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

Proceeding	92063149
Party	Defendant Silent Events, Inc.
Correspondence Address	SILENT EVENTS INC 52 SOUTH ALICIA DRIVE MEMPHIS, TN 38112 UNITED STATES
Submission	Motion for Relief from entry of Default Judgment
Filer's Name	Patrick G. Walker
Filer's e-mail	pwalker@farris-law.com
Signature	/Patrick G. Walker/
Date	05/26/2016
Attachments	Motion to Set Aside Default Judgment.pdf(736843 bytes) Exhibit A - Affidavit of Ryan Dowd.pdf(52251 bytes) Exhibit B - Affidavit of William S Parks.pdf(46679 bytes) Exhibit C - Letter of October 27 2015.pdf(268420 bytes) Exhibit D - E-mail from Bill Parks_Redacted.pdf(135804 bytes) Exhibit E - Letter of February 2 2016_Redacted.pdf(79638 bytes) Exhibit F - Draft Petition.pdf(190158 bytes) Exhibit G - Complaint for Trademark InfringementDraft Petition.pdf(2458437 bytes) Exhibit H - Affidavit of Service.pdf(73531 bytes) Exhibit I - E-mail from Phil Mischke.pdf(51754 bytes)

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

QUIET EVENTS, INC.)	
)	Cancellation No. 92063149
Petitioner,)	
)	In the matter of Trademark Registration
v.)	No. 4,141,745
)	
SILENT EVENTS, INC.,)	For the Mark: SILENT EVENTS
)	
Registrant.)	Registered on: May 15, 2012

MOTION AND BRIEF TO SET ASIDE DEFAULT JUDGMENT

Respondent, Silent Events, Inc., hereby moves pursuant to Trademark Trial and Appeal Board Rule 544 and Fed. R. of Civ. P. 60(b) to vacate and set aside the judgment made and entered in this action on May 4, 2016, on grounds of mistake, inadvertence, or excusable neglect; on grounds of misconduct by an opposing counsel; and alternatively to assign a new filing date and schedule consistent with the date of service. The Respondent respectfully states as follows:

INTRODUCTION

Neither the Respondent nor its attorney of record received actual notice of the Petition for Cancellation ("Petition") or any subsequent document filed by the Petitioner or issued by the Trademark Trial and Appeal Board ("Board") in this proceeding before Registration No. 4,141,745 ('745 Mark) was cancelled on May 6, 2016. Affidavit of Ryan Dowd ¶ 4 (May 23, 2016), which is attached hereto and incorporated herein by reference as Exhibit "A"; and Affidavit of William S. Parks ¶ 4 (May 26, 2016), which is attached hereto and incorporated

herein by reference as Exhibit "B." The Respondent is the owner of the '745 Mark. The attorney of record for the '745 Mark is William "Bill" S. Parks. The Respondent and its attorney were part of ongoing communications with Petitioner immediately before the Petition was filed, but rather than give notice of the Petition to the Respondent or its attorney, Petitioner elected to send notice and serve the Petition using outdated addresses while having full knowledge of the Respondent's and Bill Park's correct address. As a result of Petitioner's actions, the Respondent had no knowledge of the Petition, which ultimately resulted in default judgment being entered and cancellation of the '745 Mark.

RESPONDENT'S HISTORY OF PROTECTING ITS INTELLECTUAL PROPERTY

Respondent was formed in July of 2008 and soon after began protecting its intellectual property soon after. Respondent applied for the registration of "Silent Events" in August of 2011, which the USPTO granted in May of 2012. In November of 2011, Respondent filed a patent application related to the technology utilized in its business and was granted a patent in September of 2015. With ownership of its intellectual property secured, Respondent began regularly defending the '745 Mark against businesses it believed to be infringing, including the Petitioner. The history of Respondent's efforts to protect its intellectual property is important because those efforts are inconsistent with Petitioner's perceived inactivity with respect to the Petition and support Respondent's position that it did not have knowledge of the Petition before the '745 Mark was cancelled.

