

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

Atty. Ref.: 0820278.0103

TTAB

78,245,219

De Boulle Diamond & Jewelry, Inc.

Opposer,

-against-

De Beers LV Ltd.

Applicant.

Consolidated Opposition No.: 91162370

Opposition Nos. 91162370

91162469

91164615

91165285

91165465

APPLICANT'S MOTION FOR DISCOVERY SANCTIONS

Applicant, by its undersigned attorneys, hereby moves before the Trademark Trial and Appeal Board, pursuant to Trademark Rule 2.120(g)(1), for an order entering judgment against the Opposer and dismissing the above-identified opposition proceeding for failure to comply with the Board's Order to Compel Discovery Responses ("Order") entered on July 26, 2006.

I. FACTS

Opposer's First Set of Requests for Production of Documents and Things were duly served upon Applicant's attorney on July 27, 2005. (see Exhibit A). Applicant's First Set of Requests for Production of Documents and Things were duly served upon Opposer's attorney, on November 18, 2005 (see Exhibit B).

As set forth in its Motion to Compel Production of Documents ("Motion to Compel"), filed on May 31, 2006, Applicant has made numerous attempts to arrange for the parties' production of responsive documents over the course of this proceeding. (see Exhibits C, D, E,

and F). On March 2, 2006, Applicant requested a 60-day extension of the discovery period to allow sufficient time to receive and review documents and to schedule any necessary depositions. Applicant initially suggested March 15, 2006 as the deadline to exchange responsive documents. (see Exhibit C). Upon further discussion, Applicant and Opposer agreed to produce responsive documents by April 14, 2006, which Applicant confirmed in writing on April 4, 2006. (see Exhibit D). Opposer, however, did not respond to Applicant and failed to produce any responsive documents at the agreed upon deadline. (see Exhibit E and F).

Following numerous unsuccessful attempts to contact Opposer's attorney, Opposer and Applicant verbally agreed to copy and exchange responsive documents by mail by May 10, 2006. Opposer was to provide a draft protective order in advance of the exchange, however, no protective order was provided. Nevertheless, on May 10, 2006, Applicant proceeded with its production of non-confidential documents responsive to Opposer's discovery requests (see Exhibit G). Opposer, however, did not produce any documents.

On May 12, 2006, Opposer's attorney telephoned Applicant's attorney confirming that he had not produced responsive documents but advised that he would do so the following week. Again, Applicant's attorney did not receive any documents responsive to its aforementioned discovery requests. On May 31, 2006, Applicant filed its Motion to Compel, which was duly served upon Opposer's attorney the same day. (see Exhibit H). On June 5, 2006, the Board suspended the opposition proceeding. On July 26, 2006, the Board issued its Order compelling Opposer's production of documents within 30 days. (see Exhibit I). Opposer has willfully disregarded the Board's Order, and to date, has not produced a single document to Applicant's attorneys.

II. ARGUMENT

It is in the sound discretion of the Trademark Trial and Appeal Board to issue a proper sanction in the event that a party fails to comply with an order relating to discovery. *See 37 C.F.R. § 2.120(g)(1)*. The Board may make any appropriate order, including any of the sanctions provided in Rule 37(b)(2) of the Federal Rules of Civil Procedure, except holding individuals in contempt or awarding monetary expenses to any party. *Id.*

When a party willfully disregards a formal order by the Board and sets forth unpersuasive reasons for the delay, entry of judgment is warranted. *See MHW Ltd. V. Simex, Aussenhandelsgesellschaft Savelsberg KG*, 59 U.S.P.Q.2d 1477 (T.T.A.B. 2000) (granting default judgment even though party complied with discovery order—albeit subsequent to the Board’s stipulated deadline). The Board will enter judgment when a moving party’s costs are increased by having to draft and answer additional motions in connection with a party’s non-compliance with a discovery order. *Baron Philippe de Rothschild S.A. v. Styl-Rite Optical Mfg. Co.*, 55 U.S.P.Q.2d 1848 (T.T.A.B. 2000) (entering default judgment when a party purposely avoids discovery responsibilities, willfully ignores the Board’s discovery order, and increases costs to the moving party by repeated delays and dilatory tactics); *Caterpillar Tractor Co. v. Catfish Anglers Together, Inc.*, 194 U.S.P.Q. 99 (T.T.A.B. 19976) (granting default judgment when party is seven months delinquent in complying with Board’s discovery order).

Here, Opposer has blatantly refused to produce documents without any explanation for its refusal to comply with the Board’s Order. Opposer’s responsive documents are now over four months past the deadline imposed by the Board. As a result of Opposer’s refusal to comply with its discovery obligations, Applicant’s costs in this proceeding have significantly increased from preparing and filing otherwise unnecessary motions and drafting numerous correspondence in an

attempt to elicit Opposer's compliance. It is apparent that further effects to correspond with Opposer would be futile and wasteful.

