

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

THE CHAMBER OF COMMERCE OF  
THE UNITED STATES OF AMERICA

*Opposer,*

v.

UNITED STATES HISPANIC CHAMBER  
OF COMMERCE FOUNDATION,

*Applicant.*

Opposition No.: 91/156,321

Serial No.: 78/081,731

**MOTION FOR LEAVE TO USE TRIAL TESTIMONY FROM  
CANCELLATION NO. 92/045,876 IN OPPOSITION NO. 91/156,321**

Pursuant to TBMP Section 530 and Trademark Rule 2.122(f), Opposer, The Chamber of Commerce of The United States of America, requests leave to use certain trial testimony that Opposer (in the position of Petitioner) presented in Cancellation No. 92/045,876 (the "Cancellation") in Opposer's upcoming rebuttal testimony period in Opposition No. 91/156,321 (the "Opposition"). As the parties have discussed before, these two proceedings involve the same parties (or those in privity with them), the same counsel, the same or similar marks, and the same or similar services. *See* D.I. 26. The Board has also previously allowed Opposer and to reuse trial testimony from this proceeding in the Cancellation (*see* D.I. 38 therein). Thus, Opposer respectfully submits that leave to use the rebuttal testimony from the Cancellation should be granted.

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## ARGUMENT

As Opposer discussed more fully in its original motion to extend its rebuttal testimony (*see* D.I. 82), Opposer seeks to make of record in this action the 30(b)(6) testimony of the Hispanic Association on Corporate Responsibility (“HACR”). Opposer originally noticed the HACR trial deposition to be taken in this proceeding on April 28, 2008, but the deposition did not go forward on that date because of a scheduling conflict involving the witness. Opposer sought the HACR testimony to authenticate an archived version of the HACR website, which website related to the testimony of another witness (Mr. Daniel Ramos) who had offered testimony on the issue of actual confusion.

Because Opposer could not complete the deposition of HACR during its originally scheduled rebuttal period, it moved to extend the time to take that testimony. *See* D.I. 82. While that motion to extend was pending, however, Opposer was able to take the testimony of HACR in the Cancellation action for the same purpose (that is, to authenticate the archived version of the HACR website). Thus, now that the Board has provided Opposer with an opportunity in present Opposition proceeding to present the HACR testimony (*see* D.I. 83 at 7), Opposer moves to use the testimony taken in the Cancellation action and make it of record here, in accordance with Rule 2.122(f).

Specifically, Rule 2.122(f) provides that “testimony taken in another proceeding ... between the same parties or those in privity may be used in a proceeding, so far as relevant and material, subject, however, to the right of any adverse party to recall or demand the recall for examination or cross-examination of any witness whose prior testimony has been offered and to rebut the testimony.” Here, each requirement has been met: the parties are the same (or in privity therewith); the testimony sought to be used is

highly relevant; and Applicant/Respondent (which has employed the same counsel for each action) has already had an opportunity to cross-examine the HACR witness when the witness testified a few months ago. Moreover, the Board has previously ruled on a nearly identical motion to reuse testimony from this proceeding in the Cancellation, and has already held that Applicant and Respondent are in privity and that the issues and marks are similar, if not identical, in the two proceedings. *See* Cancellation D.I. 38 at 5-6.

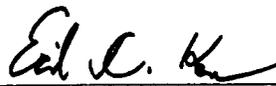
The testimony from the Cancellation proceeding that Opposer wishes to use in the Opposition action is attached as Exhibit A. Should the Board deny this request, Opposer would ask that its rebuttal period in the current action be extended for at least twenty days so that Opposer would have time to subpoena and present the HACR testimony again.

For the foregoing reasons, Opposer respectfully requests the Board to allow Opposer to reuse testimony submitted in the Cancellation in the Opposition.

Respectfully submitted,

KENYON & KENYON LLP

Date: 11/25/08

By: 

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*Counsel for Opposer, The Chamber of  
Commerce of the United States of America*

**CERTIFICATE OF SERVICE**

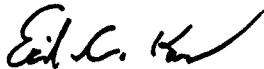
I hereby certify that the required number of copies of the foregoing *Motion for Leave to Use Trial Testimony From Cancellation No. 92/045,876 in Opposition No. 91/156,321* was served on counsel on the date and as indicated below:

***By Overnight Federal Express***

Jill M. Pietrini  
Andrew Eliseev  
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Los Angeles, CA 90064-1614

I hereby further certify that the foregoing **MOTION FOR LEAVE TO USE TRIAL TESTIMONY FROM CANCELLATION NO. 92/045,876 IN OPPOSITION NO. 91/156,321** was hand delivered and filed on the date indicated below with the U.S. Patent and Trademark Office, Trademark Trial and Appeal Board.