STATEMENT OF FACTS

On or about October 27, 2015, Respondent mailed a cease and desist letter to Petitioner alleging, among other things, that Petitioner's business activities infringed upon Respondent's

intellectual property rights ("Cease and Desist Letter"). See Ltr. from William S. Parks to Will Petz, *Re: "QUIET EVENTS" Trademark Issue and related Unfair Competition Concerns* (October 27, 2015), a copy of which is attached hereto and incorporated herein by reference as Exhibit "C." It is important to note that this letter originated from Bill Parks and the law firm Hulseley Hunt & Parks P.C. located at 5100 Poplar Avenue, Suite 2412, Memphis, TN 38137. The Cease and Desist Letter further states "Silent Events Inc. has retained our law firm to handle its legal interests in terms of intellectual property and related business matters." Exhibit "C." After October 27, 2015, the Respondent and Petitioner exchanged approximately twenty seven (27) pieces of written correspondence through February 10, 2016, in an effort to reach an amicable resolution of the issues that were the subject of the Cease and Desist Letter. Of these written communications, approximately eleven (11) e-mails were sent from Petitioner or its attorneys to Bill Parks at the e-mail address bill@hulsevylaw.com. Additional communications were had over the phone between Petitioner or its attorneys and Bill Parks.

During the course of these communications, the Petitioner raised the possibility of filing a petition for cancellation of the '745 Mark on grounds that it was generic. In response to Petitioner's threats of filing a cancellation proceeding and other allegations, Bill Parks authored a three page e-mail asserting Respondent's defenses. See E-mail from William S. Parks to Aaron Riedel, *Silent Events* (November 20, 2015), a copy of which is attached hereto and incorporated herein by reference as Exhibit "D."¹ The parties continued to seek an amicable resolution through December of 2015 and January of 2016. Then on February 2, 2016, Petitioner's

¹ The contents of this e-mail are being shared with the Board to demonstrate that Respondent has a meritorious defense to Petitioner's grounds for cancellation and Petitioner was aware of those defenses prior to filing the Petition. Portions of this e-mail and other correspondence attached hereto as exhibits have been redacted to prevent disclosure of confidential settlement negotiations.

attorney, Aaron Riedel, mailed a letter to Bill Parks addressed to Hulsey Hunt and Parks, P.C., 5100 Poplar Ave., Suite 2412, Memphis TN 38137 ("Riedel Letter"). See Ltr. from Aaron Riedel to Bill Parks, *Re: Cease and Desist Letter to Quiet Events Dated October 27, 2015* (February 2, 2016), a copy of which is attached hereto without exhibits and incorporated herein by reference as Exhibit "E." The Riedel Letter, with attachments, numbered eighty-two (82) pages. One of the attachments to the letter was a draft petition for cancellation that, purportedly, had been prepared by William R. Samuels ("Draft Petition"). See Draft Petition for Cancellation, which is attached hereto without exhibits and incorporated herein by reference as Exhibit "F." The Draft Petition contained a certificate of service addressed to **Bill Parks, Esq., Hulsey, Hunt & Parks P.C., 5100 Poplar Avenue, Suite 2412, Memphis TN 38137**. See Exhibit "F." Petitioner sent its last correspondence to Bill Parks on February 10, 2016, again using the bill@hulseyiplaw.com e-mail address. At this point, settlement negotiations between Petitioner and Respondent ended, and Respondent began preparing a complaint against Petitioner to be filed in the U.S. District Court for the Middle District of Tennessee.

On February 11, 2016, Petitioner filed the Petition that is the subject of this action and, according to its certificate of service, mailed the petition to William S. Parks at the following address: **William S. Parks, Wyatt, Tarrant & Combs, LLP, 1715 Aaron Brenner Dr., Ste 800, Memphis, Tennessee 38120-1445**. Mr. Parks was a partner at Wyatt, Tarrant & Combs when the '745 Mark's application was filed. See Affidavit of William S. Parks ¶ 2 (May 26, 2016). However, Mr. Parks left Wyatt, Tarrant & Combs L.L.P. in June of 2015 and joined the firm of Hulsey, Hunt & Parks P.C. in July of 2015. See Affidavit of William S. Parks ¶ 2 & 3 (May 26, 2016). The U.S. Patent and Trademark Office's directory of patent attorneys lists Mr. Parks'

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