

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

<p><i>In re Matter of Application No. 85/375,935.</i> <i>for the mark: ONE LOVE</i></p> <p>Fifty-Six Hope Road Music Limited,</p> <p style="text-align: center;">Opposer,</p> <p style="text-align: center;">v.</p> <p>Samtani (Jamaica) Ltd. DBA Tropicana Jewelers,</p> <p style="text-align: center;">Applicant.</p>	<p>Opposition No. 91-204913</p> <p>OPPOSER FIFTY-SIX HOPE ROAD MUSIC LIMITED'S MOTION TO COMPEL; DECLARATION OF RYAN S. HILBERT IN SUPPORT THEREOF</p>
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I. INTRODUCTION

Pursuant to 37 C.F.R. § 2.120(e) and Fed.R.Civ.P. 37(a), Opposer Fifty-Six Hope Road Music Limited (“Opposer”) moves for an Order compelling Applicant Samtani (Jamaica) Ltd. (“Applicant”) to fully respond to Opposer’s First Set of Interrogatories (“Interrogatories”) and Opposer’s First Set of Request for Production of Documents and Things (“Document Requests”) (collectively, the “Discovery Requests”).

Despite properly serving its Discovery Requests on Applicant on November 29, 2012, Applicant still has yet to respond to Opposer’s Document Requests or produce any documents. Even though Applicant finally responded to Opposer’s Interrogatories over one month after they were due, those responses contain numerous deficiencies.

Applicant’s failure to timely and fully participate in the discovery process has left Opposer with no choice but to seek the Board’s intervention through this motion to compel.

II. RELEVANT FACTUAL BACKGROUND

Opposer initiated this action on April 13, 2012 by filing a Notice of Opposition against Applicant's Application Serial No. 85/375,935 for the mark ONE LOVE for use with "jewelry, namely, bracelets and rings." (Docket No. 1.)

On November 29, 2012, Opposer served its Document Requests and Interrogatories. (Declaration of Ryan S. Hilbert ("Hilbert Decl.") ¶¶ 2-3, Ex. 1 (Document Requests) and Ex. 2 (Interrogatories).) Having never received Applicant's responses to those Discovery Requests as of January 13, 2013, Opposer sent Applicant an email on January 14, 2013, inquiring about the status of Applicant's responses. (*Id.* ¶ 4, Ex. 3.) At the time, Applicant confirmed that it had received Opposer's Discovery Requests, but indicated that Applicant would not respond until Applicant's then-pending motion for summary judgment had been resolved. (*Id.*, Exh, 3.) That motion was denied on March 14, 2013. (Docket No. 11.)

As of April 13, 2013 – i.e. thirty days after Applicant's motion for summary judgment had been denied – Applicant still had yet to respond to the Discovery Requests Opposer had served on November 29, 2012. (Hilbert Decl. ¶ 5.) Therefore, on May 1, 2013, Opposer sent a follow-up email to Applicant informing Applicant of its failure to timely respond to discovery and asking to meet and confer. (*Id.* ¶ 6, Ex. 3.) Applicant responded on May 2, 2013 by saying Applicant would respond by May 10, 2013. (*Id.*, Ex. 3.) Because of this, and because of Opposer's understanding from the parties' email exchange that Applicant would also be responding to Opposer's Document Requests by that time, Opposer did not pursue this matter with the Board. (*Id.* ¶ 7.)

Applicant finally served its responses to Opposer's Interrogatories by regular mail on May 14, 2013. (*Id.* ¶ 8, Ex. 4.) Even though Applicant's responses to Opposer's Document Requests were due at least by April 13, 2013, Applicant has not yet served them. (*Id.* ¶ 9.) Applicant also has yet to produce *any* documents in this case. (*Id.*)

On June 11, 2013, Opposer sent Applicant a detailed meet and confer letter on discovery issues. (*Id.* ¶ 10, Ex. 5.) Opposer did so in the hope of resolving this dispute without needing to

resort to Board intervention. (*Id.* ¶ 5.) Opposer told Applicant it was available to meet and confer on June 13-14, 2013. (*Id.*, Ex. 5.) Applicant never responded to Opposer's letter. (*Id.* ¶ 11.) The close of discovery in this dispute is currently scheduled for June 24, 2013.

III. OPPOSER'S MOTION TO COMPEL SHOULD BE GRANTED

A. OPPOSER HAS ATTEMPTED IN GOOD FAITH TO RESOLVE THIS DISPUTE

Opposer has made a good faith effort to resolve the discovery issues raised in this motion. Those efforts include numerous emails and a lengthy meet and confer letter dated June 11, 2013. Despite these efforts, Applicant still has yet to respond to Opposer's Document Requests and has yet to adequately respond to Applicant's Interrogatories, and completely ignored Opposer's meet and confer letter. It is clear from Applicant's conduct that Applicant does not intend to fully comply with its discovery obligations in this case, especially before the close of discovery on June 24, 2013. Applicant's failure to timely and completely comply with its discovery obligations has forced Opposer to seek the Board's intervention through this motion.

B. APPLICANT HAS WAIVED ITS RIGHT TO OBJECT TO OPPOSER'S DISCOVERY REQUESTS

TBMP § 406.04(a) states that "[a] party which fails to respond to requests for production during the time allowed therefor . . . may be found, on motion to compel filed by the propounding party, to have forfeited its right to object to the requests on their merits." TBMP § 406.04(a). Similarly, TBMP § 405.04(a) states that "[a] party which fails to respond to interrogatories during the time allowed therefor . . . may be found, on motion to compel filed by the propounding party, to have forfeited its right to object to the interrogatories on their merits." TBMP § 405.04(a).

Here, Opposer first served its Discovery Requests on November 29, 2012. Even assuming Applicant's obligation to respond to those requests did not begin to run until its motion for summary judgment was denied, as Applicant attests, those responses were due no later than April 13, 2013. Applicant did not respond to Opposer's Interrogatories until May 14, 2013,

more than a month after they were due. And, as explained above, Applicant *still* has not responded to Opposer's Document Requests, despite leading Opposer to believe that it would.

Because Applicant failed to timely respond to Opposer's Discovery Requests, Applicant has waived its all of its objections to Opposer's Document Requests and Interrogatories. Opposer requests that the Order issued by the Board in response to this motion make this finding and order Applicant to respond to all of the Discovery Requests without objection.

C. APPLICANT MUST RESPOND TO OPPOSER'S DOCUMENT REQUESTS AND PRODUCE DOCUMENTS

To date, Applicant has failed to respond to Opposer's Document Requests. The Requests were served months ago and Applicant's responses were due by no later than April 13, 2013 at the latest. Nor has Applicant produced any documents. Applicant must be ordered to respond to Applicant's Document Requests without objection and to produce all responsive documents immediately.

D. APPLICANT HAS NOT FULLY RESPONDED TO OPPOSER'S INTERROGATORIES

1. Applicant's Interrogatory Responses Include Improper Objections

As with Applicant's untimely responses to Opposer's Document Requests, Applicant has waived its right to object to Opposer's Interrogatories by failing to timely respond to them. TBMP § 405.04(a). Despite this, Applicant has included four general objections in its responses to Applicant's Interrogatories. Applicant must be ordered to remove those objections and to serve complete responses to all of the Opposer's Interrogatories without objections. Applicant should also be ordered to provide further responses to Interrogatory Nos. 2-5, 9-12, 15-17, 20-24, 26-27, and 30-36.

2. Applicant Must Fully Respond to Interrogatory No. 2

This Interrogatory asks Applicant to "[s]tate the dates on which Applicant first used Applicant's Mark and/or the mark ONE LOVE anywhere and in commerce and identify any and all geographic region(s) in which the mark was used." (Hilbert Decl., Ex. 2.) Applicant

responded to this Interrogatory by objecting to it. (*Id.*, Ex. 4.) This is improper because Applicant has waived its right to object by not timely responding to the Interrogatories.

Applicant also responded by stating that it did not know if Opposer was inquiring about “whether Opposer requests all geographic region(s) in which the Mark was first used or was subsequently used.” (Hilbert Decl., Ex. 4.) The answer to this question should have been clear because of the use of the past tense in Opposer’s interrogatory. However, in order to address Applicant’s concerns, Opposer will accept as a response information about both the geographic region(s) in which Applicant first used its mark and the geographic region(s) in which Applicant’s mark was subsequently used. Such information is extremely relevant in that Applicant’s other responses suggest that Applicant may never have sold any of its products outside Jamaica.

Notwithstanding the foregoing, Applicant responded to this Interrogatory by stating: “Applicant’s Mark was used in commerce first in 2004.” In its supplemental response, Applicant must also state the date on which it first started using its mark anywhere.

3. Applicant Must Fully Respond to Interrogatory No. 3

This Interrogatory asks Applicant to “[d]escribe in detail the channels of trade and distribution in which goods bearing Applicant’s Mark and/or the mark ONE LOVE are sold, or are intended to be sold, including without limitation, the type of retailer or outlet in which such goods are sold or are distributed from or are intended to be sold.” (Hilbert Decl., Ex. 2.) As with Applicant’s response to Interrogatory No. 2, Applicant responded to this Interrogatory by objecting to it. (*Id.*, Ex. 4.) This is again improper because Applicant has waived its right to object.

In addition to refusing to respond to this Interrogatory based on an improper objection, Applicant also refused to respond based on an allegation that the goods for which Applicant is seeking registration of the ONE LOVE mark do not actually technically bear the mark. (Hilbert Decl., Ex. 4.) Applicant should not be allowed to engage in such game-playing. Applicant must be ordered to supplement its response to this Interrogatory to identify the channels of trade and

distribution in which the goods for which Applicant is seeking registration of its mark are sold, or are intended to be sold.

4. Applicant Must Fully Respond to Interrogatory No. 4

This Interrogatory asks Applicant to “[d]escribe in detail the demographic market to which goods bearing Applicant’s Mark and/or the mark ONE LOVE are sold or are intended to be sold.” (Hilbert Decl., Ex. 2.) Applicant responded by once again objecting, even though all such objections have been waived. (*Id.*, Ex. 4.) Applicant also refused to answer this Interrogatory on the ground that Applicant purportedly does not know who its customers are. (*Id.*) At a minimum, Applicant must identify the classes of customers. TBMP § 414(3). Applicant must be ordered to supplement its response to this Interrogatory to provide a response.

5. Applicant Must Fully Respond to Interrogatory No. 5

This Interrogatory asks Applicant to “[d]escribe in detail how Applicant’s Mark appears, or is intended to appear, on each good with which Applicant’s Mark is used, including without limitation, the location and size of said mark, and how it is used in connection with the sale, distribution, or manufacture of each such good.” (Hilbert Decl., Ex. 2.) Applicant responded by once again objecting, even though all such objections have been waived. (*Id.*, Ex. 4.) Applicant then proceeded to state that its mark appears on Applicant’s flyers, website and advertising materials. (*Id.*) Notably absent from Applicant’s response is any indication as to *how* its mark appears on these materials. To compound matters, Applicant has not produced *any* documents and thus Opposer cannot discern for itself how Applicant’s mark appears. Applicant must supplement its response to this Interrogatory to provide such information here.

6. Applicant Must Fully Respond to Interrogatory Nos. 9-10

These Interrogatories ask Applicant to “[s]tate whether Applicant was aware or had knowledge of Opposer’s Marks, Opposer, the musical artist Bob Marley, the Bob Marley Heirs, or Bob Marley’s song ‘One Love’” at certain times. (Hilbert Decl., Ex. 2.) In the event the answer to these Interrogatories was yes, Opposer asked Applicant to “[d]escribe in detail what

Applicant knew about Opposer's Marks, Opposer, the musical artist Bob Marley, the Bob Marley Heirs, or Bob Marley's song 'One Love.'" (*Id.*)

Applicant responded to these Interrogatories by stating that it did not have knowledge of Opposer's Marks or of Opposer. (Hilbert Decl., Ex. 4.) However, Applicant did *not* state whether it was aware of or had knowledge of "the musical artist Bob Marley, the Bob Marley Heirs, or Bob Marley's song 'One Love . . .'" This information is highly relevant and goes directly to Opposer's false association claim, which Applicant has denied. Applicant must be ordered to supplement its response to these Interrogatories to provide complete responses.

