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Filing date: **12/23/2018**

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

Proceeding	91237356
Party	Plaintiff Rocket Sports, LLC
Correspondence Address	PAUL W KODA KODA LAW FIRM PLLC 1775 EYE STREET NW SUITE 1150 WASHINGTON, DC 20006 UNITED STATES pwkoda@gmail.com 240-997-1116
Submission	Motion to Extend
Filer's Name	Paul W. Koda
Filer's email	paul@kodafirm.com, pwkoda@gmail.com
Signature	/Paul W. Koda/
Date	12/23/2018
Attachments	Opposers Motion to Resume Proceedings and to Extend Time in Opposition No 91237356.pdf(69345 bytes) Exhibit A Gmail - Motion for Discovery Sanctions in Opposition No 91237356 before the Trademark Trial and Appeal Board.pdf(94218 bytes) Exhibit B Notice of Deposition of Dexter Kan in Opposition No 91237356.pdf(47555 bytes) Exhibit C Notice of Deposition of S Koda.pdf(134514 bytes)

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

ROCKET SPORTS, LLC	:	
	:	
Opposer,	:	
	:	
vs.	:	Opposition No. 91237356
	:	
DEXTER KAN	:	
	:	
Applicant.	:	

OPPOSER’S MOTION TO RESUME PROCEEDINGS
AND TO EXTEND TIME

Pursuant to TBMP § 510.03(a), “proceedings may be suspended, upon motion or stipulation under 37 CFR § 2.117(c), for purposes of settlement negotiations, subject to the right of either party to request resumption at any time.” Here, the above-captioned Opposition No. 91237356 has been suspended for settlement negotiations, which have not resulted in settlement between the parties. Therefore, Opposer, Rocket Sports, LLC, respectfully requests resumption of Opposition No. 91237356. Additionally, pursuant to TBMP § 509.01(a) and in view of the facts set forth with particularity in the paragraphs below, Opposer, Rocket Sports, LLC, respectfully requests that the Board extend the time for discovery and subsequent trial dates by sixty (60) days from the entry of any such new order.

BACKGROUND REGARDING SUSPENDED PROCEEDINGS

On June 20, 2018, the parties agreed to suspend proceedings in the above-captioned matter in order to engage in settlement negotiations. As a result, on behalf of the parties, Opposer filed a Joint Motion to Suspend Proceedings for Settlement Negotiations in Opposition No. 91237356. On June 26, 2018, the Trademark Trial and Appeal Board granted the parties' motion and reset the discovery and trial schedule, specifying that discovery would close July 27, 2018. On July 25, 2018, the parties filed a Joint Motion to Extend Time for settlement negotiations, which the Board granted July 30, 2018 and reset the discovery and trial schedule, specifying that discovery would close August 25, 2018. Subsequently, on August 23, 2018, the parties filed a Consent Motion to Extend because the "[p]arties are engaged in settlement discussions," which the Board automatically granted and reset the discovery and trial schedule, specifying that discovery would close September 24, 2018. On September 21, 2018, again the parties filed a Consent Motion to Extend because the "[p]arties are engaged in settlement discussions," which the Board automatically granted and reset the discovery and trial schedule, specifying that discovery would close October 24, 2018. On or about October 6, 2018, Applicant retained counsel, whose appearance was entered before the Trademark Trial and Appeal Board on October 16, 2018. On October 19, 2018, the parties filed a Consent Motion to Extend because the "[p]arties are engaged in settlement discussions" and "New counsel for Defendant requires time to become familiarized with the case," which the Board automatically granted and reset the discovery and trial schedule, specifying that discovery would close November 23, 2018. Finally, on November 22, 2018, the parties filed a Consent Motion to Extend because the "[p]arties are engaged in settlement

discussions,” which the Board automatically granted and reset the discovery and trial schedule, specifying that discovery would close December 23, 2018. Notwithstanding these several Motions to Extend, the parties have not reached settlement in this Opposition No. 91237356. Therefore, Opposer respectfully requests that the Board order a resumption of this proceeding.

