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Filing date: **04/18/2007**

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

Proceeding	91160913
Party	Plaintiff Tiffany (NJ) Inc.
Correspondence Address	Barbara A. Solomon Fross Zelnick Lehrman & Zissu, P.C. 866 United Nations Plaza New York, NY 10017 egourvitz@frosszelnick.com, bsolomon@frosszelnick.com
Submission	Other Motions/Papers
Filer's Name	Evan Gourvitz
Filer's e-mail	egourvitz@frosszelnick.com,rlehv@frosszelnick.com,bsolomon@frosszelnick.com
Signature	/Evan Gourvitz/
Date	04/18/2007
Attachments	91160913 Declaration of Evan Gourvitz in Support of Opposer's Motion to Compel.pdf (193 pages)(4025255 bytes)

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

TIFFANY (NJ) INC.,	:	
	:	
Opposer,	:	
	:	
-against-	:	Opp. No. 91160913
	:	
UNITED WOO ENTERPRISES, INC.,	:	
	:	
Applicant.	:	
	:	

**DECLARATION OF EVAN GOURVITZ IN
SUPPORT OF OPPOSER'S MOTION TO COMPEL**

Evan Gourvitz declares under penalty of perjury as follows:

1. I am counsel at Fross Zelnick Lehrman & Zissu, P.C., Opposer's counsel in this action. This declaration is based upon my personal knowledge.
2. On September 26, 2006, I served Opposer's requests for admission on counsel for Applicant. A true and correct copy of these requests is attached hereto as Exhibit 1.
3. On October 3, 2006, I served Opposer's document requests and interrogatories on counsel for Applicant. A true and correct copy of the document requests is attached hereto as Exhibit 2, and a true and correct copy of the interrogatories is attached hereto as Exhibit 3.
4. Applicant served its written responses and objections to the requests for admission on October 31, 2006. A true and correct copy of Applicant's responses is attached hereto as Exhibit 4.
5. Applicant served its written responses and objections to the document requests and interrogatories on November 7, 2006. A true and correct copy of Applicant's responses to

the document requests is attached hereto as Exhibit 5, and a true and correct copy of Applicant's responses to the interrogatories is attached hereto as Exhibit 6.

6. On November 7, 2006, Barbara Solomon, a member of our firm, sent an email to Applicant's counsel noting the deficiencies in Applicant's responses to Opposer's document requests, and asking that Applicant immediately provide to Opposer: (a) the date it would make documents available; (b) a privilege log; and (c) the analysis it applied in asserting that Opposer served more than 75 interrogatories, including subparts. It also noted that confidentiality was not a proper basis for withholding documents, since the parties could enter an appropriate protective order. A true and correct copy of this email is attached hereto as Exhibit 7.

7. On November 8, 2006, Applicant's counsel provided an email response to Ms. Solomon's letter that (a) demanded that Opposer provide a draft protective order, (b) ignored the issue of a privilege log, and (c) refused to provide a count of its interrogatories, but insisted that Opposer provide such a count. This email also raised purported deficiencies in Opposer's own production, and demanded that Opposer provide a date when it would produce its own documents. A true and correct copy of this email is attached hereto as Exhibit 8.

8. On November 8, 2006, I sent an email response to Applicant's counsel, stating that Opposer would make its document production available for inspection at some date from November 22 forward, requesting information on when Applicant's production would be available, and providing a draft protective order for Applicant's review. My email also noted that Opposer felt that a phone conference on the parties' deficiencies would not be productive until the parties first expressed their concerns in writing. A true and correct copy of this email (without attachment) is attached hereto as Exhibit 9.

9. After receiving no response to my email of November 8, I sent a follow-up email to Opposer's counsel on November 20. A true and correct copy of this email is attached hereto as Exhibit 10.

10. After receiving no response to this follow-up email, I called and left messages for Applicant's counsel on November 21 and 22. On November 27, 2006, I briefly spoke with Applicant's counsel. In this conversation, we agreed to provide our thoughts on the purported deficiencies of each other's client in writing.

11. On November 30, 2006, on behalf of Opposer I noticed a 30(b)(6) deposition of Applicant, and a deposition of Wen Jong Wu, for January 9, 2007. True and correct copies of the notices for these depositions are attached hereto as Exhibit 11.

12. On December 6, 2006, I sent an email to Applicant's counsel requesting a date for Applicant's document production. A true and correct copy of this email is attached hereto as Exhibit 12.

13. Applicant's counsel sent an email dated December 8, 2007 in response. In this email, Applicant's counsel stated that she was "puzzled" by the request to review Applicant's production, given the parties' November 27 agreement to provide their comments on each other's deficiencies in writing. Applicant's counsel also raised purported concerns with Opposer's proposed protective order, stating that it "significantly deviates from the standard two-tiered TTAB confidentiality agreement which seems more fitting," said that the date Opposer noticed for the depositions would not work, and noted that she would be out of the office "beginning December 18 until the end of the month." A true and correct copy of this email is attached hereto as Exhibit 13.

14. I called Applicant's counsel to follow up on discovery issues on January 5 and 9, 2007. While I left messages both times, Applicant did not respond to either of these calls.

15. Accordingly, I sent a letter to Applicant's counsel on January 9, 2007 to reschedule the depositions previously scheduled for January 9 for January 26. This letter also stated that Opposer's proposed protective order should work for this action, since it limited disclosure to the parties to their in-house attorneys, and said that Opposer's counsel would like to review Applicant's production the day before the deposition, on January 25. A true and correct copy of this letter is attached hereto as Exhibit 14.

16. After Applicant's counsel and I exchanged phone messages on January 9 and 10, Applicant's counsel proposed in a January 10 email that Opposer's deposition be rescheduled for January 30. A true and correct copy of this email is attached hereto as Exhibit 15.

17. On January 11, 2007 I sent an email saying that the January 30 date would work, "provided we have the chance to review your client's document production beforehand on a convenient date." This email also asked for a date to review Applicant's documents, and asked when Applicant would like to review Opposer's documents. A true and correct copy of this email is attached hereto as Exhibit 16.

18. After several days silence, I followed up with a reminder email on January 16, 2007. A true and correct copy of this email is attached hereto as Exhibit 17.

19. I received a response from a paralegal at Applicant's counsel on January 16, 2007 (i) "confirm[ing] that you have rescheduled your earlier-noticed deposition . . . from 1/26 to 1/30, (ii) stating that "[d]ocuments will be made available for your review on January 23, 2007," and (iii) asking about the scope of Opposer's document production. A true and correct copy of this email is attached hereto as Exhibit 18.

20. I sent an email in response the same day (i) saying that it would not be convenient to travel to Florida to review Applicant's production a full week before the deposition, (ii) asking about the volume of Applicant's production, and (iii) noting that Opposer's production would be voluminous. A true and correct copy of this email is attached hereto as Exhibit 19.

21. On January 17, 2007 I sent an email providing a rough page count of Opposer's documents, asked whether Applicant's counsel would like to pay for their copying or would prefer to view them in New York, and followed up on the deposition and protective order. A true and correct copy of this email is attached hereto as Exhibit 20.

22. In addition, as per the parties' November 27, 2007 agreement, on January 18, 2007 I sent Applicant a letter detailing in writing the many deficiencies in Applicant's written discovery responses, and asking that by January 22, 2007 Applicant inform Opposer whether it would remedy these deficiencies by January 26, 2007. A true and correct copy of this letter is attached hereto as Exhibit 21.

23. On January 19, 2007 Applicant's counsel sent me an email which, after complaining about Opposer's own purported discovery deficiencies, addressed only one substantive issue from Opposer's deficiency letter – the use of the word "famous." This letter also said that Applicant was reviewing its documents to provide a page count, and would produce Wen Wu both individually and as its 30(b)(6) witness on November 30. Finally, the letter claimed that TTAB rules required the parties to "discuss the disputed issues, preferably over the telephone in a professional manner," and said that Applicant's counsel would like to schedule a telephone call to discuss the matter. A true and correct copy of this letter is attached hereto as Exhibit 22.

24. On January 19, 2007 I sent an email in response stating that (i) it was not proper for one party to raise the other's purported deficiencies as a defense to its own deficiencies, (ii) Opposer's documents had been available for Applicant's review for some time, (iii) Opposer still had not yet received any comments on its proposed protective order; (iv) Opposer set a short deadline for the response to its deficiency letter because of the rapidly approaching deposition and close of discovery, (v) Opposer would not conduct the deposition unless it could first get Applicant's proper production and proper discovery responses, and (vi) the parties' email correspondence constituted a good faith and proper effort to confer in accordance with the relevant rules, and also created a helpful record to the Board. I nevertheless said that Opposer remained "willing to further discuss the matters addressed in our deficiency letter . . . at any time, and we look forward to your detailed response." A true and correct copy of this letter is attached hereto as Exhibit 23.

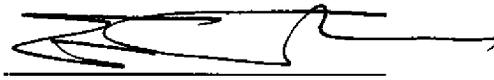
25. The parties later agreed to extend the close of discovery until May 17, 2007, and to delay the deposition of Applicant's witness. However, despite the January 22, 2007 deadline set forth in my letter, I received no answer from Applicant in response to Opposer's deficiency letter.

26. With the May 17, 2007 deadline for the close of discovery approaching, on April 9 I again emailed Applicant's counsel, requesting a response to Opposer's January 18, 2007 deficiency letter by no later than Monday, April 16. On April 10 Applicant proposed that the parties exchange documents before addressing any deficiencies in written discovery, but on April 12 Opposer rejected this piecemeal approach, noting that proper responses to Opposer's written discovery could greatly simplify the issues in the case. True and correct copies of the April 9-12 correspondence between the parties' counsel are attached hereto as Exhibit 24.

27. To date, Applicant's counsel has not responded to my April 12, 2007 email or provided a substantive response to our January 18, 2007 deficiency letter.

I declare under penalty of perjury that the foregoing is true.

Signed this 18th day of April, 2007 at New York, New York.

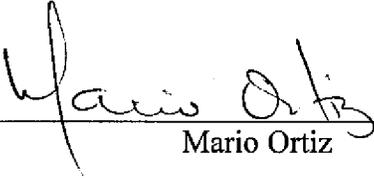
A handwritten signature in black ink, appearing to read "EVAN GOURVITZ", written over a horizontal line.

EVAN GOURVITZ

CERTIFICATE OF SERVICE

I hereby certify that on this 18th day of April, 2007, a true and correct copy of the foregoing Declaration of Evan Gourvitz in Support of Opposer's Motion to Compel and Exhibits 1 – 24 was served by first class mail on counsel for Applicant:

Jennifer L. Whitelaw, Esq.
Whitelaw Legal Group
3838 Tamiami Trail North, Third Floor
Naples, Florida 34103



Mario Ortiz

EXHIBIT 1

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

TIFFANY (NJ) INC.,	X	
	:	
Opposer,	:	
	:	
-against-	:	Opp. No. 91160913
	:	
UNITED WOO ENTERPRISES, INC.,	:	
	:	
Applicant.	:	
	X	

OPPOSER'S FIRST SET OF REQUESTS FOR ADMISSION

Pursuant to Rule 2.120(h) of the Trademark Rules of Practice and Rule 36 of the Federal Rules of Civil Procedure, Opposer Tiffany (NJ) Inc. requests that Applicant, United Woo Enterprises, Inc., respond to the following requests for admission by serving its responses at the offices of Opposer's attorneys, Fross Zelnick Lehrman & Zissu, P.C., 866 United Nations Plaza, New York, New York 10017, Attention: Evan Gourvitz, within the time permitted by the applicable Federal Rules of Civil Procedure and Trademark Rules of Practice.

DEFINITIONS

A. The terms "Applicant," "you," or "your" means Applicant United Woo Enterprises, Inc., and any division, parent, subsidiary, affiliate, licensee, franchisee, successor, predecessor in interest, assignee or other related business entity thereof, and the predecessors of any of them and every officer, employee, agent, attorney or other person acting or purporting to act on their behalf.

B. The term "Applicant's Mark" means, individually and collectively, both (i) the TIFFANY DESIGNS mark set forth in U.S. Application Serial No. 78/700,677, and (ii) any other mark you have used or applied to register that consists of or includes the term TIFFANY.

- C. The term "Opposer's Mark" means, individually and collectively, any mark owned or used by Opposer that consists of or includes the term TIFFANY or TIFFANY & CO., including but not limited to the marks of Opposer pleaded in its Notice of Opposition.
- D. Whenever the terms "and" and "or" are used they are to be construed both disjunctively and conjunctively as necessary to bring within the scope of these discovery requests responses that might otherwise be construed to be outside the scope.
- E. The use of the singular form of any word includes the plural and vice versa.
- F. The obligations of Rule 36(a) of the Federal Rule of Civil Procedure shall be deemed incorporated herein by reference. As per that Rule, failure to answer a given Request within the time permitted shall be deemed an admission of the matter at issue.
- G. In answering these requests, even though the questions may be directed to "you," respond using all information which is available to you, including information in the possession of your attorneys or investigators prepared on your behalf. If you cannot answer any of the following requests in full after exercising due diligence to secure the information, state an answer to the extent possible, specifying your inability to answer the remainder and stating whatever information or knowledge you have concerning the unanswered portions.
- H. For the convenience of the Board and the parties, each request should be quoted in full immediately preceding the response.
- I. These requests are intended to be continuing. If, at any time after you prepare and furnish the requested discovery, you ascertain or acquire additional information, you are requested to supplement these requests as appropriate within thirty (30) days.

REQUESTS FOR ADMISSION

Request No. 1:

Admit that Tiffany and Company is a famous retailer of jewelry.

Request No. 2:

Admit that Tiffany and Company is a famous retailer of bridal and engagement gifts.

Request No. 3:

Admit that Tiffany and Company is a famous retailer of engagement rings.

Request No. 4:

Admit that Opposer's TIFFANY mark is famous for jewelry.

Request No. 5:

Admit that Opposer's TIFFANY mark is famous for bridal and engagement gifts.

Request No. 6:

Admit that Opposer's TIFFANY mark is famous for engagement rings.

Request No. 7:

Admit that Applicant was aware of Tiffany's retail stores before using Applicant's Mark in connection with any goods or services.

Request No. 8:

Admit that Applicant was aware of Opposer's TIFFANY mark before using Applicant's Mark in connection with any goods or services.

Request No. 9:

Admit that the individual Wen Jong Wu is associated with Applicant.

Request No. 10:

Admit that the individual Wen Jong Wu has an ownership interest in Applicant.

Request No. 11:

Admit that Wen Jong Wu was aware of Tiffany's retail stores before using Applicant's Mark in connection with any goods or services.

Request No. 12:

Admit that Wen Jong Wu was aware of Opposer's TIFFANY mark before using Applicant's Mark in connection with any goods or services.

Request No. 13:

Admit that Applicant applied for Application Serial No. 76/541,932 for TIFFANY DESIGNS and Design before filing the application at issue in this Opposition, Application Serial No. 78/700,677 (the "Application").

Request No. 14:

Admit that an entity associated or affiliated with Applicant applied for Application Serial No. 76/541,932 for TIFFANY DESIGNS and Design before filing the Application.

Request No. 15:

Admit that Exhibit A hereto, the specimen for Application Serial No. 76/541,932 for TIFFANY DESIGNS and Design, depicted the term TIFFANY DESIGNS in the same font and with one of the same flower designs as the specimen Applicant provided for the Application, a copy of which is attached hereto as Exhibit B.

Request No. 16:

Admit that Applicant presently depicts or has authorized others to depict the TIFFANY DESIGNS mark on the website at tiffanydesigns.com in the form set forth in Exhibit C.

Request No. 17:

Admit that Applicant was aware of the U.S. Patent & Trademark Office's rejection of Application Serial No. 76/541,932 for TIFFANY DESIGNS and Design before filing the Application.

Request No. 18:

Admit that Applicant was aware of the U.S. Patent & Trademark Office's basis for the rejection of Application Serial No. 76/541,932 for TIFFANY DESIGNS and Design before filing the Application.

Request No. 19:

Admit that Applicant swore in the Application that "to the best of [its] knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive."

Request No. 20:

Admit that at the time Applicant made the statement referred to in Request No. 19 Applicant was aware that Application Serial No. 76/541,932 had been rejected because it was deemed likely to cause confusion with Opposer's Mark.

Request No. 21:

Admit that Applicant acquired rights in Applicant's Mark from a third party.

Request No. 22:

Admit that Applicant acquired rights in Applicant's Mark from Wen Jong Wu.

Request No. 23:

Admit that Applicant did not itself use Applicant's Mark as early as 1995.

Request No. 24:

Admit that Applicant has not yet used Applicant's Mark in connection with women's formal dresses.

Request No. 25:

Admit that Applicant has not yet used Applicant's Mark in connection with women's formal gowns.

Request No. 26:

Admit that Applicant has not yet used Applicant's Mark in connection with prom dresses.

Request No. 27:

Admit that Applicant has not yet used Applicant's Mark in connection with prom gowns.

Request No. 28:

Admit that Applicant has not yet used Applicant's Mark in connection with dresses for formal social occasions.

Request No. 29:

Admit that Applicant has not yet used Applicant's Mark in connection with gowns for formal social occasions.

Request No. 30:

Admit that the earliest date on which Opposer commenced its use of TIFFANY was January 1995.

Request No. 31:

Admit that Applicant is not named "Tiffany."

Request No. 32:

Admit that no owner of Applicant is known by the name "Tiffany."

Request No. 33:

Admit that Applicant's Mark incorporates in its entirety without any difference in spelling Opposer's mark TIFFANY.

Request No. 34:

Admit that Applicant's Mark is similar in sound to TIFFANY.

Request No. 35:

Admit that you have no evidence that Applicant's Mark has a different connotation than Opposer's TIFFANY mark.

Request No. 36:

Admit that you have no evidence that Applicant's Mark has a different commercial impression than Opposer's TIFFANY mark.

Request No. 37:

Admit that Applicant does not claim exclusive rights to the word "Designs" as used in Applicant's Mark.

Request No. 38:

Admit that you disclaimed the word DESIGNS in your application for Applicant's Mark.

Request No. 39:

Admit that the goods and services identified in your application for Applicant's Mark could include wedding dresses.

Request No. 40:

Admit that the goods and services identified in your application for Applicant's Mark could include formal wear worn at weddings.

Request No. 41:

Admit that the goods identified in your application for Applicant's Mark are sold at retail stores.

Request No. 42:

Admit that the goods set forth in your Application usually are worn with jewelry.

Request No. 43:

Admit that jewelry often is worn with women's formal dresses and gowns, prom dresses and gowns, and dresses and gowns for formal social occasions.

Request No. 44:

Admit that your stores sell jewelry.

Request No. 45:

Admit that your stores could sell jewelry in the future.

Request No. 46:

Admit that the website at tiffanydesigns.com depicts models wearing both the goods set forth in your Application and jewelry.

Request No. 47:

Admit that your marketing materials show people in dresses and gowns wearing jewelry.

Request No. 48:

Admit that you sell goods intended for weddings in connection with Applicant's Mark.

Request No. 49:

Admit that Applicant's and Opposer's respective goods are sold through retail stores.

Request No. 50:

Admit that Applicant's and Opposer's respective goods are advertised or promoted over the Internet.

Request No. 51:

Admit that Applicant has no evidence that its consumers do not overlap with consumers of Opposer's products sold in connection with the TIFFANY mark.

Request No. 52:

Admit that you are aware of companies that sell both clothing and jewelry under the same mark.

Request No. 53:

Admit that you have no evidence to support your defense of laches.

Request No. 54:

Admit that you have no evidence to support your defense of waiver.

Request No. 55:

Admit that you have no evidence to support your defense of estoppel.

Request No. 56:

Admit that you have no evidence to support your defense of acquiescence.

Request No. 57:

Admit that Opposer did not consent to Applicant's application to register Applicant's Mark.

Request No. 58:

Admit that you have no evidence that Opposer consented to Applicant's application to register Applicant's Mark.

Request No. 59:

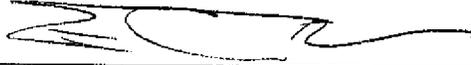
Admit that Opposer did not consent to your use of Applicant's Mark.

Request No. 60:

Admit that you have no evidence that Opposer consented to your use of Applicant's Mark.

Dated: New York, New York
September 25, 2006

FROSS ZELNICK LEHRMAN & ZISSU, P.C.



By: Barbara A. Solomon
Evan Gourvitz
Attorneys for Opposer
866 United Nations Plaza
New York, New York 10017
Phone: (212) 813-5900
Fax: (212) 813-5901

EXHIBIT A

Document Description: **Specimens**
Mail / Create Date: 29-Aug-2003

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[Next Page](#)

You are currently on page of



EXHIBIT B

Document Description: Specimens
Mail / Create Date: 30-Mar-2006

[Previous Page](#)

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You are currently on page 1 of 1



Tiffany
DESIGNS

FOR HOUSE OF WU

www.tiffanydesigns.com

Style

Color

Size

Order Number

Tiffany
DESIGNS

FOR HOUSE OF WU

www.tiffanydesigns.com

Style

Color

Size

Order Number

EXHIBIT C



BY HOUSE OF WU

[Home](#)

[Collections](#)

[Store Locator](#)

[FAQ](#)

[Retailer Services](#)

[Contact Us](#)



Welcome to Tiffany Designs

The reigning queen of prom, pageant and evening gowns, Tiffany Designs is famous for its unique blend of sophistication, knockout design and fabulous fit. There is something for every girl, every taste, every figure type in this innovative collection. Click on Store Locator tab to find a Tiffany store near you.

Visit an Authorized Retailer

We strongly urge you to visit authorized Tiffany Designs retail stores. Legitimate Tiffany Designs affiliates offer the widest selection of dresses in all the colors, sizes and styles available. They also provide the personalized service you deserve. Just click on the Store Locator link to find an official Tiffany Designs store near you.

Tiffany Designs Fashion Show Schedule

To find a showing near you, [Click Here](#)

Tiffany Designs Fashion Show Video

[Click to view Tiffany Fashion Show Clip.](#)
Select Broadband or Dial-Up.

CERTIFICATE OF MAILING

The undersigned hereby certifies that she caused a copy of the foregoing Opposer's First Set of Requests for Admission to be served by first class mail on September 26, 2006 to Jennifer L. Whitelaw, Esq., Whitelaw Legal Group, 3838 Tamiami Trail North, Third Floor, Naples, Florida 34103.


Loren K. Robinson

EXHIBIT 2

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

TIFFANY (NJ) INC.,	X	
	:	
Opposer,	:	
	:	
-against-	:	Opp. No. 91160913
	:	
UNITED WOO ENTERPRISES, INC.,	:	
	:	
Applicant.	:	
	X	

**OPPOSER'S FIRST SET OF REQUESTS FOR
PRODUCTION OF DOCUMENTS AND THINGS**

Pursuant to Rule 2.120(d) of the Trademark Rules of Practice and Rule 34 of the Federal Rules of Civil Procedure, Opposer Tiffany (NJ) Inc. requests that Applicant, United Woo Enterprises, Inc., respond to the following requests by serving its responses at the offices of Opposer's attorneys, Fross Zelnick Lehrman & Zissu, P.C., 866 United Nations Plaza, New York, New York 10017, Attention: Evan Gourvitz, within the time permitted by the applicable Federal Rules of Civil Procedure and Trademark Rules of Practice, and by producing those documents and things specified herein at that address at that time, or at another time and place to be mutually agreed upon by the parties.

DEFINITIONS

A. The terms "Applicant," "you," or "your" means Applicant United Woo Enterprises, Inc., and any division, parent, subsidiary, affiliate, licensee, franchisee, successor, predecessor in interest, assignee or other related business entity thereof, and the predecessors of any of them and every officer, employee, agent, attorney or other person acting or purporting to act on their behalf.

