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

Proceeding	91176139
Party	Plaintiff V&V Supremo Foods, Inc.
Correspondence Address	Thomas M. Williams Brinks Hofer Gilson & Lione P.O. Box 10395 Chicago, IL 60610 UNITED STATES officeactions@usebrinks.com
Submission	Motion to Compel Discovery
Filer's Name	Thomas M. Williams
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Signature	/Thomas M. Williams/
Date	10/22/2007
Attachments	12005-00151MotiontoCompel.pdf ( 24 pages )(788987 bytes )

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

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V&V SUPREMO FOODS, INC. )

Opposer, )

v. )

CORPORATIVE BRANDINGS and )  
INVESTMENTS, S.A. de C.V., )

Applicant. )

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Opposition No. 91176139

Application Serial No. 78/377,220

Mark: RANCHERITA

**OPPOSER’S MOTION TO COMPEL APPLICANT’S RESPONSES TO  
DOCUMENT REQUESTS AND INTERROGATORIES**

Pursuant to T.B.M.P. § 523 (37 C.F.R. § 120(e)), Opposer V&V Supremo Foods, Inc. (“Opposer”) hereby files its motion seeking an order to compel Applicant Corporative Brandings and Investments, S.A. de C.V. (“Applicant”) to respond to Opposer’s document requests and interrogatories. To date, Applicant has not responded or otherwise objected to Opposer’s discovery requests.

**I. Background**

On June 18, 2007, Opposer served Opposer’s First Request for Production of Documents and Things (Exhibit 1) and Opposer’s First Set of Interrogatories to Applicant (Exhibit 2). (Copies of Opposer’s discovery requests are attached hereto as Exhibit 1 and Exhibit 2, respectively.) Applicant subsequently served a set of document requests, interrogatories, and requests for admission on Opposer. By stipulation entered into by the parties’ counsel on or about July 31, 2007, Applicant agreed to serve its discovery responses on September 21, 2007 and Opposer agreed to serve its responses on October 1, 2007. (See

Ex. 3, Williams Decl. at Para. 4.) (The Declaration of Thomas M. Williams is attached hereto as Exhibit 3.) Applicant failed to respond, object, or otherwise reply to Opposer's discovery requests on this due date. Nonetheless, to comply with the terms of the parties' stipulation, Opposer timely served its discovery responses and written objections on October 1, 2007. Opposer accompanied its responses with a cover letter addressed to Applicant's counsel reminding counsel that Applicant's responses, due September 21, were overdue. (See Ex. 3, Williams Decl. at Para. 6.)

Receiving no response, Opposer's counsel sent an email to Applicant's counsel on October 9, 2007, following up on the status of Applicant's overdue discovery responses. (Ex. 3, Williams Decl. at Para. 7.) In a responsive email dated October 11, 2007, Applicant's counsel informed Opposer that he did not have sufficient information from his client to provide responses to Opposer's outstanding discovery requests. (Ex. 3, Williams Decl. at Para. 8.) Opposer's counsel replied by informing Applicant's counsel that a motion to compel would be forthcoming. To date, Applicant has not responded to Opposer's discovery requests despite three good faith written attempts by Opposer's counsel to compel Applicant's responses (October 1, October 9, and October 11). Opposer has made a good faith effort to resolve this discovery issue. (See Ex. 3, Williams Decl. at Paras. 9-11.)

## **II. Motion to Compel**

Based on the foregoing, Opposer respectfully requests the Board to issue an order compelling Applicant to provide proper responses to Opposer's document requests (Exhibit 1) and interrogatories (Exhibit 2). *See* 37 C.F.R. § 2.120(e); *Jain v. Ramparts Inc.*, 49 U.S.P.Q.2d 1429, 1436 (T.T.A.B. 1998) (granting motion to compel responses to document requests and interrogatories). Further, Opposer respectfully submits that Applicant's failure

to provide its counsel with responsive documents and information does not constitute excusable neglect for failing to respond to discovery requests. Therefore, pursuant to T.B.M.P. §§ 403.03; 405.04(a); and 406.04(a) *citing No Fear Inc. v. Rule*, 54 U.S.P.Q.2d 1551, 1554 (T.T.A.B. 2000), Opposer urges the Board to find that Applicant has forfeited its right to object to Opposer's discovery requests on the merits.

