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

Proceeding	91214492
Party	Plaintiff Under Armour, Inc.
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Submission	Motion to Compel Discovery
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Date	07/17/2014
Attachments	20140717131719 ua armor & glory motion to compel discovery responses with exhibits.pdf(1344078 bytes)

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

UNDER ARMOUR, INC., Opposer, v. ARMOR & GLORY LLC, Applicant.	Opposition No. 91214492 Serial No.: 85/844,392 Mark: ARMOR & GLORY Filing Date: February 8, 2013

OPPOSER'S MOTION TO COMPEL DISCOVERY RESPONSES

Pursuant to 37 C.F.R. § 2.120, Opposer, Under Armour, Inc. ("Under Armour"), through its counsel, hereby requests an order compelling responses to Under Armour's First Set of Interrogatories and First Set of Requests for the Production of Documents and Things, without objections. Such an order is appropriate because Applicant has failed to respond to Under Armour's First Set of Interrogatories and First Set of Requests for the Production of Documents and Things. Despite repeated efforts to seek to resolve this matter in good faith, counsel for Armor & Glory LLC ("Applicant") has ignored such attempts and, accordingly, such efforts have been unsuccessful.

BACKGROUND

On January 15, 2014, Under Armour filed a Notice of Opposition against Application Serial No. 85844392 for the mark ARMOR & GLORY. Dkt. No. 1.

On January 15, 2014, the Board instituted this proceeding and set discovery to open on March 26, 2014. Dkt. No. 2.

On February 24, 2014, Applicant filed its Answer[1]. Dkt. No. 3.

[1] Applicant's Answer incorporated a Motion for a More Definite Statement.

On March 5, 2014, Under Armour filed a Motion to Strike Applicant's Affirmative Defenses and an Opposition to Applicant's Motion for a More Definite Statement. Dkt. Nos. 5 and 6.

On March 26, 2014, Under Armour served its First Set of Interrogatories, First Set of Requests for the Production of Documents and Things, and First Request for Admissions on Applicant. Copies of Under Armour's First Set of Interrogatories and First Set of Requests for the Production of Documents and Things are attached hereto as Exhibits A and B, respectively.

On April 22, 2014, the Board granted Under Armour's Motion to Strike Affirmative Defenses and denied Applicant's Motion for a More Definite Statement, and reset the discovery and trial schedule. Dkt. No. 8. Per the new schedule, discovery was set to open on May 12, 2014. *Id.*

On May 20, 2014, counsel for Under Armour sent an email to Marcus Bivines, counsel for Applicant, confirming that Applicant's responses to Under Armour's discovery would be due on or before June 11, 2014, even though the discovery requests had been timely served in accordance with the Board's initial schedule that was issued on January 15, 2014. *See* Declaration of Aaron Y. Silverstein, July 17, 2014 ("Silverstein Decl."), ¶ 4; Silverstein Decl. Ex. A.

To date, Applicant has not served responses to Under Armour's First Set of Interrogatories or First Set of Requests for the Production of Documents and Things, nor has Applicant requested additional time to respond to such requests. Silverstein Decl. ¶ 5.

Counsel for Under Armour left voicemail messages for Mr. Bivines on June 9, 11, 16, and 18, 2014. Silverstein Decl. ¶ 6. Mr. Bivines has not returned any of these messages. *Id.*

Counsel for Under Armour sent emails to Mr. Bivines on May 20 and 21, and June 4, 9, 11, and 18, 2014. Silverstein Decl. ¶ 7; Silverstein Decl. Ex. B.

The only response counsel for Under Armour has received from Mr. Bivines in connection with the above-referenced voicemails and emails, was a single email on June 10, 2014, stating that Mr. Bivines would call counsel for Under Armour on June 10, 2014. Silverstein Decl. ¶ 8; Silverstein

Decl. Ex. C. Counsel for Under Armour never received a call from Mr. Bivines on June 10, 2014. *Id.* at ¶ 9.

On July 2, 2014, counsel for Under Armour sent a letter to Mr. Bivines, via email and UPS, in a final effort to resolve the current discovery issues. Silverstein Decl. ¶ 10; Silverstein Decl. Ex. D. To date, Mr. Bivines has not responded to the July 2, 2014, letter. *Id.*

Pursuant to Trademark Rule 2.120(e), Under Armour submits that it has made a good faith effort to resolve with Applicant the issues presented in the motion. As detailed above, counsel for Under Armour has made numerous attempts to communicate with counsel for Applicant, all to no avail.