BACKGROUND REGARDING DISCOVERY IN THIS PROCEEDING

On November 22, 2017, the Trademark Trial and Appeal Board issued an Order in this Opposition No. 91237356 specifying that “[c]onferencing, discovery and trial dates are reset.” Discovery was scheduled to open December 30, 2017 and close June 28, 2018. Both parties timely filed Initial Disclosures on January 29, 2018. On April 18, 2018, the Applicant, acting pro se, served upon the Opposer Applicant’s First Set of Interrogatories to Opposer, Applicant’s First Requests for Production of Documents to Opposer, and Applicant’s First Set of Request [sic] for Admissions to Opposer. On May 15, 2018, Opposer timely filed Opposer’s Responses to Applicant’s First Set of Request [sic] for Admissions to Opposer. Additionally, on May 18, 2018, Opposer timely filed Opposer’s Responses to Applicant’s First Set of Interrogatories to Opposer and Opposer’s Responses to Applicant’s First Requests for Production of Documents to Opposer. Along with these written responses, Opposer provided more than four thousand individually-identified documents as part of its production.

On May 7, 2018, Opposer served the Applicant with Opposer’s First Set of Interrogatories Pursuant to Rule 33 of the Federal Rules of Civil Procedure and Opposer’s First Request for Production of Documents and Things Pursuant to Rule 34 of

the Federal Rules of Civil Procedure. Then, on May 22, 2018, Opposer served the Applicant with Opposer's First Set of Requests for Admission Pursuant to Rule 36 of the Federal Rules of Civil Procedure; and, on May 23, 2018, Opposer served the Applicant with Opposer's Second Set of Requests for Admission Pursuant to Rule 36 of the Federal Rules of Civil Procedure. On June 5, 2018, Applicant sent an email to Opposer's counsel titled Applicant's Response to Opposer's First Set of Requests for Interrogatories to Applicant with attachments, but no actual response. On June 6, 2018, Applicant sent a response to Opposer's First Request for Production of Documents and Things Pursuant to Rule 34 of the Federal Rules of Civil Procedure in the form of three emails with attachments. However, the emails sent by the Applicant did not provide an adequate response to the Opposer's initial discovery requests. As a result, and in response to these emails, On June 14, 2018, Opposer's counsel sent the Applicant an email titled Motion for Discovery Sanctions in Opposition No. 91237356 before the Trademark Trial and Appeal Board, which summarized the Applicant's deficiencies in providing discovery. (See Exhibit A). Notably, one deficiency was that the Applicant's response to Opposer's First Set of Interrogatories Pursuant to Rule 33 of the Federal Rules of Civil Procedure was not timely provided and only sent late along with further attachments by the Applicant to Opposer's counsel on June 14, 2018. Finally, Applicant has not provided any response to either Opposer's First Set of Requests for Admission Pursuant to Rule 36 of the Federal Rules of Civil Procedure, nor Opposer's Second Set of Requests for Admission Pursuant to Rule 36 of the Federal Rules of Civil Procedure.

Additionally, On May 22, 2018, Opposer served on the Applicant Opposer's Notice of Deposition of Dexter Kan Pursuant to Rule 30 of the Federal Rules of Civil

Procedure in order to take the deposition of the Applicant, Dexter Kan, on June 26, 2018. (See Exhibit B). Likewise, On May 26, 2018, Applicant, Dexter Kan, provided an improper and ineffective Applicant's Notice of Deposition of Stephen Koda Pursuant to Rule 30 of the Federal Rules of Civil Procedure in order to take the deposition of Stephen Koda on June 28, 2018. The notice was improper in that it identified Stephen Koda as the Opposer, rather than Rocket Sports, LLC. (See Exhibit C). Notwithstanding this error in Applicant's Notice of Deposition, both depositions were scheduled to be completed prior to the close of discovery on June 28, 2018. On June 20, 2018, the parties agreed to suspend proceedings in the above-captioned matter in order to engage in settlement negotiations. With Applicant's consent, Opposer filed a Joint Motion to Suspend Proceedings for Settlement Negotiations. Accordingly, on June 26, 2018, the Board issued an Order suspending the above-captioned proceedings. As a result of the suspension of proceedings, Opposer's deposition of Applicant, Dexter Kan, did not proceed as scheduled.

