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

Proceeding	91213266
Party	Defendant Mialisia & Co., LLC
Correspondence Address	CHRISTOPHER J DAY LAW OFFICE OF CHRISTOPHER DAY 9977 N 90TH ST , STE 155 SCOTTSDALE, AZ 85258-4499 UNITED STATES chris@daylawfirm.com
Submission	Opposition/Response to Motion
Filer's Name	Christopher J Day
Filer's e-mail	chris@daylawfirm.com
Signature	/Christopher J Day/
Date	07/28/2014
Attachments	85912651 Motion for Sanctions Response.pdf(516003 bytes)

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

In re:

Mark: MIALISIA & CO.
Serial No.: 85912651
TTAB No.: 91213266
Applicant: Mialisia & Co., LLC

Mialisia & Co., LLC,
Applicant,

v.

ActII Jewelry, LLC d/b/a Lia Sophia,
Opposer.

APPLICANT'S RESPONSE TO OPPOSER'S MOTION FOR SANCTIONS

Pursuant to the Board's order dated June 20, 2014, Applicant's discovery responses were to be served within 30 days of June 20, 2014. By operation of 37 CFR § 2.196, TBMP § 112, that deadline was Monday, July 21, 2014. Applicant's discovery responses, including photocopies of all requested documents were in fact served by first class mail on Monday, July 21, 2014, in full compliance with the Board's order. Copies of Applicant's Response to Opposer's First Set of Interrogatories, as well as Applicant's Response to Opposer's First Request for Production of Documents and Things (excluding the responsive documents furnished in the original mailing), are

Exhibit A

Copies of

Applicant's Response to Opposer's First Set of Interrogatories
Applicant's Response to Opposer's First Request for Production of Documents and Things

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Opposition No. 91213266

**APPLICANT'S RESPONSE TO OPPOSER'S FIRST REQUEST FOR PRODUCTION OF
DOCUMENTS AND THINGS**

Applicant responds to Opposer's First Request for Production of Documents and Things as follows.

DOCUMENT REQUESTS

1. All documents, electronic data and things identified or required to be identified in Applicant's Initial Disclosures.

RESPONSE:

None. Applicant did not identify documents in its Initial Disclosures.

2. All documents, electronic data and things that contain any information used to provide answers for or identified in any of Applicant's responses to Opposer's First Set of Interrogatories to Applicant.

RESPONSE:

See Documents numbered App_1-App_227 provided herewith.

3. All documents, electronic data and things evidencing or referring to any searches or investigations conducted by or for Applicant in connection with Applicant's Mark.

RESPONSE:

See Documents numbered App_1-App-52 provided herewith.

4. All documents, electronic data and things evidencing the intent to use by Applicant of Applicant's Mark in connection with any goods and/or services.

RESPONSE:

See Documents numbered App_53-App-119 provided herewith; See also Documents numbered App_1-App_204 and App_222-App_227.

5. Documents, electronic data and things sufficient to identify all officers, directors, members, managing members or managing agents, of Applicant since date when Applicant first adopted Applicant's Mark.

RESPONSE:

See Documents numbered App_120-App_168 provided herewith.

6. All documents, electronic data and things evidencing any trademark or trade name applications filed by or for Applicant under any mark including "MIA" or "LISIA", or both.

RESPONSE:

See Documents numbered App_169-App_204 provided herewith.

7. All documents, electronic data and things evidencing or referring to any correspondence or communications between Applicant and Opposer.

RESPONSE:

See Documents numbered App_205-App_207 provided herewith.

8. All documents, electronic data and things evidencing or referring to market projections of Applicant's future sales of any products or services under Applicant's Mark.

RESPONSE:

Applicant is not aware of any documents, electronic data or things evidencing or referring to market projections of Applicant's future sales.

9. All documents evidencing any search for any mark including the words "MIA" or "LISIA", or both, conducted by or for Applicant, in relation to federal trademark registrations, state trademark registrations, online databases or other referenced works.

RESPONSE:

See Documents numbered App_1-App-52 provided herewith.

10. A copy of any agreement between Applicant and any other person concerning use of Applicant's Mark.

RESPONSE:

See Documents numbered App_53-App-79 provided herewith.

11. To the extent not produced in response to any of the preceding document requests, all Documents, electronic data and things that Applicant relies upon in support of any allegations or defenses set forth in Applicant's Answer to Notice of Opposition.

RESPONSE:

No additional documents have been identified.

12. All documents, electronic data and things evidencing or referring to any application for registration of Applicant's Mark in any trademark office outside of the United States.

RESPONSE:

See Documents numbered App_208-App-221 provided herewith.

13. All documents, electronic data and things evidencing or referring to any prosecution of any application for registration of Applicant's Mark in any trademark office outside of the United States.

RESPONSE:

See Documents numbered App_208-App-221 provided herewith.

14. All licenses to use Applicant's marks or any portion thereof.

RESPONSE:

None exist.

