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

Proceeding	91164764
Party	Plaintiff Brink's Network, Incorporated Brink's Network, Incorporated 203 Bancroft Building3411 Silverside Road Wilmington, DE 19810 UNITED STATES
Correspondence Address	ALAN S. COOPER HOWERY SIMON ARNOLD & WHITE LLP 1299 PENNSYLVANIA AVENUE NW WASHINGTON, DC 20004 UNITED STATES lapidusn@howrey.com, ipdocketing@howrey.com
Submission	Motion to Compel Discovery
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Signature	/Nancy Lapidus/
Date	12/08/2005
Attachments	Brinks.Motion to Compel.Memo.pdf (13 pages) Brinks.Motion to Compel.ExABC.pdf (35 pages) Brinks.Motion to Compel.ExDEFGHI.pdf (41 pages)

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

BRINK'S NETWORK, INCORPORATED Opposer v. THE BRINKMANN CORPORATION Applicant	Opposition No. 91164764

OPPOSER'S MOTION TO COMPEL DISCOVERY

Opposer Brink's Network, Incorporated, in accordance with Rule 37 Fed. R. Civ. P. and Rule 2.120(3) of the Trademark Rules of Practice, hereby moves the Trademark Trial and Appeal Board to compel Applicant Brinkmann Corporation to respond to Opposer's First Request for Production of Documents and Things, to produce a witness in response Opposer's Notice of Taking Discovery Deposition, and to respond to Opposer's draft Protective Order. Opposer also requests the Board to stay proceedings in the above-captioned opposition pending disposition of this motion.

As grounds for this motion, Opposer states as follows:

(1) On September 6, 2005, Opposer served its First Set of Interrogatories and First Request for Production of Documents and Things to Applicant.

(2) On September 19, 2005, Opposer served a Notice of Taking Discovery Deposition of Applicant pursuant to Rule 30(b)(6) Fed. R. Civ. P.

(3) On October 11, 2005, Applicant served its Responses to Opposer's First Set of Interrogatories and First Request for Production of Document and Things. In response to each of Opposer's Requests for Production, Applicant stated the following:

> Subject to and without waiving the foregoing objections, Brinkmann will produce responsive documents, if any, to the extent such documents are relevant, not subject to the attorney-client privilege and/or the work product doctrine, and are in Brinkmann's possession, custody, or control. Brinkmann will produce confidential documents only after the parties have agreed to and the Board has entered a protective order in this action.

(4) On October 12, 2005, Applicant served its Response to Opposer's Notice of Taking Discovery Deposition, objecting to the entirety of Opposer's Notice, including each topic for testimony identified in a separately numbered or lettered paragraph therein.

(5) On October 19, 2005, Opposer sent a draft protective order to Applicant requesting Applicant's consent or comments thereto in order to facilitate the exchange of confidential documents in response to each party's discovery requests.

(6) Opposer has contacted Applicant on three occasions in writing to request the following: (a) production of non-privileged documents in response to Opposer's Request for Production; (b) consent or comments to the draft protective order; and (3) a reply to Opposer's proposed dates for the discovery deposition of Applicant's 30(b)(6) witness.

(7) To date and despite Opposer's repeated requests, Applicant has not produced any documents in response to Opposer's Request for Production, has not provided its consent or comments to Opposer's draft protective order, and has not

responded to Opposer's proposed dates for the deposition of Applicant's Rule 30(b)(6) witness.

(8) Applicant's refusal to cooperate in responding to and proceeding with discovery in an orderly and timely manner merits the relief sought by this motion.

In accordance with Rule 2.120(e) of the Trademark Rules of Practice, Opposer certifies that its counsel has made a good faith effort by correspondence with Applicant's counsel to resolve the issues presented by the present motion and has been unable to reach an agreement due in principal part to the failure of Applicant's counsel to respond to correspondence dealing with such issues.

For the reasons stated above, Opposer submits that the relief sought by the foregoing motion is fully warranted and that Applicant should be directed by the Board to:

(1) Produce all of the non-privileged documents responsive to Opposer's First Request for Production of Documents and Things within two weeks following the Board's Order granting this motion;

(2) Within two weeks following the Board's Order granting this motion, Applicant shall provide notice of at least two proposed dates for the deposition of Applicant's Rule 30(b)(6) witness. The two proposed dates shall be within a four-week period following said notification. The date selected for the deposition of Applicant's Rule 30(b)(6) witness must be mutually agreeable to Opposer and Applicant;

(3) Provide Applicant's comments to Opposer's proposed Protective Order and endeavor in good faith to complete negotiations with respect thereto within two weeks following the Board's Order granting this motion.

The current discovery period ends on December 21, 2005. Accordingly, Opposer also requests that the Board stay proceedings pending disposition of this motion and reset the discovery and testimony periods.

A memorandum in support of this Motion is submitted concurrently herewith.

BRINK'S NETWORK, INCORPORATED

Date: December 8, 2005

By: _____

Alan S. Cooper
Nancy S. Lapidus
Jason A. Cody
Howrey LLP
1299 Pennsylvania Avenue, N.W.
Washington, DC 20004
(202) 783-0800
Fax: (202) 383-7195

Attorneys for Opposer

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Opposer's Motion to Compel Discovery was served on the following counsel of record for Applicant by Federal Express, with confirming service by depositing the same in the U.S. Mail, first class mail postage prepaid, this 8th day of December, 2005:

Gary Clark, Esq.
Susan Hwang, Esq.
Sheppard, Mullin, Richter & Hampton LLP
333 South Hope Street, 48th Floor
Los Angeles, California 90071

Nancy Lapidus

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

BRINK'S NETWORK, INCORPORATED Opposer v. THE BRINKMANN CORPORATION Applicant	Opposition No. 91164764

MEMORANDUM IN SUPPORT OF OPPOSER'S
MOTION TO COMPEL DISCOVERY

I. INTRODUCTION

This matter is before the Board on Opposer's motion pursuant to Rule 37 Fed. R. Civ. P. and Rule 2.120(e) of the Trademark Rules of Practice to compel Applicant to respond to Opposer's First Request for Production of Documents and Things, to produce a witness in response to Opposer's Notice of Taking Discovery Deposition, and to respond to Opposer's draft Protective Order. Opposer also requests the Board to stay proceedings pending resolution of this motion.

II. FACTUAL BACKGROUND

On January 17, 2003, Applicant filed Application Serial No. 76/483,115 seeking to register the mark BRINKMANN for a variety of goods including home security systems and components therefor, namely, motion sensitive home security lights, detectors, receivers, transmitters, adapters and wall mount brackets (the "Opposed Application"). The Opposed Application was published for opposition on October 5,

2004. Opposer filed a timely Notice of Opposition to the Opposed Application on April 1, 2005. By Order of the Board dated October 18, 2005, the discovery period is presently set to close on December 21, 2005.

On September 6, 2005, Opposer served its First Request for Production of Documents and Things.[1] On October 11, 2005, Applicant served its Response to Opposer's First Request for Production of Documents and Things.[2] In response to each numbered request for production of documents, Applicant stated the following:

> Subject to and without waiving the foregoing objections, Brinkmann will produce responsive documents, if any, to the extent such documents are relevant, not subject to the attorney-client privilege and/or the work product doctrine, and are in Brinkmann's possession, custody, or control. Brinkmann will produce confidential documents only after the parties have agreed to and the Board has entered a protective order in this action.

On September 19, 2005, Opposer served a Notice of Taking Discovery Deposition of Applicant pursuant to Rule 30(b)(6) Fed. R. Civ. P.[3] Applicant served its Response to Opposer's Notice of Taking Deposition on October 12, 2005, which objected to Opposer's Notice in its entirety although indicating that Applicant would produce a witness to testify regarding each of the numbered paragraphs in the Notice to the extent that any responsive information exists and is known or reasonably available to Applicant.[4]

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[1] A true copy of Opposer's First Request for Production of Documents and Things is annexed hereto as Appendix A.
[2] A true copy of Applicant's Responses to Opposer's First Request for Production of Documents and Things is annexed hereto as Appendix B.
[3] A true copy of Opposer's Notice of Taking Discovery Deposition is annexed hereto as Appendix C.
[4] A true copy of Applicant's Response to Opposer's Notice of Taking Deposition is annexed hereto as Appendix D.

On October 19, 2005, Opposer sent a draft Protective Order to Applicant requesting Applicant's consent or comments thereto in order to facilitate the exchange of confidential documents in response to each party's discovery requests.[5]

To date and despite Opposer's repeated requests as discussed below, Applicant has not produced any documents in response to Opposer's First Request for Production of Documents, has not agreed to a date for the Rule 30(b)(6) deposition noticed by Opposer, and has not provided its consent or comments to Opposer's draft Protective Order.

Opposer has contacted Applicant on three occasions in writing to request: (a) production of the non-privileged documents responsive to Opposer's First Request for Production; (b) a date on which Applicant will produce a Rule 30(b)(6) witness for deposition in response to Opposer's Notice of Taking Deposition; and (c) consent to or comments on the draft Protective Order. As discussed below, Opposer's three written communications to Applicant demonstrate Opposer's good faith effort to resolve the subject discovery dispute and thus avoid burdening the Board with the present motion.

On October 19, 2005, Opposer sent a letter via e-mail to Applicant requesting Applicant to produce non-privileged documents responsive to Opposer's First Request for Production of Documents.[6] In that letter, Opposer proposed a new date for the previously-noticed Rule 30(b)(6) deposition of Applicant and advised that Applicant's failure to produce responsive documents impairs the ability to schedule the deposition. Opposer attached a draft Protective Order to the October 19 email letter and requested Applicant's consent or comments thereto in order to facilitate the production of

[5] A true copy of Opposer's draft Protective Order is annexed hereto as Appendix E.
[6] A true copy of Opposer's email letter of October 19, 2005 is annexed hereto as Appendix F.

confidential documents. Applicant did not respond to Opposer's email letter of October 19, 2005 and did not produce the requested responsive documents, reply to the new proposed date for the deposition of Applicant, or provide comments or consent with respect to the proposed Protective Order.

On October 27, 2005, Opposer sent a second letter via e-mail to Applicant.[7] In that letter, Opposer again requested that Applicant produce documents responsive to Opposer's First Request for Production, confirm the availability of Applicant's 30(b)(6) witness for a deposition on date proposed by Opposer, and provide its consent or comments to the proposed protective order.

Five days later, on November 1, 2005, Applicant acknowledged receipt of the draft Protective Order and stated, "[w]e are working on getting our comments and proposed revisions to you and following up with our client on document production and the deposition date you propose."[8]

On November 9, 2005, Opposer again requested Applicant to produce documents responsive to Opposer's First Request for Production and, in a good faith effort to resolve this dispute, requested Applicant "to move forward without the necessity of a motion to compel."[9] The November 9 email letter also requested Applicant's proposed revisions to the draft Protective Order, noting that Opposer intended to produce additional documents in response to Applicant's previously served Request for

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[7] A true copy of Opposer's email letter of October 27, 2005 is annexed hereto as Appendix G.

[8] A true copy of Applicant's email letter of November 1, 2005 is annexed hereto as Appendix H.

[9] A true copy of Opposer's email letter of November 9, 2005 is annexed hereto as Appendix I.

Production upon entry of the Protective Order. To date, Opposer has not received a response to its November 9, 2005 letter.

