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

Proceeding	91213584
Party	Plaintiff Jaguar Land Rover Limited
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Submission	Motion to Compel Discovery
Filer's Name	Jennifer K. Ziegler
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Signature	/jennifer ziegler/
Date	09/26/2014
Attachments	Motion.pdf(2032893 bytes) Exhibit A.pdf(1218121 bytes) Exhibit B.pdf(1374708 bytes) Exhibit C.pdf(1217123 bytes) Exhibit D.pdf(1466736 bytes) Exhibit E.pdf(912732 bytes) Exhibit F.pdf(122010 bytes)

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

JAGUAR LAND ROVER LIMITED,	)	Opposition No. 91213584
	)	
Opposer,	)	
	)	Serial No. 85867803
v.	)	
	)	
TOYS TEKK CORPORATION,	)	
	)	
	)	
Applicant.	)	

OPPOSER'S COMBINED MOTION TO COMPEL AND MOTION TO EXTEND DISCOVERY AND TRIAL DATES

Opposer Jaguar Land Rover Limited ("JLR") submits this combined motion to compel responses to Interrogatories and Requests for Production of Documents, pursuant to 37 C.F.R. §2.120(e) and Fed. R. Civ. P. 37(a), and Motion to Extend Discovery and Trial Dates, pursuant to 37 C.F.R. §2.121 and Fed. R. Civ. P. 16(b)(4), and states:

1. Opposer served Applicant Toys Tekk Corporation ("Toys Tekk") with its First Set of Interrogatories and First Request for Production of Documents and Things on June 2, 2014. *See* Plaintiff's First Set of Interrogatories and First Request for Production of Documents and Things attached as Exhibits A and B. Applicant served Applicant's Responses to First Set of Interrogatories and Responses to First Request for Production of Documents and Things on July 5, 2014. *See* Applicant's Responses to First Set of Interrogatories and Responses to First Request for Production of Documents and Things attached as Exhibits C and D.

2. For a significant number of Opposer's requests, Applicant responds with general and baseless objections in lieu of an answer, namely Interrogatory No. 16 and Document Request Nos. 1-4, 10, 12-16, 21, 26-31, and 34. (*See* Exhibits C and D.)

3. In accordance with 37 C.F.R. §2.120(e) and Fed. R. Civ. P. 37(a), Opposer's counsel made a good faith effort via written correspondence to resolve the issues presented herein. *See* September 18, 2014 letter to opposing counsel attached as Exhibit E. The parties were unable to resolve the matters at issue because Applicant failed to supplement its responses. Specifically, Applicant's counsel stated that "I am willing to schedule an appointment, in two weeks, to discuss this issue with our client and maybe to produce certain sample sales to quest your curiosity." (*See* Applicant's counsel's email response attached as Exhibit F.) In other words, Applicant's counsel seems to acknowledge that Applicant has documents that would respond to Opposer's requests, but has not even committed to producing any such documents.

4. Because Applicant has failed to supplement its responses and has not produced any documents whatsoever, Opposer has been unable to complete its discovery, including noticing and taking depositions. Applicant's counsel has not confirmed whether Applicant will agree to an extension of the discovery and trial dates.

5. Accordingly, pursuant to 37 C.F.R. §2.120(e) and Fed. R. Civ. P. 37(a), Opposer moves this Board to compel Applicant's responses to the interrogatory and document requests identified in paragraph 2 above, for the reasons set forth more fully in Opposer's attached Memorandum, and Opposer moves, pursuant to 37 C.F.R. §2.121 and Fed. R. Civ. P. 16(b)(4), for an extension of the discovery and trial dates by sixty (60) days to afford Opposer the opportunity to review supplemental responses and responsive documents prior to taking depositions.

WHEREFORE, Opposer respectfully requests that the Board grant its Combined Motion to Compel and Motion to Extend Discovery and Trial Dates.

Respectfully submitted,

By: _____

Chanille Carswell
Jennifer K. Ziegler
Attorneys/Agents for Jaguar Land Rover Limited

Date: September 26, 2014

BROOKS KUSHMAN P.C.
1000 Town Center, 22nd Floor
Southfield, MI 48075
Telephone: (248) 358-4400

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

JAGUAR LAND ROVER LIMITED,	)	Opposition No. 91213584
	)	
Opposer,	)	
	)	Serial No. 85867803
v.	)	
	)	
TOYS TEKK CORPORATION,	)	
	)	
	)	
Applicant.	)	

BRIEF IN SUPPORT OF OPPOSER'S COMBINED MOTION TO COMPEL AND MOTION TO EXTEND DISCOVERY AND TRIAL DATES

I. BACKGROUND

Opposer, Jaguar Land Rover Limited (JLR), is a globally renowned manufacturer of sports cars and sports utility vehicles (SUVs), based in the United Kingdom. JLR employs over 20,000 people in the UK and is therefore the top automotive manufacturing employer in the UK.

The first Land Rover vehicle was launched by the Rover Company, JLR's predecessor, at the Amsterdam Motor Show in April 1948. Since that time, and for over 65 years, JLR has sold millions of vehicles under the LAND ROVER and RANGE ROVER trademarks and such vehicles have gained widespread notoriety and attention in the United States and throughout the world.

In addition to its vehicle sales under the famous LAND ROVER and RANGE ROVER marks and family of ROVER marks, JLR has, for over 30 years, authorized and licensed a range

of merchandise that bears the LAND ROVER and RANGE ROVER marks and family of ROVER marks, including toy and model vehicles.

On March 5, 2013, Applicant filed an application to register CLOUD ROVER in the U.S. Trademark Application, Serial No. 85/863,552, as a trademark for "Radio controlled toy vehicles; Remote control toys, namely, remote control car, remote control vehicle" in Class 28. Because Opposer believes that it will be damaged by registration of CLOUD ROVER for the goods, Opposer filed this opposition against Applicant's application on the grounds that allowing Applicant to register the mark for the goods (1) is likely to cause confusion or mistake within the meaning of § 2(d) of the Lanham Act, 15 U.S.C. § 1052(d); and (2) is likely to dilute Opposer's famous LAND ROVER and RANGE ROVER marks and family of ROVER marks within the meaning of § 43(c) of the Lanham Act, 15 U.S.C. § 1125(c).

On June 2, 2014, in accordance with 37 C.F.R. §2.120 and Fed. R. Civ. P. 33 and 34, Opposer served Applicant with written discovery requests in the form of interrogatories and requests for production of documents. *See* Opposer's First Set of Interrogatories and First Request for Production of Documents and Things attached as Exhibits A and B. For the majority of its responses, Applicant stated broad and general objections and failed to produce a single document in response to Opposer's requests. *See* Applicant's response to First Set of Interrogatories and First Request for Production of Documents and Things attached as Exhibits C and D. To date, Applicant has not produced a single document.

As a result, Opposer has been prohibited from proceeding further with discovery, including noticing and taking any depositions. Opposer, therefore, has no choice but to request that the Board compel Applicant to produce documents responsive to the interrogatory and document requests, and to extend the discovery and trial dates by sixty (60) days so that Opposer can complete its discovery and prepare for trial.

II. ARGUMENTS

A. Applicant Must Provide Relevant, Non-Privileged Information Responsive to Opposer's Interrogatories and Document Requests.

A party may serve interrogatories and requests for production of documents regarding any relevant, non-privileged matter known to the responding party or which is in its possession, custody or control. *See* Fed. R. Civ. P. 26(b)(1); *Varian Associates v. Fairfield-Noble Corp*, 188 USPQ 581, 583 (TTAB 1975). The responding party must answer and/or produce responsive documents within 30 days after being served with such requests. *See* 37 C.F.R. §2.120(a); Fed. R. Civ. P. 33(b)(2), 34(b)(2).

As set forth more fully below, Opposer's interrogatory and document requests seek information and documents directly relevant to the parties' respective claims and defenses, the requested information and documents are in Applicant's possession, custody or control, and Applicant has failed to substantiate any claims of privilege as required under Fed. R. Civ. P. 26(b)(5).

B. Applicant Filed Baseless Objections In Lieu Of Answers in Response to a Number of Opposer's Discovery Requests

1. There Is No Basis for Applicant's Assertion That Opposer's Requests Are Not Relevant

It is well-settled that for the purpose of discovery, relevance is construed liberally. *See Varian Associates*, 188 USPQ at 583; TBMP §402.01. Applicant, however, refused to respond to a number of interrogatory and document requests claiming that they are irrelevant, notwithstanding that each request directly pertains to Opposer's claims.

For example, Opposer requests information and documents relating to Applicant's use of the CLOUD ROVER trademark:

DOCUMENT REQUEST NO. 12.
Representative documents and things of the price range, or the intended price range, for products sold or intended to be sold under or in connection with Applicant's Mark.

RESPONSE: Objection: Not relevant to this proceeding; scope not within opposer's claim and defense, pursuant to Fed. R. Civ. P. 26(b)(1); burdensome and oppressive, confidential information, trade secret.

DOCUMENT REQUEST NO. 16.
Documents sufficient to identify each public relations firm, advertising agency, and management agency engaged by Applicant in connection with the sale and/or promotion, or the intended sale and/or promotion, of any goods and/or services sold under or in connection with Applicant's Mark.

RESPONSE: Objection: Not relevant to this proceeding; scope not within opposer's claim and defense, pursuant to Fed. R. Civ. P. 26(b)(1); overbroad, burdensome, oppressive, confidential information, and trade secret.

DOCUMENT REQUEST NO. 27.
All documents and things sufficient to identify Applicant's annual advertising and promotional expenditures for products marketed or sold under or in connection with Applicant's Mark, or any variation thereof.

RESPONSE: Objection: Not relevant to this proceeding; scope not within opposer's claim and defense, pursuant to Fed. R. Civ. P. 26(b)(1); overbroad, burdensome, oppressive, trade secret, and confidential information.

DOCUMENT REQUEST NO. 28.
Representative documents and things evidencing each class or type of purchasers to whom Applicant has marketed and offered, currently markets and offers, and intends to market and offer, each good Applicant's Mark has identified, now identifies, or will identify.

