

ESTTA Tracking number: **ESTTA83313**

Filing date: **05/31/2006**

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

Proceeding	91162370
Party	Defendant De Beers LV Ltd De Beers LV Ltd 1 Silk Street GBX London, EC2Y 8HQ
Correspondence Address	Andrew T. Paredes Kirkpatrick & Lockhart LLP 599 Lexington Avenue New York, NY 10022-6030
Submission	Motion to Compel Discovery
Filer's Name	Melanie Bradley
Filer's e-mail	nytrademarks@kln.com, mbradley@kln.com
Signature	/mbradley/
Date	05/31/2006
Attachments	NY-#443564-v1-OmtoolStub-_Debeers_Motion_to_Compel_-_ (pending).pdf (34 pages)(718686 bytes)

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

Atty. Ref.: 0820278.0103

De Boulle Diamond & Jewelry, Inc.	:	
	:	
Opposer,	:	Consolidated Opposition No.: 91162370
	:	Opposition Nos. 91162370
-against-	:	91162469
	:	91164615
De Beers LV Ltd.	:	91165285
	:	91165465
Applicant.	:	

APPLICANT'S MOTION TO COMPEL PRODUCTION OF DOCUMENTS

Applicant, by its undersigned attorneys, hereby moves before the Trademark Trial and Appeal Board, pursuant to Trademark Rule 2.120(e), for an order compelling the opposer in the above-identified proceeding to produce documents responsive to Applicant's First Set of Requests for Production of Documents and Things to Opposer (see Exhibit A), which were duly served upon the opposer's attorney, by first class mail, on November 18, 2005.

Applicant has tried on numerous occasions, over the course of the past three months, to arrange for the parties' production of responsive documents. (see Exhibits B, C, D and E). Most recently, Opposer and Applicant agreed to copy and exchange responsive documents by mail by Wednesday, May 10, 2006. Opposer was to provide a draft protective order in advance of the exchange, however, no protective order was provided. Nevertheless, Applicant proceeded with its production of non-confidential documents responsive to Opposer's discovery requests. (See Exhibit F). Opposer did not produce any documents.

Opposer's attorney telephoned Applicant's attorney on Friday, May 12, 2006 confirming that he had not produced responsive documents but advising that he would do so the following week. To date, applicant has not received any documents responsive to its aforementioned discovery requests.

In view of the foregoing, Applicant respectfully requests that the Board grant its motion and issue an order compelling Opposer's production of documents responsive to Applicant's First Set of Requests for Production of Documents.

Respectfully submitted,

DE BEERS LV LTD.

Dated: May 31, 2006

By:



Darren Saunders
Melanie Bradley
Kirkpatrick & Lockhart Nicholson Graham LLP
599 Lexington Avenue
New York, NY 10022-6030
Tel: (212) 536-3900
Fax: (212) 536-3901

Attorneys for Applicant

CERTIFICATE OF SERVICE BY MAIL

I hereby certify that on the 31st day of May, 2006, I served a true and correct copy of the foregoing Motion to Compel on the attorney for the Opposer at the address indicated below, by depositing said document in the United States mail, first-class postage prepaid:

David A. Harlow, Esq.
Christopher M. Kindel, Esq.
Nelson Mullins Riley & Scarborough LLP
4140 Parklake Avenue
GlenLake One/Second Floor
Raleigh, NC 27612

Peter J. Tredoux, Esq.
300 Park Avenue, Suite 1700
New York, N.Y. 10022

Dated: May 31, 2006

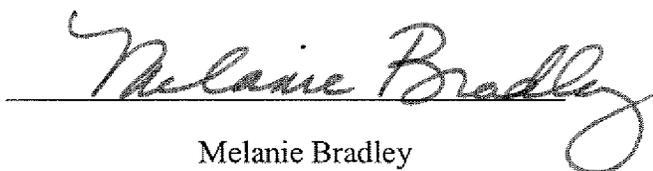

Melanie Bradley

EXHIBIT A

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

Atty. Ref. No.: 0820278.0103

DEBOULLE DIAMOND & JEWELRY, INC.,

Opposer,

v.

