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Filing date: **11/02/2016**

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

Proceeding	91228937
Party	Defendant Carl Sanko, Steve McCowan and Dannion Brinkley
Correspondence Address	CARL SANKO 4824 Denaro Dr Las Vegas, NV 89135-2479 UNITED STATES carlsanko@aol.com
Submission	Answer
Filer's Name	Carl Sanko
Filer's e-mail	carlsanko@aol.com
Signature	/Carl Sanko/
Date	11/02/2016
Attachments	Answer to USTTAB Suspension Notice.pdf(196943 bytes) License agreement with CBDS LLC.pdf(625022 bytes) AnnualReport-2016.pdf(11637 bytes)

1. Section 1654 of title 28 of the United States Code provides: "In all courts of the United States the parties may plead and conduct their own cases personally or by counsel as, by the rules of such courts, respectively, are permitted to manage and conduct causes therein." A ruling, because of a technicality or because of some real or imagined flaw allegedly found in an Applicant's responses or Motion to Dismiss is subject to court precedents that provides Applicant with a remedy in the current pleading. For example, The State of California Judicial Council has addressed through published materials the need of the Judiciary to act in the interests of fairness to self-represented litigants (John Greacen, Greacen Associates LLC "Ethical Issues for Judges in Handling Cases with Self-Represented Litigants"). The California rules express a preference for resolution of every case on the merits, even if resolution requires excusing inadvertence by a *pro se* litigant that would otherwise result in a dismissal. "Where a plaintiff pleads pro-se in a suit for protection of civil rights, the court should endeavor to construe plaintiffs pleading without regard to technicalities": Picking v. Pennsylvania Railway, (151 F2d. 240). Generally, courts are reluctant to dismiss a pro se litigant's complaints unless it appears the plaintiff can prove no set of facts in support of his claim which would entitle a litigant to relief (see Conlev vs. Gibson, 355 U.S. 41(1957). In Puckett v. Cox, it was held that a pro-se complaint requires a less stringent reading than one drafted by a lawyer (456 F2d 233 (1972 Sixth Circuit USCA). "Pro se pleadings are to be considered without regard to technicality; pro se litigants' pleadings are not to be held to the same high standards of perfection as lawyers" Jenkins v. McKeithen, 395 U.S. 411, 421 (1959); Picking v. Pennsylvania R. Co., 151 Fed 2nd 240; Pucket v. Cox, 456 2nd 233. Said Justice Black in Conley v. Gibson. 355 U.S. 41 at 48(1957): "The Federal Rules rejects the approach that pleading is a game of skill in which one misstep by counsel may be

decisive to the outcome and accept the principle that the purpose of pleading is to facilitate a proper decision on the merits." According to rule 8(f) FRCP all pleadings shall be construed to do substantial justice." In *Haines v. Kerner*, 404 U.S. 520 (1971), Supreme Court found that pro se pleadings should be held to "less stringent standards" than those drafted by attorneys. Federal decisions thus offer the pro se litigant considerable protection from dismissal of a civil rights action in which suspension would itself be violative of procedural due process as it would deprive a pro-se litigant of equal protection of the law vis a vis a party who is represented by counsel.

2. Applicant seeks declaratory relief from proposed TTAB suspension action as such suspension would result in violation of applicant's Constitutional right to due process for a relatively inconsequential statute. "Pleadings are intended to serve as a means of arriving at fair and just settlements of controversies between litigants. They should not raise barriers which prevent the achievement of that end. Proper pleading is important, but its importance consists in its effectiveness as a means to accomplish the end of a just judgment" *Maty v. Grasselli Chemical Co.*, 303 U.S. 197 (1938). "There can be no sanction or penalty imposed upon one because of his exercise of Constitutional Rights" *Sherar v. Cullen*, 481 F. 2d 946 (1973).

3. Applicant seeks declaratory relief from proposed TTAB suspension action as TTAB's reason for such suspension would result in Applicant's pro se status being used to incriminate himself, would cause Applicant to lose precious property rights, including due process rights in the present case, and would subject Applicant to a deprivation of constitutional rights under the color of law under **TITLE 18, U.S.C., SECTION 242.**

4. Applicant seeks declaratory relief from proposed TTAB default action as TTAB's requirement that "all joint applicants must sign any documents filed with the Board" is impossible to fulfill as one of the applicants (Steve McCowan) died prior to the original Notice of Opposition filed by Opposer in July, 2016.