Respectfully submitted,

Dated: October 22, 2007

By:   
Jeffery A. Handelman  
Thomas M. Williams  
Michael K. Hendershot  
BRINKS HOFER GILSON & LIONE  
P.O. Box 10395  
Chicago, Illinois 60610

ATTORNEYS FOR OPPOSER

# **EXHIBIT 1**

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

V&V SUPREMO FOODS, INC.	)	
	)	
Opposer,	)	Opposition No. 91176139
	)	Application Serial No. 78/377,220
v.	)	Mark: RANCHERITA
	)	
CORPORATIVE BRANDINGS and	)	
INVESTMENTS, S.A. de C.V.,	)	
	)	
Applicant.	)	

**OPPOSER'S FIRST REQUEST FOR PRODUCTION  
OF DOCUMENTS AND THINGS**

Pursuant to 37 C.F.R. § 2.120(d) and Rule 34 of the Federal Rules of Civil Procedure, Opposer V&V Supremo Foods, Inc. ("Opposer"), through its attorneys, hereby requests that Applicant Corporative Brandings and Investments, S.A. de C.V. ("Applicant") produce the documents and things described herein for inspection and copying at the offices of Brinks Hofer Gilson & Lione, 455 North Cityfront Plaza Drive, Chicago, Illinois 60611.

**INSTRUCTIONS FOR PRODUCTION OF DOCUMENTS**

1. You are to produce all originals, drafts, copies and photographs of the documents requested.
2. The documents to be produced in response to this request include all documents within your possession, custody or control. This includes documents in the possession, custody or control of your attorneys, agents, employees, investigators, consultants, and experts, as well as any firm, company, corporation or business in which you own a controlling interest or over which you exercise control in fact. You are required to use reasonable diligence to locate the documents, including those that are not in your immediate possession.

3. If you claim that the attorney-client privilege, or any other privilege, doctrine or reason for withholding a document is applicable, please set forth in writing: (a) the date of the documents; (b) the type of document; (c) the subject matter of the document; (d) the name, employment and title of each person who prepared or received the document or any copy thereof; and (e) the basis for the claim of privilege or other ground for withholding the document. If it is claimed that only part of the document is privileged or otherwise need not be produced, please produce the remaining part of the document.

4. If any document to be produced has been lost, discarded, transferred to another person or entity, destroyed, or otherwise disposed of, please set forth in writing: (a) the date, name and subject matter of the document; (b) the name, employment and title of each person who prepared, received, reviewed, or had custody, possession, or control of the document; (c) all persons with knowledge of the contents or any portion of the contents of the document; (d) the previous location of the document; (e) the date of disposal or transfer of the document; (f) the reason for disposal or transfer of the document; and, if applicable, (g) the manner of disposal of the document; or, if applicable, (h) the names and addresses of the transferees of the document.

5. Documents shall be produced in an order corresponding to each paragraph of this document request or, in the alternative, they may be produced in the same order as they are maintained in the ordinary course of business.

6. This request shall be deemed continuing, so as to require further and supplemental production promptly if you receive, generate or discovery additional documents called for herein between the time of the production and the time of any motion or evidentiary hearing.

## **DEFINITIONS**

1. "Document" or "documents" includes every original (and every copy of any original or copy which differs in any way from any original) and every writing or recording of every kind or description, whether handwritten, typed, drawn, sketched, printed or recorded by any physical, mechanical, electronic or electrical means whatsoever, including without limitation, books, records, papers, pamphlets, brochures, flyers, mailings, circulars, advertisements, specifications, surveys, drawings, sketches, graphs, charts, plans, ledger accounts, audits, inventories, tax returns, financial statements, profit and loss statements, cash flow statements, balance sheets, annual or other periodic reports, prospectuses, registrations, solicitations, minutes, stock ledgers, stock certificates, licenses, permits, calendars, appointment books, diaries, telephone bill and toll call records, expense reports, commission statements, itineraries, agendas, checkbooks, canceled checks, receipts, contracts, agreements, assignments, applications, offers, acceptances, proposals, financing statements, documents of title, appraisals, purchase orders, invoices, bills of lading, written memorials of oral communications, forecasts, photographs, photographic slides, or negatives, films, filmstrips, tape recordings and computer stored data, as well as any drafts of the foregoing.