DE BEERS LV LTD.,

Applicant.

x

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:

:

x

Consolidated Opposition
No. 91165285

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

To: David A. Harlow, Esq.
Christopher M. Kindel, Esq.
Nelson Mullins Riley & Scarborough LLP
4140 Parklake Avenue
GlenLake One/Second Floor
Raleigh, NC 27612

Peter J. Tredoux, Esq.
300 Park Avenue, Suite 1700
New York, N.Y. 10022

In accordance with Rule 34 of the Federal Rules of Civil Procedure, and Rules 2.116 and 2.120 of the Trademark Rules of Practice, Applicant De Beers LV Ltd., hereby requests that Opposer provide the documents and things hereinafter requested, and serve its answers, documents and things on Applicant's attorney, Darren W. Saunders, c/o Kirkpatrick & Lockhart Nicholson Graham LLP, 599 Lexington Avenue, New York, New York 10022-6030, within the time periods prescribed in the Federal Rules of Civil Procedure and the Trademark Rules of Practice.

DEFINITIONS

A. As used herein, the term "Applicant" includes DeBeers LV Ltd., its predecessors-in-interest, any parent corporation or subsidiary, any related company, organization or business entity, any licensee, and any general partner, officer, director, employee, agent, representative or majority stockholder of any of the foregoing.

B. As used herein, the term "Opposer" is used collectively to refer to De Boulle Diamond & Jewelry, Inc., its predecessors-in-interest, any parent corporation or subsidiary, any related company, organization or business entity, any licensee, and any general partner, officer, director, employee, agent, representative or majority stockholder of any of the foregoing.

C. As used herein, the term "Applicant's marks" refers to the following marks which are the subject of the above-captioned consolidated opposition proceeding:

DB LOGO	App. No. 78/245,219
DB MONOGRAM	App. No. 78/245,779
DB SIGNATURE	App. No. 78/245,210
DB STAR	App. No. 78/245,795
SO DB	App. No. 79/000,478

D. As used herein, the term "Opposer's marks" refers to the following trademarks

DE BOULLE	App. No. 78/444,880
DE B and Design	App. No. 78/444,907
DB	App. No. 78/604,056

E. As used herein, the term "documents" includes all correspondence, books, records, notes, brochures, sell sheets, memoranda, labels, writings, displays, photographs, drawings, sketches, illustrative materials, video and audio tapes, computer diskettes and

printouts, microfilms, electronic mail database printouts, and all other means by which information is stored for retrieval in fixed form, and all other materials, whether printed, typewritten, handwritten, recorded, fixed or reproduced by any other process now known or developed and deployed during the pendency of this proceeding.

F. As used herein, the words "and", as well as "or", shall be construed disjunctively or conjunctively as necessary in order to bring within the scope of the interrogatory all responses which might otherwise be construed to be outside its scope.

G. The term "commerce", as used herein, means all commerce which can lawfully be regulated by Congress.

H. "Concerning," "relating to" or "pertaining to" as used herein are used in their broadest sense and mean: constitute, discuss, mention, embody, reflect, relate or refer to, of, about, concerning, detailing, listing, explaining, compiling, noting, summarizing, exposing, respecting, involving, touching on, implicating, bearing upon, having to do with, associating with, connecting with, or into."

INSTRUCTIONS

I. This request requires you to produce all responsive documents and things in your possession, custody or control from all files and repositories that contain responsive documents and things, wherever located, and whether active, in storage or otherwise.

J. Produce complete, legible and unredacted originals or copies of any and all documents and things not previously produced by Opposer, which are requested to be identified herein, or which are otherwise expressly requested, or which Opposer reviewed in order to answer or object to the Applicant's First Set of Interrogatories to Opposer, or which underlie

Opposer's answers, or which otherwise relate to the adoption, use, promotion or ownership of Opposer's mark, in separate manila folders inscribed with the number and/or letter of the interrogatory or sub-part in response to which such documents or things have been furnished.

K. For any responsive document or thing that no longer exists, or has been lost, destroyed or temporarily mislaid, furnish the following information: a description of each document or thing, including type, title, specific subject matter and date of each document; whether it is lost, destroyed, or temporarily mislaid; what efforts were made to locate it; and the number of the interrogatory or request to which the document or thing would respond.

