

09/18/2003TTAB

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TRADEMARK OPPOSITION
File No. 15027.203

Exhibits

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

In the matter of Trademark Application Serial No. 76/212,011
Published in the Official Gazette of May 28, 2002, at page TM 1497, Int'l Class 35.
Filed: February 20, 2001
Mark: STAACHI'S CO. 1996 & DESIGN

09-10-2003
U.S. Patent & TMO/TM Mail Rpt'Dt. #78



SINCLAIR OIL CORPORATION

Opposer,

v.

SUMATRA KENDRICK

Applicant.

Opposition No. 152,940

**OPPOSER'S MOTION TO COMPEL
ANSWERS TO INTERROGATORIES
AND MEMORANDUM IN SUPPORT
THEREOF**

MOTION

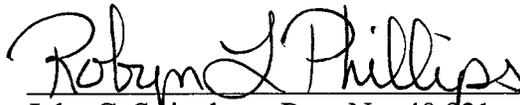
Opposer Sinclair Oil Corporation ("SINCLAIR" or "Opposer"), by and through its counsel of record, hereby moves the Trademark Trial and Appeal Board ("TTAB") for an order compelling Applicant Sumatra Kendrick ("Applicant") to withdraw its objections and/or refusal to provide responses to Opposer's Interrogatory Nos. 10, 11, 18, 23, 24 and 31, and provide responsive answers thereto.

Handwritten text, possibly a signature or name, rendered in a stylized, cursive script. The text is oriented horizontally but appears to be a mirror image or a highly stylized representation of a name, possibly "Khandi" or similar.

Opposer's undersigned attorneys have made a good faith effort to resolve the issues presented herein by correspondence with Applicant, but Applicant has been wholly unresponsive to those efforts.

Other grounds for this Motion are set forth in the accompanying Memorandum.

DATED this 10th day of September, 2003.



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SINCLAIR OIL CORPORATION

MEMORANDUM

I. INTRODUCTION

Opposer Sinclair Oil Corporation (“SINCLAIR” or “Opposer”) owns the following marks: United States Registration No. 929,749 (“the ‘749 Registration”) for the mark “SUN DESIGN” in International Classes 35 and 41 for goods described, *inter alia*, as “retail apparel and gift store services;” United States Registration No. 929,750 (“the ‘750 Registration”) for the mark “SUN VALLEY & SUN DESIGN” in International Classes 36, 41 and 42, for goods described, *inter alia*, as “retail apparel and gift store services;” United States Trademark Application Serial No. 78/157,978 for the mark “SUN VALLEY & RISING SUN DESIGN” in International Classes 35, 36, 39, 41 and 43, for goods described, *inter alia*, as “gift store services; retail store services;” and United States Trademark Application Serial No. 78/157,988 for the mark “SUN DESIGN” in International Classes 6, 9, 14, 16, 20, 21, 25, 26, 28, 35, 36, 39, 41, and 43, for goods described, *inter alia*, as “gift store services, retail store services” (collectively referred to herein as “Opposer’s marks”). The ‘749 Registration and the ‘750 Registration owned by Opposer are incontestable marks.

Applicant Sumatra Kendrick (“Applicant”) applied to register United States Trademark Application Serial No. 76/212,011 for the mark “STAACHI’S CO. 1996 & DESIGN” on February 20, 2001, for goods identified as “retail store services featuring bath products, gift products, candy products,” in International Class 35 (referred to herein as “Applicant’s mark” or the “mark at issue”). Applicant’s mark was published for opposition on May 28, 2002. Recognizing the manifest likelihood of confusion, Opposer filed its timely Notice of Opposition on August 26, 2002.

After requesting and receiving an extension of time, Applicant answered the Opposition on January 28, 2003. Opposer served interrogatories and requests for document production on June 6, 2003. Applicant responded to Opposer's discovery requests on July 5, 2003. Declaration of Robyn L. Phillips in Support of Opposer's Motion to Compel Answers to Interrogatories ("Phillips Decl."), Exh. A.¹ However, when Applicant responded, it did so with only two documents, precious little information, and a flood of objections made without explanation or justification.