7. Applicant Must Fully Respond to Interrogatory No. 11

This Interrogatory asks Applicant to "[d]escribe in detail the method of marketing and advertising of each such good bearing Applicant's Mark and/or the mark ONE LOVE." (Hilbert Decl., Ex. 2.) Applicant responded, in part, by stating that it has "included an advertisement in a hotel in-room magazine." (*Id.*, Ex. 4.) Tellingly, however, Applicant did not state the name of that magazine, its circulation, or when that advertisement was run. Applicant's omission is particularly glaring considering that Applicant has not yet produced any documents. Applicant must be ordered to supplement its response to this Interrogatory to provide this missing information.

8. Applicant Must Fully Respond to Interrogatory Nos. 12, 15-17

These Interrogatories seek information concerning the retail price or intended retail price of Applicant's products, and the amounts Applicant has spent on advertising and marketing its products. (Hilbert Decl., Ex. 2.) Applicant responded to each of these Interrogatories with only objections, which have been waived. (*Id.*, Ex. 4.) Such information is relevant to Opposer's anticipated sophistication of the consumer argument, as well as to the scope and nature of Applicant's use of its mark, among other issues. Applicant must provide a response to these Interrogatories.

9. Applicant Must Fully Respond to Interrogatory Nos. 20-24

These Interrogatories seek information concerning the number of goods Applicant manufactured and sold under the ONE LOVE mark, and where. (Hilbert Decl., Ex. 2.) Applicant responded either by making improper objections, or by once again disingenuously stating that Applicant's goods do not technically bear Applicant's mark. (*Id.*, Ex. 4.) Applicant must provide a response to these Interrogatories. This is especially the case considering that Applicant's other responses suggest that Applicant may not have manufactured or sold any products in the U.S. under or in connection with the ONE LOVE mark.

10. Applicant Must Fully Respond to Interrogatory No. 26

This Interrogatory asks Applicant to “[i]dentify all types of media used to run or publish anywhere any advertisements bearing or featuring Applicant's Mark and/or the mark ONE LOVE anywhere.” (Hilbert Decl., Ex. 2.) Applicant responded by making improper objections, and by once again disingenuously stating that Applicant's goods do not technically bear Applicant's mark. (*Id.*, Ex. 4.) Applicant must respond to this Interrogatory, especially because Applicant's other responses frequently reference “Applicant's flyers, web site, and advertising materials” and Applicant has not produced any responsive documents.

11. Applicant Must Fully Respond to Interrogatory No. 27

This Interrogatory asks Applicant to “[i]dentify and describe in detail all licensing agreements, production or manufacturing agreements, distribution agreements, or arrangements between Applicant and any third party relating to Applicant's Mark and/or the mark ONE LOVE.” (Hilbert Decl., Ex. 2.) Applicant responded by stating “Applicant's Mark appears on flyers produced in Jamaica.” (*Id.*, Ex. 4.) This answer is non-responsive as it does not reference any agreements much less how or why Applicant's purported flyers might be somehow related to the identified agreements. Applicant must supplement its response to identify all agreements as requested in the Interrogatory.

12. Applicant Must Fully Respond to Interrogatory No. 30

This Interrogatory asks Applicant to “[s]tate all facts that relate to, support or negate Applicant’s allegation in Paragraph 9 of Applicant’s Answer in which Applicant states ‘Applicant denies the ONE LOVE mark suggests a connection with Bob Marley and Opposer’” (Hilbert Decl., Ex. 2.) As Opposer understands Applicant’s current response, the only fact of which Applicant is currently aware in response to this Interrogatory is that Opposer’s trademark applications and registrations purportedly do not include any product or service related to jewelry. (*Id.*, Ex. 4.) This answer is non-responsive, especially because it does not appear to address Opposer’s false association claim, which Applicant has denied. To the extent Applicant intends to rely on any other facts concerning this claim at a later date, Applicant should be ordered to state such facts now.

13. Applicant Must Fully Respond to Interrogatory No. 31

This Interrogatory asks Applicant to “[s]tate all facts that relate to, support or negate Applicant’s allegation in Paragraph 9 of Applicant’s Answer in which Applicant states Applicant ‘denies that the ONE LOVE mark is famous and distinctive within the meaning of the Federal Trademark Dilution Act’” (Hilbert Decl., Ex. 2.) As Opposer understands Applicant’s current response, the only fact on which Applicant relies in its response is the allegation that there are purportedly a number of third party uses of ONE LOVE. (*Id.*, Ex. 4.) To the extent Applicant intends to rely on any other facts concerning this claim at a later date, Applicant should be ordered to state such facts now. Otherwise Applicant should be precluded from offering and relying upon any facts relating to purported third party uses of ONE LOVE.

14. Applicant Must Fully Respond to Interrogatory No. 32

This Interrogatory asks Applicant to “[s]tate all facts that relate to, support or negate Applicant’s allegation in Paragraph 9 of Applicant’s Answer in which Applicant states Applicant ‘denies that Applicant seeks to commercially use Opposer’s alleged applied-for mark.’” (Hilbert Decl., Ex. 2.) Applicant cites to no facts in its response. (*Id.*, Ex. 4.) Instead, Applicant merely denies that it intends to commercially use Opposer’s ONE LOVE mark at the same time it admits

that it “uses and intends to continue using ONE LOVE in connection with jewelry.” Applicant’s response is non-responsive. Applicant must be ordered to supplement its response to provide all facts as requested.

15. Applicant Must Fully Respond to Interrogatory No. 33

This Interrogatory asks Applicant to “[s]tate all facts that relate to, support or negate Applicant’s allegation in Paragraph 10 of Applicant’s Answer in which Applicant states ‘Applicant denies that maturation of [Applicant’s] mark into a registration would cause a likelihood of confusion relating to Opposer’s alleged applied-for mark’” (Hilbert Decl., Ex. 2.) Applicant only identifies a single fact in its response – that there are purportedly a “great number” of third party uses of the mark ONE LOVE. (*Id.*, Ex. 4.) Applicant’s other assertion – that it does not intend to “commercially use” Opposer’s mark at the same time it admits it “uses and intends to continue using ONE LOVE in connection with jewelry” – is not a fact. Applicant must be ordered to supplement its response to remove this latter “fact,” include any additional facts on which it may intend to rely at a later date, and to provide a full and complete response to this Interrogatory. If Applicant does not, Applicant should be precluded from offering or relying upon any facts relating to purported third party uses of ONE LOVE.

16. Applicant Must Fully Respond to Interrogatory No. 34

This Interrogatory asks Applicant to “[s]tate all facts that relate to, support or negate Applicant’s allegation in Paragraph 11 of Applicant’s Answer in which Applicant states ‘Applicant denies any likelihood of confusion upon registration of the mark, and denies that Applicant would be allowed to trade on Opposer’s existing good will in the mark.’” (Hilbert Decl., Ex. 2.) As Opposer understands Applicant’s current response, the only fact on which Applicant relies in its response is the allegation that there are purportedly a number of third-party uses of ONE LOVE. (*Id.*, Ex. 4.) To the extent Applicant intends to rely on any other facts concerning this claim at a later date, Applicant should be ordered to state such facts now. If Applicant does not, Applicant should be precluded from offering or relying upon any facts relating to purported third party uses of ONE LOVE.

17. Applicant Must Fully Respond to Interrogatory No. 35

This Interrogatory asks Applicant to “[i]dentify all entities who are and/or were affiliates of Applicant, including all entities who own or control at least 25 percent of Applicant’s business, or who are at least 25 percent owned by or controlled by Applicant or with whom Applicant shares any common officers or directors.” (Hilbert Decl., Ex. 2.) Applicant responded to this interrogatory by objecting to it. This is improper because Applicant has waived its right to object. Moreover, such information is relevant as it goes to who ultimately owns Applicant’s mark, or rights to Applicant’s mark, which could lead to whether and to whom those entities may have used or licensed Applicant’s mark. Applicant must supplement its response to provide a response.

18. Applicant Must Fully Respond to Interrogatory No. 36

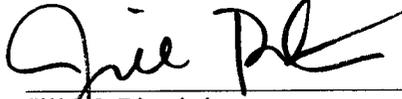
This Interrogatory asks Applicant to “[s]tate all facts that relate to, support or negate Applicant’s allegation on page 2 of its Motion for Summary Judgment in this Opposition in which Applicant stated: ‘Applicant has been the owner of the ONE LOVE mark since 1995 and has been using the mark for jewelry continuously for the last 17 years.’” (Hilbert Decl., Ex. 2.) In response, Applicant stated: “Applicant’s Mark has been used in commerce for jewelry since 2004, a period of 9 years.” (*Id.*, Ex. 4.)

Applicant’s response is non-responsive in that it does not include any facts concerning Applicant’s continued use of the mark beginning with the period from which Applicant claims to have first started using mark. This omission is particularly glaring in light of the fact that Applicant has yet to produce any documents showing its use of its mark, much less any documents showing first use or continuous use. Applicant must supplement its response to this Interrogatory to provide a complete response.

II. CONCLUSION

For the reasons stated above, Applicant respectfully request that the Board grant Opposer's motion to compel.

Respectfully submitted,



Dated: June 20, 2013

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Fifty-Six Hope Road Music Limited

SMRH:408895093.1

DECLARATION OF RYAN S. HILBERT

I, RYAN S. HILBERT, hereby declare and state as follows:

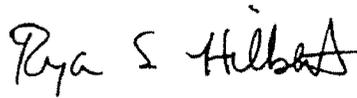
1. I am an attorney duly licensed to practice before the Board and I am Special Counsel in the law firm of Sheppard Mullin Richter & Hampton LLP (“Sheppard Mullin”) counsel of record for Opposer in this matter. I have personal knowledge of the facts set forth in this declaration and if called to testify, I would and could competently testify thereto.
2. On November 29, 2012, Opposer served Applicant’s First Set of Interrogatories (“Interrogatories”) and Opposer’s First Set of Request for Production of Documents and Things (“Document Requests”) (collectively, the “Discovery Requests”).
3. Attached hereto as **Exhibit 1** is a true and correct copy of Opposer’s Document Requests. Attached hereto as **Exhibit 2** is a true and correct copy of Opposer’s Interrogatories.
4. As of January 13, 2013, Applicant had yet to respond to Opposer’s Discovery Requests. Therefore, on January 14, 2013, Opposer sent Applicant an email on January 14, 2013, inquiring about the status of Applicant’s responses. Attached hereto as **Exhibit 3** is a true and correct copy of Opposer’s email dated and January 14, 2013 and follow-up correspondence.
5. Applicant’s responses to Opposer’s Document Requests were due at least by April 13, 2013. However, Applicant still had not served any responses by that date.
6. On May 1, 2013, Opposer sent a follow-up email to Applicant informing Applicant of its failure to timely respond to discovery and asking to meet and confer. Applicant responded on May 2, 2013 by saying Applicant would respond by May 10, 2013. That email exchange is included in the string that is attached as Exhibit 3.
7. Based on Applicant’s representation to Opposer, Opposer did not pursue this matter with the Board.
8. Applicant served its responses to Opposer’s Interrogatories by regular mail on May 14, 2013. Attached hereto as **Exhibit 4** is a true and correct copy of Applicant’s Responses to Opposer’s Interrogatories.

9. To date, Applicant has not responded to Opposer's Document Requests. Nor has Opposer produced any documents in this case.

10. On June 11, 2013, Opposer sent Applicant a detailed meet and confer letter on discovery issues. Attached hereto as **Exhibit 5** is a true and correct copy of Opposer's letter dated June 11, 2013. Opposer sent its letter in the hope of resolving this dispute without needing to resort to Board intervention.

