

ESTTA Tracking number: **ESTTA998562**

Filing date: **08/29/2019**

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

Proceeding	92057380
Party	Plaintiff Jaime Keeling
Correspondence Address	ADAM DAVIDS DAVOLI DAVIDS LLP 153 WEST 27TH STREET SUITE 204 NEW YORK, NY 10001 UNITED STATES adam@adamdavids.com 647-787-6683
Submission	Opposition/Response to Motion
Filer's Name	Adam Davids
Filer's email	adam@daviddavids.com
Signature	/Adam Davids/
Date	08/29/2019
Attachments	2019-08-29 - PBL Motion for Resumption of Petition.PDF(392418 bytes )

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

JAIME KEELING	)	
Petitioner,	)	In the Matter of Trademark Reg.
	)	No. 4,334,491
	)	
v.	)	Cancellation No. 92057380
	)	
	)	
EVE HARS	)	For the Mark: Point Break Live!
Registrant	)	Registered May 14, 2013

**RESPONSE TO MOTION FOR SUSPENSION**

On August 29, 2013, Registrant Eve Hars (“Respondent”), filed a Motion for Suspension based on Registrant’s appeal to the Court of Appeals for the Second Circuit of the jury verdict in U.S. District Court of the Southern District of New York, case number 10-9345. The case was upheld on appeal and was denied a writ of certiorari.

**STATEMENT OF FACTS**

1. On August 29, 2013, Respondent filed a Motion for Suspension pursuant to Trademark Rule 2.117(a) pending final disposition on an appeal of the District Court’s decision to the Court of Appeals.
2. On October 30, 2013, Respondent’s Motion for Suspension was granted.
3. On October 30, 2015, the Court of Appeals for the Second Circuit affirmed the District Court’s judgment in its entirety. See **Exhibit A** attached hereto
4. On January 19, 2016, Respondent filed a writ of certiorari with the United States Supreme Court appealing the decision of the Court of Appeals for the Second Circuit.
5. On June 27, 2016, Respondent’s writ of certiorari was denied by the United States Supreme Court. See **Exhibit B** attached hereto.

Accordingly, Petitioner requests that the Board call up this case and resume the cancellation proceedings.

Dated: New York, New York  
August 29, 2019

DAVOLI DAVIDS, LLP

By: 

Adam Davids

Attorney for Petitioner  
153 West 27<sup>th</sup> Street, Suite 204  
New York, NY 10001  
(646) 415-9007  
adam@davidalavids.com

**EXHIBIT A**

**DECISION OF THE UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT**

**Keeling v. Hars  
No. 13-694-cv**

13-694-cv  
*Keeling v. Hars*

In the  
**United States Court of Appeals**  
for the **Second Circuit**

---

AUGUST TERM 2014  
No. 13-694-cv

JAIME KEELING,  
*Plaintiff-Counter-Defendant-Appellee,*

v.

EVE HARS,  
*Defendant-Appellant,*

NEW ROCK THEATER PRODUCTIONS, LLC, A NEW YORK LIMITED  
LIABILITY COMPANY,  
*Defendant-Counter-Claimant,*

ETHAN GARBER,  
*Defendant.\**

---

Appeal from the United States District Court for the  
Southern District of New York

No. 1:10-cv-9345—Thomas P. Griesa, *Judge*

---

\* The Clerk of Court is directed to amend the official caption in this case  
to conform with the above.

# Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

## Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

## Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

## Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

## API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

## LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

## FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

## E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.