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

Proceeding	91212112
Party	Plaintiff Quintessential Brands S.A.
Correspondence Address	RACHEL BLUE MCAFEE & TAFT 1717 S BOULDER SUITE 900 TULSA, OK 74119 UNITED STATES rachel.blue@mcafeetaft.com, diane.goswick@mcafeetaft.com
Submission	Motion to Compel Discovery
Filer's Name	Jessica John Bowman
Filer's e-mail	jes- sica.johnbowman@mcafeetaft.com,rachel.blue@mcafeetaft.com,diane.goswick @mcafeetaft.com,rhonda.melton@mcafeetaft.com
Signature	/Jessica John Bowman/
Date	02/04/2015
Attachments	brief.pdf(847932 bytes) Exhibit 1.pdf(287015 bytes) Exhibit 2.pdf(262404 bytes) Exhibit 3.pdf(280820 bytes) Exhibit 4.pdf(295696 bytes) Exhibit 5.pdf(251864 bytes) Exhibit 6.pdf(256627 bytes)

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

In re Application Serial No. 85/859,169
Filing Date: February 25, 2013

Mark:
Published in the *Official Gazette*: July 23, 2013

QUINTESSENTIAL BRANDS S.A.,	)	
	)	
Opposer,	)	
	)	Opposition No. 91212112
	)	
JORDAN GERBERG,	)	
	)	
Applicant.	)	

OPPOSER'S MOTION TO COMPEL APPLICANT'S SUPPLEMENTAL RESPONSES TO OPPOSER'S DISCOVERY REQUESTS AND BRIEF IN SUPPORT

Quintessential Brands, S.A. ("Opposer") hereby requests that the board enter an order compelling Jordan Gerberg ("Applicant") to respond to Opposer's Request for Production No. 9 and Opposer's Interrogatory No. 10. In support of this motion, Opposer states as follows:

I. FACTUAL BACKGROUND

1. Opposer served its first set of discovery requests on Applicant on April 1, 2014.

2. In its Request for Production No. 9, Opposer requested that Applicant "Produce all documents which record, refer or relate to the selection, design adoption, proposed use of, decision to use, and first use of Applicant's Mark and/or any mark including the letter 'Q',

including samples of any names, designations and/or other marks considered and rejected." *See* Excerpt of Opposer's First Requests for Production of Documents, Ex. 1.

3. In its first response to Opposer's Request No. 9, Applicant indicated that it would search for and produce documents responsive to the request. *See* Excerpt of Applicant's Response to Requests for Production, Ex. 2

4. Following Opposer's notification of its objections to Applicant's response, Applicant provided a supplemental response, in which it indicated, for the first time, that it objected to Opposer's Request No. 9 on the grounds that it sought documents that were neither relevant to the subject matter of this opposition proceeding, nor reasonably calculated to lead to the discovery of relevant evidence. *See* Excerpt of Applicant's Supplemental Response to Requests for Production, Ex. No. 3

5. In its Interrogatory No. 10, Opposer requested that Applicant "Identify all licenses, assignments or other agreements concerning or relating to Applicant's Mark." *See* Excerpt from Opposer's First Set of Interrogatories, Ex. 4.

6. In its first response to Opposer's Interrogatory No. 10, Applicant objected to the request as overbroad and unduly burdensome, but agreed to supplement its response to the interrogatory. Applicant provided no supporting evidence for its overbreadth objection. *See* Excerpt of Applicant's Response to Interrogatories, Ex. 5.

7. Following Opposer's notification of its objections to Applicant's response to Interrogatory No. 10, Applicant objected, for the first time, on the grounds that the interrogatory was not reasonably calculated to lead to the discovery of relevant information. Applicant also reiterated its objection that the request overbroad. *See* Excerpt of Applicant's

Supplemental Response to Interrogatories, Ex. 6. Applicant did not provide any supporting evidence for its overbreadth objection.

8. Opposer has made a good faith effort to resolve the issues presented in this motion by conference and correspondence with opposing counsel for Applicant. Specifically, after objecting to Applicant's responses to Request No. 9 and Interrogatory No. 10, Opposer has, on multiple occasions, contacted Applicant's counsel in order to resolve this discovery dispute, but has received no substantive response from Applicant. Opposer continued to seek meaningful responses from Applicant until July 15, 2014. However, further discovery efforts were suspended pending resolution of Applicant's Motion for Summary Judgment. Due to Opposer's inability to receive meaningful responses from Applicant, Opposer has been unable to resolve the issues presented in this Motion.