In an effort to resolve the potential dispute over the responses to the written discovery, by letter of July 31, 2003, Opposer's counsel identified the multitude of deficiencies in Applicant's discovery responses, and requested that Applicant either supplement its deficient written discovery responses or explain the basis for its indiscriminately asserted defenses. *Id.*, Exh. B. Opposer provided Applicant with detailed explanations of Applicant's obligations related to responding to the written discovery propounded by Opposer and Applicant's deficiencies therein. *Id.* ¶ 4. In offering what actually would have constituted a full month extension of Applicant's deadline to respond to Opposer's discovery requests, Opposer requested that non-privileged, non-confidential documents be produced no later than August 6, 2003, and requested that the parties engage in a meet and confer on August 4, 2003, to further discuss the issue. *Id.* ¶ 4, Exh. B. In addition, Opposer sent a letter on July 31, 2003, suggesting that the parties engage in a teleconference to discuss available options for an amicable resolution of the litigation, and proposed a date and time for such discussions. *Id.* ¶ 5, Exh. C.

On August 1, 2003, Opposer attempted to contact Applicant to engage in the suggested teleconference, but Applicant was not available at the proposed time, nor did Applicant return

¹ All exhibits referenced herein are attached to the Declaration of Robyn L. Phillips in Support of Opposer's Motion to Compel Answers to Interrogatories, filed contemporaneously herewith.

Opposer's message requesting that the parties confer to achieve resolution of the matter. *Id.* ¶ 6. On August 4, 2003, Opposer again contacted Applicant at the stated time for the "meet and confer" but the person who answered the telephone represented that Applicant was not home. *Id.* ¶ 7. Opposer has called the telephone number it had for Applicant multiple times and has left multiple messages with the person who answers the telephone. *Id.* ¶ 8. As of this date, Applicant has not returned any message. *Id.* Applicant sent correspondence to Opposer dated August 6, 2003, in which Applicant acknowledged receipt of Opposer's July 31, 2003 letter requesting that the parties discuss potential resolution of the matter. *Id.* ¶ 9 and Exh. D. Opposer also received the same correspondence by e-mail. *Id.*

Opposer has since learned that the address provided by Applicant to the TTAB as well as Opposer may be incorrect because when Federal Express attempted to deliver the July 31, 2003 letters from Opposer to Applicant, Federal Express noted that the address was incorrect and could not deliver the letters until August 6, 2003. *Id.* ¶ 10 and Exh. E. As a result, because Opposer has been unable to reach Applicant by any other reliable means and the apparent problem with the address provided by Applicant, on August 12, 2003, Opposer attempted to reach Applicant by replying to the e-mail address of Applicant's August 6, 2003, e-mail correspondence. *Id.* ¶ 11 and Exh. F. In its e-mail, Opposer, stated that Opposer could not accept Applicant's deficient discovery responses, that the discovery deadline is approaching, and that the parties needed to meet and confer regarding the discovery dispute. *Id.*, Exh. F. The e-mail also requested accurate contact information for Applicant. *Id.* Applicant never responded to this e-mail.

On August 13, 2003, Opposer filed a Motion to Compel Answers to Interrogatories and Production of Documents and Things ("Motion to Compel"). On August 29, 2003, after

Opposer filed its Motion to Compel, Applicant submitted Sumatra Kendrick's Second Set of Supplemental Answers to Interrogatories,² attached as Exh. G to the Phillips Decl., which failed to address numerous deficiencies outlined in Opposer's first Motion to Compel. On August 28, 2003 the TTAB issued an Order ("the Order"), denying Opposer's Motion to Compel without prejudice on the basis that the Motion was in excess of the page limit.³

As of this date, Applicant still fails to respond to six (6) of Opposer's thirty-five (35) interrogatories. Opposer has not received supplemental information in response to Applicant's seven deficient responses, nor has Opposer received any explanation or clarification from Applicant regarding its irresponsibly asserted objections. Further, although Applicant had received notice that Opposer objected to the vague and evasive objections being made, Applicant has disregarded Opposer's deficiency letters, messages and attempts to achieve resolution of the Opposition matter. See Phillips Decl. ¶¶ 4-8.

Unfortunately, Applicant's failure to respond to written discovery places Opposer at a serious disadvantage. Opposer is unable to take effective deposition testimony of Applicant or any other third party without the documents or information requested. Accordingly, Opposer previously filed its Motion to Extend Discovery and Trial Periods and renews its motion.

By its present motion, Opposer seeks an order compelling Applicant to respond to the outstanding interrogatories, as indicated below.

² Opposer Notes that, contrary to Applicant's caption for its supplemental responses, Opposer has not received a **first** set of supplemental responses from Applicant.

