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

Proceeding	91208266
Party	Plaintiff Uncle Milton Industries, Inc.
Correspondence Address	IRENE Y LEE RUSS AUGUST & KABAT 12424 WILSHIRE BOULEVARD, TWELFTH FLOOR LOS ANGELES, CA 90025 UNITED STATES ilee@raklaw.com, azivkovic@raklaw.com, trademark@raklaw.com
Submission	Motion to Compel Discovery
Filer's Name	Irene Y. Lee
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Signature	/Irene Y. Lee/
Date	05/08/2013
Attachments	3186-US2 130508 Motion for Discovery.pdf(138611 bytes) 3186-US2 130508 Decl Lee re Motion for Discovery.pdf(105777 bytes) EXH A - Rogs.pdf(200354 bytes) EXH B - 3186-US2 130215 RFP#1 Team John Whitaker.pdf(209841 bytes) EXH C - 3185-US2 130401 LT J. Egbert.pdf(52300 bytes) EXH D - to MTC Discovery.pdf(98734 bytes) EXH E - 3186-US2 130402 LT J Egbert.pdf(105176 bytes)

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

Uncle Milton Industries, Inc.,

Opposer,

v.

Team John Whitaker Limited,

Applicant.

Opposition No. 91208266

Application Serial No. 85/445,797

Mark: MILTON

**OPPOSER’S MOTION TO COMPEL APPLICANT TO SERVE RESPONSES TO
INTERROGATORIES AND PRODUCE DOCUMENTS, WITHOUT OBJECTIONS**

The motion to compel is based upon Applicant Team John Whitaker Limited (“Applicant”)’s absolute failure to fulfill its discovery obligations,¹ including, without limitation, (1) failure to serve a single response to Opposer’s interrogatories and (2) failure to produce a single document.

A. Summary: Applicant Failed to Provide a Single Interrogatory Response or Produce a Single Document in This Opposition Proceeding, Nor Has It Responded to Any of Opposer’s Requests to Resolve Discovery Issues.

Uncle Milton Industries, Inc. (“Opposer”) respectfully submits this motion compelling Applicant to serve responses to Opposer’s first set of interrogatories and produce documents responsive to Opposer’s first set of document requests, all without objections, within 20 days of the motion to avoid further delay.

Pursuant to Rule 2.120(g), before filing this motion, Opposer sought to confer with Applicant in good faith by sending requests to meet and confer regarding Applicant’s failure to provide a response to the interrogatories or produce a document. Applicant ignored the requests

¹ Applicant’s failure to serve initial disclosures—which were due March 10, 2013—is addressed in Opposer’s concurrently filed Motion to Compel Applicant to Serve Initial Disclosures.

and refused to participate in the conference as set forth below, necessitating the motion for the Board's intervention.

B. Factual Background.

The motion is made based upon the following facts:

- On November 30, 2012, Opposer filed a notice of opposition against Applicant. *See* the concurrently filed Declaration of Irene Y. Lee in Support of Opposer's Motion to Compel Applicant to Serve Responses to Interrogatories and Produce Documents, without Objections (hereinafter referred to as "Lee Decl."), ¶ 2.

- Pursuant to the Board's Notice, dated November 30, 2012, Applicant's initial disclosures were due March 10, 2013. Applicant has yet to serve initial disclosures. Lee Decl., ¶ 3.

- On February 4, 2013, the parties participated in discovery conference. Lee Decl., ¶ 4.

- On February 15, 2013, Opposer served its initial disclosures. Lee Decl., ¶ 5.

- On February 15, 2013, Opposer served upon Applicant a set of interrogatories. Lee Decl., ¶ 6; Exhibit A. Applicant has yet to serve a single response to the interrogatories, despite Opposer's requests to do so. Lee Decl., ¶ 7.

- On February 15, 2013, Opposer served upon Applicant a set of requests for documents and things. Lee Decl., ¶ 8; Exhibit B.

- In this entire opposition proceeding, Applicant has yet to produce a single document, let alone the documents responsive to the requests. Lee Decl., ¶ 9.

- Accordingly, on April 1, 2013, Opposer sent a letter to Applicant, requesting a meet and confer to discuss Applicant's failure to serve its responses and documents in response to Opposer's first set of interrogatories and first set of requests for production of documents and things. Lee Decl., ¶ 10; Exhibit ¶ 10.

▪ On April 2, 2013, Applicant responded by email to Opposer's April 1, 2013 letter, stating that Applicant refused to meet and confer via teleconference but would participate via correspondence only. Lee Decl., ¶ 11; Exhibit D.

▪ On April 2, 2013, Opposer sent a reply letter to Applicant, reiterating Opposer's good faith effort to address Applicant's failure to meet its discovery obligations and violation of the Board's Scheduling Order. Lee Decl., ¶ 12; Exhibit E.

▪ Applicant did not respond to Opposer's letter, nor did it ever serve documents. Lee Decl., ¶ 13.

▪ Despite Opposer's repeated requests, Applicant has yet to respond to any of the requests; nor has it served a response to Opposer's interrogatories or produced a single document in this proceeding. Lee Decl., ¶ 14.

C. The Board May Compel Applicant to Serve Interrogatory Responses and Produce Responsive Documents, Without Objections, Within 20 days.

Because Applicant has failed to serve *any responses* to Opposer's interrogatories or document requests, it has waived its right to object to answering any of the interrogatories or from producing any document requested. *Bison Corporation v. Perfecta Chemie B.V.*, 4 U.S.P.Q.2d 1718 (TTAB 1987); *Luehrmann v. Kwik Kopy Corp.*, 2 USPQ2d 1303 (TTAB 1987). Accordingly, Opposer respectfully seeks the Board's intervention to compel answer to all the interrogatories without objection and to compel production of all documents requested, without objection, by delivering them to Opposer's counsel within 20 days.

Dated: May 8, 2013

Respectfully submitted,



Irene Y. Lee
RUSS, AUGUST & KABAT
Twelfth Floor
12424 Wilshire Boulevard

Los Angeles, California 90025
Telephone: (310) 826-7474
Facsimile: (310) 826-6991
Attorneys for Opposer
Uncle Milton Industries, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on May 8, 2013, one (1) true and correct copy of the foregoing document has been served on Applicant by mailing the same via First Class Mail and electronic mail to:

John S. Egbert, Esq.
Kevin S. Wilson, Esq.
EGBERT LAW OFFICES, PLLC
21st Floor
1314 Texas
Houston, Texas 77002
Telephone: 713-224-8080 x 204
Facsimile: 713-223-4873
Email: mail@egbertlawoffices.com

/s/ Anne Zivkovic
Anne Zivkovic

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

Uncle Milton Industries, Inc.,

Opposer,

v.

