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Filing date: **12/19/2013**

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

Proceeding	91212105
Party	Plaintiff LFP IP, LLC
Correspondence Address	JONATHAN W BROWN LIPSITZ GREEN SCIME CAMBRIA LLP 42 DELAWARE AVENUE, SUITE 120 BUFFALO, NY 14202 UNITED STATES ip@lglaw.com
Submission	Motion for Sanctions
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Date	12/19/2013
Attachments	LG_DOCS-#1692441-v1-Opposer_s_Motion_for_Sanctions_or_Motion_for_Summary_Judgment.PDF(679670 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In re Application No. 85,736,967
Filed: September 24, 2012
Published: June 25, 2013 in the Official Gazette
Mark: **LADY HUSTLAZ**

LFP IP, LLC, Opposer, v. SEMETRA BRAZLE, Applicant.	Opposition No.: 91212105 **OPPOSER'S MOTION FOR SANCTIONS AGAINST APPLICANT OR, IN THE ALTERNATIVE, MOTION FOR SUMMARY JUDGMENT; MOTION TO SUSPEND PROCEEDINGS**

Opposer LFP IP, LLC ("Opposer" or "LFP") submits the following Motion for Sanctions Against Applicant or, in the Alternative, Motion for Summary Judgment (the "Motion"):

1. Sanctions Should Be Entered Against Applicant.

On November 1, 2013, various pieces of written discovery were served on Applicant Semetra Brazle ("Applicant" or "Brazle"), but Applicant has failed and refused to respond to the written discovery. Pursuant to Trademark Rule § 2.120(g)(1) and Rule 37(b)(2)(A) of the Federal Rules of Civil Procedure ("FRCP"), the Board should sanction Applicant and enter a default judgment against Applicant and in favor of Opposer.

On November 1, 2013, LFP served the following on Applicant: (i) Opposer's First Set of Interrogatories; (ii) Opposer's First Set of Requests for Documents and Things; and (iii) Opposer's

First Set of Requests for Admissions. (See the accompanying Declaration of Jonathan W. Brown, Esq. ("Brown Decl."), ¶ 2 and **Exhibits A, B and C**).

Applicant has failed to respond to the written discovery propounded by Opposer and also failed to serve her Initial Disclosures.[1] (See the Brown Decl., ¶ 3). In other words, Applicant has completely ignored the discovery and disclosure procedures and has frustrated Opposer's attempts to gather relevant evidence. On December 9, 2013, counsel for Opposer sent a letter to Applicant and informed Applicant that she failed to respond to the outstanding discovery, and that a motion would be filed. Despite being alerted to the fact that she failed to respond to the outstanding discovery, Applicant did not respond and did not attempt to provide untimely responses (See the Brown Decl., ¶ 4).

Given the above, and pursuant to Trademark Rule § 2.120(g)(1) and Rule 37(b)(2), Opposer seeks sanctions against Applicant rendering a default judgment against Applicant. Trademark Rule § 2.120(g)(1) and FRCP, Rule 37(b)(2)(A).[2]

2. In the Alternative, Summary Judgment Should Be Entered In Favor of LFP.

In the alternative, summary judgment should be entered in favor of Opposer. As set forth above, Opposer served its First Set of Requests for Admissions ("RFAs") on Applicant on November 1, 2013 (See Brown Decl. ¶ 2 and **Exhibit C**). However, Applicant has not responded to the RFAs.

If a responding party fails to timely respond to requests for admission, the requests are automatically admitted and are conclusively established. See FRCP Rule 36(a)(3) and FRCP Rule 36(b). Accordingly, Applicant has admitted all of the contentions set forth in the RFAs previously

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[1] Prior to serving its written discovery, LFP served its initial disclosures on October 16, 2013.

