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

Proceeding	91190169
Party	Plaintiff SUSINO UMBRELLA CO., LTD.
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Submission	Reply in Support of Motion
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Signature	/brian j. hurh/
Date	10/12/2010
Attachments	Opposers Reply to Response.pdf (23 pages)(979860 bytes)

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

In the Matter of App. Ser. No. 77/355,544	)	
	)	
Susino Umbrella Co., Ltd.,	)	
	)	
Opposer,	)	
v.	)	Opposition No. 91190169
	)	
Susino USA LLC,	)	
	)	
Applicant.	)	

OPPOSER'S REPLY TO
APPLICANT'S RESPONSE TO OPPOSER'S MOTION FOR RELIEF OF JUDGMENT

Opposer Susino Umbrella Co., Ltd. ("Opposer" or "Susino Umbrella") hereby replies to the "Response to Opposers [sic] Motion for Relief of Judgment" ("Response") filed by Applicant Susino USA, LLC ("Applicant").

The Response attempts to show that Opposer received Applicant's request for admissions by presenting emails purportedly written by Opposer's President, Anbang Wang, and an elaborate email tracking report purportedly demonstrating that Opposer accessed Applicant's email containing the request for admissions "no less than nine (9) times." Applicant also argues that its failure to use the proper postal code "does not rise to excusable neglect or surprise."

While Opposer can easily rebut those allegations, the Response fails in one very significant way – it fails to rebut, or even attempt to rebut, the fact that Opposer never received Applicant's motion for summary judgment ("Summary Judgment Motion"). That is key because the Motion for Relief turns on whether Opposer had adequate notice and an opportunity to respond to the Summary Judgment Motion prior to the Board granting the Motion as conceded. Without any declaration, affidavit, documentary evidence or argument, Applicant has essentially

conceded that Opposer was never served with the Summary Judgment Motion. Because Opposer had no such notice or opportunity to respond, relief from the Board's default judgment is warranted under Fed. R. Civ. P. Rule 60(b).

1. Applicant Does Not Allege That Opposer Had Notice of the Summary Judgment Motion

In its Motion for Relief, Opposer demonstrated that it never received a copy of Applicant's Summary Judgment Motion because Applicant failed to properly serve the Summary Judgment Motion, either by mail or email. Although the declaration of Opposer's President is sufficient to show this, attached hereto are corroborating declarations from Opposer's employees Jorzon Wang and Carter Guan, who had significant contact with Applicant during the course of Applicant's role as the sales agent for Opposer, and who were aware of this proceeding.

Applicant's Response does not refute the lack of service of the Summary Judgment Motion. In fact, Applicant admits that it did not use the correct postal code in mailing the Summary Judgment Motion to Opposer. At most, Applicant speculates that it "likely" used the correct mailing address on the mailing envelope, without any supporting evidence. It is more "likely," however, that Applicant used the same postal code on the envelope that appeared on the certificate of service.[1]

Additionally, the fact that Applicant may not have received an "undeliverable" notice is irrelevant, since the certificate of service is *prima facie* evidence of the address used to serve

[1] Applicant's reference to Opposer's WIPO and USPTO registrations to demonstrate that Opposer did not provide a postal code in those applications, *see* Response at 4-5, is a red herring because, for purposes of correspondence, the WIPO and USPTO registrations provide the full address of Opposer's agent, Kingsound & Partners, which includes, among other things, the necessary postal code 100045. In any event, whether Opposer listed its full address in another, separate proceeding is not relevant here.

another party.[2] *See* 37 C.F.R. § 2.119 ("A statement signed by the attorney or other authorized representative, attached to or appearing on the original paper when filed, clearly stating the date and manner in which service was made will be accepted as prima facie proof of service."); TBMP § 113.03 (certificate of service should "specify the name of each party or person upon whom service was made, and the address."). And this is not the case where Opposer is merely denying receipt of service despite proper delivery. *See Jack Lenor Larsen Inc. v. Chas. O. Larson Co.*, 44 USPQ2d 1950 (TTAB 1997). Here, Opposer has denied receipt of the Summary Judgment Motion because of *improper* service by Applicant.

