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

Proceeding	91221291
Party	Plaintiff Ferrero S.p.A.
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Submission	Motion to Compel Discovery
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Signature	/Leo M. Loughlin/
Date	05/20/2016
Attachments	Motion to Compel.pdf(3086629 bytes)

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

Ferrero S.p.A.,	:	
Opposer/Registrant,	:	
v.	:	Opposition No. 91221291
Ruchi Soya Industries Limited,	:	
Applicant/Petitioner.	:	

OPPOSER/REGISTRANT'S MOTION TO COMPEL AND REQUEST FOR SUSPENSION OF THE PROCEEDING

Opposer/Registrant, Ferrero S.p.A. ("Ferrero"), moves for an order compelling Applicant/Petitioner, Ruchi Soya Industries Limited ("Ruchi"), to copy and send documents responsive to Ferrero's Requests for Production of Documents as well as Ferrero's Interrogatory Nos. 1-18 to which Ruchi has improperly invoked Federal Rule of Civil Procedure 33(d). Ferrero's motion is presented pursuant to Rules 411.02 and 523.01 of the Trademark Trial and Appeal Board Manual of Procedure ("TBMP") and 37 C.F.R. § 2.120(e).

Ruchi has refused to copy and send its responsive documents to Ferrero, and such refusal violates not only its agreement to reciprocate the parties' exchange of documents in this proceeding but also violates the Trademark Trial and Appeal Board's ("Board") mandate that parties work together in discovery to minimize unnecessary burden and expense. In connection with its own discovery requests, Ruchi demanded that Ferrero copy and send responsive documents to its counsel. Since both parties are located outside the United States and the exchange of responsive documents is the customary

practice in Board proceedings, Ferrero sent its responsive documents to Ruchi since Ruchi's offer and Ferrero's acceptance constituted an agreement to exchange documents. However, when Ferrero asked Ruchi to reciprocate and send its documents to Ferrero, Ruchi refused and stated that documents would only be made available for inspection at Ruchi's office in India. Ruchi has given no reason why it could not simply produce its documents to Ferrero in the same manner demanded by its counsel. Ruchi's actions constitute pure gamesmanship which should not be rewarded and, as such, Ferrero requests that the Board order Ruchi to send its responsive documents to Ferrero.

In addition, Ruchi's position that documents responsive to Ferrero Interrogatory Nos. 1-18 are available for inspection in India violates Rule 33(d)'s provision that the requesting party be given a reasonable opportunity to view the documents. Ruchi should also be ordered to give complete written answers to Interrogatories 1-18 since the burden on Ferrero to travel to India far outweighs any burden on Ruchi to provide written answers.

Finally, Ferrero requests that this proceeding be suspended pending the resolution of this Motion to Compel.

FACTUAL BACKGROUND

Ferrero is the owner of the world famous NUTELLA brand of products and associated trademarks which Ferrero uses in connection with its popular hazelnut spread with cocoa as well as other products. Ferrero filed this Opposition against Application Serial No. 86/184,298 for the mark NUTRELA since the mark is virtually identical to Ferrero's famous NUTELLA Mark. Ruchi has counterclaimed for cancellation of two of the five registrations pleaded by Ferrero.

On January 21, 2016, Ferrero served its responses to Ruchi's First Set of Requests for Production of Documents. *See* Declaration of Leo M. Loughlin ("Loughlin Dec.") at ¶ 3. On February 18, 2016, Ruchi's counsel sent an email to Ferrero's counsel demanding, under threat of a motion to compel, that Ferrero send its responsive documents to Ruchi. *Id.* at ¶ 4, Exh. 1. In response to this demand, and to comply with its discovery obligations and the Board's mandate, Ferrero sent its responsive documents to Ruchi on February 26, 2016. *Id.* at ¶ 5.

In view of Ruchi's demand that Ferrero copy and send responsive documents, and also considering that the exchange of documents is the customary practice and is encouraged by the Board, the parties entered into an agreement to exchange documents. Loughlin Dec. at ¶ 6.

