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

Proceeding	91159950
Party	Defendant PREMIUM PRODUCTS, INC. PREMIUM PRODUCTS, INC. P.O. Box 444 Mount Vernon, VA 22121
Correspondence Address	H. JAY SPIEGEL H. JAY SPIEGEL & ASSOCIATES PO BOX 11 MOUNT VERNON, VA 22121
Submission	Other Motions/Papers
Filer's Name	H. Jay Spiegel
Filer's e-mail	jayspiegel@aol.com
Signature	/H. Jay Spiegel/
Date	04/05/2006
Attachments	central.premium.stealth.response.to.motion.cert.of.serv.040506.pdf (5 pages)

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

CENTRAL MFG. CO.
P.O. Box 35189
Chicago, IL 60707-0189

Opposer,

v.

PREMIUM PRODUCTS, INC.
(a Virginia Corporation)
P.O. Box 11
Mount Vernon, VA 22121

Applicant.

Trademark: GROUND ZERO STEALTH

Application SN: 76/505,385

Int. Class No.: 28

Filed: April 1, 2003

Published: November 25, 2003

Opposition No.: 91159950

Box TTAB/NO FEE

**REPLY IN FURTHER SUPPORT OF APPLICANT'S MOTION TO LIFT
CONFIDENTIALITY OF CERTAIN DOCUMENTS PRODUCED BY OPPOSER,
CENTRAL MFG. CO., AND TO STAY DISCOVERY AND TO EXTEND DISCOVERY,
TESTIMONY AND BRIEFING DEADLINES, AND FOR SANCTIONS**

I. INTRODUCTION

Applicant, PREMIUM PRODUCTS, INC. (PREMIUM), herewith replies in further support of its Motion above-titled. While there is no provision in the Trademark Rules of Practice for filing of Reply Briefs on Motions, they are not expressly prohibited. TBMP § 502.03. The Board may entertain a Reply Brief if, in the Board's opinion, such a Brief is necessary to permit the moving party to respond to new issues raised in the adversary's Brief in opposition to the Motion. *Id.*

II. ARGUMENT

CENTRAL argues that the Board's Decision of January 13, 2006 precludes the pending Motion and that the pending Motion is merely an attempt to seek "a 'second bite' of the apple ...". CENTRAL's response at 2. This allegation is without basis. The deposition of Nancy Reich occurred on October 11, 2005. The last Brief filed germane to the Board's Decision of January 13, 2006 was filed on July 13, 2005, paper no. 42.¹ Thus, the deposition of Nancy Reich occurred almost three months after briefing was concluded for the prior Motion. Accordingly, the pending Motion does not constitute an attempt to obtain a "second bite" at the apple but, rather, was filed in response to new information being discovered by PREMIUM. Accordingly, CENTRAL's theory that the Board's Order of January 13, 2006 precludes the pending Motion is not well taken.

CENTRAL alleges that the testimony of Nancy Reich "was false" and that "Judge Lindberg never ruled that Central produced a [sic] 'back dated documents.'" CENTRAL's unsworn allegation that the testimony of Ms. Reich was "false" is insufficient to preclude the Board from permitting her testimony in this case. CENTRAL carries the burden to support its allegations concerning Judge Lindberg and the *Pure Fishing* litigation with documentary evidence from that matter and has failed to do so.

PREMIUM maintains the reasoning set forth in its Motion as to why discovery should be stayed until the Motion is decided and as to why the various deadlines in this case should be extended once the Board renders its decision.

¹ The description of paper no. 42 is incorrect in the history text on TTABVUE. The correct description should be "D'S FURTHER REPLY TO P'S # 41."

CENTRAL's argument that the Motion for Sanctions should be denied because PREMIUM "failed to comply with the safe harbor provision of Rule 11" is also not well taken. The Motion for Sanctions is not a Rule 11 Motion. It is a Motion in which PREMIUM requests that the Board exert its inherent authority to enter sanctions against a party. TBMP § 527.03. Here, CENTRAL's conduct as demonstrated in Exhibits 9-12 attached to PREMIUM's Motion is beyond egregious. As those Exhibits demonstrate, CENTRAL's President, Leo Stoller, threatened the undersigned with bar complaints if the pending Motion were to be filed. Mr. Stoller went so far as to point out that even if a bar complaint fails, it "drives a sword into an attorneys [sic] Reputation that cannot be Removed, Even if the said complaint is dismissed. The damage is done." Exhibit 11. This, at minimum, infers that Mr. Stoller will use filing of a bar complaint as a litigation tactic, regardless of whether or not it is meritorious. In this case, such a complaint would not be remotely meritorious.

The Board should not countenance Mr. Stoller's extortionate attempt to gain advantage in this proceeding by attempting to intimidate PREMIUM's Counsel with a threatened bar complaint.

CENTRAL alleges that PREMIUM should be sanctioned for allegedly revealing confidential documents. In this regard, as explained in PREMIUM's Motion, the documents in question are publicly accessible in the online record concerning Opposition No. 91152243. Those documents were photocopied from that public record and filed in this matter in exactly the same form in which they appear therein.

III. CONCLUSION

For the reasons set forth in PREMIUM's Motion and hereinabove, it is respectfully requested that PREMIUM's Motion be granted.

Respectfully submitted,

H. JAY SPIEGEL & ASSOCIATES

/H. Jay Spiegel/
H. Jay Spiegel
Attorney for Applicant
PREMIUM PRODUCTS, INC.
Registration No. 30,722

H. JAY SPIEGEL & ASSOCIATES
P.O. Box 11
Mount Vernon, VA 22121
(703) 619-0101 - Phone
(703) 619-0110 - Facsimile

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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing REPLY IN FURTHER SUPPORT OF APPLICANT'S MOTION TO LIFT CONFIDENTIALITY OF CERTAIN DOCUMENTS PRODUCED BY OPPOSER, CENTRAL MFG. CO., AND TO STAY DISCOVERY AND TO EXTEND DISCOVERY, TESTIMONY AND BRIEFING DEADLINES, AND FOR SANCTIONS was served by First Class Certified Mail, postcard receipt requested, postage prepaid, Certified Mail No. 7003 0500 0001 9776 8029, this 5th day of April, 2006, on the following Opposer:

Mr. Leo Stoller
CENTRAL MFG. CO.
7115 W. North Avenue #272
Oak Park, IL 60302.

DATED: April 5, 2006

Respectfully submitted,

H. JAY SPIEGEL & ASSOCIATES

H. JAY SPIEGEL & ASSOCIATES
P.O. Box 11
Mount Vernon, Virginia 22121
(703) 619-0101 - Phone
(703) 619-0110 - Facsimile

/H. Jay Spiegel/
H. Jay Spiegel
Attorney for Applicant
Registration No. 30,722