11. Applicant never responded to Opposer's letter dated June 11, 2013.

I declare under penalty of perjury under the laws of the United States of America and the State of California that the foregoing is true and correct. Executed this 20th day of June, 2013 at Palo Alto, California.

A handwritten signature in black ink that reads "Ryan S. Hilbert". The signature is written in a cursive style with a horizontal line underneath the name.

Ryan S. Hilbert

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Trademarks, Attn: TTAB, P.O. Box 1451, Alexandria, VA 22313-1451, on this 20th day of June, 2013.



LaTrina A. Martin

CERTIFICATE OF SERVICE

I hereby certify that **OPPOSER FIFTY-SIX HOPE ROAD MUSIC LIMITED'S MOTION TO COMPEL** is being deposited with the United States Postal Service, postage prepaid, first class mail, in an envelope addressed to:

Mark Levy
Hinman, Howard & Kattell, LLP
80 Exchange St., Ste. 700
Binghamton, NY 13901-3490

on this 20th day of June, 2013.



LaTrina A. Martin

SMRH:408895093.1

EXHIBIT 1

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

<p><i>In re Matter of Application No. 85/375,935 for the mark: ONE LOVE</i></p> <p>Fifty-Six Hope Road Music Limited, Opposer, v. Samtani (Jamaica) Ltd. DBA Tropicana Jewelers, Applicant.</p>	<p>Opposition No. 91204913</p> <p>OPPOSER FIFTY-SIX HOPE ROAD MUSIC LIMITED'S FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS AND THINGS TO APPLICANT</p>
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Pursuant to Fed.R.Civ.P. Rule 34, Opposer Fifty-Six Hope Road Music Limited ("Opposer") hereby requests that Applicant Samtani (Jamaica) Ltd. ("Applicant") produce and permit the inspection and copying of the documents described herein, regardless of whether only a part of any document meets the description.

I. **PRELIMINARY STATEMENT**

Opposer requests that such documents be made available within thirty (30) days after service hereof by sending the requested documents through the U.S. mail service to accompany Applicant's written response to Opposer Fifty-Six Hope Road Music Limited's First Set of Requests for Production of Document and Things to Applicant ("Requests for Production of Documents").

This document request is intended to cover all documents and things in the possession of Applicant, or subject to its custody and control, or available to Applicant wherever such documents and things are located, including, but not limited to, any of Applicant's offices or any

other office maintained or used by Applicant, its agents, employees, joint venturers, partners, independent contractors, accountants or attorneys, or any other location where documents are kept.

If any document covered by this document request is withheld for any reason, on a claim of privilege, attorney-work product or otherwise, Applicant shall provide a listing of such withheld documents stating the form of the document withheld, the date of its preparation, the author, each addressee or recipient, the subject matter, the reason for which Applicant is withholding such document, the basis for any claim of privilege for which a document is withheld, and the name and address of any person or persons presently having custody or control of the same or a true copy thereof.

If documents herein requested cannot be produced because they have been destroyed, cannot be located, or are otherwise thought no longer to exist, please provide a statement, indicating to the best of Applicant's ability, the form of the document, the date of its preparation, the author(s), each addressee or recipient, and the subject matter. Further, this document request is a continuing request. Consequently, if any of the documents which were not produced or could not be produced for the reasons given above, or are discovered, or located, or, for any other reason become known to Applicant after responses to these requests are served, then Applicant must immediately notify Opposer's attorneys, named below, and make such documents available for inspection and copying.

II. DEFINITIONS

The definitions set forth in Opposer's First Set of Interrogatories to Applicant are applicable to these Requests for Production of Documents.

III. DOCUMENT REQUESTS

REQUEST FOR PRODUCTION NO. 1:

Representative samples of all advertisements placed, published, or disseminated by Applicant or on its behalf for each product sold or offered under, or intended to be sold or offered under, Applicant's Mark and/or the mark ONE LOVE.

REQUEST FOR PRODUCTION NO. 2:

All trademark search reports of any kind (manual, electronic, online, or full searches) for Applicant's Mark, any mark consisting of or incorporating ONE LOVE, or any mark confusingly similar thereto.

REQUEST FOR PRODUCTION NO. 3:

Representative samples of periodical publications, including without limitation, magazines, newspapers, trade publications, and catalogues published, distributed in which Applicant's goods under Applicant's Mark and/or the ONE LOVE mark have been advertised, promoted, or featured.

REQUEST FOR PRODUCTION NO. 4:

All publicity relating to any use by Applicant of Applicant's Mark and/or the ONE LOVE mark.

REQUEST FOR PRODUCTION NO. 5:

All documents evidencing, suggesting, or relating to any confusion between Applicant, Applicant's mark and/or the Application, on the one hand, and Opposer's Marks, Opposer, the musical artist Bob Marley, the Bob Marley Heirs, or Bob Marley's song "One Love", on the other hand.

REQUEST FOR PRODUCTION NO. 6:

Representative samples of all documents that relate to the method of marketing and distribution of each good sold or intended to be sold by Applicant under Applicant's Mark and/or the ONE LOVE mark.

REQUEST FOR PRODUCTION NO. 7:

Representative samples of all documents that relate to, or identify, the market, (*i.e.*, type of purchaser), that Applicant expects and intends to actually buy and use the goods it offers or intends to offer under Applicant's Mark and/or the ONE LOVE mark.

REQUEST FOR PRODUCTION NO. 8:

All documents relating to Opposer's Marks, Opposer, the musical artist Bob Marley, the Bob Marley Heirs, or Bob Marley's song "One Love", other than pleadings and other documents served and correspondence sent in this case.

REQUEST FOR PRODUCTION NO. 9:

All documents relating to products or services offered by Applicant under Applicant's Mark and/or the ONE LOVE mark, other than pleadings and other documents served and correspondence sent in this case.

REQUEST FOR PRODUCTION NO. 10:

All assignments and license agreements relating to Applicant's Mark and/or the ONE LOVE mark and all documents and correspondence relating thereto.

REQUEST FOR PRODUCTION NO. 11:

Representative samples of Applicant's goods bearing or offered under Applicant's Mark and/or the mark ONE LOVE.

REQUEST FOR PRODUCTION NO. 12:

Representative samples of all documents relating to the channels of distribution and intended channels of distribution of each of good offered or intended to be offered by Applicant under Applicant's Mark and/or the ONE LOVE mark.

REQUEST FOR PRODUCTION NO. 13:

Representative samples of all documents that identify the actual purchaser(s) of each good offered or intended to be offered by Applicant under Applicant's Mark and/or the ONE LOVE mark.

REQUEST FOR PRODUCTION NO. 14:

Representative samples of each type of label, container, carton, tag, invoice, sticker, box, bag, packaging, silkscreen, and/or other means by which Applicant has applied for or used Applicant's Mark and/or the ONE LOVE mark on or in connection with any products or services.

REQUEST FOR PRODUCTION NO. 15:

Documents sufficient to state the total sales of all goods offered under Applicant's Mark and/or the ONE LOVE mark.

REQUEST FOR PRODUCTION NO. 16:

Documents sufficient to state the total number of units of goods bearing Applicant's Mark and/or the ONE LOVE mark that were manufactured by or on behalf of Applicant.

REQUEST FOR PRODUCTION NO. 17:

Documents sufficient to state the total number of units of goods bearing Applicant's Mark and/or the ONE LOVE mark that were sold by or on behalf of Applicant.

REQUEST FOR PRODUCTION NO. 18:

All documents, from 1995 to present, showing or from which it can be ascertained, the total amount that Applicant has spent to advertise and/or promote Applicant's Mark and/or the ONE LOVE mark.

REQUEST FOR PRODUCTION NO. 19:

All documents that refer or relate to any survey or public opinion poll concerning Applicant's Mark, the mark ONE LOVE, Opposer's Marks, Opposer, the musical artist Bob Marley, the Bob Marley Heirs, and/or Bob Marley's song "One Love."

REQUEST FOR PRODUCTION NO. 20:

Printouts of each past and present website operated by Applicant that advertises or promotes Applicant's Mark and/or goods or services offered by Applicant under the ONE LOVE mark.

REQUEST FOR PRODUCTION NO. 21:

All documents referring or relating to Applicant's abandonment or cessation of use of Applicant's Mark and/or of the ONE LOVE mark at any time.

REQUEST FOR PRODUCTION NO. 22:

Documents sufficient to identify each person or outside agency that has assisted Applicant in the advertising, promotion, distribution or sale of products or services offered or intended to be offered by Applicant under Applicant's Mark and/or the ONE LOVE mark.

REQUEST FOR PRODUCTION NO. 23:

Documents sufficient to identify all forms or variations of Applicant's Mark which Applicant has used, currently uses, or intends to use, including all documents which refer or relate to any changes made to Applicant's Mark.

REQUEST FOR PRODUCTION NO. 24:

Documents sufficient to identify any name under which Applicant has conducted business and/or conducts business relating to Applicant's Mark and/or the ONE LOVE mark.

REQUEST FOR PRODUCTION NO. 25:

All annual reports of Applicant from 1995 to the present.

REQUEST FOR PRODUCTION NO. 26:

All tax documents filed by or on behalf of Applicant from 1995 to the present.

REQUEST FOR PRODUCTION NO. 27:

All of Applicant's marketing or business plans from 1995 to the present relating to Applicant's use, or anticipated use, of Applicant's Mark and/or of the ONE LOVE mark.

REQUEST FOR PRODUCTION NO. 28:

Representative samples of all documents relating to marketing, promotion, or advertising of Applicant's Mark and/or of the ONE LOVE mark sold in the United States and worldwide, if Applicant does not have separate documents relating to the United States market, including but not limited to, documents relating to marketing and advertising plans or strategies for each such product or cumulatively for all products of Applicant's bearing the mark ONE LOVE.

REQUEST FOR PRODUCTION NO. 29:

All documents reflecting or relating to any communications that Applicant has had, orally or in writing, with any person regarding Applicant's use and/or registration of Applicant's Mark and/or of the ONE LOVE mark, excluding pleadings or other documents served or correspondence exchanged in this case.

REQUEST FOR PRODUCTION NO. 30:

All nonprivileged documents which refer or relate to any trademark enforcement activity, to which Applicant has been a party, including but not limited to, all instances in which Applicant has requested a third party abandon or change a mark, or commenced a proceeding to oppose a mark or to oppose or cancel a registration, or engaged in litigation involving or relating to Applicant's Mark and/or the mark ONE LOVE, as well as those instances in which Applicant was the subject of such trademark enforcement activity.

REQUEST FOR PRODUCTION NO. 31:

All documents relating to any registration or application for registration of ONE LOVE by or on Applicant's behalf as a trademark, service mark, trade name, or fictitious business name in the PTO, in any of the states of the United States, or in any governmental agency or department of the United States, or of any state, county, country, or territory.

REQUEST FOR PRODUCTION NO. 32:

Documents sufficient to identify or list the top 20 outlets or stores in the United States and worldwide that sell, offer for sale, intend to sell, promote, or advertise products bearing Applicant's Mark and/or the ONE LOVE mark.

REQUEST FOR PRODUCTION NO. 33:

All documents relating to any demand made upon Applicant to abandon, modify, or alter its use of Applicant's Mark and/or the mark ONE LOVE, including all documents relating to Applicant's response(s) to any such demand(s).

REQUEST FOR PRODUCTION NO. 34:

All organization charts or other documents that reflect the organization and operational structure of Applicant, or its predecessors, from 1995 to the present.

REQUEST FOR PRODUCTION NO. 35:

All contracts between Applicant and its (a) distributors of, (b) manufacturers of, and/or (c) retailers for products sold or to be sold in the United States under Applicant's Mark and/or the mark ONE LOVE.

REQUEST FOR PRODUCTION NO. 36:

Representative samples of all documents and things relating to the attendance by Applicant at any trade shows and the exhibition by Applicant of products bearing Applicant's Mark and/or the mark ONE LOVE at such shows.