B. The term "Applicant's Mark" means, individually and collectively, both (i) the TIFFANY DESIGNS mark set forth in U.S. Application Serial No. 78/700,677, and (ii) any other mark you have used or applied to register that consists of or includes the term TIFFANY.

C. The term "Opposer's Mark" means, individually and collectively, any mark owned or used by Opposer that consists of or includes the term TIFFANY or TIFFANY & CO.

D. The term "concerning" means relating to, referring to, describing, evidencing or constituting.

E. When a request asks for documents "concerning" an allegation, you must produce not only documents which support such allegation but also documents which tend to negate such allegation.

F. The term "Market Research" means all surveys, polls, focus groups, market research studies and other investigations conducted by or on behalf of Applicant, whether or not such investigations were completed, discontinued or fully carried out.

G. The term "document" means, without limitation, any tangible thing in Applicant's possession, custody or control, or of which Applicant has knowledge, wherever located, whether sent or received or neither, whether an original or a copy, including, without limitation, correspondence, memoranda, printed matter, reports, records, notes, calendars, diaries, telegrams, telexes, studies, market surveys, market research, tabulations, contracts, invoices, receipts, vouchers, registrations, books of account or financial records, notes, advertisements, trademark search reports, directories, publications, computer tapes and printouts, microfilms or the like, and photographs. This definition shall include electronic or data compilations (including email). In all cases each non-identical copy of an original document should be produced.

H. The term “communication” means the transmittal of information (in the form of facts, ideas, inquiries or otherwise).

I. Whenever the terms “and” and “or” are used they are to be construed both disjunctively and conjunctively as necessary to bring within the scope of these discovery requests responses that might otherwise be construed to be outside the scope.

J. The use of the singular form of any word includes the plural and vice versa.

K. In answering these requests, even though they may be directed to “you,” furnish all responsive documents available to you, including documents in the possession of your attorneys or investigators that were prepared on your behalf. If you cannot provide all documents responsive to any of the following requests after exercising due diligence, provide such documents to the extent possible, specifying your inability to provide the remainder and stating whatever information or knowledge you have concerning the missing portions.

L. If you object to furnishing documents in response to any request, or any part or portion thereof, you should specifically state the basis of such objection, identify the documents to which each objection applies, and furnish all requested documents to which the objection does not apply.

M. If you assert a claim of privilege in objecting to any document request, or part or portion thereof, and documents are withheld on the basis of such assertion:

i) You shall, as a part of the objection to the document request, or part or portion thereof, identify the nature of the privilege which is being claimed, and, if the privilege is being asserted in connection with a claim or a defense governed by state law, indicate the state rule of privilege being invoked; and

ii) the following information shall be provided in the objection unless divulgence of such information would cause disclosure of the allegedly privileged information:
(a) the type of document; (b) the general subject matter of the document; (c) the date of the document; and (d) such other information as is sufficient to identify the document, including, where appropriate, the author of the document, the addressee of the document, and, where not apparent, the relationship of the author and addressee to each other, as well as all other recipients of the document.

N. Any objection to any request for which a basis has not been specifically stated within the time provided by the Federal Rules of Civil Procedure shall be waived.

O. For the convenience of the Board and the parties, you are requested to order and label the materials produced in accordance with the final paragraph of FED. R. CIV. P. 34(b), as adopted by the Trademark Rules of Practice 2.116(a).

P. These requests are intended to be continuing. If at any time after you prepare and furnish the requested discovery you ascertain or acquire additional responsive documents, you are requested to produce such supplemental documents to Plaintiffs within thirty (30) days.

DOCUMENT REQUESTS

Request No. 1:

Documents sufficient to show the nature of the business currently conducted by Applicant, including the product or service lines provided by Applicant in connection with Applicant's Mark.

Request No. 2:

Documents sufficient to identify all goods and services sold or provided by Applicant in connection with Applicant's Mark.

Request No. 3:

Documents sufficient to show each version or variation of Applicant's Mark that you use, have used, or intend to use in connection with any of the goods identified in Applicant's Application Serial No. 78/700,677 for Applicant's Mark, herein opposed (the "Application").

Request No. 4:

All documents concerning your creation and adoption of Applicant's Mark.

Request No. 5:

All documents concerning your reasons for adopting Applicant's Mark.

Request No. 6:

All documents reviewed or considered by you in creating or developing Applicant's Mark.

Request No. 7:

Documents sufficient to identify all persons who created or developed Applicant's Mark.

Request No. 8:

Documents sufficient to identify all persons who decided that Applicant would adopt Applicant's Mark.

Request No. 9:

Documents sufficient to identify all persons who determined where and in connection with what goods or services Applicant's Mark is and has been used.

Request No. 10:

Documents sufficient to identify any owner, employee, shareholder, or principal of Applicant who personally uses or is known by the name Tiffany.

Request No. 11:

Documents sufficient to show the strength or recognition of Applicant's Mark.

Request No. 12:

Documents sufficient to show the commercial impression made by Applicant's Mark.

Request No. 13:

Documents sufficient to show any other words, marks, symbols, house marks, or designs Applicant uses, has used, or intends to use together with the word TIFFANY.

Request No. 14:

Documents sufficient to establish Applicant's claimed date of (i) first use and (ii) first use in commerce of Applicant's Mark for each type of good and service with which it has been used.

Request No. 15:

Documents sufficient to show the continuous use of Applicant's Mark in commerce since Applicant's claimed date of first use of that mark.

Request No. 16:

Documents sufficient to show the wholesale and retail prices of each product or service sold or provided by or on behalf of Applicant in connection with the Applicant's Mark.

Request No. 17:

To the extent you contend that Applicant's Mark does not incorporate or is not otherwise similar to Opposer's Mark, all documents that support that contention.

Request No. 18:

To the extent you contend that Applicant's Mark is not similar in appearance to Opposer's Mark, all documents that support that contention.

Request No. 19:

To the extent you contend that Applicant's Mark is not similar in sound to Opposer's Mark, all documents that support that contention.

Request No. 20:

To the extent you contend that Applicant's Mark is not similar in connotation to Opposer's Mark, all documents that support that contention.

Request No. 21:

To the extent you contend that Applicant's Mark is not similar in commercial impression to Opposer's Mark, all documents that support that contention.

Request No. 22:

To the extent you contend that Applicant's Mark is not used on goods similar or related to those on which Opposer uses Opposer's Mark, all documents that support that contention.

Request No. 23:

To the extent you contend that Applicant's Mark is sold through different channels of trade than those used by Opposer to sell goods and services under Opposer's Mark, all documents that support that contention.

Request No. 24:

To the extent you contend that consumers for goods sold under Applicant's Mark do not overlap with consumers for goods sold under Opposer's Mark, all documents that support that contention.

Request No. 25:

To the extent you contend that third parties use the TIFFANY mark on goods similar to those upon which Applicant uses Applicant's Mark, or on goods similar to those upon which Opposer uses Opposer's mark, all documents that support that contention, including:

- (1) Documents sufficient to identify (i) the third parties at issue, (ii) the marks used, and (iii) the goods at issue, and
- (2) Documents concerning any market for or consumer recognition of the third party marks.

Request No. 26:

To the extent you contend that Opposer's Mark is not a strong mark, all documents that support that contention.

Request No. 27:

To the extent you contend that Opposer's Mark is not well-known among consumers in general, all documents that support that contention.

Request No. 28:

To the extent you contend that Opposer's Mark is not well-known among Applicant's consumers, all documents that support that contention.

Request No. 29:

To the extent you contend that Opposer's Mark is not a well-known mark for jewelry and related accessories, all documents that support that contention.

Request No. 30:

To the extent you contend that Opposer's Mark is not a famous mark, all documents that support that contention.

Request No. 31:

Documents sufficient to describe the individuals or classes of consumers (*e.g.*, demographic data) to whom goods offered under Applicant's Mark are or have been marketed and sold, or to whom you plan to market and sell goods offered under Applicant's Mark.

Request No. 32:

For each product and service in connection with which Applicant's Mark has been used, documents sufficient to show Applicant's total actual sales on an annual basis (in terms of both dollars and units sold) since Applicant's date of first use of the mark.

Request No. 33:

Documents sufficient to show all advertisements and promotional materials for goods and services sold or provided by or on behalf of Applicant in connection with Applicant's Mark (*e.g.*, brochures, catalogs, television commercials, newspaper articles or magazine advertisements), and how the mark is or was used in each (*e.g.*, as part of a logo, as part of a slogan, in conjunction with a house mark, etc.).

Request No. 34:

Representative samples of labels, hangtags, brochures, catalogs, or any other stationery or business forms bearing Applicant's Mark.

Request No. 35:

Documents sufficient to show where geographically the goods sold by Applicant under Applicant's Mark are (1) advertised and promoted, and (2) available for sale.

Request No. 36:

Documents sufficient to show how and where Applicant advertises goods in connection with Applicant's Mark.

Request No. 37:

Documents sufficient to show the amount of money spent by Applicant (and any other party Applicant authorized to use the mark) for advertising and promotion of goods or services bearing Applicant's Mark on an annual basis for each month and year since the date of first use.

Request No. 38:

Documents sufficient to identify all officers, directors, employees, and shareholders of Applicant.

Request No. 39:

Documents sufficient to show the relationship between (i) United Woo Enterprises, Inc., the applicant in this action, and its owners or shareholders, on the one hand, and (ii) Wen Jong Wu, the applicant for U.S. Application Serial No. 76/541,932 for TIFFANY DESIGNS and Design, on the other hand.

Request No. 40:

All documents concerning how and when Applicant first became aware of Opposer.

Request No. 41:

All documents concerning how and when Applicant first became aware of Opposer's Mark.

Request No. 42:

All documents concerning any evidence of actual confusion on the part of any person as to the source, sponsorship, affiliation or approval of Applicant's or Opposer's goods and services arising out of the use of Applicant's Mark.

Request No. 43:

All documents concerning any evidence of dilution of Opposer's Mark by Applicant's use of Applicant's Mark.

Request No. 44:

All Market Research or trademark searches regarding (i) Opposer's Mark and (ii) Applicant's Mark.

Request No. 45:

All documents or communications, including all emails, concerning Opposer.

Request No. 46:

All documents relied on or referred to in connection with your denial of paragraph 10 of the Complaint.

Request No. 47:

All documents that support or contravene your denial of paragraph 10 of the Complaint.

Request No. 48:

All documents relied on or referred to in connection with your denial of paragraph 14 of the Complaint.

Request No. 49:

All documents that support or contravene your denial of paragraph 14 of the Complaint.

Request No. 50:

All documents you relied on in asserting, or that otherwise support or contravene, the statement in your First Affirmative Defense that "Applicant's mark is not confusingly similar to Opposer's mark with respect to the goods or services as set forth in the application, nor does use and/or registration of Applicant's Mark create a likelihood of confusion in the marketplace."

Request No. 51:

All documents you relied on in asserting, or that otherwise support or contravene, the statement in your Second Affirmative Defense that “[t]he Notice of Opposition fails to state a claim upon which relief can be granted.”

Request No. 52:

All documents you relied on in asserting, or that otherwise support or contravene, the statement in your Third Affirmative Defense that “Opposer’s assertion of rights against Applicant is barred, in whole or in part, by the doctrine of laches.”

Request No. 53:

All documents you relied on in asserting, or that otherwise support or contravene, the statement in your Fourth Affirmative Defense that “Opposer’s assertion of rights against Applicant is barred, in whole or in part, by the doctrine of acquiescence.”

Request No. 54:

All documents you relied on in asserting, or that otherwise support or contravene, the statement in your Fifth Affirmative Defense that “Opposer’s assertion of rights against Applicant is barred, in whole or in part, by the doctrine of waiver.”

Request No. 55:

All documents concerning any communications with Opposer, including any objections by Opposer to Applicant’s Mark or Applicant’s use of Applicant’s Mark.

Dated: New York, New York
October 3, 2006

FROSS ZELNICK LEHRMAN & ZISSU, P.C.

By: _____



Barbara A. Solomon
Evan Gourvitz
Attorneys for Opposer
866 United Nations Plaza
New York, New York 10017
Phone: (212) 813-5900
Fax: (212) 813-5901

CERTIFICATE OF MAILING

The undersigned hereby certifies that she caused a copy of the foregoing Opposer's First Set of Requests for Production of Documents and Things to be served by first class mail on October 3, 2006 to Jennifer L. Whitelaw, Esq., Whitelaw Legal Group, 3838 Tamiami Trail North, Third Floor, Naples, Florida 34103.

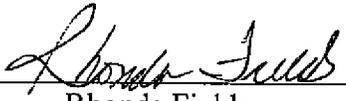

Rhonda Fields

EXHIBIT 3

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

TIFFANY (NJ) INC.,	:	
	:	
Opposer,	:	
	:	
-against-	:	Opp. No. 91160913
	:	
UNITED WOO ENTERPRISES, INC.,	:	
	:	
Applicant.	:	
	:	

OPPOSER’S FIRST SET OF INTERROGATORIES

Pursuant to Rule 2.120(d) of the Trademark Rules of Practice and Rule 33 of the Federal Rules of Civil Procedure, Opposer Tiffany (NJ) Inc. requests that Applicant, United Woo Enterprises, Inc., respond to the following interrogatories by serving its responses at the offices of Opposer’s attorneys, Fross Zelnick Lehrman & Zissu, P.C., 866 United Nations Plaza, New York, New York 10017, Attention: Evan Gourvitz, within the time permitted by the applicable Federal Rules of Civil Procedure and Trademark Rules of Practice.

DEFINITIONS

A. The terms “Applicant,” “you,” or “your” means Applicant United Woo Enterprises, Inc., and any division, parent, subsidiary, affiliate, licensee, franchisee, successor, predecessor in interest, assignee or other related business entity thereof, and the predecessors of any of them and every officer, employee, agent, attorney or other person acting or purporting to act on their behalf.

B. The term “Applicant’s Mark” means, individually and collectively, both (i) the TIFFANY DESIGNS mark set forth in U.S. Application Serial No. 78/700,677, and (ii) any other mark you have used or applied to register that consists of or includes the term TIFFANY.

C. The term “Opposer’s Mark” means, individually and collectively, any mark owned or used by Opposer that consists of or includes the term TIFFANY or TIFFANY & CO.

D. The term “identify” when used in reference to:

- (1) an individual means to state his or her full name, the name and address of his or her employer, his or her present title or position, and the address at which he or she is currently employed;
- (2) an oral communication means to describe the date and time of the communication, the place where the communication occurred, the persons involved in the communication, any other person present, and the substance of the communication;
- (3) a business entity or institution means to state, to the extent known, its full name and address;
- (4) a document means to describe specifically the document, including, where applicable, the subject matter of the document, its date, the name, title and address of each writer or sender and each recipient, its present location and custodian, and, if any such document is not in Applicant’s possession or subject to its control, state what disposition was made of it, by whom, and the date thereof. A copy of the document may be furnished in lieu of identifying it, provided the document contains the above information or Applicant separately furnishes it when furnishing the document.

E. The term “describe,” with respect to communications, shall mean to state or identify the date, time of day, duration, location, persons involved, witnesses, physical occurrences, and a summary of the substance of any conversations. With respect to documents,

“describe” shall mean to identify the type of document, its date, its author, its recipients, and to provide a summary of the substance thereof.

F. “Market Research” as used herein includes all surveys, polls, focus groups, market research studies and other investigations conducted by or on behalf of Applicant, whether or not such investigations were completed, discontinued or fully carried out.

G. The term “document” shall include, without limitation, any tangible thing in Applicant’s possession, custody or control, or of which Applicant has knowledge, wherever located, whether sent or received or neither, whether an original or a copy, including, without limitation, correspondence, memoranda, printed matter, reports, records, notes, calendars, diaries, telegrams, telexes, studies, market surveys, market research, tabulations, contracts, invoices, receipts, vouchers, registrations, books of account or financial records, notes, advertisements, trademark search reports, directories, publications, computer tapes and printouts, microfilms or the like, and photographs. This definition shall include electronic or data compilations (including email). In all cases each non-identical copy of an original document should be produced.

H. Whenever the terms “and” and “or” are used they are to be construed both disjunctively and conjunctively as necessary to bring within the scope of these discovery requests responses that might otherwise be construed to be outside the scope.

I. The use of the singular form of any word includes the plural and vice versa.

J. In answering these interrogatories, even though the questions may be directed to “you,” furnish all information, which is available to you, including information in the possession of your attorneys or investigators prepared on your behalf. If you cannot answer any of the following interrogatories in full after exercising due diligence to secure the information, state an

answer, to the extent possible, specifying your inability to answer the remainder and stating whatever information or knowledge you have concerning the unanswered portions.

K. To the extent that any of the following interrogatories may call for information subject to a claim of privilege or attorney work product, answer so much of each interrogatory and each part thereof as does not request privileged or confidential information. With respect to those portions of these interrogatories that request information that you believe is subject to a claim of privilege, set forth the basis for your claim of privilege or any other objection you may have.

L. For the convenience of the Board and the parties, each interrogatory should be quoted in full immediately preceding the response.

M. These discovery requests are intended to be continuing. If, at any time after you prepare and furnish the requested discovery, you ascertain or acquire additional information, you are requested to produce such supplemental information to Opposer within thirty (30) days.

INTERROGATORIES

Interrogatory No. 1:

Describe in detail the nature of the business currently conducted by Applicant, including the product or service lines sold or provided by Applicant in connection with Applicant's Mark.

Interrogatory No. 2:

Describe in detail the process by which you developed Applicant's Mark for use, including in the description (i) an identification of all individuals involved in the development and (ii) a description of the reason(s) that Applicant's Mark was chosen.

Interrogatory No. 3:

Identify with specificity each version or variation of any mark that consists of or includes the term TIFFANY that you use or intend to use in connection with your goods and services.

Interrogatory No. 4:

For each product or service in connection with which Applicant has used or authorized use of Applicant's Mark, or plans to do so, identify ten representative outlets where such products or services are available for sale, or are to be available for sale.

Interrogatory No. 5:

Describe all channels of trade through which Applicant's goods bearing Applicant's Mark are distributed, sold or provided.

Interrogatory No. 6:

Set forth the wholesale and retail prices of each product sold or provided by Applicant under Applicant's Mark.

Interrogatory No. 7:

Describe with specificity the individuals or specific classes of consumers (e.g., demographic data) to whom goods offered under Applicant's Mark are marketed and sold, or to whom you plan to market and sell goods and services offered under Applicant's Mark.

Interrogatory No. 8:

For each product in connection with which Applicant's Mark has been used, state Applicant's total actual sales on an annual basis (in terms of both dollars and units sold) since Applicant's date of first use of the mark.

Interrogatory No. 9:

For each year in which goods have been sold by Applicant in connection with Applicant's Mark:

- (a) describe separately (i.e., year-by-year) the nature of advertisements and promotional materials for goods and services sold or provided under each such mark (e.g., brochures, catalogs, the Internet, television commercials, newspaper articles or magazine advertisements), and how the mark is or was used in each (e.g., as part of a logo, as part of a slogan, in conjunction with a house mark, etc.);
- (b) identify the specific medium (e.g., *Time* magazine, CBS Network TV, *The New York Times*) in which such advertisements and promotional materials appeared; and
- (c) list all events or trade shows at which Applicant or any authorized users of the mark have advertised, promoted or provided goods or services under the mark.

Interrogatory No. 10:

State the amount of money spent by Applicant (and any other party Applicant authorized to use the mark) for advertising and promotion of goods bearing Applicant's Mark, on an annual basis for each year since the date of first use.

Interrogatory No. 11:

Identify all persons or other entities with a 5% or greater ownership interest in United Woo Enterprises, Inc.

Interrogatory No. 12:

Describe fully the relationship between (i) United Woo Enterprises, Inc., the applicant in this action, and its owners or shareholders, on the one hand, and (ii) Wen Jong Wu, the applicant

for U.S. Application Serial No. 76/541,932 for TIFFANY DESIGNS and Design, on the other hand.

Interrogatory No. 13:

Describe how and when (i) Applicant, and (ii) all persons or other entities set forth in your answer to Interrogatory No. 11, first became aware of Opposer's Mark.

Interrogatory No. 14:

State whether Applicant has ever learned of, witnessed, or obtained any knowledge or information regarding any actual confusion on the part of any person as to the source, sponsorship, affiliation or approval of Applicant's or Opposer's goods or services arising out of the use of Applicant's Mark, and describe each such instance (including the date, location, and all pertinent witnesses and documents).

Interrogatory No. 15:

State whether Applicant has ever learned of, witnessed, or obtained any knowledge or information regarding any dilution of Opposer's Mark arising out of the use of Applicant's Mark, and describe each such instance (including the date, location, and all pertinent witnesses and documents).

Interrogatory No. 16:

Has Applicant conducted or does it plan to conduct or cause to be conducted any Market Research or trademark searches regarding Opposer's Mark and/or Applicant's Mark? If so, identify all such Market Research or trademark searches.

Interrogatory No. 17:

Describe in detail all facts and evidence which serve as the basis for the statement in your First Affirmative Defense that "Applicant's mark is not confusingly similar to Opposer's mark

))
with respect to the goods or services as set forth in the application, nor does use and/or registration of Applicant's Mark create a likelihood of confusion in the marketplace."

Interrogatory No. 18:

Describe in detail all facts and evidence which serve as the basis for the statement in your Second Affirmative Defense that "[t]he Notice of Opposition fails to state a claim upon which relief can be granted."

Interrogatory No. 19:

Describe in detail all facts and evidence which serve as the basis for the statement in your Third Affirmative Defense that "Opposer's assertion of rights against Applicant is barred, in whole or in part, by the doctrine of laches."

Interrogatory No. 20:

Describe in detail all facts and evidence which serve as the basis for the statement in your Fourth Affirmative Defense that "Opposer's assertion of rights against Applicant is barred, in whole or in part, by the doctrine of acquiescence."

Interrogatory No. 21:

Describe in detail all facts and evidence which serve as the basis for the statement in your Fifth Affirmative Defense that "Opposer's assertion of rights against Applicant is barred, in whole or in part, by the doctrine of waiver."

Interrogatory No. 22:

Describe in detail all facts and evidence which serve as the basis for the statement in your Sixth Affirmative Defense that "Opposer's assertion of rights against Applicant is barred, in whole or in part, by the doctrine of estoppel."

Interrogatory No. 23:

To the extent you contend that Applicant's Mark does not incorporate or is not otherwise similar to Opposer's Mark, set forth in detail all facts and evidence to support that contention.

Interrogatory No. 24:

To the extent you contend that Applicant's Mark is not similar in appearance to Opposer's Mark, set forth in detail all facts and evidence to support that contention.

Interrogatory No. 25:

To the extent you contend that Applicant's Mark is not similar in sound to Opposer's Mark, set forth in detail all facts and evidence to support that contention.

Interrogatory No. 26:

To the extent you contend that Applicant's Mark is not similar in connotation to Opposer's Mark, set forth in detail all facts and evidence to support that contention.

Interrogatory No. 27:

To the extent you contend that Applicant's Mark is not similar in commercial impression to Opposer's Mark, set forth in detail all facts and evidence to support that contention.

Interrogatory No. 28:

To the extent you contend that Applicant's Mark is not used on goods related to those on which Opposer uses Opposer's Mark, set forth in detail all facts and evidence to support that contention.

Interrogatory No. 29:

To the extent you contend that the goods you sell in connection with Applicant's Mark are sold through different channels of trade than the goods and services Opposer sells under Opposer's Mark, set forth in detail all facts and evidence to support that contention.