On February 26, 2016, Ferrero served its First Set of Interrogatories and First Set of Requests for Production of Documents on Ruchi. *Id.* at ¶¶ 7-8, Exhs. 2-3. The first page of the Request for Production of Documents specifically stated that responsive documents should be made available at the offices of Ferrero's counsel. *Id.* at ¶ 8, Exh. 3.

On April 1, 2016, Ruchi served its answers to Ferrero's First Set of Interrogatories and, with the exception of Interrogatory No. 19, Ruchi responded to every Interrogatory by stating it would produce representative documents pursuant to Rule 33(d) of the Federal Rules of Civil Procedure. *Id.* at ¶ 9, Exh. 4. The same day, Ruchi also served its responses to Ferrero's First Set of Requests for Production of Documents. However, the responses stated that responsive documents would be available for inspection and copying at Ruchi's offices in India. *Id.* at ¶ 10, Exh. 5.

Ferrero's counsel sent an email to Ruchi's counsel on April 12, 2016 requesting confirmation that Ruchi would indeed honor the parties' agreement and reciprocate Ruchi's earlier demand by sending its responsive documents to Ferrero. *Id.* at ¶ 11, Exh. 6. Since Ruchi's counsel did not respond to the April 12, 2016 email, Ferrero's counsel sent a reminder on April 26, 2016. *Id.* at ¶ 12, Exh. 7.

Ruchi's counsel finally responded by email on April 27, 2016 that Ruchi would not reciprocate and send its responsive documents to Ferrero, but would only make responsive documents available for inspection and copying at Ruchi's offices in India. *Id.* at ¶ 13, Exh. 8. The documents located in India include documents responsive to Ferrero's Requests for Production, as well as documents responsive to Ferrero's Interrogatories 1-18 to which Ruchi stated it would produce documents under Rule 33(d).

Ruchi's position is that although it demanded Ferrero send its responsive documents to Ruchi, under a threat of a motion to compel, there is no agreement to reciprocate and Ferrero must travel to India to obtain the documents that Ruchi could simply send, but refuses to do so. The Board should not reward such blatant gamesmanship and Ferrero requests that this Motion to Compel be granted.

Ferrero certifies that it made a good faith effort to resolve this dispute. The parties exchanged email correspondence regarding the matter, but it was not able to be resolved. Loughlin Dec. at ¶ 14, Exh. 9. Ruchi agreed that Ferrero had satisfied the obligation to attempt to resolve the issue before bringing this Motion to Compel.

ARGUMENT

A. Ruchi Must Send to Ferrero The Documents Responsive to Ferrero's Request for Production of Documents

"The Board expects parties to cooperate with one another in the discovery process, and looks with extreme disfavor on those who do not." TBMP § 408.01. Further, parties and their attorneys have a duty to make a good-faith effort to satisfy the discovery needs of their opponent. *See Luehrmann v. Kwik Kopy Corp.,* 2 USPQ2d 1303, 1305 (TTAB 1987). Also, in Board cases, "parties often extend each other the courtesy of producing requested documents by copying the documents and forwarding them to the requesting party at the requesting party's expense. Indeed, the Board believes this is more efficient and thus encourages this method of producing documents." TBMP at § 406.04(b). And the Board may, by order, specify the place and the manner in which the documents are to be produced, and in situations involving electronically stored information, the form of production. *Id.; No Fear Inc. v. Rule,* 54 USPQ2d 1551, 1555 (TTAB 2000).

An order compelling discovery is warranted because Ruchi's February 18, 2016 email to Ferrero constituted an offer for the parties to exchange responsive documents, as is the typical and preferred practice in Board cases. *See* Loughlin Dec., Exh 1. Ferrero accepted this offer and sent its responsive documents to Ruchi as opposed to making responsive documents available for inspection in Italy, which would have unnecessarily and significantly increased the burden and expense on Ruchi and its counsel. As the parties are located in Italy and India, respectively, such an agreement is completely reasonable. Moreover, since Ruchi's February 18, 2016 email stated that a motion to

compel would be filed if responsive documents were not forwarded, Ruchi obviously believed that the parties had an agreement to exchange documents.[1] *Id.*