Since October 11, 2005, and despite Opposer's repeated requests, Applicant has not produced a single document responsive to Opposer's First Request for Production; Applicant has not made any effort to agree to or modify the draft Protective Order proposed by Opposer; and Applicant has not proffered any alternative dates for scheduling the Applicant's Rule 30(b)(6) deposition.

In view of the circumstances discussed above, Opposer has no alternative but to file the subject motion to compel.

III. ARGUMENT

Applicant's statements that it *will* -- at some indefinite point in time in the future -- produce documents responsive to Opposer's First Request for Production, provide comments to Opposer's draft Protective Order, and propose dates for the Rule 30(b)(6) deposition fail to satisfy Applicant's duty to cooperate in discovery. "A party served with a request for discovery has a duty to thoroughly search its records for all information properly sought in the request, and to provide such information to the requesting party within the time allowed for responding to the request." *Trademark Trial and Appeal Board Manual of Procedure* (TBMP) § 408.02. "[I]f any party fails to produce and permit the inspection and copying of any document or thing, the party seeking discovery may file a motion for an order to compel production and an opportunity to inspect and copy." TBMP § 411.01 (citing Trademark Rule 2.120(e)); *see also* Fed. R. Civ. P. 37.

Where an applicant responded to document requests by stating that "'[r]esponsive documents, if any, will be produced," the Board has found such a

response to be inadequate. *No Fear Inc. v. Rule*, 54 USPQ2d 1551, 1555 (TTAB 2000). The Board stated in this regard that "applicant's response suggests that applicant has not actually searched for responsive documents and, therefore, has no idea whether there are documents responsive to particular requests for production." *Id.*; *see also Bison Corp. v. Perfecta Chemie B.V.*, 4 USPQ2d 1718, 1720 (TTAB 1987) (a party is not justified in failing to submit documents requested simply because no thorough investigation was made).

The same is true here. Opposer served its First Request for Production of Documents and Things on September 6, 2005, and served a Notice of Taking Discovery Deposition of Applicant pursuant to Rule 30(b)(6) on September 19, 2005. Opposer commenced discovery well in advance of the December 21, 2005 discovery cut-off date in order to be in a position to pursue follow-up discovery if that became necessary. Applicant has failed to comply with its obligation to produce non-privileged documents in response to Opposer's Request for Production. Further, Applicant has neither consented to or proposed revisions to Opposer's draft Protective Order which is required for the exchange of confidential information responsive to both parties' discovery requests. The failure to respond with respect to the proposed Protective Order is difficult to comprehend given the fact that it is in form and substance essentially a standard type of Protective Order oriented to *inter partes* registration proceedings before the Board.

Opposer has contacted Applicant on three occasions in a good faith effort to obtain responsive documents, to schedule the deposition of Applicant's 30(b)(6) witness, and to resolve any outstanding issues concerning the Protective Order so that

a mutual exchange of confidential documents can be made. Applicant's continued response that it "will" produce responsive documents is no response at all. Applicant should be directed to cooperate in fulfilling its discovery obligations.

The December 21, 2005 discovery deadline is just two weeks away and should be extended following the Board's ruling on this motion.

IV. CONCLUSION

Opposer regrets having to burden the Board with a motion to compel directed to the matters discussed above. However, given Applicant's failure to respond or cooperate discussed above, there is little alternative to proceeding in this manner.

For all of the foregoing reasons, Opposer respectfully asks the Board to grant its Motion to Compel Discovery. Opposer also requests that the Board to stay proceedings pending disposition of the Opposer's Motion to Compel.

BRINK'S NETWORK, INCORPORATED

Dated: December 8, 2005

By: _____

Alan S. Cooper
Nancy S. Lapidus
Jason A. Cody
Howrey LLP
1299 Pennsylvania Avenue, N.W.
Washington, DC 20004
(202) 783-0800
Fax: (202) 383-7195

Attorneys for Opposer

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Memorandum in Support of Opposer's Motion to Compel Discovery was served on the following counsel of record for Applicant by Federal Express, with confirming service by depositing the same in the U.S. Mail, first class mail postage prepaid, this 8th day of December, 2005:

Gary Clark, Esq.
Susan Hwang, Esq.
Sheppard, Mullin, Richter & Hampton LLP
333 South Hope Street, 48th Floor
Los Angeles, California 90071

Nancy Lapidus

Brink's Exhibit A

Brink's Network, Incorporated v. The Brinkmann Corporation
Opposition No. 91164764

Docket No. 05666.0002.000000

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

BRINK'S NETWORK, INCORPORATED Opposer v. THE BRINKMANN CORPORATION Applicant	)))))))))	Opposition No. 91164764

OPPOSER'S FIRST REQUEST FOR
PRODUCTION OF DOCUMENTS AND THINGS

Opposer, Brink's Network, Incorporated, in accordance with Rule 34 and other applicable rules of the Federal Rules of Civil Procedure and Rule 2.120(d) of the Trademark Rules of Practice, requests that the above-named Applicant produce and permit Opposer to inspect and copy and/or photograph all documents and things listed below which are in the possession, custody or control of Applicant and/or its counsel.

It is requested that true copies of each document and each thing covered by this request be forwarded to Opposer's counsel, Howrey LLP, 1299 Pennsylvania Avenue, N.W. Washington, DC 20004, within thirty (30) days after service of this Request.

For purposes of these Requests, the term "Applicant" means The Brinkmann Corporation and any predecessors in interest to or assignees of the rights of Applicant in the mark BRINKMANN.

If Applicant refuses to produce any document or thing on the ground of privilege, Applicant is requested to identify[1] such document or thing.

[1] When referring to documents, "to identify" means to give, to the extent known, the (i) type of document; (ii) general subject matter; (iii) date of the document; and (iv) author(s), addressee(s) and recipient(s).

REQUEST NO. 1

All documents and tangible things which refer or relate in any way to the evolution, selection, trademark searching, clearance and/or decision to adopt the mark BRINKMANN in connection with home security systems and components therefor and/or motion sensitive home security lights, detectors, receivers, transmitters, adapters and/or wall mount brackets.

RESPONSE

REQUEST NO. 2

All documents and tangible things which refer or relate in any way to Applicant's decision to file U.S. Trademark Application Serial No. 76/483,115 (hereinafter the "Opposed Application") to register the mark BRINKMANN in connection with home security systems and components therefor, namely, motion sensitive home security lights, detectors, receivers, transmitters, adapters and wall mount brackets.

RESPONSE

REQUEST NO. 3

All documents and tangible things which refer or relate in any way to Applicant's first use of the mark BRINKMANN in connection with home security systems and components therefor, namely, motion sensitive home security lights, detectors, receivers, transmitters, adapters and wall mount brackets.

RESPONSE

REQUEST NO. 4

Representative examples of materials used by Applicant in the advertising and/or promotion of the home security systems and components therefor, namely, motion sensitive home security lights, detectors, receivers, transmitters, adapters and wall mount brackets described in the Opposed Application.

RESPONSE

REQUEST NO. 5

Representative examples of Applicant's use of the mark BRINKMANN in connection with the home security systems and components therefor, namely, motion sensitive home security lights, detectors, receivers, transmitters, adapters and wall mount brackets described in the Opposed Application.

RESPONSE

REQUEST NO. 6

Representative documents and tangible things sufficient to identify the channels of trade in which Applicant's BRINKMANN home security systems and components therefor, namely, motion sensitive home security lights, detectors, receivers, transmitters, adapters and wall mount brackets are offered for sale and sold.

RESPONSE

REQUEST NO. 7

Representative documents and tangible things sufficient to identify or describe the purchasers and prospective purchasers of Applicant's BRINKMANN home security systems

and components therefor, namely, motion sensitive home security lights, detectors, receivers, transmitters, adapters and wall mount brackets.

RESPONSE

REQUEST NO. 8

All documents and tangible things which relate to or refer in any way to any instances in which Applicant's use of the mark BRINKMANN has resulted in any confusion or mistake with respect to the source and/or sponsorship of Applicant's home security systems and components therefor, namely, motion sensitive home security lights, detectors, receivers, transmitters, adapters and wall mount brackets.

RESPONSE

REQUEST NO. 9

All documents and tangible things which refer or relate in any way to Applicant's first knowledge of Opposer's use and/or registrations of the mark BRINK'S pleaded in the Notice of Opposition.

RESPONSE

REQUEST NO.10

All documents and tangible things on which Applicant will rely to support its denial in ¶ 20 of its Answer of the allegation that Applicant's mark BRINKMANN, as used in connection with home security systems and components therefor, so resembles Opposer's previously used and/or registered marks as to be likely to cause confusion, to cause mistake or to deceive within the meaning of § 2(d) of the Federal Trademark Act.

RESPONSE

REQUEST NO. 11

All documents and tangible things on which Applicant will rely to supports its denial in ¶ 21 of its Answer of the allegation that Applicant's use of the mark BRINKMANN in connection with home security systems and components therefor dilutes and/or is likely to dilute the distinctiveness of Opposer's famous mark BRINK'S within the meaning of § 43(c) of the Federal Trademark Act.

RESPONSE

REQUEST NO. 12

Copies of all subsisting federal registrations of the mark BRINKMANN that cover home security systems and components as described in ¶ 23 of Applicant's Answer to the Notice of Opposition.

RESPONSE

REQUEST NO. 13

All documents and tangible things on which Applicant will rely to supports its denial in ¶ 24 of its Answer of the allegation that Applicant's use of the registration symbol ® in association with the mark BRINKMANN for home security systems and components therefor constitutes a misuse of the registration symbol in violation of § 29 of the Federal Trademark Act and deceives the consuming public into believing that the mark is registered.

RESPONSE

REQUEST NO.14

All documents and tangible things which relate to the facts and circumstances that form the basis for Applicant's answers to Opposer's First Set of Interrogatories served concurrently herewith.

RESPONSE

REQUEST NO. 15

All documents and tangible things on which Applicant will rely to support its affirmative defense of laches.

RESPONSE

BRINK'S NETWORK, INCORPORATED

Dated: September 6, 2005

By: Alan Cooper /nsl

Alan S. Cooper
Nancy S. Lapidus
Attorneys for Opposer
Howrey LLP
1299 Pennsylvania Avenue, N.W.
Washington, DC 20004
(202) 783-0800
Fax: (202) 383-7195

CERTIFICATE OF SERVICE

I hereby certify that on this 6th day of September, 2005, a true copy of the foregoing Opposer's First Request for Production of Documents and Things to Applicant was served on the following counsel of record for Applicant by facsimile, with confirming service by depositing the same in the U.S. Mail, first class mail postage prepaid to:

Susan Hwang, Esquire
Sheppard, Mullin, Richter & Hampton LLP
33 South Hope Street, 48th Floor
Los Angeles, California 90071
Phone: (213) 620-1780
Fax: (213) 620-1398

Nancy Lapidus

Brink's Exhibit B

Brink's Network, Incorporated v. The Brinkmann Corporation
Opposition No. 91164764

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

BRINK'S NETWORK, INCORPORATED, Opposer, v. THE BRINKMANN CORPORATION, Applicant.	Opposition No. 91164764

APPLICANT BRINKMANN'S RESPONSES TO OPPOSER BRINK'S NETWORK'S FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS AND THINGS

Pursuant to FED. R. CIV. P. 34 and 37 C.F.R. § 2.120, Applicant The Brinkmann Corporation ("Brinkmann") hereby responds to OPPOSER BRINK'S NETWORK, INCORPORATED'S FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS AND THINGS TO APPLICANT served by Opposer Brink's Network, Incorporated ("Brink's Network") by mail on September 6, 2005.

