

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

In the Matter of Application No.: 76/570,501
Of the Mark: 167 NEW BOND STREET - LONDON - (Stylized)
Applicant: Asprey Holdings Limited Corporation

-----X	:	
Laurice El Badry Rahme Ltd. dba	:	
Laurice & Co.,	:	
	:	
Opposer	:	Opposition No.: 91167945
	:	
v.	:	
	:	
Asprey Holdings Limited Corp.,	:	
	:	
Applicant	:	
-----X	:	

**REPLY TO APPLICANT'S BRIEF IN OPPOSITION TO OPPOSER'S
MOTION FOR SUSPENSION OF PROCEEDING OR FOR AN EXTENSION OF TIME**

Laurice El Badry Rahme Ltd., dba Laurice & Co., through its undersigned counsel, hereby replies to Applicant's Brief in Opposition to Opposer's Motion for Suspension or for an Extension of Time for Discovery and Testimony ("Applicant's Motion"). The matter contained herein is limited to new matter contained in the opposition filed by Applicant.

Opposer will demonstrate that its Motion for Suspension of Proceeding or Extension of Time ("Opposer's Motion") should be granted because (a) Opposer has shown good cause, as set forth in Fed. Rule Civ. P. 6(b)(1) and TBMP § 509, for requesting an Extension of Time for Discovery and Testimony, and/or (b) Opposer was justified in requesting Suspension of the Proceeding.

I. OPPOSER HAS DEMONSTRATED GOOD CAUSE TO EXTEND DISCOVERY AND TESTIMONY

In its Motion, Applicant requests that the Board deny Opposers' Motion because "[t]here is no justification for extending the trial dates". (Applicant's Motion at p. 1). This is not, however, the standard used by the courts or the TTAB when determining whether to grant a

Motion for an Extension of Time for Discovery and Testimony, which was requested prior to expiration of a deadline. The standard is whether the moving party has demonstrated good cause for its request.

Fed. Rule. Civ. P. 6(b)(1) states:

When by these rules or by a notice given thereunder or by order of court an act is required or allowed to be done at or within a specified time, the court for cause shown may at any time in its discretion (1) with or without motion or notice, order the period enlarged if request therefor is made before the expiration of the period originally prescribed or as extended by a previous order.

The TBMP further states that:

If a motion is filed prior to the expiration of the period as originally set or previously extended, the motion is a motion to extend, and the moving party need only show good cause for the requested extension..... A motion to extend must set forth with particularity the facts said to constitute good cause for the requested extension; mere conclusory allegations lacking factual detail are not sufficient. Moreover, a party moving to extend time must demonstrate that the requested extension of time is not necessitated by a party's own lack of diligence or unreasonable delay in taking the required action during the time previously allotted therefor.

(TBMP § 509 (a)).

Whether relief is warranted under Rule 6(b) depends in large part on whether an extension of the time period is sought before or after the expiration of time to act. A court is more apt to extend the time period if the extension is sought before the time to act has expired.

(Moore's Federal Practice § 6.06(2)).

Thus, a court should grant the moving party's Request for an Extension of Time, made on or before the expiration of a deadline to act, if the moving party shows (a) with particularity that its acts constituted "good faith", and (b) that it was diligent in taking action.

Both factors are present here.

A. Opposer has identified with particularity the facts showing "good cause" for the Extension of Time

Opposer's Motion identified with specificity the reasons it believed an extension of time is justified.

In its Motion of November 3, Opposer stated that on October 30, 2006, while performing routine follow ups to ascertain the status of this proceeding it reviewed the TTAB database and at that time first became aware that on July 13, 2006 the TTAB sent an order resuming action in the proceeding and resetting the deadlines for Discovery and Testimony. Under the Order of July 13, 2006, the deadline for discovery was November 3, 2006. Since Opposer did not receive the original Order of July 13, 2006, Opposer had only 4 days to prepare discovery prior to the expiration of the new discovery deadlines set by the Board. Accordingly, as Opposer stated in its Motion, it did not have ample opportunity to conduct discovery.

Opposer is seeking this suspension or extension of time because the undersigned counsel never received the Board's Order of July 16, 2006, which it only became aware of on October 30, 2006, while performing a routine "follow up" to ascertain the status of the matter. Consequently, Opposer has not had ample opportunity to prepare discovery. Moreover, and as set forth above, Opposer is attempting to resolve the dispute and on June 2, 2006 and November 1, 2006, forwarded a settlement proposal to Applicant's counsel.

(Opposer's Motion, attached as Exhibit "A").

Opposer's Motion further delineated that after learning of the TTAB's deadlines, and prior to the expiration of deadline for discovery it contacted Terrence Dixon, counsel for Applicant, and requested an extension. (See copy of Opposer's facsimile of November 1, 2006, attached as Exhibit "B"). On November 3, 2006, Terence Dixon left a telephone message for the undersigned counsel indicated that it would not consent to an extension of time but would be considering our settlement letter of June 2, 2006. (See Opposer's Motion at p. 1).

The particularity of the foregoing facts said to constitute good cause have not been disputed by counsel for Applicant. Accordingly, this factor weights in favor of Opposer.

