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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	Other Motions/Papers
Filer's Name	Gino Negretti
Filer's e-mail	gnl@prtc.net
Signature	/gino negretti/
Date	11/13/2014
Attachments	APPLICANT'S MOTION TO COMPEL DISCOVERY AND MOTION TO DISMISS OPPOSITION.pdf(115805 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 AND MOTION TO DISMISS
OPPOSITION**

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.

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. On July 7, 2014 Applicant sent for a second time Opposer the First Set of Request for Admissions, Interrogatories, and Request for Production of Documents; Applicant's Answer to

First of Interrogatories; Applicant's Answer for Production of Document and Production of Documents.

5. All efforts to obtain Opposer's Answer to the discovery have been to no avail. Opposer has failed to comply with the Rules and produce the Discovery requested.

OPPOSER'S GAMEMANSHIP IN THE USE OF DISCOVERY

1. Opposer has failed to comply with the litigation's schedule ordered and uses the discovery as a gamesmanship to delay the outcome of this case.

2. The controversy in this case is very simple, it is to determine if the name Nautica and Sailor confuses in any fashion a consumer. Also, if the marks respective symbols confuse a potential customer. Applicant's position is that neither the brand nor the symbols are confusing to any potential consumer. Both names and symbols are completely different in shape and form and Opposer has abused the process with discovery games to delay the outcome of the case.

3. Opposer has recently filed Motion to Compel Responses to Discovery, which is groundless. Applicant has already answered and produced the documents which are pertinent to the cause of action. What Opposer pretends is to discover business secrets and business practices of Applicant which are not relevant to the issue at bar. The information requested by Opposer pertaining the business secrets and business practices are out of the scope of the controversy in this case.

4. Opposer is generating frivolous discovery controversies to preclude applicant for being able to sell its products in the United States. Opposer pretends to create a barrier to the interstate commerce and international trade by delaying the outcome of the case.

WHEREFORE Applicant respectfully moves for a dismissal of the Opposition and/or for an Order compelling Opposer to respond to the discovery.

Dated: November 13, 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 13th day of November, 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