GENERAL OBJECTIONS

1. Brinkmann objects to the time and location of production set by Brink's Network as unduly burdensome. Brinkmann will produce documents at a mutually convenient time and location.

2. Brinkmann objects to each production request insofar as it is vague, overly broad, oppressive, harassing or vexatious; imposes burden or expense that outweighs its likely

benefit; seeks a legal conclusion; and/or seeks documents not relevant to any claim or defense between Brink's Network and Brinkmann.

3. Brinkmann objects to each production request insofar as it seeks information or documents protected against disclosure by the attorney client privilege, the work product doctrine, or any other applicable privilege or rule of confidentiality. Such information and documents shall not be provided in response to Brink's Network's production requests, and any inadvertent disclosure thereof shall not be deemed a waiver of any privilege with respect to such information or of any work product immunity that may attach thereto.

4. Brinkmann objects to identifying information or documents withheld from production on grounds of attorney client privilege or the work product doctrine to the extent such information or documents were generated after the commencement of this action, as unduly burdensome, oppressive, harassing and vexatious, and because the burden and expense outweighs its likely benefit.

5. Brinkmann objects to each production request to the extent that it: (1) seeks disclosure of information that would violate the privacy rights of individuals; or (2) requests disclosure of confidential commercial information, trade secrets, and/or proprietary information, including financial information and documents, of Brinkmann or third parties. To the extent that Brinkmann responds to Brink's Network's production request by stating that it will provide information which it, any other party to this litigation, or any third party deems to embody material that is private, business confidential, proprietary, trade secret or otherwise protected from disclosure pursuant to FED. R. CIV. P. 26(c)(7), FED. R. EVID. 501, or otherwise, Brinkmann will do so only in accordance with a protective order entered in this action.

6. Brinkmann objects to each production request to the extent it seeks information not currently in Brinkmann's possession, custody, or control, or refers to persons, entities, or events not known to it, on the grounds that such production request seeks to require more of Brinkmann than any obligation imposed by law, would subject Brinkmann to unreasonable and undue annoyance, oppression, burden, and expense, and seeks to impose upon Brinkmann an obligation to investigate or discover information from third parties or sources who are equally accessible to Brink's Network.

7. In responding to these production requests, Brinkmann does not waive the foregoing objections or the specific objections that are set forth in response to particular production requests. In addition, Brinkmann does not concede by responding that the information or documents sought or provided are relevant to the subject matter of this action or admissible in trial or in any other proceeding in this action. Brinkmann expressly reserves the right to object to further discovery into the subject matter of these production requests, to object to the introduction into evidence of any responses to any of these production requests or documents produced in response thereto, and to supplement its responses should further investigation and discovery uncover responsive information.

8. Brinkmann's responses to Brink's Network's production requests are made to the best of its current employees' present knowledge, information and belief based upon reasonable investigation and inquiry. The responses are at all times subject to such additional or different information that discovery or further investigation may disclose, and are subject to such refreshing of recollection and such additional knowledge of facts as may result from further discovery or investigation. Brinkmann reserves the right to make any use of, or to introduce at any hearing and at trial, information and/or documents responsive to Brink's Network's

production requests but discovered subsequent to the date of this response, including, but not limited to, any such information or documents obtained in discovery herein.

9. A response to a production request herein stating that responsive documents will be produced should not be understood as a confirmation that any such documents exist. It merely indicates Brinkmann's willingness to produce such documents if they exist and are within Brinkmann's possession, custody or control.

SPECIFIC OBJECTIONS AND RESPONSES TO BRINK'S NETWORK'S INTERROGATORIES

REQUEST FOR PRODUCTION NO. 1:

All documents and tangible things which refer or relate in any way to the evolution, selection, trademark searching, clearance and/or decision to adopt the mark BRINKMANN in connection with home security systems and components therefor and/or motion sensitive home security lights, detectors, receivers, transmitters, adapters and/or wall mount brackets.

RESPONSE TO REQUEST FOR PRODUCTION NO. 1:

In addition to the grounds set forth in the General Objections, which are incorporated herein by reference, Brinkmann objects to this production request on the following grounds:

Brinkmann objects to this production request as vague and ambiguous in that it is unclear what Brink's Network means by "evolution".

Brinkmann objects to this production request as overly broad, unduly burdensome, and seeking discovery that is not relevant to the claim or defense of any party.

Brinkmann objects to this production request to the extent it seeks confidential and proprietary documents.

Brinkmann objects to this production request to the extent it seeks documents protected by the attorney-client privilege and/or work product doctrine.

Subject to and without waiving the foregoing objections, Brinkmann will produce responsive documents, if any, to the extent such documents are relevant, not subject to the attorney-client privilege and/or the work product doctrine, and are in Brinkmann's possession, custody or control. Brinkmann will produce confidential documents only after the parties have agreed to and the Board has entered a protective order in this action.

REQUEST FOR PRODUCTION NO. 2:

All documents and tangible things which refer or relate in any way to Applicant's decision to file U.S. Trademark Application Serial No. 76/483,115 (hereinafter the "Opposed Application") to register the mark BRINKMANN in connection with home security systems and components therefor, namely, motion sensitive home security lights, detectors, receivers, transmitters, adapters and wall mount brackets.

RESPONSE TO REQUEST FOR PRODUCTION NO. 2:

In addition to the grounds set forth in the General Objections, which are incorporated herein by reference, Brinkmann objects to this production request on the following grounds:

Brinkmann objects to this production request as overly broad, unduly burdensome, and seeking discovery that is not relevant to the claim or defense of any party.

Brinkmann objects to this production request to the extent it seeks confidential and proprietary documents.

Brinkmann objects to this production request to the extent it seeks documents protected by the attorney-client privilege and/or work product doctrine.

Subject to and without waiving the foregoing objections, Brinkmann will produce responsive documents, if any, to the extent such documents are relevant, not subject to the attorney-client privilege and/or the work product doctrine, and are in Brinkmann's possession, custody or control. Brinkmann will produce confidential documents only after the parties have agreed to and the Board has entered a protective order in this action.

REQUEST FOR PRODUCTION NO. 3:

All documents and tangible things which refer or relate in any way to Applicant's first use of the mark BRINKMANN in connection with home security systems and components therefor, namely, motion sensitive home security lights, detectors, receivers, transmitters, adapters and wall mount brackets.

RESPONSE TO REQUEST FOR PRODUCTION NO. 3:

In addition to the grounds set forth in the General Objections, which are incorporated herein by reference, Brinkmann objects to this production request on the following grounds:

Brinkmann objects to this production request as overly broad, unduly burdensome, and seeking discovery that is not relevant to the claim or defense of any party.

Brinkmann objects to this production request to the extent it seeks confidential and proprietary documents.

Brinkmann objects to this production request to the extent it seeks documents protected by the attorney-client privilege and/or work product doctrine.

Subject to and without waiving the foregoing objections, Brinkmann will produce responsive documents, if any, to the extent such documents are relevant, not subject to the attorney-client privilege and/or the work product doctrine, and are in Brinkmann's possession, custody or control. Brinkmann will produce confidential documents only after the parties have agreed to and the Board has entered a protective order in this action.

REQUEST FOR PRODUCTION NO. 4:

Representative examples of materials used by Applicant in the advertising and/or promotion of the home security systems and components therefor, namely, motion sensitive home security lights, detectors, receivers, transmitters, adapters and wall mount brackets described in the Opposed Application.

RESPONSE TO REQUEST FOR PRODUCTION NO. 4:

In addition to the grounds set forth in the General Objections, which are incorporated herein by reference, Brinkmann objects to this production request on the following grounds:

Brinkmann objects to this production request as vague and ambiguous in that it is unclear what Brink's Network means by "[r]epresentative examples of materials".

Brinkmann objects to this production request as overly broad, unduly burdensome, and seeking discovery that is not relevant to the claim or defense of any party.

Subject to and without waiving the foregoing objections, Brinkmann will produce responsive documents, if any, to the extent such documents are relevant, not subject to the attorney-client privilege and/or the work product doctrine, and are in Brinkmann's possession, custody or control. Brinkmann will produce confidential documents only after the parties have agreed to and the Board has entered a protective order in this action.

REQUEST FOR PRODUCTION NO. 5:

Representative examples of Applicant's use of the mark BRINKMANN in connection with the home security systems and components therefor, namely, motion sensitive home security lights, detectors, receivers, transmitters, adapters and wall mount brackets described in the Opposed Application.

RESPONSE TO REQUEST FOR PRODUCTION NO. 5:

In addition to the grounds set forth in the General Objections, which are incorporated herein by reference, Brinkmann objects to this production request on the following grounds:

Brinkmann objects to this production request as vague and ambiguous in that it is unclear what Brink's Network means by "[r]epresentative examples of Applicant's use of the mark".

Brinkmann objects to this production request as overly broad, unduly burdensome, and seeking discovery that is not relevant to the claim or defense of any party.

Subject to and without waiving the foregoing objections, Brinkmann will produce responsive documents, if any, to the extent such documents are relevant, not subject to the attorney-client privilege and/or the work product doctrine, and are in Brinkmann's possession, custody or control. Brinkmann will produce confidential documents only after the parties have agreed to and the Board has entered a protective order in this action.

REQUEST FOR PRODUCTION NO. 6:

Representative documents and tangible things sufficient to identify the channels of trade in which Applicant's BRINKMANN home security systems and components therefor,

namely, motion sensitive home security lights, detectors, receivers, transmitters, adapters and wall mount brackets are offered for sale and sold.

RESPONSE TO REQUEST FOR PRODUCTION NO. 6:

In addition to the grounds set forth in the General Objections, which are incorporated herein by reference, Brinkmann objects to this production request on the following grounds:

Brinkmann objects to this production request as vague and ambiguous in that it is unclear what Brink's Network means by "[r]epresentative documents and tangible things".

Brinkmann objects to this production request as overly broad, unduly burdensome, and seeking discovery that is not relevant to the claim or defense of any party.

Brinkmann objects to this production request to the extent it seeks confidential and proprietary documents.

Subject to and without waiving the foregoing objections, Brinkmann will produce responsive documents, if any, to the extent such documents are relevant, not subject to the attorney-client privilege and/or the work product doctrine, and are in Brinkmann's possession, custody or control. Brinkmann will produce confidential documents only after the parties have agreed to and the Board has entered a protective order in this action.

REQUEST FOR PRODUCTION NO. 7:

Representative documents and tangible things sufficient to identify or describe the purchasers and prospective purchasers of Applicant's BRINKMANN home security systems and components therefor, namely, motion sensitive home security lights, detectors, receivers, transmitters, adapters and wall mount brackets.

RESPONSE TO REQUEST FOR PRODUCTION NO. 7:

In addition to the grounds set forth in the General Objections, which are incorporated herein by reference, Brinkmann objects to this production request on the following grounds:.

Brinkmann objects to this production request as vague and ambiguous in that it is unclear what Brink's Network means by "[r]epresentative documents and tangible things".

Brinkmann objects to this production request as overly broad, unduly burdensome, and seeking discovery that is not relevant to the claim or defense of any party.

