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Filing date: **08/19/2016**

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

Proceeding	91219179
Party	Defendant United Yacht Transport LLC dba United Yacht Transport
Correspondence Address	BRYAN D HULL BUSH ROSS PA PO BOX 3913 TAMPA, FL 33602 UNITED STATES bhull@bushross.com, avianueva@bushross.com, jprobasco@bushross.com, rsterns@bushross.com, ebishop@bushross.com, lhoman@bushross.com
Submission	Other Motions/Papers
Filer's Name	Bryan D. Hull
Filer's e-mail	bhull@bushross.com
Signature	/s/ Bryan D. Hull
Date	08/19/2016
Attachments	6048680.pdf(105116 bytes ) 6043549.PDF(137390 bytes ) 6043546.PDF(97529 bytes )

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

**SPLIETHOFF'S BEVRACHTINGSKANTOOR B.V.,**

**Opposer,**

**vs.**

**Opposition No. 91219179  
Serial No. 86031633**

**UNITED YACHT TRANSPORT LLC,**

**Applicant.**

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**MOTION FOR ISSUANCE OF LETTERS OF REQUEST FOR INTERNATIONAL  
JUDICIAL ASSISTANCE PURSUANT TO THE HAGUE CONVENTION ON THE  
TAKING OF EVIDENCE ABROAD IN CIVIL OR COMMERCIAL MATTERS**

Applicant, United Yacht Transport LLC (“**Applicant**” or “**United**”), respectfully requests that the Court issue the attached Letters of Request for International Judicial Assistance Pursuant to the Hague Convention on the Taking of Evidence Abroad in Civil or Commercial Matters, and states:<sup>1</sup>

**Relevant facts**

United has applied to register the mark “United Yacht Transport” for “Transport of Yachts by Boat” in International Class 039. Spliethoff filed this proceeding to oppose registration, alleging that it holds superior rights to the mark on account of certain activities by Dockwise Yacht Transport LLC (“DYT”), a company it acquired in 2013. However, in 2000, DYT’s predecessor changed its name *from* United Yacht Transport and ceased all meaningful commercial use of the United Yacht Transport mark. In its place, DYT began doing all business under the name Dockwise Yacht Transport, displayed the Dockwise Yacht Transport mark in all of its business activities, and obtained a federal registration for the mark “Dockwise Yacht Transport.” Accordingly, abandonment is a primary defense in this case.

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<sup>1</sup> Applicant previously requested leave to file this motion (Doc. 34).

Spliethoff contends that in or around 2012, two vessels operated by DYT, the *M/V Yacht Express* and the *M/V Super Servant 4*, were repainted with the name UNITED YACHT TRANSPORT. The painting occurred in the context of a proposed management buyout, in which DYT's then-CEO, Clemens Van der Werf, and other partners sought to acquire DYT from its parent company, Dockwise Ltd. Mr. Van der Werf and his partners planned to call the new company United Yacht Transport upon completion of the acquisition. After entering into a letter of intent to acquire DYT, Mr. Van der Werf had UNITED YACHT TRANSPORT painted on the side of two vessels that his group would acquire in the transaction.

Ultimately, the transaction failed, and Mr. Van der Werf was terminated. United has been informed and believes that Mr. Van der Werf was terminated for, among other things, attempting to change the Dockwise Yacht Transport branding before the transaction closed, and using DYT funds in the rebranding, rather than funds from Mr. Van der Werf and his partners. Eventually, UNITED YACHT TRANSPORT was removed from the vessels, not having been needed or used by Mr. Van der Werf and his partners.

#### **The requested discovery**

Dockwise Ltd., as the parent company of DYT and the other party to the proposed management buyout, is in possession of important documentary evidence regarding DYT's lack of intent to resume use of the UNITED YACHT TRANSPORT mark in commerce, including evidence that the only intent to use the UNITED YACHT TRANSPORT mark was that of the purchasers in the failed transaction. The CEO of Dockwise Ltd. at the time of the proposed management buyout, André Goedée, was directly involved in the management buyout negotiation with Mr. Van der Werf. Mr. Goedée has knowledge of the events surrounding the painting of the vessels and whether DYT ever intended to use the mark in commerce. Applicant

therefore seeks documentary evidence from Dockwise Ltd. and deposition testimony from Mr. Goedée by way of written questions, both of which are critical to its abandonment defense.

Dockwise Ltd.'s principal place of business and Mr. Goedée's residence are both in the Netherlands. International discovery from unwilling non-party witnesses may only be obtained through either (1) the issuance of Letters Rogatory, or (2) the Hague Convention on the Taking of Evidence Abroad in Civil or Commercial Matters. TBMP § 404.03(c)(2). The first procedure, the Letter Rogatory, is "relatively uncertain and onerous" and may be considerably time-consuming. *Jain v. Ramparts, Inc.*, 49 U.S.P.Q.2d 1429, 1431 (TTAB 1998); TBMP § 404.03(c)(2). Given the efficiencies of the Hague Convention and that the Netherlands is a signatory and is likely to honor the request, Applicant respectfully requests that the Board issue Letters of Request pursuant to the Hague Convention.