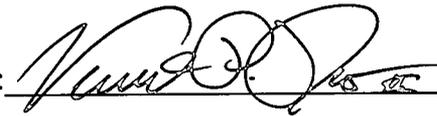
III. CONCLUSION

In view of the totality of Opposer's actions in this proceeding, including but not limited to, misleading applicant's attorneys on numerous occasions, purposely avoiding its discovery responsibilities, increasing costs to Opposer and blatantly disregarding the Board's Order, Applicant respectfully requests that the Board grant this motion for discovery sanctions and enter judgment in its favor and dismiss this opposition proceeding.

Respectfully submitted,

DE BEERS LV LTD.

Dated: January 9, 2007

By:  _____

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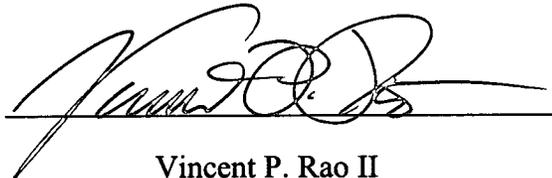
CERTIFICATE OF SERVICE BY MAIL

I hereby certify that on the 9th day of January, 2007, I served a true and correct copy of the foregoing Motion for Discovery Sanctions on the attorneys for the Opposer at the addresses 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: January 9, 2007



Vincent P. Rao II

EXHIBIT A

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

DEBOULLE DIAMOND & JEWELRY, INC.,

Opposer,

v.

DE BEERS LV LTD.,

Applicant.

Opposition No. 91162370

Opposition No. 91162469

Opposition No. 91164615

Opposition No. 91165285

Opposition No. 91165465

Consolidated Opposition No. 91165285

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

Pursuant to Rule 34 of the Federal Rules of Civil Procedure and 37 C.F.R.

§ 2.120(d)(2), Opposer, De Boule Diamond & Jewelry, Inc. ("Opposer"), hereby serves the following First Set of Requests for Production of Documents and Things upon the Applicant, De Beers LV Ltd. De Beers LV Ltd is to respond to the Requests set forth below in writing within thirty (30) days from the date of service.

DEFINITIONS

The definitions listed below are applicable to this First Set of Interrogatories and any other discovery requests served upon De Beers LV Ltd. by Opposer in this action.

A. "Applicant" as used herein shall mean De Beers LV and/or De Beers LV Trade Mark Limited, as those terms are defined below.

B. "Opposer" as used herein means not only De Boule Diamond & Jewelry, Inc., but also its predecessors, subsidiaries and any business entities wholly or partially controlled by De Boule Diamond & Jewelry, Inc., any affiliates of De Boule Diamond & Jewelry, Inc., any persons controlling or controlled by De Boule Diamond & Jewelry, Inc., any licensees, and its officers, directors, employees, agents, representatives and attorneys, to the fullest extent the context permits.

C. "Opposer's Marks" as used herein denote, (i) Opposer's "deB" mark, the stylized version of which is the subject of a pending trademark application filed July 1, 2004, USPTO Serial No. 78/444,907, for actual use with the goods and services identified in that application as jewelry, diamonds, watches and timepieces, and fine art (hereinafter "Opposer's Goods"), (ii) Opposer's "DE BOULLE" mark, which is the subject of a pending trademark application filed July 1, 2004, USPTO Serial No. 78/44,880, for actual use with the goods and services identified in that application, and (iii) Opposer's "DB" mark, which is the subject of a pending trademark application filed April 1, 2005, USPTO Serial No. 78/604,056, for actual use with the goods and service identified in that application.

D. "DBSA" as used herein denotes De Beers Société Anonyme, f/k/a/ DB Investments, Société Anonyme, a company incorporated under the laws of the Grand Duchy of Luxembourg, Registration No. B 78985, also doing business as De Beers S.A., Luxemburg, Zweigniederlassung Luzern, under the laws of the Canton Luzern, Swiss Confederation, Identification No. CH-100.9.784.938-7, its parent, subsidiary, predecessor, successor, affiliated or related corporations, businesses and entities, and is intended to

include their partners, officers, directors, shareholders, representatives, employees, servants, agents, and all other natural persons or business or legal entities acting or purporting to act for or on behalf of DBSA.

E. "DBCM" as used herein denotes De Beers Consolidated Mines Limited, a company incorporated in the Republic of South Africa, Company Registration No. 1888/000007/06, its parent, subsidiary, predecessor, successor, affiliated or related corporations, businesses and entities, and is intended to include their partners, officers, directors, shareholders, representatives, employees, servants, agents, and all other natural persons or business or legal entities acting or purporting to act for or on behalf of DBCM.

