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

Proceeding	92051104
Party	Defendant Mountain Hardwear, Inc.
Correspondence Address	Michael A. Cohen Schwabe, Williamson & Wyatt 1211 SW Fifth Avenue, Suites 1500-2000 Portland, OR 97204 UNITED STATES trademarks@schwabe.com, mcohen@schwabe.com, rbradfute@schwabe.com
Submission	Other Motions/Papers
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Signature	/michael a cohen/
Date	09/09/2009
Attachments	Declaration of MAC in Support of MFS.pdf (3 pages)(120754 bytes)

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

In the Matter of Trademark Registration No. 3,120,463
For the Mark: MOUNTAIN HARD WEAR
Registered: July 25, 2006

NSM Resources Corporation,)	
)	Cancellation No. 92051104
)	
Petitioner)	
)	
v.)	DECLARATION OF MICHAEL
)	A. COHEN IN SUPPORT OF
Mountain Hardwear, Inc.,)	REGISTRANT'S MOTION FOR
)	SANCTIONS
)	
Registrant)	

I, Michael A. Cohen, declare the following in support of Registrant Mountain Hardwear, Inc.'s Motion for Sanctions against Petitioner NSM Resources Corporation:

1. I am a shareholder at Schwabe, Williamson & Wyatt, P.C. and am counsel of record for Mountain Hardwear, Inc. in connection with this Cancellation action. I am familiar with the documents relating to this matter. This declaration is made upon my personal knowledge.

2. Attached as Exhibit A is a true and correct copy of an e-mail exchange dated August 6, 2009 between myself and Mr. Zane Murdock, petitioner's representative in this matter.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on August 13, 2009.

/Michael A. Cohen/
Michael A. Cohen

DECLARATION OF MICHAEL A. COHEN IN SUPPORT OF REGISTRANT'S MOTION FOR SANCTIONS – CANCELLATION NO. 92051104	SCHWABE, WILLIAMSON & WYATT, P.C. 1211 S.W. FIFTH AVENUE SUITES 1600-1900 PORTLAND, OR 97204 TELEPHONE (503) 222-9981
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CERTIFICATE OF SERVICE

I hereby certify that on the 13th day of August, 2009, I served the foregoing
DECLARATION OF MICHAEL A. COHEN IN SUPPORT OF REGISTRANT'S MOTION
FOR SANCTIONS on the following party at the following address:

Zane Murdock
NSM Resources Corporation
P.O. Box 931162
Los Angeles, CA 90093

by mailing to him a true and correct copy thereof, certified by me as such, placed in a sealed envelope addressed to him at the address set forth above, and deposited in the U.S. Post Office at Portland, Oregon on said day with postage prepaid.

DATED: August 13, 2009

Respectfully submitted,

/Michael A. Cohen/
Michael A. Cohen, Esq.
Schwabe, Williamson & Wyatt, P.C.
1211 S.W. Fifth Avenue
Suites 1500-2000
Portland, OR 97204
Telephone (503) 222-9981
Fax (503) 796-2900

Of Attorneys for Mountain Hardwear, Inc.

Tingleaf, Yvonne

From: Cohen, Michael
Sent: Thursday, August 06, 2009 12:13 PM
To: 'Zane Murdock'
Subject: RE: settlement

Mr. Murdock:

I encourage you to review the last paragraph of the July 29 Order issued by Judges Grendel, Rogers and Bergsman. The Order expressly cautions you not to file an amended petition "for the purpose of obtaining a more favorable resolution of the parties' purported dispute involving respondent's HUCKSTER mark." It is clear from your e-mail below that the amended petition you are threatening to file would be filed precisely for that prohibited purpose. If you proceed with that filing, we will seek sanctions against you under Rule 11 of the Federal Rules of Civil Procedure and Sections 318 and 527.02 of the Trademark Trial & Appeal Board Manual of Procedure.

MICHAEL A. COHEN | Attorney
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-----Original Message-----

From: Zane Murdock [mailto:zane@huckdoll.com]
Sent: Thursday, August 06, 2009 9:27 AM
To: Cohen, Michael
Subject: Re: settlement

Dear Mr. Cohen -

I hope that this message reaches you well.

I would like to see if we have any settlement initiatives on the table. I think it makes sense we move on, but because of this whole backcountry.com hucknroll thing, which I have now witnessed actual reverse confusion from, this case continues... I can't seem to justify a no contest release without some concession on Columbia's part. Regrettably, my remedy seems to debate whether the pending petition could sustain on the grounds of genericness. Should I file my amended petition, or do we wish to entertain any creative solutions?

Thanks and all the best -

Zane

Zane Murdock
President / NSM
NSM Resources Corporation
PO Box 931162
Los Angeles, CA 90093
USA