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

Proceeding	92058772
Party	Defendant World Covenant Ministries, Inc.
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Date	09/24/2015
Attachments	2015-09-24 Response to Petitioner's Response to Show Cause Order.pdf(206540 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 SHOW CAUSE ORDER**

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

The Trademark Trial and Appeal Board (the "Board") issued an order to Petitioner, The Remnant of Israel, Inc., to show cause as to why its failure to file a main brief in this case should not be treated as a concession of the case.

In its Response to Show Cause Order, Petitioner stated its failure was inadvertent and it stated that it has not lost interest in this case. Petitioner asked that the Board discharge the Order and requested that the Board reopen the briefing deadlines and other scheduling deadlines.

Registrant takes exception with the statements in Petitioner's Response to Show Cause Order as follows:

1. Immaterial. This matter has been pending for a year and a half and Registrant does not believe either organization's President's travel schedules should be given any weight or merit.

2. Absolutely Denied. 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*. Counsel for both Parties had no discussion regarding the Parties desire to communicate directly with each other about the possibility of resolving this matter. There has been no communication between counsel, other than Registrant's electronic service of Registrant's Answer to Petition For Cancellation and Notice of Appearance.
3. Absolutely Denied. The Registrant has not been contacted by the Petitioner by telephone, electronic mail or written correspondence despite Registrant's counsel's initial attempts to contact Petitioner's counsel. There has been no attempted communication from Petitioner to discuss this matter. Registrant is completely unaware of any attempted or actual communication with anyone related to Petitioner. Despite his frequent travel schedule, Mr. Barry Segal, on behalf of Petitioner, has had a year and half to contact Registrant to discuss this matter but he has failed to do so.
4. Absolutely Denied. There were no attempted discussions between the Parties other than initially by Registrant's counsel to Petitioner's counsel. Petitioner has the obligation to pursue its Cancellation Proceeding. Registrant did not have a duty to notify the Board of a possibility of resolution (which Registrant denies because neither the Parties nor counsel have had any communication!) nor to file for an extension of time.
5. Absolutely Denied. There were no *initial* discussions much less any subsequent discussions – again, only Registrant's counsel attempted to reach Petitioner's counsel.
6. Absolutely Denied. Petitioner or its counsel made no attempt to hold discussions with Registrant or Registrant's counsel.
7. Absolutely Denied. Petitioner or its counsel made no attempt to discuss resolution of this matter with Registrant or Registrant's counsel
8. Absolutely Denied. Petitioner made no effort to resolve this matter without the need for continued litigation. Petitioner has completely failed to prosecute its case in a timely manner in accordance with TBMP § 403.05.

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

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).

WHEREFORE, Registrant respectfully requests that the Board enter a judgment dismissing Cancellation No. 92058772 with prejudice.

Dated: September 24, 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 Show Cause Order was transmitted electronically via the Electronic System For Trademark Trials and Appeals (ESTTA) on September 24, 2015.

/s/ Steven D. Goodspeed
Steven D. Goodspeed

CERTIFICATE OF ELECTRONIC SERVICE

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

Barry Shrum
Shrum & Associates
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Nashville, TN 37201
615-338-5130
barry@musicattorney.biz

Dated: September 24, 2015.

/s/ Steven D. Goodspeed
Steven D. Goodspeed