Date: 11/25/08

  
\_\_\_\_\_  
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THE CHAMBER OF COMMERCE OF  
THE UNITED STATES OF AMERICA

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

----- X

THE CHAMBER OF COMMERCE OF )  
 THE UNITED STATES OF )  
 AMERICA, ) Cancellation  
 Petitioner, ) No. 92-045876  
 vs. ) Reg. No.  
 UNITED STATES HISPANIC ) 2,886,207  
 CHAMBER OF COMMERCE, )  
 Respondent. )

----- X

Deposition of RIMA K. MATSUMOTO, a witness herein,  
at the offices of Kenyon & Kenyon, 1500 K Street,  
N.W., Washington, D.C. commencing at 9:59 a.m. on  
Friday, May 2, 2008, and the proceedings being  
taken down by Stenotype and transcribed by Deborah  
Larson Hommer, RPR, CLR, and Notary Public in and  
for the District of Columbia.

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APPEARANCES:

On Behalf of the Petitioner

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BY: Stephen L. Neal, Jr., Esquire

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On Behalf of the Witness

Hispanic Association on Corporate Responsibility

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BY: Michael Veve, Esquire



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P R O C E E D I N G S

Thereupon,

RIMA MATSUMOTO,

the Witness, called for examination by counsel for the Petitioner, and, after having been sworn by the notary, was examined and testified as follows:

EXAMINATION BY COUNSEL FOR THE PETITIONER

BY MR. KANE:

Q. Good morning.

A. Good morning.

Q. For the record, can you please state your name?

A. Rima Matsumoto.

Q. And who are you currently employed with?

A. With the Hispanic Association on Corporate Responsibility.

Q. And what is your position within that organization?

A. Executive director.

Q. Ms. Matsumoto, I am going to hand you what I am going to premark as Matsumoto Exhibit 1.

1 (Deposition Exhibit No. 1 was marked  
2 for identification.)

3 BY MR. KANE:

4 Q. I ask you if you can identify this  
5 document.

6 A. It's a subpoena in a civil case issued  
7 by the United States District Court. Do you want  
8 me to continue reading more?

9 Q. Have you seen this document before?

10 A. Yes.

11 Q. If you could, please turn to the third  
12 page of the subpoena that says Schedule A.

13 A. All right.

14 Q. Now, the schedule lists three topics.  
15 Has your organization designated you to speak on  
16 behalf of these topics in this proceedings today?

17 A. Yes, they have.

18 Q. And you are prepared to speak as to all  
19 three?

20 A. Absolutely.

21 Q. Let me hand you what has been premarked  
22 as Matsumoto Exhibit 2.

1 (Deposition Exhibit No. 2 was marked  
2 for identification.)

3 BY MR. KANE:

4 Q. I am going to ask you -- can you  
5 identify this document?

6 A. Yes. It's one of our pages in our  
7 website.

8 Q. And can you briefly describe what's on  
9 this page?

10 A. Sure. It lists our -- what we call our  
11 HACR Alliance, which is pretty much our HACR board  
12 of directors. HACR, that's the acronym of the  
13 organization.

14 Q. And you're familiar with this  
15 particular page of your organization's website?

16 A. Yes, I am.

17 Q. Let me ask you to turn back to the  
18 subpoena, Exhibit 1, and flip past Schedule A to  
19 the exhibit that's attached to the subpoena.

20 Now, I am going to ask you, have you  
21 seen this exhibit before?

22 A. Yes, I have.

1 Q. And can you describe what this exhibit  
2 is?

3 A. It's actually the same page that we  
4 just described, except this was for the 2007 --  
5 the listing of the 2007 board of directors.

6 Q. And do you recognize this as the 2007  
7 version of the HACR Alliance web page?

8 A. Yes, it is.

9 Q. How are you familiar with this version  
10 of the web page?

11 A. How am I familiar? Well, every year  
12 the board of directors changed, so as soon as they  
13 change, we always make sure to update the list.

14 Q. Have you seen this version -- prior to  
15 seeing this exhibit and the subpoena, have you  
16 seen this version of the website before?

17 A. Yes, I have.

18 Q. And does this exhibit accurately  
19 reflect what was on the website in 2007?

20 A. Yes, it does.

21 Q. Okay. And the board of directors  
22 listed, those are all accurately depicted on the

1 2007 version?

2 A. Yes, they are.

3 MR. KANE: No further questions.

4 EXAMINATION BY COUNSEL FOR THE RESPONDENT

5 BY MR. NEAL:

6 Q. Good morning. Can you pronounce your  
7 name for me again?

8 A. Sure. Rima Matsumoto.

9 Q. Matsumoto.

10 A. That's correct.

11 Q. Ms. Matsumoto, my name is Steve Neal,  
12 and I represent the Hispanic -- United States  
13 Hispanic Chamber of Commerce, and I will have a  
14 few question as well.

15 You will note -- whether you look at  
16 what's attached to the subpoena as the exhibit,  
17 which you identified as the 2007 board of  
18 directors, or the 2008 version, Number 2, it does  
19 not contain the address of the United States  
20 Hispanic Chamber of Commerce, does it?

21 A. That's correct, it does not.

22 Q. And on the 2007 version -- again,

1 attached to Exhibit 1 -- there is a name on there  
2 named Michael Barrera. Do you see that, ma'am?

3 A. Yes, I do.

4 Q. Do you know who that is?

5 A. He was the former president and CEO of  
6 the United States Hispanic Chamber of Commerce.

7 Q. And is he presently a board member?

8 A. He is not.

9 Q. And under his name there is no address,  
10 is there?

11 A. That's correct.

12 Q. On either version of -- Exhibit 1 or  
13 Exhibit 2?

14 A. That's correct.

15 Q. Does the HACR board of directors have  
16 any members who are employed at the United States  
17 Hispanic Chamber of Commerce Foundation?