Interrogatory No. 30:

To the extent you contend that the goods you sell under Applicant's Mark are sold to sophisticated consumers, set forth in detail all facts and evidence to support that contention.

Interrogatory No. 31:

To the extent you contend that consumers for the goods you sell under Applicant's Mark do not overlap with consumers for the goods sold under Opposer's Mark, set forth in detail all facts and evidence to support that contention.

Interrogatory No. 32:

Identify all third party uses of the TIFFANY mark on which you intend to rely, and for each such mark, identify (i) its owner, (ii) the goods or services in connection with which it is used, and (iii) the consumers for the those goods or services.

Interrogatory No. 33:

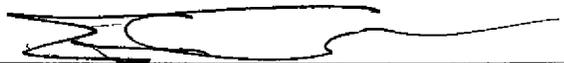
To the extent you contend that Opposer's Mark is not well-known among consumers for Applicant's goods, describe in detail all facts that support that contention.

Interrogatory No. 34:

To the extent you contend that Opposer's Mark is not a famous mark, describe in detail all facts that support that contention.

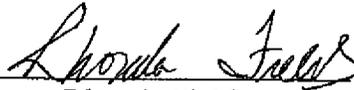
Dated: New York, New York
October 3, 2006

FROSS ZELNICK LEHRMAN & ZISSU, P.C.


By: Barbara A. Solomon
Evan Gourvitz
Attorneys for Opposer
866 United Nations Plaza
New York, New York 10017
Phone: (212) 813-5900
Fax: (212) 813-5901

CERTIFICATE OF MAILING

The undersigned hereby certifies that she caused a copy of the foregoing Opposer's First Set of Interrogatories to be served by first class mail on October 3, 2006 to Jennifer L. Whitelaw, Esq., Whitelaw Legal Group, 3838 Tamiami Trail North, Third Floor, Naples, Florida 34103.


Rhonda Fields

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EXHIBIT 4

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

TIFFANY (NJ) INC.,)
)
) Opposer,)
)
 v.)
) Opposition No. 91172112
 UNITED WU ENTERPRISES, INC.)
)
) Applicant.)
)
)
)

APPLICANT UNITED WU ENTERPRISES, INC.'S, OBJECTIONS AND
RESPONSES TO OPPOSER TIFFANY (NJ) INC.'S, FIRST SET
OF REQUESTS FOR ADMISSION

Applicant, **UNITED WU ENTERPRISES, INC.**, (hereinafter "Applicant"), by and through the undersigned counsel, sets forth the following objections and responses to Opposer's First Set of Requests for Admission served upon Applicant by Opposer, **TIFFANY (NJ) INC.**, (hereinafter "Opposer"), pursuant to the Federal Rules of Civil Procedure 26 and 36 and Rule 2.120 of the Trademark Rules of Practice.

Respectfully submitted,

/s/JENNIFER L. WHITELAW
JENNIFER L. WHITELAW
KATHLEEN L. KOLACZ
WHITELAW LEGAL GROUP
Attorneys for Applicant

UNITED WU ENTERPRISES, INC.
3838 Tamiami Trail North
Third Floor
Naples, Florida 34103
Telephone: (239) 262-1001
Facsimile: (239) 261-0057
Email: ttabmail@whitelawfirm.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing is being provided as follows:

Barbara A. Solomon, Esquire at bsolomon@frosszelnick.com

and

Evan C. Gourvitz, Esquire at egourvitz@frosszelnick.com

on October 31, 2006.

/s/JENNIFER L. WHITELAW
JENNIFER L. WHITELAW

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PRELIMINARY STATEMENT

Applicant's General Objections to Opposer's First Set of Requests to Admit are set forth below, and are incorporated into each and every response which follows hereafter, as if fully restated therein. Applicant's assertions of additional Specific Objections in its responses, stated hereinafter, shall be in addition to its General Objections and shall not in any manner be construed to constitute a waiver of any applicable General Objection. Each and every objection and response herein is expressly made with the right to present additional evidence and/or contentions based upon further discovery and information or evidence obtained or evaluated at a later date.

In responding hereto, Applicant does not waive its right to fully rely upon the defenses and limitations of Rules 26 and 36, including but not limited to a full determination of the final disposition of all or some of these Requests for Admission as shall be made at final pre-trial or at a designated time prior to trial. Applicant further reserves the right to challenge the relevance, materiality, or admissibility of the information provided in these responses or to object to the use of any information or evidence at trial. Applicant's investigation and discovery efforts in this case are continuing. Accordingly, Applicant reserves the right to supplement or amend its responses to the full extent permitted by the Federal Rules of Civil

Procedure and the Trademark Office Rules of Practice following the receipt of full and complete discovery responses from Opposer and prior to trial and as allowed by the applicable law, rules, and all orders of the Board, including those orders of a prospective nature.

GENERAL OBJECTIONS

1. Applicant objects to the extent that any part(s) of the Requests which seek information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.
2. Applicant objects to the extent that any part(s) of the prefatory statements, Instructions and Definitions and Requests set forth by Opposer in the Requests are improper, incorrect, overly broad, burdensome, vague, ambiguous, duplicative and/or purport to impose obligations upon Applicant which are unreasonable and in excess of those obligations imposed by the applicable law and rules governing the issues in this proceeding. In responding, Applicant will follow the applicable law and rules and will ignore the purported requests, definitions and instructions which exceed the requirements of the law and rules.
3. Applicant objects to the extent that the stated definition of "Opposer's Mark" contained in Opposer's Definitions includes "any mark owned or used by Opposer", without specifying which marks are owned or used by Opposer, all of which could lead to speculation and incomplete or incorrect responses. In that regard it is noted that, at the time of responding to these Admissions, Opposer has not complied with discovery previously propounded upon Opposer by Applicant and has objected to and has totally failed to disclose this exact information in discovery, which would assist Applicant in reasonably responding to any Requests in which this stated definition is used by Opposer.
4. Applicant objects to the extent that any part(s) of the words, terms, and phrases contained therein are not clearly defined, different from the ordinary meaning of the words at

issue and are not capable of a reasonable definition or interpretation.

5. Applicant objects to the extent that there is no logical nexus between the information sought to be admitted and the issues in controversy in this proceeding.
6. Applicant objects to the extent that the information sought in the Requests is or may be based upon erroneous and incorrect interpretations of the law governing the issues in this case.
7. Applicant objects to the extent that the information sought in the Requests is solely within the knowledge or possession of Opposer and/or which has not been disclosed by Opposer in discovery.
8. Applicant objects to the extent that the information sought in the Requests is vague and/or ambiguous, in that Applicant is not reasonably able to determine what information is sought to be admitted, all of which is misleading or may be likely to lead to incorrect, misleading, or confusing responses.
9. Applicant objects to the extent that the information sought in the Requests is beyond the scope of Rules 26 and 36. It is overly broad, unduly burdensome, and would require a search for information that is of little or no value with respect to the issues in this proceeding. It is oppressive and seeks information without proper limitation as to subject matter and time, and seeks to impose obligations upon Applicant which exceed the obligations imposed by the applicable law and rules governing the issues in this proceeding.
10. Applicant objects to the extent that the information sought in the Requests is protected by the attorney-client privilege, work-product doctrine, or other applicable privileges or immunities.
11. Applicant objects to the extent that the information sought in the Requests may lead to the disclosure of proprietary data, strategic marketing materials, trade secrets, or other confidential matters, all of which would lead to irreparable injury to Applicant which cannot be protected in the absence of an appropriate Confidentiality Agreement to be executed in this proceeding.

12. Applicant objects to the extent that the information sought in the Requests is premature and should be more fully evaluated, determined, and resolved by the Board at a pretrial conference or otherwise at a time and place as allowed by Rule 36(a).

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REQUESTS

Request No. 1: Admit that Tiffany and Company is a famous retailer of jewelry.

RESPONSE: Subject to Applicant's response to Opposer's Request for Admission No. 4, Applicant denies this request.

Request No. 2: Admit that Tiffany and Company is a famous retailer of bridal and engagement gifts.

RESPONSE: Subject to Applicant's response to Opposer's Request for Admission No. 4, Applicant denies this request.

Request No. 3: Admit that Tiffany and Company is a famous retailer of engagement rings.

RESPONSE: Subject to Applicant's response to Opposer's Request for Admission No. 4, Applicant denies this request.

Request No. 4: Admit that Opposer's TIFFANY mark is famous for jewelry.

RESPONSE: Applicant objects to the form of this Request. The request is further vague and ambiguous to the extent that it uses the undefined term "famous". The request is further objectionable in that it fails to identify a singular mark or registration as the target of the request. The request is incapable of admission. Further, if Opposer were to properly identify a singular mark owned by Opposer, (not an entire trademark portfolio), and request of Applicant as to whether said singular has attained "fame" under current trademark law standards pertaining to famous marks as set forth in either identified statutory authority or case law, and sufficient to enforce against Applicant herein, Applicant would be happy to respond to such a request.

Request No. 5: Admit that Opposer's TIFFANY mark is famous for bridal and engagement gifts.

RESPONSE: See Applicant's response to Opposer's Request for Admission No. 4.

Request No. 6: Admit that Opposer's TIFFANY mark is famous for engagement rings.

RESPONSE: See Applicant's response to Opposer's Request for Admission No. 4.

Request No. 7: Admit that Applicant was aware of Tiffany's retail stores before using Applicant's Mark in connection with any goods or services.

RESPONSE: Denied.

Request No. 8: Admit that Applicant was aware of Opposer's TIFFANY mark before using Applicant's Mark in connection with any goods or services.

RESPONSE: Denied.

Request No. 9: Admit that the individual Wen Jong Wu is associated with Applicant.

RESPONSE: Applicant objects to this Request to the extent that it uses the vague and undefined term "associated with" when speaking of an individual and a corporation.

Request No. 10: Admit that the individual Wen Jong Wu has an ownership interest in Applicant.

RESPONSE: Denied.

Request No. 11: Admit that Wen Jong Wu was aware of Tiffany's retail stores before using Applicant's Mark in connection with any goods or services.

RESPONSE: Denied.

Request No. 12: Admit that Wen Jong Wu was aware of Opposer's TIFFANY mark before using Applicant's Mark in connection with any goods or services.

RESPONSE: Denied.

Request No. 13: Admit that Applicant applied for Application Serial No. 76/541,932 for TIFFANY DESIGNS and Design before filing the application at issue in this Opposition, Application Serial No. 78/700,677 (the "Application").

RESPONSE: Applicant states that the referenced public records speaks for themselves, and denies the remainder of the request.

Request No. 14: Admit that an entity associated or affiliated with Applicant applied for Application Serial No. 76/541,932 for TIFFANY DESIGNS and Design before filing the Application.

RESPONSE: Applicant objects to the form of this request. Further, to the extent that the request asks Applicant to admit to the existence of certain public records, the referenced public records would speak for themselves.

Request No. 15: Admit that Exhibit A hereto, the specimen for Application Serial No. 76/541,932 for TIFFANY DESIGNS and Design, depicted the term TIFFANY DESIGNS in the same font and with one of the same flower designs as the specimen Applicant provided for the Application, a copy of which is attached hereto as Exhibit B.

RESPONSE: Applicant states that the referenced public records speaks for themselves.

Request No. 16: Admit that Applicant presently depicts or has authorized others to depict the TIFFANY DESIGNS mark on the website at tiffanydesigns.com in the form set forth in Exhibit C.

RESPONSE: Applicant admits that the Opposer's Exhibit C appears to be content from Applicant's web site located as set forth, and denies the remainder of the request.

Request No. 17: Admit that Applicant was aware of the U.S. Patent & Trademark Office's rejection of Application Serial No. 76/541,932 for TIFFANY DESIGNS and Design before filing the Application.

RESPONSE: Applicant objects to the form of this request, including the use of the term "rejection", as the application was not "rejected", it was abandoned.

Request No. 18: Admit that Applicant was aware of the U.S. Patent & Trademark Office's basis for the rejection of Application Serial No. 76/541,932 for TIFFANY DESIGNS and Design before filing the Application.

RESPONSE: See Applicant's answer to Opposer's Request for Admission No. 17.

Request No. 19: Admit that Applicant swore in the Application that "to the best of [its] knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive."

RESPONSE: Applicant states that the referenced public record speaks for itself.

Request No. 20: Admit that at the time Applicant made the statement referred to in Request No. 19 Applicant was aware that Application Serial No. 76/541,932 had been rejected because it was deemed likely to cause confusion with Opposer's Mark.

RESPONSE: Denied.

Request No. 21: Admit that Applicant acquired rights in Applicant's Mark from a third party.

RESPONSE: Applicant is presently reviewing information in an effort to respond to this request and is presently without knowledge sufficient to enable Applicant to admit or deny this request.

Request No. 22: Admit that Applicant acquired rights in Applicant's Mark from Wen Jong Wu.

RESPONSE: See Applicant's response to Opposer's Request for Admission No. 21.

Request No. 23: Admit that Applicant did not itself use Applicant's Mark as early as 1995.

RESPONSE: Applicant objects to the form of this request, the request is further capable of several opposing interpretations and is therefore further objectionable.

Request No. 24: Admit that Applicant has not yet used Applicant's Mark in connection with women's formal dresses.

RESPONSE: Denied.

Request No. 25: Admit that Applicant has not yet used Applicant's Mark in connection with women's formal gowns.

RESPONSE: Denied.

Request No. 26: Admit that Applicant has not yet used Applicant's Mark in connection with prom dresses.

RESPONSE: Denied.

Request No. 27: Admit that Applicant has not yet used Applicant's Mark in connection with prom gowns.

RESPONSE: Denied.

Request No. 28: Admit that Applicant has not yet used Applicant's Mark in connection with dresses for formal social occasions.

RESPONSE: Denied.

Request No. 29: Admit that Applicant has not yet used Applicant's Mark in connection with gowns for formal social occasions.

RESPONSE: Denied.

Request No. 30: Admit that the earliest date on which Opposer commenced its use of TIFFANY was January 1995.

RESPONSE: Applicant admits only that it had use of the mark TIFFANY DESIGNS at least as early as January of 1995 and denies the remainder of the request.

Request No. 31: Admit that Applicant is not named "Tiffany."

RESPONSE: Applicant objects to the form of this request, and further to the use of the term "named". Subject to this objection, Applicant admits that its corporate name is correctly set forth in the caption of this proceeding, and denies the remainder of the request.

Request No. 32: Admit that no owner of Applicant is known by the name "Tiffany."

RESPONSE: See Applicant's response to Opposer's Request to Admit No. 31.

Request No. 33: Admit that Applicant's Mark incorporates in its entirety without any difference in spelling Opposer's mark TIFFANY.

RESPONSE: Applicant objects to the form of this request, and further objects for the reason that this request is not a complete sentence, does not make sense, and further objects for the reason stated in Applicant's General Objection No. 3 above, which is specifically incorporated herein.

Request No. 34: Admit that Applicant's Mark is similar in sound to TIFFANY.

RESPONSE: Denied.

Request No. 35: Admit that you have no evidence that Applicant's Mark has a different connotation than Opposer's TIFFANY mark.

RESPONSE: Applicant objects to this Request as vague and ambiguous to the extent that it uses the undefined term "different connotation". Subject to this objection, Applicant denies the request.

Request No. 36: Admit that you have no evidence that Applicant's Mark has a different commercial impression than Opposer's TIFFANY mark.

RESPONSE: Denied.

Request No. 37: Admit that Applicant does not claim exclusive rights to the word "Designs" as used in Applicant's Mark.

RESPONSE: Applicant states that Applicant's public record application and the statements set forth there speak for themselves, and denies the remainder of the request.

Request No. 38: Admit that you disclaimed the word DESIGNS in your application for Applicant's Mark.

RESPONSE: Admitted.

Request No. 39: Admit that the goods and services identified in your application for Applicant's Mark could include wedding dresses.

RESPONSE: Applicant states that the referenced public record speaks for itself, and further objects to the form of Opposer's

Request No. 39 as being capable of several interpretations, at least one of which would warrant a denial.

Request No. 40: Admit that the goods and services identified in your application for Applicant's Mark could include formal wear worn at weddings.

RESPONSE: See Applicant's response to Opposer's Request No. 39.

Request No. 41: Admit that the goods identified in your application for Applicant's Mark are sold at retail stores.

RESPONSE: Admitted.

Request No. 42: Admit that the goods set forth in your Application usually are worn with jewelry.

RESPONSE: Applicant objects to this Request as vague and seeking speculation, as well as seeking specific facts beyond Applicant's knowledge. To the extent that Opposer requests to know from Applicant how actual goods are ultimately worn by a particular consumer(s), and then the totality of all consumers, the request also requires the responding party to have complete knowledge of how all such consumers actually end up using the particular goods, in order to then precisely determine what is "usual", a fact which, by its very phrasing by Opposer, cannot be known to Applicant. Subject to this objection, Applicant would admit that its goods may be worn with jewelry, and may be worn without jewelry, depending on the personal preferences of a given consumer, neither event would be considered "unusual" to Applicant.

Request No. 43: Admit that jewelry often is worn with women's formal dresses and gowns, prom dresses and gowns, and dresses and gowns for formal social occasions.

RESPONSE: See Applicant's response to Opposer's Request No. 42.

Request No. 44: Admit that your stores sell jewelry.

RESPONSE: Applicant objects to the form of Opposer's Request No. 44, and further Applicant would request that Opposer identify which "stores" it is referencing.

Request No. 45: Admit that your stores could sell jewelry in the future.

RESPONSE: See Applicant's Response to Opposer's Request No. 44.

Request No. 46: Admit that the website at tiffanydesigns.com depicts models wearing both the goods set forth in your Application and jewelry.

RESPONSE: Applicant objects to the form of Opposer's Request for Admission No. 46, and further objects as the request does not set forth any time frame. Applicant's web content is dynamic and does not appear the same way to each and every user at each and every moment. Applicant notes for example, that on October 20, 2006, the referenced internet domain features various images which change every few seconds. Applicant notes a number of models appearing to wear a dress as well as no jewelry at all. If, for example, Opposer wished to submit various photographs of models to Applicant taken from Applicant's web content, and then to ask Applicant whether those models are wearing dresses, and at the same time are, or are not, wearing jewelry, Applicant would be happy to respond by pointing out to Opposer the absence or presence of jewelry on a given model wearing a dress in a photograph.

Request No. 47: Admit that your marketing materials show people in dresses and gowns wearing jewelry.

RESPONSE: While Opposer has not identified what it refers to as "marketing materials", Applicant would admit that probably there are "people in dresses and gowns" some of whom wear jewelry and some of whom do not, however Applicant would appreciate being directed to the particular materials Opposer references before answering this request further.

Request No. 48: Admit that you sell goods intended for weddings in connection with Applicant's Mark.

RESPONSE: Applicant does not consider that it sells goods with reference to an "intention" and therefore objects to the form of this request. Subject to this objection, Applicant admits that its goods may be purchased by consumers who intend to wear the goods to many different kinds of occasions, including to a wedding.

Request No. 49: Admit that Applicant's and Opposer's respective goods are sold through retail stores.

RESPONSE: Applicant objects to the form of this request for the reason that Opposer has not identified what it means by "Opposer's respective goods". Applicant does not know that Opposer has any goods which are "respective" to Applicant's goods. The request could also be construed as seeking an admission by Applicant that both Opposer's goods (not identified) and Applicant's identified goods are sold together in retail stores, which would warrant a denial by Applicant. Subject to this objection, Applicant admits that its goods may be sold in retail stores.

Request No. 50: Admit that Applicant's and Opposer's respective goods are advertised or promoted over the Internet.

RESPONSE: Applicant admits that its goods are advertised or promoted "over the internet" and denies the remainder of the request.

Request No. 51: Admit that Applicant has no evidence that its consumers do not overlap with consumers of Opposer's products sold in connection with the TIFFANY mark.

RESPONSE: Applicant objects to the form of Opposer's Request for Admission No. 51.

Request No. 52: Admit that you are aware of companies that sell both clothing and jewelry under the same mark.

RESPONSE: Applicant admits solely that Applicant cannot at the moment bring to mind an example, however if Applicant continued to consider the request or conduct research into the matter, Applicant may well be able to either recall or locate examples.

Request No. 53: Admit that you have no evidence to support your defense of laches.

RESPONSE: Denied.

Request No. 54: Admit that you have no evidence to support your defense of waiver.

RESPONSE: Denied.

Request No. 55: Admit that you have no evidence to support your defense of estoppel.

RESPONSE: Denied.

Request No. 56: Admit that you have no evidence to support your defense of acquiescence.

RESPONSE: Denied.

Request No. 57: Admit that Opposer did not consent to Applicant's application to register Applicant's Mark.

RESPONSE: Admitted.

Request No. 58: Admit that you have no evidence that Opposer consented to Applicant's application to register Applicant's Mark.

RESPONSE: Admitted.

Request No. 59: Admit that Opposer did not consent to your use of Applicant's Mark.

RESPONSE: Denied.

Request No. 60: Admit that you have no evidence that Opposer consented to your use of Applicant's Mark.

RESPONSE: Denied.

EXHIBIT 5

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

TIFFANY (NJ) INC.,)
)
 Opposer,)
)
 v.)
) Opposition No. 91172112
 UNITED WU ENTERPRISES, INC.)
)
 Applicant.)
)
)
)

**APPLICANT UNITED WU ENTERPRISES, INC.'S, OBJECTIONS AND
RESPONSES TO OPPOSER TIFFANY (NJ) INC.'S, FIRST
REQUEST FOR PRODUCTION OF DOCUMENTS AND THINGS**

Applicant, UNITED WU ENTERPRISES, INC., (hereinafter
"Applicant"), by and through the undersigned counsel, and
pursuant to the Federal Rules of Civil Procedure, including Rules
26 and 33, and Rule 2.120 of the Trademark Rules of Practice,
hereby gives notice of service of its General Objections and
Responses to Opposer, TIFFANY (NJ) INC.'S, (hereinafter
"Opposer") First Request for Production of Documents and Things.

Respectfully submitted,

/s/JENNIFER L. WHITELAW
JENNIFER L. WHITELAW
KATHLEEN L. KOLACZ
WHITELAW LEGAL GROUP
Attorneys for Applicant
UNITED WU ENTERPRISES, INC.

3838 Tamiami Trail North
Third Floor
Naples, Florida 34103
Telephone: (239) 262-1001
Facsimile: (239) 261-0057
Email: ttabmail@whitelawfirm.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing is being provided as follows:

Barbara A. Solomon, Esquire at bsolomon@frosszelnick.com

and

Evan C. Gourvitz, Esquire at egourvitz@frosszelnick.com

on November 7, 2006.

/s/JENNIFER L. WHITELAW
JENNIFER L. WHITELAW

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PRELIMINARY STATEMENT

The following responses are based upon Applicant's present knowledge and information and belief; however, nothing contained herein shall constitute an admission that any of the documents or things produced shall be admissible as evidence at trial or in any other proceeding.

In responding to the Requests for Production, Plaintiff has undertaken and is currently in the process of undertaking an ongoing good faith search, reasonable in scope, for documents and things which may be responsive to these Requests, as required by the Federal Rules of Practice and the Trademark Board Rules of Practice.

It should be specifically noted that a statement contained in any response hereinafter that Applicant will agree to produce documents and things should not be construed in any manner as a representation that responsive documents and things do exist.

Some responses herein are or may be designated **CONFIDENTIAL** or **CONFIDENTIAL: ATTORNEY'S EYE'S ONLY**, and these responses may be supplemented following the execution of an appropriate confidentiality agreement between the parties.

Applicant also expressly reserves the right and option to produce non-privileged business records in response to all or part(s) of Opposer's Production Requests, in accordance with Federal Civil Rule 33(d).

