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

Proceeding	91205910
Party	Plaintiff Romney for President, Inc.
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Submission	Motion for Sanctions
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Signature	/DavidWSar/
Date	06/06/2013
Attachments	Motion for Sanctions.pdf(26115 bytes) Motion for Sanctions Ex A.pdf(1068997 bytes) Motion for Sanctions Ex B.pdf(934045 bytes) Motion for Sanctions Ex C.pdf(900500 bytes)

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

In re Application Serial No. 85447381
For the Mark: BELIEVE IN AMERICA
Filed: October 14, 2011
Published for Opposition: March 6, 2012

In re Application Serial No. 85452544
For the Mark: BELIEVE IN AMERICA
Filed: October 20, 2011
Published for Opposition: March 6, 2012

ROMNEY FOR PRESIDENT, INC.,

Opposer,

v.

CHRIS ARMES,

Applicant.

Opposition No. 91205910

**OPPOSER ROMNEY FOR PRESIDENT, INC.'S
MOTION FOR SANCTIONS AND JUDGMENT**

COMES NOW Opposer Romney for President, Inc. (“RFP”), by and through undersigned counsel, and respectfully moves the Trademark Trial and Appeal Board (the “Board”) — pursuant to TBMP § 527.01(a) & 37 C.F.R. § 2.120(g) — to sanction Applicant Chris Armes (“Armes”) and to enter a final judgment sustaining the opposition and refusing the trademark applications. Armes has willfully and completely failed to comply with the Board’s April 25, 2013 Order requiring him to provide initial disclosures and responses to Requests for Documents, Interrogatories and Requests for Admissions.

In support of this Motion, RFP states the following, which embodies RFP’s brief in support of this Motion pursuant to 37 C.F.R. § 2.127(a):

1. Armes filed two Section 1(b) trademark applications in October 2011 for BELIEVE IN AMERICA, Serial Nos. 85447381 and 85452544 (the “Applications”). RFP timely filed on July 3, 2012 a Notice of Opposition against both Applications. The grounds for the opposition are more

fully set forth in the Notice of Opposition and include Section 2(a) false suggestion of a connection, Section 2(d) likelihood of confusion, lack of bona fide intent under Section 1(b), and that the applied-for mark is merely informational, ornamental or descriptive, or fails to function as a mark under Sections 1, 2, 3 and 45 of the Lanham Act.

2. On July 3, 2012, the Board issued a notice to the parties that included a trial order setting, *inter alia*, the deadlines for the discovery conference and disclosures in this proceeding (the “Scheduling Order”).

3. Under the Scheduling Order, each party was required to provide the other with its initial disclosures on or before October 11, 2012.

4. RFP provided its initial disclosures to Armes via email and United States Mail, postage prepaid, on October 11, 2012.

5. Armes did not provide initial disclosures.

6. On February 4, 2013, RFP served discovery requests (Requests for Admissions, Interrogatories, and Document Requests) on Armes. Copies of those requests are attached as **Exhibit A**, **Exhibit B** and **Exhibit C**.

7. On February 12, 2013, after good faith efforts to obtain Armes’ initial disclosures and to resolve the issue, RFP filed a motion to compel initial disclosures, which also referenced the outstanding discovery requests. Armes did not file a brief in response.

8. On April 25, 2013, the Board granted RFP’s motion as conceded. The Board wrote: “Accordingly, applicant [Armes] has until THIRTY DAYS from the mailing date of this order [April 25, 2013] to serve on opposer its initial disclosures, as well as its response to opposer’s Requests for Documents, Interrogatories and Requests for Admissions, failing which the Board will entertain a motion for sanctions, as appropriate.”

9. More than thirty (30) days have elapsed since April 25, 2013. To date, Armes has **not** provided any initial disclosures. Similarly, Armes has **not** provided any responses to RFP's Requests for Admissions, Interrogatories and Requests for Documents. In addition, since the April 25, 2013 Order, Armes has **not** sought any extensions of time, and he has **not** had any communications with undersigned counsel. Accordingly, Armes is in violation of the Board's April 25, 2013 Order, the Board's Scheduling Order and the Board's rules concerning discovery.

10. Pursuant to TBMP § 527.01(a) and 37 C.F.R. § 2.120(g), the Board is entitled to enter appropriate sanctions for Armes' disobedience. Among other appropriate sanctions, the Board may enter judgment against the disobedient party, strike all or part of the pleadings of the disobedient party, refuse to allow the disobedient party to support or oppose designated claims or defenses, or prohibit the disobedient party from introducing designated matters in evidence.

11. Here, there is a strong showing of willful evasion of the Board's April 25, 2013 Order, Scheduling Order, and discovery rules. Armes has failed to comply with rules requiring discovery responses, the Scheduling Order, and the very specific April 25, 2013 Order requiring him to provide discovery, and he has committed his violations without any reason or explanation. Armes has provided utterly no initial disclosures and no discovery responses, despite having been provided ample time to do so. Indeed, the Board, *sua sponte*, even provided Armes extra time to respond to the Interrogatories, Requests for Admissions and Document Requests, as his responses would have been due on March 11, 2013, but the Board's Order gave him until April 25, 2013 to respond. Armes, however, has refused to pay any attention to the Board's Orders or rules, and he has not provided any type of discovery responses.

12. Armes' refusal to comply with the Board's Orders and rules has impeded discovery and harmed RFP's efforts to learn or confirm information possessed solely by Armes and relevant to

the claims at issue. Now, discovery is almost over; under the Board's April 25, 2013 Order, discovery is scheduled to close on June 26, 2013.

