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

Proceeding	91181035
Party	Plaintiff Tiffany (NJ) LLC
Correspondence Address	Barbara A. Solomon Fross Zelnick Lehrman & Zissu, PC 866 United Nations Plaza New York, NY 10017 UNITED STATES bsolomon@frosszelnick.com,egourvitz@frosszelnick.com
Submission	Other Motions/Papers
Filer's Name	Evan Gourvitz
Filer's e-mail	egourvitz@frosszelnick.com,bsolomon@frosszelnick.com
Signature	/Evan Gourvitz/
Date	08/01/2008
Attachments	Gourvitz Declaration In Support of Motion to Compel (F0326984).PDF (92 pages)(1845424 bytes)

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

In the Matter of Application Serial No. 78/912,427
Published in the Official Gazette on September 4, 2007

TIFFANY (NJ) LLC, Opposer, v. TIFFANY C. KOURY, Applicant.	Opposition No. 91181035

DECLARATION OF EVAN GOURVITZ IN
SUPPORT OF OPPOSER'S MOTION TO COMPEL

Evan Gourvitz declares under penalty of perjury as follows:

1. I am counsel at the firm of Fross Zelnick Lehrman & Zissu, P.C., attorneys for Tiffany (NJ) LLC (together with its predecessor Tiffany (NJ) Inc., "Opposer") in the above action. I submit this declaration in support of Opposer's motion to compel on the basis of my personal knowledge, my firm's records, and the pleadings and proceedings to date in this matter.

2. On March 19, 2008, Opposer served its first set of interrogatories, requests for admission, and document requests on Applicant.

3. On April 21, 2008, Applicant served her written responses and objections to Opposer's first set of interrogatories, requests for admission, and document requests on Opposer. A true and correct copy of Applicant's answers to Opposer's first set of interrogatories are attached hereto as Exhibit 1, and a true and correct copy of Applicant's answers to Opposer's first set of document requests, along with Opposer's first set of document requests (because Applicant failed to copy these requests before her answers), are attached hereto as Exhibit 2.

4. On or about the same date, Applicant provided Opposer with her initial document production: less than fifty pages, apparently consisting of two fliers from 2006, Applicant's driver's license and passport, an unidentified page from a 2006 catalog (or an advertisement), a 2007 catalog, and printouts of her application (including an undated photograph) and third-party registrations from the PTO website.

5. On April 24, 2008, my colleague Barbara Solomon sent a letter to Applicant's counsel setting out the deficiencies in Applicant's responses and asking for a response by April 30, 2008. A true and correct copy of that letter is attached hereto as Exhibit 3.

6. On April 25, 2008, I served Applicant with Opposer's second set of interrogatories, requests for admission, and document requests. A true and correct copy of Opposer's second set of document requests is attached hereto as Exhibit 4.

7. Applicant ignored the April 30 response date in our April 24 letter. Thereafter, I repeatedly followed up with Applicant's counsel in an attempt to resolve the dispute, or at least get Applicant to further articulate the basis for her objections to Opposer's requests.

8. In an email exchange on May 14, 2008, a true and correct copy of which is attached hereto as Exhibit 5, Applicant's counsel asked "what items would satisfy your client that the name [TIFFANY KOURY] was used on the class of goods as indicated in the application?" In response, I said that Opposer sought "proof that your client used her mark for each and every product set forth in her application as of the date claimed in her application. . . . the best way to demonstrate such use is through documentary evidence, such as a dated newspaper or magazine advertisement showing your client's product bearing the TIFFANY KOURY mark."

9. In the same exchange, Applicant's counsel promised to supplement Applicant's responses to Opposer's first set of discovery requests "at the same time, or before, [she] respond[ed] to [Opposer's] Second Set of Requests." (Ex. 5.)

10. On June 2, 2008, Applicant served her written responses and objections to Opposer's second set of interrogatories and requests for admission on Opposer. She did not, however, produce any written responses (or objections) to Opposer's second set of document requests, and she did not, as previously promised, supplement her responses to Opposer's first set of discovery requests or respond to Opposer's deficiency letter by that date.

11. Because Applicant claimed that Opposer had exceeded its limit, she did not provide substantive responses to any of Opposer's second set of interrogatories. A true and correct copy of Applicant's answers to Opposer's second set of interrogatories is attached hereto as Exhibit 6.

12. Applicant admitted in her answers to Opposer's second set of requests for admission that she had not used TIFFANY KOURY in connection with many of the goods set forth in her application as of the first use and first use in commerce dates set forth in that application.

13. Applicant did not provide and still has not provided Opposer with a privilege log.

14. On June 2, 2008, Applicant also purported to supplement her initial document production by producing two pages of what appeared to be a 2006 brochure mentioning Applicant and offering small pictures of two dresses.

15. I immediately sought to meet and confer with Applicant's counsel about the interrogatory responses, asking her to provide her count of Opposer's interrogatories, and noting that Applicant had not provided any response to Opposer's deficiency letter, and had not

supplemented its responses to Opposer's first set of discovery requests, as promised. A true and correct copy of my June 2, 2008 email to Opposer's counsel on the subject is attached hereto as Exhibit 7.

16. In response, on June 3, 2008 Applicant provided another thirteen pages of documents – purchase orders and invoices from 2005.

17. On June 3, 2008, I again sent an email to Applicant's counsel, asking when Applicant would provide a written response to Opposer's deficiency letter, its full document production, the previously-promised supplemental responses to Opposer's first set of discovery requests, and her count of Opposer's interrogatories. A true and correct copy of that email is attached hereto as Exhibit 8. I also sent follow-up emails on June 19, June 30, and July 14, 2008. True and correct copies of those emails are attached hereto as Exhibit 9.

18. On July 16, 2008, Applicant's counsel responded with a letter, a true and correct copy of which is attached hereto as Exhibit 10, and a supplemental response to Opposer's first set of document requests, a true and correct copy of which is attached hereto as Exhibit 11.

19. Based on my count, treating each numbered or lettered subpart of an interrogatory as a separate interrogatory, each part of a compound interrogatory as a separate interrogatory, and each issue on which information was sought as a separate interrogatory, but treating each requests for all facts and circumstances concerning a single issue, event, or matter as a single interrogatory, I believe that Opposer has served at most fifty-six interrogatories to date. True and correct copies of Opposer's interrogatories marked to show this count are attached hereto as Exhibit 12.

20. As discussed in detail above, Opposer's counsel has in good faith attempted to resolve the issues presented in this motion with Applicant's counsel for months, but has been unable to reach agreement with Applicant. Despite Opposer's good faith efforts, Applicant has

refused to cure her deficiencies, or even to respond to Opposer's attempts to resolve these issues in a timely manner.

I declare under penalty of perjury that the foregoing is true.

Signed this 1st day of August, 2008 at New York, New York.

EVAN GOURVITZ

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on August 1, 2008, a true and correct copy of the attached OPPOSER'S MOTION TO COMPEL AND DETERMINE SUFFICIENCY AND MEMORANDUM IN SUPPORT THEREOF, the DECLARATION OF EVAN GOURVITZ IN SUPPORT OF OPPOSER'S MOTION TO COMPEL, and its Exhibits 1-12, were served by First Class Mail, Postage Prepaid, on Applicant's counsel at:

Kathy Lane, Esq.
Newman Dichter LLP
505 Fifth Ave South, Suite 610
Seattle, WA 98104

Kathy Lane, Esq.
Newman Dichter LLP
488 Madison Avenue, 10th Floor
New York NY 10022

Mario Ortiz

EXHIBIT 1

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

In the Matter of Application Serial No.: 78/912,427
Published in the Official Gazette on September 4, 2007

TIFFANY (NJ) INC., Opposer	Opposition No.: 91181035
TIFFANY C. KOURY, Applicant.	

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

The following responses are based upon information known at this time and are given without prejudice to Applicant's right to produce subsequently discovered evidence and facts, and to, add to, modify or change the answers submitted herein.

Interrogatory No. 1

Describe in detail the nature of the business currently conducted by Applicant in connection with Applicant's Mark, including the product lines sold or provided, or intended to be sold or provided, by Applicant in connection with Applicant's Mark.

Response to Interrogatory No. 1

Tiffany Koury designs and creates clothing including dresses, ponchos, bathing suits, swimwear, lingerie, underwear and belts. Opposer is referred to Applicant's Document Production for viewing of product lines etc.

Interrogatory No. 2

Identify each product that Applicant has sold under Applicant's Mark to date, and state the date of first sale for each product. If any product category (e.g. dresses, skirts, etc.) have been discontinued, state for the category of goods discontinued the date of discontinuance and the reason for discontinuance.

Response to Interrogatory No. 2

Opposer is referred to Applicant's Document Production

Interrogatory No. 3

Identify each product that Applicant intends to sell or has considered selling, but has not yet sold under Applicant's Mark.

Response to Interrogatory No. 3

Applicant objects to this Interrogatory in that it is wholly irrelevant as it is outside the scope of this opposition which is solely based upon "date of first use"

Interrogatory No. 4

For each product in connection with which you have used Applicant's Mark, or plan to do so, identify all venues, trunk shows, or other avenues where such products are available for sale, have been available for sale, or are to be available for sale.

Response to Interrogatory No. 4

Applicant objects to this Interrogatory in that it is wholly irrelevant as it is outside the scope of this opposition which is solely based upon "date of first use"

Interrogatory No. 5

Set for the wholesale and retail prices of each product sold or provided, or intended to be sold or provided, by Applicant under Applicant's Mark.

Response to Interrogatory No. 5

Applicant objects to this Interrogatory in that it is wholly irrelevant as it is outside the scope of this opposition which is solely based upon "date of first use"

Interrogatory No. 6

Describe the nature of all advertisements and promotional materials for goods that you sell and provide, or intend to sell or provide, under

Applicant's Mark, and how the mark is used or intended to be used in connection with each (e.g., as part of a logo or slogan, in conjunction with a house mark, etc).

Response to Interrogatory No. 6

Applicant objects to this Interrogatory in that it is wholly irrelevant as it is outside the scope of this opposition which is solely based upon "date of first use"

Interrogatory No. 7

State the amount of money Applicant has spent to date to advertise and promote goods bearing Applicant's Mark.

Response to Interrogatory No. 7

Applicant objects to this Interrogatory in that it is wholly irrelevant as it is outside the scope of this opposition which is solely based upon "date of first use"

Interrogatory No. 8

Set forth all projections for the next five years for (i) your sales of goods bearing or sold in connection with Applicant's Mark, (ii) your profits for goods bearing or sold in connection with Applicant's Mark, and (iii) your advertising expenditures in connection with Applicant's Mark and goods bearing or sold in connection with that mark.

Response to Interrogatory No. 8

Applicant objects to this Interrogatory in that it is wholly irrelevant as it is outside the scope of this opposition which is solely based upon "date of first use".

Interrogatory No. 9

Describe how and when you first became aware of Opposer's Mark.

Response to Interrogatory No. 9

Applicant objects to this Interrogatory in that it is wholly irrelevant in that it is outside the scope of this opposition which is solely based upon "date of first use".