Ruchi's position is that although it insisted that responsive documents be sent to it, it need not reciprocate and Ferrero must incur the enormous expense of travelling to India to inspect documents that Ruchi could simply forward to Ferrero. Ruchi's position is simply unreasonable and runs counter to the good faith conduct expected in Board proceedings. *See Johnston Pump/General Valve Inc. v. Chromalloy American Corp.* 13 USPQ2d 1719, 1721 n.4 (TTAB 1989). Ruchi's unreasonable position here has resulted in the filing of this unnecessary motion, wasting the time and resources of both parties and the Board. *Cadbury UK Ltd. v. Meenaxi Enter.,* 115 U.S.P.Q.2D 1404 (TTAB 2015). As such, the Motion to Compel should be granted. Failure to do so will reward Ruchi's blatant gamesmanship and set a dangerous precedent encouraging similar tactics by Ruchi and other parties in the future.

B. Ruchi Must Send to Ferrero the Documents Responsive to Ferrero's Interrogatory Nos. 1-18

In its answers to Ferrero's Interrogatories 1-18, Ruchi stated that it would produce responsive documents under Rule 33(d) to the Federal Rules of Civil Procedure. Ruchi invoked this option for Interrogatories 12-18, even though these interrogatories were directed to the factual basis for Ruchi's counterclaims for cancellation based on Ferrero's alleged non-use/abandonment, and thus should not involve business records of Ruchi. *See* Loughlin Dec. Exh. 4. Ruchi has refused to send documents responsive to the interrogatories to Ferrero, but instead insists that Ferrero travel to India to obtain the

[1] If this were not the case, then Ruchi falsely threatened a motion to compel. Such gamesmanship would run counter to the good faith and cooperation that is expected of litigants during discovery. *See Cadbury UK Ltd. v. Meenaxi Enter.*, 115 USPQ2D 1404 (TTAB 2015).

documents and, thus, the answers to its interrogatories. For the reasons stated above, Ferrero respectfully requests the Board issue an order compelling Ruchi to send its responsive documents to Ferrero.

In addition, the Motion to Compel should be granted as Ruchi's position violates Rule 33(d) due to the fact that Ruchi is not giving Ferrero a "reasonable opportunity" to obtain the responsive documents. *See* FRCP 33(d); *see also Johnson & Johnson and RoC International S.A.R.L. v. Obschestvo;* 95 USPQ2d 1567 (TTAB 2010). Rather than give full answers to the Interrogatories, or send the responsive documents to Ferrero, Ruchi demands that Ferrero incur the significant burden and expense of travelling to India to obtain answers to its Interrogatories. Ruchi's position is unreasonable and the Motion to Compel should be granted.

C. Ruchi Should be Ordered to Provide Full Answers to Ferrero's Interrogatory Nos. 1-18

Ruchi should also be ordered to provide full written answers to Ferrero Interrogatory Nos. 1-18 since it would not be unduly burdensome for Ruchi to provide separate and full written answers to these interrogatories in accordance with Fed. R. Civ. P. 33(b). Indeed, the burden of reviewing any such documents is clearly with Ferrero.

A party responding to interrogatories by invoking Fed. R. Civ. P. 33(d) must comply with three specific conditions. *No Fear, Inc. v. Rule,* 54 USPQ2d 1551 (TTAB 2000); *see Jain v. Ramparts, Inc.,* 49 USPQ2d 1429 (TTAB 1998). First, a responding party "must identify documents which the responding party knows to contain the responsive information, and may not merely agree to provide access to a voluminous collection of records which may contain the responsive information." *No Fear, Inc.* 54 USPQ2d at 1555; *Johnson & Johnson*, 95 USPQ2d at 1568. Second, "a party may not