13. With respect to the requests for admission (Exhibit A), they are deemed admitted automatically pursuant to TBMP § 527.01(d). Accordingly, the opposition and RFP's claims have been tacitly conceded. The following has been admitted by Armes, among other things:

a. Armes lived in Massachusetts between 2003 and 2007 (when Mitt Romney served as the 70th Governor of Massachusetts), and before filing his Applications, Armes both read Governor Romney's book which was re-released as *No Apology: Believe in America* and watched Governor Romney's April 11, 2011 video entitled *Believe in America* announcing the exploration of a run for the presidency in the 2012 election. Exhibit A, Admissions 23-25 & 28.

b. The phrase BELIEVE IN AMERICA has been widely associated with Governor Romney's 2012 presidential campaign – *i.e.* with RFP. Exhibit A, Admission 22.

c. RFP used, and had the right to use, the BELIEVE IN AMERICA mark in connection with particular products, such as t-shirts, hats and wristbands, and as a campaign slogan, before the filing dates for Armes' Applications. Exhibit A, Admissions 7-19 & 33.

d. RFP used the BELIEVE IN AMERICA mark in commerce and in connection with goods similar to the goods listed in Armes' Applications prior to the earliest filing date for the Applications. Exhibit A, Admission 18.

e. RFP's use of the BELIEVE IN AMERICA mark prior to the earliest filing date for the Applications was nationwide. Exhibit A, Admission 40.

f. RFP's BELIEVE IN AMERICA mark, as used by RFP, is famous, distinct and has acquired secondary meaning. Exhibit A, Admissions 30-32.

g. Armes knew of RFP's prior use and right to use the BELIEVE IN AMERICA mark at the time Armes filed his Applications and falsely signed statements to the contrary in his Applications. Exhibit A, Admissions 1-19, 29 & 33.

h. Armes' representations in the Applications that he believed "no other person, firm, corporation, or association has the right to use the marks in commerce, either in identical form therefor or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive" was not true. Exhibit A, Admissions 1-6.

i. Armes' BELIEVE IN AMERICA mark in the Applications has no material differences with RFP's BELIEVE IN AMERICA mark. Exhibit A, Admission 42.

j. Armes does not intend to use the BELIEVE IN AMERICA mark as a source indicator. Exhibit A, Admission 20.

k. Armes has not taken any act in furtherance of selling his claimed products under the BELIEVE IN AMERICA mark since the 2012 presidential election. Exhibit A, Admission 21.

l. Armes has not used the BELIEVE IN AMERICA mark in any commercial manner. Exhibit A, Requests 36-39.

m. Armes has not been authorized to use the BELIEVE IN AMERICA mark by RFP or Governor Romney. Exhibit A, Requests 43-44.

14. Therefore, among other things, (i) the mark in Armes' Applications is likely to be confused with RFP's previously used BELIEVE IN AMERICA mark, (ii) Armes lacked, and lacks, a bona fide intention to use BELIEVE IN AMERICA as a mark, and (iii) Armes' mark in the Applications falsely suggests a connection with RFP. RFP's claims in the opposition should be

sustained.

15. In light of Armes' willful violation of the Board's April 25, 2013 Order, the Scheduling Order and Board rules, judgment should be entered against Armes and the Applications. RFP's opposition to the Applications should be sustained, and the Applications should be refused.

WHEREFORE, Opposer RFP respectfully prays that the Board:

1. Enter an order sanctioning Applicant in the form of a Judgment sustaining the Opposition and refusing the Applications;
2. Grant RFP such other relief as the Board deems appropriate in the circumstances.

This is the 6th day of June, 2013.

/CharlesFMarshall/

Charles F. Marshall
N.C. State Bar No. 23297

/DavidWSar/

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*Attorney(s) for Opposer
Romney for President, Inc.*

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and complete copy of the (foregoing) document entitled OPPOSER ROMNEY FOR PRESIDENT, INC.'S MOTION FOR SANCTIONS AND JUDGMENT (with exhibits) has been served on counsel for Applicant Chris Armes, by mailing said copy on this date, via First Class Mail, postage prepaid, and by email, to:

Christopher J. Hussin
Boardman & Clark LLP
P.O. Box 927
Madison, WI 53701-0927
chussin@boardmanclark.com

Attorney for Applicant

This is the 6th day of June, 2013.

/DavidWSar/

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**OPPOSER'S FIRST REQUEST FOR
ADMISSIONS TO APPLICANT**

Pursuant to Rule 2.120 of the Trademark Rules of Practice and Rule 36 of the Federal Rules of Civil Procedure, Opposer Romney For President, Inc., hereby submits its First Set of Requests for Admission to Applicant Chris Armes (the "Discovery Requests"), to be answered timely and under oath by Applicant.

Some terms have specific meanings. These terms are defined in the section below.

DEFINITIONS AND INSTRUCTIONS

1. "Opposer," "Romney for President, Inc." and "RFP" each refer to the Opposer in this Proceeding, and representative(s) or agent(s) acting on its behalf.
2. "Romney" refers to Governor Mitt Romney.
3. "Applicant," "Chris Armes," "you" and "your" each refer to the Applicant in this Proceeding, and representative(s) or agent(s) acting on your behalf, whether acting individually and/or on behalf of you.

4. "BIA LLC" refers to B.I.A. - Believe In America, LLC, a Florida limited liability company organized on January 5, 2012.

5. The term "BIA mark" refers to the phrase "BELIEVE IN AMERICA".

6. The term "Claimed Products" refers to t-shirts, wristbands and hats.

7. "Campaign" refers to RFP and Romney, as well as others working on their behalves in an effort to cause Romney to win the 2012 presidential election.

8. "Proceeding" means this Opposition Proceeding No. 91205910 before the United States Patent and Trademark Office Trademark Trial and Appeal Board.

9. "Document" and "documents" are used in its broadest sense, and include everything subject to a request for production under Rule 34 of the Federal Rules of Civil Procedure; and each copy of any document which varies in any manner from the original or any copy is included in this definition as a separate document. "Document" means all tangible items, visual images and writings of every kind, however produced or reproduced, whether the original or a copy, and is intended to be comprehensive and include, without limitation, any and all written and computer or other electronic correspondence, communication, letters, telegrams, e-mail, computer generated documents, computer records, agreements, contracts, notes, memoranda, instructions, reports, financial statements, demands, data, schedules, notices, work papers, drafts, recordings (whether by electronic or other means), photographs, video tapes, charts, analyses, interoffice communications, notebooks, diaries, daily logs, appointment calendars, sketches, drawings, plans, diagrams, forms, manuals, brochures, lists, publications, minutes of meetings, journals, ledgers or other financial records, invoices, purchase orders, sales orders, bills of lading, and all other written or graphic material of any nature whatsoever.

