

ESTTA Tracking number: **ESTTA979628**

Filing date: **06/11/2019**

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

Proceeding	91228289
Party	Plaintiff Padraic C. McFreen
Correspondence Address	PADRAIC MCFREEN 13357 DUMBARTON STREET CARMEL, IN 46032 UNITED STATES pmcfreen@gmail.com, padraic.mcfreen@gmail.com 281-736-0510
Submission	Other Motions/Papers
Filer's Name	Padraic McFreen
Filer's email	pmcfreen@gmail.com, padraic.mcfreen@gmail.com
Signature	/Padraic McFreen/
Date	06/11/2019
Attachments	McFreen REPLY to MiTac Response MSJ of McFreen re McFreen vs Mitac- -Replacement Page 10.20190610-0a.pdf(34131 bytes)

[today's] marketplace," "it is not necessary for the goods...to be identical or even competitive in nature in order to support a finding of likelihood of confusion...[and] is sufficient that the circumstances surrounding their marketing are such that they would be likely to be encountered by the same persons under circumstances that would give rise, because of the marks used therewith, to the mistaken belief that the goods originate from or are in some way associated with the same source."¹⁷ Applicant enters no evidence in support of its assertion that its goods are finished goods.

Applicant Fails to Show Opposer's Mark Without Fame

Applicant's Response does not support its assertion concerning fame. No evidence has been entered into the record in support of any single conclusion. No genuine material fact exists for trial.

Conclusion

Applicant fails to advance any genuine material fact to justify the expense of trial. For the reasons set forth herein above, no genuine material fact dispute remains. Opposer's Motion For Summary Judgment should be granted with prejudice.

Respectfully submitted,

June 10, 2019

/s /Padraic McFreen
Padraic McFreen, Opposer
13357 Dumbarton Street
Carmel, IN 46032
pmcfreen@gmail.com

all channels of trade that would be normal for such goods and/or services, and that the goods and/or services would be purchased by all of the usual classes of potential customers." *In re Linkvest S.A.*, 24 USPQ2d 1716 (TTAB, 1992).

¹⁶ Applicant provides no evidence of concerning the types of Opposer products, finished or unfinished.

¹⁷ *In re International Telephone and Telegraph Corp.*, 197 USPQ 910 (TTAB, 1978)