Team John Whitaker Limited,

Applicant.

Opposition No. 91208266

Application Serial No. 85/445,797

Mark: MILTON

**DECLARATION OF IRENE Y. LEE IN SUPPORT OF OPPOSER'S MOTION TO
COMPEL APPLICANT TO SERVE RESPONSES TO INTERROGATORIES AND
PRODUCE DOCUMENTS, WITHOUT OBJECTIONS**

I, Irene Y. Lee, declare and state as follows:

1. I am a member of the State Bar of California and a partner in the firm of Russ, August & Kabat, counsel of record for Opposer Uncle Milton Industries, Inc. in the above-captioned opposition proceeding. I have personal knowledge of the facts set forth herein, and if called upon to testify, could and would testify competently thereto.

2. On November 30, 2012, Opposer filed a notice of opposition against Applicant.

3. Pursuant to the Board's Scheduling Order, dated November 30, 2012, Applicant's initial disclosures were due March 10, 2013. As of today, Opposer has not received Applicant's initial disclosures.

4. On February 4, 2013, I, on behalf of Opposer, conducted discovery conference with Applicant's counsel.

5. On February 15, 2013, Opposer served its initial disclosures.

6. On February 15, 2013, Opposer served upon Applicant a set of interrogatories. A true and correct copy of the interrogatories served upon Applicant is attached hereto as **Exhibit A**.

7. Applicant has yet to serve a single response to the interrogatories, despite Opposer's requests to do so.

8. On February 15, 2013, Opposer served upon Applicant a set of requests for documents and things. A true and correct copy of the requests is attached hereto as **Exhibit B**.

9. In this entire opposition proceeding, Applicant has yet to produce a single document, let alone the documents responsive to the requests.

10. Accordingly, on April 1, 2013, I sent a letter to Applicant's counsel, requesting a meet and confer to discuss Applicant's failure to serve its responses and documents in response to Opposer's first set of interrogatories and first set of requests for production of documents and things. A true and correct copy of my April 1, 2013, letter is attached hereto as **EXHIBIT C**.

11. On April 2, 2013, I received an email from Applicant's counsel, who refused to meet and confer via teleconference, and would participate via correspondence only. A true and correct copy of the email is attached hereto as **EXHIBIT D**.

12. On April 2, 2013, I sent a reply letter to Applicant, reiterating Opposer's good faith effort to address Applicant's failure to meet its discovery obligations and violation of the Board's Scheduling Order. A true and correct copy of my letter of April 2, 2013, is attached hereto as **EXHIBIT E**.

13. Applicant did not respond to my letter, nor did it ever serve documents.

14. Despite Opposer' repeated requests, Applicant has yet to respond to any of the requests; nor has it served a response to Opposer's interrogatories or produced a single document in this proceeding.

I declare under penalty of perjury pursuant to the laws of the United States that the foregoing is true and correct.

Executed this 8th day of May, 2013 in Los Angeles, California.



Irene Y. Lee

CERTIFICATE OF SERVICE

I hereby certify that on May 8, 2013, one (1) true and correct copy of the foregoing document has been served on Applicant by mailing the same via First Class Mail and electronic mail to:

John S. Egbert, Esq.
Kevin S. Wilson, Esq.
EGBERT LAW OFFICES, PLLC
21st Floor
1314 Texas
Houston, Texas 77002
Telephone: 713-224-8080 x 204
Facsimile: 713-223-4873
Email: mail@egbertlawoffices.com

/s/ Anne Zivkovic
Anne Zivkovic

EXHIBIT A

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

Uncle Milton Industries, Inc.,

Opposer,

v.

Team John Whitaker Limited,

Applicant.

Opposition No. 91208266

Serial No. 85/445,797

Mark: MILTON

**OPPOSER UNCLE MILTON INDUSTRIES, INC.'S FIRST SET OF
INTERROGATORIES TO APPLICANT TEAM JOHN WHITAKER LIMITED**

Propounding Party: Opposer Uncle Milton Industries, Inc.
Responding Party: Applicant Team John Whitaker Limited
Set Number: One

Pursuant to the provisions of 37 CFR §2.120 and Rule 33 of the Federal Rules of Civil Procedure, Applicant Team John Whitaker Limited is required to provide its answers under oath to the attention of Irene Y. Lee at Russ, August & Kabat, Twelfth Floor, 12424 Wilshire Boulevard, Los Angeles, California 90025 within thirty (30) days of service thereof.

INSTRUCTIONS AND DEFINITIONS

A. Instructions.

1. If you claim that any information requested is privileged, please provide all information falling within the scope of the interrogatory which is not privileged, and identify, with sufficient particularity for purposes of a motion to compel, a response, with respect to which you claim a privilege, and state the basis on which the privilege is claimed.

2. You are not requested to provide privileged information or information for which you claim privilege, but only to identify such information, document or thing. With respect to any documents which you may withhold on a claim of privilege, a statement shall be provided by you, signed by one of your attorneys, setting forth as to each such document:

- (a) The name(s) of the sender(s) of the document;
- (b) The name(s) of the author(s) of the document;
- (c) The name(s) of the person(s) to whom the original or copies were sent;
- (d) The date of the document;
- (e) The date on which the document was received by those having possession of the document; and
- (f) The statute, rule or decision which is claimed to give rise to the privilege.

3. Your responses to the following interrogatories are to be promptly supplemented to include subsequently acquired information in accordance with the requirements of Rule 26(e) of the Federal Rules of Civil Procedure.

4. All requests contained in the following interrogatories to identify a document or thing are to be answered by providing a complete and accurate description sufficient for a request for production of documents and things and for a motion to compel the production of documents and things, based only upon the description provided, including giving the following information concerning the same:

- (a) The title or brief description of the document or thing;
- (b) A brief description of the subject matter, if a document;
- (c) The date on which the document or thing was first prepared or received;
- (d) Identification (see definition below) of the person who prepared the document or thing;
- (e) Identification (see definition below) of the person or persons who received the document or thing;

(f) Identification (see definition below) of the person or persons who presently have custody of the document or thing;

(g) In case of correspondence, the individuals who are the addresser and the addressee; and

(h) If a publication, the title, date of publication, author, specific page numbers and the publisher.

5. All requests contained in the following interrogatories to identify a person, whether a natural person or organization, are to be answered by providing sufficient information to enable the undersigned to contact the person by telephone, by mail and to serve legal documents on such person, including that person's full name, title (if any), address and telephone number.

