

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

LABELTEX MILLS, INC.	)	
	)	
Opposer	)	
	)	Opposition No. 91161944
v.	)	
	)	
LABELTEX S.R.L.	)	
	)	
Applicant	)	

**APPLICANT’S RESPONSE IN OPPOSITION TO OPPOSER’S UNCONSENTED  
MOTION FOR EXTENSION OF TIME**

Applicant Labeltex S.r.l. hereby opposes the Unconsented Motion for Extension of Time filed by Opposer Labeltex Mills, Inc.

In its motion, Opposer states that both parties have served discovery requests, that Applicant has served a second set and that Opposer intends to answer, but so far has been unable to complete and serve its second set of discovery requests. The basis for this allegation is that Opposer is awaiting translations “of more than 400 documents submitted under protective order by Applicant, the vast majority of which are in Italian and unintelligible to Opposer’s counsel”. Moreover, Opposer indicates that the translation is currently in process, but that it was held up “pending Applicant’s explanation of the meaning of certain terms contained in the submitted documents”, explanation offered by Applicant’s counsel on October 26, 2005. Opposer’s arguments are unfounded as Opposer has had the documents for many months. Moreover, most of the documents are in English and most are invoices showing Applicant’s prior use of the mark at issue. The customer name, shipment dates and sales amount on the documents require no translation and there is very little text in Italian. Opposer has had ample time to serve a second



set of discovery requests before the closing of the discovery period, but failed to prepare and serve them. Opposer is now seeking an unjustified 90-day extension merely to delay this proceeding further.

Discovery in this opposition opened on September 22, 2004, and was originally scheduled to close on March 21, 2005. Opposer served a first set of discovery requests on Applicant on November 1, 2004. Applicant's answers were due by December 6, 2004. Applicant's requested, and obtained, a 14-day extension of the time to serve its answers, which became due on December 20, 2004. On December 17, 2004, Applicant served its answers to Opposer's first set of interrogatories and its answers to Opposer's first requests for production. On February 14, 2005, Applicant filed a consented motion for a 60-day extension of the discovery period, to May 20, 2005, to allow both parties to complete their discovery. On April 5, 2005, Applicant produced Documents Nos. LM 0001-0015. On April 12, 2005, a protective order, duly signed by the parties and by their attorneys, was filed with the Board. On April 13, 2005, Applicant produced Documents Nos. LM 0016-LM 0100. On May 13, 2005, Applicant produced Document No. LM 0101. On the same day, Applicant filed a consented motion for a 90-day extension of the discovery period, to August 18, 2005. On May 31, 2005, Applicant served Documents Nos. LM 0102-0357. On June 21, 2005, Applicant served Documents Nos. LM 0358-LM 0413, and indicated to Opposer that at that point Applicant believed that it had completed its document production and provided all information requested in Opposer's first set of interrogatories.

On August 15, 2005, Opposer filed a consented motion for a 90-day extension of the discovery period, to November 18, 2005. On November 16, 2005, Opposer's counsel sent a fax letter to Applicant's counsel requesting consent to an additional ninety-day extension of the

discovery period, and on November 17, 2005, Applicant's counsel declined to consent to any further extension.

Opposer's request for an additional extension of the discovery period should be denied because Opposer has had ample time to complete discovery. Opposer argues that it could not serve additional discovery requests on Applicant pending the translation of hundreds of documents produced by Applicant, and that the translation itself could not proceed unless Opposer was provided with the meaning of terms appearing in those documents. Opposer's argument is groundless. Applicant produced 413 documents, some of which are copies of catalogs showing photographs of labels designed and manufactured by Applicant and sold under Applicant's mark LABELTEX (Doc. Nos. LM0028-LM 91). Obviously, none of these documents requires any translation. The vast majority of documents produced consist of invoices, all of which, except for the first nine invoices, show entries in both English and Italian. As a sample, Doc. No. LM 0022 (redacted) is attached as Exhibit A. These invoices clearly show the dates, name and address of Applicant's clients, quantities of the products sold and their price. No translation is required for these terms.