5. Applicant seeks declaratory relief from proposed TTAB suspension action as joint applicants Dannion Brinkley, Steve McCowan, and Carl Sanko, had transferred their rights in the pending application for registration of the trademark CannaQuest, under Serial No. 86667606 to CBDS, LLC of which Carl Sanko was a member and had authority to represent the LLC as an Assignee Applicant in the current pending application for registration at a time that was after the initial application for registration filed June 18, 2015 but prior to the original Notice of Opposition filed by Opposer in July, 2016. (See Exhibit A for executed "License agreement with CBDS LLC" between CBDS LLC as licensor of the name and pending trademark "CannaQuest" and the domain name "CannaQuest.co" to Cannaquest Co as licensee.)

AFFIRMATIVE DEFENSES

First Affirmative Defense

Applicant, Carl Sanko, did not have a duty to notify the TTAB that rights in the pending application for registration of the trademark CannaQuest had been transferred to an LLC subsequent to the application for registration having been filed in the names of joint applicants Dannion Brinkley, Steve McCowan, and Carl Sanko. However, if TTAB has a

formal procedure, presently unknown to Applicant, to better communicate this information to the TTAB, then Applicant will gladly complete such formal procedure.

Second Affirmative Defense

Under State law, Wyoming recognizes capacity of Carl Sanko to sign singularly, the 2016 “Limited Liability Company Annual Report” for CBDS LLC (see Exhibit B). In compliance with such state law, Applicant, Carl Sanko, signing his responses with the TTAB, has authority to sign singularly as a member of an LLC that owns the rights in the pending application for registration of the trademark CannaQuest and is thus not in violation under Trademark Rule 2.193(e)(2)(ii); TBMP § 106.02.

Third Affirmative Defense

Fed. R. Civ. P. 55 (a) states that “When a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend, and that failure is shown by affidavit or otherwise, the clerk must enter the party's default.” Based on Applicants First and Second Affirmative Defenses along with previous submissions of Applicant’s Answer to Notice of Opposition, Motion to Dismiss for Failure to State a Claim, and answer to the Opposer’s response to Applicant’s Motion to Dismiss, it is hereby affirmed that Applicant has not failed to plead or otherwise defend in accordance with Fed. R. Civ. P. 55 (b). Statutorily, Fed. R. Civ. P. 55 (c) provides that if a judgment by default has been entered, a “court may set aside an entry of default for good cause, and it may set aside a final default judgment under Rule 60(b).” Rule 60(b)(1) authorizes a court to set aside a judgment on account of “mistake, inadvertence, surprise, or excusable neglect.” In the present

circumstances, whether by mistaken belief that Applicant's rights in the pending application for registration of the trademark CannaQuest had not been transferred to an LLC subsequent to the application for registration, or by inadvertence that Applicant had a duty to notify TTAB of such transfer, or by excusable neglect considering what has essentially been stated herein (and referred to above) in *Jenkins v. McKeithen*, 395 U.S. 411, 421 (1959); *Picking v. Pennsylvania R. Co.*, 151 Fed 2nd 240; *Pucket v. Cox*, 456 2nd 233, in *Conley v. Gibson*, 355 U.S. 41 at 48(1957), to wit "Pro se pleadings are to be considered without regard to technicality". Applicant thus claims proper defense under Civ. P. 55 (c), Fed. R. Civ. P. 60 (b)(1), and also under Fed. R. Civ. P. 60 (b)(6) which allows for "any other reason that justifies relief" that pro se Applicant may have failed to affirmatively state.

APPLICANT'S COUNTERCLAIM

Wherefore, having answered TTAB's NOTICE OF DEFAULT UNDER Fed. R. Civ. P. 55(a), DENIAL OF CONSIDERATION OF MOTION TO DISMISS, REJECTION OF APPLICANT'S ANSWER TO NOTICE OF OPPOSITION, AND NOTICE OF PENDING SUSPENSION, Applicant hereby prays that

- A. TTAB's pending action to enter default judgment or otherwise suspend, under Trademark Rule 2.193(e)(2)(ii); TBMP § 106.02 of Applicant's registration of the trademark CannaQuest under Serial No. 86667606, be dismissed and that Applicant's Answers to Opposition and Applicant's Motion to Dismiss be fully recognized as reinstated.
- B. For such other and further relief as the USPTO and TTAB shall deem just and proper.