15. Documents sufficient to identify all web sites which use or feature Applicant's mark, or MIA or LISIA or both, in their content and/or domain name.

RESPONSE:

See Documents numbered App_222-App-227 provided herewith.

Dated July 21, 2014.

/Christopher J. Day/

Christopher J. Day, Attorney for Applicant
Law Office of Christopher Day
9977 North 90th Street, Suite 155
Scottsdale, AZ 85258
Telephone: (602) 258-4440
Facsimile: (602) 258-4441

CERTIFICATE OF SERVICE

I hereby certify that this correspondence is being deposited on July 21, 2014, in the U.S. mail, first class postage pre-paid, addressed to counsel for Opposer at the following address:

MILTON SPRINGUT
SPRINGUT LAW PC
45 ROCKEFELLER PLAZA, 20TH FLOOR
NEW YORK, NY 10111

/Christopher J. Day/
Christopher J. Day

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Opposition No. 91213266

APPLICANT'S RESPONSE TO OPPOSER'S FIRST SET OF INTERROGATORIES

Applicant responds to Opposer's First Set of Interrogatories as follows:

INTERROGATORIES

1. Identify the nature of Applicant's organization.

RESPONSE:

Applicant is a home party based jewelry company that is using the direct sales channel to sell products. Applicant has a patent pending jewelry design that uses hooks instead of clasps to

be able to wear necklaces in many different ways (bracelets, boot bling, belts, etc).

Applicant calls it Versastyle Jewelry.

2. State when Applicant first adopted an intent to use Applicant's Mark.

RESPONSE:

Applicant first attempted to use the mark on April 15th 2013. Applicant got the name from the word Alisia which was going to be the name of a founder' first daughter and the founder ended up having 4 boys. So Mialisia means My Alisia in Italian which the founder Sean Brown has a passion for due to being fluent in Italian and having a big love for the country and people of Italy.

3. Identify each of Applicant's members, managing members, principals or other managing agents.

RESPONSE:

Sean and Annelise Brown founded the company and own 30% of the company. The other 70% is owned by QBT which is a group of investors. This group will be identified by ownership documents sent in a separate document.

4. Identify each person who participated in the determination to adopt an intent to use Applicant's Mark.

RESPONSE:

Annelise Brown, Sean Brown, Justin Banner, Craig Johanson, Devin Glazier, Rodney James, Derek Hall.

5. State whether Applicant has made use of Applicant's Mark, and if so when such use completed.

RESPONSE:

Yes Applicant has been using the mark since April 2013 and the use is ongoing.

6. Identify all searches conducted by Applicant regarding Applicant's Mark.

RESPONSE:

Applicant had a trademark availability/registrability search conducted by the Law Office of Christopher Day prior to filing the application, and received a verbal report of the results.

7. State when and how Applicant first became aware of Opposer and Identify all documents and electronic data evidencing or referring to such awareness.

RESPONSE:

On July 16, 2013, Opposer sent a fax to Applicant, copying Applicant's counsel, regarding a sales force recruitment issue. The letter did not mention or hint at any potential trademark issue. A copy of the letter is furnished in connection with Applicant's response to Document Request No. 7.

8. Identify all persons who will be responsible for marketing or intended marketing of the goods and/or services provided under Applicant's Mark.

RESPONSE:

In addition to the owners/founders previously identified, Applicant has a team of 1300+ designers who will market the goods using a home party based direct sales method.

9. Identify all of Applicant's registration(s) or currently pending application(s) for Applicant's Mark, or a mark incorporating "MIA" or "LISIA" or both in the United States Patent and Trademark Office, in any of the States of the United States or in the Trademark Office of any foreign country.

RESPONSE:

In addition to the subject application, Applicant has pending Canadian Application No. 1,659,621 filed on January 14, 2014 for the mark MIALISIA.

10. Identify any expert witness and the substance of the expected testimony of such witness that Applicant intends to obtain testimony from in this proceeding.

RESPONSE:

None are anticipated.

11. Identify each fact witness and the substance of the testimony expected from each such witness that Applicant plans to call as a witness in this proceeding.

RESPONSE:

None are anticipated.

12. In relation to each person identified in response to Interrogatory No.10 and Interrogatory No. 11, identify all communications with each such person, concerning Applicant or this proceeding.

RESPONSE:

Not applicable.

13. Identify any communications with any person, other than employees of Applicant or attorneys for Applicant, concerning Opposer or this proceeding.

RESPONSE:

None.

14. Identify each person or entity licensed to use Applicant's mark, in whole or in part, on goods, advertisements or on a website.

RESPONSE:

Applicant's 1300+ direct sales team members use the mark in connection with promoting Applicant's goods pursuant to a policies and procedures manual furnished as part of Applicant's document production response. Applicant does not believe such use constitutes a license. Applicant has not licensed the mark.

Exhibit B

Photograph of the Applicant's Discovery Response showing postmark date of July 21, 2014

