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Filing date: **04/18/2019**

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

Proceeding	92065470
Party	Plaintiff W.C. Bradley/Zebco Holdings, Inc.
Correspondence Address	TODD A NELSON GABLE GOTWALS 1100 ONEOK PLAZA100 WEST FIFTH STREET TULSA, OK 74103 UNITED STATES iplaw@gablelaw.com 918-595-4800
Submission	Other Motions/Papers
Filer's Name	Todd A. Nelson
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Date	04/18/2019
Attachments	ResponseShowCausew-Ex.pdf(723608 bytes)

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

In Re The Matter of Trademark Registration:

Registration No.: 4,145,762
Registered: May 22, 2012
Registrant: Quantum Enterprises USA LLC
Mark: QUANTUM GEAR
For: Athletic apparel, namely, shirts, pants, jackets, footwear, hats and caps,
athletic uniforms
Class: 025

W.C. Bradley/Zebco Holdings, Inc.,	§	
	§	
Petitioner,	§	
	§	
v.	§	Cancellation No. 92065470
	§	
Quantum Enterprises USA LLC,	§	
	§	
Registrant.	§	

RESPONSE TO SHOW CAUSE ORDER

Applicant, W.C. Bradley/Zebco Holdings, Inc., a Georgia Corporation (“Applicant”) hereby responds to the Order to Show Cause entered on March 20, 2019 as follows:

Applicant has adopted and used in commerce the mark QUANTUM in connection with certain of its articles of clothing since at least 2008, namely, button down shirts, hats, shirts, t-shirts, and visors. Applicant is the record owner of U.S. Trademark Application Serial No. 86/765,415 for QUANTUM for goods described as “button down shirts, hats, shirts, t-shirts, and visors,” with a claimed first use date at least as early as 2008 (the “Subject Application”).

Applicant also has used the mark QUANTUM in connection with certain of its fishing-related goods since at least 1984.

Quantum Enterprises USA LLC (“Registrant”) is the record owner of U.S. Trademark Registration No. 4,145,762 for QUANTUM GEAR for goods described as “athletic apparel, namely, shirts, pants, jackets, footwear, hats and caps, athletic uniforms,” with a claimed first use date in 2011. (the “QE Mark”). The QE Mark was cited against the Subject Application in an Office Action issued by the USPTO on February 7, 2017.

Applicant then initiated this proceeding to cancel Reg. No. 4,145,762 for the QUANTUM GEAR mark based on priority of use and likelihood of confusion. This proceeding was suspended for settlement discussions. The parties eventually reached a conditional resolution and entered into a written Conditional Co-Existence Agreement. The Co-Existence Agreement was entered into and executed prior to any deadlines expiring in this Proceeding. The Conditional Co-Existence Agreement included a Consent to Registration executed by Registrant. The Consent was then submitted to the USPTO for consideration in connection with the Subject Application. A copy of the filed Consent is attached as Exhibit “A.” Pursuant the parties’ Conditional Co-Existence Agreement and conditioned upon acceptance of the Consent by the USPTO and approval of the Subject Application No. 86/765,415, this proceeding is to be dismissed with the express consent of Registrant. The executed dismissal with consent is attached as Exhibit “B.”

The Subject Application has been approved and the registration has now issued. However, USPTO Notices with regard to the Subject Application were/are sent to Applicant (Correspondent) at Applicant’s place of business instead of to retained counsel for this

proceeding. As a result, the dismissal had inadvertently not yet been filed prior to the Board's Order of March 20, 2019. In accordance with counsel's communication with Interlocutory Attorney Yong Oh (Richard) Kim on April 11, 2019, Applicant has submitted this response prior to filing the agreed dismissal.

WHEREFORE, Applicant respectfully submits that it has shown good cause and/or excusable oversight, such that this proceeding should be dismissed with prejudice as agreed by the parties without judgment being entered.

Respectfully submitted,

/todd a. nelson/

Todd A. Nelson, OBA #15317
Scott R. Zingerman, Reg. No. 35422
GABLE GOTWALS
1100 ONEOK Plaza
100 West Fifth Street
Tulsa, OK 74103
Telephone: (918) 595-4800
Facsimile: (918) 595-4990

Attorneys for Petitioner

CERTIFICATE OF TRANSMITTAL - ESTTA

Date of Deposit April 18, 2019

I hereby certify that this correspondence is being transmitted to the UNITED STATES PATENT AND TRADEMARK OFFICE via the ESTTA system on April 18, 2019.