9. Applicant's Motion for Summary Judgment was denied, and the deadlines for this action were subsequently reset. Opposer now seeks to compel Applicant to respond to the objected-to discovery requests.

II. ARGUMENTS AND AUTHORITIES

The objections raised by Applicant should be rejected. Opposer's discovery requests seek relevant information necessary to the resolution of this dispute. Applicant has failed to provide any justification for its untimely assertion that Opposer's discovery requests are irrelevant, and has provided no basis for its contention that Opposer's Interrogatory No. 10 is overbroad. Accordingly, Applicant's objections should be rejected, and Applicant should be ordered to provide a full response to Opposer's requests.

A. Applicant has waived its objections to the relevance of the two discovery requests at issue.

As a preliminary matter, Applicant has forfeited its relevance objections to Request for Production No. 9 and Interrogatory No. 10. A party has an obligation to raise any objections to discovery requests in the first instance. *See* TBMP 405.04(b) (recognizing that "any ground not stated in a timely objection is waived unless the court, for good cause, excuses the failure." (quoting Fed. R. Civ. P. 33(b)(4)); *In re Papst Licencing GMBH & Co. KG Litig.*, 550 F. Supp. 2d 17, 21 (D.D.C. 2008) (recognizing the general rule that a party who fails to make a timely objection to a discovery request loses the right to raise such an objection, and ordering party to respond without raising privilege objections).[1] A party's failure to make such an objection results in forfeiture of the ability to make such an objection at a later date. In this case, Applicant failed to raise any objections to Opposer's Request for Production No. 9 in its first responses to that Request. *See* Ex. 2. Applicant likewise failed to object to the relevance of Interrogatory No. 10 in its initial response to that Interrogatory. *See* Ex. 5. Accordingly, Applicant has waived those objections and should be compelled to respond to Request No. 9 and Interrogatory No. 10.

B. The two discovery requests at issue are directly relevant to this proceeding.

As discussed above, Applicant failed to raise its objections to the relevance of the two discovery requests at issue in its initial responses, and Applicant's relevance objections are therefore waived. *See* Section A, *supra* at 3-4. But these objections should be overruled, even if the Board does consider their merits.

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[1] Although the opinions of the federal district courts are not necessarily binding on the Board, these opinions illustrate the application and scope of the Federal Rules of Civil Procedure, which are generally applicable to this proceeding. *See* TBMP § 401; 37 C.F.R. 2.120(a) ("The provisions of Federal Rule of Civil Procedure 26 relating to . . . the scope, timing and sequence of discovery . . . are applicable to Board proceedings in modified form . . . .").

The scope of permissible discovery is very broad. In a proceeding before the Trademark Trial and Appeals Board, a party may seek discovery on any matter that may result in the discovery of relevant evidence. TMBP § 405.02 ("Interrogatories may seek any information that is discoverable under Fed. R. Civ. P. 26(b)."); Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any nonprivileged matter that is relevant to any party's claim or defense.");[2] *See, e.g., Tequila Centinela S.A. De C.V. v. Bacardi*, 242 F.R.D. 1, 6-7 (D.D.C. 2007). The term "relevance" is interpreted liberally at the discovery stage, and broad-ranging discovery will ordinarily be permitted so long as a discovery request is reasonably calculated to bear upon the ultimate matters in dispute. Fed. R. Civ. P. 26(b)(1) ("Relevant information need not be admissible at the trial if the discovery appears reasonably calculated to lead to the discovery of admissible evidence."); *Tequila Centinela*, 242 F.R.D. at 9 (prohibiting discovery only with respect to those requests that were worded so narrowly that they could apply only to allegations that had been stricken and were no longer at issue).