REQUEST FOR PRODUCTION NO. 37:

All documents relating to and/or identifying the retail price or intended retail price of each good bearing Applicant's Mark and/or the mark ONE LOVE.

REQUEST FOR PRODUCTION NO. 38:

All documents relating to and/or identifying the wholesale price or intended wholesale price of each good bearing Applicant's Mark and/or the mark ONE LOVE.

REQUEST FOR PRODUCTION NO. 39:

All documents relating to the date that Applicant first became aware or acquired knowledge of Opposer's Marks, Opposer, the musical artist Bob Marley, the Bob Marley Heirs, and/or Bob Marley's song "One Love."

REQUEST FOR PRODUCTION NO. 40:

All documents that Applicant reviewed or upon which Applicant relied in the preparation of Applicant's responses to Opposer's First Set of Interrogatories.

REQUEST FOR PRODUCTION NO. 41:

All documents relating to any marketing or advertising plans or programs directed toward or targeted to any particular trade, industry, or consumer group for goods bearing Applicant's Mark and/or the mark ONE LOVE.

REQUEST FOR PRODUCTION NO. 42:

All documents relating to any registration or application for registration of the mark ONE LOVE, or any confusingly similar variation thereof, as a domain name or address on the internet or on any other computer network.

REQUEST FOR PRODUCTION NO. 43:

All artwork or other designs used or to be used with Applicant's Mark and/or the mark ONE LOVE for any products or services.

REQUEST FOR PRODUCTION NO. 44:

All documents provided to any expert(s) retained by Applicant as testifying experts in this case.

REQUEST FOR PRODUCTION NO. 45:

All documents reflecting communications between Applicant and all testifying experts retained for this case.

REQUEST FOR PRODUCTION NO. 46:

All contracts, licensing agreements, web hosting agreements, linking agreements, web design agreements, or other arrangements to which Applicant is a party and relating to Applicant's Mark and/or the mark ONE LOVE.

REQUEST FOR PRODUCTION NO. 47:

All documents relating to the registration, purchase, or use of Applicant's Mark and/or the mark ONE LOVE, or any confusingly similar variation thereof, alone or with any other words, as a search term or meta tag, in any website or in any search engine on the internet, or as an "AdWord" for Google, Yahoo or any other search engine on the internet, by or on behalf of Opposer.

REQUEST FOR PRODUCTION NO. 48:

All documents identified or described in Applicant's initial disclosures.

REQUEST FOR PRODUCTION NO. 49:

All documents on which Applicant intends to rely upon in this case.

REQUEST FOR PRODUCTION NO. 50:

All documents relating to all instances in which Applicant received any requests, inquiries, or statements from any person relating to whether there is or was some relationship, association, affiliation, or license between Applicant, Applicant's Mark and/or the mark ONE LOVE, on the one hand, and Opposer's Marks, Opposer, the musical artist Bob Marley, the Bob Marley Heirs, and/or Bob Marley's song "One Love", on the other hand.

REQUEST FOR PRODUCTION NO. 51:

All documents to identify Applicant's business and corporate structure, including the identity of any predecessors or successors, parent companies, and subsidiaries of Applicant, and all entities who own or control at least 25 percent of Applicant, or who are at least 25 percent owned by or controlled by Applicant or with whom Applicant shares any common officers or directors.

REQUEST FOR PRODUCTION NO. 52:

All documents that relate to, support or negate each of Applicant's affirmative defenses.

REQUEST FOR PRODUCTION NO. 53:

All documents that relate to, support or negate Applicant's allegation in Paragraph 9 of Applicant's Answer in which Applicant states "Applicant denies the ONE LOVE mark suggests a connection with Bob Marley and Opposer"

REQUEST FOR PRODUCTION NO. 54:

All documents that relate to, support or negate Applicant's allegation in Paragraph 9 of Applicant's Answer in which Applicant states Applicant "denies that the ONE LOVE mark is famous and distinctive within the meaning of the Federal Trademark Dilution Act"

REQUEST FOR PRODUCTION NO. 55:

All documents that relate to, support or negate Applicant's allegation in Paragraph 9 of Applicant's Answer in which Applicant states Applicant "denies that Applicant seeks to commercially use Opposer's alleged applied-for mark."

REQUEST FOR PRODUCTION NO. 56:

All documents that relate to, support or negate Applicant's allegation in Paragraph 10 of Applicant's Answer in which Applicant states "Applicant denies that maturation of [Applicant's] mark into a registration would cause a likelihood of confusion relating to Opposer's alleged applied-for mark"

REQUEST FOR PRODUCTION NO. 57:

All documents that relate to, support or negate Applicant's allegation in Paragraph 11 of Applicant's Answer in which Applicant states "Applicant denies any likelihood of confusion upo

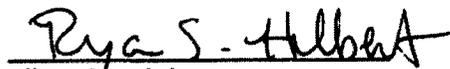
registration of the mark, and denies that Applicant would be allowed to trade on Opposer's existing good will in the mark."

REQUEST FOR PRODUCTION NO. 58:

All documents that relate to, support or negate Applicant's allegation on page 2 of its Motion for Summary Judgment in this Opposition in which Applicant stated: "Applicant has been the owner of the ONE LOVE mark since 1995 and has been using the mark for jewelry continuously for the last 17 years."

Respectfully submitted,

Dated: November 29, 2012



Jill M. Petrini
Ryan S. Hilbert
SHEPPARD MULLIN RICHTER & HAMPTON LLP
1901 Avenue of the Stars, Suite 1600
Los Angeles, California 90067-6017
Telephone: (310) 228-3700
Facsimile: (310) 228-3701

*Attorneys for Opposer
Fifty-Six Hope Road Music Limited*

SMRH:406641129.1

CERTIFICATE OF SERVICE

I hereby certify that **OPPOSER FIFTY-SIX HOPE ROAD MUSIC LIMITED'S FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS AND THINGS TO APPLICANT** is being deposited with the United States Postal Service, postage prepaid, first class mail, in an envelope addressed to:

Mark Levy
Hinman, Howard & Kattell, LLP
80 Exchange St., Ste. 700
Binghamton, NY 13901-3490

on this 29th day of November, 2012.


Robin Regnier

EXHIBIT 2

present knowledge, to supply the best available estimate of the requested information, and to explain the basis of the estimate.

These Interrogatories are continuing and Applicant is hereby requested to supplement its responses immediately whenever it acquires additional information pertinent thereto.

II. DEFINITIONS

The following definitions are applicable to terms employed in these Interrogatories, in the Instructions accompanying these Interrogatories, and in these Definitions.

1. "Opposer" shall mean and refer to Fifty-Six Hope Road Music Limited and includes any and all of its predecessors and successors in interest, any and all of its subsidiaries, affiliates and affiliated entities, and its partners, employees, agents, officers, directors, licensees, assignors, and representatives of the foregoing, and any other person acting or purporting to act on behalf of any of the foregoing.

2. "Opposer's Marks" means the trademark BOB MARLEY (Reg. No. 2,349,361) in Classes 3, 6, 9, 14, 16, 18, 21, 24, 25 and 26; the trademark BOB MARLEY AND THE WAILERS (Reg. No. 2,820,741) in Classes 9 and 25, and the trademark applications to register ONE LOVE in Classes 25, 41 and 43.

3. "Applicant" shall mean and refer to Samtani (Jamaica) Ltd. and includes any and all of its predecessors and successors in interest, any and all of its subsidiaries, affiliates and affiliated entities, and its partners, employees, agents, officers, directors, licensees, assignors, and representatives of the foregoing, and any other person acting or purporting to act on behalf of any of the foregoing.

4. The "Application" means U.S. Trademark Application Serial No. 85/375,935 filed by Applicant on July 20, 2011.

5. "Applicant's Mark" means the mark ONE LOVE for "jewelry, namely, bracelets and rings," which is the subject of the Application.

6. "Opposition" means Opposition No. 91-204913, entitled *Fifty-Six Hope Road Music Limited v. Samtani (Jamaica) Ltd.*

7. The term "person" refers to natural persons, organizations, associations, partnerships, joint ventures, corporations (including Applicant) and other legal entities, and the actions taken by a person include the actions of directors, officers, owners, members, partners, joint venturers, employees or agents acting on the person's behalf.

8. The singular includes the plural and vice versa; the words "and" and "or" shall be construed in both the conjunctive and disjunctive; the word "all" means "any and all;" the word "any" means "any and all."

9. The terms "relates" and "refers" mean directly or indirectly mentioning, discussing, describing, pertaining to or connected with, a stated subject matter.

10. The term "document" is used in its customary broad sense and encompasses, without limitation, all handwritten, typed, printed or otherwise visually or aurally reproduced materials, whether copies, drafts or originals, and regardless of whether they are privileged against discovery on any ground, or within the possession, custody or control of Applicant, or its directors, officers, employees, agents, attorneys, consultants or representatives, including but not limited to: email, electronically stored, created, or transmitted documents, letters, correspondence, cables, wires, telegrams, notes, memoranda, diaries, notes or records of telephone conversations, notes or records of personal conversations or interviews, interoffice and intraoffice communications of all types, drawings, plans, sketches, charts, notebooks, data, operating and maintenance manuals, operating and product specifications, photographs,

movies and recordings, books, catalogs, labels, packaging, containers, tags, advertisements, promotional materials, storyboards, press releases, reports, studies, questionnaires, assignments, agreements and other official papers and legal instruments, annual reports, management reports, project reports, reports to shareholders and minutes and reports of meetings (including meetings of directors, officers, executive boards and committees), lists of persons attending meetings, bills, invoices, orders, books, records, files, published material of any kind, and microfilms of documents that may have been destroyed. Any original or copy of a document containing or having attached to it any alterations, notes, comments or other material not included in the first document shall be deemed a separate document.

11. As used herein, the term "identify" means: as to documents, give their dates, a detailed description of the document, the author thereof, the signee thereof, and specify the person having custody or control thereof; as to natural persons, give their full name, business address (or if not available home address) and telephone number, employer, job title and, if employed by Applicant, their dates and regular places of employment and general duties; as to corporations, give the full name and present or last known address of the principal place of business of the corporation, identify the officers and directors of the corporation, and the state of incorporation of the corporation; as to partnerships, state whether the partnership is a general or limited partnership, identify the limited and general partners of the partnership, and state the principal place of business of the partnership; and as to joint ventures or other associations, identify all joint venturers or members of the association and state the principal place of business of the joint venture or association.

III. INTERROGATORIES

INTERROGATORY NO. 1:

Identify and describe in detail all products of Applicant bearing, or sold or offered under, or intended to be sold or offered under, Applicant's Mark and/or the mark ONE LOVE.

INTERROGATORY NO. 2:

State the dates on which Applicant first used Applicant's Mark and/or the mark ONE LOVE anywhere and in commerce and identify any and all geographic region(s) in which the mark was used.

INTERROGATORY NO. 3:

Describe in detail the channels of trade and distribution in which goods bearing Applicant's Mark and/or the mark ONE LOVE are sold, or are intended to be sold, including without limitation, the type of retailer or outlet in which such goods are sold or are distributed from or are intended to be sold.

INTERROGATORY NO. 4:

Describe in detail the demographic market to which goods bearing Applicant's Mark and/or the mark ONE LOVE are sold or are intended to be sold. Such description shall include the age, location, and mean household income of those purchasers who Applicant expects and/or intends to buy and use such goods.

INTERROGATORY NO. 5:

Describe in detail how Applicant's Mark appears, or is intended to appear, on each good with which Applicant's Mark is used, including without limitation, the location and size of said mark, and how it is used in connection with the sale, distribution, or manufacture of each such good.

INTERROGATORY NO. 6:

State the date that Applicant selected and/or adopted Applicant's Mark.

INTERROGATORY NO. 7:

Identify all persons who were involved in, participated in, decided upon, or offered suggestions for, the selection and/or adoption of Applicant's Mark.

