

ESTTA Tracking number: **ESTTA1406538**

Filing date: **01/07/2025**

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

| | |
|------------------------|---|
| Proceeding no. | 92084359 |
| Party | Plaintiff Act Bad LLC |
| Correspondence address | THELMA ANDERSON TELL A LAWYER CONSULTING GROUP 820 ELMROOK DR SUITE 263 DALLAS, TX 75247 UNITED STATES Primary email: info@tellalawyergrout.com Secondary email(s): trademarks@unitedlegalexperts.com No phone number provided |
| Submission | Opposition/Response to Motion |
| Filer's name | Thelma Anderson |
| Filer's email | info@tellalawyergrout.com |
| Signature | /Thelma Anderson/ |
| Date | 01/07/2025 |
| Attachments | PETITIONER Request TO DENY AND VOID THE REGISTRANTS REQUEST AND MOTIO N FOR JUDGMENT ON THE PLEADINGS.pdf(1446050 bytes) |

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

In the Matter of Registration No. 97138666

Registration: September 26, 2023

For the Mark: ACT BAD

ACT BAD LLC
(Petitioner)

v.

Charles Kenyatta Jr
(**REGISTRANTS**)

Cancellation NO. [92084359]

**PETITIONER REQUEST TO DENY AND VOID THE REGISTRANT'S REQUEST AND
PREVIOUS MOTION FOR JUDGMENT ON THE PLEADINGS**

ACT BAD LLC ("Petitioner"), a registered company in New York, having its address at 192 Ease 40 Street, Brooklyn, New York, United States 11203, submits this opposition to the Motion for Judgment on the Pleadings filed by Charles Kenyatta Jr. ("Registrant").

Petitioner contends that the Registrant's request is procedurally improper and substantively deficient. Registrant's counsel has not filed a required letter of representation, and Andrew Covington remains the identified attorney of record as previously filed. Counsel's failure to adhere to TTAB protocols renders the previous motion and current request invalid.

On January 7, 2025, Mr. Boag refiled a request that the board previously ordered would not be considered due to his failure to serve me properly (**attached as Exhibit 3**). Despite this, Mr. Boag submitted documents (**attached as Exhibits 2 and 4**) falsely stating that he served me on December 20, 2024, when, in fact, no such service occurred. **Exhibit 1 and 3** further confirms the board's acknowledgment that Mr. Boag did not serve me as required.

This misrepresentation is not a mere oversight but a deliberate act. Upon being notified via email to retract this false statement, Mr. Boag refused to do so and instead doubled down on his misrepresentation **(as documented in my email to Mr. Boag Exhibit 5)**.

I first received any materials related to this matter on January 7, 2025, demonstrating Mr. Boag's intentional failure to properly serve me. This conduct is deeply concerning, as the attached submissions suggest a deliberate attempt to circumvent proper procedure by misrepresenting compliance with service requirements. Such behavior undermines the integrity of the board's proceedings.

I would also like to readdress with the board that Mr. Boag continues to violate (TBMP) § 114.03.

Procedural Deficiencies

Improper Representation

The Registrant's motion is procedurally defective as it was filed by counsel who has not established proper representation in this matter. According to the Trademark Trial and Appeal Board Manual of Procedure (TBMP) § 114.03, representation by counsel requires the filing of a Power of Attorney or a Revocation and Appointment of Attorney form to ensure compliance with the Board's rules. Registrant's counsel has failed to adhere to these procedural requirements, making the filing improper and invalid.

- a) Registrant's current counsel has not filed a letter of representation or Power of Attorney with the TTAB, leaving the previously identified attorney, Andrew Covington, as the attorney of record. Without proper substitution, all actions taken by the new counsel are invalid.
- b) Case law emphasizes the importance of proper representation. In **Chengdu Aihua Chemical Co. v. J. Stout Auctions, LLC, Cancellation No. 92072959 (TTAB 2022)**, the TTAB dismissed a motion filed by a party whose counsel failed to file a Power of Attorney, ruling that procedural compliance is mandatory.