- B. Opposer's Request for Extension of Time was not due to lack of diligence of unreasonable delay in taking action

Applicant would like the Board to believe that Oposer failed to take any action in connection with this proceeding in 7 months and therefore Opposer has not acted diligently in

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this proceeding. This is not the case.

Applicant claims that:

The Board gave the parties seven months to conduct discovery, but Opposer failed to do anything within that time frame. The Board's initial scheduling order set the discovery period to open on January 3, 2006 and to close on July 2, 2006. Although the Board suspended the proceedings on April 24th, the Board lifted this suspension on July 13th and issued a revised scheduling order which extended the discovery period until November 3rd. Opposer claims that it needs more time to prepare discovery because it never received the revised scheduling order. Obviously, there is no excuse for failing to take discovery in the three and a half months after the discovery period opened.

(Applicant's Brief at p. 1).

Applicant has clearly mischaracterized the events as they occurred here. Opposer did not have "7 months" to conduct discovery, but rather, had from January 3, 2006 (the date set for discovery to open by the TTAB's Order of December 14, 2005) until April 24, 2006, (the date the Board suspended all further action in the proceeding because of the potentially dispositive motion filed by Applicant) to conduct discovery. Thus, the Board's Order suspending action effectively suspended the deadline for discovery and testimony. See Leeds Technologies Ltd. v. Topaz Communications Ltd., 65 U.S.P.Q.2d 1303 (TTAB 2002) where Opposer requested that the Board suspend discovery pending disposition of a motion for judgment on the pleadings. In response, applicant argued that opposer's motion should be denied because opposer's failure to timely serve its discovery responses after the filing of opposer's motion was an act of bad faith. Applicant asserted that opposer's responses had been due and that without waiting for a ruling from the Board it unilaterally decided not to answer outstanding discovery requests.

The Board held that even though it had not officially suspended proceedings, it would consider proceedings suspended retroactive to the date of the filing of opposer's motion for judgment on the pleadings and provided Opposer with the opportunity to serve its response to

applicant's discovery requests. The Board stated:

The filing of dispositive pleading in trademark opposition proceeding does not automatically suspend discovery, but since parties are presumed to know that filing of such motion will result in suspension order, filing will generally provide parties with good cause to cease or defer activities unrelated to briefing.

This is similar to the situation here. The Board suspended action in connection with this proceeding on April 24, 2006. (See copy of Suspension of April 24, 2006, attached herewith as Exhibit "C"). Therefore, no discovery was conducted by either party.

Moreover, there is no duty under the TBMP to conduct discovery "early" on in a proceeding. The only obligation on a party in connection with taking discovery at the commencement of the proceeding (or at the beginning of the time set by the TTAB) arises when a party wishes to have the opportunity to take "follow up discovery" after it receives responses to its initial discovery requests. (TBMP Section 403.05(a)). This was not the situation here.

Thus Opposer's decision not to take discovery from January 3, 2006 until April 24, 2006, does not establish lack of diligence or undue delay.

Applicant would also like the Board to believe that Opposer failure to take discovery from July 13, 2006 (the date which the TTAB issued its revised scheduling order, which was not received by Opposer) until November 3, 2006 (the date set by the TTAB for the close of discovery based on the revised scheduling order), constitutes lack of due diligence. According to Applicant, "Opposer did not check on the status of this proceeding until nearly four months after it surrendered its registration and asserted that Applicant's motion for summary judgment was moot.... Opposer has not explained why it failed to check on the status of the proceeding until nearly four months after it surrendered its registration. Nor has Opposer explained why it failed to prepare and serve discovery requests once it became aware of the impending deadline." (Applicant's Brief at 3).

Unlike the Trademark Office Rules, the TTAB does not impose on counsel a "Due Diligence-Duty to Monitor"¹. Opposer typically monitors the status of applications, registrations and trademarks that are the subject of proceedings every six months. (See Declaration of Loewenthal, attached as Exhibit "D" at p. 2). Here, Opposer filed its Voluntary Surrender of Registration on June 5, 2006. Normally, Opposer would not have followed up to ascertain the status of proceeding until December 5, 2006. However, on October 20, 2006, prior to a meeting of November 2, 2006 with Laurice & Co., counsel for Opposer performed routine follow ups at the USPTO TTABVUE and became aware that, on July 13, 2006 the TTAB granted Applicant's Counterclaim and granted Opposer's Request to Surrender Registration No. 2,742,675 and resumed proceedings and reset the deadline for discovery to close to November 3, 2006. Since Opposer did not receive the Board's Order of July 13, 2006, it was only on October 30, 2006 that Opposer learned that the Board resumed proceedings and reset the deadline for discovery. (Decl. of Loewenthal at p. 2). It was at that point that counsel for Opposer communicated with counsel for Applicant and asked to consent to an Extension of Time for Discovery and Testimony. On November 3, 2006, counsel for Applicant left a telephone message indicating it would not consent to an Extension. Accordingly, on November 3, 2006, Opposer filed a Motion for Suspension of proceedings and/or for a 90 day Extension of Time for Discovery and Testimony. (Decl. Of Loewenthal at p. 2).

