

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

In the matter of

HERBAN AVENUES, L.L.C.,

Opposer,

v.

HERBANCOWBOY.COM, INC.,

Applicant.

Opposition No. 91157596

Application No. 78/138,031

Mark: **HERBANCOWBOY**

05-14-2004

U.S. Patent & TMO/TM Mail Rept Dt. #78

STIPULATED MOTION TO DISMISS OPPOSITION AND CANCELLATION

Opposer Herban Avenues, L.L.C. ("Herban Avenues"), through their counsel, hereby request that this Opposition be dismissed, with prejudice. Further, Petitioner HerbanCowboy.com, Inc. ("HerbanCowboy"), through their counsel, hereby request that the counterclaim Cancellation proceeding in this Opposition be dismissed, with prejudice. In support of this Motion, the parties set forth the following:

1. The parties to this Opposition have reached a settlement and have executed a binding Settlement Agreement.
2. Pursuant to the Settlement Agreement, Opposer Herban Avenues will not use, apply for, oppose nor attempt to cancel any of the marks, applications or registrations or challenge or in any way interfere with HerbanCowboy's use of their marks as described in the Settlement Agreement.
3. Pursuant to the Settlement Agreement, Petitioner HerbanCowboy will not use, apply for, oppose nor attempt to cancel Trademark Registration No.


2,499,364 for the mark HERBAN AVENUES or challenge or in any way interfere with Herban Avenues use of their trademark.

WHEREFORE, in view of the parties' settlement of this dispute, Herban Avenues respectfully requests that the Opposition be dismissed with prejudice, and HerbanCowboy respectfully requests that the counterclaim Cancellation in the Opposition be dismissed with prejudice.

Respectfully Submitted,

Date: 5/13/2004


Date: 5/11/04



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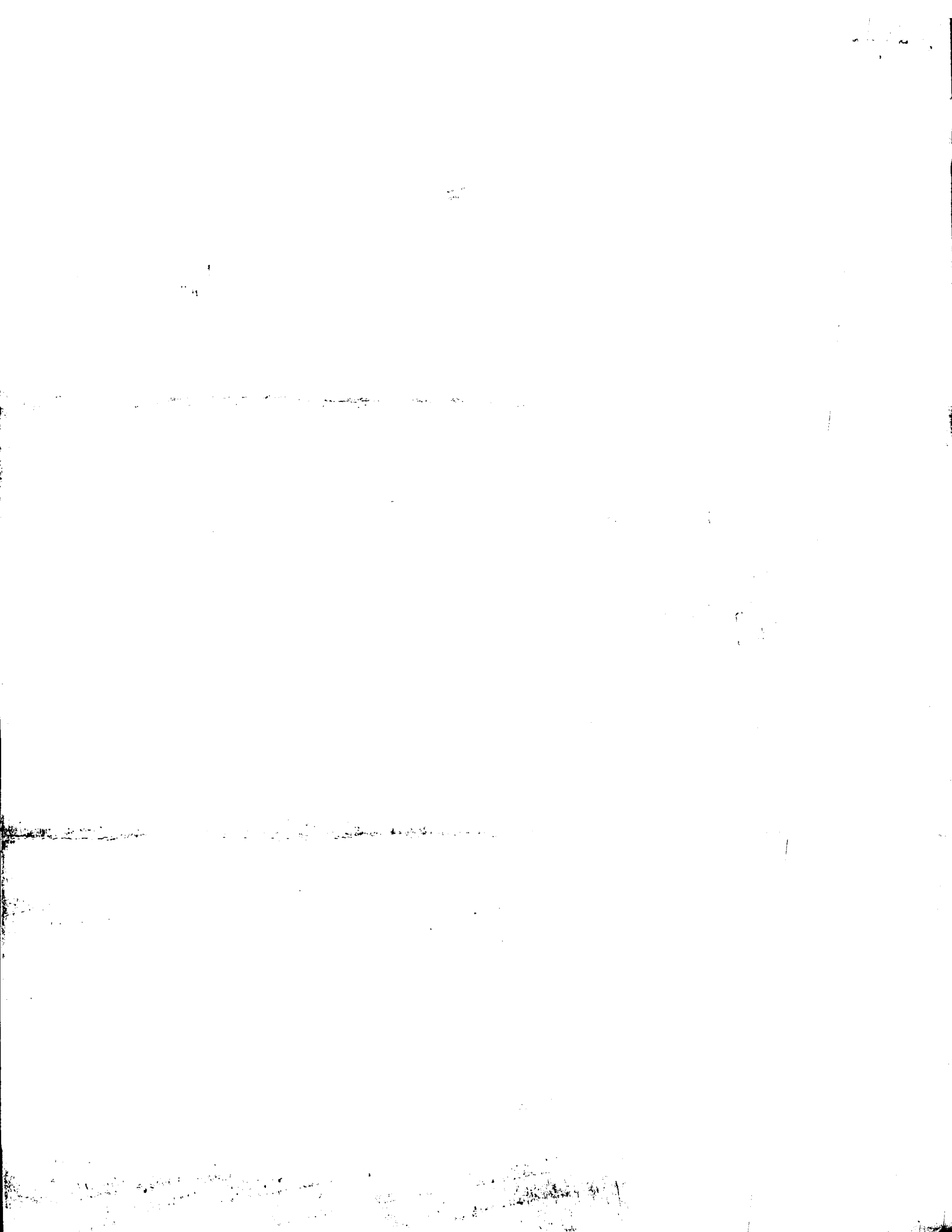
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May 13, 2004

05-14-2004

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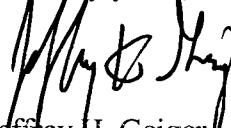
Re: Herban Avenues, L.L.C. v. HerbanCowboy.com, Inc.
Opposition No. 91157596
Our File No. 008914/056435

Dear Sir or Madame:

On behalf of **Herban Avenues, L.L.C.**, I am enclosing a fully executed "Stipulated Motion to Dismiss Opposition and Cancellation," by which the parties request that the Opposition and counterclaim Cancellation be dismissed with prejudice.

As always, please do not hesitate to contact me if you have any questions.

Sincerely yours,


Jeffrey H. Geiger

Enclosure

cc: Nathan J. Prepelka, Esquire (w/encl.)
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