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

Proceeding	91176744
Party	Plaintiff DC Comics and Marvel Characters, Inc.
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Submission	Motion for Summary Judgment
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Date	05/29/2009
Attachments	JDR Dec.pdf (3 pages)(38202 bytes)

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

DC COMICS and
MARVEL CHARACTERS, INC.,

Opposers,

v.

MICHAEL CRAIG SILVER,

Applicant.

Opposition No. 91/176,744
Application No. 78/823,155
Mark: SUPER HERO

**DECLARATION OF JONATHAN D. REICHMAN IN SUPPORT OF OPPOSER'S
MOTION FOR SUMMARY JUDGMENT**

I, Jonathan D. Reichman, hereby declare:

1. I am a partner at the law firm of Kenyon & Kenyon LLP ("Kenyon"), counsel for Opposers DC Comics and Marvel Characters, Inc. (collectively, "Opposer") in the above-referenced matter.
2. I make this statement in support of Opposer's Motion for Summary Judgment, pursuant to Federal Rule of Civil Procedure 56(a), Trademark Rule of Practice 2.127(e), and Trademark Board Manual of Procedure § 528.
3. Attached hereto as Exhibit A is a true and correct copy of the deposition transcript of Michael Silver ("Applicant"), held on February 23, 2009 in San Jose, California.
4. Opposer noticed the deposition of Applicant to take place at Kenyon's branch office in San Jose, California, which is approximately 60 miles from Applicant's address in Sausalito, California. Applicant initially refused to appear at this location, on the ground that it was too far

away. Opposer resolved this dispute, and secured Applicant's appearance in San Jose, by paying his transportation costs.

5. Attached hereto as Exhibits B, C and D, respectively, are true and correct copies of Opposer's First Request for Production of Documents to Applicant, Opposer's First Set of Interrogatories to Applicant, and Opposer's First Set of Requests for Admission to Applicant, served by Opposer on May 5, 2008.

6. Attached hereto as Exhibits E, F and G, respectively, are true and correct copies of Applicant's Response to Opposer's First Set of Document Requests, Applicant's Response to Opposer's First Set of Interrogatories, and Applicant's Response to Opposer's First Set of Requests for Admission, received by Opposer on or about June 6, 2008.

7. Attached hereto as Exhibits H, I and J, respectively, are true and correct copies of Applicant's Amended/Supplemental Responses to Opposer's Document Request Nos. 1-14, Applicant's Amended/Supplemental Responses to Interrogatory Nos. 1-27 and 35, and Applicant's Document Production, received by Opposer on or about October 2, 2008 and October 3, 2008.

8. Attached hereto as Exhibit K is a true and correct copy of an August 23, 2007 news release by the Federal Drug Administration (“FDA”) concerning FDA regulations of sunscreen products, entitled “*FDA Aims to Upgrade Sunscreen Labeling.*”

I declare that the foregoing is true and accurate to the best of my knowledge under penalty of perjury of the laws of the United States.

Dated: May 29, 2009



Jonathan D. Reichman