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PATENTS, TRADEMARKS, COPYRIGHTS & UNFAIR COMPETITION

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September 19, 2005

Commissioner for Trademarks
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

Re: GOOSSES 10.2A-001
Tiffany (NJ) Inc. v. Anthony Siragusa and Michael Romanelli
Opposition No.: 91160913, Serial No.: 76/520,262
Mark: TIFFANY'S RESTAURANT

Dear Sir:

In connection with the above-referenced Opposition proceeding, we enclose herein for filing APPLICANTS' REPLY MEMORANDUM IN SUPPORT OF APPLICANT'S MOTION FOR LEAVE TO FILE AN AMENDED ANSWER and CERTIFICATE OF SERVICE.

Respectfully submitted,

LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK, LLP
*Attorneys for Applicants Anthony Siragusa
and Michael Romanelli*

SCOTT E. CHARNEY

SEC/dg:clg
Enclosures
cc: Evan Gourvitz. (w/encls.)



09-22-2005

U.S. Patent & TMO/c/TM Mail Rcpt Dt. #2f

additional facts, Applicants' counsel orally requested leave to file the amended answer. Counsel for Opposer reserved a decision. Notwithstanding, Applicants' counsel permitted, and even encouraged, Opposer to fully depose Mr. Romanelli on these issues.

In the days following the deposition, counsel for Opposer advised that Opposer would not consent to the requested leave to file an amended answer. Shortly thereafter, on August 10, 2005, Applicants filed the present motion. It is, therefore, quite clear that upon learning of the additional facts, Applicants' counsel moved swiftly to request leave to file an amended answer and to permit discovery on this issue. Further, Applicants are still continuing their investigation to uncover additional facts related to this defense, both within their records and Opposer's records. If any of Opposer's discovery requests require updating, Applicants will do so in a timely manner.

Opposer also contended that it would be prejudiced by the entry of an additional affirmative defense as the discovery deadline of September 20, 2005, was quickly approaching at the time Opposer filed its opposition. Subsequently, the close of discovery was extended on consent of both parties for an additional two months, rendering this point moot. In any event, Opposer has already deposed Mr. Romanelli on this issue. As to the deposition of Anthony Siragusa, Applicants can state categorically that Mr. Siragusa has no information relevant to this defense. Accordingly, his deposition, or the need therefor, is moot in regard to this issue.

Mr. Siragusa has the full intention to appear for deposition prior to the close of discovery. Contrasted with Opposer's unequivocal assertion that certain of its noticed deponents would not be produced without an order to compel from the Board, it is difficult to see how Opposer can be heard to complain about Mr. Siragusa's purported failure to appear at deposition thus far. As we are sure the Board appreciates, Mr. Siragusa is a former National Football League player and

present NFL broadcaster. Mr. Siragusa's schedule is filled with travels throughout the United States, particularly during summer training camps and football season, which is now ongoing.

As stated above, the affirmative defense of equitable estoppel is not based solely on the documents produced by Applicants. Rather, the facts underlying this affirmative defense date back much farther and are more extensive. In fact, Applicants are unaware as to exactly how far back the facts may go, and where the limits may be. Accordingly, Applicants intend to take discovery of Opposer to uncover these facts. For example, in answers to interrogatories served on September 7, 2005, Opposer indicates that its President Warren S. Field, Vice President and Director Michael W. Connolly, Director of Quality Assurance Stanley Kwak, and two managers of its Quality Assurance division were not only aware of the holiday party, but actually attended. It is believed that these individuals may have also attended previous parties upon which Applicants' reliance is based. These parties were official functions of Tiffany & Co. and suggest that Tiffany & Co. did not object to Applicants' use of their mark.

Therefore, because Applicants have not unreasonably delayed in seeking leave to file an amended answer, and because Opposer will not be prejudiced by such leave, having already taken discovery on same with ample time for more, Applicants request that the Board grant their motion for leave to file an amended answer and that the amended answer be deemed filed and served as of the date the Board rules on this motion.

Respectfully submitted,

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By: 
Scott E. Charney

Dated: September 19, 2005

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the APPLICANTS' REPLY MEMORANDUM IN SUPPORT OF APPLICANTS' MOTION FOR LEAVE TO FILE AN AMENDED ANSWER was served on this 19th day of September 19, 2005, upon the following counsel of record:

VIA FIRST CLASS MAIL:

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