6. Each answer must be as complete and straightforward as the information reasonably available to you permits. If an interrogatory cannot be answered completely, answer it to the extent possible.

7. If you do not have enough personal knowledge to fully answer an interrogatory, say so, but make a reasonable and good faith effort to get the information by asking other persons or organizations, unless the information is equally available to the requesting party.

8. Your answers to these interrogatories must be verified, dated, and signed.

9. Whenever an interrogatory may be answered by referring to a document, the document may be attached as an exhibit to the response and referred to in the response. If the document has more than one (1) page, refer to the page and section where the answer to the interrogatory can be found.

10. Whenever you are asked to describe an event or a chain of events, please: (a) state the date or dates of each occurrence relevant to the event; (b) identify all individuals having knowledge of any occurrence or aspect of the event, including but not limited to those involved in witnessing, supervising, controlling, supporting, requesting, or otherwise participating in the

event; (c) describe the role and contribution of each person identified; (d) describe all related events, and all previous or subsequent related attempts whether or not completed and whether or not successful; and (e) describe the motivation and causation for the event.

11. For each objection asserted, state: (a) the basis for the objection; (b) facts supporting the assertion of the objection; and (c) the statute, rule or decision which is claimed to give rise to the objection.

B. Definitions.

1. “APPLICANT” refers to the applicant Team John Whitaker Limited and includes all other partnerships, corporations or other business entities (whether or not separate legal entities) subsidiary to, parent to, or affiliated with the applicant, including all of the partners, principals, officers, directors, trustees, employees, staff members, agents and representatives, including counsel for the applicant.

2. “MILTON” refers to the designation and/or trademark or service mark containing “Milton” APPLICANT has used or intends to use, including without limitation, the one sought to be registered by means of Application Serial No. 85/445,797.

3. “COMMUNICATION” means any oral or written transmission of information between PERSONS, including but not limited to, meetings, discussions, conversations, telephone calls, memoranda, electronic mail, instant messages (including, without limitation, text messages), letters, telegram, record or notation of any conversation, inter-office memorandum, telecopies, telexes, conferences or seminars.

4. “DOCUMENT” or “ITEM” or any similar term shall be used in their broadest sense and shall include, but not be limited to, the following: any written, printed, typed or other graphic matter of any kind or nature; all mechanical, magnetic or electrical sound recordings or transcripts thereof; any retrievable data, information or statistics contained on any memory device or other information retrieval systems (whether encarded, taped or coded electrostatically, electromagnetically, or otherwise); and also without limitation, agreements, bills of sale, books,

charts, checks, computer records, compilations, conversations, correspondence, descriptions, diagrams, diaries, directives, drawings, electronic recordings, files, films, financial memoranda, financial records, financial statements, graphs, inspection reports, interoffice correspondence, instructions, invoices, journals or other books of account, ledgers, letters, maps, measurements, memoranda, minutes, notes, notebooks, notices, pamphlets, periodicals, photocopies, photographs, plans, plats, proposals, publications and published or unpublished speeches or articles, purchase orders, receipts, recordings, records, reports, reproductions, samples, schedules, sketches, specifications, statements, studies, summaries, surveys, telegrams, telephone call slips and transcripts of telephone conversations, e-mails, instant messages (commonly called IMs), texts, voice mail transcripts, test results, transcripts, work sheets, working papers, reports and/or summaries of interviews, reports and/or summaries of investigations, opinions or reports of consultants, agreements and contracts, brochures, pamphlets, advertisements, letters to the trade, and including any tangible things within the scope of Rule 34(a)(1) of the Federal Rules of Civil Procedure. The term “ITEM” or “DOCUMENT” or any similar term shall also mean all drafts and final versions, and all copies of documents, by whatever means made (including, but not limited to, carbon, handwritten, microfilmed, photostatic, xerographic, scanned or other copies), and include all non-identical copies (whether different from the original because of any alterations, notes, comments or other material contained thereon or attached thereto, or otherwise). The term “ITEM” or “DOCUMENT” or any similar term shall also include any attachment thereto or enclosures therewith. The term “ITEM” or “DOCUMENT” or any similar term shall also include any and all data compilations from which information can be obtained. The term “ITEM” or “DOCUMENT” or any similar term shall also mean and include any “writing” as defined in Rule 1001 of the Federal Rules of Evidence.

5. “OPPOSER” refers to Uncle Milton Industries, Inc.

6. “OPPOSER'S MARKS” refers to any designation and/or trademark used or intended to be used by OPPOSER to identify OPPOSER in connection with the goods and/or

services offered or promoted by OPPOSER, and collectively refers to the UNCLE MILTON marks owned by OPPOSER, including without limitation, United States Trademark Registration Nos. 2,858,040; 3,987,795; and 4,133,574 and cited by OPPOSER in its Notice of Opposition.

7. “PERSON” means any natural person, general partnership, limited partnership, limited liability partnership, joint venture, corporation, limited liability company, association, firm, trust, or any other kind of organization or entity.

8. “YOU” or “YOUR” refers to APPLICANT, any of its present and former agents, officers, directors, principals, employees, affiliates, licensees, franchisees, distributors, consultants, advisors, accountants, attorneys and all other PERSONS or entities acting or purporting to act on its behalf.

INTERROGATORIES

INTERROGATORY NO. 1:

Identify all officers and directors of APPLICANT from its inception to the present.

INTERROGATORY NO. 2:

Describe in detail all past and existing relations, including contracts, agreements, licenses, assignments, or other relations, between APPLICANT and any third party, including predecessor companies, related, or affiliated companies, relating in any manner to MILTON.

INTERROGATORY NO. 3:

Identify the circumstances under which APPLICANT became aware of OPPOSER, including any of OPPOSER’S MARKS.

INTERROGATORY NO. 4:

With respect to MILTON, identify the PERSON or PERSONS most knowledgeable about APPLICANT's sales, advertising and sales promotion, adoption and use, licensing, and assignment or other transfer of rights.

INTERROGATORY NO. 5:

Identify all state, federal and foreign trademark and/or service mark registrations, applications for trademark and/or service mark registration, and uses by APPLICANT of MILTON or any mark which incorporates the term "Milton," and for each of such registrations, applications, and uses, identify all DOCUMENTS relating thereto, including, without limitation, the filing date, application serial number, registration date, registration number, registrant information, first use date, and method of use.

INTERROGATORY NO. 6:

Identify all third-party state and federal registrations, applications for registration, and uses known to APPLICANT of any mark which incorporates the term "Milton."