18 A. No.

19 MR. KANE: Objection. Outside the  
20 scope.

21 MR. NEAL: Objection is noted.

22 MR. VEVE: Answer.

1 THE WITNESS: No.

2 BY MR. NEAL:

3 Q. Let me show you what I will mark -- I  
4 guess I will have the court reporter mark as  
5 Exhibit 3.

6 (Deposition Exhibit No. 3 was marked  
7 for identification.)

8 BY MR. VEVE:

9 Q. The court reporter has put before you  
10 what has been marked as Exhibit 3. In the middle  
11 of the page there is a mark, or a trademark. Have  
12 you ever seen this before, ma'am?

13 A. Yes, I have.

14 Q. And where have you seen it?

15 A. At functions that are part of the U.S.  
16 Hispanic Chamber of Commerce Foundation.

17 Q. Right. Now, do you -- does this mark  
18 appear anywhere on your website, whether in 2007  
19 or 2008?

20 A. No, it does not.

21 MR. KANE: I am going to object. This  
22 is completely outside the scope of direct, and

1 also this does not pertain to this proceeding,  
2 which is the cancellation proceeding.

3 MR. NEAL: Thank you. Your objection  
4 is noted.

5 BY MR. NEAL:

6 Q. Has your organization ever featured  
7 this particular mark identified on Exhibit 3 on  
8 your website?

9 A. No, not on our website.

10 Q. How about on any piece of paper or any  
11 document that is part of HACR's business records,  
12 has this mark ever appeared?

13 A. Not to my knowledge.

14 Q. Let me show you -- let the court  
15 reporter show you what we will mark as Exhibit 4.

16 (Deposition Exhibit No. 4 was marked  
17 for identification.)

18 BY MR. NEAL:

19 Q. Ma'am, the court reporter has put  
20 before you what has been marked as Exhibit 4.  
21 And, again, in the middle of the page there is a  
22 trademark. Have you ever seen that mark before,

1 ma'am?

2 A. Yes, I have.

3 Q. And where have you seen that?

4 A. Again, in all sorts of materials that  
5 have come from the U.S. Hispanic Chamber of  
6 Commerce.

7 MR. KANE: I am making the same  
8 objection as a standing objection.

9 MR. NEAL: You can have just a  
10 continuing objection, and we will move this along.

11 BY MR. NEAL:

12 Q. In the 2007 website which is, again,  
13 attached as an exhibit to your subpoena, which has  
14 been marked Exhibit 1, that trademark does not  
15 appear, does it?

16 A. No, it does not.

17 Q. Okay. And the same would be true for  
18 Exhibit 2, the 2008 --

19 A. That's correct.

20 Q. -- website?

21 A. Uh-huh.

22 Q. And, again, have you ever seen this

1 trademark on any document or correspondence or  
2 e-mail that was a business record of your  
3 organization?

4 A. No.

5 Q. Do you recall -- and you're sitting  
6 here as a corporate designee, which means you have  
7 been identified as the person most knowledgeable  
8 with respect to the topics at issue in Mr. Kane's  
9 subpoena, correct?

10 A. Yes.

11 Q. In that capacity, do you recall  
12 receiving any phone calls regarding Mr. Barrera  
13 over the last year or two?

14 A. Yes. He was a board member of ours.

15 Q. Okay. And what were those -- do you  
16 know what the context of those conversations --  
17 the purpose of those conversations?

18 A. All of them actually were related to  
19 HACR, to our organization.

20 Q. They were not related, I take it then,  
21 to the United States Hispanic Chamber of Commerce;  
22 is that correct?

1 A. That's correct.

2 Q. In the last, let's say, two years, if I  
3 can, do you recall receiving any correspondence  
4 that was directed to Mr. Barrera?

5 A. No.

6 Q. You don't recall that at all.

7 During the last two years, has your  
8 organization received any e-mails regarding  
9 Mr. Barrera?

10 A. We do receive e-mails from -- yes, from  
11 him as well, again, but most of them had to do  
12 with our board meetings or HACR-related business.

13 Q. Did any of those e-mails have anything  
14 to do with the United States Hispanic Chamber of  
15 Commerce?

16 A. They do send -- what do you call it? --  
17 like a weekly electronic -- you know, where it  
18 tells you, like, what they're doing, so we're part  
19 of that database as well that they send out. I  
20 think it's weekly -- some sort of communication  
21 that the Chamber sends.

22 Q. Okay. So the United States Hispanic

1 Chamber of Commerce sends your organization an  
2 e-mail; is that correct?

3 A. Yes.

4 Q. Do you recall any other e-mails  
5 regarding the United States Hispanic Chamber of  
6 Commerce?

7 A. No.

8 Q. Are you aware of any instances when the  
9 United States Hispanic Chamber of Commerce has  
10 been confused with the U.S. Chamber of Commerce?

11 A. Not in our organization.

12 Q. Are you aware of any instance in which  
13 someone mistook Mr. Barrera's employment as being  
14 that of the U.S. Chamber of Commerce?

