

ESTTA Tracking number: **ESTTA382384**

Filing date: **12/07/2010**

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

Proceeding	91196016
Party	Plaintiff CARLOSRAMIREZ
Correspondence Address	Gordon E. Gray III Gray Law Firm 4401 N. Atlantic Ave. Long Beach, CA 90807 UNITED STATES geg@grayiplaw.com
Submission	Opposition/Response to Motion
Filer's Name	Gordon E. Gray III
Filer's e-mail	geg@grayiplaw.com
Signature	/Gordon E. Gray III/
Date	12/07/2010
Attachments	Opp Mot Compel.pdf ( 4 pages )(76952 bytes ) Decl of Gray.pdf ( 15 pages )(396676 bytes )

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

CARLOS RAMIREZ, an individual,

Opposer,

v.

FREDRICK J. STAVES, an individual,

Applicant.

Opposition No. 91196016

Mark: MAJESTICS CAR CLUB

Serial No. 77/729,569

Filed: May 5, 2009

Published: April 14, 2010

**OPPOSER'S OPPOSITION TO MOTION TO COMPAIL {sic}**

United States Patent and Trademark Office  
Trademark Trial and Appeal Board  
P.O. Box 1451  
Alexandria, VA 22313-1451

Opposer Carlos Ramirez hereby opposes applicant's motion to compail {sic} (hereinafter assumed to be "compel.")

**I. INTRODUCTION**

Applicant Fredrick J. Staves, appearing pro per, has filed a motion to compel. However, Mr. Staves has failed to identify the subject of his motion, namely what he is seeking to compel. Moreover, Mr. Staves failed to conduct a pre-motion conference with opposer's counsel as required by FRCP, Rule 37 to discuss his motion and see if it could be avoided. Opposer's counsel attempted to conduct a discovery conference as required by the Board's scheduling order. *See* Decl. of Gray, ¶¶2-3. Mr. Staves, who is incarcerated in a federal prison, has stated that he would not have access to a phone and asked that the conference be conducted by email.

*See* Decl. of Gray, Exhibit 1 and *see also United States v. Staves et al*, 383 F.3d 977 (2004). Opposer’s counsel agreed and asked if Mr. Staves would provide his position on a number of items required for discussion in a Rule 26 conference such as his proposed discovery plan, the status of electronically stored information and any settlement position. *See* Decl. of Gray, Exhibit 2. Mr. Staves ignored the requests for information associated with a Rule 26 conference and claimed he had already provided his “discovery” previously. *See* Decl. of Gray, Exhibit 3. Accordingly, opposer moved on to preparing his initial disclosure. *See* Decl. of Gray, Exhibit 4. Opposer served his initial disclosure as required by the Board on Friday, November 19, 2010. *See* Decl. of Gray, Exhibit 5. Subsequently, without sending an email or any other attempt to meet and confer to resolve any “dispute,” Mr. Staves filed the present motion. No other discovery requests have been served in this case. Thus, it is unclear what, if anything, applicant is attempting to compel. Applicant’s motion is moot and should be denied.

## **II. APPLICANT FAILED TO CONDUCT A RULE 37 CONFERENCE PRIOR TO FILING HIS MOTION.**

Mr. Staves did not contact opposer’s counsel prior to filing his motion. If applicant did not receive the initial disclosures, a single phone call or email stating that he did not receive opposer’s initial disclosures on November 19 would have resulted in a follow-up transmission of opposer’s initial disclosure. The Federal Rules of Civil Procedure, Rule 37 requires that counsel meet and confer prior to discovery motions to try to resolve discovery disputes in good faith. *See* FRCP, Rule 37. Mr. Staves failed to conduct such a conference and his motion should be denied. Moreover, given that applicant’s email may be unreliable, opposer does hereby rescind his agreement to allow service of papers via email and will only serve papers on applicant by

mail at the Rialto post office box given by applicant. Opposer will also only accept papers served by mail from this point as well.

### **III. CONCLUSION**

The only discovery due at this point in the case was the parties' initial disclosures. Opposer served his initial disclosures on applicant. Applicant's motion is moot and should therefore be denied.