Applicant asserts additional specific objections to certain Production Requests as noted, which are in addition to, and shall not constitute a waiver of, any applicable General Objection stated herein.

Subject to the foregoing and incorporating the following General Objections into each and every Production Request submitted by Opposer, the following is set forth:

GENERAL OBJECTIONS

Objection is made and incorporated into each and every of Opposer's Requests for Production of Documents and Things (the "Production Requests"), as follows:

1. to the extent that any part(s) of the Production Requests and Definitions and Instructions purports to impose obligations beyond those contemplated by the Federal Rules of Civil Procedure and/or the TTAB. In responding, the answering party has followed the Federal Rules of Civil Procedure and the applicable TTAB rules and has ignored the purported instructions which exceed the requirements of these rules;
2. to the extent that any part(s) of the Production Requests or the Definitions and Instructions contained therein is overly burdensome, vague, ambiguous, duplicative, and/or purports to establish definitions different from the ordinary meaning of the words at issue;
3. to the extent that there is no logical nexus between the requested information in any part(s) of the Production Requests and the issues in controversy in this case;
4. to the extent that any part(s) of the Production Requests purports to seek information which is confidential, proprietary, and seeks the disclosure of trade secrets, confidential information, or other like information, the disclosure of which would cause loss, damage, or irreparable injury to Applicant;
5. to the extent that any part(s) of the Production Requests is vague and/or ambiguous, in that Applicant is unable to reasonably determine what information is sought, all of which is misleading, or may be likely to lead to incorrect, inaccurate, misleading, or confusing responses;
6. to the extent that any part(s) of the Production Requests is overly broad, unduly burdensome, oppressive, seeks information without proper limitation as to subject matter and time, and/or purports to impose unreasonable obligations upon Applicant which exceed the obligations imposed by the applicable rules and the law governing the issues in this case;

7. to the extent that any part(s) of the Production Requests seeks information which is solely within the knowledge or possession of Opposer;
8. to the extent that the information sought in any part(s) of the Production Requests is or may be based upon erroneous and incorrect interpretations of the law governing the issues in this action;
9. to the extent that any part(s) of a Production Request seeks "all" of the information concerning a particular subject; and
10. to the extent that any part(s) of the Production Requests calls for the disclosure of information protected by the attorney-client privilege, the attorney work-product doctrine, or any other applicable privileges.

Investigation and discovery in this action is ongoing, and Applicant reserves the right to supplement these responses. Applicant does not waive its right to challenge the relevance, materiality, or admissibility of the information provided herein or to object to the use of said information at trial or any other evidentiary proceeding;

Subject to all of the foregoing, Applicant responds as follows:

RESPONSES

Request No. 1:

Documents sufficient to show the nature of the business currently conducted by Applicant, including the product or service lines provided by Applicant in connection with Applicant's Mark.

RESPONSE: Applicant objects to this Request as being burdensome and over broad. Subject to and without waiving the foregoing objections or the General Objections, Applicant will make available for Opposer's inspection and review, representative and non-privileged documents which are reasonably responsive hereto.

Request No. 2:

Documents sufficient to identify all goods and services sold or provided by Applicant in connection with Applicant's Mark.

RESPONSE: Applicant will make available for Opposer's inspection and review, representative and non-privileged documents which are reasonably responsive hereto.

Request No. 3:

Documents sufficient to show each version or variation of Applicant's Mark that you use, have used, or intend to use in connection with any of the goods identified in Applicant's Application Serial No. 78/700,677 for Applicant's Mark, herein opposed (the "Application").

RESPONSE: Applicant objects to this Request as being burdensome and over broad. Subject to and without waiving the foregoing objections or the General Objections, Applicant will make available for Opposer's inspection and review, representative and non-privileged documents which are reasonably responsive hereto.

Request No. 4:

All documents concerning your creation and adoption of Applicant's Mark.

RESPONSE: None known to Applicant at this time.

Request No. 5:

All documents concerning your reasons for adopting Applicant's Mark.

RESPONSE: None known to Applicant at this time.

Request No. 6:

All documents reviewed or considered by you in creating or developing Applicant's Mark.

RESPONSE: None known to Applicant at this time.

Request No. 7:

Documents sufficient to identify all persons who created or developed Applicant's Mark.

RESPONSE: Applicant objects to this request as being ambiguous as it is unclear whether the Opposer seeks (a) any document identifying the given person (in which case Opposer's Request is a disguised interrogatory and is objectionable as such, as well as constituting an interrogatory exceeding the interrogatory limits permitted of in this proceeding pursuant to T.B.M.P. 405.03(e)), or (b) documents identifying the "creation" in connection with the "person".

Request No. 8:

Documents sufficient to identify all persons who decided that Applicant would adopt Applicant's Mark.

RESPONSE: Applicant objects to this request as being ambiguous as it is unclear whether the Opposer seeks (a) any document identifying the given person (in which case Opposer's Request is a disguised interrogatory and is objectionable as such, as well as constituting an interrogatory exceeding the interrogatory limits permitted of in this proceeding pursuant to T.B.M.P. 405.03(e)), or (b) documents identifying the "decision" in connection with the "person".

Request No. 9:

Documents sufficient to identify all persons who determined where and in connection with what goods or services Applicant's Mark is and has been used.

RESPONSE: Applicant objects to this request as being ambiguous as it is unclear whether the Opposer seeks (a) any document identifying the given person (in which case Opposer's Request is a disguised interrogatory and is objectionable as such, as well as constituting an interrogatory exceeding the interrogatory limits permitted of in this proceeding pursuant to T.B.M.P. 405.03(e)), or (b) documents identifying the "determination" in connection with the "person".

Request No. 10:

Documents sufficient to identify any owner, employee, shareholder, or principal of Applicant who personally uses or is known by the name Tiffany.

RESPONSE: Applicant objects to this request as being ambiguous as it is unclear whether the Opposer seeks (a) any document identifying the given person (in which case Opposer's Request is a disguised interrogatory and is objectionable as such, as well as constituting an interrogatory exceeding the interrogatory limits permitted of in this proceeding pursuant to T.B.M.P. 405.03(e)), or (b) documents identifying the "personal use" or "knowledge" in connection with the "owner, employee or shareholder".

Request No. 11:

Documents sufficient to show the strength or recognition of Applicant's Mark.

RESPONSE: Applicant objects to this Request as being burdensome and over broad. Subject to and without waiving the foregoing objections or the General Objections, Applicant will make available for Opposer's inspection and review, representative and non-privileged documents which are reasonably responsive hereto.

Request No. 12:

Documents sufficient to show the commercial impression made by Applicant's Mark.

RESPONSE: Applicant objects to this Request as being burdensome and over broad. Further, since commercial impression generally occurs in the minds of others encountering a mark, a request seeking documents containing "impressions" is ambiguous.

Request No. 13:

Documents sufficient to show any other words, marks, symbols, house marks, or designs Applicant uses, has used, or intends to use together with the word TIFFANY.

RESPONSE: Applicant objects to this request to the extent that it seeks confidential and/or protected business information pertaining to applicant's "intentions". Subject to this objection, and as to the remaining portion of the request, Applicant would state that no documents are known to be responsive.

Request No. 14:

Documents sufficient to establish Applicant's claimed date of (I) first use and (ii) first use in commerce of Applicant's Mark for each type of good and service with which it has been used.

RESPONSE: Applicant will make available for Opposer's inspection and review, representative and non-privileged documents which are reasonably responsive hereto.

Request No. 15:

Documents sufficient to show the continuous use of Applicant's Mark in commerce since Applicant's claimed date of first use of that mark.

RESPONSE: Applicant will make available for Opposer's inspection and review, representative and non-privileged documents which are reasonably responsive hereto.

Request No. 16:

Documents sufficient to show the wholesale and retail prices of each product or service sold or provided by or on behalf of Applicant in connection with the Applicant's Mark.

RESPONSE: Applicant objects to this request as seeking confidential and/or protected business information.

Request No. 17:

To the extent you contend that Applicant's Mark does not incorporate or is not otherwise similar to Opposer's Mark, all documents that support that contention.

RESPONSE: Opposer's request is a disguised interrogatory and is objectionable as such, as well as constituting an interrogatory exceeding the interrogatory limits permitted of in this proceeding pursuant to T.B.M.P. 405.03(e)).

Request No. 18:

To the extent you contend that Applicant's Mark is not similar in appearance to Opposer's Mark, all documents that support that contention.

RESPONSE: Opposer's request is a disguised interrogatory and is objectionable as such, as well as constituting an interrogatory exceeding the interrogatory limits permitted of in this proceeding pursuant to T.B.M.P. 405.03(e)).

Request No. 19:

To the extent you contend that Applicant's Mark is not similar in sound to Opposer's Mark, all documents that support that contention.

RESPONSE: Opposer's request is a disguised interrogatory and is objectionable as such, as well as constituting an interrogatory exceeding the interrogatory limits permitted of in this proceeding pursuant to T.B.M.P. 405.03(e)).

Request No. 20:

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To the extent you contend that Applicant's Mark is not similar in connotation to Opposer's Mark, all documents that support that contention.

RESPONSE: Opposer's request is a disguised interrogatory and is objectionable as such, as well as constituting an interrogatory exceeding the interrogatory limits permitted of in this proceeding pursuant to T.B.M.P. 405.03(e)).

Request No. 21:

To the extent you contend that Applicant's Mark is not similar in commercial impression to Opposer's Mark, all documents that support that contention.

RESPONSE: Opposer's request is a disguised interrogatory and is objectionable as such, as well as constituting an interrogatory exceeding the interrogatory limits permitted of in this proceeding pursuant to T.B.M.P. 405.03(e)).

Request No. 22:

To the extent you contend that Applicant's Mark is not used on goods similar or related to those on which Opposer uses Opposer's Mark, all documents that support that contention.

RESPONSE: Opposer's request is a disguised interrogatory and is objectionable as such, as well as constituting an interrogatory exceeding the interrogatory limits permitted of in this proceeding pursuant to T.B.M.P. 405.03(e)).

Request No. 23:

To the extent you contend that Applicant's Mark is sold through different channels of trade than those used by Opposer to sell goods and services under Opposer's Mark, all documents that support that contention.

RESPONSE: Opposer's request is a disguised interrogatory and is objectionable as such, as well as constituting an interrogatory exceeding the interrogatory limits permitted of in this proceeding pursuant to T.B.M.P. 405.03(e)).

Request No. 24:

To the extent you contend that consumers for goods sold under Applicant's Mark do not overlap with consumers for goods sold under Opposer's Mark, all documents that support that contention.

RESPONSE: Opposer's request is a disguised interrogatory and is objectionable as such, as well as constituting an interrogatory exceeding the interrogatory limits permitted of in this proceeding pursuant to T.B.M.P. 405.03(e)).

Request No. 25:

To the extent you contend that third parties use the TIFFANY mark on goods similar to those upon which Applicant uses Applicant's Mark, or on goods similar to those upon which Opposer uses Opposer's mark, all documents that support that contention, including:

- (1) Documents sufficient to identify (i) the third parties at issue, (ii) the marks used, and (iii) the goods at issue, and
- (2) Documents concerning any market for or consumer recognition of the third party marks.

RESPONSE: Opposer's request is a disguised multi-part interrogatory and is objectionable as such, as well as constituting an interrogatory exceeding the interrogatory limits permitted of in this proceeding pursuant to T.B.M.P. 405.03(e)).

Request No. 26:

To the extent you contend that Opposer's Mark is not a strong mark, all documents that support that contention.

RESPONSE: Opposer's request is a disguised interrogatory and is objectionable as such, as well as constituting an interrogatory exceeding the interrogatory limits permitted of in this proceeding pursuant to T.B.M.P. 405.03(e)).

Request No. 27:

To the extent you contend that Opposer's Mark is not well-known among consumers in general, all documents that support that

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contention.

RESPONSE: Opposer's request is a disguised interrogatory and is objectionable as such, as well as constituting an interrogatory exceeding the interrogatory limits permitted of in this proceeding pursuant to T.B.M.P. 405.03(e)).

Request No. 28:

To the extent you contend that Opposer's Mark is not well-known among Applicant's consumers, all documents that support that contention.

RESPONSE: Opposer's request is a disguised interrogatory and is objectionable as such, as well as constituting an interrogatory exceeding the interrogatory limits permitted of in this proceeding pursuant to T.B.M.P. 405.03(e)).

Request No. 29:

To the extent you contend that Opposer's Mark is not a well-known mark for jewelry and related accessories, all documents that support that contention.

RESPONSE: Opposer's request is a disguised interrogatory and is objectionable as such, as well as constituting an interrogatory exceeding the interrogatory limits permitted of in this proceeding pursuant to T.B.M.P. 405.03(e)).

Request No. 30:

To the extent you contend that Opposer's Mark is not a famous mark, all documents that support that contention.

RESPONSE: Opposer's request is a disguised interrogatory and is objectionable as such, as well as constituting an interrogatory exceeding the interrogatory limits permitted of in this proceeding pursuant to T.B.M.P. 405.03(e)).

Request No. 31:

Documents sufficient to describe the individuals or classes of consumers (e.g., demographic data) to whom goods offered under

Applicant's Mark are or have been marketed and sold, or to whom you plan to market and sell goods offered under Applicant's Mark.

RESPONSE: Applicant objects to this request to the extent that it seeks confidential and/or protected business information pertaining to Applicant's future business plans. Subject to this objection, Applicant will make available for Opposer's inspection and review, representative and non-privileged documents which are reasonably responsive hereto.

Request No. 32:

For each product and service in connection with which Applicant's Mark has been used, documents sufficient to show Applicant's total actual sales on an annual basis (in terms of both dollars and units sold) since Applicant's date of first use of the mark.

RESPONSE: Applicant objects to this request as seeking confidential and/or protected business information.

Request No. 33:

Documents sufficient to show all advertisements and promotional materials for goods and services sold or provided by or on behalf of Applicant in connection with Applicant's Mark (e.g., brochures, catalogs, television commercials, newspaper articles or magazine advertisements), and how the mark is or was used in each (e.g., as part of a logo, as part of a slogan, in conjunction with a house mark, etc.).

RESPONSE: Applicant objects to this Request as being burdensome and over broad.

Request No. 34:

Representative samples of labels, hangtags, brochures, catalogs, or any other stationery or business forms bearing Applicant's Mark.

RESPONSE: Applicant will make available for Opposer's inspection and review, representative and non-privileged documents which are reasonably responsive hereto.

Request No. 35:

Documents sufficient to show where geographically the goods sold by Applicant under Applicant's Mark are (1) advertised and promoted, and (2) available for sale.

RESPONSE: Applicant will make available for Opposer's inspection and review, representative and non-privileged documents which are reasonably responsive hereto.

Request No. 36:

Documents sufficient to show how and where Applicant advertises goods in connection with Applicant's Mark.

RESPONSE: Applicant will make available for Opposer's inspection and review, representative and non-privileged documents which are reasonably responsive hereto.

Request No. 37:

Documents sufficient to show the amount of money spent by Applicant (and any other party Applicant authorized to use the mark) for advertising and promotion of goods or services bearing Applicant's Mark on an annual basis for each month and year since the date of first use.

RESPONSE: Applicant objects to this request as seeking confidential and/or protected business information.

Request No. 38:

Documents sufficient to identify all officers, directors, employees, and shareholders of Applicant.

RESPONSE: Applicant will make available for Opposer's inspection and review, representative and non-privileged documents which are reasonably responsive hereto. Applicant objects to this request to the extent that it seeks confidential and/or protected business information.

Request No. 39:

Documents sufficient to show the relationship between (I) United Woo Enterprises, Inc., the applicant in this action, and its owners or shareholders, on the one hand, and (ii) Wen Jong Wu, the applicant for U.S. Application Serial No. 76/541,932 for TIFFANY DESIGNS and Design, on the other hand.

RESPONSE: Applicant objects to this request as being vague, ambiguous, and capable of more than one interpretation.

Request No. 40:

All documents concerning how and when Applicant first became aware of Opposer.

RESPONSE: None known.

Request No. 41:

All documents concerning how and when Applicant first became aware of Opposer's Mark.

RESPONSE: None known.

Request No. 42:

All documents concerning any evidence of actual confusion on the part of any person as to the source, sponsorship, affiliation or approval of Applicant's or Opposer's goods and services arising out of the use of Applicant's Mark.

RESPONSE: None known.

Request No. 43:

All documents concerning any evidence of dilution of Opposer's Mark by Applicant's use of Applicant's Mark.

RESPONSE: Applicant will make available for Opposer's inspection and review, representative and non-privileged documents which are reasonably responsive hereto.

Request No. 44:

All Market Research or trademark searches regarding (I) Opposer's Mark and (ii) Applicant's Mark.

RESPONSE: None known.

Request No. 45:

All documents or communications, including all emails, concerning Opposer.

RESPONSE: Applicant objects to this request as being vague, ambiguous, overly broad and unduly burdensome.

Request No. 46:

All documents relied on or referred to in connection with your denial of paragraph 10 of the Complaint.

RESPONSE: Applicant objects to this Request as being burdensome and over broad and as seeking confidential and privileged documents not required to be disclosed under the Federal Rules of Practice or the Trademark Rules of Practice.

Request No. 47:

All documents that support or contravene your denial of paragraph 10 of the Complaint.

RESPONSE: Applicant is not aware that any Complaint has been filed herein and thus objects to the form of the request. Subject to this objection, Applicant further objects to the request as seeking "all" documents at a time when Applicant has not completed discovery.

Request No. 48:

All documents relied on or referred to in connection with your denial of paragraph 14 of the Complaint.

RESPONSE: Applicant is not aware that any Complaint has been filed herein and thus objects to the form of the request. Subject to this objection, and to the extent that Opposer meant to refer to the Notice of Opposition herein, Applicant would state that none are known.

Request No. 49:

All documents that support or contravene your denial of paragraph 14 of the Complaint.

RESPONSE: See Applicant's response to Opposer's Request No. 47.

Request No. 50:

All documents you relied on in asserting, or that otherwise support or contravene, the statement in your First Affirmative Defense that "Applicant's mark is not confusingly similar to Opposer's mark with respect to the goods or services as set forth in the application, nor does use and/or registration of Applicant's Mark create a likelihood of confusion in the marketplace."

RESPONSE: Applicant will make available for Opposer's inspection and review, representative and non-privileged documents which are reasonably responsive hereto.

Request No. 51:

All documents you relied on in asserting, or that otherwise support or contravene, the statement in your Second Affirmative Defense that "[t]he Notice of Opposition fails to state a claim upon which relief can be granted."

RESPONSE: Applicant will make available for Opposer's inspection and review, representative and non-privileged documents which are reasonably responsive hereto.

Request No. 52:

All documents you relied on in asserting, or that otherwise support or contravene, the statement in your Third Affirmative Defense that "Opposer's assertion of rights against Applicant is barred, in whole or in part, by the doctrine of laches."

RESPONSE: Applicant will make available for Opposer's inspection and review, representative and non-privileged documents which are reasonably responsive hereto.

Request No. 53:

All documents you relied on in asserting, or that otherwise support or contravene, the statement in your Fourth Affirmative Defense that "Opposer's assertion of rights against Applicant is barred, in whole or in part, by the doctrine of acquiescence."

RESPONSE: Applicant will make available for Opposer's inspection and review, representative and non-privileged documents which are reasonably responsive hereto.

Request No. 54:

All documents you relied on in asserting, or that otherwise support or contravene, the statement in your Fifth Affirmative Defense that "Opposer's assertion of rights against Applicant is barred, in whole or in part, by the doctrine of waiver."

RESPONSE: Applicant will make available for Opposer's inspection and review, representative and non-privileged documents which are reasonably responsive hereto.

Request No. 55:

All documents concerning any communications with Opposer, including any objections by Opposer to Applicant's Mark or Applicant's use of Applicant's Mark.

RESPONSE: Applicant will make available for Opposer's inspection and review, representative and non-privileged documents which are reasonably responsive hereto.

EXHIBIT 6

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

TIFFANY (NJ) INC.,)
)
 Opposer,)
)
 v.)
) Opposition No. 91172112
 UNITED WU ENTERPRISES, INC.)
)
 Applicant.)
)
)
)

APPLICANT UNITED WU ENTERPRISES, INC.'S
OBJECTIONS TO OPPOSER TIFFANY (NJ) INC.'S,
FIRST SET OF INTERROGATORIES

Applicant, **UNITED WU ENTERPRISES, INC.**, (hereinafter "Applicant"), by and through the undersigned counsel, and pursuant to the Federal Rules of Civil Procedure, including Rules 26 and 33, and Rule 2.120 of the Trademark Rules of Practice, hereby gives notice of service of its General Objections Only to Opposer, **TIFFANY (NJ) INC.'S**, (hereinafter "Opposer"), First Set of Interrogatories.

Respectfully submitted,

/s/JENNIFER. L. WHITELAW
JENNIFER L. WHITELAW
KATHLEEN L. KOLACZ
WHITELAW LEGAL GROUP
Attorneys for Applicant
UNITED WU ENTERPRISES, INC.

3838 Tamiami Trail North
Third Floor
Naples, Florida 34103
Telephone: (239) 262-1001
Facsimile: (239) 261-0057
Email: ttabmail@whitelawfirm.com
Email: j@whitelawfirm.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing is being provided as follows:

Barbara A. Solomon, Esquire at bsolomon@frosszelnick.com

and

Evan C. Gourvitz, Esquire at egourvitz@frosszelnick.com

on November 7, 2006.

/s/JENNIFER. L. WHITELOW
JENNIFER L. WHITELOW

))

GENERAL OBJECTION

Objection is made and incorporated into each and every of Opposer's First Set of Interrogatories (generally referred to hereinafter as the "Interrogatories"), as follows:

Applicant objects on the basis that Opposer has exceeded the seventy-five (75) interrogatory limit, including subparts, as provided by TBMP Section 405.03(a). Accordingly, Applicant hereby invokes its rights and remedies under TBMP Section 405.03(e).

EXHIBIT 7

Evan Gourvitz

From: Barbara Solomon
Sent: Tuesday, November 07, 2006 6:52 PM
To: 'Jennifer L. Whitelaw'
Cc: Brenda K. Crain; Mike McGill; Kathleen Kolacz; Evan Gourvitz
Subject: RE: Tiffany (NJ), Inc., v. United Wu Enterprises, Inc., Opposition No. 91172112

Dear Ms. Whitlaw:

Reference is made to the responses and objections that you provided in response to our client's discovery requests. We will be addressing the woeful inadequacy of those responses and the fact that most, if not all, of your objections are interposed not in good faith, but to stonewall discovery. In the meantime, however, we would ask that you immediately provide to us: (a) the date on when your client will be making documents available; (b) a privilege log identifying all responsive documents that have not been produced based on your claim of privilege; and (c) the analysis you applied in asserting that our client served in excess of 75 interrogatories, including subparts.

In addition, we would note that you have refused to produce documents on the grounds that the information sought is confidential. There is not a single TTAB case that allows you to withhold relevant documents on this basis. We are prepared to review those documents on an attorneys-eyes-only basis. If you have a confidentiality order for us to review, please provide it. Otherwise, we expect that you will withdraw those objections immediately.

The above is sent without waiver of any of our client's rights or remedies including but not limited to its right to seek appropriate sanctions for your failure to act in good faith in responding to discovery.

Very truly yours,

Barbara A. Solomon
Fross Zelnick Lehrman & Zissu
866 United Nations Plaza
New York, New York, 10017
Ph: 212-813-5900
Fax: 212- 813-5901

From: Jennifer L. Whitelaw [mailto:j@whitelawfirm.com]
Sent: Tuesday, November 07, 2006 5:22 PM
To: Barbara Solomon; Evan Gourvitz
Cc: Brenda K. Crain; Mike McGill; Kathleen Kolacz
Subject: Tiffany (NJ), Inc., v. United Wu Enterprises, Inc., Opposition No. 91172112

Please see Applicants Responses and Objections in the above, attached.