It is also irrelevant whether the parties agreed to accept service via email, as Applicant claims, because the Summary Judgment Motion was never sent by email. Indeed, the certificate of service for the Summary Judgment Motion indicates only that the motion was mailed "first class postage repaid [sic]" on March 12, 2010. There is no indication that the motion was emailed to Opposer.[3] Had the motion been emailed, Applicant surely would have included, as it did with its request for admissions, a copy of an email showing that Applicant sent Opposer a copy of the Summary Judgment Motion or a declaration or affidavit attesting to that. Applicant, however, provided no evidence whatsoever showing that the Motion was emailed.

The Response suggests that Applicant is not responsible for ensuring the proper delivery of papers. *See* Response at 5 ("Opposers' [sic] conclusions imply it is ultimately up to the Applicant to insure Opposers' [sic] representative not only receive and but [sic] also they

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[2] The fact that the Board may have sent "several notices to the correct address and Opposer does not refer to these nor has any been reported as undeliverable" is irrelevant as well. *See* Response at 4 n.8; *see also* Response at 9 ("Opposer admits to receiving some notices and orders from the Board."). Opposer acknowledged that it received papers from the Board, because the Board presumably used the correct mailing address. Wang Declaration ¶ 40. Here, the evidence shows that Applicant did ***not*** use the correct mailing address.

[3] That Applicant may have used "diligent efforts" to discuss discovery with Opposer, *see* Response at 9, only goes to the allegation that Opposer may have received the request for admissions. It does not, however, demonstrate that Applicant used diligent efforts to properly serve the Summary Judgment Motion on Opposer.

respond....") Proper service is the responsibility of the moving party because the non-moving party would not otherwise know, or have reason to know, that a Summary Judgment Motion had been filed against it. *See* TBMP § 113.01 ("Every document filed in an inter partes proceeding before the Board ... must be served by the filing party upon every other party to the proceeding.").

Thus, there is no basis to find that Opposer received service of the Summary Judgment Motion or otherwise knew of its existence. The Motion for Relief establishes that Opposer never received the Motion by mail or email; the declarations attached hereto provide further support for this claim; and Applicant's Response makes no attempt to refute this. Accordingly, the Board should grant the Motion for Relief in order to give Opposer the opportunity it never had to respond to the Summary Judgment Motion.

2. Applicant's Evidence Fails to Demonstrate that Opposer had Notice of its Request for Admissions

Whether or not Opposer had notice of the request for admissions is secondary to Opposer's Motion for Relief, since Opposer did not receive the Motion for Summary Judgment. That alone warrants grant of Opposer's Motion. If the Board grants the Motion, Opposer will be able to show that it did not have notice of the request for admissions, Opposer's failure to answer of which was the sole basis of Applicant's Summary Judgment Motion.

In addressing the request for admissions, however, Applicant relies on exhibits purporting to show that Opposer's President, Mr. Anbang Wang, corresponded with Nadrich via email, as well as an email tracking report purporting to show that the request for admissions was "opened 9 times by 5 readers."[4] In fact, that evidence does not in any way demonstrate that

[4] These exhibits were not made of record or otherwise authenticated by Applicant. As noted in Opposer's opposition to Applicant's Motion to Strike, if the Board strikes Opposer's exhibits, it must strike Applicant's exhibits 4, 6, 8 and 9 as well.

Opposer received any of those emails, including the request for admissions. The email address used by Nadrich to correspond with Opposer, meihuaumbrella@yahoo.com.cn, has not been used by Opposer for at least four years and was not being used by Opposer during this proceeding. (Wang Declaration ¶ 32.) Furthermore, Nadrich could not have been corresponding with Opposer's President, "Anbang Wang," because Mr. Wang cannot read or understand English.[5] (Wang Declaration ¶ 3.)

Similarly, the email tracking report merely shows that *someone* accessed the email – but it does not show *who* accessed the email. Indeed, none of the five unique IP addresses shown in the tracking report are associated with Opposer or Opposer's location. (*See* Applicant's Response, Exhibit 9, showing that the email was accessed by IP addresses located in Beijing, Fujian and Tianjin; Opposer is located in Jinjiang.)

Accordingly, Opposer can show that it never received the request for admissions and that Opposer's President never communicated directly with Nadrich. However, for purposes of Opposer's Motion for Relief, it is sufficient to show that Opposer never received or had knowledge of Applicant's Summary Judgment Motion, which Applicant essentially concedes.

