

ESTTA Tracking number: **ESTTA574733**

Filing date: **12/04/2013**

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

Proceeding	91212914
Party	Plaintiff The Red Luna Company (KO)
Correspondence Address	ALBERTO SOLER C/O DEFABIO & FENN PA 2333 BRICKELL AVENUE MIAMI, FL 33129 UNITED STATES dokecola@live.com, redlunalaw@att.net
Submission	Other Motions/Papers
Filer's Name	Alberto Soler
Filer's e-mail	Solelawgroup@att.net, cokiloco@live.com
Signature	/Alberto Soler/
Date	12/04/2013
Attachments	KOresponseOasisTCCC.pdf(91848 bytes)

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

In re: Application No. 85/672/788

Mark: DOKE

Filed: July 12, 2012

Published: June 11, 2013

THE RED LUNA (KO) and/or

by ALBERTO SOLER,

Opposer(s),

v.

Opposition No. **91212914**

Oasis Intertrade Limited,

Applicant,

_____ /

OPPOSER'S RESPONSE TO APPLICANT'S MOTION TO DISMISS

THE RED LUNA (KO) and/or by the undersigned authorized legal representative- Alberto Soler (hereinafter KO), hereby response to Applicant's (hereinafter Oasis) motion to dismiss (MTD).

In support thereof, KO states the following to Oasis's meritless and contradicting pleading for dismissal:

1. Oasis's moves for dismissal for failure to state a claim on the following issues: (1), KO lacks standing being not the one who requested the extension of time to oppose and thus also not being the owner of the mark Doke, Application No. 85741161, nor alleging how it will be damaged by the registration of Oasis's mark named *Doke*, and (2), KO fails to

plead any valid grounds for being “incomprehensible” and “dominated largely by completely irrelevant facts related to issues KO has with third party, named The Coca-Cola Company” (hereinafter TCCC)

Oasis, *who ever they think they are or does not want us all to believe who they really are*, does not think there could be anyone standing in their way and if so and there is one now blocking their great scheme they are now here attempting to achieve- such one name here KO can't be believed saying that there is such a thing living in the land of free trade as a wolf in sheep clothing.

STANDING/DAMAGES

2. KO, to clear the record and avoid any further delays by Oasis attempting to stop what can never be stopped being the truth, says here why first Alberto Soler and then later Red Luna and still now here as KO legally opposing wrong from succeeding.

The record of these proceedings and facts as stated in KO's complaint shows the following: Alberto Soler (Soler) the one now here writing all this here, is the owner of the mark Doke as stated above. The mark was approved before, and given publication date before, Oasis's mark now being opposed here. After Soler realized upon checking the trademark record, that how and why so Oasis's mark was also approved for and given a publication date also and after Soler's being first so approved, decided and made complaints to USPTO and was the instead who was given the axe allowing Oasis's to proceed for publication.

Soler then, and righteously so on June 11, 2013 filed an extension request of a full 90-days to oppose Oasis's mark while Soler's mark stayed suspended until the resolution of

this opposition. On July 07, 2013, Soler being the majority owner and with other minority members incorporated the company called The Red Luna (TRL) On Oct. 09, 2013, Soler being the authorized officer attorney-in fact of The Red Luna filed the present opposition complaint.

Soler has done no wrong nor anything wrong when filing the complaint under TRL and thus TRL here does not lack standing to maintain the present opposition. In fact, the Board knows about these kind of circumstances that does not invalidate standing to proceed as we do here.

First under *TBMP 203.02(b)*, since Soler had no right for further extension of time to submit any correction if the potential opposer is called someone else related or in privity, such situation and the facts on the record clearly shows that such circumstances now known by the Board that Soler does have standing even after filing the opposition under his company named TRL. Soler is the same that requested time to and then objected to by filing the opposition complaint. Furthermore and further more true, Oasis's attorney of record here consented email service of pleadings to two email address directly related to all this here, called dokecola@live.com and redlunalaw@live.com. Why now do they complain and waste time and resources of the Board and others now here.