15 A. No.

16 MR. NEAL: I have nothing further.

17 Pass the witness.

18 FURTHER EXAMINATION BY COUNSEL FOR THE PETITIONER

19 BY MR. KANE:

20 Q. Just one follow-up question.

21 A. Sure.

22 Q. If you can look back at Exhibit 1. Do

1 you see where it says Michael L. Barrera --

2 A. Yes.

3 Q. -- president and CEO?

4 Can you tell me, what is his title  
5 listed under his name?

6 A. United States Hispanic Chamber of  
7 Commerce.

8 Q. And in all your phone calls with  
9 Mr. Barrera, has he ever indicated to you that  
10 there was a mistake on the HACR Alliance web page  
11 as to his affiliation?

12 A. No.

13 MR. KANE: No further questions.

14 (Discussion held off the record.)

15 MR. KANE: Will you stipulate to the  
16 witness signing this outside the presence of a  
17 notary?

18 MR. NEAL: Yes. One more thing, for  
19 the record. I mean, we're here today -- I  
20 understand that my colleagues in Los Angeles have  
21 objected to this deposition. We are here pursuant  
22 [sic] to that objection, but the Court will work

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that out.

MR. KANE: And for the record, they objected on the basis of the opposition. This is the cancellation testimony in which the subpoena was served for which the testimony period is still opened. Nothing further.

(Whereupon, signature not having been waived, the taking of the deposition concluded at 10:12 a.m.)

  
RIMA K. MATSUMOTO

SUBSCRIBED and SWORN TO before me this 9 day of May, 2008.

  
NOTARY PUBLIC

My Commission expires:



1 UNITED STATES OF AMERICA )

SS:

2 DISTRICT OF COLUMBIA )

3 I, Deborah Larson Hommer, a Notary Public in and  
4 for the District of Columbia, do hereby certify  
5 that the within transcript is a true and accurate  
6 record of the testimony of Rima Matsumoto under  
7 oath and other proceedings in The Chamber of  
8 Commerce of the United States of America v. United  
9 States Hispanic Chamber of Commerce, Cancellation  
10 Number 92/045,876 and Registration Number  
11 2,886,207. The deposition was held at the offices  
12 of Kenyon & Kenyon, LLP, 1500 K Street, N.W.,  
13 Washington, D.C., on May 2, 2008, from 9:59 a.m.  
14 to 10:12 a.m. and in the presence of both parties.

15 I further certify that I am not a relative,  
16 employee, attorney or counsel of any of the  
17 parties to this action and that I am in no way  
18 interested in the outcome of this matter.

19 IN WITNESS WHEREOF, I have hereunto set by hand  
20 this 5th day of May, 2008.

21 

22 Deborah Larson Hommer

My Commission Expires:  
October 14, 2008

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	<b>continuing</b> 13:10	19:8	17:13 18:6 19:10
	<b>conversations</b> 14:16	<b>E</b>	
	14:17		