INTERROGATORY NO. 8:

(a) State whether Applicant was aware or had knowledge of Opposer's Marks, Opposer, the musical artist Bob Marley, the Bob Marley Heirs, or Bob Marley's song "One Love" at the time that Applicant selected and/or adopted Applicant's Mark.

(b) If the answer to this Interrogatory is yes, describe in detail what Applicant knew about Opposer's Marks, Opposer, the musical artist Bob Marley, the Bob Marley Heirs, or Bob Marley's song "One Love."

INTERROGATORY NO. 9:

(a) State whether Applicant was aware or had knowledge of Opposer's Marks, Opposer, the musical artist Bob Marley, the Bob Marley Heirs, or Bob Marley's song "One Love" at the time that Applicant filed the Application.

(b) If the answer to this Interrogatory is yes, describe in detail what Applicant knew about Opposer's Marks, Opposer, the musical artist Bob Marley, the Bob Marley Heirs, or Bob Marley's song "One Love."

INTERROGATORY NO. 10:

(a) State whether Applicant has ever conducted a trademark search of any kind (on-line, full search, or manual search of records of the U.S. Patent and Trademark Office or any other registrar of trademarks) relating to Applicant's Mark or any other mark consisting of or

including the mark ONE LOVE.

(b) If the answer to this Interrogatory is yes, identify each such search report by providing the date on which the search was conducted, and stating whether any of Opposer's Marks, Opposer, the musical artist Bob Marley, the Bob Marley Heirs, or Bob Marley's song "One Love" were uncovered or disclosed in any such search.

INTERROGATORY NO. 11:

Describe in detail the method of marketing and advertising of each such good bearing Applicant's Mark and/or the mark ONE LOVE.

INTERROGATORY NO. 12:

For each of the goods with which Applicant uses Applicant's Mark, state the retail price of each such good and/or the intended retail price for each such good. If Applicant does not know the retail price, state the wholesale price for each good with which Applicant uses Applicant's Mark and/or the intended wholesale price for each such good.

INTERROGATORY NO. 13:

Identify the retailers, stores, and/or other location(s) in which each good bearing Applicant's Mark and/or the mark ONE LOVE is sold, offered for sale, intended to be sold or offered for sale, or advertised.

INTERROGATORY NO. 14:

Identify the person(s) most knowledgeable about the marketing and sale of each good bearing Applicant's Mark and/or the mark ONE LOVE.

INTERROGATORY NO. 15:

For each of the goods with which Applicant uses Applicant's Mark, state separately the annual and monthly amount spent by or on behalf of Applicant for advertising, promoting, or

marketing the good in the United States and worldwide.

INTERROGATORY NO. 16:

State the total amount that Applicant has spent advertising, promoting, and/or marketing Applicant's Mark in the United States and worldwide.

INTERROGATORY NO. 17:

State whether Applicant has any marketing or advertising plans or programs directed toward or targeted to any particular trade, industry or consumer group for Applicant's Mark and/or the mark ONE LOVE in the United States and worldwide. If so, identify and describe in detail each such trade, industry, or consumer group.

INTERROGATORY NO. 18:

Identify all persons who provided information for Applicant's responses to these Interrogatories, and for Applicant's responses to Opposer's First Set of Requests for Production of Documents and Things to Applicant served concurrently herewith.

INTERROGATORY NO. 19:

If Applicant has ever received any unfavorable comments, evaluations or information, or any criticism or complaints about the quality of the goods under Applicant's Mark or the mark ONE LOVE, identify and describe in detail all communications which refer, relate or pertain to all such comments, evaluations, information, criticism, and complaints, the date of each such communication and the person(s) who made and received such communication.

INTERROGATORY NO. 20:

Identify and describe in detail all instances in which Applicant received any requests, inquiries, or statements from any person relating to whether there is or was some relationship, association, affiliation, or license between Opposer and Applicant or Applicant's Mark, between

the Bob Marley Heirs and Applicant or Applicant's Mark, between Bob Marley and Applicant or Applicant's Mark, between Bob Marley's song "One Love" and Applicant or Applicant's Mark, or between any of the goods or services offered by Opposer and any of the goods or services offered by Applicant, and for each instance, identify all individuals who have knowledge of the facts thereof, the context of each instance, and the date of each instance.

INTERROGATORY NO. 21:

For each of the goods with which Applicant uses Applicant's Mark, state the number of goods manufactured for each year such good was manufactured.

INTERROGATORY NO. 22:

For each of the goods with which Applicant uses Applicant's Mark, state the number of units of goods sold for each year such good was sold.

INTERROGATORY NO. 23:

For each of the goods with which Applicant uses Applicant's Mark, state the geographic region in which that good was sold for each year such good was sold.

INTERROGATORY NO. 24:

For each of the goods with which Applicant uses Applicant's Mark, state the total amount of sales and revenues for each year such good was sold.

INTERROGATORY NO. 25:

Identify all surveys, public opinion polls or any other forms of consumer research known to Applicant which refer, relate or pertain in any way to Applicant's Mark, Opposer's Marks, Opposer, the musical artist Bob Marley, the Bob Marley Heirs, or Bob Marley's song "One Love."

INTERROGATORY NO. 26:

Identify all types of media used to run or publish anywhere any advertisements bearing or featuring Applicant's Mark and/or the mark ONE LOVE anywhere. For each media identified, state the following information:

- (a) The number of times each such advertisement was run or published;
- (b) If a radio or television advertisement, the time of day or night each such advertisement was run;
- (c) If a print advertisement, the location and size of each such advertisement in each publication or medium identified; and
- (d) Whether each such advertisement is currently being run or published.

INTERROGATORY NO. 27:

Identify and describe in detail all licensing agreements, production or manufacturing agreements, distribution agreements, or arrangements between Applicant and any third party relating to Applicant's Mark and/or the mark ONE LOVE.

INTERROGATORY NO. 28:

Identify and describe in detail all cross-marketing agreements, website linking agreements, website affiliate agreements, or other marketing or advertising arrangements between Applicant and any third party relating to Applicant's Mark an, including but not limited to, stating the date of each such agreement or arrangement, the term of each such agreement or arrangement, a description of the rights licensed or granted, the types of goods or services relating to each such agreement, and the website address or URL which promotes, markets or advertises Applicant's Mark and/or the mark ONE LOVE.

INTERROGATORY NO. 29:

State all facts that relate to, support or negate each of Applicant's affirmative defenses.

INTERROGATORY NO. 30:

State all facts that relate to, support or negate Applicant's allegation in Paragraph 9 of Applicant's Answer in which Applicant states "Applicant denies the ONE LOVE mark suggests a connection with Bob Marley and Opposer"

INTERROGATORY NO. 31:

State all facts that relate to, support or negate Applicant's allegation in Paragraph 9 of Applicant's Answer in which Applicant states Applicant "denies that the ONE LOVE mark is famous and distinctive within the meaning of the Federal Trademark Dilution Act"

INTERROGATORY NO. 32:

State all facts that relate to, support or negate Applicant's allegation in Paragraph 9 of Applicant's Answer in which Applicant states Applicant "denies that Applicant seeks to commercially use Opposer's alleged applied-for mark."

INTERROGATORY NO. 33:

State all facts that relate to, support or negate Applicant's allegation in Paragraph 10 of Applicant's Answer in which Applicant states "Applicant denies that maturation of [Applicant's] mark into a registration would cause a likelihood of confusion relating to Opposer's alleged applied-for mark"

INTERROGATORY NO. 34:

State all facts that relate to, support or negate Applicant's allegation in Paragraph 11 of Applicant's Answer in which Applicant states "Applicant denies any likelihood of confusion upon registration of the mark, and denies that Applicant would be allowed to trade on Opposer's

existing good will in the mark.”

INTERROGATORY NO. 35:

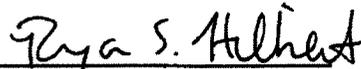
Identify all entities who are and/or were affiliates of Applicant, including all entities who own or control at least 25 percent of Applicant’s business, or who are at least 25 percent owned by or controlled by Applicant or with whom Applicant shares any common officers or directors.

INTERROGATORY NO. 36:

State all facts that relate to, support or negate Applicant’s allegation on page 2 of its Motion for Summary Judgment in this Opposition in which Applicant stated: “Applicant has been the owner of the ONE LOVE mark since 1995 and has been using the mark for jewelry continuously for the last 17 years.”

Respectfully submitted,

Dated: November 29, 2012



Jill M. Pietrini
Ryan S. Hilbert
SHEPPARD MULLIN RICHTER & HAMPTON LLP
1901 Avenue of the Stars, Suite 1600
Los Angeles, California 90067-6017
Telephone: (310) 228-3700
Facsimile: (310) 228-3701

*Attorneys for Opposer
Fifty-Six Hope Road Music Limited*

SMRH:406641141.2

CERTIFICATE OF SERVICE

I hereby certify that **OPPOSER FIFTY-SIX HOPE ROAD MUSIC LIMITED'S FIRST SET OF INTERROGATORIES TO APPLICANT** is being deposited with the United States Postal Service, postage prepaid, first class mail, in an envelope addressed to:

Mark Levy
Hinman, Howard & Kattell, LLP
80 Exchange St., Ste. 700
Binghamton, NY 13901-3490

on this 29th day of November, 2012.


Robin Regnier

EXHIBIT 3

Ryan Hilbert

From: Ryan Hilbert
Sent: Friday, May 10, 2013 5:39 PM
To: 'Levy, Mark'
Cc: 'Manzer, Amy'; Jill Pietrini
Subject: RE: Fifty-Six Hope Road Music Limited v. Samtani (Jamaica) Ltd. -- Opp. No. 91204913 re ONE LOVE

Mark:

Based on your email below, I understood that you would be serving us with your client's responses to our document requests and interrogatories – both without objections – by today, May 10, 2013. Assuming this was done, please send us a courtesy copy of your responses via email by no later than Monday morning, May 13.

Best,
Ryan

Ryan S. Hilbert
650.815.2681 | direct
650.815.4675 | direct fax
RHilbert@sheppardmullin.com | [Bio](#)

SheppardMullin

Sheppard Mullin Richter & Hampton LLP
379 Lytton Avenue
Palo Alto, CA 94301-1479
650.815.2600 | main
www.sheppardmullin.com

From: Ryan Hilbert
Sent: Friday, May 03, 2013 6:07 PM
To: 'Levy, Mark'
Cc: Manzer, Amy; Jill Pietrini
Subject: RE: Fifty-Six Hope Road Music Limited v. Samtani (Jamaica) Ltd. -- Opp. No. 91204913 re ONE LOVE

Thanks, Mark. You did not mention your client's responses to our document requests, though I assume you meant to include those as well. Therefore, we look forward to your client's responses to our document requests and interrogatories – both without objections – by May 10, 2013.

Best,
Ryan

Ryan S. Hilbert
650.815.2681 | direct
650.815.4675 | direct fax
RHilbert@sheppardmullin.com | [Bio](#)

SheppardMullin

Sheppard Mullin Richter & Hampton LLP
379 Lytton Avenue
Palo Alto, CA 94301-1479
650.815.2600 | main

www.sheppardmullin.com

From: Levy, Mark [<mailto:mlevy@hhk.com>]
Sent: Thursday, May 02, 2013 11:36 AM
To: Ryan Hilbert
Cc: Manzer, Amy
Subject: RE: Fifty-Six Hope Road Music Limited v. Samtani (Jamaica) Ltd. -- Opp. No. 91204913 re ONE LOVE

Ryan ---

Thank you for the reminder and your forbearance. Our client should complete his answers to your interrogatories by the end of next week.

