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

Proceeding	92065911
Party	Defendant NERO World, LLC
Correspondence Address	JOVANNA R BEARDEN BEARDEN LAW 104 S MAIN STREET BUTLER, MO 64730 UNITED STATES Email: jovannabearden@gmail.com, email@bearden.law
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Date	05/07/2018
Attachments	Resp to Motion to Amend - Nero World LLC.pdf(104347 bytes)

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

Joseph Valenti,)
Plaintiff,)
v.) Cancellation No. [92065911](#)
NERO World, LLC,)
Defendant,)
)

DEFENDANT’S OPPOSITION TO PLAINTIFF’S MOTION TO AMEND PETITION

COMES NOW Defendant, NERO World, LLC, by and through Counsel, and opposes Plaintiff Joseph Valenti’s Motion to Amend Petition for Cancellation as follows.

**TTAB GRANTED PLAINTIFF CHOICE OF TWO COURSES OF ACTION;
PLAINTIFF CHOSE TO FILE A NEW MOTION TO AMEND ITS PLEADINGS**

On March 21, 2018 the TTAB entered an Order (Doc 28) which allowed Plaintiff to take either of two courses of action:

Course One: To supplement its Motion to amend its name to clarify its identity and to clarify its pleadings of standing in its first amended petition to cancel; or

Course Two: File a new Motion to Amend its Pleadings to clarify its purported standing to bring these proceedings.

Regardless of the course of action taken, Plaintiff was ordered to include evidence and documents to support its allegations of standing and its identity. On April 10, 2018, Mr. Valenti filed his Motion to Amend Petition for Cancellation, along with a proposed Amended Petition, taking “Course Two”.

PLAINTIFF IMPROPERLY ATTEMPTED TO ADD PARTIES WITHOUT LEAVE

Plaintiff's Motion to Amend lists "NERO International Holding Co., Inc." and "NERO Live Adventure Games, LLC" as "Petitioners" in the caption without any order from the TTAB granting leave for the addition of these parties to this matter. Mr. Valenti has not asked the TTAB to add these purported entities as parties in his current motion, nor has Mr. Valenti demonstrated that these legal entities exist and are in good standing, let alone that they are justified as parties to this proceeding.

Plaintiff has attempted to procedurally skip the steps the TTAB outlined in Course One, prejudicing the Defendant by robbing them of the opportunity to oppose amended motions argued in due course. Were the TTAB to allow this, Plaintiff would unfairly accrue benefit that might come of presuming he had properly supplemented and clarified his motion to amend his name and clarified his standing in his petition. Defendant respectfully asks the TTAB to read the Plaintiff's motion with only the properly-joined Plaintiff. Alternatively, Defendants asks for direction from the TTAB, e.g., a statement that these parties are considered joined to this proceeding, and leave to amend this response accordingly.

PLAINTIFF HAS FAILED TO ARGUE FOR LEAVE TO AMEND HIS PETITION

Mr. Valenti's Motion states repeatedly that he wishes to "clarify standing." However, Mr. Valenti makes no arguments in support of his request to amend his petition beyond citation of generic authorities allowing amendment when justice so requires, but he fails to show or even argue why justice requires the TTAB to grant him leave to amend his Petition. Given that the proposed amended petition incorporates parties not properly joined, it does nothing to clarify or amplify the sole Plaintiff's claims.

PLAINTIFF FAILED TO DEMONSTRATE HIS OWN STANDING

Mr. Valenti has not provided any information or evidence to support his own purported standing to bring this proceeding. This was necessary as it has already been determined that his pleading of standing was insufficient in the Petition. (Docs 13 & 20). Mr. Valenti filed over 100 pages of documents along with his motion, but he does not incorporate these documents or their contents into his motion. Even if he had, these documents present neither facts nor evidence which overcome the defects in the current iteration of Mr. Valenti's motion.

Therefore, as no arguments or evidence have been submitted to support Mr. Valenti's claim of standing, and as he is the only Plaintiff properly joined to this proceeding, Defendant respectfully requests that Mr. Valenti's Motion be denied and, pursuant to the TTAB Order (Doc 28), this proceeding be dismissed.

Dated: May 7, 2018

By: / Jovanna R. Bearden /
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CERTIFICATE OF SERVICE

I, Jovanna R. Bearden, certify that on this 7th day of May, 2018, 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 sent by email to Counsel for Plaintiff, Phillip Thomas Horton at NEROLitigation@gmail.com .

Dated: May 7, 2018

By: / Jovanna R. Bearden /
Jovanna R. Bearden