Moreover as so suggested and stated law by the Board, *TBMP rules 206.01-03* clearly shows that Soler and then to Soler being also TRL, invokes standing for Soler and TRL are related and/or are privity in this cause, or that Soler just made a mistake but how can that be when TRL was incorporated after Soler filed the only extension request that could be filed approved the full 90-days.

As to damages, Soler has already been damage being given the axe and now comes to be given the right to life back for unjustly being taken away the right to walk and talk in the trade land we here and all calls free. Is that so hard to see the damages that has already been done to Soler and will come stronger damaging even further this land with more greed if Soler is not now allow to fight for right to live in trade w/o does who think they have immortality and above the law to do as it please to all others who stands in the way wanting to be free in trade.

KO respectfully requests the Board to deny Oasis request that KO has no right to be here not letting Oasis get away so easy and stand not hide and face their accuser named KO who alleges damages for all the wrongful acts undertaken by them to register the mark now here being opposed.

STATEMENT OF THE CLAIMS

3. Oasis moves for dismissal suggesting that KO complaint fails to state a claim for being *incomprehensible, involving unrelated facts related to TCCC and such allegations which are not, and cannot be substantiated by law or fact.*

Oasis's wants us not to believe KO for not knowing what is being stated and believe not what was stated for it can never be proven to believe what KO stated.

KO'S amended complaint contains (6) basis against the registration of Oasis's mark.

(1)-Fraud (14 sub-grounds); (2)-Trademark Trafficking; (3)-Lack of Bona Fide Intent to Use (3 sub-grounds); (4)-Wrong Owner; (5)-Fraudulent Related Opposition #91212913 (3 sub-grounds); and (6)-Priority. All of KO's claims of fraud specifies the elements so require and the other claims stated by KO clearly gives Oasis a fair warning what they

must defend. Why then will Oasis here contradict first saying-what are you talking about, to then saying –it can't be proven.

KO opposition complaint pleads numerous of factual facts and evidence on the record to sustain all the statement of claims as so alleged by KO.

Furthermore and recently after KO filed a motion to consolidate these proceedings with the other proceeding stated related due to the same applicant and the opposer who KO claims the same; Oasis or do we say TCCC in the other proceeding decided it had standing and the right to do so halting the answer that must be due requesting suspension of that proceeding until the resolution of KO'S consolidation request in these proceedings.

Oasis here did not say a word about consolidation but Oasis there. Is Oasis here TCCC there? KO is confused why so they are so confused being the same not wanting others to know they are the same. KO is now really confused how can they being so great made us now here no longer confused if they are really the same.

Who do we know believe? Oasis talking for TCCC or TCCC using Oasis to do their talking- or KO talking for no other one but one who was never confuse to accuse.

Oasis does not want others to believe what is the truth behind who they really are full of deceit for more greed prowling our land as a wolf in sheep clothing. Let that be known here once again for KO will not bend and will stay tall and fight on to defeat wrong by right in the *pursuit of happiness so passionately* and hopefully there will be those here who will do right to know the truth indeed about all this now here.

KO wants fairness to seek truth that is all and that is what is right and the right given by this land we all calls free.

RELIEF REQUESTED

4. WHEREFORE KO respectfully requests the Board to deny Oasis's MTD allowing these proceedings to go further in search of truth and hopes of happiness to all in this great land that shines so bright and stand tall above all.

Filed this 4th day of Dec. 2013 through ETTSA electronic filing system.

Respectfully submitted,

THE RED LUNA

/ALBERTO SOLER/
Alberto Soler

Authorized Legal Representative/MP/KO

CERTIFICATE OF SERVICE

I HEREBY certify that a true and correct copy of this motion was forward via email attachment as consented by and there to Oasis's attorney of record this 4th day of Dec. 2013.

THE RED LUNA