<p style="text-align: center;"><b>G</b></p> <p><b>G</b> 5:1 going 5:21,22 7:4,20 11:21 Good 5:9,10 9:6 guess 11:4</p> <hr/> <p style="text-align: center;"><b>H</b></p> <p><b>H</b> 4:11 HACR 4:15 7:11,11 7:12 8:7 10:15 14:19 17:10 HACR's 12:11 HACR-related 15:12 hand 5:21 6:21 19:13 held 17:14 19:7 hereunto 19:13 Hispanic 1:10 3:2 5:16 9:12,13,20 10:6,17 11:16 13:5 14:21 15:14,22 16:5,9 17:6 19:6 Hommer 1:20 19:3 19:18</p> <hr/> <p style="text-align: center;"><b>I</b></p> <p>identification 6:2 7:2 11:7 12:17 identified 9:17 12:7 14:7 identify 6:4 7:5 indicated 17:9 instance 16:12 instances 16:8 interested 19:11 issue 14:8 issued 6:6</p> <hr/> <p style="text-align: center;"><b>J</b></p> <p>Jr 2:18</p>	<p style="text-align: center;"><b>K</b></p> <p><b>K</b> 1:15,16 2:4 18:13 19:7 Kane 2:9 4:5,9 5:8 6:3 7:3 9:3 10:19 11:21 13:7 16:19 17:13,15 18:2 Kane's 14:8 Kenyon 1:16,16 2:3 2:3 19:7,7 know 10:4 14:16 15:17 knowledge 12:13 knowledgeable 14:7</p> <hr/> <p style="text-align: center;"><b>L</b></p> <p><b>L</b> 2:18 17:1 Larson 1:20 19:3,18 let's 15:2 list 8:13 listed 8:22 17:5 listing 8:5 lists 6:14 7:10 LLP 2:3,12 19:7 look 9:15 16:22 Los 17:20</p> <hr/> <p style="text-align: center;"><b>M</b></p> <p><b>M</b> 4:1 making 13:7 Manatt 2:12 mark 11:3,4,11,17 12:7,12,15,22 marked 6:1 7:1 11:6 11:10 12:16,20 13:14 materials 13:4 Matsumoto 1:15 4:4 4:6,8,13 5:3,13,21 5:22 6:22 9:8,9,11 18:13 19:4 matter 19:11 ma'am 10:2 11:12</p>	<p>12:19 13:1 mean 17:19 means 14:6 meetings 15:12 member 10:7 14:14 members 10:16 meveve@aol.com 3:7 Michael 3:8 10:2 17:1 middle 11:10 12:21 mistake 17:10 mistook 16:13 morning 5:9,10 9:6 move 13:10</p> <hr/> <p style="text-align: center;"><b>N</b></p> <p><b>N</b> 4:1,1,1 5:1 name 5:12 9:7,11 10:1,9 17:5 named 10:2 Neal 2:18 4:7 9:5,11 10:21 11:2 12:3,5 12:18 13:9,11 16:16 17:18 notary 1:20 5:6 17:17 18:19 19:3 note 9:15 noted 10:21 12:4 Number 4:13 9:18 19:6,6 N.W 1:17 2:4,13 3:3 19:7</p> <hr/> <p style="text-align: center;"><b>O</b></p> <p><b>O</b> 4:1,1 5:1 oath 19:5 object 11:21 objected 17:21 18:3 objection 10:19,21 12:3 13:8,8,10 17:22 October 19:21</p>	<p><b>OFFICE</b> 1:1 offices 1:16 19:7 Okay 8:21 13:17 14:15 15:22 opened 18:6 opposition 18:3 organization 5:19 6:15 7:13 12:6 14:3,19 15:8 16:1 16:11 organization's 7:15 outcome 19:11 outside 10:19 11:22 17:16</p> <hr/> <p style="text-align: center;"><b>P</b></p> <p><b>P</b> 5:1 page 4:3,13,15 6:12 7:9,15 8:3,7,10 11:11 12:21 17:10 pages 7:6 paper 12:10 part 11:15 12:11 15:18 particular 7:15 12:7 parties 19:8,11 Pass 16:17 PATENT 1:1 period 18:5 person 14:7 pertain 12:1 Petitioner 1:8 2:2 5:5,7 16:18 Phelps 2:12 Phillips 2:12 phone 14:12 17:8 piece 12:10 please 5:11 6:11 position 5:18 premark 5:22 premarked 6:21 prepared 6:18 presence 17:16 19:8</p>
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<p>presently 10:7  <b>president</b> 10:5 17:3  pretty 7:11  <b>prior</b> 8:14  <b>proceeding</b> 12:1,2  <b>proceedings</b> 1:18  6:16 19:5  <b>pronounce</b> 9:6  <b>Public</b> 1:20 18:19  19:3  <b>purpose</b> 14:17  <b>pursuant</b> 17:21  <b>put</b> 11:9 12:19</p> <hr/> <p style="text-align: center;"><b>Q</b></p> <p><b>question</b> 9:14 16:20  <b>questions</b> 9:3 17:13</p> <hr/> <p style="text-align: center;"><b>R</b></p> <p><b>R</b> 5:1  <b>reading</b> 6:8  <b>recall</b> 14:5,11 15:3,6  16:4  <b>receive</b> 15:10  <b>received</b> 15:8  <b>receiving</b> 14:12 15:3  <b>recognize</b> 8:6  <b>record</b> 5:11 14:2  17:14,19 18:2 19:4  <b>records</b> 12:11  <b>reflect</b> 8:19  <b>Reg</b> 1:9  <b>regarding</b> 14:12  15:8 16:5  <b>Registration</b> 19:6  <b>related</b> 14:18,20  <b>relative</b> 19:10  <b>reporter</b> 11:4,9  12:15,19  <b>represent</b> 9:12  <b>respect</b> 14:8  <b>Respondent</b> 1:12  2:11 9:4</p>	<p><b>Responsibility</b> 3:2  5:17  <b>Re-Direct</b> 4:8  <b>right</b> 6:13 11:17  <b>Rima</b> 1:15 4:4,6,8  5:3,13 9:8 18:13  19:4  <b>RPR</b> 1:20</p> <hr/> <p style="text-align: center;"><b>S</b></p> <p><b>S</b> 4:11 5:1  <b>says</b> 6:12 17:1  <b>schedule</b> 6:12,14  7:18  <b>scope</b> 10:20 11:22  <b>see</b> 10:2 17:1  <b>seeing</b> 8:15  <b>seen</b> 6:9 7:21 8:14  8:16 11:12,14  12:22 13:3,22  <b>send</b> 15:16,19  <b>sends</b> 15:21 16:1  <b>served</b> 18:5  <b>set</b> 19:13  <b>show</b> 11:3 12:14,15  <b>sic</b> 17:22  <b>signature</b> 18:8  <b>signing</b> 17:16  <b>sitting</b> 14:5  <b>sneal@manatt.com</b>  2:17  <b>soon</b> 8:12  <b>sort</b> 15:20  <b>sorts</b> 13:4  <b>speak</b> 6:15,18  <b>ss</b> 19:1  <b>standing</b> 13:8  <b>state</b> 5:11  <b>States</b> 1:1,6,10 6:7  9:12,19 10:6,16  14:21 15:14,22  16:5,9 17:6 19:1,5  19:6</p>	<p><b>Stenotype</b> 1:19  <b>Stephen</b> 2:18  <b>Steve</b> 9:11  <b>stipulate</b> 17:15  <b>Street</b> 1:16 2:4,13  3:3 19:7  <b>subpoena</b> 4:14 6:6  6:12 7:18,19 8:15  9:16 13:13 14:9  18:4  <b>SUBSCRIBED</b>  18:15  <b>Suite</b> 2:5,14 3:4  <b>sure</b> 7:10 8:13 9:8  16:21  <b>sworn</b> 5:5 18:15</p> <hr/> <p style="text-align: center;"><b>T</b></p> <p><b>T</b> 4:1,11  <b>take</b> 14:20  <b>taken</b> 1:19  <b>tell</b> 17:4  <b>tells</b> 15:18  <b>testified</b> 5:6  <b>testimony</b> 18:4,5  19:4  <b>Thank</b> 12:3  <b>thing</b> 17:18  <b>think</b> 15:20  <b>third</b> 6:11  <b>three</b> 6:14,19  <b>title</b> 17:4  <b>today</b> 6:16 17:19  <b>topics</b> 6:14,16 14:8  <b>trademark</b> 1:1,2  4:16,17 11:11  12:22 13:14 14:1  <b>transcribed</b> 1:19  <b>transcript</b> 19:4  <b>TRIAL</b> 1:2  <b>true</b> 13:17 19:4  <b>turn</b> 6:11 7:17  <b>two</b> 14:13 15:2,7</p>	<p style="text-align: center;"><b>U</b></p> <p><b>Uh-huh</b> 13:21  <b>understand</b> 17:20  <b>United</b> 1:1,6,10 6:7  9:12,19 10:6,16  14:21 15:14,22  16:5,9 17:6 19:1,5  19:5  <b>update</b> 8:13  <b>U.S</b> 11:15 13:5  16:10,14</p> <hr/> <p style="text-align: center;"><b>V</b></p> <p><b>v</b> 19:5  <b>version</b> 8:7,9,14,16  9:1,18,22 10:12  <b>Veve</b> 3:8 10:22 11:8  <b>vs</b> 1:9</p> <hr/> <p style="text-align: center;"><b>W</b></p> <p><b>waived</b> 18:9  <b>want</b> 6:7  <b>Washington</b> 1:17  2:6,15 3:5 19:8  <b>way</b> 19:11  <b>web</b> 8:7,10 17:10  <b>website</b> 4:15 7:7,15  8:16,19 11:18 12:8  12:9 13:12,20  <b>weekly</b> 15:17,20  <b>we're</b> 15:18 17:19  <b>WHEREOF</b> 19:13  <b>witness</b> 1:15 3:1 5:4  11:1 16:17 17:16  19:13  <b>work</b> 17:22</p> <hr/> <p style="text-align: center;"><b>X</b></p> <p><b>X</b> 1:4,13 4:1,1,11</p> <hr/> <p style="text-align: center;"><b>Y</b></p> <p><b>year</b> 8:11 14:13  <b>years</b> 15:2,7</p>
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10:12 18:10 19:8 11 4:16 1100 2:14 12 4:17 12th 2:13 14 19:21 1444 3:3 1500 1:16 2:4 19:7 16 4:9	8		
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4 4:17 12:15,16,20			
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5 4:5 5th 19:14 585-6515 2:16			
6			
6 4:14			

