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

Proceeding	92065883
Party	Plaintiff Joseph Valenti
Correspondence Address	PHILLIP THOMAS HORTON 736 WEST STATE STREET #F301 FARMINGTON, UT 02359 UNITED STATES Email: NEROLitigation@gmail.com
Submission	Reply in Support of Motion
Filer's Name	Phillip Thomas Horton
Filer's email	NEROLitigation@gmail.com
Signature	/Phillip Thomas Horton/
Date	11/27/2017
Attachments	NERO NERO response to amended name.pdf(287721 bytes )

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

In the matter of trademark Registration No. 4697406  
For the mark NERO New England Roleplaying Organization  
Registered on March 3, 2015  
In the matter of trademark Registration No. 4657988  
For the mark NERO  
Registered on December 16, 2014

Joseph Valenti,  Petitioner,  v.  William J. Bearden d/b/a NERO Central,  Registrant.	Cancellation No. 92065883
Joseph Valenti,  Petitioner,  v.  Ford Ivey d/b/a NERO World, LLC,  Assingee.	Cancellation No. 92065911

**PETITIONER’S RESPONSE TO DEFENDANT’S OPPOSITION TO  
PLAINTIFF’S MOTION TO AMEND NAME**

COMES NOW Joseph Valenti (“Petitioner”), by and through his Attorney,  
Phillip Thomas Horton, and files this response to support Plaintiff’s Motion to  
Amend Its Name (“Motion”) against William Joseph Bearden d/b/a NERO

1 Central (“Defendant”) in regards to the registered mark NERO New England  
2 Roleplaying Organization in Opposition No. 92065883 and against Ford Ivey  
3 d/b/a NERO World, LLC (“Assignee”) in regards to the registered mark NERO in  
4 Opposition No. 92065911.

5 Petitioner has asked for the amendment of Petitioner’s name to read  
6 “Joseph Valenti d/b/a NERO Live Game Systems, LLC AND Joseph Valenti d/b/a  
7 NERO International Holding Co., Inc.”(emphasis added)(16 TTABVUE 3).  
8 Defendant errs in suggesting Petitioner is seeking to add one or the other.  
9 Petitioner is not asking the United States Trademark Trial and Appeal Board  
10 (“Board”) to allow either or, but instead, include both company names. In the  
11 alternative, Petitioner asks the Board to allow Plaintiff to “...ADD NERO Live  
12 Game Systems, LLC and NERO International Holding Co., Inc.”(emphasis  
13 added) (16 TTABVUE 3). Again, Defendant errs in suggesting Petitioner is  
14 seeking to amend its name to list only Petitioner’s companies. Petitioner is  
15 seeking to ADD his companies to the petition.

16 Petitioner disagrees with all four of Defendant’s analysis points.

17 To begin, the mistake to not list Petitioner as “Joseph Valenti d/b/a NERO  
18 Live Game Systems, LLC and Joseph Valenti d/b/a NERO International Holding  
19 Co., Inc.” is a non-substantive mistake as it does not change any of the claims  
20 alleged by Petitioner in Petitioner’s Opposition Nos. 92065883 and 92065911. For  
21 this same reason, it is also a non-substantive mistake to add the names “NERO  
22 Live Game Systems, LLC and NERO International Holding Co., Inc.” Petitioner  
23 will be irreparably harmed by not being allowed to add his companies to the  
24 proceedings and this will also put a strain on the Board since Petitioner will have  
25 to file new proceedings under the company’s names, and then ask the Board to  
26 consolidate proceedings.

27 Secondly, listing Petitioner’s companies as a d/b/a would not be inaccurate

1 since Petitioner is in privity with said companies and is the sole owner and  
2 operator of the companies.

3 Thirdly, the correct name should be NERO Live Adventure Games, which  
4 is registered in NC. Petitioner also uses NERO Live Adventure Games, LLC,  
5 which is registered in PA with a Federal EIN: 27-4604272, Business Partner  
6 Number: 1001227871. The inadvertent use of the word “systems” is  
7 inconsequential since it does not change the fact that Petitioner individually  
8 owns and operates under the NERO Live Adventure Games name.

9 Fourthly, NERO International Holding Co. Inc. (“NERO IHCI”) is a  
10 company owned individually by Petitioner. There is no evidence to show NERO  
11 IHCI was abandoned or defunct as Defendant claims. Petitioner may have  
12 inadvertently missed registration payments for NERO IHCI, but there is no  
13 evidence to show the NERO IHCI was abandoned and ceased to function. To the  
14 contrary, there is evidence to show Petitioner never stopped using NERO IHCI  
15 since Petitioner continued to write contracts and operate individually and under  
16 the NERO IHCI name. In addition, Petitioner also has to prove to the NY SOC  
17 that Petitioner was continuously using the NERO IHCI name from the years  
18 1998-2016 to have the company revived and had to submit tax returns to that  
19 effect. Therefore, there is no reason to think NERO IHCI was abandoned when  
20 Petitioner and NERO IHCI was still operating and conducting business under  
21 the name. Even if the Board does not allow Petitioner to add NERO Live  
22 Adventure Games, LLC, there is no reason for the Board to deny Petitioner to  
23 add his registered company.

24 For the reasons listed, and for other reasons the Board may deem  
25 appropriate, Petitioner ask the Board to allow Petitioner’s Motion to Amend  
26 Petitioner’s Name.

27

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Dated: 11/27/2017

By: Phillip Thomas Horton  
Phillip Thomas Horton  
Attorney for Petitioner  
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**CERTIFICATE OF SERVICE**

I, Phillip Thomas Horton, Esq., certify that a true and correct copy of the foregoing document was filed with the Trademark Trial and Appeal Board via the Electronic System for Trademark Trials and Appeals and was sent via email to Jovanna Bearden at the following email address:

jovannabearden@gmail.com

jovannabearden@bearden.law

Dated: 11/27/2017

By: Phillip Thomas Horton  
Phillip Thomas Horton  
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Bureau of Compliance  
P.O. Box 280946  
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[www.revenue.pa.gov](http://www.revenue.pa.gov)



Wednesday, August 03, 2016

Nero Live Adventure Games LLC,  
Attention: Joseph Valenti  
4719 Hatfield Street,  
Front  
Pittsburg, PA 15201

RE:  
Nero Live Adventure Games LLC,  
4719 Hatfield Street,  
Front  
Pittsburg, PA 15201

Federal EIN: 27-4604274  
Social Security Number:  
Business Partner Number: 1001227871

Dear Requester,

I am writing to confirm that the above-referenced tax accounts of Nero Live Adventure Games LLC are current. All returns have been filed with payment as of Wednesday, August 03, 2016. This confirmation is not intended to represent a "Bulk Sale Clearance" under the provision of section 1403 of the fiscal code. This letter does confirm that the account above is in good standing.

Sincerely,

Jesse Drayer, Tax Account Collections Supervisor,  
PA Department of Revenue,  
Bureau of Compliance,  
Business License Clearance Division