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Filing date: **04/01/2015**

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

Proceeding	91218997
Party	Plaintiff Lyle & Scott Limited
Correspondence Address	SUSAN B FLOHR BLANK ROME LLP 600 NEW HAMPSHIRE AVENUE NW WASHINGTON, DC 20037 UNITED STATES trademarks@blankrome.com, flohr@blankrome.com
Submission	Motion to Compel Discovery
Filer's Name	Susan B. Flohr
Filer's e-mail	trademarks@blankrome.com
Signature	/sbf/
Date	04/01/2015
Attachments	Opposers Motions to Compel.pdf(852129 bytes )

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

In the Matter of Application Serial No. 86241729  
Applicant: T.D.C. USA, INC.  
Mark: LYONSCOTT  
Publication Date: 08/26/2014

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**LYLE & SCOTT LIMITED**

**Opposer**

v.

**T.D.C. USA, INC.**

**Respondent**  
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**Opposition No. 91218997**

**OPPOSER'S MOTION TO COMPEL INITIAL DISCLOSURES AND  
RESPONSES TO INTERROGATORIES AND DOCUMENT REQUESTS**

Pursuant to Federal Rule of Civil Procedure 37 and TBMP 411, Opposer, Lyle & Scott Limited, by and through its undersigned counsel, hereby moves the Board for an order compelling Applicant to provide initial disclosures to Opposer under F.R.C.P. 26(a)(1), and full and complete answers to Opposer's First Set of Interrogatories and responses to Opposer's First Set of Requests for Documents to Applicant, both served February 9, 2015. Opposer relies on the accompanying Memorandum of Law in support of this motion.

WHEREFORE, Opposer requests entry of an Order granting the requested relief.

Respectfully submitted,

BLANK ROME LLP

By:   
Susan B. Flohr  
600 New Hampshire Ave., N.W.  
Washington, D.C. 20037  
[flohr@blankrome.com](mailto:flohr@blankrome.com)  
202 772 5870

04/01/2015  
Date

**CERTIFICATE OF SERVICE**

The Undersigned, hereby certifies that on the 1<sup>st</sup> day of April, 2015, she caused a copy of the foregoing OPPOSER'S MOTION TO COMPEL INITIAL DISCLOSURES AND RESPONSES TO INTERROGATORIES AND DOCUMENT REQUESTS to be served by first class mail, postage prepaid, on Mitchell P. Novick, Law Office of Mitchell P. Novick, 623 Eagle Rock Ave., Ste 407, West Orange, NJ 07052-2948.



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Susan B. Flohr

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

In the Matter of Application Serial No. 86241729  
Applicant: T.D.C. USA, INC.  
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**Opposition No. 91218997**

**MEMORANDUM OF LAW IN SUPPORT OF  
OPPOSER’S MOTION TO COMPEL INITIAL DISCLOSURES AND  
RESPONSES TO INTERROGATORIES AND DOCUMENT REQUESTS**

Opposer, Lyle & Scott Limited, by and through its attorneys (“Opposer”), submits this memorandum of law in support of its motion to compel initial disclosures and discovery from Applicant T.D.C. USA, Inc. (“Applicant”) which has failed to provide initial disclosures, or any response to Opposer’s First Set of Interrogatories and First Set of Requests for Production of documents despite Opposer’s numerous amicable efforts to secure the same. Applicant has simply not provided such disclosures or responses, nor has it sought extensions of time to do so.

I. Factual and Procedural Background

On February 9, 2015, Opposer served its First Set of Interrogatories and First Set of Requests for Documents on Applicant, see Exhibit A and B respectively, and to date has not received any responses.

On March 2, 2015, Applicant was served with Opposer’s Initial Disclosures. See Exhibit C. Thereafter, counsel for Opposer contacted counsel for applicant, Mitchell Novick, regarding

the missing initial disclosures but to date have received none. See Exhibit D. Although Applicant's counsel indicated via email that such disclosures would be forthcoming, none have been received.