L. Your responses to these document and thing requests are to be supplemented to the full extent required by Rule 26(e) of the Federal Rules of Civil Procedure, and each request shall be construed to include any documents or things responsive to these requests that are later discovered by you.

M. The present tense shall be construed to include the past tense and the past tense shall be construed to include the present tense as necessary to bring within the scope of these requests any documents or things that might otherwise be construed to be outside their scope.

N. The singular shall be construed to include the plural and the plural shall be construed to include the singular as necessary to bring within the scope of these requests any documents or things that might otherwise be construed to be outside their scope.

O. If you claim the attorney-client privilege, or any other privilege or work product protection for any document or thing, it need not be produced, but you shall provide the following information with respect to each such document or thing:

1. Date;

2. Author(s) or creator(s) of the document or thing, and each and every other person who prepared or participated in the creation or preparation thereof;
3. A description of its subject matter and physical size;
4. All addresses or recipient(s) of the original or a copy thereof, together with the date or approximate date on which said recipient(s) received said documents;
5. All other persons to whom the contents of the document have been disclosed, the date such disclosure took place, and the means of such disclosure, the present location of the document and all copies thereof;
6. Each and every person having custody or control of the document or thing, and all copies thereof; and
7. The nature of the privilege or other rule of law relied upon and any facts supporting your position.

P. The documents and things should be produced (or responses and objections made) in a manner that permits Applicant to identify all documents, things, objections or responses.

Q. Unless otherwise stated, the relevant time period for these requests is from the Opposer's claimed date of first use of each of its marks through to the present.

REQUESTS

1. All documents concerning the application for and registration of Opposer's marks.
2. All documents and things concerning Opposer's creation, development and adoption of Opposer's marks.
3. All documents concerning Opposer's right to use or register each of Opposer's marks.

4. All documents concerning any search, inquiry or investigation conducted to determine the availability or registrability of Opposer's mark.
5. Documents sufficient to establish the date of first use of each of Opposer's marks in the United States and in commerce.
6. Representative photographs of each product sold, distributed or offered under Opposer's marks in the United States of America.
7. All extant or proposed labels, packaging, stencils, mock-ups, in-store displays, and price lists which have ever been used, or are intended to be used on or in connection with any of the goods or services sold under each of Opposer's marks.
8. Documents sufficient to identify each retail outlet or other point of sale, whether owned by Opposer or a third party, in which Opposer's goods are sold in the United States.
9. Photographs of Opposer's retail establishments, including any storefronts, signs or permanent displays containing any of Opposer's marks.
10. Representative samples of catalogues featuring goods or services bearing Opposer's marks.
11. Separately for each good or service offered by Opposer under or in connection with Opposer's mark, and for each calendar quarter (or, if not available, year) in which Opposer sold or offered such good or service, documents sufficient to identify the sale price or projected sales price for each good or service.
12. Separately for each good or service offered by Opposer under or in connection with Opposer's mark, and for each calendar quarter (or, if not available, year) in which Opposer sold or offered such good or service, documents sufficient to identify the manner

in which Opposer's mark was used or is intended to be used in association with such good or service.

13. Separately for each good or service offered by Opposer under or in connection with Opposer's mark, and for each calendar quarter (or, if not available, year) in which Opposer sold or offered such good or service, documents sufficient to identify all other claimed (whether by Opposer or a third party) marks and designations used in connection with such good or service.
14. Separately for each good or service offered by Opposer under or in connection with Opposer's mark, and for each calendar quarter (or, if not available, year) in which Opposer sold or offered such good or service, documents sufficient to identify the class of purchasers that would be considered typical end users of each of applicant's goods or services sold in connection with applicant's mark.
15. Documents sufficient to identify any manufacturers, contractors or sub-contractors that produce items bearing Opposer's marks.
16. Any marketing, advertising and/or promotional plans and analyses that have been prepared by or for Opposer in connection with the promotion or sale of goods or services under each of Opposer's marks.
17. Documents concerning studies performed by or on behalf of Opposer regarding its "DE BOULLE," "DE B and Design" and "DB marks," including but not limited to market research, consumer recognition, brand imagery or identity, focus group and any other research conducted in the United States.
18. Documents sufficient to identify Opposer's primary competitors in the retail jewelry business.

