

■ SKINNER AND ASSOCIATES

212 Commercial Street
Hudson, Wisconsin 54016 USA
Tel.: 715-386-5800
FAX: 715-386-6177

INTELLECTUAL PROPERTY LAW
EMPLOYMENT LAW

Joel D. Skinner, Jr. **‡
Carol Nolan Skinner **+

* WI Bar / + MN Bar / ‡ Registered Patent Attorney
Email: cskinner@skinnerlaw.com

May 25, 2006

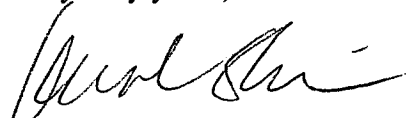
United States Patent and Trademark Office
Trademark Trial and Appeal Board
ATTN: PETER CATALDO
P.O. Box 1451
Alexandria, VA 22313-1451

RE: Vina San Pedro S.A. v. Barker's Landing, Inc.
Cancellation No. 92043622
Registration No. 2449486

Dear Judge Cataldo:

We are in receipt of your letter dated May 15, 2006. Per your request, we enclose a copy of the Notice of Motion and Motion for Relief From Judgment or to Set Aside Judgment, and copies of the supporting Affidavits of Carol Skinner and Robert Wasmund. We also enclose a copy of the postcard receipt, showing that these documents were originally received by the USPTO on March 10, 2006. Petitioner was copied with the initial submission on March 8, 2006. If you have any questions or concerns, please feel free to contact me. Thank you.

Very truly yours,



Carol N. Skinner

c: Pedro Enterprises, Inc. (w/o enc.)
Attorney Cynthia Weber (w/o enc.)

Enclosures



05-30-2006

FILE

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Joel D. Skinner, Jr. *+‡
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Email: cskinner@skinnerlaw.com

March 8, 2006

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

RE: Vina San Pedro S.A. v. Barker's Landing, Inc. (sic), Pedro Enterprises, Inc.
Cancellation No. 92043622
Registration No. 2,449,486

Dear Sir or Madam:

Enclosed please find the following documents submitted on behalf of Pedro Enterprises, Inc.:

- Notice of Motion and Motion for Relief From Judgment or to Set Aside Default;
- Affidavits of Bob Wasmund and Carol Skinner in support of Motion.

If there is any fee associated with this filing, please charge Deposit Account No. 19-2381.

All parties will be copied under cover of this letter. Thank you for filing the same.

Very truly yours,



Carol N. Skinner

c: Pedro Enterprises, Inc.
Vina San Pedro S.A.

Enclosures

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

VINA SAN PEDRO S.A.,
Petitioner

Cancellation No. 92043622
Reg. No. 2449486

v.

BARKER'S LANDING, INC. (sic),
PEDRO ENTERPRISES, INC.

Registrant


REGISTRANT'S NOTICE OF MOTION AND MOTION FOR RELIEF FROM
JUDGMENT OR TO SET ASIDE DEFAULT

TO: Vina San Pedro, S.A.
c/o Attorney Cynthia Clarke Weber
Sughrue Mion, PLLC
2100 Pennsylvania Avenue NW
Washington, DC 20037-3202

PLEASE TAKE NOTICE that the Registrant, Pedro Enterprises, Inc., by its attorneys Skinner and Associates, by Carol N. Skinner, moves the Trademark Trial and Appeal Board for relief from the default Judgment entered December 18, 2004, cancelling Registration No. 2449486 for the mark SAN PEDRO CAFÉ. This Motion is made pursuant to Fed. R. Civ. Pro. 55 (c) and 60 (b), and is supported by the Affidavits of Carol Skinner and Robert Wasmund, filed with this Motion.

Respectfully submitted this 7 day of March, 2006.

SKINNER AND ASSOCIATES



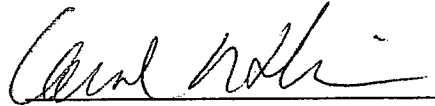
Carol N. Skinner
212 Commercial St.
Hudson, WI 54016
Tel: 715.386.5800

Attorney for Pedro Enterprises, Inc.