When Applicant produced its documents, it indicated that the "description" section of the invoices contains codes identifying the various kinds of labels sold by Applicant under its mark. In his motion Opposing counsel claims that the translation of the documents produced were suspended pending explanation of certain terms contained in the invoices. This argument is baseless. In his letter of July 28, 2005, Opposer's counsel inquired as to the meaning of the terms "CART", "DDT", "IMP" and "IMPI", and "EDC". Samples of documents containing these terms are attached as Exhibit B. As explained by Applicant's counsel in a letter dated October 26, 2005, all these terms (except for DDT, which is an acronym for "shipping

document”) merely indicate specific kinds of labels produced and sold by Applicant. It is obvious that the specific meaning of these terms is irrelevant in this proceeding. However, even admitting that Opposer needed an explanation as to the meaning of these five terms, Applicant provided it well before the closing of the discovery period, and thus Opposer had ample time to serve additional discovery requests. In light of the above, it is clear that there is no ground for Opposer’s counsel’s claim that he could not proceed in discovery because of a need for translation. Applicant consented to several extensions in order to let the parties to complete their discovery. Because both parties have had sufficient time to complete their discovery, no additional extensions should be granted, and Opposer’s unjustified delay in conducting its discovery should not be rewarded.

Thus, Applicant respectfully requests that Opposer’s Unconsented Motion for Extension of Time be denied.

LABELTEX S.R.L.

By:

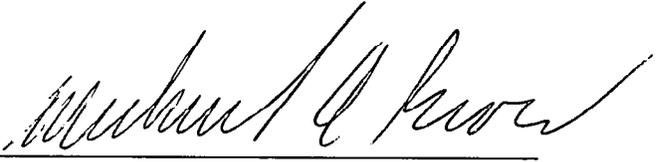


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Attorneys for Applicant

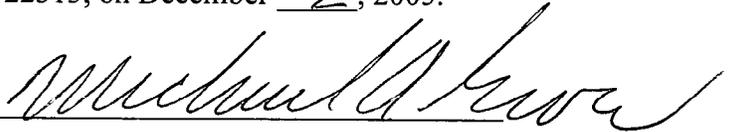
**CERTIFICATE OF SERVICE**

It is hereby certified that a copy of the foregoing has been served on Opposer's counsel Robert Louis Finkel, 5215-2 White Oak Avenue, Encino, California 91316, on December 2, 2005, marked first class mail postage prepaid.

  
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**CERTIFICATE OF MAILING**

It is hereby certified that the attached Applicant's Response in Opposition to Opposer's Motion to Extend Discovery (Re: Opposition No. 91161944) is being deposited with the United States Postal Service, first class mail postage prepaid, addressed to the Commissioner for Trademarks, P.O. Box 1451, Alexandria, Virginia 22313, on December 2, 2005.

  
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# **EXHIBIT A**

# ABELTEX

**ABELTEX** s.r.l. - Cap. Soc. 80.000.000 I.v.  
 1e SOZZIGALLI - 41018 SOLIERA (MO) - Via Carlo - Revaro: 1766  
 Part. Iva 0034880364 - REA 160303 Mir - Ut. Reg. Imp. Mo 7317  
 o Meccanografico MO 028005 - Partita Iva CEE IT 0034880364  
 059/568765 - Telefax 058/5683026  
 e-mail: tabeltex@labeltex.com

07721 CLIFFWOOD / NEW JERSEY  
 USA STATI UNITI

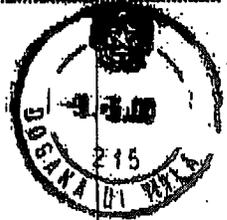
I. FATTURA V. INVOICE <b>989</b>	DATA FATTURA DATE INVOICE <b>31/12/99</b>	CODICE CLIENTE CUST. CODE <b>19181</b>
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Pag. 1

FISCALE - PARTITA IVA  
UNUEI/

PAG. PAGAMENTO - PAYMENT <b>BONIFICO BANC. 30 BB. F.M.</b>	SPEDIZIONI A NEGO DELIVERY THROUGH	COD. AG <b>20916</b>	ZONA ZONE <b>LA FILTOM</b>	AGENTE AGENT
BANK <b>0 BANCA SWIFT ROLDIT2B113 KONTO 32442</b>	PORTO PORT	VS. ORDINE ORDER		