## II. Argument

In *inter partes* proceedings before the Board, if a party fails to provide any adverse party with required initial disclosures or expert testimony disclosures, the adverse party may file a motion to compel. Trademark Trial and Appeal Board Manual of Procedure, June 2014 (TBMP) 411 and 523; 37 CFR § 2.120(e); MISCELLANEOUS CHANGES TO TRADEMARK TRIAL AND APPEAL BOARD RULES, 72 Fed. Reg. 42242, 42256 (August 1, 2007) (“A motion to compel is the available remedy when an adversary has failed to make, or has made inadequate, initial disclosures or disclosures of expert testimony. Both of these types of disclosures are made during discovery, and a motion to compel must precede a motion for sanctions.”). *See also Luster Products Inc. v. Van Zandt*, 104 USPQ2d 1877, 1879 (TTAB 2012) (motion to compel is available remedy for failure to serve, or insufficient initial disclosures.)

If any party fails to answer any interrogatory, the party seeking discovery may file a motion with the Board for an order to compel an answer. TBMP 411.02; 37 CFR § 2.120(e). Similarly, if any party fails to produce and permit the inspection and copying of any document or thing, the party seeking discovery may file a motion for an order to compel production and an opportunity to inspect and copy. TBMP 411.02; 37 CFR § 2.120(e). Cf. Fed. R. Civ. P. 37(a)(3)(B).

The Board may order discovery of any matter relevant to the subject matter involved in the action. F.R.C.P. 26(b)(1). This motion relates to discovery of evidence relating to the fundamental aspects of Opposer's claims of likelihood of confusion and thus the discovery being sought is directly relevant to the subject matter of this proceeding.

**III. CONCLUSION**

Opposer's counsel has made a good faith effort to resolve with Applicant's counsel the issues presented in the Motion herein; however, there has been no compliance.

For all the reasons above, it is respectfully submitted that Opposer's motion to compel be granted.

BLANK ROME LLP

By: 

Susan B. Flohr  
600 New Hampshire Ave., N.W.  
Washington, D.C. 20037  
[flohr@blankrome.com](mailto:flohr@blankrome.com)  
202 772 5870

Date 04/01/2015

**CERTIFICATE OF SERVICE**

The Undersigned, hereby certifies that on the 1<sup>st</sup> day of April, 2015, she caused a copy of the foregoing MEMORANDUM IN SUPPORT OF OPPOSER'S MOTION TO COMPEL INITIAL DISCLOSURES AND RESPONSES TO INTERROGATORIES AND DOCUMENT REQUESTS to be served by first class mail, postage prepaid, on Mitchell P. Novick, Law Office of Mitchell P. Novick, 623 Eagle rock Ave., Ste 407, West Orange, NJ 07052-2948.



Susan B. Flohr

**EXHIBIT A**

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

In the Matter of Application Serial No. 86241729

Applicant: T.D.C. USA, INC.

Mark: LYONSCOTT

Publication Date: 08/26/2014

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LYLE & SCOTT LIMITED :  
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Opposer :   
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v. : Opposition No. 91218997  
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T.D.C. USA, INC. :   
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Applicant :  
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**OPPOSER'S FIRST SET OF INTERROGATORIES**

Pursuant to Rule 33 of the Federal Rules of Civil Procedure, Opposer, Lyle & Scott Limited (hereinafter, "Opposer"), by and through its attorneys, propounds the following interrogatories to Applicant, T.D.C. USA, INC. (hereinafter, "Applicant"), to be answered within thirty (30) days:

**Definitions and Instructions**

1. "Document" means all written or printed matter of any kind, including the originals and all non-identical copies, whether different from the original by reason of any notation made on such copies or otherwise (including without limitation correspondence, memoranda, notes, speeches, press releases,

contracts, reports, studies, checks, statements, receipts, returns, summaries, pamphlets, books, prospectuses, interoffice and intraoffice communications, offers, notations of any sort of conversations, telephone calls, meetings or other communications, bulletins, printed matter, computer printouts, teletypes, telefaxes, invoices, worksheets, and all drafts, alterations, modifications, changes and amendments of any of the foregoing), graphic or aural records or representations of any kind (including without limitation photographs, charts, graphs, microfiche, microfilm, videotapes, recordings, motion pictures) and electronic, mechanical or electric records or representations of any kind (including without limitation tapes, cassettes, discs and recordings). A draft or non-identical copy is a separate document within the meaning of this term.

