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Filing date: **02/19/2014**

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

| | |
|------------------------|---|
| Proceeding | 91212653 |
| Party | Defendant Majestique Corporation |
| Correspondence Address | GINO NEGRETTI GINO NEGRETTI LAW OFFICES 670 PONCE DE LEON AVE CARIBBEAN TOWERS, STE 17 SAN JUAN, PR 00907-3207 UNITED STATES gnl@prtc.net |
| Submission | Motion to Compel Discovery |
| Filer's Name | Gino Negretti |
| Filer's e-mail | gnl@prtc.net |
| Signature | /gino negretti/ |
| Date | 02/19/2014 |
| Attachments | APPLICANT'S MOTION TO COMPEL DISCOVERY.pdf(108286 bytes) EXHIBIT 1, FIRST SET OF REQUEST FOR ADMISSIONS, INTERROGATORIES AND REQ. FOR PRODUCTION OF DOCUMENTS.pdf(301209 bytes) EXHIBIT 2, CERTIFIED MAIL RECEIPT.pdf(48045 bytes) |

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

NAUTICA APPAREL, INC.

OPP. NO. 91212653
SERIAL NO. 85883577

Opposer

Vs.

MAJESTIQUE CORPORATION

Applicant

APPLICANT'S MOTION TO COMPEL DISCOVERY

COMES NOW Applicant, Majestique Corporation, by and through its counsel, and very respectfully avers and prays:

1. Applicant notified Opposer a First Set of Request for Admissions, Interrogatories, and Request for Production of Documents on December 20, 2013. Said documents were received by Opposer's Attorney on December 30, 2013. The Interrogatory was also delivered electronically on December 20, 2013. (See Exhibit 1 and Exhibit 2, First Set of Request for Admissions, Interrogatories, and Request for Production of Documents and Receipts.)

2. Applicant also notified Opposer during the Initial Conference held by telephone conference on December 23, 2013.

3. Opposer failed to Answer the Interrogatory, Request for Admission and the Production of Documents within the time period allowed by the Rules.

4. All efforts to obtain Opposer's Answer to the discovery have been to no avail.

WHEREFORE Applicant respectfully moves for an Order compelling Opposer to respond to the discovery notified in December 2013.

Dated: February 19, 2014

Respectfully submitted for
Applicant Majestique Corporation

BY: /gino negretti/
Gino Negretti
670 Ponce de Leon, Avenue Suite 17
Caribbean Towers Condominium
San Juan, Puerto Rico 00907-3207
(787)725-5500

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing Motion was sent to Opposer's Attorney this 19th day of February, 2014 via first class mail, postage prepaid, to the following address:

Neil B. Friedman, Esq.
Stephen L. Baker, Esq.
BAKER AND RANNELLS, P.A.
575 Route 28, Suite 102
Raritan, New Jersey 08869

/gino negretti/
Gino Negretti

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

NAUTICA APPAREL, INC.

OPP. NO. 91212653
SERIAL NO. 85883577

Opposer

Vs.

MAJESTIQUE CORPORATION

Applicant

**FIRST SET OF REQUEST FOR ADMISSIONS, INTERROGATORIES,
AND REQUEST FOR PRODUCTION OF DOCUMENTS**

TO : Opposer, NAUTICA APPAREL, INC. through their legal representation
Stephen L. Baker, Esq., and Neil B. Friedman, Esq., Baker and
Rannells.

FROM: Defendant, MAJESTIQUE CORPORATION, through its legal counsel,
Gino Negretti, Esq.

Pursuant to Rule 33, 34 and 36 of the Federal Rules of Civil Procedure and Rule 2.120 of the Rules of Practice in Trademark Cases, you are required to answer, in a separate manner the following requests for admissions either admitting the matter asserted, denying it, or making an objection that should be explained. The answers to these requests for admissions shall specifically admit or deny the matter or shall set forth in detail the reasons why the answering party cannot truthfully admit or deny the matter. A denial shall fairly meet the substance of the request for admissions and in good faith require that the qualifying party answer or deny only a

part of the matter of which an admission is requested. The party shall set forth so much as it is true and qualify or deny the remainder.