RESPONSE: Objection: Not relevant to this proceeding; scope not within opposer's claim and defense, pursuant to Fed. R. Civ. P. 26(b)(1); overbroad, burdensome, oppressive, trade secret, and confidential information.

DOCUMENT REQUEST NO. 29.
All documents and things referring or relating to, or comprising, any plan Applicant has to expand use of Applicant's Mark.

RESPONSE: Objection: Not relevant to this proceeding; scope not within opposer's claim and defense, pursuant to Fed. R. Civ. P. 26(b)(1); overbroad, burdensome, oppressive, trade secret, confidential, and failed to identify proper category.

DOCUMENT REQUEST NO. 30.
All documents sufficient to understand Applicant's corporate structure and any and all changes to such structure, including changes in ownership, from its inception to the present.

RESPONSE: Objection: Not relevant to this proceeding; scope not within opposer's claim and defense, pursuant to Fed. R. Civ. P. 26(b)(1); overbroad, burdensome, oppressive, trade secret, and confidential information.

* * *

Document Requests 12, 16, and 27-30 all pertain to similarities in the parties' goods, trade channels, and target markets, which are factors the TTAB must consider in its assessment in likelihood of confusion. *See In re E.I. DuPont de Nemours & Company*, 476 F.2d 1357, 1361 (CCPA 1973). Therefore, each request is directly relevant to Opposer's claim of likelihood of confusion. In fact, the TTAB has explicitly stated that the information and documents pertaining to Applicant's advertising of goods or services sold or in connection with the contested mark — is discoverable. *See* TBMP §414(18) ("Annual sales and advertising figures, stated in round numbers, for a party's involved goods or services sold under its involved mark are proper matters for discovery.").

2. Applicant Is Not Relieved Of Its Duty To Produce Simply Because It Filed a Specimen of Use With The Trademark Office

In response to a number or requests, Applicant states, after broad objections, that a responsive document "was filed with the Trademark Office." For example, Applicant responded to various document requests as follows:

DOCUMENT REQUEST NO. 1.
Representative documents and things that evidence, refer or relate to Applicant's marketing and sale, or Applicant's intended advertising, marketing and sale, of products under Applicant's Mark, including a representative sample of each product, label, sign, display, trade dress, wrapper, packaging, advertisement, point of sale material, and marketing material Applicant has used and plans to use in connection with Applicant's Mark.

RESPONSE: Objection: Not relevant to this proceeding; scope not within opposer's claim and defense, pursuant to Fed. R. Civ. P. 26(b)(1); burdensome and oppressive, trade secret, and confidential trade information. Without waiving said objection, such document was filed with the Trademark office.

DOCUMENT REQUEST NO. 2.
Representative documents and things identifying each good or service with which Applicant's Mark has been used, is now used, and is intended to be used from the date of first use to the present.

RESPONSE: Objection: overbroad. Without waiving said objection, specimen filed with the U.S. Trademark office.

DOCUMENT REQUEST NO. 3.
All documents and things evidencing Applicant's first use date for all products with which Applicant's Mark has been and is now used.

RESPONSE: Objection: overbroad. Without waiving said objection, specimen filed with the U.S. Trademark office.

DOCUMENT REQUEST NO. 4.
Representative documents and things evidencing each channel of trade through which Applicant's products are offered, and are intended to be offered, under or in connection with Applicant's Mark.

RESPONSE: Objection: Not relevant to this proceeding; scope not within opposer's claim and defense, pursuant to Fed. R. Civ. P. 26(b)(1); burdensome and oppressive, trade secret, confidential trade information. Without waiving said objection, such document was filed with the Trademark office.

* * *

Applicant's above responses have unfairly shifted the burden to Opposer to attempt to identify the specific document(s) to which Applicant refers that might be responsive to Opposer's requests. Opposer's search for responsive documents in the Trademark Office revealed only Applicant's specimen filed in connection with the contested application, showing a photograph of packaging ostensibly from Applicant's CLOUD ROVER product. However, such document does not respond fully to Applicant's document requests.

Additionally, Applicant responds to a number of document requests stating, after broad objections, that a responsive document is "within the public domain." For example, Applicant responded to various document requests as follows:

> **DOCUMENT REQUEST NO. 10.**
> All documents and things referring or relating in any way to how Applicant selected Applicant's Mark, including, but not limited to, any documents and things referring or relating to the person(s) with primary responsibility for such selection and the reason for such a selection.
>
> **RESPONSE:** Objection: this request does not constitute a proper category of documents, and the second part of the request is overbroad, exceeding the scope of this proceeding, burdensome, and harassment. Without waiving said objection, responding party does not keep such document because it is within public domain.
>
> **DOCUMENT REQUEST NO. 13.**
> All documents and things identifying the publications and broadcast media in which Applicant, or its retailers and licensees, have advertised, are advertising, or have planned to advertise any of Applicant's goods sold under or in connection with Applicant's Mark.
>
> **RESPONSE:** Objection: Not relevant to this proceeding; scope not within opposer's claim and defense, pursuant to Fed. R. Civ. P. 26(b)(1); overbroad, burdensome and oppressive. Without waiving said objection, responding party does not keep such document because it is within public domain.
>
> **DOCUMENT REQUEST NO. 14.**
> Representative copies of Applicant's television commercials, radio scripts, and other media advertising not previously requested in which Applicant's Mark appear or are mentioned.
>
> **RESPONSE:** Objection: Not relevant to this proceeding; scope not within opposer's claim and defense, pursuant to Fed. R. Civ. P. 26(b)(1); overbroad, burdensome and oppressive. Without waiving said objection, responding party does not keep such document because it is within public domain.
>
> **DOCUMENT REQUEST NO. 15.**
> Documents sufficient to identify each trade show and exposition attended by Applicant at which Applicant promoted the sale, or the intended sale, of any goods and/or services sold under or in connection with Applicant's Mark.
>
> **RESPONSE:** Objection: Not relevant to this proceeding; scope not within opposer's claim and defense, pursuant to Fed. R. Civ. P. 26(b)(1); overbroad, burdensome and oppressive. Without waiving said objection, responding party does not keep such document because it is within public domain.

DOCUMENT REQUEST NO. 21.
All documents and things regarding the websites and other Internet and/or online portals on which Applicant has advertised, marketed, promoted, rendered or sold Applicant's products and/or services in connection with Applicant's Mark or any variation thereof.

RESPONSE: Objection: Not relevant to this proceeding; scope not within opposer's claim and defense, pursuant to Fed. R. Civ. P. 26(b)(1); overbroad, burdensome, oppressive, confidential information, and trade secret. Without waiving said objection, all such documents are in public domain.

DOCUMENT REQUEST NO. 26.
All Documents and things regarding any Internet domain names owned by Applicant that contain the words "CLOUD ROVER," or "CLOUDROVER," or any variation thereof.

RESPONSE: Objection: Not relevant to this proceeding; scope not within opposer's claim and defense, pursuant to Fed. R. Civ. P. 26(b)(1); overbroad, burdensome, and oppressive. Without waiving said objection, the documents are in public domain.

* * *

Applicant's above responses have unfairly shifted the burden to Opposer to attempt to identify the specific document(s) to which Applicant refers that might be responsive to Opposer's requests. Opposer is entitled to responsive documents from Applicant, and is not required to rely solely on documents that it must search for and locate within the public domain.

3. Applicant Refuses to Respond to Requests About its Related Entity

Applicant has refused to provide information or documents in response to Interrogatory No. 16 and Document Request No. 31, which seek information and documents relating to the relationship between Applicant and another company that filed the corresponding CLOUD ROVER application as a Community Trade Mark with the Office for Harmonization of Internal Markets (OHIM):

INTERROGATORY NO. 16.
Describe with particularity the relationship, whether legal, business, or otherwise, between Applicant and Shantou City Yongtong Crafts & Toys Co., Ltd., the owner of the CLOUD ROVER and Design trademark application filed with OHIM, Application No. 011312725, and identify the persons most knowledgeable about that relationship.

ANSWER: Objection: Not relevant to this proceeding; scope not within opposer's claim and defense, pursuant to Fed. R. Civ. P. 26(b)(1); burdensome and oppressive, trade secret, and confidential trade information.

DOCUMENT REQUEST NO. 31.
All documents and things referring or relating to Shantou City Yongtong Crafts & Toys Co., Ltd., the owner of the CLOUD ROVER and Design trademark application filed with OHIM, Application No. 011312725, and that identify the persons most knowledgeable about those documents and things.

RESPONSE: Objection: Not relevant to this proceeding; scope not within opposer's claim and defense, pursuant to Fed. R. Civ. P. 26(b)(1); burdensome and oppressive, trade secret, and confidential information.

* * *

Opposer obtained judgment in its favor in an opposition against the CTM CLOUD ROVER application. Opposer now seeks information about the relationship between Applicant and the CTM applicant so that it can determine to what extent information and documents used in that proceeding are relevant and may be used in this proceeding. Particularly where Applicant has refused to produce any documents, Opposer's ability to use relevant documents already in its possession will assist in its preparation of this matter. However, without asserting any legitimate basis for doing so, Applicant has refused to provide any information or documents responsive to the above inquiries.

4. Applicant Cannot Withhold Documents That Contain Trade Secrets And/Or Confidential Information

Applicant objects to Interrogatory No. 16 and Document Request Nos. 1, 4, 12, 16, 21, and 27-31 on the asserted ground, among others, that they involve trade secrets and/or

confidential information. The TTAB advised in its scheduling notice dated November 20, 2013 that the Board's Standard Protective Order is in effect, and that a party may designate documents as "Confidential" or "Trade secret/commercial sensitive," and the appropriate limitations on dissemination of those documents will apply. Therefore, there is no basis for Applicant to withhold responsive documents that are claimed to contain trade secrets or confidential information. *See Red Wing Co. v. JM Smucker Co.*, 59 USPQ2d 1861, 1862 (TTAB 2001) (recognizing that a protective agreement is adequate to protect against disclosure of trade secrets and confidential information).

