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Filing date: **05/13/2015**

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

Proceeding	91211392
Party	Plaintiff Hallmark Licensing, LLC
Correspondence Address	TIMOTHY J FEATHERS STINSON LEONARD STREET LLP 1201 WALNUT STREET, SUITE 2900 KANSAS CITY, MO 64106-2150 UNITED STATES timothy.feathers@stinsonleonard.com, trademark@stinsonleonard.com
Submission	Motion to Compel Discovery
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Signature	/Elizabeth A. Tassi/
Date	05/13/2015
Attachments	Opposer_s Motion to Compel Applicant_s Initial Disclosures - Executed.PDF(1067163 bytes) Exhibit A Opposer's Golden Rule Letter.pdf(1353552 bytes) Exhibit B Follow-Up Email Dated May 8 2015.pdf(59555 bytes)

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

Hallmark Licensing, LLC)	
Opposer,)	
)	
v.)	Parent Opposition No.: 91211392
)	Opposition No.: 91215884
Hallmark Industries, Inc.)	
Applicant.)	

OPPOSER’S MOTION TO COMPEL APPLICANT'S INITIAL DISCLOSURES

Pursuant to 37 CFR § 2.120(e), Opposer Hallmark Licensing, LLC hereby moves the Trademark Trial and Appeal Board for an order compelling Applicant Hallmark Industries, Inc. to serve its initial disclosures. In support of its motion, Opposer states as follows:

1. On January 29, 2015, the Board entered an order consolidating Opposition Nos. 91211392 and 91215884 under Parent Opposition No. 91211392, resuming the proceedings, and resetting all of the deadlines. According to the order, initial disclosures were due on March 30, 2015. *See* Doc. 18.

2. On February 27, 2015, Opposer filed a motion for leave to file a consolidated and amended notice of opposition. *See* Doc. 20. Applicant failed to timely respond to the motion, but after counsel for Applicant contacted counsel for Opposer, the parties agreed that counsel for Applicant would file a stipulated motion to extend both the response deadline and the initial disclosure deadline by 30 days. As set forth in the March 27, 2015 motion, the new, stipulated deadline for initial disclosures was April 30, 2015. *See* Doc. 22.

3. On May 6, 2015 the Board granted the stipulated motion to extend and entered Opposer's uncontested consolidated and amended opposition notice. The Board also acknowledged the April 30, 2015 stipulated deadline for serving initial disclosures. *See*

Doc. 23.

4. On Friday May 1, 2015, counsel for Opposer sent counsel for Applicant a letter (delivered via email) noting the deadline for serving initial disclosures had passed, advising that counsel for Opposer had not received Applicant's initial disclosures, and inviting counsel for Applicant to either serve Applicant's initial disclosures or contact counsel for Opposer to discuss the reason for the delay. *See* Exhibit A, Opposer's Golden Rule Letter.

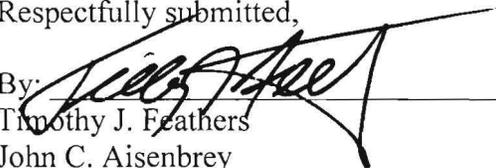
5. Having received no response to the letter, counsel for Opposer called counsel for Applicant on Tuesday May 5, 2015. Counsel for Applicant indicated he had received the letter regarding the delinquent initial disclosures and told counsel for Opposer that he could expect something by the end of the week.

6. Having again received no response by late afternoon on Friday May 8, 2015, counsel for Opposer sent counsel for Applicant an email indicating that if Applicant's initial disclosures were not served by Tuesday May 12, 2015, Opposer would file a motion to compel the disclosures and once again offered to discuss the issue with counsel for Applicant. *See* Exhibit B, Follow-Up Email Dated May 8, 2015.

7. To date, Applicant has not served its initial disclosures or indicated when it would.

Pursuant to 37 CFR § 2.120(e)(1), Opposer has made a good faith effort, by conference or correspondence, to resolve with Applicant the issues presented in this motion, but the parties were unable to resolve their differences. Therefore, Opposer respectfully requests that the Board enter an order compelling Applicant to serve its initial disclosures within five (5) days after the order is entered.

