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

Proceeding	92071578
Party	Plaintiff UT Vapes, LLC
Correspondence Address	ARNOLD S WEINTRAUB THE WEINTRAUB GROUP PLC 24901 NORTHWESTERN HWY SUITE 311 SOUTHFIELD, MI 48075 UNITED STATES aweintraub@weintraubgroup.com 248-809-2005
Submission	Other Motions/Papers
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

UT VAPES, LLC,)	
A Michigan Limited Liability Company,)	
)	
Petitioner,)	Cancellation No.:92071578
)	
vs.)	Registration No.: 4,704,912
)	Registration Date: March 17, 2015
WE SELL RE SELL, LLC)	
A California Limited Liability Company)	
)	
Registrant.)	
_____)	

THE WEINTRAUB GROUP, P.L.C.
Arnold S. Weintraub
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24901 Northwestern Hwy., Suite 201
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(248) 809-2005

RESPONSE TO REGISTRANT'S MOTION
TO SET ASIDE NOTICE OF DEFAULT

NOW COMES Petitioner, UT VAPES, LLC, by and through its Counsel, THE WEINTRAUB GROUP, P.L.C., and ARNOLD S. WEINTRAUB, and hereby respectfully requests that Registrant's Motion to Set Aside Notice of Default be denied for the following reason:

It is believed that Registrant has failed to satisfy the requirements set forth in TMEP §312.02.

ARGUMENT

In its Motion, Registrant asserts that the delay in filing an Answer was not the result of willful conduct or gross neglect on its part. It is believed that Registrant has summarily failed to meet this requirement.

At Page 2 of its Motion, Registrant asserts that “Registrant was not living full time at the address to which the Petition for Cancellation was mailed and did not receive actual notice of the Petition for Cancellation until August 11, 2019.” This statement begs the question as to whether or not there was gross neglect.

First, Registrant is identified as a California Limited Liability Company, not a person. Business entities do not “live” anywhere.

Second, by arguing that Registrant was not living “full time” at the address to which the Petition was mailed, necessarily implies that not Registrant, per se, but, rather, Registrant’s principal was living at the address at least “part time.”

Third, Registrant argues that “it did not receive actual notice.” Again, necessarily, this implies that at least the Petition for Cancellation was received, and, therefore, it appears that Registrant’s principal simply failed to open the mail. It is unclear what “actual notice” was intended to imply other than what appears to be a mere failure to open up the mail at the address where Registrant’s principal was evidently residing at least part time.

Simply stated, the Motion fails to differentiate between the Registrant and its Principal. Furthermore, none of the facts set forth in the Petition have been denied – only the half-hearted statement that “Registrant was not living full time” at the address to which the Petition was mailed. Again, there is no indication that the mailing address was improper based upon the

records of the USPTO. Further, there is no denial of the fact that the phone number identified by Registrant in its application for registration was wrong, either.

While Registrant's Answer states that there are meritorious defenses, there is no proof of what these could possibly be. Thus, all in all, there is no good cause shown. However, if the Board decides to grant the Motion and Set Aside the Default, it is respectfully requested that before reinstatement, Petitioner be awarded its attorney's fees in connection with the Motion.

Dated: September 16, 2019

Respectfully Submitted:

/Arnold S. Weintraub/
Arnold S. Weintraub
Attorney for Petitioner
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24901 Northwestern Hwy., Suite 311
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(248) 809-2005

CERTIFICATE OF SERVICE

I hereby certify that on September 16, 2019, I served a true and complete copy of the Notice of Cancellation upon Mr. Morris E. Turek, 167 Lamp and Lantern Village, #220, Chesterfield, MO 63017 by depositing same in the United States Mail, First Class Mail, with postage fully paid and by email to morris@yourtrademarkattorney.com.

Dated: September 16, 2019

/Dede Phillips/
Dede Phillips
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