In view of the above, there can be no doubt that Opposer has demonstrated good cause

¹ TMEP Sections 108.03, 1705 which impose a duty upon Applicant to monitor the status of an Application. For example, TMEP Sections 108.03 provides that trademark applicants and registrants should monitor the status of their applications or registrations in cases where a notice or action from the USPTO is expected as follows: (1) During the pendency of an application, an applicant should check the status of the application every six months between the filing date of the application and issuance of a registration; and (2) After filing an affidavit of use or excusable non use under §8 or §71 of the Trademark Act, or a renewal application under §9 of the Act, a registrant should check the status of the registration every six months until the registrant receives notice that the affidavit or renewal application has been accepted.

for filing its Motion for an Extension of Time.

II. REQUEST FOR SUSPENSION OF PROCEEDINGS

Applicant argues that there is no basis for suspension because “the parties are clearly not engaged in serious bilateral settlement discussions”². Without claiming that Applicant’s counsel is intentionally misrepresenting the nature of a conversation held between counsel, it is the undersigned counsel’s recollection that, on November 3, 2006, in a telephone message, Terence Dixon, counsel for Applicant, indicated that while it would not consent to an extension of time for Discovery and Testimony, it would consider Opposer’s settlement letter of June 2, and November 1, 2006. In fact, this conversation was directly referenced to in Opposer’s Motion . See Opposer’s Motion which states “on November 3, 2006 Terry Dixon, counsel for Applicant, left a telephone message for the undersigned counsel indicated that it would not consent to an extension of time but would be considering our settlement letter of June 2, 2006.” (Opposer’s Motion at p. 1). In view of this conversation, Opposer believed that its settlement proposal was under consideration, and accordingly, in order to avoid protracted discovery, requested that the Board suspend proceedings.

Indeed it was not until November 14, 2006, nearly two weeks after Opposer’s repeated attempt to communicate with counsel that Opposer learned that it’s settlement offer had been refused and that “Opposer does not believe that there is any realistic potential for confusion between the parties’ mark. “ It was for the first time, upon receipt of this letter that Opposer learned that Applicant had no intention on settling the dispute.

III. CONCLUSION

In view of the facts set forth above, Opposer has demonstrated good cause for its Motion for Suspension of Proceedings or For a 90 Day Extension of Time or Discovery and

² Applicant reliance on Old Nutfield Brewing Co. v. Hudson Valley Brewing Co., 65 U.S.P.Q.2d 1701 (TTAB 2002) is misplaced. In Old Nutfield Brewing Co. v. Hudson Valley Brewing Co., Opposer waited more than four months after close of its testimony period before moving to reopen, and eight weeks of that delay came after opposer’s counsel was aware that settlement had not been reached. This is a far cry from the situation at hand, where Opposer contacted Applicant and filed its Motion prior to the expiration of any deadline.

Testimony which should be granted by the TTAB.

Respectfully submitted,

GOTTLIEB, RACKMAN & REISMAN, P.C.

By:  _____

Barbara Loewenthal
Attorney for Opposer
270 Madison Avenue
New York, NY 10016
(212) 684-3900

S:\kchan\clients\Laurice & Co. 4543\Asprey.wpd

CERTIFICATE OF MAILING

I hereby certify that this REPLY TO APPLICANT'S BRIEF IN OPPOSITION TO OPPOSER'S MOTION FOR SUSPENSION OF PROCEEDING OR FOR AN EXTENSION OF TIME, is being deposited with the United States Postal Service as first class mail in a postage prepaid envelope addressed to: Commissioner for Trademarks, BOX TTAB - NO FEE, P.O. Box 1451, Alexandria, VA 22313-1451, on December 4, 2006

Dated: New York, New York
December 4, 2006

 _____
Katy Chan

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing REPLY TO APPLICANT'S BRIEF IN OPPOSITION TO OPPOSER'S MOTION FOR SUSPENSION OF PROCEEDING OR FOR AN EXTENSION OF TIME, has been served on December 4, 2006, upon Applicant's counsel of record via first class mail, a postage prepaid, addressed as follows: Terence A. Dixon, Esq., Dechert LLP, Cira Center, 2929 Arch Street, Philadelphia, PA 19104-2808.

Dated: December 4, 2006

 _____
Katy Chan

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

In the Matter of Application No.: 76/570,501
Of the Mark: 167 NEW BOND STREET - LONDON - (Stylized)
Applicant: Asprey Holdings Limited Corporation

TTAB

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Laurice El Badry Rahme Ltd. dba	:	
Laurice & Co.,	:	
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Opposer	:	Opposition No.: 91167945
	:	
v.	:	
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Asprey Holdings Limited Corp.,	:	
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Applicant	:	
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**OPPOSER'S MOTION FOR SUSPENSION OF PROCEEDINGS OR
FOR A 90 DAY EXTENSION OF TIME FOR DISCOVERY AND TESTIMONY**

Opposer, Laurice El Badry Rahme Ltd. dba Laurice & Co., through its undersigned counsel requests that the Board suspend proceeds so that the parties can pursue settlement discussions to attempt to resolve this dispute. In the alternative, Opposer requests a 90 day extension of time for discovery and testimony, as set forth below.