The relevance of the two requests at issue is self-evident. *Tequila Centinela*, 242 F.R.D. at 9 (noting that a party need not prove relevancy where the relevancy of a request is self-evident). The requests at issue generally seek documents and information concerning (1) the selection of Applicant's Proposed Mark, and (2) information relating to the licensing and/or use of that Mark. Such information is certainly relevant to this opposition proceeding. For example, documents generated by Applicant during the process of designing, creating and adopting Applicant's Proposed Mark may indicate that Applicant was aware of Opposer's Mark and the goodwill associated therewith, and sought to evoke a similar

[2] The scope of permissible discovery is identical where requests for production are in dispute. *See* TBMP 406.02; Fed. R. Civ. P. 34(a) (noting that a "party may serve on any other party a request within the scope of Rule 26(b) . . . to produce [documents] in the party's possession, custody or control").

response when adopting a new mark that would be presented to similar customers and used in similar channels of trade. Such evidence, if it exists, would certainly be relevant to the various factors that will be considered during this opposition proceeding, including. *See Application of EI DuPont DeNemours & Co.*, 476 F.2d 1357, 1361 (noting that evidence of overlap of the channels of trade is one factor in the likelihood-of-confusion analysis). Similarly, evidence relating to the assignment of Applicant's Proposed Mark and/or any other agreements concerning that Mark may lead to the discovery of information including, but not limited to, the trade channels likely to be employed by Applicant, the conditions under which the Mark will be used, and the range of goods that will be offered under the Mark, all of which will be relevant to this dispute. *Id.*

Because Opposer seeks evidence that is directly relevant to the dispute at issue, Opposer's requests easily satisfy the requirement that discovery requests need only be reasonably calculated to lead to the discovery of relevant information. Fed. R. Civ. P. 26(b)(1); *Tequila Centinela*, 242 F.R.D. at 6-7. Accordingly, assuming the Board considers Applicant's forfeited relevance objections, those objections should be overruled.

C. Applicant has failed to support its contention that Interrogatory No. 10 is overbroad.

Because Applicant has failed to confer with Opposer in an attempt to resolve this dispute, Opposer cannot provide the Board with the legal basis for Applicant's assertion that Interrogatory No. 10 is overbroad. To date, Applicant has provided no factual basis for its overbreadth objection. It is Applicant's burden to come forward with evidence—or at a minimum, some explanation—for its claim that Interrogatory No. 10 is broader than necessary. *Tequila Centinela*, 242 F.R.D. at 10 (noting that it is the objecting party's burden to establish why information being requested need not be produced). Applicant has failed to

come forward with any such evidence or reasoning, and has therefore failed to satisfy this burden. *U.S. ex rel. Fisher v. Network Software Assocs.*, 217 F.R.D. 240, 246 (D.D.C. 1998) (noting that a party's conclusory objections to the burden of a request cannot serve as a basis for refusing to respond). Accordingly, Applicant's objection to the breadth of Interrogatory No. 10 should be rejected.

D. Opposer has satisfied the requirements of 37 CFR 2.120(e)

Opposer has satisfied the requirements of 37 CFR 2.120(e). Opposer has made a good-faith attempt to resolve its dispute through correspondence with Applicant, but has been unsuccessful in that attempt. Opposer has provided this tribunal with a copy of the requests, interrogatories, answers, and objections thereto, in accordance with 37 CFR 2.120(e). *See* Exhibits 1 through 6. Finally, Opposer provides the following list and description of the documents and things that were not produced:

1. The documents and records in Applicant's possession which record, refer or relate to the selection, design adoption, proposed use of, decision to use, and first use of Applicant's Mark and/or any mark including the letter 'Q', including samples of any names, designations and/or other marks considered and rejected; and
2. A list and description of all licenses, assignments or other agreements concerning or relating to Applicant's Mark.

Opposer hereby requests that Applicant be compelled to provide the aforementioned documents and information.

E. Opposer requests that the remaining deadlines be suspended.

Opposer requests that the remaining deadlines in this proceeding be suspended pending resolution of this Motion.

III. CONCLUSION

To the extent they have not been forfeited, Applicant's objections to the discovery requests at issue are wholly without merit. Opposer's requests seek relevant, discoverable information that should be produced in order to allow Opposer a full and fair opportunity to litigate this dispute. Accordingly, the Board should overrule Applicant's objections and enter an order compelling Applicant to provide full responses to Opposer's Request for Production No. 9 and Interrogatory No. 10, and should further suspend the remaining proceedings pending resolution of this Motion.