10. "Identify," when used in connection with a document or documents, means give the following:

- a. Name, date and general description (e.g., letter, memorandum, etc.) of the document, the name and address of the person originating the document, the name and address of the persons to whom the document was addressed or delivered, and the names and addresses of all persons to whom copies of the document were sent; and
- b. State whether Defendant is in possession of the original of the document or a copy thereof and, if Defendant is not in possession of the original or a copy, furnish the name and address of the custodian of the original or a copy; and
- c. Furnish a general description of the subject matter to which the document(s) pertains.

11. "Identify," when used in connection with an entity other than an individual person, means give the following:

- a. Name and legal status (e.g., partnership, corporation, etc.);
- b. Last known address and telephone number;
- c. Name and title of principal person or officer with whom you dealt.

12. "Identify," when used in connection with a person or individual, means give the following:

- a. His or her full name;
- b. His or her present or last known residence and business addresses;

- c. His or her present or last known residence and business telephone number(s);
- d. His or her present or last known employer; and
- e. His or her present or last known job title or description.

13. “Identify” when used in connection with a statement, communication or representation, means give the following:

- a. The date that such statement, communication or representation was made to you and the manner in which such statement or representation was conveyed to you;
- b. The identity of the person(s) who conveyed such statement or representation and the manner in which such statement or representation was conveyed to you; and
- c. The identity of all other persons who have knowledge of such information.

14. “Identify,” when used in connection with an event or occurrence, means to provide a full and reasonably descriptive statement of everything you know about the event or fact which is relevant to the subject matter of this litigation, including the date of the event or occurrence, the individuals involved, the location of the event or occurrence and the outcome thereof.

15. “Person” means all natural persons, human being, and all types and kinds of businesses and other entities including, but not limited to, corporations, partnerships, joint ventures, sole proprietorships and governmental bodies, entities or agencies.

16. “Relating to” and “concerning” are each used in their broadest sense, and mean exposing, explaining, summarizing, detailing, listing, compiling, embodying, noting, proposing,

terminating, evidencing, contradicting or otherwise referring or pertaining to the subject matter of the interrogatory.

17. "Date" shall mean the exact day, month and year if ascertainable, or if not, the best available approximation (including relationship to other events).

18. "Or" and "and" each mean "and/or."

19. "Communication" means any discussion or oral exchange of information, any non-verbal exchange of information, as well as any written or recorded correspondence, recorded in any medium, including email and electronic formats.

20. Throughout these Discovery Requests, words written in the singular shall also include the plural and words written in the plural shall also include the singular.

21. These Discovery Requests shall be deemed continuing and call for supplementary responses in the event new or additional information or documents are acquired.

22. If you are unable to answer a Discovery Request fully and completely after exercising due diligence to secure the information necessary to respond, please specify that portion of each Discovery Request which you are unable to answer fully and completely.

23. If your response to a Discovery Request is not based on personal knowledge, please explain the basis upon which the response is made.

24. If you believe that a term must be defined before you can answer, please define that term in the manner that you believe to be most accurate, and provide that definition in your response.

REQUESTS FOR ADMISSIONS

Please take notice that, pursuant to Rules 36 and 26 of the Federal Rules of Civil Procedure, Applicant is required to respond to each of the following Requests for Admissions within thirty (30) days after service of them. If you object to a Request for Admission, you must state the reason therefor. If you do not admit a Request for Admission, your answer must specifically deny the manner or set forth in detail the reasons you cannot truthfully admit or deny the Request. Further, a denial shall fairly meet the substance of the requested admission and, if good faith requires that you must qualify your answer and deny only part of the matter of which an admission is requested, you shall specify so much of it as is true, and qualify or deny the remainder. You may not give lack of information or knowledge as a reason for failure to admit or deny a request unless you state that you have made a reasonable inquiry and that the information known or obtainable by you is insufficient to enable you to admit or deny that specific request.

Admit that:

1. You signed each of the trademark registration applications that RFP opposes in this Proceeding.

_____ **ADMITTED** _____ **DENIED**

RESPONSE:

2. You read each application referenced in Request No. 1, above, before signing it.

_____ **ADMITTED** _____ **DENIED**

RESPONSE:

3. You understood the substance of each application referenced in Request No. 1, above, before signing it.

_____ **ADMITTED** _____ **DENIED**

RESPONSE:

4. You understood that, by signing each application referenced in Request No. 1, above, you were representing that you believed “no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive.”

_____ **ADMITTED** _____ **DENIED**

RESPONSE:

5. The representation set forth in Request No. 4, above, is not true.

_____ **ADMITTED** _____ **DENIED**

RESPONSE:

6. The representation set forth in Request No. 4, above, was not true when you signed each of the trademark registration applications that RFP opposes in this Proceeding.

_____ **ADMITTED** _____ **DENIED**

RESPONSE:

7. At the time you signed each of the trademark registration applications that RFP opposes in this Proceeding, you were aware that RFP had the right to use the BIA mark in commerce, in connection with t-shirts.

_____ **ADMITTED** _____ **DENIED**

RESPONSE:

8. At the time you signed each of the trademark registration applications that RFP opposes in this Proceeding, you were aware that RFP used the BIA mark in commerce, in connection with t-shirts.

_____ **ADMITTED** _____ **DENIED**

RESPONSE:

9. At the time you signed each of the trademark registration applications that RFP opposes in this Proceeding, you were aware that RFP had the right to use the BIA mark in commerce, in connection with hats.

_____ **ADMITTED** _____ **DENIED**

RESPONSE:

10. At the time you signed each of the registration applications that RFP opposes in this Proceeding, you were aware that RFP used the BIA mark in commerce, in connection with hats.

_____ **ADMITTED** _____ **DENIED**

RESPONSE:

11. The goods in connection with which you intend to use the BIA mark are similar to some of those with which RFP has sold under the BIA mark.

_____ **ADMITTED** _____ **DENIED**

RESPONSE:

12. RFP used the BIA mark in commerce and in connection with t-shirts before October 20, 2011.

_____ **ADMITTED** _____ **DENIED**

RESPONSE:

13. RFP used the BIA mark in commerce and in connection with hats prior to October 14, 2011.

_____ **ADMITTED** _____ **DENIED**

RESPONSE:

14. RFP used the BIA mark in commerce and in connection with wristbands prior to October 14, 2011.

_____ **ADMITTED** _____ **DENIED**

RESPONSE:

15. Romney used the BIA mark in commerce and in connection with t-shirts before October 20, 2011.

_____ **ADMITTED** _____ **DENIED**

RESPONSE:

16. Romney used the BIA mark in commerce and in connection with hats prior to October 14, 2011.

_____ **ADMITTED** _____ **DENIED**

RESPONSE:

17. Romney used the BIA mark in commerce and in connection with wristbands prior to October 14, 2011.

_____ **ADMITTED** _____ **DENIED**

RESPONSE:

18. RFP used the BIA mark in commerce and in connection with goods similar to the Claimed Products prior to October 14, 2011.