Interrogatory No. 10

Identify all third party uses of marks that consist of or include TIFFANY on which you intend to rely in this opposition, and for each such mark, identify (i) its owner, (ii) the goods or services in connection with which it is used, (iii) the consumers for those goods or services, and (iv) any evidence of consumer recognition of the mark.

Response to Interrogatory No. 10

Applicant submits the following:

a. Tiffany Junnell'e, owned by Tiffany J. Doss, offering blouses, dress shirts, dresses, Footwear for men and women, jackets for

men and women, coats, trousers, vests, men's suits, women's suits, shirts, skirts and dresses, and wedding dresses.

b. Tiffany Designs, owned by House of Wu, offering prom and special occasion dresses.

c. Tiffany Rose, owned by Volume Distributors, offering bathroom tissue, non-moistened cleaning cloths made of papers, non-moistened cosmetic tissues, disposable paper, towels and wipes, facial tissue, paper napkins, paper towels, toilet paper, toilet tissue.

d. Robert Louis Tiffany, owned by Lamps Plus, Inc., offering Tiffany style, electrical lamps and lighting fixtures.

e. Tiffany Holiday, owned by Tiffany E. Holliday, offering entertainment services, namely, personal appearances by a profession entertainer, live, televised and movie appearances by a profession entertainer, providing a web site featuring film clips, photographs and information about a professional entertainer.

Interrogatory No. 11

Describe in detail any instances of actual confusion between (i) Applicant, Applicant's Mark, or the products sold or intended to be sold

in connection with Applicant's Mark, on the one hand, and (ii) Opposer, Opposer's Mark, or the products sold in connection with Opposer's Mark, on the other hand.

Response to Interrogatory No. 11

Applicant is unaware of any instances of actual confusion.

Interrogatory No. 12

Describe in detail the basis for your denial in paragraph you're your Amended Answer that "Opposer's registrations for the TIFFANY and TIFFANY & CO. marks are valid, subsisting and in full force and effect, and serve as evidence of Opposer's exclusive right to use the mark in commerce on or in connection with the goods and services identified in registrations, as provided by Section 33(b) of the Lanham Act, 15 U.S.C. §1115(b)."

Response to Interrogatory No. 12

Applicant objects to this Interrogatory in that it is wholly irrelevant as is outside the scope of this opposition which is solely based upon "date of first use". Further more, said paragraph contains numerous self serving legal conclusions which are not the proper subject for Interrogatories.

Interrogatory No. 13

Describe in detail the basis for your denial in paragraph 10 of your Amended Answer that "[i]n addition to using TIFFANY as a trademark for more than 150 years, Opposer has used TIFFANY exclusively as its trade name since the company's creation in 1837. As a result of such use, the TIFFANY name is associated exclusively with Opposer and connotes Opposer as a centuries-old institution."

Response to Interrogatory No. 13

Applicant objects to this Interrogatory in that it is wholly irrelevant as it is outside the scope of this opposition which is solely based upon "date of first use". Further more, said Opposition paragraph contains numerous self serving legal conclusions which are not the proper subject for Interrogatories.

Interrogatory No. 14

Describe in detail the basis for your denial in paragraph 13 of your Amended Answer that "[i]n connection with Application Serial No. 78/912,427, Applicant swore under oath, *inter alia,* that she had been using the TIFFANY KOURY mark in commerce in connection with each of the identified goods as of June 15, 2005."

Response to Interrogatory No. 14

The basis for denial in paragraph 13 of Applicant's Amended Answer is that of "first use in commerce" in the Application is October 1, 2005 not June 15, 2005.

Interrogatory No. 15

Describe in detail the basis for you denial of paragraph 14 of your Amended Answer that "Applicant in fact had not used the TIFFANY KOURY mark in commerce in connection with each of the goods identified in the Application as of the dates alleged in the application."

Response to Interrogatory No. 15

See Interrogatory No. 14.

Interrogatory No. 16

Describe in detail the basis for your denial in paragraph 15 of your Amended Answer that "Applicant's statement in connection with Application Serial No. 78/912,427 that she had been using the TIFFANY KOURY mark in connection with each of the goods identified therein as of the date alleged in the application was therefore false and known to be so when made."

Response to Interrogatory No. 16

See Interrogatory No. 14.

Interrogatory No. 17

Describe in detail the basis for your denial in paragraph 16 of your Amended Answer that "Applicant knowingly, willfully and in bad faith made false and fraudulent statements in connection with Application Serial No. 78/912,427 in an attempt to deceive the PTO and in order to obtain a registration.

Response to Interrogatory No. 17

See Interrogatory No. 14.

Interrogatory No. 18

Describe in detail the basis for your denial in paragraph 17 of your Amended Answer that "Applicant's allegation of use in connection with all of the items identified in her Application was falsely made and was made for the purpose of inducing the Patent and Trademark Office to register the mark.

Response to Interrogatory No. 18

See Interrogatory No. 14

Interrogatory No. 19

Describe in detail the basis for your denial in paragraph 18 of your Amended Answer that "Applicant's conduct constitutes fraud on the Patent and Trademark Office."

Response to Interrogatory No. 19

Objection, this Interrogatory exceeds the numbers permissible under the FRCP. Notwithstanding the foregoing, see Interrogatory No. 14

Interrogatory No. 20

Describe in detail the basis for your denial in paragraph 19 of your Amended Answer that "As a result of Applicant's false statement, Applicant's mark has been passed to publication and may issue to registration."

Response to Interrogatory No. 20

Objection, this Interrogatory exceeds the numbers permissible under the FRCP. Notwithstanding the foregoing, see Interrogatory No. 14

Interrogatory No. 21

Describe in detail the basis for your denial in paragraph 20 of your Amended Answer that "If Application Serial No. 78/912,427 matures to registration, Opposer would be damaged since it would allow Applicant to claim exclusive rights to the TIFFANY KOURY mark. Such claim of exclusive rights is inconsistent with Opposer's prior rights in the TIFFANY and TIFFANY CO. trademarks.

Response to Interrogatory No. 21

Objection, this Interrogatory exceeds the numbers permissible under the FRCP. Notwithstanding the foregoing, this Interrogatory demands legal conclusions and arguments which is outside the scope of Interrogatories.

Interrogatory No. 22

Describe in detail the basis for your denial in paragraph 21 of your Amended Answer that "By reason of the foregoing, Opposer is likely to be harmed by registration of Application Serial No. 78/912,427 for the mark TIFFANY KOURY

Response to Interrogatory No. 22

Objection, this Interrogatory exceeds the numbers permissible under the FRCP. Notwithstanding the foregoing, see Interrogatory No. 14.

Interrogatory No. 23

Describe in detail your basis for the contention in paragraph 24 of your Amended Answer to Opposer's notice of opposition that "the full name 'Tiffany Koury' is associated with couture fashion."

Response to Interrogatory No. 23

Objection, this Interrogatory exceeds the numbers permissible under the FRCP. Notwithstanding the foregoing , Tiffany Koury is associated

with couture fashion. In 2006, Tiffany Koury was named one of the top ten dress designers to watch by the Doneger Group. Opposer is also referred to Applicant's document production.

Interrogatory No. 24

Set forth in detail the evidence to support your affirmative defenses of acquiescence and estoppel.

Response to Interrogatory No. 24

Objection, this Interrogatory exceeds the numbers permissible under the FRCP. Notwithstanding the foregoing, see response to Interrogatory No. 12

Interrogatory No. 25

Set forth in detail the evidence to support your affirmative defense that there is no likelihood of confusion.

Response to Interrogatory No. 25

Objection, this Interrogatory exceeds the numbers permissible under the FRCP. There is no likelihood of confusion as Opposer does not create or market clothing. Further, Applicant uses her complete name "Tiffany Koury" on her items. Opposer does not utilize the surname "Koury" on their goods.

Interrogatory No. 26

To the extent you contend that jewelry is not related to couture fashion, describe in detail the basis for that contention.

Response to Interrogatory No. 26

Objection, this Interrogatory exceeds the numbers permissible under the FRCP. Applicant has not made that contention.

Interrogatory No. 27

To the extent that you contend that no fashion house offers both jewelry and fashion under the same mark, describe in detail the basis for that contention.

Response to Interrogatory No. 27

Objection, this Interrogatory exceeds the numbers permissible under the FRCP. Applicant has not made that contention.

Dated: April 21, 2008
New York, New York

NEWMAN DICHTER LLP
By: _____
Kathy Lane
488 Madison Avenue
New York, NY 10022
(212)593-4202

EXHIBIT 2

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

In the Matter of Application Serial No.: 78/912,427
Published in the Official Gazette on September 4, 2007

TIFFANY (NJ) INC., Opposer	Opposition No.: 91181035
TIFFANY C. KOURY, Applicant.	

APPLICANT'S RESPONSE TO OPPOSER'S FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS AND THINGS

The following responses are based upon information known at this time and documents available at this time and are given without prejudice to Applicant's right to produce subsequently discovered evidence and facts, and to, add to, modify or change the answers submitted herein.

Response No. 1

Opposer is referred to Applicant's website at tiffanykoury.com which will be sufficient to show the nature of the business conducted by Applicant.

Response No. 2

See Response No. 1.

Response No. 3

See attached Invitations to Trunk Shows. See attached print out of Applicant's application and specimens which is available at the Patent and Trademark Office website.

See also Applicant's Trademark Registration Application available at the Patent and Trademark Office website.

Response No. 4

See Applicant's website and the attached Look Book for 2007. At this time, Applicant cannot locate paper copies of Look Book for 2006 and 2005 but same are available for viewing on the website.

Response No. 5

See Applicant's website and Look Book.

Response No. 6.

See response No. 5.

Response No. 7

Objection. Applicant objects to this request as it is inapplicable to the proceeding herein. Opposer has objected to Applicant's mark based solely upon the date of first use in commerce.

Response No. 8.

Attached see a copy of Applicant's NYS Driver's License and Passport.

Response No. 9.

Objection. See Response No. 7. Furthermore, the mark is Applicant's given name.

Response No. 10.

Objection. See Response No. 9.

Response No. 11

Objection. See Response No. 9.

Response No. 12

Objection. See Response No. 9

Response No. 13

Objection. See Response No. 9

Response No. 14

Objection. See Response No. 9

Response No. 15

Objection. See Response No. 9. Notwithstanding the objection, Opposer is referred to Response No. 4

Response No. 16

Objection. See Response No. 9

Response No. 17

See Response No. 3. Applicant will supplement this response if additional documents or photographs of said event become available.

Response No. 18

Objection. See Response No. 9

Response No. 19

Objection. See Response No. 9.

Response No. 20

Objection. See Response No. 9.

Response No. 21

Objection. See Response No. 9.

Response No. 22

Objection. See Response No. 9

Response No. 23

Objection. Producing said emails would violate attorney/client privilege.

Response No. 24

Objection. See Response No. 9. Notwithstanding said objection, Applicant is unaware of any instances of actual confusion.

Response No. 25

Objection. See Response No. 9. Notwithstanding said objection, there are no such documents at this time.

Response No. 26

Objection. See Response No. 9. Notwithstanding said objection, there are no such documents at this time.