INTERROGATORY NO. 7:

Describe in detail the nature of APPLICANT's business or businesses, including the date on which APPLICANT first engaged in each such business.

INTERROGATORY NO. 8:

Identify and describe each of the goods and/or services on which APPLICANT intends to use or has used MILTON.

INTERROGATORY NO. 9:

Identify all DOCUMENTS and set forth with specificity all facts regarding the selection by or for APPLICANT of MILTON including, without limitation, the circumstances and method by which APPLICANT adopted the term "Milton" as a part of its mark.

INTERROGATORY NO. 10:

Identify all PERSONS who were involved in, or participated in any way with, the decision to adopt, register and/or use the term “Milton”, and for each such PERSON state his/her title and the role he/she played to adopt, register and/or use such term.

INTERROGATORY NO. 11:

State whether any searches or investigations were conducted by or on behalf of YOU to determine whether a mark containing the term “Milton,” such as MILTON, was available for use and/or registration, and, if so, identify each such search or investigation including the date(s) such search or investigation was performed, the marks located in such search or investigation and all DOCUMENTS relating thereto.

INTERROGATORY NO. 12:

Identify all manufacturers or intended manufacturers of goods, and all promoters or intended promoters of services, bearing MILTON.

INTERROGATORY NO. 13:

For each of the goods and services identified in YOUR response to Interrogatory No. 8 above, describe with specificity YOUR use of MILTON, the date on which MILTON was first used, the method in which MILTON was used, where the MILTON was placed, where the good was sold or where the service was provided, the identity of the PERSON(S) most knowledgeable about each of such uses, and the DOCUMENTS evidencing the foregoing.

INTERROGATORY NO. 14:

Identify all DOCUMENTS and set forth with specificity all facts with respect to any instance where a PERSON has been confused, mistaken, and/or deceived as to whether any goods or services advertised or sold under MILTON are those of OPPOSER, or are connected or associated with OPPOSER, and for each such incident provide the date of such incident, the identity of the PERSON, and a detailed description of the circumstances of such confusion, mistake and/or deception.

INTERROGATORY NO. 15:

Identify all DOCUMENTS and set forth with specificity the substance of each COMMUNICATION, oral or written, received by APPLICANT, which suggests, implies or infers that any of the products or services of APPLICANT sold or offered under MILTON, or any mark that includes the term “Milton”, is a product or service of OPPOSER or is affiliated, connected and/or associated with OPPOSER, or which inquires as to whether there is or may be an affiliation, connection and/or association between APPLICANT and OPPOSER, and identify any response(s) by APPLICANT to each such COMMUNICATION.

INTERROGATORY NO. 16:

Identify all inquiries, investigations, surveys, evaluations and or studies conducted by or on behalf of YOU with respect to MILTON or a mark containing the term “Milton” as an element of the mark, including the date conducted, the name, address and title of each PERSON(S) who conducted it, the purpose for which it was conducted, the findings or conclusions made, and identify all DOCUMENTS which record, refer to, or relate to such inquiry, investigation, survey, evaluation or study.

INTERROGATORY NO. 17:

Identify each different sign, display, point-of-sale display, label, hangtag, wrapper, container, package, advertisement, brochure, promotional material, and the like, known to APPLICANT which contains or bears MILTON or any variation thereof and which is intended to be used or has been used or disseminated at any time by or on behalf of APPLICANT.

INTERROGATORY NO. 18:

Identify each PERSON employed by or on behalf of APPLICANT, or each outside agency or agent retained by or on behalf of APPLICANT, who has been or now is responsible for the following activity with respect to any of the goods or services intended to be offered or rendered or actually offered or rendered under MILTON or any mark that includes that term “Milton”: (a) marketing; (b) advertising and promotion; and (c) bookkeeping and accounting.

INTERROGATORY NO. 19:

Has APPLICANT ever licensed or permitted or had negotiations to license or permit, or otherwise granted rights to third parties to use MILTON or any mark including the term “Milton” as a component? If so, identify the party or parties who have received or sought such license or permission or other right, state the nature and extent of any such license or permitted use or right, given or negotiated, and identify and describe all DOCUMENTS comprising or containing any such license, permission, or other right, or any agreement in respect to such mark.

INTERROGATORY NO. 20:

For each of the goods or services identified in response to Interrogatory No. 8, set forth the number of units and dollar amount of the monthly sales of such goods or services, the dollar amount of monthly advertising expenditure on such goods or services, and the individual media through which such advertising took place, and the U.S. dollar amount of advertising through each such media; and identify DOCUMENTS sufficient to support YOUR response to this interrogatory.

INTERROGATORY NO. 21:

State in detail the channels of trade in which MILTON is used and/or in which goods bearing MILTON are sold or services rendered under MILTON, including the geographic area by city and state in which MILTON is used and the manner in which the goods or services reach the ultimate consumer, the geographical reach of each such channel, and the approximate percentage of total sales of goods and/or services through each such channel, and identify DOCUMENTS sufficient to support YOUR response to this interrogatory.

INTERROGATORY NO. 22:

Identify each statement or opinion obtained by or for APPLICANT regarding any issue in this opposition proceeding including, but not limited to, whether the statement was oral or in writing, and identify all DOCUMENTS which record, refer to, or relate to such statement or opinion.

INTERROGATORY NO. 23:

Identify with specificity the marketing methods used in the advertising and/or sale of goods and/or services by or for APPLICANT under MILTON or any designation containing the term “Milton,” including, without limitation, the names of television stations, radio stations, Internet web sites, newspapers, magazines, trade journals or periodicals, and/or retail establishments in which APPLICANT has advertised and intends to advertise its goods and/or services under MILTON or such designation, and identify DOCUMENTS referring to, reflecting and/or supporting YOUR response to this interrogatory.

INTERROGATORY NO. 24:

Identify the ordinary purchaser of the goods or services sold and intended to be sold under MILTON or any designation containing the term “Milton,” including, without limitation, the level of care exercised by such an ordinary purchaser in purchasing the goods or services sold under MILTON or such designation.

INTERROGATORY NO. 25:

Identify all DOCUMENTS relating to and set forth with specificity all facts regarding any instance where APPLICANT has notified any PERSON that any trademark or service mark used by that PERSON infringed APPLICANT's rights in MILTON and/or any mark of APPLICANT that includes the term “Milton,” and for each such instance provide a detailed description of any action taken and/or disposition thereafter.