Dated: February 4, 2015

Respectfully submitted,

Rachel Blue
Jessica L. John Bowman
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Attorneys for Opposer

CERTIFICATE OF SERVICE

I hereby certify that a true copy of OPPOSER'S MOTION TO COMPEL APPLICANT'S SUPPLEMENTAL RESPONSES TO OPPOSER'S DISCOVERY REQUESTS AND BRIEF IN SUPPORT was served upon Applicant by e-mail and by mailing the same, postage prepaid, on this 2nd day of February, 2015, to:

Matthew H. Swyers
344 Maple Avenue West, Suite 151
Vienna, VA 22180

Rachel Blue
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Attorneys for Opposer

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

In re Application Serial No. 85/859,169
Filing Date: February 25, 2013

Mark:
Published in the *Official Gazette*: July 23, 2013

QUINTESSENTIAL BRANDS S.A.	)	
Opposer,	)	
v.	)	Opposition No. 91212112
JORDAN GERBERG,	)	
Applicant.	)	

OPPOSER'S FIRST REQUEST FOR
PRODUCTION OF DOCUMENTS TO APPLICANT

Pursuant to the provisions of 37 C.F.R. § 2.120 and Rule 34 of the Federal Rules of Civil Procedure, Quintessential Brands S.A. ("Opposer") hereby addresses its First Set of Requests for Production of Documents to Jordan Gerberg ("Applicant"), to be responded to and complied with fully within thirty (30) days of service thereof.

INSTRUCTIONS AND DEFINITIONS OF TERMS

A. As used herein, the term "Applicant" refers to Jordan Gerberg, an individual, and includes all agents and representatives for the Applicant, including counsel for Jordan Gerberg.

B. The terms "Applicant's Mark" refers to any designation and/or trademark used or intended to be used by to identify or the goods or services offered or promoted by in

REQUEST NO. 8: Produce all documents which record, refer to, or relate to Applicant's sales or intended sales of any goods and/or services under Applicant's Mark.

REQUEST NO. 9: Produce all documents which record, refer to, or relate to the selection, design, adoption, proposed use of, decision to use, and first use of Applicant's Mark and/or any mark including the letter "Q", including samples of any names, designations and/or other marks considered and rejected.

REQUEST NO. 10: Produce all documents which record, refer to, or relate to any searches, investigations, studies, analyses, or inquiries conducted by or on behalf of Applicant, or by any person acting for or on its behalf, regarding the availability and/or registrability of Applicant's Mark, or of the term "Q".

REQUEST NO. 11: Produce all documents which refer to, relate to, or are in any way concerned with the preparation, filing and/or prosecution of any applications for registration, state or federal, of marks incorporating the term "Q" for the Applicant.

REQUEST NO. 12: Produce all documents which record, refer to, or relate to Applicant's consideration or decision to select, adopt and/or use Applicant's Mark and/or any designation including the term "Q" in each different logotype, design, hang tag, packaging, font type or style in which said designation is being used, or is intended to be used, by or on behalf of Applicant.

REQUEST NO. 13: Produce a sample of each different logotype, design, hang tag, packaging, font type or style in which Applicant's Marks and/or any designation including the term "Q" is being used, or is intended to be used, by or on behalf of Applicant.

REQUEST NO. 27: Produce a copy of all documents, other than those produced to any of the foregoing requests, upon which Applicant intends to rely in connection with this opposition proceeding.

REQUEST NO. 28: Produce all documents identified in response to Opposer's First Set of Interrogatories to Applicant not produced in response to the above requests.

Dated: April 1, 2014

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Attorneys for Opposer

CERTIFICATE OF MAILING

I hereby certify that a true and complete copy of the foregoing OPPOSER'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS TO APPLICANT has been served on Opposer by mailing said copy this 1st day of April, 2014, via first class mail, postage prepaid, to:

Matthew H. Swyers
The Trademark Company
344 Maple Avenue West, Suite 151
Vienna, VA 22180-5612

Rachel Blue
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Attorneys for Opposer

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

Serial No. 85/859,169
For the mark Q

Quintessential Brands S.A.,	:	
Opposer,	:	
vs.	:	Opposition No. 91212112
Gerberg, Jordan,	:	
Applicant.	:	

APPLICANT'S ANSWERS TO OPPOSER'S
FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS

Pursuant to Rules 26 and 34 of the Federal Rules of Civil Procedure and TBMP §408, Applicant, Jordan Gerberg (hereinafter "Applicant"), responds to Opposer's requests for production of documents.

