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

Proceeding	91213266
Party	Plaintiff ActII Jewelry, LLC d/b/a lia sophia
Correspondence Address	MILTON SPRINGUT SPRINGUT LAW PC 45 ROCKEFELLER PLAZA, 20TH FLOOR NEW YORK, NY 10111 UNITED STATES ms@springutlaw.com, tbenschar@springutlaw.com
Submission	Motion for Sanctions
Filer's Name	Tal S. Benschar
Filer's e-mail	tbenschar@springutlaw.com, ms@springutlaw.com
Signature	/Tal S. Benschar/
Date	07/25/2014
Attachments	Motion for Sanctions.pdf(15309 bytes)

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

ACT II JEWELRY, LLC d/b/a lia sophia,

Opposer,

Opposition No. 91213266

v.

Serial No.: 85/912651

ALISIA & COMPANY

Mark: MIALISIA & CO.

Applicant.

**OPPOSER'S MOTION FOR SANCTIONS IN
THE FORM OF DEFAULT JUDGMENT**

In accordance with 37 C.F.R. § 2.120(g) and TBMP §§ 411.05 and 527.01(a), Opposer Act II Jewelry LLC d/b/a lia sophia (hereinafter "lia sophia" or "Opposer") moves for entry of sanctions in the form of default judgment, and in support of which motion relies on the following declaration of its counsel:

TAL S. BENSCHAR declares that:

1. I am a partner of Springut Law P.C., counsel for Opposer in the above-captioned proceeding.
2. On January 23, 2014, we served Opposer's first sets of interrogatories and document requests upon applicant's counsel. No response has ever been received.
3. On March 24, 2014, Opposer filed a motion to compel, which was granted on June 20, 2014. The Board ordered applicant to respond to the outstanding discovery requests within 30 days. The Board also noted that in the event full responses were not served as ordered, Opposer could seek sanctions.

4. As noted, applicant has to date failed to serve any response whatsoever. Nor have we had any communications from applicant nor its counsel. In fact, emails sent from our office to that of applicant's counsel have bounced back.

5. "If a party fails to comply with an order of the Board relating to discovery, including an order compelling discovery, the Board may order appropriate sanctions . . . including entry of default judgment. . . . Default judgment is a harsh remedy, but it is justified where no less drastic remedy would be effective, and there is a strong showing of willful evasion." *Baron Philippe de Rothschild S.A. v. Styl-Rite Optical Mfg. Co.*, 55 U.S.P.Q.2d 1848, 1854 (TTAB 2000).

6. Here, it is apparent that applicant has simply decided to abandon the instant application and not engage in any discovery. It is simply impossible to litigate this proceeding with a party that refuses to make even the most rudimentary responses, even after ordered to by the Board.

7. I declare under penalty of perjury that the foregoing is true and correct pursuant to 28 U.S.C. § 1746.

WHEREFORE it is respectfully requested that an order entering default judgment against applicant as a sanction pursuant to with 37 C.F.R. § 2.120(g) and TBMP §§ 411.05 and 527.01(a) be issued by the Board.

Respectfully Submitted,



By: _____

SPRINGUT LAW PC
45 Rockefeller Plaza, 20th Floor
New York, New York 10111
Tel: (212) 813-1600
Attorneys for Opposer
Act II Jewelry LLC d/b/a lia sophia

Date: July 25, 2014
New York, New York

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the above **OPPOSER'S MOTION TO COMPEL RESPONSES TO INTERROGATORIES AND DOCUMENT REQUESTS** as served upon Applicant's attorney of record, by first class mail, postage prepaid, and by email, addressed to Christopher J. Day, Esq., Law Office of Christopher Day, 9977 North 90th Street, Suite 155, Scottsdale, AZ 85258, *chris@daylawfirm.com* on this 25th day of July 2014.

By: /S/ Tal S. Benschar
Tal S. Benschar