4. Attorney Weber and I began negotiating a consent agreement, at her request, in order for her client to attain registrations of its mark, SAN PEDRO & Design.
5. On March 12, 2004, our office sent to Attorney Weber a signed consent agreement, requesting a conformed copy once signed by her client.
6. Attorney Weber did not inform me that the consent agreement was unacceptable to her client; I heard no response from her at all.
7. In late December, 2005, I learned that a Petition for Cancellation had been filed by Attorney Weber in August, 2004, and that default judgment had been entered in December, 2004 canceling my client's mark.
8. I spoke with Robert Wasmond, owner of Pedro Enterprises, who states that he never saw the Petition, nor was aware of any proceeding to cancel its mark.
9. I was not notified by Attorney Weber that she had filed a Petition for Cancellation, despite our communications shortly before filing her Petition.
10. Registrant contends that there does not exist a likelihood of confusion between Petitioner's and Registrant's marks, given the differing goods/service and channels of trade, different commercial impressions created by the marks, as well as many years of coexistence with no actual confusion.
11. Had Registrant been afforded a fair opportunity to oppose the Petition for Cancellation, a meritorious defense would have been presented.
12. I have been in communication with Attorney Weber since discovering the cancellation, and she has informed me that she believes this matter can be resolved by a consent agreement, allowing both clients to coexist with their respective marks. Based

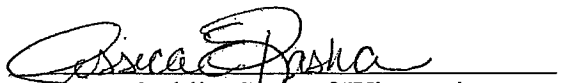
on our communications, I do not anticipate any objection from the Petitioner to Registrant's Motion for Relief from Judgment.

13. This Affidavit is made in support of Registrant's Motion for Relief from Judgment pursuant to Fed. R. Civ. Pro 60 (b) (6) or to Set Aside a Default Judgment, pursuant to Fed. R. Civ. Pro 55(c).


Carol N. Skinner

Subscribed and sworn to before me this

8th day of March, 2006.

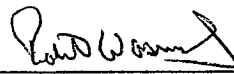

Notary Public, State of Wisconsin
My Commission Expires: May 13, 2007



Cancellation of this mark had been filed in August, 2004, and that default judgment had been entered in December, 2004 canceling my company's mark.

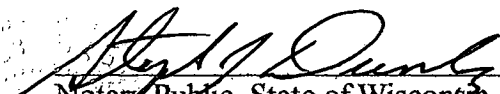
4. I never saw, nor was aware of any Petition for Cancellation regarding this mark, as I would have immediately contacted my attorney upon receipt of the same.

5. This Affidavit is made in support of Registrant's Motion for Relief from Judgment pursuant to Fed. R. Civ. Pro 60 (b) (6) or to Set Aside a Default Judgment, pursuant to Fed. R. Civ. Pro 55(c).



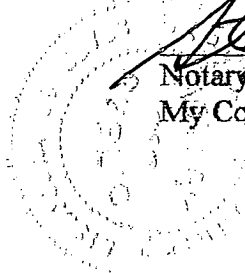
Robert Wasmeind

Subscribed and sworn to before me this
31st day of January, 2006



Notary Public, State of Wisconsin

My Commission Expires: is permanent



Applicant(s): Pedro Enterprises, Inc. Dock # PE01101 CANC
Application No.: _____ Filing Date: 3/8/06
For: TTAB Proceeding for SAN PELLO TM

RECEIVED BY USPTO ON THE DATE STAMPED HEREON:

Patent Application: Provisional Utility Design PCT PCT Nat.

Stage

<input type="checkbox"/> _____ Application	<input type="checkbox"/> I
<input type="checkbox"/> Letter Communication.	<input type="checkbox"/> C
<input type="checkbox"/> Reply to Office Action	<input type="checkbox"/> R
<input type="checkbox"/> Transmittal of: _____	<input type="checkbox"/> II
<input type="checkbox"/> Petition <input type="checkbox"/> Appeal _____	<input type="checkbox"/> A
<input type="checkbox"/> Certificate of Mailing (<input type="checkbox"/> Express)	<input type="checkbox"/> Specimen(s)/Deposit
<input type="checkbox"/> Transmittal Letter(s) (<input type="checkbox"/> w/copy).	<input checked="" type="checkbox"/> Other: <u>Registrant's Notice of Motion</u>
<input type="checkbox"/> Spec/Claim/Abstract: _____ page	<u>and Motion for Relief From Judgment</u>
<input type="checkbox"/> Drawing(s): _____ sheet(s)	<u>or to Set Aside Default</u>

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2 Affidavits - Carol Skinner and Bob Wassmund