Brinkmann objects to this production request to the extent it seeks confidential and proprietary documents.

Subject to and without waiving the foregoing objections, Brinkmann will produce responsive documents, if any, to the extent such documents are relevant, not subject to the attorney-client privilege and/or the work product doctrine, and are in Brinkmann's possession, custody or control. Brinkmann will produce confidential documents only after the parties have agreed to and the Board has entered a protective order in this action.

REQUEST FOR PRODUCTION NO. 8:

All documents and tangible things which relate to or refer in any way to any instances in which Applicant's use of the mark BRINKMANN has resulted in any confusion or mistake with respect to the source and/or sponsorship of Applicant's home security systems and components therefor, namely, motion sensitive home security lights, detectors, receivers, transmitters, adapters and wall mount brackets.

RESPONSE TO REQUEST FOR PRODUCTION NO. 8:

In addition to the grounds set forth in the General Objections, which are incorporated herein by reference, Brinkmann objects to this production request on the following grounds:

Brinkmann objects to this production request as overly broad, unduly burdensome, and seeking discovery that is not relevant to the claim or defense of any party.

Brinkmann objects to this production request to the extent it seeks confidential and proprietary documents.

Brinkmann objects to this production request to the extent it seeks documents protected by the attorney-client privilege and/or work product doctrine.

Subject to and without waiving the foregoing objections, Brinkmann will produce responsive documents, if any, to the extent such documents are relevant, not subject to the attorney-client privilege and/or the work product doctrine, and are in Brinkmann's possession, custody or control. Brinkmann will produce confidential documents only after the parties have agreed to and the Board has entered a protective order in this action.

REQUEST FOR PRODUCTION NO. 9:

All documents and tangible things which refer or relate in any way to Applicant's first knowledge of Opposer's use and/or registrations of the mark BRINK'S pleaded in the Notice of Opposition.

RESPONSE TO REQUEST FOR PRODUCTION NO. 9:

In addition to the grounds set forth in the General Objections, which are incorporated herein by reference, Brinkmann objects to this production request on the following grounds:

Brinkmann objects to this production request as vague and ambiguous in that it is unclear what Brink's Network means by "Applicant's first knowledge".

Brinkmann objects to this production request as overly broad, unduly burdensome, and seeking discovery that is not relevant to the claim or defense of any party.

Brinkmann objects to this production request to the extent it seeks confidential and proprietary documents.

Brinkmann objects to this production request to the extent it seeks documents protected by the attorney-client privilege and/or work product doctrine.

Subject to and without waiving the foregoing objections, Brinkmann will produce responsive documents, if any, to the extent such documents are relevant, not subject to the attorney-client privilege and/or the work product doctrine, and are in Brinkmann's possession, custody or control. Brinkmann will produce confidential documents only after the parties have agreed to and the Board has entered a protective order in this action.

REQUEST FOR PRODUCTION NO. 10:

All documents and tangible things on which Applicant will rely to support its denial in ¶ 20 of its Answer of the allegation that Applicant's mark BRINKMANN, as used in connection with home security systems and components therefor, so resembles Opposer's previously used and/or registered marks as to be likely to cause confusion, to cause mistake or to deceive within the meaning of § 2(d) of the Federal Trademark Act.

RESPONSE TO REQUEST FOR PRODUCTION NO. 10:

In addition to the grounds set forth in the General Objections, which are incorporated herein by reference, Brinkmann objects to this production request on the following grounds:

Brinkmann objects to this production request as seeking discovery on issues as to which Opposer bears the burden of proof, and as to which Opposer has not provided its contentions, or the facts and evidence in support thereof, so that Brinkmann knows what contentions, facts and evidence may require rebuttal.

Brinkmann objects to this production request as premature in that discovery is in its early stages, and Brinkmann does not yet know, and cannot be expected to know, all of the documents and tangible things that are supportive of its position.

Brinkmann objects to this production request to the extent it seeks confidential and proprietary documents.

Brinkmann objects to this production request to the extent it seeks documents protected by the attorney-client privilege and/or work product doctrine.

Subject to and without waiving the foregoing objections, Brinkmann will produce responsive documents, if any, to the extent such documents are relevant, not subject to the attorney-client privilege and/or the work product doctrine, and are in Brinkmann's possession, custody or control. Brinkmann will produce confidential documents only after the parties have agreed to and the Board has entered a protective order in this action.

REQUEST FOR PRODUCTION NO. 11:

All documents and tangible things on which Applicant will rely to supports its denial in ¶ 21 of its Answer of the allegation that Applicant's use of the mark BRINKMANN in connection with home security systems and components therefor dilutes and/or is likely to dilute the distinctiveness of Opposer's famous mark BRINK'S within the meaning of § 43(c) of the Federal Trademark Act.

RESPONSE TO REQUEST FOR PRODUCTION NO. 11:

In addition to the grounds set forth in the General Objections, which are incorporated herein by reference, Brinkmann objects to this production request on the following grounds:

Brinkmann objects to this production request as seeking discovery on issues as to which Opposer bears the burden of proof, and as to which Opposer has not provided its contentions, or the facts and evidence in support thereof, so that Brinkmann knows what contentions, facts and evidence may require rebuttal.

Brinkmann objects to this production request as premature in that discovery is in its early stages, and Brinkmann does not yet know, and cannot be expected to know, all of the documents and tangible things that it will rely on in support of its position.

Brinkmann objects to this production request to the extent it seeks confidential and proprietary documents.

Brinkmann objects to this production request to the extent it seeks documents protected by the attorney-client privilege and/or work product doctrine.

Subject to and without waiving the foregoing objections, Brinkmann will produce responsive documents, if any, to the extent such documents are relevant, not subject to the attorney-client privilege and/or the work product doctrine, and are in Brinkmann's possession, custody or control. Brinkmann will produce confidential documents only after the parties have agreed to and the Board has entered a protective order in this action.

REQUEST FOR PRODUCTION NO. 12:

Copies of all subsisting federal registrations of the mark BRINKMANN that cover home security systems and components as described in ¶ 23 of Applicant's Answer to the Notice of Opposition.

RESPONSE TO REQUEST FOR PRODUCTION NO. 12:

Subject to and without waiving the General Objections, which are incorporated herein by reference, Brinkmann will produce responsive documents, if any, to the extent such documents are relevant, not subject to the attorney-client privilege and/or the work product doctrine, and are in Brinkmann's possession, custody or control.

REQUEST FOR PRODUCTION NO. 13:

All documents and tangible things on which Applicant will rely to support its denial in ¶ 24 of its Answer of the allegation that Applicant's use of the registration symbol ® in association with the mark BRINKMANN for home security systems and components therefor constitutes a misuse of the registration symbol in violation of § 29 of the Federal Trademark Act and deceives the consuming public into believing that the mark is registered.

RESPONSE TO REQUEST FOR PRODUCTION NO. 13:

In addition to the grounds set forth in the General Objections, which are incorporated herein by reference, Brinkmann objects to this production request on the following grounds:

Brinkmann objects to this production request as seeking discovery on issues as to which Opposer bears the burden of proof, and as to which Opposer has not provided its contentions, or the facts and evidence in support thereof, so that Brinkmann knows what contentions, facts and evidence may require rebuttal.

Brinkmann objects to this production request as premature in that discovery is in its early stages, and Brinkmann does not yet know, and cannot be expected to know, all of the documents and tangible things on which it will rely in support of its position.

Brinkmann objects to this production request to the extent it seeks confidential and proprietary documents.

Brinkmann objects to this production request to the extent it seeks documents protected by the attorney-client privilege and/or work product doctrine.

Subject to and without waiving the foregoing objections, Brinkmann will produce responsive documents, if any, to the extent such documents are relevant, not subject to the attorney-client privilege and/or the work product doctrine, and are in Brinkmann's possession, custody or control. Brinkmann will produce confidential documents only after the parties have agreed to and the Board has entered a protective order in this action.

REQUEST FOR PRODUCTION NO. 14:

All documents and tangible things which relate to the facts and circumstances that form the basis for Applicant's answers to Opposer's First Set of Interrogatories served concurrently herewith.

RESPONSE TO REQUEST FOR PRODUCTION NO. 14:

In addition to the grounds set forth in the General Objections and the objections set forth in APPLICANT BRINKMANN'S RESPONSES TO OPPOSER BRINK'S NETWORK'S FIRST SET OF INTERROGATORIES, which are incorporated herein by reference, Brinkmann objects to this production request on the following grounds:

Brinkmann objects to this production request as overly broad, unduly burdensome, and seeking discovery that is not relevant to the claim or defense of any party.

Brinkmann objects to this production request to the extent it seeks confidential and proprietary documents.

Brinkmann objects to this production request to the extent it seeks documents protected by the attorney-client privilege and/or work product doctrine.

Subject to and without waiving the foregoing objections, Brinkmann will produce responsive documents, if any, to the extent such documents are relevant, not subject to the attorney-client privilege and/or the work product doctrine, and are in Brinkmann's possession, custody or control. Brinkmann will produce confidential documents only after the parties have agreed to and the Board has entered a protective order in this action.

REQUEST FOR PRODUCTION NO. 15:

All documents and tangible things on which Applicant will rely to support its affirmative defense of laches.

RESPONSE TO REQUEST FOR PRODUCTION NO. 15:

In addition to the grounds set forth in the General Objections, which are incorporated herein by reference, Brinkmann objects to this production request on the following grounds:

Brinkmann objects to this production request as premature in that discovery is in its early stages, and Brinkmann does not yet know, and cannot be expected to know, all of the documents and tangible things on which it will rely in support of its position.

Brinkmann objects to this production request to the extent it seeks confidential and proprietary documents.

Brinkmann objects to this production request to the extent it seeks documents protected by the attorney-client privilege and/or work product doctrine.

Subject to and without waiving the foregoing objections, Brinkmann will produce responsive documents, if any, to the extent such documents are relevant, not subject to the attorney-client privilege and/or the work product doctrine, and are in Brinkmann's possession, custody or control. Brinkmann will produce confidential documents only after the parties have agreed to and the Board has entered a protective order in this action.

Dated: October 11, 2005

Susan Hwang, Esq.
Sheppard, Mullin, Richter & Hampton LLP
333 South Hope Street, 48th Floor
Los Angeles, California 90071
Tel.: (213) 620-1780
Fax: (213) 620-1398

Attorneys for Applicant
THE BRINKMANN CORPORATION

CERTIFICATE OF SERVICE

This is to certify that I have this day served a copy of the foregoing "Applicant Brinkmann's Responses to Opposer Brink's Network's First Set of Requests for Production of Documents and Things" by placing a copy in the United States Mail, postage pre-paid, addressed as follows: Nancy S. Lapidus, counsel for Opposer, at Howrey LLP, 1299 Pennsylvania Avenue, N.W., Washington, DC 20004.

