

ESTTA Tracking number: **ESTTA630705**

Filing date: **10/02/2014**

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

Proceeding	91215049
Party	Defendant Hammer Brand LLC dba Wolf Brand Scooters
Correspondence Address	SHANNON MCCUE HAHN LOESER & PARKS LLP 200 PUBLIC SQUARE, SUITE 2800 CLEVELAND, OH 44114 UNITED STATES trademarks@hahnlaw.com, bareese@hahnlaw.com, smccue@hahnlaw.com, bclark@hahnlaw.com
Submission	Motion to Compel Discovery
Filer's Name	Shannon V. McCue
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Signature	/Shannon V. McCue/
Date	10/02/2014
Attachments	2014.10.02 Applicants Motion for Order Compelling Depo.pdf(32373 bytes) Ex. 1 - Letter with discovery.pdf(327177 bytes) Ex. 2 - 2014.05.16 - McCue email re depo.pdf(208335 bytes) Ex. 3 - 2014.06.04 - Emails.pdf(170412 bytes) Ex. 4 - Oppoers First Set of Response to Applicants Request for Produc-tion.PDF(665355 bytes) Ex. 5 - 2014.06.13 - McCue email re protective order.pdf(175008 bytes) Ex. 6 - 2014.06.19 - Protective Order approved.pdf(161543 bytes) Ex. 7- 2014.06.20 - McCue deficiency letter.PDF(350256 bytes) Ex. 8 - 2014.07.10 - McCue email re deficiency.pdf(220467 bytes) Ex. 9 - 2014.08.19 - McCue letter - REDACTED.pdf(642543 bytes) Ex. 10 - 2014.09.25 - McCue email re deposition.pdf(809359 bytes) Ex. 11 - 2014.09.22 Applicant's Notice of Deposition of Opposer Alliance Power Sports.PDF(890341 bytes) Ex. 12 - 2014.09.25 - McCue email re deposition.pdf(298753 bytes) Ex. 13 - statement for Wolf trademark.pdf(419069 bytes)

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

ALLIANCE POWER SPORTS, INC.,)
)
) Opposition No. 91215049
) Opposer,
))
v.) In the matter of :
))
) U.S. Application Serial No. 85608003
HAMMER BRAND, LLC.)
) Filing Date: August 14, 2013
) Applicant.
))
) MARK: WOLF

APPLICANT’S MOTION FOR ORDER
COMPELLING DEPOSITION AND DOCUMENT PRODUCTION

Pursuant to TBMP 523 and Rule 37 of the Federal Rules of Civil Procedure, Applicant Hammer Brand, LLC (“Applicant”) respectfully moves for an Order compelling Opposer Alliance Power Sports, Inc. (“Opposer”) to produce a witness for deposition, along with responsive documents, pursuant to Applicant’s Notice of Deposition.

Pursuant to TBMP 408.01, Applicant has made a good faith effort to resolve this impasse: Before serving this Notice on September 22, Applicant—on multiple occasions beginning in May of this year—invited Opposer to identify available days so that the parties could schedule a mutually convenient date for the deposition. Opposer failed to respond and left Applicant with no choice but to issue the Notice and schedule the deposition before the October 30 discovery deadline. Additionally, Opposer has still failed to provide full responses to Applicant’s document requests, which were originally served in May of this year. Applicant has patiently requested a full production to no avail. Accordingly, Applicant included in the Notice an accompanying request for

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v.)
) U.S. Application Serial No. 85608003
HAMMER BRAND, LLC.)
) Filing Date: August 14, 2013
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) Applicant.)
) MARK: WOLF

**MEMORANDUM IN SUPPORT OF APPLICANT'S MOTION
FOR AN ORDER COMPELLING DEPOSITION AND DOCUMENT PRODUCTION**

I. INTRODUCTION

Opposer Alliance Power Sports, Inc., (“Opposer”), initiated this Opposition against Applicant Hammer Brand, LLC (“Applicant”), alleging that Applicant’s use and registration of Applicant’s Wolf mark creates a likelihood of confusion with Opposer’s purported prior use of the Wolf mark. Opposer claims that the Wolf mark originated with its manufacturer, SYM, Inc., and that in 2011 Opposer became SYM’s official distributor and began distributing the “SYM Wolf Classic 150” motorcycle to dealers. Therefore, Applicant has asked Opposer for information and documents regarding among other things the purported relationship between Opposer and SYM. Opposer, however, while pursuing its own discovery, has consistently thwarted Applicant’s discovery efforts.

Here, in merely the latest example of its improper conduct, Opposer ignored Applicant’s requests to schedule the deposition of Opposer’s corporate witness. With the discovery deadline approaching, Applicant served a deposition notice, and related

document requests, and scheduled the Rule-30(b)(6) deposition for October 20, 2004. But Opposer has informed Applicant that it will not produce a witness in accordance with Applicant's deposition notice. Applicant therefore respectfully seeks an order compelling Opposer to produce a corporate witness for deposition, along with the documents requested in the notice, before the October 30, 2014 discovery deadline.

II. BACKGROUND

On May 5, 2014, Applicant served Defendant with its First Set of Requests for the Production of Documents and Things. (Ex. 1). On May 16, 2014, Applicant's counsel asked Opposer's counsel for available dates to conduct a Rule-30(b)(6) deposition of Opposer's corporate witness. (See Ex. 2). Opposer did not respond to Applicant's request concerning deposition dates. Opposer did, however, ask Applicant for a 30-day extension to respond to Applicant's document requests and asked Applicant to agree to a proposed protective order. (Ex. 3). While Applicant did not agree to a 30-day extension, it agreed to the proposed protective order and further agreed that Opposer's responses would be treated as "Attorneys Eyes Only" until the protective order was entered by the Board. (*Id.*)

Opposer nonetheless failed to produce all responsive documents, particularly in response to Applicant's request number 30, which sought "Documents, things, and electronically stored information demonstrating any relationship between Opposer and Sym, Inc." (Ex. 1) Instead, Opposer responded to request number 30 by stating:

Opposer will provide documentation of its relationship with SYM within thirty (30) days of the entry of a Protective Order in this proceeding. Opposer provides a printout from Opposer's manufacturer's website showing Opposer as the U.S. distributor for SYM.

(Ex. 4).

On June 13, 2014, Applicant's counsel contacted Opposer's counsel to inquire if the proposed protective order had been submitted to the Board, and confirmed that Opposer's counsel could e-sign on behalf of Applicant's counsel. (Ex. 5). Opposer's counsel submitted the proposed protective order to the Board on the same day (*id.*), and the protective order was adopted on June 19, 2014. (Ex. 6).

But Opposer still did not supplement its production, despite Applicant's requests on June 20 and again on July 7. (Exs. 7 & 8). Applicant's June 20 letter (Ex. 7) noted several deficiencies in the production of documents and the objections raised in the written responses to Applicant's May discovery requests. Opposer ignored this letter and failed to provide a response or address the deficiencies in its responses or objections. As a result, Applicant submits that any objections to providing the requested discovery have been waived.

On August 19, 2014, Applicant's counsel once again reminded Opposer's counsel that its document production remained deficient and repeated the request for available deposition dates. (Ex. 9).¹ Applicant's counsel further advised Opposer that unless it cooperated in scheduling depositions, Applicant would proceed with the understanding that Opposer had no conflicts and would issue a notice and schedule the deposition before the October 30, 2014 discovery deadline. (*Id.*) Opposer again ignored Applicant's request. Therefore, on September 24, 2014, Applicant emailed notice of Opposer's Rule-30(b)(6) deposition for October 20, 2014 and demanded that Opposer's

¹ The request for available dates was included in a letter that was otherwise subject to Fed. R. Evid. 408. Accordingly, only the relevant, non-protected portion of this letter is attached here as an exhibit. Applicant does not waive and expressly retains all protections concerning information in the August 19, 2014 Letter that is protected by Rule 408.

witness bring to the deposition certain documents, including documents regarding Opposer's relationship with SYM. (Exs. 10 & 11).²

In contrast with its previous refusals to discuss deposition dates, Opposer responded to the emailed Notice—*within an hour*—and claimed for the first time that Opposer's CEO Gene Chang was out of the country until October 29. (Ex. 12 at p. 2). Opposer asked Applicant to agree to extend the discovery deadline to the end of November. (*Id.*) In response, Applicant's counsel reminded Opposer that deposition dates had been requested multiple times over the spring and summer—without so much as an acknowledgment that these requests had even been made. (*Id.*) Applicant's counsel further noted that someone other than Mr. Chang could testify on behalf of Opposer (*id.*), but Opposer claims that only Mr. Chang can so testify. (*Id.* at p. 1). And Applicant's counsel again reminded Opposer that its document production remained deficient. (*Id.*)

Finally, on September 25, Applicant's counsel informed Opposer that unless it fully responded to the document requests and designated a Rule-30(b)(6) witness by the next day, Applicant would take necessary action. (Ex. 12 at p. 1).

As this background shows, Applicant's counsel has made a good-faith effort to resolve this matter in accordance with TBMP 408.

² The Notice was sent via regular U.S. Mail on September 22, 2014, but because Applicant's counsel's e-mail system was down for over 36 hours, the notice was not emailed until September 24, 2012. (See Ex. 10).

III. LAW & ARGUMENT

A. Opposer has no valid grounds to refuse to appear for deposition.

Pursuant to TBMP 404.01, as a “matter of convenience and to avoid scheduling conflicts, the parties should attempt to schedule depositions by agreement rather than have the deposing party unilaterally set a deposition date.” This is precisely what Applicant attempted to do.

Because Opposer refused to cooperate, however, Applicant served a deposition notice pursuant to Rule 30, which allows a party to depose another party upon “reasonable written notice to every other party.” Fed. R. Civ. P. 30(b)(1); *see also* TBMP § 404.03. Here, Applicant’s September 22 Notice scheduled the deposition for October 20—more than reasonable notice under the circumstances. *See The Sunrider Corp. v. Raats*, 83 U.S.P.Q.2d 1648 (TTAB 2007) (six-day notice was reasonable).