_____ **ADMITTED** _____ **DENIED**

RESPONSE:

19. Romney used the BIA mark in commerce and in connection with goods similar to the Claimed Products prior to October 14, 2011.

_____ **ADMITTED** _____ **DENIED**

RESPONSE:

20. You do not intend to use the BIA mark as an indicator as to the source of goods sold by you.

_____ **ADMITTED** _____ **DENIED**

RESPONSE:

21. You have not taken any act in furtherance of selling the Claimed Products under the BIA mark since Barack Obama won the 2012 presidential election.

_____ **ADMITTED** _____ **DENIED**

RESPONSE:

22. The phrase "BELIEVE IN AMERICA" is widely associated with Romney's presidential campaign.

_____ **ADMITTED** _____ **DENIED**

RESPONSE:

23. You resided in Massachusetts for some period between the years 2003 and 2007 (inclusive).

_____ **ADMITTED** _____ **DENIED**

RESPONSE:

24. You have read some or all of the book published by Romney and referenced in paragraphs 5 and 7 of the Opposition filed in this Proceeding.

_____ **ADMITTED** _____ **DENIED**

RESPONSE:

25. Prior to October 14, 2011, you were aware of the book published by Romney and referenced in paragraphs 5 and 7 of the Opposition filed in this Proceeding.

_____ **ADMITTED** _____ **DENIED**

RESPONSE:

26. You follow Romney on Twitter.

_____ ADMITTED _____ DENIED

RESPONSE:

27. You follow RFP on Twitter.

_____ ADMITTED _____ DENIED

RESPONSE:

28. Prior to October 14, 2011, you viewed some or all of the video referenced in Paragraph 9 of the Opposition filed in this Proceeding.

_____ ADMITTED _____ DENIED

RESPONSE:

29. Prior to October 14, 2011, you had seen a version of the bumper sticker referenced in Paragraph 10 of the Opposition filed in this Proceeding.

_____ **ADMITTED** _____ **DENIED**

RESPONSE:

30. The BIA mark, as used by RFP, is famous.

_____ **ADMITTED** _____ **DENIED**

RESPONSE:

31. The BIA mark, as used by RFP, is distinct.

_____ **ADMITTED** _____ **DENIED**

RESPONSE:

32. The BIA mark, as used by RFP, has acquired secondary meaning.

_____ **ADMITTED** _____ **DENIED**

RESPONSE:

33. Prior to October 14, 2011, you were aware that BELIEVE IN AMERICA was a slogan used by the Campaign.

_____ **ADMITTED** _____ **DENIED**

RESPONSE:

34. You have read some or all of the book published by Romney and referenced in paragraph 14 of the Opposition filed in this Proceeding.

_____ **ADMITTED** _____ **DENIED**

RESPONSE:

35. Prior to October 14, 2011, you were aware of the book published by Romney and referenced in paragraph 14 of the Opposition filed in this Proceeding.

_____ **ADMITTED** _____ **DENIED**

RESPONSE:

36. You did not use the BIA mark in any commercial manner prior to October 14, 2011.

_____ **ADMITTED** _____ **DENIED**

RESPONSE:

37. You did not use the BIA mark in any commercial manner prior to October 20, 2011.

_____ **ADMITTED** _____ **DENIED**

RESPONSE:

38. You did not use the BIA mark in any commercial manner prior to the date of these Requests for Admission were served.

_____ **ADMITTED** _____ **DENIED**

RESPONSE:

39. You did not use the BIA mark in any commercial manner prior to the date of your responses to these Requests for Admission.

_____ **ADMITTED** _____ **DENIED**

RESPONSE:

40. RFP's use of the BIA mark prior to October 14, 2012, was nationwide.

_____ **ADMITTED** _____ **DENIED**

RESPONSE:

41. Romney's use of the BIA mark prior to October 14, 2012, was nationwide.

_____ **ADMITTED** _____ **DENIED**

RESPONSE:

42. There is no material difference between RFP's depiction of the BIA mark on goods prior to and since October 14, 2011, and the BIA mark, as you have claimed in the applications you intend to use.

_____ **ADMITTED** _____ **DENIED**

RESPONSE:

43. RFP has not authorized you in any way to use the BIA mark.

_____ **ADMITTED** _____ **DENIED**

RESPONSE:

44. Romney has not authorized you in any way to use the BIA mark.

_____ **ADMITTED** _____ **DENIED**

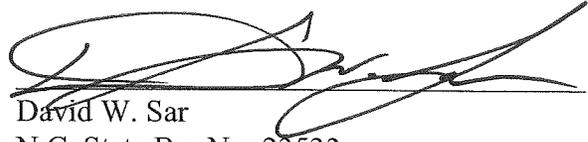
RESPONSE:

45. The Campaign has not authorized you in any way to use the BIA mark.

_____ **ADMITTED** _____ **DENIED**

RESPONSE:

This the 4th day of February, 2013.



David W. Sar

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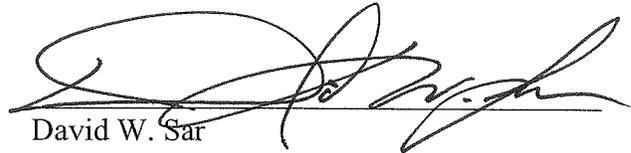
Attorneys for Opposer

CERTIFICATE OF SERVICE

The undersigned counsel hereby certifies that the foregoing document was served by United States First-Class mail, postage prepaid and addressed as follows:

Christopher J. Hussin, Esq.
Boardman & Clark LLP
P.O. Box 927
Madison, WI 53701-0927
Counsel for Applicant

This the 4th day of February, 2013.