F. "DBCAG" as used herein denotes De Beers Centenary A.G., a company incorporated under the laws of the Canton Luzern, Swiss Confederation, Identification No. CH-100.3.012.448-1, its parent, subsidiary, predecessor, successor, affiliated or related corporations, businesses and entities, and is intended to include their partners, officers, directors, shareholders, representatives, employees, servants, agents, and all other natural persons or business or legal entities acting or purporting to act for or on behalf of DBCAG.

G. "DTC" as used herein denotes Diamond Trading Company, a company incorporated under the laws of the United Kingdom, formerly organized as the Central Selling Organisation, a division, subsidiary or affiliate of DBCM and/or DBCAG, its parent, subsidiary, predecessor, successor, affiliated or related corporations, businesses and entities, and is intended to include their partners, officers, directors, shareholders,

representatives, employees, servants, agents, and all other natural persons or business or legal entities acting or purporting to act for or on behalf of DTC.

H. "De Beers" as used herein denotes DBSA, its parent, subsidiary, predecessor, successor, affiliated or related corporations, businesses and entities, including, but not limited to, DBCAG, DBCM, DTC, and the De Beers Group, and is intended to include their partners, officers, directors, shareholders, representatives, employees, servants, agents, and all other natural persons or business or legal entities acting or purporting to act for or on behalf of De Beers.

I. "DBCSF" as used herein denotes De Beers Centenary Schweiz Stiftung, a foundation established under the laws of the Canton Luzern, Swiss Confederation, Identification No. CH- 100.7.015.303-1, its predecessor, successor, affiliated or related corporations, businesses and entities, and is intended to include their partners, officers, directors, shareholders, representatives, employees, servants, agents, and all other natural persons or business or legal entities acting or purporting to act for or on behalf of DBCSF.

J. The "De Beers Group Web Site" as used herein denotes the Web site located at <http://www.debeersgroup.com>, owned by De Beers.

K. The "De Beers LV Web Site" as used herein denotes the Web site located at <http://www.debeers.com>, owned by De Beers LV.

L. The "De Beers Group" as used herein denotes the entities identified and described by that name on the De Beers Group Web Site, their predecessor, successor, affiliated or related corporations, businesses and entities, and is intended to include their

partners, officers, directors, shareholders, representatives, employees, servants, agents, and all other natural persons or business or legal entities acting or purporting to act for or on behalf of the De Beers Group.

M. "LVMH" as used herein denotes the entity identified and described as LVMH Moët Hennessy Louis Vuitton on the De Beers Group Web Site and the De Beers LV Web Site, its predecessor, successor, affiliated or related corporations, businesses and entities, and is intended to include their partners, officers, directors, shareholders, representatives, employees, servants, agents, and all other natural persons or business or legal entities acting or purporting to act for or on behalf of LVMH.

N. "Nicky Oppenheimer" as used herein denotes Nicky Oppenheimer, the person identified on the De Beers Group Web Site as the Chairman of the De Beers Group.

O. "Harry Oppenheimer" as used herein denotes Harry Frederick Oppenheimer, identified on the on the De Beers Group Web Site as a former Chairman of the De Beers Group.

P. The "Oppenheimer Family" as used herein denotes the members of the family, spouses, descendants, heirs, devisees, legatees, successors, and assigns, of Sir Ernest Oppenheimer, Sir Philip Oppenheimer, and Harry Oppenheimer, including but not limited to Nicky Oppenheimer, Anthony Oppenheimer, and Jonathan Oppenheimer, their affiliated or related corporations, businesses and entities, and is intended to include their partners, officers, directors, shareholders, representatives, employees, servants, agents, and all other natural persons or business or legal entities acting or purporting to act for or on behalf of the "Oppenheimer Family".

Q. “Anglo American” as used herein denotes Anglo American plc (nasdaq: AAUK), the successor to Anglo American Corporation of South Africa, Ltd., a company incorporated under the laws of the United Kingdom, its parent, subsidiary, predecessor, successor, affiliated or related corporations, businesses and entities, and is intended to include their partners, officers, directors, shareholders, representatives, employees, servants, agents, and all other natural persons or business or legal entities acting or purporting to act for or on behalf of Anglo American.

R. “De Beers LV” as used herein denotes the Applicant for federal registration of the SO DB Mark, the DB STAR Mark, the DB LOGO Mark, the DB SIGNATURE Mark, and the DB MONOGRAM Mark, its parent, subsidiary, predecessor, successor, affiliated or related corporations, businesses and entities, including, but not limited to, De Beers LV Trade Mark Limited, DBSA, DBCM, DBCAG, DTC, De Beers, DBCSF, any one or more of the De Beers Group, and/or Anglo American, and is intended to include their partners, officers, directors, shareholders, representatives, employees, servants, agents, including, but not limited to, Nicky Oppenheimer, Harry Oppenheimer, any one or more of the Oppenheimer Family, and all other natural persons or business or legal entities acting or purporting to act for or on behalf of De Beers LV.