Response No. 27

See Response to No. 3. Opposer is specifically referred to the portion of the Application which indicates that the date of first use in commerce is October 1, 2005 not June 15, 2005.

Response No. 28
See Response No. 3 and No. 27.

Response No. 29
See Response No. 3 and No. 27.

Response No. 30
See Response No. 3 and No. 27.

Response No. 31
See Response No. 3 and No. 27.

Response No. 32
See Response No. 3 and No. 27.

Response No. 33
See Response No. 3 and No. 27.

Response No. 34
See Response No. 3 and No. 27. See also the attached findings, office action, and notice of publication.

Response No. 35
See Response No. 34.

Response No. 36
See attached items from the Trademark Electronic Search System (TESS)

Response No. 37
See Response No. 9.

Response No. 38
See Response No. 9

Response No. 39
See Response No. 9

Response No. 40
See Response No. 9

Dated: April 21, 2008
New York, New York

NEWMAN DICHTER LLP
By: Kathy Lane
Kathy Lane
488 Madison Avenue
New York, NY 10022
(212)593-4202

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

In the Matter of Application Serial No. 78/912,427
Published in the Official Gazette on September 4, 2007

TIFFANY (NJ) INC., Opposer, v. TIFFANY C. KOURY, Applicant.	Opposition No. 91181035

OPPOSER'S FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS AND THINGS

Pursuant to Rule 2.120(d) of the Trademark Rules of Practice and Rule 34 of the Federal Rules of Civil Procedure, Opposer Tiffany (NJ) Inc. requests that Applicant Tiffany C. Koury respond to the following requests by serving its responses at the offices of Opposer's attorneys, Fross Zelnick Lehrman & Zissu, P.C., 866 United Nations Plaza, New York, New York 10017, Attention: Evan Gourvitz, within the time permitted by the applicable Federal Rules of Civil Procedure and Trademark Rules of Practice, and by producing those documents and things specified herein at that address at that time, or at another time and place to be mutually agreed upon by the parties.

DEFINITIONS

A. The terms "Applicant," "you," or "your" mean Applicant Tiffany C. Koury, and any affiliate, licensee, franchisee, successor, predecessor in interest, assignee or other related business entity thereof, and the predecessors of any of them and every officer, employee, agent, attorney or other person acting or purporting to act on their behalf.

B. The terms "Opposer" or "Tiffany" mean Opposer Tiffany (NJ) Inc. and any division, parent, subsidiary, affiliate, licensee, franchisee, successor, predecessor in interest, assignee or other related business entity thereof, and the predecessors of any of them.

C. The term "Applicant's Mark" means the TIFFANY KOURY mark set forth in U.S. Application Serial No. 78/912,427.

D. The term "Opposer's Mark" means, individually and collectively, any mark owned or used by Opposer that consists of or includes the word TIFFANY, including but not limited to the marks of Opposer pleaded in its Notice of Opposition.

E. The term "concerning" means relating to, referring to, describing, evidencing or constituting.

F. When a request asks for documents "concerning" an allegation, you must produce not only documents which support such allegation but also documents which tend to negate such allegation.

G. The term "document" means, without limitation, any tangible thing in Applicant's possession, custody or control, or of which Applicant has knowledge, wherever located, whether sent or received or neither, whether an original or a copy, including, without limitation, correspondence, memoranda, printed matter, reports, records, notes, calendars, diaries, telegrams, telexes, studies, market surveys, market research, tabulations, contracts, invoices, receipts, vouchers, registrations, books of account or financial records, notes, advertisements, trademark search reports, directories, publications, computer tapes and printouts, microfilms or the like, and photographs. This definition shall include electronic or data compilations (including email). In all cases each non-identical copy of an original document should be produced.

H. The term "communication" means the transmittal of information (in the form of facts, ideas, inquiries or otherwise).

I. Whenever the terms "and" and "or" are used they are to be construed both disjunctively and conjunctively as necessary to bring within the scope of these discovery requests responses that might otherwise be construed to be outside the scope.

J. The use of the singular form of any word includes the plural and vice versa.

K. In answering these requests, even though they may be directed to "you," furnish all responsive documents available to you, including documents in the possession of your attorneys or investigators that were prepared on your behalf. If you cannot provide all documents responsive to any of the following requests after exercising due diligence, provide such documents to the extent possible, specifying your inability to provide the remainder and stating whatever information or knowledge you have concerning the missing portions.

L. If you object to furnishing documents in response to any request, or any part or portion thereof, you should specifically state the basis of such objection, identify the documents to which each objection applies, and furnish all requested documents to which the objection does not apply.

M. If you assert a claim of privilege in objecting to any document request, or part or portion thereof, and documents are withheld on the basis of such assertion:

i) You shall, as a part of the objection to the document request, or part or portion thereof, identify the nature of the privilege which is being claimed, and, if the privilege is being asserted in connection with a claim or a defense governed by state law, indicate the state rule of privilege being invoked; and

ii) the following information shall be provided in the objection unless divulgence of such information would cause disclosure of the allegedly privileged information: (a) the type of document; (b) the general subject matter of the document; (c) the date of the document; and (d) such other information as is sufficient to identify the document, including, where appropriate, the author of the document, the addressee of the document, and, where not apparent, the relationship of the author and addressee to each other, as well as all other recipients of the document.

N. Any objection to any request for which a basis has not been specifically stated within the time provided by the Federal Rules of Civil Procedure shall be waived.

O. For the convenience of the Board and the parties, you are requested to order and label the materials produced in accordance with the final paragraph of FED. R. CIV. P. 34(b), as adopted by the Trademark Rules of Practice 2.116(a).

P. These requests are intended to be continuing. If at any time after you prepare and furnish the requested discovery you ascertain or acquire additional responsive documents, you are requested to produce such supplemental documents to Plaintiffs within thirty (30) days.

DOCUMENT REQUESTS

Request No. 1:

Documents sufficient to show the nature of the business conducted by Applicant in connection with Applicant's Mark.

Request No. 2:

Documents sufficient to identify all goods sold or provided, or intended to be sold or provided, by Applicant in connection with Applicant's Mark.

Request No. 3:

Documents sufficient to show:

(A) The date of first use of Applicant's Mark on or in connection with each of the goods set forth in your Application Serial No. 78/912,427 (the "Application"), and

(B) How Applicant's Mark was used on or in connection with each such product as of the date of first use.

Request No. 4:

Documents sufficient to show each version or variation of Applicant's Mark that you use, have used, or intend to use in connection with any of the goods identified in the Application.

Request No. 5:

A sample (or high-quality digital image) of each product sold or intended to be sold under or in connection with Applicant's Mark.

Request No. 6:

A sample of each label, package, tag, brochure, price list, catalog, display, or other item bearing Applicant's Mark.

Request No. 7:

All complaints you have received about any goods offered for sale or sold under or in connection with Applicant's Mark.

Request No. 8:

Documents sufficient to show that your legal name is Tiffany C. Koury.

Request No. 9:

All documents concerning your creation and adoption of Applicant's Mark.

Request No. 10:

Documents sufficient to identify all persons who determined where and in connection with what goods Applicant's Mark is, has been, and will be used.

Request No. 11:

Documents sufficient to show the strength or recognition of Applicant's Mark as used in connection with the goods identified in the Application.

Request No. 12:

Documents sufficient to show the commercial impression made by Applicant's Mark.

Request No. 13:

Documents sufficient to show any other words, marks, symbols, house marks, or designs Applicant uses, has used, or intends to use together with Applicant's Mark.

Request No. 14:

For each product in connection with which Applicant's Mark has been used, documents sufficient to show your total actual sales on an annual basis (in terms of both dollars and units sold) since your date of first use of the mark.

Request No. 15:

Documents sufficient to show all advertisements and promotional materials for goods sold or provided by or on behalf of Applicant in connection with Applicant's Mark and how the mark is or was used in each.

Request No. 16:

Documents sufficient to show how and where Applicant advertises or intends to advertise its goods in connection with Applicant's Mark.

Request No. 17:

Documents sufficient to identify (i) all "trunk shows and private fashion events" referred to in paragraph 31 of your Amended Answer to the Notice of Opposition, (ii) where each such show or event was held, (iii) the number of people who attended each such show or event, (iv) the identities of the people who attended each such show or event, and (v) the products, other than your own, that were offered or sale or included in each such show or event.

Request No. 18:

Any licenses or agreements you have granted to any third parties permitting the use of any mark consisting of or including TIFFANY for any purposes.

Request No. 19:

Documents sufficient to show the amount of money you (and any other party you authorized to use the mark) spent to advertise and promote goods bearing Applicant's Mark on an annual basis for each month and year since your date of first use.

Request No. 20:

Documents sufficient to identify all of your employees.

Request No. 21:

All documents concerning how and when you first became aware of Opposer.

Request No. 22:

All documents concerning how and when you first became aware of Opposer's Mark.

Request No. 23:

All documents or communications, including all emails, concerning Opposer.

Request No. 24:

All documents or communications, including all emails, concerning any instances of actual confusion between (i) Applicant, Applicant's Mark, or the products sold or intended to be sold in connection with Applicant's Mark, on the one hand, and (ii) Opposer, Opposer's Mark, or the products sold in connection with Opposer's Mark, on the other hand.

Request No. 25:

All documents that support or contravene your denial in paragraph 7 of your Amended Answer that "Opposer's registrations for the TIFFANY and TIFFANY & CO. marks are valid, subsisting and in full force and effect, and serve as evidence of Opposer's exclusive right to use the mark in commerce on or in connection with the goods and services identified in the registrations, as provided by Section 33(b) of the Lanham Act, 15 U.S.C. § 1115(b)."

Request No. 26:

All documents that support or contravene your denial in paragraph 10 of your Amended Answer that "[i]n addition to using TIFFANY as a trademark for more than 150 years, Opposer has used TIFFANY exclusively as its trade name since the company's creation in 1837. As a result of such use, the TIFFANY name is associated exclusively with Opposer and connotes Opposer as a centuries-old institution."

Request No. 27:

All documents that support or contravene your denial in paragraph 13 of your Amended Answer that "[i]n connection with Application Serial No. 78/912,427, Applicant swore under oath, *inter alia*, that she had been using the TIFFANY KOURY mark in commerce in connection with each of the identified goods as of June 15, 2005."

Request No. 28:

All documents that support or contravene your denial in paragraph 14 of your Amended Answer that "Applicant in fact had not used the TIFFANY KOURY mark in commerce in connection with each of the goods identified in the Application as of the dates alleged in the application."

Request No. 29:

All documents that support or contravene your denial in paragraph 15 of your Amended Answer that "Applicant's statement in connection with Application Serial No. 78/912,427 that she had been using the TIFFANY KOURY mark in connection with each of the goods identified therein as of the date alleged in the application was therefore false and known to be so when made."

Request No. 30:

All documents that support or contravene your denial in paragraph 16 of your Amended Answer that "Applicant knowingly, willfully and in bad faith made false and fraudulent statements in connection with Application Serial No. 78/912,427 in an attempt to deceive the PTO and in order to obtain a registration."

