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Filing date: **04/21/2009**

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

Proceeding	91187465
Party	Defendant LIBERTY PETROLEUM, LLC
Correspondence Address	THOMAS W. COLE ROBERTS, MLOTKOWSKI Safran & Cole P.C. PO Box 10064 MC LEAN, VA 22102 UNITED STATES tcole@rmhlaw.com
Submission	Other Motions/Papers
Filer's Name	Thomas W. Cole
Filer's e-mail	tcole@rmsclaw.com
Signature	/Thomas W. Cole/
Date	04/21/2009
Attachments	Opposition91187465Initial Disclosures.pdf (5 pages)(113919 bytes)

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

Davis Industries, Inc., a Washington corporation,))	
Opposer)	
)	Opposition No. 91187465
v.)	Serial No. 77410917
)	Serial No. 77411015
)	Serial No. 77410965
Liberty Petroleum, LLC, a Virginia limited)	Serial No. 77410025
liability corporation,)	
Applicant)	

INITIAL DISCLOSURES

Applicant Liberty Petroleum, LLC by its undersigned counsel, hereby responds to the disclosure requirements of Fed. R. Civ. P. 26(a)(1) and Trademark Rule of Practice 2.120(a)(1).

By making these disclosures, Applicant does not admit that the disclosed information is discoverable, relevant, and/or admissible as evidence in this proceeding and Applicant does not waive any objection or privilege protecting the production or use of any document described herein or the testimony of any person identified. Applicant notes that its investigation and preparation is ongoing and expressly reserves its right to supplement or amend these initial disclosures at any time to the extent necessary, and to identify additional individuals, documents and other such information as it becomes available.

1. Individuals Likely To Have Discoverable Information That Applicant May Use To Support Its Claims

The following individuals are likely to have discoverable information that Applicant may use to support its claims:

John Patrick
Chief Operating Officer
Liberty Petroleum, LLC
708 Hayden Court West
Bel Air, MD 21014

Tom Alexander
Marketing Manager
Liberty Petroleum, LLC
629 Highway 158 East
Sunbury, NC 27979

Howard Bowen
Ewing Oil
11949 Robinwood Drive
Hagerstown, Maryland 21742-1949

These individuals may be contacted through undersigned counsel. These individuals are knowledgeable about Applicant's first use of its mark; the geographical expansion of the mark, the products and services offered in connection with the LIBERTY mark; product distribution and sales related to the same; and advertising and promotion of the same. Applicant's identification of these individuals does not constitute a waiver of any privileged communication to which such person may have been a party.

Applicant reserves the right to call upon an expert witness, as yet unidentified, that will testify to the relationship in the retail petroleum industry between marks used to

identify the retail distribution of petroleum products and marks used to identify the petroleum products so distributed.

Applicant further reserves its right to supplement this disclosure in the event that it discovers additional individuals likely to have discoverable information that it may use to support its claims.

2. Description of Documents, Data And Tangible Things That Applicant May Use To Support Its Claims

The following documents in the possession, custody, or control of Applicant may be used to support its claims in this matter. Documents to be used solely for impeachment purposes are not included herein.

a. Applicant's US Trademark Registration No. 2,307,665 for LIBERTY + Design, Registration No. 2,669,918 for the word mark LIBERTY, and Registration No. 2,669,919 for LIBERTY + Design.

b. Documents, to the extent that any exist, relating to advertising and promotional materials related to Applicant's mark;

c. Documents, to the extent that any exist, relating to the manner of Applicant's use of the LIBERTY mark and the geographical expansion of the use of the mark.

These documents will be located at Robert, Mlotkowski, Safran & Cole, PC, 7918 Jones Branch Drive, Suite 500, McLean, Virginia 22102 as they become available. Because discovery has just commenced in this proceeding, Applicant may discover additional documents in support of its position. Applicant reserves the right to

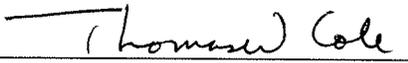
supplement its identification of documents herein to the extent, and at such time, as additional documents become available. In addition, Applicant reserves the right to rely on rebuttal documents in addition to those listed above in response to witnesses or evidence presented by Opposer in this case.

3. The disclosures called for under Fed. R. Civ. P. 26(a)(1)(A)(iii) and Trademark Rule of Practice 2.120(a)(1), are not applicable here.

4. The disclosures called for under Fed. R. Civ. P. 26(a)(1)(A)(iv) and Trademark Rule of Practice 2.120(a)(1), are not applicable here.

Respectfully submitted,

Date: April 21, 2009



Thomas W. Cole

Customer No. 25570
Roberts Mlotkowski Safran & Cole P.C.
P.O. Box 10064
McLean, VA 22102
Telephone: (703) 677-3001
Facsimile: (703) 848 2981

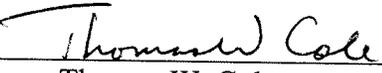
Attorneys for Applicant

Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record both by first class mail and email (by agreement only) to Davis Industries' counsel, Robert J. Carlson, Christensen O'Connor Johnson Kindness PLLC located at 1420 Fifth Avenue, Suite 2800, Seattle, Washington 98101 on this date.

Respectfully submitted,

Date: April 21, 2009



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