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

Proceeding	91169227
Party	Plaintiff Mi Casa Real Estate Co. Mi Casa Real Estate Co. ,
Correspondence Address	J. Charles Dougherty Wright, Lindsey & Jennings, LLP 200 West Capitol Avenue, Suite 2300 Little Rock, AK 72201 UNITED STATES jdougherty@wlj.com
Submission	Other Motions/Papers
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Date	06/28/2007
Attachments	Mot_Adm.pdf ( 8 pages )(164471 bytes )

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

Mi Casa Real Estate Co.

v.

Gelt Industries, Inc. and P & R  
Investment Group, Inc.

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Opp. No.: 92043894

App. No.: 78/317,032

Mark: MI CASA PUBLICACION

Commissioner for Trademarks  
P.O. Box 1451  
Alexandria, VA 22313-1451

**OPPOSER'S MOTION TO TEST SUFFICIENCY OF  
RESPONSE TO REQUESTS FOR ADMISSION**

Opposer Mi Casa Real Estate Co. submits the following as its motion to test the sufficiency of the response to its requests for admission to Gelt Industries, Inc., pursuant to 37 C.F.R. § 2.120(h):

1. On November 3, 2006, Opposer served upon defendant Gelt Industries, Inc. its First Set of Requests for Admissions. A copy of this set of requests for admissions are attached hereto as Exhibit 1.

2. The responses of Gelt Industries, Inc. to these requests were due on or before were December 8, 2006. On December 11, 2006, counsel for Gelt Industries, Inc. filed a request to withdraw as its attorney. This request was granted by the Board on December 22, 2006. Further proceedings were suspended until January 21, 2007 in order to allow Gelt Industries, Inc. sufficient time to appoint new counsel.

3. On January 22, 2007, Gelt Industries, Inc. filed a motion seeking an additional sixty days in which to find new counsel. This motion was granted by order of the Board entered on February 14, 2007, and Gelt Industries was given until April 15, 2007 to

appoint new counsel.

4. On April 16, 2007, Gelt Industries Inc.'s former counsel filed a motion seeking to substitute P & R Investment Group, Inc. in place of Gelt Industries, Inc. in this opposition, noting that all right, title and interest in and to the subject application had been assigned by Gelt Industries, Inc. to P & R Investment Group, Inc. In an order dated April 18, 2007, the Board denied this motion, and joined P & R Investment Group, Inc. in the action rather than substituting it in place of Gelt Industries, Inc. Gelt Industries, Inc. thus remains a party to this opposition.

5. To date, Gelt Industries Inc. has failed to appoint counsel to represent it in this opposition. On April 26, 2007, Opposer's counsel contacted former counsel for Gelt Industries Inc. (and current counsel for P & R Investment Group, Inc.) by email concerning the overdue responses. Former counsel for Gelt Industries, Inc. replied on May 10, 2007, indicating that "Gelt Industries will not be participating in this opposition unless something changes."

6. Opposer's counsel has since tried to contact Robert Gelt, who was the named signatory on the January 22, 2007 motion filed on behalf of Gelt Industries Inc., by telephone. While the party answering the telephone has indicated that the telephone number is correct for Mr. Gelt, Mr. Gelt has not to date returned the phone calls of Opposer's counsel.

7. To date, Gelt Industries Inc. has failed to respond in any way to the requests for admission, and has neither objected to the requests nor sought any further extension of time to respond.

8. Opposer contends that its attempts to reach Gelt Industries, Inc. through its

former counsel and its self-identified representative indicate a good faith effort to resolve the issues presented, as required by 37 C.F.R. § 2.120(e).

9. Opposer hereby seeks the Board to determine the sufficiency of the responses by Gelt Industries Inc. to Opposer's requests for admission.

WHEREFORE, the above premises considered, Opposer Mi Casa Real Estate Co. moves the Board to test the sufficiency of the responses by Gelt Industries, Inc. to its requests for admissions, and specifically moves the Board to find that the matter for which admission is sought is deemed admitted, as well as any and all other just and proper relief.