Request No. 31:

All documents that support or contravene your denial in paragraph 17 of your Amended Answer that "Applicant's allegation of use in connection with all of the items identified in her Application was falsely made and was made for the purpose of inducing the Patent and Trademark Office to register the mark."

Request No. 32:

All documents that support or contravene your denial in paragraph 18 of your Amended Answer that "Applicant's conduct constitutes fraud on the Patent and Trademark Office."

Request No. 33:

All documents that support or contravene your denial in paragraph 19 of your Amended Answer that "As a result of Applicant's false statement, Applicant's mark has been passed to publication and may issue to registration."

Request No. 34:

All documents that support or contravene your denial in paragraph 20 of your Amended Answer that "If Application Serial No. 78/912,427 matures to registration, Opposer would be damaged since it would allow Applicant to claim exclusive rights to the TIFFANY KOURY mark. Such claim of exclusive rights is inconsistent with Opposer's prior rights in the TIFFANY and TIFFANY CO. trademarks."

Request No. 35:

All documents that support or contravene your denial in paragraph 21 of your Amended Answer that "By reason of the foregoing, Opposer is likely to be harmed by registration of Application Serial No. 78/912,427 for the mark TIFFANY KOURY."

Request No. 36:

All documents that support or contravene your affirmative defenses of acquiescence and estoppel.

Request No. 37:

All documents that support or contravene your affirmative defense that there is no likelihood of confusion.

Request No. 38:

All documents concerning any third party marks consisting of or including TIFFANY upon which you intend to rely in this action, including documents sufficient to show each such mark, its owner, the goods or services on which it is used, the manner of such use, and the consumer recognition of each such mark.

Request No. 39:

To the extent you contend that jewelry is not related to couture fashion, all documents supporting or contravening that contention.

Request No. 40:

To the extent you contend that no fashion house offers both jewelry and fashion under the same mark, all documents supporting or contravening that contention.

Dated: New York, New York
March 19, 2008

FROSS ZELNICK LEHRMAN & ZISSU, P.C.

By: Barbara A. Solomon
Evan Gourvitz
Attorneys for Opposer
866 United Nations Plaza
New York, New York 10017
Phone: (212) 813-5900
Fax: (212) 813-5901

EXHIBIT 3

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JANET L. HOFFMAN
PETER J. SILVERMAN
LAWRENCE ELI APOLZON
BARBARA A. SOLOMON
MARK D. ENGELMANN
NADINE H. JACOBSON
ANDREW N. FREDRICK
CRAIG S. MENDE
J. ALLISON STRICKLAND
JOHN P. MARGIOTTA
LYDIA T. GOBENA
CARLOS CUQUERELLA
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CAROLINE G. BOEHM
VANESSA HWANG LUI
DOROTHY O. ALEVIZATOS
BETSY JUDELSON NEWMAN
NICHOLAS H. GISEHMAN
KATE HAZELRIG
TODD MARTIN

April 24, 2008

BY FAX (206-274-2801)
BY EXPRESS MAIL

Kathy Lane, Esq.
Newman Dichter LLP
488 Madison Avenue
New York, NY 10022

Re: TIFFANY (NJ) INC. v. TIFFANY C. KOURY, Opposition No.: 91-181,035
(Our Ref.: TFFJ USA TC-06/06890)

Dear Ms. Lane:

We are in receipt of the responses that you provided on behalf of Tiffany C. Koury to Tiffany (NJ) Inc.'s outstanding discovery requests. We are writing this letter to you pursuant to Trademark Rule of Practice 2.120(e) to set forth the deficiencies in your responses. To the extent they are not addressed to our client's satisfaction, we will then proceed with a motion to compel.

I. Procedural Deficiencies

Starting first with procedural deficiencies in the interrogatory responses, we note the following concerns. First, there is no verification of your client's interrogatory responses. These are required. Second, in response to numerous interrogatories, including interrogatories 1, 2 and 23, you refer to documents. Fed. R. Civ. P. 33 requires you to specify the documents that are responsive to an interrogatory in sufficient detail to enable Opposer to locate and identify them as readily as you could. You have failed to do this. Third, you have objected to interrogatories on the grounds that the number served is excessive citing the Federal Rules of Civil Procedure. However, Trademark Rule of Practice 2.120(d) provides for 75 interrogatories in an opposition proceeding. Clearly we did not exceed that limit.

Moving to your response to document requests, you are required to either produce documents in the manner in which they are ordinarily kept or you must organize and label them to correspond to the categories in the request. You have done neither. See F.R.C.P. 33(b)(2)(E)(i). Next, you were required to have produced electronically stored information. None was provided. Clearly, your client maintains emails or other electronic information relating to her business that are responsive to the discovery requests. Your failure to provide that information gives rise to an inference that there was electronically stored information that supports our client's claims that you are not providing. Further, you were required to have provided to us contemporaneously with your responses a privilege log to support the claim that certain documents are protected. No such log was provided. Finally, we note that you have produced not a single document to support the claimed first use and first use in commerce dates alleged in the application at issue.

II. Substantive Deficiencies

A. Interrogatories

Interrogatory 2 - In response to Interrogatory 2 you have referred generally to applicant's document production without identifying any specific documents that supports the responses. This violates the requirements under Fed R. Civ. P. 33. Moreover, a review of the documents you did provide shows that there is not a single document identifying the date of first sale of each product that has been sold under your client's mark, that identifies if any products have been discontinued, or the reason for the discontinuance. Clearly, the products that your client has sold and the date that your client first sold such products is directly relevant to the issues in the opposition. The response that you provided is plainly deficient.

Interrogatory 4 - The objection that you have to this interrogatory is improper. At issue is whether your client in fact used the mark on all the goods identified in the application on the dates identified in the application. Information about venues, trunk shows or other avenues where the products were available for sale is clearly relevant to your client's claim of a bona fide use. As such, your objection is not well taken.

Interrogatory 5 - If in fact your client made bona fide use of the TIFFANY KOURY mark on all the goods listed in the application on the dates set forth in the application, we presume if would have documents to support those uses, including wholesale and retail prices. The fact that you are unable or unwilling to provide that information suggests that in fact there has been no use as of the listed dates.

Interrogatory 6 - Your claim that the nature of advertisements or promotional materials is somehow irrelevant also is disingenuous. The issue of whether your client has advertising or promotional materials goes directly to whether the claims of use or use in commerce as set forth in the opposed application are supported by any evidence.

Interrogatory 10 - You have responded only to subparts (i) and (ii) of and have complete ignored subparts (iii) and (iv). The responses need to be amended to answer these outstanding issues.

Interrogatory 15 - Your reference to your response to Interrogatory 14 is a non sequitur. You have failed to set forth any evidence or any facts to show that your client was using the TIFFANY KOURY mark in commerce in connection with each of the goods identified in the application as of the two dates alleged in the application. Further, your response to Interrogatory 14 does not provide any facts to show that the dates alleged in your application in fact are not fraudulent.

Interrogatory 16 - You have provided no detailed basis that would support your denial of paragraph 15 of the amended answer and that would otherwise show that your client has been using the TIFFANY KOURY mark in connection with each of the goods identified as of the two dates alleged in the application.

Interrogatories 17-20 - Your reliance on the number of interrogatories that can be served in a district court action is irrelevant to this proceeding which imposes a different interrogatory limit. Further, your reliance on the non-response to Interrogatory 14 is improper.

Interrogatory 24 - In your answer you alleged as an affirmative defense acquiescence and estoppel. We assume that when you made the allegation you had a good faith basis for making the claim. However, you have failed to provide that basis in response to the Interrogatory. Your reference to your response to Interrogatory 12 is of no avail as that Interrogatory does not address the affirmative defense you assert. If you cannot provide the evidence to support your claim, it can only be assumed that the claim was made without any facts or evidence and was therefore made in bad faith and in violation of F.R.C.P. 11.

B. Document Requests

As an initial matter, I would note that you did not bother to include in your response the actual document requests. We would ask that in response to discovery you include both the request and the response.

Requests 1 and 2 - Your reference to your client's website in response to the Requests is deficient. It is not our client's obligation to hunt through your client's website to determine what is or is not relevant to our document requests. This is your obligation. You must produce documents or identify documents with specificity that are responsive to the requests.

Request 3 - You have failed to produce documents showing the date of first use of your client's mark in connection with each of the items specified in your client's application. The invitations to the trunk show that you refer to do not specifically identify any goods. Your client's application covers a host of clothing items. Yet you have been unable to produce any documents to show the first use of your client's mark in connection with each of the identified goods. You also have wholly failed to identify documents in response to subpart (b) of Request 3. Further, your reference to documents without specifying the documents that you believe are responsive to the requests is improper under Fed. R. Civ. P. 34.

Requests 4-6 - Once again you have failed to meet your obligation in responding to discovery requests by referring generally to your client's website or to documents that are not specifically identified by Bates number or otherwise. The responses are incomplete.

Request 10 - Your claim that Request 10 is objectionable is without merit and your reference to Response 9 is irrelevant. We are entitled to know who determined where and in connection with what goods your client's mark is, has been or will be used as this goes directly to the issue of whether, in fact, your client's mark was used on all of the goods identified in its application as of the alleged dates of first use.

Request 14 - Your objections are not well taken. Clearly, documents that show your client's actual total sales for each product are directly relevant to whether in fact your client is even using the mark on each of the goods alleged in the application and go directly to the fraud claim.

Request 15 - Your objections are not well taken. The advertising done by your client again goes directly to the issue of whether your client is using the TIFFANY KOURY mark on each of the goods identified in the application and to the ultimate issue of whether your client has committed fraud. To the extent that you claim that there are documents in the pile that you provided or on your client's website, they must be specifically identified.

Request 16 - See comments concerning the deficient response to Request 15.

Request 17 - It is improper for you to simply refer to your client's document production or your client's website without specifying the document at issue. Further, in reviewing your document production, no documents were provided responsive to sub-parts (iii), (iv) and (v) of the request.

Request 18 - Your objection is not well taken. To the extent that you are claiming that the use dates set forth in your application are not fraudulent, licenses or agreements to third parties that may have allowed third parties to use those marks to support the first use dates would be relevant. We would be willing not to pursue Request 18 if you stipulate that your client is not relying on third party use of the TIFFANY KOURY mark to support the claims of first use and first use in commerce set forth in the application.

Request 23 - It appears that you have documents responsive to the request that are not being produced on the grounds of attorney-client privilege. You are required to provide us with a privilege log.

Request 27-33 - Your responses are insufficient. If you have documents that show that your client has been using the TIFFANY KOURY mark since June 15 and has been using the TIFFANY KOURY mark in commerce since October 1, those documents are required to be produced. You have failed to produce any documents to support any date of use. The bottom line, Ms. Lane, is that your client alleged first use of the TIFFANY KOURY mark on each item identified in their application as of June 2005 and first use of the TIFFANY KOURY

mark on each of the items set forth in her application in commerce as of October 2005. You have yet to produce a single document to support either date despite being requested to do so. This is a glairing deficiency. We would assume that it would not be difficult for your client to produce a sales receipt for each of the items if in fact she sold them. The fact that you have been unable to do so suggests that there clearly was fraud in the Patent and Trademark Office.