Respectfully submitted,

By: 

Timothy J. Feathers

John C. Aisenbrey

Elizabeth A. Tassi

Laila S. Wolfgram

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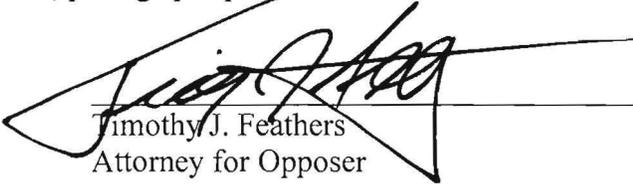
timothy.feathers@stinsonleonard.com

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Opposer's Motion to Compel Applicant's Initial Disclosures was served on May 13, 2015 to counsel for Applicant as follows:

Matthew H. Swyers, Esq.
THE TRADEMARK COMPANY PLLC
mswyers@TheTrademarkCompany.com
via electronic mail as expressly authorized

Anthony M. Verna III, Esq.
Kravitz & Verna PLLC
160 West End Ave.
New York, NY 10129
averna@kravitzverna.com
via electronic mail and via first-class mail, postage pre-paid


Timothy J. Feathers
Attorney for Opposer



Timothy J. Feathers
816.691.2754 **DIRECT**
816.412.1134 **DIRECT FAX**
timothy.feathers@stinsonleonard.com

May 1, 2015

Via electronic mail

Anthony M. Verna III, Esq.
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Matthew H. Swyers
The Trademark Company, PLLC
344 Maple Avenue West, PBM 151
Vienna, VA 22180
mswyers@TheTrademarkCompany.com

Re: Hallmark Licensing, LLC vs. Hallmark Industries, Inc., Opposition No. 91211392 Pending
Before the Trademark Trial and Appeal Board

Dear Mr. Verna and Mr. Swyers:

Per the Stipulated Motion to Extend dated March 27, 2015, the deadline for Hallmark Industries, Inc. to serve its Initial Disclosures was April 30, 2015. The deadline has passed, and we have not received the Disclosures. We are assuming the Disclosures would have been served electronically as has been our practice, but if they have been timely served by U.S. mail, please advise. Assuming they have simply not been served, please consider this our "Golden Rule" letter to resolve this discovery issue.

We ask that you provide the Initial Disclosures of Hallmark Industries, Inc. forthwith. We also ask that you contact me via telephone at your earliest opportunity to discuss the matter. If the Disclosures are not provided forthwith we will seek intervention by the TTAB to compel the Disclosures.

Anthony M. Verna III, Esq.

May 1, 2015

Page 2

Please note that this letter is being directed to both Messrs. Verna and Swyers. It is our understanding that Mr. Verna represents Hallmark Industries, Inc. in the opposition proceedings, but it does not appear as though Mr. Swyers has officially withdrawn, and when we inquired of him directly by email on April 20, 2015, Mr. Swyers indicated that he would check with Hallmark Industries and let us know whether he is continuing as counsel. Please advise of any change of status in this regard.

Thank you for your prompt attention to this matter.

Sincerely,

Stinson Leonard Street LLP

A handwritten signature in black ink, appearing to read 'Timothy J. Feathers', with a long horizontal flourish extending to the right.

Timothy J. Feathers

TJF:LD

Tassi, Elizabeth A.

From: Feathers, Tim
Sent: Friday, May 08, 2015 3:54 PM
To: averna@kravitzverna.com
Cc: Tassi, Elizabeth A.; Aisenbrey, John; Matthew H. Swyers
Subject: RE: Hallmark Licensing v. Hallmark Industries

Dear Mr. Verna:

This will follow up on our telephone call of earlier this week. I had inquired about our Golden Rule Letter, and whether you thought Hallmark Industries Initial Disclosures would be forthcoming. You indicated that we might expect something later on in the week. Having not received anything, I just wanted to follow up and advise that if the Initial Disclosures are not provided by the close of business next Tuesday (May 12), we will seek the intervention of the Board to compel the disclosures. Thank you for your attention to this, and please let me know if you have any questions or would like to discuss.

From: Feathers, Tim
Sent: Friday, May 01, 2015 5:32 PM
To: 'averna@kravitzverna.com'; 'Matthew H. Swyers'
Cc: Tassi, Elizabeth A.; Aisenbrey, John
Subject: Hallmark Licensing v. Hallmark Industries

Dear Messrs. Swyers and Verna:

Enclosed please see our letter regarding discovery in the referenced opposition proceeding.