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

Proceeding	91121980
Party	Defendant ROBERT NOBLE & BONGO, S.A., DE C.V.
Correspondence Address	MICHAEL I. SANTUCCI SILVERMAN SANTUCCI, LLP 500 WEST CYPRESS CREEK ROAD, SUITE 500 FORT LAUDERDALE, FL 33309
Submission	Motion for Summary Judgment.
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Date	10/31/2005
Attachments	MFSJ.pdf (3 pages)

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

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ESTEFAN ENTERPRISES, INC.

Petitioner,

Opposition No.: 91121980

Cancellation No.: 92042251

vs.

BONGO, S.A. de C.V.

Registrant.

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BOX TTAB

NO FEE

Assistant Commissioner of Trademarks

2900 Crystal Drive

Arlington, Virginia 22202-3513

REGISTRANT'S MOTION FOR SUMMARY JUDGMENT

COMES NOW Registrant Roberto Noble, by assignment from BONGO, S.A. de C.V. (hereinafter "Registrant") by and through the undersigned counsel and hereby respectfully request the Board to enter judgment as a matter of law in his favor on Petitioner, ESTEFAN ENTERPRISES INC.'s (hereinafter "Petitioner") claims for cancellation and opposition under Rule 56, *Fed.R.Civ.P.* and TBMP § 528 as follows:

1. Petitioner ESTEFAN ENTERPRISES, INC. has filed consolidated a Petition to Cancel Registration Number 2,347,247, and Notice of Opposition of Application Serial Number 7,576,7732.

2. Petitioner ESTEFAN ENTERPRISES, INC. has filed a Motion for Summary Judgment on or about July 28th, 2005.

3. In opposition thereto, Registrant filed the Declaration of Isaac Halabe with voluminous attachments and a Memorandum of Law (Docket #47, 48 and 49).

4. The facts set forth in the Declaration of Isaac Halabe, together with its attachments, along with the Memorandum of Law in Opposition to Petitioner's Motion for Summary Judgment not only demonstrate that Petitioner is not entitled to judgment as a matter of law, but also that there are no genuine issue as to any material fact which would prevent Registrant from being entitled to judgment as a matter of law in his favor on all issues.

5. Together they clearly demonstrate that: 1) Registrant has made use of the COCO BONGO family of marks in United States commerce and in commerce between United States citizens and the subjects of foreign nations at least since 1997; 2) that since the commencement of such use Registrant has not abandoned said use with the intent not to resume such use; and 3) Registrant's use of his family of COCO BONGO marks, and the maintenance of the subject Registration and maturation of the subject Application is not likely to cause consumer confusion.

6. Registrant hereby incorporates Declaration of Isaac Halabe, together with its various exhibits and the Memorandum of Law in Opposition to Petitioner's Motion for Summary Judgment (Docket # 47, 48 and 49) by reference in support of the herein Motion for Summary Judgment pursuant to Rule 10, *Fed.R.Civ.P.*

WHEREFORE, Registrant Bongo, S.A. de C.V. respectfully requests the Board to enter judgment in Registrant's favor as a matter law on all issues raised in the herein cancellation/opposition action.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing has been served on this 31st day of October, 2005, by first class mail to Karen Stetson, Esq., PO Box 403023, Miami, Florida 33140.

Respcctfully submitted,

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