REQUEST TO RESET DISCOVERY AND TRIAL DATES

In view of this Opposer's Motion to Resume Proceedings and to Extend Time and the fact that the Opposer's deposition of Applicant, Dexter Kan, did not proceed because of the intervening June 26, 2018 order by the Board, Opposer respectfully requests that the Board extend the time for discovery and subsequent trial dates by sixty (60) days from the date of the entry of such new order for the limited purpose of allowing the Opposer sufficient time to serve upon the Applicant an updated Opposer's Notice of

CERTIFICATE OF SERVICE

THIS IS TO CERTIFY that on this 23th day of December, 2018, a copy of this OPPOSER'S MOTION TO RESUME PROCEEDINGS AND TO EXTEND TIME was sent by electronic mail at rkl@rklpatlaw.com to:

Morton J. Rosenberg, Esq.
Rosenberg, Klein & Lee
3458 Ellicott Center Drive, Suite 101
Ellicott City, MD 20143
Attorney for Applicant

/Paul W. Koda/ _____
Paul W. Koda
Attorney for Opposer
Koda Law Firm PLLC
1775 Eye Street, Suite 1150
Washington, DC 20006
240-997-1116 direct
paul@kodafirm.com



Paul Koda <pwkoda@gmail.com>

Motion for Discovery Sanctions in Opposition No. 91237356 before the Trademark Trial and Appeal Board

1 message

Paul Koda <pwkoda@gmail.com>

Thu, Jun 14, 2018 at 9:22 PM

To: Dexter Kan <dex20000@comcast.net>, stephen@rocketsports.us

Mr. Kan,

You have failed to respond to Opposer's First Set of Interrogatories Pursuant to Rule 33 of the Federal Rules of Civil Procedure which were due June 6, 2018.

Furthermore, your response to Opposer's First Request for Production of Documents and Things Pursuant to Rule 34 of the Federal Rules of Civil Procedure is wholly inadequate. For example, your argument that Request 40 needs clarification is entirely specious. Request 40 requires you to produce "All Documents and Things that Relate To any statements made to, correspondence with or communication between Applicant's ambassadors, collaborators, customers, advertising agents, sales agents, suppliers, vendors, clients or other entities or third parties, which Relate To the ROCKET MESH Mark or the ROCKET MESH Design Mark in connection with the Applicant's Goods or the ROCKET SPORTS Mark or the ROCKET SPORTS Design Mark in connection with the Opposer's Goods." Nothing could be more clearly stated. Your response to this Request was utterly lacking. In addition, your responses to many of the other clearly stated Requests show a similar disregard for your obligations under the Federal Rules of Civil Procedure.

By way of example, you have produced absolutely no email communications with third parties in response to my client's requests. In fact, you have provided only seventy-seven (77) documents total in response to Opposer's First Request for Production of Documents and Things Pursuant to Rule 34 of the Federal Rules of Civil Procedure. At the same time, my client, Rocket Sports, LLC has either identified or provided to you four thousand two hundred fifty-nine (4,259) documents in compliance with your requests. Those numbers alone speak volumes about the extent of your violation of the Rules in this Proceeding.

I am preparing a Motion for Discovery Sanctions against you based upon the points noted above. My client is willing to suspend filing that Motion in the event you provide a complete response along with the requested documents by June 20, 2018. Please note that this gives you an additional two weeks to comply with your discovery obligations.

Regards,

Paul W. Koda
Counsel for Rocket Sports, LLC
Koda Law Firm
23219 Stringtown Road #201
Clarksburg, Maryland 20871
240-997-1116
pwkoda@gmail.com

CONFIDENTIAL COMMUNICATION

This is a communication from Koda Law Firm and may contain information which is privileged, confidential, and protected by the attorney-client or attorney work product privileges. If you are not the addressee, note that any disclosure, copying, distribution, or use of the contents of this message is prohibited. If you have received this transmission in error, please destroy it and immediately notify the sender.