INTERROGATORY NO. 26:

Has APPLICANT ever been a party to any litigation or administrative proceeding, other than the present opposition? If so, state all circumstances surrounding same including, without limitation, the name of the parties and identification of the proceeding, APPLICANT's status therein, the mark or marks involved, if any, the type of proceeding involved, the name and location of the court or agency in which it was filed, the date of the filing and the file number, the ultimate disposition of the proceedings, and identify each DOCUMENT relating to such proceeding.

INTERROGATORY NO. 27:

Identify the earliest date upon which YOU intend to rely in this proceeding with respect to YOUR use of MILTON and/or any mark that includes the term “Milton,” and identify all DOCUMENTS relating to, reflecting and/or supporting such use(s) and all PERSONS with knowledge of such use.

INTERROGATORY NO. 28:

Describe the meaning and derivation of the term “Milton” as used in connection with the services of APPLICANT upon or in connection with which APPLICANT has used that term.

INTERROGATORY NO. 29:

State the approximate percentage of sales of products bearing, or services promoted under, MILTON via the Internet versus other sales channels, and identify DOCUMENTS sufficient to support YOUR response to this Interrogatory.

INTERROGATORY NO. 30:

Identify all experts employed by or on behalf of APPLICANT for purposes of this action. For each expert, identify his or her field of specialization, whether APPLICANT intends to call him or her as a witness, the subject matter on which he or she is expected to testify, the bases for each opinion, and identify all DOCUMENTS that relate in any way to the subject matter, facts, and/or circumstances as to which the expert is expected to testify.

INTERROGATORY NO. 31:

Identify each non-expert witness that APPLICANT expects to testify, the subject matter on which the witness is expected to testify, each fact and/or opinion to which the witness is expected to testify, the bases for each opinion and identify all DOCUMENTS that relate in any way to the subject matter, facts, and/or circumstances as to which the witness is expected to testify.

INTERROGATORY NO. 32:

Identify in full all facts and circumstances on which YOU base the affirmative defense no. 2 in YOUR answer that “Applicant’s mark and the alleged trademark registrations listed in Opposer’s Notice of Opposition are different in sound, appearance, meaning and commercial impression, that the goods of the parties are unrelated and marketed through different channels of trade.”

INTERROGATORY NO. 33:

Identify in full all facts and circumstances on which YOU base the affirmative defense no. 3 in YOUR answer that “the term ‘MILTON’ contained in the alleged common law trademarks and trademark registrations listed in Opposer’s Notice of Opposition have been used by various third parties for various goods and services and, as such, are ‘weak’ marks that are entitled to limited protection.”

INTERROGATORY NO. 34:

Identify each individual who participated in or supplied information used in answering any of the above interrogatories; beside the name of each such individual, state the number of the interrogatory answer(s) with respect to which that individual participated in or supplied information.

Dated: February 15, 2013

Respectfully submitted,



Irene Y. Lee
RUSS, AUGUST & KABAT
Twelfth Floor
12424 Wilshire Boulevard
Los Angeles, California 90025
Telephone: (310) 826-7474
Facsimile: (310) 826-6991

*Attorneys for Opposer
Uncle Milton Industries, Inc.*

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing **Opposer Uncle Milton Industries, Inc.'s First Set of Interrogatories to Applicant Team John Whitaker Limited** was served by first class mail, postage prepaid, and electronic mail on February 15, 2013, upon counsel of Applicant:

John S. Egbert, Esq.
Kevin S. Wilson, Esq.
EGBERT LAW OFFICES, PLLC
21st Floor
1314 Texas
Houston, Texas 77002
Telephone: 713-224-8080 x 204
Facsimile: 713-223-4873
Email: mail@egbertlawoffices.com

/s/ Anne Zivkovic

Anne Zivkovic

EXHIBIT B

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

Uncle Milton Industries, Inc.,

Opposer,

v.

Team John Whitaker Limited,

Applicant.

Opposition No. 91208266

Serial No. 85/445,797

Mark: MILTON

**OPPOSER UNCLE MILTON INDUSTRIES, INC.'S FIRST SET OF REQUESTS FOR
PRODUCTION OF DOCUMENTS AND THINGS TO APPLICANT TEAM JOHN
WHITAKER LIMITED**

Propounding Party: Opposer Uncle Milton Industries, Inc.

Responding Party: Applicant Team John Whitaker Limited

Set Number: One

Pursuant to the provisions of 37 C.F.R. § 2.120 and Rule 34 of the Federal Rules of Civil Procedure, Applicant Team John Whitaker Limited (“Team John Whitaker”) is required to provide both: (a) the actual physical production of the items requested to be produced; and (b) written responses under oath. Actual physical production shall be at Russ, August & Kabat, Twelfth Floor, 12424 Wilshire Boulevard, Los Angeles, California 90025, to the attention of Irene Y. Lee within thirty (30) days of service thereof.

INSTRUCTIONS AND DEFINITIONS

The following instructions and definitions shall apply to these and all subsequent requests for production of documents and things:

A. Instructions.

1. This request requires the production of all of the specified items in the actual or constructive possession, custody or control of the responding party and/or the responding party's present and/or former employees, officers, directors, agents, representatives, attorneys, accountants, underwriters, investigators or other persons in any way acting or purporting to act on behalf of or attributable to the responding party. If any item was, but no longer is, in such possession, custody or control of the responding party, please state whether and when it: (a) is lost or destroyed; (b) has been transferred to another person, either voluntarily or involuntarily; or (c) has been otherwise disposed of. In each such case, explain the circumstances and dates surrounding such disposition, *e.g.*, at whose direction, for what purpose, pursuant to what authority, what record was made, etc.

2. Whenever objection is asserted to a particular request or portion thereof, please produce all responsive items or parts thereof which are not subject to such objection. Similarly, wherever an item is not produced in full, please state with particularity the reason or reasons it is not being produced in full, and describe, to the best of your knowledge, information and belief and with as much particularity as possible, those portions of the item which are not produced.

3. Please produce items in such a manner as will facilitate their identification with the particular request or category of requests to which they are responsive.

4. The words "and" and "or" shall be construed both conjunctively and disjunctively, and each shall include the other wherever such dual constructions will serve to bring within the course and scope of a request any item(s) which would otherwise not be brought within its scope.

5. The singular form shall include the plural and vice versa wherever such dual construction will serve to bring within the scope of a request any item(s) which would otherwise not be brought within its scope.

6. This request requires the production of items in the same form and in the same filing manner and order as existing and maintained prior to production. The items are to be produced in the same boxes, files, folders or other containers or storage media in which the items were found. All titles, labels or other descriptions of the files, documents, etc. are to be left intact.

