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

Proceeding	91214508
Party	Plaintiff Tekni-Plex, Inc.
Correspondence Address	CARRIE WEBB OLSON DAY PITNEY LLP ONE INTERNATIONAL PLACE BOSTON, MA 02110 UNITED STATES cdoconnor@daypitney.com, colson@daypitney.com, trademarks@daypitney.com
Submission	Motion for Summary Judgment
Filer's Name	Catherine Dugan O'Connor
Filer's e-mail	cdoconnor@daypitney.com, trademarks@daypitney.com, colson@daypitney.com, jlanzano@daypitney.com
Signature	/Catherine Dugan O'Connor/
Date	02/02/2015
Attachments	EDGE PULL SUMMARY JUDGMENT MOTION.pdf(87206 bytes ) EDGE PULL O'Connor Declaration.pdf(35024 bytes ) EDGE PULL SJ EX 1.pdf(95604 bytes ) EDGE PULL SJ EX 2.pdf(97460 bytes ) EDGE PULL SJ EX 3.pdf(513255 bytes ) EDGE PULL SJ EX 4.pdf(724850 bytes )

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

TEKNI-PLEX, INC.,	)	
	)	Opposition No. 91214508
Opposer,	)	
	)	
v.	)	
	)	
SELIG SEALING PRODUCTS, INC.,	)	Serial No. 86/001,725
	)	Filed July 3, 2013
Applicant.	)	Mark: EDGEPULL
	)	

**OPPOSER’S MOTION FOR SUMMARY JUDGMENT/MEMORANDUM OF LAW IN  
SUPPORT OF MOTION FOR SUMMARY JUDGMENT**

The Opposer, Tekni-Plex, Inc., (hereinafter, “Tekni-Plex” or “Opposer”), moves, pursuant to Fed. R. Civ. P. 56(a) and Trademark Rules of Practice 2.127(e), for summary judgment on the grounds that Applicant, Selig Sealing Products, Inc. (hereinafter “Selig” or “Applicant”) lacked a *bona fide* intent to use the mark EDGEPULL (the “Mark”) in commerce at the time of filing of its application, U.S. Serial No. 86/001,725 (hereinafter, the “Selig Application”), under 15 U.S.C. §1051(b).

Throughout discovery, Selig has provided no documentary or other evidence that it ever possessed a *bona fide* intent to use the Mark in U.S. commerce. Accordingly, Tekni-Plex is concurrently filing a Motion to Amend its Notice of Opposition to add as an additional ground for opposition Selig’s lack of *bona fide* intent to use the Mark at the time of filing the Selig Application. For the reasons set forth below, Tekni-Plex further moves herein for Summary Judgment because there is no genuine issue of material fact regarding Selig’s lack of *bona fide* intent to use the EDGEPULL Mark. Accordingly, the Selig Application is void *ab initio*, and this Opposition should be sustained.

## **BACKGROUND**

As set forth in its Notice of Opposition, Tekni-Plex adopted the mark “EDGE PULL” in April 2012 for use with adhesive seals for packaging, also known as closure liner/seal products. Soon after, Tekni-Plex began to use the EDGE PULL mark in promoting these products with a number of potential purchasers. Selig, a competitor of Tekni-Plex, apparently became aware of Tekni-Plex’s use of the EDGE PULL mark to offer a product that competed with Selig’s own adhesive seal product. On July 3, 2013, Selig filed the Selig Application seeking to register the EDGE PULL Mark in its own name. In this application, Selig declared that it had a *bona fide* intent to use the Mark for “Primarily non-metal seals comprised of various layers including a metallic foil layer for use in container closures and caps” in International Class 17. On that same day, Selig filed two additional U.S. trademark applications, also based on intent-to-use and covering the identical goods, for the marks EDGEPEEL<sup>1</sup> (U.S. App. Ser. No. 86/001,764) and EDGETAB (U.S. App. Ser. No. 86/001,746). To date, Selig apparently has not begun to use any of these marks in commerce.

After publication of the Selig Application, Tekni-Plex filed its Notice of Opposition in this proceeding on January 16, 2014, alleging priority in and to the EDGE PULL Mark based on use in commerce before Selig’s July 3, 2013 filing date. (Dkt. No. 1).

Throughout the course of discovery, and in response to relevant requests for production of documents, Selig has shown that, at the time of filing the Selig Application, it lacked a *bona fide* intent to use the Mark. Tekni-Plex served multiple discovery requests and deposition notices seeking to elicit information about how Selig came to select the EDGE PULL Mark for

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<sup>1</sup> Tekni-Plex has opposed the application for EDGEPEEL, which is the subject of Opposition Proceeding No. 91215874. Tekni-Plex sought Selig’s consent to consolidate these proceedings, but Selig declined to do so. Accordingly, Tekni-Plex has moved to consolidate these proceedings in the interest of judicial economy.

its sealing products and about Selig's decision to adopt, and its intent to use, the Mark. Selig has produced no documents at all in response to these discovery requests. Nor did Selig produce any witnesses, despite three depositions noticed by Tekni-Plex within the discovery period.

Among the items that were requested by Tekni-Plex, but not produced, are documents relating to:

- Selig's development, creation, and decision to adopt the Mark;
- Selig's business plans, promotional activities, marketing, advertising, or communications regarding the Mark;
- Selig's decision to apply to register the Mark; and
- Selig's *bona fide* intent to use the Mark.

Accordingly, based on the complete dearth of documentary evidence produced by Selig in discovery to support a *bona fide* intent to use, Tekni-Plex has moved to add to the Notice of Opposition a claim for lack of *bona fide* intent to use the Mark, and seeks summary judgment on that claim.

#### **STATEMENT OF UNDISPUTED MATERIAL FACTS**

Pursuant to Federal Rule of Civil Procedure 56 and TBMP §528.01, Tekni-Plex submits this Statement of Undisputed Material Facts in support of its motion for summary judgment:

1. On July 3, 2013, Selig filed the Selig Application, U.S. Trademark Application 86/001,725, for the mark EDGEPULL.
2. The Selig Application was filed on an intent-to-use basis in connection with the goods "Primarily non-metal seals comprised of various layers including a metallic foil layer for use in container closures and caps" in International Class 17.

3. On January 16, 2014, Tekni-Plex filed U.S. Trademark Application 86/167,739 (the “Tekni-Plex Application”), for the mark EDGEPULL. (O’Connor Decl. Ex. 1.)<sup>2</sup>

4. The Tekni-Plex Application was filed based on actual use of the Mark in U.S. commerce, and alleged a first use date at least as early as October 1, 2012. (*Id.*)

5. On February 25, 2014, the USPTO suspended action on the Tekni-Plex Application until the Selig Application is either registered or abandoned, based on a likelihood of confusion regarding the EDGEPULL Mark. (O’Connor Decl. Ex. 2.)

6. Selig has not produced any documents in response to Tekni-Plex’s First Request for Production of Documents. (O’Connor Decl. ¶ 10.)

7. Selig has yet to make actual use of the Mark in connection with the goods identified in the Selig Application. (O’Connor Decl. Ex. 3, Pages 7-8, Response to Interrogatory 9.)

## **LEGAL STANDARDS**

### **I. Summary Judgment Standard**

Summary judgment is appropriate if the pleadings, the discovery and disclosure materials on file, and any affidavits “show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law.” *Celotex Corp. v. Catrett*, 477 U.S. 317, 322 (1986) (citing Fed. R. Civ. P. 56). Tekni-Plex, as the moving party, bears the burden of demonstrating the absence of any genuine dispute of material fact. *See Celotex*, 477 U.S. at 323; *Corporate Document Servs. v. I.C.E.D. Mgmt.*, 48 U.S.P.Q.2D 1477, 1479 (T.T.A.B. 1998); TBMP § 528.01. The nonmoving party must go beyond the pleadings and set out “specific facts showing a genuine issue for trial.” *Celotex*, 477 U.S. at 323 (quoting Fed. R. Civ. P. 56(e)). A

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<sup>2</sup> See Declaration of Catherine Dugan O’Connor (the “O’Connor Decl.”), submitted herewith.

factual dispute is genuine only “if sufficient evidence is presented such that a reasonable fact finder could decide the question in favor of the non-moving party.” *Opryland USA Inc. v. Great American Music Show, Inc.*, 970 F.2d 847, 850 (Fed. Cir. 1992).

## II. **Requirement for *Bona Fide* Intent to Use the Mark at the Time of Filing**

In order to register a mark under Section 1(b) of the Lanham Act, Selig was required to verify, in writing, that it had a *bona fide* intent to use the mark in commerce at the time of filing. 15 U.S.C. § 1051(b) (“A person who has a bona fide intention, under circumstances showing the good faith of such person, to use a trademark in commerce may request registration of its trademark on the principal register....”). An “absence of any documentary evidence regarding an applicant’s *bona fide* intention to use a mark in commerce is sufficient to prove that an applicant lacks such intention as required by Section 1(b) of the Trademark Act, unless other facts are presented which adequately explain or outweigh applicant's failure to provide such documentary evidence.” *Honda Motor Co., Ltd. v. Friedrich Winkelman*, 90 U.S.P.Q.2d 1660, 1662 (T.T.A.B. 2009) (granting opposer’s motion for summary judgment because, even when viewing the evidence in favor of the applicant, there was no evidence of the applicant's *bona fide* intent) (citing *Commodore Electronics Ltd. v. CBM Kabushiki Kaisha*, 26 U.S.P.Q.2d 1503, 1507 (TTAB 1993)); *Boston Red Sox Baseball Club LP v. Sherman*, 88 U.S.P.Q.2d 1581, 1587 (T.T.A.B. 2008) (sustaining an opposition based on applicant’s lack of *bona fide* intent to use the mark in commerce). Furthermore, “the determination of whether an applicant has a *bona fide* intention to use the mark in commerce is to be a fair, objective determination based on all the circumstances,” and an applicant’s “mere statement of subjective intention, without more, would be insufficient to establish applicant's *bona fide* intention to use the mark in commerce.” *Lane Ltd. v. Jackson Int'l Trading Co.*, 33 U.S.P.Q.2d 1351, 1355 (T.T.A.B. 1994).