/todd a. nelson/

Todd A. Nelson

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 18th day of April, 2019, a true and correct copy of the foregoing was mailed, via first-class mail, to:

Mr. Ferris Ziadie, Jr.
Quantum Enterprises USA LLC
d/b/a Quantum Gear, LLC
PO Box 210335
Royal Palm Beach, FL 33421

/todd a. nelson/

Todd A. Nelson

Response to Suspension Inquiry or Letter of Suspension

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	86765415
LAW OFFICE ASSIGNED	LAW OFFICE 108
MARK SECTION	
MARK	https://tmng-al.uspto.gov/resting2/api/img/86765415/large
LITERAL ELEMENT	QUANTUM
STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
MARK STATEMENT	The mark consists of standard characters, without claim to any particular font style, size or color.
CANCELLATION PROCEEDING(S)	
Cancellation No(s). 92065470 is/are still pending. However, the applicant hereby requests removal of this application from suspension for the examining attorney to consider a submission, such as an amendment or consent agreement.	
REMARKS FILE NAME(S)	
ORIGINAL PDF FILE	CAR_216201177246-120002365_ConsenttoRegistration.pdf
CONVERTED PDF FILE(S) (2 pages)	\\TICRS\EXPORT17\IMAGEOUT17\867\654\86765415\xml4\RSI0002.JPG
	\\TICRS\EXPORT17\IMAGEOUT17\867\654\86765415\xml4\RSI0003.JPG
CORRESPONDENCE SECTION	
ORIGINAL ADDRESS	R. ALAN WEEKS Wcb Legal Dept 6101 E Apache St Tulsa Oklahoma US 74115-3370
NEW CORRESPONDENCE SECTION	
NAME	R. ALAN WEEKS
FIRM NAME	Wcb Legal Dept
DOCKET/REFERENCE NUMBER	57389/16-049
STREET	6101 E Apache St
CITY	Tulsa
STATE	Oklahoma
ZIP/POSTAL CODE	74115-3370
COUNTRY	United States
PHONE	918.831.6937

Exhibit "A"

FAX	918.831.6843
EMAIL	trademarks@wcbradley.com; aweeks@wcbradley.com; pyle@wcbradley.com; iplaw@gablelaw.com
AUTHORIZED EMAIL COMMUNICATION	Yes
SIGNATURE SECTION	
RESPONSE SIGNATURE	/todd a. nelson/
SIGNATORY'S NAME	Todd A. Nelson
SIGNATORY'S POSITION	Attorney of Record, Oklahoma Bar Member
SIGNATORY'S PHONE NUMBER	918-595-4800
DATE SIGNED	12/21/2017
AUTHORIZED SIGNATORY	YES
FILING INFORMATION SECTION	
SUBMIT DATE	Thu Dec 21 15:28:41 EST 2017
TEAS STAMP	USPTO/RSI-XXX.XXX.XXX.XXX -20171221152841590943-867 65415-5109368f5abd3a1bcb1 57573051499d6e697f791a188 659ba1f23b7f79616e-N/A-N/ A-20171221152250464056

Under the Paperwork Reduction Act of 1995 no persons are required to respond to a collection of information unless it displays a valid OMB control number.
PTO Form 1822 (Rev 10/2011)
OMB No. 0651-0050 (Exp 09/20/2020)

Response to Suspension Inquiry or Letter of Suspension

To the Commissioner for Trademarks:

Application serial no. 86765415 QUANTUM(Standard Characters, see <https://tmng-al.uspto.gov/resting2/api/img/86765415/large>) has been amended as follows:

CANCELLATION PROCEEDING(S)

Cancellation No(s). 92065470 is/are still pending. However, the applicant hereby requests removal of this application from suspension for the examining attorney to consider a submission, such as an amendment or consent agreement.

Comment(s)/Remark(s):

Original PDF file:

[CAR_216201177246-120002365 . ConsenttoRegistration.pdf](#)

Converted PDF file(s) (2 pages)

[Cancellation File1](#)

[Cancellation File2](#)

New Correspondence Address

Current:

R. ALAN WEEKS

Wcb Legal Dept

6101 E Apache St

Tulsa

Oklahoma

US

74115-3370

Proposed:

R. ALAN WEEKS of Wcb Legal Dept

Tulsa, Oklahoma 74115-3370

United States

trademarks@wcbradley.com; aweeks@wcbradley.com; pyle@wcbradley.com; iplaw@gablelaw.com

918.831.6937

918.831.6843

The attorney docket/reference number is 57389/16-049

Response Suspension Inquiry Signature

Signature: /todd a. nelson/ Date: 12/21/2017

Signatory's Name: Todd A. Nelson

Signatory's Position: Attorney of Record, Oklahoma Bar Member

Signatory's Phone Number: 918-595-4800

The signatory has confirmed that he/she is an attorney who is a member in good standing of the bar of the highest court of a U.S. state, which includes the District of Columbia, Puerto Rico, and other federal territories and possessions; and he/she is currently the applicant's attorney or an associate thereof; and to the best of his/her knowledge, if prior to his/her appointment another U.S. attorney or a Canadian attorney/agent not currently associated with his/her company/firm previously represented the applicant in this matter: (1) the applicant has filed or is concurrently filing a signed revocation of or substitute power of attorney with the USPTO; (2) the USPTO has granted the request of the prior representative to withdraw; (3) the applicant has filed a power of attorney appointing him/her in this matter; or (4) the applicant's appointed U.S. attorney or Canadian attorney/agent has filed a power of attorney appointing him/her as an associate attorney in this matter.