- c) The counsel has acknowledged that they only communicated with the Registrant's spouse, as the Registrant is currently incarcerated. The spouse, however, lacks standing in these proceedings, and their involvement cannot substitute for direct communication with the Registrant. This failure to maintain proper communication further invalidates the actions taken by counsel.
- d) Trademark Trial and Appeal Board Manual of Procedure (TBMP) § 114.02: The TBMP explicitly requires that a party represented by counsel must ensure that the attorney is duly authorized to act on behalf of the Registrant. Any filing by unauthorized counsel is considered procedurally defective and can result in dismissal.
- e) **Caymus Vineyards v. Caymus Corp., 107 USPQ2d 1519 (TTAB 2013):** In this case, the TTAB highlighted that procedural missteps, such as improper representation or failure to adhere to procedural rules, can result in dismissal of motions or pleadings. The Board stressed the importance of proper compliance with TTAB procedural requirements to ensure fairness.
- f) *Chengdu Aihua Chemical Co. v. J. Stout Auctions, LLC* (2022): The TTAB ruled that failure to file a Power of Attorney renders any actions by counsel invalid, emphasizing the necessity of clear authorization to act on behalf of a party.
- g) *Inter IKEA Sys. B.V. v. Akea, LLC*, 110 USPQ2d 1734 (TTAB 2014): The Board reiterated that compliance with procedural requirements is critical, and any motion filed without adherence to these rules is subject to dismissal.

Registrant's failure to ensure proper representation and procedural compliance not only undermines the legitimacy of the motion but also disrupts the fairness and integrity of these proceedings. Without a valid Power of Attorney and direct communication with the Registrant, the counsel's actions cannot be considered binding.

Conclusion

For the reasons set forth above, Petitioner respectfully requests that the Trademark Trial and Appeal Board deny and void Registrant's current submission today January 7, 2025. The request is procedurally defective due to improper representation and substantively flawed like the previous filing, violated the rules that govern service Trademark Rule 2.119(a) states that every submission filed in an *inter partes* proceeding must be served upon the other party or parties, and proof of such service must be made before the submission will be considered. I respectfully request that the board take appropriate action to address this issue, ensure compliance with its orders and procedural requirements, deny the motion, and grant such further relief as it deems just and appropriate under the law.

Dated: January 7, 2025,

Respectfully submitted,
ACT BAD LLC

Thelma Anderson
Through
/Thelma Anderson/
Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT ON JANUARY 7, 2025, a copy of the Petitioner Request to Deny and void the Registrant's Request and Motion for Judgement on Pleadings was served to the following details through details.

CHARLES KENYATTA JR
5540 CENTER VIEW DR, STE. 200
RALEIGH, NC 27606 USA
charliecthageneral@gmail.com,
andrew@thecovingtonlaw.com,
admin@thecovingtonlaw.com
charliecthageneral@gmail.com

By: /Thelma Anderson/

Dated: January 7, 2025

ESTTA Tracking number: **ESTTA1403619**

Filing date: **12/20/2024**

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

| | |
|------------------------|--|
| Proceeding no. | 92084359 |
| Party | Defendant Charles Kenyatta Jr |
| Correspondence address | CHARLES KENYATTA JR 5540 CENTER VIEW DR STE. 200 RALEIGH, NC 27606 UNITED STATES Primary email: charliecthageneral@gmail.com Secondary email(s): andrew@thecovingtonlaw.com, admin@thecovingtonlaw.com 984-2183-604 |
| Submission | Other Motions/Submissions |
| Filer's name | David A. Boag |
| Filer's email | ipdocket@boagip.com |
| Signature | /David A. Boag/ |
| Date | 12/20/2024 |
| Attachments | 2024-12-20 Ltr to Board RE TTABVUE 11.pdf(136984 bytes) |

Exhibit 1

Counsel Has Property Appeared on Behalf of Respondent

The signature on the Motion for Judgment on the Pleadings constitutes a representation to the Board that the undersigned is authorized to act on behalf of Respondent under 37 CFR § 2.127(b)(2). Furthermore, Respondent’s representative is a lawyer in good standing in New York, meeting the qualifications under 37 CFR § 11.1. Petitioner’s assertion that Respondent’s representative has not properly appeared is incorrect.

Petitioner’s further claim that Respondent’s representative has not communicated with Respondent directly is both irrelevant and unsupported. Respondent’s representative holds a signed engagement agreement with the owner of the mark, a power of attorney is in effect between the owner of the mark and his spouse, and our firm has spoken with the owner of the mark directly.