The proposed Letters of Request are attached to this motion. Because the deposition of André Goedée must be taken by written questions, Applicant filed an appropriate notice and served copies of the questions on Opposer. *See Jain*, 49 U.S.P.Q.2d at 1431; 37 C.F.R. § 2.124(b)(2). In accordance with 37 C.F.R. § 2.124(d)(1), Opposer served objections to the deposition questions, and Applicant served amended questions. Opposer did not serve any cross-examination questions. The amended deposition questions previously served on Opposer are attached to the proposed Letter of Request for Mr. Goedée.

WHEREFORE, Applicant United Yacht Transport LLC respectfully requests: (1) that the Board grant its motion, (2) that the Chief Administrative Trademark Judge sign and seal the attached Letters of Request for International Judicial Assistance Pursuant to the Hague Convention on the Taking of Evidence Abroad in Civil or Commercial Matters to Dockwise Ltd. and André Goedée, (3) that the original signed and sealed Letters of Request, or alternatively,

certified copies thereof, be returned to the undersigned counsel for prompt delivery to the Netherlands Central Authority, and (4) that the Board grant any such other relief that is just and proper.

Respectfully submitted,

BUSH ROSS, P.A.

Dated: August 19, 2016

By: /s/ Bryan D. Hull

Bryan D. Hull

Florida Bar No. 20969

[bhull@bushross.com](mailto:bhull@bushross.com)

P. O. Box 3913

Tampa, FL 33602

(813) 224-9255

(813) 223-9620 (fax)

*Attorneys for United Yacht Transport, LLC*

### **CERTIFICATE OF SERVICE**

I hereby certify that a true and complete copy of the foregoing Answer has been served on J. Michael Pennekamp and Sandra I. Tart by mailing said copy on August 19, 2016, via First Class Mail, postage prepaid to: J. Michael Pennekamp and Sandra I. Tart, FOWLER WHITE BURNETT, P.A., Espirito Santo Plaza, Fourteenth Floor, 1395 Brickell Avenue, Miami, Florida 33131, and by email to: [jpennekamp@fowler-white.com](mailto:jpennekamp@fowler-white.com) and [start@fowler-white.com](mailto:start@fowler-white.com).

Signature: /s/ Bryan D. Hull

Date: August 19, 2016

**UNITED STATES PATENT AND TRADEMARK OFFICE  
TRADEMARK TRIAL AND APPEAL BOARD**

SPLIETHOFF'S	)	
BEVRACHTINGSKANTOOR B.V.,	)	
	)	Opposition No. 91219179
Opposer (Plaintiff),	)	U.S. Appl. Serial No. 86031633
	)	
v.	)	
	)	
UNITED YACHT TRANSPORT LLC.,	)	
	)	
Applicant (Defendant).	)	
	)	

**REQUEST FOR INTERNATIONAL JUDICIAL ASSISTANCE PURSUANT TO THE  
HAGUE CONVENTION ON THE TAKING OF EVIDENCE ABROAD IN CIVIL OR  
COMMERCIAL MATTERS**

**IDENTITY AND ADDRESS OF THE APPLICANT:**

Trademark Trial and Appeal Board  
U.S. Patent and Trademark Office  
Madison East, Concourse Level Room C 55  
600 Dulany Street  
Alexandria, VA 22314  
USA

**CENTRAL AUTHORITY OF THE RECEIVING STATE:**

The District Court in The Hague (Rechtbank Den Haag)  
Team Administratie Civiel – Algemene Zaken  
Postbus 20302  
2500 EH THE HAGUE  
NETHERLANDS

In conformity with Article 3 of the Hague Convention on the Taking of Evidence Abroad in Civil or Commercial Matters (hereinafter referred to as “Hague Convention No. 20”), the undersigned applicant has the honor and judicial authority to submit this request on behalf of Applicant (Defendant) in the above-titled action.

The Trademark Trial and Appeal Board by and through the Honorable Gerard F. Rogers, Chief Administrative Trademark Judge, presents its compliments to the judicial authorities of the Netherlands and requests international judicial assistance to obtain evidence to be used in a civil proceeding before this Court in this action.

In accordance with Article 9 of Hague Convention No. 20, this Court requests the assistance of the Courts of the Netherlands to compel the below-named individual to submit the requested evidence (described in Exhibit A) to an appropriately designated authority for the Netherlands for subsequent return to this court for examination in this case.