C. Applicant's Failure to Produce Documents Has Prevented Opposer's Ability to Complete Discovery

Opposer's interrogatory and document requests seek information and documents directly relevant to the parties' respective claims and defenses. Applicant failed to produce any responsive documents and failed to provide responses to certain of Opposer's inquiries. In response to Opposer's request for supplemental documents, Applicant's counsel stated, "I am willing to schedule an appointment, in two weeks, to discuss this issue with our client and maybe to produce certain sample sales to quest your curiosity." (*See* Exhibit F.) It would seem that Applicant's counsel is aware of responsive documents, but is not able to consider producing them – if at all – for several weeks. In the meantime, Opposer is prevented from timely completing its necessary discovery prior to the close of the discovery period.

The Discovery Period is currently set to close on September 27, 2014. Opposer requests that such date be extended by sixty (60) days, and that all subsequent dates be reset accordingly. Opposer makes this request because it is unable to complete discovery/testimony during the

assigned period due to Applicant's failure to produce documents. Applicant's counsel has not confirmed whether Applicant will agree to an extension of the discovery and trial dates.

III. CONCLUSION

For the aforementioned reasons, Opposer respectfully requests that the Board grant its Motion to Compel Responses to Interrogatory and Requests for Production of Documents and its Motion to Extend Discovery and Trial Dates.

Respectfully submitted,

By _____

Chanille Carswell
Jennifer K. Ziegler
Attorneys/Agents for Jaguar Land Rover Limited

Date: September 26, 2014

BROOKS KUSHMAN P.C.
1000 Town Center, 22nd Floor
Southfield, MI 48075
Tel: (248) 358-4400

CERTIFICATE OF SERVICE

I certify that I served:

OPPOSER'S COMBINED MOTION TO COMPEL AND MOTION TO EXTEND DISCOVERY AND TRIAL DATES

on September 26, 2014 by First Class Mail to:

Shun C. Chen
LAW OFFICES OF SHUN C. CHEN
4521 Campus Drive # 324
Irvine, CA 92612-2621

Courtesy copy via email to: *shunchen@att.net*

Correspondent for Applicant

Jennifer K. Ziegler

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
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JAGUAR LAND ROVER LIMITED,	)	Opposition No. 91213584
	)	
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	)	Serial No. 85867803
v.	)	
	)	
TOYS TEKK CORPORATION,	)	
	)	
	)	
Applicant.	)	

OPPOSER'S FIRST SET
OF INTERROGATORIES TO APPLICANT (1-27)

Opposer, Jaguar Land Rover Limited ("JLR"), submits the following Interrogatories to Applicant, Toys Tekk Corporation ("Toys Tekk"), in accordance with Fed. R. Civ. P. 33 and Rule 2.120 of the Trademark Rules of Practice. Opposer requests that Applicant deliver sworn answers to these Interrogatories to Opposer's counsel, Brooks Kushman P.C., 1000 Town Center, 22nd Floor, Southfield, Michigan 48075, within thirty (30) days of service hereof. These Interrogatories are intended to be continuing in nature and any information that may be discovered subsequent to the service by Applicant of its responses should be brought to Opposer's attention through supplemental answers within a reasonable time following such discovery.

For the convenience of the Board and the parties, Opposer requests that each Interrogatory be quoted in full immediately preceding the response.

CLAIMS OF PRIVILEGE

If any information responsive to any of the following Interrogatories is withheld on the basis of privilege and/or work-product, the following information is requested with respect to any such refusal: (1) the privilege and/or work-product rule of law being relied upon; (2) the date the document was created; (3) the identity of the person or persons who created the document; (4) the identity of the present custodian; (5) the addressee(s) and all other recipients of the document; (6) the subject matter of the document; and (7) the location of the document.

DEFINITION OF TERMS

These Interrogatories are subject to the following definitions:

1. The term "person" or "individual" includes, but is not limited to, any natural person, corporation, partnership, sole proprietorship, or any other business or legal entity, or any employee, agent, or representative of the foregoing.

2. The term "identify," when referring to a person, means state the full name, last known home and business address, employer, and job title of such person.

3. The term "identify," when referring to a document, means state the general nature or type, the general subject matter, title, number of pages, date, author or originator, addressee or recipient, copy recipients, present depository or depositories, name and address of any person(s) having custody, and any other necessary basis for identification of such document.

4. The terms "Opposer" or "JLR" mean Jaguar Land Rover Limited, its predecessor or successor corporations, and any of its subsidiaries, divisions, affiliates, and present and former agents, employees, directors, officers, trustees, attorneys, representatives, research and

development personnel, and any other person or entity acting in concert with or on behalf of Jaguar Land Rover Limited.

5. The terms "you," "your," or "Applicant" mean Toys Tekk Corporation, the Applicant in this action, its predecessor or successor corporations, and any of its subsidiaries, divisions, affiliates, foreign affiliates and present and former agents, employees, directors, officers, trustees, attorneys, representatives, licensors or licensees, suppliers, research and development personnel, and any other person or entity acting in concert with or on behalf of Toys Tekk Corporation or on whose behalf Toys Tekk Corporation is acting.

6. Whenever the Interrogatories refer to "Opposer's Mark" or "Opposer's Marks," they refer to "LAND ROVER" and/or "RANGE ROVER" in block letters, in stylized form, or any other form.

7. Whenever the Interrogatories refer to "Applicant's Mark," they refer to Applicant's "CLOUD ROVER" mark, and variations thereof, in block letters, in stylized form, or any other form.

8. The term "and" includes the term "or," and the term "or" includes the term "and."

9. The term "documents" refers to the broadest definition of document under the Federal Rules of Civil Procedure, including drawings, specification, memoranda, and information in computer-readable formats and stored on computer media including but not limited to mass storage devices such as floppy diskettes, hard disks, and also includes e-mail and other documents stored on computer media.

10. The singular of any word includes the plural and the plural of any word includes the singular.

INTERROGATORIES

INTERROGATORY NO. 1.

Identify each product or service that Applicant has marketed or sold, or plans to market or sell, under Applicant's Mark, and give the date of Applicant's first sale of each product.

ANSWER:

INTERROGATORY NO. 2.

For each product or service identified in response to Interrogatory No. 1, provide the annual dollar and unit sales volume from the first sale to the present.

ANSWER:

INTERROGATORY NO. 3.

For each product or service identified in response to Interrogatory No. 1, provide the annual marketing and advertising expenses for each type of advertising or promotion Applicant has used or plans to use.

ANSWER:

INTERROGATORY NO. 4.

Identify the channels of trade through which Applicant currently markets and/or intends to market each product or service identified in response to Interrogatory No. 1

ANSWER:

INTERROGATORY NO. 5.

Identify the classes or types of purchasers (i.e. retailers, wholesalers, etc.) to whom Applicant currently markets and/or intends to market each product and service identified in response to Interrogatory No. 1.

ANSWER:

INTERROGATORY NO. 6.

Identify all media (including, but not limited to, trade journals, newsletters, magazines, advertising, direct-mail, radio programs, television programs, trade shows, or conferences), in which Applicant has advertised each product and service identified in response to Interrogatory No. 1.

ANSWER:

INTERROGATORY NO. 7.

Identify the person(s) most knowledgeable about Applicant's conception, selection, adoption, and clearance of Applicant's Mark and state each person's role and responsibility and the duration of each person's involvement.

ANSWER:

INTERROGATORY NO. 8.

Identify the person(s) most knowledgeable about Applicant's registrations of, applications to register, or any attempt to register Applicant's Mark.

ANSWER:

INTERROGATORY NO. 9.

Identify the person(s) most knowledgeable about Applicant's use of Applicant's Mark.

ANSWER:

INTERROGATORY NO. 10.

Identify the person(s) most knowledgeable about Applicant's past, present and planned marketing, advertising, sales and use of each of the Applicant's products or services with which Applicant's Mark is or has been used, including the geographic scope of use and first use date in each geographic location.

ANSWER:

INTERROGATORY NO. 11.

State whether Applicant has or had received any opinion regarding the availability of Applicant's Mark for use and/or registration, and identify all documents relating thereto, including but not limited to all searches, studies, investigations, or surveys.

ANSWER:

INTERROGATORY NO. 12.

Describe with specificity any and all proceedings in the United States (e.g., lawsuits, oppositions, cancellations, etc.), between Applicant and any other entity (other than the present Opposer) which in any way involve Applicant's registration and/or use, or intended use, of Applicant's Mark.

ANSWER:

INTERROGATORY NO. 13.

Describe any formal or informal challenges or objections made by Applicant relating to any third-party's use or planned use of, or claimed rights in, Applicant's Mark or any similar mark, including the names and addresses of each person who made the objection and to whom the objection was directed, the date of the objection, the nature and circumstances surrounding the objection, and the identity of those with knowledge concerning the objection.

ANSWER:

INTERROGATORY NO. 14.

State whether Applicant or any person acting for or on behalf of Applicant has received any communication, oral or in writing, from any person which suggests, implies, or infers that Applicant may be connected or associated with Opposer or which comprises any inquiry as to whether there is or may be any such connection or association, or which evidences any such connection or association.

ANSWER:

INTERROGATORY NO. 15.

Describe with particularity the date and substance of any instances known or reported to Applicant of consumer confusion between Opposer's Marks and Applicant's Mark and identify the persons most knowledgeable about each instance of confusion.

ANSWER:

INTERROGATORY NO. 16.

Describe with particularity the relationship, whether legal, business, or otherwise, between Applicant and Shantou City Yongtong Crafts & Toys Co., Ltd., the owner of the CLOUD ROVER and Design trademark application filed with OHIM, Application No. 011312725, and identify the persons most knowledgeable about that relationship.

ANSWER:

INTERROGATORY NO. 17.

State the factual bases for Opposer's assertion in its Affirmative Defenses that "the mark LAND ROVER (Reg. No. 2860099) has been abandoned," and identify the persons most knowledgeable about those bases.

ANSWER:

INTERROGATORY NO. 18.

State the factual bases for Opposer's assertion in its Affirmative Defenses that "the mark RANGE ROVER (Reg. No. 2100825) has been abandoned," and identify the persons most knowledgeable about those bases.

ANSWER:

INTERROGATORY NO. 19.