2. The conjunctive shall include the disjunctive and the disjunctive shall include the conjunctive.

3. The singular shall include the plural and the plural shall include the singular.

4. A masculine, feminine or neuter pronoun shall not exclude the other genders.

5. "Refers to" or "relates to" means directly or indirectly mentioning or describing, referring to, pertaining to, concerning, evidencing, being connected with, constituting, comprising or reflecting upon a stated subject matter.

6. "Applicant" means Applicant Corporative Brandings and Investments, S.A. de C.V., any of its related companies within the meaning of the Trademark Act, and its employees, agents, officers, directors, attorneys, licensees, assignees and any successors or predecessors-in-interest.

7. "Applicant's Mark" shall mean the subject of the application being opposed in this proceeding, namely, RANCHERITA (Serial No. 78/377,220).

8. "Applicant's Goods" shall mean the goods identified in the application being opposed in this proceeding, namely, Serial No. 78/377,220.

9. "Opposer's Mark" shall mean the RANCHERITO mark identified in Paragraph 2 of Opposer's Notice of Opposition.

10. "Opposer's Goods" shall mean the goods identified in Paragraph 2 of Opposer's Notice of Opposition.

11. "Mark" includes trademarks, service marks, and trade names as defined in 15 U.S.C. § 1127.

12. "Person" refers to both natural persons and to corporate or other business entities.

#### **DOCUMENTS REQUESTED**

1. All documents and things that relate to or refer to Applicant's use, or intent to use, Applicant's Mark in connection with Applicant's Goods.

2. All documents and things that relate to or refer to Applicant's sales or offers to sell Applicant's Goods under any mark.

3. All documents and things that relate to or refer to Opposer's use of Opposer's Mark.

4. All documents and things that relate to or refer to any formal or informal objections made by Applicant to the use, registration, or attempts to register, by others of Marks that Applicant believed to be confusingly similar to Applicant's Mark.

5. All documents and things that relate to or refer to any formal or informal objections received by Applicant to the use, registration, or attempts to register, any Mark in connection with Applicant's Goods.

6. All documents and things that relate to or refer to the selection and adoption of Applicant's Mark and Applicant's decision to adopt Applicant's Mark.

7. All documents and things that relate to or refer to Applicant's first use of Applicant's Mark in the United States.

8. All documents and things that relate to or refer to Applicant's intent to make its first use of Applicant's Mark in the United States.

9. All documents and things, including correspondence and drafts, that relate to or refer to Applicant's application to register Applicant's Mark.

10. All documents and things that relate to or refer to any papers filed with the U.S. Patent and Trademark Office concerning Applicant's Mark.

11. All documents and things that relate to or refer to any products sold, or intended to be sold, under Applicant's Mark, including the characteristics and intended uses of such products.

12. All documents and things that relate to or refer to the trade channels through which goods bearing Applicant's Mark are marketed and sold, or intended to be marketed and sold.

13. All documents and things that relate to or refer to the retail locations through which goods bearing Applicant's Mark are marketed and sold, or intended to be marketed and sold.
14. All documents and things that relate to or refer to the manner in which goods sold under Applicant's Mark are used or intended to be used.
15. All documents and things that relate to or refer to Applicant's knowledge of Opposer's Mark.
16. All documents and things that relate to or refer to Applicant's knowledge of Opposer's Goods.
17. All documents and things that relate to or refer to any market research or other studies or investigations, whether formal or informal, regarding the types of individuals and the classes of consumers who would be likely to purchase or use goods sold under Applicant's Mark.
18. All documents and things that relate to or refer to or reflect the dollar volume of sales of goods sold under Applicant's Mark in the United States from the first such sales to date.
19. All documents and things that relate to or refer to or reflect the dollar volume of advertising and promotional expenditures made in connection with goods sold under Applicant's Mark in the United States from the first such expenditures to date.
20. Specimens of all advertising and promotional materials relating to goods sold, or intended to be sold, under Applicant's Mark in the United States, including but not limited to labels, packaging, flyers, hangtags, direct mail pieces, point of sale pieces, signs, posters, newspaper advertisements, magazine advertisements, media articles, catalogs, circulars, leaflets, brochures, and any other publicly distributed materials.