2. "Applicant" means T.D.C. USA, INC., its officers, directors, employees, agents, and representatives.

3. "Opposer" means Lyle & Scott Limited, including its predecessors in interest, and its officers, directors, employees, agents and representatives.

4. "Media," in addition to its customary and usual meaning, means newspapers, magazines, television, Internet, and radio and anyone associated therewith.

5. "Opposer's Mark" means any inscription, writing, symbol, design, trademark or service mark consisting of or containing the term "LYLE & SCOTT" used or owned by Opposer.

6. "Applicant's Mark" means any inscription, writing, symbol, design, trademark or service mark consisting of or containing the term "LYONSCOTT" used or owned by Applicant.

7. "Confusion" and "likelihood of confusion," in addition to their usual and customary meaning, shall have the meanings ascribed to them by the Trademark Act, Section 2(d), 15 U.S.C. § 1052(d).

8. "Person" or "persons" means any natural person, corporation, association, firm, partnership, or other business, government, or legal entity, including all subsidiaries, affiliates and divisions, and all officers, directors, employees, agents, and representatives.

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

10. "You" or "your" means Applicant, as defined hereinabove.

11. With respect to "use" of Applicant's Mark (as defined hereinbelow), such term shall have the meaning set forth in the Lanham Act, 15 U.S.C. § 1051 et seq.

12. Whenever an interrogatory inquires about documents, please furnish the following information as to each, or if Applicant prefers, furnish Opposer's counsel with copies of each at such time as counsel mutually agree: (1) the date of the document; (2) a general description of the document; (3) a general description of the subject matter to which it pertains; (4) the names and addresses of the addressor, addressee and all persons receiving or shown the document or copies thereof; (5) the names and addresses of the persons in whose custody, possession or control the document is presently maintained.

13. The words "identify," "identity," and "identification," when used with respect to a person means to state the full name and present or last known residence, and present or last known business address, of such person, and, if a natural person, his present or last known job title, and the name and address of his present or last known employer.

14. The words "identify," "identity," and "identification," when used with respect to a document mean to describe the document by date, type, manner of transmission, distribution, and publication (if any), subject matter, the name

of each person who wrote, signed, initialed, dictated or otherwise participated in the preparation of same, the name and address of each addressee (if any), and the name and address of each person who has possession, custody or control of such document.

15. The words "identify," "identity," and "identification," when used with respect to an act, occurrence, statement or conduct, including an alleged violation or breach (hereinafter, collectively called an "act"), mean to:

- a) describe the substance of each event constituting such act and to state the date when such act occurred;
- b) identify each person participating in such act;
- c) identify each person present when such act occurred;
- d) state whether the occurrence of such act was recorded or described in a document;
- e) state whether such document or a copy thereof now exists; and
- f) identify the person presently having possession, custody or control of each such document.

16. These interrogatories seek answers as of the date hereof and shall be deemed to be continuing, requiring Applicant to serve upon Opposer such further supplemental or amended answers after Applicant has acquired additional knowledge or information relating in any way to these interrogatories.

17. In the following interrogatories, if you have withheld any information based upon any privilege, including that of attorney-client or attorney work product:

- (a) identify the privilege;
- (b) identify the date of the document or date on which the information was communicated;
- (c) identify the originator of the document or communicator of the information, the person to whom the document was addressed or information was transmitted and all persons who received the documents or information; and
- (d) describe the type of document or information transmitted and the subject matter to which it pertains.

18. The use of the singular form of any word includes the plural and vice versa. The present tense includes the past tense and vice versa.

**INTERROGATORIES**

INTERROGATORY NO. 1

Identify all addresses of Applicant in the United States.

INTERROGATORY NO. 2

Identify each and every good and service advertised, distributed, sold, offered or licensed, or intended to be advertised, distributed, sold, offered or licensed, by Applicant in connection with Applicant's Mark.

INTERROGATORY NO. 3

Identify all persons, businesses, organizations, manufacturers, distributors, retailers, wholesalers or consumers to whom Applicant has sold the goods and services identified in response to Interrogatory No. 2.