State the factual bases for Opposer's assertion in its First Counter-Claim that "Opposer discontinued use of [the mark LAND ROVER (Reg. No. 2860099)] for 3 or more years and has no intent to resume such use," and identify the persons most knowledgeable about those bases.

ANSWER:

INTERROGATORY NO. 20.

State the factual bases for Opposer's assertion in its Second Counter-Claim that "Opposer discontinued use of [the mark RANGE ROVER (Reg. No. 2100825)] for 3 or more years and has no intent to resume such use," and identify the persons most knowledgeable about those bases.

ANSWER:

INTERROGATORY NO. 21.

Identify the person(s) most knowledgeable about Applicant's decision to file United States Patent and Trademark Office application number 85/867,803 based on use, and state all of the reasons why Applicant did so.

ANSWER:

INTERROGATORY NO. 22.

Identify the person(s) most knowledgeable about Applicant's decision to file United States Patent and Trademark Office application number 85/867,803 in block letters without any stylization, and state all of the reasons why Applicant did so.

ANSWER:

INTERROGATORY NO. 23.

Describe any formal or informal challenges or objections directed against Applicant, relating to Applicant's use or planned use of, or claimed rights in, Applicant's Mark, including the names and addresses of each person who made the objection and to whom the objection was directed, the date of the objection, the nature and circumstances surrounding the objection, and the identity of those with knowledge concerning the objection.

ANSWER:

INTERROGATORY NO. 24.

State whether any person or entity has entered into an agreement with Applicant regarding use and/or registration of Applicant's Mark, including, but not limited to, license agreements, distribution agreements, supply agreements, settlement agreements, coexistence agreements, assignments, and consents, and, if so, identify each such person or entity and the date of such agreement.

ANSWER:

INTERROGATORY NO. 25.

Identify all formal or informal investigations, studies, research, surveys, tests, or polls of any kind, including but not limited to trademark searches that Applicant has ever conducted or has knowledge of relating to any name or mark comprised in whole or in part of CLOUD ROVER and each person having knowledge relating thereto.

ANSWER:

INTERROGATORY NO. 26.

Identify each witness from whom Applicant intends to introduce testimony during its testimony period in this proceeding and state the substance of each witness' testimony.

ANSWER:

INTERROGATORY NO. 27.

Identify each person who supplied information used in answering the foregoing interrogatories and identify the answer(s) to which he or she supplied information.

ANSWER:

Respectfully submitted,

By:_____
Jennifer K. Ziegler

Attorneys/Agents for Opposer

Date: June 2, 2014

BROOKS KUSHMAN P.C.
1000 Town Center, 22nd Floor
Southfield, MI 48075
Phone: 248-358-4400
Fax: 248-358-3351

CERTIFICATE OF SERVICE

I certify that I served:

OPPOSER'S FIRST SET
OF INTERROGATORIES TO APPLICANT

On June 2, 2014 by First Class Mail to:

Shun C. Chen
LAW OFFICES OF SHUN C. CHEN
4521 Campus Drive # 324
Irvine, CA 92612-2621

Courtesy copy via email to: shunchen@att.net

Correspondent for Applicant

By:_____
Jennifer K. Ziegler

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

JAGUAR LAND ROVER LIMITED,	)	Opposition No. 91213584
	)	
Opposer,	)	
	)	Serial No. 85867803
v.	)	
	)	
TOYS TEKK CORPORATION,	)	
	)	
	)	
Applicant.	)	

OPPOSER'S FIRST REQUEST
FOR THE PRODUCTION OF DOCUMENTS
AND THINGS TO APPLICANT (1-34)

Pursuant to Fed. R. Civ. P. 34 and Rule 2.120 of the Trademark Rules of Practice, Opposer, Jaguar Land Rover Limited ("JLR"), submits these Requests to Applicant, Toys Tekk Corporation ("Toys Tekk"), and requests that Applicant respond to this request and produce the requested documents and things for inspection and copying at the offices of Opposer's counsel, Brooks Kushman P.C., 1000 Town Center, 22nd Floor, Southfield, Michigan 48075, subject to the below definitions and instructions, within thirty (30) days of service hereof.

For the convenience of the Board and the parties, Opposer requests that each Request be quoted in full immediately preceding the response.

CLAIMS OF PRIVILEGE

If any information responsive to any of the following Requests is withheld on the basis of privilege and/or work-product, the following information is requested with respect to any such refusal: (1) the privilege and/or work-product rule of law being relied upon; (2) the date the document was created; (3) the identity of the person or persons who created the document; (4)

the identity of the present custodian; (5) the addressee(s) and all other recipients of the document; (6) the subject matter of the document; and (7) the location of the document.

DEFINITION OF TERMS

These Requests are subject to the following definitions:

1. The term "person" or "individual" includes, but is not limited to, any natural person, corporation, partnership, sole proprietorship, or any other business or legal entity, or any employee, agent, or representative of the foregoing.

2. The term "identify," when referring to a person, means state the full name, last known home and business address, employer, and job title of such person.

3. The term "identify," when referring to a document, means state the general nature or type, the general subject matter, title, number of pages, date, author or originator, addressee or recipient, copy recipients, present depository or depositories, name and address of any person(s) having custody, and any other necessary basis for identification of such document.

4. The terms "Opposer" or "JLR" mean Jaguar Land Rover Limited, its predecessor or successor corporations, and any of its subsidiaries, divisions, affiliates, and present and former agents, employees, directors, officers, trustees, attorneys, representatives, research and development personnel, and any other person or entity acting in concert with or on behalf of Jaguar Land Rover Limited.

5. The terms "you," "your," or "Applicant" mean Toys Tekk Corporation, the Applicant in this action, its predecessor or successor corporations, and any of its subsidiaries, divisions, affiliates, foreign affiliates and present and former agents, employees, directors, officers, trustees, attorneys, representatives, licensors or licensees, suppliers, research and development personnel, and any other person or entity acting in concert with or on behalf of Toys Tekk Corporation or on whose behalf Toys Tekk Corporation is acting.

6. Whenever the Requests refer to "Opposer's Mark" or "Opposer's Marks," they refer to "LAND ROVER" and/or "RANGE ROVER" in block letters, in stylized form, or any other form.

7. Whenever the Requests refer to "Applicant's Mark," they refer to Applicant's "CLOUD ROVER" mark, and variations thereof, in block letters, in stylized form, or any other form.

8. The term "and" includes the term "or," and the term "or" includes the term "and."

9. The term "documents" refers to the broadest definition of document under the Federal Rules of Civil Procedure, including drawings, specification, memoranda, and information in computer-readable formats and stored on computer media including but not limited to mass storage devices such as floppy diskettes, hard disks, and also includes e-mail and other documents stored on computer media.

10. The singular of any word includes the plural and the plural of any word includes the singular.

DOCUMENT REQUESTS

DOCUMENT REQUEST NO. 1.

Representative documents and things that evidence, refer or relate to Applicant's marketing and sale, or Applicant's intended advertising, marketing and sale, of products under Applicant's Mark, including a representative sample of each product, label, sign, display, trade dress, wrapper, packaging, advertisement, point of sale material, and marketing material Applicant has used and plans to use in connection with Applicant's Mark.

RESPONSE:

DOCUMENT REQUEST NO. 2.

Representative documents and things identifying each good or service with which Applicant's Mark has been used, is now used, and is intended to be used from the date of first use to the present.

RESPONSE:

DOCUMENT REQUEST NO. 3.

All documents and things evidencing Applicant's first use date for all products with which Applicant's Mark has been and is now used.

RESPONSE:

DOCUMENT REQUEST NO. 4.

Representative documents and things evidencing each channel of trade through which Applicant's products are offered, and are intended to be offered, under or in connection with Applicant's Mark.

RESPONSE:

DOCUMENT REQUEST NO. 5.

All documents and things concerning trademark searches and investigations relating to Applicant's Mark conducted by or on behalf of Applicant, including search reports and search results.

RESPONSE:

DOCUMENT REQUEST NO. 6.

All documents and things concerning trademark searches and investigations relating to Opposer's Marks conducted by or on behalf of Applicant, including search reports and search results.

RESPONSE:

DOCUMENT REQUEST NO. 7.

All documents and things concerning any research, reports, surveys, investigations and studies conducted by or on behalf of Applicant relating to consumer or customer perception or market strength of Applicant's Mark.

RESPONSE:

DOCUMENT REQUEST NO. 8.

All documents and things concerning any research, reports, surveys, investigations and studies conducted by or on behalf of Applicant relating to customer perception or market strength of Opposer's Marks.

RESPONSE:

DOCUMENT REQUEST NO. 9.

All documents and things referring or relating to any and all formal or informal challenges or objections made by or directed against Applicant, relating to the use or planned use of, or claimed rights in, Applicant's Mark, including the names and addresses of each person who made the objection or to whom the objection was directed, the date of the objection, the

nature and circumstances surrounding the objection, and the identity of those with knowledge concerning the objection.

RESPONSE:

DOCUMENT REQUEST NO. 10.

All documents and things referring or relating in any way to how Applicant selected Applicant's Mark, including, but not limited to, any documents and things referring or relating to the person(s) with primary responsibility for such selection and the reason for such a selection.

RESPONSE:

DOCUMENT REQUEST NO. 11.

All documents and things concerning agreements between Applicant and third parties concerning others' use and/or registration of Applicant's Mark, or a trademark which is similar or identical to Applicant's trademark or design, including, but not limited to, license agreements, consent agreements, coexistence agreements, covenants not to sue, settlement agreements, and assignments.

RESPONSE:

DOCUMENT REQUEST NO. 12.

Representative documents and things of the price range, or the intended price range, for products sold or intended to be sold under or in connection with Applicant's Mark.

RESPONSE:

DOCUMENT REQUEST NO. 13.

All documents and things identifying the publications and broadcast media in which Applicant, or its retailers and licensees, have advertised, are advertising, or have planned to advertise any of Applicant's goods sold under or in connection with Applicant's Mark.

RESPONSE:

DOCUMENT REQUEST NO. 14.

Representative copies of Applicant's television commercials, radio scripts, and other media advertising not previously requested in which Applicant's Mark appear or are mentioned.