rely on the option to produce business records unless it can establish that providing written responses would impose a significant burden on the party." *Id.* Third, "even if the responding party can meet" the above two requirements and "can identify particular documents in which the inquiring party will find its answers, the inquiring party must not be left with any greater burden than the responding party when searching through and inspecting the records." *Id.* "That is, the determination and weighing of the parties' respective burdens is only necessary and appropriate if the responding party already has established that it would be unduly burdensome for it to provide written answers to the interrogatories, and if its responses to the interrogatories have specified in sufficient detail the business records from which the answers to the interrogatories can be ascertained." *Jain*, 49 USPQ2d at 1434, *Johnson & Johnson*, 95 USPQ.2d at 1568. "The Board has added that the third requirement, if at issue, often will not be met 'because the responding party will have greater familiarity with its own records and will generally have a lesser burden than the inquiring party when searching through the relevant records.'" *Johnson & Johnson*, 95 USPQ2d at 1568 *citing No Fear Inc.*, 54 USPQ2d at 1555.

A review of Ruchi's answers to Interrogatory Nos. 1-18 clearly shows that Ruchi did not meet any of the above criteria and therefore improperly invoked Rule 33(d) in its answers. First, Ruchi failed to comply with the requirement that the responding party specify the records from which the answer to the interrogatory may be ascertained in sufficient detail. Indeed, Ruchi provided no details. *See* Loughlin Dec., Exh. 4. Second, there can be no serious arguments that providing written responses would impose a significant burden on Ruchi. Interrogatories 1-8 and 10-11 relate to Ruchi's adoption and

use of NUTRELA in the U.S., while interrogatories 9 and 12-17 are directed to Ruchi's knowledge of Ferrero's use of NUTELLA. Providing such information in an answer to an interrogatory is clearly not burdensome. Third, there is clearly a greater burden on Ferrero to travel to India to inspect responsive documents than there is on Ruchi to provide complete answers. Any argument to the contrary cannot be taken seriously.

As such, Ruchi's invocation of Fed. R. Civ. P. 33(d) was inappropriate and Ruchi should be ordered to provide complete, written responses to Interrogatory Nos. 1-18.

CONCLUSION

In view of the foregoing, Ferrero requests that the Board grant this Motion to Compel.

Respectfully submitted,

Ferrero S.p.A.

By: _____

E. Anthony Figg
Leo M. Loughlin
Attorneys for Ferrero S.p.A.
Rothwell, Figg, Ernst & Manbeck P.C.
607 14th Street, N.W.
8th Floor
Washington, DC 20005
Phone: 202-783-6040

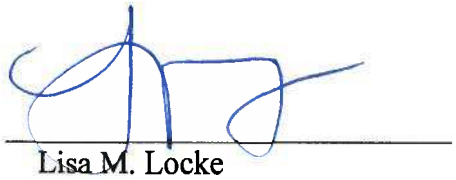
Date: May 20, 2016

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing Opposer/Registrant's Motion to Compel and Request for Suspension of the Proceeding has been served by First Class mail, postage prepaid, to

Robert B. Golden, Esq.
Lackenbach Siegel LLP
1 Chase Road
Lackenbach Siegel Building, Penthouse
Scarsdale, New York 10583-4156

On this 20th day of May, 2016.



Lisa M. Locke

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

Ferrero S.p.A.,	:	
Opposer/Registrant,	:	
v.	:	Opposition No. 91221291
Ruchi Soya Industries Limited,	:	
Applicant/Petitioner.	:	

DECLARATION OF LEO M. LOUGHLIN

I, Leo M. Loughlin, declare and state as follows:

1. I am a member of the bars of New York State and the District of Columbia, and an attorney at the law firm Rothwell, Figg, Ernst & Manbeck, P.C., attorneys for Opposer/Registrant.

2. I submit this declaration in support of Opposer/Registrant's Motion to Compel. I have personal knowledge of the facts stated in this Declaration.

3. On January 21, 2016, Opposer/Registrant served its responses to Applicant/Petitioner's First Set of Requests for Production of Documents and Things.

4. On February 18, 2016, Applicant/Petitioner's counsel sent an email to Opposer/Registrant's counsel demanding, under threat of a motion to compel, that Opposer/Registrant send its responsive documents to Applicant/Petitioner. A true and correct copy of this email is attached as Exhibit 1.