## ARGUMENT

### I. Tekni-Plex has Standing in this Opposition Proceeding

Standing is a threshold issue that must be shown in every *inter partes* case to prevent litigation when there is not a true controversy between the parties or when the opposer does not have a legitimate personal interest in the opposition. *See Ritchie v. Simpson*, 170 F.3d 1092, 1095 (Fed. Cir. 1999); *see also Lipton Indus., Inc. v. Ralston Purina Co.*, 670 F.2d 1024, 1028-29 (CCPA 1982). Tekni-Plex has standing to oppose the Selig Application in this case because the Tekni-Plex Application, based on Tekni-Plex's actual use of the Mark in commerce prior to the filing date of the Selig Application, has been suspended pending prosecution of the Selig Application. (O'Connor Decl. Ex. 2.) The pendency of the Selig Application is causing harm to Tekni-Plex, including by preventing Tekni-Plex from registering the EDGEPULL Mark. Therefore, Tekni-Plex has a real interest, in the form of a "direct and personal stake in the outcome" of this proceeding. *See Ritchie*, 170 F.3d at 1095.

### II. There is No Genuine Issue of Material Fact Regarding Selig's Lack of *Bona Fide* Intent to Use the Mark at the Time of Filing

Selig's failure to produce any evidence regarding its intent to use the Mark constitutes objective proof sufficient to show that Selig does not have a *bona fide* intent to use the Mark in commerce, and did not have a *bona fide* intent to use the Mark at the time it filed the Selig Application.

In response to multiple discovery requests by Tekni-Plex, Selig has produced no evidence of 1) its development, creation, or adoption of the Mark; 2) business plans, promotional activities, marketing, advertising, or communications suggesting that Selig had a *bona fide* intent to use the Mark in commerce at the time of filing; 3) Selig's decision to apply to register the Mark; or 4) Selig's *bona fide* intent to use the Mark. (*See* O'Connor Decl., Ex. 4; ¶ 10.) During

the discovery period, Tekni-Plex served interrogatories and document requests. Tekni-Plex also noticed the depositions of two fact witnesses identified by Selig, and of a corporate designee pursuant to Fed. R. Civ. P. 30(b)(6). Each of these requests sought information about Selig's selection, adoption, promotional activities and plans for use of the Mark. (*See, e.g.*, O'Connor Decl. Ex. 3 (Interrogatories 2, 3, 9, 10.); Ex. 4 (Document Requests 3, 5, 8, 11-14, 17, 18, 28, 32). Tekni-Plex's document requests sought all documents concerning Selig's intent to use the Mark in commerce, as well as, inter alia, Selig's decision to adopt the Mark, its business and marketing plans relating to the Mark, communications regarding its planned use of the Mark, and its marketing and advertising materials for the Mark. (*Id.*) Selig responded, stating that it would produce responsive documents, if any existed. (*Id.*) Thereafter, Selig did not produce a single document relating to these – or any other – topics relating to the Mark. Nor did Selig produce its witnesses for deposition.

Instead, the only information Selig provided were vague and conclusory interrogatory responses, which utterly fail to provide any objective evidence of a *bona fide* intent to use the Mark. Apart from admitting that Selig has not yet begun to use the Mark, Selig's interrogatory responses are noteworthy in what they fail to disclose. For example, when asked to "State all facts relating to how Selig learned about the Applied for Mark and came to consider the Applied for Mark," after objecting, Selig merely stated "that it developed the Applied for Mark and instructed a trademark application to be filed." (Selig's Response to Int. No. 2, Ex. 3 to O'Connor Decl. at page 4.) (emphasis added). Asked to "State all facts relating to Selig's selection and adoption of the Applied for Mark including, without limitation, the date the Applied for Mark was first considered and adopted, the reasons for selecting the Applied for Mark, the origin or source of inspiration for the Applied for mark, and any alternative marks

considered,” Selig merely stated that “it has for many years produced seals with a variety of trademarks and continues to develop and explore new products and marks. One long existing product has the phrase Pull from Edge to Open.” (Selig’s Response to Int. No. 3, Ex. 3 to O’Connor Decl. at page 4-5.) Selig’s answer made no mention of the contested EDGEPULL Mark, nor did it provide any facts regarding Selig’s selection and adoption of that Mark.

Selig’s interrogatory answers actually belie a *bona fide* intent to use the Mark at the time it filed the Selig application. Interrogatory No. 10 asked Selig to:

Identify and describe in detail all marketing or promotional activities that Selig has engaged in using or referring to the Applied for Mark, including but not limited to, trade shows; customer presentations, visits or testing; and/or print, electronic or any other type of advertising, and, for each, state the nature of the activity, the dates, and Identify all Persons involved, whether on behalf of Selig or any third party.

After objecting, Selig responded:

Without waiving its objections, Applicant will produce non-privileged documents as permitted by FED. R. CIV. P. 33(d) from which Opposer can derive or ascertain the answer. As stated, applicant has existing products which can be adopted to use this mark once it is cleared of objections.

(Selig’s Response to Int. No. 10, Ex. 3 to O’Connor Decl., at page 8.) (emphasis added).<sup>3</sup>

Selig has not used the Mark in commerce in connection with the goods identified in the Selig Application, and has provided no evidence of its *bona fide* intent to do so. Selig’s statements that it “developed the Applied for Mark and instructed a trademark application to be filed” and “has existing products which can be adopted to use this mark once it is cleared of objections” do not constitute objective evidence of intent to use the Mark.

Selig’s responses to Tekni-Plex’s document requests lead to the same void when it comes to evidence of intent to use, as illustrated by the following:

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<sup>3</sup> As noted above, Selig has produced no such documents.

**REQUEST 3:** Copies of public filings, brochures, press releases, communications, advertisements and promotional or marketing materials which incorporate the Applied for Mark or any variation thereof that was used is being used or will be used by You.

**RESPONSE:** Applicant objects to this Request as being overly broad and unduly burdensome as to not having any limitation on time such that it is not likely to lead to the discovery of admissible evidence. Applicant also objects to this Request to the extent it seeks information beyond Applicant's mark identified in the Notice of Opposition. Applicant also objects to this request to the extent that it seeks the disclosure of information subject to the attorney-client privilege and work product doctrine and to the extent that it seeks the disclosure of confidential business information. Subject to these objections and the foregoing General Objections, Applicant will produce certain non-privileged documents responsive to this request, if any exist. (Emphasis Added).

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**REQUEST 8:** All Documents Concerning Your adoption of the Applied for Mark, or any variation thereof, in the United States, including but not limited to: (a) Your development, creation and selection of the Applied for Mark; (b) The origin or source of inspiration for the Applied for Mark; (c) All trademark searches, opinions, analyses, studies, reports or Communications relating to the Applied for Mark; (d) Your decision to adopt and apply to register the Applied for Mark.

**RESPONSE:** Applicant objects to this request to the extent that it calls for documents and things no longer reasonably available to it and to the extent that it seeks the disclosure of confidential business information. Applicant further objects to this Request on the basis that it is overly broad and unreasonable as there is not time limitation specified in this Request. Applicant also objects to this request to the extent that it seeks the disclosure of information subject to the attorney-client privilege and work product doctrine. Subject to those objections and the general objection stated above, Applicant will produce representative documents which are in its possession, custody or control and readily available to it, if any exist. (Emphasis Added).

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**REQUEST 11:** All Documents Concerning Your intended or actual use of the Applied for Mark, or any variation thereof, in the United States, including but not limited to business plans, marketing plans, sales agreements, distribution agreements, proposals, price quotes, advertising or promotional materials or any other documents that reflect, refer or relate to Your use or intended use of the Applied for Mark.

**RESPONSE:** Applicant objects to this request to the extent that it calls for documents and things no longer reasonably available to it and to the extent that it seeks the disclosure of confidential business information. Applicant further objects to this Request on the basis that it is overly broad and unreasonable as there is not time limitation specified in this Request. Applicant also objects to this request to the extent that it seeks the disclosure of information subject to the attorney-client privilege and work product doctrine. Subject to those objections and the general

objection stated above, Applicant will produce representative documents which are in its possession, custody or control and readily available to it, if any exist. (Emphasis Added).

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**REQUEST 32:** All Documents Concerning Your alleged *bona fide* intent to use the Applied for Mark on and in connection with “primarily non-metal seals comprised of various layers including a metallic foil layer for use in container closures and caps” in the United States.

**RESPONSE:** Applicant objects to this Request as being overly broad and unduly burdensome as to not having any limitation on time such that it is not likely to lead to the discovery of admissible evidence. Applicant also objects to this Request to the extent it seeks information beyond Applicant's mark identified in the Notice of Opposition. Applicant also objects to this request to the extent that it seeks the disclosure of information subject to the attorney-client privilege and work product doctrine and to the extent that it seeks the disclosure of confidential business information. Subject to these objections and the foregoing General Objections, Applicant will produce certain non-privileged documents responsive to this request, if any exist. (Emphasis Added).

(O'Connor Decl. Ex. 4 at pages 4-8, 16-17.).

Selig was also asked for documents concerning its advertising, marketing, promotional, branding, sales or distribution plans, strategies and forecasts relating to the goods that it intends to offer under the Mark (Request 13) as well as any advertising and promotional materials (Request 14). Selig again agreed to produce such documents, “if any exist.” (O'Connor Decl. Ex. 4 at page 9.)

Selig produced no documents in response to any of the foregoing requests (O'Connor Decl. ¶ 10) and its failure to do so is tantamount to an admission that no such documents exist.

This complete lack of evidence constitutes objective proof that Selig did not have a *bona fide* intent to use the Mark at the time of filing the Selig Application. *See Honda*, 90 U.S.P.Q.2d at 1662; *see also PRL USA Holdings, Inc. v. Rich C. Young*, Opp. No. 91206846, 2013 WL 5820848, at \*9 (T.T.A.B. Oct. 16, 2013) (Board granted summary judgment where applicant had no evidence of business plans, marketing or promotional activities, or other evidence that could substantiate his claim of a *bona fide* intent) (citing *Saul Zaentz Co. v. Bumb*, 95 U.S.P.Q. 2d 1723, 1727 (TTAB 2010)). Furthermore, Selig has provided no evidence to explain or excuse its

lack of documentary evidence supporting a *bona fide* intent to use the Mark. Where there is no evidence of an applicant's *bona fide* intent to use a mark on the claimed goods, “entry of summary judgment on a claim that the applicant had no bona fide intent to use the mark in commerce when he filed his involved application may be warranted.” *PRL*, 2013 WL 5820848, at \*9 (citing *Honda*, 90 USPQ2d 1660). Accordingly, absent any such evidence, there is no genuine issue of material fact on the question of Selig’s *bona fide* intent to use the Mark, warranting summary judgment in favor of Tekni-Plex.