Respectfully submitted,

Dated: December 7, 2010

s/Gordon E. Gray III/  
Gordon E. Gray III  
Attorney for Opposer, Carlos Ramirez

**CERTIFICATE OF SERVICE**

The undersigned certifies that a true and correct copy of the foregoing OPPOSER'S OPPOSITION TO MOTION TO COMPAIL {sic} was sent by first class mail, postage pre-paid to Applicant's address:

Mr. Fredrick J. Staves  
P.O. Box 211  
Rialto, CA 92376

Dated: December 6, 2010

By: s/Gordon E. Gray III/ \_\_\_\_\_  
Gordon E. Gray III

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

CARLOS RAMIREZ, an individual,

Opposer,

v.

FREDRICK J. STAVES, an individual,

Applicant.

Opposition No. 91196016

Mark: MAJESTICS CAR CLUB

Serial No. 77/729,569

Filed: May 5, 2009

Published: April 14, 2010

**DECLARATION OF GORDON E. GRAY III IN SUPPORT OF OPPOSER'S  
OPPOSITION TO MOTION TO COMPEL**

I, Gordon E. Gray III, do hereby declare as follows:

1. I am an attorney of record for opposer Carlos Ramirez. I have personal knowledge of the contents of this declaration and if called upon to testify, I could and would testify competently thereto.
2. I attempted to conduct a discovery conference as required by the Board's scheduling order. Mr. Staves, who is incarcerated in a federal prison, has stated that he would not have access to a phone and asked that the conference be conducted by email. A true and correct copy of an email from Mr. Staves is attached hereto as Exhibit 1. *See also United States v. Staves et al*, 383 F.3d 977 (2004).
3. I agreed to communicate by email and asked if Mr. Staves would provide his position on a number of items required for discussion in a Rule 26 conference such as his proposed discovery plan, the status of electronically stored information and any settlement position. A

true and correct copy of my email is attached hereto as Exhibit 2. In response, Mr. Staves ignored the requests for information associated with a Rule 26 conference and claimed he had already provided his "discovery" previously. A true and correct copy of his email is attached hereto as Exhibit 3. A true and correct copy of my response is attached hereto as Exhibit 4.

4. I served opposer's initial disclosure as required by the Board on Friday, November 19, 2010. Given that initial disclosures are generally not filed with the Board, I have attached as Exhibit 5 a true and correct copy of the proof of service for opposer's initial disclosures.

5. Mr. Staves made no attempt to contact me after I served the initial disclosures and prior to his filing. No other discovery requests have been served in this case.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed on this 7th day of December 2010 at Long Beach, California.

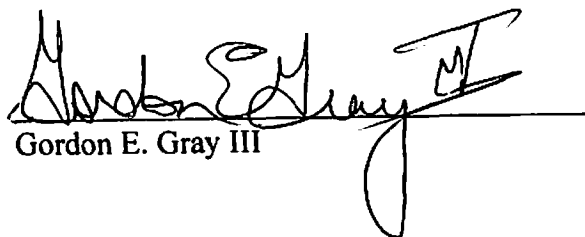
  
Gordon E. Gray III

EXHIBIT 1



**From:** "Original Gangsta Publishing" <ogpublishing@yahoo.com>  
**Subject:** **Re: Conference**  
**Date:** October 19, 2010 4:22:08 PM PDT  
**To:** "Tina Loza" <tina@lozaip.com>

---

MS. LOZA I HAVE NO ACCESS TO A PHONE UNTIL MARCH 2011.BUT I WILL STIPULATE TO A WEEK EXTENSION SO THAT WE CAN HANDLE THIS SITUATION THRU THE EMAIL.YOU CAN EMAIL WHATEVER IT IS TO MS.UBARIO AND SHE WILL FORWARD IT TO ME SO I CAN RESPOND TO IT.YOU CAN SET ANY DATE WITHIN THE NEXT WEEK AND LET ME KNOW SO I CAN TAKE OFF WORK THAT DAY.THANK YOU,FREDRICK STAVES.

--- On **Tue, 10/19/10, Tina Loza <tina@lozaip.com>** wrote:

From: Tina Loza <tina@lozaip.com>  
Subject: Conference  
To: ogpublishing@yahoo.com  
Date: Tuesday, October 19, 2010, 10:29 AM

Dear Mr. Staves:

I have been in contact with Maria Ubario who was hoping to have a conference about the Opposition with me by tomorrow. Unfortunately, because Ms. Ubario is not an attorney and you are representing yourself pro se, I need to have the conference call with you.

I understand that you do not have availability before tomorrow. Can you stipulate to a one week extension so that we can talk in the next week? What is your availability?