Best regards,

4/18/2007

Jennifer Whitelaw
WHITELAW LEGAL GROUP
Intellectual Property and Related Causes
3838 Tamiami Trail North
Third Floor
Naples, Florida 34103
239-262-1001
Facsimile: 239-261-0057
Email: j@whitelawfirm.com
Web: www.whitelawfirm.com

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EXHIBIT 8

Evan Gourvitz

From: Jennifer L. Whitelaw [j@whitelawfirm.com]
Sent: Wednesday, November 08, 2006 10:19 AM
To: Barbara Solomon
Cc: Brenda K. Crain; Mike McGill; Kathleen Kolacz; Evan Gourvitz
Subject: RE: Tiffany (NJ), Inc., v. United Wu Enterprises, Inc., Opposition No. 91172112

Dear Barbara:

I am responding to your November 7, 2006 email at your request and concerning your conclusion that our side's discovery responses are "woefully inadequate". You will recall that we did propound discovery first in this case and we will initially note that you simply echo the very deficiencies you exercised in responding to our discovery. Indeed we have the similar concerns over your side's lack of good faith in responding and attempts to stonewall discovery.

Frankly, we are puzzled by the content and tone of your communication, particularly in light of our analysis of your side's discovery responses to our discovery. As you will recall, you produced zero documents, did not state the date upon which your documents will be made available for our inspection, asserted numerous confidentiality and privilege objections without producing the sort of privilege log which you now demand from us, you withheld the production of documents pending the execution of a "suitable protective order", you have unilaterally rewritten certain of our requests as your own, you have interposed questionable objections to each and every one of our attempts to obtain discovery. Your responses to our Requests for Admission are evasive and noncompliant with the provisions of Rule 36, and we would like to discuss that with you immediately.

With specific reference to the assertion of our General Objection concerning the 75 interrogatory limit, we have referenced and followed the TBMP rules completely and in good faith. You have misused the very concept of interrogatories, and we are happy to discuss with you exactly why. In that regard, we respectfully urge your thorough review of TBMP Section 405.03(d), which details the counting procedure and the nature of the calculation of multiple questions, broad introductory clauses and subparts in interrogatories. Following that review, and in specific response to your request that our side engage in the counting analysis, please also refer to Section 405.03(e), which discusses the burden of counting within the context of a motion to compel based upon this very same issue, which is set forth as follows: "*It is further recommended that the moving party set out its own counting method showing that the number of interrogatories does not exceed seventy-five.*" Consequently, you should, in compliance with Section 405.03, undertake your responsibility in this regard, and also consider whether the information sought by certain of these interrogatories would be more appropriately obtained through document requests.

As to your immediate requests, (1) you first asserted that you were withholding documents pending the execution of a "suitable" protective order. We will not engage in guessing as to what terms you would find suitable, you should instead forward to us what you had in mind, (2) please advise as to when your documents will be ready for copying, (3) you will need to call us to set up a time as soon as possible where the parties can address, mutually, their respective discovery concerns in compliance in detail, as clearly required by the Board, so that we can attempt to resolve our mutual concerns and move this case forward productively.

In closing, we must advise you that this communication is being sent without waiver or limitation of any of our client's rights to seek other further appropriate relief, including sanctions, the execution of the standard TTAB approved confidentiality agreement or clarification of your discovery responses, all of which rights and remedies are expressly reserved.

Best regards,

Jennifer Whitelaw
WHITELAW LEGAL GROUP
Intellectual Property and Related Causes

4/18/2007

3838 Tamiami Trail North
Third Floor
Naples, Florida 34103
239-262-1001
Facsimile: 239-261-0057
Email: j@whitelawfirm.com
Web: www.whitelawfirm.com

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From: Barbara Solomon [<mailto:BSolomon@frosszelnick.com>]
Sent: Tuesday, November 07, 2006 6:52 PM
To: Jennifer L. Whitelaw
Cc: Brenda K. Crain; Mike McGill; Kathleen Kolacz; Evan Gourvitz
Subject: RE: Tiffany (NJ), Inc., v. United Wu Enterprises, Inc., Opposition No. 91172112

Dear Ms. Whitlaw:

Reference is made to the responses and objections that you provided in response to our client's discovery requests. We will be addressing the woeful inadequacy of those responses and the fact that most, if not all, of your objections are interposed not in good faith, but to stonewall discovery. In the meantime, however, we would ask that you immediately provide to us: (a) the date on when your client will be making documents available; (b) a privilege log identifying all responsive documents that have not been produced based on your claim of privilege; and (c) the analysis you applied in asserting that our client served in excess of 75 interrogatories, including subparts.

In addition, we would note that you have refused to produce documents on the grounds that the information sought is confidential. There is not a single TTAB case that allows you to withhold relevant documents on this basis. We are prepared to review those documents on an attorneys-eyes-only basis. If you have a confidentiality order for us to review, please provide it. Otherwise, we expect that you will withdraw those objections immediately.

The above is sent without waiver of any of our client's rights or remedies including but not limited to its right to seek appropriate sanctions for your failure to act in good faith in responding to discovery.

Very truly yours,

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New York, New York, 10017
Ph: 212-813-5900
Fax: 212- 813-5901

From: Jennifer L. Whitelaw [<mailto:j@whitelawfirm.com>]

4/18/2007

Sent: Tuesday, November 07, 2006 5:22 PM
To: Barbara Solomon; Evan Gourvitz
Cc: Brenda K. Crain; Mike McGill; Kathleen Kolacz
Subject: Tiffany (NJ), Inc., v. United Wu Enterprises, Inc., Opposition No. 91172112

Please see Applicants Responses and Objections in the above, attached.

Best regards,

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EXHIBIT 9

Evan Gourvitz

From: Evan Gourvitz
Sent: Wednesday, November 08, 2006 2:31 PM
To: 'Jennifer L. Whitelaw'
Cc: Barbara Solomon
Subject: RE: Tiffany (NJ), Inc., v. United Wu Enterprises, Inc., Opposition No. 91172112

Jennifer:

To follow up on a few points from your email below:

As noted in our responses to your document requests, our client will make its document production available for your inspection and review. Since I will be out of the office from later today until November 20, please let me know what day from November 22 forward you would like to come to our office to review our client's production.

Also, please let us know when your client's own production will be available for review.

Since you have requested that we send you a draft protective order, one is attached hereto.

You also asked us to call "to set up a time as soon as possible where the parties can address, mutually, their respective discovery concerns in compliance in detail." We do not believe such a call would be productive until the parties have explained the purported deficiencies at issue to each other in detail in writing. Accordingly, please do so and we will do the same, after which we can meet and confer.

Thanks,

Evan

From: Jennifer L. Whitelaw [mailto:j@whitelawfirm.com]
Sent: Wednesday, November 08, 2006 10:19 AM
To: Barbara Solomon
Cc: Brenda K. Crain; Mike McGill; Kathleen Kolacz; Evan Gourvitz
Subject: RE: Tiffany (NJ), Inc., v. United Wu Enterprises, Inc., Opposition No. 91172112

Dear Barbara:

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Frankly, we are puzzled by the content and tone of your communication, particularly in light of our analysis of your side's discovery responses to our discovery. As you will recall, you produced zero documents, did not state the date upon which your documents will be made available for our inspection, asserted numerous confidentiality and privilege objections without producing the sort of privilege log which you now demand from us, you withheld the production of documents pending the execution of a "suitable protective order", you have unilaterally rewritten certain of our requests as your own, you have interposed questionable objections to each and every one of our attempts to obtain discovery. Your responses to our Requests for Admission are evasive and noncompliant with the provisions of Rule 36, and we would like to discuss that with you immediately.

With specific reference to the assertion of our General Objection concerning the 75 interrogatory limit, we have

11/8/2006

referenced and followed the TBMP rules completely and in good faith. You have misused the very concept of interrogatories, and we are happy to discuss with you exactly why. In that regard, we respectfully urge your thorough review of TBMP Section 405.03(d), which details the counting procedure and the nature of the calculation of multiple questions, broad introductory clauses and subparts in interrogatories. Following that review, and in specific response to your request that our side engage in the counting analysis, please also refer to Section 405.03(e), which discusses the burden of counting within the context of a motion to compel based upon this very same issue, which is set forth as follows: "*It is further recommended that the moving party set out its own counting method showing that the number of interrogatories does not exceed seventy-five.*" Consequently, you should, in compliance with Section 405.03, undertake your responsibility in this regard, and also consider whether the information sought by certain of these interrogatories would be more appropriately obtained through document requests.

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In closing, we must advise you that this communication is being sent without waiver or limitation of any of our client's rights to seek other further appropriate relief, including sanctions, the execution of the standard TTAB approved confidentiality agreement or clarification of your discovery responses, all of which rights and remedies are expressly reserved.

Best regards,

Jennifer Whitelaw
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From: Barbara Solomon [mailto:BSolomon@frosszelnick.com]
Sent: Tuesday, November 07, 2006 6:52 PM
To: Jennifer L. Whitelaw
Cc: Brenda K. Crain; Mike McGill; Kathleen Kolacz; Evan Gourvitz
Subject: RE: Tiffany (NJ), Inc., v. United Wu Enterprises, Inc., Opposition No. 91172112

Dear Ms. Whitlaw:

Reference is made to the responses and objections that you provided in response to our client's discovery requests. We will be addressing the woeful inadequacy of those responses and the fact that

11/8/2006

most, if not all, of your objections are interposed not in good faith, but to stonewall discovery. In the meantime, however, we would ask that you immediately provide to us: (a) the date on when your client will be making documents available; (b) a privilege log identifying all responsive documents that have not been produced based on your claim of privilege; and (c) the analysis you applied in asserting that our client served in excess of 75 interrogatories, including subparts.

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Very truly yours,

Barbara A. Solomon
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866 United Nations Plaza
New York, New York, 10017
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Fax: 212- 813-5901

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Sent: Tuesday, November 07, 2006 5:22 PM
To: Barbara Solomon; Evan Gourvitz
Cc: Brenda K. Crain; Mike McGill; Kathleen Kolacz
Subject: Tiffany (NJ), Inc., v. United Wu Enterprises, Inc., Opposition No. 91172112

Please see Applicants Responses and Objections in the above, attached.

Best regards,

Jennifer Whitelaw
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11/8/2006

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EXHIBIT 10

Evan Gourvitz

From: Evan Gourvitz
Sent: Monday, November 20, 2006 12:56 PM
To: 'Jennifer L. Whitelaw'
Cc: Barbara Solomon
Subject: RE: Tiffany (NJ), Inc., v. United Wu Enterprises, Inc., Opposition No. 91172112

Jennifer:

I do not believe we have heard back from you. As a reminder, please see the below.

Please let us know as soon as possible (i) when you would like to review our client's production, (ii) when your client will produce its documents, or make its production available for review, and (iii) let us know your comments, if any, on our protective order.

Thanks,

Evan

From: Evan Gourvitz
Sent: Wednesday, November 08, 2006 2:31 PM
To: 'Jennifer L. Whitelaw'
Cc: Barbara Solomon
Subject: RE: Tiffany (NJ), Inc., v. United Wu Enterprises, Inc., Opposition No. 91172112

Jennifer:

To follow up on a few points from your email below:

As noted in our responses to your document requests, our client will make its document production available for your inspection and review. Since I will be out of the office from later today until November 20, please let me know what day from November 22 forward you would like to come to our office to review our client's production.

Also, please let us know when your client's own production will be available for review.

Since you have requested that we send you a draft protective order, one is attached hereto.

You also asked us to call "to set up a time as soon as possible where the parties can address, mutually, their respective discovery concerns in compliance in detail." We do not believe such a call would be productive until the parties have explained the purported deficiencies at issue to each other in detail in writing. Accordingly, please do so and we will do the same, after which we can meet and confer.

Thanks,

Evan

From: Jennifer L. Whitelaw [mailto:j@whitelawfirm.com]
Sent: Wednesday, November 08, 2006 10:19 AM

11/20/2006

To: Barbara Solomon
Cc: Brenda K. Crain; Mike McGill; Kathleen Kolacz; Evan Gourvitz
Subject: RE: Tiffany (NJ), Inc., v. United Wu Enterprises, Inc., Opposition No. 91172112

Dear Barbara:

I am responding to your November 7, 2006 email at your request and concerning your conclusion that our side's discovery responses are "woefully inadequate". You will recall that we did propound discovery first in this case and we will initially note that you simply echo the very deficiencies you exercised in responding to our discovery. Indeed we have the similar concerns over your side's lack of good faith in responding and attempts to stonewall discovery.

Frankly, we are puzzled by the content and tone of your communication, particularly in light of our analysis of your side's discovery responses to our discovery. As you will recall, you produced zero documents, did not state the date upon which your documents will be made available for our inspection, asserted numerous confidentiality and privilege objections without producing the sort of privilege log which you now demand from us, you withheld the production of documents pending the execution of a "suitable protective order", you have unilaterally rewritten certain of our requests as your own, you have interposed questionable objections to each and every one of our attempts to obtain discovery. Your responses to our Requests for Admission are evasive and noncompliant with the provisions of Rule 36, and we would like to discuss that with you immediately.

With specific reference to the assertion of our General Objection concerning the 75 interrogatory limit, we have referenced and followed the TBMP rules completely and in good faith. You have misused the very concept of interrogatories, and we are happy to discuss with you exactly why. In that regard, we respectfully urge your thorough review of TBMP Section 405.03(d), which details the counting procedure and the nature of the calculation of multiple questions, broad introductory clauses and subparts in interrogatories. Following that review, and in specific response to your request that our side engage in the counting analysis, please also refer to Section 405.03(e), which discusses the burden of counting within the context of a motion to compel based upon this very same issue, which is set forth as follows: "*It is further recommended that the moving party set out its own counting method showing that the number of interrogatories does not exceed seventy-five.*" Consequently, you should, in compliance with Section 405.03, undertake your responsibility in this regard, and also consider whether the information sought by certain of these interrogatories would be more appropriately obtained through document requests.

As to your immediate requests, (1) you first asserted that you were withholding documents pending the execution of a "suitable" protective order. We will not engage in guessing as to what terms you would find suitable, you should instead forward to us what you had in mind, (2) please advise as to when your documents will be ready for copying, (3) you will need to call us to set up a time as soon as possible where the parties can address, mutually, their respective discovery concerns in compliance in detail, as clearly required by the Board, so that we can attempt to resolve our mutual concerns and move this case forward productively.

In closing, we must advise you that this communication is being sent without waiver or limitation of any of our client's rights to seek other further appropriate relief, including sanctions, the execution of the standard TTAB approved confidentiality agreement or clarification of your discovery responses, all of which rights and remedies are expressly reserved.

Best regards,

Jennifer Whitelaw
WHITELAW LEGAL GROUP
Intellectual Property and Related Causes
3838 Tamiami Trail North
Third Floor
Naples, Florida 34103
239-262-1001
Facsimile: 239-261-0057
Email: j@whitelawfirm.com
Web: www.whitelawfirm.com

11/20/2006

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From: Barbara Solomon [mailto:BSolomon@frosszelnick.com]
Sent: Tuesday, November 07, 2006 6:52 PM
To: Jennifer L. Whitelaw
Cc: Brenda K. Crain; Mike McGill; Kathleen Kolacz; Evan Gourvitz
Subject: RE: Tiffany (NJ), Inc., v. United Wu Enterprises, Inc., Opposition No. 91172112

Dear Ms. Whitlaw:

Reference is made to the responses and objections that you provided in response to our client's discovery requests. We will be addressing the woeful inadequacy of those responses and the fact that most, if not all, of your objections are interposed not in good faith, but to stonewall discovery. In the meantime, however, we would ask that you immediately provide to us: (a) the date on when your client will be making documents available; (b) a privilege log identifying all responsive documents that have not been produced based on your claim of privilege; and (c) the analysis you applied in asserting that our client served in excess of 75 interrogatories, including subparts.

In addition, we would note that you have refused to produce documents on the grounds that the information sought is confidential. There is not a single TTAB case that allows you to withhold relevant documents on this basis. We are prepared to review those documents on an attorneys-eyes-only basis. If you have a confidentiality order for us to review, please provide it. Otherwise, we expect that you will withdraw those objections immediately.

The above is sent without waiver of any of our client's rights or remedies including but not limited to its right to seek appropriate sanctions for your failure to act in good faith in responding to discovery.

Very truly yours,

Barbara A. Solomon
Fross Zelnick Lehrman & Zissu
866 United Nations Plaza
New York, New York, 10017
Ph: 212-813-5900
Fax: 212- 813-5901

From: Jennifer L. Whitelaw [mailto:j@whitelawfirm.com]
Sent: Tuesday, November 07, 2006 5:22 PM
To: Barbara Solomon; Evan Gourvitz
Cc: Brenda K. Crain; Mike McGill; Kathleen Kolacz
Subject: Tiffany (NJ), Inc., v. United Wu Enterprises, Inc., Opposition No. 91172112

Please see Applicants Responses and Objections in the above, attached.

Best regards,

Jennifer Whitelaw
WHITELAW LEGAL GROUP
Intellectual Property and Related Causes
3838 Tamiami Trail North
Third Floor
Naples, Florida 34103
239-262-1001
Facsimile: 239-261-0057
Email: j@whitelawfirm.com
Web: www.whitelawfirm.com

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EXHIBIT 11

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

-----X
TIFFANY (NJ) INC., :
 :
 :
 Opposer, :
 :
 -against- : Opp. No. 91160913
 :
 UNITED WOO ENTERPRISES, INC., :
 :
 :
 Applicant. :
-----X

NOTICE TO TAKE DEPOSITION

To: Jennifer Whitelaw, Esq.
Whitelaw Legal Group
3838 Tamiami Trail North, Third Floor
Naples, Florida 34103

PLEASE TAKE NOTICE that pursuant to Federal Rule of Civil Procedure 30(b)(1) and Trademark Rule of Practice 2.120(b), Opposer, Tiffany (NJ) Inc., by its counsel, shall take the deposition of Applicant by its officer, director, employee, and/or agent Wen J. Wu.

The deposition shall take place on January 10, 2007, provided that Applicant has made its document production available for Opposer's review before then, beginning at 9:30 AM and continuing until completion, at Donovan Court Reporting, Inc., 2315 Stanford Court, Suite 301, Naples, FL 34112. The deposition shall take place before a certified court reporter or other person authorized by law to transcribe the proceedings, and shall be transcribed stenographically.

You are invited to attend and cross-examine.

Dated: New York, New York
November 30, 2006

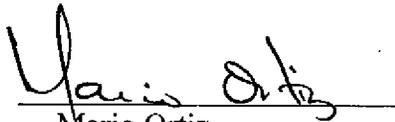
FROSS ZELNICK LEHRMAN & ZISSU, P.C.

By: 

Barbara A. Solomon
Evan Gourvitz
866 United Nations Plaza
New York, New York 10017
Tel: (212) 813-5900
Fax: (212) 813-5901
Attorneys for Opposer

CERTIFICATE OF SERVICE

The undersigned, counsel for Opposer Tiffany (NJ) Inc., hereby certifies that a true and correct copy of the attached NOTICE TO TAKE DEPOSITION was served by First Class Mail, Postage Prepaid, on counsel for Applicant, Jennifer Whitelaw, Esq., Whitelaw Legal Group, 3838 Tamiami Trail North, Third Floor, Naples, Florida 34103.



Mario Ortiz

))

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

-----X	:	
TIFFANY (NJ) INC.,	:	
	:	
Opposer,	:	
	:	
-against-	:	Opp. No. 91160913
	:	
UNITED WOO ENTERPRISES, INC.,	:	
	:	
Applicant.	:	
-----X	:	

NOTICE TO TAKE 30(B)(6) DEPOSITION

To: Jennifer Whitelaw, Esq.
Whitelaw Legal Group
3838 Tamiami Trail North, Third Floor
Naples, Florida 34103

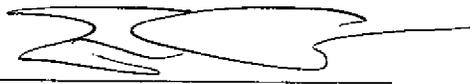
PLEASE TAKE NOTICE that pursuant to Federal Rule of Civil Procedure 30(b)(6) and Trademark Rule of Practice 2.120(b), Opposer, Tiffany (NJ) Inc., by its counsel, shall take the deposition of the designated representative(s) of Applicant on the topics set forth in Attachment A hereto.

The deposition shall take place on January 10, 2007, provided that Applicant has made its document production available for Opposer's review before then, beginning at 12:00 PM and continuing until completion, at Donovan Court Reporting, Inc., 2315 Stanford Court, Suite 301, Naples, FL 34112. The deposition shall take place before a certified court reporter or other person authorized by law to transcribe the proceedings, and shall be transcribed stenographically.

You are invited to attend and cross-examine.

Dated: New York, New York
November 30, 2006

FROSS ZELNICK LEHRMAN & ZISSU, P.C.

By: 

Barbara A. Solomon
Evan Gourvitz
866 United Nations Plaza
New York, New York 10017
Tel: (212) 813-5900
Fax: (212) 813-5901
Attorneys for Opposer

ATTACHMENT A

The following definitions apply to the subjects below:

A. The term “Applicant,” “you,” or “your” means United Woo Enterprises, Inc., and any business entity, division, parent, subsidiary, affiliate, licensee, franchisee, successor, predecessor in interest, assign, or other related business entity with which Applicant is associated and the predecessors of any of them and every employee, agent or other person acting or purporting to act on behalf of Applicant.

B. The term “Opposer” means Opposer Tiffany (NJ) Inc. and its affiliates, licensees, successors, predecessors in interest, assigns or other related business entities, and the predecessors of any of them.

C. The term “Opposer’s Mark” means, individually and collectively, any mark owned or used by Opposer that consists of or includes the term TIFFANY.

D. The term “Applicant’s Mark” means, individually and collectively, both (i) the TIFFANY DESIGNS mark set forth in U.S. Application Serial No. 78/700,677, and (ii) any other mark you have used or applied to register that consists of or includes the term TIFFANY.

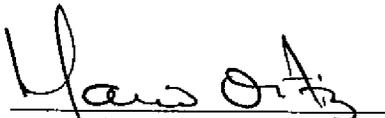
The deposition shall address the following subjects:

1. The nature and structure of your business, including without limitation the number and identities of your employees.
2. Applicant’s Mark and your use of Applicant’s Mark.
3. Your selection, adoption, and creation of Applicant’s Mark.
4. Your decision to use Applicant’s mark.

5. Your use of Applicant's Mark, including without limitation your use of Applicant's Mark on products and to advertise, market, or promote any goods or services.
6. The nature of customers for the goods described in Application Serial No. 78/700,677.
7. The channels of trade through which the goods described in Application Serial No. 78/700,677 are sold or distributed.
8. The relationship between (i) Applicant and its officers, directors, agents, owners, shareholders, and employees, on the one hand, and (ii) Wen Jong Wu, the applicant for U.S. Application Serial No. 76/541,932 for TIFFANY DESIGNS and Design, on the other hand.
9. Your knowledge of the rejection of U.S. Application Serial No. 76/541,932 for TIFFANY DESIGNS and Design by the U.S. Patent & Trademark Office.
10. The website located at tiffanydesigns.com.
11. Your knowledge of Opposer and/or Opposer's Mark.
12. Your communications with Opposer and/or any third parties concerning Applicant's Mark and/or Opposer's Mark.
13. Any confusion or dilution, or potential for confusion or dilution, arising out of the use of Applicant's Mark.
14. The facts and arguments set forth in your Answer, Affirmative Defenses, and in all of your papers (including your discovery responses and document production) in this action.
15. The facts and evidence relied upon in responding to Opposer's Notice of Opposition and all discovery served on you in this matter.