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Counsel for Opposer

EXHIBIT B

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

Pursuant to TBMP §§ 405 and 406, Rules 26 and 33 of the Federal Rules of Civil Procedures, and 37 CFR § 2.120, Opposer Romney for President, Inc., propounds the following Interrogatories, to be answered under oath by Applicant Chris Armes (the "Discovery Requests"). These Discovery Requests are deemed to be continuing to the extent provided by law.

Some terms have specific meanings. These terms are defined in the section below.

DEFINITIONS AND INSTRUCTIONS

1. "Opposer," "Romney for President, Inc." and "RFP" each refer the Opposer in this Proceeding, and representative(s) or agent(s) acting on its behalf.
2. "Romney" refers to Governor Mitt Romney.
3. "Applicant," "Chris Armes," "you" and "your" each refer the Applicant in this Proceeding, and representative(s) or agent(s) acting on your behalf, whether acting individually and/or on behalf of you.

4. "BIA LLC" refers to B.I.A. - Believe In America, LLC, a Florida limited liability company organized on January 5, 2012.

5. The term "BIA mark" refers to the phrase "BELIEVE IN AMERICA".

6. The term "Claimed Products" refers to t-shirts, wristbands and hats.

7. "Campaign" refers to RFP and Romney, as well as others working on their behalves in an effort to cause Romney to win the 2012 presidential election.

8. "Proceeding" means this Opposition Proceeding No. 91205910 before the United States Patent and Trademark Office Trademark Trial and Appeal Board.

9. "Document" and "documents" are used in its broadest sense, and include everything subject to a request for production under Rule 34 of the Federal Rules of Civil Procedure; and each copy of any document which varies in any manner from the original or any copy is included in this definition as a separate document. "Document" means all tangible items, visual images and writings of every kind, however produced or reproduced, whether the original or a copy, and is intended to be comprehensive and include, without limitation, any and all written and computer or other electronic correspondence, communication, letters, telegrams, e-mail, computer generated documents, computer records, agreements, contracts, notes, memoranda, instructions, reports, financial statements, demands, data, schedules, notices, work papers, drafts, recordings (whether by electronic or other means), photographs, video tapes, charts, analyses, interoffice communications, notebooks, diaries, daily logs, appointment calendars, sketches, drawings, plans, diagrams, forms, manuals, brochures, lists, publications, minutes of meetings, journals, ledgers or other financial records, invoices, purchase orders, sales orders, bills of lading, and all other written or graphic material of any nature whatsoever.

10. "Identify," when used in connection with a document or documents, means give the following:

- a. Name, date and general description (e.g., letter, memorandum, etc.) of the document, the name and address of the person originating the document, the name and address of the persons to whom the document was addressed or delivered, and the names and addresses of all persons to whom copies of the document were sent; and
- b. State whether Defendant is in possession of the original of the document or a copy thereof and, if Defendant is not in possession of the original or a copy, furnish the name and address of the custodian of the original or a copy; and
- c. Furnish a general description of the subject matter to which the document(s) pertains.

11. "Identify," when used in connection with an entity other than an individual person, means give the following:

- a. Name and legal status (e.g., partnership, corporation, etc.);
- b. Last known address and telephone number;
- c. Name and title of principal person or officer with whom you dealt.

12. "Identify," when used in connection with a person or individual, means give the following:

- a. His or her full name;
- b. His or her present or last known residence and business addresses;

- c. His or her present or last known residence and business telephone number(s);
- d. His or her present or last known employer; and
- e. His or her present or last known job title or description.

13. “Identify” when used in connection with a statement, communication or representation, means give the following:

- a. The date that such statement, communication or representation was made to you and the manner in which such statement or representation was conveyed to you;
- b. The identity of the person(s) who conveyed such statement or representation and the manner in which such statement or representation was conveyed to you; and
- c. The identity of all other persons who have knowledge of such information.

14. “Identify,” when used in connection with an event or occurrence, means to provide a full and reasonably descriptive statement of everything you know about the event or fact which is relevant to the subject matter of this litigation, including the date of the event or occurrence, the individuals involved, the location of the event or occurrence and the outcome thereof.

15. “Person” means all natural persons, human being, and all types and kinds of businesses and other entities including, but not limited to, corporations, partnerships, joint ventures, sole proprietorships and governmental bodies, entities or agencies.

16. “Relating to” and “concerning” are each used in their broadest sense, and mean exposing, explaining, summarizing, detailing, listing, compiling, embodying, noting, proposing,

terminating, evidencing, contradicting or otherwise referring or pertaining to the subject matter of the interrogatory.

17. "Date" shall mean the exact day, month and year if ascertainable, or if not, the best available approximation (including relationship to other events).

18. "Or" and "and" each mean "and/or."

19. "Communication" means any discussion or oral exchange of information, any non-verbal exchange of information, as well as any written or recorded correspondence, recorded in any medium, including email and electronic formats.

20. Throughout these Discovery Requests, words written in the singular shall also include the plural and words written in the plural shall also include the singular.

21. If you object to any of the Discovery Requests, please state with particularity the basis for your objection and the rule or privilege upon which you rely. If you withhold from production any of the requested documents on the basis of an alleged privilege, immunity, exception, or other justification, provide, within thirty (30) days of service of this request, or at a time mutually agreed upon by the parties, a list identifying each withheld document including: (1) the date of the document, (2) name and title or position of the author(s) of the document, (3) name and title or position of all persons designated as addressees or otherwise receiving copies of the document, (4) subject matter of the document, (5) the type of document (memorandum, letter, report, etc.), (6) the specific grounds for withholding the document in sufficient detail for the Court to rule on the merits of the asserted privilege or immunity, and (7) the number of the interrogatory to which the document pertains.

22. If you object to any of the Discovery Requests, in addition to complying with the other instructions herein, please produce all portions of the materials and information sought which are not directly subject to your objection.

23. A request to identify or produce documents includes not only all documents in your possession, but also all documents in the possession of your attorneys, agents, or representatives.

24. You are requested to furnish all information in your possession and all information available to you, not merely such information as you know of your own personal knowledge but also all knowledge that is available to you, your representatives, attorneys and agents, by reason of inquiry.

25. These Discovery Requests shall be deemed continuing and call for supplementary responses in the event new or additional information or documents are acquired.

26. If you are unable to answer a Discovery Request fully and completely after exercising due diligence to secure the information necessary to respond, please specify that portion of each Discovery Request which you are unable to answer fully and completely.