<b>PARTY</b>	<b>LEGAL REPRESENTATIVE</b>
<p><b><i>Opposer (Plaintiff):</i></b>  Spliethoff's Bevrachtungskantoor B.V.  Radarweg 36  1042 AA Amsterdam  the Netherlands</p>	<p><b><i>Attorneys for Opposer (Plaintiff):</i></b>  J. Michael Pennekamp, Esq.  Sandra I. Tart, Esq.  FOWER WHITE BURNETT, P.A.,  Espirito Santo Plaza,  Fourteenth Floor,  1395 Brickell Avenue, Miami, FL 33131.  Email: jpennekamp@fowler-white.com  Email: start@fowler-white.com</p>
<p><b>PARTY, continued</b></p> <p><b><i>Applicant (Defendant):</i></b>  United Yacht Transport LLC  2830 Marina Mile Blvd., Suite 118  Fort Lauderdale, FL 33312</p>	<p><b>LEGAL REPRESENTATIVE, continued</b></p> <p><b><i>Attorneys for Applicant (Defendant):</i></b>  Bryan D. Hull  BUSH ROSS, P.A.  P. O. Box 3913  Tampa, FL 33602  (813) 224-9255  (813) 223-9620 (fax)  Email: bhull@bushross.com</p>

**REPRESENTATIVE DESIGNATED TO ACT ON BEHALF OF THIS COURT IN RELATION TO THIS REQUEST:**

It is requested that should contact or correspondence be required in relation to this request, the following individual is appointed in this matter for that purpose:

Bryan D. Hull  
BUSH ROSS, P.A.  
P. O. Box 3913  
Tampa, FL 33602  
(813) 224-9255  
(813) 223-9620 (fax)  
Email:bhull@bushross.com

**ENTITY/DEPONENT FROM WHOM EVIDENCE IS REQUESTED:**

André Goedée  
At the address of:  
SIF Group B.V.  
Mijnheerkensweg 33  
6041 TA Roermond  
The Netherlands

Phone +3 (147) 538 5777  
Fax +3 (147) 531 8742

This Court respectfully requests that the Courts of the Netherlands appoint an appropriate judicial authority in the Netherlands to preside over this request and compel the above-named individual to provide the evidence described in Exhibit A, which is relevant to the Applicant's (Defendant's) case.

**André Goedée** is a citizen of the Netherlands and is in possession of the requested evidence and information.

**SUBJECT MATTER AND RELATIVITY OF THIS REQUEST:**

This matter involves a dispute over the right to register a service mark. Spliethoff's Bevrachtingskantoor B.V. ("Spliethoff") filed this case opposing United Yacht Transport, LLC's ("United") right to register the service mark UNITED YACHT TRANSPORT. Spliethoff alleges that it acquired superior rights to the mark after purchasing the assets of Dockwise Yacht Transport LLC from Koninklijke Boskalis Westminster N.V. ("Boskalis"). Spliethoff also alleges that United misrepresented to the United States Patent and Trademark Office that the mark was not currently

being used by any other persons or entities at the time United applied for the UNITED YACHT TRANSPORT mark.

United denies these allegations and alleges that Dockwise Yacht Transport LLC stopped using the UNITED YACHT TRANSPORT name in 2000 and abandoned any rights to the mark.

Spliethoff contends that Dockwise Yacht Transport LLC began to reuse the name in 2012 and painted UNITED YACHT TRANSPORT on the side of two vessels, the *M/V Yacht Express* and the *M/V Super Servant 4*. United alleges that Dockwise Yacht Transport LLC's then-parent company, Dockwise Ltd., authorized the vessels to be repainted in 2012 as part of a proposed acquisition of Dockwise Yacht Transport LLC by Coby Enterprises LLC, a company owned by Dockwise Yacht Transport LLC's then-CEO Clemens Van der Werf, as well as Steven Byle and Michael Cohen. Mr. Van der Werf, Mr. Byle, and Mr. Cohen planned to operate the new company under the name "United Yacht Transport." The proposed acquisition failed, and the UNITED YACHT TRANSPORT name was later removed from the *M/V Yacht Express* and the *M/V Super Servant 4*.

In 2013, Boskalis acquired Dockwise Ltd., the parent company of Dockwise Yacht Transport LLC. Later, Boskalis sold the assets of Dockwise Yacht Transport LLC to Spliethoff.

In this request, United seeks the deposition of André Goedée, who was the CEO of Dockwise Ltd. in 2012 at the time of Mr. Van der Werf's attempted acquisition of Dockwise Yacht Transport LLC from its parent company, Dockwise Ltd. Mr. Goedée has first-hand knowledge of the events surrounding the proposed acquisition and can verify that the UNITED YACHT TRANSPORT name was painted on the *M/V Yacht Express* and *M/V Super Servant 4* solely as part of the failed corporate acquisition by Mr. Van der Werf and Coby Enterprises LLC, and that

Dockwise Yacht Transport LLC never intended to use the name UNITED YACHT TRANSPORT in its business.

