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

Proceeding	92052260
Party	Defendant Edgar Alexander Barrera
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Submission	Other Motions/Papers
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Date	02/27/2012
Attachments	TTAB 3.pdf (8 pages)(5418653 bytes)

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

STEPHEN A. WESTLAKE,	)	
	)	
Petitioner,	)	Cancellation No. 92/052,260
	)	(Serial No. 77/378,015)
	)	
EDGAR ALEXANDER BARRERA	)	
	)	
Respondent.	)	

AMENDED RESPONSE TO OPPOSITION TO MOTION FOR A FURTHER EXTENSION OF TIME TO SECURE NEW LEGAL COUNSEL

Comes now the Respondent EDGAR ALEXANDER BARRERA and hereby submits his Response to Opposition to Motion for a Further Extension of Time to Secure New Legal Counsel in the above-captioned Opposition proceeding.

NOTE: *If Petitioner's co-counsel, Mr. Guyette is so precise with his information, can he inform everyone why he has deliberately given his address to the TTAB and those associated with these proceedings as: 19 Chenango St. #1101, Binghamton, NY 13901-2904?*

The "Prosecution History" will clearly demonstrate multiple mailings from the TTAB to Mr. Guyette's office have been returned as ***"Unable to Deliver."*** *The Respondent can also attest to this as well, as multiple correspondence sent to Mr. Guyette has also been returned the same way in each instance. Now, Mr. Guyette suddenly appears from nowhere with a "new address" given as 136 Court Street, Binghamton, New York 13901.*

Isn't anyone who represents either a Petitioner or a Respondent supposed to at all times make sure his proper address is provided?

ANSWER TO OPPOSITION

In response, to Petitioner's Opposition, a point-by-point rebuttal follows:

1. Petitioner's Certified Statement: "Petitioner doubts the extent of the claim of impairment to health of the respondent."

Respondent's Answer: Petitioner and his co-counsel are not certified or qualified medical doctors and cannot render such an opinion as it is completely unqualified and without any merit whatsoever. Since this proceeding began Respondent's health has been seriously impaired for most of this time. Respondent has attempted to resume a normal work

schedule as much as he possibly can, and is still in considerable pain. Respondent's medical problems have been fully documented for the court in several letters from his physician, Dr. Gohar S. Khan, M.D.

A Declaration is supposed to be made based upon on the Declarant's personal knowledge.

Every statement made that is not based on the Declarant's personal knowledge is pure speculation.

Petitioner and his co-counsel are not doctors, and not physicians and have never seen the patient and cannot make such a Declaration within their own personal knowledge.

Therefore, it is pure speculation, based on hearsay, innuendo, suppositions, insinuation, unsubstantiated allegations and therefore must be disregarded, as it is inadmissible and lacks any evidentiary basis whatsoever.

2. **Petitioner's Certified Statement:** "According to information which is available to anyone on the internet, treatment for acute pancreatitis requires a few days stay in a hospital for intravenous fluids, antibiotics, and medication to relieve pain. Unless complications arise, acute pancreatitis resolves in a few days."

Respondent's Answer: Anything can be found on the Internet and cannot invalidate a qualified medical opinion which is an audacious claim on the part of the Petitioner. Likewise, the broad, ambiguous and vague assertion of "according to information available to anyone on the internet" is without any merit. Furthermore, petitioner does not attach any so-called documentation to support his claim.

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3. **Petitioner's Certified Statement**: "The treatment for chronic pancreatitis may require hospitalization for pain management, IV hydration and nutritional support. Nasal gastric feedings may be necessary for several weeks if the person continues to lose weight."

Respondent's Answer: Again, this is the Petitioner and his co-counsel attempting to be a physician when neither one has any qualifications to do so and is totally without any basis of fact as Mr. Guyette nor Mr. Westlake are qualified medical doctors.

A Declaration is supposed to be made based upon on the Declarant's personal knowledge.

Every statement made that is not based on the Declarant's personal knowledge is pure speculation.

Petitioner and his co-counsel are not doctors, and not physicians and have never seen the patient and cannot make such a Declaration within their own personal knowledge.

Therefore, it is pure speculation, based on hearsay, innuendo, suppositions, insinuation, unsubstantiated allegations and therefore must be disregarded, as it is inadmissible and lacks any evidentiary basis whatsoever.

4. **Petitioner's Certified Statement**: "There has been no indication that the respondent has lost weight due to this condition, nor has there been specification of whether the condition is acute or chronic."

Respondent's Answer: If Petitioner would refer back to previous Motions, petitioner would see that the Respondent lost weight due to his serious medical condition and is suffering from "acute pancreatitis."

Dr. Khan has previously stated when respondent first encountered this serious medical problem that: "Mr. Barrera is still experiencing severe fatigue, along with various gastronomical symptoms common during recovery. These include bloating, abdominal pain, loss of appetite, difficulty swallowing, and weight loss."

A Declaration is supposed to be made based upon on the Declarant's personal knowledge.

Every statement made that is not based on the Declarant's personal knowledge is pure speculation.

Petitioner and his co-counsel are not doctors, and not physicians and have never seen the patient and cannot make such a Declaration within their own personal knowledge.

Therefore, it is pure speculation, based on hearsay, innuendo, suppositions, insinuation, unsubstantiated allegations and therefore must be disregarded, as it is inadmissible and lacks any evidentiary basis whatsoever.

5. **Petitioner's Certified Statement:** "What does appear chronic is the respondent's failure to cooperate with his attorney which led to his withdrawal."

Respondent's Answer: Petitioner's allegations are totally false about the Respondent's failure to cooperate with his attorney which led to his withdrawal. Petitioner's statements are based on innuendo, insinuation, unsubstantiated allegations and therefore must be disregarded as pure speculation.

6. **Petitioner's Certified Statement:** "While the respondent includes his so-called list regarding his efforts to secure counsel, it should be noted that there are no specifics as to whom the attorneys are that he called."

Respondent's Answer: Respondent has made a diligent effort and fully complied with the TTAB's requests and in many respects has provided more information than requested at the time. Petitioner's statements are based on innuendo, insinuation, unsubstantiated allegations and therefore must also be disregarded as pure speculation.

7. **Petitioner's Certified Statement:** "Further, he includes attorneys that do not specialize in Intellectual Property Law, therefore, he is wasting everyone's time."

Respondent's Answer: Again, Petitioner nor his co-counsel, Mr. Guyette have fully read the Motions respondent filed as it was never stated that he was speaking with any attorney who did not specialize in Intellectual Property Law but instead clearly stated "they do not specialize in this type of trademark law" which centers around publishing, which requires further specialization in Intellectual Property matters, and they "do not specialize in this type of trademark litigation." There are many trademark attorneys and a number of them do not practice before the TTAB as anyone, except apparently Petitioner and his co-counsel. This was clearly stated in the Motion for a Further Extension of Time to Secure New Legal Counsel submitted on February 2, 2012.

Also, petitioner's co-counsel, Mr. Guyette states clearly that if "attorneys do not specialize in Intellectual Property Law, therefore, he is wasting everyone's time." Is the Petitioner's co-counsel, Mr. Guyette perhaps

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