

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

In the matter of trademark application Serial Number 78110344
For the mark "Superfreaks Funky Disco Revue"
Filed on February 22, 2002

Joe J. Alfaro, Jr.
v.
Guy A. Hoffmann

TTAB

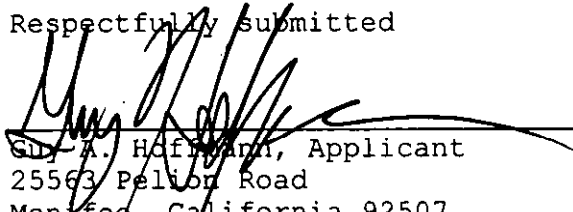
Opposition No. 91155188

**NOTICE OF MOTION TO STRIKE OPPOSER'S AMENDED NOTICE OF OPPOSITION
FILED JULY 1, 2004 AND DISMISSING HIS OPPOSITION**

Please take notice that Guy A. Hoffmann, applicant, hereby files this Motion To Strike Opposer's Amended Notice Of Opposition mailed July 1, 2004 as untimely filed in violation of the Board's order of May 28, 2004 and to dismiss opposer, Joe J. Alfaro, Jr.'s, Opposition.

This Motion will be based upon the accompanying Statement Of Facts and Points And Authorities.

Respectfully submitted


Guy A. Hoffmann, Applicant
25563 Pelion Road
Menifee, California 92507
(909) 679-5855

July 8, 2004
Date



07-12-2004

U.S. Patent & TMO/c/TM Mail Rcpt Dt. #64

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STATEMENT OF FACTS

On February 22, 2002, Guy A. Hoffmann filed an Application under Trademark Act Section 1(b) based on his assertion of a bona fide intention to use the name Superfreaks Funky Disco Revue in commerce in connection with services subsequently amended to "entertainment services namely live musical performance by a disco musical band" (Application Serial Number 78110344).

On January 15, 2003, Joe J. Alfaro, Jr. filed a Notice Of Opposition against Application Serial Number 78110344 .

On March 29, 2003, Guy A. Hoffmann filed an answer and on November 12, 2003, Joe J. Alfaro, Jr. filed a Motion For Summary Judgment.

This Board, on May 28, 2004, denied the Motion For Summary Judgment without prejudice stating "opposer is allowed until 30 days from the mailing date on this order to submit an amended pleading, failing which this opposition will be dismissed(pages 5-6).

On July 1, 2004, Joe J. Alfaro, Jr. filed his Amended Notice Of Opposition, 34 days after the May 28, 2004 decision in violation of the Board's order.

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POINTS AND AUTHORITIES

I. Except as otherwise provided and wherever applicable and appropriate, procedure and practice in inter parties proceedings shall be governed by the Federal Rules of Civil Procedure.

The Trademark Trial and Appeal Board Manual of Procedures
Section 502.01, Trademark Rule 2.116(a), 37CFR §2.116(a).

II. A Motion To Dismiss shall contain a full statement of the grounds and shall embody or be accompanied by a brief.

Trademark Rule 2.127.

III. A Motion shall set forth the relief or order sought.

Rule 7, Federal Rules of Civil Procedure.

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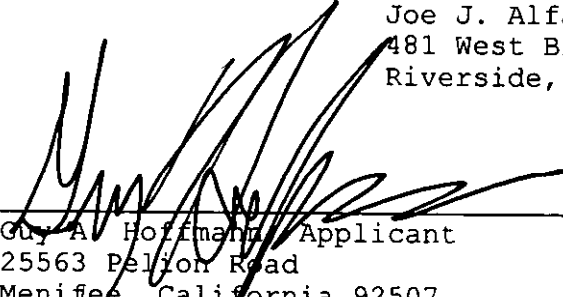
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CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing
"Notice Of Motion To Strike Opposer's Amended Notice Of Opposition and
To Dismiss His Opposition, Statement Of Facts, and Points And
Authorities" has been served on Joe J. Alfaro, Jr. by mailing said copy
on July 9, 2004 via "priority mail" addressed as follows:

Joe J. Alfaro, Jr.
481 West Blaine Street
Riverside, California 92507



Guy A. Hoffmann, Applicant
25563 Pelion Road
Menifee, California 92507
(909)679-5855

July 9, 2004
Date