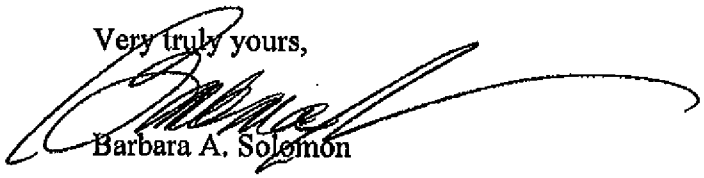
Request 36 - You alleged in your affirmative defense that our client is barred from taking action your client's mark due to acquiescence and estoppel. In response you refer to items from TESS which I presume are third party applications that you pulled. Please confirm that these are the only documents that support your affirmative defense.

Request 37 - You have alleged that there is no likelihood of confusion. Yet in response to a document request seeking documents to support or contravene the affirmative defense, you have objected on the grounds that the request is inapplicable. It is not inapplicable; it is a defense that you raised. You are required to produce documents.

Request 38 - In connection with your affirmative defense of acquiescence and estoppel you have identified third party marks. It is therefore disingenuous for you to now refuse to respond to Request 38 asking you to identify the third parties marks that you intend to rely on in this action. You raised the issue.

We would ask that you provide us with a written response to all of the deficiencies noted herein by no later than **April 30, 2008** and to advise us as to when you are prepared to have a conference call to discuss these deficiencies in an attempt to narrow them.

Very truly yours,



Barbara A. Solomon

BAS/dmk

EXHIBIT 4

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

In the Matter of Application Serial No. 78/912,427
Published in the Official Gazette on September 4, 2007

TIFFANY (NJ) INC., Opposer, v. TIFFANY C. KOURY, Applicant.	Opposition No. 91181035

OPPOSER'S SECOND SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS AND THINGS

Pursuant to Rule 2.120(d) of the Trademark Rules of Practice and Rule 34 of the Federal Rules of Civil Procedure, Opposer Tiffany (NJ) Inc. requests that Applicant Tiffany C. Koury respond to the following requests by serving its responses at the offices of Opposer's attorneys, Fross Zelnick Lehrman & Zissu, P.C., 866 United Nations Plaza, New York, New York 10017, Attention: Evan Gourvitz, within the time permitted by the applicable Federal Rules of Civil Procedure and Trademark Rules of Practice, and by producing those documents and things specified herein at that address at that time, or at another time and place to be mutually agreed upon by the parties.

DEFINITIONS

Opposer hereby incorporates by reference the Definitions set forth in its First Set of Requests for Production of Documents and Things to Applicant.

DOCUMENT REQUESTS

Request No. 41:

Documents sufficient to show (i) the use of Applicant's Mark on or in connection with each of the goods set forth in your Application Serial No. 78/912,427 (the "Application") as of the first use date set forth in the Application, June 15, 2005, and (ii) how Applicant's Mark was used on or in connection with each such product as of that date.

Request No. 42:

Documents sufficient to show (i) the use of Applicant's Mark on or in connection with each of the goods set forth in the Application as of the first use in commerce date set forth in the Application, October 1, 2005, and (ii) how Applicant's Mark was used on or in connection with each such product as of that date.

Request No. 43:

Documents sufficient to show (i) the use of Applicant's Mark on or in connection with each of the goods set forth in the Application as of the filing date of the Application, June 20, 2006, and (ii) how Applicant's Mark was used on or in connection with each such product as of that date.

Request No. 44:

Documents sufficient to show the use of Applicant's Mark on or in connection with each of the goods set forth in the Application as of June 4, 2007, and (ii) how Applicant's Mark was used on or in connection with each such product as of that date.

Request No. 45:

Documents sufficient to show all of the reasons you deleted skirts, dress shirts, T-shirts, sweatshirts, tank tops, sweaters, jerseys, turtle necks, golf shirts, shorts, sweatpants, warm-up

suits, blazers, pants, jeans, capris, overalls, vests, jackets, coats, parkas, windbreakers, sleepwear, pajamas, robes, intimates, socks, hosiery, shoes, boots, sneakers, beach shoes, flip-flops, sandals, slippers, scarves, gloves, and suspenders from the goods originally included in the Application.

Dated: New York, New York
April 25, 2008

FROSS ZELNICK LEHRMAN & ZISSU, P.C.

By: Barbara A. Solomon
Evan Gourvitz
Attorneys for Opposer
866 United Nations Plaza
New York, New York 10017
Phone: (212) 813-5900
Fax: (212) 813-5901

CERTIFICATE OF MAILING

The undersigned hereby certifies that on April 25, 2008 she caused a copy of the foregoing Opposer's Second Set of Requests for Production of Documents and Things to be served by first class mail on Applicant's counsel at:

Kathy Lane, Esq.
Newman Dichter LLP
488 Madison Avenue
New York, NY 10022

and

Kathy Lane, Esq.
Newman Dichter LLP
505 Fifth Ave South, Suite 610
Seattle, WA 98104

Rhonda Fields

EXHIBIT 5

Evan Gourvitz

From: Evan Gourvitz
Sent: Wednesday, May 14, 2008 3:03 PM
To: Lane
Cc: Barbara Solomon
Subject: FW: Tiffany (NJ) Inc. v. Tiffany Koury

Dear Kathy:

Your email below does not clearly address the question of when you will provide a written response to our deficiency letter.

Regardless of whether you believe your client's supplemental production will cure some of the deficiencies we noted, we are entitled to a response to our letter. Please confirm that you will provide that written response immediately.

As for your query (and leaving aside your characterization of the basis of our opposition), naturally, we want proof that your client used her mark for each and every product set forth in her application as of the date claimed in her application. Obviously, the best way to demonstrate such use is through documentary evidence, such as a dated newspaper or magazine advertisement showing your client's product bearing the TIFFANY KOURY mark.

We look forward to hearing from you.

Thanks,

Evan

-----Original Message-----
From: Lane [mailto:kathy@NewmanDichter.com]
Sent: Wednesday, May 14, 2008 1:20 PM
To: Evan Gourvitz
Subject: RE: Tiffany (NJ) Inc. v. Tiffany Koury

Evan,
We have received additional documents from our client and are reviewing them at this time for relevancy as to both your First and Second Set of Requests. We will supplement our response to the First Set of Requests at the same time, or before, we respond to your Second Set of Requests. Reviewing these items raises the following query: as your opposition is based upon the limited ground of "date of first use", specifically what items would satisfy your client that the name was used on the class of goods as indicated in the application?

Thank you,

Kathy Lane

>>> "Evan Gourvitz" <EGourvitz@frosszelnick.com> 05/13/08 9:05 AM >>>
Kathy:

We didn't receive the response to Barbara's deficiency letter that you promised by yesterday.

Since this response is long overdue, please provide it to us immediately.

Thanks,

Evan

-----Original Message-----

From: Lane [mailto:kathy@NewmanDichter.com]
Sent: Tuesday, May 06, 2008 2:27 PM
To: Evan Gourvitz
Subject: Re: Tiffany (NJ) Inc. v. Tiffany Koury

We did receive the copy sent to Seattle. Perhaps the postal service requires that we indicate the "Tenth Floor" as part of our address. We do apologize for the inconvenience and certainly understand your frustration. Do not feel obligated to send a second copy of these items to the NY office. Thank you for bringing this to my attention.

>>> "Evan Gourvitz" <EGourvitz@frosszelnick.com> 05/05/08 2:58 PM >>>
Kathy:

We recently sent a second set of discovery requests to you at the exact address you used for your client's first set of discovery responses: Kathy Lane, Newman Dichter LLP, 488 Madison Avenue, New York NY 10022. (We also sent them to you at your Seattle address.) These responses were returned to us for "INSUFFICIENT ADDRESS."

As you know, this is not the first, second, or third time we have had trouble contacting you or your colleagues.

As a matter of basic courtesy, and to fulfill your obligations under the Federal Rules of Civil Procedure and Trademark Rules of Practice, please immediately provide us with your correct mailing address, and let us know whether you received the second set of discovery requests sent to your Seattle address. If not, we will send another copy to you.

Thanks,

Evan

The information contained in this email message may be privileged, confidential, and protected from disclosure. Any unauthorized use, printing, copying, disclosure or dissemination of this communication may be subject to legal restriction or sanction. If you think that you have received this email message in error, please reply to the sender.

The information contained in this email message may be privileged, confidential, and protected from disclosure. Any unauthorized use, printing, copying, disclosure or dissemination of this communication may be subject to legal restriction or sanction. If you think that you have received this email message in error, please reply to the sender.

EXHIBIT 6

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

In the Matter of Application Serial No.: 78/912,427
Published in the Official Gazette on September 4, 2007

TIFFANY (NJ) INC.,		:
	Opposer	:
		Opposition No.: 91181035
TIFFANY C. KOURY,		:
	Applicant.	:

APPLICANT'S RESPONSE TO OPPOSER'S SECOND SET OF INTERROGATORIES

The following responses are based upon information known at this time and are given without prejudice to Applicant's right to produce subsequently discovered evidence and facts, and to, add to, modify or change the answers submitted herein.

Interrogatory No. 28:

Describe in detail your document retention policy, including for electronically-stored information.

Response to Interrogatory No: 28

Applicant objects to this Interrogatory as Opposer has exceeded the number of Interrogatories permissible under TBMP 405.03(a)

Interrogatory No. 29:

Describe in detail the manner in which you keep your business records and any personal records relevant to this proceeding, including without limitation (i) whether and the extent to which such documents are kept in electronic form, such as emails, mailing lists, spreadsheets, or PowerPoint presentations, (ii) where such documents are located, (iii) the specific steps you have taken since commencement of this action to preserve all such documents, and (iv) whether any such documents have been destroyed since the commencement of this action.

Response to Interrogatory No. 29

Applicant objects to this Interrogatory as Opposer has exceeded the number of Interrogatories permissible under TBMP 405.03(a)

Interrogatory No.: 30

Set forth all reasons for deleting skirts, dress shirts, T-shirts, sweatshirts, tank tops, sweaters, jerseys, turtlenecks, golf shirts, shorts, sweatpants, warm-up suits, blazers, pants, jeans, capris, overalls, vests, jackets, coats, parkas, windbreakers, sleepwear, pajamas, robes, intimates,

socks, hosiery, shoes, boots, sneakers, beach shoes, flip-flops, sandals, slippers, scarves, gloves, and suspenders from the description of goods in your Application Serial No. 78/912,427 (the "Application").

Response to Interrogatory No.: 30

Applicant objects to this Interrogatory as Opposer has exceeded the number of Interrogatories permissible under TBMP 405.03(a).

Interrogatory No.: 31

Identify all goods you sold or offered for sale under of in connection with Applicant's Mark as of (i) June 15, 2005, (ii) October 1, 2005, (iii) June 20, 2006, and (iv) June 4, 2007.

Response to Interrogatory No.:31

Applicant objects to this Interrogatory as Opposer has exceeded the number of Interrogatories permissible under TBMP 405.03(a).