[2] FRCP Rule 37(b)(2)(A)(vi) provides for sanctions including "rendering a default judgment against the disobedient party."

served (see **Exhibit C**). Among other things, the following facts are deemed admitted for all purposes:

- Applicant admits that she intended to refer to or call to mind LFP'S HUSTLER mark when she created or adopted her "LADY HUSTLAZ" mark (see RFA No. 5).
- Applicant admits that she intended to refer to or call to mind LFP's HUSTLAZ mark when she created or adopted her "LADY HUSTLAZ" mark (see RFA No. 6).
- Applicant admits that her "LADY HUSTLAZ" mark incorporates LFP's HUSTLAZ mark in its entirety (see RFA No. 11).
- Applicant admits that there is a potential for consumer confusion between her "LADY HUSTLAZ" mark and LFP's HUSTLER and HUSTLAZ marks (see RFA No. 13).
- Applicant admits that she was aware that LFP promoted and sold clothing items under the HUSTLER mark in the U.S. prior to her filing of her "LADY HUSTLAZ" application (see RFA No. 16).
- Applicant admits that LFP's HUSTLER trademark is famous (see RFA No. 18).
- Applicant admits that he adopted the "LADY HUSTLAZ" mark in an attempt to trade off the fame of LFP's HUSTLER marks (see RFA No. 22).
- Applicant admits that her "LADY HUSTLAZ" mark infringes LFP's marks (see RFA Nos. 28 and 29).

Given the various admissions, the Board should enter summary judgment against Applicant and in favor of Opposer. On a motion for summary judgment, the Board may render judgment for the moving party if there is no genuine issue as to any material fact. See FRCP Rule 56(c). Section 2(d) of the Lanham Act provides that registration of a trademark should be refused if the mark "so resembles a mark registered in the Patent and Trademark Office, or a mark or trade name previously used in the United States by another and not abandoned, as to be likely, when used on or in

connection with the goods of the applicant, to cause confusion, to cause mistake, or to deceive…" 15 U.S.C. § 1052(d). Here, Applicant admits, among other things, that there is a likelihood of consumer confusion between her "LADY HUSTLAZ" mark and LFP's HUSTLER marks.

When the moving party shows that there is no genuine issue of material fact, the nonmoving party "may not rest upon the mere allegations or denials of [its] pleadings." FRCP 56(e). The nonmoving party must respond, setting "forth specific facts showing that there is a genuine factual issue for trial." *Id.* Here, given the admissions that are now conclusively established, Applicant cannot point to a genuine factual issue. Therefore, summary judgment should be entered against Applicant and in favor of LFP.

3. Motion to Suspend Proceedings Pending Potentially Dispositive Motion(s)

Opposer respectfully requests suspension of all proceedings while the Board considers the Motion for Sanctions Against Applicant or, in the Alternative, Motion for Summary Judgment.

CONCLUSION

As set forth above, Opposer respectfully requests sanctions against Applicant in the form of a default judgment. In the alternative, summary judgment should be entered against Applicant and in favor of LFP.

Dated: December 19, 2013

Respectfully submitted,

LIPSITZ GREEN SCIME CAMBRIA LLP
Attorneys for Opposer LFP IP, LLC

By: _____
Jonathan W. Brown, Esq.
42 Delaware Avenue, Suite 120
Buffalo, NY 14202
(716) 849-1333, Ext. 371
ip@lglaw.com

DECLARATION OF JONATHAN W. BROWN, ESQ.

I, Jonathan W. Brown, hereby declare and state:

1. I am an attorney licensed to practice law in the state of New York, and a partner of with the firm Lipsitz Green Scime Cambria LLP. Our office represents Opposer LFP IP, LLC ("Opposer" or "LFP") in the present action, the owner of the HUSTLAZ® and HUSTLER® trademarks. I have personal and first-hand knowledge of the facts set forth herein and if called upon to testify, I could and would competently testify to the following.

2. On behalf of LFP, my office served the following written discovery on Applicant on November 1, 2013: (i) Opposer's First Set of Interrogatories; (ii) Opposer's First Set of Requests for Documents and Things; and (iii) Opposer's First Set of Requests for Admissions. True and correct copies of the written discovery served on Applicant are attached hereto respectively as **Exhibits A, B and C**.

3. Applicant has failed to respond to the written discovery propounded by LFP and also failed to serve her Initial Disclosures. Prior to serving its written discovery, LFP served its initial disclosures on October 16, 2013.

4. On December 9, 2013, I sent a letter to Applicant and informed her that she failed to respond to the outstanding discovery, and that I planned to file a motion given her failure to respond. A true and correct copy of my letter is attached hereto as **Exhibit D**. Despite being alerted to the fact that she failed to respond to the outstanding discovery, Ms. Brazle did not respond to my letter and did not attempt to provide untimely responses.

I declare, under penalty of perjury, that the foregoing is true and correct. Executed this 19th day of December, 2013 at Buffalo, New York.

