amended “Answer” is incomplete because it did not include a single, complete version of the intended amended answer. Instead, Respondent amended and served only amended pages 1, 7, 16, 29, and 34 of the original “answer.” Since Respondent's March 3, 2015 amended “Answer” is incomplete, it should be stricken.

Plaintiff assertion 8/8:

As set forth above, Respondent's purported answer is ambiguous, unintelligible, uncertain, legally insufficient and/or improper. Therefore, it is appropriate for it to be stricken, prior to the parties expending their time, and the Board's time, on unnecessary discovery, testimony, argument and briefing. Applicant should be ordered to file an answer that is in proper form and conforms to the requirements of Rule 8(b), and that is properly served upon Petitioner's counsel.

Dated: March 5, 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

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Dated: March 5, 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

For selling and buying goods/property, for movement of right of ownership of goods/property without consent of the owner, we should not abuse/use the TRADEMARK LAW, CANCELLATION SYSTEM, MOTION TO STRIKE SYSTEM, etc I feel.

To obtain things etc of others/strangers/3rd parties without reporting/having the consent of others/strangers/3rd parties is no good and should be refrained, which even an INFANT knows, I think. **And an INFANT will angry if you, Mr. Milord A. Keshishian, taking away a cookie the INFANT is going to eat, I think.**

Or how do you respond if someone will do same sort of thing to you?

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Response 6 for the above Plaintiff assertion 6:

Defendant/I will deny the above Plaintiff assertion 6 as follows and there seems to be no rule etc to be able to deny hypothetical assertion/argument etc, I think.

The above Plaintiff assertion 6 including the above Plaintiff assertion 1 etc and the

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Certificate of Service

I hereby certify that a true and complete copy of the foregoing document, DEFENDANT RESPONSE, as enclosed have been served on MR. MILORD A. KESHISHIAN MILORD & ASSOCIATES, PC by mailing said copy on March 19, 2015 via First Class Mail, EMS, postage prepaid to: MR. MILORD A. KESHISHIAN MILORD & ASSOCIATES, PC 2049 CENTURY PARK EAST, SUITE 3850 LOS ANGELES, CA 90067, UNITED STATES.

Enclosed: DEFENDANT RESPONSE 29 pages

Date: March 19, 2015

Signature:

N. Minaki

Nobuhiko Minaki

Defendant

Souki Manufacturing Inc.

Nobuhiko Minaki

Representative Director

Trademark Creator, Owner, User

326-6 Sakamoto-cho, Hodogaya-ku, Yokohama-shi

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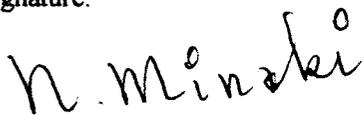
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Defendant	Souki Manufacturing Inc.
No Assigned Attorney	Nobuhiko Minaki (Mr.) Representative Director Trademark Creator, Owner, User

April ~~06~~⁰⁷, 2015
Ref number: Souki 150403

MADAM MARY CATHERINE FAINT
INTERLOCUTORY ATTORNEY

Dear Madam,

I would like to report that I have served/mailed the documents as follows to the assigned attorney, Mr. Milord A. Keshishian.

- Attached: 1) Certificate of Service 1 page
- 2) The document served/mailed 2 pages
- 3) The receipt etc of Japan post 1 page

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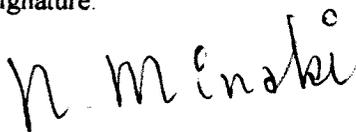
Certificate of Service

I hereby certify that a true and complete copy of the document,
DEFENDANT'S PETITION FOR CONSIDERATION
TO ADD D RESPONSE TO P MOTION TO STRIKE AS STANDARD
ETC TO JUDGE APPROPRIATENESS OF PETITIONER'S MOTION TO STRIKE,
as enclosed have been served on MR. MILORD A. KESHISHIAN MILORD & ASSOCIATES,
PC by mailing said copy on April 04, 2015 via First Class Mail, EMS, postage prepaid to:
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Enclosed: DEFENDANT'S PETITION...PETITIONER'S MOTION TO STRIKE 2 pages
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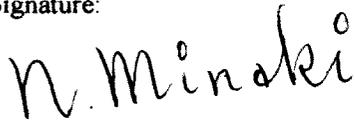
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Representative Director
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