

ESTTA Tracking number: **ESTTA80123**

Filing date: **05/10/2006**

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

Proceeding	91121980
Party	Plaintiff ESTEFAN ENTERPRISES, INC.
Correspondence Address	KAREN L. STETSON, ESQ. P.O. Box 403023 MIAMI, FL 33140 UNITED STATES maf@kstetsonlaw.com
Submission	Opposition/Response to Motion
Filer's Name	Karen L. Stetson
Filer's e-mail	kls@kstetsonlaw.com, maf@kstetsonlaw.com
Signature	/Karen L. Stetson/
Date	05/10/2006
Attachments	Bongos EEI's Response to Motion to Compel.pdf (3 pages)(23118 bytes) Bongos Re-Notices of Deposition.pdf (6 pages)(67746 bytes)

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

In re Application of:

Bongo, S.A. de C.V.
Opposition No. 121,980
Serial No. 75/767,732
Date Filed: August 3, 1999
Date Published: October 17, 2000
Mark: COCO BONGO HOUSE OF POP & ROCK (and design)

In the matter of Trademark Registration No. 2347247
For the mark: COCO BONGO
Date Registered: May 2, 2002

ESTEFAN ENTERPRISES, INC.,)	
)	
)	Opposition No. 91/121980
Opposer/Petitioner,)	Cancellation No. 92/042251
v.)	
)	
BONGO, S.A. de C.V.,)	
)	
)	
Applicant/Registrant.)	
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PETITIONER/OPPOSER, ESTEFAN ENTERPRISES, INC.'S
RESPONSE TO MOTION TO COMPEL

Petitioner/Opposer, Estefan Enterprises, Inc. ("EEI"), by and through undersigned counsel, hereby responds to Applicant/Registrant's Motion to Compel as follows:

1. Initially, counsel for Applicant/Registrant unilaterally scheduled the deposition of EEI's corporate representative and two other witnesses without clearing the dates with undersigned counsel. The parties agreed to reschedule the depositions on mutually agreeable dates.

2. However, on April 28, 2006, prior to the close of discovery, Applicant/Registrant filed a Motion to Compel¹ claiming that EEI had not provided alternate dates for the three witnesses. In fact, counsel had tentatively already agreed to various dates for the depositions of its corporate representative and an out-of-town witness, but was waiting to confirm those dates with the two witnesses. (EEI has filed a motion for protective order as to the third witness as to which Applicant/Registrant complains, Emilio Estefan, which is pending before the Board.)

3. On May 1, 2006, EEI confirmed dates for the two witnesses and they were scheduled by opposing counsel for May 10, 2006 and May 11, 2006, respectively. See Re-Notices of Deposition attached hereto as Exhibit A.

WHEREFORE, based on the foregoing, Petitioner/Opposer, Estefan Enterprises, Inc., requests that the Board deny Applicant/Registrant's Motion to Compel.

Respectfully submitted,

KAREN L. STETSON, ESQ.
Attorneys for Petitioner/Opposer
Estefan Enterprises, Inc.
P.O. Box 403023
Miami, Florida 33140
Telephone (305) 532-4845
Facsimile (305) 604-0598

By: /Karen L. Stetson/
Karen L. Stetson
Florida Bar No. 742937
Meredith A. Frank
Florida Bar No. 502235

¹ Prior to filing this Motion, counsel for Applicant/Registrant did not confer with undersigned counsel as required by the Rules.

CERTIFICATE OF MAILING

I HEREBY CERTIFY that the foregoing has been sent via U.S. Mail to Michael Santucci, Esq., Silverman Santucci, LLP, 500 West Cypress Creek Road, Suite 500, Fort Lauderdale, Florida 33309 on this 10th day of May, 2006.

By: /Karen L. Stetson/
Karen L. Stetson

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

In the matter of Trademark Registration No. 2347247
For the mark: COCO BONGO
Date Registered: May 2, 2002

ESTEFAN ENTERPRISES, INC.,
a Florida corporation,

Petitioner,

vs.