INTERROGATORY NO. 4

Identify the length of Applicant's use, the territorial areas in which Applicant's Mark was in use, or is intended to be used, the type of goods and services on or in connection with which Applicant's use of the Applicant's Mark was made or is intended to be made, and the facts on which Applicant relies to support such contentions.

INTERROGATORY NO. 5

State whether Applicant's Mark has been in continuous use since its first use in the United States and, if Applicant's Mark has not been in continuous use for any period of time identify the period of time and all persons with knowledge of said interruption(s).

INTERROGATORY NO. 6

Identify the annual sales volume in dollars and units for each of the goods and services identified in response to Interrogatory No. 2 for the period of five (5) years to the present.

INTERROGATORY NO. 7

State the name, address, and title or position of each person Applicant intends to call or rely upon as an expert witness in this proceeding, and as to each such person state the qualifications of the witness, the subject matter on which such expert is expected to testify, the substance of the facts and opinions to which each expert is expected to testify, a summary of the grounds for each opinion, and identify any documents each such expert has reviewed or relied upon in formulating his or her opinion.

INTERROGATORY NO. 8

State the name, address, and title or position of each person Applicant intends to call or rely upon as a witness in this proceeding.

INTERROGATORY NO. 9

Identify all agreements between Applicant and any third parties regarding use of the Applicant's Mark.

INTERROGATORY NO. 10

To the extent you have not done so in answering the foregoing interrogatories, describe in detail the names, addresses, titles and positions of all persons having knowledge of facts relevant to the subject matter of this proceeding; and a description of the extent and nature of their knowledge.

INTERROGATORY NO. 11

Describe your actual and intended customers of products sold or intended to be sold under the LYONSCOTT Mark.

INTERROGATORY 12

State the reasons you selected the LYONSCOTT Mark.

INTERROGATORY 13

Identify each person who participated in the selection of the LYONSCOTT Mark.

INTERROGATORY 14

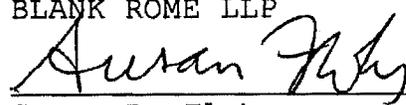
Identify all other marks you considered adopting before choosing LYONSCOTT for the products covered by the application opposed.

INTERROGATORY 15

State the date when you first became aware of Opposer's use or registration of the mark LYLE & SCOTT.

Respectfully Submitted,

Date: February 9, 2015

BLANK ROME LLP  
By:   
Susan B. Flohr  
Watergate  
600 New Hampshire Avenue, NW  
Washington, DC 20037

Attorneys for Opposer  
LYLE & SCOTT Limited

**CERTIFICATE OF SERVICE**

I, the undersigned, do hereby certify that I have on the 9th day of February, 2015, served via first class mail, the foregoing Opposer's First Set of Interrogatories to the following counsel of record: Mitchell P. Novick, Low Office of Mitchell P. Novick, 623 Eagle rock Ave., Ste 407, West Orange, NJ 07052-2948.

Attorney for Applicant

Susan Flory

**EXHIBIT B**

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

In the Matter of Application Serial No. 86241729  
Applicant: T.D.C. USA, INC.  
Mark: LYONSCOTT  
Publication Date: 08/26/2014

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**LYLE & SCOTT LIMITED**

**Opposer**

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**T.D.C. USA, INC.**

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**Opposition No. 91218997**

**OPPOSER'S FIRST SET OF REQUESTS FOR DOCUMENTS TO APPLICANT**

Pursuant to the provisions of Rules 26 and 34 of the Federal Rules of Civil Procedure, Defendant Lyle & Scott Limited, by its attorneys, Blank Rome LLP, addresses its First Set of Requests for Production of Documents to Plaintiffs to be responded to and complied with fully within thirty (30) days of service hereof.

**INSTRUCTIONS AND DEFINITION OF TERMS**

Opposer Lyle & Scott adopts by reference the Instructions and Definition of Terms set forth in its First Set of Interrogatories to Applicant.

**REQUESTS**

1. All documents and things referring, relating to, or supporting Applicant's responses to each of Opposer's First Set of Interrogatories to Applicant, served herewith.
2. All documents and things relating to Applicant's creation, conception, adoption, development and design of Applicant's Mark.

