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

Proceeding no.	92076883
Party	Defendant Edward David Munoz
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Attachments	Exhibit A.pdf(168477 bytes) Exhibit B.pdf(129397 bytes) Exhibit C.pdf(286236 bytes) Exhibit D.pdf(49216 bytes) Exhibit E.pdf(523023 bytes) Exhibit F.pdf(132929 bytes) Exhibit G.pdf(182357 bytes) EXHIBIT H.pdf(106454 bytes) Registrant Response Brief.pdf(407870 bytes)

EXHIBIT A

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

The Plimsouls, Petitioner, v. Edward Munoz, Registrant.	Cancellation No. 92076883 Registration No. 4,940,705 Mark: THE PLIMSOULS
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DECLARATION OF EDWARD MUNOZ

I, Edward Munoz, under penalty of perjury under the laws of the United States, declare and state as follows:

1. I am the owner of U.S. Trademark Registration No. 4,940,705 and have personal knowledge of the facts stated herein. I am competent to testify to the facts stated herein, and would so testify if called upon to do so. I give this declaration in support of Registrant's Response to Petitioner's Trail Brief.
2. I joined The Plimsouls in 1979. At the time, the band consisted of Peter Case, David Pahoa, Louis Ramirez, and me.
3. These four individuals performed live as The Plimsouls until the original drummer for the band, Mr. Ramirez, was fired from the band by Peter Case in 1983. Mr. Ramirez never played another show or recorded any music with The Plimsouls since 1983.
4. Peter Case subsequently left the band in October of 1983.
5. Peter Case agreed to play several live shows with the band in California and Texas in the summer of 1984 with a different drummer, Charlie Quintana.

6. Peter Case, David Pahoa, and I performed a live show as The Plimsouls on New Years 1985 at the Fullerton Ballroom in San Diego, California with Mike Bannister as the drummer.
7. During that show, Peter Case left the stage to go to the bar several times, causing the promoter of the show to refuse to pay the band the entirety of the agreed-upon fee.
8. That was the last live show that The Plimsouls performed for over a decade.
9. In mid-January 1985, Peter Case called me on the telephone and told me that he was cutting all ties with The Plimsouls to start a solo career, and the remaining members of the band could have rights to the name of the band.
10. In summer 1995, Peter Case contacted me and stated his desire to release a new album and for The Plimsouls to begin performing live again.
11. The band performed live as The Plimsouls from 1995 to 1997 with Clem Burke as the drummer. A second partnership was formed as “The Plimsouls” in 1995 with the partners consisting of myself, Peter Case, David Pahoa, and Clem Burke. This second partnership was dissolved in 2000 (See Ex. G).
12. In late 1997, Peter Case again left the band to pursue a solo career, and The Plimsouls did not perform live between 1997 and 2005.
13. In May 2005, Peter Case again contacted me and informed me that he had been approached with an offer for The Plimsouls to perform live.
14. We performed as The Plimsouls at the Orange County Fair later that year with Bryan Head as the drummer.
15. The band continued to perform live as The Plimsouls for the next couple of years with Bryan Head as the drummer.

16. Peter Case's last live performance with The Plimsouls was in August 2007 at The Galaxy in Santa Ana, California.
17. Since August 2007, Peter Case has refused any offers to perform as a member of The Plimsouls.
18. In 2014, Dave Faulkner contacted me with an offer for The Plimsouls to play the Dig It Up! festival in Australia.
19. Peter Case refused Dave Faulkner's offer to perform as a member of The Plimsouls and instead performed at the festival with a band called "The Peter Case Band."
20. Upon information and belief, the members of The Plimsouls formed a partnership for tax and business purposes when the band signed a contract with Planet Records in the early '80s, but that partnership was dissolved in early 1984 after Peter Case left the band in late 1983 or early 1984.
21. After the partnership was dissolved, the members of The Plimsouls did not explicitly form a legal partnership, either orally or in writing.
22. Upon information and belief, The Plimsouls was never organized as a corporation, limited-liability company, or any other type of enterprise organization.
23. I have been acting as the manager of The Plimsouls and handling its business affairs since the summer of 1984, including but not limited to forming the second partnership in 1995, establishing bank accounts, filing tax returns, and coordinating shows and events.
24. After a phone conversation with Peter Case in 2014 regarding offers I had received from venue promoters seeking to book The Plimsouls for live performances, Peter Case explicitly refused to perform as The Plimsouls and informed me that he no longer wanted to perform as a member of The Plimsouls. I then waited until three years after Alive Records released a forty-

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