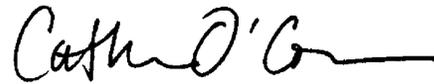
### **CONCLUSION**

Selig has produced no evidence that would suggest it possessed a *bona fide* intent to use the Mark in commerce at the time of filing the Selig Application, in connection with the goods identified therein. Selig has made no attempts to market, advertise, or sell products using the Mark, and it could not provide a single piece of documentary evidence regarding its development or creation of the Mark, or the decision to file the Selig Application. It is clear that Selig does not have, and at no point had, a *bona fide* intent to use the Mark in commerce. Other than Selig’s subjective assertion of such intent, there is no objective proof to support that conclusion.

As such, no genuine issue of material fact exists for the Board, and Tekni-Plex respectfully requests that the Board grant this Motion for Summary Judgment along with Tekni-Plex’s Motion to Amend the Notice of Opposition, sustain Tekni-Plex’s Opposition, and refuse to register the Selig Application on the grounds that the Selig Application was void *ab initio* for a lack of *bona fide* intent to use the mark in commerce at the time of filing.

Respectfully submitted,

TEKNI-PLEX, INC.



By: \_\_\_\_\_

DAY PITNEY LLP

Carrie Webb Olson

Catherine Dugan O'Connor

Ryan S. Osterweil

One International Place

Boston, MA 02110

Telephone: (617) 345-4767

Facsimile: (617) 206-9338

Email: [trademarks@daypitney.com](mailto:trademarks@daypitney.com)

[colson@daypitney.com](mailto:colson@daypitney.com)

[cdoconnor@daypitney.com](mailto:cdoconnor@daypitney.com)

[rosterweil@daypitney.com](mailto:rosterweil@daypitney.com)

Dated: February 2, 2015

**CERTIFICATE OF SERVICE**

I hereby certify that on this date a true and correct copy of the foregoing was served upon the attorney of record for the Applicant by electronic mail, as agreed to between the parties, as follows:

Joseph T. Nabor  
FITCH, EVEN, TABIN & FLANNERY, LLP  
120 S. LaSalle St. Ste 1600  
Chicago, IL 60603  
[jtnabo@fitcheven.com](mailto:jtnabo@fitcheven.com)  
[trademark@fitcheven.com](mailto:trademark@fitcheven.com)



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Catherine Dugan O'Connor

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

TEKNI-PLEX, INC.,	)	
	)	Opposition No. 91214508
Opposer,	)	
	)	
v.	)	
	)	
SELIG SEALING PRODUCTS, INC.,	)	Serial No. 86/001725
	)	Filed July 3, 2013
Applicant.	)	Mark: EDGE PULL
	)	

**DECLARATION OF CATHERINE DUGAN O’CONNOR IN SUPPORT OF OPPOSER’S  
MOTION TO AMEND NOTICE OF OPPOSITION AND OPPOSER’S MOTION FOR  
SUMMARY JUDGMENT**

I, Catherine Dugan O’Connor, declare as follows:

1. I am Counsel with the law firm of Day Pitney LLP, counsel of record for the Opposer, Tekni-Plex, Inc., (hereinafter, “Tekni-Plex” or “Opposer”). I am over 18 years of age and understand the obligations of an oath.

2. I make this Declaration in support of Opposer’s Motion To Amend the Notice Of Opposition To Allege an Additional Ground for Opposition and Opposer’s Motion For Summary Judgment.

3. If called upon, I would and could competently testify to the matters set forth herein without waiver of privilege.

4. On January 16, 2014, Tekni-Plex filed U.S. Trademark Application 86/167,739, for the mark EDGE PULL (the “Tekni-Plex Application”). A true and correct copy of the Tekni-Plex Application is attached as **Exhibit 1** hereto.

5. On February 25, 2014, the USPTO suspended action on the Tekni-Plex Application until the Selig Application is either registered or abandoned, based on a likelihood of

confusion regarding the EDGEPULL Mark. A true and correct copy of the Suspension Letter is attached as **Exhibit 2** hereto.

6. On September 5, 2014, Tekni-Plex served on Applicant, Selig Sealing Products, Inc. (hereinafter “Selig” or “Applicant”), a First Set of Interrogatories and a First Request for Production of Documents.

7. Attached as **Exhibit 3** hereto is a true and correct copy of Applicant’s Response to Opposer’s First Set of Interrogatories, dated October 6, 2014.

8. Attached as **Exhibit 4** hereto is a true and correct a copy of Applicant’s Response to Opposer’s First Request for Production of Documents, dated October 6, 2014.

9. Selig has not produced any documents in response to Opposer’s First Set of Interrogatories.

10. Selig has not produced any documents in response to Opposer’s First Request for Production of Documents.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct to the best of my knowledge and belief.

Executed this 2<sup>nd</sup> day of February, 2015.



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DAY PITNEY LLP  
Carrie Webb Olson  
Catherine Dugan O’Connor  
One International Place  
Boston, MA 02110  
Telephone: (617) 345-4767  
Facsimile: (617) 206-9338  
Email: [trademarks@daypitney.com](mailto:trademarks@daypitney.com)  
[colson@daypitney.com](mailto:colson@daypitney.com)  
[cdoconnor@daypitney.com](mailto:cdoconnor@daypitney.com)

**CERTIFICATE OF SERVICE**

I hereby certify that on this date a true and correct copy of the foregoing was served upon the attorney of record for the Applicant by electronic mail, as agreed to between the parties, as follows:

Joseph T. Nabor  
FITCH, EVEN, TABIN & FLANNERY, LLP  
120 S. LaSalle St. Ste 1600  
Chicago, IL 60603  
[jtnabo@fitcheven.com](mailto:jtnabo@fitcheven.com)  
[trademark@fitcheven.com](mailto:trademark@fitcheven.com)



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Catherine Dugan O'Connor

# **EXHIBIT 1**

# Trademark/Service Mark Application, Principal Register

Serial Number: 86167739

Filing Date: 01/16/2014

The table below presents the data as entered.

Input Field	Entered
<b>SERIAL NUMBER</b>	86167739
<b>MARK INFORMATION</b>	
*MARK	<a href="#">EDGEPULL</a>
STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
LITERAL ELEMENT	EDGEPULL
MARK STATEMENT	The mark consists of standard characters, without claim to any particular font, style, size, or color.
REGISTER	Principal
<b>APPLICANT INFORMATION</b>	
*OWNER OF MARK	Tekni-Plex, Inc.
*STREET	201 Industrial Parkway
*CITY	Somerville
*STATE (Required for U.S. applicants)	New Jersey
*COUNTRY	United States
*ZIP/POSTAL CODE (Required for U.S. applicants only)	08876
<b>LEGAL ENTITY INFORMATION</b>	
TYPE	corporation
STATE/COUNTRY OF INCORPORATION	Delaware
<b>GOODS AND/OR SERVICES AND BASIS INFORMATION</b>	
INTERNATIONAL CLASS	017
*IDENTIFICATION	Adhesive seals for use in packaging

<b>FILING BASIS</b>	SECTION 1(a)
<b>FIRST USE ANYWHERE DATE</b>	At least as early as 10/01/2012
<b>FIRST USE IN COMMERCE DATE</b>	At least as early as 10/01/2012
<b>SPECIMEN FILE NAME(S)</b>	<a href="\\TICRS\EXPORT16\IMAGEOUT16\861\677\86167739\xml1\ APP0003.JPG">\\TICRS\EXPORT16\IMAGEOUT16\861\677\86167739\xml1\ APP0003.JPG</a>
<b>SPECIMEN DESCRIPTION</b>	mark affixed to goods
<b>ATTORNEY INFORMATION</b>	
<b>NAME</b>	Carrie Webb Olson and Catherine Dugan O'Connor
<b>ATTORNEY DOCKET NUMBER</b>	478305-
<b>FIRM NAME</b>	Day Pitney LLP
<b>STREET</b>	One International Place
<b>CITY</b>	Boston
<b>STATE</b>	Massachusetts
<b>COUNTRY</b>	United States
<b>ZIP/POSTAL CODE</b>	02110
<b>PHONE</b>	203-977-7538
<b>FAX</b>	617-345-4745
<b>EMAIL ADDRESS</b>	trademarks@daypitney.com
<b>AUTHORIZED TO COMMUNICATE VIA EMAIL</b>	Yes
<b>OTHER APPOINTED ATTORNEY</b>	Elizabeth A. Alquist, Jeremy Blackowicz, Richard H. Brown III, Michael A. Bucci, Richard D. Harris, David D. Postolski, Jack Wessel
<b>CORRESPONDENCE INFORMATION</b>	
<b>NAME</b>	Carrie Webb Olson and Catherine Dugan O'Connor
<b>FIRM NAME</b>	Day Pitney LLP
<b>STREET</b>	One International Place
<b>CITY</b>	Boston
<b>STATE</b>	Massachusetts
<b>COUNTRY</b>	United States
<b>ZIP/POSTAL CODE</b>	02110
<b>PHONE</b>	203-977-7538

<b>FAX</b>	617-345-4745
<b>EMAIL ADDRESS</b>	trademarks@daypitney.com;colson@daypitney.com; cdoconnor@daypitney.com; jlanzano@daypitney.com; tmrecords@daypitney.com
<b>AUTHORIZED TO COMMUNICATE VIA EMAIL</b>	Yes
<b>FEE INFORMATION</b>	
<b>NUMBER OF CLASSES</b>	1
<b>FEE PER CLASS</b>	325
<b>*TOTAL FEE DUE</b>	325
<b>*TOTAL FEE PAID</b>	325
<b>SIGNATURE INFORMATION</b>	
<b>SIGNATURE</b>	/Sujal Mehta/
<b>SIGNATORY'S NAME</b>	Sujal Mehta
<b>SIGNATORY'S POSITION</b>	VP, Deputy General Counsel
<b>DATE SIGNED</b>	01/16/2014

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## Trademark/Service Mark Application, Principal Register

**Serial Number: 86167739**

**Filing Date: 01/16/2014**

### To the Commissioner for Trademarks:

**MARK:** EDGEPULL (Standard Characters, see [mark](#))

The literal element of the mark consists of EDGEPULL.

The mark consists of standard characters, without claim to any particular font, style, size, or color.

The applicant, Tekni-Plex, Inc., a corporation of Delaware, having an address of

201 Industrial Parkway  
Somerville, New Jersey 08876  
United States

requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended, for the following:

International Class 017: Adhesive seals for use in packaging

In International Class 017, the mark was first used by the applicant or the applicant's related company or licensee or predecessor in interest at least as early as 10/01/2012, and first used in commerce at least as early as 10/01/2012, and is now in use in such commerce. The applicant is submitting one(or more) specimen(s) showing the mark as used in commerce on or in connection with any item in the class of listed goods and/or services, consisting of a(n) mark affixed to goods.