Please advise.

Best Regards,

Tina

Christina S. Loza, Esq.

Loza & Loza, LLP

An Intellectual Property Solutions Group

*Orange County § South Bay § Inland Empire*

President - National Association of Women Business Owners - Inland Empire Chapter

(949) 705-6777 - direct

(949) 608-8934 - fax

[tina@lozaip.com](mailto:tina@lozaip.com)

[www.lozaip.com](http://www.lozaip.com)

#### CONFIDENTIALITY NOTICE

This electronic message and its accompanying attachments (if any) contain information from the law firm of Loza & Loza, LLP that is confidential and/or subject to attorney-client privilege. If you are not the intended recipient, be aware that any disclosure, copying, distribution, or use of the contents of this information is prohibited. If you have received this message in error, please notify the above attorney by telephone immediately.

EXHIBIT 2

**From:** Gordon Gray <geg@grayiplaw.com>  
**Subject:** **Rule 26 Discovery Conference**  
**Date:** November 1, 2010 3:59:22 PM PDT  
**To:** ogpublishing@yahoo.com  
**Bcc:** Carlos Ramirez <carlos3r@excite.com>, Tina Loza <tina@lozaip.com>

---

Dear Mr. Staves,

I represent Carlos Ramirez and am in the process of substituting in as counsel of record in the TTAB matter. Please direct all future correspondence to me. Ms. Loza will no longer be involved in this case.

While the discovery conference typically requires a telephonic or in-person meeting, I understand that you are incarcerated and only able to communicate by email at this time. Accordingly, I propose that we conduct the conference in two parts. First, please send me any proposed discovery plan you have for the case; when and how you intend to provide your initial disclosures; and, whether you have any electronically-stored information on which you base your case and where it is stored. Next, if you have any position on settlement, please provide me your position for my client. Once you have provided your half of the discovery conference, I will provide you with Mr. Ramirez's portion to complete the discovery conference so we can then begin conducting discovery.

If you have any questions, please do not hesitate to contact me.

Very Truly Yours,

Gordon Gray  
Gray Law Firm  
4401 N. Atlantic Ave., Suite 233  
Long Beach, CA 90807  
TEL: (562) 984-2020  
FAX: (562) 984-2019

EXHIBIT 3

**From:** Original Gangsta Publishing <ogpublishing@yahoo.com>  
**Subject:** **Re: Rule 26 Discovery Conference**  
**Date:** November 4, 2010 5:00:11 PM PDT  
**To:** Gordon Gray <geg@grayiplaw.com>

---

MR. GORDEN GREY, THIS IS FREDRICK STAVES AGAIN. IM REQUESTING ANY AND ALL DISCOVERY THAT YOU HAVE FOR THE OPPOSITION OF THE MAJESTICS CAR CLUB TRADEMARK BEING OPPOSED BY YOUR CLIENT CARLOS RAMIREZ. I'VE ALREADY STATED MY POSITION TO YOU ON A SETTLEMENT IN THIS MATTER SO I HOPE THAT WE CAN MOVE ON TO THE CONFERENCE PHASE OF THIS OPPOSITION. I WILL BE WAITING FOR YOUR RESPONSE. SINCERELY FREDRICK STAVES

--- On **Mon, 11/1/10**, **Gordon Gray <geg@grayiplaw.com>** wrote:

From: Gordon Gray <geg@grayiplaw.com>  
Subject: Rule 26 Discovery Conference  
To: ogpublishing@yahoo.com  
Date: Monday, November 1, 2010, 3:59 PM

Dear Mr. Staves,

I represent Carlos Ramirez and am in the process of substituting in as counsel of record in the TTAB matter. Please direct all future correspondence to me. Ms. Loza will no longer be involved in this case.

While the discovery conference typically requires a telephonic or in-person meeting, I understand that you are incarcerated and only able to communicate by email at this time. Accordingly, I propose that we conduct the conference in two parts. First, please send me any proposed discovery plan you have for the case; when and how you intend to provide your initial disclosures; and, whether you have any electronically-stored information on which you base your case and where it is stored. Next, if you have any position on settlement, please provide me your position for my client. Once you have provided your half of the discovery conference, I will provide you with Mr. Ramirez's portion to complete the discovery conference so we can then begin conducting discovery.

If you have any questions, please do not hesitate to contact me.