An answering party may not give lack of information or knowledge as a reason for failure to admit or deny unless a party states that the party has made reasonable inquiry and that the information known or readily obtainable by the party is insufficient to enable the party to admit or deny. **The answers must be served upon counsel for plaintiff within 45 days from the day of service of this request and all the answers should be in written form and under oath. The matters will be admitted unless within the 45-day period after service of this request or in such shorter or longer time as the court may allow the defendants serve upon plaintiff the written admissions, denials or objections addressed to the matters asserted herein.**

1. Admit that Nautica Apparel, Inc. is a corporation organized under the laws of the State of Delaware.
2. Admit that Nautica Apparel, Inc. is a corporation organized under the laws of the State of Delaware and is not authorized to do business in Puerto Rico.
3. Admit that Majestique Corporation is a corporation organized under the Laws of Puerto Rico and is authorized to do business in Puerto Rico.
4. Admit that Nautica Apparel, Inc. is part of VF Corporation and VF Corporation is not authorized to do business in Puerto Rico.
5. Admit that Nautica Apparel, Inc. does not own any retail stores in Puerto Rico.

6. Admit that Nautica Apparel, Inc. does not filed Income Tax Returns in Puerto Rico.
7. Admit that Nautica Apparel, Inc. has no commercial relationships with Majestique Corporation.
8. Admit that Nautica Apparel, Inc. sailing symbol is not recorded at the Puerto Rico State Department.
9. Admit that Nautica Apparel, Inc. does not have any documental evidence to sustain that Applicant and Opposer's marks are identical or substantially similar.
10. Admit that Nautica Apparel, Inc. does not have any documental evidence to sustain that Applicant and Opposer's marks are confusingly similar.
11. Admit that Nautical Apparel, Inc. averment that confusion, mistake and deception will occur if Applicant's mark is recorded is speculative.
12. Admit that the Nautica Apparel, Inc. mark and sailing symbol is spinnaker logo and not a sailboat.
13. Admit that a spinnaker logo is a type of sail and not a sailboat.
14. Admit that Applicant's logo is a sailboat.

INTERROGATORIES

Pursuant to Rule 33 of the Federal Rules of Civil Procedure you are hereby requested to answer all the interrogatories set forth herein below within a period of 45 days from the day of service of these interrogatories. Each interrogatory shall be answered separately and fully in writing and under oath, unless it is objected to, in which event the reasons for objections shall be stated in lieu of an answer. The

answers are to be signed by the person making them and the objections signed by the attorney making them. The party upon whom the interrogatories have been served shall serve a copy of the sworn answers to defendant's attorney.

1. If any of the preceding fourteen (14) requests for admissions set forth **have been denied in whole or in part, state the following:**

a. State any facts, which give you a basis for denying any requests for admissions or part thereof stated hereinabove.

b. State the names and addresses of any person or persons who may have knowledge of any of the facts which give you a basis for denying any of the requests for admissions stated above or any part thereof.

c. State the name and address of any person who may be in possession or control of any documents pertaining to the facts stated in the requests for admissions above and which give you a basis to deny the requests for admissions set forth above or any part thereof.

d. State your full name, your residential and working address, as well as your working and residential telephone numbers.

e. State the name, address and job title of the person or persons answering these Interrogatories.

f. State the name, address and job title of any other person who was consulted or participated in the preparation of these answers.

g. Provide all documents which give you basis for denying any of the requests for admission or part thereof stated herein above.

2. With respect to all witnesses whom you will or may call to testify during trial, as to any relevant fact of the Opposition and Answer to the Opposition, please state the following:

- a. Name and address;
- b. Name and address of his employer;
- c. The substance of his testimony;
- d. Provide a list of all documents that this witness will identify and provide copy of all the documents.

3. With respect to all persons having knowledge as to any relevant fact of the allegations of the Opposition and/or the Answer to the Opposition, when filed, please state the following:

- a. Name and address;
- b. Name and address of his employer;
- c. The substance of his testimony;
- d. Provide a list of all documents that this witness will identify and provide copy of all the documents.

4. As to the individual allegations of the Opposition please state individually and separately the following information:

- a. The identity of each and every fact upon which support the allegation;
- b. The source of each such fact;
- c. The identity of each and every person having knowledge or claiming to have knowledge of such fact;
- d. As to each such person, the substance of his knowledge;

e. The identity of each and every document constituting, concerning, commenting on, relating or referring to such fact.

f. Provide all documents which is the base for the allegations of the Opposition.

5. Identify and detail the commercial relationship or any other relationships between Nautica Apparel, Inc. and VF Corporation. Please provide:

- a. The date that relationship started
- b. Conditions for the relationship
- c. The nature of the relationship
- d. Copy of all contracts
- e. Copy of all invoices and payments for services rendered
- f. Copy of all statements of accounts

6. Identify and detail the commercial relationship or any other relationships between Nautica Apparel, Inc. and any other corporate entity. Please provide:

- a. The date that relationship started
- b. Conditions for the relationship
- c. The nature of the relationship
- d. Copy of all contracts
- e. Copy of all invoices and payments for services rendered
- f. Copy of all statements of accounts

7. Identify and provide any and all agreements, understandings, commitments or contracts by and between Nautica Apparel, Inc. and VF

Corporation, relating to the marketing, sale and spinnaker logo of Nautica Apparel, Inc., and provide the following information related thereto:

a. The method used to determine the price to market the Nautica Apparel, Inc. products.