In *S. Indus., Inc. v. Lamb-Weston, Inc.*, 45 U.S.P.Q.2d 1293 (TTAB 1997), the respondent served a notice of deposition on September 12, 1997, scheduling a Rule-30(b)(6) deposition for September 22, 1997. Respondent later agreed to schedule a different date in light of petitioner’s claim that the designated witness had another deposition scheduled for the same day. Petitioner, however, refused to agree to another date, and the Board therefore granted the motion to compel.

Here, Applicant’s good-faith attempts to schedule the deposition with Opposer were met with silence. Applicant therefore had no choice but to schedule the deposition before the close of discovery. Only in response to Applicant’s Notice—more than four months after Applicant’s initial request to find an agreeable date—did Opposer respond. As in *S. Industries*, Opposer here has been wholly uncooperative and now seeks to run

out the discovery clock. *See HighBeam Marketing, LLC v. Highbeam Research, LLC*, 85 U.S.P.Q.2d 1902 (TTAB 2008) (granting applicant’s motion to compel depositions of employees after applicant’s good-faith efforts to schedule deposition dates were unsuccessful).

Opposer asked Applicant to agree to extend the discovery deadline (Ex. 12 at p. 2), but this last-minute request should not excuse Opposer’s obstruction. Pursuant to TBMP 401.04, disclosure deadlines “may” be modified upon written stipulation. But the Board need not accept stipulations, in which case the original deadlines may remain. *Id.* In effect, therefore, Opposer asks Applicant to agree to a procedure through which Applicant may forfeit its right to depose Opposer’s corporate witness. *See, e.g., The H.D. Lee Co., Inc. v. Maidenform, Inc.*, 87 U.S.P.Q.2d 1715 (TTAB 2008) (opposer was permitted to rely on documents even though the documents had not been produced in response to applicant’s discovery requests, because applicant never moved to compel the documents) (*citing* TBMP §523.04 (“If a party that served a request for discovery receives a response thereto which it believes to be inadequate, but fails to file a motion to test the sufficiency of the response, it may not thereafter be heard to complain about the sufficiency thereof.”)).

Finally, Applicant notes that Opposer has not suggested—nor is there any ground to suggest—that the deposition of Mr. Chang is inappropriate or that it would elicit information outside the scope of discovery or that Applicant has failed to properly describe the topics for deposition. Instead, having ignored Applicant’s requests to schedule a mutually convenient date for deposition, Opposer now announces its intent to ignore a valid deposition notice.

Pursuant to TBMP § 523.01, when a party “fails to designate a person pursuant to Rule 30(b)(6) ..., the party entitled to disclosure or seeking discovery may file a motion to compel ...a designation[] or attendance at a deposition...” Applicant here is entitled to an order compelling Opposer to designate and produce a person to testify on behalf of Opposer before the close of discovery.

B. Opposer has no valid grounds to refuse production of the documents requested in the Notice.

Opposer’s purported common-law rights in the Wolf mark is a critical issue in this Opposition. Opposer is attempting to prevent registration of Applicant’s mark on the grounds that Applicant’s registration of the Wolf mark is likely to cause confusion with Opposer’s alleged prior use of the Work mark. *Opposition* at ¶9. Central to Opposer’s claim is proof that Opposer owns any rights in and to the Wolf mark upon which it relies in the Opposition. *See, e.g., Melwani v. Allegiance Corp.*, 97 U.S.P.Q.2d 1537 (TTAB 2010); *Demon Int. LC v. Lynch*, 86 U.S.P.Q.2d 1058 (TTAB 2008). Opposer has alleged such ownership. *See Opposition* at ¶¶ 1-2.

Applicant asked for documents related to the alleged Opposer-SYM relationship and would have expected Opposer to produce an actual distributorship agreement, or correspondence substantiating the alleged relationship. Instead, Opposer’s production is limited to a few pages of brochures and website pages purportedly associated with the “SYM Wolf;” and a one-page “Statement” dated September 5, 2014. (Ex. 13). The “Statement” simply states that SYM “hereby appoint[s]” Opposer as its “official distributor” within the United States and that Opposer has the “exclusive right of exercising ‘Wolf Class’ trademark and Logo” within the United States. (*Id.*) This “Statement” was obviously prepared after-the-fact (“hereby appoint[s]”, as of September

5, 2014). It provides no information concerning the alleged relationship between SYM and Opposer before September 5, 2014.

Because Opposer's alleged ownership of the Wolf mark is central to its claims in this Opposition, Applicant is entitled to discovery on this critical issue. If Opposer has no other information, it should confirm; otherwise, it must produce all responsive documents.

By its own admission, Opposer has no basis for continuing to withhold the requested documents. Opposer conceded that entry of the protective order would obviate any objection to producing the requested information and documents. (Ex. 3). When requesting the protective order, counsel for Opposer stated:

Our client is concerned about several of the productions and interrogatory responses, but would be comfortable providing the information under a Protective Order.

Id. (emphasis added).

The protective order requested by Opposer has been entered (Ex. 6), but Opposer has still not provided a full response to Applicant's request for information concerning Opposer's purported relationship with SYM. Applicant is therefore entitled to production of responsive documents. Because of Opposer's unreasonable delays and because Applicant was compelled to effectively re-request documents in the Deposition Notice, Applicant asks that Opposer be compelled to produce responsive documents immediately so that Applicant may properly prepare for the Rule-30(b)(6) deposition.

IV. CONCLUSION

For the foregoing reasons, Applicant respectfully requests that the Board issue an Order compelling Opposer to (1) immediately produce all documents requested in the Deposition Notice or immediately confirm that all responsive documents have been

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing **APPLICANT'S MOTION FOR AN ORDER COMPELLING DEPOSITION AND DOCUMENT PRODUCTION** was served upon counsel for Opposer on this 2nd day of October, 2014 by first class mail and e-mail to:

Erin C. Kunzleman
erin@llapc.com
JungJin Lee
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Lee, Lee & Associates, P.C.
2531 Jackson Rd. Ste 234
Ann Arbor, MI 48103

/ Shannon V. McCue/

Attorney for Applicant
Hammer Brand LLC

May 5, 2014

Erin Kunzleman
JungJin Lee
Lee, Lee & Associates, P.C.
2531 Jackson Road, Ste 234
Ann Arbor, MI 48103

RE: Alliance Power Sports, Inc. v. Hammer Brand LLC
Opposition No. 91215049

Dear Erin and JungJin:

Enclosed please find the following documents from Hammer Brand LLC.

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

If you have any questions, please do not hesitate to contact me.

Sincerely,



Shannon V. McCue

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Enclosure

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
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ALLIANCE POWER SPORTS, INC.,)
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) U.S. Application Serial No. 85608003
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) Filing Date: August 14, 2013
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) Applicant.)
)
) MARK: WOLF
)

**APPLICANT’S FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS
AND THINGS**

Pursuant to Rule 34 of the Federal Rules of Civil Procedure and Rule 2.120 of the Trademark Rules of Practice, Applicant requests that Opposer, within thirty days, produce copies of the documents set forth below at the offices of the undersigned attorneys, subject to the following definitions and instructions:

1. DEFINITIONS AND INSTRUCTIONS

A. “Opposer” includes Alliance Powersports Inc., and its predecessors in interest, subsidiaries, divisions and related organizations and their officers, directors, employees, agents and representatives.

B. As used herein, the terms "document" or "documents" mean any writing or record or any type of description within Opposer’s possession, custody or control, or recorded, or filed, or reproduced by any other mechanical or electrical process, or written or produced by hand, and whether or not claimed to be privileged against discovery on any ground, and whether an original master, or copy, including any nonidentical copy, including without limitation, the following items: email, agreements; contacts; communications; correspondence; letters; cablegrams; radiograms and telegrams; teletypes; telefaxes; notes and memoranda; summaries; minutes and

records of telephone conversations, meetings, and conferences, including lists of persons attending meetings and conferences, summaries and records of personal conversations or interviews; offers; opinions and reports of counsel; books, manuals, publications and diaries; laboratory and engineering reports and notebooks; charts, graphs, and plans; specifications; sketches and drawings; photographs, whether still or motion; computer tapes or printouts; reports and summaries of investigations; studies; statements, opinions and reports of consultants; sales records, including purchase orders and invoices; receipts; checks; reports and summaries of negotiations; brochures; pamphlets; catalogs and catalog sheets; advertisements; bulletins; circulars; trade letters; press, publicity, trade and product releases; drafts of original or preliminary notes on, and marginal comments appearing on, any documents; prospectuses; other reports and records; graphic or manual records or representations of any kind, such as, but not limited to, microfiche, microfilm and videotape records; electronic, mechanical or electric records or representations of any kind, such as, but not limited to, tapes, cassettes, disks and recordings; and any other retrievable data, whether encarded, taped, or coded electrostatically, electromagnetically or otherwise.

C. "And" as well as "or" shall be construed disjunctively or conjunctively as necessary in order to bring within the scope of the request all documents which might otherwise be construed to be outside its scope.

D. The singular shall include the plural and the present tense shall include the past tense and vice versa in order to bring within the scope of the request all documents which might otherwise be construed to be outside the scope.

E. If Opposer objects to the production of any document which falls within a request based on claim of privilege or a claim that such documents constitute attorney work product, the following information is requested:

1. the date of the document;
2. the name of the document's originator, the name of the person to whom it is addressed and the names of all person who were shown copies;

3. a general description of the type of document and the subject matter to which it pertains; and

4. the basis for withholding the document.

F. The mark “WOLF” is defined herein as including the word mark “WOLF” and includes but is not limited to the mark which is the subject of U.S. Trademark Application No. 86/130,449.