Interrogatory No.:32

Describe all uses made of Applicant's Mark in connection with each of the goods identified in the Application as of (i) June 15, 2005, (ii) October 1, 2005, (iii) June 20, 2006, and (iv) June 4, 2007.

Response to Interrogatory No.: 32

Applicant objects to this Interrogatory as Opposer has exceeded the number of Interrogatories permissible under TBMP 405.03(a).

Dated: New York, New York
June 2, 2008

NEWMAN DICHTER LLP
By:_____
Kathy Lane
488 Madison Avenue
New York, NY 10022
(212)593-4202

EXHIBIT 7

Evan Gourvitz

From: Evan Gourvitz
Sent: Monday, June 02, 2008 2:46 PM
To: Lane
Cc: Barbara Solomon
Subject: RE: Tiffany & Co v. Koury

Thank you.

Once again you appear to have improperly objected to the number of our interrogatories. So we can attempt to resolve this matter amicably, or so we can determine if we need to move to compel proper responses, please provide us with your count of our client's interrogatories immediately.

Also, you have not supplemented your responses to our client's first set of requests, which you promised to provide "at the same time, or before, we respond to your Second Set of Requests [i.e., today]," and you have not provided the written response to our earlier deficiency letter we repeatedly requested. Please immediately let us know when you intend to do so, and when you intend to provide the remainder of your client's document production.

Thanks,

Evan

-----Original Message-----
From: Lane [mailto:kathy@NewmanDichter.com]
Sent: Monday, June 02, 2008 2:20 PM
To: Evan Gourvitz
Subject: Tiffany & Co v. Koury

Evan, Attached please find Appliclant's Response to Opposer's Second Set of Interrogatories and Response to Opposer's Second Set of Request for Admission. I will send the signed hard copy via mail.
Also, please be advised that at this time some of our Madison Avenue mail is still being returned by the post office (I do not know why) so at this point if you have a need to mail a hard copy please forward it to the Seattle office and they will re-route it to me in NY.
Thank you.
Kathy

EXHIBIT 8

Evan Gourvitz

From: Evan Gourvitz
Sent: Tuesday, June 03, 2008 6:23 PM
To: Lane
Cc: Barbara Solomon
Subject: Tiffany & Co. v Koury

Kathy:

We disagree that the documents you have provided to date "clearly substantiate" that your client's application was not fraudulent.

We still await your client's full document production, its supplemented responses to our client's first set of discovery responses, a written response to our deficiency letter, and the basis for your calculation of the number of interrogatories served.

Once your client's outstanding discovery deficiencies have been resolved, we will have a better sense of the merits of your client's arguments and would be happy to discuss settlement. Nevertheless, if you already have a proposal in mind please provide it to us and we will pass it along to our client.

Thanks,

Evan

-----Original Message-----
From: Lane [mailto:kathy@NewmanDichter.com]
Sent: Tuesday, June 03, 2008 11:06 AM
To: Evan Gourvitz
Subject: Tiffany & Co. v Koury

Evan,
Attached you will find documents Bates Stamped 000039-000052.
000039-000040 are each purchase orders for samples, dated March 13, 2005 and March 30, 2005 respectively
000041 is an invoice, dated November 28, 2005 for "tags" which read "Tiffany Koury"
000042 is an order for a dress ("Dolores"), dated June 5, 2005
000043 is an invoice, dated December 9, 2005, for patterns
000044 through 000052 are orders for dress, dated October 30, 2005 which were placed at a trunk show.

We submit that these documents combined with the report of The Doneger Group clearly substantiate our client's use of her name on her product within the category of clothing in accordance with the dates set forth in her application and clearly prior to the date of her application. Our reading of of your client's opposition reveals that the basis for said opposition is fraud regarding the date of first use. We submit that it is manifest there was no fraud in our client's application. We submit that it is in each parties best interest to resolve this issue amicably, at this point in time. While we believe that our client will prevail in this proceeding based upon her clear use of the mark in a timely fashion, we would also be amenable to an earlier resolution that would be satisfactory to both sides.
Your thoughts are welcome.
Thank you.
Kathy

EXHIBIT 9

Evan Gourvitz

From: Evan Gourvitz
Sent: Thursday, June 19, 2008 5:41 PM
To: 'Lane'
Cc: Barbara Solomon
Subject: RE: Tiffany & Co v. Koury

2008.06.20.PDF
(255 KB)

Kathy:

Unfortunately, you and your client do not seem to be taking your discovery obligations seriously.

More particularly, despite our repeated requests you still have not provided us with the materials you promised, including, as noted below, (1) your supplemented responses to our client's first set of discovery requests, (2) your written response to our April 24, 2008 deficiency letter, and (3) your count of our client's interrogatories.

While our client is willing to explore settlement, and while we await your proposal, our settlement discussions DO NOT relieve you or your client of your ongoing discovery obligations. Accordingly, please immediately inform us of when we should expect to receive the information and materials noted above.

Finally, given recent changes to our client's corporate structure we intend to file a motion to substitute Tiffany (NJ) LLC for Tiffany (NJ) Inc. as the opposer in our action. (A copy of the proposed motion is attached.) Please let us know if you will consent. If not, we will file it without consent.

We look forward to hearing from you.

Thanks,

Evan

-----Original Message-----
From: Evan Gourvitz
Sent: Monday, June 02, 2008 2:46 PM
To: Lane
Cc: Barbara Solomon
Subject: RE: Tiffany & Co v. Koury

Thank you.

Once again you appear to have improperly objected to the number of our interrogatories. So we can attempt to resolve this matter amicably, or so we can determine if we need to move to compel proper responses, please provide us with your count of our client's interrogatories immediately.

Also, you have not supplemented your responses to our client's first set of requests, which you promised to provide "at the same time, or before, we respond to your Second Set of Requests [i.e., today]," and you have not provided the written response to our earlier deficiency letter we repeatedly requested. Please immediately let us know when you intend to do so, and when you intend to provide the remainder of your client's document production.

Thanks,

Evan

-----Original Message-----
From: Lane [mailto:kathy@NewmanDichter.com]
Sent: Monday, June 02, 2008 2:20 PM
To: Evan Gourvitz
Subject: Tiffany & Co v. Koury

Evan, Attached please find Appliclant's Response to Opposer's Second Set of Interrogatories and Response to Opposer's Second Set of Request for Admission. I will send the signed hard copy via mail.
Also, please be advised that at this time some of our Madison Avenue mail is still being returned by the post office (I do not know why) so at this point if you have a need to mail a hard copy please forward it to the Seattle office and they will re-route it to me in NY.
Thank you.
Kathy

Evan Gourvitz

From: Evan Gourvitz
Sent: Monday, June 30, 2008 5:49 PM
To: Lane
Cc: Barbara Solomon
Subject: RE: Tiffany & Co v. Koury

Kathy:

Since we assume you're back in the office, please let us know when you will remedy the deficiencies noted below.

Given our extensive correspondence on these issues to date (which satisfies our obligation to meet and confer), and your repeated failure to remedy your client's deficiencies, or even provide a substantive response, if you will not remedy these deficiencies by July 11 we intend to move to compel.

If you wish to offer a settlement proposal by July 11 we will consider that as well. However, as noted below, any such proposal does not relieve you or your client of your discovery obligations.

Again, we look forward to hearing from you.

Thanks,

Evan

-----Original Message-----
From: Lane [mailto:kathy@NewmanDichter.com]
Sent: Tuesday, June 24, 2008 1:08 PM
To: Evan Gourvitz
Subject: RE: Tiffany & Co v. Koury

I am not in the office this week but am checking email remotely.
You have my consent for your motion.
Thank you.
Kathy

>>> "Evan Gourvitz" <EGourvitz@frosszelnick.com> 06/19/08 2:40 PM >>>
Kathy:

Unfortunately, you and your client do not seem to be taking your discovery obligations seriously.

More particularly, despite our repeated requests you still have not provided us with the materials you promised, including, as noted below, (1) your supplemented responses to our client's first set of discovery requests, (2) your written response to our April 24, 2008 deficiency letter, and (3) your count of our client's interrogatories.

While our client is willing to explore settlement, and while we await your proposal, our settlement discussions DO NOT relieve you or your client of your ongoing discovery obligations. Accordingly, please immediately inform us of when we should expect to receive the information and materials noted above.

Finally, given recent changes to our client's corporate structure we intend to file a motion to substitute Tiffany (NJ) LLC for Tiffany (NJ) Inc. as the opposer in our action. (A copy of the proposed motion is attached.) Please let us know if you will consent. If not, we will file it without consent.

We look forward to hearing from you.

Thanks,

Evan

-----Original Message-----
From: Evan Gourvitz
Sent: Monday, June 02, 2008 2:46 PM
To: Lane
Cc: Barbara Solomon
Subject: RE: Tiffany & Co v. Koury

Thank you.

Once again you appear to have improperly objected to the number of our interrogatories. So we can attempt to resolve this matter amicably, or so we can determine if we need to move to compel proper responses, please provide us with your count of our client's interrogatories immediately.

Also, you have not supplemented your responses to our client's first set of requests, which you promised to provide "at the same time, or before, we respond to your Second Set of Requests [i.e., today]," and you have not provided the written response to our earlier deficiency letter we repeatedly requested. Please immediately let us know when you intend to do so, and when you intend to provide the remainder of your client's document production.

Thanks,

Evan

-----Original Message-----
From: Lane [mailto:kathy@NewmanDichter.com]
Sent: Monday, June 02, 2008 2:20 PM
To: Evan Gourvitz
Subject: Tiffany & Co v. Koury

Evan, Attached please find Appliclant's Response to Opposer's Second Set of Interrogatories and Response to Opposer's Second Set of Request for Admission. I will send the signed hard copy via mail.
Also, please be advised that at this time some of our Madison Avenue mail is still being returned by the post office (I do not know why) so at this point if you have a need to mail a hard copy please forward it to the Seattle office and they will re-route it to me in NY.
Thank you.
Kathy

The information contained in this email message may be privileged, confidential, and protected from disclosure. Any unauthorized use, printing, copying, disclosure or dissemination of this communication may be subject to legal restriction or sanction. If you think that you have received this email message in error, please reply to the sender.

Evan Gourvitz

From: Evan Gourvitz
Sent: Monday, July 14, 2008 4:17 PM
To: 'Lane'
Cc: Barbara Solomon
Subject: RE: Tiffany & Co v. Koury

Kathy:

Just following up.

Please let us know today if you sent us (1) your supplemented responses to our client's first set of discovery requests, (2) your written response to our April 24, 2008 deficiency letter, and (3) your count of our client's interrogatories, and, if so, when we should expect to receive them.

Thanks,

Evan

-----Original Message-----
From: Evan Gourvitz
Sent: Wednesday, July 02, 2008 3:39 PM
To: Lane
Cc: Barbara Solomon
Subject: RE: Tiffany & Co v. Koury

Kathy:

As I said in my June 10 email to you, if you would like to make a settlement proposal, please do so.

We look forward to hearing from you regarding your client's discovery deficiencies by July 11.