In view of the foregoing, it is therefore requested, in the interest of justice, that the appropriate judicial authority of the Netherlands issue an order, in accordance with Articles 9 and 10 of Hague Convention No. 20 and the laws and procedures of the Courts of the Netherlands, summoning **André Goedée** to provide the requested evidence (described in Exhibit A) to that appropriate authority for return to this Court to be used at trial in this case.

**SPECIFIC REQUESTS:**

1. **It is requested that should any portion of this request be denied, on legal grounds, that such denial not affect the remainder of this request.** In accordance with Article 13 of Hague Convention No. 20, it is further requested that the above-designated representative, and this Court, be immediately informed of any such refusal and the associated legal grounds.

2. It is requested that the judicial authorities of the Netherlands issue an order for the requested evidence (attached as Exhibit A) to be produced as quickly as possible.

3. In accordance with Article 9 of Hague Convention No. 20, it is requested that the appropriate authority in the Netherlands provide to this Court, as soon as convenient, all information regarding decisions made regarding the acquisition of evidence from **ANDRÉ GOEDÉE**.

4. It is requested that **ANDRÉ GOEDÉE** be ordered to appear for deposition and answer questions including, but not limited to, the list of questions attached as Exhibit A.

5. It is requested that the deponent give testimony/responses under legally sworn oath, administered by the judicial authority designated by the Netherlands court.

6. It is requested that if the testimony/responses are orally given, that they be reduced to verbatim written transcript.

7. It is requested that all transcripts, written responses and document evidence be properly sealed and authenticated by the appropriate authority for, and in accordance with the laws of, the Netherlands and returned to this court for examination and use in this case.

Any costs associated with acquisition, production, authentication or return of this evidence shall be the responsibility of Applicant (Defendant) in this matter.

When required, the below-signed judicial authority shall provide appropriate reciprocal assistance, such as requested herein, to the appropriate judicial authorities of the Netherlands.

WITNESS, the Honorable Gerard F. Rogers, Chief Administrative Trademark Judge this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

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Honorable Gerard F. Rogers  
Chief Administrative Trademark Judge  
Trademark Trial and Appeal Board  
U.S. Patent and Trademark Office  
Madison East, Concourse Level Room C 55  
600 Dulany Street  
Alexandria, VA 22314  
USA

[seal of the court]

## EXHIBIT A– TESTIMONY REQUEST

### ANDRÉ GOEDÉE

#### QUESTIONS:

- 1) Please state your name. Where are you currently employed?
- 2) Were you previously employed by Dockwise Ltd.?
- 3) When were you employed by Dockwise Ltd., and what positions did you have?
- 4) Was Dockwise Yacht Transport LLC a wholly-owned subsidiary of Dockwise Ltd.? If no, please explain.
- 5) Prior to 2000, did Dockwise Yacht Transport LLC go by the name “United Yacht Transport”?
- 6) Do you know why United Yacht Transport changed its name to Dockwise Yacht Transport in or around the year 2000? If yes, please explain.
- 7) After 2000, did Dockwise Yacht Transport ever sell any services under the name United Yacht Transport?
- 8) After 2000, did Dockwise Yacht Transport ever operate under the name United Yacht Transport?
- 9) Were you aware of any efforts by Dockwise Yacht Transport to continue using the United Yacht Transport name in its business between 2000 and 2011? If yes, what efforts were made?
- 10) Did Dockwise Yacht Transport pay for any advertising related to the United Yacht Transport name between 2000 and 2011? If yes, what advertisements were made during that period and when?
- 11) Did Dockwise Yacht Transport have any plans to use the United Yacht Transport name in its business at any time between 2000 and 2011? If yes, please explain the specific plans to use the name United Yacht Transport, including the approximate dates of the plans.
- 12) Was Clemens Van der Werf the Chief Executive Officer of Dockwise Yacht Transport LLC between 2011 and 2013?
- 13) Did Clemens Van der Werf seek to purchase Dockwise Yacht Transport LLC from Dockwise Ltd. in 2011-2013?
- 14) Did Mr. Van der Werf form a company to purchase Dockwise Yacht Transport LLC? If yes, was that company Coby Enterprises LLC?

15) Did Mr. Van der Werf have any other partners in Coby Enterprises LLC? If yes, did his partners include Steven Byle and Michael Cohen?

16) Did you have a role in negotiating the proposed transaction on behalf of Dockwise Ltd.? What was your role?