19. Documents sufficient to identify any plans to expand its retail jewelry business outside of the Dallas, Texas area.
20. Representative samples of all sales, advertising, marketing and promotional materials or items which Opposer uses or has used in connection with Opposer's marks.
21. Documents sufficient to establish the amounts Opposer spent on advertising and promotion, year by year, in connection with the advertising and promotion of goods and services bearing or associated with Opposer's marks, for each year in which there have been such expenditures.
22. Documents sufficient to identify the media (including but not limited to publications, radio, newspapers and the Internet) in which Opposer advertises, displays or promotes, or intends to advertise, display or promote, each good or service in connection with Opposer's mark.
23. Documents sufficient to establish total unit and dollar sales of goods and services bearing or associated with Opposer's marks by month for each year in which there have been such sales.
24. Documents sufficient to establish total unit and dollar sales of goods and services sold over the Internet via Opposer's web site www.deboulle.com and bearing or associated with Opposer's marks by month for each year in which there have been such sales.
25. Documents sufficient to establish total unit and dollar sales of goods and services bearing or associated with Opposer's marks sold in catalogues by month for each year in which there have been such sales.
26. Documents sufficient to establish total unit and dollar sales of goods and services bearing or associated with Opposer's marks sold to customers outside of Texas.

27. Documents sufficient to identify any consent, authorization or permission given by Opposer to any person or entity to use Opposer's marks, including without limitation, through the use of agreements, contracts and licenses, if any.
28. Documents sufficient to identify any consent, authorization or permission given to Opposer by any person or entity to use Opposer's marks, including without limitation, through the use of agreements, contracts and licenses, if any.
29. Documents concerning communications to the trade or the public that Opposer's "DE B and Design" or "DB" marks are trademarks and/or exclusive property of Opposer.
30. Documents sufficient to identify all policies or procedures of Opposer regarding enforcement or policing of Opposer's marks, and all documents concerning any efforts by Opposer, whether successful or unsuccessful, to enforce or police its alleged rights in and to Opposer's marks.
31. Documents concerning any protest, objection or proceeding, including but not limited to U.S. Patent and Trademark Office proceeding (including a refusal to register by a Trademark Examining Attorney), or federal or state court action, instituted by the Opposer against the use, application for registration or registration of any trade name, trademark or service mark based on its alleged similarity to any of Opposer's marks.
32. Documents concerning third parties who use the initials "D" and "B" for jewelry and/or retail jewelry stores in the United States.
33. Documents concerning Opposer's decision to file trademark applications for each of its marks in the United States Patent & Trademark Office.
34. Any written report or opinion which Opposer has ever received from an attorney, whether or not such attorney was or is employed by Opposer, concerning:

- (a) its rights in and the scope of protection in and to Opposer's marks, and;
 - (b) the effect of Applicant's use or registration of Applicant's mark upon Opposer's mark or the goodwill relating thereto.
35. Documents concerning any instances of actual confusion or mistake in the marketplace as to source, sponsorship or affiliation between the goods and services of Opposer and those of Applicant.
36. Documents concerning any investigations, searches, or surveys which Opposer has conducted or commissioned, or caused to be conducted or commissioned, relating to whether there is, or may be, a likelihood of confusion between Applicant's marks and Opposer's marks.
37. Documents that support Opposer's claims that Opposer's "DB" and "DE B and Design" marks are "famous, distinctive and well-known." See Paragraph 7 of each of Opposer's Notice(s) of Opposition to applications for DB LOGO, DB MONOGRAM, DB STAR, and SO DB; Paragraph 6 of Opposer's Notice of Opposition to DB SIGNATURE.
38. Documents that support Opposer's claims that confusion is likely between each of Opposer's marks and each of Applicant's marks. See Paragraphs 10-14 of each of Opposer's Notice(s) of Opposition to applications for DB LOGO, DB MONOGRAM, DB STAR, and SO DB; Paragraphs 9-13 of Opposer's Notice of Opposition to DB SIGNATURE
39. Documents that support Opposer's claim that Applicant's marks would "cause dilution of the distinctive quality" of Opposer's marks, including, but not limited to any investigation, study or survey measuring dilution. See Paragraph 15 of each of Opposer's Notice(s) of Opposition to Applicant's DB LOGO, DB MONOGRAM, DB STAR, and