27. If your response to a Discovery Request is not based on personal knowledge, please explain the basis upon which the response is made.

28. If you believe that a term must be defined before you can answer, please define that term in the manner that you believe to be most accurate, and provide that definition in your response.

INTERROGATORIES

1. Describe in detail each and every product you or your licensee(s) intend to market, or have already marketed, at any time in connection with the BIA mark.

ANSWER:

2. Describe the class of consumers to whom you have marketed, or intend to market, each of the goods identified in your response to Interrogatory No. 1 above.

ANSWER:

3. Describe in detail the manner in which you intend to, or do, distribute the goods identified in your response to Interrogatory No. 1 above to consumers or purchasers thereof.

ANSWER:

4. Describe in detail the “partnership” or other affiliation you have at any time proposed between RFP and you or BIA LLC.

ANSWER:

5. Explain why you organized BIA LLC.

ANSWER:

6. Describe in detail all of the business functions of BIA LLC.

ANSWER:

7. Identify all persons who are members, managers and/or employees of BIA LLC.

ANSWER:

8. What do you contend was the date of first use for the mark for each registration application that RFP opposes in this Proceeding? If you do not contend that you have ever used the BIA mark, please state as such.

ANSWER:

9. What do you contend was the date of first use in interstate commerce for the mark for each registration application that RFP opposes in this Proceeding? If you do not contend that you have ever used the BIA mark in interstate commerce, please state as such.

ANSWER:

10. Do you contend that your first use of the BIA mark preceded RFP's first use of the BIA mark? If so, please describe in detail all facts and circumstances supporting such a contention. If not, please state as such.

ANSWER:

11. State when and how you first became aware that Romney, RFP and/or the Campaign used the BIA mark.

ANSWER:

12. Identify all occasions in which you attempted to, or did, contact RFP in pursuit of a partnership or other business affiliation between you or BIA LLC and RFP.

ANSWER:

13. Identify all events you attended between 2006 and the present where you were, or are now, aware that Romney or anyone from RFP also attended.

ANSWER:

14. Identify all activities of BIA LLC since the close of the 2012 presidential election.

ANSWER:

15. Describe in detail BIA LLC's business plans for manufacturing, marketing, distributing, and selling the Claimed Products.

ANSWER:

16. Did you attend live, or watch (whether live or recorded) some or all of the Conservative Political Action Conference (CPAC), held in Washington, DC, in February of 2011? Please explain in detail.

ANSWER:

17. Describe in detail your plans for using the BIA mark in connection with the Claimed Products.

ANSWER:

18. Describe how, if at all, the outcome of the 2012 presidential election affected your plans to use the BIA mark in connection with the Claimed Products.

ANSWER:

19. Identify all persons with whom you had any conversations prior to October 14, 2011, about your intent to use the BIA mark in connection with the Claimed Products.

ANSWER:

20. Identify all persons with whom you had any conversations between October 14, 2011, and October 20, 2011 (inclusive), about your intent to use the BIA mark in connection with the Claimed Products.

ANSWER:

21. Describe in detail all conversations referenced in Interrogatories No. 19 and 20, above.

ANSWER:

22. Describe all prior instances in which you planned to, attempted to, or did register any trademark or service mark in any jurisdiction.

ANSWER:

23. State all jobs or other forms of employment you have held, including your title, description of duties, employer, and date(s) worked, from January 1, 2005 to the present.

ANSWER:

24. Describe in detail all experience you have had in your life manufacturing, marketing, distributing, and/or selling the Claimed Products, or goods similar thereto.

ANSWER:

25. Explain how, where and when you first came up with the idea to use the BIA mark in commerce and in connection with the Claimed Products.

ANSWER:

26. Identify the individual(s) who you contend conceived of using the BIA mark in connection with the Claimed Products.

ANSWER:

27. Identify all persons (e.g., accountants, advisors, webpage designers, business coaches, analysts, designers, and the like) engaged by you or BIA LLC in furtherance of your intent to use the BIA mark in commerce and in connection with the Claimed Products.

ANSWER:

28. Identify all investors or other sources of capital, including the quantum of the funding therefrom, sought and/or obtained by you or BIA LLC in connection with your intent to use the BIA mark in commerce and in connection with the Claimed Products.

ANSWER:

29. Identify all amounts of money expended by you in connection with your intent to use the BIA mark in commerce and in connection with the Claimed Products. Please include the date(s), payor(s), payee(s), and purpose(s) of all such expenditures.

ANSWER:

30. Identify all persons who you believe have knowledge of your alleged intent to use the BIA mark in commerce and in connection with the Claimed Products.

ANSWER:

31. State your position on whether the BIA mark has acquired secondary meaning in connection with goods sold by RFP, Romney and/or the Campaign.

ANSWER:

32. Identify all persons with whom you consulted or conferred, or who furnished information to you, in preparing your responses to these Interrogatories.

ANSWER:

This the 4th day of February, 2013.



David W. Sar
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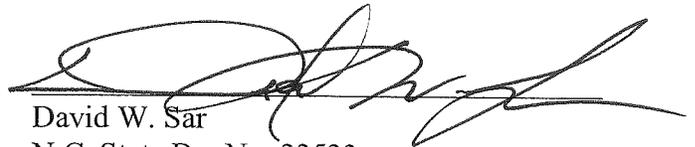
Attorneys for Opposer

CERTIFICATE OF SERVICE

The undersigned counsel hereby certifies that the foregoing document was served by United States First-Class mail, postage prepaid and addressed as follows:

Christopher J. Hussin, Esq.
Boardman & Clark LLP
P.O. Box 927
Madison, WI 53701-0927
Counsel for Applicant

This the 4th day of February, 2013.



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Facsimile: (919) 839-0304

Counsel for Opposer

EXHIBIT C

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

In re Application Serial No. 85447381
For the Mark: BELIEVE IN AMERICA
Filed: October 14, 2011
Published for Opposition: March 6, 2012

In re Application Serial No. 85452544
For the Mark: BELIEVE IN AMERICA
Filed: October 20, 2011
Published for Opposition: March 6, 2012

ROMNEY FOR PRESIDENT, INC.,

Opposer,

v.

CHRIS ARMES,

Applicant.

