

ESTTA Tracking number: **ESTTA193147**

Filing date: **02/15/2008**

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

Proceeding	92045947
Party	Defendant Great Concepts, LLC
Correspondence Address	R. Milton Crouch Shapiro Fussell, LLP 1360 Peachtree St., Suite 1200 Atlanta, GA 30309 UNITED STATES mcrouch@shapirofussell.com, docketing@procopio.com, lmf@procopio.com, elr@procopio.com
Submission	Other Motions/Papers
Filer's Name	Frederick K. Taylor
Filer's e-mail	fkt@procopio.com, mlf@procopio.com, tma@procopio.com
Signature	/Frederick K. Taylor/
Date	02/15/2008
Attachments	2008-2-15 GC Request to Remove Suspension of Proceedings.pdf (4 pages) (17207 bytes)

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

DAN TANA,)	
)	
Petitioner,)	Cancellation No. 92045947
)	
v.)	Registration No. 2929764
)	
GREAT CONCEPTS, LLC,)	Mark: Dantannas
)	
Registrant.)	
_____)	

GREAT CONCEPTS' REQUEST TO REMOVE SUSPENSION OF PROCEEDINGS

Trademark Trial and Appeal Board
Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

Dear Sir/Madam:

PLEASE TAKE NOTICE that Registrant Great Concepts, LLC (“Registrant”), hereby requests that the Suspension on the Cancellation Proceeding issued by this Board on September 20, 2007 be removed, and that new dates be set for Registrant’s Motion for Summary of Judgment as outlined below.

I.

Introduction

Petitioner Dan Tana (“Petitioner”) initially filed this cancellation proceeding on June 6, 2006. Once Petitioner was faced with a motion for summary judgment from Registrant, in what this Board called an “apparent response to the motion for summary judgment,” Petitioner filed a copy of the complaint in the civil action, styled *Dan Tana v. Dantanna’s, Great Concepts, LLC*,

et al., Case No. CV 07-05532-ABC (JwJx), in the United States District Court for the Central District of California on August 23, 2007.

On September 12, 2007, a mere two weeks after Registrant filed its Motion for Summary Judgment in this proceeding, Petitioner filed his Motion to Stay the Cancellation Proceeding, pending the U.S. District Court's resolution of Petitioner's federal suit. Petitioner had filed its Motion to Stay without seeking the consent of Registrant. Petitioner even neglected to serve Registrant with a copy of his Motion to Stay. Registrant only had knowledge of the motion when the Board sent a notice of non-compliance to Petitioner a few days after the motion was filed. This Board eventually granted Petitioner's Motion to Stay on September 20, 2007.

Registrant then filed a Motion to Dismiss for Lack of Personal Jurisdiction in the U.S. District Court action on November 19, 2007. Petitioner opposed on December 3, 2007, and Registrant replied on December 10, 2007. On February 12, 2008, the U.S. District Court issued an order granting Registrant's Motion to Dismiss for Lack of Personal Jurisdiction with prejudice to refiling this action in California. A true and correct copy of that Court's Order is attached herein as Exhibit "1."

II.

The Code of Federal Regulations which governs Motions to Suspend in TTAB actions states the following in pertinent part:

Whenever it shall come to the attention of the Trademark Trial and Appeal Board that a party or parties to a pending case are engaged in a civil action or another Board proceeding which may have a bearing on the case, *proceedings before the Board may be suspended until termination of the civil action* or the other Board proceeding.

37 CFR § 2.117(a) (emphasis added).

Given that the civil action before the U.S. District Court has now been terminated, and all matters before that Court are now disposed, Registrant hereby requests that this Board remove

the suspension on proceedings. Registrant further requests that; new dates be set for Registrant's Motion for Summary Judgment; that Petitioner's opposition to the same be due thirty days after the Order removing the Suspension of Cancellation Proceedings; and for Registrant's reply to said opposition be set seven days before the hearing on the summary judgment motion. Moreover, pursuant to this Board's suspension order of September 20, 2007, Registrant hereby notifies the Board of the disposition of Case No. CV 07-05532-ABC (JwJx), and requests that this case may be called up for appropriate action.

III.

Conclusion

Registrant respectfully requests that this Board remove the Suspension on the Cancellation Proceeding, and further, that this Board reset dates for the decision on Registrant's Motion for Summary Judgment, Petitioner's opposition, and Registrant's reply to the same.

Respectfully submitted,

Procopio Cory Hargreaves & Savitch LLP

Dated: February 15, 2008

By: /Frederick K. Taylor/
Fredrick K. Taylor
Lisel M. Ferguson
530 B Street, Suite 2100
San Diego, CA 92101
Telephone: (619) 515-3279
Facsimile: (619) 235-0398
Email: fkt@procopio.com

Milton Crouch
Shapiro Fussell, LLP
1360 Peachtree St., Suite 1200, Midtown Plaza
Atlanta, GA 30309

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing REQUEST TO REMOVE SUSPENSION of PROCEEDINGS is being emailed on February 15, 2008 to the attorney for Petitioner as follows:

Afschineh Latifi
Tucker & Latifi, LLP
160 East 84th Street
New York, New York 10028
Email: alatifi@tuckerlatifi.com

Dated: February 15, 2008

By: /Frederick K. Taylor/
Frederick K. Taylor