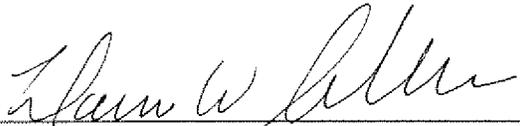
SO DB marks; and Paragraph 14 of Opposer's Notice of Opposition to DB

SIGNATURE.

40. An organizational chart or other documents which list or from which it may be determined the identities of each officer, manager and sales representative of Opposer.
41. All documents on which Opposer will rely to prove the allegations set forth in its Notice(s) of Opposition.
42. Any expert report that Opposer intends to use in this opposition proceeding.

KIRKPATRICK & LOCKHART NICHOLSON
GRAHAM LLP
Attorneys for Applicant

Dated: New York, New York
November 18, 2005

By: 
Darren W. Saunders
Melanie Bradley
599 Lexington Avenue
New York, NY 10022-6030
Tel. No.: (212) 536-4063
dsaunders@klnj.com
mbradley@klnj.com

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing APPLICANT'S FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS AND THINGS TO OPPOSER was served by First Class Mail, with sufficient postage prepaid, on this the 18th day of November, 2005, upon Opposer's attorneys:

David A. Harlow, Esq.
Christopher M. Kindel, Esq.
Nelson Mullins Riley & Scarborough LLP
4140 Parklake Avenue
GlenLake One/Second Floor
Raleigh, NC 27612

Peter J. Tredoux, Esq.
300 Park Avenue, Suite 1700
New York, N.Y. 10022

Dated: New York, New York
November 18, 2005

By 
Rebecca Powell

EXHIBIT B



Kirkpatrick & Lockhart Nicholson Graham LLP

599 Lexington Avenue
New York, NY 10022-6030
212.536.3900
Fax 212.536.3901
www.klmg.com

March 2, 2006

Melanie Bradley

212.536.4071
Fax: 212.536.3901
mbradley@klmg.com

Via Facsimile 1-214-712-5690

Pieter J. Tredoux, Esq.
1717 Main Street, Suite 3400
Dallas, Texas 75205

Re: DeBouille Diamond & Jewelry, Inc. v. DeBeers LV Ltd.
Consolidated Opposition No. 91165285

Dear Pieter:

This is further to our conversation of Tuesday concerning an extension of the discovery and testimony periods in the above-identified matter.

As I previously indicated, we are seeking an extension of the discovery period to permit enough time to take depositions after the parties' documents have been produced. Upon reconsideration, we believe a sixty (60) day extension of the discovery period is essential to allow sufficient time to receive and review documents, and to schedule depositions, if necessary. Please advise us if your client will agree to this extension.

As previously discussed, each party will supplement their discovery responses as needed and to identify, copy and produce documents by March 15, 2006. Assuming your client agrees to the sixty-day extension referenced above, we would file the attached stipulated extension of discovery and testimony periods resetting the relevant dates as follows: discovery in the consolidated opposition to close on May 15, 2006; opposer's testimony period to close on June 23, 2006; applicant's testimony period to close on August 22, 2006; and opposer's rebuttal period to close on October 6, 2006.

Please confirm your agreement with the above so that we may file the stipulated extension of discovery and testimony periods. We would appreciate your prompt response by the close of business tomorrow as we will promptly file the motion regardless of whether it is stipulated or ex parte. Also, as we expect that the parties will be producing confidential documents, it is imperative that we file a stipulated protective order with the Trademark Trial and Appeal Board as soon as possible. Please confirm that you will provide us with a draft by the end of next week at the latest.