[Specimen File 1](#)

The applicant's current Attorney Information:

Carrie Webb Olson and Catherine Dugan O'Connor and Elizabeth A. Alquist, Jeremy Blackowicz, Richard H. Brown III, Michael A. Bucci, Richard D. Harris, David D. Postolski, Jack Wessel of Day Pitney LLP

One International Place  
Boston, Massachusetts 02110  
United States

The attorney docket/reference number is 478305-.

The applicant's current Correspondence Information:

Carrie Webb Olson and Catherine Dugan O'Connor  
Day Pitney LLP  
One International Place  
Boston, Massachusetts 02110

203-977-7538(phone)

617-345-4745(fax)

trademarks@daypitney.com;colson@daypitney.com; cdoconnor@daypitney.com;  
jlanzano@daypitney.com; tmrecords@daypitney.com (authorized)

A fee payment in the amount of \$325 has been submitted with the application, representing payment for 1 class(es).

### **Declaration**

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements, and the like, may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. Section 1051(b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of his/her own knowledge are true; and that all statements made on information and belief are believed to be true.

### **Declaration Signature**

Signature: /Sujal Mehta/ Date: 01/16/2014

Signatory's Name: Sujal Mehta

Signatory's Position: VP, Deputy General Counsel

RAM Sale Number: 86167739

RAM Accounting Date: 01/17/2014

Serial Number: 86167739

Internet Transmission Date: Thu Jan 16 17:07:14 EST 2014

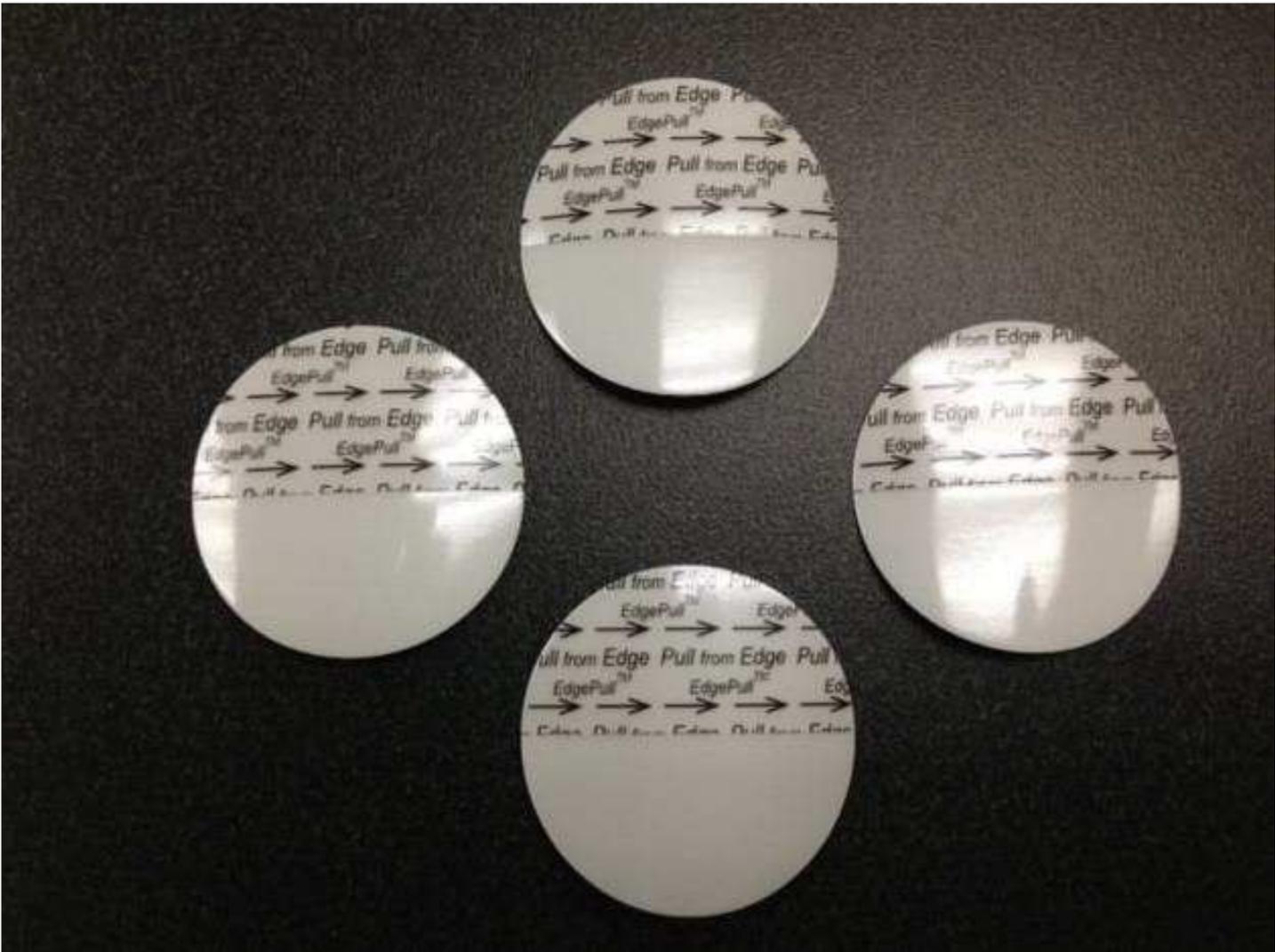
TEAS Stamp: USPTO/BAS-205.132.218.130-20140116170714

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2f01cfb7b85ea7bb7b3dd2c99696b611f92bb9e4

-DA-3941-20140115111720346529

EDGE PULL



# **EXHIBIT 2**

**To:** Tekni-Plex, Inc. ([trademarks@daypitney.com](mailto:trademarks@daypitney.com))  
**Subject:** U.S. TRADEMARK APPLICATION NO. 86167739 - EDGEPULL - 478305-  
**Sent:** 2/25/2014 3:00:37 PM  
**Sent As:** ECOM108@USPTO.GOV  
**Attachments:** [Attachment - 1](#)  
[Attachment - 2](#)

**UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)  
OFFICE ACTION (OFFICIAL LETTER) ABOUT APPLICANT'S TRADEMARK APPLICATION**

**U.S. APPLICATION SERIAL NO.** 86167739

**MARK:** EDGEPULL

**\*86167739\***

**CORRESPONDENT ADDRESS:**

CARRIE WEBB OLSON AND CATHERINE DUGAN O'  
DAY PITNEY LLP  
1 INTERNATIONAL PL FL 16  
BOSTON, MA 02110-3179

**GENERAL TRADEMARK IN**  
<http://www.uspto.gov/tradema>

**APPLICANT:** Tekni-Plex, Inc.

**CORRESPONDENT'S REFERENCE/DOCKET NO :**  
478305-

**CORRESPONDENT E-MAIL ADDRESS:**  
[trademarks@daypitney.com](mailto:trademarks@daypitney.com)

**SUSPENSION NOTICE: NO RESPONSE NEEDED**

**ISSUE/MAILING DATE:** 2/25/2014

The trademark examining attorney is suspending action on the application for the reason(s) stated below. *See* 37 C.F.R. §2.67; TMEP §§716 *et seq.*

The USPTO will periodically conduct a status check of the application to determine whether suspension remains appropriate, and the trademark examining attorney will issue as needed an inquiry letter to applicant regarding the status of the matter on which suspension is based. TMEP §§716.04, 716.05. Applicant will be notified when suspension is no longer appropriate. *See* TMEP §716.04.

No response to this notice is necessary; however, if applicant wants to respond, applicant should use the "Response to Suspension Inquiry or Letter of Suspension" form online at <http://teasroa.uspto.gov/rsi/rsi>.

**PRIOR-FILED PENDING APPLICATION(S) FOUND:** The trademark examining attorney has searched the USPTO's database of registered and pending marks and has found no similar registered marks that would bar registration under Trademark Act Section 2(d). TMEP §704.02; *see* 15 U.S.C. §1052(d). However, a mark(s) in a prior-filed pending application(s) may present a bar to registration of applicant's mark.

The effective filing date of the pending application(s) identified below precedes the filing date of applicant's application. If the mark in the referenced application(s) registers, applicant's mark may be refused registration under Section 2(d) because of a likelihood of confusion with that registered mark(s). *See* 15 U.S.C. §1052(d); 37 C.F.R. §2.83; TMEP §§1208 *et seq.* Therefore, action on this application is suspended until the earlier-filed referenced application(s) is either registered or abandoned. 37 C.F.R. §2.83(c). A copy of information relevant to this referenced application(s) is attached.

- Application Serial No(s). 86167739

/Karen K. Bush/  
Trademark Examining Attorney  
Law Office 108  
571-272-9136  
Karen.Bush@uspto.gov

**PERIODICALLY CHECK THE STATUS OF THE APPLICATION:** To ensure that applicant does not miss crucial deadlines or official notices, check the status of the application every three to four months using the Trademark Status and Document Retrieval (TSDR) system at <http://tsdr.uspto.gov/>. Please keep a copy of the TSDR status screen. If the status shows no change for more than six months, contact the Trademark Assistance Center by e-mail at [TrademarkAssistanceCenter@uspto.gov](mailto:TrademarkAssistanceCenter@uspto.gov) or call 1-800-786-9199. For more information on checking status, see <http://www.uspto.gov/trademarks/process/status/>.

**TO UPDATE CORRESPONDENCE/E-MAIL ADDRESS:** Use the Trademark Electronic Application System (TEAS) form at <http://www.uspto.gov/trademarks/teas/correspondence.jsp>.

**DESIGN MARK**

**Serial Number**

86001725

**Status**

OPPOSITION PENDING

**Word Mark**

EDGEPULL

**Standard Character Mark**

Yes

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(4) STANDARD CHARACTER MARK

**Owner**

Selig Sealing Products, Inc. CORPORATION DELAWARE 342 E. Wabash Avenue  
Forrest ILLINOIS 61741

**Goods/Services**

Class Status -- ACTIVE. IC 017. US 001 005 012 013 035 050. G & S:  
Primarily non-metal seals comprised of various layers including a  
metallic foil layer for use in container closures and caps.