7. With respect to any item that you withhold on a claim of privilege, provide a statement, signed by one of your attorneys, setting forth as to each such document:

- (a) The name(s) of the sender(s) of the item;
- (b) The name(s) of the author(s) of the item;
- (c) The name(s) of the person(s) to whom the original or copies were sent;
- (d) The date of the item;
- (e) The date on which the item was received by those having possession of the item;
- (f) The statute, rule or decision which is claimed to give rise to the privilege;
- (g) A summary of the contents of the item without disclosing the matter that you claim is privileged.

B. Definitions.

1. “APPLICANT” refers to the applicant Team John Whitaker Limited and includes all other partnerships, corporations or other business entities (whether or not separate legal entities) subsidiary to, parent to, or affiliated with the applicant, including all of the partners, principals, officers, directors, trustees, employees, staff members, agents and representatives, including counsel for the applicant.

2. “MILTON” refers to the designation and/or trademark sought to be registered by means of Application Serial No. 85/445,797.

3. “COMMUNICATION” means any oral or written transmission of information between PERSONS, including but not limited to, meetings, discussions, conversations, telephone calls, memoranda, electronic mail, instant messages (including, without limitation, text messages), letters, telegram, record or notation of any conversation, inter-office memorandum, telecopies, telexes, conferences or seminars.

4. “DOCUMENT” or “ITEM” or any similar term shall be used in their broadest sense and shall include, but not be limited to, the following: any written, printed, typed or other graphic matter of any kind or nature; all mechanical, magnetic or electrical sound recordings or transcripts thereof; any retrievable data, information or statistics contained on any memory device or other information retrieval systems (whether encarded, taped or coded electrostatically, electromagnetically, or otherwise); and also without limitation, agreements, bills of sale, books, charts, checks, computer records, compilations, conversations, correspondence, descriptions, diagrams, diaries, directives, drawings, electronic recordings, files, films, financial memoranda, financial records, financial statements, graphs, inspection reports, interoffice correspondence, instructions, invoices, journals or other books of account, ledgers, letters, maps, measurements, memoranda, minutes, notes, notebooks, notices, pamphlets, periodicals, photocopies, photographs, plans, plats, proposals, publications and published or unpublished speeches or articles, purchase orders, receipts, recordings, records, reports, reproductions, samples, schedules, sketches, specifications, statements, studies, summaries, surveys, telegrams, telephone call slips and transcripts of telephone conversations, e-mails, instant messages (commonly called IMs), texts, voice mail transcripts, test results, transcripts, work sheets, working papers, reports and/or summaries of interviews, reports and/or summaries of investigations, opinions or reports of consultants, agreements and contracts, brochures, pamphlets, advertisements, letters to the trade, and including any tangible things within the scope of Rule 34(a)(1) of the Federal Rules of Civil Procedure. The term “ITEM” or “DOCUMENT” or any similar term shall also mean all drafts and final versions, and all copies of documents, by whatever means made (including, but

not limited to, carbon, handwritten, microfilmed, photostatic, xerographic, scanned or other copies), and include all non-identical copies (whether different from the original because of any alterations, notes, comments or other material contained thereon or attached thereto, or otherwise). The term “ITEM” or “DOCUMENT” or any similar term shall also include any attachment thereto or enclosures therewith. The term “ITEM” or “DOCUMENT” or any similar term shall also include any and all data compilations from which information can be obtained. The term “ITEM” or “DOCUMENT” or any similar term shall also mean and include any “writing” as defined in Rule 1001 of the Federal Rules of Evidence.

5. “OPPOSER” refers to Uncle Milton Industries, Inc.

6. “OPPOSER’S MARKS” refers to any designation and/or trademark used or intended to be used by OPPOSER to identify OPPOSER in connection with the goods and/or services offered or promoted by OPPOSER, and collectively refers to the UNCLE MILTON marks owned by OPPOSER, including without limitation, United States Trademark Registration Nos. 2,858,040; 3,987,795; and 4,133,574 and cited by OPPOSER in its Notice of Opposition.

7. “PERSON” means any natural person, general partnership, limited partnership, limited liability partnership, joint venture, corporation, limited liability company, association, firm, trust, or any other kind of organization or entity.

8. “YOU” or “YOUR” refers to APPLICANT, any of its present and former agents, officers, directors, principals, employees, affiliates, licensees, franchisees, distributors, consultants, advisors, accountants, attorneys and all other PERSONS or entities acting or purporting to act on its behalf.

REQUESTS FOR PRODUCTION

REQUEST NO. 1:

All DOCUMENTS recording, referring to, or relating to the organization, incorporation, structure, operation and activities of APPLICANT insofar as they relate to any products sold and/or services offered by and/or intended to be sold, offered or promoted by APPLICANT under MILTON or any designation containing the term “Milton.”

REQUEST NO. 2:

All DOCUMENTS recording, referring to, or relating to any licenses, assignments, agreements, contracts, and/or arrangements between APPLICANT and any third party which relate in any manner to MILTON and/or any designation containing the term “Milton.”

REQUEST NO. 3:

All DOCUMENTS evidencing, recording, referring to, or relating to YOUR expressed intended use of MILTON or any designation containing the term “Milton,” including any investigation of the term “Milton” for its availability for adoption, use or registration, its licensing, use, intended use, exploitation, and/or intended exploitation.

REQUEST NO. 4:

All DOCUMENTS evidencing, recording, referring to, or relating to YOUR use or intended use of MILTON or any designation containing the term “Milton.”

REQUEST NO. 5:

All DOCUMENTS evidencing, recording, referring to, or relating to goods and/or services which are or are to be provided by or on behalf of YOU under MILTON or any designation containing the term “Milton.”

REQUEST NO. 6:

All DOCUMENTS evidencing, recording, referring to, or relating to YOUR advertising, intended advertising, promotion, and/or intended promotion of any goods and/or services under MILTON or any designation containing the term “Milton.”

REQUEST NO. 7:

DOCUMENTS sufficiently identifying the name and address of the PERSON(S) who created, came up with, or conceptualized MILTON.

REQUEST NO. 8:

All DOCUMENTS evidencing, recording, referring to, or relating to the selection, design, adoption, proposed use of, decision to use, and first use of MILTON and/or any designation containing the term “Milton” including samples of any names, designations and/or other marks conceived, considered and/or rejected by or on behalf of APPLICANT.

REQUEST NO. 9:

All DOCUMENTS evidencing, recording, referring to, or relating to any searches, investigations, studies, analyses, or inquiries conducted by or on behalf of YOU regarding the availability and/or registrability of MILTON, or of the term “Milton.”