REQUESTS FOR PRODUCTION

1. All documents, things, and electronically stored information related to or supporting Opposer's allegation in paragraph 1 of the Notice of Opposition that Opposer has been and is now using the mark "WOLF" since at least 2011 in connection with the sale of scooters.
2. All documents, things, and electronically stored information related to or supporting Opposer's allegation in paragraph 2 of the Notice of Opposition that Opposer common law rights in the mark "WOLF" covering scooters.
3. All documents, things, and electronically stored information that relate to the geographical scope of Opposer's alleged common law rights including but not limited to representative advertisements, sales invoices, purchase orders, customer lists and shipping information for products bearing the WOLF mark.
4. All documents, things, and electronically stored information that relate to Opposer's decision, planning, and applications to register the mark "WOLF" with the U.S. Patent and Trademark Office.
5. All documents, things, and electronically stored information related to or supporting Opposer's allegations in paragraph 5 of the Notice of Opposition.
6. All documents, things, and electronically stored information related to or supporting Opposer's allegations in paragraph 6 of the Notice of Opposition.
7. Representative samples of Opposer's products as listed in International Class 12 of U.S. Application No. 86/130,449, namely, scooters, including the dates each was sold in the United States, from 2011 through the present.
8. A full list of products and descriptions of all scooters produced or sold by Opposer from 2006 through the present.

9. All documents, things, and electronically stored information identifying the channels of trade through which Opposer offers its products and services in the United States.
10. All documents, things, and electronically stored information that identify customers who have purchased Opposer's products bearing the WOLF mark in the United States.
11. All documents, things, and electronically stored information that relate to Opposer's past, present or future marketing plans for its products or services that bear the mark "WOLF".
12. All documents, things, and electronically stored information that relate to or constitute any assignment, license, or other transfer of interest to or from Opposer of any right in the mark "WOLF".
13. All documents, things, and electronically stored information that relate to or constitute any formal or informal trademark searches or investigations that relate to the mark "WOLF" as defined above.
14. All documents, things, and electronically stored information that relate to Opposer's knowledge of Applicant's trademark applications and/or registrations for the mark WOLF, including Applicant's use of the mark WOLF in connection with the goods identified in U.S. Application No. 86/037,963.
15. All documents, things, and electronically stored information related to or supporting Opposer's allegations of fraud contained in the Notice of Opposition.
16. All documents, things, and electronically stored information related to or supporting Opposer's allegation that Applicant was not using the mark WOLF in connection with scooters at the time of filing and during the pendency of its U.S. trademark application for the mark WOLF.
17. All documents, things, and electronically stored information that relate to how Opposer's knowledge of Applicant's intent to use the mark WOLF in connection with scooters, trademark applications and/or registrations for the mark WOLF was developed.

18. All documents, things, and electronically stored information that relate to or evidence any statement made by any employee or officer of Opposer indicating that it was not using the mark WOLF from 2011 through present.
19. All documents, things, and electronically stored information that relate to or evidence any interruptions in Opposer's use of the mark WOLF.
20. All documents, things, and electronically stored information referring or relating to or constituting any formal or informal market studies, consumer surveys, focus groups or other studies that relate to the mark "WOLF"
21. All documents, things, and electronically stored information that refer or relate to any objections, litigation, proceedings or disputes relating to Opposer's use of or application to register the mark "WOLF," excluding the present opposition proceedings.
22. All documents, things, and electronically stored information referring or relating to present or former third party use of any name, mark or term comprised in whole or in part of the word "WOLF" or any variation thereof.
23. All documents, things, and electronically stored information referring to or relating to Opposer's U.S. trademark registration for the mark "WOLF," including but not limited to documents relating to Opposer's decision to file the applications in the U.S.
24. All documents, things, and electronically stored information comprising, referring or relating to any executed or proposed agreements or contracts or to the consideration of proposed agreements or contracts relating to the "WOLF" mark.
25. All documents, things, and electronically stored information relating to Opposer's actions to enforce the mark "WOLF" in the United States.
26. All documents, things, and electronically stored information relating to any instances of actual confusion between the Opposer's WOLF mark and the Applicant's WOLF mark.
27. Documents sufficient to show Opposer's advertising expenditures for the WOLF mark for every year from the first date Opposer used the WOLF mark through present.

28. Documents sufficient to show the ownership, organization and structure of Opposer and any parent, sister, or subsidiary companies, including but not limited to organization charts and documents identifying officers, directors, and persons involved in the management of Alliance Powersports Inc..
29. Documents, things, and electronically stored information sufficient to demonstrate Opposer's advertisement for and sale of in the United States all of the products and services identified in U.S. Trademark Application No. 86/130,449 on a continuous basis from 2011 through the present.
30. Documents, things, and electronically stored information demonstrating any relationship between Opposer and Sym, Inc.
31. Documents, things, and electronically stored information between Opposer and Sym relating to the WOLF mark.
32. Documents, things, and electronically stored information between Opposer and any other party relating to the WOLF mark.
33. Documents, things, and electronically stored information between Opposer and any other party relating to the Applicant.
34. Documents, things, and electronically stored information between Opposer and any other party relating to the present opposition.
35. All documents, things, and electronically stored information relating to Road Rat Motors, LLC.
36. All documents, things, and electronically stored information relating to Bintelli, LLC.
37. All documents, things, and electronically stored information relating to Justin Jackrel.
38. Any joint defense or common interest privilege preservation agreements between Opposer, Road Rat LLC, or Bintelli, LLC.
39. All documents, things, and electronically stored information relating to any past or present litigation that Opposer has been involved in that relates to the goods offered in

connection with the “WOLF” trademark, including but not limited to any lawsuits involving Alliance Powersports Inc.

40. All documents, things, and electronically stored information relating to Opposer’s use of the “WOLF” trademark that identify the relevant consumers or categories of relevant consumers, the geographic locations of those consumers, along with the number of relevant consumers in each category, and in each geographic location.
41. Documents, things, and electronically stored information sufficient to identify the average price of each good and service sold by Opposer under the mark “WOLF”
42. To the extent not covered by the above Requests, all documents that relate to or were relied upon for any of Opposer’s answers to Applicant’s First Set of Interrogatories.
43. To the extent not covered by the above Requests, all documents that support any of Opposer’s contentions in Notice of Opposition, or upon which Opposer intends to rely in the present opposition proceeding.
44. To the extent not covered by the above Requests, all documents that otherwise relate to the present opposition proceeding.
45. All documents that Opposer relied upon in making the allegations contained in Opposer’s Notice of Opposition.

Dated: May 5, 2014

Respectfully submitted,

/Shannon V. McCue/

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Cleveland, OH 44113

Attorneys for Applicant
Hammer Brand LLC

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing APPLICANT’S FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS AND THINGS was served upon counsel for Opposer on this 5th of May, 2014 by first class mail and email to:

Erin C. Kunzleman
erin@llapc.com
JungJin Lee
jj@llapc.com
Lee, Lee & Associates, P.C.
2531 Jackson Rd. Ste 234
Ann Arbor, MI 48103

/Shannon V. McCue/

Attorney for Applicant
Hammer Brand LLC

From: Shannon V. McCue [smccue@hahnlaw.com]
Sent: Friday, May 16, 2014 8:53 AM
To: Erin K.
Cc: Brendan E. Clark; Becky Reese
Subject: Alliance v. Hammer Brands - Wolf Opposition (Our ref: 210947.00001)

Erin,
I am writing to follow up on our conversation on May 2, 2014. In particular, you had promised to provide me with information as to the real party in interest between Alliance and Sym. Also, have you had any further discussion of the possibility of a settlement with your client?

Finally, please let me know the availability of your client for a 30b6 deposition during the second or third week of June.

Thanks.
Shannon

[Shannon V. McCue](#)

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From: Shannon V. McCue
Sent: Wednesday, June 04, 2014 8:03 AM
To: Erin K.
Cc: Ross M. Babbitt; Becky Reese
Subject: Re: WOLF Protective Order

Erin
We will look at the protective order. We should be able to get it back to you tomorrow. We cannot grant a 30 day extension for Alliance's responses to the outstanding discovery requests.

To address your client's concern, until the protective order is entered, we will agree to treat the responses and production as attorneys eyes only.

Shannon

On Jun 4, 2014, at 12:34 AM, "Erin K." <erin@llapc.com> wrote:

Hi Shannon,

We have been working with our client regarding their responses to Applicant's discovery requests. We are wondering if you would consent to a 30 day extension to respond.

Our client is concerned about several of the productions and interrogatory responses, but would be comfortable providing the information under a Protective Order. Attached is a draft protective order that tracks the TTAB's standard version.

The requested extension would give us time to finalize the draft order and respond to Applicant's requests.

Thank you,

Erin

<WOLF- Protective Order.doc>

Exhibit 11 - Review – Café Racer June/July 2012 Issue
Exhibit 12 - Review – www.morotcyclistonline.com February 6, 2013
Exhibit 13 - Review – www.motorcycleclassics.com July 26, 2013
Exhibit 14 - Brochure – SymWolf Classic 150 – Official Tour Bike of
Andrew Dost March 1, 2014

Opposer will provide additional documentation of sales, marketing expenses and geographic distribution of goods sold within thirty (30) days of the entry of a Protective Order in this proceeding.

2. All documents, things, and electronically stored information related to or supporting Opposer's allegation in paragraph 2 of the Notice of Opposition that Opposer common law rights in the mark "WOLF" covering scooters.