REQUESTS FOR PRODUCTION

REQUEST NO. 1: Produce all documents which record, refer to, or relate to any 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 under Applicant 's Mark.

RESPONSE: Applicant is working to determine what, if any, responsive documents it retains concerning this request and will supplement the same upon the discovery of said documents.

REQUEST NO. 2: Produce all documents which record, refer to, or relate to any licenses, assignments, agreements, contracts, and/or arrangements between any third party which relate in

REQUEST NO. 9: Produce all documents which record, refer to, or relate to the selection, design, adoption, proposed use of, decision to use, and first use of Applicant's Mark and/or any mark including the letter "Q", including samples of any names, designations and/or other marks considered and rejected.

RESPONSE: Applicant is working to determine what, if any, responsive documents it retains concerning this request and will supplement the same upon the discovery of said documents.

REQUEST NO. 10: Produce all documents which record, refer to, or relate to any searches, investigations, studies, analyses, or inquiries conducted by or on behalf of Applicant, or by any person acting for or on its behalf, regarding the availability and/or registrability of Applicant's Mark, or of the term "Q".

RESPONSE: Applicant is working to determine what, if any, responsive documents it retains concerning this request and will supplement the same upon the discovery of said documents.

REQUEST NO. 11: Produce all documents which refer to, relate to, or are in any way concerned with the preparation, filing and/or prosecution of any applications for registration, state or federal, of marks incorporating the term "Q" for the Applicant.

RESPONSE: Applicant is working to determine what, if any, responsive documents it retains concerning this request and will supplement the same upon the discovery of said documents.

REQUEST NO. 27: Produce a copy of all documents, other than those produced to any of the foregoing requests, upon which Applicant intends to rely in connection with this opposition proceeding.

RESPONSE: Applicant is working to determine what, if any, responsive documents it retains concerning this request and will supplement the same upon the discovery of said documents.

REQUEST NO. 28: Produce all documents identified in RESPONSE to Opposer's First Set of Interrogatories to Applicant not produced in RESPONSE to the above requests.

RESPONSE: Applicant is working to determine what, if any, responsive documents it retains concerning this request and will supplement the same upon the discovery of said documents.

Respectfully submitted this 6th day of May, 2014.

THE TRADEMARK COMPANY, PLLC

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Counsel for Applicant

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

Serial No. 85/859,169
For the mark Q

Quintessential Brands S.A.,	:	
Opposer,	:	
vs.	:	Opposition No. 91212112
Gerberg, Jordan,	:	
Applicant.	:	

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I caused a copy of the foregoing this 6th day of May, 2014 to be served, via first class mail, postage prepaid, upon:

Rachel Blue, Esq.
McAfee & Taft
1717 S. Boulder Suite 900
Tulsa, OK 74119

/Matthew H. Swyers/
Matthew H. Swyers

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

Serial No. 85/859,169
For the mark Q

Quintessential Brands S.A.,	:	
Opposer,	:	
vs.	:	Opposition No. 91212112
Gerberg, Jordan,	:	
Applicant.	:	

APPLICANT'S SUPPLEMENTAL ANSWERS TO OPPOSER'S FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS

Pursuant to Rules 26 and 34 of the Federal Rules of Civil Procedure and TBMP §408, Applicant, Jordan Gerberg (hereinafter "Applicant"), responds to Opposer's requests for production of documents.

REQUESTS FOR PRODUCTION

REQUEST NO. 1: Produce all documents which record, refer to, or relate to any 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 under Applicant 's Mark.

RESPONSE: Applicant objects to this Request as it seeks documents which are not relevant to the subject matter of this action, and are not reasonably calculated to lead to the discovery of admissible evidence. Subject to said objection, Applicant does not retain any responsive documentation to this request.

RESPONSE: Applicant objects to the instant request on the grounds that it is overly broad and burdensome given the inclusion of the term "All". Subject to said objection, Applicant does not retain any responsive documentation to this request.