³ In an effort to be concise in its filings and reduce the number of motions filed with the TTAB, Opposer combined its arguments related to Applicant's deficient responses to Opposer's interrogatories and document requests into a single Motion to Compel. As the Board noted in the Order, the Motion to Compel exceeded the maximum page limit set forth in Trademark Rule 2.127(a). Opposer apologizes for its oversight, and therefore, files the instant Motion to Compel Answers to Interrogatories contemporaneously with and separately from its Motion to Compel Production of Documents and Things, for purposes of addressing Applicant's continuing deficient responses to Opposer's interrogatories.

II. APPLICABLE LEGAL STANDARDS

“Generally, the purpose of discovery is to remove surprise from trial preparation so the parties can obtain evidence necessary to evaluate and resolve their dispute.” *United States v. City of Torrance*, 164 F.R.D. 493, 495 (C.D. Cal. 1995), attached hereto as Exh. H to the Phillips Decl. Accordingly,

A request for discovery should be considered relevant if there is any possibility that the information sought may be relevant to the subject matter of this action. Discovery should ordinarily be allowed under the concept of relevancy unless it is clear that the information sought can have no possible bearing upon the subject matter of this action.

Jones v. Commander, Kansas Army Ammunitions Plant, 147 F.R.D. 248, 250 (D. Kan. 1993), reproduced as Exh. I to the Phillips Decl. “The party who resists discovery has the burden to show that discovery should not be allowed, and has the burden of clarifying, explaining, and supporting its objections.” *Cable & Computer Tech., Inc. v. Lockheed Saunders*, 175 F.R.D. 646, 650 (C.D. Cal. 1997), reproduced as Exh. J to the Phillips Decl. Objections stated in “boilerplate terms ... are improper.” *Miller v. Pancucci*, 141 F.R.D. 292, 302 (C.D. Cal. 1992), reproduced as Exh. K to the Phillips Decl.

A party resisting discovery by interposing privilege, in particular, bears “[t]he burden of establishing the existence of privilege,” and “must make a clear showing that it applies.” *Ali v. Douglas Cable Communications, Ltd*, 890 F. Supp. 993, 994 (D. Kan. 1995), reproduced as Exh. L to the Phillips Decl. “Formally claiming a privilege should involve specifying which information and documents are privileged and for what reasons, especially when the nature of the information or documents does not reveal an obviously privileged matter.” *Paulsen v. Case Corp.*, 168 F.R.D. 285 (C.D. Cal. 1996), reproduced as Exh. M to the Phillips Decl.; *see also* Fed. R. Civ. P. 26(b)(5), *made applicable by* 37 C.F.R. § 2.120(a), TBMP § 101.02 (“When a party withholds information ... by claiming that it is privileged ... the party ... shall describe the

nature of the documents, communications, or things not produced or disclosed in a manner that, without revealing information itself privileged ... will enable other parties to assess the applicability of the privilege”).

Moreover when privilege is invoked to justify a party’s refusal to produce a document or other communication, only the contents of the communication may be withheld; the existence of that communication, together with basic identifying information, remains discoverable and must be produced. Thus, no invocation of privilege can justify a party’s refusal to provide at least the following information about each withheld document: the identities of the author/preparer, recipient, and others privy to the document or any communication reflected therein; and the date, form (written, recorded, etc.), and subject matter of the document. *Miller*, 141 F.R.D. at 302; *Fox v. California Sierra Fin. Servs.*, 120 F.R.D. 520, 524 & n. 1 (N.D. Cal. 1988), reproduced as Exh. N to the Phillips Decl.

III. INTERROGATORIES

A. Interrogatory No. 18.

INTERROGATORY NO. 18: Identify, by description and amount, all expenditures made by Applicant in identifying, creating, adapting, using and/or promoting the name or mark STAACHI’S CO. 1996 & DESIGN and/or any portion thereof, either alone or in combination, and/or any name or mark similar thereto as a mark or trade name, and all documents pertaining thereto, including, without limitation, all invoices, brochures, or ordering documentation containing the name or mark STAACHI’S CO. 1996 & DESIGN and/or any portion thereof, either alone or in combination, and/or any term and/or design similar thereto and all invoices related to advertising expenses involving the mark STAACHI’S CO. 1996 & DESIGN, and/or any portion thereof, either alone or in combination, and/or any name or mark similar thereto.

RESPONSE: I object to this question, it is of Trademark secret.

2d RESPONSE: Not sure of question, but none to the best of my knowledge in answering this question.