RESPONSE: In response to Request for Production 2, Opposer provides the following exhibits:

Exhibit 1 - Facebook – Lance Powersports January 2011-present
Exhibit 2 - Forum – Adventure Rider August 29, 2011
Exhibit 3 - Newsfeed - 2 Stroke Buzz August 31, 2011
Exhibit 4 - Ad – Café Racer December 2011-November 2012
Exhibit 5 - Ad – Motorcycle Magazine January 2012 – October 2012
Exhibit 6 - Review – Twin Cities Rider – April 2012
Exhibit 7 - Article - Power Sports Business April 2, 2012
Exhibit 8 - Review – www.scootsafley.com April 12, 2012
Exhibit 9 - Review – www.scooterfile.com April 30, 2012
Exhibit 10 - Review – www.motorcycle-usa.com May 16, 2012
Exhibit 11 - Review – Café Racer June/July 2012 Issue
Exhibit 12 - Review – www.morotcyclistonline.com February 6, 2013
Exhibit 13 - Review – www.motorcycleclassics.com July 26, 2013
Exhibit 14 - Brochure – SymWolf Classic 150 – Official Tour Bike of
Andrew Dost March 1, 2014

Opposer will provide additional documentation of sales, marketing expenses and geographic distribution of goods sold within thirty (30) days of the entry of a Protective Order in this proceeding.

3. All documents, things, and electronically stored information that relate to the geographical scope of Opposer's alleged common law rights including but not limited to representative advertisements, sales invoices, purchase orders, customer lists and shipping information for products bearing the WOLF mark.

RESPONSE: In response to Request for Production 3, Opposer provides the following exhibits:

Exhibit 1 - Facebook – Lance Powersports January 2011-present

Exhibit 2 - Forum – Adventure Rider August 29, 2011
Exhibit 3 - Newsfeed - 2 Stroke Buzz August 31, 2011
Exhibit 4 - Ad – Café Racer December 2011-November 2012
Exhibit 5 - Ad – Motorcycle Magazine January 2012 – October 2012
Exhibit 6 - Review – Twin Cities Rider – April 2012
Exhibit 7 - Article - Power Sports Business April 2, 2012
Exhibit 8 - Review – www.scootsafley.com April 12, 2012
Exhibit 9 - Review – www.scooterfile.com April 30, 2012
Exhibit 10 - Review – www.motorcycle-usa.com May 16, 2012
Exhibit 11 - Review – Café Racer June/July 2012 Issue
Exhibit 12 - Review – www.morotcyclistonline.com February 6, 2013
Exhibit 13 - Review – www.motorcycleclassics.com July 26, 2013
Exhibit 14 - Brochure – SymWolf Classic 150 – Official Tour Bike of Andrew Dost March 1, 2014

Opposer will provide additional documentation of sales, marketing expenses and geographic distribution of goods sold within thirty (30) days of the entry of a Protective Order in this proceeding.

4. All documents, things, and electronically stored information that relate to Opposer’s decision, planning, and applications to register the mark “WOLF” with the U.S. Patent and Trademark Office.

RESPONSE: Opposer objects to Request for Production 4 as it seeks attorney work product. Opposer provides a copy of their Trademark Application U.S. Serial No. 86/130,449. (See Exhibit 15)

5. All documents, things, and electronically stored information related to or supporting Opposer’s allegations in paragraph 5 of the Notice of Opposition.

RESPONSE: Opposer provides printouts from several forums, and commentaries regarding the extensive good will and consumer recognition of Opposer’s Mark.

Exhibit 2 - Forum – Adventure Rider August 29, 2011
Exhibit 3 - Newsfeed - 2 Stroke Buzz August 31, 2011
Exhibit 6 - Review – Twin Cities Rider – April 2012
Exhibit 8 - Review – www.scootsafley.com April 12, 2012
Exhibit 9 - Review – www.scooterfile.com April 30, 2012
Exhibit 10 - Review – www.motorcycle-usa.com May 16, 2012
Exhibit 11 - Review – Café Racer June/July 2012 Issue
Exhibit 12 - Review – www.morotcyclistonline.com February 6, 2013
Exhibit 13 - Review – www.motorcycleclassics.com July 26, 2013
Exhibit 16 – Comments – YouTube -
<http://www.youtube.com/watch?v=3ujkfHqcDvg>
Exhibit 17 – Google Search “Wolf Classic”
Exhibit 18 – Search for SYM Wolf – Youtube -
http://www.youtube.com/results?search_query=SYM+Wolf

6. All documents, things, and electronically stored information related to or supporting Opposer's allegations in paragraph 6 of the Notice of Opposition.

RESPONSE: Opposer provides printouts of forums, reviews, commentary and articles regarding their SYM Wolf Classic 150.

- Exhibit 1 - Facebook – Lance Powersports January 2011-present
- Exhibit 2 - Forum – Adventure Rider August 29, 2011
- Exhibit 3 - Newsfeed - 2 Stroke Buzz August 31, 2011
- Exhibit 6 - Review – Twin Cities Rider – April 2012
- Exhibit 7 - Article - Power Sports Business April 2, 2012
- Exhibit 8 - Review – www.scootsafley.com April 12, 2012
- Exhibit 9 - Review – www.scooterfile.com April 30, 2012
- Exhibit 10 - Review – www.motorcycle-usa.com May 16, 2012
- Exhibit 11 - Review – Café Racer June/July 2012 Issue
- Exhibit 12 - Review – www.morotcyclistonline.com February 6, 2013
- Exhibit 13 - Review – www.motorcycleclassics.com July 26, 2013
- Exhibit 16 – Comments – YouTube -
<http://www.youtube.com/watch?v=3ujkfHqcDvg>
- Exhibit 17 – Google Search “Wolf Classic”
- Exhibit 18 – Search for SYM Wolf – Youtube -
http://www.youtube.com/results?search_query=SYM+Wolf

7. Representative samples of Opposer's products as listed in International Class 12 of U.S. Application No. 86/130,449, namely, scooters, including the dates each was sold in the United States, from 2011 through the present.

RESPONSE: Opposer provides its marketing brochure for the SYM Wolf Classic 150 and photos of Opposer's SYM Wolf Classic 150. (See Exhibits 14 and 19).

Opposer will provide additional documentation of models and dates sold within thirty (30) days of the entry of a Protective Order in this proceeding.

8. A full list of products and descriptions of all scooters produced or sold by Opposer from 2006 through the present.

RESPONSE: Opposer will provide documentation of models produced and dates sold within thirty (30) days of the entry of a Protective Order in this proceeding.

9. All documents, things, and electronically stored information identifying the channels of trade through which Opposer offers its products and services in the United States.

RESPONSE: Opposer will provide documentation identifying the channels of trade through which Opposer offers its products and services within thirty (30) days of the entry of a Protective Order in this proceeding.

10. All documents, things, and electronically stored information that identify customers who have purchased Opposer's products bearing the WOLF mark in the United States.

RESPONSE: Opposer will provide documentation of demographics of consumers within thirty (30) days of the entry of a Protective Order in this proceeding.

11. All documents, things, and electronically stored information that relate to Opposer's past, present or future marketing plans for its products or services that bear the mark "WOLF".

RESPONSE: Opposer provides a copy of its present marketing brochure for the SYM Wolf Classic and copies of past advertisements for the SYM Wolf Classic. (See Exhibit 4, 5, and 14). Opposer will provide documentation of past, present and future marketing plans for its products or service within thirty (30) days of the entry of a Protective Order in this proceeding.

12. All documents, things, and electronically stored information that relate to or constitute any assignment, license, or other transfer of interest to or from Opposer of any right in the mark "WOLF".

RESPONSE: Opposer has no documents at this time. Opposer reserves the right to amend its response if other documents become available during the pendency of this proceeding.

13. All documents, things, and electronically stored information that relate to or constitute any formal or informal trademark searches or investigations that relate to the mark "WOLF" as defined above.

RESPONSE: Opposer ran a search on the USPTO website, but did not print the results of that search. Opposer reserves the right to amend its response if other documents become available during the pendency of this proceeding.

14. All documents, things, and electronically stored information that relate to Opposer's knowledge of Applicant's trademark applications and/or registrations for the mark WOLF, including Applicant's use of the mark WOLF in connection with the goods identified in U.S. Application No. 86/037,963.

RESPONSE: Opposer provides a copy of an email sent by Jason Jackrel, President of Bintelli. (See Exhibit 20).

15. All documents, things, and electronically stored information related to or supporting Opposer's allegations of fraud contained in the Notice of Opposition.

RESPONSE: Opposer provides printouts from Applicant's Facebook, Powersports Business Article from September 25, 2013, <http://www.newscooters4less.com/gainesville-scooters/gorilla-motor-works-scooters.html>, and Applicant's Twitter page. (See Exhibits 21-24).

16. All documents, things, and electronically stored information related to or supporting Opposer's allegation that Applicant was not using the mark WOLF in connection with scooters at the time of filing and during the pendency of its U.S. trademark application for the mark WOLF.

RESPONSE: Opposer provides printouts from Applicant's Facebook, Powersports Business Article from September 25, 2013, <http://www.newscooters4less.com/gainesville-scooters/gorilla-motor-works-scooters.html>, and Applicant's Twitter page. (See Exhibits 21-24).

17. All documents, things, and electronically stored information that relate to how Opposer's knowledge of Applicant's intent to use the mark WOLF in connection with scooters, trademark applications and/or registrations for the mark WOLF was developed.

RESPONSE: Opposer provides an email from Jason Jackrel, printouts from Applicant's Facebook, Powersports Business Article from September 25, 2013, <http://www.newscooters4less.com/gainesville-scooters/gorilla-motor-works-scooters.html>, and Applicant's Twitter page. (See Exhibits 20-24).

18. All documents, things, and electronically stored information that relate to or evidence any statement made by any employee or officer of Opposer indicating that it was not using the mark WOLF from 2011 through present.

RESPONSE: Opposer has no documents at this time. Opposer reserves the right to amend its response if other documents become available during the pendency of this proceeding.

19. All documents, things, and electronically stored information that relate to or evidence any interruptions in Opposer's use of the mark WOLF.

RESPONSE: Opposer has no documents at this time. Opposer reserves the right to amend its response if other documents become available during the pendency of this proceeding.