Regards,

-- Mark

Mark Levy
mlevy@hhk.com

Hinman Howard & Kattell LLP
80 Exchange Street
P.O. Box 5250
Binghamton, NY 13902

Phone: (607) 231-6991
Fax: (607) 723-6605

Patent Attorneys do it
with Novelty

© ML 2013

From: Ryan Hilbert [<mailto:RHilbert@sheppardmullin.com>]
Sent: Wednesday, May 01, 2013 5:56 PM
To: Levy, Mark
Cc: Jill Pietrini; Manzer, Amy
Subject: RE: Fifty-Six Hope Road Music Limited v. Samtani (Jamaica) Ltd. -- Opp. No. 91204913 re ONE LOVE

Mark:

As you will recall, on November 29, 2012, we served your client, Samtani (Jamaica) Ltd. ("Samtani"), with (1) Opposer Fifty-Six Hope Road Music Limited's First Set of Interrogatories to Applicant and (2) Opposer Fifty-Six Hope Road Music Limited's First Set of Request for Production of Documents and Things to Applicant (collectively, the "Discovery Requests"). Having never received your responses to our client's Discovery Requests, we emailed you on January 14, 2013, inquiring about the status of Samtani's discovery responses. At the time, Amy Manzer from your office confirmed that you had received them, but indicated that you would respond to discovery when your motion for summary judgment had been resolved. As you know, the Board denied your motion on March 14, 2013. By our calculations, your discovery responses were due on April 13, 2013. To date, we have not received them.

Please let us know when you are available to meet and confer on this issue. Even though Samtani has now waived its objections because of its failure to timely respond to the Discovery Requests, we would like to discuss whether and when we can expect to receive Samtani's responses without objection.

Best,
Ryan

Ryan S. Hilbert
650.815.2681 | direct
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RHilbert@sheppardmullin.com | [Bio](#)

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From: Manzer, Amy [<mailto:amanzer@hhk.com>]
Sent: Wednesday, January 16, 2013 11:17 AM
To: Ryan Hilbert
Cc: Jill Pietrini; Levy, Mark
Subject: RE: Fifty-Six Hope Road Music Limited v. Samtani (Jamaica) Ltd. -- Opp. No. 91204913 re ONE LOVE

Ryan –

We will reply to the documents when the proceeding is no longer suspended pending disposition of our motion for summary judgment.

Regards,

Amy Manzer
Paralegal to Mark Levy and Leland Schultz, IP Counsel
HINMAN, HOWARD & KATTELL, LLP

From: Ryan Hilbert [<mailto:RHilbert@sheppardmullin.com>]
Sent: Monday, January 14, 2013 6:57 PM
To: Levy, Mark

Cc: Manzer, Amy; Jill Pietrini

Subject: Fifty-Six Hope Road Music Limited v. Samtani (Jamaica) Ltd. -- Opp. No. 91204913 re ONE LOVE

Mark:

On November 29, 2012, we served your client, Samtani (Jamaica) Ltd. ("Samtani"), with (1) *Opposer Fifty-Six Hope Road Music Limited's First Set of Interrogatories to Applicant* and (2) *Opposer Fifty-Six Hope Road Music Limited's First Set of Request for Production of Documents and Things to Applicant*. To date, we have not yet received Samtani's responses. Please let me know when you are available this week to meet and confer on this issue.

Best,
Ryan

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EXHIBIT 4

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File Number: 29WG-172559

June 11, 2013

Mark Levy
Hinman Howard & Kattell LLP
80 Exchange Street
P.O. Box 5250
Binghamton, NY 13902

VIA EMAIL TO MLEVY@HHK.COM

Re: *Fifty-Six Hope Road Music Limited v. Samtani (Jamaica) Ltd.*
Opposition No. 91204913

Dear Mr. Levy:

We have received the responses of Samtani (Jamaica) Ltd. (“Applicant”) to the First Set of Interrogatories (“Interrogatories”) of Fifty-Six Hope Road Music Limited (“Opposer”). We have not, however, received Applicant’s responses to Opposer’s First Set of Requests for Production (“Document Requests”), even though those requests were properly served on Applicant on November 29, 2012.

This letter is an effort to meet and confer pursuant to 37 CFR § 2.120(e) and TBMP § 523.02 about certain deficiencies in Applicant’s responses to Opposer’s Interrogatories. Through this letter, we also wish to put you on notice that we will be seeking the assistance of the Board in connection with Applicant’s failure to respond to Opposer’s Document Requests.

A. Opposer’s Responses to Applicant’s Requests for Production

As you know, Opposer properly served its Document Requests on Applicant on November 29, 2012. Having never received your responses to our client’s Document Requests, we emailed you on January 14, 2013, inquiring about the status of Samtani’s responses. At the time, Amy Manzer from your office confirmed that you had received Opposer’s Document Requests, but indicated that you would respond when your motion for summary judgment had been resolved. As you know, the Board denied your motion on March 14, 2013. Even though Applicant’s responses to Opposer’s Document Requests were due by April 13, 2013, Applicant has yet to produce them. To make matters worse, Applicant even led Opposer to believe that

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Mark Levy
June 11, 2013
Page 2

Applicant would be producing its responses by virtue of the parties' email exchange on or around May 3, 2013.

Significantly, Applicant also has yet to produce *any* documents.

As a result of Applicant's failure to timely respond to Opposer's Document Requests, Applicant has forfeited its right to object to the Document Requests. TBMP § 406.04(a). Moreover, Applicant has indicated by its recent actions that it does not intend to respond to Opposer's Document Requests. Because of this, Opposer has no choice but to seek Board intervention on this issue.

B. Opposer's Responses to Applicant's Interrogatories

As you know, Opposer also served its Interrogatories on Applicant on November 29, 2012. As with Opposer's Document Requests, Applicant's responses to Opposer's Interrogatories were due by April 13, 2013. However, Applicant did not serve its responses to Opposer's Interrogatories until May 14, 2013, over a month after they were originally due. Even then, Applicant's responses are deficient in numerous respects.

1. Applicant's Interrogatory Responses Include Improper Objections

As with Applicant's untimely responses to Opposer's Document Requests, Applicant has waived its right to object to Opposer's Interrogatories by failing to timely respond to them. TBMP § 405.04(a). Despite this, Applicant has included four general objections in its responses to Applicant's Interrogatories. Please confirm that Applicant will supplement its responses to Opposer's Interrogatories to remove those objections.

2. Certain of Applicant's Interrogatory Responses Are Deficient

In addition to the issue concerning Applicant's General Objections, certain of Applicant's responses are also deficient.

Interrogatory No. 1. This Interrogatory asks Applicant to "[i]dentify and describe in detail all products of Applicant bearing, or sold or offered under, or intended to be sold or offered under, Applicant's Mark and/or the mark ONE LOVE." In response, Applicant identified two goods: bracelets and rings. What Applicant did not indicate was whether Applicant is using or intends to use its ONE LOVE mark in connection with these goods. Please clarify.

Interrogatory No. 2. This Interrogatory asks Applicant to "[s]tate the dates on which Applicant first used Applicant's Mark and/or the mark ONE LOVE anywhere and in commerce and identify any and all geographic region(s) in which the mark was used." Applicant responded

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to this interrogatory by objecting to it. This is improper because Applicant has waived its right to object.

Applicant also responded by stating that it did not know if Opposer was inquiring about “whether Opposer requests all geographic region(s) in which the Mark was first used or was subsequently used.” The answer to this question should have been clear because of the use of the past tense in Opposer’s interrogatory. However, in order to address Applicant’s concerns, Opposer will accept as a response information about both the geographic region(s) in which Applicant first used its mark and the geographic region(s) in which Applicant’s mark was subsequently used. We trust this addresses Applicant’s concerns. Such information is extremely relevant in that Applicant’s other responses suggest that Applicant may never have sold any of its products outside Jamaica.

Notwithstanding the foregoing, Applicant responded to this Interrogatory by stating: “Applicant’s Mark was used in commerce first in 2004.” In its supplemental response, Applicant must also state the date on which it first started using its mark anywhere.

Interrogatory No. 3. This Interrogatory asks Applicant to “[d]escribe in detail the channels of trade and distribution in which goods bearing Applicant’s Mark and/or the mark ONE LOVE are sold, or are intended to be sold, including without limitation, the type of retailer or outlet in which such goods are sold or are distributed from or are intended to be sold.” As with Applicant’s response to Interrogatory No. 2, Applicant responded to this interrogatory by objecting to it. This is improper because Applicant has waived its right to object.

In addition to refusing to respond to this Interrogatory based on an improper objection, Applicant also refused to respond based on an allegation that the goods for which Applicant is seeking registration of the ONE LOVE mark do not actually technically bear the mark. We do not appreciate Applicant’s game-playing in connection with this response, and doubt the Board will either. Please confirm that Applicant will supplement its response to this Interrogatory to identify the channels of trade and distribution in which the goods for which Applicant is seeking registration of its mark are sold, or are intended to be sold.

Interrogatory No. 4. This Interrogatory asks Applicant to “[d]escribe in detail the demographic market to which goods bearing Applicant’s Mark and/or the mark ONE LOVE are sold or are intended to be sold.” Applicant responded by once again objecting, even though all such objections have been waived. Applicant also refused to answer this Interrogatory on the ground that Applicant purportedly does not know who its customers are. Please confirm that Applicant will supplement its response to this Interrogatory to provide a response.

Interrogatory No. 5. This Interrogatory asks Applicant to “[d]escribe in detail how Applicant’s Mark appears, or is intended to appear, on each good with which Applicant’s Mark is used, including without limitation, the location and size of said mark, and how it is used in connection with the sale, distribution, or manufacture of each such good.” Applicant responded

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by once again objecting, even though all such objections have been waived. Applicant then proceeded to state that its mark appears on Applicant's flyers, website and advertising materials. Notably absent from Applicant's response is any indication as to *how* its mark appears on these materials. To compound matters, Applicant has not produced *any* documents and thus Opposer cannot discern for itself how Applicant's mark appears. Until and unless Applicant produces all documents on which its mark appears, Applicant must supplement its response to this Interrogatory to provide such information here.

Interrogatory No. 6. This Interrogatory asks Applicant to "[s]tate the date that Applicant selected and/or adopted Applicant's Mark." Applicant responded by stating 2004. Based on this response, we understand that Applicant selected and adopted its mark as of December 31, 2004. To the extent this is not correct, please clarify.

Interrogatory Nos. 9-10. These Interrogatories ask Applicant to "[s]tate whether Applicant was aware or had knowledge of Opposer's Marks, Opposer, the musical artist Bob Marley, the Bob Marley Heirs, or Bob Marley's song 'One Love'" at certain times. In the event the answer to these Interrogatories was yes, Opposer asked Applicant to "[d]escribe in detail what Applicant knew about Opposer's Marks, Opposer, the musical artist Bob Marley, the Bob Marley Heirs, or Bob Marley's song 'One Love.'"

Applicant responded to these Interrogatories by stating that it did not have knowledge of Opposer's Marks or of Opposer. However, Applicant did not state whether it was aware of or had knowledge of "the musical artist Bob Marley, the Bob Marley Heirs, or Bob Marley's song 'One Love . . .'" This information is highly relevant and goes directly to Opposer's false association claim, which Applicant has denied. Please confirm that Applicant will supplement its response to these Interrogatories to provide complete responses.

Interrogatory No. 11. This Interrogatory asks Applicant to "[d]escribe in detail the method of marketing and advertising of each such good bearing Applicant's Mark and/or the mark ONE LOVE." Applicant responded, in part, by stating that it has "included an advertisement in a hotel in-room magazine." Tellingly, however, Applicant does not state the name of that magazine, its circulation, or when that advertisement was run. Applicant's omission is particularly glaring considering that Applicant has not yet produced any documents. Please confirm that Applicant will supplement its response to this Interrogatory to provide this missing information.

Interrogatory Nos. 12, 15-17. These Interrogatories seek information concerning the retail price or intended retail price of Applicant's products, and the amounts Applicant has spent on advertising and marketing its products. Applicant responded to each of these Interrogatories with only objections, which have been waived. Applicant must provide a response to these Interrogatories.

