

ESTTA Tracking number: **ESTTA457467**

Filing date: **02/20/2012**

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

Proceeding	92054551
Party	Plaintiff Andrey Pinsky
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Submission	Motion to Compel Discovery
Filer's Name	Andrey Pinsky
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Date	02/20/2012
Attachments	(Petitioner's Motion to Compell Discovery PART 1).pdf (81 pages)(3400388 bytes)

UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK TRIAL AND APPEAL BOARD

In the matter of mark Registration No. 3981394
For the mark: KONSEPT
Date of First Use: June 12, 2010
Date of Registration: June 21, 2011

ANDREY PINSKY,

Petitioner,

v.

DOUGLAS BURDA

Registrant.

Cancellation No. 92054551

Petitioner, Andrey Pinsky, files his motion to Compel Registrant to Comply with Discovery Requests and his motion to Remove Interlocutory Attorney Elizabeth A. Dunn. Petitioner's motion is divided in to three PDF files due to a number of exhibits submitted with these motions. The first PDF file has pages 1 through 80. The second PDF file has pages 81 through 160. The third PDF file has pages 161 through 212. Page numbers are marked in the top right corner of each page.

February 20, 2012

Respectfully submitted



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**PETITIONER'S MOTION TO COMPEL REGISTRANT
TO COMPLY WITH DISCOVERY REQUESTS**

AND

**PETITIONER'S MOTION TO REMOVE
INTERLOCUTORY ATTORNEY ELIZABETH A. DUNN**

I. BACKGROUND

1. Registrant in this cancellation proceeding is Mr. Douglas Burda, a sole practicing lawyer called to the Nevada Bar and residing in Las Vegas. It appears that Registrant has no formal office and carries out his law practice out of his apartment using a cellular telephone as a main telephone of his office. Registrant's website www.konceptllc.com provides no formal address and only provides Registrant's cellular phone number.

2. In 2011, Registrant fraudulently registered two trademarks in his own name (**Exhibit 1, paragraphs 11 - 14**). The trademarks were KONCEPT and PANDA. Both trademarks were in use by other entities long before the dates of first use Registrant declared in his trademark applications (**Exhibit 1, paragraphs 11 - 14**). Cancellation of the registration for the trademark KONCEPT is subject of this proceeding. **Exhibit 1 at paragraphs 11 - 14** provides sworn evidence of prior use of the trademark PANDA by the law firm Panda Law. Panda Law used trademark PANDA at least seven months prior to the date of first use Registrant declared in his trademark application for the trademark PANDA.

3. From commencement of this cancellation proceeding, Registrant employed questionable conduct to evade service of Petitioner's Petition to Cancel. **Exhibit 2** provides copy of email communications that took place between Petitioner and Registrant immediately before service of Petitioner's Petition to Cancel.

4. Petitioner realized that Registrant intended to employ his questionable conduct as main defence in this proceeding and on November 1, 2011, requested Trademark Trial and Appeal Board (TTAB) interlocutory attorney Elizabeth A. Dunn's participation in Discovery Conference. Registrant on a number of occasions falsely alleged in his submissions to the TTAB that he never received a copy of the email sent to him by Petitioner with a copy of the request for interlocutory attorney Dunn's participation. **Exhibit 3** provides copy of email communications that took place between Petitioner and Registrant after Registrant received that email and is a proof that Registrant's submissions to the TTAB were and are false.

5. Information about Registrant's questionable conduct was conveyed to interlocutory attorney Dunn during the Discovery Conference. Petitioner advised interlocutory attorney Dunn that his initial attempt to serve Registrant with the Petition to Cancel was met with Registrant's extreme resistance (**Exhibit 2**). The USPTO file for the trademark KONCEPT listed Registrant's address as a PO Box and provided a Gmail email address. Registrant's website provided no physical address of his law office and his law firm's fax number.

6. Petitioner also advised interlocutory attorney Dunn that because FedEx does not deliver to PO Box addresses, Petitioner could not serve Petition to Cancel on Registrant. When Petitioner requested Registrant to provide physical address of his law office, Registrant instead of providing the information requested, repeatedly demanded that Petitioner call to Registrant to negotiate. (**Exhibit 2**)

7. Petitioner further advised interlocutory attorney Dunn that Registrant provided physical address of his law office only when Petitioner informed Registrant that Petitioner would be seeking assistance of the Nevada Bar to obtain the location of Registrant's law office and to serve him with the Petition to Cancel. (**Exhibit 2**)

8. Petitioner also advised interlocutory attorney Dunn that Petitioner on September 23, 2011, via email requested Registrant to consent to service of the Petition to Cancel via email. Petitioner request received no reply from Registrant. Registrant provided preposterous consent to service via email on September 28, 2011, five days after Petitioner requested it and two days after Petition to Cancel was delivered to Registrant via FedEx on September 26, 2011 (**Exhibit 2**).

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