CODICE ARTICOLO ARTICLE CODE	DESCRIZIONE DESCRIPTION	QUANTITA' QUANTITY	U.M. U.M.	PREZZO PRICE	TOTALE TOTAL
8980000	DESTINAZIONE MERCE CARLO DISCACCIATI SNC Via Marconi 8 22069 ROVELLASCO (CO)  DDT N. 01/05875 dt. 23/12/1999  ET. TESS. BIFERRA BROB MM 45X80 RIVALSA SPESE TRASPORTO	8000,00 1,00	pz	69,00 20.000,00	552.000 20.000
MERCI USCITE DAL TERRITORIO DOGANALE DELLA COMUNITA' AI SENSI DELL'ARTICOLO 783-PARAG. 2 PUNTO A) E PARAG. 5 DEL REG. C. E. 2454/93 DEL 02-07-1993. = Vincolate ad AWB: <b>00640774403</b> n. _____ del _____					
CONFIDENTIAL ATTORNEY'S EYES ONLY					
LM 0022					
DOGANA DI MILANO 5900 PS-EX-S07 APR. 2000 BETA-TRANS S.p.A. (EX) AUT. PROT. DI RAPPAIND. DEL 01/10/93 Marranta Marcella					
Iriano che il materiale oggetto del contratto di fornitura e' di origine intracomunitaria (C					



DOGANA DI MILANO  
 5900 PS-EX-S07 APR. 2000  
 BETA-TRANS S.p.A. (EX) AUT. PROT. DI RAPPAIND. DEL 01/10/93

MERCE QUANT	% SC. % DISC	SCONTO DISCOUNT	TRASPORTO TRANSPORT	IMBALLI PACKING	TOT. IVA TOT. V.A.T.	TOT. ES TOT. EX
552.000	0,00	0	20.000			
572.000		20,00	114.400	572.000	114.400	

# **EXHIBIT B**

# ABELTEX

**ABELTEX s.r.l. - Cap. Soc. 80.000.000 Lit.**  
 s SOZZIGALLI - 47019 SOLIERA (MO) - Via Carpi - Ravenna, 178B  
 Part. Iva 0034880364 - REA 160303 Mo - Uff. Reg. Imp. Mo 7317  
 s Meccanografico MO 026005 - Partita Iva CEE IT 0034880364  
 059/583786 - Telefax 059/583023  
 abltex.com e-mail: abltex@abltex.com

FATTURA INVOICE	DATA FATTURA DATE INVOICE	CODICE CLIENTE CUST. CODE
931	21/11/00	19321

Pag. 1 USA STATI UNITI

FISCALE - PARTITA IVA  
 NUMBER

## INVOICE

MOD. PAGAMENTO - PAYMENT <b>RIMESSA DIRETTA RICEV. FATTURA</b>	SPECIFICAZIONE A MEZZO DELIVERY THROUGH	COD. AG. ZONA 29023	AGENTE 2201
BANK <b>BANCA SWIFT: ROLDIT2B13 KONTO: 32442</b>	PORTO PORT	VB. ORDINE ORDER	

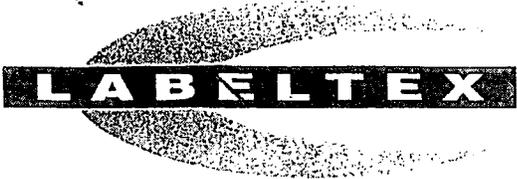
CODICE ARTICOLO ARTICLE CODE	DESCRIZIONE DESCRIPTION	QUANTITA QUANTITY	U.M. U.M.	PREZZO PRICE	TOTALE TOTAL
1210000	Teresa Zazzi Via P. F. Carrega 18 43044 Collecchio (PR)				
	DDT N. 01/05453 Dt. 21/11/00				
	CONCORSO SPESE TRASPORTO	1,00		26,000	26,00
34X0000	BUSTA PERGAMENA ROBERT C. 65x45mm	2.700	pz	160,000*	432,00
34X1MPI	IMPI. BUSTA PERGAMENA ROBERT C. 65x45mm	1	pz	119,000	119,00
32X0000	CART. TASCA ROBERT #425 140x116mm + STON	2.540	pz	550,000*	1.397,00
32X1MPI	IMPI. CART. TASCA ROBERT #425 140x116mm	1	pz	53,000	53,00
30X0000	CART. TASCA ROBERT #724 140x116mm + STON	2.750	pz	550,000*	1.512,50
30X1MPI	IMPI. CART. TASCA ROBERT #724 140x116mm	1	pz	53,000	53,00
49X0000	CART. TASCA ROBERT #411 140x116mm + STONE	2.880	pz	590,000*	1.584,00
49X1MPI	IMPI. CART. TASCA ROBERT #411 140x116mm	1	pz	53,000	53,00
48X0000	CART. TASCA ROBERT 100XCO. 140x116mm+STON	2.750	pz	550,000*	1.512,50
48X1MPI	IMPI. CART. TASCA ROBERT 100XCO. 140x116mm	1	pz	53,000	53,00
39X0000	ET. ROBERT PELLE MAR+ST. A CALDO 45x65mm	2.050	pz	280,000*	574,00
39X0001	ET. ROBERT PELLE MAR+ST. A CALDO 45x65mm	3.050	pz	280,000*	854,00
19X1MPI	IMPI. ET. ROBERT PELLE+ST. A CALDO 45x65	1	pz	167,000	167,00
10000	CART. SEGNAT. ROBERT 150x50mm ST. 2 + STON	2.475	pz	450,000*	1.113,75
35X1MPI	IMPI. ROBERT C. SEGNATAG. 50x150mm	1	pz	114,000	114,00
33X0000	CART. PEND. ROBERT 100x54mm ST. 2COL. +STON	3.590	pz	310,000*	1.112,90
33X1MPI	IMPI. CA RT. PEND. ROBERT 100x54mm ST. 2COL.	1	pz	248,000	248,00