3. All documents and things relating to any meetings, conversations, conferences, or telephone discussions in which Opposer's Mark or Opposer was discussed.

4. A copy of each piece of promotional literature, catalogue, advertisement, or other printed material which relates in any way to the marketing, promoting, advertising, offering for sale or selling, or the intended marketing, promoting, advertising, offering for sale or selling of Applicant's goods sold or intended to be sold under or using Applicant's Mark.

5. A sample of all physical specimens including, but not limited to, labels, tags, packaging, containers, point of sale displays or other documents showing each way in which Applicant has used or intends to use Applicant's Mark in the United States with the goods set forth in Applicant's application serial no. 86/241729.

6. All documents and things relating to any search reports, market studies, surveys, focus groups, or other studies which relate to the use of Applicant's Mark for Applicant's goods covered by the application herein opposed.

7. Any and all correspondence between Applicant and any of his affiliates, agents or licensees regarding the proposed adoption of the Applicant's Mark.

8. All media schedules relating to Applicant's advertising or intended advertising relating to the promotion and sale of products sold under or using Applicant's Mark in any media from the date of first use to present.

9. All documents and things relating to the decision to adopt and use Applicant's Mark.

10. A copy of each advertisement published by or caused to be published by Applicant in connection with the promotion of Applicant's goods sold or to be sold under or using Applicant's Mark.

11. A copy of each and every piece of letterhead, advertising and promotional literature, price and product information sheet, and all marketing documents published, publicly distributed or displayed or used internally by Applicant relating to the sale or intended sale of goods under or using Applicant's Mark.

12. All documents and things relating or referring to any inquiries by consumers regarding or relating to Applicant's advertising, promotion, offer for sale and sale of products under or using Applicant's Mark.

13. All documents and things relating to publicity in any media regarding Applicant's goods sold or to be sold under or using Applicant's Mark.

14. All documents and things reflecting the dollar amounts derived by Applicant from the sale or distribution of goods sold or to be sold under or using Applicant's Mark for each year from the date of first use to the present.

15. All documents and things evidencing agreements relating to the right to use or any limitation of the right to use Applicant's Mark between the Applicant and any third party.

16. All documents and things concerning any survey, investigation or study relating in any way to confusion or mistake in the minds of members of the public, or to the likelihood of such confusion or mistake, as to the source of origin of any goods or services sold under or using Applicant's Mark including, but not limited to, reports, summaries of results, blank and completed questionnaires, and any other document containing any reference to or reflecting any such survey, investigation, or study or the results thereof.

17. All documents and things containing any reference to or relating in any way to any instances of actual or apparent confusion or mistake as to the source of origin of any goods sold, advertised, marketed offered for sale or sold by Applicant under or using Applicant's Mark.

18. All documents and things relating or referring to each occasion on which:

(a) Applicant has received any inquiry or communication, whether oral or in writing, relating to Opposer or any goods or services sold or distributed by Opposer;

(b) Applicant has received any inquiry or communication, whether oral or in writing, which was intended for delivery to Opposer;

(c) Any company or individual has attempted to purchase from Applicant goods or services sold by Opposer;

(d) Any company or individual was or appeared to be confused, deceived, or mistaken regarding the source of origin of products sold, advertised or marketed by Applicant under Applicant's Mark or any mark;

(e) Any customer, consumer or employee has inquired if there is a relationship between Opposer and Applicant;

(f) Any person indicated to Applicant that Applicant's use of Applicant's Mark and other similar marks or designations of Applicant for the sale of goods was likely to cause confusion with Opposer or any of Opposer's marks;

(g) Any person indicated to Applicant that Opposer was likely to object to Applicant's use of Applicant's Mark and other similar marks or designations of Applicant.

19. Each and every contract, agreement, or other understanding, written and oral, between Applicant and any other entity concerning use of Applicant's Mark, including, but not limited to, all license, franchise, and distribution agreements between Applicant and third parties.

20. All documents and things relating to disputes between Applicant and third parties, or complaints from third parties, related to Applicant's use, intent to use, or application(s) to register Applicant's Mark.

