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Filing date: **09/15/2014**

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

Proceeding	92048777
Party	Defendant Michael Calmese and Laura Ann Fisher
Correspondence Address	MICHAEL CALMESE 3046 N 32ND ST , UNIT 321 PHOENIX, AZ 85018-6842 UNITED STATES proveit@excite.com, usaproveit@yahoo.com
Submission	Response to Board Order/Inquiry
Filer's Name	Michael Calmese
Filer's e-mail	usaproveit@yahoo.com
Signature	s/Michael Calmese/s
Date	09/15/2014
Attachments	2014 uspto Response due 30 days final.pdf(9125 bytes) Respondent Calmese's 9th Cir. Opening Brief Case No 14-35569.pdf(1783972 bytes)

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

Adidas America, Inc., a Delaware Corporation,) Cancellation No.: 92048777
Petitioner,) Registration No.: 2,202,454
against-) Registration Date: 11/10/98
Michael D. Calmese, a Resident of Arizona) Mark: PROVE IT!
Respondent.)
_____)

PLEASE TAKE NOTICE, pursuant to the Board’s Order dated September 12, 2014, that the civil action which occasioned the suspension of this proceeding is still pending and has not come to final determination due to the nearly 10 counts of fraud on the court Respondent has filed into evidence in his August 15, 2014, Opening Brief now before the Ninth Circuit Court of Appeals. See case No. 14-35569. Also see U.S. Supreme Court Ruling in *Dickinson v. Zurko*, 527 U.S. 150, 119 S.Ct. 1816, 144 L.Ed.2d 143 (1999), and *Aoude v. Mobil Oil Corp.*, 892 F.2d 1115, 15 Fed. R. Serv. 3d 482 (1st Cir. 1989) (“Because corrupt intent knows no stylistic boundaries, fraud on the court can take many forms.”). For the Board’s convenience, a copy of Respondent’s 8/15/2014, Opening Brief is being filed with this response to the Board’s September 12, 2014 Order.

On a final and very important note, it has been discovered that the Board has failed to recognize that Laura Ann Fisher (“Ms. Fisher”), IS NOT a party to this dubious cancellation proceeding because of this Board’s September 10, 2013, ruling that specifically stated:

“The Board has carefully considered the parties arguments and has reviewed the assignment records filed on May 3, 2013 and finds it appropriate to remove Ms. Fisher as a party to this proceeding. The caption of this proceeding has, accordingly, been updated.” See (Dkt 48).

Therefore, with all due respect, and in view of the above statement made by the Board on September 10, 2013, the Board should respectfully change the caption in (Dkt 49), immediately and re-issue the September 12, 2014, Order with the correct caption of this proceeding, accordingly. The caption in the September 12, 2014, Order clearly violates Ms. Fisher's rights.

RESPECTFULLY SUBMITTED this 15th, day of September 2014.

s/Michael Calmese/s

cc: Jonathan Radmacher Attorney for Anthony McNamer aka. Anthony Davis. (email only)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing RESPONSE was served upon FRIEDLAND AND VINING P.A and PERKINS COIE by delivering a true and correct copy of the same via U.S. Mail on September 15, 2014, as follows:

FRIEDLAND AND VINING P.A. David K. Friedland, 1500 San Remo Ave., Ste. 200,
Coral Gables, FL 33146

And

PERKINS COIE LLP Stephen M. Feldman, 1120 N.W. Couch Street, Tenth Floor
Portland, OR 97209-4128

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**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

AUG 14 2014

FILED _____
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DATE INITIAL

Michael Calmese
Appellant,

9th Cir. Case No. **14-35569**

Originating Court Case No. **3:13-cv-01042-HU**

vs.

Anthony E. McNamer
Appellee(s).

APPELLANT'S INFORMAL BRIEF
(attach additional sheets as necessary)

1. Jurisdiction

a. Timeliness of Appeal: *See Additional Pages. (1-40)*

- (i) Date of entry of judgment or order of originating court: 5/6/14
- (ii) Date of service of any motion made after judgment (other than for fees and costs): 5/20/14 & 6/9/14
- (iii) Date of entry of order deciding motion: 6/9/14
- (iv) Date notice of appeal filed: 7/7/14
- (v) For prisoners, date you gave notice of appeal to prison authorities: N/A

9th Cir. Case No. 14-35569

Page 2

2. What are the facts of your case?

See Additional Pages (1-40)

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