REQUEST NO. 10:

All DOCUMENTS that refer to, relate to, or are in any way concerned with the preparation, filing and/or prosecution of any applications for registration, state, federal or foreign, of marks incorporating the term “Milton” including, without limitation, Application Serial No. 85/445,797, including, without limitation, prosecution history, opposition pleadings and registration certificate.

REQUEST NO. 11:

All DOCUMENTS evidencing, recording, referring to, or relating to YOUR consideration or decision to select, adopt and/or use MILTON and/or any designation containing the term “Milton” in each different logotype, label, design, hang tag, packaging, font of type or style in which MILTON and/or said designation is being used, or is intended to be used, by or on behalf of YOU.

REQUEST NO. 12:

Produce a sample of each different logotype, label, design, hang tag, packaging, font of type or style in which MILTON and/or any designation including the term “Milton” is being used, or is intended to be used, by or on behalf of YOU.

REQUEST NO. 13:

Produce a sample of each and every different advertisement, intended advertisement, item of promotional material and/or intended item of promotional material printed and/or disseminated by or for YOU in which MILTON appears and/or any designation that includes the term “Milton.”

REQUEST NO. 14:

A specimen of each product on which MILTON or any designation containing the term “Milton” has been used or is intended to be used.

REQUEST NO. 15:

Copies of all television commercials, web commercials, press releases, publications (paid or unpaid), radio scripts, smart phone apps, and other media advertising, prepared by or for YOU whether or not released or aired, in which MILTON and/or the term “Milton” appears.

REQUEST NO. 16:

All DOCUMENTS evidencing, reflecting, recording, referring to, or relating to YOUR advertising and/or promotional expenditures, or expected advertising and/or promotional expenditures, for any goods offered for sale, sold and/or distributed under MILTON or any designation containing the term “Milton” including, without limitation, the advertising medium, the dates of any such advertisements or promotions, and the cost associated with each of such advertisements and/or promotions.

REQUEST NO. 17:

All DOCUMENTS evidencing, reflecting, recording, referring to, or relating to the amount of sales, actual and/or projected, by month of goods or services sold by or for YOU under MILTON or any designation containing the term “Milton” including, without limitation, the identification of the goods and/or services, the number of units of the goods and/or services rendered, separately for each of the goods or services, the dates of the sales, and the dollar value of the sales.

REQUEST NO. 18:

All DOCUMENTS evidencing, recording, referring to, or relating to any COMMUNICATION, oral or written, received by YOU from any PERSON which suggests, implies, or infers any connection or association between OPPOSER and YOU.

REQUEST NO. 19:

All DOCUMENTS evidencing, recording, referring to, or relating to any COMMUNICATION, oral or written, received by YOU from any PERSON which inquires as to whether there is or may be such a connection or association between OPPOSER and YOU.

REQUEST NO. 20:

All DOCUMENTS evidencing, recording, referring to, or relating to any instance or occurrence of likelihood of confusion and/or actual confusion on the part of any PERSON between YOUR, YOUR licensees' or sublicensees' use of MILTON and/or any designation containing the term “Milton” and any of the OPPOSER'S MARKS.

REQUEST NO. 21:

All DOCUMENTS evidencing, recording, referring to, or relating to YOUR knowledge and/or awareness of OPPOSER's use of any of the OPPOSER'S MARKS.

REQUEST NO. 22:

All DOCUMENTS evidencing, recording, referring to, or relating to YOUR knowledge and/or awareness of OPPOSER's use of a designation that includes the term "Uncle Milton."

REQUEST NO. 23:

All DOCUMENTS evidencing, recording, referring to, or relating to YOUR knowledge and/or awareness of OPPOSER's application(s) for registration of any of the OPPOSER'S MARKS.

REQUEST NO. 24:

All DOCUMENTS evidencing, recording, referring to, or relating to YOUR knowledge and/or awareness of OPPOSER's trademark registration(s) for any of the OPPOSER'S MARKS.

REQUEST NO. 25:

All DOCUMENTS evidencing, recording, referring to, or relating to any inquiry, investigation, evaluation, analysis, or survey conducted by YOU or any person acting for or on behalf of YOU regarding any issues involved in the present opposition proceeding.

REQUEST NO. 26:

All DOCUMENTS evidencing, recording, referring to, or constituting any research, reports, surveys, or studies conducted by or on behalf of YOU of consumer or customer perception of MILTON or the mark "Milton."

REQUEST NO. 27:

All DOCUMENTS in YOUR possession, custody or control that refer or relate to OPPOSER.

REQUEST NO. 28:

All DOCUMENTS in YOUR possession, custody or control that refer or relate to any of the OPPOSER'S MARKS.

REQUEST NO. 29:

All press releases, articles and clippings relating to or commenting on goods or services marketed or sold under MILTON or the mark "Milton."

REQUEST NO. 30:

All DOCUMENTS sufficient to identify all goods and/or services in connection with which YOU have used, use and/or intend to use MILTON and/or any mark that includes the term “Milton.”

REQUEST NO. 31:

All DOCUMENTS referring to, relating to, or including any statements and/or opinions of any consultant or expert obtained by YOU or any person acting for or on behalf of YOU regarding any of the issues in this opposition proceeding.

REQUEST NO. 32:

All DOCUMENTS evidencing YOUR first use of MILTON.

REQUEST NO. 33:

All DOCUMENTS evidencing YOUR first use of a designation containing the term “Milton.”

REQUEST NO. 34:

All DOCUMENTS, other than those produced to any of the foregoing requests, upon which YOU intend to rely in connection with this opposition proceeding.

REQUEST NO. 35:

All DOCUMENTS identified in response to Uncle Milton Industries, Inc.’s First Set of Interrogatories to Team John Whitaker Limited.

REQUEST NO. 36:

All DOCUMENTS that contain the word "Uncle Milton."