S. “De Beers LV Trade Mark Limited” as used herein denotes the Applicant for federal registration of the D AND B Mark, its parent, subsidiary, predecessor, successor, affiliated or related corporations, businesses and entities, including, but not limited to, De Beers LV, DBSA, DBCM, DBCAG, DTC, De Beers, DBCSF, any one or more of the De Beers Group, and/or Anglo American, and is intended to include their

partners, officers, directors, shareholders, representatives, employees, servants, agents, including, but not limited to, Nicky Oppenheimer, Harry Oppenheimer, any one or more of the Oppenheimer Family, and all other natural persons or business or legal entities acting or purporting to act for or on behalf of De Beers LV Trade Mark Limited.

T. The "SO DB Mark" as used herein denotes the mark "SO DB" which is the subject of Applicant's application for federal registration, U.S. Trademark Application Serial No. 79/000,478 for intended use with the goods identified in that application.

U. The "DB STAR Mark" as used herein denotes the mark "DB STAR" which is the subject of Applicant's application for federal registration, U.S. Trademark Application Serial No. 78/245,795 for intended use with the goods identified in that application.

V. The "DB LOGO Mark" as used herein denotes the mark "DB LOGO" which is the subject of Applicant's application for federal registration, U.S. Trademark Application Serial No. 78/245,219 for intended use with the goods identified in that application.

W. The "DB SIGNATURE Mark" as used herein denotes the mark "DB SIGNATURE" which is the subject of Applicant's application for federal registration, U.S. Trademark Application Serial No. 78/245,210, for intended use with the goods identified in that application.

X. The "DB MONOGRAM Mark" as used herein denotes the mark "DB MONOGRAM" which is the subject of Applicant's application for federal registration,

U.S. Trademark Application Serial No. 78/245,779 for intended use with the goods identified in that application.

Y. The “D AND B Mark” as used herein denotes the mark “D AND B” which is the subject of De Beers LV Trade Mark Limited’s application for federal registration, U.S. Trademark Application Serial No. 78/140,378, for intended use with the goods identified in that application.

Z. “Applicant’s Mark(s)” as used herein denotes: (i) the DB LOGO Mark; (ii) the SO DB Mark; (iii) the DB STAR Mark; (iv) the DB SIGNATURE Mark; (v) the DB MONOGRAM Mark; and (vi) the D AND B Mark.

AA. “Applicant’s Goods” as used herein denotes the goods identified in the application(s) for federal registration of Applicant’s Marks(s).

BB. “N.W. Ayer” as used herein denotes the business formerly known as NW Ayer & Partners, and its survivor, successor, parent, subsidiary, predecessor, affiliated or related corporations, businesses and entities, including, but not limited to, Bcom3 Group, Inc. and The Kaplan Thaler Group, and is intended to include their partners, officers, directors, shareholders, representatives, employees, servants, agents, and all other natural persons or business or legal entities acting or purporting to act for or on behalf of N.W. Ayer.

CC. “JWT” as used herein denotes J. Walter Thompson Company, a Delaware corporation, and/or J. Walter Thompson USA, Inc., their parent, subsidiary, predecessor, successor, affiliated or related corporations, businesses and entities, and is intended to include their partners, officers, directors, shareholders, representatives, employees,

servants, agents, and all other natural persons or business or legal entities acting or purporting to act for or on behalf of JWT.

DD. "The "De Beers/LVMH Joint Venture" shall mean the agreement, said to be dated 16 January 2001, between De Beers and LVMH pertaining or relating to De Beers LV.

EE. "Document" or "documents" as used herein means and includes, without limitation, the original and any non-identical copy of any writings or recordings as defined in Rule 1001 of the Federal Rules of Evidence, irrespective of form, audio or visual recordation, in the possession, custody or control of any person or entity.

FF. "Identify" as used herein shall mean (i) with respect to a natural person, to state the person's full name, his or her last known address, current occupation, and job title or current employer or business affiliation; (ii) with respect to a document, to state its nature, for example a letter, ledger, computer printout or the like, to state the document's present location, to identify the natural person presently having custody or control of the document, to state the date of the document, and to provide a brief summary of the substance of the document; (iii) with respect to a communication, to state the date of the communication, to state the nature of the communication, to identify the persons involved in the communication, and to describe the substance of the communication; (iv) with respect to a thing, to state the nature of the thing, including any numbers, markings or other identifying characteristics; and (v) with respect to a corporation, unincorporated association, government entity, or any group of individuals

or institutions to state its state of incorporation, its current mailing address and telephone number, and principal place of business.

GG. "Person" as used herein denotes any natural person or persons, governments (or agencies thereof), corporations, partnerships, ventures, and all other forms of organization or association.

HH. "Date" as used herein denotes the exact day, month and year, if ascertainable, and if not, the best approximation thereof, including the relationship to other events.