Opposer is seeking this suspension or extension of time because the undersigned counsel never received the Board's Order of July 16, 2006, which it only became aware of on October 30, 2006, while performing a routine "follow up" to ascertain the status of the matter. Consequently, Opposer has not had ample opportunity to prepare discovery. Moreover, and as set forth above, Opposer is attempting to resolve the dispute and on June 2, 2006 and November 1, 2006, forwarded a settlement proposal to Applicant's counsel.

On November 3, 2006 Terry Dixon, counsel for Applicant, left a telephone message for the undersigned counsel indicated that it would not consent to an extension of time but would be considering our settlement letter of June 2, 2006.

If the Board refuses to suspend proceeding, Opposer requests a 90 day extension of time for discovery and testimony, as set forth below:

Discovery Period To Close: February 1, 2007
30-day testimony period for party
in position of plaintiff to close May 2, 2007
30-day testimony period for party
in position of defendant to close July 1, 2007
15-day rebuttal testimony period
for plaintiff to close August 15, 2007

In view of the above, favorable action is requested.

Dated: November 3, 2006
New York, New York

Respectfully submitted,

GOTTLIEB, RACKMAN & REISMAN, P.C.

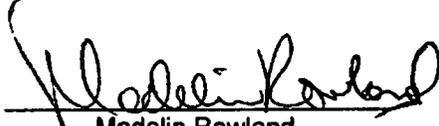
By: 

Barbara H. Loewenthal
Attorneys for Petitioner
270 Madison Avenue
New York, NY 10016-0601
(212) 684-3900

CERTIFICATE OF MAILING

I hereby certify that this OPPOSER'S MOTION FOR SUSPENSION OF PROCEEDINGS OR FOR A 90 DAY EXTENSION OF TIME FOR DISCOVERY AND TESTIMONY, is being deposited with the United States Postal Service as first class mail in a postage prepaid envelope addressed to: Commissioner for Trademarks, BOX TTAB - NO FEE, P.O. Box 1451, Alexandria, VA 22313-1451, on November 3, 2006.

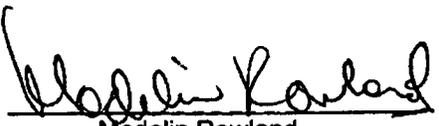
Dated: New York, New York
November 3, 2006


Madelin Rowland

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing OPPOSER'S MOTION FOR SUSPENSION OF PROCEEDINGS OR FOR A 90 DAY EXTENSION OF TIME FOR DISCOVERY AND TESTIMONY, has been served on November 3, 2006, upon Applicant's counsel of record via first class mail, a postage prepaid, addressed as follows: Terence A. Dixon, Esq., Dechert LLP, Cira Center, 2929 Arch Street, Philadelphia, PA 19104-2808.

Dated: November 3, 2006


Madelin Rowland



GOTTLIEB, RACKMAN & REISMAN, P.C.
270 Madison Avenue, 8th Floor
New York, New York 10016-0601
Telephone: (212) 684-3900 - Fax: (212) 684-3999

TAB

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FACSIMILE COVER SHEET

CONFIDENTIALITY NOTE: The information contained in this facsimile message is privileged and confidential, intended only for the use of the individual or entity named below. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copy of this telecopy is strictly prohibited. If you have received this telecopy in error, please immediately notify us by telephone and return the original message to us at the address listed above via the United States Postal Service. We will reimburse for postage on all such returned messages.	
TO:	Terence A. Dixon, Esq.
COMPANY:	Dechert, LLP
FAX NO.	(215) 994-2222
FROM:	Amy Goldsmith, Esq./Barbara Loewenthal [M. Rowland]
We are sending a communication of 11 page(s) (including this cover sheet). Please call (212) 684-3900 immediately if transmission is interrupted or of poor quality.	
November 1, 2006	4543/73

MESSAGE:

Re: Laurice El Badry Rahme Ltd. dba Laurice & Co./Asprey Holdings Limited Corp. - Opposition No. 91167945

Dear Terence:

We note the deadline for discovery is coming up in connection with the above-referenced matter. Please advise if you will consent to a further Extension of Time for discovery and testimony and let us have your comments with respect to our letter of June 2, 2006. (Copy enclosed for your convenience.)

Very truly yours,


Barbara H. Loewenthal



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

Cv

Mailed: April 24, 2006

Opposition No. 91167945

LAURICE EL BADRY RAHME LTD
dba LAURICE & CO.

v.

ASPREY HOLDINGS LIMITED

**Thomas W. Wellington,
Interlocutory Attorney:**

Proceedings herein are suspended pending disposition of the motion for summary judgment. Any paper filed during the pendency of this motion which is not relevant thereto will be given no consideration. See Trademark Rule 2.127(d).



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

In the Matter of Application No.: 76/570,501
Of the Mark: 167 NEW BOND STREET - LONDON - (Stylized)
Applicant: Asprey Holdings Limited Corporation

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Laurice El Badry Rahme Ltd. dba	:	
Laurice & Co.,	:	
	:	
Opposer	:	Opposition No.: 91167945
	:	
v.	:	
	:	
Asprey Holdings Limited Corp.,	:	
	:	
Applicant	:	
-----X	:	

DECLARATION OF BARBARA LOEWENTHAL

Barbara Loewenthal hereby declares and says:

1. I am an associate with the law firm of Gottlieb, Rackman & Reisman, P.C., which is representing Applicant. I make this declaration in support of the above-referenced Application. The facts set forth herein are based upon my personal knowledge.