21. All documents setting forth Applicant's sales and/or marketing policies with respect to the sale or intended sale of goods under or using Applicant's Mark, including but not limited to:

(a) the type of customer to whom Applicant sells or intends to sell or distribute such goods;

(b) the method or intended method of sale, distribution and advertising; and

(c) whether or not Applicant has or plans to sell or advertise such goods on the Internet.

25. Any and all documents referring or relating to Opposer.

26. Any and all documents referring or relating to Opposer's U.S. trademark and service mark registrations and/or applications for its LYLE & SCOTT mark.

27. Any and all documents reflecting or relating to Applicant's knowledge of Opposer's LYLE & SCOTT mark.

28. Any and all documents which describe or refer to Applicant's policies with respect to the retention or disposition of documents.

29. Each document relating or referring to consumer complaints regarding or relating to the goods offered for sale by Applicant under Applicant's Mark.

30. Any and all documents relating to the filing and prosecution of state and federal trademark applications by Applicant for any mark consisting of or containing Applicant's Mark.

31. Any and all documents, including copies of all trademark or trade name search reports, relating to:

(a) the availability of the LYONSCOTT Mark; and

(b) Applicant's decision to adopt and use the LYONSCOTT Mark.

32. Any and all documents relating to any opinions from counsel regarding the availability for use of Applicant's Mark including, without limitation, copies of such opinions of counsel.

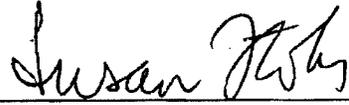
33. Any and all documents relating to investigations initiated by Applicant with regard to the allegations contained in the Notice of Opposition and the Answer to the Notice of opposition in this matter.

34. All documents and things relating to purchases by Applicant of any products made, distributed or sold by Opposer.

Respectfully submitted,

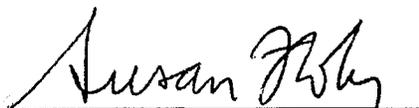
BLANK ROME LLP

Date: 2-6-15

By:   
Susan B. Flohr, Esquire  
Blank Rome LLP  
The Watergate  
600 New Hampshire Avenue, NW  
Washington, DC 20037  
(202) 530-5870  
(202) 572-1407 (fax)  
Attorneys for Opposer

**CERTIFICATE OF SERVICE**

The Undersigned, hereby certifies that on the 9th day of February, 2015, she caused a copy of the foregoing Opposer's First Set of Requests for Documents to Applicant to be served by first class mail, postage prepaid, on Mitchell P. Novick, Low Office of Mitchell P. Novick, 623 Eagle rock Ave., Ste 407, West Orange, NJ 07052-2948.

A handwritten signature in cursive script, appearing to read "Susan Flohr", written over a horizontal line.

Susan B. Flohr

**EXHIBIT C**

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

In the Matter of Application Serial No. 86241729  
Applicant: T.D.C. USA, INC.  
Mark: LYONSCOTT  
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**Respondent**  
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**Opposition No. 91218997**

Hon. Commissioner for Trademarks  
P.O. Box 1451  
Alexandria, Virginia 22313-1451

Attn.: Trademark Trial and Appeal Board

**INITIAL DISCLOSURES OF OPPOSER  
PURSUANT TO FED. R. CIV. P. 26(a)(1)**

Pursuant to Trademark Rule 37 C.F.R. § 2.120 and Fed. R. Civ. P. 26(a)(1),  
Opposer, Lyle & Scott Limited (hereinafter, "Opposer"), by and through its attorneys,  
Blank Rome LLP, hereby submits its initial disclosures to, and requests the same from,  
Respondent, **T.D.C. USA, INC.** ("Respondent").

**A. Individuals Likely to Have Discoverable Information**

Opposer hereby identifies those individuals likely to have discoverable information which it may use to support its claims and defenses. Opposer reserves the right to supplement or amend this list of individuals, as appropriate.

