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Filing date: **07/21/2020**

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

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|------------------------|---|
| Proceeding | 92073710 |
| Party | Defendant Zume, Inc. |
| Correspondence Address | CHRISTOPHER R STANTON MERCHANT & GOULD PC 1801 CALIFORNIA STREET , SUITE 3300 DENVER, CO 80202 UNITED STATES Primary Email: cstanton@merchantgould.com 303-357-1670 |
| Submission | Request for Reconsideration of Final Board Decision |
| Filer's Name | Lindsay M.R. Jones |
| Filer's email | ljones@merchantgould.com, sjohnston@merchantgould.com, glewis@merchantgould.com, slindemeier@merchantgould.com |
| Signature | /Lindsay M.R. Jones/ |
| Date | 07/21/2020 |
| Attachments | 2020 07 21 Request for Reconsideration.pdf(131671 bytes) |

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

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| Aramark Services, Inc., |) | Cancellation No. 92073710 |
| |) | |
| Petitioner, |) | Marks: ZUME PIZZA; ZOOM PIZZA |
| |) | |
| v. |) | Reg. Nos.: 5,757,924; 5,037,458 |
| |) | |
| Zume, Inc., |) | App. Dates: July 23, 2015; May 11, 2015 |
| |) | |
| Registrant. |) | Reg. Dates: May 21, 2019; September 6, 2016 |

REQUEST FOR RECONSIDERATION

Pursuant to TBMP §543 and 37 C.F.R. §2.129(c), Registrant respectfully requests that the TTAB set aside the default judgment entered against Registrant on June 22, 2020 in connection with the above-captioned Cancellation No. 92073710 because the default judgment has been entered in error.

By way of background, Petitioner filed this Cancellation Action on March 13, 2020. Registrant's Answer was due on April 27, 2020. Registrant either was not served or did not appreciate it had been served a Notice of Institution of Proceedings and therefore did not file an Answer by the initial deadline. On April 29, 2020, two days after the Answer was due, Petitioner filed a Motion for Default Judgment.

Registrant's counsel learned of the Petition for Cancellation and Motion for Default Judgment on May 7, 2020, called Petitioner's counsel to provide notice of Registrant's intention to defend the cancellation action, and filed a "Motion to Accept a Late Filed Answer and Deny Petitioner's Motion for Default Judgment," and a proposed Answer, on May 8, 2020.

On May 14, 2020, the TTAB suspended proceedings pending disposition of Petitioner's Motion for Default Judgment. The TTAB acknowledged Registrant's May 8th filing and said it would be construed as Registrant's response to Petitioner's motion.

Then, on June 22, 2020, the TTAB issued an order erroneously stating that Petitioner's motion was uncontested, and that Registrant had failed to file a response to the Petition for Cancellation or to Petitioner's Motion for Default Judgment. The Order granted the Motion for Default Judgment and ordered the two registrations be cancelled.

After receiving the erroneous order, the parties placed a joint phone call to the TTAB to notify the TTAB of the error and request that it be retracted. However, Registrant has not heard back and the status on TTABVue has not changed.

Since Registrant did respond to the Motion for Default Judgment in a timely fashion, judgment should not have been entered in this case. Instead, the Motion for Default Judgment should have been denied. In addition, Registrant respectfully requests that the Proposed Answer filed be accepted as the operative Answer in this Cancellation Action, and that the schedule be reset.

In view of all the foregoing, Registrant submits this Request for Reconsideration because default judgment has been improperly entered against Registrant. Registrant respectfully requests the TTAB reinstate the proceedings and set aside the default judgment entered against Registrant on June 22, 2020.

Respectfully submitted,

ZUME, INC.

By its Attorneys,



Date: July 21, 2020

Scott W. Johnston
Lindsay M.R. Jones
MERCHANT & GOULD, P.C.
150 South Fifth Street, Suite 2200
Minneapolis, MN 55402
(612) 332-5300

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing REQUEST FOR RECONSIDERATION was served upon the following attorney of record for Petitioner by email this 21st day of July, 2020:

Camille M. Miller
Cozen O'Connor
1650 Market Street, Suite 2800
Philadelphia, PA 19103
cmiller@cozen.com

A handwritten signature in black ink, appearing to read "Scott W. Johnston", written over a horizontal line.

Scott W. Johnston