2. On November 14, 2005, Opposer filed a Notice of Opposition against Application No. 76/570,501 for the trademark 167 NEW BOND STREET LOGO and design in Classes 3, 8, 9, 14, 18, 25, 28 and 35. The Opposition was designated as 91167945 by the Trademark Trial and Appeal Board ("TTAB").

3. On December 14, 2005, the TTAB set it's initial scheduling order, setting the dates for Applicant's Answer and for Discovery and Testimony. Under the original Order, discovery was set to open on January 3, 2006 and to close on July 2, 2006.

4. On January 20,2006 Answered the Notice of Opposition and filed a Counterclaim for Cancellation of Registration No. 2,742,675.

5. Opposer filed its Answer to the Counterclaim on April 12, 2006, and on April 14, 2006, Applicant filed a Motion for Summary Judgement on Counterclaim for Cancellation.

6. On April 24, 2006, the Board suspended proceedings, pending disposition of the Motion for Summary Judgement.

7. On June 2, 2006, Opposer filed a Voluntary Surrender of Registration No. 2,742,675 which effectively rendered the Motion for Summary Judgement moot.

8. On June 2, 2006 counsel for Opposer forwarded a settlement proposal to Glenn A. Gundersen, counsel for Applicant. The letter was received by counsel on June 14, 2006. (See copy of letter attached as Exhibit "1"). There was no response to this settlement letter by counsel for Applicant.

9. In accordance with TMEP Sections 108.03, and 1705, Opposer conducts "routine" follow ups approximately 6 months after an action is taken. Thus, under normal circumstances, the undersigned counsel would have checked the TTABVUE on or approximately December 2, 2006 to ascertain the status of the proceedings. However, on October 30, 2006, in preparation for a meeting of November 2, 2006, between the undersigned counsel for Opposer and it's client, Laurice El Badry Rahme Ltd. Dba Laurice & Co., I reviewed the TTABVUE and became aware that, on July 13, 2006, the TTAB granted Applicant's Counterclaim and granted Opposer's Request to Surrender Registration No. 2, 742,675 and resumed proceedings and reset the deadline for discovery to close to November 3, 2006.

10. A review of the relevant files reveals that the undersigned did not receive the TTAB's Order of July 13, 2006 and accordingly, only became aware of the Order of July 13, 2006 on October 30, 2006.

11. On November 1, 2006 counsel for Opposer communicated with counsel for Applicant and asked to consent to an Extension of Time for Discovery and Testimony. On

November 3, 2006, counsel for Applicant left a telephone message indicated it would not consent to an Extension.

12. Accordingly, on November 3, 2006, Opposer filed a Motion for Suspension of proceedings and/or for a 90 day Extension of Time for Discovery and Testimony.

13. I declare that the foregoing statements made by me are true. I am aware that if any of the foregoing statements are willfully false, I may be subject to punishment for perjury.

Dated: December 4, 2006



Barbara Loewenthal

GOTTLIEB, RACKMAN & REISMAN, P.C.

COUNSELORS AT LAW

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PATENT AGENT
ZOYA V. CHERNINA

RECEIVED

JUN 14 2006

G.A.G.

June 2, 2006

FOR SETTLEMENT PURPOSES, ONLY SUBJECT TO RULE 408

Glenn A. Gundersen, Esq.
Dechert LLP
Cira Center
2929 Arch Street
Philadelphia, PA 19104-2808

RE: Laurice El Rahme Ltd. dba Laurice & Co.
v. Asprey Holdings Limited Corp.
and Opposition No. ~~91/167,945~~ with respect to
Trademark: 167 NEW BOND STREET -LONDON (stylized)
In the United States - Our Ref. No. 4543/73

Dear Glenn:

Further to our telephone conversation of May 15, 2006, we have now had the opportunity to meet with our client to discuss this matter in some detail.

To avoid a protracted proceeding, our client, Laurice El Rahme Ltd. dba Laurice & Co. ("Laurice") has indicated that it would withdraw the Notice of Opposition filed against your client, Asprey Holdings Limited Corp. ("Asprey"), provided Asprey would agree to the following restrictions with respect to its use of the mark 167 NEW BOND STREET - LONDON (stylized) in the United States:

- the trademark 167 NEW BOND STREET and design (as shown on perfume and in drawing in application, attached herewith as Exhibit "A") will always be used inside of packaging for the goods, e.g., in the packaging of the boxes for perfumes; toilet waters; and the other items listed in Class 3 ("the Goods");
- the trademark 167 NEW BOND STREET and design will never be used, displayed or featured in advertising or point of purchase displays or any other displays associated with the Goods;
- the boxes and packaging for the Goods will always display the company name "ASPREY" and the packaging will be in substantially similar form as the form currently used for the Goods, and as depicted in Exhibit "B" attached herewith; and

Glenn A. Gundersen, Esq.
Dechert LLP
June 2, 2006
Page 2

- Asprey will always use the mark 167 NEW BOND STREET and design in connection with the Goods with a purple circular center (as shown in Exhibit "C" attached herewith).