**Filing Date**

2013/07/03

**Examining Attorney**

FRENCH, CURTIS

**Attorney of Record**

Joseph T. Nabor

# EdgePull

**To:** Tekni-Plex, Inc. ([trademarks@daypitney.com](mailto:trademarks@daypitney.com))  
**Subject:** U.S. TRADEMARK APPLICATION NO. 86167739 - EDGEPULL - 478305-  
**Sent:** 2/25/2014 3:00:38 PM  
**Sent As:** ECOM108@USPTO.GOV  
**Attachments:**

**UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)**

**IMPORTANT NOTICE REGARDING YOUR  
U.S. TRADEMARK APPLICATION**

USPTO OFFICE ACTION (OFFICIAL LETTER) HAS ISSUED  
ON **2/25/2014** FOR U.S. APPLICATION SERIAL NO.86167739

Please follow the instructions below:

**(1) TO READ THE LETTER:** Click on this [link](#) or go to <http://tsdr.uspto.gov/>, enter the U.S. application serial number, and click on “Documents.”

The Office action may not be immediately viewable, to allow for necessary system updates of the application, but will be available within 24 hours of this e-mail notification.

**(2) QUESTIONS:** For questions about the contents of the Office action itself, please contact the assigned trademark examining attorney. For *technical* assistance in accessing or viewing the Office action in the Trademark Status and Document Retrieval (TSDR) system, please e-mail [TSDR@uspto.gov](mailto:TSDR@uspto.gov).

**WARNING**

**PRIVATE COMPANY SOLICITATIONS REGARDING YOUR APPLICATION:** Private companies **not** associated with the USPTO are using information provided in trademark applications to mail or e-mail trademark-related solicitations. These companies often use names that closely resemble the USPTO and their solicitations may look like an official government document. Many solicitations require that you pay “fees.”

Please carefully review all correspondence you receive regarding this application to make sure that you are responding to an official document from the USPTO rather than a private company solicitation. All official USPTO correspondence will be mailed only from the “United States Patent and Trademark Office” in Alexandria, VA; or sent by e-mail from the domain “@uspto.gov.” For more information on how to handle private company solicitations, see

[http://www.uspto.gov/trademarks/solicitation\\_warnings.jsp](http://www.uspto.gov/trademarks/solicitation_warnings.jsp).

# **EXHIBIT 3**

1800-132290

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

Tekni-Plex, Inc.	)	
	)	
Opposer,	)	Opposition No.: 91/214508
v.	)	
	)	
Selig Sealing Products, Inc.	)	
	)	
Applicant.	)	
	)	
Serial No.: 86/001,725	)	
Filed: July 3, 2013	)	
Mark: EDGEPULL	)	

**APPLICANT’S RESPONSE TO  
OPPOSER’S FIRST SET OF INTERROGATORIES**

Applicant Selig Sealing Products, Inc. (“Selig” or “Applicant”), through counsel and pursuant to Rule 2.120 of the Trademark Rules of Practice and Rule 33 of the Federal Rules of Civil Procedure, makes the followings objections and responses to Opposer, Tekni-Plex’s (“Opposer”) First Set of Interrogatories to Applicant, through undersigned counsel. The Applicant reserves the right to amend and/or supplement its responses pursuant to Rule 26(e) of the Federal Rules of Civil Procedure.

**GENERAL OBJECTIONS**

The Applicant makes the following general objections to the Opposer’s First Set of Interrogatories. These General Objections are incorporated by reference and made part of the Applicant’s response to each response to each interrogatory. Any repetition is for emphasis only and not the exclusion of any other General Objection.

1. The Applicant’s responses are based upon diligent exploration by the Applicant and its counsel and reflect only the current state of knowledge of the Applicant regarding the matters about which inquiry was made. Without in any way obligating itself to do so, the

Applicant reserves the right to modify or supplement these responses with such pertinent information as it may subsequently discover and as required by the Federal Rules of Civil Procedure.

2. The Applicant objects to each specific interrogatory to the extent that it seeks information that is privileged or protected from disclosure by the attorney-client privilege, the work product immunity or any other constitutional, statutory or common law privilege or protection. Nothing contained in these objections and responses is intended to be, or in any way shall be deemed, a waiver of such an available privilege or doctrine.

3. The Applicant objects to each specific interrogatory to the extent that it seeks information in violation of a legal or contractual obligation of non-disclosure to a third party. The Applicant will not provide any such information without either the consent of the relevant third party or a court order compelling production.

4. The Applicant objects to any and all interrogatories to the extent that they purport to require the Applicant to provide information beyond what is available to it after conducting a reasonable search of its own files and reasonable inquiry of its employees.

5. The Applicant objects to any and all interrogatories to the extent that they seek information unrelated to any cause of action or defense properly plead in this action, or are not reasonably calculated to lead to the discovery of admissible evidence, or that impose any duty or obligation greater than that provided for in the Federal Rules of Civil Procedure or the rules of the Trademark Trial and Appeal Board.

6. The Applicant objects to any and all interrogatories to the extent that they exceed discovery obligations under the Federal Rules of Civil Procedure and/or the rules of the Trademark Trial and Appeal Board.

7. The Applicant objects to each interrogatory to the extent that it purports to require the Applicant to identify each and every document responsive to an interrogatory. Identifying all documents responsive to these interrogatories would be unduly burdensome.

8. The Applicant objects to the interrogatories to the extent they are vague, ambiguous, unduly burdensome and/or purport to impose any requirement or obligation upon the Applicant other than those required by Federal Rules of Civil Procedure and the rules of Trademark Trial and Appeal Board.

9. To the extent that the Applicant produces documents and things pursuant to these interrogatories, the Applicant does not concede that the documents and things requested or produced are relevant to this action. The Applicant expressly reserves the right to object to further discovery into the subject matter of these requests.

10. Applicant also objects to these interrogatories to the extent it seeks information for trademarks other than the Applicant's Mark identified in the Notice of Opposition

11. Applicant objects to the interrogatories to the extent that they seek the disclosure of confidential business information, including, without limitation, trade secret information, personnel information, and/or commercially sensitive information without an appropriate and executed Protective Order. Without waiving such objection, Applicant agrees to disclose certain relevant and responsive confidential business information, to the extent it exists, upon entry of an appropriate and executed Protective Order entered in this proceeding.

12. The Applicant reserves the right to supplement these disclosures at any time allowed under the Federal Rules of Civil Procedure and/or the rules of the Trademark Trial and Appeal Board.

## INTERROGATORIES

### Interrogatory No. 1

Identify all Persons who supplied information for or participated in responding to these Interrogatories and to Opposer's First Request for Production of Documents.

#### **RESPONSE:**

Applicant objects to this Interrogatory to the extent that it seeks disclosure of information protected from discovery under the attorney client privilege and work product doctrine. Subject to those objections and the General Objections stated above, Applicant states that information and/or assistance was provided by John Brown of Selig, and objections were prepared at the direction of Joseph T. Nabor.

### Interrogatory No. 2

State all facts relating to how Selig learned about the Applied for Mark and came to consider the Applied for Mark, and Identify all Persons with knowledge about those facts.

#### **RESPONSE:**

Applicant objects to this Interrogatory to the extent that it seeks disclosure of information protected from discovery under the attorney client privilege and work product doctrine. Subject to those objections and the General Objections stated above, Applicant states that it developed the Applied for Mark and instructed a trademark application to be filed in the US Patent and Trademark.

### Interrogatory No. 3

State all facts relating to Selig's selection and adoption of the Applied for Mark including, without limitation, the date the Applied for Mark was first considered and adopted, the reasons for selecting the Applied for Mark, the origin or source of inspiration for the Applied for Mark, and any alternative marks considered.

**RESPONSE:**

Applicant objects to this Interrogatory as being overly broad, unduly burdensome and virtually limitless such that the burden and expense of obtaining the information outweighs its likely value. The interrogatory is also vague and ambiguous. Applicant also objects to this Interrogatory to the extent that it seeks information not kept in the ordinary course of business and to the extent it seeks the disclosure of confidential business information. Without waiving its objections, Applicant states that it has for many years produced seals with a variety of trademarks and continues to develop and explore new products and marks. One long existing product has the phrase Pull from Edge to Open.

Interrogatory No. 4

Identify all Persons who participated in making the decision to adopt and/or apply for the Applied for Mark.

**RESPONSE:**

Applicant objects to this request as overly broad, unduly burdensome and to the extent it seeks the discovery of information subject to the attorney-client privilege and work product doctrine. The Applicant further objects as this Interrogatory is overly broad and unduly burdensome as to not having any limitation on time such that it is not likely to lead to the discovery of admissible evidence. Subject to these objections and the foregoing General Objections, Applicant identifies John Brown.

Interrogatory No. 5

Identify all Persons who have knowledge of Selig's selection, development, adoption and use of the Applied for Mark.

**RESPONSE:**

Applicant objects to this request as overly broad, unduly burdensome and to the extent it seeks the discovery of information subject to the attorney-client privilege and work product doctrine. The Applicant further objects as this Interrogatory is overly broad and unduly burdensome as to not having any limitation on time such that it is not likely to lead to the discovery of admissible evidence. Subject to these objections and the foregoing General Objections, Applicant identifies John Brown and Bill Radek.

Interrogatory No. 6

State whether Selig has any predecessors or successors in title with respect to the Applied for Mark, and, if so:

- (a) Identify all predecessor(s) or successor(s) in title; and
- (b) explain how Selig obtained title to the Applied for Mark and Identify all Documents relating to Selig's acquisition of title to the Applied for Mark.

**RESPONSE:**

Applicant objects to this interrogatory as being vague and ambiguous. Subject to that objection and the foregoing General Objections, Applicants states there are no predecessors in interest to the Applied for Mark.

Interrogatory No. 7

State whether a trademark search or any other type of search was conducted by or on behalf of Selig in connection with its selection, adoption or application to register the Applied for Mark. If so, Identify all Documents relating and/or referring to such search(es) and Identify all Person(s) with knowledge thereof.

**RESPONSE:**

Applicant objects to this Interrogatory as being overly broad and unduly burdensome and not otherwise limited in a manner reasonably calculated to lead to the discovery of admissible

evidence. Applicant objects to this interrogatory on the basis that it seeks information that is subject to the attorney-client privilege and work product doctrine, and is not likely to lead to discoverable evidence. Subject to those objections and the General Objections specified above, in the event that any document exist which are not otherwise protected from the objections, then such document will be produced.

Interrogatory No. 8

Describe the classes or types of purchasers to whom Selig promotes, or intends to promote, its products offered under or bearing the Applied for Mark.

**RESPONSE:**

The Applicant objects to this Interrogatory as being overly broad and unduly burdensome and not otherwise limited in a manner reasonably calculated to lead to the discovery of admissible evidence. Applicant also objects to this Interrogatory to the extent it seeks the discovery of confidential business information. The purchasers to whom the goods or services bearing the Applied for Mark are marketed are likely closure manufacturers, brand owners, distributors & brokers.