DATED this 2nd day of November, 2016.

/Carl Sanko/

Carl Sanko, Applicant

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing
**APPLICANT'S ANSWER TO THE TRADEMARK TRIAL AND APPEAL BOARD'S
NOTICE OF DEFAULT UNDER Fed. R. Civ. P. 55(a), DENIAL OF
CONSIDERATION OF MOTION TO DISMISS, REJECTION OF APPLICANT'S
ANSWER TO NOTICE OF OPPOSITION, AND NOTICE OF PENDING
SUSPENSION** on the party listed below by mailing said copy on
November 2, 2016 via first class U.S. Mail, postage prepaid to:

Michael Adams

Rutan & Tucker, LLP

611 Anton Boulevard, Suite 1400

Costa Mesa, CA 92626

DATED this 2nd day of November, 2016.

/Carl Sanko/

Carl Sanko, Applicant

License, disclosure and confidentiality agreement between CannaQuest Co and CBDS LLC

This contract is made and entered into this 26th day of June 2015 by and between CannaQuest Co, a Nevada corporation herein referred to as CQC, and CBDS LLC, a Nevada corporation herein referred to as CBDS.

The parties, CQC and CBDS enter this nondisclosure confidentiality agreement for the mutual consideration set forth herein.

Whereas CQC is in the business of consulting, instructing, promotion, sales and all other aspects of legal hemp and hemp product distribution and use and any other legal purpose.

Whereas CQC has conceptualized, come up with ideas for/and or planned to develop certain unique formulations and methods for the growth, development and distribution of hemp and hemp related products, including but not limited to products associated with same:

Whereas CQC has composed or will compose certain texts, slideshows and presentations in various media useful for consulting and instruction of others involved in legal hemp and hemp related product distribution and use:

Whereas CQC has conceptualized, come up with ideas for/and or planned to develop certain unique business opportunities in wholesale and retail consumer goods;

Whereas CQC desires the name and pending trademark "CannaQuest" and the domain name "CannaQuest.co" described below;

Whereas CBDS desires to primarily license its intellectual properties to CQC for purposes of branding and business development;

Whereas within its duties CBDS shall be privy to certain confidential matters as well as products, processes, formulae, texts, ideas, concepts and trade secrets for which are: have been, or will be filed as a patent, trademark or copyright and would otherwise gain intellectual property protection within the United States:

Whereas CBDS acknowledges that as a licensee of CQC, it will have access to certain proprietary information, concepts and trade secrets, including but not limited to customer lists, marketing techniques, analytical market data, manufacturing and/or organic growth techniques and processes, product refinement and development, sales data, supplier information, product pricing methods and information, and all other information in any form related to the development, production marketing and sale of CQC products and materials.

Disclosure and confidentiality agreement dtd 6-26-15

Now therefore the parties agree as follows:

Upon signing of this contract, CBDS shall receive 3 Million shares of common stock of CannaQuest Co in exchange for the use of the name and pending trademark "CannaQuest" and the domain name "CannaQuest.co" for two years from the date of the signing of this contract. Also, such use in commerce of the name "CannaQuest" will be deemed to be licensed intellectual property whether patented or not, and regardless of success of patent application for trademark with the United States Patent and Trademark Office. No assurances can be given that any trademark will issue with regard to "CannaQuest".

Waiver of Rights to Intellectual Property: CQC agrees that they waive any and all right, title, or interest in any works of authorship, inventions, patents, trademarks, service marks, trade names, logos, copyrights, mask works, confidential business information (including formulas, compositions, manufacturing and production processes and techniques, prototypes, technical data, design, drawings, diskettes, stored data, switch application, operating system, specifications, lists and data relating to, current, prior and prospective customers and suppliers, pricing and cost information, business and marketing plans and proposals), computer software and any other intellectual property conceived by CBDS, including acquisition or use of CannaQuest.com, or any other domain extension, during the term of its license with CQC.