RESPONSE:

DOCUMENT REQUEST NO. 15.

Documents sufficient to identify each trade show and exposition attended by Applicant at which Applicant promoted the sale, or the intended sale, of any goods and/or services sold under or in connection with Applicant's Mark.

RESPONSE:

DOCUMENT REQUEST NO. 16.

Documents sufficient to identify each public relations firm, advertising agency, and management agency engaged by Applicant in connection with the sale and/or promotion, or the intended sale and/or promotion, of any goods and/or services sold under or in connection with Applicant's Mark.

RESPONSE:

DOCUMENT REQUEST NO. 17.

All documents that refer or relate to Applicant's decision to file United States Patent and Trademark Office application number 85/867,803, including but not limited to written correspondence in the form of letters, emails, etc.

RESPONSE:

DOCUMENT REQUEST NO. 18.

Documents sufficient to identify when Applicant first became aware of Opposer, as well as when and the circumstances under which Applicant first became aware of Opposer's Mark.

RESPONSE:

DOCUMENT REQUEST NO. 19.

All documents, including any written correspondence, in Applicant's possession referring and/or relating to Opposer, Opposer's Marks or Opposer's use of Opposer's Marks in connection with motor vehicles, motor vehicle parts and accessories, and toy vehicles.

RESPONSE:

DOCUMENT REQUEST NO. 20.

All documents that suggest actual confusion between Opposer's Marks and Applicant's Mark, including, but not limited to, misdirected mail and inquiries as to any affiliation or association with Opposer or Opposer's Marks or other communications and inquiries that refer to Opposer or Opposer's Marks.

RESPONSE:

DOCUMENT REQUEST NO. 21.

All documents and things regarding the websites and other Internet and/or online portals on which Applicant has advertised, marketed, promoted, rendered or sold Applicant's products and/or services in connection with Applicant's Mark or any variation thereof.

RESPONSE:

DOCUMENT REQUEST NO. 22.

All documents and things that support the factual bases for Opposer's assertion in its Affirmative Defenses that "the mark LAND ROVER (Reg. No. 2860099) has been abandoned," and that identify the persons most knowledgeable about those bases.

RESPONSE:

DOCUMENT REQUEST NO. 23.

All documents and things that support the factual bases for Opposer's assertion in its Affirmative Defenses that "the mark RANGE ROVER (Reg. No. 2100825) has been abandoned," and that identify the persons most knowledgeable about those bases.

RESPONSE:

DOCUMENT REQUEST NO. 24.

All documents and things that support the factual bases for Opposer's assertion in its First Counter-Claim that "Opposer discontinued use of [the mark LAND ROVER (Reg. No. 2860099)] for 3 or more years and has no intent to resume such use," and that identify the persons most knowledgeable about those bases.

RESPONSE:

DOCUMENT REQUEST NO. 25.

All documents and things that support the factual bases for Opposer's assertion in its Second Counter-Claim that "Opposer discontinued use of [the mark RANGE ROVER (Reg. No. 2100825)] for 3 or more years and has no intent to resume such use," and that identify the persons most knowledgeable about those bases.

RESPONSE:

DOCUMENT REQUEST NO. 26.

All Documents and things regarding any Internet domain names owned by Applicant that contain the words "CLOUD ROVER," or "CLOUDROVER," or any variation thereof.

RESPONSE:

DOCUMENT REQUEST NO. 27.

All documents and things sufficient to identify Applicant's annual advertising and promotional expenditures for products marketed or sold under or in connection with Applicant's Mark, or any variation thereof.

RESPONSE:

DOCUMENT REQUEST NO. 28.

Representative documents and things evidencing each class or type of purchasers to whom Applicant has marketed and offered, currently markets and offers, and intends to market and offer, each good Applicant's Mark has identified, now identifies, or will identify.

RESPONSE:

DOCUMENT REQUEST NO. 29.

All documents and things referring or relating to, or comprising, any plan Applicant has to expand use of Applicant's Mark.

RESPONSE:

DOCUMENT REQUEST NO. 30.

All documents sufficient to understand Applicant's corporate structure and any and all changes to such structure, including changes in ownership, from its inception to the present.

RESPONSE:

DOCUMENT REQUEST NO. 31.

All documents and things referring or relating to Shantou City Yongtong Crafts & Toys Co., Ltd., the owner of the CLOUD ROVER and Design trademark application filed with OHIM, Application No. 011312725, and that identify the persons most knowledgeable about those documents and things.

RESPONSE:

DOCUMENT REQUEST NO. 32.

All documents regarding Applicant's knowledge of Opposer's LAND ROVER and RANGE ROVER vehicles, including but not limited to the first date Applicant knew of such vehicles.

RESPONSE:

DOCUMENT REQUEST NO. 33.

All documents and things other than those produced in response to any of the foregoing requests upon which Applicant intends to rely in connection with this action.

RESPONSE:

DOCUMENT REQUEST NO. 34.

All documents and things not otherwise provided in answers to the interrogatories and document requests, which were referred to or relied upon to prepare the answers to the interrogatories and document requests.

RESPONSE:

Respectfully submitted,

By:_____
Jennifer K. Ziegler

Attorneys/Agents for Opposer

Date: June 2, 2014

BROOKS KUSHMAN P.C.
1000 Town Center, 22nd Floor
Southfield, MI 48075
Phone: 248-358-4400
Fax: 248-358-3351

CERTIFICATE OF SERVICE

I certify that I served:

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

On June 2, 2014 by First Class Mail to:

Shun C. Chen
LAW OFFICES OF SHUN C. CHEN
4521 Campus Drive # 324
Irvine, CA 92612-2621

Courtesy copy via email to: shunchen@att.net

Correspondent for Applicant

By:_____
Jennifer K. Ziegler

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

Jaguar Land Rover Limited,	)	
	)	
Opposer,	)	Serial No. **85867803**
	)	Opposition No. **91213584**
v.	)	
	)	
Toys Tekk Corporation,	)	
	)	
Applicant.	)	

RESPONSE TO OPPOSER'S INTERROGATORIES, SET NUMBER ONE

PROPOUNDED BY:	JAQUAR LAND ROVER LIMITED, Opposer
PROPOUNDED TO:	TOYS TEKK CORPORATION, Applicant
SET NUMBER:	ONE

INTERROGATORIES

INTERROGATORY NO. 1:

Identify each product or service that Applicant has marketed or sold, or plans to market or sell, under Applicant's Mark, and give the date of Applicant's first sale of each product.

RESPONSE TO INTERROGATORY NO. 1:

Objection: the use of first sale is ambiguous in the context. Without waiving said objection: Toy helicopters, first sold around January 2013..

INTERROGATORY NO. 2:

For each product or service identified in response to Interrogatory No. 1, provide the annual dollar and unit sales volume from the first sale to the present.

RESPONSE TO INTERROGATORY NO. 2:

Objection: Not relevant to this proceeding; scope not within opposer's claim and defense, pursuant FRCP 26(b)(1); burdensome and oppressive, trade secret, and confidential trade information.

INTERROGATORY NO. 3:

For each product or service identified in response to Interrogatory No. 1, provide the annual marketing and advertising expenses for each type of advertising or promotion Applicant has used or plans to use.

RESPONSE TO INTERROGATORY NO. 3:

Objection: Not relevant to this proceeding; scope not within opposer's claim and defense, pursuant FRCP 26(b)(1); burdensome and oppressive, trade secret, and confidential trade information.

INTERROGATORY NO. 4:

Identify the channels of trade through which Applicant currently markets and/or intends to market each product or service identified in response to Interrogatory No. 1.

RESPONSE TO INTERROGATORY NO. 4:

Objection: Not relevant to this proceeding; scope not within opposer's claim and defense, pursuant FRCP 26(b)(1); burdensome and oppressive, trade secret, confidential trade information. Without waiving said objection, wholesale and retail through Internet.

INTERROGATORY NO. 5:

Identify the classes or types of purchasers (i.e. retailers, wholesalers, etc.) to whom Applicant currently markets and/or intends to market each product and service identified in response to Interrogatory No. 1.

RESPONSE TO INTERROGATORY NO. 5:

Objection: Not relevant to this proceeding; scope not within opposer's claim and defense, pursuant FRCP 26(b)(1); burdensome and oppressive, trade secret, and confidential trade information. Without waiving said objection, wholesale and retail through Internet.

INTERROGATORY NO. 6:

Identify all media (including, but not limited to, trade journals, newsletters, magazines, advertising, direct-mail, radio programs, television programs, trade shows, or conferences), in which Applicant has advertised each product and service identified in response to Interrogatory No. 1.

RESPONSE TO INTERROGATORY NO. 6:

Objection: Not relevant to this proceeding; scope not within opposer's claim and defense, pursuant FRCP 26(b)(1); burdensome and oppressive, trade secret, and confidential trade information. Without waiving said objection, trade show, direct-mail, and Internet advertising.

INTERROGATORY NO. 7:

Identify the person(s) most knowledgeable about Applicant's conception, selection, adoption, and clearance of Applicant's Mark and state each person's role and responsibility and the duration of each person's involvement.

RESPONSE TO INTERROGATORY NO. 7:

Randy Cheng, officer of Applicant, through the relevant time to this proceeding, who can be contacted through Applicant's counsel.

INTERROGATORY NO. 8:

Identify the person(s) most knowledgeable about Applicant's registrations of, applications to register, or any attempt to register Applicant's Mark.

RESPONSE TO INTERROGATORY NO. 8:

Randy Cheng.

INTERROGATORY NO. 9:

Identify the person(s) most knowledgeable about Applicant's use of Applicant's Mark.

RESPONSE TO INTERROGATORY NO. 9:

Randy Cheng.

INTERROGATORY NO. 10:

Identify the person(s) most knowledgeable about Applicant's past, present and planned marketing, advertising, sales and use of each of the Applicant's products or services with which Applicant's Mark is or has been used, including the geographic scope of use and first use date in each geographic location.

RESPONSE TO INTERROGATORY NO. 10:

Randy Cheng.