20. All documents, things, and electronically stored information referring or relating to or constituting any formal or informal market studies, consumer surveys, focus groups or other studies that relate to the mark "WOLF"

RESPONSE: Opposer has no documents at this time. Opposer reserves the right to amend its response if other documents become available during the pendency of this proceeding.

21. All documents, things, and electronically stored information that refer or relate to any objections, litigation, proceedings or disputes relating to Opposer's use of or application to register the mark "WOLF," excluding the present opposition proceedings.

RESPONSE: Opposer has no documents at this time. Opposer reserves the right to amend its response if other documents become available during the pendency of this proceeding.

22. All documents, things, and electronically stored information referring or relating to present or former third party use of any name, mark or term comprised in whole or in part of the word “WOLF” or any variation thereof.

RESPONSE: Opposer has no documents at this time. Opposer reserves the right to amend its response if other documents become available during the pendency of this proceeding.

23. All documents, things, and electronically stored information referring to or relating to Opposer’s U.S. trademark registration for the mark “WOLF,” including but not limited to documents relating to Opposer’s decision to file the applications in the U.S.

RESPONSE: Opposer objects to Request for Production 23 as it seeks information subject to attorney client privilege and attorney work product. Opposer provides a copy of their Trademark Application US Serial No. 86/130,449. (See Exhibit 15).

24. All documents, things, and electronically stored information comprising, referring or relating to any executed or proposed agreements or contracts or to the consideration of proposed agreements or contracts relating to the “WOLF” mark.

RESPONSE: Opposer has no documents at this time. Opposer reserves the right to amend its response if other documents become available during the pendency of this proceeding.

25. All documents, things, and electronically stored information relating to Opposer’s actions to enforce the mark “WOLF” in the United States.

RESPONSE: Opposer has no documents at this time. Opposer reserves the right to amend its response if other documents become available during the pendency of this proceeding.

26. All documents, things, and electronically stored information relating to any instances of actual confusion between the Opposer’s WOLF mark and the Applicant’s WOLF mark.

RESPONSE: Opposer has no documents at this time. Opposer reserves the right to amend its response if other documents become available during the pendency of this proceeding.

27. Documents sufficient to show Opposer’s advertising expenditures for the WOLF mark for every year from the first date Opposer used the WOLF mark through present.

RESPONSE: Opposer will provide documentation of advertising expenditures within thirty (30) days of the entry of a Protective Order in this proceeding.

28. Documents sufficient to show the ownership, organization and structure of Opposer and any parent, sister, or subsidiary companies, including but not limited to organization charts and

documents identifying officers, directors, and persons involved in the management of Alliance Powersports Inc.

REPOSE: Opposer will provide documentation of their organizational structure within thirty (30) days of the entry of a Protective Order in this proceeding. Opposer provides a printout from Opposer's manufacturer's website showing Opposer as the U.S. distributor for SYM, Opposer further provides a copy of their California Secretary of State Statement of Information. (See Exhibits 25 and 26).

29. Documents, things, and electronically stored information sufficient to demonstrate Opposer's advertisement for and sale of in the United States all of the products and services identified in U.S. Trademark Application No. 86/130,449 on a continuous basis from 2011 through the present.

RESPONSE: In response to Request for Production 2, Opposer provides the following exhibits:

- Exhibit 1 - Facebook – Lance Powersports January 2011-present
- Exhibit 2 - Forum – Adventure Rider August 29, 2011
- Exhibit 3 - Newsfeed - 2 Stroke Buzz August 31, 2011
- Exhibit 4 - Ad – Café Racer December 2011-November 2012
- Exhibit 5 - Ad – Motorcycle Magazine January 2012 – October 2012
- Exhibit 6 - Review – Twin Cities Rider – April 2012
- Exhibit 7 - Article - Power Sports Business April 2, 2012
- Exhibit 8 - Review – www.scootsafley.com April 12, 2012
- Exhibit 9 - Review – www.scooterfile.com April 30, 2012
- Exhibit 10 - Review – www.motorcycle-usa.com May 16, 2012
- Exhibit 11 - Review – Café Racer June/July 2012 Issue
- Exhibit 12 - Review – www.morotcyclistonline.com February 6, 2013
- Exhibit 13 - Review – www.motorcycleclassics.com July 26, 2013
- Exhibit 14 - Brochure – SymWolf Classic 150 – Official Tour Bike of Andrew Dost March 1, 2014

Opposer will provide additional documentation of sales, marketing expenses and geographic distribution of goods sold within thirty (30) days of the entry of a Protective Order in this proceeding.

30. Documents, things, and electronically stored information demonstrating any relationship between Opposer and Sym, Inc.

REPOSE: Opposer will provide documentation of its relationship with SYM within thirty (30) days of the entry of a Protective Order in this proceeding. Opposer provides a printout from Opposer's manufacturer's website showing Opposer as the U.S. distributor for SYM. (See Exhibit 25).

31. Documents, things, and electronically stored information between Opposer and Sym relating to the WOLF mark.

RESPONSE: Opposer will provide documentation of any information between Opposer and SYM relating to the WOLF mark within thirty (30) days of the entry of a Protective Order in this proceeding.

32. Documents, things, and electronically stored information between Opposer and any other party relating to the WOLF mark.

RESPONSE: Opposer has no documents at this time. Opposer reserves the right to amend its response if other documents become available during the pendency of this proceeding.

33. Documents, things, and electronically stored information between Opposer and any other party relating to the Applicant.

RESPONSE: Opposer objects to Request for Production 33 as it seeks information subject to attorney client privilege and attorney work product. Opposer provides a copy of an email sent by Jason Jackrel, President of Bintelli. (See Exhibit 20).

34. Documents, things, and electronically stored information between Opposer and any other party relating to the present opposition.

RESPONSE: Opposer objects to Request for Production 33 as it seeks information subject to attorney client privilege and attorney work product. Opposer provides a copy of an email sent by Jason Jackrel, President of Bintelli. (See Exhibit 20).

35. All documents, things, and electronically stored information relating to Road Rat Motors, LLC.

RESPONSE: Opposer has no documents at this time. Opposer reserves the right to amend its response if other documents become available during the pendency of this proceeding.

36. All documents, things, and electronically stored information relating to Bintelli, LLC.

RESPONSE: Opposer provides a copy of an email sent by Jason Jackrel, President of Bintelli. (See Exhibit 20).

37. All documents, things, and electronically stored information relating to Justin Jackrel.

RESPONSE: Opposer provides a copy of an email sent by Jason Jackrel, President of Bintelli. (See Exhibit 20).

38. Any joint defense or common interest privilege preservation agreements between Opposer, Road Rat LLC, or Bintelli, LLC.

RESPONSE: Opposer has no documents at this time. Opposer reserves the right to amend its response if other documents become available during the pendency of this proceeding.

39. All documents, things, and electronically stored information relating to any past or present litigation that Opposer has been involved in that relates to the goods offered in connection with the "WOLF" trademark, including but not limited to any lawsuits involving Alliance Powersports Inc.

RESPONSE: Opposer has no documents at this time. Opposer reserves the right to amend its response if other documents become available during the pendency of this proceeding.

40. All documents, things, and electronically stored information relating to Opposer's use of the "WOLF" trademark that identify the relevant consumers or categories of relevant consumers, the geographic locations of those consumers, along with the number of relevant consumers in each category, and in each geographic location.

RESPONSE: Opposer will provide documentation of their relevant consumers or categories of relevant consumers, the geographic locations of those customers, along with the number of relevant consumers in each category, and each geographic location within thirty (30) days of the entry of a Protective Order in this proceeding.

41. Documents, things, and electronically stored information sufficient to identify the average price of each good and service sold by Opposer under the mark "WOLF"

RESPONSE: Opposer will provide documentation of sufficient to identify the average price of each good and service sold by Opposer under the mark "WOLF" within thirty (30) days of the entry of a Protective Order in this proceeding.

42. To the extent not covered by the above Requests, all documents that relate to or were relied upon for any of Opposer's answers to Applicant's First Set of Interrogatories.

RESPONSE: Opposer has no additional documents that relate to Opposer's responses to Applicant's First Set of Interrogatories. Opposer reserves the right to amend its response if other documents become available during the pendency of this proceeding.

43. To the extent not covered by the above Requests, all documents that support any of Opposer's contentions in Notice of Opposition, or upon which Opposer intends to rely in the present opposition proceeding.

RESPONSE: Opposer intends to rely on Exhibits 1-26, and additional documentation which Opposer will provide within thirty (30) days of the entry of a Protective Order in this

proceeding. Opposer reserves the right to amend its response if other documents become available during the pendency of this proceeding.

44. To the extent not covered by the above Requests, all documents that otherwise relate to the present opposition proceeding.

RESPONSE: Opposer has no additional documents that relate to the present opposition proceeding other than those documents that will be provided within thirty (30) days of the entry of the entry of a Protective Order in this proceeding. Opposer reserves the right to amend its response if other documents become available during the pendency of this proceeding.

45. All documents that Opposer relied upon in making the allegations contained in Opposer's Notice of Opposition.

RESPONSE: Opposer has no documents, other than those previously provided which it relied upon in making the allegations contained in Opposer's Notice of Opposition. Opposer reserves the right to amend its response if other documents become available during the pendency of this proceeding.

Dated: June 4, 2014

Respectfully submitted,

/Erin C. Kunzelman/

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Ann Arbor, MI 48103
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erin@llapc.com
jj@llapc.com
Attorneys for Opposer
Alliance Power Sports, Inc.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing OPPOSER'S FIRST SET OF RESPONSES TO APPLICANT'S FIRST REQUESTS FOR PRODUCTION was served upon counsel for Opposer on this 4th day of June, 2014 by first class mail and e-mail to:

SHANNON MCCUE
HAHN LOESER & PARKS LLP
200 PUBLIC SQUARE, SUITE 2800
CLEVELAND, OH 44114
UNITED STATES

trademarks@hahnlaw.com, bareese@hahnlaw.com, smccue@hahnlaw.com, bclark@hahnlaw.com

By Electronic Mail.