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LM 0026

declare that the goods supplied are made inside the E. E. D.

MERCE CHUNT <b>10.952,65</b>	% SC. % DISC. <b>0,00</b>	SCONTO DISCOUNT <b>0,00</b>	TRASPORTO TRANSPORT <b>26,00</b>	IMBALLI PACKING	IMPONIBILE - NET VALUE <b>10.978,65</b>	IVA - VAT <b>20,00</b>	IVA - VAT <b>2.195,73</b>	TOT. IMP. TOT. VALUE <b>10.978,65</b>	TOT. IVA TOT. VAT <b>2.195,73</b>	TOT. ES. TOT. EX.
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**LABELTEX s.r.l.** - Cap. Soc. € 46.480 i.v.  
 Frazione SOZZIGALLI - 41019 SOLIERA (MO) - Via Carpi - Ravarino, 1755  
 C. F. e Part. Iva 00348680364 - REA 160303 Mo - Uff. Reg. Impr. Mo 7317  
 Numero Meccanografico MO 025005 - Partita Iva CEE IT 00348680364  
 Tel. 059/563765 - Telefax 059/563025  
 www.labeltex.com e-mail: labeltex@labeltex.com

NEW YORK, NY 10012 (NY)

N. FATTURA N. INVOICE <b>16</b>	DATA FATTURA DATE INVOICE <b>16/01/03</b>	CODICE CLIENTE CUST. CODE <b>19527</b>
CODICE FISCALE - PARTITA IVA V.A.T. NUMBER		

Pag.: 1 USA STATI UNITI

**INVOICE**

COD. PAG. <b>123</b>	PAGAMENTO - PAYMENT <b>50% ALL'ORDINE 50% COSEGNA</b>	SPEDIZIONE A MEZZO DELIVERY THROUGH <b>DHL</b>	COD. AG. <b>29023</b>	ZONA ZONE <b>220T</b>	AGENTE AGENT
BANCA BANK <b>ROLO BANCA SWIFT:ROLOIT2B113 KONT0:32442</b>		PORTO PORT <b>FCO</b>	VS. ORDINE ORDER		

CODICE ARTICOLO ARTICLE CODE	DESCRIZIONE DESCRIPTION	QUANTITA QUANTITY	UM U/M	PREZZO PRICE	TOTALE TOTAL	C.I. V.C.
20242B0000	DDT N. 01/00124 Dt. 16/01/03					
20242B0101	WOVEN LABEL ALVIN VALLEY MM 50X75	9.470	pz	200,00*	1.894,00	71
20242B0102	WOVEN LABEL SIZE 32/38 MM 10X15	5.100	pz	25,55*	130,31	71
20242B0103	WOVEN LABEL SIZE 34/42 MM 10X15	5.260	pz	25,55*	134,39	71
20242B0103	WOVEN LABEL SIZE 36/40 MM 10X15	5.200	pz	25,55*	132,86	71
20242B0104	WOVEN LABEL SIZE 36/44 MM 10X15	4.980	pz	25,55*	127,24	71
GOODS OF ITALIAN ORIGIN						
PACKAGING : PAPER BOX						
NO. OF PCS: 00002						
GROSS WEIGHT: 13,00						
NET WEIGHT: 10,00						
<b>LABELTEX s.r.l.</b> Via Carpi Ravarino, 1755 41019 SOZZIGALLI DI SOLIERA P. IVA 00348680364						

We declare that the goods supplied are made inside the U. S. A.