We will place no restrictions on goods in the other classes in your client's application.

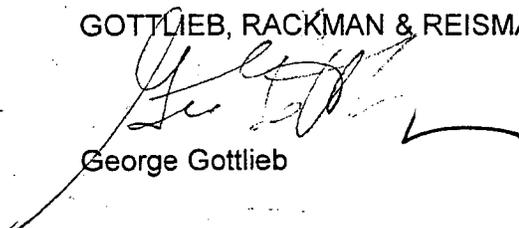
In other words, for settlement purposes, the current use of your client's mark, essentially within packaging, is only minimally objectionable to our client. Our review of your client's current usage of its mark on the Goods is in conformity with the above restrictions.

Laurice is also filing a voluntary Cancellation of Registration No. 2,742,675 for the mark BOND NO. 9, and we are informing the Trademark Trial and Appeal Board of the same. This will moot the Summary Judgment Motion for cancellation.

Please advise whether a settlement is achievable along these lines. Otherwise, we are prepared to proceed with the opposition.

Very truly yours,

GOTTLIEB, RACKMAN & REISMAN, P.C.



George Gottlieb

BHL:mr

Enclosures

S:\barbara\clients\Laurice & Colasprey.ltr.wpd

EXHIBIT "A"



United States Patent and Trademark Office

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Trademarks > Trademark Electronic Search System(Tess)

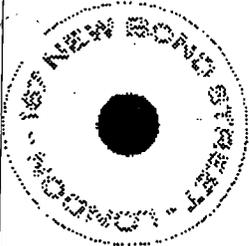
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Word Mark 167 NEW BOND STREET - LONDON -

Goods and Services

IC 003. US 001 004 006 050 051 052. G & S: Perfumes; toilet waters; preparations for the bath, namely, bath gels and bath oils; lip balm; body cream; body powder; beauty masks; cold cream, hand cream, night cream, eye cream; skin conditioners; skin lotions, body lotions; skin moisturizers; baby powder; baby oil; nail-care preparations; sun screen preparations, and after-sun lotions; cosmetics, namely, foundation, concealers, blush, rouge, eyebrow pencils, eyeliner, lipstick, lip gloss, lip liner, mascara, nail polish, nail-polish remover, cosmetic face powder; compacts containing makeup, and makeup remover; soaps; essential oils for personal use; hair lotions; hair-care preparations; non-medicated cleaning preparations for personal hygiene purposes, namely, skin cleansers, facial cleansers, body scrubs, facial scrubs, and facial masks; antiperspirants; dentifrices; shaving preparations; after-shave lotions; potpourri

IC 008. US 023 028 044. G & S: Kitchen cutlery, namely, table knives, forks and spoons; knives, namely, paring knives, butcher knives, chef's knives, cleavers, bread knives, hunting knives, fishing knives, pocketknives, penknives, and machetes; boxes specially designed for storage of kitchen cutlery; cheese slicers; manicure and pedicure sets sold complete; nail files; nail clippers; fingernail buffers; hand tools, namely, crimping irons, curling tongs, cuticle nippers, cuticle tweezers, and sugar tongs; razors; electric and non-electric razors; egg slicers; non-electric vegetable and fruit peelers, and strainers; scissors

IC 009. US 021 023 026 036 038. G & S: Eyeglasses; sunglasses; sunglass and eyeglass frames; sunglass and eyeglass cases, cords and chains; binoculars; magnifying glasses

IC 014. US 002 027 028 050. G & S: Semi-precious gemstones; precious gemstones; watches, clocks and chronographs for use as watches, and parts and fittings for all the aforesaid; jewelry and imitation jewelry; statuettes of precious metal; cufflinks; tie pins and dress studs

IC 018. US 001 002 003 022 041. G & S: Articles of leather or of imitation leather, namely, luggage; luggage trunks; travelling bags; briefcases; attache cases; garment bags for carrying suits; hand bags; purses; pocket wallets; vanity cases sold empty; business and calling card cases sold empty; leather key fobs; leather pouches; umbrellas; parasols; shooting sticks, namely, combined walking stick and seat; walking sticks; whips, harnesses and saddlery; tie cases; satchels; dog collars; dog leashes

IC 025. US 022 039. G & S: Clothing for men, women and children, namely, socks, stockings, lingerie, nightgowns, brassieres, panties, knickers, overalls, tops, vests, undershirts, underpants, pajamas, bathrobes, swimwear, trousers,

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shorts, skirts, slacks, blouses, shirts, T-shirts, sweaters, waistcoats, shawls, pullovers, cardigans, jerseys, leotards, jackets, blazers, suits, tuxedos, ties, cravats, overcoats, coats, hunting jackets, track suits, raincoats, gloves, suspenders, belts, stoles, boas, parkas, capes and ponchos; footwear; headgear, namely hats, scarves, kerchiefs, caps, and headbands