Interrogatory No. 9

Identify each product offered or sold (or intended to be offered or sold) by Selig under or bearing the Applied for Mark, including the date of first use of the Applied for Mark in connection with such product anywhere and/or in commerce, and Identify all Persons to whom such product was offered or sold and all Persons with knowledge about such offers or sales.

**RESPONSE:**

Applicant objects to this Interrogatory to the extent that it is vague, unduly burdensome, irrelevant, overly broad, and not narrowed in scope or time. Applicant also objects to this Interrogatory to the extent it seeks information beyond Applicant's mark identified in the Notice

of Opposition. Subject to those objections and the General Objections stated above, Applicant states that it has not yet used the Applied for Mark and that it offers a variety of products to closure manufacturers and the like. The applicant intends to use the Applied for Mark on primarily non-metal seals comprised of various layers including a metallic foil layer for use in container closures and caps.

Interrogatory No. 10

Identify and describe in detail all marketing or promotional activities that Selig has engaged in using or referring to the Applied for Mark, including but not limited to, trade shows; customer presentations, visits or testing; and/or print, electronic or any other type of advertising, and, for each, state the nature of the activity, the dates, and Identify all Persons involved, whether on behalf of Selig or any third party.

**RESPONSE:**

Applicant objects to this Interrogatory as overly broad and unduly burdensome as it is not limited in time or scope or goods and services. Applicant also objects to this Interrogatory to the extent it seeks the discovery of confidential business information. Without waiving its objections, Applicant will produce non-privileged documents as permitted by FED. R. CIV. P. 33(d) from which Opposer can derive or ascertain the answer. As stated, applicant has existing products which can be adopted to use this mark once it is cleared of objections.

Interrogatory No. 11

Describe any surveys, studies, analyses or inquiries made by or on behalf of Selig relating to the mark EDGEPULL or any variation of that mark.

**RESPONSE:**

Applicant objects to this Interrogatory as being overly broad and unduly burdensome and not otherwise limited in a manner reasonably calculated to lead to the discovery of admissible evidence. Applicant objects to this interrogatory on the basis that it seeks information that is

subject to the attorney-client privilege and work product doctrine, and is not likely to lead to discoverable evidence. Subject to these objections and the foregoing General Objections, Applicant states that it has not yet conducted any survey but reserves the right to supplement this response.

Interrogatory No. 12

State the factual basis for each of your Affirmative Defenses.

**RESPONSE:**

Applicant objects to this interrogatory on the basis that it is vague and ambiguous and that it seeks information that is subject to the attorney-client privilege and work product doctrine. Subject to those objections and the General Objections specified above, the Applicant states it does not believe that the Opposer has used the subject mark and that Opposer has no rights in the subject mark.

Interrogatory No. 13

State whether Selig is aware of any instances of confusion or mistake as to the source, origin, sponsorship or association of goods offered or sold by Selig under the Applied for Mark or by Tekni-Plex under the EDGEPULL mark, including instances of misdirected telephone calls, mail or other communication. If so,

- (a) state the date of each such instance of mistake or confusion;
- (b) Identify the Person or Persons confused or mistaken;
- (c) describe the instances or occasions;
- (d) state the manner in which such confusion or mistake was communicated or came to the attention of Selig (i.e., misdirected mail, telephone call, etc.);
- (e) Identify all Persons having knowledge of each such instance or occasion; and
- (f) Identify all Documents referring or relating in any way to such confusion or mistake.

**RESPONSE:**

Applicant objects to this Interrogatory to the extent it is overly broad and seeks information in a manner not kept in the ordinary course of business. Subject to this objection and the foregoing General Objections, Applicant states that it is not aware of information in its possession, custody, and control that would be responsive to this Interrogatory, although its investigation is ongoing.

Interrogatory No. 14

State whether Selig or any of its agents, employees, or sales representatives has ever received any order, inquiry, Communication or Document, whether orally or in writing, whereby any Person inquired whether there was a connection, affiliation or association between Selig and Tekni-Plex and Identify all Persons with knowledge thereof and all Documents related thereto.

**RESPONSE:**

Applicant objects to this Interrogatory to the extent it is overly broad and seeks information in a manner not kept in the ordinary course of business. Subject to this objection and the foregoing General Objections, Applicant states that it is not aware of information in its possession, custody, and control that would be responsive to this Interrogatory, although its investigation is ongoing.

Interrogatory No. 15

Describe the channels of trade of each product that Selig has offered or sold (or which it intends to offer or sell) under or bearing the Applied for Mark and for each product:

- (a) describe all methods by which sales/licensing revenue is or will be solicited at any level of distribution;
- (b) Identify Selig's distributors and state the name and address of the six (6) largest distributors by year from date of first use to the present, the name and address of the contact person or buyer of each said distributor; and

- (c) state the name and address of the six (6) largest customers by year from date of first use to the present.

**RESPONSE:**

Applicant objects to this Interrogatory as overly broad and unduly burdensome as it is not limited in time or scope or goods and services. Applicant also objects to this Interrogatory to the extent it seeks the discovery of confidential business information. Without waiving its objections, Applicant identifies that its products are sold business to business commerce with closure manufacturers, sales brokers, package distributors, material convertors, brand owners and that the Applicant will produce non-privileged documents as permitted by FED. R. CIV. P. 33(d) from which Opposer can derive or ascertain the necessary answer.

Interrogatory No. 16

Identify every Person whom Selig intends to call as a fact witness in this proceeding and describe the nature of each such witness's expected testimony, including the identification of all Documents about which each witness is expected to testify.

**RESPONSE:**

At this time, Applicant has not made decisions regarding whose testimony and what documents Applicant intends to use and submit as evidence in support of this proceeding. Applicant also objects to this request to the extent that it seeks the disclosure of information subject to the attorney-client privilege and work product doctrine. Applicant reserves the right to supplement this Response at an appropriate time consistent with the Trademark Rules and TTAB precedent.

Interrogatory No. 17

Identify all Persons whom Selig intends to call as expert witnesses in this proceeding and state their qualifications as experts, the subject matter on which each expert is expected to testify,

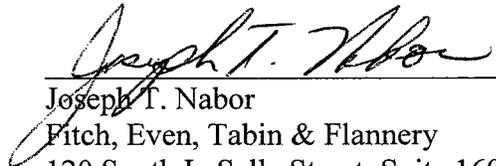
the substance of the facts and opinions to which each expert is expected to testify, and include a summary of the grounds for each opinion.

**RESPONSE:**

At this time, Applicant has not made decisions regarding whose expert testimony Applicant intends to use and submit as evidence in support of this proceeding. Applicant also objects to this request to the extent that it seeks the disclosure of information subject to the attorney-client privilege and work product doctrine. Applicant reserves the right to supplement this Response at an appropriate time consistent with the Trademark Rules and TTAB precedent.

As to objections,

Date: October 6, 2014

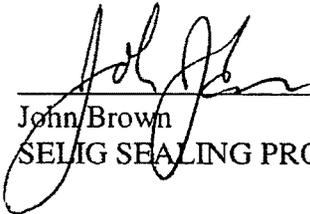
  
\_\_\_\_\_  
Joseph T. Nabor  
Fitch, Even, Tabin & Flannery  
120 South LaSalle Street, Suite 1600  
Chicago, Illinois 60603-3406  
Telephone 312.577.7000

Attorneys for Applicant  
Selig Sealing Products, Inc.

***DECLARATION***

John Brown, being warned that willful false statements and the like so made are punishable by fine or imprisonment, or both under 18 USC 1501 hereby declares that he has read the foregoing Response to Opposer's First Set of Interrogatories to Applicant and based upon reasonable inquiry into the subject matter of such Responses and to the best of his present knowledge, information and belief, the facts set forth in such Responses are current. He declares under penalty of perjury that the foregoing is true and correct.

Date: October 4, 2014

  
\_\_\_\_\_  
John Brown  
SELIG SEALING PRODUCTS, INC.

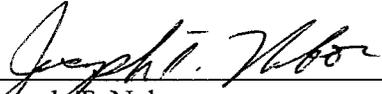
**CERTIFICATE OF SERVICE**

I, Joseph T. Nabor, Attorney for the Applicant, hereby certify that a copy of the foregoing RESPONSE TO OPPOSER'S FIRST SET OF INTERROGATORIES was served by first class mail, postage prepaid, upon:

Carrie Webb Olson  
Catherine Dugan O'Connor  
DAY PITNEY LLP  
One International Place  
Boston, MA 02110  
(617) 345-4767

*Attorneys for Opposer*

on this 6th day of October, 2014.

  
\_\_\_\_\_  
Joseph T. Nabor  
FITCH, EVEN, TABIN & FLANNERY  
120 South LaSalle Street, Suite 1600  
Chicago, IL 60603-3406  
Telephone: 312.577.7000  
Facsimile: 312.577.7007

*Attorneys for Applicant*

# **EXHIBIT 4**

1800-132290

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

Tekni-Plex, Inc.	)	
	)	
Opposer,	)	Opposition No.: 91/214508
v.	)	
	)	
Selig Sealing Products, Inc.	)	
	)	
Applicant.	)	
	)	
Serial No.: 86/001,725	)	
Filed: July 3, 2013	)	
Mark: EDGEPULL	)	

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

Selig Sealing Products, Inc., Applicant in the above-identified Opposition, hereby responds to the First Request for Production of Documents by Tekni-Plex, Inc., a Delaware Corporation opposing registration of the U.S. Application Serial No. 86/001,725 for the trademark EDGEPULL.

GENERAL OBJECTIONS

Notwithstanding anything contained herein to the contrary, responses to those requests requesting documents and things that are privileged or protected from disclosure by the attorney-client privilege, the work product immunity, a non-disclosure or confidentiality agreement, or any other constitutional, statutory, or common law protection (hereinafter "privileged" information) and such documents will not be provided to the extent that the documents and things disclose such information.

Applicant objects to the requests, instructions, and definitions to the extent that they are vague, ambiguous, unduly burdensome, and/or purport to impose any requirement or obligation upon the Applicant other than those required by the Federal Rules of Civil Procedure and/or the

Trademark Rules of Practice. When attempting to respond to a vague and ambiguous document request, Applicant will respond to the extent that it understands the request.

Applicant objects to each and every request to the extent that the request is not relevant to the subject matter of this Opposition and is not reasonably calculated to lead to the discovery of evidence admissible in this Opposition. Applicant also objects to each request to the extent such request is unlimited in scope.

