

ESTTA Tracking number: **ESTTA975442**

Filing date: **05/22/2019**

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

Proceeding	92065794
Party	Defendant MT Industries, Inc.
Correspondence Address	RICHARD L ALBERT LAW OFFICES OF RICHARD L ALBERT 4605 LANKERSHIM BLVD, SUITE 203 NORTH HOLLYWOOD, CA 91602 UNITED STATES rick@albertlawoffices.com 818-752-2776
Submission	Motion to Strike
Filer's Name	Richard L. Albert
Filer's email	rick@albertlawoffices.com
Signature	/s/ Richard L. Albert
Date	05/22/2019
Attachments	Objection to Kraus Decl.pdf(106383 bytes )

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

The Marshall Tucker Band, Inc.,	)	Cancellation No.: 92065794
	)	Registration Nos.: 4616427, 4616428
Petitioner,	)	
	)	Mark:
v.	)	THE MARSHALL TUCKER BAND
	)	
MT Industries, Inc.,	)	<b>REGISTRANT’S OBJECTION TO</b>
	)	<b>THE DECLARATION OF</b>
Registrant.	)	<b>KENNETH KRAUS FILED BY</b>
	)	<b>PETITIONER IN SUPPORT OF ITS</b>
	)	<b>PETITION FOR CANCELLATION</b>
	)	
	)	

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Registrant objects to the Declaration of Kenneth Krauss filed in these proceedings by Petitioner on May 20, 2019 (TTABVUE #43) on the grounds that the testimony was prematurely taken and filed before Petitioner/Plaintiff’s 30 Day Trial Period commenced on May 25, 2019, as established by the Board in its Feb. 25, 2019 Trial Order – Proceedings Resumed (TTABVUE #41). 37 CFR §§ 2.121(a) and (b)(1); *Baseball America Inc. v. Powerplay Sports*, 71 USPQ2d 1844, 1846 n.8 (TTAB 2004) (documentary evidence submitted outside assigned testimony period given no consideration).

Without waiving the above objection, Registrant also objects that testimony given in paragraphs 7 and 8 constitutes inadmissible opinion and conjecture. (FRE Rules 602, 701(c)).

Based upon the foregoing, Registrant respectfully requests the Board to strike out

the Declaration of Ken Kraus.

Dated this 22th day of May, 2019

Respectfully submitted,

/Richard L. Albert/

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Attorney for Registrant M T Industries, Inc.

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing REGISTRANT'S OBJECTION TO THE DECLARATION OF KENNETH KRAUS FILED BY PETITIONER IN SUPPORT OF ITS PETITION FOR CANCELLATION has been served on SARAH S. BROOKS, ESQ. by forwarding said copy via email to: SSBrooks@Venable.com

Signature: /Richard L. Albert/

Date: May 22, 2019