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

Proceeding	91211392
Party	Plaintiff Hallmark Licensing, LLC
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Signature	/Timothy J. Feathers/
Date	06/22/2015
Attachments	Hallmark Reply Brief in Support of Motin to Compel w_attached Exhibit B.PDF(164416 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 REPLY BRIEF IN SUPPORT OF MOTION TO COMPEL APPLICANT'S INITIAL DISCLOSURES

Pursuant to 37 CFR § 2.120(e), Opposer Hallmark Licensing, LLC hereby submits its Reply Brief in support of its Motion asking the Trademark Trial and Appeal Board for an order compelling Applicant Hallmark Industries, Inc. to serve its initial disclosures. Opposer incorporates its original Motion as if fully set forth herein.

On June 2, 2015, Applicant served its Initial Disclosures in response to Opposer's Motion to Compel. See Exhibit B, attached hereto. Applicant's Initial Disclosures identify one witness who is likely to have discoverable information concerning "all aspects of the instant matter." However, the requisite description of "all documents, electronically stored information, and tangible things the Applicant has in its possession, custody, or control and may use to support its claims or defenses" is devoid of any description of any actual document, data or things other than "trademark applications and registrations." Instead, Applicant's disclosure, which was served more than one month late, contains a vague statement that Applicant "retains business records… and other pertinent documents[.]" This meets neither the spirit nor the letter of TTAB Rule 401.02 or Fed. R. Civ. P. 26(a):

> While parties preparing initial disclosures need not conduct an exhaustive search for all information that could be used at trial, initial disclosures may in many cases be broader than pretrial disclosures, because the latter may reflect a narrowing of the issues that need to be proved at trial. At the very least, initial disclosures should be broad enough to demonstrate a party's willingness to cooperate in the discovery process.

Byer California v. Clothing for Modern Times Ltd., Opposition No. 91189238 (TTAB 2010); *see also U.S.* ex rel. *Hunt v. Merck-Medco Managed Care, LLC,* 223 F.R.D. 330, 333 (E.D. Pa. 2004) (noting that the purpose of Initial Disclosures is to "accelerate the exchange of basic information about the case and to eliminate paper work involved in requesting such information.") (citations omitted).

Reference to non-specific "business records . . . and other pertinent documents" is insufficient to disclose the documents which actually exist. Accordingly, Opposer respectfully submits that an Order compelling Applicant to submit a supplemental / amended initial disclosure is appropriate.

Respectfully submitted,

By: /Timothy J. Feathers/

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing Opposer's Reply Brief in Support of its Motion to Compel Applicant's Initial Disclosures was served on June 22, 2015 to counsel for Applicant as follows:

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

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via electronic mail and via first-class mail, postage pre-paid

/Timothy J. Feathers/

Timothy J. Feathers
Attorney for Opposer

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
The Trademark Trial and Appeal Board

Serial No. 77/457,422 for the mark HALLMARK and
Serial No. 77/666,333 for the mark HALLMARK925

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

INITIAL DISCLOSURES

COMES NOW the Applicant, Hallmark Industries Inc. (hereinafter "Applicant"), and provides the following initial disclosures as required by the applicable rules of the Board.

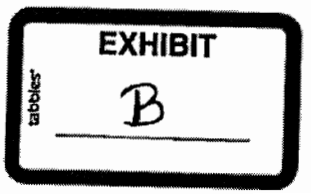
Disclosures

1. The name(s) and address(es) of each individual likely to have discoverable information along with the subject(s) of that information that may be used to support Applicant's claims:

Pradip Jain *
Hallmark Industries, Inc.
800 31st Street
Union City, NJ 07087

* Pradip Jain retains information concerning all aspects of the instant matter including, but not limited to, Hallmark Industries, Inc.'s rights in the mark at issue, dates of use thereof, marketing and other stream of commerce matters, as well as other information pertinent to the instant claims.

2. Copies or descriptions of all documents, electronically stored information, and tangible things that Applicant has in its possession, custody, or control and may use to support its claims or defenses:



Applicant retains business records, trademark applications and registrations and other pertinent documents which it may use to support its claims in the instant matter.

3. For inspection and copying any insurance agreement:

None.

DATED this 2nd day of June, 2015.

THE TRADEMARK COMPANY, PLLC

/Matthew H. Swyers/
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
The Trademark Trial and Appeal Board

Serial No. 77/457,422 for the mark HALLMARK and
Serial No. 77/666,333 for the mark HALLMARK925

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I caused a copy of the foregoing this 2nd day of June, 2015 to be served, via first class mail, postage prepaid, upon:

Timothy J Feathers
Stinson Leonard Street LLP
1201 Walnut Street, Suite 2900
Kansas City, Mo 64106-2150

/Matthew H. Swyers/
Matthew H. Swyers