Applicant fails to respond to six (6) of Opposer's thirty-five (35) interrogatories. In its first response to Interrogatory No. 18, Applicant claims only that the "question is a matter of Trademark Secrets." Because an objection of "Trademark Secrets" is not recognized by the Federal Rules of Civil Procedure as a valid objection to otherwise proper discovery requests, Opposer can only presume that Applicant is apparently attempting to invoke privilege with respect to this interrogatory, without asserting the requisite clear showing of their applicability. *See Ali v. Douglas Cable Communications, Ltd*, 890 F. Supp. 993, 994 (D. Kan. 1995). Moreover, According to Rule 33(b)(4), "all grounds for an objection to an interrogatory shall be stated with specificity. Any ground not stated in a timely objection is waived unless the party's failure to object is excused by the court for good cause shown." Fed. R. Civ. P. 33(b)(4). Applicant fails to state proper objections to the majority of Opposer's interrogatories, and therefore waives any further objections.

A party resisting discovery by interposing privilege bears "[t]he burden of establishing the existence of privilege," and "must make a clear showing that it applies." *Ali*, 890 F. Supp. at 994. If Applicant cannot meet these requirements, Applicant is obligated to produce the requested documents and information or seek protection from disclosure in the form of a Protective Order entered by the Court. Fed. R. Civ. P. 26(c). Moreover, Applicant cannot plausibly claim "Trademark Secret" protection for, *e.g.*, Applicant's expenditures for designing, creating or developing the name or mark at issue. This requested information pertains directly to an assessment of Applicant's alleged independent development of the mark at issue and potential confusion created by the mark at issue; which information is not privileged.

Applicant's second response is no less improper. Applicant indicates, *inter alia*, that Applicant is not aware of having made any expenditures related to the name or mark at issue.

This contradicts Applicant's responses to other of Opposer's interrogatories, e.g. Interrogatory No. 5, in which Applicant states that Applicant displayed the name or mark at issue on a label, which Applicant placed on sample products. Such design, production of, the aforementioned labels, for example, indicates that Applicant had some expenditures, and Applicant should be compelled to identify any documents it seeks to protect from discovery in sufficient detail to permit Opposer to test Applicant's claim of privilege, or otherwise be compelled to produce sufficient responses forthwith.

B. Interrogatory Nos. 10 and 11.

INTERROGATORY NO. 10: Identify each cease and desist letter, challenge, or warning that Applicant has sent to or received from any person or organization relating to the name or mark STAACHI'S CO. 1996 & DESIGN and/or any portion thereof, either alone or in combination.

RESPONSE: Non-Applicable

2d RESPONSE: Applicant has not received any cease and desist letters, warning or objections to her attempting to be an entrepreneur and start her own business. The only opposition, harassment and intimidation she has received in reference to her trying to join the free enterprise market has been from Sinclair.

INTERROGATORY NO. 11: Identify those persons employed or connected with Applicant who have the best knowledge of the name or mark STAACHI'S CO. 1996 & DESIGN and/or any portion thereof, either alone or in combination, as used or intended to be used in connection with Applicant's goods or services.

RESPONSE: Non-Applicable

2d RESPONSE: Applicant is in the formation stage of her business and she is still working on planning and design of her business. Applicant has not engaged in commerce and does not have any employees and knows of no persons that have DIRECT or best knowledge of Applicant's business.

Objections of "Non-Applicable" are not recognized under the Federal Rules of Civil Procedure as proper objections to discovery requests. Additionally, in its first set of answers, Applicant failed to state proper objections to Opposer's discovery requests, and therefore waives

any further objection to its obligation to provide sufficient responses. Assuming, *arguendo*, that Applicant intends by its vague responses to raise an objection as to relevance, Opposer moves to compel production of documents and information on the basis that Applicant's objection as to relevancy is improper.

Specifically, and by way of example, Interrogatory 10 bears relevance to the present action because "in testing for likelihood of confusion ... the following ... must be considered: ... The length of time during and conditions under which there has been concurrent use without evidence of actual confusion. ... The extent to which applicant has a right to exclude others from use of its mark on its goods." *In re E.I. du Pont de Nemours & Co.*, 177 U.S.P.Q. 563, 567 (C.C.P.A. 1973) (enumerating factors relevant to likelihood of confusion analysis in trademark registration context). In its first response to Interrogatory 10, Applicant merely states the request is "Non-Applicable." In its second response to Interrogatory 10, Applicant directs accusatory language to Opposer, but fails to provide a response as to whether Applicant has attempted to enforce the name or mark at issue by way of a cease and desist letters, challenge, or warning. Opposer is entitled to this information, and Opposer is entitled to a complete response.