Mailing Address: R. ALAN WEEKS

Wcb Legal Dept

6101 E Apache St

Tulsa, Oklahoma 74115-3370

Serial Number: 86765415

Internet Transmission Date: Thu Dec 21 15:28:41 EST 2017

TEAS Stamp: USPTO/RSI-XXX.XXX.XXX.XXX-20171221152841

590943-86765415-5109368f5abd3a1bcb157573

051499d6e697f791a188659ba1f23b7f79616e-N

/A-N/A-20171221152250464056

EXHIBIT A
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
CONSENT TO REGISTRATION

1. Quantum Enterprises USA LLC, a Florida limited liability company with an address at PO Box 550996, Davie, FL 33355 ("QE"), is the record owner of U.S. Trademark Registration No. 4,145,762 for QUANTUM GEAR for goods described as "athletic apparel, namely, shirts, pants, jackets, footwear, hats and caps, athletic uniforms," with a claimed first use date in 2011. (the "QE Mark").

2. W.C. Bradley/Zebco Holdings, Inc., a Georgia Corporation, with an address of 1017 Front Ave., Columbus, Georgia, 31904 ("Zebco") is the record owner of U.S. Trademark Application Serial No. 86/765,415 for QUANTUM for goods described as "button down shirts, hats, shirts, t-shirts, and visors," with a claimed first use date at least as early as 2008 (the "Zebco Mark").

3. Zebco has used the mark QUANTUM in connection with certain of its fishing-related goods since at least 1984.

4. Zebco obtained USPTO Registration No. 1,327,198 for QUANTUM in International Class ("IC") 028.

5. Registration No. 1,327,198 is incontestable pursuant to 15 U.S.C. §§1065 and 1115(b).

6. Zebco has also adopted and used in commerce the QUANTUM mark in connection with certain of its articles of clothing since at least 2008, namely, button down shirts, hats, shirts, t-shirts, and visors, and accordingly filed Application Serial No. 87/765,415 for the Zebco Mark.

7. The QE Mark was cited against the Zebco Mark in an Office Action issued by the USPTO on February 7, 2017. On February 24, 2017, the USPTO suspended action on the Zebco Mark pending disposition of Cancellation No. 92065470.

8. QE and Zebco are familiar with each other's respective and distinct businesses and have discussed the nature and use of each party's mark. QE and Zebco believe there is no likelihood of confusion arising from Zebco's use of the Zebco Mark and QE's use of the QE Mark. QE and Zebco are not aware of any instances of actual confusion.

9. The Parties have agreed to take steps necessary to avoid and eliminate any instance of confusion if such instance comes to the attention of either party. Each Party agrees to take all reasonably appropriate precautions to prevent consumer confusion by their respective use of the QE Mark and the Zebco Mark, and in the unlikely event evidence of actual confusion should arise, the Parties will negotiate in good faith and make appropriate adjustments with regard to advertising and use of the QE Mark and the Zebco Mark to eliminate the confusion.

10. Accordingly, in the reasonable exercise of its business judgment and after due deliberation of the relevant facts with Zebco, QE has concluded that there is no likelihood of confusion between the QE Mark and the Zebco Mark; therefore, QE specifically consents to Zebco's registration of the Zebco Mark.

Dated: 12/18, 2017

QUANTUM ENTERPRISES USA LLC

Ferris Zaidan

By: [Signature]

Its: Managing Member

EXHIBIT B

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

In Re The Matter of Trademark Registration:

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Registered: May 22, 2012
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W.C. Bradley/Zebco Holdings, Inc.,	§	
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v.	§	Cancellation No. 92065470
	§	
Quantum Enterprises USA LLC,	§	
	§	
Registrant.	§	

STIPULATED DISMISSAL WITH PREJUDICE

The parties jointly represent that all issues raised in this Cancellation proceeding have been amicably resolved by written Co-Existence Agreement. With the consent of Registrant, Quantum Enterprises USA LLC, Petitioner, W.C. Bradley/Zebco Holdings, Inc., hereby withdraws and dismisses with prejudice its Notice of Cancellation.



Mr. Ferris Ziadie, Jr.
Quantum Enterprises USA LLC
d/b/a Quantum Gear, LLC
PO Box 550996
Davie, FL 33355

Pro Se, Registrant

Respectfully submitted,



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