APPLICANT HAS FORFEITED ITS RIGHT TO OBJECT

The Trademark Trial and Appeal Board Manual of Procedure provides that a party that fails to respond to discovery interrogatories or document requests during the time allowed therefor, and that is unable to show that its failure was the result of excusable neglect, may be found, upon motion to compel filed by the propounding party, to have forfeited its right to object to discovery on the merits. *See* TBMP §403.03, citing *No Fear Inc. v. Rule*, 54 USPQ2d 1551, 1554 (TTAB 2000) (stating that the Board has great discretion in determining whether such forfeiture should be found); *Envirotech Corp. v. Compagnie Des Lampes*, 219 USPQ 448, 449 (TTAB 1979) (excusable neglect not shown where opposer was out of the country and, upon return, failed to ascertain that responses were due); *Crane Co. v. Shimano Industrial Co.*, 184 USPQ 691, 691 (TTAB 1975) (waived right to object by refusing to respond to interrogatories, claiming that they served "no useful purpose").

Applicant's discovery responses were due, at the latest, on June 11, 2014. To date, Applicant has not served responses to Under Armour's discovery requests, nor has Applicant sought an extension to serve its responses.

Accordingly, Under Armour respectfully requests that the Board order Applicant to fully respond to Under Armour's First Set of Interrogatories and First Requests for the Production of Documents, without objections, and to produce responsive documents at Under Armour's counsel's office, at Applicant's cost, within twenty (20) days from the mailing date of the Board's order on this motion.

Dated: July 17, 2014

By: /s/Aaron Y. Silverstein

Aaron Y. Silverstein
Saunders & Silverstein LLP
14 Cedar Street, Ste. 224
Amesbury, MA 01913
Telephone: 978-463-9130
Facsimile: 978-463-9109
Email: asilverstein@massiplaw.com

Attorneys for Opposer
UNDER ARMOUR, INC.

CERTIFICATE OF SERVICE

I certify that on July 17, 2014, a true and accurate copy of the foregoing **OPPOSER'S MOTION TO COMPEL DISCOVERY RESPONSES**, and all exhibits thereto, was served by first class mail, postage prepaid, upon counsel for Applicant:

Marcus J Bivines
303 S Peters Avenue
Norman, OK 73069

/s/Aaron Y. Silverstein
Aaron Y. Silverstein

EXHIBIT A

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

UNDER ARMOUR, INC., Opposer, v. ARMOR & GLORY LLC, Applicant.	Opposition No. 91214492 Serial No.: 85/844,392 Mark: ARMOR & GLORY Filing Date: February 8, 2013

OPPOSER'S FIRST SET OF INTERROGATORIES

Pursuant to Rule 33 of the Federal Rules of Civil Procedure and Rules 2.116 and 2.120 of the Trademark Rules of Practice, Under Armour, Inc. ("Opposer") requests that Applicant Armor & Glory LLC ("Applicant") serve upon Opposer sworn answers to the interrogatories set forth below within thirty (30) days after the service hereof. These interrogatories are intended to be continuing in nature and any information that may be discovered subsequent to the service of the answers 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.

DEFINITIONS AND INSTRUCTIONS

A. The following definitions apply to all of Opposer's discovery requests:

(1) "Communication" means the transmittal of information (in the form of facts, ideas, inquiries, or otherwise).

(2) "Document" is defined to be synonymous in meaning and equal in scope to the usage of this term in Federal Rule of Civil Procedure 34(a) and shall mean any and all

information in tangible or other form, whether printed, typed, recorded, computerized, filmed, reproduced by any process, or written or produced by hand, and whether an original, draft, master, duplicate or copy, or notated version thereof, that is in Applicant's possession, custody, or control. A draft or non-identical copy is a separate document within the meaning of this term.

(3) "Person" is defined as any natural person or any business, legal, or governmental entity or association.

(4) In reference to a person, "to identify" means to state, to the extent known, the person's full name, present or last known business address, and when referring to a natural person, additionally, the present or last known home address, and present or last-known title, position, and business affiliation. Once a person has been identified in accordance with this subparagraph, only the name of that person need be listed in response to subsequent discovery requesting the identification of that person.

(5) In reference to documents, "to identify" means to state, to the extent known, the (i) type of document; (ii) general subject matter; (iii) date of the document; and (iv) author(s), address(ees), and recipient(s).