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

ROCKET SPORTS, LLC	:	
	:	
Opposer,	:	
	:	
vs.	:	Opposition No. 91237356
	:	
DEXTER KAN	:	
	:	
Applicant.	:	

OPPOSER’S NOTICE OF DEPOSITION OF DEXTER KAN
PURSUANT TO RULE 30 OF
THE FEDERAL RULES OF CIVIL PROCEDURE

Pursuant to Rules 26 and 30 of the Federal Rules of Civil Procedure and Rules 2.116 and 2.120(b) of the Trademark Rules of Practice, Opposer, Rocket Sports, LLC, (“Opposer”) will conduct a deposition of Dexter Kan (“Applicant”) residing at 3681 Hollyberry Drive, Huntingtown, Maryland 20639, commencing at 11:00 a.m. on the 26th day of June, 2018, and continuing day to day until complete, at the Montgomery County Circuit Court, 50 Maryland Avenue, North Tower, 3rd Floor, Room 3420, Rockville, MD 20850.

The deposition shall be by oral examination, with a written record made thereof, before a notary public or before some other officer authorized by law to administer oaths.

Dated: May 22, 2018

Respectfully Submitted,

/pwk/

Paul W. Koda
Attorney for Opposer
Koda Law Firm
23219 Stringtown Road #201
Clarksburg, Maryland 20871
240-997-1116
pwkoda@gmail.com

CERTIFICATE OF SERVICE

THIS IS TO CERTIFY that on this 22th day of May, 2018, a copy of this OPPOSER'S NOTICE OF DEPOSITION OF DEXTER KAN PURSUANT TO RULE 30 OF THE FEDERAL RULES OF CIVIL PROCEDURE was sent by electronic mail at dex20000@comcast.net to:

Dexter Kan
3681 Hollyberry Drive
Huntingtown, Maryland 20639
Applicant

/pwk/

Paul W. Koda
Attorney for Opposer
Koda Law Firm
23219 Stringtown Road #201
Clarksburg, Maryland 20871
240-997-1116
pwkoda@gmail.com

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

ROCKET SPORTS, LLC)	IN THE MATTER OF:
)	Opposition No.: 91237356
Opposer,)	
)	For the mark: "ROCKET MESH"
)	Filed on: March 25, 2017
v.)	Published: August 22, 2017
)	International Class: 28
DEXTER KAN,)	
)	
Applicant.)	

APPLICANT’S NOTICE OF DEPOSITION OF STEPHEN KODA

PURSUANT TO RULE 30 OF

THE FEDERAL RULES OF CIVIL PROCEDURE

Pursuant to Rules 26 and 30 of the Federal Rules of Civil Procedure and Rules 2.116 and 2.120(b) of the Trademark Rules of Practice, Dexter Kan (“Applicant”) will conduct a deposition of Stephen Koda (“Opposer”) residing at 4 Baederwood Court, Derwood, MD 20855, commencing at 10:00 a.m. on the 28th day of June, 2018 at Cumberland & Erly, 481 Main Street, Prince Frederick, MD 20678.

The deposition shall be by oral examination, with a written record made thereof, before a notary public or before some other officer authorized by law to administer oaths.

Respectfully submitted,

DEXTER KAN

Dated: 5/26/2018

By: /Dexter Kan/

3681 Hollyberry Drive
Huntingtown, Maryland 20639

Email: dex20000@comcast.net

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing **APPLICANT'S NOTICE OF DEPOSITION OF STEPHEN KODA PURSUANT TO RULE 30 OF THE FEDERAL RULES OF CIVIL PROCEDURE** has been served on ROCKET SPORTS, LLC by forwarding said copy on May 26, 2018, via email to:

Paul W. Koda
Koda Law Firm
pwkoda@gmail.com

Date: 5/26/2018

By: /Dexter Kan/

Dexter Kan