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

Proceeding	91213249
Party	Plaintiff E. & J. Gallo Winery
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Submission	Motion for Sanctions
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Attachments	2015.03.13_Motion for Sanctions re GALOPE.pdf(134426 bytes )

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

In re Serial No. 85/790,557

E. & J. GALLO WINERY,	)	
	)	
Opposer,	)	
	)	
v.	)	Opposition No. 91213249
	)	
AUTENTICA TEQUILERA S.A. DE C.V.	)	
	)	
Applicant.	)	
	)	

**OPPOSER’S MOTION FOR SANCTIONS FOR APPLICANT’S FAILURE TO  
RESPOND TO DISCOVERY REQUESTS**

Opposer E. & J. GALLO WINERY (“Opposer”) hereby moves pursuant to Federal Rule of Civil Procedure 37(b)(2) and Trademark Board Manual of Procedure (“TBMP”) § 411.05 for default judgment to be entered against Applicant AUTENTICA TEQUILERA S.A. DE C.V. (“Applicant”) for its failure to provide responses to Opposer’s First Set of Interrogatories or Opposer’s First Set of Requests for the Production of Documents and Things (collectively, the “Discovery Requests”).

On January 30, 2015, the Board issued an order compelling Applicant to serve responses to the Discovery Requests within thirty days. (Dkt. No. 13). To date, no such responses have been received.

Federal Rule of Civil Procedure 37(b)(2) and TBMP § 411.05 provide that if a party fails to obey a Board order compelling discovery, that the Board may issue sanctions, including “rendering a default judgment against the disobedient party.” Applicant’s failure to respond to the Discovery Requests or to the Board’s order evidences that Applicant does not wish to participate in this proceeding. Accordingly, Opposer respectfully requests an order entering judgment by default against Applicant, and denying registration to the above-referenced application.

Dated: March 13, 2015

Respectfully Submitted,

HOLMES WEINBERG, PC

By /s/ Michael J. Salvatore

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Attorneys for Opposer E. & J. GALLO WINERY

**CERTIFICATE OF SERVICE**

I hereby certify that a true and complete copy of the foregoing OPPOSER'S MOTION FOR SANCTIONS FOR APPLICANT'S FAILURE TO RESPOND TO DISCOVERY REQUESTS has been served on Applicant's counsel by mailing a copy on March 13, 2015, via United States Postal Service Priority Mail, postage prepaid, to:

Julianne Abelman  
ABELMAN FRAYNE & SCHWAB  
666 Third Avenue  
New York, New York 10017

    /s/ Nelda Piper      
Nelda Piper