With respect to Interrogatory No. 11, the relevance of the information sought is likewise clear. Opposer is entitled to information that will assist Opposer in determining how and whether any other persons have knowledge of the name or mark at issue and the manner in which the name or mark at issue was used in connection with Applicant's goods or services. *See Goodyear Tire & Rubber Co. v. Tyrco Indus.*, 186 U.S.P.Q. 207, 208 (TTAB 1975) (compelling applicant to answer opposer's interrogatories seeking the identities of people who selected applicant's mark, and of documents relating "to the evolution, selection, trademark searching, clearance and/or evaluation" of a portion of applicant's mark). Applicant may not avoid its

obligation to respond to Interrogatory No. 11 by unilaterally limiting the scope of the request to persons with "DIRECT knowledge" of Applicant's business. Applicant must provide the identities of "those persons with employed or connected with Applicant who have the best knowledge of the name or mark [at issue]".

Rather than being "Non-Applicable" these interrogatories seek information that is clearly relevant and necessary to the task of evaluating Applicant's intent to copy or imitate Opposer's mark. Applicant should be compelled to produce non-confidential responses immediately, and confidential information upon entry of a suitable protective order.

C. Interrogatory Nos. 23, 24 and 31.

INTERROGATORY NO. 23: State whether Applicant ever conducted a trademark search or other investigation or study regarding the name or mark STAACHI'S CO. 1996 & DESIGN and/or any portion thereof, either alone or in combination.

RESPONSE: Refer to the TARR Web page for prosecution history.

2d RESPONSE: Applicant had no knowledge or information available that indicated that her design would be in conflict with Sinclair.

INTERROGATORY NO. 24: If the response to Interrogatory No. 23 is in the affirmative, identify the exact date(s) that the search, investigation, or study was conducted, and set forth the results referring or relating to each trademark search or other investigation or study regarding the name or mark STAACHI'S CO. 1996 & DESIGN and/or any portion thereof, either alone or in combination.

RESPONSE: Refer to the TARR Web page for prosecution history.

2d RESPONSE: My response is in the negative to Interrogatory 23.

INTERROGATORY NO. 31: Identify all documents, purchase orders, invoices, labels, or any writing whatsoever, which Applicant will rely upon to establish the date(s) specified in response to Interrogatory Nos. 28, 29 and 30.

RESPONSE: See exhibit no. 31

2d RESPONSE: None.

Applicant's responses to the above-referenced interrogatories are deficient as Applicant provides incomplete or irrelevant responses or merely refers Opposer to another, similarly deficient interrogatory response.

In its first response to Interrogatory No. 23, Applicant provides only a vague reference to the "TARR Web page for prosecution history". In its second response, Applicant provides a response that fails to even acknowledge the substance of the interrogatory. Opposer's Interrogatory 23 specifically requests information as to whether Applicant ever conducted a trademark search or other investigation or study regarding the name or mark at issue. Applicant's response that it had "no knowledge or information available that indicated that her design would be in conflict with Sinclair" is wholly unresponsive to Opposer's inquiry. Applicant is under an obligation to provide sufficient responses to each interrogatory propounded by Opposer, or to provide a proper objection thereto. Applicant fails to meet this obligation; hence, Applicant should be compelled to produce non-confidential responses immediately, and confidential information upon entry of a suitable protective order.

In its response to Interrogatory No. 24, Applicant first referred Opposer to the "TARR Web page for prosecution history", which is irrelevant to the scope of the interrogatory. In its second response, Applicant invokes its response to Interrogatory No. 23, which, as discussed above, is unresponsive to the substance of the interrogatory. Applicant's responses are

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inconsistent and unclear, and Applicant should be compelled to provide adequate and sufficient responses to Opposer's properly propounded discovery requests.

With respect to Interrogatory No. 31, Applicant first refers Opposer to exhibit 31, but fails to provide an exhibit 31 with Applicant's answers to interrogatories. In its second response, Applicant provides a single word: "None". Applicant's response is unclear and contradictory. Applicant initially indicates that there are responsive document(s), then later indicates that perhaps there are "none". To be sure, Applicant's response fails to indicate whether Applicant has knowledge, belief or information concerning the existence of responsive documents. Such information should have been produced in response to the above interrogatories and Applicant should be compelled to provide clear, responsive information of which it is aware.