BONGO, S.A. de C.V.,

Registrant.

RE-NOTICE OF TAKING DEPOSITION

PLEASE TAKE NOTICE that the undersigned attorneys will take the deposition of Petitioner ESTEFAN ENTERPRISES, INC., by and through the corporate representative with the most knowledge of the BONGOS CUBAN CAFÉ and BONGOS CUBAN CAFÉ (and design) trademarks, including but not limited to the following:

1. the advertising and marketing expenditures and budget for all goods and services in which the marks BONGOS CUBAN CAFÉ (and design) or BONGOS CUBAN CAFÉ are used;
2. plans to open future restaurants, nightclubs, bars or entertainment venues associated with the marks BONGOS CUBAN CAFÉ (and design) or BONGOS CUBAN CAFÉ;
3. purchase by agents of Petitioner of merchandise sold by Registrant and/or his agents and licensees;
4. sale of goods and services by Registrant, and/or his agents and licensees;
5. revenues earned by Petitioner by category of goods and services in connection with the marks BONGOS CUBAN CAFÉ and BONGOS CUBAN CAFÉ (and design) -- (i.e. -- sale of food, sale of beverages, sale of admission tickets or passes, sale of the each of various forms of merchandise alleged to be sold by Petitioner);

6. all surveys conducted relative to the strength or Petitioner's alleged BONGOS CUBAN CAFÉ and BONGOS CUBAN CAFÉ (and design) marks and/or likelihood or actual confusion relative to Registrant's use of its marks;
7. all market, marketing, consumer and advertising studies, reports and surveys relative to the goods or services BONGOS CUBAN CAFÉ and BONGOS CUBAN CAFÉ (and design) marks, and relative to Petitioner's customers bases and actual or potential consumers and markets;
8. the geographic scope and regions of Petitioner's advertising and marketing efforts relative to the BONGOS CUBAN CAFÉ and BONGOS CUBAN CAFÉ (and design) marks;
9. all investigations and due diligence conducted relative to Registrants use of its marks;
10. identity of artists and content and categorization of the music featured at Petitioner's restaurants, and all other businesses associated with the BONGOS CUBAN CAFÉ and BONGOS CUBAN CAFÉ (and design) marks;
11. the commercial impressions conveyed by Petitioner's and Registrant's respective marks;
12. the exact nature of all businesses operated or intended to be operated, and the identity of all goods and services sold, or intended to be sold in Mexico in connection with the BONGOS CUBAN CAFÉ and BONGOS CUBAN CAFÉ (and design) marks, or any marks which are related, or confusingly similar thereto;
13. the manner and date of first use of the BONGOS CUBAN CAFÉ mark in commerce in the United States;
14. the manner and date of first use of the BONGOS CUBAN CAFÉ mark in commerce in Mexico;
15. the manner and date of first use of the BONGOS CUBAN CAFÉ (and design) mark in commerce in the United States;
16. the manner and date of first use of the BONGOS CUBAN CAFÉ (and design) mark in commerce in Mexico;
17. all channels of trade used in the United States for goods sold or services provided bearing the BONGOS CUBAN CAFÉ mark;
18. all channels of trade used in Mexico for goods sold or services provided bearing the BONGOS CUBAN CAFÉ mark;