Notably, Petitioner raised no concerns about status as Respondent’s representative during prior settlement discussions or in other communications. Petitioner’s argument appears to be a last-minute attempt to obfuscate the issues and delay resolution.

Conclusion

Petitioner’s submission is untimely, procedurally defective, and substantively flawed. It merely rehashes the unsupported allegations in the original petition and follows the same path of baseless assertions devoid of evidentiary support.

Respondent respectfully requests that the Board disregard Petitioner’s submission in its entirety. Should the Board consider the submission, Respondent reserves the right to address any specific claims raised therein.)

NO SERVICE

Very truly yours,



David A. Boag

BOAG LAW, PLLC

447 Broadway, Suite 2-270

New York, NY 10013

(212) 203-6651

dab@boagip.com

Attorneys for Registrant Charles
Kenyatta Jr.

ESTTA Tracking number: **ESTTA1406314**

Filing date: **01/07/2025**

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

| | |
|------------------------|---|
| Proceeding no. | 92084359 |
| Party | Defendant Charles Kenyatta Jr |
| Correspondence address | CHARLES KENYATTA JR 5540 CENTER VIEW DR STE. 200 RALEIGH, NC 27606 UNITED STATES Primary email: charliecthageneral@gmail.com Secondary email(s): andrew@thecovingtonlaw.com , admin@thecovingtonlaw.com 984-2183-604 |
| Submission | Other Motions/Submissions |
| Filer's name | David A. Boag |
| Filer's email | ipdocket@boagip.com |
| Signature | /David A. Boag/ |
| Date | 01/07/2025 |
| Attachments | 2025-01-07 Letter and COS.pdf(166496 bytes) |

Exhibit 2

CERTIFICATE OF SERVICE

I hereby certify that on December 20, 2024, a copy of Registrant's Letter Concerning Petitioner's December 18, 2024 Improper Submission was served on Petitioner via the Electronic System for Trademark Trial and Appeals (ESTTA) system, and again on January 7, 2025 via email to the address listed below:

Thelma Anderson
Tell A Lawyer Consulting Group
820 Elmrook Dr., Suite 263
Dallas, TX 75247
info@tellalawyergroup.com
trademarks@unitedlegalexperts.com

**Certificate of Service
included on January 7, 2025
not December 20, 2024**



David A. Boag

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451
General Contact Number: 571-272-8500
General Email: TTABInfo@uspto.gov

January 2, 2025

Cancellation No. 92084359

Act Bad LLC

v.

Charles Kenyatta Jr

Tashia A. Bunch, Interlocutory Attorney:

Respondent's letter to the Board, filed on December 20, 2024, does not include proof of service. Trademark Rule 2.119(a) states that every submission filed in an *inter partes* proceeding must be served upon the other party or parties, and proof of such service must be made before the submission will be considered. See TBMP § 113.02. Accordingly, the Board will give the filing no consideration.

The Board informed the parties of the rules governing service and the service requirement in the notice of institution. Trademark Rule 2.119(b) sets forth the manner of service. See also TBMP § 113.04. The parties may access the record of this proceeding via TTABVUE at <https://ttabvue.uspto.gov/ttabvue/>.

Exhibit 3



David Boag
To You

8:48 AM



2025-01-07 Letter and COS
PDF - 163 KB

Thelma,

Attached for service please find a copy of our
December 20, 2024 letter to the Board.

Regards,
David

David A. Boag
BOAG LAW, PLLC
447 Broadway, Suite 2-270
New York, NY 10013
+1.212.203.6651
dab@boagip.com



Exhibit 4



You
To David Boag

9:17 AM



IMG_7962
JPEG - 215 KB



IMG_7964
JPEG - 1 MB

2 attachments (1.3 MB)

David

I am writing to address a serious matter regarding your submission stating that I was served on December 20, 2024. This assertion is false, as I was never served on that date, and this is a matter of public record for the board.

I demand that you retract this statement immediately. Failure to do so will result in my formal response to the assigned attorney, informing them of this misrepresentation. I have attached two references just in case you need to refresh your memory.

I expect your prompt attention to this issue.

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