INTERROGATORY NO. 11:

State whether Applicant has or had received any opinion regarding the availability of Applicant's Mark for use and/or registration, and identify all documents relating thereto, including but not limited to all searches, studies, investigations, or surveys.

RESPONSE TO INTERROGATORY NO. 11:

Objection: the phrase "opinion" is ambiguous in the context. Applicant searched the U.S. Trademark registration and found no prior use of the mark.

INTERROGATORY NO. 12:

Describe with specificity any and all proceedings in the United States (e.g., lawsuits, oppositions, cancellations, etc.), between Applicant and any other entity (other than the present

Opposer) which in any way involve Applicant's registration and/or use, or intended use, of Applicant's Mark.

RESPONSE TO INTERROGATORY NO. 12:

Objection: the use of "other entity" is overbraod, calling for speculation, and beyond the scope of this proceeding. Without waiving said objection, none other than this frivolous and oppressive proceeding.

INTERROGATORY NO. 13:

Describe any formal or informal challenges or objections made by Applicant relating to any third-party's use or planned use of, or claimed rights in, Applicant's Mark or any similar mark, including the names and addresses of each person who made the objection and to whom the objection was directed, the date of the objection, the nature and circumstances surrounding the objection, and the identity of those with knowledge concerning the objection.

RESPONSE TO INTERROGATORY NO. 13:

Objection: Not relevant to this proceeding; scope not within opposer's claim and defense, pursuant FRCP 26(b)(1); burdensome and oppressive, trade secret, and confidential trade information. Without waiving said objection, none.

INTERROGATORY NO. 14:

State whether Applicant or any person acting for or on behalf of Applicant has received any communication, oral or in writing, from any person which suggests, implies, or infers that Applicant may be connected or associated with Opposer or which comprises any inquiry as to whether there is or may be any such connection or association, or which evidences any such connection or association.

RESPONSE TO INTERROGATORY NO. 14:

Objection: Not relevant to this proceeding; scope not within opposer's claim and defense, pursuant FRCP 26(b)(1); burdensome and oppressive, trade secret, and confidential trade information. Without waiving said objection, none other than this opposer and any lawyer engaged thereby.

INTERROGATORY NO. 15:

Describe with particularity the date and substance of any instances known or reported to Applicant of consumer confusion between Opposer's Marks and Applicant's Mark and identify the persons most knowledgeable about each instance of confusion.

RESPONSE TO INTERROGATORY NO. 15:

None.

INTERROGATORY NO. 16:

Describe with particularity the relationship, whether legal, business, or otherwise, between Applicant and Shantou City Yongtong Crafts & Toys Co., Ltd., the owner of the CLOUD ROVER and Design trademark application filed with OHIM, Application No. 011312725, and identify the persons most knowledgeable about that relationship.

RESPONSE TO INTERROGATORY NO. 16:

Objection: Not relevant to this proceeding; scope not within opposer's claim and defense, pursuant FRCP 26(b)(1); burdensome and oppressive, trade secret, and confidential trade information.

INTERROGATORY NO. 17:

State the factual bases for Opposer's assertion in its Affirmative Defenses that "the mark LAND ROVER (Reg. No. 2860099) has been abandoned," and identify the persons most knowledgeable about those bases.

RESPONSE TO INTERROGATORY NO. 17:

Lack of use in the United States in the past 3 years.

INTERROGATORY NO. 18:

State the factual bases for Opposer's assertion in its Affirmative Defenses that "the mark RANGE ROVER (Reg. No. 2100825) has been abandoned," and identify the persons most knowledgeable about those bases.

RESPONSE TO INTERROGATORY NO. 18:

Lack of use in the United States in the past 3 years.

INTERROGATORY NO. 19:

State the factual bases for Opposer's assertion in its First Counter-Claim that "Opposer discontinued use of [the mark LAND ROVER (Reg. No. 2860099)] for 3 or more years and has no intent to resume such use," and identify the persons most knowledgeable about those bases.

RESPONSE TO INTERROGATORY NO. 19:

No such use is known to Applicant.

INTERROGATORY NO. 20:

State the factual bases for Opposer's assertion in its Second Counter-Claim that "Opposer discontinued use of [the mark RANGE ROVER (Reg. No. 2100825)] for 3 or more years and has no intent to resume such use," and identify the persons most knowledgeable about those bases.

RESPONSE TO INTERROGATORY NO. 20:

No such use is known to Applicant.

INTERROGATORY NO. 21:

Identify the person(s) most knowledgeable about Applicant's decision to file United States Patent and Trademark Office application number 851867,803 based on use, and state **all** of the reasons

why Applicant did so.

RESPONSE TO INTERROGATORY NO. 21:

Objection: this interrogatory is vague in terms of what it requests, and compound. Without waiving said objection. Randy Cheng, Applicant has every right to register a trademark in compliance with the law.

INTERROGATORY NO. 22:

Identify the person(s) most knowledgeable about Applicant's decision to file United States Patent and Trademark Office application number 85/867,803 in block letters without any stylization, and state all of the reasons why Applicant did so.

RESPONSE TO INTERROGATORY NO. 22:

Objection: argumentative, trade secret, ambiguous. Without waiving said objection, it is Applicant's judgment the application fairly represents the use.

INTERROGATORY NO. 23:

Describe any formal or informal challenges or objections directed against Applicant, relating to Applicant's use or planned use of, or claimed rights in, Applicant's Mark, including the names and addresses of each person who made the objection and to whom the objection was directed, the date of the objection, the nature and circumstances surrounding the objection, and the identity of those with knowledge concerning the objection.

RESPONSE TO INTERROGATORY NO. 23:

Objection: irrelevant, overbroad, assuming facts not in evidence, and oppressive. Without waiving said objection, none except monopolistic Opposer.

INTERROGATORY NO. 24:

State whether any person or entity has entered into an agreement with Applicant regarding

use and/or registration of Applicant's Mark, including, **but** not limited to, license agreements, distribution agreements, supply agreements, settlement agreements, coexistence agreements, assignments, and consents, and, if so, identify each such person or entity and the date of such agreement.

RESPONSE TO INTERROGATORY NO. 24:

Objection: irrelevant, oppressive, assuming facts not in evidence, and trade secret. Without waiving said objection, none.

INTERROGATORY NO. 25:

Identify all formal or informal investigations, studies, research, surveys, tests, or polls of any kind, including but not limited to trademark searches that Applicant has ever conducted or has knowledge of relating to any name or mark comprised in whole or in part of CLOUD ROVER and each person having knowledge relating thereto.

RESPONSE TO INTERROGATORY NO. 25:

Randy Cheng and Shun C. Chen, including knowledge of existing use in toy helicopter market and U.S. trademark office data base.

INTERROGATORY NO. 26:

Identify each witness from whom Applicant intends to introduce testimony during its testimony period in this proceeding and state the substance of each witness' testimony.

RESPONSE TO INTERROGATORY NO. 26:

Objection: attorney work product. Without waiving said objection, Randy Cheng, to testify the selection of mark and non-use by others in the relevant market.

INTERROGATORY NO. 27:

Identify each person who supplied information used in answering the foregoing

interrogatories and identify the answer(s) to which he or she supplied information.

RESPONSE TO INTERROGATORY NO. 27:

Randy Cheng, the development of the mark and the non-use by others.

Dated: July 1, 2014

Shun C. Chen
Attorney for Applicant

VERIFICATION

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) SS.

I, the undersigned, certify and declare that I have read the foregoing Response to Opposer's Interrogatories, Set Number 1, and know its contents. The statement following the box checked is applicable.

[ ] I am a party to this action. The matters stated in the document described above are true of my own knowledge and belief except as to those matters stated on information and belief, and as to those matters I believe them to be true.

[X] I am [ ] an officer [ ] a partner [X] an authorized agent of Toys Tekk Corporation, a party to this action, and am authorized to make this verification for and on its behalf, and I make this verification for that reason. I am informed and believe and on that ground allege that the matters stated in the document described above are true.

[ ] I am the attorney, or one of the attorneys for _____ _____, a party to this action. Such party is absent from the county where I or such attorneys have their offices and is unable to verify the document described above. For that reason, I am making this verification for and on behalf of that party. I am informed and believe and on that ground allege that the matters stated in said document are true.

Executed on July 1, 2014, at Los Angeles, California.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

7/2/2014

Randy Cheng

CERTIFICATE OF SERVICE

I, Shun C. Chen, hereby certify that I served the

APPLICANT'S RESPONSE TO OPPOSER'S INTERROGATORIES, SET NUMBER ONE; AND APPLICANT'S RESPONSE TO OPPOSER'S REQUEST FOR PRODUCTION OF DOCUMENTS, SET NUMBER ONE

in a sealed envelope, on July 5, 2014, by first-class mail, with postage fully affixed thereon, and deposited in the United States Postal Service Depository in Irvine, California, to

Brooks Kushman P.C.
1000 Town Center, 22nd Floor
Southfield, MI 48075

Courtesy copy served by e-mail.

This certificate of service is signed on July 5, 2014.

/Shun C. Chen/
Shun C. Chen

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

Jaguar Land Rover Limited,	)	
	)	
Opposer,	)	Serial No. **85867803**
	)	Opposition No. **91213584**
v.	)	
	)	
Toys Tekk Corporation,	)	
	)	
Applicant.	)	

OPPOSER'S DOCUMENT REQUESTS, SET NUMBER ONE

PROPOUNDED BY: JAQUAR LAND ROVER LIMITED, Opposer

PROPOUNDED TO: TOYS TEKK CORPORATION, Applicant

SET NUMBER: ONE

DOCUMENT REQUESTS

DOCUMENT REQUEST NO. 1:

Representative documents and things that evidence, refer or relate to Applicant's marketing and sale, or Applicant's intended advertising, marketing and sale, of products under Applicant's Mark, including a representative sample of each product, label, sign, display, trade dress, wrapper, packaging, advertisement, point of sale material, and marketing material Applicant has used and plans to use in connection with Applicant's Mark.

RESPONSE TO DOCUMENT REQUEST NO. 1:

Objection: Not relevant to this proceeding; scope not within opposer's claim and defense, pursuant FRCP 26(b)(1); burdensome and oppressive, trade secret, and confidential trade

information. Without waiving said objection, such document was filed with the Trademark office.

