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

Proceeding	91210643
Party	Defendant Blue Gentian, LLC
Correspondence Address	Brian M. Taillon MCHALE & SLAVIN PA 2855 PGA BLVD PALM BEACH GARDENS, FL 33410-2910 UNITED STATES btaillon@mchaleslavin.com, litigation@mchaleslavin.com, cspag- nuolo@mchaleslavin.com
Submission	Reply in Support of Motion
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Date	10/28/2014
Attachments	Reply MTC Tristar.pdf(120010 bytes ) Reply Ex A.pdf(210931 bytes )

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

TRISTAR PRODUCTS, INC.,

Opposer/Petitioner,

vs.

BLUE GENTIAN, LLC,

Applicant/Registrant.

Opposition No. 91210643

Mark: design mark  
Serial No. 85/684,030  
(parent case)

Cancellation No. 92057408

Mark: design mark  
Registration No. 4,351,590

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**APPLICANT/REGISTRANT'S REPLY IN SUPPORT OF  
MOTION TO COMPEL DISCOVERY RESPONSES**

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McHALE & SLAVIN, P.A.

By s/ Brian M. Taillon

Edward F. McHale

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*Attorneys for Blue Gentian, LLC*

Mindful that the Board generally discourages the filing of Reply briefs, TBMP § 502.02(b), Blue Gentian respectfully submits this Reply brief solely to address a misstatement by Tristar in its Opposition brief with respect to the timeliness of its discovery objections.

In Footnote 1 of its Opposition brief, Tristar states that its responses and objections to Blue Gentian's discovery requests were timely because they were served prior to an agreed extended deadline of September 29, 2014 in which to do so. This statement is inaccurate and potentially misleading to the Board.

Tristar's responses and/or objections to Blue Gentian's discovery requests were originally due for service on or before Friday, August 29, 2014. On August 21, 2014, Tristar's counsel requested a 30-day extension (up to and including September 29, 2014) in which to respond to the requests. Undersigned agreed to the requested extension for the service of *substantive responses*, including the production of documents, but did not agree to extend the deadline for service of *objections* to the requests. Copies of correspondence regarding Tristar's request for an extension are attached as Exhibit "A" hereto. Tristar's responses and objections were served on September 8, 2014. Supplemental responses were served on September 26, 2014.

For no less than the reasons set forth in the Motion to Compel and accompanying Memorandum filed on October 7, 2014 and herein, the Board should enter an Order compelling Tristar to provide full and complete responses to Blue Gentian's Interrogatories Nos. 5-16 and 20, and Requests for Production Nos. 1, 8-19, 22 and 25.

Dated: October 28, 2014

Respectfully submitted,

McHALE & SLAVIN, P.A.

By s/ Brian M. Taillon

Edward F. McHale

Brian M. Taillon

Carl J. Spagnuolo

2855 PGA Boulevard

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*Attorneys for Blue Gentian, LLC*

**CERTIFICATE OF FILING AND SERVICE**

I HEREBY CERTIFY that a true copy of the foregoing Reply in Support of Motion to Compel Discovery Responses was filed electronically through the Electronic System for Trademark Trials and Appeals on October 28, 2014. Notice of this filing will be sent to counsel for all parties by operation of the ESTTA, and via email and U.S. mail. Counsel includes:

Daniel J. Holmander, Esq.  
Barlow, Josephs & Holmes Ltd.  
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Providence, RI 02903  
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nkritzer@bakoskritzer.com  
ebakos@bakoskritzer.com

s/ Brian M. Taillon  
Brian M. Taillon

# **EXHIBIT “A”**

## Brian Taillon

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**From:** Daniel Holmander [DJH@barjos.com]  
**Sent:** Friday, September 5, 2014 11:24 AM  
**To:** Litigation - McHale Slavin  
**Cc:** ustrademarks@mchaleslavin.com  
**Subject:** RE: Tristar Products v. Blue Gentian - TTAB Proceedings

I expect to have notarized interrogatories today from client.

