

ESTTA Tracking number: **ESTTA1096895**

Filing date: **11/20/2020**

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

Proceeding	92075086
Party	Defendant Giancarlo Fantappie
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Submission	Other Motions/Submissions
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Signature	/Eric L. Tanezaki/
Date	11/20/2020
Attachments	Notice of Non-Opposition to Motion to Amend Pleadings.pdf(121278 bytes)

Attorney Ref: GFNTA-007M

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

In the Matter of Trademark Registration No. 5,101,888

Black Rifle Coffee Company LLC,

Petitioner,

v.

Giancarlo Fantappié,

Registrant.

Cancellation No.: 92075086

**REGISTRANT'S NOTICE OF NON-OPPOSITION TO PETITIONER'S
MOTION TO AMEND PLEADINGS**

On November 2, 2020, Petitioner submitted a filing entitled "Motion to Amend Pleading/Amended Pleading."

Registrant understands the procedural grounds under which Petitioner is currently proceeding as being extremely vague. The title of the filing seems to indicate that Petitioner is moving for leave of the Board to file an amended pleading and has included a proposed amended pleading. However, the actual contents of the filing do not contain a motion to the Board for leave to file an amended pleading. Rather, the filing seems to consist only of the proposed amended pleading, with no explanation provided as to Petitioner's intent or justification for seeking amendment. It may be that Petitioner is in fact seeking leave of the Board to file an amendment under Fed. R. Civ. P. 15(a)(2) per the title of the filing. However, it may also be that Petitioner has in fact attempted to file an amendment as a matter of course under Fed. R. Civ. P. 15(a)(1)(B) in response to service of Registrant's Motion to Dismiss.

Depending on the exact nature of Petitioner's filing, the current procedural posture of this proceeding would be very different, requiring a different type and timing of response by Registrant. As a result of this, Registrant is unable to determine the proper form of response, or the appropriate timing of such a response. Proceedings and dates have also not been unsuspended following the Board's suspension of the proceeding on October 26, 2020.

Registrant is therefore interpreting Petitioner's filing, per its title, as a Motion for Leave of the Board to amend its Petition, accompanied by the proposed amended Petition to Cancel that Petitioner is seeking to have entered should the Board grant such leave to amend. In this regard, a response by Registrant would be due within 21 days of the filing and service of this motion. Registrant hereby indicates that it does not oppose the entry of Petitioner's proposed Amended Petition to Cancel and a corresponding mooted of Registrant's Motion to Dismiss filed October 13, 2020, provided that Registrant is allowed an adequate opportunity to timely respond to the Amended Petition to Cancel (i.e. via answering or filing another motion under Rule 12) following the entry of the Amended Petition to Cancel by the Board.

Respectfully submitted,

STETINA BRUNDA GARRED & BRUCKER

Dated: November 20, 2020

By: /Eric L. Tanezaki/
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Counsel for Registrant
Giancarlo Fantappié

CERTIFICATE OF SERVICE

I hereby certify that on **November 20, 2020**, a true and complete copy of the foregoing **REGISTRANT’S NOTICE OF NON-OPPOSITION TO PETITIONER’S MOTION TO AMEND PLEADINGS** was served via email on counsel of record for Petitioner at the following address:

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