Jonathan W. Brown, Esq.

Exhibit A

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In re Application No. 85,736,967
Filed: September 24, 2012
Published: June 25, 2013 in the Official Gazette
Mark: **LADY HUSTLAZ**

LFP IP, LLC, Opposer, v. SEMETRA BRAZLE, Applicant.	Opposition No.: 91212105 **OPPOSER'S FIRST SET OF INTERROGATORIES**

OPPOSER'S FIRST SET OF INTERROGATORIES

Pursuant to Rule 2.120 of the Trademark Rules of Practice and Rule 33 of the Federal Rules of Civil Procedure, Opposer, LFP IP, LLC ("Opposer" or "LFP"), by its attorneys, requests that Applicant, Semetra Brazle ("Applicant") answer the following interrogatories under oath within thirty (30) days of the date hereof.

DEFINITIONS

1. The terms "Opposer" and/or "LFP" refer to LFP IP, LLC, its officers, directors, employees, agents, or any Person acting with its authority.
2. The terms "Applicant", "You" and/or "Your" refer to Semetra Brazle, her agents, employees, or any person acting within her authority.
3. The terms "Person" or "Persons" refer to a natural person(s), a corporation(s), limited liability company(ies) or other entities.

INTERROGATORY NO. 1:

Identify and describe each good offered and/or intended to be offered by You under the "LADY HUSTLAZ" mark.

INTERROGATORY NO. 2:

Identify the dates of use (beginning and ending dates) of the "LADY HUSTLAZ" mark in connection with each good identified in the preceding interrogatory.

INTERROGATORY NO. 3:

Identify and describe Your first use in commerce of the "LADY HUSTLAZ" mark.

INTERROGATORY NO. 4:

State the actual or intended manner of distribution of each good offered or intended to be offered under the "LADY HUSTLAZ" mark.

INTERROGATORY NO. 5:

Identify the actual or intended channels of trade in which the goods offered by You under the "LADY HUSTLAZ" mark does or will travel.

INTERROGATORY NO. 6:

Identify the actual or intended geographical areas in the U.S., its territories and possessions (by city and/or state) in which You have advertised, sold, distributed and/or provided or intend to advertise, sell, distribute and/or provide goods under the "LADY HUSTLAZ" mark.

INTERROGATORY NO. 7:

Identify all labeling, packaging, displays, or other written and printed materials that have been or will be used to display, market, and/or label each good offered under the "LADY HUSTLAZ" mark.

INTERROGATORY NO. 8:

Identify all Persons known to You who took part in or were responsible for the creation and adoption of the "LADY HUSTLAZ" mark.

INTERROGATORY NO. 9:

State whether You intended to refer to or call to mind Opposer's HUSTLER and/or HUSTLAZ marks when You adopted the "LADY HUSTLAZ" mark.

INTERROGATORY NO. 10:

Identify all applications You have filed and/or all registrations owned by You with any state or federal agency, including but not limited to the U.S. Patent and Trademark Office and the U.S. Copyright Office, relating to each of Your marks or any trademark, service mark, trade name, name, word, design, term or phrase that includes the terms "Hustler", "Hustlers" and/or "Hustlaz."

INTERROGATORY NO. 11:

Identify and describe any searches, surveys, investigations, analyses, or studies by or on behalf of You relating to the "LADY HUSTLAZ" mark.

INTERROGATORY NO. 12:

Identify the circumstances by which You first became aware of LFP's use of the HUSTLER and HUSTLAZ marks, including but not limited to the date upon which You first became aware of such use.

INTERROGATORY NO. 13:

Identify and describe any instance or occasion, of which You are aware, of confusion or mistake involving the source, origin, or sponsorship of goods sold and/or services provided by You under the "LADY HUSTLAZ" mark.

INTERROGATORY NO. 14:

Identify any and all licenses, assignments, or other agreements regarding the use or registration of the "LADY HUSTLAZ" mark entered into by You with any third parties.

INTERROGATORY NO. 15:

If You contend that Opposer's HUSTLER mark is not famous in the U.S. within the meaning of section 43(a) of the Lanham Act (15 U.S.C. § 1125(c)), identify and describe in detail the basis for such contention, including each and every fact upon which You rely in support of the contention, all persons with knowledge of facts concerning the contention, and all documents concerning the contention.