**PERSON**

Helen Driscoll, Director of Opposer

**SUBJECT OF INFORMATION**

Knowledge of Opposer's rights in its LYLE & SCOTT mark

**B. Documents, Electronically Stored Information and Tangible Things**

Opposer hereby describes all documents, electronically stored information, and tangible things that are in its possession, custody or control which it may use to support its claims or defenses. Opposer reserves the right to supplement or amend the responses as appropriate:

1. Correspondence and other documents relating to Opposer's LYLE & SCOTT trademarks.
2. All documents and things attached as an exhibit to any pleading filed by Opposer.
3. Electronically-stored information, including emails, attachments, and other files maintained on Opposer's computers relating to Opposer's LYLE & SCOTT trademarks.
4. All documents and things provided by Opposer as part of its initial disclosures or in response to discovery propounded by Respondent.

Respectfully submitted,

LYLE & SCOTT INTERNATIONAL SA



Date: March 2, 2015

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

Susan B. Flohr

BLANK ROME LLP

Watergate

600 New Hampshire Avenue, NW

Washington, DC 20037

Telephone: 202-772-5870

Facsimile: 202-572-1407

Attorneys for Opposer

**CERTIFICATE OF SERVICE**

I, Susan B. Flohr, do hereby certify that I have on this 2d, day of March, 2015,  
mailed by U.S. first class United States Mail, postage prepaid, the foregoing INITIAL  
DISCLOSURES OF OPPOSER to the following:

Mitchell P. Novick  
Law Offices of Mitchell P. Novick  
623 Eagle Rock Ave Ste 407  
West Orange, New Jersey 07052-2948

Attorney for Respondent



---

Susan B. Flohr

**EXHIBIT D**

## Flohr, Susan

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**From:** Mitchell P. Novick [mnovick@mitchellnovick.com]  
**Sent:** Thursday, March 12, 2015 2:04 PM  
**To:** Flohr, Susan  
**Subject:** Re: Lyle & Scott Ltd. v. T.D.C. USA Inc. Opposition No. 91218997 Our ref: 125569-00616

Hi, Susan. I am out of the office. I will be in next Monday (03/16).  
I will contact you then. Thank you. Mitchell

--

Mitchell P. Novick

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Law Offices Of Mitchell P. Novick  
623 Eagle Rock Avenue | Suite 407 | West Orange, NJ 07052  
tel 973-744-5150 | fax 973-744-2227  
[mnovick@mitchellnovick.com](mailto:mnovick@mitchellnovick.com) | [www.mitchellnovick.com](http://www.mitchellnovick.com)

Flohr, Susan wrote on 03/11/2015 02:32 PM:

> Dear Mitchell:

>

> I write further to my email below and my March 2, 2015, email attached  
> forwarding our initial disclosures. We did not receive any initial  
> disclosures from you to date. Please let me know if you posted them so  
> that I can try to track them down, or have reasons for not providing  
> them. We look forward to receipt of your responses to our discovery  
> requests and your client's response to our settlement proposal.

>

> Best wishes,

>

> Susan

>

>

> \*Susan B. Flohr \*| \*Partner / \*\*Blank Rome LLP\*  
> Watergate 600 New Hampshire Avenue, NW | Washington, DC 20037  
> Phone: 202.772.5870 | Fax: 202.572.1407 | Email: [Flohr@BlankRome.com](mailto:Flohr@BlankRome.com)  
> <<mailto:Flohr@BlankRome.com>>

>

> \*From:\* Flohr, Susan

> \*Sent:\* Wednesday, February 25, 2015 11:24 AM

> \*To:\* 'Mitchell P. Novick'

> \*Cc:\* Blank Rome Trademarks; WashingtonDocketing,; Blank Rome Records

> \*Subject:\* RE: Lyle & Scott Ltd. v. T.D.C. USA Inc. Opposition No.

> 91218997 Our ref: 125569-00616

>

> Dear Mitchell:

>

> Just circling back on this matter having not heard back from you to my  
> email below. I haven't received any discovery requests from you yet,  
> please confirm that none have been sent to us. I just want to be sure  
> nothing has gone astray.

>

> As you know our initial disclosures are due March 2, 2015.

>

> I look forward to hearing from you.

>

> Best wishes,

>

> Susan

>

>

> \*Susan B. Flohr \*| \*Partner / Blank Rome LLP\*

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