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Filing date: **12/09/2015**

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

Proceeding	92058772
Party	Defendant World Covenant Ministries, Inc.
Correspondence Address	STEVEN D GOODSPEED ANTHONY & MIDDLEBROOK PC 4501 MERLOT AVE GRAPEVINE, TX 76051 UNITED STATES steven@amlawteam.com, nancy@amlawteam.com
Submission	Other Motions/Papers
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Signature	/Steven D. Goodspeed/
Date	12/09/2015
Attachments	2015-12-09 Registrant's Response to Petitioner's Response dated 11-02-15.pdf(161387 bytes) 2015-12-09 Exhibit A Registrant's Response to Petitioner's Response dated 11-02-15.pdf(269273 bytes)

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

Registration Nos.: 4193666

Mark: *THE JOSEPH STOREHOUSE*

Registered: 08/21/2012

THE REMNANT OF ISRAEL, INC.,

Petitioner,

Cancellation No. 92058772

v.

WORLD COVENANT MINISTRIES, INC.,

Registrant.

REGISTRANT'S RESPONSE TO PETITIONER'S RESPONSE TO REGISTRANT

Registrant, World Covenant Ministries, Inc., by and through its undersigned counsel, hereby files its Response to Petitioner's Response to Registrant in Cancellation Proceeding No. 92058772 as follows:

1. Petitioner, in its Response to Registrant, filed on November 2, 2015, requests that the Trademark Trial and Appeal Board (the "Board") take notice of certain evidence and reiterates that its failure to file a main brief should not be taken as a concession as it was inadvertent.

2. As part of its evidence, Petitioner attached its Exhibit A comprised of emails from Registrant's counsel to Petitioner's counsel dated April 11, 2014. Registrant's counsel's staff sent these emails as a courtesy to Petitioner's counsel and are nothing more than initial transmittal emails with a copy of Registrant's Answer. These emails are not significant and hardly qualify as communication with Petitioner's counsel regarding the merits of the case. Petitioner's counsel never responded to either of these transmittal emails nor did he send any correspondence to Registrant's counsel or staff. We take communication to mean the actual exchange of information but again Petitioner never communicated with Registrant.

3. Petitioner's counsel further relies on "a contemporaneous notation made in counsel's calendar." Registrant's counsel has no record or memory of a telephone conference with Petitioner's counsel on the afternoon April 15, 2014 despite the telephone conference notation on Plaintiff's counsel's blank calendar page. Registrant's counsel and staff calendars had no such telephone conference scheduled their calendars as evidenced by the attached calendar pages attached hereto as Exhibit "A." Further, Registrant's counsel has no client billing records indicating a telephone conference with Petitioner's counsel took place in April 15, 2014. Petitioner's counsel has not offered any other evidence as to telephone conferences or attempted conferences.

4. As previously stated in Response to Petitioner's Response to Show Cause Order, the undersigned counsel for Registrant did not participate in a discovery conference with Petitioner's counsel because none was requested nor occurred. The undersigned has had no contact with Petitioner's counsel by telephone, electronic mail or correspondence through the U.S. Postal Service other than initial attempts to contact Petitioner's counsel by phone.

5. This Petition for Cancellation was initiated on February 28, 2014, almost one (1) year and nine (9) months ago. Petitioner made no effort to resolve this matter without the need for continued litigation. Petitioner made no attempt to comply with the Board's scheduling order for this case.

6. Petitioner has completely failed to prosecute its case in a timely manner in accordance with TBMP § 403.05. Petitioner's conduct is not an inadvertent failure to consult the scheduling order for twenty-one (21) months but is a blatant disregard for the scheduling order and should not be considered an excusable delay.

7. Petitioner's delinquency and procrastination should not be rewarded. Petitioner has been missing in action for over a year and a half and has already caused Registrant to expend time and money responding to an action Petitioner has failed to prosecute. The discovery period could have been extended or suspended only upon a motion particularly where Registrant filed its Answer and it was well within Petitioner's control to have timely complied. Petitioner failed to cite *HKG Industries, Inc. v. Perma-Pipe, Inc.*, 49 U.S.P.Q.2d 1156 (T.T.A.B. 1998) which held **REGISTRANT'S RESPONSE TO PETITIONER'S RESPONSE TO SHOW CAUSE ORDER - PAGE 3 OF 4** that the **third factor in the excusable delay analysis-the reason for delay and whether it was in the control of movant-is the most important factor and yet for over a year and a half (18 months) nothing has been done by Petitioner and therefore the TTAB should deny Petitioner's request to reopen the long-expired scheduling deadlines** per *Fed. R. Civ. P. 6(b)*; *Old Nutfield Brewing Co. v. Hudson Valley Brewing Co.*, 65 U.S.P.Q.2d 1701 (T.T.A.B. 2002); *Pumpkin Ltd., v. Seed Corp.*, 43 U.S.P.Q.2d 1582 (T.T.A.B. 1997) (following the test set out in *Pioneer Investment Services Co., v. Brunswick Assocs. Ltd. P'ship*, 507 U.S. 380 (1993))

8. Petitioner claims it has been using the mark in controversy since 1999 when it filed for the fictitious name in the Commonwealth of Pennsylvania, and further states that if Respondent had adequately performed a search as required by oath, it would have discovered the conflicting mark. Registrant conducted its own trademark research however any expectations to conduct a name search of corporate records and fictitious business name records in every state in the United States would be unduly burdensome and completely unrealistic. Further, the USPTO found Registrant's application to be satisfactory and found no registered or pending marks that would bar registration and subsequently issued a Certificate of Registration on August 21, 2012.

WHEREFORE, Registrant respectfully requests that the Board deny Petitioner's request to reopen the long-expired scheduling deadlines and enter a judgment dismissing Cancellation No. 92058772 with prejudice.

Dated: December 9, 2015.

Respectfully submitted,

/s/ Steven D. Goodspeed
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CERTIFICATE OF ELECTRONIC TRANSMITTAL

I hereby certify that the foregoing Registrant's Response to Petitioner's Response to Registrant was transmitted electronically via the Electronic System For Trademark Trials and Appeals (ESTTA) on December 9, 2015.

/s/ Steven D. Goodspeed

Steven D. Goodspeed

CERTIFICATE OF ELECTRONIC SERVICE

The undersigned hereby certifies that one copy of the Registrant's Response to Petitioner's Response to Registrant was served on the Petitioner through Petitioner's counsel via electronic mail addressed to Petitioner's counsel:

Barry Shrum
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615-338-5130
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barry@shrumlaw.com

Dated: December 9, 2015.

/s/ Steven D. Goodspeed

Steven D. Goodspeed

April 15, 2014

Tuesday

April 2014

Su	Mo	Tu	We	Th	Fr	Sa
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30			

May 2014

Su	Mo	Tu	We	Th	Fr	Sa
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

15	Tuesday	Notes
7 am		
8 ⁰⁰		
9 ⁰⁰		
10 ⁰⁰		
11 ⁰⁰	DOM/SDG - telephone call with Pastor [REDACTED] from [REDACTED] regarding pastor	
12 pm		
1 ⁰⁰		
2 ⁰⁰		
3 ⁰⁰	SDG/PLS - discuss various trademarks SDG's office Pat Sudbay	
4 ⁰⁰		
5 ⁰⁰		
6 ⁰⁰		