IC 028. US 022 023 038 050. G & S: Toys, games and playthings, namely, archery equipment, namely, open and non-telescopic bow sights, arrows and bow cases; badminton game playing equipment, backgammon game sets; cricket balls and bats; billiard game playing equipment; equipment sold as a unit for playing board games; equipment sold as a unit for playing card games; pool cue cases; dart-board cases; gaming equipment, namely, chips; golf clubs; golf bags; darts; waterfowl hunting decoys; electric action toys; volleyball game playing equipment; manually operated exercise equipment; fencing equipment, namely, foils, gauntlets and masks; fishing rods; hunting game calls; horseshoes for recreational purposes; jigsaw puzzles; kites; musical toys; coin or non-coin-operated pinball machines; porcelain dolls; tennis, racquetball and squash rackets; stuffed toy animals; teddy bears; golf tees; tennis, racquetball and squash balls; tennis, racquetball and squash covers; exercise treadmills; exercise trampolines; equipment for playing ticktacktoe; chess sets, mahjong sets; decorations for Christmas trees

IC 035. US 100 101 102. G & S: Retail department store services; computerized online retail store services and mail-order, telephone-order, and facsimile-order catalog services, all in the field of general merchandise

Mark Drawing Code (3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS

Design Search Class 26.01.08 - Circles having letters or numerals as a border; Circles having punctuation as a border; Letters, numerals or punctuation forming or bordering the perimeter of a circle
 26.01.17 - Circles, two concentric; Concentric circles, two; Two concentric circles
 26.01.21 - Circles that are totally or partially shaded.

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Filing Date January 13, 2004

Current Filing Basis 44E

Original Filing Basis 1B;44D

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Owner (APPLICANT) ASPREY HOLDINGS LIMITED CORPORATION UNITED KINGDOM 167 New Bond Street London W1S 4AR UNITED KINGDOM

Attorney of Record Glenn A. Gundersen

Priority Date October 10, 2003

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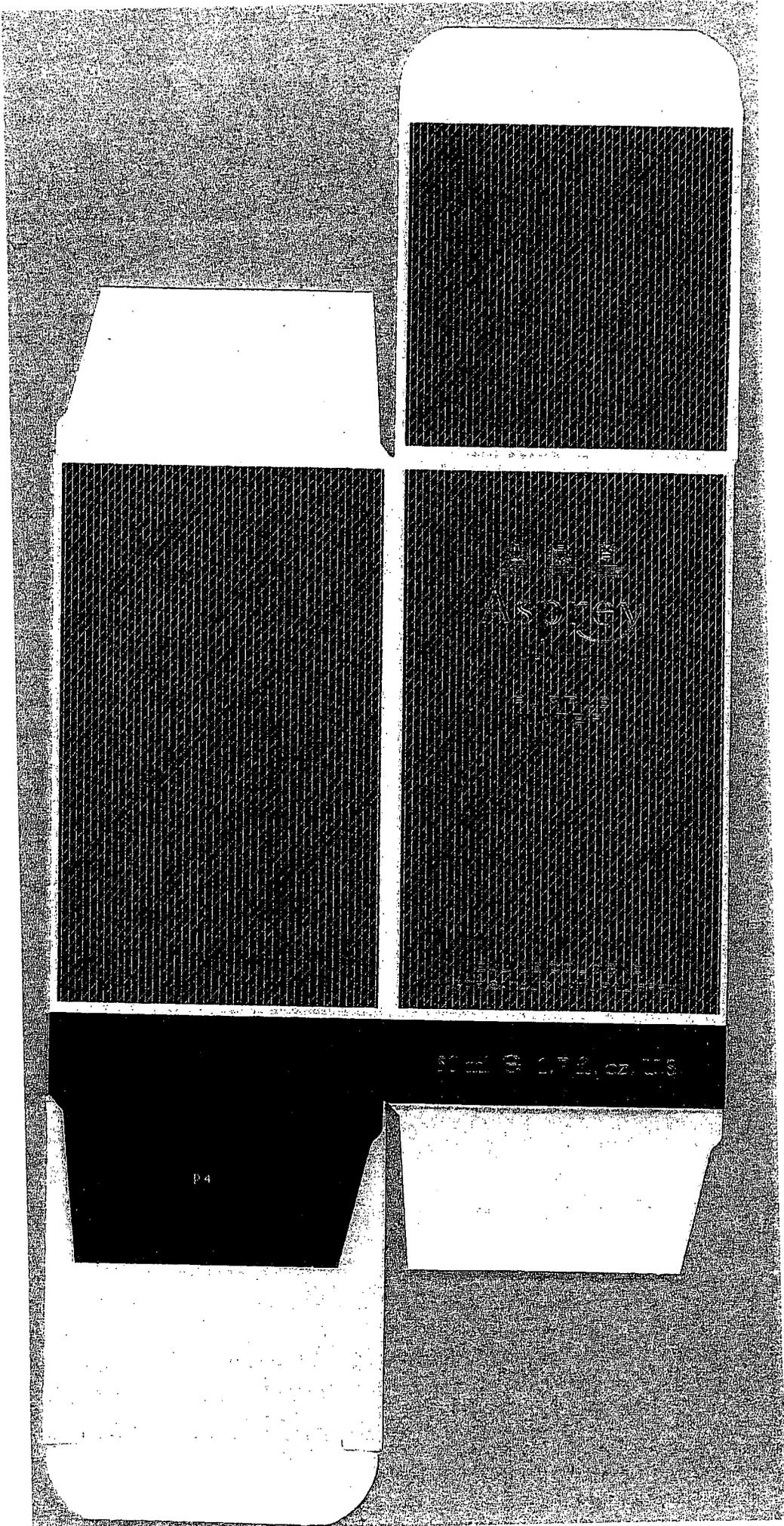
Type of Mark TRADEMARK. SERVICE MARK