(6) The term "state" or "state all facts" means to state all facts discoverable under Fed. R. Civ. P. 26(b) that are known to Applicant. When used in reference to a contention, "state," "state all facts," "identify all documents," and "identify all communications" shall include all facts, documents, and communications negating as well as supporting the contention. When used in reference to a contention, "identify each person" shall include persons having knowledge of facts negating, as well as supporting, the contention.

(7) The terms "Opposer" and "Applicant" as well as a party's full or abbreviated name (i.e., "Under Armour" or "Armor & Glory"), or a pronoun referring to a party, mean the party and, where applicable, its officers, directors, employees, partners, corporate parent, predecessors in

interest, successors in interest, licensees, franchisees, U.S. importers, U.S. distributors, subsidiaries, and affiliates. This definition is not intended to impose a discovery obligation on any person who is not a party to the cancellation proceeding.

(8) "Regarding" or "referring or relating to" means constituting, comprising, concerning, regarding, mentioning, containing, setting forth, showing, disclosing, describing, explaining, summarizing, evidencing, discussing, either directly or indirectly, in whole or in part, and should be given the broadest possible scope consistent with the Federal Rules of Civil Procedure.

(9) "Commerce" signifies commerce that the U.S. Congress may lawfully regulate. The phrase "use in commerce" is defined in Section 45 of the Trademark Act, 15 U.S.C. §1127, to mean that a mark shall be deemed to be in use in commerce "(1) on goods when (A) it is placed in any manner on the goods or their containers or the displays associated therewith or on the tags or labels affixed thereto, or if the nature of the goods makes such placement impracticable, then on documents associated with the goods or their sale, and (B) the goods are sold or transported in commerce, and (2) on services when it is used or displayed in the sale or advertising of services and the services are rendered in commerce, or the services are rendered in more than one State or in the United States and a foreign country and the person rendering the services is engaged in commerce in connection with the services."

(10) "Mark" means any trademark, trade name, commercial name, service mark, collective mark, certification mark, domain name, and other indicators covered by 15 U.S.C. § 1127, including all designations used to identify or distinguish one's goods and/or services.

(11) "Opposer's ARMOUR Marks" or "ARMOUR Marks" refers, individually, and collectively, to Opposer's UNDER ARMOUR, ARMOUR, and ARMOUR-family of names and marks identified in Opposer's Notice of Opposition.

(12) "Applicant's Mark(s)" refers to the mark ARMOR & GLORY in any form, including but not limited to as shown in U.S. Application Serial No.: 85/844,392, and any other mark comprised of or containing the term "ARMOR," "ARMOUR," or any variation thereof.

(13) "Products" refers to both goods and services.

(14) "Opposer's Products" refers to the products/services listed in Opposer's applications/registrations for, and offered in connection with, Opposer's ARMOUR Marks, including those identified in Opposer's Notice of Opposition.

(15) "Applicant's Products" refers to all products with which Applicant uses, has used, and/or ever intended to use Applicant's Mark(s), including but not limited to athletic apparel, namely, shirts, pants, jackets, footwear, hats and caps, athletic uniforms, and all other products/services identified in response to Interrogatory No. 4 below.

B. The following rules of construction shall apply to all of Opposer's discovery requests:

(1) The terms "all" and "each" shall be constructed as all and each.

(2) The connectives "and" and "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside its scope.

(3) The use of the singular form of any word shall include within its meaning the plural form of the word, and vice versa.

(4) The use of the masculine form of a pronoun shall include also within its meaning the feminine form of the pronoun so used, and vice versa.

(5) The use of any tense of any verb shall include also within its meaning all other tenses of the verb so used.

C. No part of an interrogatory can be left unanswered merely because an objection is interposed to another part of the interrogatory.

D. Where an objection is made to any discovery request, or sub-part thereof, state with specificity all grounds for the objection. Any ground not stated in an objection within the time provided by the Federal Rules of Civil Procedure, or any extensions thereof, is waived.

E. Where a claim of privilege or work product is asserted in objecting to an interrogatory or document request, or sub-part thereof, and an answer is not provided on the basis of such assertion, the attorney asserting the privilege must in the objection to the interrogatory or document request, or sub-part thereof, identify the nature of the privilege being claimed; and provide the following information, unless divulgence of the information would cause disclosure of the allegedly privileged information:

(1) For documents:

(a) the type of document;

(b) general subject matter of the document;

(c) the date of the document; and

(d) such other information as is sufficient to identify the document for a subpoena duces tecum, including the author of the document, the addressee of the document, and the relationship of the author to the addressee.

