

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

In the Matter of Application Serial No. 78922352 for the mark  
VELVET IN DUPONT in International Class 41  
Published for Opposition in the Official Gazette of July 17, 2007

E.I. Du PONT DE NEMOURS AND COMPANY,  
Opposer, Proceeding No. 91180460

REPLY TO OPPOSER'S RESPONSE TO  
APPLICANT'S SUPPLEMENTAL  
OBJECTION'S TO OPPOSER'S FIRST  
REQUESTS FOR ADMISSIONS

v.

MELISSA J. TERZIS,  
Applicant. JUNE 24, 2008

Commissioner For Trademarks,  
Trademark Trial and Appeal Board  
P.O. Box 1451  
Alexandria, VA 22313-1451

REPLY TO OPPOSER'S RESPONSE TO APPLICANT'S SUPPLEMENTAL  
OBJECTIONS TO OPPOSER'S FIRST REQUESTS FOR ADMISSIONS

Applicant, Melissa J. Terzis, an individual residing at the Admiral Dupont  
Condominium located at 1700 17<sup>th</sup> Street NW, Washington, D.C. 20009, hereby files her  
Reply to Opposer's Response to Applicant's Supplemental Objections to Opposer's First  
Requests for Admissions dated May 19, 2008.

A. APPLICANT'S OBJECTION TO OPPOSER'S FIRST REQUESTS  
FOR ADMISSIONS SHOULD BE SUSTAINED

As previously enumerated in Applicant's Objection to Opposer's First Requests  
for Admissions dated May 23, 2008:

a. the Discovery Order dated and mailed by the United States Patent and  
Trademark Office, Trademark Trial and Appeal Board, on October 31, 2007, mandated



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that the “Discovery Period Was to Close on May 18, 2008”(emphasis added);

b. there was never any Request made by the Opposer for an Extension of Time within which to file its First Requests for Admissions;

c. no order was ever issued by the United States Patent and Trademark Office granting any extension of time to Opposer for the filing of its First Requests for Admissions from May 18, 2008 to any later date;

d. during the period from October 31, 2007 until May 18, 2008, a period of more than Six and Two/Thirds (6 2/3) months and over Two Hundred (200) Days, the Opposer never conducted any Discovery of any type or kind whatsoever in this matter even though Opposer was ordered to do so by the Discovery Order of October 31, 2007;

e. during the period from October 31, 2007 until May 18, 2008, a period of more than Six and Two/Thirds (6 2/3) months and over Two Hundred (200) Days, the Opposer never contacted the attorney for the Applicant or the Applicant appearing pro se either in writing or by telephone to request a continuance or extension of time for any Discovery of any type or kind whatsoever in this matter;

f. thus, it is patently clear that the Opposer did ABSOLUTELY NOTHING with respect to any Discovery in this matter during the period from October 31, 2007 through May 18, 2008, a period of more than Six and Two/Thirds (6 2/3) months and over Two Hundred (200) Days; and

g. therefore, there can be no doubt that the Opposer willfully failed to comply with the Discovery Order entered by the United States Patent and Trademark Office, Trademark Trial and Appeal Board, on October 31, 2007.

Accordingly, the statements by the Opposer – Plaintiff in its Response that it filed

and served its Requests for Admissions, Interrogatories and/or Production in compliance with the Discovery Order entered by the United States Patent and Trademark Office in a timely manner, when in fact the Applicant and Applicant's attorney did not receive the Discovery documents on May 21, 2008, when the Court Discovery Order mandated that all Discovery be concluded on or before May 18, 2008, is disingenuous, lacks any seriousness and is patently frivolous.

**B. OPPOSER'S FURTHER RESPONSE TO APPLICANT'S SUPPLEMENTAL OBJECTIONS TO OPPOSER'S FIRST REQUESTS FOR ADMISSIONS IS ALSO DISINGENUOUS, LACKS ANY SERIOUSNESS AND IS CLEARLY FRIVOLOUS**

The Opposer's "claim that the Applicant is attempting to offer its Answer to the Notice of Opposition to be a proper response to Opposer's First Request for Admissions" is disingenuous, lacks any seriousness, is clearly frivolous and is pure unadulterated nonsense.

In an attempt to deceive the Trademark Trial and Appeal Board, the Opposer and its attorney's have willfully misunderstood, misinterpreted, misread and misstated the plain language, words and meaning of the Applicant's Supplemental Objection.

The plain language, words and meaning of the Applicant's Supplemental Objection clearly confirms the fact that the Opposer's First Request for Admissions was a FRIVOLOUS pleading.

This is so particularly since the Applicant on December 3, 2007, filed a detailed ANSWER DENYING each and every one of the eleven (11) grounds for opposition, together with a Preliminary Statement.

On May 21, 2008, in violation of the Court's Discovery Order, the Opposer filed its Opposer's First Requests for Admissions listing thirteen (13) requests for admission.

A careful review of the First Requests for Admissions substantially tracks the language and effect of the eleven (11) allegations in Opposer's prolix October 31, 2007 Notice of Opposition.