3. The Declaration of Anbang Wang Was Sufficient to Support the Facts Alleged in Opposer's Motion

Applicant complains that Opposer's single declaration is insufficient to support its Motion for Relief. There is no rule requiring multiple declarations to accompany a motion for relief. Moreover, because the Motion for Relief addresses matters of corporate authority and knowledge of pleadings, Mr. Wang, as Opposer's President and the authorizing representative

[5] The Response's claim that Opposer had knowledge of the use of email account is incorrect. The Wang Declaration states that Opposer did not know that this email account was being used presently, much less used to correspond with Nadrich during the proceeding. *See* Wang Declaration ¶ 32.

for this proceeding,[6] is the most competent person to address these issues. Nevertheless, the attached Declarations of Jorzon Wang and Carter Guan further demonstrate that Opposer had no knowledge of Applicant's request for admissions or its Summary Judgment Motion during the course of this proceeding.[7]

4. The *Pioneer* Factors Support Opposer's Motion for Relief

The fact that Opposer never received the Summary Judgment Motion justifies grant of Opposer's Motion under Fed. R. Civ. P. Rule 60(b)(4) and (6), without need to analyze the Motion under the *Pioneer* factors applicable to excusable neglect under Rule 60(b)(1). To the extent that the *Pioneer* factors apply, however, they fully support grant of Opposer's Motion for Relief, as explained in the Motion for Relief. First, granting the Motion for Relief will not "substantially prejudice Applicant's business interests" because Applicant does not have any SUSINO-related business interests to protect. Applicant presents no information or evidence to demonstrate Applicant's efforts or investments made in manufacturing, marketing or selling goods or services bearing the SUSINO mark. Indeed, as previously noted by Opposer, Applicant's principals Nadrich and Shyu were merely Opposer's U.S. sales agents in a business arrangement that apparently went sour. Nadrich and Shyu took advantage of Opposer's loss of U.S. rights in the SUSINO mark to apply for it themselves with the sole intent to use it to extort 7.5 million Chinese yuan (approximately $1 million in equivalent U.S. funds) from Opposer to buy the mark "back." With no business interest to protect, there can be no prejudice. Indeed, Applicant admitted in an email to undersigned counsel that it purportedly applied for registration

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[6] Applicant again misinterprets Mr. Wang's declaration that he "authorized Jorzon (Wang) to sign the agreement on behalf of Susino Umbrella" to mean that Jorzon had *all* authority to act on Susino Umbrella's behalf. Response at 3. Clearly this is not the case, as the statement simply explains that Jorzon had the authority to sign the agreement between Opposer and Stephanie Shyu – and nothing more. *See* Declaration of Jorzon Wang ¶ 14.

[7] Curiously, Applicant did not provide ***any*** affidavit or declaration to support the facts alleged in its Response.

of the SUSINO mark with Opposer's authorization (and accordingly, on Opposer's behalf) for the purpose of "insuring the right to the trademark were [sic] protected."

Nor would grant of the Motion for Relief cause undue delay. Opposer filed the Motion for Relief less than three months from the Board's order that terminated the proceeding. The Board has granted Rule 60(b) motions after far more time has passed. *See, e.g.*, CareerExchange, Inc. v. Corpnet Infohub, Ltd., 80 USPQ2d 1046 (TTAB 2005) (granting motion for relief filed 23 months after default judgment entered).

With respect to Applicant's contention that Opposer is bound by the decisions and conduct of its chosen representative, the Response ignores the fact that Opposer did not authorize Voson to act on its behalf, and did not have any knowledge of Voson's involvement in this case until after the Board terminated the proceeding. Because Jinxiang assigned the case to Voson without Opposer's knowledge or authorization, Voson should, at most, be considered Jinxiang's agent – but not Opposer's. *See* Restatement (Third) of Agency § 3.15, comment c (2005) ("If an agent acts without actual or apparent authority in purporting to appoint a subagent, the person so appointed is the agent solely of the appointing agent and is not the principal's subagent unless the principal ratifies the appointment."). Opposer did not ratify Jinxiang's appointment of Voson as a subagent because it never knew that Jinxiang had assigned the case to Voson (until after the close of the proceeding). As the Restatement notes, "[r]atification requires that the principal have actual knowledge of material facts." *Id.* § 4.06, comment b (2005).