# Exhibit 1

Issued by the  
UNITED STATES DISTRICT COURT

District of Columbia

THE CHAMBER OF COMMERCE OF  
THE UNITED STATES OF AMERICA  
V.

SUBPOENA IN A CIVIL CASE

UNITED STATES HISPANIC CHAMBER OF  
COMMERCE

Case Number:<sup>1</sup> TTAB Cancellation No. 92-045876

TO: Hispanic Association on Corporate Responsibility  
1444 I Street, NW, Suite 850  
Washington, DC 20005

PENDING BEFORE THE TRADEMARK TRIAL  
AND APPEAL BOARD OF THE U.S. PATENT  
AND TRADEMARK OFFICE

YOU ARE COMMANDED to appear in the United States District court at the place, date, and time specified below to testify in the above case.

PLACE OF TESTIMONY	COURTROOM
	DATE AND TIME

YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case. SEE ATTACHED SCHEDULE A

PLACE OF DEPOSITION	KENYON & KENYON LLP 1500 K Street, NW, Washington, DC 20005	DATE AND TIME	5/2/08 10AM
---------------------	--	---------------	-------------

YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):

PLACE	DATE AND TIME
-------	---------------

YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

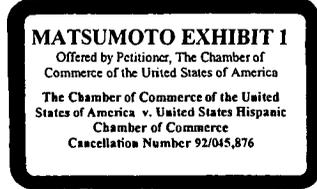
PREMISES	DATE AND TIME
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Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rule of Civil Procedure 30(b)(6).