5. On February 26, 2016, Opposer/Registrant sent its responsive documents to Applicant/Petitioner.

6. In view of Applicant/Petitioner's demand that documents be sent and also considering that the exchange of documents is the customary practice and is encouraged by the Board, Ferrero's acceptance constituted an agreement to exchange documents.

7. On February 26, 2016, Opposer/Registrant served Opposer/Registrant's First Set of Interrogatories to Applicant/Petitioner. A copy of this document is attached as Exhibit 2.

8. On February 26, 2016, Opposer/Registrant served Opposer/Registrant's First Set of Requests for Production of Documents. The first page specifically stated that responsive documents should be made available at the offices of Opposer/Registrant's counsel. A copy of this document is attached as Exhibit 3.

9. On April 1, 2016, Applicant/Petitioner served its answers to Opposer/Registrant's First Set of Interrogatories to Applicant/Petitioner. With the exception of Interrogatory No. 19, Applicant/Petitioner responded to every other Interrogatory that it would produce representative documents pursuant to Rule 33(d) of the Federal Rules of Civil Procedure. A copy of this document is attached as Exhibit 4.

10. On April 1, 2016, Applicant/Petitioner served its responses to Opposer/Registrant's First Set of Requests for Production of Documents to Applicant/Petitioner. Applicant/Petitioner's responses state that responsive documents would be available for inspection and copying at Applicant/Petitioner's offices, in India. A copy of this document is attached as Exhibit 5.

11. On April 12, 2016, I sent an email to Applicant/Petitioner's counsel requesting confirmation that Applicant/Petitioner would reciprocate Applicant/Petitioner's request

and send its responsive documents to Opposer/Registrant. A true and correct copy of this email is attached as Exhibit 6.

12. Applicant/Petitioner's counsel did not respond to my April 12, 2016 email and I therefore that sent a reminder email on April 26, 2016. A true and correct copy of this email is attached as Exhibit 7.

13. Applicant/Petitioner's counsel responded by email on April 27, 2016, that Applicant/Petitioner would not reciprocate and send its responsive documents to Opposer/Registrant, but would only make responsive documents available for inspection and copying at Applicant/Petitioner's offices, in India. A true and correct copy of this email is attached as Exhibit 8.

14. Following this email, I exchanged email correspondence with Applicant/Petitioner's counsel in a good faith effort to resolve this dispute, but was not successful. Applicant/Petitioner's counsel agreed that the parties had satisfied the obligation to attempt to resolve the issue short of a motion to compel. A true and correct copy of this email correspondence is attached as Exhibit 9.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on May 20, 2016

Leo M. Loughlin

RFEM.Trademark

From: Robert Golden <RGolden@LSLLP.com>
Sent: Thursday, February 18, 2016 5:46 PM
To: Leo M. Loughlin; Eric Menist
Cc: RFEM.Trademark
Subject: RE: Ferreo v. Ruchi Soya - Opp. No. 91221291 - Ruchi Soyas' First Set of Discovery Requests to Ferrero (1237-5516)

Leo:

Unless I am mistaken, I do not believe we have received the documents responsive to our requests. Please let me know when we can expect to receive them so that we do not need to move forward with a motion to compel.

Rob

Robert B. Golden
Lackenbach Siegel LLP
One Chase Road
Scarsdale, New York 10583
(914) 723-4394
(914) 723-4301 (fax)
rgolden@LSLLP.com <mailto:rgolden@lsllp.com>

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

Ferrero S.p.A.,	)	
	)	
Opposer/Registrant,	)	Opposition No. 91221291
	)	
v.	)	
	)	
Ruchi Soya Industries Limited,	)	
	)	
Applicant/Petitioner.	)	

OPPOSER/REGISTRANT'S FIRST SET OF INTERROGATORIES TO APPLICANT/PETITIONER

Pursuant to Rule 33 of the Federal Rules of Civil Procedure and Rule 2.120 of the Trademark Rules of Practice, Opposer/Registrant Ferrero S.p.A. (hereinafter "Ferrero") requests that Applicant/Petitioner, Ruchi Soya Industries Limited ("Petitioner"), serve upon Ferrero sworn answers to the interrogatories set forth below within thirty (30) days after the service hereof. These interrogatories are intended to be continuing in nature and any information which may be discovered subsequent to the service and filing of the answers should be brought to the attention of Ferrero through supplemental answers within a reasonable time following such discovery.