Dated: October 11, 2005

Susan Hwang, Esq.
Sheppard, Mullin, Richter & Hampton LLP
333 South Hope Street, 48th Floor
Los Angeles, California 90071
Tel.: (213) 620-1780
Fax: (213) 620-1398

Attorneys for Applicant
THE BRINKMANN CORPORATION

Brink's Exhibit C

Brink's Network, Incorporated v. The Brinkmann Corporation
Opposition No. 91164764

Docket No. 05666.0002

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

BRINK'S NETWORK, INCORPORATED	)	
	)	
Opposer	)	
	)	
v.	)	
	)	Opposition No. 91164764
THE BRINKMANN CORPORATION	)	
	)	
Applicant	)	

NOTICE OF TAKING DISCOVERY DEPOSITION

Please take notice that Opposer, Brink's Network, Incorporated, in accordance with Rule 2.120(b) of the Trademark Rules of Practice and Rule 30(b)(6) Fed. R. Civ. P., will take the discovery deposition of Applicant, The Brinkmann Corporation, at 9:00 a.m. on October 19, 2005, at the offices of Carrington, Coleman, Sloman & Blumenthal, LLP, 200 Crescent Court, Suite 1500, Dallas, Texas 75201, or at such other time as may be subsequently agreed upon by counsel for Opposer and Applicant.

Applicant shall be examined with respect to the following matters:

(1) Applicant's creation, design, selection, adoption, clearance, and investigation of the mark BRINKMANN, which is the subject of Application No. 76/483,115, in connection with home security systems and components therefor and/or motion sensitive home security lights, detectors, receivers, transmitters, adapters or wall mount brackets.

(2) Applicant's use of the mark BRINKMANN in connection with home security systems and components therefor, namely, motion sensitive home security lights, detectors, receivers, transmitters, adapters or wall mount brackets.

(3) Applicant's registration of the mark BRINKMANN in connection with any of the following products: home security systems and components therefor, namely, motion sensitive home security lights, detectors, receivers, transmitters, adapters or wall mount brackets.

(4) Applicant's decision to seek registration of the mark BRINKMANN for home security systems and components therefor, namely, motion sensitive home security lights, detectors, receivers, transmitters, adapters or wall mount brackets.

(5) Applicant's awareness of Opposer's use and/or registration of the trade name BRINK'S and/or the marks BRINK'S, BRINK'S (Stylized), BRINKS & Design, BRINK'S HOME SECURITY, and BRINKS HOME SECURITY & Design prior to the time Applicant decided to use and/or attempt to register the mark BRINKMANN in connection with home security systems and components therefor, namely, motion sensitive home security lights, detectors, receivers, transmitters, adapters and wall mount brackets.

(6) Applicant's offering for sale, advertising and sale of home security systems and components therefor, namely, motion sensitive home security lights, detectors, receivers, transmitters, adapters and wall mount brackets and any related goods or services under the mark BRINKMANN, including, but not limited to:

(a) The manner(s) in which Applicant uses the mark BRINKMANN on the goods and packaging therefor;

(b) The specific types of goods offered for sale and sold by Applicant under the mark BRINKMANN;

(c) The classes of purchasers and prospective purchasers of the goods offered for sale and sold by Applicant under the mark BRINKMANN;

(d) The channels of trade in which the goods offered for sale and sold by Applicant under the mark BRINKMANN are sold;

(e) The amounts spent by Applicant on advertising and promoting home security systems and components therefor, namely, motion sensitive home security lights, detectors, receivers, transmitters, adapters and wall mount brackets and any related goods or services under the mark BRINKMAN since the date of first use of that mark in connection with such goods; and

(f) The revenues generated by Applicant's sale of home security systems and components therefor, namely, motion sensitive home security lights, detectors, receivers, transmitters, adapters and wall mount brackets and any related goods or services under the mark BRINKMANN since the date of first use of that mark in connection with such goods.

(7) Any instance when any person, firm, corporation, association, or other entity indicated by correspondence, oral statement, telephone or otherwise that he, she or it is or was confused or mistaken as to the source, origin or sponsorship of the home security systems and components therefor, namely, motion sensitive home security lights, detectors, receivers, transmitters, adapters and wall mount brackets and any related goods or services sold by Applicant under the mark BRINKMANN.

(8) Any surveys or marketing research considered or conducted by Applicant, or on its behalf, in connection with its defense of this opposition proceeding.

(9) The factual basis for and documents on which Applicant will rely in support of the denial in ¶ 20 of its Answer of the allegation that Applicant's mark BRINKMANN, as used in connection with home security systems and components therefor, so resembles Opposer's previously used and/or registered marks as to be likely to cause confusion, to cause mistake or to deceive within the meaning of § 2(d) of the Federal Trademark Act.

(10) The factual basis for and documents on which Applicant will rely in support of the denial in ¶ 21 of its Answer of the allegation that Applicant's use of the mark BRINKMANN in connection with home security systems and components therefor dilutes and/or is likely to dilute the distinctiveness of Opposer's famous mark BRINK'S within the meaning of § 43(c) of the Federal Trademark Act.

(11) The factual basis for and documents on which Applicant will rely in support of the denial in ¶ 24 of its Answer of the allegation that Applicant's use of the registration symbol ® in association with the mark BRINKMANN for home security systems and components therefor constitutes a misuse of the registration symbol in violation of § 29 of the Federal Trademark Act and deceives the consuming public into believing that the mark is registered.

(12) The factual basis for and documents on which Applicant will rely in support of its affirmative defense of laches pleaded in ¶ 26 of the Answer filed by Applicant in the instant proceeding.

In accordance with Rule 30(b)(6) Fed. R. Civ. P., Applicant shall designate in writing one or more of its officers, directors or managing agents, or other persons who consent to testify on its behalf, and for each shall set forth the matters on which he or she will testify.

The person(s) so designated shall testify as to all matters known or reasonably available to Applicant.

The deposition shall be taken upon oral examination pursuant to the Federal Rules of Civil Procedure before an officer authorized to administer oaths by the laws of the United States or the place where the examination is held and will continue from day to day between the hours of 9:00 a.m. and 5:00 p.m. until completed.

Counsel for Applicant is invited to attend and cross-examine.

BRINK'S NETWORK, INC.

Date: September 19, 2005

By: Alan Cooper /nsl

Alan S. Cooper
Nancy S. Lapidus
Attorneys for Opposer
Howrey LLP
1299 Pennsylvania Avenue, N.W.
Washington, DC 20004-2402
(202) 783-0800
(202) 383-6610 (Facsimile)

CERTIFICATE OF SERVICE

It is hereby certified that a true copy of the foregoing Notice of Taking Discovery Deposition was served on the following attorney of record for Applicant by facsimile transmission, with confirming service by depositing the same in the United States mail, first class, postage prepaid, this 19th day of September 2005:

Gary A. Clark, Esquire
Susan Hwang, Esquire
Sheppard, Mullin, Richter & Hampton LLP
33 South Hope Street, 48th Floor
Los Angeles, California 90071

Nancy Lapidus

Brink's Exhibit D

Brink's Network, Incorporated v. The Brinkmann Corporation
Opposition No. 91164764

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

BRINK'S NETWORK, INCORPORATED, Opposer, v. THE BRINKMANN CORPORATION, Applicant.	Opposition No. 91164764

APPLICANT BRINKMANN'S RESPONSE TO OPPOSER BRINK'S NETWORK'S NOTICE OF TAKING DISCOVERY DEPOSITION

Applicant The Brinkmann Corporation ("Brinkmann") hereby responds and objects to OPPOSER BRINK'S NETWORK, INCORPORATED'S NOTICE OF TAKING DISCOVERY DEPOSITION served by Opposer Brink's Network, Incorporated ("Brink's Network").

GENERAL OBJECTIONS

The following Objections are made to the entirety of Opposer's Notice, including each topic for testimony identified in a separately numbered or lettered paragraph therein:

1. Brinkmann objects to the date, time and location of the deposition as inconvenient and unduly burdensome.

2. Brinkmann objects to the Notice to the extent Opposer intends to exceed the maximum duration of seven (7) hours prescribed by FED. R. CIV. P. 30(d)(2).

3. Brinkmann objects to the Notice to the extent that any topic for testimony purports, through definitions or otherwise, to impose obligations beyond those contained in the FEDERAL RULES OF CIVIL PROCEDURE.

4. Brinkmann objects to each of the topics for testimony insofar as they are unnecessary, burdensome, and vexatious in that they are cumulative and/or duplicative of documents or information already requested in Opposer's production requests and interrogatories.

5. Brinkmann objects to each of the topics for testimony insofar as they lack the reasonable particularity required by RULE 30(b)(6), or are vague, overly broad, oppressive, harassing or vexatious; impose burden or expense that outweighs their likely benefit; seek a legal conclusion; and/or seek information not relevant to the subject matter of this litigation.

6. Brinkmann objects to each of the topics for testimony insofar as they are overly broad, unduly burdensome, and not relevant to the extent that any topic for testimony is unlimited in temporal scope or otherwise not limited to a time frame relevant to this litigation.

7. Brinkmann objects to each of the topics for testimony insofar as they seek information protected against disclosure by the attorney-client privilege, the work product doctrine, or any other applicable privilege or rule of confidentiality.

8. Brinkmann objects to each of the topics for testimony insofar as they seek disclosure of information that would violate the privacy rights of individuals or request disclosure of confidential commercial information, trade secrets, and/or proprietary information.

SPECIFIC OBJECTIONS

The following objections are made to the individual topics for testimony identified in Opposer's Notice.

TOPIC NO. 1:

Applicant's creation, design, selection, adoption, clearance and investigation of the mark BRINKMANN, which is the subject of Application No. 76/483,115, in connection with home security systems and components therefor and/or motion sensitive home security lights, detectors, receivers, transmitters, adapters and/or wall mount brackets.

RESPONSE TO TOPIC NO. 1:

Subject to and without waiving the General Objections, Brinkmann will produce a witness to testify regarding this topic to the extent that any responsive information exists and is known or reasonably available to Brinkmann.

TOPIC NO. 2:

Applicant's use of the mark BRINKMANN in connection with home security systems and components therefor, namely, motion sensitive home security lights, detectors, receivers, transmitters, adapters or wall mount brackets.

RESPONSE TO TOPIC NO. 2:

Subject to and without waiving the General Objections, Brinkmann will produce a witness to testify regarding this topic to the extent that any responsive information exists and is known or reasonably available to Brinkmann.

TOPIC NO. 3:

Applicant's registration of the mark BRINKMANN in connection with any of the following products: home security systems and components therefor, namely, motion sensitive home security lights, detectors, receivers, transmitters, adapters or wall mount brackets.

RESPONSE TO TOPIC NO. 3:

Subject to and without waiving the General Objections, Brinkmann will produce a witness to testify regarding this topic to the extent that any responsive information exists and is known or reasonably available to Brinkmann.

TOPIC NO. 4:

Applicant's decision to seek registration of the mark BRINKMANN for home security systems and components therefor, namely, motion sensitive home security lights, detectors, receivers, transmitters, adapters or wall mount brackets.

RESPONSE TO TOPIC NO. 4:

Subject to and without waiving the General Objections, Brinkmann will produce a witness to testify regarding this topic to the extent that any responsive information exists and is known or reasonably available to Brinkmann.

TOPIC NO. 5:

Applicant's awareness of Opposer's use and/or registration of the trade name BRINK'S and/or the marks BRINK'S, BRINK'S (Stylized), BRINKS & Design, BRINK'S HOME SECURITY, and BRINK'S HOME SECURITY & Design prior to the time Applicant decided to use and/or attempt to register the mark BRINKMANN in connection with the home

security systems and components therefor, namely, motion sensitive home security lights, detectors, receivers, transmitters, adapters and wall mount brackets

RESPONSE TO TOPIC NO. 5:

In addition to the grounds set forth in the General Objections, Brinkmann objects to this topic on the following grounds:

Brinkmann objects to this topic as vague and ambiguous in that it is not clear what Brink's Network means by "Applicant's awareness".