17) Was Mr. Van der Werf the primary or integral person who was negotiating on behalf of the purchaser, Coby Enterprises LLC? If not, who was?

18) Did you understand that if the proposed transaction had succeeded, Mr. Van der Werf and Coby Enterprises LLC planned to call the new company United Yacht Transport?

19) Did you understand that Mr. Van der Werf was not attempting to use the name United Yacht Transport for Dockwise Yacht Transport's ongoing business operations before the proposed transaction closed? Please explain.

20) Did Dockwise Ltd. give Mr. Van der Werf and Coby Enterprises LLC permission to use the United Yacht Transport name?

21) Did you think Dockwise Ltd. needed to give Mr. Van der Werf and Coby Enterprises LLC permission to use the United Yacht Transport name? Why or why not?

22) Please describe any discussions you had with Mr. Van der Werf about his use of the name United Yacht Transport.

23) Did Clemens Van der Werf request permission to register the domain name [www.unitedyachttransport.com](http://www.unitedyachttransport.com) in 2011? Please describe any efforts made to obtain the domain name from Mr. Van der Werf after his employment ended.

24) In 2011 and 2012, did Mr. Van der Werf or one of his partners request to paint "United Yacht Transport" on the sidewalls of the *M/V Yacht Express* and the *M/V Super Servant 4*?

25) Who made the request?

26) Was the request made on behalf of the purchasing company, Coby Enterprises LLC? Please explain.

27) Please describe what you recall about the request, the circumstances in which it was made, and what happened.

28) Was the name "United Yacht Transport" painted on the sidewalls of the *M/V Yacht Express* and the *M/V Super Servant 4*? If yes, when did the painting occur? At that time, had the proposed transaction with Mr. Van der Werf's company closed? Did the transaction ever close?

29) Why was the name "United Yacht Transport" painted on the vessels when the proposed transaction had not closed?

30) Did Dockwise Ltd. authorize or approve the name “United Yacht Transport” to be painted on the vessels when the proposed transaction with Mr. Van der Werf’s company had not closed? Why or why not?

31) When the painting of the name “United Yacht Transport” on the vessels was authorized or approved, did you believe the proposed transaction with Coby Enterprises was likely to close?

32) Who paid the expenses for painting the name “United Yacht Transport” on the vessels? Please explain.

33) Did you understand that the purchaser, Coby Enterprises, was to pay for the expense of painting the name “United Yacht Transport” on the vessels?

34) Did you understand that marketing materials such as signs, letterhead and business cards were prepared for Mr. Van der Werf using the United Yacht Transport name?

35) Who paid the expenses for ordering the United Yacht Transport marketing materials? Were these materials ever used? Why or why not?

36) Was Mr. Van der Werf terminated or asked to resign as CEO of Dockwise Yacht Transport LLC at least in part for reasons related to expenses for changing the name on the vessels from Dockwise Yacht Transport to United Yacht Transport, or any other expenses, in conjunction with his company’s proposed purchase of Dockwise Yacht Transport LLC? If yes, please explain.

37) After “United Yacht Transport” was painted on the side of the vessels in or about 2011 or 2012, did Dockwise Yacht Transport LLC ever change its name to United Yacht Transport?

38) After “United Yacht Transport” was painted on the side of the vessels in or about 2011 or 2012, what name did Dockwise Yacht Transport operate under?

39) After “United Yacht Transport” was painted on the side of the vessels in or about 2011 or 2012, what name did Dockwise Yacht Transport make sales under?

40) Did you understand that Dockwise Yacht Transport LLC had any plans to use the name “United Yacht Transport” if the proposed transaction with Mr. Van der Werf’s company, Coby Enterprises, failed? If yes, please explain the specific plans to use the name United Yacht Transport.

41) Did Dockwise Ltd. intend for Dockwise Yacht Transport LLC to use the name “United Yacht Transport” if the proposed transaction with Mr. Van der Werf’s company, Coby Enterprises, failed? If yes, please explain.

42) Did the proposed transaction for the purchase of Dockwise Yacht Transport LLC by Mr. Van der Werf’s company, Coby Enterprises, fail? Why?

43) After the Coby transaction failed, did Mr. Van der Werf affiliate himself with any other financing groups for the purpose of attempting to acquire Dockwise Yacht Transport LLC? If yes, what were the names of those financing groups? Did those transactions fail? If yes, when did those transactions fail?

44) When did Mr. Van der Werf's efforts to acquire Dockwise Yacht Transport LLC end? When did Mr. Van der Werf leave Dockwise Yacht Transport LLC?

45) What was your opinion in 2012 and 2013 about the *M/V Yacht Express* and the *M/V Super Servant 4* continuing to display the name "United Yacht Transport" after the proposed transaction with Mr. Van der Werf's company failed?