Opposition No. 91205910

**OPPOSER'S FIRST REQUEST
FOR PRODUCTION OF DOCUMENTS
TO APPLICANT**

Pursuant to TBMP §§ 405 and 406, Rules 26 and 34 of the Federal Rules of Civil Procedures, and 37 CFR § 2.120, Opposer Romney for President, Inc., requests that Applicant Chris Armes respond to the following First Set of Requests for Production of Documents (the "Discovery Requests"). These Discovery Requests are deemed to be continuing to the extent provided by law.

Some terms have specific meanings. These terms are defined in the section below.

DEFINITIONS AND INSTRUCTIONS

1. "Opposer," "Romney for President, Inc." and "RFP" each refer to the Opposer in this Proceeding, and representative(s) or agent(s) acting on its behalf.
2. "Romney" refers to Governor Mitt Romney.
3. "Applicant," "Chris Armes," "you" and "your" each refer to the Applicant in this Proceeding, and representative(s) or agent(s) acting on your behalf, whether acting individually and/or on behalf of you.

4. "BIA LLC" refers to B.I.A. - Believe In America, LLC, a Florida limited liability company organized on January 5, 2012.

5. The term "BIA mark" refers to the phrase "BELIEVE IN AMERICA".

6. The term "Claimed Products" refers to t-shirts, wristbands and hats.

7. "Campaign" refers to RFP and Romney, as well as others working on their behalves in an effort to cause Romney to win the 2012 presidential election.

8. "Proceeding" means this Opposition Proceeding No. 91205910 before the United States Patent and Trademark Office Trademark Trial and Appeal Board.

9. "Document" and "documents" are used in its broadest sense, and include everything subject to a request for production under Rule 34 of the Federal Rules of Civil Procedure; and each copy of any document which varies in any manner from the original or any copy is included in this definition as a separate document. "Document" means all tangible items, visual images and writings of every kind, however produced or reproduced, whether the original or a copy, and is intended to be comprehensive and include, without limitation, any and all written and computer or other electronic correspondence, communication, letters, telegrams, e-mail, computer generated documents, computer records, agreements, contracts, notes, memoranda, instructions, reports, financial statements, demands, data, schedules, notices, work papers, drafts, recordings (whether by electronic or other means), photographs, video tapes, charts, analyses, interoffice communications, notebooks, diaries, daily logs, appointment calendars, sketches, drawings, plans, diagrams, forms, manuals, brochures, lists, publications, minutes of meetings, journals, ledgers or other financial records, invoices, purchase orders, sales orders, bills of lading, and all other written or graphic material of any nature whatsoever.

10. "Identify," when used in connection with a document or documents, means give the following:

- a. Name, date and general description (e.g., letter, memorandum, etc.) of the document, the name and address of the person originating the document, the name and address of the persons to whom the document was addressed or delivered, and the names and addresses of all persons to whom copies of the document were sent; and
- b. State whether Defendant is in possession of the original of the document or a copy thereof and, if Defendant is not in possession of the original or a copy, furnish the name and address of the custodian of the original or a copy; and
- c. Furnish a general description of the subject matter to which the document(s) pertains.

11. "Identify," when used in connection with an entity other than an individual person, means give the following:

- a. Name and legal status (e.g., partnership, corporation, etc.);
- b. Last known address and telephone number;
- c. Name and title of principal person or officer with whom you dealt.

12. "Identify," when used in connection with a person or individual, means give the following:

- a. His or her full name;
- b. His or her present or last known residence and business addresses;

- c. His or her present or last known residence and business telephone number(s);
- d. His or her present or last known employer; and
- e. His or her present or last known job title or description.

13. “Identify” when used in connection with a statement, communication or representation, means give the following:

- a. The date that such statement, communication or representation was made to you and the manner in which such statement or representation was conveyed to you;
- b. The identity of the person(s) who conveyed such statement or representation and the manner in which such statement or representation was conveyed to you; and
- c. The identity of all other persons who have knowledge of such information.

14. “Identify,” when used in connection with an event or occurrence, means to provide a full and reasonably descriptive statement of everything you know about the event or fact which is relevant to the subject matter of this litigation, including the date of the event or occurrence, the individuals involved, the location of the event or occurrence and the outcome thereof.

15. “Person” means all natural persons, human being, and all types and kinds of businesses and other entities including, but not limited to, corporations, partnerships, joint ventures, sole proprietorships and governmental bodies, entities or agencies.

16. “Relating to” and “concerning” are each used in their broadest sense, and mean exposing, explaining, summarizing, detailing, listing, compiling, embodying, noting, proposing,

terminating, evidencing, contradicting or otherwise referring or pertaining to the subject matter of the interrogatory.

17. “Date” shall mean the exact day, month and year if ascertainable, or if not, the best available approximation (including relationship to other events).

18. “Or” and “and” each mean “and/or.”

19. “Communication” means any discussion or oral exchange of information, any non-verbal exchange of information, as well as any written or recorded correspondence, recorded in any medium, including email and electronic formats.

20. Throughout these Discovery Requests, words written in the singular shall also include the plural and words written in the plural shall also include the singular.

21. If you object to any of the Discovery Requests, please state with particularity the basis for your objection and the rule or privilege upon which you rely. If you withhold from production any of the requested documents on the basis of an alleged privilege, immunity, exception, or other justification, provide, within thirty (30) days of service of this request, or at a time mutually agreed upon by the parties, a list identifying each withheld document including: (1) the date of the document, (2) name and title or position of the author(s) of the document, (3) name and title or position of all persons designated as addressees or otherwise receiving copies of the document, (4) subject matter of the document, (5) the type of document (memorandum, letter, report, etc.), (6) the specific grounds for withholding the document in sufficient detail for the Court to rule on the merits of the asserted privilege or immunity, and (7) the number of the document request to which the document pertains.

22. If you object to any of the Discovery Requests, in addition to complying with the other instructions herein, please produce all portions of the materials and information sought which are not directly subject to your objection.

23. A request to identify or produce documents includes not only all documents in your possession, but also all documents in the possession of your attorneys, agents, or representatives.

24. You are requested to furnish all information in your possession and all information available to you, not merely such information as you know of your own personal knowledge but also all knowledge that is available to you, your representatives, attorneys and agents, by reason of inquiry.

25. These Discovery Requests shall be deemed continuing and call for supplementary responses in the event new or additional information or documents are acquired.