REQUEST NO. 9: Produce all documents which record, refer to, or relate to the selection, design, adoption, proposed use of, decision to use, and first use of Applicant's Mark and/or any mark including the letter "Q", including samples of any names, designations and/or other marks considered and rejected.

RESPONSE: Applicant objects to this Request as it seeks documents which are not relevant to the subject matter of this action, and are not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST NO. 10: Produce all documents which record, refer to, or relate to any searches, investigations, studies, analyses, or inquiries conducted by or on behalf of Applicant, or by any person acting for or on its behalf, regarding the availability and/or registrability of Applicant's Mark, or of the term "Q".

RESPONSE: Applicant objects to the instant request on the grounds that it is overly broad and burdensome given the inclusion of the term "All". Subject to said objection, see attached Doc No.'s 000009-000081. Also, see attached Doc. No.'s 000083-000099 which are images of third-party's using the letter "Q" in their marks for goods similar to those provided by Opposer. Additionally, see Applicant's Response to Interrogatory No. 15.

RESPONSE: Applicant objects to the instant request on the grounds that it is overly broad and burdensome given the inclusion of the term "All". Subject to said objection, Applicant does not retain any responsive documentation to this request.

REQUEST NO. 27: Produce a copy of all documents, other than those produced to any of the foregoing requests, upon which Applicant intends to rely in connection with this opposition proceeding.

RESPONSE: Applicant objects to the instant request on the grounds that it is overly broad and burdensome given the inclusion of the term "All". Subject to said objection, Applicant does not retain any responsive documentation to this request. Discovery is ongoing and Applicant reserves the right to produce documents as they are located.

REQUEST NO. 28: Produce all documents identified in RESPONSE to Opposer's First Set of Interrogatories to Applicant not produced in RESPONSE to the above requests.

RESPONSE: Applicant objects to the instant request on the grounds that it is overly broad and burdensome given the inclusion of the term "All". Subject to said objection, Applicant does not retain any responsive documentation to this request.

Respectfully submitted this 16th day of May, 2014.

THE TRADEMARK COMPANY, PLLC

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

Serial No. 85/859,169
For the mark Q

Quintessential Brands S.A.,	:	
Opposer,	:	
vs.	:	Opposition No. 91212112
Gerberg, Jordan,	:	
Applicant.	:	

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I caused a copy of the foregoing this 16th day of May, 2014 to be served, via first class mail, postage prepaid, upon:

Rachel Blue, Esq.
McAfee & Taft
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Tulsa, OK 74119

/Matthew H. Swyers/
Matthew H. Swyers

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

In re Application Serial No. 85/859,169
Filing Date: February 25, 2013

Mark:
Published in the *Official Gazette*: July 23, 2013

QUINTESSENTIAL BRANDS S.A. Opposer,	)	
v.	)	Opposition No. 91212112
JORDAN GERBERG, Applicant.	)	

OPPOSER'S FIRST SET OF INTERROGATORIES TO APPLICANT

Opposer, Quintessential Brands S.A. ("Opposer"), submits its First Set of Interrogatories to Applicant, Jordan Gerberg, as follows:

DEFINITIONS

A. As used herein, the term "Opposer" refers to Quintessential Brands S.A. and includes all other agents and representatives, including counsel for Opposer.

B. The terms "Opposer's Mark" refers to any designation and/or trademark used or intended to be used by Opposer to identify Opposer or the goods or services offered or promoted by Opposer in connection with that term, and collectively refers to the Q Mark owned by Opposer, including without limitation, United States Trademark Registration No. 3224142 (the "Opposer's Q Mark") cited by Opposer in its Notice of Opposition.

INTERROGATORY NO. 8: Identify on a monthly basis and broken down by specific product the amounts spent by Applicant in advertising and/or promoting Applicant's Mark in the United States from February, 2013 to the present.

INTERROGATORY NO. 9: Identify on a monthly basis and broken down by specific product gross revenues received by Applicant from the sale of Applicant's Goods under Applicant's Mark in the United States since February, 2013.

INTERROGATORY NO. 10: Identify all licenses, assignments or other agreements concerning or relating to Applicant's Mark.

INTERROGATORY NO. 11: Identify the range of prices at which Applicant's Goods are sold under Applicant's Mark.