21. All documents and things that relate to or refer to any trademark searches which were conducted by or for Applicant in connection with the use or registration of Applicant's Mark in the United States.

22. All trade journal articles, press releases, magazine articles, newspaper articles or other publications which relate to or refer to Applicant's use of Applicant's Mark or to products sold, or intended to be sold, under Applicant's Mark.

23. All documents and things that relate to or refer to any consumer survey or poll made by or for Applicant, including the results thereof, which relates to or refers to Applicant's Mark or Opposer's Mark.

24. All documents and things that relate to or refer to Applicant's responses to Opposer's interrogatories and requests for admissions in this case.

25. All documents and things that relate to or refer to the manner in which Applicant's Mark is displayed, or intended to be displayed, in connection with Applicant's goods.

26. Two original specimens of all product packaging for goods sold, or intended to be sold, under Applicant's Mark.

27. All documents and things that relate to or refer to television commercials and radio commercials concerning goods sold under Applicant's Mark.

28. All documents and things that relate to or refer to any agreement, license agreement, security interest, or assignment pertaining to Applicant's Mark.

29. All documents and things that relate to any online advertising conducted by Applicant or on Applicant's behalf relating to goods sold, or intended to be sold, in connection with Applicant's Mark, including but not limited to, on-line affiliate programs and "pay per click" programs.

30. All documents and things that relate to or refer to any transfer of ownership in Applicant's Mark.

31. All documents referring to, relating to, recording, or reporting any meeting held by or on behalf of Applicant at which Applicant's Mark was discussed, including but not limited to, any minutes, summaries, correspondence, notes, and/or reports recording the events, decisions, and/or discussions made at any such meetings.

32. All documents referring to, relating to, recording, or reporting any meeting held by or on behalf of Applicant at which Opposer's Mark was discussed, including but not limited to, any minutes, summaries, correspondence, notes, and/or reports recording the events, decisions, and/or discussions made at any such meetings.

33. All documents and things that relate to or refer to any instance in which a member of the public has been, or may have been, confused as a result of the contemporaneous use of Opposer's Mark and Applicant's Mark.

34. All documents and things that relate to or refer to the factual basis for the affirmative defense pleaded in Applicant's Answer to Notice of Opposition, namely, failure to state a claim.

Dated: June 18, 2007

By: 

Jeffery A. Handelman  
Thomas M. Williams  
Michael K. Hendershot  
BRINKS HOFER GILSON & LIONE  
P.O. Box 10395  
Chicago, Illinois 60610

ATTORNEYS FOR OPPOSER

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing Opposer's First Request for Production of Documents and Things was served on Applicant's counsel by first class mail, postage prepaid, addressed as follows

John S. Egbert  
Egbert Law Offices  
412 Main Street, 7<sup>th</sup> Floor  
Houston, Texas 77002

on June 18, 2007.

A handwritten signature in black ink, appearing to read "John S. Egbert", is written over a horizontal line.

# **EXHIBIT 2**

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

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V&V SUPREMO FOODS, INC. )

Opposer, )

v. )

CORPORATIVE BRANDINGS and )  
INVESTMENTS, S.A. de C.V., )

Applicant. )

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) Opposition No. 91176139  
) Application Serial No. 78/377,220  
) Mark: RANCHERITA

**OPPOSER'S FIRST SET OF INTERROGATORIES TO APPLICANT**

Opposer V&V Supremo Foods, Inc. ("Opposer"), by and through its attorneys, hereby propounds, pursuant to 37 C.F.R. § 2.120(d) and Rule 33 of the Federal Rules of Civil Procedure, the following Interrogatories to Applicant Corporative Brandings and Investments, S.A. de C.V. ("Applicant"), to be answered separately and fully in writing and under oath within thirty (30) days.

**INTRODUCTION AND DEFINITIONS**

The definitions set forth in Opposer's First Request for Production of Documents and Things, served concurrently herewith, shall also apply to these Interrogatories.