INTERROGATORY NO. 16:

Identify all Persons whom You have contacted regarding this opposition proceeding for expert opinions, advice, reports, studies, facts, information, or the like, including but not limited to the general nature of his or her expertise and the result of such contact.

INTERROGATORY NO. 17:

Identify each expert You intend to take testimony from in this opposition proceeding, and state what facts or opinions he or she is expected to provide in such testimony.

INTERROGATORY NO. 18:

Identify the person most knowledgeable about Your present use or plans to use the "LADY HUSTLAZ" mark.

INTERROGATORY NO. 19:

Identify the person most knowledgeable about the development and marketing of the goods associated with the "LADY HUSTLAZ" mark.

Dated: November 1, 2013

Jonathan W. Brown, Esq.
Lipsitz Green Scime Cambria LLP
42 Delaware Ave., Suite 120
Buffalo, NY 14202
(716) 849-1333, Ext. 371

CERTIFICATE OF FILING AND SERVICE

I, Lori Vangelov, hereby certify that on November 1, 2013, I caused a true copy of the foregoing Opposer's First Set of Interrogatories to be served upon Applicant, Semetra Brazle, by United States First Class Mail addressed to 11702 Mill Valley Road, Houston, Texas 77048-2554.

Dated: November 1, 2013

Lori Vangelov

1660048-v1

Exhibit B

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In re Application No. 85,736,967
Filed: September 24, 2012
Published: June 25, 2013 in the Official Gazette
Mark: **LADY HUSTLAZ**

LFP IP, LLC, Opposer, v. SEMETRA BRAZLE, Applicant.	Opposition No.: 91212105 **OPPOSER'S FIRST SET OF REQUESTS FOR DOCUMENTS AND THINGS**

OPPOSER'S FIRST SET OF REQUESTS FOR DOCUMENTS AND THINGS

Pursuant to Rule 2.120 of the Trademark Rules of Practice and Rule 34 of the Federal Rules of Civil Procedure, Opposer, LFP IP, LLC ("Opposer"), by its attorneys, requests that Applicant, Semetra Brazle ("Applicant") answer the following requests for documents and things under oath within thirty (30) days of the date hereof.

DEFINITIONS

1. The terms "Opposer" and/or "LFP" refer to LFP IP, LLC, its officers, directors, employees, agents, or any Person acting with its authority.
2. The terms "Applicant", "You" and/or "Your" refer to Semetra Brazle, her agents, employees, or any person acting within her authority.
3. "Person" means a natural person, a corporation, limited liability company or other entity.
4. As used herein the terms "Document" or "Documents" shall mean any kind of written, typewritten, printed, or recorded material whatsoever, including all tangible things and

documents, whether handwritten, typed, printed, produced electronically or otherwise visually or audibly reproduced, including, but not limited to, all sound recordings, letters, cables, wires, memoranda and inter-office communications, reports, notes, minutes, contracts, drafts of contracts, correspondence, telex messages, telegrams, bulletins, diaries, calendars, appointment books, date books, newspaper articles, and magazine articles, recordings, drawings, sketches, charts, videotapes, agreements, emails, information retrievable from computers, and other official documents or legal instruments.

REQUEST NO. 1:

All Documents referring or relating to the information used, identified, referenced or otherwise incorporated into any of Your responses to Opposer's First Set of Interrogatories to Applicant.

REQUEST NO. 2:

All Documents referring or relating to goods offered and/or intended to be offered by You under the "LADY HUSTLAZ" mark.

REQUEST NO. 3:

All Documents referring or relating to Your present plans, or lack thereof, to use the "LADY HUSTLAZ" mark.

REQUEST NO. 4:

All Documents referring or relating to Your first use and Your first use in commerce of the "LADY HUSTLAZ" mark, or any other trademark, service mark, trade name, name, word, design, term or phrase that incorporates the terms "hustlers" and/or "hustlaz."

REQUEST NO. 5:

All Documents referring or relating to the actual or intended manner of distribution of Your goods offered and/or intended to be offered under the "LADY HUSTLAZ" mark.

REQUEST NO. 6:

All Documents referring or relating to Your actual or intended channels of trade for any "LADY HUSTLAZ" brand product.

REQUEST NO. 7:

All Documents referring or relating to the actual or intended geographical areas in the United States, its territories and possessions (by city and/or state) in which You have advertised, sold, distributed and/or provided or intend to advertise, sell, distribute and/or provide goods under the "LADY HUSTLAZ" mark.