26. If you are unable to answer a Discovery Request fully and completely after exercising due diligence to secure the information necessary to respond, please specify that portion of each Discovery Request which you are unable to answer fully and completely.

27. If your response to a Discovery Request is not based on personal knowledge, please explain the basis upon which the response is made.

28. If you believe that a term must be defined before you can answer, please define that term in the manner that you believe to be most accurate, and provide that definition in your response.

REQUESTS FOR PRODUCTION OF DOCUMENTS

Pursuant to Rule 2.120 of the Trademark Rules of Practice and Rule 34 of the Federal Rules of Civil Procedure, Opposer hereby requests that Applicant produce the original of the

following documents and things, or legible, complete and accurate copies of the following documents and things, to the office of Brooks, Pierce, McLendon, Humphrey & Leonard, L.L.P., Wells Fargo Capitol Center, 150 Fayetteville Street, Suite 1600, Raleigh, North Carolina 27601. Such documents or copies shall be produced within the time prescribed by the applicable Trademark Rules of Practice and Federal Rules of Civil Procedure, or as otherwise agreed to by the parties.

1. Produce all documents referred to or used by you in preparing your responses to RFP's First Set of Interrogatories to you.

RESPONSE:

2. Produce all marketing or other promotional materials prepared by you, BIA LLC, or someone acting on behalf of either, that depict or refer to the BIA mark.

RESPONSE:

3. Produce all pro formas, projections, plans, mission statements, analyses and other documents that reflect the business plans of BIA LLC.

RESPONSE:

4. Produce all pro formas, projections, plans, mission statements, analyses and other documents that reflect your business plans for selling the Claimed Products under the BIA mark.

RESPONSE:

5. Produce all documents that refer or relate to the channels of trade in which you intend to sell the Claimed Products under the BIA mark.

RESPONSE:

6. Produce all records, ticket stubs, notes, hand-outs, photographs, payment receipts, and other documents evidencing any RFP or Campaign events attended by you at any time.

RESPONSE:

7. Produce all trademark registration applications for the BIA mark, wherever filed.

RESPONSE:

8. Produce all communications between you and RFP, Romney or the Campaign.

RESPONSE:

9. Produce all documents reflecting any communications between you and RFP, Romney or the Campaign, or any attempts by you to communicate with RFP, Romney or the Campaign.

RESPONSE:

10. Produce all documents that refer or in any way relate to your first use of the Mark, whether in commerce or not.

RESPONSE:

11. Produce all documents that refer or in any way relate to your first use of the Mark in commerce, if you contend you have so used the BIA mark.

RESPONSE:

12. Produce all documents reflecting all concepts, drawings, sketches, proofs and other product design plans for the Claimed Products, whether or not such documents reflect finished or unfinished work.

RESPONSE:

13. Produce all contracts, memoranda, or other documents reflecting any agreement(s) between you or BIA LLC, with any person or entity regarding plans to design, manufacture, produce, distribute, sell, and/or market the Claimed Products under the BIA mark.

RESPONSE:

14. Produce all assignment agreement(s), license(s) or other grant of rights in and to the BIA mark, by you to BIA LLC.

RESPONSE:

15. Produce all stickers, buttons, signs, apparel, shirts, hats, memorabilia or other products in your possession sold or otherwise distributed by the Campaign.

RESPONSE:

16. Produce copies of all account activity, records, archives for any Twitter.com account controlled by you or BIA LLC. In the alternative, please produce the username and password for any such account.

RESPONSE:

17. Produce copies of all activity, records, archives for any Facebook.com account controlled by you or BIA LLC. In the alternative, please produce the username and password for any such account.

RESPONSE:

18. Produce all statements, signature cards, and other bank account records for any financial account owned or controlled by BIA LLC.

RESPONSE:

19. Produce all Articles of Organization, Operating Agreement, written consents, resolutions, and other such organizational documents in connection with BIA LLC.

RESPONSE:

20. Produce all documents that refer or in any way relate to any application for registration, or any registration, of the BIA mark.

RESPONSE:

21. Produce all documents that refer or in any way relate to any application for registration, or any registration, of any trademark or service mark that you have filed in any jurisdiction, or that others with whom you were acting in concert filed.

RESPONSE:

22. Produce all documents or other materials prepared for the purpose of seeking funding for BIA LLC, or for your intention of selling the Claimed Products under the BIA mark.

RESPONSE:

23. Produce all licenses or other authorizations relating or referring to the BIA mark, and all documents mentioning or referring to any such license(s) or authorization(s).

RESPONSE:

24. Produce representative copies of all types of advertisements or other promotional materials you have, or BIA LLC has, caused to be prepared in anticipation of marketing, selling, or distributing one or more of the Claimed Products under the BIA mark.

RESPONSE:

25. Produce all documents evidencing expenditures by you or BIA LLC in connection with advertising or otherwise promoting the Claimed Products.

RESPONSE:

26. Produce all documents evidencing each search or other investigation ever conducted by you, or at your behest, to determine the availability or prior use of the BIA mark, excluding only the opinions or comments of your attorney(s).

RESPONSE:

27. Produce all documents that reflect any person's opinion as to the marketability, advisability, strength, availability, or existence of prior rights in connection with the Claimed Products and/or the BIA mark.

RESPONSE:

28. Produce all documents evidencing your bona fide intent to use BIA in commerce and in connection with the Claimed Products

RESPONSE:

29. Produce all documents reflecting the opinion(s) of any expert(s) consulted or retained by you, or by any person acting on your behalf, in connection with this Proceeding.

RESPONSE:

This the 4th day of February, 2013.



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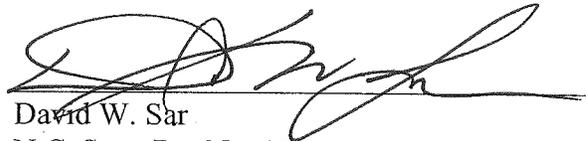
Attorneys for Opposer

CERTIFICATE OF SERVICE

The undersigned counsel hereby certifies that the foregoing document was served by United States First-Class mail, postage prepaid and addressed as follows:

Christopher J. Hussin, Esq.
Boardman & Clark LLP
P.O. Box 927
Madison, WI 53701-0927
Counsel for Applicant

This the 4th day of February, 2013.



David W. Sar
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Counsel for Opposer