46) What steps were taken to address the name "United Yacht Transport" on the vessels after the proposed transaction with Mr. Van der Werf's company failed?

47) When did Dockwise Yacht Transport first consider changing the names on the sidewall of the *M/V Yacht Express* and the *M/V Super Servant 4* after the proposed transaction with Mr. Van der Werf's company failed? Why?

48) Why was the name "United Yacht Transport" not immediately removed from the vessels after the proposed transaction with Mr. Van der Werf's company failed?

49) After United Yacht Transport LLC initially started operations in August 2013, did you have any conversations or correspondence regarding the belief that Clemens Van der Werf was affiliated with United Yacht Transport LLC? Why? What was the substance of the conversations?

50) After United Yacht Transport LLC started operations in August 2013, were any testimonials or other pages on the Dockwise Yacht Transport website changed to show the name "United Yacht Transport", including but not limited to the website testimonial for the *M/Y Lady May* dated February 16, 2012? If yes, when and why were they changed?

51) Were the testimonials on the Dockwise Yacht Transport website ever changed back to remove the name "United Yacht Transport"? If yes, when were they and why were they changed back to Dockwise Yacht Transport?

52) Did Koninklijke Boskalis Westminster NV acquire Dockwise Ltd. (and Dockwise Yacht Transport LLC)? When did the acquisition occur? After that, did you work for Boskalis? What was your position? At that time, was there any intention that Dockwise Yacht Transport would use the name United Yacht Transport? If yes, please explain the specific plans to use the name United Yacht Transport.

53) Please describe any communications that Dockwise Ltd. had with Spliethoff from 2013-2014 regarding the name "United Yacht Transport".

54) Are you a Dutch citizen and a resident of the Netherlands?

- 55) Do you plan to be in the United States for a trial in this case?
- 56) Would you voluntarily appear in the United States for a trial in this case?
- 57) Did you discuss these deposition questions with anyone? If yes, please identify everyone with whom you discussed these deposition questions.
- 58) Other than conversations with your attorney, what questions did you discuss?
- 59) Were you told to give any particular answers? If yes, what were you told to say and by whom?

**UNITED STATES PATENT AND TRADEMARK OFFICE  
TRADEMARK TRIAL AND APPEAL BOARD**

SPLIETHOFF'S	)	
BEVRACHTINGSKANTOOR B.V.,	)	
	)	Opposition No. 91219179
Opposer (Plaintiff),	)	Serial No. 86031633
	)	
v.	)	
	)	
UNITED YACHT TRANSPORT LLC.,	)	
	)	
Applicant (Defendant).	)	
	)	

**REQUEST FOR INTERNATIONAL JUDICIAL ASSISTANCE PURSUANT TO THE  
HAGUE CONVENTION ON THE TAKING OF EVIDENCE ABROAD IN CIVIL OR  
COMMERCIAL MATTERS**

**IDENTITY AND ADDRESS OF THE APPLICANT:**

Trademark Trial and Appeal Board  
U.S. Patent and Trademark Office  
Madison East, Concourse Level Room C 55  
600 Dulany Street  
Alexandria, VA 22314  
USA

**CENTRAL AUTHORITY OF THE RECEIVING STATE:**

The District Court in The Hague (Rechtbank Den Haag)  
Team Administratie Civiel – Algemene Zaken  
Postbus 20302  
2500 EH THE HAGUE  
NETHERLANDS

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The Trademark Trial and Appeal Board by and through the Honorable Gerard F. Rogers, Chief Administrative Trademark Judge, presents its compliments to the judicial authorities of the Netherlands and requests international judicial assistance to obtain evidence to be used in a civil proceeding before this Court in this action.

In accordance with Article 9 of Hague Convention No. 20, this Court requests the assistance of the Courts of the Netherlands to compel the below-named entity to submit the requested evidence (described in Exhibit A) to an appropriately designated authority for the Netherlands for subsequent return to this court for examination in this case.

<b>PARTY</b>	<b>LEGAL REPRESENTATIVE</b>
<p><b><i>Opposer (Plaintiff):</i></b>                      Spliethoff's Bevrachtingskantoor B.V.                      Radarweg 36                      1042 AA Amsterdam                      the Netherlands</p>	<p><b><i>Attorneys for Opposer (Plaintiff):</i></b>                      J. Michael Pennekamp, Esq.                      Sandra I. Tart, Esq.                      FOWER WHITE BURNETT, P.A.,                      Espirito Santo Plaza,                      Fourteenth Floor,                      1395 Brickell Avenue, Miami, FL 33131.                      Email: jpennekamp@fowler-white.com                      Email: start@fowler-white.com</p>
<p><b>PARTY, continued</b></p>	<p><b>LEGAL REPRESENTATIVE, continued</b></p>
<p><b><i>Applicant (Defendant):</i></b>                      United Yacht Transport LLC                      2830 Marina Mile Blvd., Suite 118                      Fort Lauderdale, FL 33312</p>	<p><b><i>Attorneys for Applicant (Defendant):</i></b>                      Bryan D. Hull                      BUSH ROSS, P.A.                      P. O. Box 3913                      Tampa, FL 33602                      (813) 224-9255                      (813) 223-9620 (fax)                      Email: bhull@bushross.com</p>