Pioneer, and the Board cases that followed, are premised on the notion that a party chooses its counsel voluntarily. *Compare Link v. Wabash Railroad Co.*, 370 U.S. 626, 633-34 (1962) ("Petitioner *voluntarily* chose this attorney as his representative in the action, and he cannot now avoid the consequences of the acts or omissions of this *freely selected agent*.")

(emphasis added); *Gaylord Entertainment Co. v. Calvin Gilmore Productions, Inc.*, 59 USPQ2d 1369 (TTAB 2000) (finding that "inaction or even neglect by the client's *chosen attorney* will not excuse the inattention of the client so as to yield the client another day in court.") (internal quotations omitted) (emphasis added). Since Opposer did not freely or knowingly select Voson as its counsel in this proceeding, it should not be held to the consequences of Voson's unilateral decisions.

Finally, Opposer has acted in good faith because it reasonably believes that it is entitled to relief under Rule 60(b) due to Applicant's failure to serve the Summary Judgment Motion and discovery papers on Opposer, and Opposer filed a motion seeking such relief within a reasonable time. By contrast, there is ample evidence that Applicant has acted in bad faith by taking advantage of Susino Umbrella's foreign residency and unfamiliarity with U.S. trademark law to wrongfully attempt registration of a mark it knows (and has admitted) belongs to Opposer, to try and extort money from Opposer to buy the mark "back," and to fail to notify Opposer of its Summary Judgment Motion.

Respectfully submitted,

SUSINO UMBRELLA CO., LTD.

By: /brian j. hurh/

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Its Attorneys

October 12, 2010

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

In the Matter of App. Ser. No. 77/355,544	)	
	)	
Susino Umbrella Co., Ltd.,	)	
	)	
Opposer,	)	
v.	)	Opposition No. 91190169
	)	
Susino USA, LLC,	)	
	)	
Applicant.	)	

DECLARATION OF JIANZHANG "JORZON" WANG

I, Jianzhang "Jorzon" Wang, declare as follows:

1. I am over 18 years of age. I reside in Jinjiang, Fujian, China. I am a sales manager for Susino Umbrella Co., Ltd. ("Susino Umbrella"), the Opposer in the above-captioned proceeding.
2. I am fully competent to make this declaration, and I have personal knowledge of the facts stated in this declaration.
3. I am not a lawyer, and am not familiar with the legal procedures of the United States Trademark Trial and Appeal Board ("Board").
4. To the best of my knowledge, information and belief, all of the facts stated in this declaration are true and correct.

Responsibilities at Susino Umbrella

5. As a sales manager for Susino Umbrella, I am primarily employed in Susino Umbrella's factory located in Jinou Industrial Area, Dongshi Town, Jinjiang, Fujian, China, and am mainly responsible for general business administration and management, as well as for handling orders for Susino Umbrella's goods.
6. I have also assisted Mr. Anbang Wang, President of Susino Umbrella, by translating emails sent in English to his email address, master@susino.net.cn, including an email from Stephanie Shyu (with cc to Todd Nadrich) dated July 28, 2010, stating that the USPTO had issued a "certificate and registration for the trademark Susino to Susino USA, Ltd" and threatening that "ALL GOODS ARRIVING AT ANY US PORT WILL BE SEIZED AND LIQUIDATED FOR DAMAGES." A true and correct copy of this email was attached with other emails in Exhibit 4 to the Motion for Relief.
7. I also read and translated for Mr. Wang an email dated July 30, 2010, from Michael Lam of Hunta, Inc. with an attached fax from Shyu threatening to seize Mr. Lam's goods upon import to the U.S. A true and correct copy of that email, with attachments, was attached with other emails in Exhibit 4 to the Motion for Relief.

Relationship with Nadrich and Shyu

8. From 2002 to 2007, Nadrich and Shyu were Susino Umbrella's U.S. sales agents whose role was to solicit wholesale customers in the U.S. for Susino Umbrella's umbrellas. Susino Umbrella, as the Original Equipment Manufacturer ("OEM"),

would manufacture and ship the umbrellas, branded with the wholesale customers' logos or other markings, directly to the wholesale customer.

9. As Susino Umbrella's U.S. sales agents, Nadrich and Shyu would prepare purchase orders for wholesale customers in the U.S. and email the purchase orders to me or Carter Guan, another sales manager for Susino Umbrella. I would, in turn, direct the factory to manufacture umbrellas according to the specifications in the purchase order and ship the finished product directly to the wholesale customer. Nadrich and Shyu would also email me or Carter Guan regarding manufacturing and other issues relating to the purchase orders.