ISSUING OFFICER'S SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT)	DATE
<i>Erik C. Kane, Attorney for Petitioner</i>	4/25/08
ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER	
Erik C. Kane, Esq Kenvon & Kenvon LLP, 1500 K Street, NW, Washington, DC 20005 (202-220-4292) <i>DOC Bar #495156</i>	

(See Federal Rule of Civil Procedure 45 (c), (d), and (e), on next page)

<sup>1</sup> If action is pending in district other than district of issuance, state district under case number.



**PROOF OF SERVICE**

DATE	PLACE
SERVED	
SERVED ON (PRINT NAME)	MANNER OF SERVICE
SERVED BY (PRINT NAME)	TITLE

**DECLARATION OF SERVER**

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on \_\_\_\_\_ DATE \_\_\_\_\_ SIGNATURE OF SERVER \_\_\_\_\_

ADDRESS OF SERVER \_\_\_\_\_

Federal Rule of Civil Procedure 45 (c), (d), and (e), as amended on December 1, 2007:

**(c) PROTECTING A PERSON SUBJECT TO A SUBPOENA.**

(1) **Avoiding Undue Burden or Expense; Sanctions.** A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney's fees — on a party or attorney who fails to comply.

(2) **Command to Produce Materials or Permit Inspection.**

(A) **Appearance Not Required.** A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) **Objections.** A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the issuing court for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) **Quashing or Modifying a Subpoena.**

(A) **When Required.** On timely motion, the issuing court must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person who is neither a party nor a party's officer to travel more than 100 miles from where that person resides, is employed, or regularly transacts business in person — except that, subject to Rule 45(c)(3)(B)(iii), the person may be commanded to attend a trial by traveling from any such place within the state where the trial is held;
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) **When Permitted.** To protect a person subject to or affected by a subpoena, the issuing court may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information;
- (ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party; or
- (iii) a person who is neither a party nor a party's officer to incur substantial expense to travel more than 100 miles to attend trial.

(C) **Specifying Conditions as an Alternative.** In the circumstances described in Rule 45(c)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

**(d) DUTIES IN RESPONDING TO A SUBPOENA.**

(1) **Producing Documents or Electronically Stored Information.** These procedures apply to producing documents or electronically stored information:

(A) **Documents.** A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) **Form for Producing Electronically Stored Information Not Specified.** If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) **Electronically Stored Information Produced in Only One Form.** The person responding need not produce the same electronically stored information in more than one form.

(D) **Inaccessible Electronically Stored Information.** The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) **Claiming Privilege or Protection.**

(A) **Information Withheld.** A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

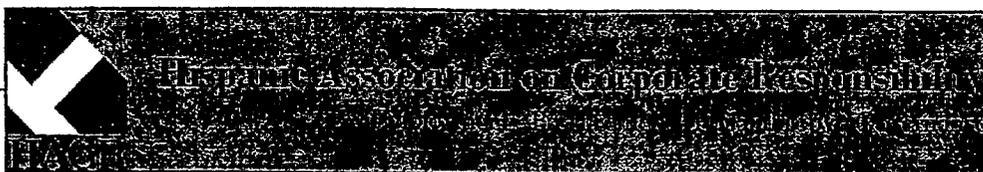
(B) **Information Produced.** If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

**(e) CONTEMPT.**

The issuing court may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena. A nonparty's failure to obey must be excused if the subpoena purports to require the nonparty to attend or produce at a place outside the limits of Rule 45(c)(3)(A)(i).

**SCHEDULE A**

1. Members of your HACR Alliance Board of Directors in 2007 and 2008.
2. Contents of your website in December 2007 – January 2008 timeframe, specifically the “HACR Alliance” page.
3. Whether the attached page printed out from archive.org accurately reflects the way your HACR Alliance page on your website appeared at least at some point in 2007.



HOME ABOUT US RESEARCH INSTITUTE EVENTS MEDIA CENTER JOIN HACR

## HACR Alliance

The **Hispanic Association on Corporate Responsibility** has developed strong partnerships at two levels. **Coalition Members** consist of 14 national Hispanic organizations that form the backbone of HACR and whose executive directors, presidents and CEOs serve as board members to the organization. The **HACR Corporate Members** have taken a leadership position among other *FORTUNE* 1,000 companies and made a serious long-term commitment to the Hispanic community. They work very closely with the organization and its board of directors on issues that are important to their constituents -- the Hispanic community.

[HACR Alliance](#)

[Coalition Members](#)

[Corporate Members](#)

[Board Access](#)

### 2007 BOARD OF DIRECTORS

**Manuel Mirabal**, President and CEO  
National Puerto Rican Coalition  
*Chair*

**Alma Morales Riojas**, President and CEO  
MANA, A National Latina Organization  
*Vice Chair*

**Ron Blackburn-Moreno**, President and CEO  
ASPIRA Association, Inc.  
*Treasurer*

**Clara Padilla Andrews**, President  
National Association of Hispanic Publications

**Congressman Joe Baca**, Chair  
Congressional Hispanic Caucus Institute

**Michael L. Barrera**, President and CEO  
United States Hispanic Chamber of Commerce

**Louis Berrios**,  
Chair  
The National Hispanic Employee Network

MENTOR,

**Antonio R. Flores**, President and CEO  
Hispanic Association of Colleges and Universities

**Congressman Lincoln Diaz-Balart**, Chair  
Congressional Hispanic Leadership Institute, Inc.

**George Foyo, Chair**  
Cuban American National Council

**Antonio Gil Morales, National Commander**  
American GI Forum of the United States

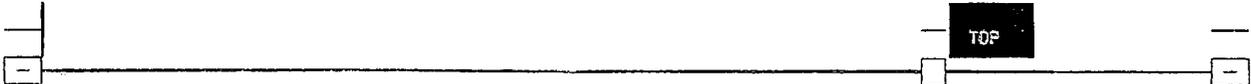
**Janet Murguia, President and CEO**  
National Council of La Raza