Register PRINCIPAL

Live/Dead Indicator LIVE

TESS HOME NEW USER STRUCTURED FREE FORM BROWSER DIET SEARCH OG TOP HELP

EXHIBIT "B"

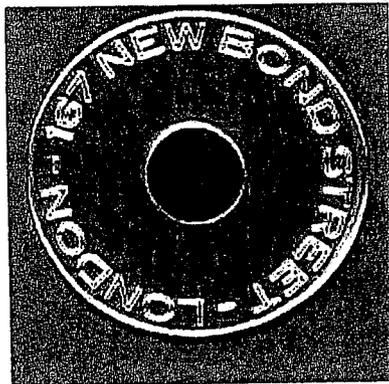


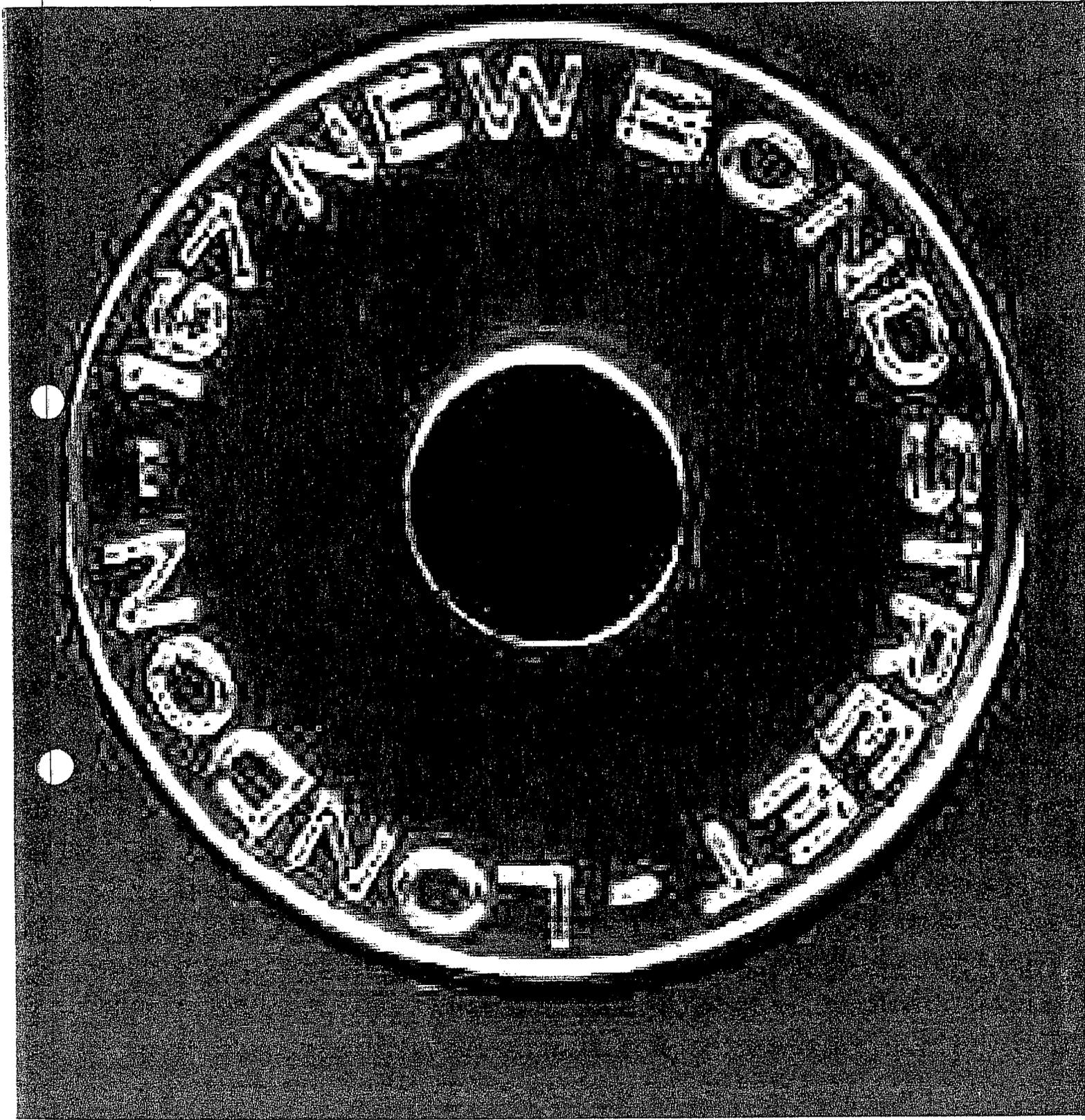
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EXHIBIT "C"





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