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Filing date: **09/16/2019**

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

Proceeding	91244034
Party	Plaintiff Sean Griffin and GriffinWorx, Inc.
Correspondence Address	TODD A NELSON GABLEGOTWALS 100 WEST 5TH ST STE 1100 TULSA, OK 74103 UNITED STATES iplaw@gablelaw.com 918-595-4800
Submission	Other Motions/Papers
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Signature	/todd a. nelson/
Date	09/16/2019
Attachments	MotionforProtectiveOrder.pdf(29143 bytes) Exhibit A.pdf(135893 bytes)

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

In re: 87/237,986
Filed: November 15, 2016



Mark:
Published: April 17, 2018

SEAN GRIFFIN, and
GRIFFINWORX, INC.,

Opposers,

v.

FENOX VENTURE CAPITAL, INC. DBA
FENOX VENTURE CAPITAL,

Applicant.

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Opposition No. 91244034

OPPOSERS' MOTION FOR PROTECTIVE ORDER

Opposers, Sean Griffin and Griffinworx, Inc. (collectively, “Opposers”), hereby respectfully submit their motion for protective order with regard to Applicant’s, Fenox Venture Capital, Inc. DBA Fenox Venture Capital (“Applicant”), First Interrogatories and First Requests for Production of Documents. In support of this motion, Opposers state as follows:

Opposers filed their Motion to Compel on August 7, 2019. On August 8, the Board entered an Order suspending these proceedings pursuant to TBMP § 510.03(a). The Board’s Order provides, “The parties may not serve any additional discovery until the period of suspension is lifted or expires by or under order of the Board.”

Notwithstanding the Board’s Order, Applicant served its first set of interrogatories and requests for production of documents on August 16, 2019. Opposers’ counsel immediately

notified Applicant's counsel that the proceedings were suspended and requested that the discovery be withdrawn. No response was received.

Opposer also addressed this issue in its reply brief in support of its motion to compel filed on September 11, 2019. Opposers' counsel further contacted Applicant's counsel on September 13, 2019 and advised that, if the discovery requests were not withdrawn, it would be necessary for Opposer to file a motion for protective order by September 16. *See* Exhibit "A." Again, no response was received.

While reserving all rights to object to the discovery if served in the future, Opposers request and move, pursuant to Federal Rule of Civil Procedure 26(c) and 37 CFR § 2.120(g), that an order be entered that Applicant's discovery requests served while the Board's Order suspending proceedings is in effect are stricken and/or otherwise of no force and effect.

CONCLUSION

For the reasons set forth herein, Opposers, Griffinworx, Inc. and Sean Griffin, respectfully request that the Board enter an order that Applicant's discovery requests served while the Board's suspension order is in effect are stricken and/or otherwise of no force and effect.

Date: September 16, 2019

Respectfully Submitted,

/todd a. nelson/

Todd A. Nelson

Paul E. Rossler, Reg. No. 60409

Scott R. Zingerman, Reg. No. 35422

GABLEGOTWALS

100 West Fifth Street, Suite 1100

Tulsa, OK 74103

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Facsimile: (918) 595-4990

Attorneys for Opposers,

Griffinworx, Inc. and Sean Griffin

CERTIFICATE OF TRANSMITTAL - ESTTA

Date of Deposit September 16, 2019

I hereby certify that this correspondence is being transmitted to the UNITED STATES PATENT AND TRADEMARK OFFICE via the ESTTA system on September 16, 2019.

/todd a. nelson/

Todd A. Nelson

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing Motion for Protective Order has been served on Applicant, by electronic mail and mailing said copy on September 16, 2019, via First Class Mail, postage prepaid to:

Herbert Patty, Esq.
The Law Office of Herbert T. Patty
1625 The Alameda, Ste 407
San Jose, California 95126

/todd a. nelson/

Todd A. Nelson

From: Todd Nelson
Sent: Friday, September 13, 2019 1:01 PM
To: htpattylaw@gmail.com
Cc: Scott Zingerman
Subject: FW: Applicant's Discovery Request - First Set

Herbert,

Please advise whether Applicant is withdrawing its first set of discovery requests in view of the TTAB suspension order. If not, we will need to file a motion for protective order by Sept. 16.

Regards
Todd



Todd A. Nelson | Attorney At Law | GableGotwals
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This message and any attachments are for the addressee only and may contain privileged or confidential information. If you have received this in error, please notify me immediately and permanently delete the message and any prints or other copies.

From: Todd Nelson
Sent: Friday, August 16, 2019 2:48 PM
To: Herbert Patty <hpatty@nolteip.com>
Cc: Shellie Bailey <sbailey@nolteip.com>; Scott Zingerman <szingerman@gablelaw.com>
Subject: RE: Applicant's Discovery Request - First Set

Herbert,

This acknowledges receipt of your email on Friday, August 16 at 1:58 AM with accompanying Applicant's first set of interrogatories and first request for production of documents. Serving these discovery requests violates the TTAB order entered August 8 that suspended the proceedings. The order expressly provides that "The parties may not serve any additional discovery until the period of suspension is lifted or expires by or under order of the Board." There are also other issues related to the timing which are not necessary to discuss at this point. Please advise whether Applicant will withdraw these improper discovery requests.

Regards
Todd



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This message and any attachments are for the addressee only and may contain privileged or confidential information. If you have received this in error, please notify me immediately and permanently delete the message and any prints or other copies.

Exhibit "A"

From: Herbert Patty <hpatty@nolteip.com>
Sent: Friday, August 16, 2019 1:58 AM
To: Todd Nelson <tnelson@gablelaw.com>
Cc: Shellie Bailey <sbailey@nolteip.com>
Subject: Applicant's Discovery Request - First Set

The discovery is being sent via regular mail as well.

Regards,

-HTP