For the convenience of the Board and the parties, Ferrero requests that each interrogatory be quoted in full immediately preceding the response.

DEFINITIONS AND INSTRUCTIONS

A. The word "person" shall mean and include without limitation, individuals, firms, associations, partnerships, and corporations.

B. The terms "Opposer", "Registrant" and "Ferrero" shall mean Ferrero S.p.A., and shall include its predecessors-in-interest, successor in interest and its affiliated

or related companies and, individually or collectively, its officers, directors, employees, agents or representatives.

C. The term "Applicant", "Petitioner" and "Ruchi Soya" shall mean Ruchi Soya Industries Limited, and any predecessors-in-interest, licensees and any affiliated or related companies having any involvement with the use of the term, mark, or designation "NUTRELA" as defined below, and shall include, individually or collectively, partners, officers, directors, employees, agents or representatives.

D. In the following discovery requests, the term "document" or "documents" is used in its customary broad sense to mean all non-identical copies of all documents within the scope of Rule 34, Fed. R. Civ. P., including, without limitation, reports and/or summaries of interviews; reports and/or summaries of investigations; opinions or reports of consultants; opinions of counsel; communications of any nature including internal company communications; memoranda; notes; letters; e-mail; agreements; reports or summaries of negotiations; brochures; pamphlets; advertisements; circulars; trade letters; press releases; drafts of documents and revisions of drafts of document and any written, printed, typed or other graphic matter of any kind of nature; drawings; photographs; charts; electronically stored data; and all mechanical and electronic sound recordings or transcripts thereof, in the possession and/or control of Petitioner or its employees or agents, or known to Petitioner to exist, and shall include all non-identical copies of documents by whatever means made and whether or not claimed to be privileged or otherwise excludable from discovery. By way of illustration only and not by way of limitation, any documents bearing on any sheet or side thereof any marks, including, but not limited to, initials, stamped indicia, comment or notation of any character and not a

part of the original text or any reproduction thereof, is to be considered a separate document.

E. In the following discovery requests, where identification of a document is required, such identification should describe the document sufficiently so that it can be specifically requested under Rule 34 of the Federal Rules of Civil Procedure and should include without limitation the following information, namely:

a. the name and address of the author;

b. the date;

c. the general nature of the document, i.e., whether it is a letter, memorandum, pamphlet, report, advertising (including proofs), etc.;

d. the general subject matter of the documents;

e. the name and address of all recipients of copies of the documents;

f. the name and address of the person now having possession of the original and the location of the original;

g. the name and address of each person now having possession of a copy of and the location of each such copy;

h. for each document Petitioner contends is privileged or otherwise excludable from discovery, the basis or such claim of privilege or other grounds for exclusion; and

i. whether Petitioner is willing to produce such document voluntarily to Registrant for inspection and copying.

F. Wherever the identification of documents is called for in these interrogatories, Petitioner may, in lieu of such identification, produce such documents marked with the number of the interrogatory to which it is responsive, for inspection and copying by Registrant at the time Petitioner serves its answers to these interrogatories.

G. Wherever the discovery requests call for an answer rather than the identification of documents, an answer is required, and the production of documents in lieu of an answer will not satisfy the requirement that an answer be provided.

H. In the following discovery requests, where identification of a person, as defined, is required, state:

a. the person's full name, state of incorporation, if any, present and/or last known home address (designating which), present and/or last known position or business affiliation (designating which) and/or present or last known (designating which) affiliation with Petitioner, if any. In the case of a present or past employee, officer or director or agent of Petitioner, also state the person's period of employment or affiliation with Petitioner, and his or her present or last position during his affiliation with Petitioner.