(2) For oral communications:

(a) the name of the person making the communication, the names of persons present while the communication was made, and the relationship of these persons;

(b) the date and place of communication; and

(c) the general subject matter of the communication.

F. If Applicant finds the meaning of any discovery request to be unclear, Applicant should assume a reasonable meaning, state what that meaning is, and respond to the request according to the assumed meaning.

G. Documents and things should be consecutively numbered and the numbers should be preceded by a prefix identifying the documents and electronically stored information originating from Applicant.

INTERROGATORIES

INTERROGATORY NO. 1

Identify all marks that Applicant has used or registered (and/or ever intended to use or register) comprised of or incorporating the term "ARMOR," or any variation thereof, including but not limited to "ARMOUR."

INTERROGATORY NO. 2

Describe in detail the circumstances surrounding the selection and clearance of Applicant's Mark(s) including but not limited to the reason(s) Applicant selected the mark(s), the reason for using the word ARMOR, all persons involved in the selection and clearance of the mark(s), and all other marks considered.

INTERROGATORY NO. 3

Describe in detail the circumstances under which Applicant first became aware of Opposer, Opposer's ARMOUR Marks, and/or Opposer's Products, including but not limited to the date when Applicant became aware of each of the foregoing, and the person(s) most knowledgeable of the foregoing.

INTERROGATORY NO. 4

Identify each product ever promoted, offered, or sold in connection with Applicant's Mark(s).

INTERROGATORY NO. 5

State the time period(s) in which Applicant's Mark(s) have been used for each of Applicant's Products, including the date of first use anywhere and date of first use in commerce.

INTERROGATORY NO. 6

Describe the classes of purchasers to whom Applicant has marketed or sold and/or intends to market or sell each of Applicant's Products.

INTERROGATORY NO. 7

Describe all instances of confusion or mistake between the parties, their marks, and/or their products.

INTERROGATORY NO. 8

Describe in detail all inquiries/comments that Applicant has received from third parties regarding Under Armour, including without limitation its marks, products, stores, and websites.

INTERROGATORY NO. 9

Describe in detail all investigations, studies, surveys, or reports conducted by or on behalf of Applicant relating to the parties' marks or products at issue in this proceeding.

INTERROGATORY NO. 10

Identify all investigations and searches concerning the availability of Applicant's Mark(s), including but not limited to the date on which such investigations and searches were conducted, who conducted such investigations and searches, and the tools and/or methods used.

INTERROGATORY NO. 11

Identify all types of media (*e.g.*, social media, newspapers, magazines, trade journals, direct mail, radio, television, and the Internet) in which Applicant has advertised and/or has ever intended to advertise each of Applicant's Products.

INTERROGATORY NO. 12

Identify all unsolicited media articles and publicity regarding in any way Applicant's Products.

INTERROGATORY NO. 13

Identify all outlets and websites through which Applicant's Products have been sold or were ever intended to be sold.

INTERROGATORY NO. 14

State Applicant's annual advertising and promotional expenses for each of Applicant's Products and

describe the method used to calculate those expenses.

INTERROGATORY NO. 15

For each of Applicant's Products, identify:

a) the price for each product; and

b) the annual sales in units and dollar volume for each product.

INTERROGATORY NO. 16

Describe in detail any trademarks that Applicant will rely on in any way in this case.

INTERROGATORY NO. 17

State all facts that support Applicant's contention that on January 24, 2013, it was using the ARMOR & GLORY mark on all the goods identified in Application Serial No. 85/844,392.

INTERROGATORY NO. 18

State all facts that support Applicant's contention that on February 4, 2013, it was using the ARMOR & GLORY mark in commerce on all of the goods identified in Application Serial No. 85/844,392.

INTERROGATORY NO. 19

State all facts that support Applicant's contention that on February 8, 2013, it was using the ARMOR & GLORY mark in commerce on all of the goods identified in Application Serial No. 85/844,392.

Dated: March 26, 2014

By: /s/Aaron Y. Silverstein

Aaron Y. Silverstein
Saunders & Silverstein LLP
14 Cedar Street, Suite 224
Amesbury, MA 01913
Tel.: (978) 463-9130
Email: asilverstein@massiplaw.com

Attorneys for Opposer
UNDER ARMOUR, INC.