Dated: February 15, 2013

Respectfully submitted,



Irene Y. Lee
RUSS, AUGUST & KABAT
Twelfth Floor
12424 Wilshire Boulevard
Los Angeles, California 90025
Telephone: (310) 826-7474
Facsimile: (310) 826-6991

*Attorneys for Opposer
Uncle Milton Industries, Inc.*

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing **Opposer Uncle Milton Industries, Inc.'s First Set of Requests for Production of Documents and Things to Applicant Team John Whitaker Limited** was served by first class mail, postage prepaid, and electronic mail on February 15, 2013 upon counsel of Applicant:

John S. Egbert, Esq.
Kevin S. Wilson, Esq.
EGBERT LAW OFFICES, PLLC
21st Floor
1314 Texas
Houston, Texas 77002
Telephone: 713-224-8080 x 204
Facsimile: 713-223-4873
Email: mail@egbertlawoffices.com

/s/ Anne Zivkovic

Anne Zivkovic

EXHIBIT C



Irene Y. Lee
ilee@raklaw.com

April 1, 2013

12424
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California
90025

Tel 310.826.7474
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VIA FIRST CLASS MAIL
VIA ELECTRONIC MAIL - mail@egbertlawoffices.com

John S. Egbert, Esq.
Egbert Law Offices PLLC
21st Floor
1314 Texas Avenue
Houston, Texas 77002

Re: *Uncle Milton Industries, Inc. v. Team John Whitaker Limited*
Opposition No. 91208266
Application No. 85/445,797
Mark: MILTON

Dear Mr. Egbert,

I am writing to initiate the meet-and-confer process to address Applicant Team John Whitaker Limited's failure to serve its answers and documents in response to Opposer Uncle Milton Industries, Inc.'s first set of interrogatories and first set of requests for production of documents and things, both of which were served on February 15, 2013, along with Uncle Milton Industries, Inc.'s initial disclosures.

We are available on April 2, 3, 4 and 5 to meet and confer between 9:00 a.m. and noon (Pacific Time). Please let me know if you are available on any of the proposed dates. If you are not available, please suggest a few alternative dates and times.

Very truly yours,

Russ, August & Kabat

Irene Y. Lee

EXHIBIT D

From: Kevin Wilson <kwilson@egbertlawoffices.com>
Subject: Re: US: MILTON (Opposition No. 91208266) [3186-003]
Date: April 2, 2013 1:47:42 PM PDT
To: Irene Lee <ilee@raklaw.com>
Cc: Anne Zivkovic <azivkovic@raklaw.com>, Nathan Meyer <nmeyer@raklaw.com>, Mike Swartz <mswartz@egbertlawoffices.com>, Egbert Law Offices <mail@egbertlawoffices.com>

Dear Irene:

Perhaps you are unfamiliar with practice in the TTAB. I would suggest you read TBMP Section 523.02. The rules of this administrative court clearly includes the phrase "by conference or correspondence." All we have explained is that we are not going to have a conference call with you. We are certainly open to any correspondence you may have for us.

If you have any other questions or concerns, please feel free to contact our office at any time.

Sincerely,
Kevin Wilson

Egbert Law Offices, PLLC
Great Southwest Building
1314 Texas, 21st Floor
Houston, TX 77002
Tel: (713) 224-8080 Ext. 206
Fax: (713) 223-4873

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On 4/2/2013 3:32 PM, Irene Lee wrote:

Dear Kevin,

As a moving party, we are required to conduct a meet and confer before filing a motion to compel discovery responses.

Please advise if you refuse to participate in the meet and confer process so we can properly advise the Board.

Regards,

--

Irene Y. Lee
RUSS AUGUST & KABAT
12th Floor

12424 Wilshire Boulevard
Los Angeles, California 90025
Main: 001.310.826.7474
Direct: 001.310.979.8224

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On Apr 2, 2013, at 12:21 PM, Kevin Wilson <kwilson@egbertlawoffices.com> wrote:

Dear Irene:

At this point, we believe a conference is unnecessary, therefore, we do not plan on setting up a time for a conference. We are, of course, open to any correspondence regarding any issues you may have. We, therefore, ask at this time that you proceed with your case as you deem fit.

If you have any other questions or concerns, please feel free to contact our office at any time.

Sincerely,
Kevin Wilson

Egbert Law Offices, PLLC
Great Southwest Building
1314 Texas, 21st Floor
Houston, TX 77002
Tel: (713) 224-8080 Ext. 206
Fax: (713) 223-4873

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--- On Mon, 4/1/13, Anne Zivkovic <azivkovic@raklaw.com> wrote:

From: Anne Zivkovic <azivkovic@raklaw.com>
Subject: US: MILTON (Opposition No. 91208266) [3186-003]
To: mail@egbertlawoffices.com
Cc: "Irene Lee" <ilee@raklaw.com>, "Nathan Meyer" <nmeyer@raklaw.com>
Date: Monday, April 1, 2013, 5:43 PM

Dear Mr. Egbert,

Please find attached a letter from Ms. Irene Lee regarding the referenced trademark opposition. Thank you.

Sincerely,

Anne Zivkovic
Intellectual Property Paralegal
Russ August & Kabat
12424 Wilshire Blvd., Suite 1200
Los Angeles, CA 90025
(310) 826-7474

EXHIBIT E



Irene Y. Lee
ilee@raklaw.com

April 2, 2013

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VIA FIRST CLASS MAIL
VIA ELECTRONIC MAIL

John S. Egbert, Esq.
mail@egbertlawoffices.com
Kevin Wilson, Esq.
kwilson@egbertlawoffices.com
Egbert Law Offices PLLC
21st Floor
1314 Texas Avenue
Houston, Texas 77002

Re: *Uncle Milton Industries, Inc. v. Team John Whitaker Limited*
Opposition No. 91208266
Application No. 85/445,797
Mark: MILTON

Dear Messrs. Egbert and Wilson,

Thank you for your email of even date herewith, where you pointed out the "by conference or correspondence" language in Section 523.02. Pursuant to that very language, we made a good faith effort by sending a letter to you yesterday. In the letter, we requested that the parties meet and confer to address Applicant's failure to serve any answer or document in response to Opposer's first set of interrogatories and first set of requests for documents and things, both of which were served on February 15, 2013, along with Opposer's initial disclosures. Applicant has yet to serve its initial disclosures, which were due March 10, 2013.

While we are puzzled by your refusal to participate in a conference call to address Applicant's failure to serve discovery responses and resolve its violation of the Board's scheduling order of November 30, 2012, we remain open and willing to resolve the matter in good faith through correspondence.

As we endeavor to prosecute this matter in compliance with the Board's scheduling order, we ask that Applicant's initial disclosures be served by April 12, 2013, along with full and complete responses and documents in response to Opposer's first set of interrogatories and first set of requests for documents and things. Otherwise, we will have to seek the Board's intervention.



John S. Egbert, Esq.
Kevin Wilson, Esq.
Egbert Law Offices PLLC
April 2, 2013
Page 2 of 2

Please confirm that Applicant's will serve all outstanding discovery responses, documents and initial disclosures by April 12, 2013.

Very truly yours,

Russ, August & Kabat



Irene Y. Lee

IYL/az