

Exhibit

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

FAZOLI'S MANAGEMENT, INC.,)
)
Opposer)
)
v.)
)
STEVEN SETTIPANI,)
)
Applicant)

OPPOSITION NO. 91152360

TM: PASTA FAZUL'S & Design
Serial No. 76/060,264



06-09-2003

U.S. Patent & TMO/c/TM Mail Rcpt Dt. #22

MOTION OF OPPOSER FAZOLI'S MANAGEMENT, INC.
TO COMPEL DISCOVERY RESPONSES

Pursuant to Rules 26, 33, 34, and 37 of the Federal Rules of Civil Procedure, and 37 C.F.R. § 2.210(e), Opposer Fazoli's Management, Inc. ("Opposer") respectfully moves the Board for an order compelling from Applicant, Steven Settupani ("Applicant") responses to the following written discovery requests:

(1) Opposer's First Set of Interrogatories to Applicant, in their entirety, i.e.,

Nos. 1-18; and

(2) Opposer's First Set of Requests for Production of Documents and Things,

Nos. 2, 4, 7, 12, 13, and 18.

Opposer further requests the Board to find that, by failing to serve timely responses or objections to Opposer's First Set of Interrogatories, Applicant has waived any objections to those interrogatories.

For the Board's convenience and pursuant to 37 C.F.R. § 2.120(e), copies of Opposer's written discovery requests, Applicant's responses to these requests, and Opposer's letter of April 25, 2003 seeking in good faith to resolve these discovery disputes are attached hereto as Exhibits.

Pursuant to 37 C.F.R. § 2.120(e), Opposer has conferred in good faith by correspondence to resolve by agreement the controversies that are the subject of this motion. The precise issues remaining to be resolved are set forth fully in the accompanying "Brief in Support of Opposer's Motion to Compel Discovery Responses."

Opposer understands that pursuant to Trademark Rule of Practice 2.120(e)(2), this proceeding will be suspended pending disposition of this Motion. In the event, however, Opposer's understanding is not correct, Opposer respectfully requests the Board reset and extend the testimony period in this proceeding in order to allow time for Applicant to serve and Opposer to receive and consider Applicant's interrogatories responses, supplemental responses to document requests, and outstanding documents prior to the opening of the first testimony period.

Respectfully Submitted,



Virginia S. Taylor
Michael W. Rafter
Christine P. James
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1100 Peachtree Street, Suite 2800
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(404) 815-6500

Attorneys for Opposer
Fazoli's Management, Inc.

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to the Trademark Trial and Appeal Board, 2900 Crystal Drive, Arlington, Virginia 22202 on June 6, 2003.

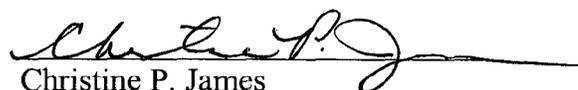
BY: 
Christine P. James

CERTIFICATE OF SERVICE

This is to certify that this MOTION OF OPPOSER FAZOLI'S MANAGEMENT, INC. TO COMPEL DISCOVERY RESPONSES has been served on counsel for Applicant by depositing a copy thereof by first class mail, postage prepaid, and addressed as follows:

Barry S. Mittelberg, Esq.
Mittelberg & Nicosia
8100 North University Drive, Suite 102
Fort Lauderdale, Florida 33321

This 6th day of June, 2003.


Christine P. James

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VIA FIRST CLASS MAIL

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06-09-2003

U.S. Patent & TMO/c/TM Mail Rcpt Dt. #22

Re: Fazoli's Management, Inc.
Opposition No. 91152360 Against
TM: PASTA FAZUL'S & Design,
Filed by Steven Settiani
Our Ref.: F1780/247745

Dear Sir/Madam:

Enclosed please find Opposer Fazoli's Management's Motion to Compel Discovery Responses and Brief in Support of Opposer's Motion to Compel Discovery Responses, with all pertinent exhibits.

Please confirm receipt of the enclosed documents by initialing, dating and returning the enclosed postcard.

Please also feel free to call with any questions you may have concerning this matter.

Kind regards.

Sincerely,



Christine P. James

CPJ

cc: Virginia S. Taylor, Esq.
Michael W. Rafter, Esq.

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