Very Truly Yours,

Gordon Gray  
Gray Law Firm  
4401 N. Atlantic Ave., Suite 233  
Long Beach, CA 90807  
TEL: (562) 984-2020  
FAX: (562) 984-2019

EXHIBIT 4

**From:** Gordon Gray <geg@grayiplaw.com>  
**Subject:** **Re: Rule 26 Discovery Conference**  
**Date:** November 4, 2010 5:06:46 PM PDT  
**To:** Original Gangsta Publishing <ogpublishing@yahoo.com>

---

Mr. Staves,

If it is your position that the discovery conference is complete, I will prepare my initial disclosures and await yours.

Very Truly Yours,

Gordon Gray  
Gray Law Firm  
4401 N. Atlantic Ave., Suite 233  
Long Beach, CA 90807  
TEL: (562) 984-2020  
FAX: (562) 984-2019

On Nov 4, 2010, at 5:00 PM, Original Gangsta Publishing wrote:

MR. GORDEN GREY, THIS IS FREDRICK STAVES AGAIN. IM REQUESTING ANY AND ALL DISCOVERY THAT YOU HAVE FOR THE OPPOSITION OF THE MAJESTICS CAR CLUB TRADEMARK BEING OPPOSED BY YOUR CLIENT CARLOS RAMIREZ. I'VE ALREADY STATED MY POSITION TO YOU ON A SETTLEMENT IN THIS MATTER SO I HOPE THAT WE CAN MOVE ON TO THE CONFERENCE PHASE OF THIS OPPOSITION. I WILL BE WAITING FOR YOUR RESPONSE. SINCERELY FREDRICK STAVES

--- On **Mon, 11/1/10**, **Gordon Gray** <[geg@grayiplaw.com](mailto:geg@grayiplaw.com)> wrote:

From: Gordon Gray <[geg@grayiplaw.com](mailto:geg@grayiplaw.com)>  
Subject: Rule 26 Discovery Conference  
To: [ogpublishing@yahoo.com](mailto:ogpublishing@yahoo.com)  
Date: Monday, November 1, 2010, 3:59 PM

Dear Mr. Staves,

I represent Carlos Ramirez and am in the process of substituting in as counsel of record in the TTAB matter. Please direct all future correspondence to me. Ms. Loza will no longer be involved in this case.

While the discovery conference typically requires a telephonic or in-person meeting, I understand that you are incarcerated and only able to communicate by email at this time. Accordingly, I propose that we conduct the conference in two parts. First, please send me any proposed discovery plan you have for the case; when and how you intend to provide your initial disclosures; and, whether you have any electronically-stored information on which you base your case and where it is stored. Next, if you have any position on settlement, please provide me your position for my client. Once you have provided your half of the discovery conference, I will provide you with Mr. Ramirez's portion to complete the discovery conference so we can then begin conducting discovery.

If you have any questions, please do not hesitate to contact me.

Very Truly Yours,





Gordon Gray  
Gray Law Firm  
4401 N. Atlantic Ave., Suite 233  
Long Beach, CA 90807  
TEL: (562) 984-2020  
FAX: (562) 984-2019

EXHIBIT 5

**CERTIFICATE OF SERVICE**

I hereby certify that on the on November 19, 2010, I served the foregoing OPPOSER CARLOS RAMIREZ'S INITIAL DISCLOSURES TO APPLICANT FREDRICK J. STAVES on the party below. It has been served by email pursuant to agreement by the parties to:

FREDRICK J. STAVES  
Email: [ogpublishing@yahoo.com](mailto:ogpublishing@yahoo.com)  
P.O. Box 211  
Rialto, CA 92376

Dated: November 19, 2010

By:     /Gordon E. Gray III      
Gordon E. Gray III (SBN 175209)  
[geg@grayiplaw.com](mailto:geg@grayiplaw.com)

**CERTIFICATE OF SERVICE**

The undersigned certifies that a true and correct copy of the foregoing:

**DECLARATION OF GORDON E. GRAY III IN SUPPORT OF OPPOSER'S  
OPPOSITION TO MOTION TO COMPEL**

was sent by first class mail, postage pre-paid to Applicant's address:

Mr. Fredrick J. Staves  
P.O. Box 211  
Rialto, CA 92376

Dated: December 6, 2010

By: s/Gordon E. Gray III/  
Gordon E. Gray III