II. "And" and "or" as used herein shall be both conjunctive and disjunctive.

JJ. Terms stated in one gender shall be deemed to refer to both genders.

KK. "You" or "your" as used herein denotes the entity to whom or to which these interrogatories or other discovery are directed.

LL. "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, implicating, bearing upon, having to do with, associating with, connecting with, or into.

REQUESTS FOR PRODUCTION OF DOCUMENTS OR THINGS

Opposer requests that Applicant produce, or permit inspection and copying of, the documents and things referenced below, unless the request is objected to, in which event the reasons for such objection, including the grounds thereof, shall be stated in lieu of an

answer. Applicant is requested to produce the documents and things at the place where the documents and things are usually kept or where the parties agree, within thirty (30) days from the date of service of these Requests for Production. All documents and things shall be produced as they are kept in the usual course of business or shall be organized and labeled to correspond with the number of the specific Requests to which they are being produced in response.

1. All documents and things which reflect, refer to, or relate in any way to the first use in commerce and first use in interstate commerce in the United States of Applicant's Marks on or in connection with each of Applicant's Goods.

Response:

2. If Applicant has not yet sold any goods bearing or in connection with Applicant's Marks in the United States, then produce representative documents, specimens and things which indicate, reflect, refer to, or relate in any way to Applicant's use of Applicant's Marks to identify Applicant's products in countries other than the United States, including without limitation documents identifying the dates of said use.

Response:

3. All documents and things which illustrate, describe, discuss, document, chart or otherwise refer to or relate to the conception, development, selection, adoption, use or intended use of Applicant's Marks, including without limitation all representative drawings, photographs, blueprints and samples of all marks considered and documents

created during the development and selection of Applicant's Marks and of all marks considered as replacements or alternatives for Applicant's Marks.

Response:

4. Representative samples of all different sales, advertising, marketing and promotional materials or items, including without limitation magazine and trade journal advertisements, brochures, reports, leaflets, print or broadcast advertisements, bulletins, point of purchase materials, trade letters, press releases or other documents or things relating to or displaying Applicant's Marks which have been distributed or displayed by or on behalf of Applicant to other persons or used in any way since the selection and adoption of Applicant's Marks.

Response:

5. All documents and things which refer or relate to Applicant's application to register, or registration of, Applicant's Marks in any state of the United States or in the United States Patent and Trademark Office, and all amendments, office actions, examiner's amendments, responses to office actions, notices, declarations, specimens, or any other paper or document filed in connection with, or otherwise related to, said applications.

Response:

6. All documents and things constituting, pertaining to, resulting from, referring to, or relating to, any study, search or investigation, opinion or request for opinion referring to or relating to Applicant's Marks, including without limitation all trademark and service mark search reports and results of any computer searches.

Response:

7. All documents and things relating or referring to, or tending or relevant to show the registrability of Applicant's Marks.

Response:

8. All surveys, market studies, opinion polls or other sampling of attitudes or opinions concerning, referring to, or relating to Applicant's Marks or any of Applicant's Goods sold thereunder.

Response:

9. All surveys, market studies, opinion polls, or other sampling of attitudes or opinions concerning, referring to, or relating to any of Opposer's Marks or products sold thereunder.

Response:

10. To the extent not otherwise produced, all documents and things showing, reflecting, referring or relating to Opposer or Opposer's Marks, including without

limitation all documents relating to the circumstances surrounding Applicant becoming initially aware of Opposer's Marks.

Response:

11. All documents which refer or relate to any and all investigations by Applicant into Opposer's Goods which are sold or provided under Opposer's Marks.

Response:

12. All documents and things that were reviewed, considered, or discussed during the preparation or prosecution of Applicant's applications for United States trademark registration of Applicants Marks, or any foreign applications which correspond in whole or in part to said U.S. application.

Response:

13. All documents and things showing, reflecting, representing, or relating to the number of units sold and dollar volume of sales of goods or services in connection with Applicant's Marks, including all summaries, abstracts and compilations thereof.

Response:

14. All documents and things showing, reflecting, referring, or relating to the advertising and marketing expenditures relating to the sale or offering for sale of goods in connection with Applicant's Marks has been or will be used, including summaries, abstracts and compilations thereof.

Response:

15. Representative documents and things identifying the channels of distribution of the goods with which Applicant uses or intends to use Applicant's Marks, including without limitation the channels of trade through which Applicant offers, has offered or intends to offer same for sale under Applicant's Mark.

Response:

16. Representative documents and things identifying the types or classes of potential or actual consumers, recipients and/or users of Applicant's Goods which are or will be sold under Applicant's Marks.

Response:

17. To the extent not otherwise produced, all documents and things relating or referring to, showing, or reflecting Applicant's Goods with which Applicant uses or intends to use Applicant's Marks.