INTERROGATORY NO. 12: Identify all known instances of actual confusion between Opposer's Goods and Applicant's Goods.

INTERROGATORY NO. 13: Identify all documents evidencing objections or actions taken by Applicant against any third party's use or registration of any mark that Applicant believed to be similar to Applicant's Mark.

INTERROGATORY NO. 14: Identify all expert witnesses expected to be called to testify on Applicant's behalf in this proceeding, including the subject area on which each expert will testify, the substance of any facts and opinions to which each expert is expected to testify, a summary of the grounds for each opinion, and the facts showing the qualification of each expert.

INTERROGATORY NO. 15: Identify each person who assisted, advised or otherwise participated in conducting trademark searches or any other search for the Applicant's Mark prior to Applicant's filing of its trademark application identified in the Notice of Opposition for this proceeding.

INTERROGATORY NO. 16: Describe in detail the geographic areas in the United

States in which Applicant's Goods featuring Applicant's Mark are sold.

INTERROGATORY NO. 17: Describe in detail the retail outlets in the United States in which Applicant's goods featuring the Applicant's Mark are sold.

INTERROGATORY NO. 18: Identify all witnesses upon whose testimony Applicant intends to present and rely in proof of any issue in this proceeding.

INTERROGATORY NO. 19: Identify each person who provided information or otherwise assisted in the preparation of answers to the foregoing interrogatories, specifying the information that he or she provided.

Dated: April 1, 2014

Respectfully submitted,

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Attorneys for Opposer

CERTIFICATE OF MAILING

I hereby certify that a true and complete copy of the foregoing OPPOSER'S FIRST SET OF INTERROGATORIES TO APPLICANT has been served on Applicant by mailing said copy this 1st day of April, 2014, via first class mail, postage prepaid, to:

Matthew H. Swyers
The Trademark Company
344 Maple Avenue West, Suite 151
Vienna, VA 22180-5612

Rachel Blue
McAfee & Taft
1717 S. Boulder Ave.
Tulsa, Oklahoma 74119
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Attorneys for Applicant

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

Serial No. 85/859,169
For the mark Q

Quintessential Brands S.A.,	:	
Opposer,	:	
vs.	:	Opposition No. 91212112
Gerberg, Jordan,	:	
Applicant.	:	

APPLICANT'S ANSWERS AND OBJECTIONS TO
OPPOSER'S FIRST SET OF INTERROGATORIES

Comes now the Applicant, Jordan Gerberg (hereinafter "Applicant"), and submits the following answers and objections to Opposer, Quintessential Brands S.A.'s first set of interrogatories stating as follows:

INTERROGATORIES

INTERROGATORY NO. 1: Identify each product currently sold or offered for sale under Applicant's Mark in the United States.

RESPONSE: Applicant objects to this Instant Interrogatory on the grounds that it is overly broad and burdensome. Subject to said objection, Applicant states:

Applicant will supplement this response in reference to this request at a reasonable time prior to the close of Discovery.

INTERROGATORY NO. 2: For every product identified in response to Interrogatory No. 1 above, identify and describe the facts relating to the dates(s) and manner(s) in which Applicant's Mark was first used.

INTERROGATORY NO. 8: Identify on a monthly basis and broken down by specific product the amounts spent by Applicant in advertising and/or promoting Applicant's Mark in the United States from February, 2013 to the present.

RESPONSE: Applicant objects to this Instant Interrogatory on the grounds that it is overly broad and burdensome. Subject to said objection, Applicant states:

Applicant will supplement this response in reference to this request at a reasonable time prior to the close of Discovery.

INTERROGATORY NO. 9: Identify on a monthly basis and broken down by specific product gross revenues received by Applicant from the sale of Applicant's Goods under Applicant's Mark in the United States since February, 2013.

RESPONSE: See Applicant's Responses to Opposer's Request for Production of Documents.

Applicant will supplement this response in reference to this request at a reasonable time prior to the close of Discovery.

INTERROGATORY NO. 10: Identify all licenses, assignments or other agreements concerning or relating to Applicant's Mark.

RESPONSE: Applicant objects to this Instant Interrogatory on the grounds that it is overly broad and burdensome. Subject to said objection, Applicant states:

Applicant will supplement this response in reference to this request at a reasonable time prior to the close of Discovery.