CERTIFICATE OF SERVICE

The undersigned, counsel for Opposer Tiffany (NJ) Inc., hereby certifies that a true and correct copy of the attached NOTICE TO TAKE DEPOSITION was served by First Class Mail, Postage Prepaid, on counsel for Applicant, Jennifer Whitelaw, Esq., Whitelaw Legal Group, 3838 Tamiami Trail North, Third Floor, Naples, Florida 34103.



Mario Ortiz

EXHIBIT 12

Evan Gourvitz

From: Evan Gourvitz
Sent: Wednesday, December 06, 2006 6:24 PM
To: 'Jennifer L. Whitelaw'
Cc: Barbara Solomon
Subject: RE: Tiffany (NJ), Inc., v. United Wu Enterprises, Inc., Opposition No. 91172112

Jennifer:

Just wanted to follow up on our last conversation.

Please let us know the date your client expects to produce its documents in the above matter.

Thanks,

Evan

EXHIBIT 13

Evan Gourvitz

From: Jennifer L. Whitelaw [j@whitelawfirm.com]
Sent: Friday, December 08, 2006 1:48 PM
To: Evan Gourvitz
Cc: Brenda K. Crain; Mike; Kathleen Kolacz
Subject: RE: Tiffany (NJ), Inc., v. United Wu Enterprises, Inc., Opposition No. 91172112

Dear Evan:

We are puzzled by your recent communication of December 6, 2006, in which you request a date certain for the inspection of our side's documents and things. On November 8, 2006, responding to our invitation to confer and discuss in detail the concerns of both parties over certain perceived discovery deficiencies, you flatly refused such an approach as being unproductive until the parties explained the deficiencies in writing. You and I spoke again recently and it was confirmed that you wished to proceed by having the parties resolve their discovery objections first, then to inspect documents thereafter. If you believe that is the case, we do not understand why you have not provided your details to us as discussed. To date we have not received any substantive writing from your side regarding this matter, other than this most recent unilateral attempt to separate out discussion of the document production dispute from all other aspects of disputed discovery. This latest approach is directly contrary to your previous position concerning discovery. Are you now waiving your prior position that all communications be in writing or are you suggesting that the document production and inspection not be subject to this prior demand? If so, we have some concerns that any production at this time will simply be subject to further dispute and potentially multiple rounds of inspecting.

Of equal and parallel concern to us at this time is the proposed stipulated protective order which you forwarded, which significantly deviates from the standard two tiered TTAB confidentiality agreement which seems more fitting. Please proceed within that framework, instead of what you have presently provided. We would be willing to endorse a comportsing version of that document.

Last, you noticed a deposition without first making any effort to schedule with us. The rules of the Board are that counsel should first work together to schedule these kinds of events. I am not available on the particular date that you unilaterally scheduled. Please also note that I am out of the office on vacation beginning December 18 until the end of the month.

Thank you for your anticipated prompt attention to these matters.

Best regards,

Jennifer Whitelaw
WHITELAW LEGAL GROUP
Intellectual Property and Related Causes
3838 Tamiami Trail North
Third Floor
Naples, Florida 34103
239-262-1001
Facsimile: 239-261-0057
Email: j@whitelawfirm.com
Web: www.whitelawfirm.com

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From: Evan Gourvitz [mailto:EGourvitz@frosszelnick.com]
Sent: Wednesday, December 06, 2006 6:24 PM
To: Jennifer L. Whitelaw
Cc: Barbara Solomon
Subject: RE: Tiffany (NJ), Inc., v. United Wu Enterprises, Inc., Opposition No. 91172112

Jennifer:

Just wanted to follow up on our last conversation.

Please let us know the date your client expects to produce its documents in the above matter.

Thanks,

Evan

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EXHIBIT 14

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RONALD J. LEHRMAN
DAVID WEILD III
STEPHEN BIGGER
ROGER L. ZISSU
MARIE V. DRISCOLL
RICHARD Z. LEHV
DAVID W. EHRLICH
SUSAN UPTON DOUGLASS
JANET L. HOFFMAN
PETER J. SILVERMAN
LAWRENCE ELI APOLZON
BARBARA A. SOLOMON
MARIO AIETA
MARK D. ENGELMANN
NADINE H. JACOBSON
ANDREW N. FREDBECK
CRAIG S. MENDE
J. ALLISON STRICKLAND
JOHN P. MARGIOTTA
MARIA A. SCUNGIO
LYDIA T. GOBENA
CARLOS CUCURELLA

866 UNITED NATIONS PLAZA
AT FIRST AVENUE & 48TH STREET
NEW YORK, N.Y. 10017

TELEPHONE: (212) 813-5900
FACSIMILE: (212) 813-5901
E-MAIL: fzlz@frosszelnick.com

MICHAEL I. DAVIS
SPECIAL COUNSEL

JAMES D. SILBERSTEIN
JOYCE M. FERRARO
PHILIP T. SHANNON
MICHELLE P. FOXMAN
ANGELA KIM
ROBERT A. BECKER
MICHAEL CHIAPPETTA
COUNSEL

TAMAR NIV BESSINGER
EVAN GOURVITZ
NANCY C. DICONZA
JAMES D. WEINBERGER
DAVID I. GREENBAUM
DAVID DONAHUE
MELISSA A. ANTONECCHIA
NANCY E. SABARRA
LAURA POPP-ROSENBERG
CARA A. BOYLE
JOHN M. GALLACHER
MELISSA A. MENDELSON
CHARLES T.J. WEIGELL III
ALLISON SINGH
MARILYN F. KELLY
CHRISTOPHER M. KINDEL*
CAROLINE G. BOEHM
VANESSA HWANG LUI
TODD MARTIN
DOROTHY C. ALEVIZATOS

*ADMITTED IN NORTH CAROLINA

January 9, 2007

BY EMAIL AND MAIL

Jennifer Whitelaw, Esq.
Whitelaw Legal Group
3838 Tamiami Trail North, Third Floor
Naples, Florida 34103

Re: *Tiffany v. United Wu* (Our Ref.: TFFJ USA TC-06/06294)

Dear Jennifer:

Since we did not get the chance to speak before your holiday vacation, and since I have not yet heard back from you in response to my calls of January 5 and 9, I write to follow up on some of our outstanding discovery issues in the above matter.

First, as you know, in November we scheduled depositions of Wen J. Wu and a 30(b)(6) witness for today, January 9. You refused to produce these witnesses, stating in a December 8 email that you were unavailable on that date, that you would be "out of the office on vacation beginning December 18 until the end of [December]," and that "the rules of the Board are that counsel should first work together to schedule these kinds of events."

We are unaware of any rules stating that a party must consult with opposing counsel before first noticing a deposition. (If you are aware of any, please bring them to our attention.) In any event, we have tried to reach you about scheduling but you have yet to respond to my recent messages, let alone provide any alternative dates.

While we have tried to accommodate your schedule, given your failure to advise us of any new dates, and given the rapidly approaching close of discovery, we now must schedule these two depositions for **Friday, January 26**. (Revised notices of deposition for this date are enclosed.) If this date does not work for you, seek a protective order from the Board.

Jennifer Whitelaw, Esq.

January 9, 2007

Page 2

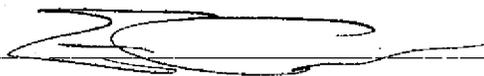
Next, after asking us to provide a protective order for your review, you objected to the order we provided, contending that it "significantly deviates from the standard two tiered TTAB confidentiality agreement which seems more fitting." We are not sure why you think that a two-tiered agreement is "more fitting," especially since the agreement we provided already limits disclosure to the parties to their "[i]n-house . . . attorneys." However, if you truly have concerns on this issue, please feel free to mark up the order we previously provided to you by no later than this **Friday, January 12** and we will consider your changes.

Finally, while our client's documents are available for your review at our offices at your convenience, you still have refused to provide us with a date for reviewing your client's documents. While, as you note, I did say that each party should articulate the deficiencies it sees in the other's written discovery responses in writing, rather than over the phone, this does not mean that either party must refrain from reviewing the other's production until these disputes are resolved, or that a party may withhold whatever responsive documents it has. Accordingly, we insist on having your client's document production (including confidential documents, which will be subject to the parties' protective order) available for our review on **Thursday, January 25**, the day before our depositions, at our offices, at your client's place of business, or at another suitable location in Fort Meyers or Naples, Florida. If you will not agree to do so by this **Friday, January 12**, we will move to compel their production.

We will contact you shortly about the deficiencies in your client's written discovery responses, which are substantial enough to merit a separate letter.

This letter is written without waiver of any of our client's rights and remedies, all of which are expressly reserved.

Very truly yours,



Evan Gourvitz

Enclosures

cc: Barbara A. Solomon, Esq.

EXHIBIT 15

Evan Gourvitz

From: Jennifer L. Whitelaw [j@whitelawfirm.com]
Sent: Wednesday, January 10, 2007 10:15 PM
To: Evan Gourvitz
Cc: Brenda K. Crain; Mike McGill
Subject: RE: Tiffany v. United Wu

I returned your call yesterday, and I returned your call earlier. It is not accurate to say we are not returning your calls. Please do not continue setting depositions without working with us to schedule dates. Are you able to do the deposition on 1/30? If so, we can proceed on that day.

I look forward to hearing from you.

Jennifer Whitelaw
WHITELAW LEGAL GROUP
Intellectual Property and Related Causes
3838 Tamiami Trail North
Third Floor
Naples, Florida 34103
239-262-1001
Facsimile: 239-261-0057
Email: j@whitelawfirm.com
Web: www.whitelawfirm.com

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From: Evan Gourvitz [mailto:EGourvitz@frosszelnick.com]
Sent: Tuesday, January 09, 2007 4:56 PM
To: Jennifer L. Whitelaw
Cc: Barbara Solomon; Zalewska, Ewa
Subject: Tiffany v. United Wu

Jennifer:

Please see the attached.

Yours sincerely,

Evan

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4/18/2007

EXHIBIT 16

Evan Gourvitz

From: Evan Gourvitz
Sent: Thursday, January 11, 2007 10:45 AM
To: 'Jennifer L. Whitelaw'
Cc: Barbara Solomon
Subject: RE: Tiffany v. United Wu

Jennifer:

You did return my first of two calls yesterday (by leaving a voice mail message) -- after I sent you my letter -- and you did return my call right before the holidays (again, by leaving a voice mail message). Unless I am mistaken, you have not promptly returned other calls in the past -- for example, my call of January 5th.

In any event, January 30 should work, provided we have the chance to review your client's document production beforehand on a convenient date. Please let us know when we can review these documents. Also, please let us know your proposed revisions to our protective order, and please let us know the date you would like to review Tiffany's documents in our offices, as soon as possible.

Will there be one deposition (if Mr. Wu is also your 30(b)(6) witness) or two?

From: Jennifer L. Whitelaw [mailto:j@whitelawfirm.com]
Sent: Wednesday, January 10, 2007 10:15 PM
To: Evan Gourvitz
Cc: Brenda K. Crain; Mike McGill
Subject: RE: Tiffany v. United Wu

I returned your call yesterday, and I returned your call earlier. It is not accurate to say we are not returning your calls. Please do not continue setting depositions without working with us to schedule dates. Are you able to do the deposition on 1/30? If so, we can proceed on that day.

I look forward to hearing from you.

Jennifer Whitelaw
WHITELAW LEGAL GROUP
Intellectual Property and Related Causes
3838 Tamiami Trail North
Third Floor
Naples, Florida 34103
239-262-1001
Facsimile: 239-261-0057
Email: j@whitelawfirm.com
Web: www.whitelawfirm.com

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From: Evan Gourvitz [mailto:EGourvitz@frosszelnick.com]

1/11/2007

Sent: Tuesday, January 09, 2007 4:56 PM

To: Jennifer L. Whitelaw

Cc: Barbara Solomon; Zalewska, Ewa

Subject: Tiffany v. United Wu

Jennifer:

Please see the attached.

Yours sincerely,

Evan

The information contained in this email message may be privileged, confidential, and protected from disclosure. Any unauthorized use, printing, copying, disclosure or dissemination of this communication may be subject to legal restriction or sanction. If you think that you have received this email message in error, please reply to the sender.

EXHIBIT 17

Evan Gourvitz

From: Evan Gourvitz
Sent: Tuesday, January 16, 2007 2:14 PM
To: 'Jennifer L. Whitelaw'
Cc: Barbara Solomon
Subject: RE: Tiffany v. United Wu

Jennifer:

Hadn't heard back from you, so I just wanted to follow up on the below.

When can we review your client's document production? Please let me know as soon as possible so I can make plans for review and the deposition.

Also, please let us know as soon as possible your changes to our proposed protective order, the date you would like to review our client's production, and whether you will produce one or two witnesses for deposition.

Thanks,

Evan

From: Evan Gourvitz
Sent: Thursday, January 11, 2007 10:45 AM
To: 'Jennifer L. Whitelaw'
Cc: Barbara Solomon
Subject: RE: Tiffany v. United Wu

Jennifer:

You did return my first of two calls yesterday (by leaving a voice mail message) -- after I sent you my letter -- and you did return my call right before the holidays (again, by leaving a voice mail message). Unless I am mistaken, you have not promptly returned other calls in the past -- for example, my call of January 5th.

In any event, January 30 should work, provided we have the chance to review your client's document production beforehand on a convenient date. Please let us know when we can review these documents. Also, please let us know your proposed revisions to our protective order, and please let us know the date you would like to review Tiffany's documents in our offices, as soon as possible.

Will there be one deposition (if Mr. Wu is also your 30(b)(6) witness) or two?

From: Jennifer L. Whitelaw [mailto:j@whitelawfirm.com]
Sent: Wednesday, January 10, 2007 10:15 PM
To: Evan Gourvitz
Cc: Brenda K. Crain; Mike McGill
Subject: RE: Tiffany v. United Wu

I returned your call yesterday, and I returned your call earlier. It is not accurate to say we are not returning your calls. Please do not continue setting depositions without working with us to schedule dates. Are you able to do the deposition on 1/30? If so, we can proceed on that day.

I look forward to hearing from you.

4/18/2007

Jennifer Whitelaw
WHITELAW LEGAL GROUP
Intellectual Property and Related Causes
3838 Tamiami Trail North
Third Floor
Naples, Florida 34103
239-262-1001
Facsimile: 239-261-0057
Email: j@whitelawfirm.com
Web: www.whitelawfirm.com

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From: Evan Gourvitz [<mailto:EGourvitz@frosszelnick.com>]
Sent: Tuesday, January 09, 2007 4:56 PM
To: Jennifer L. Whitelaw
Cc: Barbara Solomon; Zalewska, Ewa
Subject: Tiffany v. United Wu

Jennifer:

Please see the attached.

Yours sincerely,

Evan

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4/18/2007

EXHIBIT 18

Evan Gourvitz

From: Brenda K. Crain [brendacrain@whitelawfirm.com]
Sent: Tuesday, January 16, 2007 4:35 PM
To: Evan Gourvitz; Barbara Solomon
Cc: Jennifer L. Whitelaw; Mike
Subject: FW: Tiffany v. United Wu

Dear Evan,

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Thank you.

Brenda K. Crain, Paralegal
WHITELAW LEGAL GROUP
3838 Tamiami Trail North, Third Floor
Naples, Florida 34103
Telephone: 239-262-1001
Facsimile: 239-261-0057
E-mail: brendacrain@whitelawfirm.com
Internet: www.whitelawfirm.com

From: Jennifer L. Whitelaw
Sent: Tuesday, January 16, 2007 2:19 PM
To: Evan Gourvitz
Cc: Barbara Solomon; Brenda K. Crain; Mike McGill
Subject: RE: Tiffany v. United Wu

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Also, please let us know as soon as possible your changes to our proposed protective order, the date you would like to review our client's production, and whether you will produce one or two witnesses for deposition.

Thanks,

4/18/2007

Evan

From: Evan Gourvitz
Sent: Thursday, January 11, 2007 10:45 AM
To: 'Jennifer L. Whitelaw'
Cc: Barbara Solomon
Subject: RE: Tiffany v. United Wu

Jennifer:

You did return my first of two calls yesterday (by leaving a voice mail message) -- after I sent you my letter -- and you did return my call right before the holidays (again, by leaving a voice mail message). Unless I am mistaken, you have not promptly returned other calls in the past -- for example, my call of January 5th.

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Will there be one deposition (if Mr. Wu is also your 30(b)(6) witness) or two?

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Sent: Wednesday, January 10, 2007 10:15 PM
To: Evan Gourvitz
Cc: Brenda K. Crain; Mike McGill
Subject: RE: Tiffany v. United Wu

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I look forward to hearing from you.

Jennifer Whitelaw
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From: Evan Gourvitz [mailto:EGourvitz@frosszelnick.com]

4/18/2007

Sent: Tuesday, January 09, 2007 4:56 PM
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Cc: Barbara Solomon; Zalewska, Ewa
Subject: Tiffany v. United Wu

Jennifer:

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Yours sincerely,

Evan

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EXHIBIT 19

Evan Gourvitz

From: Evan Gourvitz
Sent: Tuesday, January 16, 2007 5:05 PM
To: 'Brenda K. Crain'
Cc: Jennifer L. Whitelaw; Mike; Barbara Solomon
Subject: RE: Tiffany v. United Wu

Dear Brenda:

As noted below, we said that we were willing to have the previously-noticed depositions on the 30th if we had the chance to review your client's document production beforehand on a convenient date.

Obviously, it will not be convenient for us to review your client's documents in person in Florida on the 23rd and conduct the deposition(s) in Florida on the 30th. So we can better understand the best way to deal with these documents, please let us know (i) the approximate volume of these documents (including confidential documents), and (ii) whether you will copy these documents and send them to us, or whether we will need to have a service go to your office to copy them on the 23rd.

As for our client's documents, given the expansive scope of many of your document requests, and given our client's 150 year-plus history, we have many thousands of pages of responsive documents (including several complete books, as well as catalogs, annual reports, and the like going back decades), some of which you may or may not want to copy. (This is why we said we would produce them for your review at our offices in New York.) If you want everything copied, please let us know, we will provide a rough page count, and we can discuss arrangements for copying and your payment of the associated costs. If not, please let us know when you would like to review them at our offices.

Also, as per my previous letter and email, please immediately clarify whether there will be one deposition or two, and let us know any changes you have to our draft protective order.

Thanks,

Evan

From: Brenda K. Crain [mailto:brendacrain@whitelawfirm.com]
Sent: Tuesday, January 16, 2007 4:35 PM
To: Evan Gourvitz; Barbara Solomon
Cc: Jennifer L. Whitelaw; Mike
Subject: FW: Tiffany v. United Wu

Dear Evan,

This will confirm that you have rescheduled your earlier noticed deposition in the above from 1/26 to 1/30. Documents will be made available for your review on January 23, 2007. With regard to Opposer's document production, if you will not copy those and send them to us, please let us know how many pages there are approximately, and we will arrange to have them copied.

Thank you.

Brenda K. Crain, Paralegal
WHITELAW LEGAL GROUP
3838 Tamiami Trail North, Third Floor

1/16/2007

Naples, Florida 34103
Telephone: 239-262-1001
Facsimile: 239-261-0057
E-mail: brendacrain@whitelawfirm.com
Internet: www.whitelawfirm.com

From: Jennifer L. Whitelaw
Sent: Tuesday, January 16, 2007 2:19 PM
To: Evan Gourvitz
Cc: Barbara Solomon; Brenda K. Crain; Mike McGill
Subject: RE: Tiffany v. United Wu

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To: Jennifer L. Whitelaw
Cc: Barbara Solomon
Subject: RE: Tiffany v. United Wu

Jennifer:

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When can we review your client's document production? Please let me know as soon as possible so I can make plans for review and the deposition.

Also, please let us know as soon as possible your changes to our proposed protective order, the date you would like to review our client's production, and whether you will produce one or two witnesses for deposition.

Thanks,

Evan

From: Evan Gourvitz
Sent: Thursday, January 11, 2007 10:45 AM
To: 'Jennifer L. Whitelaw'
Cc: Barbara Solomon
Subject: RE: Tiffany v. United Wu

Jennifer:

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In any event, January 30 should work, provided we have the chance to review your client's document production beforehand on a convenient date. Please let us know when we can review these documents. Also, please let us know your proposed revisions to our protective order, and please let us know the date you would like to review Tiffany's documents in our offices, as soon as possible.

Will there be one deposition (if Mr. Wu is also your 30(b)(6) witness) or two?

From: Jennifer L. Whitelaw [mailto:j@whitelawfirm.com]
Sent: Wednesday, January 10, 2007 10:15 PM
To: Evan Gourvitz
Cc: Brenda K. Crain; Mike McGill
Subject: RE: Tiffany v. United Wu

I returned your call yesterday, and I returned your call earlier. It is not accurate to say we are not returning your calls. Please do not continue setting depositions without working with us to schedule dates. Are you able to do the deposition on 1/30? If so, we can proceed on that day.

I look forward to hearing from you.

Jennifer Whitelaw
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Sent: Tuesday, January 09, 2007 4:56 PM
To: Jennifer L. Whitelaw
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Subject: Tiffany v. United Wu

Jennifer:

Please see the attached.

Yours sincerely,

Evan

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EXHIBIT 20

Evan Gourvitz

From: Evan Gourvitz
Sent: Wednesday, January 17, 2007 2:34 PM
To: 'Jennifer L. Whitelaw'
Cc: Barbara Solomon
Subject: RE: Tiffany v. United Wu

Jennifer:

Our rough page count is 10,000-12,000 pages.

Please let us know whether you would like to arrange copying in New York, and, if so, how you would like to take care of the arrangements and the cost.

Also, as repeatedly requested, please provide us with (i) the approximate volume of your documents (including confidential documents), (ii) whether you will copy these documents and send them to us by the 23rd, or whether we will need to have a service go to your office to copy them on the 23rd (or earlier), (iii) whether there will be one deposition or two, and (iv) any changes you have to our draft protective order.

Thanks,

Evan

From: Evan Gourvitz
Sent: Tuesday, January 16, 2007 5:47 PM
To: 'Jennifer L. Whitelaw'
Cc: Barbara Solomon
Subject: RE: Tiffany v. United Wu

We will do a rough count by tomorrow. We then can discuss whether you want to bear the expense of copying and shipping them or would prefer to visit our office and select a subset of the documents for copying.

You already may have an answer to my questions below, in which case you can answer us now.

If not, will you assure me that you will do a count and answer my questions by tomorrow? Please let me know.

Thanks,

Evan

From: Jennifer L. Whitelaw [mailto:j@whitelawfirm.com]
Sent: Tuesday, January 16, 2007 5:38 PM
To: Evan Gourvitz
Cc: Barbara Solomon; Brenda K. Crain; Mike McGill
Subject: RE: Tiffany v. United Wu

Yes, that is the same question we asked you. Please advise too.

Jennifer

From: Evan Gourvitz [mailto:EGourvitz@frosszelnick.com]
Sent: Tuesday, January 16, 2007 5:36 PM
To: Jennifer L. Whitelaw
Cc: Barbara Solomon
Subject: RE: Tiffany v. United Wu

Jennifer:

Please answer my questions below about (i) the approximate volume of these documents (including confidential documents), and (ii) whether you will copy these documents and send them to us, or whether we will need to have a service go to your office to copy them on the 23rd.

Thanks,

Evan

From: Jennifer L. Whitelaw [mailto:j@whitelawfirm.com]
Sent: Tuesday, January 16, 2007 5:28 PM
To: Evan Gourvitz; Brenda K. Crain
Cc: Mike McGill; Barbara Solomon
Subject: RE: Tiffany v. United Wu

Evan,

What day would you like to review the docs?