REQUEST NO. 8:

All Documents referring or relating to the organizational structure and identity of officers, directors, or managers of any business associated with You which uses or plans to use the "LADY HUSTLAZ" mark.

REQUEST NO. 9:

All Documents referring or relating to the nature of Your business.

REQUEST NO. 10:

All Documents referring or relating to annual sales of Your goods offered under the "LADY HUSTLAZ" mark in unit and dollar revenue quantities for each year from the date of first use of such mark to the present.

REQUEST NO. 11:

All Documents referring or relating to the annual amount of dollars spent and/or intended to be spent for advertising or other promotion by You for the goods offered under the "LADY HUSTLAZ" mark.

REQUEST NO. 12:

All Documents referring or relating to the manner of advertising and the advertising media through which You or any person on Your behalf have advertised, are advertising, or intend to advertise goods under the "LADY HUSTLAZ" mark.

REQUEST NO. 13:

Printed copies of all pages from each and every version of Your website(s) in which the terms "hustlers" and/or "hustlaz" appear.

REQUEST NO. 14:

One copy of each piece of Your advertising of Your goods under the "LADY HUSTLAZ" mark in any medium, including but not limited to each newspaper, periodical, trade journal, radio station, television station, advertising circular, advertising sign, poster, web advertising, other publications, social network, or any other medium.

REQUEST NO. 15:

Representative samples of all labeling, packaging, displays, or other written and printed materials that have been used to display, market, and/or label Your goods offered or intended to be offered under the "LADY HUSTLAZ" mark.

REQUEST NO. 16:

All Documents referring or relating to how You created, conceived, selected, cleared, adopted, acquired, or otherwise made the decision to use the "LADY HUSTLAZ" mark.

REQUEST NO. 17:

All Documents which demonstrate any misunderstanding as to the source of the goods and/or services offered by You under the "LADY HUSTLAZ" mark.

REQUEST NO. 18:

All Documents referring or relating to applications filed by or on behalf of You to any state or federal agency, including but not limited to the U.S. Patent and Trademark Office and the U.S. Copyright Office, relating to the "LADY HUSTLAZ" and "LADY HUSTLERS" mark(s).

REQUEST NO. 19:

All Documents referring or relating to any searches, surveys, investigations, analyses, or studies by or on behalf of You relating to any trademark, service mark, trade name, name, word, design, term or phrase that includes the terms "hustlers" and/or "hustlaz."

REQUEST NO. 20:

All Documents referring or relating to the circumstances by which You first became aware of LFP's use of LFP's HUSTLER and HUSTLAZ marks, including but not limited to the date upon which You first became aware of such use.

REQUEST NO. 21:

All other Documents within Your possession referring or relating to LFP and/or its products and/or services.

REQUEST NO. 22:

All Documents referring or relating to any instance or occasion of which You are aware of confusion or mistake involving the source, origin, or sponsorship of goods or services sold or provided by You under the "LADY HUSTLAZ" mark.

REQUEST NO. 23:

All Documents referring or relating to consumer complaints, whether written or oral, that You have received regarding any good produced, provided, sold, offered for sale, or otherwise distributed by You under the "LADY HUSTLAZ" mark.

REQUEST NO. 24:

All licenses, assignments, or other agreements regarding the use or registration of the "LADY HUSTLAZ" mark entered into by You with any third parties.

REQUEST NO. 25:

All expert opinions, advice, reports, studies, facts, information, or the like You have received regarding this opposition proceeding.

REQUEST NO. 26:

If You responded to any request in Opposer's First Set of Requests for Admissions other than by admitting all matters requested, identify and describe all documents or things supporting Your denial thereof.

Dated: November 1, 2013

Jonathan W. Brown, Esq.
Lipsitz Green Scime Cambria LLP
42 Delaware Ave., Suite 120
Buffalo, NY 14202
(716) 849-1333, Ext. 371

CERTIFICATE OF FILING AND SERVICE

I, Lori Vangelov, hereby certify that on November 1, 2013, I caused a true copy of the foregoing Opposer's First Set of Requests for Documents and Things to be served upon Applicant, Semetra Brazle, by United States First Class Mail addressed to 11702 Mill Valley Road, Houston, Texas 77048-2554.