I. In the following discovery requests, where identification of an oral communication is required, state the date, the communicator, the recipient of the communication, and the nature of the communication.

J. In the following discovery requests, unless the context of the question dictates a broader time reference, the questions refer to the time beginning with the earliest date upon which Petitioner may attempt to rely for priority purposes in this proceeding.

K. All references in these discovery requests to "commerce" signify commerce that may lawfully be regulated by United States Congress.

L. In the following discovery requests, unless the context of the question dictates a broader geographical reference, the geographical scope of the questions is limited to the United States of America and territories under the administration of the United States of America.

M. Whenever used herein, the singular shall be deemed to include the plural, the plural shall be deemed to include the singular; the masculine shall be deemed to include the feminine and the feminine shall be deemed to include the masculine; the disjunctive ("or") shall be deemed to include the conjunctive ("and"), and the conjunctive ("and") shall be deemed to include the disjunctive ("or"); and each of the functional words "each," "every," "any," and "all" shall be deemed to include each of the other functional words.

N. The term COUNTERCLAIMS refers to the Counterclaims for cancellation of Registration Nos. 3,930,669 and 4,192,415 filed by Petitioner in this proceeding on May 11, 2015.

INTERROGATORIES

INTERROGATORY NO. 1

State Petitioner's date of first use in commerce in the United States for the mark NUTRELA in connection with the products identified in Serial No. 86/184,298.

INTERROGATORY NO. 2

Identify the person or persons in the employ of or associated in any manner with Petitioner most knowledgeable with respect to the following:

(a) Petitioner's consideration, selection, and adoption of the term NUTRELA;

(b) Petitioner's use of the NUTRELA mark;

(c) Petitioner's sales and advertising of the products identified by Petitioner's NUTRELA mark; and

(d) Petitioner's consideration and decision to file the application Serial No. 86/184,298.

INTERROGATORY NO. 3

Identify all parties, including but not limited to, advertising, public relations, website design or internet consulting firms, that will be, are now or have ever been employed or engaged by Petitioner in connection with the use, scheduled use or planned use of its NUTRELA mark, including the identity of those persons responsible for Petitioner's account and/or work performed on Petitioner's behalf with respect to the use, scheduled use, or planned use of the NUTRELA trademark.

INTERROGATORY NO. 4

Identify with particularly each type of product or service sold or offered for sale by Petitioner in connection with the NUTRELA trademark at any time in the United States.

INTERROGATORY NO. 5

Identify each publication, catalog, and broadcast advertisement (*e.g.*, radio, television, internet, website, email) authorized by or on behalf of Petitioner, in which products under the NUTRELA trademark have been, or are scheduled to be mentioned, by stating the following:

(a) State the title(s) and date(s) / place(s) and date(s) of each publication, billboard or catalog in which any advertisement or display of goods or services appeared or is scheduled to appear; and

(b) Identify each actual or scheduled broadcast by: (1) date(s); and (2) station(s) or website(s); and (3) whether the broadcast was or will be on radio, television or the internet.

INTERROGATORY NO. 6

Identify all trade shows, fashion shows, photo shoots, professional shows, professional meetings, seminars, events, conferences, conventions and the like where Petitioner or someone on Petitioner's behalf has promoted or offered products, or is scheduled to promote or offer products, under Petitioner's NUTRELA mark, by stating, for each show, shoot, meeting, seminar, event, conference, or convention, the following:

(a) the name of the show, shoot, meeting, seminar, event, conference or convention, where held or to be held, and the dates when held or to be held; and

(b) the type of goods or services promoted or offered at each show,

shoot, meeting, seminar, event, conference or convention by Petitioner under that mark; and

(d) each employee or representative of Petitioner who was present at, assisted in planning or who has knowledge of, such show, shoot, meeting, seminar, event, conference or convention.

INTERROGATORY NO. 7

State the total dollar value of Petitioner's revenues in the United States associated with Petitioner's products under the NUTRELA mark for the products listed in application Serial No. 86/184,298, from the date of the earliest priority date on which Petitioner intends to rely in this proceeding to the present; indicating the revenue for each year (or for each month for periods of less than a year).