Response:

18. All documents and things showing, reflecting, referring, or relating to the type or sophistication of Applicant's clients whom Applicant alleges are not likely to be confused by Applicant's Marks and Opposer's Marks.

Response:

19. All documents, agreements, correspondence, oppositions, complaints, pleadings, or other writings constituting, referring to, or relating to any assertions, interactions or claims by or against Applicant, or between Applicant and any other entity (other than Opposer), which in any way assert or claim that Applicant's Marks are similar to such entity's mark, that any such entity's mark is similar to Applicant's Marks, that Applicant's rights in Applicant's Marks are limited in any way due to the existence of such entity's mark, or that Applicant's rights in Applicant's Marks are extinguished in any way due to the existence of such entity's mark.

Response:

20. All documents that refer or relate to any complaints related in any way to Applicant's goods bearing Applicant's Marks or to any of Applicant's Goods related thereto.

Response:

21. All documents and things that refer or relate to any incidents of actual confusion between Opposer and Applicant or between Opposer's Marks and Applicant's

Marks, including without limitation any such incidents involving persons inquiring or commenting about any relationship between Opposer and Applicant; incidents involving persons inquiring about or requesting products where there is any indication that such persons were confused or mistaken about the source of such products or the relationship of Opposer and Applicant; or any other incident involving a question about the relationship, source of goods, or other confusion of or between Opposer and Applicant or their respective marks.

Response:

22. All documents disclosing persons to whom Applicant has sold Applicant's Goods under Applicant's Marks since the introduction of such goods.

Response:

23. All documents which refer or relate to any plans of Applicant to expand, including, but not limited to, expansion of marketing lines, consumer base, or geographical areas served.

Response:

24. All documents which refer or relate to any acquisition of any rights in Applicant's Marks by Applicant.

Response:

25. All documents which refer or relate to any authorization, license, franchise, contract, assignment or grant from Applicant to any other person or entity giving the other person or entity the right to use Applicant's Marks.

Response:

26. Representative documents which evidence the geographic extent to which Applicant has used or intends to use Applicant's Marks.

Response:

27. All documents which refer or relate to any plans of Applicant to develop use of Applicant's Marks in connection with the sale of jewelry, watches and other items comprising Applicants' Goods.

Response:

28. All documents, agreements, and correspondence constituting, referring to, or relating to any assertions, interactions, or claims by or between Applicant and any other entity which in any way involve, affect or purport to affect Applicant's ownership,

title to, or rights in Applicant's Marks, including but not limited to any consent agreements relating to any oppositions to registration of Applicant's Marks.

Response:

29. All documents not produced as part of your responses to these Requests, but which were referred in the preparation of, or otherwise identified in Applicant's answers to, Opposer's First Set of Interrogatories to Applicant in this cause.

Response:

30. Any and all notes, writings, documents or tangible things which contain, evidence, refer, relate or pertain DBCAG's Indictment in the United States District Court for the Southern District of Ohio, in Case No. CR-2-94-019 (the "Anti-Trust Indictment").

Response:

31. Any and all notes, writings, documents or tangible things which contain, evidence, refer, relate or pertain to any strategy, plan or design by, or the ability of, De Beers to directly conduct business in the United States prior to 2004.

Response:

32. Any and all notes, writings, documents or tangible things which contain, evidence, refer, relate or pertain to the investigation (including but not limited to any action or indictment brought or threatened pursuant thereto), by the United States Department of Justice of De Beers for violations of the Sherman Act (or any similar or related United States antitrust or anti-monopolistic law, statute, rule, regulation, act, or ordinance), in or about 1945.

Response

33. Any and all notes, writings, documents or tangible things which contain, evidence, refer, relate or pertain to the investigation (including but not limited to any action or indictment brought or threatened pursuant thereto), by the United States Department of Justice of De Beers for violations of the Sherman Act (or any similar or related United States antitrust or anti-monopolistic law, statute, rule, regulation, act, or ordinance), in or about 1957.

Response

34. Any and all notes, writings, documents or tangible things which contain, evidence, refer, relate or pertain to the investigation (including but not limited to any action or indictment brought or threatened pursuant thereto), by the United States Department of Justice of De Beers for violations of the Sherman Act (or any similar or related United States antitrust or anti-monopolistic law, statute, rule, regulation, act, or ordinance), in or about 1973.

Response

35. Any and all notes, writings, documents or tangible things which contain, evidence, refer, relate or pertain to the investigation (including but not limited to any action or indictment brought or threatened pursuant thereto), by the United States Department of Justice of De Beers for violations of the Sherman Act (or any similar or related United States antitrust or anti-monopolistic law, statute, rule, regulation, act, or ordinance), other than those referred to in Requests no's 32 through 34 above.