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Page 5

Interrogatory Nos. 20-24. These Interrogatories seek information concerning the number of goods Applicant manufactured and sold under the ONE LOVE mark, and where. Applicant responded either by making improper objections, or by once again disingenuously stating that Applicant's goods do not technically bear Applicant's mark. Applicant must provide a response to these Interrogatories. This is especially the case considering that Applicant's other responses suggest that Applicant may not have manufactured or sold any products in the U.S. under or in connection with the ONE LOVE mark.

Interrogatory No. 26. This Interrogatory asks Applicant to "[i]dentify all types of media used to run or publish anywhere any advertisements bearing or featuring Applicant's Mark and/or the mark ONE LOVE anywhere." Applicant responded by making improper objections, and by once again disingenuously stating that Applicant's goods do not technically bear Applicant's mark. Applicant must respond to this Interrogatory, especially because Applicant's other responses frequently reference "Applicant's flyers, web site, and advertising materials" and Applicant has not produced any responsive documents.

Interrogatory No. 27. This Interrogatory asks Applicant to "[i]dentify and describe in detail all licensing agreements, production or manufacturing agreements, distribution agreements, or arrangements between Applicant and any third party relating to Applicant's Mark and/or the mark ONE LOVE." Applicant responded by stating "Applicant's Mark appears on flyers produced in Jamaica." This answer is non-responsive. Please confirm that Applicant will supplement its response to identify all agreements as requested in the Interrogatory.

Interrogatory No. 29. This Interrogatory asks Applicant to "[s]tate all facts that relate to, support or negate each of Applicant's affirmative defenses." In response, Applicant stated "none." Unless Applicant agrees to supplement its response to this Interrogatory, Opposer will have no choice but to move to strike Applicant's affirmative defenses on the ground that each lacks any factual support. Please confirm that Applicant will do so.

Interrogatory No. 30. This Interrogatory asks Applicant to "[s]tate all facts that relate to, support or negate Applicant's allegation in Paragraph 9 of Applicant's Answer in which Applicant states 'Applicant denies the ONE LOVE mark suggests a connection with Bob Marley and Opposer'" As we understand Applicant's current response, the only fact of which Applicant is currently aware in response to this Interrogatory is that Opposer's trademark applications and registrations purportedly do not include any product or service related to jewelry. To the extent this is not correct, please confirm whether Applicant will supplement its response.

Interrogatory No. 31. This Interrogatory asks Applicant to "[s]tate all facts that relate to, support or negate Applicant's allegation in Paragraph 9 of Applicant's Answer in which Applicant states Applicant 'denies that the ONE LOVE mark is famous and distinctive within the meaning of the Federal Trademark Dilution Act'" As we understand Applicant's current response, the only fact on which Applicant relies in its response is the allegation that there are

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Page 6

purportedly a number of third party uses of ONE LOVE. To the extent this is not correct, please confirm whether Applicant will supplement its response.

Interrogatory No. 32. This Interrogatory asks Applicant to “[s]tate all facts that relate to, support or negate Applicant’s allegation in Paragraph 9 of Applicant’s Answer in which Applicant states Applicant ‘denies that Applicant seeks to commercially use Opposer’s alleged applied-for mark.’” Applicant cites to no facts in its response. Instead, Applicant merely denies that it intends to commercially use Opposer’s ONE LOVE mark at the same time it admits that it “uses and intends to continue using ONE LOVE in connection with jewelry.” Applicant’s response is non-responsive. Please confirm that Applicant will supplement its response to provide all facts as requested.

Interrogatory No. 33. This Interrogatory asks Applicant to “[s]tate all facts that relate to, support or negate Applicant’s allegation in Paragraph 10 of Applicant’s Answer in which Applicant states ‘Applicant denies that maturation of [Applicant’s] mark into a registration would cause a likelihood of confusion relating to Opposer’s alleged applied-for mark’” Applicant only identifies a single fact in its response – that there are purportedly a “great number” of third party uses of the mark ONE LOVE. Applicant’s other assertion – that it does not intend to “commercially use” Opposer’s mark at the same time it admits it “uses and intends to continue using ONE LOVE in connection with jewelry” – is not a fact. Please let us know whether Applicant will supplement its response to remove this latter “fact” and to include any additional facts on which it intends to rely.

Interrogatory No. 34. This Interrogatory asks Applicant to “[s]tate all facts that relate to, support or negate Applicant’s allegation in Paragraph 11 of Applicant’s Answer in which Applicant states ‘Applicant denies any likelihood of confusion upon registration of the mark, and denies that Applicant would be allowed to trade on Opposer’s existing good will in the mark.’” As we understand Applicant’s current response, the only fact on which Applicant relies in its response is the allegation that there are purportedly a number of third-party uses of ONE LOVE. To the extent this is not correct, please confirm whether Applicant will supplement its response.

Interrogatory No. 35. This Interrogatory asks Applicant to “[i]dentify all entities who are and/or were affiliates of Applicant, including all entities who own or control at least 25 percent of Applicant’s business, or who are at least 25 percent owned by or controlled by Applicant or with whom Applicant shares any common officers or directors.” Applicant responded to this interrogatory by objecting to it. This is improper because Applicant has waived its right to object. Please confirm that Applicant will supplement its response to provide a response.

Interrogatory No. 36. This Interrogatory asks Applicant to “[s]tate all facts that relate to, support or negate Applicant’s allegation on page 2 of its Motion for Summary Judgment in this Opposition in which Applicant stated: ‘Applicant has been the owner of the ONE LOVE mark since 1995 and has been using the mark for jewelry continuously for the last 17 years.’” In

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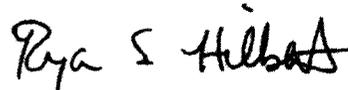
Mark Levy
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Page 7

response, Applicant stated: "Applicant's Mark has been used in commerce for jewelry since 2004, a period of 9 years."

Applicant's response is non-responsive. As an initial matter, it does not include any facts. Moreover, Applicant's response belies its assertion to the Board and its prior statements to the U.S. Patent & Trademark Office. Please confirm that Applicant will supplement its response to provide a response.

I am available on June 13-14 to meet and confer with you. Please let me know when you are available for a meet and confer. If we cannot come to an agreement on these issues, Opposer will have no choice but to file a motion to compel.

Very truly yours,



Ryan S. Hilbert
SHEPPARD MULLIN RICHTER & HAMPTON LLP

cc: Jill M. Pietrini

SMRH:408541796.1

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

In the matter of Application Serial No. 85/375,935
for the Mark: ONE LOVE

<hr/>		
Fifty-Six Hope Road Music Limited)	
)	
Opposer)	Opposition No. 91204913
)	
v.)	
)	
Samtani (Jamaica) Ltd.)	APPLICANT'S ANSWERS TO
DBA Tropicana Jewelers)	OPPOSER'S FIRST SET OF
)	INTERROGATORIES
Applicant)	
<hr/>		

COMES NOW, the Applicant, Samtani (Jamaica) Ltd. DBA Tropicana Jewelers, by and through its undersigned counsel, does hereby serve the following responses to Defendant's Interrogatories.

GENERAL OBJECTIONS

1. Applicant objects to the Definitions and Instructions to the extent that the Definitions and Instructions purport to enlarge the obligations of Applicant to respond beyond those required by the Federal Rules of Civil Procedure.
2. Discovery in this case is ongoing. Applicant has not fully completed investigation and discovery of all matters which may be within the scope of Oppositioner's First Set of Interrogatories. The answers to the following Interrogatories are made to the best of Applicant's knowledge, are based upon information currently known to Applicant, and are given without prejudice to Applicant's right to change, supplement and/or clarify their responses, if necessary.
3. Applicant answers each of the following Interrogatories subject to and without in any way waiving or intending to waive any objection to the competency, relevancy, materiality, privilege or admissibility as evidence for any purpose of any of the answers given herein.

4. Applicant objects to the Interrogatories to the extent that they seek information subject to various privileges, including, but not limited to, the attorney/client privilege and the attorney work product doctrine.

INTERROGATORY NO. 1:

Identify and describe in detail all products of Applicant bearing, or sold or offered under, or intended to be sold or offered under, Applicant's Mark and/or the mark ONE LOVE.

ANSWER: Bracelets, rings.

INTERROGATORY NO.2:

State the dates on which Applicant first used Applicant's Mark and/or the mark ONE LOVE anywhere and in commerce and identify any and all geographic region(s) in which the mark was used.

ANSWER: Applicant objects to Interrogatory No. 2 because it is unclear exactly what the Interrogatory is asking. It is unclear whether Opposer requests all geographic region(s) in which the Mark was first used or was subsequently used. Applicant's Mark was used in commerce first in 2004.

INTERROGATORY NO.3:

Describe in detail the channels of trade and distribution in which goods bearing Applicant's Mark and/or the mark ONE LOVE are sold, or are intended to be sold, including without limitation, the type of retailer or outlet in which such goods are sold or are distributed from or are intended to be sold.

ANSWER: Applicant objects to Interrogatory No. 3 because the term "goods bearing Applicant's Mark" is vague. The goods (jewelry articles) themselves do not bear Applicant's Mark. The Mark appears on Applicant's flyers, web site, and advertising materials.

INTERROGATORY NO.4:

Describe in detail the demographic market to which goods bearing Applicant's Mark and/or the mark ONE LOVE are sold or are intended to be sold. Such description shall include the age, location, and mean household income of those purchasers who Applicant expects and/or intends to buy and use such goods.

ANSWER: Applicant objects to Interrogatory No. 4 because it is overbroad and requests information that is neither relevant to the subject matter of the Opposition nor reasonably calculated to lead to the discovery of admissible evidence. Moreover, Applicant lacks sufficient information to form an answer to Interrogatory No. 4.

INTERROGATORY NO. 5:

Describe in detail how Applicant's Mark appears, or is intended to appear, on each good with which Applicant's Mark is used, including without limitation, the location and size of said mark, and how it is used in connection with the sale, distribution, or manufacture of each such good.

ANSWER: Applicant objects to Interrogatory No. 5 because the term "how Applicant's Mark appears... on each good" is vague. The Mark does not appear on the goods (jewelry articles) themselves. The Mark appears on Applicant's flyers, web site, and advertising materials.

INTERROGATORY NO. 6:

State the date that Applicant selected and/or adopted Applicant's Mark.

ANSWER: 2004.

INTERROGATORY NO. 7:

Identify all persons who were involved in, participated in, decided upon, or offered suggestions for, the selection and/or adoption of Applicant's Mark.

ANSWER: Mr. Kumar Samtani.

INTERROGATORY NO. 8:

- (a) State whether Applicant was aware or had knowledge of Opposer's Marks, Opposer, the musical artist Bob Marley, the Bob Marley Heirs, or Bob Marley's song "One Love" at the time that Applicant selected and/or adopted Applicant's Mark.
- (b) If the answer to this Interrogatory is yes, describe in detail what Applicant knew about Opposer's Marks, Opposer, the musical artist Bob Marley, the Bob Marley Heirs, or Bob Marley's song "One Love."

ANSWER: Applicant had no knowledge of Opposer's Marks or of Opposer prior to commencement of the present Opposition.

INTERROGATORY NO. 9:

- (a) State whether Applicant was aware or had knowledge of Opposer's Marks, Opposer, the musical artist Bob Marley, the Bob Marley Heirs, or Bob Marley's song "One Love" at the time that Applicant filed the Application.
- (b) If the answer to this Interrogatory is yes, describe in detail what Applicant knew about Opposer's Marks, Opposer, the musical artist Bob Marley, the Bob Marley Heirs, or Bob Marley's song "One Love."

ANSWER: Applicant had no knowledge of Opposer's Marks or of Opposer when Applicant began using Applicant's Mark for jewelry or when Applicant filed its trademark application therefor.

INTERROGATORY NO. 10:

(a) State whether Applicant has ever conducted a trademark search of any kind (on-line, full search, or manual search of records of the U.S. Patent and Trademark Office or any other registrar of trademarks) relating to Applicant's Mark or any other mark consisting of or including the mark ONE LOVE.