Kirkpatrick & Lockhart Nicholson Graham LLP
Pieter J. Tredoux, Esq.
March 2, 2006
Page 2

Should you have any questions or require additional information, please call me.

Very truly yours,

A handwritten signature in black ink that reads "Melanie Bradley". The signature is written in a cursive style with a large, looping flourish at the end of the name.

Melanie Bradley

Enclosure

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

Atty. Ref.: 0820278.0103

De Boulle Diamond & Jewelry, Inc.	:	
	:	
Opposer,	:	Consolidated Opposition No.: 91162370
	:	Opposition Nos. 91162370
-against-	:	91162469
	:	91164615
De Beers LV Ltd.	:	91165285
	:	91165465
Applicant.	:	

STIPULATED MOTION TO EXTEND DISCOVERY AND TESTIMONY PERIODS

Applicant, De Beers LV Ltd., hereby moves this Honorable Board to extend the discovery period in the above-captioned opposition proceeding and to reset the testimony dates as follows¹:

THE PERIOD FOR DISCOVERY TO CLOSE:	May 15, 2006
Testimony period for party in position of plaintiff to close:	June 23, 2006
Testimony period for party in position of defendant to close:	August 22, 2006
Rebuttal testimony period to close	October 6, 2006.

Peter J. Tredoux, Counsel for Opposer De Boulle Diamond & Jewelry Inc. has stipulated to this motion.

¹ Applicant's previous ex parte motion to extend discovery and testimony periods was filed on December 27, 2005, however the Board has not yet ruled on same.

The parties require the extension of the discovery period as they have been unable to complete discovery during the previously enumerated time period. Accordingly, Applicant respectfully requests that Trademark Trial and Appeal Board grant this motion to extend discovery and testimony periods.

Respectfully submitted,

DE BEERS LV LTD>

Dated: March __, 2006

By: _____

Darren Saunders
Melanie Bradley
Kirkpatrick & Lockhart Nicholson Graham LLP
599 Lexington Avenue
New York, NY 10022-6030
Tel: (212) 536-3900
Fax: (212) 536-3901

Attorneys for Opposer

CERTIFICATE OF SERVICE BY MAIL

I hereby certify that on the ___th day of March, 2006, I served a true and correct copy of the foregoing Stipulated Motion to Extend Discovery and Testimony Dates on the attorney for the Applicant at the address indicated below, by depositing said document in the United States mail, first-class postage prepaid:

David A. Harlow, Esq.
Christopher M. Kindel, Esq.
Nelson Mullins Riley & Scarborough LLP
4140 Parklake Avenue
GlenLake One/Second Floor
Raleigh, NC 27612

Peter J. Tredoux, Esq.
300 Park Avenue, Suite 1700
New York, N.Y. 10022

Dated: March __, 2006

Melanie Bradley

Confirmation Report - Memory Send

Page : 001
Date & Time: 06-Mar-02 04:48pm
Line 1 : 212 536 3901
Line 2 :
Machine ID : Kirkpatrick & Lockhart LLP

Job number : 581
Date : Mar-02 04:47pm
To : 2#332#912147125690
Number of pages : 006
Start time : Mar-02 04:47pm
End time : Mar-02 04:48pm
Pages sent : 006
Status : OK

Job number : 581 *** SEND SUCCESSFUL ***



Kirkpatrick & Lockhart Nicholson Graham LLP

688 Lexington Avenue
New York, NY 10022
212.536.3900
Fax: 212.536.3901

FAX

Date • March 2, 2006
Pages • 6
Transmit To • Pieter J. Tredoux, Esq.
Fax No. • 214-712-5690
From • Melanie Bradley
Phone • 212.536.4071
Secretary • Rebecca Powell
Phone • 212 - 536 - 4093
Attorney No. • 8296
Client/Matter Name Griffes
Client ID/Matter No. • 082027B/0103

COMMENTS: Please see attached.

When you are sending to us, please be sure to include a cover sheet with your transmittal and a telephone number where you can be contacted in case of equipment malfunction.