CERTIFICATE OF SERVICE

I hereby certify that on March 26, 2014, a true and complete copy of the foregoing **OPPOSER'S FIRST SET OF INTERROGATORIES**, has been served on Applicant's counsel of record, as set forth below, via first class mail, postage pre-paid to:

Marcus J Bivines
303 S Peters Avenue
Norman, OK 73069

/s/Aaron Y. Silverstein
Aaron Y. Silverstein

EXHIBIT B

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

UNDER ARMOUR, INC., Opposer, v. ARMOR & GLORY LLC, Applicant.	Opposition No. 91214492 Serial No.: 85/844,392 Mark: ARMOR & GLORY Filing Date: February 8, 2013

OPPOSER'S FIRST SET OF REQUESTS FOR THE PRODUCTION OF DOCUMENTS AND THINGS

Pursuant to Rule 34 of the Federal Rules of Civil Procedure and Rules 2.116 and 2.120 of the Trademark Rules of Practice, Opposer Under Armour, Inc. ("Opposer") serves this First Set of Requests for the Production of Documents and Things on Armor & Glory LLC ("Applicant") and requests that Applicant produce the requested documents at the offices of Opposer's counsel, Saunders & Silverstein LLP, 14 Cedar Street, Suite 224, Amesbury, Massachusetts 01913 within thirty (30) days of service.

For the convenience of the Board and the parties, Applicant requests that each document request be quoted in full immediately preceding the response.

DEFINITIONS AND INSTRUCTIONS

Opposer incorporates by reference the definitions and instructions set forth in Opposer's First Set of Interrogatories.

REQUESTS FOR THE PRODUCTION OF DOCUMENTS AND THINGS

REQUEST NO. 1

All documents identified or requested to be identified in Opposer's First Set of Interrogatories.

REQUEST NO. 2

All documents referring or relating to Opposer's conception, selection, adoption, and clearance of Applicant's Mark(s), including but not limited to all communications, surveys, searches, studies, research, investigations, reports, polls, and opinions.

REQUEST NO. 3

Documents sufficient to identify all other marks (other than Applicant's Mark(s)) ever considered for Applicant's Products.

REQUEST NO. 4

Documents sufficient to show or identify each of Applicant's Products.

REQUEST NO. 5

Documents referring or relating to Applicant's date of first use anywhere and date of first use in commerce of Applicant's Mark(s) for each of Applicant's Products.

REQUEST NO. 6

Documents sufficient to identify the nature, identity, and characteristics of each class or type of purchaser to whom Applicant currently markets, offers, or sells; has marketed, offered, or sold; and ever intended to market, offer, and sell Applicant's Products.

REQUEST NO. 7

Representative advertising, promotional, and marketing materials in each media utilized (*e.g.*, print, television, radio, Internet, direct mail, billboards) featuring, displaying, and/or containing Applicant's Mark(s), including in connection with each of Applicant's Products.

REQUEST NO. 8

Documents sufficient to show all forms in which Applicant's Mark(s) has been depicted, displayed, or used, including but not limited to all designs, stylizations, and/or logos.

REQUEST NO. 9

Representative press releases, articles, and clippings regarding Applicant's Mark(s) and/or Applicant's Products.

REQUEST NO. 10

To the extent not already produced in response to other requests, representative unsolicited media articles and publicity regarding in any way Applicant's Marks and/or Applicant's Products.

REQUEST NO. 11

To the extent not already produced in response to other requests, representative labels, packaging, advertising and promotional materials, and sales literature showing Applicant's Mark(s) or regarding Applicant's Products.

REQUEST NO. 12

Documents sufficient to identify all websites, blogs, and social media accounts owned or operated by or on behalf of Applicant that contain or display Applicant's Mark(s) or refer or relate to Applicant's Products, and representative pages from each such website(s), blog(s), or social media account(s) showing Applicant's Mark(s) or Products.

REQUEST NO. 13

Documents sufficient to show all media (*e.g.*, newspapers, magazines, radio, television, Internet) in which Applicant has advertised or promoted Applicant's Mark(s) and/or Applicant's Products, including but not limited to media schedules and advertising plans.

REQUEST NO. 14

All documents comprising, referring, or relating to trademark searches, reports, research, or investigations concerning Applicant's Mark(s).

REQUEST NO. 15

All documents referring or relating to, any communications, research, investigations, reports, polls, surveys, opinions, or studies regarding consumer or customer perception of Applicant's Mark(s).

REQUEST NO. 16

All documents referring or relating to objections Applicant has made to any third party's use and/or registration of any marks, names, or designations comprised of or incorporating the term "ARMOR," "ARMOUR," or any variations thereof.