(b) If the answer to this Interrogatory is yes, identify each such search report by providing the date on which the search was conducted, and stating whether any of Opposer's Marks, Opposer, the musical artist Bob Marley, the Bob Marley Heirs, or Bob Marley's song "One Love" were uncovered or disclosed in any such search.

ANSWER: Yes. Correspondence regarding the trademark search is being provided in response to Opposer's request for production of documents.

INTERROGATORY NO. 11:

Describe in detail the method of marketing and advertising of each such good bearing Applicant's Mark and/or the mark ONE LOVE.

ANSWER: Applicant prints and distributes flyers and has included an advertisement in a hotel in-room magazine. Applicant's web site also includes Applicant's Mark.\

INTERROGATORY NO. 12:

For each of the goods with which Applicant uses Applicant's Mark, state the retail price of each such good and/or the intended retail price for each such good. If Applicant does not know the retail price, state the wholesale price for each good with which Applicant uses Applicant's Mark and/or the intended wholesale price for each such good.

ANSWER: Applicant objects to Interrogatory No. 12 to the extent that it requests information that is neither relevant to the subject matter of the Opposition nor reasonably calculated to lead to the discovery of admissible evidence.

INTERROGATORY NO. 13:

Identify the retailers, stores, and/or other location(s) in which each good bearing Applicant's Mark and/or the mark ONE LOVE is sold, offered for sale, intended to be sold or offered for sale, or advertised.

ANSWER: Tropicana Jewelers.

INTERROGATORY NO. 14:

Identify the person(s) most knowledgeable about the marketing and sale of each good bearing Applicant's Mark and/or the mark ONE LOVE.

ANSWER: Applicant objects to Interrogatory No. 14 because the term "good bearing Applicant's Mark" is vague. The goods (jewelry articles) themselves do not bear Applicant's Mark. The Mark appears on Applicant's flyers, web site, and advertising materials. The most knowledgeable person about the marketing and sale of the goods is Kumar Samtani.

INTERROGATORY NO. 15:

For each of the goods with which Applicant uses Applicant's Mark, state separately the annual and monthly amount spent by or on behalf of Applicant for advertising, promoting, or marketing the good in the United States and worldwide.

ANSWER: Applicant objects to Interrogatory No. 15 to the extent that it requests information that is neither relevant to the subject matter of the Opposition nor reasonably calculated to lead to the discovery of admissible evidence.

INTERROGATORY NO. 16:

State the total amount that Applicant has spent advertising, promoting, and/or marketing Applicant's Mark in the United States and worldwide.

ANSWER: Applicant objects to Interrogatory No. 16 to the extent that it requests information that is neither relevant to the subject matter of the Opposition nor reasonably calculated to lead to the discovery of admissible evidence.

INTERROGATORY NO. 17:

State whether Applicant has any marketing or advertising plans or programs directed toward or targeted to any particular trade, industry or consumer group for Applicant's Mark and/or the mark ONE LOVE in the United States and worldwide. If so, identify and describe in detail each such trade, industry, or consumer group.

ANSWER: Applicant objects to Interrogatory No. 17 to the extent that it requests information that is neither relevant to the subject matter of the Opposition nor reasonably calculated to lead to the discovery of admissible evidence.

INTERROGATORY NO. 18:

Identify all persons who provided information for Applicant's responses to these Interrogatories, and for Applicant's responses to Opposer's First Set of Requests for Production of Documents and Things to Applicant served concurrently herewith.

ANSWER: No one provided information for Applicant's response to these Interrogatories or to Opposer's First Set of Requests for Production of Documents and Things.

INTERROGATORY NO. 19:

If Applicant has ever received any unfavorable comments, evaluations or information, or any criticism or complaints about the quality of the goods under Applicant's Mark or the mark ONE LOVE, identify and describe in detail all communications which refer, relate or pertain to all such comments, evaluations, information, criticism, and complaints, the date of each such communication and the person(s) who made and received such communication.

ANSWER: None.

INTERROGATORY NO. 20:

Identify and describe in detail all instances in which Applicant received any requests, inquiries, or statements from any person relating to whether there is or was some relationship, association, affiliation, or license between Opposer and Applicant or Applicant's Mark, between the Bob Marley Heirs and Applicant or Applicant's Mark, between Bob Marley and Applicant or Applicant's Mark, between Bob Marley's song "One Love" and Applicant or Applicant's Mark, or between any of the goods or services offered by Opposer and any of the goods or services offered by Applicant, and for each instance, identify all individuals who have knowledge of the facts thereof, the context of each instance, and the date of each instance.

ANSWER: None.

INTERROGATORY NO. 21:

For each of the goods with which Applicant uses Applicant's Mark, state the number of goods manufactured for each year such good was manufactured.

ANSWER: Applicant objects to Interrogatory No. 21 to the extent that it requests information that is neither relevant to the subject matter of the Opposition nor reasonably calculated to lead to the discovery of admissible evidence. The Mark does not appear on the goods (jewelry articles) themselves. The Mark appears on Applicant's flyers, web site, and advertising materials.

INTERROGATORY NO. 22:

For each of the goods with which Applicant uses Applicant's Mark, state the number of units of goods sold for each year such good was sold.

ANSWER: Applicant objects to Interrogatory No. 22 to the extent that it requests information that is neither relevant to the subject matter of the Opposition nor reasonably calculated to lead to the discovery of admissible evidence.

INTERROGATORY NO. 23:

For each of the goods with which Applicant uses Applicant's Mark, state the geographic region in which that good was sold for each year such good was sold.

ANSWER: Applicant objects to Interrogatory No. 23 to the extent that it requests information that is neither relevant to the subject matter of the Opposition nor reasonably calculated to lead to the discovery of admissible evidence. The Mark does not appear on the goods (jewelry articles) themselves. The Mark appears on Applicant's flyers, web site, and advertising materials.

INTERROGATORY NO. 24:

For each of the goods with which Applicant uses Applicant's Mark, state the total amount of sales and revenues for each year such good was sold.

ANSWER: Applicant objects to Interrogatory No. 24 to the extent that it requests information that is neither relevant to the subject matter of the Opposition nor reasonably calculated to lead to the discovery of admissible evidence. The Mark does not appear on the goods (jewelry articles) themselves. The Mark appears on Applicant's flyers, web site, and advertising materials.

INTERROGATORY NO. 25:

Identify all surveys, public opinion polls or any other forms of consumer research known to Applicant which refer, relate or pertain in any way to Applicant's Mark, Opposer's Marks, Opposer, the musical artist Bob Marley, the Bob Marley Heirs, or Bob Marley's song "One Love."

ANSWER: None.

INTERROGATORY NO. 26:

Identify all types of media used to run or publish anywhere any advertisements bearing or featuring Applicant's Mark and/or the mark ONE LOVE anywhere. For each media identified, state the following information:

- (a) The number of times each such advertisement was run or published;
- (b) If a radio or television advertisement, the time of day or night each such advertisement was run;
- (c) If a print advertisement, the location and size of each such advertisement in each publication or medium identified; and
- (d) Whether each such advertisement is currently being run or published.

ANSWER: Applicant objects to Interrogatory No. 26 to the extent that it requests information that is neither relevant to the subject matter of the Opposition nor reasonably calculated to lead to the discovery of admissible evidence. The Mark does not appear on the goods (jewelry articles) themselves. The Mark appears on Applicant's flyers, web site, and advertising materials.

INTERROGATORY NO. 27:

Identify and describe in detail all licensing agreements, production or manufacturing agreements, distribution agreements, or arrangements between Applicant and any third party relating to Applicant's Mark and/or the mark ONE LOVE.

ANSWER: Applicant's Mark appears on flyers produced in Jamaica.

INTERROGATORY NO. 28:

Identify and describe in detail all cross-marketing agreements, website linking agreements, website affiliate agreements, or other marketing or advertising arrangements between Applicant and any third party relating to Applicant's Mark an, including but not limited to, stating the date of each such agreement or arrangement, the term of each such agreement or arrangement, a description of the rights licensed or granted, the types of goods or services relating to each such agreement, and the website address or URL which promotes, markets or advertises Applicant's Mark and/or the mark ONE LOVE.

ANSWER: None.

INTERROGATORY NO. 29:

State all facts that relate to, support or negate each of Applicant's affirmative defenses.

ANSWER: None.

INTERROGATORY NO. 30:

State all facts that relate to, support or negate Applicant's allegation in Paragraph 9 of Applicant's Answer in which Applicant states "Applicant denies the ONE LOVE mark suggests a connection with Bob Marley and Opposer...."

ANSWER: Applicant intends to rely on Opposer's own deposition and on Opposer's trademark applications and registrations, in which no product or service of Opposer's Mark is stated to be related to jewelry.

INTERROGATORY NO. 31:

State all facts that relate to, support or negate Applicant's allegation in Paragraph 9 of Applicant's Answer in which Applicant states Applicant "denies that the ONE LOVE mark is famous and distinctive within the meaning of the Federal Trademark Dilution Act...."

ANSWER: Applicant has discovered a great number of third parties that use the words, and that have even registered the mark, "ONE LOVE" on goods such as all those produced and marketed by Opposer, indicating that the Mark, ONE LOVE cannot be considered distinctive, much less a famous mark within the meaning of the Federal Trademark Dilution Act.

INTERROGATORY NO. 32:

State all facts that relate to, support or negate Applicant's allegation in Paragraph 9 of Applicant's Answer in which Applicant states Applicant "denies that Applicant seeks to commercially use Opposer's alleged applied-for mark."

ANSWER: Applicant has no intention of commercially using Opposer's alleged applied-for Mark on any goods recited in Opposer's application, but merely uses and intends to continue using ONE LOVE in connection with jewelry.

INTERROGATORY NO. 33:

State all facts that relate to, support or negate Applicant's allegation in Paragraph 10 of Applicant's Answer in which Applicant states "Applicant denies that maturation of [Applicant's] mark into a registration would cause a likelihood of confusion relating to Opposer's alleged applied-for mark. . .

ANSWER: The fact that a great number of third parties use the words, and have registered the mark, "ONE LOVE" on goods such as all those produced and marketed by Opposer, indicates that Applicant's registration of the Mark will not result in a greater likelihood of confusion than already exists. Moreover, since Applicant has no intention of commercially using Opposer's Mark on any goods recited in Opposer's pending applications, but merely uses and intends to continue using ONE LOVE in connection with jewelry, no confusion has occurred or is likely to occur.

INTERROGATORY NO. 34:

State all facts that relate to, support or negate Applicant's allegation in Paragraph 11 of Applicant's Answer in which Applicant states "Applicant denies any likelihood of confusion upon registration of the mark, and denies that Applicant would be allowed to trade on Opposer's existing good will in the mark."

ANSWER: A great number of third parties that use the words, and that have even registered the mark, "ONE LOVE" on goods such as all those produced and marketed by Opposer, indicates that Applicant's registration of ONE LOVE for jewelry is unlikely to cause confusion.

INTERROGATORY NO. 35:

Identify all entities who are and/or were affiliates of Applicant, including all entities who own or control at least 25 percent of Applicant's business, or who are at least 25 percent owned by or controlled by Applicant or with whom Applicant shares any common officers or directors.

ANSWER: Applicant objects to Interrogatory No. 35 to the extent that it requests information that is neither relevant to the subject matter of the Opposition nor reasonably calculated to lead to the discovery of admissible evidence.

INTERROGATORY NO. 36:

State all facts that relate to, support or negate Applicant's allegation on page 2 of its Motion for Summary Judgment in this Opposition in which Applicant stated: "Applicant has been the owner of the ONE LOVE mark since 1995 and has been using the mark for jewelry continuously for the last 17 years."

ANSWER: Applicant's Mark has been used in commerce for jewelry since 2004, a period of 9 years.

Respectfully submitted,

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By:


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Dated: May 14, 2013

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing APPLICANT'S ANSWERS TO OPPOSER'S FIRST SET OF INTERROGATORIES was served on counsel for Opposer, this 14th day of May, 2013, by sending same via First Class Mail to:

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Respectfully submitted,

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