Dated: November 1, 2013

Lori Vangelov

Exhibit C

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In re Application No. 85,736,967
Filed: September 24, 2012
Published: June 25, 2013 in the Official Gazette
Mark: **LADY HUSTLAZ**

LFP IP, LLC, Opposer, v. Semetra Brazle, Applicant.	Opposition No. 91212105 **OPPOSER'S FIRST SET OF REQUESTS FOR ADMISSIONS**

OPPOSER'S FIRST SET OF REQUESTS FOR ADMISSIONS

Pursuant to Rule 2.120 of the Trademark Rules of Practice and Rule 36 of the Federal Rules of Civil Procedure, Opposer, LFP IP, LLC ("Opposer"), by its attorneys, requests that Applicant, Semetra Brazle ("Applicant") answer the following requests for admissions under oath within thirty (30) days of the date hereof.

DEFINITIONS

1. The terms "Opposer" and/or "LFP" refer to LFP IP, LLC, its officers, directors, employees, agents, or any Person acting with its authority.
2. The terms "Applicant", "You" and/or "Your" refer to Semetra Brazle, her agents, employees, or any person acting within her authority.

REQUEST NO. 1:

Admit that Your awareness of the LFP's HUSTLER mark influenced Your decision to adopt Your "LADY HUSTLAZ" mark.

REQUEST NO. 2:

Admit that Your awareness of the LFP's HUSTLAZ mark influenced Your decision to adopt Your "LADY HUSTLAZ" mark.

REQUEST NO. 3:

Admit that LFP's HUSTLER mark was discussed, mentioned, considered, or referenced in connection with Your decision to adopt Your "LADY HUSTLAZ" mark.

REQUEST NO. 4:

Admit that LFP's HUSTLAZ mark was discussed, mentioned, considered, or referenced in connection with Your decision to adopt Your "LADY HUSTLAZ" mark.

REQUEST NO. 5:

Admit you intended to refer to or call to mind LFP's HUSTLER mark when You created or adopted Your "LADY HUSTLAZ" mark.

REQUEST NO. 6:

Admit you intended to refer to or call to mind LFP's HUSTLAZ mark when You created or adopted Your "LADY HUSTLAZ" mark.

REQUEST NO. 7:

Admit that the dominant portion of Your "LADY HUSTLAZ" mark is the word "Hustlaz," the phonetic equivalent of "Hustler" and/or "Hustlers".

REQUEST NO. 8:

Admit that the dominant portion of Your "LADY HUSTLAZ" mark is the word "Hustler," the phonetic equivalent of "Hustlaz".

REQUEST NO. 9:

Admit that Your "LADY HUSTLAZ" mark incorporates LFP's HUSTLAZ mark in substantial part.

REQUEST NO. 10:

Admit that Your "LADY HUSTLAZ" mark incorporates LFP's HUSTLER mark in substantial part.

REQUEST NO. 11:

Admit that Your "LADY HUSTLAZ" mark incorporates the HUSTLAZ mark in its entirety.

REQUEST NO. 12:

Admit that Your "LADY HUSTLAZ" mark incorporates the HUSTLER mark in its entirety.

REQUEST NO. 13:

Admit that there is a potential for consumer confusion between Your "LADY HUSTLAZ" mark and LFP's HUSTLER and HUSTLAZ marks.

REQUEST NO. 14:

Admit that You did not conduct a trademark search or seek the advice of counsel prior to filing Your application for "LADY HUSTLAZ."

REQUEST NO. 15:

Admit that You are aware that LFP promotes and sells clothing items under the HUSTLER mark in the U.S.

REQUEST NO. 16:

Admit that You were aware that LFP promoted and sold clothing items under the HUSTLER mark in the U.S. prior to Your filing of Your application to register "LADY HUSTLAZ".

REQUEST NO. 17:

Admit that Your use of "hustlaz" within Your "LADY HUSTLAZ" mark refers, at least in part, to LFP's HUSTLER and/or HUSTLAZ marks.

REQUEST NO. 18:

Admit that LFP's HUSTLER trademark is famous in the U.S.

REQUEST NO. 19:

Admit that LFP's HUSTLER trademark was famous in the U.S. before You filed Your trademark application for the "LADY HUSTLAZ" mark.

REQUEST NO. 20:

Admit that use of Your "LADY HUSTLAZ" mark in connection with the goods listed in Your Application will dilute the goodwill associated with LFP's HUSTLER mark in the U.S.