Subject to and without waiving the foregoing objections, Brinkmann will produce a witness to testify regarding this topic to the extent that any responsive information exists and is known or reasonably available to Brinkmann.

TOPIC NO. 6:

Applicant's offering for sale, advertising and sale of home security systems and components therefor, namely, motion sensitive home security lights, detectors, receivers, transmitters, adapters and wall mount brackets and any related goods or services under the mark BRINKMANN, including, but not limited to:

a. The manner(s) in which Applicant uses the mark BRINKMANN on the goods and packaging therefor;

b. The specific types of goods offered for sale and sold by Applicant under the mark BRINKMANN;

c. The classes of purchasers and prospective purchasers of the goods offered for sale and sold by Applicant under the mark BRINKMANN;

d. The channels of trade in which the goods offered for sale and sold by Applicant under the mark BRINKMANN are sold;

e. The amounts spent by Applicant on advertising and promoting home security systems and components therefor, namely, motion sensitive home security lights, detectors, receivers, transmitters, adapters and wall mount brackets and any related goods or services under the mark BRINKMANN since the date of first use of that mark in connection with such goods; and

f. The revenues generated by Applicant's sale of home security systems and components therefor, namely, motion sensitive home security lights, detectors, receivers, transmitters, adapters and wall mount brackets and any related goods or services under the mark BRINKMANN since the date of first use of that mark in connection with such goods.

RESPONSE TO TOPIC NO. 6:

In addition to the grounds set forth in the General Objections, Brinkmann objects to this topic on the following grounds:

Brinkmann objects to this topic on the grounds that it is overbroad, unduly burdensome, seeks the disclosure of information that is not reasonably calculated to lead to the discovery of admissible evidence.

Brinkmann objects to this topic to the extent it seeks confidential and proprietary information. Brinkmann will not produce a witness to testify about confidential information until after the parties have agreed to and the Board has entered a protective order in this proceeding.

TOPIC NO. 7:

Any instance when any person, firm, corporation, association, or other entity indicated by correspondence, oral statement, telephone or otherwise that he, she or it is or was

confused or mistaken as to the source and/or sponsorship of the home security systems and components therefor, namely, motion sensitive home security lights, detectors, receivers, transmitters, adapters and wall mount brackets and any related goods or services sold by Applicant under the mark BRINKMANN.

RESPONSE TO TOPIC NO. 7:

Subject to and without waiving the General Objections, Brinkmann will produce a witness to testify regarding this topic to the extent that any responsive information exists and is known or reasonably available to Brinkmann.

TOPIC NO. 8:

Any surveys or marketing research considered or conducted by Applicant, or on its behalf, in connection with its defense of this opposition proceeding.

RESPONSE TO TOPIC NO. 8:

In addition to the grounds set forth in the General Objections, Brinkmann objects to this topic on the following grounds:

Brinkmann objects to this topic as vague and ambiguous in its reference to "marketing research".

Brinkmann objects to this topic on the grounds that it seeks the disclosure of information protected by the attorney-client privilege and work product doctrine.

Brinkmann will not produce a witness to testify on this topic at this time.

TOPIC NO. 9:

The factual basis and all documents on which Applicant will rely in support of the denial in ¶ 20 of its Answer of the allegation that Applicant's mark BRINKMANN, as used in

connection with home security systems and components therefor, so resembles Opposer's previously used and/or registered marks as to be likely to cause confusion, to cause mistake or to deceive within the meaning of § 2(d) of the Federal Trademark Act.

RESPONSE TO TOPIC NO. 9:

In addition to the grounds set forth in the General Objections, Brinkmann objects to this topic on the following grounds:

Brinkmann objects to this topic as overly broad and unduly burdensome to the extent it seeks all subsidiary facts in support of Brinkmann's position.

Brinkmann objects to this topic to the extent it seeks Brinkmann's contentions, which should be the subject of an interrogatory.

Brinkmann objects to this topic to the extent it seeks contention discovery on issues as to which Brink's Network bears the burden of proof, and as to which Brink's Network has not provided its contentions, or the facts and evidence and documents in support thereof, so that Brinkmann knows what contentions, facts, documents and other evidence may require rebuttal.

Brinkmann objects to this topic as premature because discovery has just commenced, and Brinkmann does not yet know, and cannot be expected to know without further investigation and discovery, all facts, information, documents and other evidence on which it will rely in support of its position. In this regard, Brinkmann notes that Opposer has not yet provided any discovery to Brinkmann.

Brinkmann objects to this topic on the grounds that it seeks the disclosure of information protected by the attorney-client privilege and work product doctrine.

Subject to and without waiving the foregoing objections, Brinkmann will produce a witness to testify regarding this topic to the extent that any responsive information or documents exist and are known or reasonably available to Brinkmann.

TOPIC NO. 10:

The factual basis and all documents on which Applicant will rely in support of the denial in ¶ 21 of its Answer of the allegation that Applicant's use of the mark BRINKMANN in connection with home security systems and components therefor dilutes and/or is likely to dilute the distinctiveness of Opposer's famous mark BRINK'S within the meaning of § 43(c) of the Federal Trademark Act.

RESPONSE TO TOPIC NO. 10:

In addition to the grounds set forth in the General Objections, Brinkmann objects to this topic on the following grounds:

Brinkmann objects to this topic as overly broad and unduly burdensome to the extent it seeks all subsidiary facts in support of Brinkmann's position.

Brinkmann objects to this topic to the extent it seeks Brinkmann's contentions, which should be the subject of an interrogatory.

Brinkmann objects to this topic to the extent it seeks contention discovery on issues as to which Brink's Network bears the burden of proof, and as to which Brink's Network has not provided its contentions, or the facts and evidence and documents in support thereof, so that Brinkmann knows what contentions, facts, documents and other evidence may require rebuttal.

Brinkmann objects to this topic as premature because discovery has just commenced, and Brinkmann does not yet know, and cannot be expected to know without further

investigation and discovery, all facts, information, documents and other evidence on which it will rely in support of its position. In this regard, Brinkmann notes that Opposer has not yet provided any discovery to Brinkmann.

Brinkmann objects to this topic on the grounds that it seeks the disclosure of information protected by the attorney-client privilege and work product doctrine.

Subject to and without waiving the foregoing objections, Brinkmann will produce a witness to testify regarding this topic to the extent that any responsive information or documents exist and are known or reasonably available to Brinkmann.

TOPIC NO. 11:

The factual basis for and documents on which Applicant will rely in support of the denial in ¶ 24 of its Answer of the allegation that Applicant's use of the registration symbol ® in association with the mark BRINKMANN for home security systems and components therefor constitutes a misuse of the registration symbol in violation of § 29 of the Federal Trademark Act and deceives the consuming public into believing that the mark is registered.

RESPONSE TO TOPIC NO. 11:

In addition to the grounds set forth in the General Objections, Brinkmann objects to this topic on the following grounds:

Brinkmann objects to this topic as overly broad and unduly burdensome to the extent it seeks all subsidiary facts in support of Brinkmann's position.

Brinkmann objects to this topic to the extent it seeks Brinkmann's contentions, which should be the subject of an interrogatory.

Brinkmann objects to this topic to the extent it seeks contention discovery on issues as to which Brink's Network bears the burden of proof, and as to which Brink's Network

has not provided its contentions, or the facts and evidence and documents in support thereof, so that Brinkmann knows what contentions, facts, documents and other evidence may require rebuttal.

Brinkmann objects to this topic as premature because discovery has just commenced, and Brinkmann does not yet know, and cannot be expected to know without further investigation and discovery, all facts, information, documents and other evidence on which it will rely in support of its position. In this regard, Brinkmann notes that Opposer has not yet provided any discovery to Brinkmann.

Brinkmann objects to this topic on the grounds that it seeks the disclosure of information protected by the attorney-client privilege and work product doctrine.

Subject to and without waiving the foregoing objections, Brinkmann will produce a witness to testify regarding this topic to the extent that any responsive information or documents exist and are known or reasonably available to Brinkmann.

TOPIC NO. 12:

The factual basis for and documents on which Applicant will rely in support of its affirmative defense of laches pleaded in ¶ 26 of the Answer filed by Applicant in the instant proceeding.

RESPONSE TO TOPIC NO. 12:

In addition to the grounds set forth in the General Objections, Brinkmann objects to this topic on the following grounds:

Brinkmann objects to this topic as overly broad and unduly burdensome to the extent it seeks all subsidiary facts in support of Brinkmann's position.

Brinkmann objects to this topic to the extent it seeks Brinkmann's contentions, which should be the subject of an interrogatory.

Brinkmann objects that this topic is premature because discovery has just commenced, and Brinkmann does not yet know, and cannot be expected to know without further investigation and discovery, all facts, information, documents and other evidence on which it will rely in support of its position.

Brinkmann objects to this topic on the grounds that it seeks the disclosure of information protected by the attorney-client privilege and work product doctrine.

Subject to and without waiving the foregoing objections, Brinkmann will produce a witness to testify regarding this topic to the extent that any responsive information or documents exist and are known or reasonably available to Brinkmann.

Dated: October 12, 2005

Susan Hwang, Esq.
Sheppard, Mullin, Richter & Hampton LLP
333 South Hope Street, 48th Floor
Los Angeles, California 90071
Tel.: (213) 620-1780
Fax: (213) 620-1398

Attorneys for Applicant
THE BRINKMANN CORPORATION

CERTIFICATE OF SERVICE

This is to certify that I have this day served a copy of the foregoing "Applicant Brinkmann's Response to Opposer Brink's Network's Notice of Taking Deposition" by placing a copy in the United States Mail, postage pre-paid, addressed as follows: Nancy S. Lapidus, counsel for Opposer, at Howrey LLP, 1299 Pennsylvania Avenue, N.W., Washington, DC 20004.

Dated: October 12, 2005

Susan Hwang, Esq.
Sheppard, Mullin, Richter & Hampton LLP
333 South Hope Street, 48th Floor
Los Angeles, California 90071
Tel.: (213) 620-1780
Fax: (213) 620-1398

Attorneys for Applicant
THE BRINKMANN CORPORATION

Brink's Exhibit E

Brink's Network, Incorporated v. The Brinkmann Corporation
Opposition No. 91164764

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

BRINK'S NETWORK, INCORPORATED	)	
	)	
Opposer	)	
	)	
v.	)	
	)	Opposition No. 91164764
THE BRINKMANN CORPORATION	)	
	)	
Applicant	)	

STIPULATED PROTECTIVE ORDER

Opposer Brink's Network, Incorporated and Applicant The Brinkmann Corporation, through their respective undersigned counsel, hereby stipulate, the Trademark Trial and Appeal Board consenting thereto, to the entry of the following Protective Order to maintain the confidential nature of certain documents, information or other materials which contain or relate to commercial, proprietary and/or trade secret information of a party or a non-party, and to ensure that such materials shall be used only for the purposes of this proceeding:

1. Classes of Protected Information

The Trademark Rules of Practice provide, in pertinent part, that all *inter partes* proceeding files, as well as the involved registration and application files, are open to public inspection. The terms of this Order are not to be used to undermine public access to files. When appropriate, however, a party or witness, on its own or through its attorney, may seek to protect the confidentiality of information by employing one of the following designations.

a. Confidential -- Material that is not accessible to the public.

b. Highly Confidential -- Material that is not accessible to the public and is subject to agreed restrictions on access by the parties.

c. Trade Secret/Commercially Sensitive -- Material that is not accessible to the public, is subject to agreed restrictions on any access by the parties, and is accessible for review only by outside counsel for the parties and, subject to the provisions of ¶ 4 and 5 of this Order, by independent experts or consultants for the parties.