In addition, the following instructions and definitions apply herein:

A. These Interrogatories shall be deemed to seek answers as of the date hereof and shall be deemed to be continuing so that any additional information relating in any way to these Interrogatories which Applicant acquires or which becomes known to Applicant up to and including the time of trial shall be furnished to Opposer promptly after such information is acquired or becomes known.

B. As used herein, "identify" or to give the "identity" of means:

(1) in the case of a natural person to state

- (a) full name;
- (b) present residence address and telephone number;
- (c) present business address and telephone number;
- (d) present position, business affiliation and job description;
- (e) if any of the information set forth in (a) - (d) is unknown, so state

and set forth the corresponding last known such information;

(2) in the case of a corporation or other business entity, to state

- (a) full name;
- (b) address and principal place of business;
- (c) identity of officers or other persons having knowledge of the

matter with respect to which the corporation or entity is named;

(3) in the case of a document, to state

(a) identity of the person(s) originating and preparing it and the

sender;

(b) its general type (e.g., letter, memo, report, invoice, etc.), title,

identifying number and the general nature of its subject matter;

(c) the identity of the addressees and distributors, if any;

(d) its date of preparation;

(e) its date and manner of transmission, distribution and publication, if

any;

(f) location of each copy (including title, index number and location

of the file in which it is kept or from which it was removed) and identity of the present custodian

or persons responsible for its filing or other disposition;

- (g) identity of persons who can authenticate or identify it.

## INTERROGATORIES

### **Interrogatory No. 1:**

Identify and describe all products for which Applicant uses, or intends to use, Applicant's Mark, and describe the trade channels through which goods bearing Applicant's Mark are marketed and sold, or intended to be marketed and sold.

### **Interrogatory No. 2:**

Identify and describe all retail outlets where Applicant sells, or intends to sell, goods bearing Applicant's Mark.

### **Interrogatory No. 3:**

For all products sold, or intended to be sold, under Applicant's Mark, identify the types or classes of individuals who are likely to purchase the products; and describe the manner in which these products are likely to be selected and purchased by purchasers.

### **Interrogatory No. 4:**

State how Applicant's Mark was created, and give the meaning or intended meaning of Applicant's Mark as applied to Applicant's Goods, and identify the individuals with knowledge of the subject matter of this Interrogatory.

### **Interrogatory No. 5:**

State whether any market research or consumer surveys have been conducted concerning Applicant's Mark or Opposer's Mark, identify the individuals with knowledge concerning any such surveys or market research, and describe the nature and methodology of any such surveys or market research.

**Interrogatory No. 6:**

Describe how goods bearing Applicant's Mark are marketed and sold, or intended to be marketed and sold, including by identifying the specific methods by which goods are advertised and promoted under Applicant's Mark.

**Interrogatory No. 7:**

If Applicant, or any attorney or agent acting on behalf of Applicant, has ever made, or caused to be made, any search relating to the registration, use or enforcement of Applicant's Mark, identify each document referring to or relating to any such search, including, but not limited to, each search report.

**Interrogatory No. 8:**

With respect to goods sold under Applicant's Mark in the United States, state Applicant's total dollar volume of sales on an annual basis, from the date the mark was first used to the present.

**Interrogatory No. 9:**

State Applicant's total dollar volume of advertising and promotional expenditures in the United States for goods sold under Applicant's Mark on an annual basis, from the first such expenditures to the present.

**Interrogatory No. 10:**

State when Applicant first became aware of Opposer's Mark and explain the circumstances relating to Applicant's first knowledge of Opposer's Mark, including how Applicant first became aware of Opposer's Mark and the names of the individuals with knowledge concerning Applicant's first knowledge of Opposer's Mark.

**Interrogatory No. 11:**

Identify and describe in detail all facts relating to Applicant's selection and adoption of Applicant's Mark, and identify the individuals with knowledge of the subject matter of this Interrogatory.

**Interrogatory No. 12:**

Identify and describe in detail all facts relating to any instance in which a member of the public has been, or may have been, confused as a result of the contemporaneous use of Applicant's Mark and Opposer's Mark, including without limitation the circumstances surrounding such confusion and the identity of individuals with knowledge regarding such confusion.