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**From:** Litigation - McHale Slavin [mailto:litigation@mchaleslavin.com]  
**Sent:** Friday, September 05, 2014 11:17 AM  
**To:** Daniel Holmander  
**Cc:** ustrademarks@mchaleslavin.com  
**Subject:** RE: Tristar Products v. Blue Gentian - TTAB Proceedings

Dear Dan,

Please advise of the status of these responses. Thanks.

Regards,

**McHALE & SLAVIN, P.A.**

**Brian M. Taillon**

2855 PGA Boulevard  
Palm Beach Gardens, Florida 33410  
Tel.: (561) 625-6575  
Fax: (561) 625-6572  
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**From:** Daniel Holmander [<mailto:DJH@barjos.com>]  
**Sent:** Tuesday, September 2, 2014 11:08 AM  
**To:** Litigation - McHale Slavin  
**Cc:** [ustrademarks@mchaleslavin.com](mailto:ustrademarks@mchaleslavin.com)  
**Subject:** RE: Tristar Products v. Blue Gentian - TTAB Proceedings

My client has not signed off yet on documents provided due to schedule conflicts.

I expect response tomorrow morning.

Dan

---

**From:** Daniel Holmander  
**Sent:** Friday, August 22, 2014 11:09 AM  
**To:** 'Litigation - McHale Slavin'  
**Cc:** [ustrademarks@mchaleslavin.com](mailto:ustrademarks@mchaleslavin.com)  
**Subject:** RE: Tristar Products v. Blue Gentian - TTAB Proceedings

Thank you.

**Daniel J. Holmander | Partner**  
Barlow, Josephs & Holmes Ltd.  
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101 Dyer St Ste 501  
Providence, RI 02903-3908  
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**From:** Litigation - McHale Slavin [<mailto:litigation@mchaleslavin.com>]  
**Sent:** Friday, August 22, 2014 11:08 AM  
**To:** Daniel Holmander  
**Cc:** [ustrademarks@mchaleslavin.com](mailto:ustrademarks@mchaleslavin.com)  
**Subject:** RE: Tristar Products v. Blue Gentian - TTAB Proceedings

Dan,

We would agree to the extension to grant Tristar time to provide substantive responses and documents. To the extent Tristar would raise objections to the discovery requests, we believe the current deadline (next Friday the 29<sup>th</sup>) should suffice to serve those objections.

Regards,

**McHALE & SLAVIN, P.A.**

**Brian M. Taillon**

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**From:** Daniel Holmander [<mailto:DJH@barjos.com>]  
**Sent:** Thursday, August 21, 2014 2:15 PM  
**To:** Litigation - McHale Slavin  
**Cc:** [ustrademarks@mchaleslavin.com](mailto:ustrademarks@mchaleslavin.com)  
**Subject:** RE: Tristar Products v. Blue Gentian - TTAB Proceedings

Brian,

My client has been generally unavailable to discuss the discovery documents sent along this summer.

Can we get a 30 day extension to file reply to the discovery?

Dan

---

**From:** Litigation - McHale Slavin [<mailto:litigation@mchaleslavin.com>]  
**Sent:** Friday, July 25, 2014 11:58 AM  
**To:** Daniel Holmander

**Cc:** [ustrademarks@mchaleslavin.com](mailto:ustrademarks@mchaleslavin.com)

**Subject:** Tristar Products v. Blue Gentian - TTAB Proceedings

Dear Mr. Holmander:

By way of introductions, my name is Brian Taillon. I am an attorney at McHale & Slavin. Ed McHale and I will be working on the consolidated Opposition/Cancellation proceedings on behalf of Blue Gentian, LLC going forward. I look forward to working with you. I see on your website that you live in Cumberland. I grew up in Woonsocket. Try not to hold it against me.

Attached please find Blue Gentian's initial disclosures, first set of interrogatories and first requests for production. Hard copies are en route via U.S. mail.

Feel free to contact me with any questions.

Regards,

**McHALE & SLAVIN, P.A.**

**Brian M. Taillon**

*2855 PGA Boulevard*

*Palm Beach Gardens, Florida 33410*

*Tel.: (561) 625-6575*

*Fax: (561) 625-6572*

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