INTERROGATORY NO. 11: Identify the range of prices at which Applicant's Goods are sold under Applicant's Mark.

RESPONSE: Applicant objects to this Instant Interrogatory on the grounds that it is overly broad and burdensome. Subject to said objection, Applicant states:

Applicant will supplement this response in reference to this request at a reasonable time prior to the close of Discovery.

INTERROGATORY NO. 19: Identify each person who provided information or otherwise assisted in the preparation of answers to the foregoing inte1rngatories, specifying the information that he or she provided.

RESPONSE: Applicant with assistance of counsel.

DATED this 6th day of May, 2014.

THE TRADEMARK COMPANY, PLLC

/Matthew H. Swyers/
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Attorney for Applicant

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Quintessential Brands S.A.,	:	
Opposer,	:	
vs.	:	Opposition No. 91212112
Gerberg, Jordan,	:	
Applicant.	:	

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I caused a copy of the foregoing this 6th day of May, 2014 to be served, via first class mail, postage prepaid, upon:

Rachel Blue, Esq.
McAfee & Taft
1717 S. Boulder Suite 900
Tulsa, OK 74119

Matthew H. Swyers/
Matthew H. Swyers

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
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Serial No. 85/859,169
For the mark Q

Quintessential Brands S.A.,	:	
Opposer,	:	
vs.	:	Opposition No. 91212112
Gerberg, Jordan,	:	
Applicant.	:	

APPLICANT'S SUPPLEMENTAL ANSWERS AND OBJECTIONS TO OPPOSER'S FIRST SET OF INTERROGATORIES

Comes now the Applicant, Jordan Gerberg (hereinafter "Applicant"), and submits the following supplemental answers and objections to Opposer, Quintessential Brands S.A.'s first set of interrogatories stating as follows:

INTERROGATORIES

INTERROGATORY NO. 1: Identify each product currently sold or offered for sale under Applicant's Mark in the United States.

RESPONSE: Applicant has not used Applicant's Mark for Applicant's Goods in commerce in the United States. Applicant filed Applicant's Trademark Application 85/859,169 on an intent-to-use basis.

INTERROGATORY NO. 2: For every product identified in response to Interrogatory No. 1 above, identify and describe the facts relating to the dates(s) and manner(s) in which Applicant's Mark was first used.

RESPONSE: See Applicant's Response to Interrogatory No. 1.

INTERROGATORY NO. 10: Identify all licenses, assignments or other agreements concerning or relating to Applicant's Mark.

RESPONSE: Applicant objects to this request on the grounds that it is not reasonably calculated to lead to the discovery of admissible evidence. Applicant further objects to this request as it is overbroad as to scope.

INTERROGATORY NO. 11: Identify the range of prices at which Applicant's Goods are sold under Applicant's Mark.

RESPONSE: The range of prices at which Applicant's Goods will be sold under Applicant's Mark are undetermined. See also Applicant's Response to Interrogatory 1.

INTERROGATORY NO. 12: Identify all known instances of actual confusion between Opposer's Goods and Applicant's Goods.

RESPONSE: Applicant has no knowledge of any such instance.

INTERROGATORY NO. 13: Identify all documents evidencing objections or actions taken by Applicant against any third party's use or registration of any mark that Applicant believed to be similar to Applicant's Mark.

RESPONSE: Applicant has no knowledge of any such documents.

INTERROGATORY NO. 14: Identify all expert witnesses expected to be called to testify on Applicant's behalf in this proceeding, including the subject area on which each expert will testify, the substance of any facts and opinions to which each expe1t is expected to testify, a summary of the grounds for each opinion, and the facts showing the qualification of each expert.

RESPONSE: Applicant has not yet identified its lay witnesses. Discovery and factual investigation are ongoing and this responding party reserves the right to amend this response once witnesses have been identified.

INTERROGATORY NO. 19: Identify each person who provided information or otherwise assisted in the preparation of answers to the foregoing inte1rngatories, specifying the information that he or she provided.

RESPONSE: Applicant with assistance of counsel.

DATED this 16th day of May, 2014.

THE TRADEMARK COMPANY, PLLC

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Rachel Blue, Esq.
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Tulsa, OK 74119

Matthew H. Swyers/
Matthew H. Swyers