2. Information Not to Be Designated as Protected

Information may not be designated as subject to any form of protection under this Order if: (a) it is, or becomes, public knowledge as shown by publicly available writings, other than through violation of the terms of this Order; (b) it is acquired by a nondesignating party or non-party witness from a third party lawfully possessing such information and having no contractual or other legally-enforceable obligation to the owner of the information to maintain such information in confidence; (c) it was lawfully possessed by a non-designating party or non-party witness prior to the opening of discovery in this proceeding, and for which there is written evidence of the lawful possession; (d) it is disclosed by a non-designating party or non-party witness legally compelled to disclose the information; or (e) it is disclosed by a non-designating party with the approval of the designating party.

3. Access to Protected Information

The provisions of this Order regarding access to protected information are

subject to modification by written agreement of the parties or their attorneys, or by motion filed with and granted by the Board.

Court reporters, stenographers, video technicians or others who may be employed by the parties or their attorneys to perform services incidental to this proceeding will be bound only to the extent that the parties or their attorneys make it a condition of employment or obtain agreements from such individuals, in accordance with the provisions of ¶ 4 of this Order.

The following definitions shall apply to this Order:

a. "Parties" are defined as the above-named Opposer and Applicant, including their respective officers, directors and management employees as well as their secretarial assistants.

b. "Attorneys for the parties" are defined as including in-house counsel and outside counsel, including support staff operating under counsel's direction, such as paralegals or legal assistants, secretaries, and any other employees or independent contractors operating under counsel's instruction.

c. "Independent experts" or "consultants" include individuals retained by a party for purposes related to prosecution or defense of the proceeding but who are not otherwise employees of either the party or its attorneys.

d. "Non-party witnesses" include any individuals to be deposed during discovery or trial, whether willingly or under subpoena issued by a court of competent jurisdiction over the witness, who are not

officers, employees or agents of a party.

Parties and their attorneys shall have access to information designated as confidential or highly confidential, subject to any agreed exceptions.

Outside counsel, but not in-house counsel, shall have access to information designated as trade secret/commercially sensitive. Notwithstanding the foregoing, each party may designate one in-house attorney to whom information designated as trade secret/commercially sensitive may be disclosed to the extent necessary to assist counsel for the parties in preparing for and litigating this proceeding. Such designated persons shall be specifically identified by the respective party and shall agree to abide by all of the provisions of this Order.

Independent experts or consultants, non-party witnesses, and any other individual not otherwise specifically covered by the terms of this Order may be afforded access to confidential or highly confidential information in accordance with the terms set forth in ¶ 4 below. Independent experts or consultants may have access to trade secret/commercially sensitive information if such access is agreed to by the parties or ordered by the Board, in accordance with the terms that follow in ¶¶ 4 and 5 below.

4. Disclosure to Any Individual

Prior to disclosure of protected information by any party or its attorney to any individual not already provided access to such information by the terms of this Order, the individual shall be informed of the existence of this Order and provided with a copy to read. The individual will then be required to certify in

writing that the order has been read and understood and that the terms shall be binding on the individual. No individual shall receive any protected information until the party or attorney proposing to disclose the information has received the signed certification from the individual. A form for such certification is attached to this Order as Exhibit A. The party or attorney receiving the completed form shall retain the original.

5. Disclosure to Independent Experts or Consultants

In addition to meeting the requirements of ¶ 4, any party or attorney proposing to share disclosed information with a testifying expert must also notify the party which designated the information as protected. Notification must be personally served or forwarded by certified mail, return receipt requested, and shall provide notice of the name, address, occupation and professional background of the expert or independent consultant.

The party or its attorney receiving the notice shall have ten (10) business days to object to disclosure to the expert. If objection is made, then the parties must negotiate in a good faith effort to resolve the issue before raising it with the Board. If the parties are unable to resolve any such dispute, it shall be the obligation of the party or attorney proposing disclosure to bring the matter before the Board with an explanation of the need for disclosure and a report on the efforts the parties have made to settle the dispute. The party objecting to disclosure will respond with its arguments against disclosure, or any such objections will be deemed waived.

6. Responses to Written Discovery

Responses to interrogatories and requests for admissions under Rules 33 and 36 Fed. R. Civ. P., respectively, which the responding party reasonably believes to contain protected information shall be prominently stamped or marked with the appropriate designation prescribed in ¶ 1. Any inadvertent disclosure without appropriate designation shall be remedied as soon as the disclosing party learns of such error, by informing all adverse parties, in writing, of the error. The parties may inform the Board only if protected information is not filed in accordance with the provisions of ¶ 12.

7. Production of Documents

If a party responds to requests for production under Rule 34 Fed. R. Civ. P. by making copies and forwarding the copies to the inquiring party, such copies shall be prominently stamped or marked, as necessary, with the appropriate designation prescribed by ¶ 1. If the responding party makes documents available for inspection and copying by the inquiring party, all such documents shall be considered protected during the course of inspection. After the inquiring party informs the responding party which documents are to be copied, the responding party will be responsible for prominently stamping or marking the copies with the appropriate designation prescribed by ¶ 1. Any inadvertent disclosure without appropriate designation shall be remedied as soon as the disclosing party learns of its error, by informing all adverse parties, in writing, of the error. The parties may inform the Board only if protected information is not filed in accordance with the provisions of ¶ 12.

8. Depositions

Protected documents produced during or in connection with a discovery deposition or offered into evidence during a testimony deposition shall be orally noted as such by the producing or offering party at the outset of any discussion of the document or information contained in the document. In addition, all such documents must be prominently stamped or marked with the appropriate designation.

During discussion of any non-documentary protected information, the interested party shall note the protected nature of the information on the record of the deposition.

The transcript of any deposition and all exhibits or attachments shall be considered protected for thirty (30) days following the date of service of the transcript by the party that took the deposition. During that 30-day period, either party may designate the portions of the transcript, and any specific exhibits or attachments, that are to be treated as protected, by electing the appropriate designation prescribed in ¶ 1. Appropriate stampings or markings shall be made during this time. If no such designations are made, the entire transcript and exhibits will be considered unprotected.

9. Filing Notices of Reliance

When a party or its attorney files a notice of reliance during the party's testimony period, the party or attorney is bound to honor designations made by the adverse party or attorney, or non-party witness, who disclosed the information, so as to maintain the protected status of the information.

10. Briefs

When filing briefs, memoranda, or declarations in support of a motion, or briefs on the merits of the proceeding, the portions of these filings that discuss protected information, whether information of the filing party, or any adverse party, or any nonparty witness, shall be redacted. The rule of reasonableness for redaction is discussed in ¶ 12 of this Order.

11. Handling of Protected Information

Disclosure of information protected under the terms of this Order is intended only to facilitate the prosecution or defense of this proceeding. The recipient of any protected information disclosed in accordance with the terms of this Order is obligated to maintain the confidentiality of the information and shall exercise reasonable care in handling, storing, using or disseminating the information.

All protected information shall be stored and maintained by counsel for the recipient in a manner that will prevent access to that information by unauthorized persons.

12. Redaction-Filing Material With the Board

When a party or attorney must file protected information with the Board or a brief that discusses such information, the protected information or portion of the brief discussing the same should be redacted from the remainder. A rule of reasonableness shall dictate how redaction is effected.

Redaction can entail merely covering a portion of a page of material when it is copied in anticipation of filing but can also entail the more extreme measure

of simply filing the entire page under seal as one that contains primarily confidential material. If only a sentence or short paragraph of a page of material is confidential, covering that material when the page is copied would be appropriate. In contrast, if most of the material on the page is confidential, then filing the entire page under seal would be more reasonable, even if some small quantity of non-confidential material is then withheld from the public record. Similarly, when a multi-page document is in issue, reasonableness dictates that redaction of the portions or pages containing confidential material be effected when only some small number of pages contain such material. In contrast, if almost every page of the document contains some confidential material, it may be more reasonable to simply submit the entire document under seal. Occasions when a whole document or brief must be submitted under seal should be very rare.

Protected information, and pleadings, briefs or memoranda that reproduce, discuss or paraphrase such information, shall be filed with the Board under seal. The envelopes or containers shall be prominently stamped or marked with a legend in substantially the following form:

CONFIDENTIAL

This envelope contains documents or information subject to a protective order or agreement. The confidentiality of the material is to be maintained and the envelope is not to be opened, or the contents revealed to any individual, except by order of the Board.

13. Acceptance of Information; Inadvertent Disclosure

Acceptance by a party or its attorney of information disclosed under designation as protected shall not constitute an admission that the information is, in fact, entitled to protection. Inadvertent disclosure of information which the disclosing party intended to designate as protected shall not constitute waiver of any right to claim the information as protected upon discovery of the error.

14. Challenges to Designations of Information as Protected

If the parties or their attorneys disagree as to whether certain information should be protected, they are obligated to negotiate in good faith regarding the designation by the disclosing party. If the parties are unable to resolve their differences, the party challenging the designation may make a motion before the Board seeking a determination of the status of the information.

A challenge to the designation of information as protected must be made substantially contemporaneous with the designation, or as soon as practicable after the basis for challenge is known. When a challenge is made long after a designation of information as protected, the challenging party must show why it could not have made the challenge at an earlier time.

The party designating information as protected will, when its designation is timely challenged, bear the ultimate burden of proving that the information should be protected.

15. Board's Jurisdiction; Handling of Materials After Termination

The Board's jurisdiction over the parties and their attorneys ends when this proceeding is terminated. A proceeding is terminated only after a final order

is entered and either all appellate proceedings have been resolved or the time for filing an appeal has passed without filing of any appeal.

The parties may agree that archival copies of evidence and briefs may be retained, subject to compliance with agreed safeguards. Otherwise, within thirty (30) days after the final termination of this proceeding, the parties and their attorneys shall return to each disclosing party the protected information disclosed during the proceeding, and shall include any briefs, memoranda, summaries, and the like, which discuss or in any way refer to such information. In the alternative, the disclosing party or its attorney may make a written request that such materials be destroyed rather than returned.

16. Other Rights of the Parties and Attorneys

This Order shall not preclude the parties or their attorneys from making any applicable claims of privilege during discovery or at trial. Nor shall the Order preclude the filing of any motion with the Board for relief from a particular provision of this Order or for additional protections not provided by this Order.