8. Identify and produce all documents that gives you base to plead that Applicant's goods are similar or substantially similar to Opposer's goods and services and provide all documentation that gives base to said premise.

9. Identify and produce all documents that show that Applicant intend to distribute and/or to provide Applicants goods and services to the same channels of trade as Opposer.

10. Identify and produce all documents that show that Opposer marks and Applicants mark are confusingly similar when applied to the goods of the parties.

11. Express, identify and produce all documents that show that Applicant's mark will cause confusion, mistake or deception as to the source of origin of the goods and that it will injure and damage the Opposer and its goodwill.

REQUEST FOR PRODUCTION OF DOCUMENTS

Pursuant to Rule 34 of the Federal Rules of Civil Procedure, you are hereby requested to produce and permit plaintiff or anyone acting on plaintiff's behalf to inspect and copy any documents including writings, drawings, graphs, charts, photographs, phone records, and other data compilations from which information can be obtained or translated if necessary, by the respondent through detection devices into reasonably usable form which may be related to any of the answers you have

given to the requests for admissions and/or interrogatories stated above or any documents related with the facts of this case. You are also requested to produce the following documents:

1. Any or all documents, correspondence, recorded data, electronic transmissions or communications generated or exchanged between Opposer and VF Corporation during the term of the commercial relationship.
2. Any or all documents, correspondence, recorded data, electronic transmissions or communications generated or exchanged between Opposer and VF Corporation during the term of the commercial relationship, specifically regarding the marketing of the Nautica products.
3. Any or all documents, correspondence, recorded data, electronic transmissions or communications referring or relating to licenses or authorizations granted by the Puerto Rico State Department to Nautica Apparel, Inc. to do business in Puerto Rico.
4. Provide all evidence that Nautica Apparel, Inc. is an affiliated or related entity of VF Corporation and provide all licenses agreements between the parties.
5. Certificate of Incorporation of Nautica Apparel, Inc., VF Corporation and Certificate of Authorization to do business in Puerto Rico.
6. Provide copy of all documentary evidence that sustain each and every allegation in the Notice of Opposition duly identified from the First averment to the twenty sixth. Please state as to each averment the name of each of the witnesses that Opposer will present or intends to present at trial.

7. Please provide the name, address and curriculum vitae of all expert witness that Opposer has contacted and that could be a potential expert witness at trial.

Failure to comply with these discovery requests will give defendant reasons to request from the court an order under Rule 37(a) of the Federal Rules of Civil Procedure to compel production of the answers and documents requested herein.

RESPECTFULLY SUBMITTED, in San Juan, Puerto Rico, this 20th day of December, 2013.

Respectfully submitted for
Applicant Majestique Corporation

BY: /gino negretti/
Gino Negretti
670 Ponce de Leon, Avenue Suite 17
Caribbean Towers Condominium
San Juan, Puerto Rico 00907-3207
(787)725-5500

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing FIRST SET OF REQUEST FOR ADMISSIONS, INTERROGATORIES, AND REQUEST FOR PRODUCTION OF DOCUMENTS has been sent, by a First Class Mail, postage prepaid, by depositing the same with the U.S. Postal Service and electronic mail

on this December 20th, 2013 to Opposer's Attorney at the following address: Neil B. Friedman, Esq., Stephen L. Baker, Esq., BAKER AND RANNELLS, P.A., 575 Route 28, Suite 102, Raritan, New Jersey 08869; electronic mail: n.friedman@br-tmlaw.com.

BY: /gino negretti/
Gino Negretti

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- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

*Neil B. Friedman, Esq.
Stephen L. Baker, Esq.
Baker and Bannals, P.A.
575 Route 28, Ste 102
Rantzen, N.J. 08869*

2. Article Number
(Transfer from service label)

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COMPLETE THIS SECTION ON DELIVERY

A. Signature

X *[Signature]*

Agent
 Addressee

B. Received by (Printed Name)

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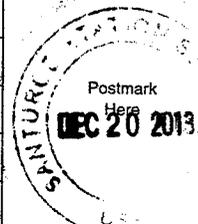
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Sent To: *Neil B. Friedman & Stephen L. Baker, Esq.*
Street, Apt. No., or PO Box No.: *575 Route 28, Ste. 102*
City, State, ZIP+4: *Rantzen, N.J. 08869*

PS Form 3800, August 2006

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