Transmitted by:

Time:

IMPORTANT: The materials transmitted by this facsimile are sent by an attorney or his/her agent, and are considered confidential and are intended only for the use of the individual or entity named. If the addressee is a client, these materials may also be subject to applicable privileges. If the recipient of these materials is not the addressee, or the employee or agent responsible for the delivery of these materials to the addressee, please be aware that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please immediately notify us at 212.536.3900 (collect) and return the transmitted materials to us at the above address via the U.S. Postal Service. We will reimburse you any costs incurred in connection with this erroneous transmission and your return of these materials. Thank you. Please report problems with reception by calling 212.536.3900.
NY-418446 v2

EXHIBIT C



Kirkpatrick & Lockhart Nicholson Graham LLP

599 Lexington Avenue
New York, NY 10022-6030
212.536.3900
Fax 212.536.3901
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April 4, 2006

Melanie Bradley

212.536.4071
Fax: 212.536.3901
mbradley@klmg.com

VIA FACSIMILE

Pieter J. Tredoux, Esq.
1717 Main Street, Suite 3400
Dallas, Texas 75205

Re: DeBoulle Diamond & Jewelry, Inc. v. DeBeers LV Ltd.
Consolidated Opposition No. 91165285

Dear Pieter:

This is further to our conversation of last Wednesday concerning an extension of the discovery and testimony periods in the above-identified matter.

Per our discussion each party will supplement their discovery responses as needed and to identify, copy and produce responsive documents by April 14, 2006. We will file a stipulated extension of discovery and testimony periods resetting the relevant dates as follows: discovery in the consolidated opposition to close on June 15, 2006; opposer's testimony period to close on August 14, 2006; applicant's testimony period to close on October 15, 2006; and opposer's rebuttal period to close on December 15, 2006.

As previously indicated, we intend to use the extended discovery period to take the deposition of a representative of DeBoulle Diamond & Jewelry, Inc. who is familiar with the documents produced to us, if necessary.

Please confirm your agreement with the above so that we may file the stipulated extension of discovery and testimony periods. Please also confirm that you will provide us with a draft stipulated protective order by the end of this week. We would like to file the protective order with the Trademark Trial and Appeal Board in advance of the document exchange.



Kirkpatrick & Lockhart Nicholson Graham LLP

Pieter J. Tredoux, Esq.

April 4, 2006

Page 2

Should you have any questions or require additional information, please call me.

Very truly yours,

A handwritten signature in cursive script that reads "Melanie Bradley". The signature is written in black ink and is positioned above the printed name.

Melanie Bradley

Enclosure

Confirmation Report - Memory Send

Page : 001
Date & Time: Apr-04-06 12:31pm
Line 1 :
Line 2 :
Machine ID : Kirkpatrick & Lockhart LLP

Job number : 988
Date : Apr-04 12:30pm
To : 2H459H912123082500
Number of pages : 003
Start time : Apr-04 12:30pm
End time : Apr-04 12:31pm
Pages sent : 003
Status : OK

Job number : 988

*** SEND SUCCESSFUL ***



Kirkpatrick & Lockhart Nicholson Graham LLP

599 Lexington Avenue
New York, NY 10022
212.536.3900
Fax: 212.536.3901

FAX

Date • April 4, 2006
Pages • 3
Time •
Transmit To • Pieter J. Tredoux, Esq.
Company/Firm •
Telephone No. •
Fax No. • 212-308-2500
From • Melanie Bradley
Phone • 212.536.4071
Secretary • Rebecca Powell
Phone • 212-536-4093
Attorney No. •
Client/Matter Name
Client ID/Matter No. • 0820278/0103

COMMENTS:

When you are sending to us, please be sure to include a cover sheet with your transmittal and a telephone number where you can be contacted in case of equipment malfunction.

Transmitted by:

Time:

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EXHIBIT D

Bradley, Melanie

From: Bradley, Melanie
Sent: Friday, April 14, 2006 12:54 PM
To: 'pjt@hush.com'
Cc: Saunders, Darren W.
Subject: De Boule Diamond & Jewelry Inc. v. De Beers LV Ltd. - Consolidated Opposition No. 91165285

Dear Pieter:

We have not received your response to our facsimile of April 4, 2006 regarding the agreed upon exchange of documents and discovery schedule in the above-identified matter. As you may recall, we had anticipated that the parties' exchange of responsive documents would occur today. We are prepared to produce documents, however, as we have not heard from you and also, since there still is no protective order in place, we will refrain from doing so. Please give me a call at your earliest convenience to reset the schedule for exchanging documents and extending discovery.