Thanks,

Evan

-----Original Message-----
From: Lane [mailto:kathy@NewmanDichter.com]
Sent: Wednesday, July 02, 2008 2:18 PM
To: Evan Gourvitz
Subject: RE: Tiffany & Co v. Koury

Evan,
I am in possession of some of the correspondence between Barbara Solomon and Cathy Stuart, prior counsel for Tiffany Koury. Particularly, I am in possession of Ms. Solomon's August 15, 2006 and October 6, 2006 and Cathy Stuart's correspondence dated September 21, 2006. The two seemed to have reached an impasse. Before we renew this discussion I query whether your client is willing to negotiate any of the terms set forth in the August 15, 2006 correspondence, if so then it is our intention to embark upon fruitful discussion. Kindly advise at your earliest convenience.

The portion of your email directed at the discovery issues is noted.

Thank you.

Kathy

>>> "Evan Gourvitz" <EGourvitz@frosszelnick.com> 06/30/08 2:49 PM >>>
Kathy:

Since we assume you're back in the office, please let us know when you will remedy the deficiencies noted below.

Given our extensive correspondence on these issues to date (which satisfies our obligation to meet and confer), and your repeated failure to remedy your client's deficiencies, or even provide a substantive response, if you will not remedy these deficiencies by July 11 we intend to move to compel.

If you wish to offer a settlement proposal by July 11 we will consider that as well. However, as noted below, any such proposal does not relieve you or your client of your discovery obligations.

Again, we look forward to hearing from you.

Thanks,

Evan

-----Original Message-----
From: Lane [mailto:kathy@NewmanDichter.com]
Sent: Tuesday, June 24, 2008 1:08 PM
To: Evan Gourvitz
Subject: RE: Tiffany & Co v. Koury

I am not in the office this week but am checking email remotely.
You have my consent for your motion.
Thank you.
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>>> "Evan Gourvitz" <EGourvitz@frosszelnick.com> 06/19/08 2:40 PM >>>
Kathy:

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We look forward to hearing from you.

Thanks,

Evan

-----Original Message-----
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Sent: Monday, June 02, 2008 2:46 PM
To: Lane
Cc: Barbara Solomon
Subject: RE: Tiffany & Co v. Koury

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Evan

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To: Evan Gourvitz
Subject: Tiffany & Co v. Koury

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Kathy

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EXHIBIT 10

newman//dichter

ATTORNEYS AT LAW

Newman Dichter LLP
488 Madison Avenue
New York, New York
10022

phone 212.593.4202
fax 206.274.2801

www.newmandichter.com
info@newmandichter.com

July 16, 2008

Fross Zelnick Lehrman & Zissu, P.C.
866 United Nations Plaza
New York, NY 10017

Re: Tiffany (NJ) Inc. v. Tiffany C. Koury, Opposition No.: 91-181,035

Dear Mr. Gourvitz:

We are in receipt of your request that we address certain outstanding discovery issues. Initially, we have previously sent you a Supplemental Response to your First Set of Request for Production of Documents and Things. It is our position that this addresses many of the items in Ms. Solomon's April 24, 2008 correspondence. It is further our position that we are not obligated to engage in a line by line response to said correspondence. Notwithstanding this, over the past several months I have emailed you various additional items to further meet our discovery obligations.

Next, while I understand your objection to our reference to Ms. Koury's website, it is, in this instance, the best representation and response to certain issues. In the meantime, please understand that as your "Request No. 1" seeks "Documents sufficient to show the nature of the business conducted by Applicant in connection with Applicant's Mark", reference to the website is clearly responsive to this request. However, I have requested that the website be electronically stored on disc and upon my receipt of same I will forward to you.

As to your request that we submit to you a count of your interrogatories, you are of course aware that this is not an appropriate request. However, as you couched your request in language indicating that the reason for this request was in the spirit of working out discovery issues, we will respond. We will not however be bound by our count. We submit that at the most conservative your interrogatories total in excess of ninety (90). Further, were our client to answer certain interrogatories with regard to each product offered for sale, as your Demand indicates, this number would increase dramatically and easily climb into the hundreds.

As to the necessary verifications, you should receive same shortly.

During the course of discovery we have provided you with representations of our client's goods used in conjunction with the mark in question. We have also provided you with dated sales receipts, look books, trunk show invitations, new media advertising, and print references. As to any other specific items or issues, upon which you seek clarification, please advise and in an effort to amicably proceed we will make every reasonable effort to respond.

Sincerely,

Kathy Lane

Kathy Lane

EXHIBIT 11

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

In the Matter of Application Serial No.: 78/912,427
Published in the Official Gazette on September 4, 2007

TIFFANY (NJ) INC.,	:
Opposer	:
	Opposition No.: 91181035
TIFFANY C. KOURY,	:
Applicant.	:

APPLICANT'S SUPPLEMETNAL RESPONSE TO OPPOSER'S FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS AND THINGS

The following responses are based upon information known at this time and documents available at this time and are given without prejudice to Applicant's right to produce subsequently discovered evidence and facts, and to, add to, modify or change the answers submitted herein.

Response No. 1

Opposer is referred to Applicant's website at tiffanykoury.com which will be sufficient to show the nature of the business conducted by Applicant, opposer is referred to the Tiffany Koury Look Book previously provided.

Response No. 2

See Response No. 1.

Response No. 3

See attached Invitations to Trunk Shows, Bates No. 000001 and 00002. See attached print out of Applicant's application and specimens which is available at the Patent and Trademark Office website, Bates Nos. 00003-000010. See also Applicant's Trademark Registration Application available at the Patent and Trademark Office website.

Response No. 4

See Applicant's website and the attached Look Book for 2007. At this time, Applicant cannot locate paper copies of Look Book for 2006 and 2005 but same are available for viewing on the website.

Response No. 5

See Applicant's website and Look Book.

Response No. 6.

See response No. 5.

Response No. 7

Objection. Applicant objects to this request as it is inapplicable to the proceeding herein. Opposer has objected to Applicant's mark based solely upon the date of first use in commerce.

Response No. 8.

Attached see a copy of Applicant's NYS Driver's License and Passport, Bates Nos. 000011 - 000012.

Response No. 9.

Objection. See Response No. 7. Furthermore, the mark is Applicant's given name.

Response No. 10.

Objection. See Response No. 9.

Response No. 11

Objection. See Response No. 9.

Response No. 12

Objection. See Response No. 9

Response No. 13
Objection. See Response No. 9

Response No. 14
Objection. See Response No. 9

Response No. 15
Objection. See Response No. 9. Notwithstanding the objection, Opposer is referred to Response No. 4

Response No. 16
Objection. See Response No. 9

Response No. 17
See Response No. 3. Applicant will supplement this response if additional documents or photographs of said event become available.

Response No. 18
Objection. See Response No. 9

Response No. 19
Objection. See Response No. 9.

Response No. 20
Objection. See Response No. 9.

Response No. 21
Objection. See Response No. 9.

Response No. 22
Objection. See Response No. 9

Response No. 23
Objection. Producing said emails would violate attorney/client privilege.

Response No. 24
Objection. See Response No. 9. Notwithstanding said objection, Applicant is unaware of any instances of actual confusion.

Response No. 25
Objection. See Response No. 9. Notwithstanding said objection, there are no such documents at this time.

Response No. 26

Objection. See Response No. 9. Notwithstanding said objection, there are no such documents at this time.

Response No. 27

See Response to No. 3. Opposer is specifically referred to the portion of the Application which indicates that the date of first use in commerce is October 1, 2005 not June 15, 2005, Bates 000004.

Response No. 28

See Response No. 3 and No. 27.

Response No. 29

See Response No. 3 and No. 27.

Response No. 30

See Response No. 3 and No. 27.

Response No. 31

See Response No. 3 and No. 27.

Response No. 32

See Response No. 3 and No. 27.

Response No. 33

See Response No. 3 and No. 27.

Response No. 34

See Response No. 3 and No. 27. See also the attached findings, office action, and notice of publication, Bates No. 000014-000018.

Response No. 35

See Response No. 34.

Response No. 36

See attached items from the Trademark Electronic Search System (TESS), Bates Nos. 000019-000026.

Response No. 37

See Response No. 9.

Response No. 38

See Response No. 9

Response No. 39
See Response No. 9

Response No. 40
See Response No. 9

Dated: New York, New York
June 2, 2008

NEWMAN DICHTER LLP
By:_____
Kathy Lane
488 Madison Avenue
New York, NY 10022
(212)593-4202

EXHIBIT 12

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

In the Matter of Application Serial No. 78/912,427
Published in the Official Gazette on September 4, 2007

TIFFANY (NJ) INC., Opposer, v. TIFFANY C. KOURY, Applicant.	Opposition No. 91181035

OPPOSER'S FIRST SET OF INTERROGATORIES

Pursuant to Rule 2.120(d) of the Trademark Rules of Practice and Rule 33 of the Federal Rules of Civil Procedure, Opposer Tiffany (NJ) Inc. requests that Applicant Tiffany C. Koury respond to the following interrogatories by serving its responses at the offices of Opposer's attorneys, Fross Zelnick Lehrman & Zissu, P.C., 866 United Nations Plaza, New York, New York 10017, Attention: Evan Gourvitz, within the time permitted by the applicable Federal Rules of Civil Procedure and Trademark Rules of Practice.

DEFINITIONS

A. The terms "Applicant," "you," or "your" mean Applicant Tiffany C. Koury, and any affiliate, licensee, franchisee, successor, predecessor in interest, assignee or other related business entity thereof, and the predecessors of any of them and every officer, employee, agent, attorney or other person acting or purporting to act on their behalf.

B. The terms "Opposer" or "Tiffany" mean Opposer Tiffany (NJ) Inc. and any division, parent, subsidiary, affiliate, licensee, franchisee, successor, predecessor in interest, assignee or other related business entity thereof, and the predecessors of any of them.

C. The term "Applicant's Mark" means the TIFFANY KOURY mark set forth in U.S. Application Serial No. 78/912,427.

D. The term "Opposer's Mark" means, individually and collectively, any mark owned or used by Opposer that consists of or includes the word TIFFANY, including but not limited to the marks of Opposer pleaded in its Notice of Opposition.

E. The term "identify" when used in reference to:

(1) an individual means to state his or her full name, the name and address of his or her employer, his or her present title or position, and the address at which he or she is currently employed;

(2) an oral communication means to describe the date and time of the communication, the place where the communication occurred, the persons involved in the communication, any other person present, and the substance of the communication;

(3) a business entity or institution means to state, to the extent known, its full name and address;

(4) a document means to describe specifically the document, including, where applicable, the subject matter of the document, its date, the name, title and address of each writer or sender and each recipient, its present location and custodian, and, if any such document is not in Applicant's possession or subject to its control, state what disposition was made of it, by whom, and the

date thereof. A copy of the document may be furnished in lieu of identifying it, provided the document contains the above information or Applicant separately furnishes it when furnishing the document.

F. The term "describe," with respect to communications, shall mean to state or identify the date, time of day, duration, location, persons involved, witnesses, physical occurrences, and a summary of the substance of any conversations. With respect to documents, "describe" shall mean to identify the type of document, its date, its author, its recipients, and to provide a summary of the substance thereof.