**Interrogatory No. 13:**

Identify and describe the factual basis for the affirmative defense pleaded in Applicant's Answer to Opposer's Notice of Opposition, namely, failure to state a claim.

**Interrogatory No. 14:**

Identify and describe any agreement, license agreement, security interest, or assignment pertaining to Applicant's Mark, and identify the individuals with the most knowledge regarding the subject matter of this interrogatory.

Dated: June 18, 2007

By:   
Jeffery A. Handelman  
Thomas M. Williams  
Michael K. Hendershot  
BRINKS HOFER GILSON & LIONE  
P.O. Box 10395  
Chicago, Illinois 60610  
  
ATTORNEYS FOR OPPOSER

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing Opposer's First Set of Interrogatories to Applicant was served on Applicant's counsel by first class mail, postage prepaid, addressed as follows:

John S. Egbert  
Egbert Law Offices  
412 Main Street, 7<sup>th</sup> Floor  
Houston, Texas 77002

on June 18, 2007.

A handwritten signature in black ink, appearing to read "John S. Egbert", is written over a horizontal line.

# **EXHIBIT 3**

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

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V&V SUPREMO FOODS, INC.	)	
	)	
Opposer,	)	Opposition No. 91176139
	)	Application Serial No. 78/377,220
v.	)	Mark: RANCHERITA
	)	
CORPORATIVE BRANDINGS and	)	
INVESTMENTS, S.A. de C.V.,	)	
	)	
Applicant.	)	

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**DECLARATION OF THOMAS M. WILLIAMS**

Declarant Thomas M. Williams hereby submits the following declaration pursuant to T.B.M.P. § 523 (37 C.F.R. § 120(e)) in support of Opposer's Motion to Compel Applicant's Responses to Document Requests and Interrogatories.

1. I, Thomas M. Williams, am a shareholder at Brinks Hofer Gilson & Lione, in Chicago, Illinois, and am one of the attorneys representing Opposer V&V Supremo Foods, Inc. ("Opposer") in the above-captioned opposition proceeding.

2. Opposer served Opposer's First Request for Production of Documents and Things and Opposer's First Set of Interrogatories to Applicant on June 18, 2007.

3. Applicant served Applicant's First Set of Interrogatories to Opposer; Applicant's First Set of Requests for Production of Documents to Opposer; and Applicant's Requests for Admission to Opposer on or about June 28, 2007.

4. By stipulation entered into by the parties' counsel on or about July 31, 2007, Applicant agreed to serve its discovery responses on September 21, 2007 and Opposer agreed to serve its responses on October 1, 2007.

5. Applicant failed to respond, object, or otherwise reply to Opposer's discovery requests on September 21, 2007.

6. Opposer timely served its discovery responses and written objections to Applicant's discovery requests on October 1, 2007. Opposer accompanied its discovery responses with a cover letter addressed to Applicant's counsel reminding counsel that Applicant's responses, due September 21, were overdue.

7. Opposer's counsel sent an email to Applicant's counsel on October 9, 2007, following up on the status of Applicant's overdue discovery responses.

8. In a responsive email dated October 11, 2007, Applicant's counsel stated that, "Our client has been unresponsive to our requests for them to provide information regarding discovery."

9. Opposer's counsel replied to this email on October 11, 2007 by informing Applicant's counsel that a motion to compel would be forthcoming.

10. As of the date of execution of this Declaration, Applicant has not responded to Opposer's discovery requests.

11. Opposer has made a good faith effort to resolve the issues present in its Motion to Compel and has been unable to reach agreement.

Respectfully submitted,

Dated: October 22, 2007

By: 

Thomas M. Williams  
BRINKS HOFER GILSON & LIONE  
P.O. Box 10395  
Chicago, Illinois 60610

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing Opposer's Motion to Compel Applicant's Responses to Document Requests and Interrogatories was served on Applicant's counsel by electronic mail and first class mail, postage prepaid, addressed as follows:

John S. Egbert  
Kevin Wilson  
Egbert Law Offices  
412 Main Street, 7<sup>th</sup> Floor  
Houston, Texas 77002  
(kwilson@egbertlawoffices.com)

on October 22, 2007.



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