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Filing date: **04/24/2020**

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

Proceeding	94002720
Party	Applicant Hanscomb Consulting, Inc.
Correspondence Address	H JAY SPIEGEL H JAY SPIEGEL & ASSOCIATES PO BOX 11 MOUNT VERNON, VA 22121 UNITED STATES jayspiegel@aol.com 703-619-0101
Submission	Other Motions/Papers
Filer's Name	H. Jay Spiegel
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Signature	/H. Jay Spiegel/
Date	04/24/2020
Attachments	HanscombConsultingNoticeToUSPTO042420.pdf(117023 bytes) HanscombConsultingCivilCoverSheetAsFiled042420.pdf(357861 bytes) HanscombConsultingComplaintAsFiled042420.pdf(1142015 bytes) HanscombConsultingExhibit1 ToComplaintAsFiled042420.pdf(2202677 bytes)

LAW OFFICES OF

H. JAY SPIEGEL & ASSOCIATES

GENERAL CAUSES &
PATENT, TRADEMARK & COPYRIGHT CAUSES

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April 24, 2020

Ms. Denise M. DelGizzi
Chief Clerk of the Board
U.S. Patent & Trademark Office
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

Filed Through ESTTA

Re: Concurrent Use Proceeding No. 94002720
Hanscomb Consulting, Inc. v. Hanscomb, Limited

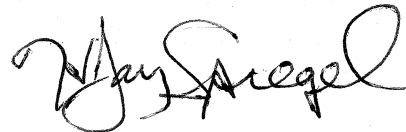
Dear Ms. DelGizzi:

In compliance with 37 C.F.R. § 2.145(c)(3), I am writing the Board to provide notice that today I filed a civil action, appealing the decision of the Board dated February 26, 2020, in the referenced concurrent use proceeding, in the United States District Court for the Eastern District of Virginia, Alexandria Division. The civil action has been assigned docket number 1:20-cv-00457 and is styled Hanscomb Consulting, Inc. v. Hanscomb, Limited.

I have attached the civil cover sheet, complaint, and Exhibit 1 thereto. Today, I sent Thomas O'Rourke, Esquire, Counsel to Hanscomb, Limited courtesy copies of the papers filed in Court today. I will also serve him this cover letter today after filing it. Please let me know if you have any questions.

Very truly yours,

H. JAY SPIEGEL & ASSOCIATES



H. Jay Spiegel
Counsel to Hanscomb Consulting, Inc.

HJS:tg
Enclosures

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Hanscomb Consulting, Inc.

(b) County of Residence of First Listed Plaintiff Alexandria
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

H. Jay Spiegel, H. Jay Spiegel & Associates, P.O. Box 11, Mount Vernon, Virginia 22121, 703-619-0101

DEFENDANTS

Hanscomb, Ltd.

County of Residence of First Listed Defendant
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

Thomas A. O'Rourke, Bodner & O'Rourke, 425 Broadhollow Road, Suite 120, Melville, New York 11530, 631-249-7500

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
- 3 Federal Question (U.S. Government Not a Party)
- 2 U.S. Government Defendant
- 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input checked="" type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from Another District (specify)
- 6 Multidistrict Litigation - Transfer
- 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
15 USC 1071(b)(1)

Brief description of cause:
De Novo Appeal of U.S. Patent & Trademark Office TTAB Decision

VII. REQUESTED IN COMPLAINT:

- CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.
- DEMAND \$**
- CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE _____ SIGNATURE OF ATTORNEY OF RECORD _____



**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION**

HANSCOMB CONSULTING, INC.)
225 Reinekers Lane, Suite 200)
Alexandria, VA 22314)
Virginia Corporation)

Plaintiff,)

v.)

HANSCOMB, LIMITED)
900-40 Holly Street)
Toronto CANADA)
Canadian Corporation)

Defendant.)

Civil Action No.: _____

**COMPLAINT FOR APPEAL AND DE NOVO REVIEW OF DECISION OF
TRADEMARK TRIAL AND APPEAL BOARD**

The Plaintiff HANSCOMB CONSULTING, INC. (Plaintiff or HCI) for its Complaint against Defendant HANSCOMB, LIMITED (Defendant or HL), alleges as follows:

NATURE OF ACTION

1. This is an action seeking *de novo* judicial review of a final decision of the Trademark Trial and Appeal Board (TTAB or the Board), an administrative agency of the United States Patent and Trademark Office (USPTO), in concurrent use proceeding no. 94002720 (the concurrent use proceeding) under 15 U.S.C. § 1071(b)(1). A copy of the final decision is attached as Exhibit 1.

2. On February 26, 2020, in the concurrent use proceeding, a TTAB panel dissolved the proceeding and ruled Plaintiff's application Serial No. 87/100,385 was accordingly abandoned.

3. In dissolving the concurrent use proceeding, the TTAB found that Plaintiff had complied with the jurisdictional requirement of 15 U.S.C. § 1052(d) in that the TTAB found Plaintiff had made lawful use of its mark in commerce before Defendant filed its application for registration, Serial No. 86/644,350.

4. In inducing the concurrent use proceeding, Plaintiff alleged, based upon the information known to it at the time, that it was entitled to exclusive rights to use the service mark "HANSCOMB CONSULTING" and design (Plaintiff's mark) throughout the United States with the exception of two zip codes, 60521 (in Hinsdale, IL) and 90071 (in Los Angeles, CA). However, the TTAB found that there was significant overlap in territories of use of Plaintiff's mark and Defendant's mark "HANSCOMB" (Defendant's mark). On that basis, rather than determining the territories to which each party was entitled, the TTAB dissolved the proceeding and ordered the abandonment of Plaintiff's application.

THE PARTIES

5. Plaintiff is a corporation of Virginia having the following address: 225 Reinekers Lane, Suite 200, Alexandria, VA 22314.

6. On information and belief, Defendant is a corporation of Canada having the following address: 900-40 Holly Street, Toronto, CANADA.

JURISDICTION AND VENUE

7. This is an action for judicial review of a final decision of the TTAB under Section 21(b)(1) of the Lanham Act, 15 U.S.C. § 1071(b)(1).

8. This Court has original jurisdiction over this matter pursuant to 28 U.S.C. §§ 1331 and 1338 as it involves claims presenting federal questions under 15 U.S.C. § 1071(b)(1) and

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