Sincerely,

Melanie Bradley, Esq.

Kirkpatrick & Lockhart Nicholson Graham
599 Lexington Avenue
New York, N.Y. 10022
212-536-4071 (phone)
212-536-3901 (fax)
mbradley@kln.com

EXHIBIT E



Kirkpatrick & Lockhart Nicholson Graham LLP

599 Lexington Avenue
New York, NY 10022-6030
212.536.3900
Fax 212.536.3901
www.klmg.com

April 25, 2006

Melanie Bradley

212.536.4071
Fax: 212.536.3901
mbradley@klmg.com

VIA FACSIMILE
Confirmation via First Class Mail

Pieter J. Tredoux, Esq.
300 Park Avenue, Suite 1700
New York, N.Y. 10022

Re: DeBouille Diamond & Jewelry, Inc. v. DeBeers LV Ltd.
Consolidated Opposition No. 91165285

Dear Pieter:

This is further to my facsimile of April 4, 2006 and my email of April 14, 2006.

We have been trying to contact you to arrange for the exchange of documents and the entry of a protective order, but have not received any reply. According to the Trademark Trial and Appeal Board's latest order, discovery now is set to close in the Consolidated Opposition on June 1, 2006. It is therefore imperative that we immediately file a protective order and exchange documents so that we may arrange for depositions, if necessary, in advance of the close of discovery.

We require a response from you by close of business tomorrow. If we do not hear from you, we will file a motion to compel.

Very truly yours,


Melanie Bradley

Confirmation Report - Memory Send

Page : 001
Date & Time: Apr-25-06 04:19pm
Line 1 :
Line 2 :
Machine ID : Kirkpatrick & Lockhart LLP

Job number : 110
Date : Apr-25 04:18pm
To : 2#573#912147125690
Number of pages : 002
Start time : Apr-25 04:18pm
End time : Apr-25 04:19pm
Pages sent : 002
Status : OK

Job number : 110 *** SEND SUCCESSFUL ***



Kirkpatrick & Lockhart Nicholson Graham LLP

599 Lexington Avenue
New York, NY 10022
212.536.3900
Fax: 212.536.3901

FAX

Date - March 25, 2006
Pages - 2
Transmit To - Pieter J. Tredoux, Esq.
Fax No. - 214-712-5690
From - Melanie Bradley
Phone - 212.536.4071
Secretary - Rebecca Powell
Phone - 212 - 536 - 4093
Attorney No. - 8296
Client/Matter Name Griffes
Client ID/Matter No. - 0820278/0103

COMMENTS: Please see attached.

When you are sending to us, please be sure to include a cover sheet with your transmittal and a telephone number where you can be contacted in case of equipment malfunction.

Transmitted by:

Time:

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NY-418446 v2

EXHIBIT F



Kirkpatrick & Lockhart Nicholson Graham LLP

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212.536.3900
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May 10, 2006

Melanie Bradley

212.536.4071
Fax: 212.536.3901
mbradley@klmg.com

VIA FEDERAL EXPRESS

Pieter J. Tredoux, Esq.
300 Park Avenue, Suite 1700
New York, N.Y. 10022

Re: DeBouille Diamond & Jewelry, Inc. v. DeBeers LV Ltd.
Consolidated Opposition No. 91165285

Dear Pieter:

Enclosed are documents responsive to Opposer's First Request for Production of Documents and Things to DeBeers LV Ltd., bearing production numbers DB 00001 to DB 00019. We are withholding confidential documents pending the entry of an appropriate protective order. Accordingly, we ask once again that you provide us with a draft protective order at your earliest possible convenience.

We expect to promptly receive your client's supplemental responses to Applicant's First Sets of Interrogatories and Requests for Admission as well as documents responsive to Applicant's First Set of Requests for Production of Documents and Things.

Very truly yours,


Melanie Bradley