

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

In the matter of trademark application Serial Number 76/523,318 published in the February 24, 2004 Issue of the Official Gazette (Trademarks) on Page TM 304.

_____)
PACIFIC SUNWEAR OF CALIFORNIA,)
INC.,)
) **OPPOSITION NO. 91159978**
)
Opposer,)
)
v.)
)
PEPPERDINE UNIVERSITY,)
)
)
Applicant.)
_____)

Commissioner of Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451
Box TTAB NO FEE

"Express Mail" Mailing Label Number: ED196241357US
Date of Deposit November 22, 2004
I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to Assistant Commissioner of Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202, Box TTAB Fee
Mimi Hoppas
(Name of person mailing paper or fee)
Mimi Hoppas
(Signature of person mailing paper or fee)
11/22/2004
(Date of Signature)

**DECLARATION OF MATTHEW D. MURPHEY IN SUPPORT OF MOTION TO
COMPEL FURTHER DEPOSITION TESTIMONY, AND FOR RESETING OF
DISCOVERY AND TESTIMONY PERIODS**

I, MATTHEW DEAN MURPHEY, declare as follows:

1. I am an attorney at law, duly licensed to practice before all of the courts in the State of California. I am the managing shareholder at Murphey & Murphey, A.P.C., attorneys for Plaintiff PACIFIC SUNWEAR OF CALIFORNIA, INC. (hereinafter "Pac Sun")

2. I have personal knowledge of the following facts and if called to testify could and would competently testify thereto.

3. On October 8, 2004, at approximately 12:30 p.m., following the completed depositions of Pac Sun's corporate designees, Messrs. Harmon and Morris, I spoke with Attorneys Sarah Brown, counsel for Applicant Pepperdine University, and requested convenient dates and times for the continued deposition of Pepperdine's designees.

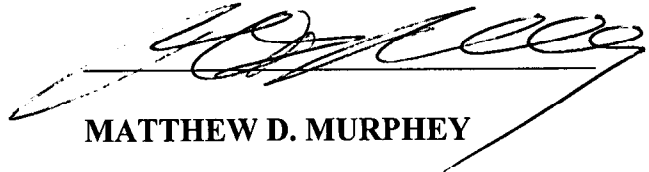
4. Ms. Brown stated to me that she had received Attorney Maha Sarah's letter of October 7, 2004 requesting the same, would confer with her (Ms. Brown's) client, and provide proposed dates and times for the continued depositions.

5. On November 16, 2004, I called the offices of Cislo & Thomas and requested to speak with Mr. Cislo. Mr. Cislo was in his office but would not take my call because of lunch. I then spoke later in the day with Sarah Brown and requested she withdraw her client's summary judgment motion until the depositions could be completed.

6. Ms. Brown never returned my call. Instead, Mr. Cislo wrote me the letter attached to the Sarah Declaration as Exhibit I that declines our request to take the summary

judgment motion off-calendar or withdraw it pending the completion of Pepperdine's deposition.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed on November 22, 2004.



MATTHEW D. MURPHEY

MURPHEY & MURPHEY, A.P.C.

Matthew D. Murphey

Maha Sarah

Attorneys for Opposer

PACIFIC SUNWEAR OF

CALIFORNIA, INC.

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CERTIFICATE OF SERVICE

It is hereby certified that on November 22, 2004 a copy of the foregoing,
**DECLARATION OF MATTHEW D. MURPHEY IN SUPPORT OF MOTION TO
COMPEL FURTHER DEPOSITION TESTIMONY, AND FOR RESETTING OF
DISCOVERY AND TESTIMONY PERIODS** was sent by first class mail, postage
prepaid to:

Daniel M. Cislo, Esq.
CISLO & THOMAS, LLP
233 Wilshire Boulevard, Suite 900
Santa Monica, CA 90401



Mimi Hoppas