

ESTTA Tracking number: **ESTTA933730**

Filing date: **11/07/2018**

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

Proceeding	92065911
Party	Plaintiff Joseph Valenti, NERO International Holding Co., Inc., and NERO Live Adventure Games, LLC
Correspondence Address	PHILLIP THOMAS HORTON HORTON LAW PLLC 736 WEST STATE STREET#F301 FARMINGTON, UT 84025 UNITED STATES NEROLitigation@gmail.com 801-664-2863
Submission	Reply in Support of Motion
Filer's Name	Phillip Thomas Horton
Filer's email	NEROLitigation@gmail.com
Signature	/Phillip Thomas Horton/
Date	11/07/2018
Attachments	NERO Reply in Support of Motion to Suspend.pdf(56739 bytes)

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

In the matter of trademark Registration No. 4657988

For the mark NERO

Registered on December 16, 2014

<p>Joseph Valenti, NERO International Holding Co., Inc., and NERO Live Adventure Games LLC, Petitioner's, v. NERO World, LLC, Defendant.</p>	<p>Cancellation No. 92065911</p>
--	----------------------------------

PETITIONER'S REPLY IN SUPPORT OF MOTION TO SUSPEND

NOW COMES Petitioner's Joseph Valenti ("Valenti"), NERO International Holding Co., Inc. ("NIHC"), and NERO Live Adventure Games, LLC ("NLAG") (collectively "Petitioner's") by and through its attorney, files this Reply in Support of Motion to Suspend ("Motion" Dkt. 37) and opposing the Response ("Response" Dkt. 38) by Defendant.

Petitioner's accidentally left off the request to suspend the proceedings, but that was a mere oversight. Petitioner's also argue the Motion is dispositive and, in turn, will determine discovery issues. By suspending the proceedings until the Motion is decided will keep the parties from exchanging useless documents. According to the Defendant NERO World LLC ("Defendant"), they have "identified its evidence supporting its affirmative defenses in its initial disclosures." 38 TTABVUE 3. However, the "evidence" is dependent upon the outcome of the Motion. The result of the Motion will determine what evidence and documents will need to be shared between the two parties.

Accordingly, to save time and money for both the Petitioner's and Defendant, Petitioner's ask that the Board suspend the proceedings pending the outcome of the Motion. Once the Board issues and

1 order, the parties will have a better understanding of which affirmative defenses will be allowed and
2 hence, what evidence and documents to share.

3 Additionally, Petitioner’s would like to note that the Motion was mentioned during the Discovery
4 Conference, so there was no surprise on Defendant that the Motion was filed. Petitioner’s do apologize
5 for leaving out the suspension request in the Motion, however, Petitioner’s ask the Board to suspend the
6 proceedings until the Motion is determined.

7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

Respectfully submitted,

Date: 11/07/2018

By: /Phillip Thomas Horton/
Phillip Thomas Horton, Esq.
Horton Law, PLLC
736 West State Street
Farmington, UT 84025
Phone/Fax: 801-664-2863
Email: NEROLitigation@gmail.com

CERTIFICATE OF SERVICE

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

I, Phillip Thomas Horton, hereby certify that a true and correct copy of the foregoing Petitioner’s Motion to Strike Affirmative Defenses was served upon Defendant by electronic mail, on this 24th day of September 2018, at the following address:

email@bearden.law

Date: 11/07/2018

By: /Phillip Thomas Horton/
Phillip Thomas Horton, Esq.
Horton Law, PLLC
736 West State Street
Farmington, UT 84025
Phone/Fax: 801-664-2863
Email: NEROLitigation@gmail.com

Horton Law