Nondisclosure confidentiality agreement: CBDS agrees that they shall not disclose, to any person or entity, and shall keep strictly confidential all concepts, ideas, products, inventions, patents, confidential business information including formulas, compositions, manufacturing, and production processes and techniques, prior and prospective customers and suppliers, pricing and cost information, business and marketing plans and proposals, discussed or exchanged by any medium with CQC. Whereas the name "CBDS LLC" or the name "CannaQuest.co" are proprietary, CQC agrees to not print, publicize, promote, or market the name "CBDS LLC", or the name "CannaQuest" or the name "CannaQuest.co" without written permission from CBDS.

Breach of Nondisclosure and Confidentiality Agreement: It is understood and agreed that money damages are not an exclusive remedy for breach of this Agreement but shall be in addition to all other remedies available at law or equity to CQC or CBDS.

Defamation: In the event of termination by the company or voluntary, CBDS agrees to not make any disparaging remarks regarding the company, its operations, and/or personnel that may detrimentally impact CannaQuest Co or any individual(s) associated with CannaQuest Co's reputation in the marketplace. In the absence of written permission to the contrary from authorized company personnel, CBDS shall respond to any request for

Disclosure and confidentiality agreement dtd 6-26-15

information relating to CQC, its operations, and/or personnel with "no comment" and shall direct any inquiries to appropriate personnel at CQC. Further, CBDS shall not initiate any communications concerning CQC without written permission of authorized company personnel. CBDS agrees that damages relating to disparaging remarks should not be limited to direct damages, but shall include incidental damages such as reductions in the value of CQC's goodwill.

Governing Law: This agreement shall be interpreted in accordance with the laws of the state of Nevada.

Entire Agreement: This agreement constitutes the entire agreement between the parties. Any other agreement between the parties, written or oral, shall be null and void upon execution of this agreement. No change, modification, alteration or addition to any provision hereof shall be binding unless in writing and signed by authorized representatives of both parties. Should any provisions of this agreement be deemed invalid, the remaining provisions shall remain in full force and effect.

Venue: Any dispute arising out of or related to this agreement shall be venued in Las Vegas, Nevada.

This contract shall supersede all others that may otherwise be in effect. The effective date for this contract shall be the date both parties execute the agreement, below.

Executed this 26th day of June, 2015.



CBDS LLC
By Carl Sanko, Member



CannaQuest Co
By Dannon Brinkley, Director



CBDS LLC
By Steven McCowan, Member



CannaQuest Co
By Steven McCowan, Director



CBDS LLC
By Dannon Brinkley, Member



CannaQuest Co
By Carl Sanko, Director

2016

Limited Liability Company Annual Report

Due on or Before: June 1, 2016
ID: 2015-000689394
State of Formation: Wyoming
License Tax Paid: **\$50.00**
AR Number: 02506929

For Office Use Only

Wyoming Secretary of State
2020 Carey Avenue, Cheyenne, WY 82002-0020
307-777-7311
<https://wyobiz.wy.gov/Business/AnnualReport.aspx>

CBDS LLC

1: Mailing Address

4824 Denaro Dr
Las Vegas, NV 89135

2: Principal Office Address

4824 Denaro Dr
Las Vegas, NV 89135

Email: Carlsanko@aol.com

Current Registered Agent:

Business Filings International, Inc.
1908 Thomes Ave
Cheyenne, WY 82001

- Please review the current Registered Agent information and, if it needs to be changed or updated, complete the appropriate Statement of Change form available from the Secretary of State's website at <http://soswy.state.wy.us>

I hereby certify under the penalty of perjury that the information I am submitting is true and correct to the best of my knowledge.

CARL STANLEY SANKO
Signature

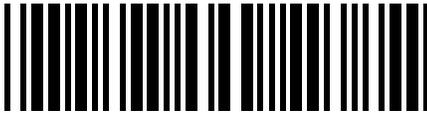
CARL STANLEY SANKO
Printed Name

May 24, 2016
Date

The fee is \$50 or two-tenths of one mill on the dollar (\$.0002), whichever is greater.

Instructions:

1. Complete the required worksheet.
2. Sign and date this form and return it to the Secretary of State at the address provided above.