Response

36. Any and all notes, writings, documents or tangible things which contain, evidence, refer, relate or pertain to lawsuits against one or more of the De Beers Group brought in the United States based, in whole or in part, on allegations of human rights abuses against victims of South Africa's apartheid-era regimes.

Response:

37. Any and all notes, writings, documents or tangible things which contain, evidence, refer, relate or pertain to lawsuits against one or more of the De Beers Group brought in the United States based, in whole or in part, on allegations of violations of the Sherman Act (or any similar or related United States antitrust or anti-monopolistic law, statute, rule, regulation, act, or ordinance).

Response:

38. Any and all notes, writings, documents or tangible things which contain, evidence, refer, relate or pertain to the source or origin of diamonds mined in Angola, purchased or otherwise acquired, directly or indirectly, by one or more of the De Beers Group.

Response:

39. Any and all notes, writings, documents or tangible things which contain, evidence, refer, relate or pertain to the source or origin of diamonds or other gems mined in Sierra Leone, purchased or otherwise acquired, directly or indirectly, by one or more of the De Beers Group.

Response:

40. Any and all notes, writings, documents or tangible things which contain, evidence, refer, relate or pertain to any deal, contract, agreement, or understanding, directly or indirectly, between De Beers and the Government of Botswana pertaining to the mining of diamonds and other gems in the Central Kalahari Gaming Reserve.

Response:

41. Any and all notes, writings, documents or tangible things which contain, evidence, refer, relate or pertain to contacts and communications, whether written or oral, between De Beers and the Government of Botswana pertaining to the mining of diamonds and other gems in the Central Kalahari Gaming Reserve.

Response:

42. Any and all notes, writings, documents or tangible things which contain, evidence, refer, relate or pertain to any deal, contract, agreement, or understanding (including but not limited to pertaining or relating to the provision or supply of funding, other resources, or support), directly or indirectly, between De Beers and the Angolan UNITA rebels.

Response:

43. Any and all notes, writings, documents or tangible things which contain, evidence, refer, relate or pertain to contacts and communications (including but not limited to pertaining or relating to the provision or supply of funding, other resources, or support) whether written or oral, directly or indirectly, between De Beers and the Angolan UNITA rebels.

Response:

44. Any and all notes, writings, documents or tangible things which contain, evidence, refer, relate or pertain to any deal, contract, agreement, or understanding (including but not limited to pertaining or relating to the provision or supply of funding, other resources, or support), directly or indirectly, between De Beers and the Revolutionary United Front ("RUF") in Sierra Leone.

Response:

45. Any and all notes, writings, documents or tangible things which contain, evidence, refer, relate or pertain to contacts and communications (including but not

limited to pertaining or relating to the provision or supply of funding, other resources, or support), whether written or oral, between De Beers and The Revolutionary United Front ("RUF") in Sierra Leone.

Response:

46. Any and all notes, writings, documents or tangible things which contain, evidence, refer, relate or pertain to the De Beers/LVMH Joint Venture.

Response:

47. Any and all notes, writings, documents or tangible things which contain, evidence, refer, relate or pertain to:

(a) the date, manner (for example, corporation, partnership, limited partnership, limited liability company), and state of organization of De Beers LV Trade Mark Limited;

(b) the name, address, telephone number, of each person or entity that, at any time, was a shareholder, partner, limited partner, general partner, member, and/or otherwise beneficially and/or legally owned an equity or other ownership interest in De Beers LV Trade Mark Limited;

(c) the name, address, telephone number, of each person or entity that, at any time, was an officer, director, and/or manager of De Beers LV Trade Mark Limited;

(d) the name, address, and relationship to you of the persons or entities who have in their custody or control copies of the documents or tangible things referred to in (a) through (d) above.

Response:

48. Any and all notes, writings, documents or tangible things which contain, evidence, refer, relate or pertain to:

(a) the date, manner (for example, corporation, partnership, limited partnership, limited liability company), and state of organization of De Beers LV;

(b) the name, address, telephone number, of each person or entity that, at any time, was a shareholder, partner, limited partner, general partner, member, and/or otherwise beneficially and/or legally owned an equity or other ownership interest in De Beers LV;

(c) the name, address, telephone number, of each person or entity that, at any time, was an officer, director, and/or manager of De Beers LV;

(d) the name, address, and relationship to you of the persons or entities who have in their custody or control copies of the documents or tangible things referred to in (a) through (d) above.

Response:

49. Any and all notes, writings, documents or tangible things which contain, evidence, refer, relate or pertain to the business policy or practice of De Beers as articulated by its Chairman, Nicky Oppenheimer to be "very careful not to have any business in the United States which would make it liable to American law."

Response:

50. Please identify any and all information, facts or documents concerning or relating to all communications, whether written or oral, between Applicant, and/or de Beers, and N.W. Ayer.