Since the Applicant's detailed ANSWER dated December 3, 2007 denies each and every of the Eleven (11) allegations in Opposer's prolix Notice of Opposition, no useful purpose is served by Opposer serving its First Requests for Admissions asking for the denial or admission of the same information in its Notice of Opposition which has been DENIED in its entirety by the Applicant in its ANSWER on December 3, 2007.

The Applicant's Supplemental Objection to Opposer's First Requests for Admissions was filed solely to inform the Trial and Appeal Board that the Opposer failed to file its Discovery on or before May 18, 2008, as ordered by the Court, but also to inform the Court that the Opposer's Requests for Admissions were totally unnecessary particularly since the Answer to the Notice of Opposition denied all the allegations.

WHEREFORE, the Applicant, Melissa J. Terzis, hereby moves the United States Patent and Trademark Office, Trademark Trial and Appeal Board, as follows:

1. that the Objection by the Applicant to the Opposer's First Requests for Admissions should be SUSTAINED particularly since the Opposer failed to comply with the Court's Discovery Order of October 31, 2007 to complete Discovery on or before May 18, 2008;

2. since the party failing to comply with the Discovery Order rendered by the United States Patent and Trademark Office, Trademark Trial and Appeal Board was the Plaintiff - Opposer, E.I. Du PONT DE NEMOURS AND COMPANY, the

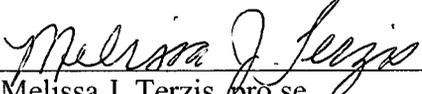
Applicant, Melissa J. Terzis, moves the Court for the entry of a Judgment of Dismissal of Opposer's – Plaintiff's Notice of Opposition dated October 31, 2007 for the Plaintiff – Opposer's failure to comply with the Court Order;

3. the Applicant, Melissa J. Terzis, further moves the Trademark Trial and Appeal Board for an Order sanctioning the attorneys for the Opposer, Crowell & Moring LLP, Attorney Dickerson M. Downing and Attorney Julia K. Smith, for their frivolous and untimely First Requests for Admissions and their failure to comply with the Discovery Order, together with the imposition of reasonable attorney's fees and costs;

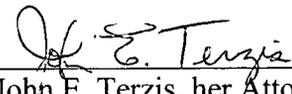
4. the Applicant hereby requests that the Notice of Opposition filed by E. I. DuPont de Nemours and Company on October 31, 2007 be DENIED, and that the the registration of the trademark VELVET IN DUPONT (Serial Number 78/922,352) be GRANTED; and

5. that the Supplemental Objection by the Applicant to the Opposer's First Requests dated June 10, 2008 for Admissions should be SUSTAINED particularly since the Opposer failed to comply with the Court's Discovery Order of October 31, 2007, the Opposer filed a frivolous First Request for Admissions on May 21, 2008 wherein the Admissions were previously DENIED by the Applicant in its ANSWER AND PRELIMINARY STATEMENT dated December 3, 2007.

APPLICANT, MELISSA J. TERZIS

By   
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APPLICANT, MELISSA J. TERZIS

By   
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Dated: Washington, D.C. 20009  
On June 24, 2008

ORDER

The Supplemental Objection to Opposer's First Requests for Admissions dated May 23, 2008 having been heard is hereby SUSTAINED. OVERRULED.

Since the Plaintiff – Opposer failed to comply with the Court ordered Discovery Order of October 31, 2007, the Court hereby Orders that a Judgment of Dismissal be entered as to the Notice of Opposition filed by the Plaintiff – Opposer on October 31, 2007.  
GRANTED. DENIED.

The Motion for the sanctioning of the attorneys for the Opposer, Crowell & Moring LLP for their frivolous and untimely First Requests for Admissions and their failure to comply with the Discovery Order having been heard is hereby GRANTED. DENIED.

and the Court imposes reasonable attorneys fees and costs against Plaintiff – Opposer and its attorneys Crowell & Moring LLP, Attorney Dickerson M. Downing and Attorney Julia K. Smith in the amount of \$ \_\_\_\_\_ jointly and severally.

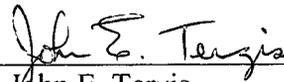
By the Court

Dated:

\_\_\_\_\_  
Judge/Clerk

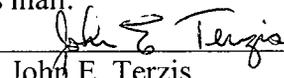
Certificate of Mailing

I hereby certify that the original Reply was deposited with the United States Postal Service with sufficient postage as First-Class mail in an envelope addressed to the Commissioner of Trademarks, Trademark Trial and Appeal Board, P.O. Box 1451 Alexandria, VA 22313-1451 on June 24, 2008.

  
\_\_\_\_\_  
John E. Terzis

Certificate of Service

I hereby certify that a true and complete copy of the Reply has been served on Dickerson M. Downing, Esq., Crowell & Moring LLP, 153 East 53<sup>rd</sup> Street, 31<sup>st</sup> Floor, New York, N.Y. 10022, by mailing a copy on June 24, 2008 via the United States Postal Service with sufficient postage as First-Class mail.

  
\_\_\_\_\_  
John E. Terzis