BRINK'S NETWORK, INCORPORATED

Date:_____

By:_____

Alan S. Cooper
Nancy S. Lapidus
Jason A. Cody
Attorneys for Opposer
Howrey LLP
1299 Pennsylvania Avenue, N.W.
Washington, DC 20004
(202) 783-0800
Fax: (202) 383-6610

Date: _____

THE BRINKMANN CORPORATION

By:_____

Gary Clark
Susan Hwang
Attorneys for Applicant
Sheppard, Mullin, Richter &
Hampton LLP
33 South Hope Street, 48th Floor
Los Angeles, California 90071
(213) 620-1780
Fax: (213) 620-1398

UNDERTAKING

Exhibit A to Stipulated Protective Order Relating to Discovery

STATE OF)
: ss
COUNTY OF)

I, _____, being first duly sworn, state that:

1. My address is_____.

2. My present employer is_____and the address of my present employer is _____.

3. My present occupation or job description is _____.

4. I have received a copy of the Stipulated Protective Order entered in Opposition No. 91164764, entitled *Brink's Network, Incorporated v. The Brinkmann Corporation* in the United States Patent and Trademark Office before the Trademark Trial and Appeal Board.

5. I have carefully read and understand the provisions of the Stipulated Protective Order, and I will comply with all of its provisions.

6. I submit to the jurisdiction of the Board for purposes of enforcement of the Stipulated Protective Order.

_____

Subscribed and sworn to before me this _____ day of_____2005.

[Seal] _____
Notary Public

My Commission expires:

Brink's Exhibit F

Brink's Network, Incorporated v. The Brinkmann Corporation
Opposition No. 91164764

Lapidus, Nancy

From: Lapidus, Nancy
Sent: Wednesday, October 19, 2005 11:43 AM
To: 'gclark@sheppardmullin.com'; 'shwang@sheppardmullin.com'
Cc: Cooper, Alan
Subject: Opposition No. 91164764: Brink's Network v. The Brinkmann Corporation

Gary/Susan:

On Friday, October 7, 2005, the parties agreed to a sixty-day extension of the discovery period. I trust that you received the Board's electronic notice granting the extension request. If you did not, please let me know and I will forward it to you.

As you know, Brink's Network noticed a deposition of Brinkmann pursuant to Rule 30(b)(6) for October 19 in Dallas, Texas. During a telephone call on October 7, Susan advised that the Executive Vice President of Brinkmann would not be available for the deposition on that date. We propose to reschedule the deposition for November 21 at 9:00 a.m. at the location identified in the original Notice of Taking Discovery Deposition. Please let me know as soon as possible whether the Executive Vice President or any other individual who can properly serve as a 30(b)(6) witness on behalf of Brinkmann is available on that date.

In the meantime, we have yet to receive any documents in response to Opposer's Request for Production of Documents and Things, which was served on September 6. The non-privileged, non-confidential documents responsive to Brink's requests should have been served by October 6. As you well know, the sixty-day extension of the discovery period does not extend the deadline by which Brinkmann must respond to Opposer's Request for Production of Documents. Please let me know when you expect to produce responsive documents as this bears on the schedule for the deposition.

I have attached below a draft protective order for your review. Please let us have your comments as soon as possible so that the parties can move forward with the production of documents covered by the protective order.

Nancy

DM_US-#82 -v2-Brinks_v

****
Nancy S. Lapidus
Howrey LLP
1299 Pennsylvania Avenue, N.W.
Washington, DC 20004
Phone: (202) 783-0800
Fax: (202) 383-7195
IP Docketing: ipdocketing@howrey.com

Brink's Exhibit G

Brink's Network, Incorporated v. The Brinkmann Corporation
Opposition No. 91164764

Lapidus, Nancy

From: Lapidus, Nancy
Sent: Thursday, October 27, 2005 12:52 PM
To: 'gclark@sheppardmullin.com'; 'shwang@sheppardmullin.com'
Cc: Cooper, Alan
Subject: FW: Opposition No. 91164764: Brink's Network v. The Brinkmann Corporation

Gary and Susan:

We have not received a response to the email below.

Please advise whether Brinkmann is available for a deposition on the proposed date of November 21.

We have not received the non-privileged, non-confidential documents responsive to Brink's discovery requests. Please advise when we can expect to receive those documents.

Please provide us with your comments, if any, to the proposed protective order. As stated in the responses to Brinkmann's requests for production, we intend to produce additional documents once the protective order is entered.

Nancy

-----Original Message-----
From: Lapidus, Nancy
Sent: Wednesday, October 19, 2005 11:43 AM
To: 'gclark@sheppardmullin.com'; 'shwang@sheppardmullin.com'
Cc: Cooper, Alan
Subject: Opposition No. 91164764: Brink's Network v. The Brinkmann Corporation

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Nancy

DM_US-#82
-v2-Brinks_v

********** **********

Nancy S. Lapidus
Howrey LLP
1299 Pennsylvania Avenue, N.W.
Washington, DC 20004
Phone: (202) 783-0800
Fax: (202) 383-7195
IP Docketing: ipdocketing@howrey.com

Brink's Exhibit H

Brink's Network, Incorporated v. The Brinkmann Corporation
Opposition No. 91164764

Lapidus, Nancy

From: Susan Hwang [SHwang@sheppardmullin.com]
Sent: Tuesday, November 01, 2005 1:18 PM
To: Lapidus, Nancy; Gary Clark
Cc: Cooper, Alan
Subject: RE: Opposition No. 91164764: Brink's Network v. The Brinkmann Corporation

Hi Nancy,

Thank you for providing us with the draft protective order. We are working on getting our comments and proposed revisions to you and following up with our client on document production and the deposition date you propose.

Regards,
Susan

Susan Hwang | Sheppard Mullin | 333 S. Hope Street, 48th Floor, Los Angeles, CA 90071
Tel.: (213) 617-4279 | Fax: (213) 620-1398 | E-mail: shwang@sheppardmullin.com

-----Original Message-----
From: Lapidus, Nancy [mailto:LapidusN@howrey.com]
Sent: Thursday, October 27, 2005 9:52 AM
To: Gary Clark; Susan Hwang
Cc: Cooper, Alan
Subject: FW: Opposition No. 91164764: Brink's Network v. The Brinkmann Corporation

Gary and Susan:

We have not received a response to the email below.

Please advise whether Brinkmann is available for a deposition on the proposed date of November 21.

We have not received the non-privileged, non-confidential documents responsive to Brink's discovery requests. Please advise when we can expect
to receive those documents.

Please provide us with your comments, if any, to the proposed protective order. As stated in the responses to Brinkmann's requests for production,
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Nancy
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> To: 'gclark@sheppardmullin.com'; 'shwang@sheppardmullin.com'
> Cc: Cooper, Alan
> Subject: Opposition No. 91164764: Brink's Network v. The Brinkmann
> Corporation
>
>
> Gary/Susan:
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electronic
> notice granting the extension request. If you did not, please let me
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> and I will forward it to you.
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pursuant to
> Rule 30(b)(6) for October 19 in Dallas, Texas. During a telephone
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Please
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Please
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order.
>
>
> Nancy
>
>
>
> **********
<<DM_US-#8267776-v2-Brinks_v__Brikmann__Protective_Order.DOC>>
> **********
> Nancy S. Lapidus
> Howrey LLP
> 1299 Pennsylvania Avenue, N.W.
> Washington, DC 20004
> Phone: (202) 783-0800
> Fax: (202) 383-7195
> IP Docketing: ipdocketing@howrey.com
>

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Brink's Exhibit I

Brink's Network, Incorporated v. The Brinkmann Corporation
Opposition No. 91164764

Lapidus, Nancy

From: Lapidus, Nancy
Sent: Wednesday, November 09, 2005 4:07 PM
To: 'Susan Hwang'; Gary Clark
Cc: Cooper, Alan
Subject: RE: Opposition No. 91164764: Brink's Network v. The Brinkmann Corporation

Susan:

What is the status of Brinkmann's production of documents in response to Brink's discovery requests? We would like to move forward without the necessity of a motion to compel. Once we receive the documents, we are willing to work with you on a proposed date for the deposition. Please advise.

Also, please let me know the status of receiving your comments on the protective order. We have additional documents to produce once the protective order is entered.

Thank you.

Nancy

-----Original Message-----
From: Susan Hwang [mailto:SHwang@sheppardmullin.com]
Sent: Tuesday, November 01, 2005 1:18 PM
To: Lapidus, Nancy; Gary Clark
Cc: Cooper, Alan
Subject: RE: Opposition No. 91164764: Brink's Network v. The Brinkmann Corporation

Hi Nancy,

Thank you for providing us with the draft protective order. We are working on getting our comments and proposed revisions to you and following up with our client on document production and the deposition date you propose.

Regards,
Susan

Susan Hwang | Sheppard Mullin | 333 S. Hope Street, 48th Floor, Los Angeles, CA 90071
Tel.: (213) 617-4279 | Fax: (213) 620-1398 | E-mail: shwang@sheppardmullin.com

-----Original Message-----
From: Lapidus, Nancy [mailto:LapidusN@howrey.com]
Sent: Thursday, October 27, 2005 9:52 AM
To: Gary Clark; Susan Hwang
Cc: Cooper, Alan
Subject: FW: Opposition No. 91164764: Brink's Network v. The Brinkmann Corporation

Gary and Susan:

We have not received a response to the email below.

Please advise whether Brinkmann is available for a deposition on the proposed date of November 21.

We have not received the non-privileged, non-confidential documents responsive to Brink's discovery requests. Please advise when we can expect

to receive those documents.

Please provide us with your comments, if any, to the proposed protective order. As stated in the responses to Brinkmann's requests for production,
we intend to produce additional documents once the protective order is entered.

Nancy
> -----Original Message-----
> From: Lapidus, Nancy
> Sent: Wednesday, October 19, 2005 11:43 AM
> To: 'gclark@sheppardmullin.com'; 'shwang@sheppardmullin.com'
> Cc: Cooper, Alan
> Subject: Opposition No. 91164764: Brink's Network v. The Brinkmann
> Corporation
>
>
> Gary/Susan:
>
> On Friday, October 7, 2005, the parties agreed to a sixty-day extension of
> the discovery period. I trust that you received the Board's electronic
> notice granting the extension request. If you did not, please let me know
> and I will forward it to you.
>
> As you know, Brink's Network noticed a deposition of Brinkmann pursuant to
> Rule 30(b)(6) for October 19 in Dallas, Texas. During a telephone call on
> October 7, Susan advised that the Executive Vice President of Brinkmann
> would not be available for the deposition on that date. We propose to
> reschedule the deposition for November 21 at 9:00 a.m. at the location
> identified in the original Notice of Taking Discovery Deposition. Please
> let me know as soon as possible whether the Executive Vice President or
> any other individual who can properly serve as a 30(b)(6) witness on
> behalf of Brinkmann is available on that date.
>
> In the meantime, we have yet to receive any documents in response to
> Opposer's Request for Production of Documents and Things, which was served
> on September 6. The non-privileged, non-confidential documents responsive
> to Brink's requests should have been served by October 6. As you well
> know, the sixty-day extension of the discovery period does not extend the
> deadline by which Brinkmann must respond to Opposer's Request for
> Production of Documents. Please let me know when you expect to produce
> responsive documents as this bears on the schedule for the deposition.
>
> I have attached below a draft protective order for your review. Please
> let us have your comments as soon as possible so that the parties can move
> forward with the production of documents covered by the protective order.
>
>
> Nancy

>
>
>
> **********
<<DM_US-#8267776-v2-Brinks_v__Brikmann__Protective_Order.DOC>>
> **********
> Nancy S. Lapidus
> Howrey LLP
> 1299 Pennsylvania Avenue, N.W.
> Washington, DC 20004
> Phone: (202) 783-0800
> Fax: (202) 383-7195
> IP Docketing: ipdocketing@howrey.com
>

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