19. all channels of trade used in the United States for goods sold or services provided bearing the BONGOS CUBAN CAFÉ (and design) mark;
20. all channels of trade used in Mexico for goods sold or services provided bearing the BONGOS CUBAN CAFÉ (and design) mark;
21. the advertising and promotion of the BONGOS CUBAN CAFÉ mark in the United States;
22. the advertising and promotion of the BONGOS CUBAN CAFÉ mark in Mexico;
23. the advertising and promotion of the BONGOS CUBAN CAFÉ (and design) mark in the United States;
24. the advertising and promotion of the BONGOS CUBAN CAFÉ (and design) mark in Mexico.
25. the goods and services that have been and are currently sold and provided in connection with the BONGOS CUBAN CAFÉ mark in the United States;
26. the goods and services that have been and are currently sold and provided in connection with the BONGOS CUBAN CAFÉ mark in Mexico;
27. the goods and services that have been and are currently sold and provided in connection with the BONGOS CUBAN CAFÉ (and design) mark in the United States;
28. the goods and services that have been and are currently sold and provided in connection with the BONGOS CUBAN CAFÉ (and design) mark in Mexico;
29. the decision to adopt, use and register the BONGOS CUBAN CAFÉ mark in the United States;
30. the decision to adopt, use and register the BONGOS CUBAN CAFÉ mark in Mexico;
31. the decision to adopt, use and register the BONGOS CUBAN CAFÉ (and design) mark in the United States;
32. the decision to adopt, use and register the BONGOS CUBAN CAFÉ (and design) mark in Mexico;
33. the amount of sales of goods sold or services provided in connection with the BONGOS CUBAN CAFÉ mark in the United States;
34. the amount of sales of goods sold or services provided in connection with the BONGOS CUBAN CAFÉ mark in Mexico;

35. the amount of sales of goods sold or services provided in connection with the BONGOS CUBAN CAFÉ (and design) mark in the United States;
36. the amount of sales of goods sold or services provided in connection with the BONGOS CUBAN CAFÉ (and design) mark in Mexico.

at Estafan Enterprises, 420 Jefferson Avenue, Miami Beach, Florida 33139, or such other location as may be requested by deponent.

Date: Wednesday, May 10th, 2006 at 10:00 a.m.


upon oral examination before a court reporter, or any other Notary Public or other officer authorized by law to take depositions. The oral examination will continue from day to day until completed. The deposition is being taken for the purpose of discovery, for use at trial, or for such other purposes, as are permitted under the applicable and governing rules.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing has been served on this 3rd day of May, 2006, by first class mail and facsimile to Karen Stetson, Esq., PO Box 403023, Miami, Florida 33140.

Respectfully submitted,

Law Offices of
SILVERMAN SANTUCCI, LLP
Attorneys for Registrant
500 West Cypress Creek Road
Suite 500
Fort Lauderdale, Florida 33309
Phone: (954) 351-7474
Fax: (954) 351-7475
MIS@500Law.com

By: s/Michael I. Santucci 
Michael I. Santucci, Esquire
Florida Bar Number: 0105260

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

In the matter of Trademark Registration No. 2347247
For the mark: COCO BONGO
Date Registered: May 2, 2002
Opposition No.: 91121980

ESTEFAN ENTERPRISES, INC.,
a Florida corporation,

Petitioner,

vs.

BONGO, S.A. de C.V.,
Registrant.

RE-NOTICE OF TAKING DEPOSITION DUCES TECUM

PLEASE TAKE NOTICE that the undersigned attorneys will take the deposition of Raul Matias, General Manager of Bongo's Cuban Café of Orlando, Florida, at Estefan Enterprises, 420 Jefferson Avenue, Miami Beach, Florida 33139, on Thursday, May 11th, 2006 at 10:00 a.m. upon oral examination before a court reporter, or any other Notary Public or other officer authorized by law to take depositions. The oral examination will continue from day to day until completed. The deposition is being taken for the purpose of discovery, for use at trial, or for such other purposes, as are permitted under the applicable and governing rules. The deponent is to bring the documents identified on the attached list (Schedule "A").

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing has been served on this 3rd day of May, 2006, by first class mail and facsimile to Karen Stetson, Esq., PO Box 403023, Miami, Florida 33140.

Schedule A

Please bring with you and permit copying of the following documents or objects at the place and date specified herein above:

1. All documents and records which indicate that any actual or potential consumers were confused or mistaken as a result of Registrant and Petitioner's concurred us of the marks COCO BONGO, COCO BONGO HOUSE OF ROCK AND POP and BONGO's CUBAN CAFE.