**Rosa Rosales, National President**  
League of United Latin American Citizens

**Ignacio Salazar, President and CEO**  
SER-Jobs for Progress National, Inc.

**Agustin De Goytisolo**  
*Board Member Emeritus*

**Raul Yzaguirre**  
*Board Member Emeritus*



# Exhibit 2



## HACR Alliance

The **Hispanic Association on Corporate Responsibility** has developed strong partnerships at two levels. **Coalition Members** consist of 13 national Hispanic organizations that form the backbone of HACR and whose executive directors, presidents and CEOs serve as board members to the organization. The **HACR Corporate Members** have taken a leadership position among other *FORTUNE* 1,000 companies and made a serious long-term commitment to the Hispanic community. They work very closely with the organization and its board of directors on issues that are important to their constituents -- the Hispanic community.

### 2008 BOARD OF DIRECTORS

**Manuel Mirabal**, Chair, Development Committee  
National Puerto Rican Coalition  
*Chair*

**Alma Morales Riojas**, President and CEO  
MANA, A National Latina Organization  
*Vice Chair*

**Ron Blackburn-Moreno**, President and CEO  
ASPIRA Association, Inc.  
*Treasurer*

**Guarione Diaz**, President and CEO  
Cuban American National Council  
*Secretary*

**Congressman Joe Baca**, Chair  
Congressional Hispanic Caucus Institute

**Antonio R. Flores**, President and CEO  
Hispanic Association of Colleges and Universities

**Congressman Lincoln Diaz-Balart**, Chair  
Congressional Hispanic Leadership Institute, Inc.

**Augustine Martinez**, President and CEO  
United States Hispanic Chamber of Commerce

**Antonio Gil Morales**, National Commander  
American GI Forum of the United States

HACR Alliance

Coalition Members

Corporate Members

Board Access

**MATSUMOTO EXHIBIT 2**  
Offered by Petitioner, The Chamber of  
Commerce of the United States of America  
The Chamber of Commerce of the United  
States of America v. United States Hispanic  
Chamber of Commerce  
Cancellation Number 92/045,876

**Janet Murguia**, President and CEO  
National Council of La Raza

**Clara Padilla Andrews**, President  
National Association of Hispanic Publications

**Rosa Rosales**, National President  
League of United Latin American Citizens

**Ignacio Salazar**, President and CEO  
SER-Jobs for Progress National, Inc.

**Agustin De Goytisoló**  
*Board Member Emeritus*

**Raul Yzaguirre**  
*Board Member Emeritus*

TOP

# Exhibit 3

Drawing Page

Serial Number:

78081731

**Applicant:**

United States Hispanic Chamber of Commerce Foundation  
2175 K. Street, N.W., Suite 100  
Washington DC USA 20037



**Date of First Use:**

05/00/2001

**Date of First Use in Commerce:**

06/00/2001

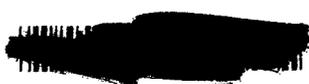
**Goods and Services:**

Providing educational and professional development services to promote leadership and foster the development of entrepreneurship and business acumen among youth.

**Mark:**



**MATSUMOTO EXHIBIT 3**  
Offered by Respondent, United States  
Hispanic Chamber of Commerce  
The Chamber of Commerce of the United  
States of America v. United States Hispanic  
Chamber of Commerce  
Cancellation Number 92/045,876



NO OCR



08-29-2001

# Exhibit 4

Drawing Page

Serial Number:

78087678

**Applicant:**

United States Hispanic Chamber of Commerce  
2175 K. Street, NW, Suite 100  
Washington DC USA 20037



**Date of First Use:**

00/00/1999

**Date of First Use in Commerce:**

00/00/1999

**Goods and Services:**

Chamber of commerce services, namely promoting business by and among Hispanic businesses and corporate America while fostering procurement and economic development opportunities as well as commercial and financial relations by and among Hispanic businesses with the general business community.

**Mark:**



**MATSUMOTO EXHIBIT 4**  
Offered by Respondent, United States  
Hispanic Chamber of Commerce  
  
The Chamber of Commerce of the United  
States of America v. United States Hispanic  
Chamber of Commerce  
Cancellation Number 92/045,876



NO OCR



10-10-2001

**The Chamber of Commerce of The  
United States of America,  
Opposer**  
v.  
**United States Hispanic Chamber of  
Commerce Foundation,  
Applicant**

**Opposition No. : 91/156,321  
Serial No. : 78/081,731**

**Rima K. Matsumoto  
Deposition and Exhibits 1-4**

*C. Gordon*

(SIGNATURE)

05-13-08

(DATE)