10. For example, between July 10, 2002 to April 15, 2005, I received, as attachments to emails, purchase orders prepared by Shyu or Nadrich for the manufacturing and delivery of umbrellas to wholesale customers in the U.S. I had also received during this time emails from Nadrich and Shyu regarding questions or concerns about customers' orders. True and correct copies of these emails, and purchase orders when attached, were included as part of a group of similar emails in Exhibit 6 to the Motion for Relief.

11. During the time that Nadrich and Shyu were soliciting customers for Susino Umbrella's umbrellas, neither Nadrich nor Shyu represented to me that either of them worked for or were otherwise associated with an entity called "Susino USA." In fact, Nadrich claimed to be the managing director for SSS International, as indicated by Nadrich's business card, which he gave to me. A true and correct copy of this business card was attached as part of Exhibit 3 to the Motion for Relief. Also, Shyu had claimed to be an employee of SSM Asia Ltd. and a sales manager

for Ti Fu Umbrella Co. / Ti Fu Enterprise, Ltd, as indicated by her business cards, which she gave to me. A true and correct copy of her business cards was attached as part of Exhibit 3 to the Motion for Relief.

12. At all times during this arrangement, Nadrich and Shyu acted only as the U.S. sales agents for Susino Umbrella, operating for the limited purpose of soliciting wholesale customers to purchase OEM umbrellas from Susino Umbrella.

13. During a visit to our factory in 2003, Nadrich and Shyu misrepresented themselves to a wholesale customer, who was also visiting the factory, as shareholders of the company, which was not true. I was present at the time of the misrepresentation, and later told them that this was not appropriate and that they must not misrepresent themselves as such in the future.

14. By email dated June 13, 2007 (with cc to Nadrich), Shyu presented Susino Umbrella with a proposed agreement as a means to "protect both of us" regarding "current OEM customers" only, and pursuant to which she would "obtain customers for the manufacturing contract of producing umbrellas with Susino companies." The proposed agreement did not include any provision whatsoever regarding the use, ownership, assignment, transfer, licensing or any other grant of rights in the SUSINO mark to Shyu, Nadrich, Susino USA or any other person or entity. The agreement was limited in scope to Shyu acting only as the U.S. sales agent to obtain customers for Susino Umbrella. Shortly after Shyu presented the proposed agreement, I was authorized by Mr. Anbang Wang, Susino Umbrella's President, to sign the agreement on behalf of Susino Umbrella. This authorization did not extend to other agreements or decisions for Susino Umbrella. Shyu signed the agreement

as herself. A true and correct copy of Shyu's June 13 email with the proposed agreement was attached as Exhibit 5 to the Motion for Relief. A true and correct copy of the executed agreement was attached as Exhibit 8 to the Motion for Relief.

15. In August 2007, I attended a trade show in Las Vegas, Nevada, featuring exhibitions by a variety of merchandisers, a gift expo and a jewelry show.

16. During the Las Vegas trade show, Susino Umbrella secured a booth as an exhibitor and displayed its goods, including umbrellas, bearing the SUSINO mark. I was the only employee of Susino Umbrella to attend. A true and correct copy of the Exhibitor identification tag that I wore during the trade show was attached as Exhibit 9 to the Motion for Relief.

17. Nadrich, who was attending the trade show, visited Susino Umbrella's booth and thus had access to Susino Umbrella's products, brochures and other SUSINO-branded materials. I did not discuss any agency agreements with Nadrich at the trade show, and did not enter into any such agreement with Nadrich during or after the trade show, including any agreement regarding the use, ownership, assignment, transfer, licensing or other grant of rights in the SUSINO mark.

18. By email dated December 15, 2007 (with cc to Nadrich), Shyu emailed me claiming that she and Nadrich had lost customers and purported to be having quality problems with Susino Umbrella's umbrellas. In that email, Shyu and Nadrich admitted that the SUSINO mark belonged to Susino Umbrella by declaring that someone "failed" to secure the SUSINO trademark for Susino Umbrella, and by demanding that Susino Umbrella pay "$7.5m yuan" if Susino Umbrella wanted to

purchase the mark "back" from them. A true and correct copy of this email was attached as Exhibit 10 to the Motion for Relief.

