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

Proceeding	92061571
Party	Plaintiff Gestion Diane Lanctot Ltee
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Signature	/Peter D. Siddoway/
Date	03/31/2016
Attachments	Petitioner Response.pdf(195266 bytes)

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

GESTION DIANE LANCTÔT LTÉE,

Petitioner,

v.

IVO N. NJABE,

Registrant.

In the matter of Trademark
Registration No. 4,299,998

For the mark NIVO (Stylized)
Registered on March 12, 2013

Cancellation No. **92061571**

PETITIONER’S RESPONSE TO THE BOARD’S MARCH 29, 2016 ORDER

In response to the Board’s Order dated March 29, 2016 and in further support of Petitioner’s Withdrawal Without Prejudice of its Petition for Cancellation, Petitioner hereby submits Exhibits A and B, which are true and correct copies of e-mail correspondence between Petitioner and Respondent (representing himself *pro se*) constituting “written consent” as required by Trademark Rule 2.114(c).

Petitioner notes that on March 18, 2016, Respondent summarized a teleconference held between the parties indicating his consent to the withdrawal of the proceeding and verifying that no further action was required of him. **Exhibit A.** On March 21, 2016, Petitioner confirmed that this was the case, again confirming that Petitioner had received his consent to the withdrawal, and noting that this consent would be reflected in Petitioner's papers filed with the Board. **Exhibit A.** The only response made by Petitioner was an e-mail thanking Petitioner for making him aware of the filing of the withdrawal. **Exhibit B.**

In view of this additional submission, Petitioner respectfully requests that the Board grant its withdrawal of its petition for cancellation without prejudice and terminate this proceeding.

Respectfully submitted this the 31st day of March 2016.

/s/ Peter D. Siddoway

Peter D. Siddoway (Reg. No. 56,443)

MYERS BIGEL & SIBLEY, P.A.

4140 Parklake Avenue, Suite 600

Raleigh, North Carolina 27612

(919) 854-1400 (telephone)

(919) 854-1401 (facsimile)

psiddoway@myersbigel.com

Attorney for Petitioner

CERTIFICATE OF SERVICE

THIS IS TO CERTIFY that on March 31, 2016, I caused a copy of the foregoing **PETITIONER'S RESPONSE TO THE BOARD'S MARCH 29, 2016 ORDER** to be served via e-mail and U.S. First Class Mail, as follows:

Mr. Ivo N Njabe
3244 Justina Terrace, Apt. #7
Jacksonville, Florida 32277
E-mail: njabe2002@yahoo.ca

/s/ Peter D. Siddoway

Peter D. Siddoway (Reg. No. 56,443)
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psiddoway@myersbigel.com

Attorney for Petitioner

EXHIBIT A

From: Siddoway, Peter
Sent: Monday, March 21, 2016 12:34 AM
To: njabe ivo
Subject: RE: Trademark Cancellation No. 92061571

Ivo,

I confirm our conversation that took place on Friday. I informed you that my client wished to terminate the proceeding, and you consented to its withdrawal. As such I will be filing the termination papers tomorrow (Monday), and no additional action is required from you, including responding to any outstanding discovery. We will reflect your consent in our papers, and you should receive notification of its filing and – at some later point – the Board's disposition.

Sincerely,

Peter

From: njabe ivo [<mailto:njabe2002@yahoo.ca>]
Sent: Friday, March 18, 2016 8:32 PM
To: Siddoway, Peter <psiddoway@myersbigel.com>
Subject: Re: Trademark Cancellation No. 92061571

Mr. Siddoway,

Thank you for taking some time today for a phone call.

In reference to Trademark Cancellation No. 92061571, I am summarizing our phone conversation today, 3/18/2016, just for the record. Based on our conversation, your client will not be proceeding with, but has decided to withdraw the case with the United States Patent and Trademark Office. As such, no action is required from me, including responding to any pending requests from your client and its counsel.

Unless you disagree with any of the above, your reply to this correspondence is not necessary. Thank you and have a good evening.

Regards,

Ivo

On Tuesday, February 2, 2016 5:28 PM, "Siddoway, Peter" <psiddoway@myersbigel.com> wrote:

Ivo,

I just left you a message. I would like to discuss my client's response to your settlement offer with you. Would you be free to discuss later today?

Also, please respond to me regarding your availability for a call with the Board, as they requested. I have very limited availability on Thursday and Friday. As I said in my prior e-mail, Wednesday at noon is best. I would like to respond to the Board as soon as possible.

Finally, thank you for your e-mail below, and for confirming that I communicated with you prior to the discovery deadlines in this case in an effort to come to a good faith resolution. I did agree that you provided some response to our document requests, but none to our interrogatories. I disagree with your characterization of our talks about settlement, but you are correct that we discussed it, and I did inquire about the dollar amounts you list below, although I made clear I had no authority (at that time) to settle the case.

Peter

Peter Siddoway
Myers Bigel Sibley & Sajovec, P.A.
(919) 854-1400

From: njabe ivo [mailto:njabe2002@yahoo.ca]
Sent: Tuesday, February 02, 2016 12:00 AM
To: Siddoway, Peter
Subject: Re: Trademark Cancellation No. 92061571

Mr. Siddoway,
You called me two days before the deadline for disclosure to request more time to respond to my request and I indicated that you were not taking the matter seriously. I told you that I have been very respectful of the process and that I had submitted my answers to your requests before the set deadline, which you agreed.

You did mention that you had hoped we settled the matter and you proposed \$1,500, \$3,000 and \$5,000, all of which I rejected. I indicated that I may still be open to some settlement but that your side has to show some seriousness. I rejected the idea of contacting the board to request time for settlement until your client demonstrates seriousness in the matter.

I did not refuse to request an extension to respond to your interrogatories. I'm simply not taking your side seriously. Please see attached.

Ivo

On Monday, February 1, 2016 8:47 PM, "Siddoway, Peter" <psiddoway@myersbigel.com> wrote:

Mr. Ivo,

I write to memorialize our telephone calls on Saturday, January 30th. In those calls I first confirmed that you are continuing to represent yourself in this matter and have not retained an attorney. In addition, I requested an extension of time of the discovery deadlines in this matter to allow Petitioner to respond to your discovery requests, which you did not grant. As I explained, my client is preparing responses in good faith, but we require more time to complete our responses. Further to that request, please see the attached filed with the Board and served on you today.

Moreover, I confirmed with you that you had not responded to Petitioner's interrogatories. You confirmed that you have not and did not request any extension of time to do so.

Finally, we discussed the possibility of settlement. I confirmed that I had not been given any authority to settle the matter at this time, but would pass any settlement request on to my client. You offered to enter into a co-existence agreement for a one-time settlement amount of \$20,000 and requested a response from my client tomorrow, Tuesday, February 2, 2016. I can confirm that I passed the offer on to my client and will respond to you tomorrow.

Peter

EXHIBIT B

From: njabe ivo [njabe2002@yahoo.ca]
Sent: Tuesday, March 29, 2016 8:53 PM
To: Siddoway, Peter
Subject: Re: Cancellation No. 92061571

Mr Siddoway,

Thanks for bringing this to my attention. Please advise if this is an indication that your client has stopped using the NIVO brand name, or what its plans are moving forward.

Regards,

Ivo

On Thursday, March 24, 2016 2:25 AM, "Siddoway, Peter" <psiddoway@myersbigel.com> wrote:

Please see the attached, which you may have received notice of through the Board as well.

Peter