By Priority First Class Mail

Date: June 4, 2014

/ Erin C. Kunzelman /
Erin C. Kunzelman

From: Shannon V. McCue [smccue@hahnlaw.com]
Sent: Friday, June 13, 2014 2:14 PM
To: Erin K.
Cc: Becky Reese
Subject: RE: Opposer's responses and Protective Order

Thanks Erin.

Several of your responses to Hammer's interrogatories and document requests withheld information and documents pending agreement on a suitable protective order. Please update these responses and provide the requested information as soon as possible.

-Shannon

From: Erin K. [<mailto:erin@llapc.com>]
Sent: Friday, June 13, 2014 1:59 PM
To: Shannon V. McCue
Subject: RE: Opposer's responses and Protective Order

Shannon,

I've attached the signed protective order that we filed this afternoon. We'll also be serving you by mail, but I wanted to give you a courtesy electronic copy.

I hope you have a good weekend!

Erin

From: Shannon V. McCue [<mailto:smccue@hahnlaw.com>]
Sent: Friday, June 13, 2014 8:49 AM
To: Erin K.
Cc: Becky Reese
Subject: FW: Opposer's responses and Protective Order

Erin,
Just following up to see if you submitted the Protective Order to TTAB. You have my authorization to e-sign on my behalf for Hammer Brands.

-Shannon

From: Shannon V. McCue
Sent: Thursday, June 05, 2014 1:05 PM
To: 'Erin K.'
Subject: Opposer's responses and Protective Order

Erin,
Exhibit 13 is requesting a password to open it. Please send the password to me.
We had no changes to the protective order.

Thanks.
-Shannon

From: Erin K. [<mailto:erin@llapc.com>]

Sent: Wednesday, June 04, 2014 10:29 PM

To: Trademarks; Becky Reese; Shannon V. McCue; Brendan E. Clark

Cc: J.J. Lee

Subject: Opposer's reponses to Applicant's First Set of Interrogatories and Requests for Production

Shannon,

Attached please find Opposer's responses to Applicant's First Set of Interrogatories and Requests for Production.

Thank you,

Erin

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UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451
General Contact Number: 571-272-8500

Mailed: June 19, 2014

Opposition No. 91215049

Alliance Powersports Inc.

v.

Hammer Brand LLC dba Wolf Brand
Scooters

Amy Matelski, Paralegal Specialist:

The stipulated protective agreement filed on June 13, 2014 is noted and its use in this proceeding is approved.¹ See Trademark Rule 2.116(g). The parties are referred, as appropriate, to TBMP §§ 412.04 (Filing Confidential Materials With Board), and 412.05 (Handling of Confidential Materials by the Board).

The parties are advised that only confidential or trade secret information should be filed pursuant to a stipulated protective agreement. Such an agreement may not be used as a means of circumventing Trademark Rules 2.27(d) and (e), which provide that the file of a published application or issued registration, and all proceedings relating thereto, should otherwise be available for public inspection.

¹ Opposer's filing does not indicate proof of service of a copy of same on counsel for applicant, as required by Trademark Rule 2.119. A copy of the filing can be viewed using TTABVUE at <http://ttabvue.uspto.gov>.

Applicant's answer to the notice of opposition, filed April 3, 2014 and opposer's appearance filed May 1, 2014 are noted and made of record.

June 20, 2014

Erin C. Kunzelman
Lee, Lee & Associates, P.C.
2531 Jackson Road, Suite 234
Ann Arbor, MI 48103

**RE: Alliance Power Sports, Inc., Opposer v. Hammer Brand, LLC, Applicant
Opposition Number 91215049
Application Serial Number 86037963
Mark: WOLF**

Dear Erin:

Applicant writes to satisfy its obligation to meet and confer and attempt to resolve discovery disputes without involving the Board, and address the deficiencies in Opposer's responses to Applicant's discovery requests as discussed in more detail below.

Information and Documents Withheld based on Entry of a Protective Order:

As a general matter, in response to Applicant's discovery requests served May 4, 2014, Opposer withheld information and or documents pending agreement to a suitable protective order. In particular, without any explanation or objection, Opposer refused to produce responsive information to document requests 1,2,3,7,8,9,10,11,27,28,29,30,31,40,41,43, and 44 until within 30 days after entry of a protective order. Opposer does not have the right to extend its response period by withholding its responses an additional 30 days from entry of the protective order. Applicant objects to this refusal to provide timely responses. Moreover, since Opposer has raised no objection and provided no basis for withholding responsive documents until entry of a protective order, there is no cause for delaying production of responsive documents.

With respect to the protective order, Applicant has been considerably patient on this issue and attempted to resolve this matter by agreeing that responsive materials that Opposer identified as being to the protective order would be treated as "attorney's eyes only" until the parties could agree to a protective order. The parties agreed to a protective order on June 5, 2014. On June 13, Applicant's counsel wrote to Opposer's counsel requesting that the previously withheld information be provided. Now, two weeks since the parties agreed to a protective order, Applicant has still not received updated responses to its discovery requests. The Applicant notes that the Board issued an order approving use of the Protective Order submitted by the parties on June 19, 2014. Applicant requests that Opposer immediately provide the responsive information previously withheld.

Information and Documents Withheld based on Privilege or Work Product Grounds:

Opposer has responded to several discovery requests with the general assertion that responsive information/documents are protected by work product or privilege. As explained below, it

HAHN LOESER & PARKS LLP attorneys at law

cleveland columbus akron naples fort myers indianapolis san diego
200 Public Square, Suite 2800 Cleveland, Ohio 44114-2306 phone 216.621.0150 fax 216.241.2824 hahnlaw.com

appears that several of these objections are unsupported on their face, and therefore, Applicant requests that these responses be updated to include the previously withheld information. In other instances, Opposer has not provided support for its objection that would allow Applicant to determine whether there is an adequate bases for the assertion of privilege or work product. The Applicant's original document requests required the provision of a privilege log to identify any communications that were subject to a privilege or work product objection. No such log was provided with Opposer's responses, and therefore, the assertions of privilege and work product objections are deficient. The Applicant asks that Opposer's responses be supplemented immediately to provide the improperly withheld information identified below and to provide a privilege log to allow Applicant to analyze the basis for Opposer's objections.

Regarding Interrogatories 6, 8, 14, 45, and 49, Opposer objected on the grounds that attorney work product is sought. Work product doctrine protects documents prepared by an attorney in the representation of a client in anticipation or in the context of litigation. As revealed by Opposer's responses relating to its decision to bring the present opposition, it is clear that several responses improperly assert work product document in that they could not have been made in anticipation of litigation.

Interrogatory 6 seeks to learn the circumstances that led to Opposer's decision to file the Notice of Opposition. The response indicates that, while work product immunity is claimed, the Opposer's CEO sought "legal assistance after being notified of Applicant's Trademark Application". However, the development of Opposer's knowledge and decisions made prior to retaining legal counsel would not have been attorney work product, as the response to Interrogatory 6 implicitly indicates that decisions were made prior to the involvement of attorneys. Since there is no adequate basis for the assertion of work product immunity, Applicant demands that this response be immediately supplemented to provide the previously withheld information.

Objection to Interrogatory 8 is baseless on the same grounds. Interrogatory 8 requests information related to the filing of Opposer's application for the WOLF mark on November 27, 2013, approximately three months after filing of Applicant's application. In approximately another three months, this Opposition was instituted. Because Opposer's response indicates that Opposer's trademark application was filed only to formalize Opposer's alleged prior use in commerce, Opposer's trademark application filing would not have been completed with an eye toward litigation, and would therefore not be protected work product. Since there is no adequate basis for the assertion of work product immunity, Applicant demands that this response be immediately supplemented to provide the previously withheld information.

Interrogatory 45 asked for identification of documents relating or referring to Applicant. In Opposer's response, Opposer objects that these documents would be attorney work product, but that such documents do not exist. This response is unclear, as the absence of documents would obviate the need to object. Further, materials related to Hammer Brand LLC must exist or the instant opposition would not have been instituted. These materials are necessary to permit Applicant to fully assess the merit of Opposer's claim, and should therefore be produced or a suitable privilege log provided to provide the basis for the assertion of work product immunity.

Interrogatory 49 asks for identification of any conversations to which Opposer was a party discussing the use or non-use of the WOLF mark by Opposer or the right of any party including but not limited to the Applicant to use the WOLF mark. This is highly pertinent to the merits of the opposition, as it squarely addresses the legitimacy of Opposer's alleged use in commerce as well as their knowledge (and possibly acquiescence/waiver) to Applicant's mark. This information cannot be developed through other means, and should therefore be produced in response to Interrogatory 49. Further, as with Interrogatory 45, the combination of objection and denial that such material exists seems contradictory and casts doubt on the thoroughness of the response.

Further, even if Opposer insists the above Interrogatories seek protected trial-preparation materials, Opposer has failed to describe the nature of the documents, communications, or tangible things not produced or disclosed in a manner that enables Applicant to assess Opposer's claim without access to the work product as required by Fed. R. Civ. P 26(b)(5). Therefore, at a minimum, a privilege log should be prepared summarizing the details of materials for which work product immunity or any other privilege is claimed, as well as the dates such materials were prepared or transmitted and the parties involved.

The Applicant notes that the only objection raised in response to its discovery requests was the objection based on materials protected by work product. The Applicant acknowledges that having had an opportunity to object within the response time frame, that all other objections are waived by Opposer.