REQUEST NO. 17

All documents referring or relating to objections Applicant has made against third parties based on Applicant's Mark(s), in whole or in part.

REQUEST NO. 18

All documents referring or relating to objections Applicant has received from any third party regarding the use and/or registration of Applicant's Mark(s).

REQUEST NO. 19

All documents in Applicant's possession, custody, or control that refer or relate to Opposer, Opposer's ARMOUR Marks, and/or any of Opposer's Products.

REQUEST NO. 20

All documents referring or relating to all communications, investigations, surveys, searches, studies, research, reports, polls, focus groups, or opinions concerning actual confusion or the likelihood of confusion by or between the parties, their marks, and/or their products.

REQUEST NO. 21

All documents referring or relating to any and all instances in which a person has confused the parties, their marks, and/or their products.

REQUEST NO. 22

All documents comprised of or referring or relating to all inquires/comments Applicant has received regarding Opposer, any of Opposer's ARMOUR Marks, and/or any of Opposer's products.

REQUEST NO. 23

Documents sufficient to identify the annual sales in units and dollars of each of Applicant's Products.

REQUEST NO. 24

Documents sufficient to identify the annual advertising and promotional expenditures for each of Applicant's Products.

REQUEST NO. 25

All documents referring or relating to Applicant's U.S. Application Serial No.: 85/844,392, including, but not limited to, all documents referring or relating to the prosecution of such application before the U.S. Patent and Trademark Office.

REQUEST NO. 26

All documents referring or relating to all judicial and administrative proceedings in any forum, including but not limited to the U.S. Patent and Trademark Office, federal court, state court, agency or other forum, involving or relating to Applicant's Mark(s), other than this proceeding.

REQUEST NO. 27

All documents referring or relating to the circumstances under which Applicant first became aware of Opposer, Opposer's ARMOUR Marks, and/or any of Opposer's Products, including the date

when and how Applicant became aware of the foregoing and the persons most knowledgeable about the foregoing.

REQUEST NO. 28

Documents sufficient to identify all outlets through which Applicant's Products have been offered or sold, are offered or sold, and/or have ever been intended to be offered or sold.

REQUEST NO. 29

All documents in Applicant's possession, custody, or control that refer or relate to any third-party use or registration of any mark comprised of or incorporating the term "ARMOR," "ARMOUR," or any variations thereof.

REQUEST NO. 30

All documents evidencing, reflecting, or supporting the allegations, affirmative defenses, and denials in Applicant's Answer to Opposer's Notice of Opposition in this case.

REQUEST NO. 31

To the extent not already produced in response to these requests, all documents identified and referenced in Applicant's initial disclosures.

REQUEST NO. 32

All documents referring or relating to any comparison between Applicant and Under Armour (including but not limited to similarities or differences in their marks and/or products).

REQUEST NO. 33

All documents not already provided in response to these Requests upon which Applicant will rely in this proceeding.

REQUEST NO. 34

All documents or other material relating to, or evidencing, Applicant's use of the ARMOR & GLORY mark on January 24, 2013, on shirts, pants, jackets, footwear, hats and caps, and athletic

uniforms.

REQUEST NO. 35

All documents or other material relating to, or evidencing, Applicant's use of the ARMOR & GLORY mark, in commerce, on February 4, 2013, on shirts, pants, jackets, footwear, hats and caps, and athletic uniforms.

REQUEST NO. 36

All documents or other material relating to, or evidencing, Applicant's use of the ARMOR & GLORY mark, in commerce, on February 8, 2013, on shirts, pants, jackets, footwear, hats and caps, and athletic uniforms.

Dated: March 26, 2014

By: /s/Aaron Y. Silverstein
Aaron Y. Silverstein
Saunders & Silverstein LLP
14 Cedar Street, Suite 224
Amesbury, MA 01913
Tel.: (978) 463-9130
Email: asilverstein@massiplaw.com

Attorneys for Opposer
UNDER ARMOUR, INC.

CERTIFICATE OF SERVICE

I hereby certify that on March 26, 2014, a true and complete copy of the foregoing **OPPOSER'S FIRST SET OF REQUESTS FOR THE PRODUCTION OF DOCUMENTS AND THINGS**, has been served on the Applicant's counsel of record, as set forth below, via first class mail, postage pre-paid to:

Marcus J Bivines
303 S Peters Avenue
Norman, OK 73069

/s/Aaron Y. Silverstein
Aaron Y. Silverstein