Applicant objects to each request to the extent that it purports to require Applicant to provide documents beyond what is available to them at present after conducting a reasonable search of their own files and a reasonable inquiry of their current employees. Applicant's objections and responses are based on their investigation and discovery to date. Applicant expressly reserves the right to modify and supplement these objections and responses and their production if additional information is located by the Applicant. Applicant assumes no obligation to supplement their responses or production beyond those imposed by the Federal Rules of Civil Procedure and the Trademark Trial and Appeal Board rules.

Applicant objects to each request to the extent it seeks information that is neither relevant to the subject matter involved in this action, nor reasonably calculated to lead to the discovery of admissible evidence.

To the extent that Applicant produces documents and things pursuant to these requests, Applicant does not concede that the documents and things requested or produced are relevant to this action. Applicant expressly reserves the right to object to further discovery into the subject matter of such requests.

Applicant objects to the definition of the terms "document" and "documents" in the Definitions as being overly broad. This definition calls for production of documents broader in scope than that required by Rule 26(b) of the Federal Rules of Civil Procedure, including

privileged materials and materials protected under the work-product doctrine. Applicant will treat the terms “document” and “documents” to be defined in accordance with the Federal Rules of Civil Procedure.

Documents and things will be produced at the offices of Applicant’s counsel or such other place as the parties may agree.

To the extent specific General Objections are cited in a specific response, those citations are provided because they are believed to be particularly applicable to the specific request and are not to be construed as a waiver of any other General Objections applicable to responses falling within the scope of that request or any other request. These General Objections are incorporated into each of the following responses and are not waived or in any way limited by Applicant’s specific responses and objections.

## DOCUMENT REQUESTS

1. Documents identified or relied upon in your answers to Tekni-Plex's First Set of Interrogatories.

### **RESPONSE:**

Applicant objects to this Request to the extent that it calls for the production of documents that are subject to the attorney-client privilege or work product doctrine. Subject to these objections and the foregoing general objections, Applicant will produce documents which are readily available to it. To the extent that this Request calls for privileged documents and things, no such document or thing will be produced. To the extent that this Request calls for documents and things that are confidential, no such document or thing will be produced until an appropriate executed Protective Order is entered.

2. All Documents identified in Your Initial Disclosures.

### **RESPONSE:**

Subject to the general objection stated above, Applicant will produce representative documents which are in its possession, custody or control and readily available to it, if any exist.

3. Copies of public filings, brochures, press releases, communications, advertisements and promotional or marketing materials which incorporate the Applied for Mark or any variation thereof that was used is being used or will be used by You.

### **RESPONSE:**

Applicant objects to this Request as being overly broad and unduly burdensome as to not having any limitation on time such that it is not likely to lead to the discovery of admissible evidence. Applicant also objects to this Request to the extent it seeks information beyond Applicant's mark identified in the Notice of Opposition. Applicant also objects to this request to the extent that it seeks the disclosure of information subject to the attorney-client privilege and

work product doctrine and to the extent that it seeks the disclosure of confidential business information. Subject to these objections and the foregoing General Objections, Applicant will produce certain non-privileged documents responsive to this request, if any exist.

4. Documents sufficient to show the channels of trade relating to your products to be offered and/or sold under or bearing the Applied for Mark.

**RESPONSE:**

Applicant objects to this Request as being overly broad, unduly burdensome. Applicant also objects to this request to the extent that it seeks the disclosure of confidential business information. Subject to these objections and the foregoing General Objections, Applicant will produce relevant documents sufficient to respond to this request, if any exist.

5. All Documents Concerning Communications, whether oral or written, between You and any Person or entity with respect to the Applied for Mark or the subject matter of this proceeding.

**RESPONSE:**

Applicant objects to this request to the extent that it calls for documents and things no longer reasonably available to it and to the extent that it seeks the disclosure of confidential business information. Applicant further objects to this Request on the basis that it is overly broad and unreasonable as there is not time limitation specified in this Request. Applicant also objects to this request to the extent that it seeks the disclosure of information subject to the attorney-client privilege and work product doctrine. Subject to those objections and the general objection stated above, Applicant will produce representative documents which are in its possession, custody or control and readily available to it, if any exist.

6. All Documents Concerning Tekni-Plex's Opposition to Your application for the Applied for Mark in this matter.

**RESPONSE:**

Applicant objects to this request on the basis that it is overly broad and unduly burdensome. Applicant also objects to this request to the extent that it seeks the disclosure of information subject to the attorney-client privilege and work product doctrine.

7. All Documents Concerning Tekni-Plex or its liner or seal products.

**RESPONSE:**

Applicant objects to this Request as being overly broad, unduly burdensome... Applicant also objects to this request to the extent that it seeks the disclosure of confidential business information. Subject to these objections and the foregoing General Objections, Applicant will produce relevant documents sufficient to respond to this request, if any exist subject to the Protective Order.

8. All Documents Concerning Your adoption of the Applied for Mark, or any variation thereof, in the United States, including but not limited to:

- (a) Your development, creation and selection of the Applied for Mark;
- (b) The origin or source of inspiration for the Applied for Mark;
- (c) All trademark searches, opinions, analyses, studies, reports or Communications relating to the Applied for Mark;
- (d) Your decision to adopt and apply to register the Applied for Mark.

**RESPONSE:**

Applicant objects to this request to the extent that it calls for documents and things no longer reasonably available to it and to the extent that it seeks the disclosure of confidential business information. Applicant further objects to this Request on the basis that it is overly broad and unreasonable as there is not time limitation specified in this Request. Applicant also

objects to this request to the extent that it seeks the disclosure of information subject to the attorney-client privilege and work product doctrine. Subject to those objections and the general objection stated above, Applicant will produce representative documents which are in its possession, custody or control and readily available to it, if any exist.

9. All Documents Concerning any other marks that You have considered adopting in lieu of the Applied for Mark.

**RESPONSE:**

Applicant objects to this request to the extent that it calls for documents and things no longer reasonably available to it and to the extent that it seeks the disclosure of confidential business information. Applicant further objects to this Request on the basis that it is overly broad and unreasonable as there is not time limitation specified in this Request. Applicant also objects to this request to the extent that it seeks the disclosure of information subject to the attorney-client privilege and work product doctrine. Subject to those objections and the general objection stated above, Applicant will produce representative documents which are in its possession, custody or control and readily available to it, if any exist.

10. All Documents Concerning Your filing and/or prosecution of any application to register the Applied for mark, including Communications and correspondence You have had with the USPTO or any other Person relating to such application(s).

**RESPONSE:**

Applicant also objects to this request to the extent that it calls for documents and things no longer reasonably available to it and to the extent that it seeks the disclosure of confidential business information. Applicant further objects to this Request on the basis that it is overly broad and unreasonable as there is not time limitation specified in this Request. Applicant also objects to this request to the extent that it seeks the disclosure of information subject to the

attorney-client privilege and work product doctrine. Subject to those objections and the general objection stated above, Applicant will produce documents which are in its possession, custody or control and readily available to it, if any exist.

11. All Documents Concerning Your intended or actual use of the Applied for Mark, or any variation thereof, in the United States, including but not limited to business plans, marketing plans, sales agreements, distribution agreements, proposals, price quotes, advertising or promotional materials or any other documents that reflect, refer or relate to Your use or intended use of the Applied for Mark.

**RESPONSE:**

Applicant objects to this request to the extent that it calls for documents and things no longer reasonably available to it and to the extent that it seeks the disclosure of confidential business information. Applicant further objects to this Request on the basis that it is overly broad and unreasonable as there is not time limitation specified in this Request. Applicant also objects to this request to the extent that it seeks the disclosure of information subject to the attorney-client privilege and work product doctrine. Subject to those objections and the general objection stated above, Applicant will produce representative documents which are in its possession, custody or control and readily available to it, if any exist.

12. All Documents Concerning the goods that you have offered or intend to offer under or bearing the Applied for Mark.

**RESPONSE:**

Applicant objects to this request on the basis that it is overly broad and unduly burdensome. Applicant also objects to this request to the extent that it seeks the disclosure of information subject to the attorney-client privilege and work product doctrine. Subject to these objections and the foregoing general objections, Applicant will produce representative non-privileged documents which are readily available to it, if any exist.

13. All Documents Concerning your advertising, marketing, promotional, branding, sales or distribution plans, strategies and forecasts for the goods you have offered or intend to offer under or bearing the Applied for Mark.

**RESPONSE:**

Applicant objects to this request on the basis that it is overly broad and unduly burdensome. Applicant also objects to this request to the extent that it seeks the disclosure of information subject to the attorney-client privilege and work product doctrine. Subject to these objections and the foregoing general objections, Applicant will produce representative non-privileged documents which are readily available to it, if any exist.

14. Any advertising and/or promotional materials that you have prepared and/or distributed bearing the Applied for Mark or any variation thereof.

**RESPONSE:**

Applicant objects to this Request as being overly broad, unduly burdensome. Applicant also objects to this request to the extent that it seeks the disclosure of confidential business information. Subject to these objections and the foregoing General Objections, Applicant will produce relevant documents sufficient to respond to this request, if any exist.

15. All Documents Concerning the types of entities or persons to which Your goods are or will be offered or marketed under the Applied for Mark.

**RESPONSE:**

Applicant objects to this Request as being overly broad, unduly burdensome. Applicant also objects to this request to the extent that it seeks the disclosure of confidential business information. Subject to these objections and the foregoing General Objections, Applicant will produce relevant documents sufficient to respond to this request, if any exist.

16. All Documents Concerning any association between the Applied for Mark and either You or Tekni-Plex, on the part of any Person.

**RESPONSE:**

Applicant objects to this request to the extent that it seeks the disclosure of information subject to the attorney-client privilege and work product doctrine. Subject to these objections and the foregoing general objections, Applicant will produce non-privileged documents which are readily available to it, if any exist.

17. All Documents Concerning any of Your sales or offers to sell goods in the United States under the Applied for Mark, including all Communications with customers or potential customers of such goods.

**RESPONSE:**

Applicant objects to this Request as being overly broad, unduly burdensome. Applicant also objects to this request to the extent that it seeks the disclosure of confidential business information. Subject to these objections and the foregoing General Objections, Applicant will produce relevant documents sufficient to respond to this request, if any exist.

18. A sample of each product that you have or intend to offer or sell bearing the Applied for Mark and any packaging, labels or other items bearing the Applied for Mark.

**RESPONSE:**

Applicant objects to this request as being overly broad, unduly burdensome, unnecessary and unreasonably expensive and thus not calculated to lead to the discovery of admissible evidence. Applicant also objects to this request to the extent that it calls for documents and things no longer reasonably available to it. Subject to those objections and the general objection stated above, Applicant will produce representative documents which are in its possession, custody or control and readily available to it, if any exist.