**REPRESENTATIVE DESIGNATED TO ACT ON BEHALF OF THIS COURT IN RELATION TO THIS REQUEST:**

It is requested that should contact or correspondence be required in relation to this request, the following individual is appointed in this matter for that purpose:

Bryan D. Hull  
BUSH ROSS, P.A.  
P. O. Box 3913  
Tampa, FL 33602  
USA  
(813) 224-9255  
(813) 223-9620 (fax)  
Email: bhull@bushross.com

**ENTITY/DEPONENT FROM WHOM EVIDENCE IS REQUESTED:**

Dockwise, Ltd.  
Rosmolenweg 20  
Papendrecht 3356 Lk  
Netherlands

This Court respectfully requests that the Courts of the Netherlands appoint an appropriate judicial authority in the Netherlands to preside over this request and compel the above-named entity to provide the evidence described in Exhibit A, which is relevant to the Applicant's (Defendant's) case.

**DOCKWISE, LTD.** is a corporate entity currently registered and operating in the Netherlands (KvK 20161638 Vestigingsnr. 000009980431), and is in possession of the requested evidence and information.

**SUBJECT MATTER AND RELATIVITY OF THIS REQUEST:**

This matter involves a dispute over the right to register a service mark. Spliethoff's Bevrachtungskantoor B.V. ("Spliethoff") filed this case opposing United Yacht Transport, LLC's ("United") right to register the service mark UNITED YACHT TRANSPORT. Spliethoff alleges that it acquired superior rights to the mark after purchasing the assets of Dockwise Yacht Transport LLC from Koninklijke Boskalis Westminster N.V. ("Boskalis"). Spliethoff also alleges that United misrepresented to the United States Patent and Trademark Office that the mark was not currently

being used by any other persons or entities at the time United applied for the UNITED YACHT TRANSPORT mark.

United denies these allegations and alleges that Dockwise Yacht Transport LLC stopped using the UNITED YACHT TRANSPORT name in 2000 and abandoned any rights to the mark.

Spliethoff contends that Dockwise Yacht Transport LLC began to reuse the name in 2012 and painted UNITED YACHT TRANSPORT on the side of two vessels, the *M/V Yacht Express* and the *M/V Super Servant 4*. United alleges that Dockwise Yacht Transport LLC's then-parent company, Dockwise Ltd., authorized the vessels to be repainted in 2012 as part of a proposed acquisition of Dockwise Yacht Transport LLC by Coby Enterprises LLC, a company owned by Dockwise Yacht Transport LLC's then-CEO Clemens Van der Werf, as well as Steven Byle and Michael Cohen. Mr. Van der Werf, Mr. Byle, and Mr. Cohen planned to operate the new company under the name "United Yacht Transport." The proposed acquisition failed, and the UNITED YACHT TRANSPORT name was later removed from the *M/V Yacht Express* and the *M/V Super Servant 4*.

In 2013, Boskalis acquired Dockwise Ltd., the parent company of Dockwise Yacht Transport LLC. Later, Boskalis sold the assets of Dockwise Yacht Transport LLC to Spliethoff.

In this request, United seeks documents from Dockwise Ltd., which verify that the UNITED YACHT TRANSPORT name was painted on the *M/V Yacht Express* and *M/V Super Servant 4* solely as part of the failed corporate acquisition by Mr. Van der Werf and his partners, and that Dockwise Yacht Transport LLC never intended to use the name UNITED YACHT TRANSPORT in its business.

In view of the foregoing, it is therefore requested, in the interest of justice, that the appropriate judicial authority of the Netherlands issue an order, in accordance with Articles 9 and

10 of Hague Convention No. 20 and the laws and procedures of the Courts of the Netherlands, summoning **DOCKWISE LTD.** to provide the requested evidence (described in Exhibit A) to that appropriate authority for return to this Court to be used at trial in this case.

**SPECIFIC REQUESTS:**

1. **It is requested that should any portion of this request be denied, on legal grounds, that such denial not affect the remainder of this request.** In accordance with Article 13 of Hague Convention No. 20, it is further requested that the above-designated representative, and this Court, be immediately informed of any such refusal and the associated legal grounds.

2. It is requested that the judicial authorities of the Netherlands issue an order for the requested documents (attached as Exhibit A) to be produced as quickly as possible.