Electronically Stored Information:

Opposer has provided no electronically stored information. The Applicant requests that Opposer's responses be updated to include electronically stored information. It is expected that there would be at a minimum e-mails, spreadsheets, images, and other electronically stored information in Opposer's custody and control responsive to Applicant's requests for documents nos. 1,2,3,4,8,10,11,17,18,23,24,27,29,30,33,40,41,42,43,44, and 45. The Applicant notes that no objection was made indicating that providing electronically stored information would be unduly burdensome, and therefore, this objection has been waived.

In view of the foregoing, the Applicant requests that Opposer's counsel call the undersigned to resolve these issues during the week of June 23rd.

Sincerely,



Shannon McCue
CC: JJ Lee (via email only)

From: Shannon V. McCue [smccue@hahnlaw.com]
Sent: Thursday, July 10, 2014 11:36 AM
To: Erin K.
Cc: jj@llapc.com; Brendan E. Clark
Subject: Alliance v. Hammer Brand opposition

Erin,
I am following up on my correspondence from June 13 and 20th. Briefly, we had requested the documents withheld by Alliance pending entry of the protective order and noted other deficiencies in our follow correspondence. In the June 20th letter, I had requested that you call during the week of June 23rd to resolve these issues over the phone.

It has been over two weeks since this correspondence and I have not received a call. Hammer Brands has made every effort to resolve these issues in good faith and obtain Alliance's cooperation during discovery. Ironically although Hammer Brand served its discovery requests more than a month before Alliance's requests, Hammer has provided a full response and production of documents while Alliance continues to withhold documents and information critical to Hammer Brand's case.

Hammer Brand is frustrated with the utter lack of cooperation from Alliance during discovery and views the unreasonable delay in responding fully to its discovery requests as an attempt to unnecessarily increase the costs of this opposition by forcing it to seek relief from the Board.

If the documents withheld pending entry of the protective order and other deficiencies noted in our June 20th correspondence are not resolved by providing a complete production of documents and requested information by July 14, Hammer Brand will file a motion to compel.

Sincerely,
Shannon McCue

Shannon V. McCue
Hahn Loeser & Parks LLP
200 Public Square, Suite 2800
Cleveland, OH 44114-2316
216.274.2282 - phone
216.274.2286 - fax
E-Mail: smccue@hahnlaw.com
Website: www.hahnlaw.com



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August 19, 2014

J.J. Lee
Lee, Lee & Associates, P.C.
2531 Jackson Road, Suite 234
Ann Arbor, MI 48103

**RE: FRE 408 Settlement Communication
Alliance Power Sports, Inc., v. Hammer Brand, LLC
Mark: WOLF**

Dear Mr. Lee:



Separately, this letter will also serve as notice that Alliance's responses to Hammer's requests for production are deficient in that no documents were produced evidencing the relationship between SYM and Alliance, and in particular, demonstrating that Alliance has the right or authority to pursue protection and enforce the Wolf mark independently of SYM (See Applicant's RFP 30).

Finally, we had requested dates of availability for a 30(b)(6) deposition and a deposition of Mr. Chang individually back in June. We have not received any dates of availability. If we have not received a response to this correspondence along with dates of availability by August 29, 2014, we will assume that there are no conflicts between the date of this letter and the close of discovery, and notice the depositions accordingly.

Sincerely,

A handwritten signature in black ink, appearing to read "Shannon McCue".

Shannon McCue

From: Mariclaire Soulsby [<mailto:mcb@hahnlaw.com>]
Sent: Wednesday, September 24, 2014 2:39 PM
To: Erin B.; J.J. Lee
Cc: Shannon V. McCue; rbabbitt@babbitt-lawfirm.com
Subject: Alliance Power Sports, Inc. Opposer v. Hammer Brand, LLC, Applicant

Please see the attached letter and deposition notice from Applicant's.

Although the regular mail service did go out on Monday, our e-mail system was down for over 36 hours, hence the timing of this e-mail service.

Mariclaire Soulsby

Paralegal
Hahn Loeser & Parks LLP
200 Public Square, Suite 2800
Cleveland, OH 44114-2316
216.274.2225 (voice)
216.274.2425 (fax)
E-Mail: mcsoulsby@hahnlaw.com
Website: www.hahnlaw.com

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September 22, 2014

VIA REGULAR AND ELECTRONIC MAIL

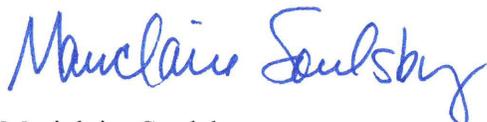
Erin C. Kunzelman
Lee, Lee & Associates, P.C.
2531 Jackson Road, Suite 234
Ann Arbor, MI 48103

**Re: Alliance Power Sports, Inc., Opposer v. Hammer Brand, LLC, Applicant
Opposition Number 91215049
Application Serial Number 86037963
Mark: WOLF**

Dear Ms. Kunzelman:

Enclosed is Applicant's Notice of Deposition of Opposer Alliance Power Sports, Inc. regarding the captioned matter.

Very truly yours,



Mariclaire Soulsby
Paralegal

mcs

Enclosure

cc: Shannon V. McCue, Esq.
Ross Babbitt, Esq.

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

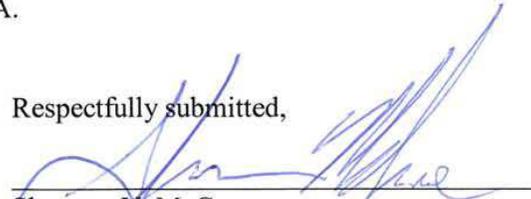
ALLIANCE POWER SPORTS, INC.,)
) Opposition No. 91215049
)
) Opposer,)
) In the matter of :
)
) v.)
) U.S. Application Serial No. 85608003
)
) HAMMER BRAND, LLC.)
) Filing Date: August 14, 2013
)
) Applicant.)
) MARK: WOLF
)

**APPLICANT’S NOTICE OF DEPOSITION OF
OPPOSER ALLIANCE POWER SPORTS, INC.**

Please take notice that pursuant to Rules 26 and 30 of the Federal Rules of Civil Procedure, Applicant Hammer Brand, LLC (“Applicant”) will take the deposition upon oral examination of Opposer Alliance Power Sports, Inc. (“Opposer”), on October 20, 2014, commencing at 9 a.m. The deposition will take place upon cross-examination, under oath, at the offices of Hahn Loeser & Parks LLP, 2800 BP Tower, 200 Public Square, Cleveland, Ohio 44114 or other location mutually agreed upon by the parties, before an officer authorized to administer oaths. The testimony will be recorded by stenographic means and may be videotaped. Pursuant to Rules 30(b)(6) of the Federal Rules of Civil Procedure, Opposer shall designate, for the purpose of this deposition, one or more of its proper employees, officers, directors, agents, or other persons with knowledge of the information contained in the attached Exhibit A and duly authorized to testify on Opposer’s behalf. Said person(s) shall testify as to matters known or available to Opposer, and shall bring to the deposition all documents in Opposer’s possession, custody, and/or control which are listed in Exhibit A.

Dated: September 22, 2014

Respectfully submitted,


Shannon V. McCue

smccue@hahnlaw.com
Hahn Loeser & Parks LLP
One GOJO Plaza, Suite 300
Akron, Ohio 44311
(330) 864-5550 (voice)
(330) 864-7986 (fax)
trademarks@hahnlaw.com

Ross Babbitt
rbabbitt@babbitt-lawfirm.com
700 W. Saint Clair Ave., Ste 200
Cleveland, OH 44113

Attorneys for Applicant
Hammer Brand LLC

EXHIBIT A

AREAS OF DEPOSITION TESTIMONY AND DOCUMENTS REQUESTED OF DESIGNEE OF ALLIANCE POWER SPORTS, INC.

Applicant Hammer Brand, LLC (“Applicant”) requests that Opposer Alliance Power Sports, Inc. (“Opposer”) name one or more of Opposer’s proper employees, officers, agents, or other persons duly authorized to testify on Opposer’s behalf who shall testify as to matters known or available to Globe regarding the categories of information and documents described below. Opposer’s designee shall bring any and all of the requested documents in Opposer’s possession, custody or control which existed or originated within the last three (3) years (unless otherwise indicated) to the date of the deposition. This request shall be continuing in nature, and any items not so produced which may subsequently come into existence are further requested.

Areas of Deposition

1. Opposer’s alleged use in commerce of the mark WOLF in connection with the sale of scooters or other products.
2. Opposer’s alleged use in commerce of any mark containing the term WOLF.
3. Opposer’s United States Trademark application s/n 86/130,449 including the prosecution of said application before the United States Patent and Trademark Office.
4. Opposer’s alleged date of first use of the mark WOLF and alleged first use in commerce.
5. Opposer’s common law rights in the mark WOLF or any mark containing the term WOLF.
6. Opposer’s efforts to advertise, market or promote goods in connection with the mark WOLF or any mark containing the term WOLF.
7. Opposer’s allegation that the mark WOLF has become famous.
8. The likelihood of confusion between Applicant’s and Opposer’s respective uses of the mark WOLF or any marks containing the term WOLF, including the similarity of the marks, similarity of the goods or services offered, and similarity of the channels of trade and consumers.

9. Opposer's allegation that Applicant knowingly made a fraudulent statement to the United States Patent and Trademark Office in connection with Applicant's application s/n 86/037,963.
10. Opposer's relationship with SYM as it relates to the mark WOLF and any products associated therewith.
11. Opposer's organizational structure as it relates to the marketing, promotion and sale of WOLF products or services.
12. All products or services in connection with which Opposer currently uses, has used, or plans to use the mark WOLF or any mark containing the term WOLF in the United States.
13. Opposer's knowledge of the use of the mark WOLF by Applicant in the United States, and how Opposer learned of such knowledge.
14. The events relevant to this opposition occurring between Opposer's knowledge of the use of the mark WOLF by Applicant and filing of Opposer's Notice of Opposition, and the party or parties responsible for the business decision to file Opposer's Notice of Opposition.
15. The origin of the WOLF mark in relation to Opposer's personnel, business, and products.
16. Opposer's decision to file and prosecute its federal trademark application for the mark WOLF in the United States, and identify each person who was involved in that decision and/or the filing of the application.
17. Publications in which Opposer's products or services offered in connection with the mark WOLF have been advertised in the United States, along with dates of each advertisement, and all persons employed by or affiliated with Opposer with knowledge of such advertising.
18. All assignments, licenses or other transfers of rights in the mark WOLF granted by or to Opposer, and all persons with knowledge of such assignments, licenses or other transfers of rights.
19. The dates of creation of and modification of Opposer's Internet website(s) and the creation, modification, and maintenance of Opposer's internet website, including the content of such website(s).