Response:

51. Please identify any and all information, facts or documents concerning or relating to all communications, whether written or oral, between Applicant, and/or de Beers, and JWT.

Response:

52. Any and all notes, writings, documents or tangible things which contain, evidence, refer, relate or pertain, directly or indirectly, to any claim or allegation that De Beers has violated the Sherman Act, or any similar or related United States antitrust or anti-monopolistic law, statute, rule, regulation, act, or ordinance.

Response

This the 21st day of July, 2005.

NELSON MULLINS RILEY & SCARBOROUGH LLP

By: David A. Harlow

David A. Harlow

E-Mail Address:

David.harlow@nelsonmullins.com

NC Bar No. 1887

Christopher M. Kindel

E-Mail Address:

Chris.kindel@nelsonmullins.com

NC Bar No. 27925

4140 Parklake Avenue

GlenLake One / Second Floor

Post Office Box 30519 (27622-0519)

Raleigh, North Carolina 27612

(919) 877-3800

- and -

Pieter J. Tredoux

E-Mail Address:

ptredoux@tredoux.com

[Member of the New York Bar]

300 Park Avenue, Suite 1700

New York, New York 10022

(212) 308-3500

Co-Counsel for Opposer

CERTIFICATE OF SERVICE

The undersigned hereby certifies that he has served a copy of the foregoing document upon counsel of record by mailing a true copy thereof, through the United States Mail, first class, postage prepaid, on this the 21st day of July, 2005, and addressed as follows:

Mark I. Peroff, Esquire
Darren W. Saunders, Esquire
Kirkpatrick & Lockhart LLP
599 Lexington Avenue
New York, NY 10022-6030



Christopher M. Kindel

EXHIBIT B

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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:

:

:

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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 Boule 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

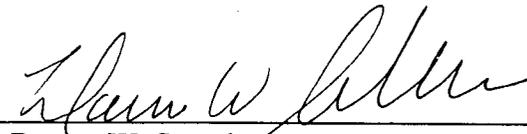
SIGNATURE.

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@kln.com
mbradley@kln.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 C



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: DeBoule 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

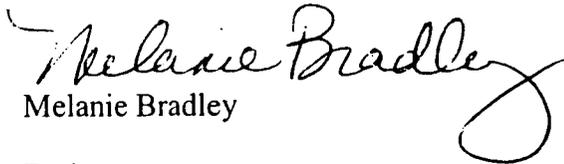
Pieter J. Tredoux, Esq.

March 2, 2006

Page 2

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

Very truly yours,

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

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 D



Kirkpatrick & Lockhart Nicholson Graham LLP

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

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 : 2#459#912123082500
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

699 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:

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.

EXHIBIT E

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@king.com

EXHIBIT F



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 : 2125734912147125690
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:

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 G



Kirkpatrick & Lockhart Nicholson Graham LLP

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

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

EXHIBIT H

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

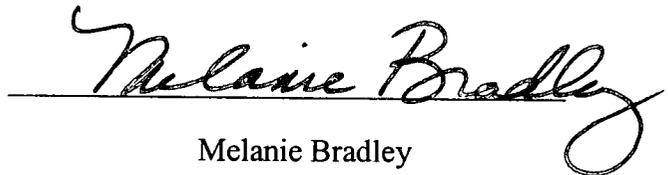

Melanie Bradley

EXHIBIT I

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

dmd

Mailed: July 26, 2006

Opposition No. 91162370

Opposition No. 91162469

Opposition No. 91164615

Opposition No. 91165285

Opposition No. 91165465

De Boulle Diamond & Jewelry,
Inc.

v.

De Beers LV Ltd

Cheryl Butler, Attorney, Trademark Trial and Appeal Board

On June 5, 2006, the Board suspended action in this proceeding pending the disposition of applicant's motion (filed May 31, 2006) to compel discovery responses. Office records indicate no response thereto.

Accordingly, applicant's motion to compel discovery responses is hereby granted as conceded. See Trademark Rules 2.120(e) and 2.127(a). Opposer is allowed until **30 days** from the date of this order to produce the documents that are the subject matter of this motion with respect to applicant's first set of request for production of documents.

Opposer is reminded that in the event it fails to comply with this order, the Board may entertain a motion for discovery sanctions. See Trademark Rule 2.120(g).

Discovery and testimony periods are reset as indicated below.

THE PERIOD FOR DISCOVERY TO CLOSE:	9/25/06
30-day testimony period for party in position of plaintiff to close:	12/24/06
30-day testimony period for party in position of defendant to close:	02/22/07
15-day rebuttal testimony period to close:	04/08/07

IN EACH INSTANCE, a copy of the transcript of testimony, together with copies of documentary exhibits, must be served on the adverse party WITHIN THIRTY DAYS after completion of the taking of testimony. Trademark Rule 2.125.

Briefs shall be filed in accordance with Trademark Rule 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.