The Opposition Proceeding

19. In early 2008, Nadrich called to tell me that he had just filed a U.S. trademark application for SUSINO. He did not mention that the Application was filed by "Susino USA."

20. I am aware that Mr. Anbang Wang had hired Xiamenshi Huliqu Jinxiang Lianhe Trademark Agency Co. ("Jinxiang"), a trademark agency located in Fujian, China, to handle the potential opposition against Nadrich's SUSINO application.

21. However, at no time during this proceeding was I aware that Voson Intellectual Property Co., Ltd. ("Voson") or Vidas, Arrett & Steinkraus, PC ("Vidas") were involved in this proceeding.

22. At no time during this proceeding was I aware that someone had been using the e-mail account "meihuaumbrella@yahoo.com.cn" to correspond with either Nadrich or Shyu.

23. At no time during this proceeding was I aware that Susino USA had served or attempted to serve any discovery requests on Susino Umbrella, including any request for admissions.

24. At no time during this proceeding was I aware that Susino USA had served or attempted to serve a motion for summary judgment on Susino Umbrella.

I declare, under penalty of perjury under the laws of the United States, that the foregoing was translated to me, and that to the best of my knowledge, information and belief, it is true and correct.

Executed on this 11 day of OCTOBER, 2010, in JINJIANG, China.

Jorzon Wang

I, Rainy Liu, do hereby certify that I am competent in both the English and Chinese languages and that I have translated the foregoing declaration from the original English into the Chinese language to Mr. Jorzon Wang, who has confirmed that he understands the contents of this declaration and believes it to be true and correct to the best of his knowledge, information and belief.

Rainy Liu

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

In the Matter of App. Ser. No. 77/355,544	)	
	)	
Susino Umbrella Co., Ltd.,	)	
	)	
Opposer,	)	
v.	)	Opposition No. 91190169
	)	
Susino USA, LLC,	)	
	)	
Applicant.	)	

DECLARATION OF CARTER GUAN

I, Carter Guan, declare as follows:

1. I am over 18 years of age. I reside in Jinjiang, Fujian Province, China. I am a sales manager for Susino Umbrella Co., Ltd. ("Susino Umbrella"), the Opposer in the above-captioned proceeding.
2. I am primarily employed in Susino Umbrella's factory located in Jinou Industrial Area, Dongshi Town, Jinjiang, Fujian Province, China and am mainly responsible for business dealings, as well as handling orders for Susino Umbrella's goods.
3. I am fully competent to make this declaration, and I have personal knowledge of the facts stated in this declaration.
4. I am not a lawyer, and am not familiar with the legal procedures of the United States Trademark Trial and Appeal Board ("Board").
5. To the best of my knowledge, information and belief, all of the facts stated in this declaration are true and correct.

6. From 2002 to 2007, Todd Nadrich and Stephanie Shyu were Susino Umbrella's U.S. sales agents whose only role was to solicit wholesale customers in the U.S. for Susino Umbrella's umbrellas. Susino Umbrella, as the Original Equipment Manufacturer ("OEM"), would manufacture and ship the umbrellas, branded with the wholesale customers' logos or other markings, directly to the wholesale customer.
7. As Susino Umbrella's U.S. sales agents, Nadrich and Shyu would prepare purchase orders for wholesale customers in the U.S. and email the purchase orders to me or Jorzon Wang, another sales manager for Susino Umbrella. I would, in turn, direct the factory to manufacture umbrellas according to the specifications in the purchase order and ship the finished products directly to the wholesale customer. Nadrich and Shyu would also email me or Jorzon Wang regarding manufacturing and other issues related to the purchase orders.
8. For example, on September 2, 2005, I received an email from Nadrich (with cc to Shyu) regarding a collegiate logo design for umbrellas. Attached to the email was a photo of the collegiate logo design. A true and correct copy of this email with attachment was attached as part of a group of similar emails in Exhibit 6 to the Motion for Relief.
9. On July 6, 2006, I received an email from Shyu regarding revisions to purchase order no. 4023. Attached to the email was a copy of revised purchase order no. 4023 for Exylin Company. A true and correct copy of this email with attachment was attached as part of a group of similar emails in Exhibit 6 to the Motion for Relief.