20. Any past or present litigation that Opposer has been involved in that relates to the services offered in connection with the WOLF trademark, including but not limited to any lawsuits involving Alliance Powersports Inc.
21. Opposer's representative customers, along with the geographic locations of each, from 2011 through the present, and the value in sales to each representative customer.
22. Opposer's monthly sales of Opposer's goods offered in connection with the mark WOLF from 2011 through present.
23. The trade channels through which Opposer's goods or services are advertised, including the names of trade shows where Opposer attends and markets and/or sells its products, and all other means of sales and advertising used by Opposer or its affiliates or distributors in marketing and selling goods/services under the WOLF mark.
24. The annual amount of money that Opposer has spent on advertising its goods and services under the mark WOLF for each year since 2011.
25. Any periods of time longer than one month since 2011 during which no goods bearing the mark WOLF were sold by Opposer.
26. Any goods offered or developed by Opposer substantially similar to products bearing the mark WOLF which do not bear the mark WOLF.
27. Any goods offered or developed by Opposer bearing the mark WOLF which were previously offered without the mark WOLF.
28. The character (*e.g.*, decal, paint) and application technique (*e.g.*, machine-applied, hand-applied) of the mark WOLF on Opposer's goods, and any differences in this character or technique in comparison to other markings on Opposer's other products.
29. The source and author of the specimen submitted in connection with Opposer's trademark application for the mark WOLF.

Documents Requested

1. All documents relied upon with respect the Areas of Deposition.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing APPLICANT'S NOTICE OF DEPOSITION OF OPPOSER ALLIANCE POWER SPORTS, INC. was served upon counsel for Opposer on this 22nd day of September, 2014 by first class mail and e-mail to:

Erin C. Kunzleman
erin@llapc.com
JungJin Lee
jj@llapc.com
Lee, Lee & Associates, P.C.
2531 Jackson Rd. Ste 234
Ann Arbor, MI 48103

/Shannon V. McCue/

Attorney for Applicant
Hammer Brand LLC

From: Shannon V. McCue [smccue@hahnlaw.com]
Sent: Thursday, September 25, 2014 1:57 PM
To: Erin B.
Cc: rbabbitt@babbitt-lawfirm.com; Brendan E. Clark; J.J. Lee
Subject: RE: Alliance Power Sports, Inc. Opposer v. Hammer Brand, LLC, Applicant

Erin,
The lack of good faith that I referred to is that Alliance has made no response to our June and August requests for deposition dates, our notices of deficiency of discovery requests, and it was over two months before we received any substantive responses to our discovery requests. Our August letter also contained a very reasonable proposal for resolving this matter to the benefit of both parties, and we have received not so much as an acknowledgment of receipt or any indication that you have conveyed this offer to your client. We also find it difficult to accept that your client would travel overseas for a month without informing you of this after we raised the issue of availability in August.

Your offer to extend the discovery deadlines in this case to accommodate your client's travel schedule is not a compromise because it only serves to needlessly drag out the discovery process. If Alliance had cooperated with our initial requests for dates, we would have taken Mr. Chang's deposition well in advance of the discovery deadline that the Board provided. You are not alleviating a burden to my client you are adding to it by delaying discovery.

As for the delay in obtaining documents, I do not appreciate it as the photographs were produced as part of the initial production, and certainly we would expect the electronic originals of these to be on hand at either your firm, which filed the trademark application, or with your client. It does not seem overly burdensome or time consuming to provide an electronic copy of a photograph even if the client is traveling.

Please provide the original photographs and a designee for 30b6 purposes by tomorrow 5pm EST, or a detailed explanation of why you cannot comply with these requests including the date and manner in which you learned that the client would be unavailable due to travel so we can determine whether to move forward with bringing this dispute to the Board's attention.

Sincerely,
Shannon McCue

From: Erin B. [mailto:erin@llapc.com]
Sent: Thursday, September 25, 2014 1:33 PM
To: Shannon V. McCue
Cc: rbabbitt@babbitt-lawfirm.com; Brendan E. Clark; J.J. Lee
Subject: RE: Alliance Power Sports, Inc. Opposer v. Hammer Brand, LLC, Applicant

Shannon,

We were unaware of Mr. Chang's trip until recently. Contrary to your accusation of bad-faith, we informed you of the scheduling conflict within hours of receiving the Notice of Deposition and in an effort to alleviate any burden to your client we consented to an extension of the discovery deadline.

Per your request that another designee testify on behalf of Alliance, unfortunately there is no one else with the knowledge requisite to respond to the scope of the topics provided.

We are currently working with our client to gather the documentation requested in both your August 19th letter, and in the second set of discovery requests. I am sure you can appreciate the delays associated with gathering these requests while our client is overseas.

Erin

From: Shannon V. McCue [<mailto:smccue@hahnlaw.com>]
Sent: Wednesday, September 24, 2014 7:46 PM
To: Erin B.
Cc: rbabbitt@babbitt-lawfirm.com; Brendan E. Clark; J.J. Lee
Subject: RE: Alliance Power Sports, Inc. Opposer v. Hammer Brand, LLC, Applicant

Erin,
Hammer does not consent to an extension of time. We had asked for Mr. Chang's availability in June and again in August. I refer to our last correspondence where we indicated that unless we received contrary information by 8/29/14, we would understand the lack of a response to mean that there were no scheduling conflicts that would prevent Mr. Chang's deposition before the close of discovery. Alliance's failure to participate in good faith correspondence on this issue has impeded Hammer's discovery, and we cannot consent to further delay. I note that this is a 30b6 deposition. If Mr. Chang is not available, please let us know if there is another designee that can testify to the topics provided.

Also, our 8/29/14 letter raised the deficiency that no documents relating to Alliance's relationship with Sym were produced. To date, we still have received no responsive documents. Please let me know if we can expect to receive these documents by the end of this week. Otherwise, we will bring this matter to the Board's attention.

Finally, we have provided a second set of discovery requests specifically related to the various photographs purportedly showing use of Wolf on Alliance's scooter. We believe that the electronic copies of the photographs produced originally should have been produced in connection with our original requests, and therefore, those responses were deficient. We have provided these specific requests in order to obtain the original photographs for purposes of retaining an expert. Please let me know if we can expect to receive these documents before the end of this week so we may determine if a request for an extension of the expert disclosure period is needed.

-Shannon

From: Erin B. [<mailto:erin@llapc.com>]
Sent: Wednesday, September 24, 2014 5:32 PM
To: Shannon V. McCue
Cc: rbabbitt@babbitt-lawfirm.com; Mariclaire Soulsby; J.J. Lee
Subject: RE: Alliance Power Sports, Inc. Opposer v. Hammer Brand, LLC, Applicant

Shannon –

In response to the Notice of Deposition, Mr. Chang is out of the country until the 29th of October, and will therefore be unavailable on the October 20th. To facilitate rescheduling the deposition, we propose extending the discovery deadline to November 30.

Please let us know if Hammer consents to the proposed extension and we will prepare the stipulation.

Erin

Erin C. Bray, Esq. (formerly Erin Kunzelman)
Attorney & Counselor at Law
Lee, Lee & Associates, P.C.
www.llapc.com
erin@llapc.com

Phone: 800-529-2218

Fax: 800-689-7978

From: Mariclaire Soulsby [<mailto:mcb@hahnlaw.com>]

Sent: Wednesday, September 24, 2014 2:39 PM

To: Erin B.; J.J. Lee

Cc: Shannon V. McCue; rbabbitt@babbitt-lawfirm.com

Subject: Alliance Power Sports, Inc. Opposer v. Hammer Brand, LLC, Applicant

Please see the attached letter and deposition notice from Applicant's.

Although the regular mail service did go out on Monday, our e-mail system was down for over 36 hours, hence the timing of this e-mail service.

Mariclaire Soulsby

Paralegal

Hahn Loeser & Parks LLP

200 Public Square, Suite 2800

Cleveland, OH 44114-2316

216.274.2225 (voice)

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Website: www.hahnlaw.com

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SANYANG INDUSTRY CO., LTD.
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Taiwan R.O.C.
T 886-3-5981911
F 886-3-5981844
W www.sym.com.tw

Statement

5, Sep, 2014

TO whom it may concern;

We,
SANYANG INDUSTRY CO., LTD.
3 Chung Hua Road, Hukou
Hsinchu, Taiwan R.O.C.
Tel: 886-3-5981911

hereby appoint
Alliance powersports
3788 Milliken Ave. Unit C Mira Loma, CA 91752
Tel: 951.361.9000

as our official distributor for sales and spare parts and homologation of SYM
Products within the territory of U.S.A.

Alliance powersports also has the exclusive right of exercising "Wolf Classic"
trademark and Logo legitimately within the territory of U.S.A.

Yours Truly

SANYANG INDUSTRY CO., LTD

3 Chung Hua Road Hukou Hsinchu

Taiwan R.O.C

Tel:+886-3-5981911 Fax:+886-3-5981844

<http://www.sym.com.tw>

Manufacturer of the "SYM" products
SANYANG INDUSTRY CO., LTD.


Overseas Marketing Division
(Authorized signature)