DOCUMENT REQUEST NO. 2:

Representative documents and things identifying each good or service with which Applicant's Mark has been used, is now used, and is intended to be used from the date of first use to the present.

RESPONSE TO DOCUMENT REQUEST NO. 2:

Objection: overbroad. Without waiving said objection, specimen filed with the U.S. Trademark Office.

DOCUMENT REQUEST NO. 3:

All documents and things evidencing Applicant's first use date for all products with which Applicant's Mark has been and is now used.

RESPONSE TO DOCUMENT REQUEST NO. 3:

Objection: overbroad. Without waiving said objection, specimen filed with the U.S. Trademark Office.

DOCUMENT REQUEST NO. 4:

Representative documents **and** things evidencing each channel of trade through which Applicant's products are offered, and are intended to be offered, under or in connection with Applicant's Mark.

RESPONSE TO DOCUMENT REQUEST NO. 4:

Objection: Not relevant to this proceeding; scope not within opposer's claim and defense, pursuant FRCP 26(b)(1); burdensome and oppressive, trade secret, confidential trade information. Without waiving said objection, such document was filed with the Trademark office.

DOCUMENT REQUEST NO. 5:

All documents and things concerning trademark searches and investigations relating to Applicant's Mark conducted by or on behalf of Applicant, including search reports and search results.

RESPONSE TO DOCUMENT REQUEST NO. 5:

Objection; this category of documents is no longer in responding party's possession, custody and control.

DOCUMENT REQUEST NO. 6:

All documents and things concerning trademark searches and investigations relating to Opposer's Marks conducted by or on behalf of Applicant, including search reports and search results.

RESPONSE TO DOCUMENT REQUEST NO. 6:

Objection; this category of documents is no longer in responding party's possession, custody and control.

DOCUMENT REQUEST NO. 7:

All documents and things concerning any research, reports, surveys, investigations and studies conducted by or on behalf of Applicant relating to consumer or customer perception or market strength of Applicant's Mark.

RESPONSE TO DOCUMENT REQUEST NO. 7:

Objection; this category of documents is no longer in responding party's possession, custody and control.

DOCUMENT REQUEST NO. 8:

All documents and things concerning any research, reports, surveys, investigations and studies conducted by or on behalf of Applicant relating to customer perception or market strength of

Opposer's Marks.

RESPONSE TO DOCUMENT REQUEST NO. 8:

Objection: Not relevant to this proceeding; scope not within opposer's claim and defense, pursuant FRCP 26(b)(1); burdensome and oppressive. Without waiving said objection, none.

DOCUMENT REQUEST NO. 9:

All documents and things referring or relating to any and all formal or informal challenges or objections made by or directed against Applicant, relating to the use or planned use of or claimed rights in, Applicant's Mark, including the names and addresses of each person who made the objection or to whom the objection was directed, the date of the objection, the nature and circumstances surrounding the objection, and the identity of those with knowledge concerning the objection.

RESPONSE TO DOCUMENT REQUEST NO. 9:

Objection: Not relevant to this proceeding; scope not within opposer's claim and defense, pursuant FRCP 26(b)(1); burdensome and oppressive. Without waiving said objection, none.

DOCUMENT REQUEST NO. 10:

All documents and things referring or relating in any way to how Applicant selected Applicant's Mark, including, but not limited to. any documents and things referring or relating to the person(s) with primary responsibility for such selection and the reason for such a selection.

RESPONSE TO DOCUMENT REQUEST NO. 10:

Objection: this request does not constitute a proper category of documents, and the second part of request is overbroad, exceeding the scope of this proceeding, burdensome, and harassment. Without waiving said objection, responding party does not keep such document because it is within public domain.

DOCUMENT REQUEST NO. 11:

All documents and things concerning agreements between Applicant and third parties concerning others' use and/or registration of Applicant's Mark, or a trademark which is similar or identical to Applicant's trademark or design, including, but not limited to, license agreements, consent agreements, coexistence agreements, covenants not to sue, settlement agreements, and assignments.

RESPONSE TO DOCUMENT REQUEST NO. 11:

Objection: Not relevant to this proceeding; scope not within opposer's claim and defense, pursuant FRCP 26(b)(1); burdensome and oppressive. Without waiving said objection, none.

DOCUMENT REQUEST NO. 12:

Representative documents and things of the price range, or the intended price range, for products sold or intended to be sold under or in connection with Applicant's Mark,

RESPONSE TO DOCUMENT REQUEST NO. 12:

Objection: Not relevant to this proceeding; scope not within opposer's claim and defense, pursuant FRCP 26(b)(1); burdensome and oppressive, confidential information, trade secret.

DOCUMENT REQUEST NO. 13:

All documents and things identifying the publications and broadcast media in which Applicant, or its retailers and licensees, have advertised, are advertising, or have planned to advertise any of Applicant's goods sold under or in connection with Applicant's Mark.

RESPONSE TO DOCUMENT REQUEST NO. 13:

Objection: Not relevant to this proceeding; scope not within opposer's claim and defense, pursuant FRCP 26(b)(1); overbroad, burdensome and oppressive. Without waiving said objection, responding party does not keep such document because it is in public domain.

DOCUMENT REQUEST NO. 14:

Representative copies of Applicant's television commercials, radio scripts, and other media advertising not previously requested in which Applicant's Mark appear or are mentioned.

RESPONSE TO DOCUMENT REQUEST NO. 14:

Objection: Not relevant to this proceeding; scope not within opposer's claim and defense, pursuant FRCP 26(b)(1); overbroad, burdensome and oppressive. Without waiving said objection, responding party does not keep such document because it is in public domain.

DOCUMENT REQUEST NO. 15:

Documents sufficient to identify each trade show and exposition attended by Applicant at which Applicant promoted the sale, or the intended sale, of any goods and/or services sold under or in connection with Applicant's Mark.

RESPONSE TO DOCUMENT REQUEST NO. 15:

Objection: Not relevant to this proceeding; scope not within opposer's claim and defense, pursuant FRCP 26(b)(1); overbroad, burdensome and oppressive. Without waiving said objection, responding party does not keep such document because it is in public domain.

DOCUMENT REQUEST NO. 16:

Documents sufficient to identify each public relations firm, advertising agency, and management agency engaged by Applicant in connection with the sale and/or promotion, or the intended sale and/or promotion, of any goods and/or services sold under or in connection with Applicant's Mark.

RESPONSE TO DOCUMENT REQUEST NO. 16:

Objection: Not relevant to this proceeding; scope not within opposer's claim and defense, pursuant FRCP 26(b)(1); overbroad, burdensome, oppressive, confidential information, and trade

secret.

DOCUMENT REQUEST NO. 17:

All documents that refer or relate to Applicant's decision to file United States Patent and Trademark Office application number 85/867,803, including but not limited to written correspondence in the form of letters, emails, etc.

RESPONSE TO DOCUMENT REQUEST NO. 17:

Objection: Not relevant to this proceeding; scope not within opposer's claim and defense, pursuant FRCP 26(b)(1); overbroad, burdensome, oppressive, confidential information, and trade secret. Without waiving said objections, responding party does not keep such documents.

DOCUMENT REQUEST NO. 18:

Documents sufficient to identify when Applicant first became aware of Opposer, as well as when and the circumstances under which Applicant first became aware of Opposer's Mark.

RESPONSE TO DOCUMENT REQUEST NO. 18:

Objection; all such documents originated from opposer's attorney's office.

DOCUMENT REQUEST NO. 19:

All documents, including any written correspondence, in Applicant's possession referring and/or relating to Opposer, Opposer's Marks or Opposer's use of Opposer's Marks in connection with motor vehicles, motor vehicle parts and accessories, and toy vehicles.

RESPONSE TO DOCUMENT REQUEST NO. 19:

Objection: Not relevant to this proceeding; scope not within opposer's claim and defense, pursuant FRCP 26(b)(1); overbroad, burdensome, and oppressive. Without waiving said objection, none.

DOCUMENT REQUEST NO. 20:

All documents that suggest actual confusion between Opposer's Marks and Applicant's Mark, including, **but** not limited to, misdirected mail and inquiries as to any affiliation or association with Opposer or Opposer's Marks or other communications and inquiries that refer to Opposer or Opposer's Marks.

RESPONSE TO DOCUMENT REQUEST NO. 20:

Objection: Not relevant to this proceeding; scope not within opposer's claim and defense, pursuant FRCP 26(b)(1); overbroad, burdensome, and oppressive. Without waiving said objection, none.

DOCUMENT REQUEST NO. 21:

All documents and things regarding the websites and other Internet and/or online portals on which Applicant has advertised, marketed, promoted, rendered or sold Applicant's products and/or services in connection with Applicant's Mark or any variation thereof.

RESPONSE TO DOCUMENT REQUEST NO. 21:

Objection: Not relevant to this proceeding; scope not within opposer's claim and defense, pursuant FRCP 26(b)(1); overbroad, burdensome, oppressive, confidential information, and trade secret. Without waiving said objection, all such documents are in public domain.

DOCUMENT REQUEST NO. 22:

All documents and things that support the factual bases for Opposer's assertion in its Affirmative Defenses that "the mark LAND ROVER (Reg. No. 2860099) has been abandoned," and that identify the persons most knowledgeable about those bases.

RESPONSE TO DOCUMENT REQUEST NO. 22:

Responding party does not have document in its possession, custody and/or control.

DOCUMENT REQUEST NO. 23:

All documents and things that support the factual bases for Opposer's assertion in its Affirmative Defenses that "the mark RANGE ROVER (Reg. No. 2100825) has been abandoned," and that identify the persons most knowledgeable about those bases.

RESPONSE TO DOCUMENT REQUEST NO. 23:

Responding party does not have document in its possession, custody and/or control.

DOCUMENT REQUEST NO. 24:

All documents and things that support the factual bases for Opposer's assertion in its First Counter-Claim that "Opposer discontinued use of [the mark LAND ROVER (Reg. No. 2860099)] for 3 or more years and has no intent to resume such use," and that identify the persons most knowledgeable about those bases.