3. In accordance with Article 9 of Hague Convention No. 20, it is requested that the appropriate authority in the Netherlands provide to this Court, as soon as convenient, all information regarding decisions made regarding the acquisition of evidence from **DOCKWISE LTD.**

4. It is requested that any documents and other evidence produced be properly sealed and authenticated by the appropriate authority for, and in accordance with the laws of, the Netherlands and returned to this Court for examination and use in this case.

Any costs associated with acquisition, production, authentication or return of this evidence shall be the responsibility of Applicant (Defendant) in this matter.

When required, the below-signed judicial authority shall provide appropriate reciprocal assistance, such as requested herein, to the appropriate judicial authorities of the Netherlands.

WITNESS, the Honorable Gerard F. Rogers, Chief Administrative Trademark Judge this  
\_\_\_\_\_ day of \_\_\_\_\_, 2016.

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Honorable Gerard F. Rogers  
Chief Administrative Trademark Judge  
Trademark Trial and Appeal Board U.S. Patent and  
Trademark Office  
Madison East, Concourse Level Room C 55  
600 Dulany Street  
Alexandria, VA 22314  
USA

[seal of the court]

**EXHIBIT A – DOCUMENT REQUEST**

**DOCKWISE, LTD.**

- a. The Letter of Intent executed by Clemens Van der Werf and Coby Enterprises LLC for the purchase of Dockwise Yacht Transport LLC and/or its assets from Dockwise Ltd.
- b. 2011 and 2012 Emails to and from Clemens Van der Werf, Steven Byle, and Michael Cohen on the sale of rights to the name UNITED YACHT TRANSPORT.
- c. 2011 and 2012 Emails authorizing Clemens Van der Werf, Steven Byle, and Michael Cohen to use the name UNITED YACHT TRANSPORT.
- d. 2011 and 2012 inquiries, purchase orders and records for painting UNITED YACHT TRANSPORT on the *M/V Yacht Express* and the *M/V Super Servant 4*.
- e. 2011 and 2012 Emails to and from Clemens Van der Werf, Steven Byle, and Michael Cohen on painting UNITED YACHT TRANSPORT on the *M/V Yacht Express* and the *M/V Super Servant 4*.
- f. 2011 and 2012 Emails to and from Clemens Van der Werf, Steven Byle, and Michael Cohen for who would bear the cost of painting UNITED YACHT TRANSPORT on the *M/V Yacht Express* and the *M/V Super Servant 4*.
- g. 2011 and 2012 Emails to and from Clemens Van der Werf, Steven Byle, and Michael Cohen authorizing UNITED YACHT TRANSPORT to be painted on the *M/V Yacht Express* and the *M/V Super Servant 4*.
- h. 2011 and 2012 Emails to and from Clemens Van der Werf, Steven Byle, and Michael Cohen on the use of the name UNITED YACHT TRANSPORT by Dockwise Yacht Transport LLC.
- i. 2011, 2012, and 2013 Emails to and from Clemens Van der Werf, Steven Byle, and Michael Cohen discussing Dockwise Yacht Transport LLC using the name UNITED YACHT TRANSPORT after the proposed acquisition by Coby Enterprises, LLC, Mr. Van der Werf, Mr. Byle, and Mr. Cohen failed.
- j. 2012 and 2013 Emails confirming that Dockwise Yacht Transport LLC did not plan to use the name UNITED YACHT TRANSPORT in its business after the proposed acquisition by Coby Enterprises, LLC, Mr. Van der Werf, Mr. Byle, and Mr. Cohen failed.
- k. 2012 and 2013 Emails for the decision whether or not to remove the name UNITED YACHT TRANSPORT from the *M/V Yacht Express* and the *M/V Super Servant 4*.
- l. The 2012 and 2013 internal records for Dockwise, Ltd.’s removal of UNITED YACHT TRANSPORT from the *M/V Yacht Express* and the *M/V Super Servant 4*.

- m. Emails discussing advertising in the Port Everglades Facilities Guide.
- n. 2011, 2012 and 2013 Emails to and from Clemens Van der Werf discussing the domain name [www.unitedyachttransport.com](http://www.unitedyachttransport.com).
- o. 2011, 2012 and 2013 Emails discussing plans to use the name UNITED YACHT TRANSPORT.
- p. 2011 and 2012 Emails discussing Dockwise Yacht Transport LLC expenses authorized by Clemens Van der Werf regarding the proposed acquisition of Dockwise Yacht Transport LLC by Coby Enterprises LLC.
- q. 2011 and 2012 Emails discussing the guidelines and protocols for Clemens Van der Werf while he was both President of Dockwise Yacht Transport LLC and member of Coby Enterprises LLC.