

2. Petitioner's proposed ENTREPRENEURGR-IP mark that is involved in these cancellation proceedings has never been used, and the mere filing of an intent-to-use application to register the proposed mark pursuant to 15 U.S.C. §1051(b) does not constitute a violation of any court order applicable to completely different marks.

3. The examining attorney in Petitioner's intent-to-use application for registration of his ENTREPRENEURGR-IP mark has found "no similar registered or pending mark which would bar registration under Trademark Act Section 2(d), 15 U.S.C. Section 1052(d)." This includes Registrant's registered ENTREPRENEUR marks. So Petitioner's ENTREPRENEURGR-IP mark will soon be published for opposition again raising the issues of likelihood of confusion, descriptiveness, and genericness regarding Registrant's marks if Registrant chooses to oppose registration of Petitioner's mark.

4. Petitioner's lack of use of his mark stands as a lack of an infringement of Registrant's mark, which is subject to the new evidence that is of record in the cancellation proceedings. Although the court has already decided with respect to a third party's marks that are different from Petitioner's proposed mark, no privity exists between Petitioner and the third party who holds no commercial interest in and to Petitioner's proposed mark.

5. Registrant believes "that it would be in the interest of the parties and in the interests of justice and would avoid a multiplicity of litigation, the possibility of inconsistent rulings on the same issues, and undue expense and burden to suspend these cancellation proceedings pending the outcome of the federal litigation." Yet based only on an alleged connection between Petitioner and a third party in a defunct corporate organization having nothing to do with Petitioner's proposed mark,

Registrant has brought its Complaint and not only has named Petitioner but a list of at least ten John Does who have nothing whatsoever to do with Petitioner's mark.

6. The use of the U.S. legal system to beat down "the little guy" is reprehensible.

Registrant's game plan is to be able to file a multitude of motions and other papers in the federal court to legally tie-up the Petitioner for years. Petitioner, a solo Virginia entrepreneur who performs services for other entrepreneurs; namely, finding government resources for entrepreneurs involved with intellectual property, will be kept from performing those services and managing his business. He will be so burdened with having to file papers and incurring expenses that he will not be able to prosecute his right to use the descriptive word "entrepreneur" in a portion of his proposed mark.

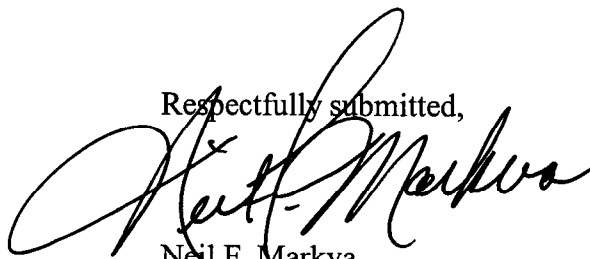
7. The interests of the parties, the interests of justice, and no "possibility of inconsistent rulings" regarding descriptiveness, genericness, and likelihood of confusion will exist if the TTAB maintains its legal jurisdiction over the subject matter of the trademark issues involved and does not suspend these cancellation proceedings.

For these foregoing reasons, the outcome of the federal litigation will not be dispositive of the issues involved in these cancellations. So Petitioner requests that Registrant's motion to suspend these proceedings be denied, and that an order be issued requiring Registrant file an answer to these consolidated petitions for cancellation.

Dated: August 22, 2005

8322-A Traford Lane
Springfield, Virginia 22152
(703) 644-5000

Respectfully submitted,



Neil F. Markva
Attorney for Petitioner

DECLARATION OF KURT M. MARKVA

I, KURT M. MARKVA, declare

1. I am the named defendant in this declaratory judgment action brought by ENTREPRENEUR MEDIA, INC. ("EMI").
2. The facts set forth in this declaration are personally known by me to be true, and if called as a witness, I can and will competently testify thereto under oath.
3. I reside in the Eastern District of the Commonwealth of Virginia.
4. I have no contacts with California with respect to this case. I do not reside in California, I do not own or lease any property in California, I do not have any bank accounts or other financial interests in California, and I have never been a party to a lawsuit in California.
5. In about 1987, I took as personal trip to California, unrelated to the subject matter of this Complaint, to visit a friend.
6. In about 1995 and 2002, I traveled to California on business trips, unrelated to the subject matter of this Complaint, as a staff member and as the Chief of Staff, respectively, for U.S. Congressional Representative Donald A. Manzullo.
7. From my residence in Virginia, I formed Government Resources Group LLC through which I perform the government resource services with which I intend to use my proposed ENTRPRENEURGR-IP mark. See attached Markva Exhibit A, which is a true and correct copy of a letter from the Office of the Clerk of the Virginia State Corporation Commission accompanied by a certificate of organization of Government Resources Group LLC dated March 17, 2004 and a one-page explanation of the qualifications of "Kurt Markva, Principal" that enable me to provide the government resource services for my clients.