RESPONSE TO DOCUMENT REQUEST NO. 24:

Responding party does not have document in its possession, custody and/or control.

DOCUMENT REQUEST NO. 25:

All documents and things that support the factual bases for Opposer's assertion in its Second Counter-Claim that "Opposer discontinued use of [the mark RANGE ROVER (Reg. No. 2100825)] for 3 or more years and has no intent to resume such use," and that identify the persons most knowledgeable about those bases.

RESPONSE TO DOCUMENT REQUEST NO. 25:

Responding party does not have document in its possession, custody and/or control.

DOCUMENT REQUEST NO. 26:

All Documents and things regarding any Internet domain names owned by Applicant that contain the words "CLOUD ROVER," or "CLOUDROVER," or any variation thereof.

RESPONSE TO DOCUMENT REQUEST NO. 26:

. Objection: Not relevant to this proceeding; scope not within opposer's claim and defense, pursuant FRCP 26(b)(1); overbroad, burdensome, and oppressive. Without waiving said objection, the documents are in public domain.

DOCUMENT REQUEST NO. 27:

All documents and things sufficient to identify Applicant's annual advertising and promotional expenditures for products marketed or sold under or in connection with Applicant's Mark, or any variation thereof.

RESPONSE TO DOCUMENT REQUEST NO. 27:

Objection: Not relevant to this proceeding; scope not within opposer's claim and defense, pursuant FRCP 26(b)(1); overbroad, burdensome, oppressive, trade secret, and confidential information.

DOCUMENT REQUEST NO. 28:

Representative documents and things evidencing each class or type of purchasers to whom Applicant has marketed and offered, currently markets and offers, and intends to market and offer, each good Applicant's Mark has identified, now identifies, or will identify.

RESPONSE TO DOCUMENT REQUEST NO. 28:

Objection: Not relevant to this proceeding; scope not within opposer's claim and defense, pursuant FRCP 26(b)(1); overbroad, burdensome, oppressive, trade secret, and confidential information.

DOCUMENT REQUEST NO. 29:

All documents and things referring or relating to, or comprising, any plan Applicant has to expand use of Applicant's Mark.

RESPONSE TO DOCUMENT REQUEST NO. 29:

Objection: Not relevant to this proceeding; scope not within opposer's claim and defense, pursuant FRCP 26(b)(1); overbroad, burdensome, oppressive, trade secret, confidential, and failed to identify a proper category.

DOCUMENT REQUEST NO. 30:

All documents sufficient to understand Applicant's corporate structure and any and all changes to such structure, including changes in ownership, from its inception to the present.

RESPONSE TO DOCUMENT REQUEST NO. 30:

Objection: Not relevant to this proceeding; scope not within opposer's claim and defense, pursuant FRCP 26(b)(1); overbroad, burdensome, oppressive, trade secret, and confidential information.

DOCUMENT REQUEST NO. 31:

All documents and things referring or relating to Shantou City Yongtong Crafts & Toys Co., Ltd., the owner of the CLOUD ROVER and Design trademark application filed with OHIM, Application No. 011312725, and that identify the persons most knowledgeable about those documents and things.

RESPONSE TO DOCUMENT REQUEST NO. 31:

Objection: Not relevant to this proceeding; scope not within opposer's claim and defense, pursuant FRCP 26(b)(1); overbroad, burdensome, oppressive, trade secret, and confidential information.

DOCUMENT REQUEST NO. 32:

All documents regarding Applicant's knowledge of Opposer's LAND ROVER and RANGE ROVER vehicles, including **but** not limited to the first date Applicant knew of such vehicles.

RESPONSE TO DOCUMENT REQUEST NO. 32:

Objection: all such documents originated from Opposer.

DOCUMENT REQUEST NO. 33:

All documents and things other than those produced in response to any of the foregoing requests upon which Applicant intends to rely in connection with this action.

RESPONSE TO DOCUMENT REQUEST NO. 33:

Objection: this request fails to identify a proper category and requests attorney work product.

DOCUMENT REQUEST NO. 34:

All documents and things not otherwise provided in answers to the interrogatories and document requests, which were referred to or relied upon to prepare the answers to the interrogatories and document requests.

RESPONSE TO DOCUMENT REQUEST NO. 34:

Objection: this request fails to identify a proper category and requests attorney work product.

Dated: July 1, 2014

Shun C. Chen
Attorney for Applicant

CERTIFICATE OF SERVICE

I, Shun C. Chen, hereby certify that I served the

APPLICANT'S RESPONSE TO OPPOSER'S INTERROGATORIES, SET NUMBER ONE; AND APPLICANT'S RESPONSE TO OPPOSER'S REQUEST FOR PRODUCTION OF DOCUMENTS, SET NUMBER ONE

in a sealed envelope, on July 5, 2014, by first-class mail, with postage fully affixed thereon, and deposited in the United States Postal Service Depository in Irvine, California, to

Brooks Kushman P.C.
1000 Town Center, 22nd Floor
Southfield, MI 48075

Courtesy copy served by e-mail.

This certificate of service is signed on July 5, 2014.

/Shun C. Chen/
Shun C. Chen

BROOKS | KUSHMAN
INTELLECTUAL PROPERTY AND
TECHNOLOGY RELATED CAUSES

Ernie L. Brooks
1942-2007

Brooks Kushman P.C.
1000 Town Center, Twenty-Second Floor
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September 18, 2014

Via Email Only:shunchen@att.net

Shun C. Chen
LAW OFFICES OF SHUN C. CHEN
4521 Campus Drive # 324
Irvine, CA 92612-2621

Re: *Jaguar Land Rover Limited v. Toys Tekk Corporation*
Opposition No. 91213584
Our File No.: LAND7344OC

Dear Shun:

I am writing regarding the responses of Applicant Toys Tekk Corporation ("Toys Tekk") to the First Set of Interrogatories and First Request for the Production of Documents, served by Opposer Jaguar Land Rover Limited ("JLR") on June 2, 2014. Toys Tekk asserts numerous objections on the grounds of relevance, privilege, the work product doctrine, trade secret, and/or confidentiality. Toys Tekk further claims that certain documents can be found elsewhere, such as that they were "filed with the Trademark Office" or are "in [the] public domain."

In accordance with TBMP § 523.01 and 37 CFR § 2.120(e), JLR hereby requests Toys Tekk to resolve its failure to respond fully to its interrogatories and to produce any documents responsive to JLR's requests. Toys Tekk's responses are insufficient, for the following reasons among others:

Interrogatory No. 16 and Responses to Doc. Requests 12, 16, 27-31, 34

Responsive answers have not been provided and responsive documents have not been produced. Applicant has made blanket objections, including that responsive information and documents are not relevant and/or are confidential or trade secrets. As a preliminary matter, Toys Tekk is reminded that, for the purpose of discovery, relevance is construed liberally. *See Varian Associates v. Fairfield-Noble Corp.*, 188 USPQ 581 (TTAB 1975); TBMP §402.01 ("A party may not, by limiting its own discovery and/or presentation of evidence on the case, thereby restrict another party's discovery in any way."). Furthermore, the TTAB advised in its scheduling notice dated November 20, 2013 that the Board's Standard Protective Order is in effect. That Order provides that a party may designate documents as "Confidential" or "Trade secret/commercial sensitive," and the appropriate limitations on dissemination of those

documents will apply. Therefore, there is no basis for Toys Tekk to withhold responsive documents that are claimed to contain trade secrets or confidential information. *See Red Wing Co. v. JM Smucker Co.*, 59 USPQ2d 1861, 1862 (TTAB 2001) (recognizing that a protective agreement is adequate to protect against disclosure of trade secrets and confidential information).

Responses to Doc. Requests 1-4, 10, 13-15, 21, 26

Responsive documents have not been produced. The fact that responsive documents might be found elsewhere does not obviate the requirement to produce them in response to a document request.

Responses to Doc. Requests 5-7, 17, 22-25

Responsive documents have not been produced. Applicant has failed to identify the current location of responsive documents and has failed in its obligation to make a good faith search to locate responsive documents.

A motion to compel is warranted where the opposing party has made improper objections to discovery requests. See, e.g., *Fidelity Prescriptions, Inc. v. Medicine Chest Discount Centers, Inc.*, 191 USPQ 127, 128 (TTAB 1976) (party may file motion to compel if it believes objections to discovery requests to be improper). If Toys Tekk does not provide a written response on the foregoing matters and supplement its discovery responses by September 23, 2014, JLR will be forced to file a motion to compel. I look forward to hearing from you so that we can resolve this matter.

Very truly yours,

BROOKS KUSHMAN P.C.

Jennifer K. Ziegler

Jennifer K. Ziegler

From: Shun Chen <shunchen@att.net>
Sent: Tuesday, September 23, 2014 7:31 PM
To: Jennifer K. Ziegler
Subject: Re: Jaguar Land Rover v. Toys Tekk

Hi Jennifer, you did not mention in your letter, that my client provided responses and objections on July 5, 2014. After two and half months, you want us to respond to your concern in 3 days. I have trial and other urgent tasks this week, and my client is busy on pre-Christmas shipments.

Also you failed to cite any authority why our client's sales data are relevant in this proceeding, as we properly objected to. The only issue in this proceeding on your client's opposition, is the likelihood of confusion, it does not matter our client sold one unit or a trillion units.

In any event, I am willing to schedule an appointment, in two weeks, to discuss this issue with our client and maybe to produce certain sample sales to quest your curiosity.

Shun

(949) 689-5439

On Thursday, September 18, 2014 12:12 PM, Jennifer K. Ziegler <jziegler@brookskushman.com> wrote:

Shun,

Please see the attached letter regarding Toys Tekk's need to supplement its discovery responses.

Best regards,

Jennifer

Jennifer K. Ziegler
Senior Trademark Attorney
BROOKS KUSHMAN
1000 Town Center, 22nd Floor | Southfield, MI 48075
Direct: (248) 226-2817 | Main: (248) 358-4400 | Fax: (248) 358-3351
jziegler@BrooksKushman.com | **www.BrooksKushman.com**

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