19. Documents sufficient to show Your total sales, if any, for goods sold under the Applied for Mark in the United States.

**RESPONSE:**

Applicant objects to this Request as being overly broad and unduly burdensome. Applicant also objects to this request to the extent that it seeks the disclosure of confidential business information. Subject to those objections and the General Objection stated above, Applicant will produce representative documents which are readily available to it, if any exist.

20. Documents sufficient to identify Your customers or potential customers of goods sold or intended to be sold under the Applied for Mark in the United States.

**RESPONSE:**

Applicant objects to this Request as being overly broad, unduly burdensome. Applicant also objects to this request to the extent that it seeks the disclosure of confidential business information. Subject to these objections and the foregoing General Objections, Applicant will produce relevant documents sufficient to respond to this request, if any exist.

21. Documents sufficient to show the date of first use, or if different, the date of first use in commerce of the Applied for Mark by You, if applicable.

**RESPONSE:**

Applicant objects to this Request as being overly broad and unduly burdensome. Applicant also objects to this request to the extent that it seeks the disclosure of confidential business information. Subject to those objections and the General Objection stated above, Applicant will produce representative documents which are readily available to it, if any exist.

22. Copies of any and all reports relating to your monitoring, use and/or registration of the Applied for Mark or any variation thereof.

**RESPONSE:**

Applicant objects to this Request as being overly broad and unduly burdensome as to not having any limitation on time such that it is not likely to lead to the discovery of admissible evidence. Applicant also objects to this Request to the extent it seeks information beyond Applicant's mark identified in the Notice of Opposition. Applicant also objects to this request to the extent that it seeks the disclosure of information subject to the attorney-client privilege and work product doctrine and to the extent that it seeks the disclosure of confidential business information. Subject to these objections and the foregoing General Objections, Applicant will produce certain non-privileged documents responsive to this request, if any exist.

23. All Documents Concerning competitive intelligence, consumer studies, focus groups or any other investigation or analysis (whether formal or informal) relating to Your use or intended use of the Applied for Mark, or any variation thereof, or the use of EDGEPULL or any variation thereof by any other party, including but not limited to Tekni-Plex.

**RESPONSE:**

Applicant objects to this Request as being overly broad and unduly burdensome as to not having any limitation on time such that it is not likely to lead to the discovery of admissible evidence. Applicant also objects to this Request to the extent it seeks information beyond Applicant's mark identified in the Notice of Opposition. Applicant also objects to this request to the extent that it seeks the disclosure of information subject to the attorney-client privilege and work product doctrine and to the extent that it seeks the disclosure of confidential business information. Subject to these objections and the foregoing General Objections, Applicant will produce certain non-privileged documents responsive to this request, if any exist.

24. Copies of all Documents Concerning any third party rights in the word EDGEPULL or any words similar thereto, including but not limited to the creation, adoption, use and/or registration of marks by third parties.

**RESPONSE:**

Applicant objects to this Request as being overly broad and unduly burdensome as to not having any limitation on time such that it is not likely to lead to the discovery of admissible evidence. Applicant also objects to this Request to the extent it seeks information beyond Applicant's mark identified in the Notice of Opposition. Applicant also objects to this request to the extent that it seeks the disclosure of information subject to the attorney-client privilege and work product doctrine and to the extent that it seeks the disclosure of confidential business information. Subject to these objections and the foregoing General Objections, Applicant will produce certain non-privileged documents responsive to this request, if any exist.

25. Copies of all Documents Concerning agreements or other indicia of understanding (including, but not limited to, consent agreements, license agreements, co-existence agreements, settlement agreements, agency, development, distributorship and joint venture agreements and membership contracts) with any Person regarding EDGE PULL, or any variation thereof, including the negotiation thereof.

**RESPONSE:**

Applicant objects to this Request as being overly broad and unduly burdensome as to not having any limitation on time such that it is not likely to lead to the discovery of admissible evidence. Applicant also objects to this Request to the extent it seeks information beyond Applicant's mark identified in the Notice of Opposition. Applicant also objects to this request to the extent that it seeks the disclosure of information subject to the attorney-client privilege and work product doctrine and to the extent that it seeks the disclosure of confidential business information. Subject to these objections and the foregoing General Objections, Applicant will produce certain non-privileged documents responsive to this request, if any exist.

26. All Documents Concerning Tekni-Plex's adoption and/or use or intended use of EDGE PULL, including but not limited to when and how you learned of such adoption and/or

use or intended use and any and all Communications regarding or actions taken by you in response thereto.

**RESPONSE:**

Applicant objects to this Request as being overly broad and unduly burdensome as to not having any limitation on time such that it is not likely to lead to the discovery of admissible evidence. Applicant also objects to this Request to the extent it seeks information beyond Applicant's mark identified in the Notice of Opposition. Applicant also objects to this request to the extent that it seeks the disclosure of information subject to the attorney-client privilege and work product doctrine and to the extent that it seeks the disclosure of confidential business information. Subject to these objections and the foregoing General Objections, Applicant will produce certain non-privileged documents responsive to this request, if any exist.

27. All Documents Concerning any instances of actual or potential confusion or mistake between Your use, or intended use, of EDGE PULL or any variation thereof and TekniPlex's use of EDGE PULL or any variation thereof.

**RESPONSE:**

Applicant objects to this Request as being overly broad and unduly burdensome as to not having any limitation on time such that it is not likely to lead to the discovery of admissible evidence. Applicant also objects to this Request to the extent it seeks information beyond Applicant's mark identified in the Notice of Opposition. Applicant also objects to this request to the extent that it seeks the disclosure of information subject to the attorney-client privilege and work product doctrine and to the extent that it seeks the disclosure of confidential business information. Subject to these objections and the foregoing General Objections, Applicant will produce certain non-privileged documents responsive to this request, if any exist.

28. All Documents Concerning Communications between you and any Person with respect to the ownership, offering, marketing, promotion, distribution, sale or availability of goods under the Applied for Mark, or any variation thereof, whether by You or Tekni-Plex.

**RESPONSE:**

Applicant objects to this Request as being overly broad and unduly burdensome as to not having any limitation on time such that it is not likely to lead to the discovery of admissible evidence. Applicant also objects to this Request to the extent it seeks information beyond Applicant's mark identified in the Notice of Opposition. Applicant also objects to this request to the extent that it seeks the disclosure of information subject to the attorney-client privilege and work product doctrine and to the extent that it seeks the disclosure of confidential business information. Subject to these objections and the foregoing General Objections, Applicant will produce certain non-privileged documents responsive to this request, if any exist.

29. For each person whom You intend to rely upon as an expert witness, all documents the expert has reviewed or relied upon in formulating his or her opinion, and all documents the expert will assert supports each of his or her opinions.

**RESPONSE:**

Applicant objects to this Request on the basis that it is overly broad and unduly burdensome. Applicant also objects to this request to the extent that it seeks the disclosure of information subject to the attorney-client privilege and work product doctrine. Subject to these objections and the foregoing General Objections, Applicant will provide non-privileged documents responsive to this request, if any exist

30. Copies of any statements or opinions of any witness You intend to call to testify on Your behalf in connection with any of the issues involved in this opposition proceeding.

**RESPONSE:**

Applicant objects to this Request on the basis that it is overly broad and unduly burdensome. Applicant also objects to this request to the extent that it seeks the disclosure of information subject to the attorney-client privilege and work product doctrine. Subject to these objections and the foregoing General Objections, Applicant will provide non-privileged documents responsive to this request, if any exist

31. All Documents Concerning Your claim to the right to use or register the Applied for Mark in the United States.

**RESPONSE:**

Applicant objects to this Request as being overly broad and unduly burdensome as to not having any limitation on time such that it is not likely to lead to the discovery of admissible evidence. Applicant also objects to this Request to the extent it seeks information beyond Applicant's mark identified in the Notice of Opposition. Applicant also objects to this request to the extent that it seeks the disclosure of information subject to the attorney-client privilege and work product doctrine and to the extent that it seeks the disclosure of confidential business information. Subject to these objections and the foregoing General Objections, Applicant will produce certain non-privileged documents responsive to this request, if any exist.

32. All Documents Concerning Your alleged bona fide intent to use the Applied for Mark on and in connection with "primarily non-metal seals comprised of various layers including a metallic foil layer for use in container closures and caps" in the United States.

**RESPONSE:**

Applicant objects to this Request as being overly broad and unduly burdensome as to not having any limitation on time such that it is not likely to lead to the discovery of admissible evidence. Applicant also objects to this Request to the extent it seeks information beyond

Applicant's mark identified in the Notice of Opposition. Applicant also objects to this request to the extent that it seeks the disclosure of information subject to the attorney-client privilege and work product doctrine and to the extent that it seeks the disclosure of confidential business information. Subject to these objections and the foregoing General Objections, Applicant will produce certain non-privileged documents responsive to this request, if any exist.

33. All Documents Concerning Your affirmative defenses in this matter.

**RESPONSE:**

The Applicant objects to the extent that the request seeks the disclosure of information subject to the attorney-client privilege and work product doctrine. Subject to the foregoing General Objections stated above, Applicant will produce such documents which it presently knows to exist.

Respectfully submitted,  
Selig Sealing Products, Inc.

October 6, 2014

  
\_\_\_\_\_  
Joseph T. Nabor  
FITCH, EVEN, TABIN & FLANNERY  
120 South LaSalle Street, Suite 1600  
Chicago, IL 60603-3406  
Telephone: 312.577.7000  
Facsimile: 312.577.7007

*Attorneys for Applicant*

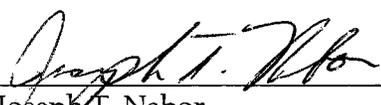
CERTIFICATE OF SERVICE

I, Joseph T. Nabor, Attorney for the Applicant, hereby certify that a copy of the foregoing RESPONSE TO OPPOSER'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS was served by first class mail, postage prepaid, upon:

Carrie Webb Olson  
Catherine Dugan O'Connor  
DAY PITNEY LLP  
One International Place  
Boston, MA 02110  
(617) 345-4767

*Attorneys for Opposer*

on this 6<sup>th</sup> day of October, 2014.

  
\_\_\_\_\_  
Joseph T. Nabor  
FITCH, EVEN, TABIN & FLANNERY  
120 South LaSalle Street, Suite 1600  
Chicago, IL 60603-3406  
Telephone: 312.577.7000  
Facsimile: 312.577.7007

*Attorneys for Applicant*