REQUEST NO. 21:

Admit that the word "hustlaz" is the phonetic equivalent of the words "hustler" and/or "hustlers".

REQUEST NO. 22:

Admit that You adopted the "LADY HUSTLAZ" mark in an attempt to trade off the fame of LFP's HUSTLER marks.

REQUEST NO. 23:

Admit that the term "HUSTLAZ" is confusingly similar to the term "Hustler".

REQUEST NO. 24:

Admit that Your "LADY HUSTLAZ" mark is highly similar to LFP's HUSTLER and HUSTLAZ marks.

REQUEST NO. 25:

Admit that the term "Lady," as used in Your "LADY HUSTLAZ" mark, refers to the fact that You intend to sell women's clothing items.

REQUEST NO. 26:

Admit that the word "Hustlaz" is a slang version of the word "Hustlers."

REQUEST NO. 27:

Admit that Your "LADY HUSTLAZ" mark should not be registered with the United States Patent and Trademark Office.

REQUEST NO. 28:

Admit that Your "LADY HUSTLAZ" mark infringes LFP's HUSTLER mark.

REQUEST NO. 29:

Admit that Your "LADY HUSTLAZ" mark infringes LFP's HUSTLAZ mark.

Dated: November 1, 2013

Jonathan W. Brown, Esq.
Lipsitz Green Scime Cambria LLP
42 Delaware Ave., Suite 120
Buffalo, NY 14202
(716) 849-1333, Ext. 371

CERTIFICATE OF FILING AND SERVICE

I, Lori Vangelov, hereby certify that on November 1, 2013, I caused a true copy of the foregoing Opposer's First Set of Requests for Admissions to be served upon Applicant, Semetra Brazle, by United States First Class Mail addressed to 11702 Mill Valley Road, Houston, Texas 77048-2554.

Dated: November 1, 2013

Lori Vangelov

1660084-v1

Exhibit D

Lipsitz Green Scime Cambria LLP

Attorneys at Law

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LICENSED WORKERS' COMPENSATION REPRESENTATIVE
Keith T. Williams
Patricia N. Lyman

Seymour L. Schuller
1951-1988
Evan E. James
1955-1989

[1] Also admitted in District of Columbia
[2] Also admitted in Florida
[3] Also admitted in California
[4] Also admitted in Ohio
[5] Also admitted in Illinois
[6] Also admitted in Pennsylvania
[7] Also admitted in Maryland

December 9, 2013

VIA U.S. MAIL

Semetra Brazle
11702 Mill Valley Rd.
Houston, TX 77048-2554

Re: ***LFP IP, LLC v. Semetra Brazle***
Opposition No. 91212105; Trademark Application: LADY HUSTLAZ

Dear Ms. Brazle:

As you are aware, LFP IP, LLC ("LFP") propounded and served written discovery on you in the above-referenced matter. The written discovery consisted of the following:

1. Opposer's First Set of Interrogatories;

2. Opposer's First Set of Requests for Admissions; and

3. Opposer's First Set of Requests for Documents

As of today's date, we have yet to receive your answers and/or responses to LFP's discovery.

Your failure to answer, or otherwise respond to, Opposer's First Set of Requests for Admissions is deemed an admission of all statements in the Requests for Admissions:

> "A matter is admitted unless, within 30 days after being served, the party to whom the request is directed serves on the requesting party a written answer or objection addressed to the matter and signed by the party or its attorney" (Fed. R. Civ. P. 36(a)(3)).

Therefore, be advised that LFP plans to file a motion relating to your failure to respond to the written discovery and will seek sanctions and/or summary judgment in this matter.

Very truly yours,

LIPSITZ GREEN SCIME CAMBRIA LLP

By:_____
Jonathan W. Brown

JWB/dc

cc: LFP IP, LLC

Writer's Extension: 371
Writer's Email: jbrown@lglaw.com
Writer's Fax: 716-849-1315

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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Opposer's **MOTION FOR SANCTIONS AGAINST APPLICANT OR IN THE ALTERNATIVE MOTION FOR SUMMARY JUDGMENT; MOTION TO SUSPEND PROCEEDINGS** was mailed, first class, postage prepaid this 19th day of December, 2013, upon the Applicant at the following address:

Semetra Brazle
11702 Mill Valley Road
Houston, Texas 77048-2554

Lori Vangelov

Lori Vangelov