**Appendix 1 Worksheet - Annual Report - Not a Public Record
List only Assets Located and Employed in Wyoming**

A balance sheet is provided below (similar to Schedule L of IRS Form 1120, 1120S, or Form 1065 for partnerships) showing the items to be included in computing "total assets" (with the three exceptions):

1.	Cash		\$	_____	0.00
2a.	Trade Notes & Accounts Receivable	\$	_____	0.00	
2b.	Subtract Allowance for bad debts	\$(_____	0.00)	\$ _____ 0.00
3.	Inventories		\$	_____	0.00
4.	U.S. Government Obligations		\$	_____	0.00
5.	Tax-Exempt Securities		\$	_____	0.00
6.	Other Current Assets		\$	_____	0.00
7.	Loans to Stockholders		\$	_____	0.00
8.	Mortgage and Real Estate Loans (loans or investments owned not your debts)		\$	_____	0.00
9.	Other Investments		\$	_____	0.00
10.	Buildings & Other Depreciable Tangible Assets, real and personal (Use assessed valuation). DO NOT subtract accumulated depreciation from assessed valuation. For depreciable assets which are not assessed, use balance sheet depreciation subtracted.		\$	_____	0.00
11.	Depletable assets (soda, coal, mineral oil, precious metals, saline, or other valuable deposits); the value is equal to the assessed value of the gross product produced for the fiscal year most recently ended.		\$	_____	0.00
12.	Land (Use assessed valuation.)		\$	_____	0.00
13a.	Intangible Assets	\$	_____	500.00	
13b.	Subtract Accumulated Amortization	\$(_____	0.00)	\$ _____ 500.00
14.	Other assets		\$	_____	0.00
15.	Total Asset Value for computing tax (add lines 1-14)		\$	_____	500.00

The filing fee is \$50 or two-tenths of one mill on the dollar (\$.0002) whichever is greater.

For example:	<u>Assets</u>	<u>Fee</u>
	\$0 - \$250,000	\$50
	> \$250,000	Multiply Total Assets by .0002

Annual Report License Tax Rules

Section 1. Definitions. (a) "Assessed value" is the taxable value of an asset subject to a Wyoming ad valorem tax as defined by W.S. 39-11-101(a)(i) as shown on the annual assessment schedule prepared by the County Assessor. Generally, assets which have an assessed value are reported on line 10 (buildings and other depreciable assets) and line 12 (land) on a corporation's balance sheet. (b) "Balance sheet value" is the end of the tax year value of an asset entered on the company's balance sheet. Balance sheet value shall be reported as contemplated in W.S. 17-16-1630 which states:

(i) "Financial information in the annual report shall be current as of the end of the corporation's fiscal year immediately preceding the date the annual report is executed on behalf of the corporation."

(c) "Capital, property and assets" does not include the value of the corporation's stock, net worth, or the net equity of the corporation. Capital property and assets means "total assets" from the company's balance sheet (similar to line 15 of Schedule L of IRS Form 1120 or 1120S) for the year most recently ended with three exceptions:

(i) For "Depreciable assets" (line 10) use the assessed value for any asset having an assessed value (buildings or improvements) and use balance sheet value less accumulated depreciation for assets with no assessed value. Depreciation shall not be deducted from "assessed value."

(ii) For "Depletable assets" (line 11) like soda, coal, mineral oil, silver or gold, use the "assessed value" of the gross product from the mine or mining claim (amount shown on Wyoming State Department of Revenue annual gross products tax return), not the balance sheet value;

(iii) For "Land" (line 12) use the assessed value not the balance sheet value.

Section 2. Computation of License Tax. (a) A corporation whose entire assets are located in Wyoming shall complete the worksheet and then apply the total asset figure to the following tax schedule. A corporation whose assets are in Wyoming and in other states shall use balance sheet values for any assets located in Wyoming (with the three exceptions described in Section 1c of these rules) and apply the asset figure to the following tax schedule (b) The fee is \$50 or two-tenths of one mill on the dollar (\$.0002) whichever is greater. (c) The worksheet is incorporated herein by reference. This worksheet which discloses proprietary information is not a public record under the Public Records Act, W.S. 16-4-203(d)(v), and therefore is not disclosable to the public. (d) The figures submitted on the Secretary of State's annual report form are public information and will be disclosed.