8. From my residence in Virginia, I formed the now defunct Intellectual Property Protection Coalition, Inc. (IPPC) to provide a forum for its membership – small and medium-sized enterprises (SMEs), independent inventors and institutions of higher education – who have interests impacted by changes that occur in the intellectual property public policy arena, and was to enhance dialogue and outreach to Congress, the U.S. Patent and Trademark Office, and the business community. *See* attached Markva Exhibit B, which is a true and correct copy of (a) certificate of organization for the IPPC dated April 7, 2004 from the Virginia State Corporation Commission, (b) a 2005 Annual Report for the State Corporation Commission of Virginia dated April 29, 2005 with a note “Per client - let expire” dated “3/10/05,” and (b) a “Notice of impending termination of Corporate Existence” dated May 5, 2005 noting that “an acceptable annual report was not received for the named corporation” and that if such a report “is not received **before August 31, 2005**, the corporation’s existence will be automatically **terminated on August 31, 2005.**” No such “acceptable annual report” will be filed.

9. From my residence in Virginia, I adopted a proposed ENTREPRENEURGR-IP mark for use with the services I perform; namely, finding government resources for entrepreneurs involved with intellectual property.

10. From my residence in Virginia, on July 23, 2004 I filed an intent-to-use application for registration of my proposed ENTREPRENEURGR-IP mark in the U.S. Patent and Trademark Office (PTO) located in Virginia, and received a March 8, 2005 office action in which the trademark examining attorney states that he “has searched the Office records and has found no similar registered or pending mark which would bar registration under Trademark Act Section 2(d), 15

U.S.C. Section 1052(d).” *See* attached Markva Exhibit C, which is a true and correct copy of the March 8, 2005 office action from the U.S. Patent and Trademark Office with the above quoted portion highlighted.

11. I have not yet used my proposed ENTREPRENEURGR-IP mark in conjunction with my services and intend to wait until after my intent-to-use application is allowed for publication, is published for opposition, and finally clears any opposition to its registration.

12. From my residence in Virginia and before using the mark to identify me as the source of the services which I perform, I filed two petitions for cancellation with the TTAB in the PTO, located in Virginia, for cancellation of the ENTREPRENEUR mark owned by Entrepreneur Media, Inc. (EMI) as applied to goods in Class 16 and services in Class 35 so as to clear the way for the registration of my ENTREPRENEURGR-IP mark.

13. Based on the same facts as in the Complaint, EMI filed motions to dismiss my petitions for cancellation under Fed. R. Civ. P. 12(b)(6) with the TTAB in the PTO located in Virginia. The TTAB denied EMI’s motions, and then allowed EMI until 30 days from the mailing date of its order to file an answer on or before July 30, 2005 in each cancellation proceeding. *See* attached Markva Exhibit D, which are true and correct copies of identical decisions by the U.S. Trademark Trial and Appeal Board (TTAB) denying EMI’s motions to dismiss and setting a date for EMI to file its answer to the consolidated petitions for cancellation.

14. On August 1, 2005, EMI timely filed a motion to suspend the pending cancellation proceedings in view of its filing of this Complaint on August 1, 2005 seeking declaratory relief arising out of my intended use of my ENTREPRENEURGR-IP mark.


DECLARATION OF KURT M. MARKVA
Motion to Dismiss for Lack of Personal Jurisdiction and
Improper Venue

Page 4

15. I am convinced that the facts will reveal that this lawsuit is being prosecuted by EMI to keep the TTAB of the PTO from proceeding with my petitions for cancellation of its trademark registrations for ENTREPRENEUR rather than to resolve an actual justiciable controversy concerning trademark infringement. See attached Markva Exhibit E, which is true and correct copies of (a) EMI's motion to suspend the cancellation proceedings before the TTAB, and (b) Markva's opposition to EMI's motion to suspend because EMI's Complaint for declaratory relief will not be dispositive of the issues involved in the cancellations without the attachments that constitute EMI's Complaint and Markva's declaration submitted with his motion to dismiss for lack of personal jurisdiction and improper venue.

16. To my knowledge, EMI has no particular interest in prosecuting this lawsuit in Los Angeles, other than the facts that Los Angeles is EMI's hometown, it would be less expensive for EMI to prosecute its action in that forum, and it would be more expensive and burdensome to force him to defend against this Complaint in Los Angeles.

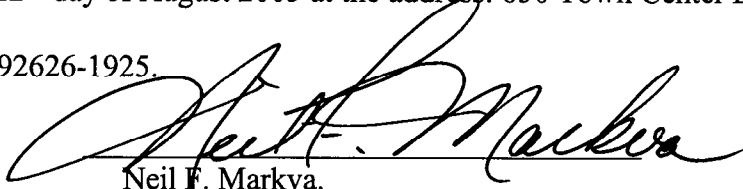
I declare further under God and the penalty of perjury under the laws of the United States that the foregoing is true and correct and that this Declaration was executed on 8/22/05 at Broad Run, Virginia.



Kurt M. Markva

CERTIFICATE OF SERVICE

I hereby certify that a copy of each of the attached documents, namely, Petitioner's Opposition to Registrant's Motion to Suspend was served by First Class Mail to Latham & Watkins LLP, and Michele Johnson, on this 22nd day of August 2005 at the address: 650 Town Center Drive, Suite 2000, Costa Mesa, California 92626-1925.

A handwritten signature in black ink, appearing to read "Neil F. Markva", written over a horizontal line.

Neil F. Markva.
Attorney for Petitioner

8322-A Traford Lane
Springfield, Virginia 22152
(703)644-5000