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

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| Proceeding | 91187342 |
| Party | Plaintiff Sean P.Combs |
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| Submission | Motion to Amend Pleading/Amended Pleading |
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Application Serial No. 78/615,932
Published in the Official Gazette on June 3, 2008

Sean Puffy Combs,

Opposer,

v.

Pacific Rim Marketing Inc.,

Applicant.

Opposition No. 91187342

**OPPOSER'S REPLY BRIEF IN FURTHER SUPPORT OF ITS MOTIONS FOR LEAVE
TO AMEND AND FOR SUMMARY JUDGMENT**

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October 11, 2010

INTRODUCTION

Opposer submits this reply brief in response to Applicant's Response To Opposer's Brief In Support Of Its Motions For Leave To File Second Amended Notice Of Opposition And Motion For Summary [Judgment On] Newly-Pleaded Basis For Opposition, which was served on October 9, 2010 ("Applicant's Response").

IN VIEW OF APPLICANT'S ADMISSION OF NON-USE, OPPOSER'S MOTIONS FOR LEAVE TO FILE ITS SECOND AMENDED NOTICE OF OPPOSITION AND FOR SUMMARY JUDGMENT ON THE NEWLY-PLEADED BASIS FOR OPPOSITION SHOULD BE GRANTED

In Applicant's Response, it admits that it had not used its alleged IDIDDY mark in commerce prior to the filing date of its opposed application on April 25, 2005. Therefore, under Fed. R. Civ. P. 15(a)(2), Opposer respectfully submits that justice requires that Opposer's motion for leave to further amend its notice of opposition to plead, what is clearly a meritorious cause of action, should be granted.

Moreover, Applicant's admission of non-use is dispositive of Opposer's motion for summary judgment on the newly pleaded basis for opposition that Applicant had made no use in commerce of its alleged mark IDIDDY on or prior to Applicant's filing of the opposed application on April 25, 2005. By Applicant's own admission of non-use, the opposed Application Serial No. 78/615,932 is void *ab initio* under § 1(a) of the United States Trademark Act, 15 U.S.C. § 1051(a). Opposer respectfully submits that there are no genuine issues of material fact and Opposer is entitled to summary judgment as a matter of law.¹

CONCLUSION

Based upon Opposer's moving papers, Applicant's Response and Opposer's within reply, it is clear that Opposer has carried his burden and that: there is no genuine issue of material fact

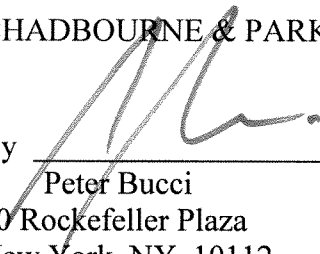
¹ See Fed. R. Civ. P. 56(c)(2); *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 252, 106 S.Ct. 2505, 2511 (1986); *Weinstock v. Columbia Univ.*, 224 F.3d 33, 41 (2d Cir. 2000) and the additional authority cited on page 9 of Opposer's main brief.

concerning Opposer's standing to bring and maintain this Opposition²; granting leave to further amend the Notice of Opposition will serve the interests of justice by allowing Opposer to plead a claim based upon facts admitted by Applicant; and there are no genuine issues of material fact concerning Applicant's non-use of the mark in commerce prior to the filing date of its opposed application.

For the forgoing reasons, Opposer respectfully requests that his motion for leave to amend be granted and that his motion for summary judgment be granted, sustaining this Opposition and refusing registration to Applicant.

Dated: October 11, 2010

Respectfully submitted,
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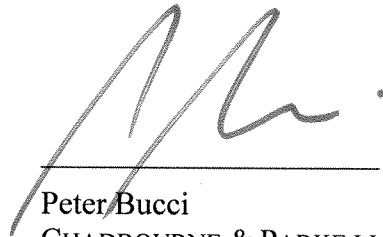
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² Applicant's Response makes no attempt to contest Opposer's standing.

CERTIFICATE OF SERVICE

I hereby certify that on this 11th day of October, 2010, a true and correct copy of the foregoing OPPOSER'S REPLY BRIEF IN FURTHER SUPPORT OF ITS MOTIONS FOR LEAVE TO AMEND AND FOR SUMMARY JUDGMENT is being served by email (fred@pacrim-marketing.com) and first class mail, postage prepaid, and addressed to the Applicant of record for Application Serial No. 78/615,932, as follows

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