Jennifer

From: Evan Gourvitz [mailto:EGourvitz@frosszelnick.com]
Sent: Tuesday, January 16, 2007 5:05 PM
To: Brenda K. Crain
Cc: Jennifer L. Whitelaw; Mike McGill; Barbara Solomon
Subject: RE: Tiffany v. United Wu

Dear Brenda:

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Cc: Jennifer L. Whitelaw; Mike
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From: Evan Gourvitz
Sent: Thursday, January 11, 2007 10:45 AM
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Cc: Barbara Solomon
Subject: RE: Tiffany v. United Wu

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EXHIBIT 21

FROSS ZELNICK LEHRMAN & ZISSU, P.C.

866 UNITED NATIONS PLAZA
AT FIRST AVENUE & 48TH STREET
NEW YORK, N. Y. 10017

TELEPHONE: (212) 813-5900
FACSIMILE: (212) 813-5901
E-MAIL: fziz@frosszelnick.com

MICHAEL I. DAVIS
SPECIAL COUNSEL

JAMES D. SILBERSTEIN
JOYCE M. FERRARO
PHILIP T. SHANROW
MICHELLE P. FOXMAN
ANGELA KIM
ROBERT A. BECKER
MICHAEL CHIAPPETTA
EVAN DOURVITZ
TAMAR NIV BESSINGER
COUNSEL

HANCOY C. DIGONZA
DAVID J. GREENBAUM
HANCOY E. SABARRA
LAURA POPP-ROSENBERG
CARA A. BOYLE
JOHN M. GALLACHER
MELISSA A. MENDELSONN
CHARLES T. J. WEIGELL III
MARILYN F. KELLY
CHRISTOPHER M. KINDEL
CAROLINE G. BOEMM
VANESSA HWANG LUI
DOROTHY C. ALEVIZATOS
TODD MARTIN

January 18, 2007

BY FAX AND EMAIL

Jennifer Whitelaw, Esq.
Whitelaw Legal Group
3838 Tamiami Trail North, Third Floor
Naples, Florida 34103

Re: *Tiffany v. United Wu* (Our Ref.: TFFJ USA TC-06/06294)

Dear Jennifer:

I write regarding significant deficiencies in United Wu's responses to our client's discovery requests in the above matter. This letter is being written in accordance with Fed. R. Civ. P. 37(a)(2)(B) in an attempt to confer with you to secure the discovery we have requested without court action.

Given our upcoming deposition and the close of discovery, we must insist that United Wu inform us no later than **January 22** whether it will remedy these deficiencies by **January 26**. If your client will not remedy its deficiencies by that date, Tiffany will move to compel your client's responses and to preclude it from introducing or using any responsive evidence or documents not provided forthwith.

To ensure that there is no uncertainty as to what we are seeking, we describe your client's deficiencies request-by-request below.

Interrogatories:

You have not provided us with answers to our interrogatories, instead claiming that our client has "exceeded the seventy-five (75) interrogatory limit, including subparts, as provided by TBMP Section 405.03(a)." This response is unwarranted.

Trademark Rule § 2.120(d)(1) states that “[t]he total number of written interrogatories which a party can serve on another party” normally “shall not exceed seventy-five, counting subparts.” In determining whether the number of interrogatories served by a party exceeds the limit, the Board counts each subpart separately. *See* TBMP § 405.03(d). However, instructions are not counted as additional interrogatories, and “[i]f an interrogatory requests ‘all relevant facts and circumstances’ concerning a single issue, event, or matter; or asks that a particular piece of information . . . be given for multiple years . . . it will be counted as a single interrogatory.” *Id.*

You never responded to Barbara Solomon’s November 7, 2006 request that you set forth your count of subparts – instead insisting in your November 8, 2006 email that we provide our own count. In the interest of resolving this matter, we have attached hereto as Exhibit 1 a copy of our enumeration of possible subparts. As per TBMP § 405.03, and interpreting subparts as broadly as possible, we see our thirty-four interrogatories as consisting of *at most* forty-eight subparts, and do not see how you reasonably and in good faith could have considered them to have exceeded seventy-five. Accordingly, please (i) provide us with the count you used to determine that there were no more than seventy-five interrogatories by **January 22**, and (ii) answer our client’s interrogatories in full by no later than **January 26**, or we will move to compel your client’s responses, for a default judgment, or (at the very least) to have your client barred from relying on any evidence responsive to these interrogatories for the remainder of this action.

Requests for Admission:

Your client failed to answer many of our client’s requests for admission in good faith. Instead, as noted in detail below, it repeatedly dodged our requests, objected to “form” without specifying the nature of the objections at issue, and feigned confusion over clearly-understandable and commonly-used terms, including “famous” and “named.” Again, these responses are inappropriate.

Fed. R. Civ. P. 36(a) requires that a denial of a request for admission “fairly meet the substance of the requested admission, and when good faith requires that a party qualify an answer or deny only a part of the matter of which an admission is requested, the party shall specify so much of it as is true and qualify or deny the remainder.” Tiffany’s instructions similarly stated that “[i]f you cannot answer any of the following requests after exercising due diligence to secure the information, state an answer to the extent possible, specifying your inability to answer the remainder and stating whatever information or knowledge you have concerning the unanswered portions.”

Accordingly, if your client will not agree by **January 22** to supplement the answers objected to below by **January 26** we will move to compel your client to serve proper amended answers, or to simply have the requests at issue deemed admitted.

Requests 1-3:

1. Admit that Tiffany and Company is a famous retailer of jewelry.

Jennifer Whitelaw, Esq.

January 18, 2007

Page 3

2. Admit that Tiffany and Company is a famous retailer of bridal and engagement gifts.
3. Admit that Tiffany and Company is a famous retailer of engagement rings.

In response to these Requests, you stated: "Subject to applicant's response to Opposer's Request for Admission 4, Applicant denies this request."

Your qualification does not clearly articulate any objections or qualifications you intended to assert. Please clarify whether your client admits or denies these requests, and if you have any legitimate, good-faith qualifications please include them in your responses.

Requests 4-6:

4. Admit that Opposer's TIFFANY mark is famous for jewelry.
5. Admit that Opposer's TIFFANY mark is famous for bridal and engagement gifts.
6. Admit that Opposer's TIFFANY mark is famous for engagement rings.

In response to our Request 4, you objected to the form, objected to the request as "vague and ambiguous" to the extent it used the term "famous," and objected to the request as "incapable of admission" because it "fails to identify a singular mark or registration as the target of the request." However, you said that if Opposer were to identify a "singular mark" rather than "an entire trademark portfolio," and to confirm whether "fame" was meant to refer to "current trademark law standards pertaining to famous marks," you "would be happy to respond to such a request." In response to our Request 5 and 6, you simply said "[s]ee Applicant's response to Opposer's Request for Admission 4."

These responses are inappropriate. While you object to "form," you fail to detail what about the form of these requests is objectionable. While you object to the use of the word "famous," as "vague and ambiguous," the words "fame" and "famous" have well-established meanings in both the Lanham Act and trademark case law (for example, in the context of the strength and acquired distinctiveness of a mark, and whether a mark qualifies for protection against dilution). Finally, while you claim that the Request is "incapable of admission" because it fails to identify a single mark or registration, the Request is clear as phrased: the single mark is the TIFFANY word mark.

Accordingly, your client is required to admit or deny that our client's TIFFANY mark is famous for the goods set forth in Requests 4-6.

Request 9:

9. Admit that the individual Wen Jong Wu is associated with Applicant.

You objected to this Request as using the vague and undefined term “associated with” when speaking of an individual and a corporation.” While the meaning of this phrase should be self-evident, to clarify, and to aid your client in responding, please replace the phrase “associated with” with the phrase “an owner, shareholder, officer, director, employee, or agent of,” and have your client admit or deny the Request.

Request 13:

13. Admit that Applicant applied for Application Serial No. 76/541,932 for TIFFANY DESIGNS and Design before filing the application at issue in this Opposition, Application Serial No. 78/700,677 (the “Application”).

In response to this Request your client said that the “referenced public records speaks [sic] for themselves,” and “deni[ed] the remainder of the request.”

Your statement is inappropriate. The answer to a request for admission should not be a reference to other documents, but should simply admit or deny the request or “state in detail the reasons why the responding party cannot truthfully admit or deny the matter.” TBMP § 407.03(b); *see also* Fed. R. Civ. P. 36. Your client must admit or deny this request.

Request 14:

14. Admit that an entity associated or affiliated with Applicant applied for Application Serial No. 76/541,932 for TIFFANY DESIGNS and Design before filing the Application.

In response to this Request, your client objected to form and again said that the “referenced public records speaks [sic] for themselves.”

Your objection to form does not explain what, if anything, about the Request is objectionable. As noted above, your statement that the records “speak for themselves” also is inappropriate. Accordingly, your client must admit or deny this Request.

Request 15:

15. Admit that Exhibit A hereto, the specimen for Application Serial No. 76/541,932 for TIFFANY DESIGNS and Design, depicted the term TIFFANY DESIGNS in the same font and with one of the same flower designs as the specimen Applicant provided for the Application, a copy of which is attached hereto as Exhibit B.

In response to this Request, your client again stated that the “referenced public records speaks [sic] for themselves.”

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Again, for the reasons noted above, your statement is inappropriate for a response for a request for admission. Your client must admit or deny this Request.

Requests 17-18:

17. Admit that Applicant was aware of the U.S. Patent & Trademark Office's rejection of Application Serial No. 76/541,932 for TIFFANY DESIGNS and Design before filing the Application.
18. Admit that Applicant was aware of the U.S. Patent & Trademark Office's basis for the rejection of Application Serial No. 76/541,932 for TIFFANY DESIGNS and Design before filing the Application.

In response to these Requests your client objected to form, including use of the term "rejection," said that the application was not rejected but abandoned, and did not properly respond.

Your objection is inappropriate. The application was "rejected" in an Office Action of February 28, 2004, when the PTO refused registration of the applied-for mark. (The fact that the application subsequently was abandoned is not relevant to these Requests.) Now that this matter has been clarified, please have your client admit or deny the Requests.

Request 19:

19. Admit that Applicant swore in the Application that "to the best of [its] knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive."

For the reasons noted above for Requests 13-15, your response to this Request is inappropriate. Please have your client admit or deny the request.

Requests 21-22:

21. Admit that Applicant acquired rights in Applicant's Mark from a third party.
22. Admit that Applicant acquired rights in Applicant's Mark from Wen Jong Wu.

In response to these requests you stated that your client was reviewing information in an effort to respond to this request" but was "presently without knowledge sufficient to enable Applicant to admit or deny this request." While these responses defy belief, we presume that

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your client now has had sufficient time to investigate the issue. Please have it admit or deny both of these Requests.

Request 23:

23. Admit that Applicant did not itself use Applicant's Mark as early as 1995.

In response to this request you objected to form (again without specifying the problem with the form of the request), and stated that "the request is further capable of several opposing interpretations and is therefore further objectionable."

While it is not clear what interpretations you thought might be meant by this Request, it simply asked your client to admit or deny that the Applicant in this action, the corporate entity United Wu Enterprises, Inc. did not use Applicant's Mark in 1995, or at any time earlier than 1995. Given this clarification, please have your client admit or deny the request.

Requests 31-32:

31. Admit that Applicant is not named "Tiffany."

32. Admit that no owner of Applicant is known by the name "Tiffany."

In response to these Requests your client objected to form, objected to "the use of the term 'named,'" admitted that Applicant's "corporate name is correctly set forth in the caption of this proceeding," but then "denie[d] the remainder of [each] request."

These responses are inappropriate. First, you do not give any reason for your client's objections to form and the use of the term "named." Second, after admitting that your client's corporate name is United Wu Enterprises, Inc., you deny "the remainder of" each Request, although it is not clear what, if anything, you are denying. Third, your response to Request 32, which asked your client to admit that none of its owners are known by the name Tiffany, is nonsensical. Accordingly, please give proper answers to each of these requests.

Request 33:

33. Admit that Applicant's Mark incorporates in its entirety without any difference in spelling Opposer's mark TIFFANY.

In response to this Request your client objected to form, asserted that the request is not a complete sentence and "does not make sense," and objected based on your general objection to the definition of "Opposer's Mark."

None of these objections are well-founded. Again, you do not specify any objection to form. Your objections that the request is not a complete sentence and "does not make sense" are

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baffling – the request simply asks that your client admit that Applicant's Mark incorporates Opposer's mark TIFFANY without any difference in spelling (e.g., TIFFANI). Finally, your objection based on the definition of "Opposer's Mark" is misplaced. This request for admission does not ask about "Opposer's Mark" – a defined term – but rather about "Opposer's mark TIFFANY" – that is, Opposer's word mark TIFFANY.

Given this clarification, please have your client admit or deny the request.

Request 37:

37. Admit that Applicant does not claim exclusive rights to the word "Designs" as used in Applicant's Mark.

For the reasons noted above for Requests 13-15, your response to this Request is inappropriate. Please have your client admit or deny the request.

Requests 39-40:

39. Admit that the goods and services identified in your application for Applicant's Mark could include wedding dresses.

40. Admit that the goods and services identified in your application for Applicant's Mark could include formal wear worn at weddings.

For the reasons noted above for Requests 13-15, your response to these Requests are inappropriate.

You further object to these Requests by claiming that they are "capable of several interpretations, at least one of which would warrant a denial." This objection is simply specious, especially since you do not provide any of these possible interpretations. Please have your client admit or deny the Requests.

Requests 44-45:

44. Admit that your stores sell jewelry.

45. Admit that your stores could sell jewelry in the future.

In response to these Requests you objected to form, and requested "that Opposer identify which 'stores' it is referencing."

Again, your client has not specified what problem it has with the form of these requests. As for the stores Opposer is referencing, they are the retailers that sell your client's products, as

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set forth at, e.g., the Internet address <tiffanydesigns.com/locatornew.asp>. Please have your client admit or deny these Requests.

Request 46:

46. Admit that the website at tiffanydesigns.com depicts models wearing both the goods set forth in your Application and jewelry.

In response to this Request you objected to form and to the lack of a time frame. You then claimed that because the website at issue changes from time to time, you could not answer the request without being provided with photographs from the tiffanydesigns.com website to use for reference.

This response is disingenuous and non-responsive. If your client's website at tiffanydesigns.com depicts or has depicted images of models wearing both the goods set forth in your Application and jewelry you must admit this fact. If you feel a need to qualify your response as to time, do so as appropriate.

Request 47:

47. Admit that your marketing materials show people in dresses and gowns wearing jewelry.

In response to this Request you admitted that "probably" there are "people in dresses and gowns," "some of whom wear jewelry and some of whom do not," but asked to be directed to the marketing materials in question "before answering this request further."

Your response is again disingenuous and non-responsive. Either admit or deny that whatever marketing materials your client may have show people in dresses and gowns wearing jewelry.

Request 48:

48. Admit that you sell goods intended for weddings in connection with Applicant's Mark.

In response to this Request you stated that your client "does not consider that it sells goods with reference to an 'intention' and therefore objects to the form of this request." You then admitted that your client's goods "may be purchased by consumers who intend to wear the goods to many different kinds of occasions, including to a wedding."

Again, this response is disingenuous and non-responsive, especially since the concept of goods "intended" for a particular use is not unique or unusual, and especially since there appear

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to be several "Flower Girls" lines of clothing on your client's website. Please have your client admit or deny the request as written.

Request 49:

49. Admit that Applicant's and Opposer's respective goods are sold through retail stores.

In response to this Request you objected to form on the basis that "Opposer has not identified what it means by 'Opposer's respective goods,'" and admitted that Applicant's goods "may be" sold in retail stores.

Again, this answer is disingenuous and non-responsive. As you know, when we asked about "Applicant's and Opposer's respective goods" we were referring to (i) Applicant's goods, on the one hand, and (ii) Opposer's goods, on the other hand. Please admit or deny that both parties' goods *are* sold in retail stores – not that they "may be" sold in such stores.

Request 51:

51. Admit that Applicant has no evidence that its consumers do not overlap with consumers of Opposer's products sold in connection with the TIFFANY mark.

In response to this Request you objected on the basis of form without detailing your objection. Please admit or deny the request, which, as you know, deals with whether you have evidence that the parties' customers for the goods they sell in connection with the TIFFANY mark overlap.

Request 52:

52. Admit that you are aware of companies that sell both clothing and jewelry under the same mark.

In response to this Request you stated that "Applicant cannot at the moment bring to mind an example," but that "if Applicant continued to consider the request or conduct research into the matter, [it] may well be able to either recall or locate examples."

Since this was a written request that your client had more than a month to answer, we do not understand the comment that it "cannot at the moment bring to mind an example." Now that it has had ample time to consider the matter, however, and given your client's obligation to investigate, please either admit or deny the request.

Requests for Production of Documents:

Until we review your documents, which we expect to do shortly, we will be unable to state whether your document production is deficient. However, several of your responses do not reflect a good faith effort to answer our client's reasonable document requests.

Accordingly, if your client does not agree by **January 22** to supplement the answers noted below and provide responsive documents in its possession, custody or control with the remainder of its production on January 23, or in any event by **January 26**, we will move the Board to compel your client to produce all such responsive documents, and to preclude your client from relying at trial on any documents not subsequently produced.

Requests 4-6, 40-41:

4. All documents concerning your creation and adoption of Applicant's Mark.
5. All documents concerning your reasons for adopting Applicant's Mark.
6. All documents reviewed or considered by you in creating or developing Applicant's Mark.
40. All documents concerning how and when Applicant first became aware of Opposer.
41. All documents concerning how and when Applicant first became aware of Opposer's Mark.

In response to our Requests 4-6, you stated "None known to Applicant at this time." In response to our requests 40-41 you stated "None known."

These responses seem extremely unlikely. If your client now has documents responsive to any or all of these requests it must inform us of this fact and produce them.

Requests 7-9:

7. Documents sufficient to identify all persons who created or developed Applicant's Mark.
8. Documents sufficient to identify all persons who decided that Applicant would adopt Applicant's Mark.
9. Documents sufficient to identify all persons who determined where and in connection with what goods or services Applicant's Mark is and has been used.

In response to these Requests, your client said that each request was "ambiguous," and that if the request sought documents identifying the given person at issue it was a "disguised interrogatory" and was objectionable as such. You did not agree to produce documents responsive to any of these requests.

These responses are evasive and disingenuous. Our Requests, which are simple, straightforward, and common in oppositions, are for documents highly relevant to this action. Since they seek documents rather than written answers, we also do not see how any of them are "disguised interrogatories." Accordingly, if your client has documents responsive to these requests it must produce them.

Request 10:

10. Documents sufficient to identify any owner, employee, shareholder, or principal of Applicant who personally uses or is known by the name Tiffany.

In response to this Request your client again said that the request was "ambiguous," and that if the request sought documents identifying the given person it was a "disguised interrogatory" and was objectionable as such. You did not agree to produce documents responsive to any of these requests.

For the reasons set forth concerning Requests 7-9 above, your objections are without merit. If your client has documents responsive to these requests it must produce them.

Request 12:

12. Documents sufficient to show the commercial impression made by Applicant's Mark.

Your client objected to this Request as burdensome and overbroad, and as ambiguous since "commercial impression generally occurs in the minds of others encountering a mark." You did not agree to produce documents responsive to this request.

Again, this response is evasive and disingenuous. The Request is not overbroad or burdensome, since it seeks only documents *sufficient* to show the commercial impression of your client's mark. Moreover, the commercial impression of a mark is a standard subject of inquiry in an opposition, and is something a merchant reasonably should be expected to know. Accordingly, if your client has documents responsive to this request it must produce them.

Request 13:

13. Documents sufficient to show any other words, marks, symbols, house marks, or designs Applicant uses, has used, or intends to use together with the word TIFFANY.

In response to this Request your client objected on the ground of confidentiality to the extent it seeks information about your client's intentions, and said that it otherwise had no documents "known to be responsive."

Confidentiality is not a proper ground for refusing to produce documents, since they may be produced in accordance with a proper protective order, and (as you know) we are trying to finalize such an order for this opposition. Accordingly, please let us know if your client has any responsive documents, including any documents not discovered at the time of your last review. If so, it must produce them.

Request 16, 32, 37:

16. Documents sufficient to show the wholesale and retail prices of each product or service sold or provided by or on behalf of Applicant in connection with the Applicant's Mark.
32. For each product and service in connection with which Applicant's Mark has been used, documents sufficient to show Applicant's total actual sales on an annual basis (in terms of both dollars and units sold) since Applicant's date of first use of the mark.
37. Documents sufficient to show the amount of money spent by Applicant (and any other party Applicant authorized to use the mark) for advertising and promotion of goods or services bearing Applicant's Mark on an annual basis for each month and year since the date of first use.

In response to these Requests your client objected solely on the ground of confidentiality.

Again, to the extent documents responsive to these Requests are confidential, they can be produced upon entry of a proper protective order. Accordingly, please let us know if your client has any responsive documents. If so, it must produce them.

Request 31:

31. Documents sufficient to describe the individuals or classes of consumers (e.g., demographic data) to whom goods offered under Applicant's Mark are or have been marketed and sold, or to whom you plan to market and sell goods offered under Applicant's Mark.

In response to this Request your client objected on the ground of confidentiality but stated that it would make available "representative and non-privileged documents which are reasonably responsive thereto."

Again, to the extent documents responsive to this Request are confidential, they can be produced upon entry of a proper protective order. Accordingly, please let us know if your client has any responsive documents, and, if so, produce them.

Request 33:

33. Documents sufficient to show all advertisements and promotional materials for goods and services sold or provided by or on behalf of Applicant in connection with Applicant's Mark (e.g., brochures, catalogs, television commercials, newspaper articles or magazine advertisements), and how the mark is or was used in each (e.g., as part of a logo, as part of a slogan, in conjunction with a house mark, etc.).

In response to this Request your client objected on the grounds of burdensomeness and overbreadth. You did not agree to produce documents responsive to this request.

Your objection is unfounded, as our client's request is limited to documents *sufficient* to show the requested information, and your client's advertising and use of its purported mark is highly relevant to the issues in this opposition proceeding. Accordingly, please produce any responsive documents.

Request 38:

38. Documents sufficient to identify all officers, directors, employees, and shareholders of Applicant.

In response to this Request your client objected on the ground of confidentiality but stated that it would make available "representative and non-privileged documents which are reasonably responsive thereto."

Again, to the extent documents responsive to this Request are confidential, they can be produced upon entry of a proper protective order. Accordingly, please produce documents sufficient to respond to this request, regardless of whether those documents are confidential.

Request 39:

39. Documents sufficient to show the relationship between (i) United Woo Enterprises, Inc., the applicant in this action, and its owners or shareholders, on the one hand, and (ii) Wen Jong Wu, the applicant for U.S. Application Serial No. 76/541,932 for TIFFANY DESIGNS and Design, on the other hand.

In response to this Request your client said that this request was "vague, ambiguous, and capable of more than one interpretation." You did not agree to produce documents responsive to these requests.

To clarify, this request seeks documents about whether Wen Jong Wu is or was an owner, shareholder, officer, director, employee, or agent of Applicant, and the details of his business relationship with Applicant. Please produce all documents responsive to this request.

Request 45:

45. All documents or communications, including all emails, concerning Opposer.

In response to this Request your client objected to the request as “vague, ambiguous, overly broad and unduly burdensome.” You did not agree to produce documents responsive to this request.

This response is again disingenuous and evasive. You have not detailed what, if anything, about the Request is vague or ambiguous and, given the obvious relevance of any responsive documents your client may have (*e.g.*, to show knowledge of Opposer or its marks), and the presumably limited universe of such documents, a request for these documents is neither overbroad nor unduly burdensome. Accordingly, please produce all documents responsive to this request.