10. On September 18, 2007, I received an email from Nadrich (with cc to Shyu) requesting use of "one panel copy nylon and one panel white nylon" to keep costs down. A true and correct copy of this email with attachment was attached as part of a group of similar emails in Exhibit 6 to the Motion for Relief.
11. During the time that Nadrich and Shyu were soliciting customers for Susino Umbrella's umbrellas, neither Nadrich nor Shyu represented to me that either of them worked for or were otherwise associated with an entity called "Susino USA."
12. At all times during this arrangement, Nadrich and Shyu acted only as the U.S. sales agents for Susino Umbrella, operating for the limited purpose of soliciting wholesale customers to purchase OEM umbrellas from Susino Umbrella.
13. I am aware that Mr. Anbang Wang, President of Susino Umbrella, had hired Xiamenshi Huliqu Jinxiang Lianhe Trademark Agency Co. ("Jinxiang"), a trademark agency located in Fujian, China, to handle the potential opposition against Nadrich's SUSINO application.
14. However, at no time during this proceeding was I aware that Voson Intellectual Property Co., Ltd. ("Voson") or Vidas, Arrett & Steinkraus, PC ("Vidas") were involved in this proceeding.
15. At no time during this proceeding was I aware that someone had been using the e-mail account "meihuaumbrella@yahoo.com.cn" to correspond with either Nadrich or Shyu.
16. At no time during this proceeding was I aware that Susino USA had served or attempted to serve any discovery requests on Susino Umbrella, including any request for admissions.

17. At no time during this proceeding was I aware that Susino USA had served or attempted to serve a motion for summary judgment on Susino Umbrella.

18. On July 28, 2010, after the proceeding had terminated, I received an email from Gary Libman, one of Susino Umbrella's customers in the U.S., regarding a cease and desist email that Mr. Libman received from Nadrich regarding use of the SUSINO mark on Mr. Libman's goods. A true and correct copy of this email was attached as Exhibit 2 to the Motion for Relief.

I declare, under penalty of perjury under the laws of the United States, that the foregoing was translated to me, and that to the best of my knowledge, information and belief, it is true and correct.

Executed on this 21 day of Oct., 2010, in TIANJIN, China.

Carter Guan

Carter ~~Chuan~~ Guan

I, Rainy Liu, do hereby certify that I am competent in both the English and Chinese languages and that I have translated the foregoing declaration from the original English into the Chinese language to Mr. Carter ~~Chuan~~ Guan, who has confirmed that he understands the contents of this declaration and believes it to be true and correct to the best of his knowledge, information and belief.

Rainy Liu

Rainy Liu

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

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v.	)	Opposition No. 91190169
	)	
Susino USA, LLC,	)	
	)	
Applicant.	)	

DECLARATION OF DAVID SILVERMAN

I, David Silverman, declare as follows:

1. I am over 18 years of age. I reside in Alexandria, Virginia. I am a partner with the law firm Davis Wright Tremaine LLP, located at 1919 Pennsylvania Ave. NW, Washington, DC 20006, and am counsel to Susino Umbrella Co., Ltd. ("Susino Umbrella"), the Opposer in the above-captioned proceeding.
2. I am fully competent to make this declaration, and I have personal knowledge of the facts stated in this declaration.
3. To the best of my knowledge, information and belief, all of the facts stated in this declaration are true and correct.
4. On August 4, 2010, I searched the corporation database of the Florida Department of State, Division of Corporations, for Susino USA, LLC. A true and correct copy of a web page from the Florida Department of State website as of August 4, 2010, showing the status of Susino USA, LLC as "inactive" was attached as Exhibit 1 to the Motion for Relief.

5. Between August 5, 2010 and August 7, 2010, I corresponded with Todd Nadrich regarding this proceeding and Opposer's Motion for Relief. A true and correct copy of that email conversation was attached as Exhibit 7 to the Motion for Relief.

6. On August 18, 2010, I received an email from Nadrich informing me that Applicant had purportedly recorded the SUSINO registration with the U.S. Customs and Border Protection, Intellectual Property Branch. A true and correct copy of this email was attached as Exhibit 15 to the Motion for Relief.

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

Executed on this 12 **day of** October**, 2010.**

David Silverman

CERTIFICATE OF SERVICE

I hereby certify that a complete and true copy of the foregoing OPPOSER'S REPLY TO APPLICANT'S RESPONSE TO OPPOSER'S MOTION FOR RELIEF OF JUDGMENT was sent via first-class United States, postage prepaid mail on October 12, 2010 to the following:

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Susino USA LLC
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