NETTO MERCE NET AMOUNT <b>2.418,80</b>	ISC. % DISC. <b>0,00</b>	SCONTO DISCOUNT <b>0,00</b>	TRASPORTO TRANSPORT <b>0,00</b>	IMBALLI PACKING <b>0,00</b>	TOT. IVA TOT. V.A.T. <b>0,00</b>	TOT. ES. TOT. EX. <b>2.418,80</b>
IMPONIBILE NET VALUE	IVA 21%	IVA 21%	IVA 21%	TOT. IVA TOT. V.A.T. <b>0,00</b>	TOT. ES. TOT. EX. <b>2.418,80</b>	
CONDIZIONI: La merce viaggia a rischio e pericolo del Committente, anche se spedita contro incasso. Non si accettano reclami, tranne a giorni dal ricevimento della merce. I pagamenti sono validi se fatti alla nostra casa. In caso di controversie il foro competente è quello di Modena.						<b>TOTALE FATTURA - TOTAL AMOUNT</b> <b>\$ 2.418,80</b>

Scad: 17/01/03 1.209,40 Scad: 17/01/03 1.209,40  
 \*All marked prices are intended by bloc 1.000

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LM 0323



**LABELTEX s.r.l.** - Cap. Soc. € 46.480 i.v.  
 Frazione SOZZIGALLI - 41019 SOLIERA (MO) - Via Carpi - Ravarino, 1755  
 C. F. e Part. Iva 00348680364 - REA 160303 Mo - Uff. Reg. Impr. Mo 7317  
 Numero Meccanografico MO 025005 - Partita Iva CEE IT 00348680364  
 Tel. 059/563765 - Telefax 059/563025  
 www.labeltex.com e-mail:labeltex@labeltex.com

10122 NEW YORK NY (NY)

N. FATTURA N. INVOICE	DATA FATTURA DATE INVOICE	CODICE CLIENTE CUST CODE
510	05/11/03	19649

Pag.: 1

USA STATI UNITI

CODICE FISCALE - PARTITA IVA  
V.A.T. NUMBER

**INVOICE**

COO PAG	PAGAMENTO - PAYMENT	SPEDIZIONE A MEZZO DELIVERY THROUGH	COO AG	ZONA ZONE	AGENTE AGENT
123	50% ALL' ORDINE 50% COSEGNA	FEDERAL		29023	22QT
BANCA - BANK		PORTO PORT	VS ORDINE ORDER		
CASSA IBAN: IT89P0610523302000000009 121		ASSEGNATO			

CODICE ARTICOLO ARTICLE CODE	DESCRIZIONE DESCRIPTION	QUANTITA' QUANTITY	U.M. U.M.	PREZZO PRICE	TOTALE TOTAL	C.I. V.C.
23329Y0000	DDT N.01/04216 Dt.05/11/03 WOVEN LABEL TAYA MM 22X96 MATERIAL CONTENT: 100% POLYESTER  GOODS OF ITALIAN ORIGIN  PACKAGING : PAPER BOX NO. OF PCS: 00001 GROSS WEIGHT: 2,00 NET WEIGHT: 1,00	3.250	pz	240,00*	780,00	71
<b>LABELTEX s.r.l.</b> via Carpi Ravarino, 1755 41019 SOZZIGALLI DI SOLIERA P.IVA 00348680364						

We declare that the goods supplied are made inside the E. E. C.

NETTO MERCE NET AMOUNT	SCONTO DISC	SCONTO DISCOUNT	TRASPORTO TRANSPORT	IMBALLI PACKING	TOTALE TOTAL
780,00	0,00	0,00	0,00	0,00	780,00
780,00	71	ART. 8 ESPORT. 1° COM	780,00	0,00	780,00
CONDIZIONI: La merce viaggia a rischio e pericolo del Committente. Anche se spedisce franco. Non si accettano reclami trascorsi 8 giorni dal ricevimento della merce. I pagamenti sono validi se fatti alla nostra casa. In caso di controversie il loro competente è quello di Modena.					<b>TOTALE FATTURA - TOTAL AMOUNT</b> \$ 780,00

Scad: 06/11/03 390,00 Scad: 06/11/03 390,00  
 \*All marked prices are intended by bloc 1.000

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LM 0356