To address Applicant's confidentiality concerns, Opposer has submitted to Applicant a proposed Protective Order and forwarded the same with correspondence dated August 8, 2003, for Applicant's review and consideration. Phillips Decl., Exh. O. To date, Applicant has not responded to Opposer's proposal.

Until Applicant complies with its obligations under the Rules of Federal Procedure and the Trademark Rules, Opposer is unable to take deposition testimony in this matter or otherwise effectively prepare for and meet the pending deadlines currently set by the TTAB. Applicant should be compelled to produce the requested documents and information immediately and without delay.

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V. CONCLUSION

For all of the foregoing reasons, Opposer's Motion to Compel Answers to Interrogatories should be granted in its entirety.

Respectfully submitted this 10th day of September, 2003.



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Attorneys for Opposer
SINCLAIR OIL CORPORATION

09/16/2003TTAB

CERTIFICATE OF SERVICE

I hereby certify that **OPPOSER'S MOTION TO COMPEL ANSWERS TO INTERROGATORIES AND MEMORANDUM IN SUPPORT THEREOF** was served upon the Applicant, Sumatra Kendrick, by mailing a true and correct copy thereof by Express Mail, postage pre-paid, this 10th day of September, 2003, in envelopes addressed as follows:

Sumatra Kendrick
P.O. Box 434
Berkeley, CA 94701

A handwritten signature in black ink that reads "Robyn L Phillips". The signature is written in a cursive style and is positioned above a horizontal line.

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CERTIFICATE OF SERVICE

I hereby certify that **OPPOSER'S MOTION TO COMPEL PRODUCTION OF DOCUMENTS AND MEMORANDUM IN SUPPORT THEREOF** was served upon the Applicant, Sumatra Kendrick, by mailing a true and correct copy thereof by Express Mail, postage pre-paid, this 10th day of September, 2003, in an envelope addressed as follows:

Sumatra Kendrick
P.O. Box 434
Berkeley, CA 94701

A handwritten signature in cursive script that reads "Robyn J. Phillips". The signature is written in black ink and is positioned above a horizontal line.

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TTAB

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TRADEMARK OPPOSITION
DOCKET NO. 15027.203

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
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**TRANSMITTAL FOR OPPOSER'S
MOTION TO COMPEL ANSWERS TO
INTERROGATORIES AND
PRODUCTION OF DOCUMENTS AND
MEMORANDUM IN SUPPORT**

TRANSMITTAL

Box: TTAB
Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3513

Sir:

Transmitted herewith is Opposer's Motion to Compel Answers to Interrogatories and Memorandum in Support Thereof (16); Declaration of Robyn L. Phillips in Support of Opposer's Motion to Compel Answers to Interrogatories with Exhibits (162 pgs.); Opposer's Motion to Compel Production of Documents and Memorandum in Support (24 pgs.); Declaration of Robyn L. Phillips in Support of Opposer's Motion to Compel Production of Documents with Exhibits

Trademark Trial and Appeal Board
Commissioner for Trademarks
Page 2 of 2

(193 pgs.); Certificate of Express Mailing (2 pgs.); and Postcard for entry in the above-identified matter.

DATED this 10th day of September, 2003.

By: Robyn L Phillips
John C. Stringham, Registration No. 40,831
Robyn L. Phillips, Registration No. 39,330

WORKMAN NYDEGGER
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Opposition No. 152,940

**CERTIFICATE OF EXPRESS
MAILING UNDER 37 C.F.R. § 1.10**

"Express Mail" Mailing Label No.: EK327849791US

I hereby certify that the following documents are being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. § 1.10 in an envelope addressed to: Box: TTAB, Commissioner for Trademarks, 2900 Crystal Drive, Arlington, VA 22202-3513, on this 10th day of September, 2002:

- Transmittal (2 pgs.)
- Opposer's Motion to Compel Answers to Interrogatories and Memorandum in Support Thereof (16 pgs.)
- Declaration of Robyn L. Phillips in Support of Opposer's Motion to Compel Answers to Interrogatories with Exhibits (162 pgs.)
- Opposer's Motion to Compel Production of Documents and Memorandum in Support Thereof (24 pgs.)
- Declaration of Robyn L. Phillips in Support of Opposer's Motion to Compel Production of Documents with Exhibits (193 pgs.)
- Postcard

DATED this 10th day of September, 2003.

By: Robyn L Phillips
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