G. The term "document" shall include, without limitation, any tangible thing in Applicant's possession, custody or control, or of which Applicant has knowledge, wherever located, whether sent or received or neither, whether an original or a copy, including, without limitation, correspondence, memoranda, printed matter, reports, records, notes, calendars, diaries, telegrams, telexes, studies, market surveys, market research, tabulations, contracts, invoices, receipts, vouchers, registrations, books of account or financial records, notes, advertisements, trademark search reports, directories, publications, computer tapes and printouts, microfilms or the like, and photographs. This definition shall include electronic or data compilations (including email). In all cases each non-identical copy of an original document should be produced.

H. Whenever the terms "and" and "or" are used they are to be construed both disjunctively and conjunctively as necessary to bring within the scope of these discovery requests responses that might otherwise be construed to be outside the scope.

I. The use of the singular form of any word includes the plural and vice versa.

J. In answering these interrogatories, even though the questions may be directed to

"you," furnish all information, which is available to you, including information in the possession of your attorneys or investigators prepared on your behalf. If you cannot answer any of the following interrogatories in full after exercising due diligence to secure the information, state an answer, to the extent possible, specifying your inability to answer the remainder and stating whatever information or knowledge you have concerning the unanswered portions.

K. To the extent that any of the following interrogatories may call for information subject to a claim of privilege or attorney work product, answer so much of each interrogatory and each part thereof as does not request privileged or confidential information. With respect to those portions of these interrogatories that request information that you believe is subject to a claim of privilege, set forth the basis for your claim of privilege or any other objection you may have.

L. For the convenience of the Board and the parties, each interrogatory should be quoted in full immediately preceding the response.

M. These discovery requests are intended to be continuing. If, at any time after you prepare and furnish the requested discovery, you ascertain or acquire additional information, you are requested to produce such supplemental information to Opposer within thirty (30) days.

INTERROGATORIES

Interrogatory No. 1:

Describe in detail the nature of the business currently conducted by Applicant in connection with Applicant's Mark, including the product lines sold or provided, or intended to be sold or provided, by Applicant in connection with Applicant's Mark.

Interrogatory No. 2:

Identify each product that Applicant has sold under Applicant's Mark to date, and state the date of first sale for each such product. If ay product category (*e.g.*, dresses, skirts, etc.) have been discontinued, state for the category of goods discontinued the date of discontinuance and the reason for discontinuance.

Interrogatory No. 3:

Identify each product that Applicant intends to sell or has considered selling, but has not yet sold under Applicant's Mark.

Interrogatory No. 4:

For each product in connection with which you have used Applicant's Mark, or plan to do so, identify all venues, trunk shows, or other avenues where such products are available for sale, have been available for sale, or are to be available for sale.

Interrogatory No. 5:

Set forth the wholesale and retail prices of each product sold or provided, or intended to be sold or provided, by Applicant under Applicant's Mark.

Interrogatory No. 6:

Describe the nature of all advertisements and promotional materials for goods that you sell and provide, or intend to sell or provide, under Applicant's Mark, and how the mark is used or intended to be used in connection with each (*e.g.*, as part of a logo or slogan, in conjunction with a house mark, etc.)

Interrogatory No. 7:

State the amount of money Applicant has spent to date to advertise and promote goods bearing Applicant's Mark.

Interrogatory No. 8:

Set forth all projections for the next five years for (i) your sales of goods bearing or sold in connection with Applicant's Mark, (ii) your profits for goods bearing or sold in connection with Applicant's Mark, and (iii) your advertising expenditures in connection with Applicant's Mark and goods bearing or sold in connection with that mark.

Interrogatory No. 9:

Describe how and when you first became aware of Opposer's Mark.

Interrogatory No. 10:

Identify all third party uses of marks that consist of or include TIFFANY on which you intend to rely in this opposition, and for each such mark, identify (i) its owner, (ii) the goods or services in connection with which it is used, (iii) the consumers for the those goods or services, and (iv) any evidence of consumer recognition of the mark.

Interrogatory No. 11:

Describe in detail any instances of actual confusion between (i) Applicant, Applicant's Mark, or the products sold or intended to be sold in connection with Applicant's Mark, on the one hand, and (ii) Opposer, Opposer's Mark, or the products sold in connection with Opposer's Mark, on the other hand.

Interrogatory No. 12:

Describe in detail the basis for your denial in paragraph 7 of your Amended Answer that "Opposer's registrations for the TIFFANY and TIFFANY & CO. marks are valid, subsisting and in full force and effect, and serve as evidence of Opposer's exclusive right to use the mark in commerce on or in connection with the goods and services identified in the registrations, as provided by Section 33(b) of the Lanham Act, 15 U.S.C. § 1115(b)."

Interrogatory No. 13:

(26) Describe in detail the basis for your denial in paragraph 10 of your Amended Answer that "[i]n addition to using TIFFANY as a trademark for more than 150 years, Opposer has used TIFFANY exclusively as its trade name since the company's creation in 1837. As a result of such use, the TIFFANY name is associated exclusively with Opposer and connotes Opposer as a centuries-old institution."

Interrogatory No. 14:

(27) Describe in detail the basis for your denial in paragraph 13 of your Amended Answer that "[i]n connection with Application Serial No. 78/912,427, Applicant swore under oath, *inter alia*, that she had been using the TIFFANY KOURY mark in commerce in connection with each of the identified goods as of June 15, 2005."

Interrogatory No. 15:

(28) Describe in detail the basis for your denial in paragraph 14 of your Amended Answer that "Applicant in fact had not used the TIFFANY KOURY mark in commerce in connection with each of the goods identified in the Application as of the dates alleged in the application."

Interrogatory No. 16:

(29) Describe in detail the basis for your denial in paragraph 15 of your Amended Answer that "Applicant's statement in connection with Application Serial No. 78/912,427 that she had been using the TIFFANY KOURY mark in connection with each of the goods identified therein as of the date alleged in the application was therefore false and known to be so when made."

Interrogatory No. 17:

(30) Describe in detail the basis for your denial in paragraph 16 of your Amended Answer that "Applicant knowingly, willfully and in bad faith made false and fraudulent statements in

connection with Application Serial No. 78/912,427 in an attempt to deceive the PTO and in order to obtain a registration."

Interrogatory No. 18:

(31) Describe in detail the basis for your denial in paragraph 17 of your Amended Answer that "Applicant's allegation of use in connection with all of the items identified in her Application was falsely made and was made for the purpose of inducing the Patent and Trademark Office to register the mark."

Interrogatory No. 19:

(32) Describe in detail the basis for your denial in paragraph 18 of your Amended Answer that "Applicant's conduct constitutes fraud on the Patent and Trademark Office."

Interrogatory No. 20:

(33) Describe in detail the basis for your denial in paragraph 19 of your Amended Answer that "As a result of Applicant's false statement, Applicant's mark has been passed to publication and may issue to registration."

Interrogatory No. 21:

(34) Describe in detail the basis for your denial in paragraph 20 of your Amended Answer that "If Application Serial No. 78/912,427 matures to registration, Opposer would be damaged since it would allow Applicant to claim exclusive rights to the TIFFANY KOURY mark. Such claim of exclusive rights is inconsistent with Opposer's prior rights in the TIFFANY and TIFFANY CO. trademarks."

Interrogatory No. 22:

35 Describe in detail the basis for your denial in paragraph 21 of your Amended Answer that "By reason of the foregoing, Opposer is likely to be harmed by registration of Application Serial No. 78/912,427 for the mark TIFFANY KOURY."

Interrogatory No. 23:

36 Describe in detail your basis for the contention in paragraph 24 of your amended answer to Opposer's notice of opposition that "the full name 'Tiffany Koury' is associated with couture fashion."

Interrogatory No. 24:

Set forth in detail the evidence to support your affirmative defenses of 37 acquiescence and 38 estoppel.

Interrogatory No. 25:

39 Set forth in detail the evidence to support your affirmative defense that there is no likelihood of confusion.

Interrogatory No. 26:

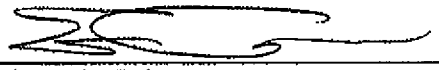
40 To the extent you contend that jewelry is not related to couture fashion, describe in detail the basis for that contention.

Interrogatory No. 27:

41 To the extent you contend that no fashion house offers both jewelry and fashion under the same mark, describe in detail the basis for that contention.

Dated: New York, New York
March 19, 2008

FROSS ZELNICK LEHRMAN & ZISSU, P.C.



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

In the Matter of Application Serial No. 78/912,427
Published in the Official Gazette on September 4, 2007

TIFFANY (NJ) INC., Opposer, v. TIFFANY C. KOURY, Applicant.	Opposition No. 91181035

OPPOSER'S SECOND SET OF INTERROGATORIES

Pursuant to Rule 2.120(d) of the Trademark Rules of Practice and Rule 33 of the Federal Rules of Civil Procedure, Opposer Tiffany (NJ) Inc. requests that Applicant Tiffany C. Koury respond to the following interrogatories by serving its responses at the offices of Opposer's attorneys, Fross Zelnick Lehrman & Zissu, P.C., 866 United Nations Plaza, New York, New York 10017, Attention: Evan Gourvitz, within the time permitted by the applicable Federal Rules of Civil Procedure and Trademark Rules of Practice.

DEFINITIONS

Opposer hereby incorporates by reference the Definitions set forth in its First Set of Interrogatories to Applicant.

INTERROGATORIES

Interrogatory No. 28:

(42) Describe in detail your document retention policy, including for electronically-stored information.

Interrogatory No. 29:

43 Describe in detail the manner in which you keep your business records and any personal records relevant to this proceeding, including without limitation 44 (i) whether and the extent to which such documents are kept in electronic form, such as emails, mailing lists, spreadsheets, or PowerPoint presentations, 45 (ii) where such documents are located, 46 (iii) the specific steps you have taken since the commencement of this action to preserve all such documents, and 47 (iv) whether any such documents have been destroyed since the commencement of this action.

Interrogatory No. 30:

48 Set forth all reasons for deleting skirts, dress shirts, T-shirts, sweatshirts, tank tops, sweaters, jerseys, turtle necks, golf shirts, shorts, sweatpants, warm-up suits, blazers, pants, jeans, capris, overalls, vests, jackets, coats, parkas, windbreakers, sleepwear, pajamas, robes, intimates, socks, hosiery, shoes, boots, sneakers, beach shoes, flip-flops, sandals, slippers, scarves, gloves, and suspenders from the description of goods in your Application Serial No. 78/912,427 (the "Application").

Interrogatory No. 31:

Identify 49 all goods you sold or offered for sale under or in connection with Applicant's Mark as of (i) June 15, 2005, 50 (ii) October 1, 2005, 51 (iii) June 20, 2006, and 52 (iv) June 4, 2007.

Interrogatory No. 32:

Describe all uses made of Applicant's Mark in connection with each of the goods identified in the Application as of 53 (i) June 15, 2005, 54 (ii) October 1, 2005, 55 (iii) June 20, 2006, and 56 (iv) June 4, 2007.

Dated: New York, New York
April 25, 2008

FROSS ZELNICK LEHRMAN & ZISSU, P.C.

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