Date: 6-28-2007



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J. Charles Dougherty  
PTO Reg. No. 41, 715  
Wright, Lindsey & Jennings LLP  
200 West Capitol Avenue, Suite 2300  
Little Rock, Arkansas 72201  
(501) 371-0808

Attorneys for Opposer

Certificate of Service

I hereby certify that a true and complete copy of the foregoing has been served on each of the following parties by deposit of said copy with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to:

Darren S. Rimer, Esq.  
Rimer & Mathewson LLP  
28202 Cabot Road, Suite 300  
Laguna Niguel, CA 92677

Gelt Industries Inc.  
24307 Magic Mountain Parkway, Suite 501  
Valencia, CA 91355

Date: 6-28-2007

  
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J. Charles Dougherty

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**OPPOSER'S FIRST SET OF REQUESTS FOR ADMISSIONS**

Opposer requests that Applicant answer all of the following requests for admissions as required by Trademark Trial and Appeal Board Manual of Procedure § 406 and Federal Rule of Civil Procedure 36.

Applicable Definitions

A. The terms "you," "your," and "Applicant" shall mean Gelt Industries, Inc., any subsidiaries, predecessors, or divisions, any partnerships or joint ventures in which such entities have participated, and any present or former attorneys, agents, trustees, employees, representatives, shareholders, or other persons acting or purporting to act on behalf of any such entities.

B. The term "document" shall mean any written, printed, drawn, recorded, or graphic matter of any kind or character whatsoever and includes, but is not limited to, the originals and all drafts and non-identical copies (whether different from the originals by reason of notations made on such copies or otherwise) of all formulas, tests, test results, protocols, methods, procedures, charges, grievances, notes, assignments,



contracts, agreements, certificates, affidavits, statements, papers, books, pamphlets, brochures, catalogs, periodicals, publications, advertisements, schedules, accounts, writings, drawings, templates, specifications, plans, graphs, charts, analyses, budget summaries, diaries, photographs, letters, correspondence, inter- or intra-company communications, facsimile transmissions, telegrams, telexes, telephone records, notes, memoranda, books of account, ledgers, files, work papers, journals, computer runs, computer programs, financial and business records, checks and checkbooks, bank statements, orders, receipts, invoices, bills, delivery documents, work orders, materials manifests, work sheets, manuals, reports, surveys, studies, tabulations, memoranda or notes of telephone or other conversations, or written communications, minutes of meetings, magnetic or computer tapes, computer diskettes, tape recordings, electronic or video tape recordings, and any other data or data compilations from which information can be obtained and translated, if necessary, into reasonably usable form by the person from whom discovery is sought, of any nature whatsoever and all renewal, extensions, or modifications of any of the above which presently are in your possession, custody, or control.

C. The term "person" shall mean any individual, firm, corporation, partnership, joint venture, governmental agency, or any other form of entity, together with any officers, directors, partners, trustees, employees, representatives, shareholders, or agents thereof.

D. The term "discussion" shall mean, without limitation of its generality, statements, correspondence, discussions, conversations, speeches, meetings, remarks, questions, and answers, whether written or oral. The term includes, without limitation of

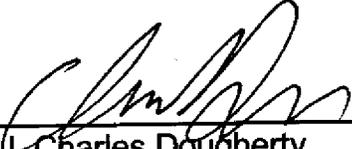
its generality, communications and statements that are face-to-face and those that are transmitted by writing or by media such as intercoms, telephones, including cellular phones, computers, television, or radio.

E. The term "Mark" shall mean the mark that is the subject of the federal trademark application to which this opposition is directed.

Requests for Admission

1. Admit that your earliest use of the Mark anywhere occurred on or after February 15, 2002.
2. Admit that your earliest use of the Mark in commerce occurred on or after August 1, 2003.
3. Admit that you filed a petition for cancellation against the owner of U.S. registration no. 2,498,469 for the mark MI CASA REALTY and design.
4. Admit that you have voluntarily sought dismissal of the cancellation action against the owner of U.S. registration no. 2,498,469.
5. Admit that, in light of your voluntarily dismissal of the cancellation action against the owner of U.S. registration no. 2,498,469, the Trademark Trial and Appeal Board has now dismissed that action.

Date: 11-3-2006

  
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(501) 371-0808

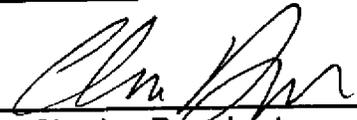
Attorneys for Opposer

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Date: 11-3-2006

  
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J. Charles Dougherty