Request 46:

46. All documents relied on or referred to in connection with your denial of paragraph 10 of the Complaint.

You objected to this Request as burdensome and overbroad, and as seeking confidential and privileged documents. You did not agree to produce documents responsive to this request.

Assuming your denial to this paragraph of the Notice of Opposition was truthful, we see no basis other than privilege for refusing to produce documents responsive to this Request. Accordingly, please produce all non-privileged documents responsive to this request.

Request 47-49:

47. All documents that support or contravene your denial of paragraph 10 of the Complaint.
48. All documents relied on or referred to in connection with your denial of paragraph 14 of the Complaint.
49. All documents that support or contravene your denial of paragraph 14 of the Complaint.

Your client objected to the form of these Requests as referring to a “Complaint” (rather than a Notice of Opposition), and objected to Request 47 and 49 as seeking “all” such documents

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when your client had not yet completed discovery. In response to Request 48, you also stated that no responsive documents "are known."

As your response to Request 48 shows you are aware, each of these Requests referred to the Notice of Opposition, which, along with Petitions to Cancel, sometimes are referred to as "Complaints." (*See, e.g.*, TBMP § 309.02-03.) Given this clarification, please produce all documents responsive to these requests of which you are aware at this point of the action.

As a reminder, when your client produces documents it should detail which documents are responsive to which requests, or produce the documents in the manner in which they are kept in the regular course of business, as required by Fed. R. Civ. P. 34(b).

Our client reserves its right to raise further deficiencies, and specifically reserves its rights with respect to documents not yet specifically identified or produced. We look forward to hearing from you regarding the above by no later than **January 22**.

Very truly yours,



Evan Gourvitz

cc: Barbara A. Solomon, Esq.
Richard Z. Lehv, Esq.

EXHIBIT 1

answer, to the extent possible, specifying your inability to answer the remainder and stating whatever information or knowledge you have concerning the unanswered portions.

K. To the extent that any of the following interrogatories may call for information subject to a claim of privilege or attorney work product, answer so much of each interrogatory and each part thereof as does not request privileged or confidential information. With respect to those portions of these interrogatories that request information that you believe is subject to a claim of privilege, set forth the basis for your claim of privilege or any other objection you may have.

L. For the convenience of the Board and the parties, each interrogatory should be quoted in full immediately preceding the response.

M. These discovery requests are intended to be continuing. If, at any time after you prepare and furnish the requested discovery, you ascertain or acquire additional information, you are requested to produce such supplemental information to Opposer within thirty (30) days.

INTERROGATORIES

Interrogatory No. 1:

Describe in detail the nature of the business currently conducted by Applicant, including the product or service lines sold or provided by Applicant in connection with Applicant's Mark.

Interrogatory No. 2:

Describe in detail the process by which you developed Applicant's Mark for use, including in the description (i) an identification of all individuals involved in the development and (ii) a description of the reason(s) that Applicant's Mark was chosen.

Interrogatory No. 3:

⑥ Identify with specificity each version or variation of any mark that consists of or includes the term TIFFANY that you use or intend to use in connection with your goods and services.

Interrogatory No. 4:

⑦ For each product or service in connection with which Applicant has used or authorized use of Applicant's Mark, or plans to do so, identify ten representative outlets where such products or services are available for sale, or are to be available for sale.

Interrogatory No. 5:

⑧ Describe all channels of trade through which Applicant's goods bearing Applicant's Mark are distributed, sold or provided.

Interrogatory No. 6:

⑨ Set forth the wholesale and retail prices of each product sold or provided by Applicant under Applicant's Mark.

Interrogatory No. 7:

⑩ Describe with specificity the individuals or specific classes of consumers (e.g., demographic data) to whom goods offered under Applicant's Mark are marketed and sold, or to whom you plan to market and sell goods and services offered under Applicant's Mark.

Interrogatory No. 8:

⑫ For each product in connection with which Applicant's Mark has been used, state Applicant's total actual sales on an annual basis (in terms of both dollars and units sold) since Applicant's date of first use of the mark.

Interrogatory No. 9:

For each year in which goods have been sold by Applicant in connection with Applicant's Mark:

- (a) ⑬ describe separately (i.e., year-by-year) the nature of advertisements and promotional materials for goods and services sold or provided under each such mark (e.g., brochures, catalogs, the Internet, television commercials, newspaper articles or magazine advertisements), and how the mark is or was used in each (e.g., as part of a logo, as part of a slogan, in conjunction with a house mark, etc.);
- (b) ⑭ identify the specific medium (e.g., *Time* magazine, CBS Network TV, *The New York Times*) in which such advertisements and promotional materials appeared; and
- (c) ⑮ list all events or trade shows at which Applicant or any authorized users of the mark have advertised, promoted or provided goods or services under the mark.

Interrogatory No. 10:

⑯ State the amount of money spent by Applicant (and any other party Applicant authorized to use the mark) for advertising and promotion of goods bearing Applicant's Mark, on an annual basis for each year since the date of first use.

Interrogatory No. 11:

⑰ Identify all persons or other entities with a 5% or greater ownership interest in United Woo Enterprises, Inc.

Interrogatory No. 12:

⑱ Describe fully the relationship between (i) United Woo Enterprises, Inc., the applicant in this action, and its owners or shareholders, on the one hand, and (ii) Wen Jong Wu, the applicant

for U.S. Application Serial No. 76/541,932 for TIFFANY DESIGNS and Design, on the other hand.

Interrogatory No. 13:

Describe how and when (i) ⁽²⁰⁾ Applicant, and (ii) ⁽²¹⁾ all persons or other entities set forth in your answer to Interrogatory No. 11, first became aware of Opposer's Mark.

Interrogatory No. 14:

⁽²²⁾ State whether Applicant has ever learned of, witnessed, or obtained any knowledge or information regarding any actual confusion on the part of any person as to the source, sponsorship, affiliation or approval of Applicant's or Opposer's goods or services arising out of the use of Applicant's Mark, and ⁽²³⁾ describe each such instance (including the date, location, and all pertinent witnesses and documents).

Interrogatory No. 15:

⁽²⁴⁾ State whether Applicant has ever learned of, witnessed, or obtained any knowledge or information regarding any dilution of Opposer's Mark arising out of the use of Applicant's Mark, and ⁽²⁵⁾ describe each such instance (including the date, location, and all pertinent witnesses and documents).

Interrogatory No. 16:

⁽²⁶⁾ Has Applicant conducted or does it plan to conduct or cause to be conducted any Market Research or trademark searches regarding Opposer's Mark and/or Applicant's Mark? ⁽²⁷⁾ If so, identify all such Market Research or trademark searches.

Interrogatory No. 17:

⁽²⁸⁾ Describe in detail all facts and evidence which serve as the basis for the statement in your First Affirmative Defense that "Applicant's mark is not confusingly similar to Opposer's mark

with respect to the goods or services as set forth in the application, nor does use and/or registration of Applicant's Mark create a likelihood of confusion in the marketplace."

Interrogatory No. 18:

29 Describe in detail all facts and evidence which serve as the basis for the statement in your Second Affirmative Defense that "[t]he Notice of Opposition fails to state a claim upon which relief can be granted."

Interrogatory No. 19:

30 Describe in detail all facts and evidence which serve as the basis for the statement in your Third Affirmative Defense that "Opposer's assertion of rights against Applicant is barred, in whole or in part, by the doctrine of laches."

Interrogatory No. 20:

31 Describe in detail all facts and evidence which serve as the basis for the statement in your Fourth Affirmative Defense that "Opposer's assertion of rights against Applicant is barred, in whole or in part, by the doctrine of acquiescence."

Interrogatory No. 21:

32 Describe in detail all facts and evidence which serve as the basis for the statement in your Fifth Affirmative Defense that "Opposer's assertion of rights against Applicant is barred, in whole or in part, by the doctrine of waiver."

Interrogatory No. 22:

33 Describe in detail all facts and evidence which serve as the basis for the statement in your Sixth Affirmative Defense that "Opposer's assertion of rights against Applicant is barred, in whole or in part, by the doctrine of estoppel."

Interrogatory No. 23:

34 To the extent you contend that Applicant's Mark does not incorporate or is not otherwise similar to Opposer's Mark, set forth in detail all facts and evidence to support that contention.

Interrogatory No. 24:

35 To the extent you contend that Applicant's Mark is not similar in appearance to Opposer's Mark, set forth in detail all facts and evidence to support that contention.

Interrogatory No. 25:

36 To the extent you contend that Applicant's Mark is not similar in sound to Opposer's Mark, set forth in detail all facts and evidence to support that contention.

Interrogatory No. 26:

37 To the extent you contend that Applicant's Mark is not similar in connotation to Opposer's Mark, set forth in detail all facts and evidence to support that contention.

Interrogatory No. 27:

38 To the extent you contend that Applicant's Mark is not similar in commercial impression to Opposer's Mark, set forth in detail all facts and evidence to support that contention.

Interrogatory No. 28:

39 To the extent you contend that Applicant's Mark is not used on goods related to those on which Opposer uses Opposer's Mark, set forth in detail all facts and evidence to support that contention.

Interrogatory No. 29:

40 To the extent you contend that the goods you sell in connection with Applicant's Mark are sold through different channels of trade than the goods and services Opposer sells under Opposer's Mark, set forth in detail all facts and evidence to support that contention.

Interrogatory No. 30:

(41) To the extent you contend that the goods you sell under Applicant's Mark are sold to sophisticated consumers, set forth in detail all facts and evidence to support that contention.

Interrogatory No. 31:

(42) To the extent you contend that consumers for the goods you sell under Applicant's Mark do not overlap with consumers for the goods sold under Opposer's Mark, set forth in detail all facts and evidence to support that contention.

Interrogatory No. 32:

(43) Identify all third party uses of the TIFFANY mark on which you intend to rely, and for each such mark, identify (i) its owner, (ii) the goods or services in connection with which it is used, and (iii) the consumers for the those goods or services.

Interrogatory No. 33:

(47) To the extent you contend that Opposer's Mark is not well-known among consumers for Applicant's goods, describe in detail all facts that support that contention.

Interrogatory No. 34:

(48) To the extent you contend that Opposer's Mark is not a famous mark, describe in detail all facts that support that contention.

Dated: New York, New York
October 3, 2006

FROSS ZELNICK LEHRMAN & ZISSU, P.C.

By: _____
Barbara A. Solomon
Evan Gourvitz
Attorneys for Opposer
866 United Nations Plaza
New York, New York 10017
Phone: (212) 813-5900
Fax: (212) 813-5901

EXHIBIT 22

Evan Gourvitz

From: Jennifer L. Whitelaw [j@whitelawfirm.com]
Sent: Friday, January 19, 2007 12:37 PM
To: Evan Gourvitz
Cc: Brenda K. Crain; Mike McGill
Subject: Tiffany v. United Wu

Dear Evan:

We are in receipt of your detailed correspondence received by us late in the day on January 18, 2007 relating to numerous discovery issues, which demands a substantive reply from us by January 22, 2007. Under ordinary circumstances, and given the many issues which you have raised, this deadline would be simply impossible to comply with, which is probably why it was imposed in the first instance. However, as you will note, this response is made the very next day, primarily because some of the points you attempt to make are so misguided and flawed that you must be corrected without further delay.

First, we urge you to review your own discovery "responses", which are hardly a picture of full and open disclosure as required by the applicable rules. To date, including non-confidential documents, we have received zero documents from your side.

Secondly, you have unilaterally rewritten all of our admissions, and responded with what you want to say, as opposed to what we have requested.

Thirdly, your unverified answers to our 6 interrogatories contain many more pages of objections than actual responses and, shockingly, one of those general objections include the very same "over the limit" objection which you have chastised us for invoking.

With reference to one of your concerns that we have objected on multiple occasions to your use of the word "famous" in discovery, please note that you failed to define this word in your definitions and instructions, which is your obligation, and it is certainly not the case that this word is "clearly understandable" or "commonly-used". In fact, in trademark litigation this finding of famous is one of fact, which of course depends on the evidence produced by the party asserting the claim to fame, which in this case to date is none. However, if you wish to attempt to accurately define this word, we will consider revising our responses accordingly.

Your requested page count approximation is underway and we expect to be back to you today on that.

We also wish to advise you herein, that we will produce our client's representative, Wen Wu, for his deposition as scheduled on January 30, 2007. Mr. Wu will be produced both as an individual noticed by your office and as our designated 30(b)(6) deponent. We expect the deposition of Mr. Wu to proceed as scheduled on January 30, 2007. As we discussed earlier, Mr. Wu does not have availability in February, so we are counting on this deposition happening as scheduled.

Finally, with reference to your "attempt to confer" with us over these issues in accordance with Rule 37, may I remind you that, in accordance with long established TTAB policy, rule and case law, any attempt to resolve a discovery dispute in an action requires an actual good faith effort to *discuss* the disputed issues, preferably over the telephone in a professional manner. An exchange of unilateral threats or ultimatums in writing is proscribed, does little to advance any legitimate purpose, and that is clearly the approach you have unfortunately chosen. If you would like to schedule a telephone conference to review these matters in detail I would be pleased to accommodate you.

Best regards,

Jennifer Whitelaw
WHITELAW LEGAL GROUP

Intellectual Property and Related Causes
3838 Tamiami Trail North
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Naples, Florida 34103
239-262-1001
Facsimile: 239-261-0057
Email: j@whitelawfirm.com
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EXHIBIT 23

Evan Gourvitz

From: Evan Gourvitz
Sent: Friday, January 19, 2007 1:19 PM
To: 'Jennifer L. Whitelaw'
Cc: Barbara Solomon; Richard Lehv
Subject: RE: Tiffany v. United Wu

Jennifer:

As you're no doubt aware, each party has an independent obligation to comply with its discovery obligations, and it is not appropriate to cite what you see as deficiencies in our client's production to excuse your own client's extraordinary deficiencies.

Nevertheless, as you know, we have had our documents (all 10,000+ pages) available for your review at our office for some time. To date, you have not reviewed them, and only this week have we discussed alternative arrangements. We also provided our proposed protective order to you some time ago, but have not yet received your comments.

Needless to say, we disagree with the remainder of your characterization of our discovery responses. If you would like, we will discuss this in greater detail.

We have requested a deadline of January 22 for your response to our letter (and January 26 for remedying your deficiencies) because of the short amount of time remaining before the close of discovery, and because of your announcement to me yesterday that your client will not be readily available for deposition after January.

Clearly, we disagree over whether the term "famous" is commonly understood in litigation before the TTAB. If necessary, the Board can decide what appears to be our irreconcilable difference of opinion on this issue.

The deposition of Mr. Wu depends on our receiving a proper document production and proper discovery responses. If we receive these the deposition will go forward. If not, clearly our client will not waste what may be its one chance to depose Mr. Wu without sufficient discovery. While Mr. Wu may have travel plans, which we will accommodate to the best of our ability, it is Applicant's obligation to make its witnesses available for deposition as necessary in this proceeding.

Finally, we believe that our email discussions to date (both with me and Barbara), along with our letter of yesterday and our present email correspondence, all constitute a good faith and professional effort to confer in accordance with the relevant federal and TTAB rules. We are aware of no rule stating that this "discussion" must or should be by telephone. (In fact, for obvious reasons, written correspondence better establishes a record for the Board to review on a motion to compel, and better allows the parties to address the matters in dispute in as much detail as necessary.) However, we are, of course, willing to further discuss the matters addressed in our deficiency letter of yesterday at any time, and we look forward to your detailed response.

Best regards,

Evan

From: Jennifer L. Whitelaw [mailto:j@whitelawfirm.com]
Sent: Friday, January 19, 2007 12:37 PM
To: Evan Gourvitz
Cc: Brenda K. Crain; Mike McGill
Subject: Tiffany v. United Wu

Dear Evan:

We are in receipt of your detailed correspondence received by us late in the day on January 18, 2007 relating to numerous discovery issues, which demands a substantive reply from us by January 22, 2007. Under ordinary circumstances, and given the many issues which you have raised, this deadline would be simply impossible to comply with, which is probably why it was imposed in the first instance. However, as you will note, this response is made the very next day, primarily because some of the points you attempt to make are so misguided and flawed that you must be corrected without further delay.

First, we urge you to review your own discovery "responses", which are hardly a picture of full and open disclosure as required by the applicable rules. To date, including non-confidential documents, we have received zero documents from your side.

Secondly, you have unilaterally rewritten all of our admissions, and responded with what you want to say, as opposed to what we have requested.

Thirdly, your unverified answers to our 6 interrogatories contain many more pages of objections than actual responses and, shockingly, one of those general objections include the very same "over the limit" objection which you have chastised us for invoking.

With reference to one of your concerns that we have objected on multiple occasions to your use of the word "famous" in discovery, please note that you failed to define this word in your definitions and instructions, which is your obligation, and it is certainly not the case that this word is "clearly understandable" or "commonly-used". In fact, in trademark litigation this finding of famous is one of fact, which of course depends on the evidence produced by the party asserting the claim to fame, which in this case to date is none. However, if you wish to attempt to accurately define this word, we will consider revising our responses accordingly.

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EXHIBIT 24

Evan Gourvitz

From: Evan Gourvitz
Sent: Monday, April 09, 2007 1:16 PM
To: 'Jennifer L. Whitelaw'
Cc: Barbara Solomon; Richard Lehv
Subject: RE: Tiffany v. United Wu

Dear Jennifer:

With the close of discovery rapidly approaching in the above matter, we write to follow up on our letter of January 18 concerning your client's discovery deficiencies.

Despite the deadline set forth in our January 18 letter, and despite the correspondence below, in which we stated that we were "willing to further discuss the matters addressed in our deficiency letter of yesterday at any time, and we look forward to your detailed response," we still have not received your client's response to our letter.

We therefore once again must repeat our request that your client provide a written response to our deficiency letter. If you will not do so by next Monday, April 16, our client will move to compel your client's responses and to preclude it from introducing or using any responsive evidence or documents not provided forthwith.

We look forward to hearing from you.

Yours sincerely,

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Cc: Brenda K. Crain; Mike McGill
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Evan Gourvitz

From: Jennifer L. Whitelaw [j@whitelawfirm.com]
Sent: Tuesday, April 10, 2007 3:52 PM
To: Evan Gourvitz
Cc: Brenda K. Crain; Mike McGill
Subject: RE: Tiffany v. United Wu/Discovery matters

Dear Evan:

On January 22, at your request, we exchanged emails giving each other a rough page count of the documents and things expected to be produced in discovery. Our production has been assembled and has been sitting in the office ever since. Thereafter, to the best of my knowledge, we heard nothing from you until April 9, 2007, wherein you have threatened to file a motion to compel and also threatened to move to preclude us "from introducing or using any responsive evidence or documents not provided forthwith." With all respect, your side's failure to follow up on discovery matters for nearly 90 days after obtaining a discovery extension does not create a crisis which is worthy of the involvement of the Board.

This sort of unilateral threat in the absence of any meaningful dialogue designed to solve the problem, particularly after an uneventful discovery hiatus, hardly can be characterized as being in compliance with the "good faith conference" requirement in the TTAB rules. If a discovery extension is about to run out without you having taking any action, the same does not call for the pretense attempted by your correspondence. As you well know, we also have discovery compliance issues and can move to compel and to exclude evidence, either wholly or in part.

With regard to our side's outstanding discovery concerns, we are in exactly the same position as you as we also have many issues with your side's discovery responses, which we have previously detailed at some length and for which you have offered no satisfactory response other than to suggest your opinion (without citing any authority) that it is "not proper" for us to raise allegations over your discovery deficiencies in response to your complaints over our discovery responses. If you are still taking that position, and have located that legal authority over the past several months, please advise and provide us with the appropriate citations. In the alternative, please consider resolving these disputes on a global basis.

Accordingly, I suggest that we begin over with a fresh approach to discovery by exchanging documents on an agreed upon timetable and then work our way through the other issues that are truly important to the further presentation of this case, and if that means either extending the discovery date again or suspending the case, that would most likely be agreeable to us. If, in the alternative to this reasoned, cost saving approach, you insist in filing a motion to compel, we will of course respond accordingly.

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4/18/2007

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From: Evan Gourvitz [mailto:EGourvitz@frosszelnick.com]
Sent: Monday, April 09, 2007 1:16 PM
To: Jennifer L. Whitelaw
Cc: Barbara Solomon; Richard Lehv
Subject: RE: Tiffany v. United Wu

Dear Jennifer:

With the close of discovery rapidly approaching in the above matter, we write to follow up on our letter of January 18 concerning your client's discovery deficiencies.

Despite the deadline set forth in our January 18 letter, and despite the correspondence below, in which we stated that we were "willing to further discuss the matters addressed in our deficiency letter of yesterday at any time, and we look forward to your detailed response," we still have not received your client's response to our letter.

We therefore once again must repeat our request that your client provide a written response to our deficiency letter. If you will not do so by next Monday, April 16, our client will move to compel your client's responses and to preclude it from introducing or using any responsive evidence or documents not provided forthwith.

We look forward to hearing from you.

Yours sincerely,

Evan Gourvitz

Evan Gourvitz

From: Evan Gourvitz
Sent: Thursday, April 12, 2007 6:37 PM
To: 'Jennifer L. Whitelaw'
Cc: Richard Lehy; Barbara Solomon
Subject: RE: Tiffany v. United Wu/Discovery matters

Dear Jennifer:

Your email below appears to be confusing two different matters: (1) our review of your client's document production, such as it is, and (2) the deficiencies in your client's responses to our client's written discovery requests. My email below, and our letter of January 18, addressed the latter.

In response to your comments:

First, while you claim that "we also have many issues with your side's discovery responses, which we have previously detailed at some length," unless I am mistaken you have not actually provided us with a lengthy (let alone request-by-request) discussion of our client's purported deficiencies. We suggest that you do so, and we will do our best to address any concerns we have not already addressed.

Second, as I previously noted, you cannot excuse your client's discovery deficiencies by pointing to our client's purported deficiencies. Since you now ask for legal authorities stating this proposition, which we presumed you already knew, see, e.g., TBMP 403.03 ("a party is under an obligation to respond to an adversary's request for discovery during the time allowed under the applicable rules, irrespective of . . . an adversary's failure to respond to a pending request for discovery"); *Miss America Pageant v. Petite Productions Inc.*, 17 U.S.P.Q.2d 1067, 1070 (T.T.A.B. 1990) ("a party is not relieved of its discovery obligations in spite of the fact that its adverse party has wrongfully failed to fulfill its own obligations").

Finally, we are, of course, open to resolving the parties' outstanding discovery disputes. However, we do not want to resolve them in a piecemeal fashion. While you suggest that the parties should (1) exchange documents on a set timetable, and (2) then "work our way through the other issues," we believe that your client's proper written responses to our client's discovery requests (especially its interrogatories and requests for admission) will dramatically simplify this litigation, and in themselves could provide sufficient information to resolve this case, or to allow our client to move for summary judgment. See, e.g., Fed. R. Civ. P. 36, 1970 Advisory Committee note (requests for admission facilitate proof for issues that cannot be eliminated from the case, and narrow the issues by eliminating those that can be). Accordingly, we must continue to insist that your client remedy the outstanding deficiencies in its written responses noted in our January 18 letter, and will move to compel if you do not do so by next Monday, April 16, as stated below.

We look forward to hearing from you.

Best regards,

Evan

From: Jennifer L. Whitelaw [mailto:j@whitelawfirm.com]
Sent: Tuesday, April 10, 2007 3:52 PM
To: Evan Gourvitz
Cc: Brenda K. Crain; Mike McGill
Subject: RE: Tiffany v. United Wu/Discovery matters

4/18/2007

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4/18/2007