INTERROGATORY NO. 8

State the total annual advertising and promotional expenditures in dollars in the United States by or on behalf of Petitioner relating to the promotion of the NUTRELA mark for the products listed in application Serial No. 86/184,298, from the date of the earliest priority date on which Petitioner intends to rely in this proceeding to the present.

INTERROGATORY NO. 9

Describe when and by what means Petitioner first became aware of (a) Ferrero; (b) Ferrero's NUTELLA mark; and (c) Ferrero's use of any mark or designation consisting of or including the term "NUTELLA", not identified in (b).

INTERROGATORY NO. 10

State whether Petitioner performed a trademark search prior to filing Application Serial No. 86/184,298 and identify the results of said search.

INTERROGATORY NO. 11

Identify all facts which reflect, refer to, relate to, evidence or concern any and all instances of actual confusion, potential confusion, mistake or deception known to Petitioner as to the source, origin, sponsorship or association as between its use or proposed use of the NUTRELA mark and Ferrero 's use of the NUTELLA mark in the United States.

INTERROGATORY NO. 12

Identify all facts that support Petitioner's allegations in Paragraph 14 of the COUNTERCLAIMS.

INTERROGATORY NO. 13

Identify all facts that support Petitioner's allegations in Paragraph 15 of the COUNTERCLAIMS.

INTERROGATORY NO. 14

Identify all facts that support Petitioner's allegations in Paragraph 16 of the COUNTERCLAIMS.

INTERROGATORY NO. 15

Identify all facts that support Petitioner's allegations in Paragraph 25 of the COUNTERCLAIMS.

INTERROGATORY NO. 16

Identify all facts that support Petitioner's allegations in Paragraph 26 of the COUNTERCLAIMS.

INTERROGATORY NO. 17

Identify all facts that support Petitioner's allegations in Paragraph 27 of the COUNTERCLAIMS.

INTERROGATORY NO. 18

Identify all facts that support Petitioner's allegations in Paragraph 36 of the COUNTERCLAIMS.

INTERROGATORY NO. 19

Identify those persons who had more than a clerical role in the answering of the foregoing interrogatories or in any search for documents in connection with said interrogatories or Ferrero's First Set of Requests for Production of Documents.

Respectfully submitted,

Ferrero S.p.A.

Dated: February 26, 2016

By: _____

Leo M. Loughlin
Attorneys for Ferrero S.p.A.
Rothwell, Figg, Ernst & Manbeck P.C.
607 14th Street, N.W.; Suite 800
Washington, DC 20005
Ph: 202-783-6040

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing OPPOSER/REGISTRANT'S FIRST SET OF INTERROGATORIES TO APPLICANT/PETITIONER was served first-class mail, postage prepaid, on the following individual at the address indicated below:

Robert B. Golden
Jeffrey M. Rollings
Lackenbach Siegel LLP
Lackenbach Siegel Building, Penthouse
1 Chase Road
Scarsdale, NY 10583

This 26th day of February, 2016.

Leo M. Loughlin

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

Ferrero S.p.A.,	)	
	)	
Opposer/Registrant,	)	Opposition No. 91221291
	)	
v.	)	
	)	
Ruchi Soya Industries Limited,	)	
	)	
Applicant/Petitioner.	)	

REGISTRANT'S FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS

Pursuant to Rule 34 of the Federal Rules of Civil Procedure and Rule 2.120 of the Trademark Rules of Practice, Opposer/Registrant Ferrero S.p.A. (hereinafter "Registrant") requests that Applicant/Petitioner, Ruchi Soya Industries Limited ("Petitioner") produce for inspection and copying the following documents at the offices of counsel for Registrant, Rothwell, Figg, Ernst & Manbeck, 607 14th Street, N.W., Suite 800, Washington, D.C. 20005, within thirty (30) days following the date of service of this request, or at such other time and place as the parties may mutually agree upon.

DEFINITIONS AND INSTRUCTIONS

A. The word "person" shall mean and include without limitation, individuals, firms, associations, partnerships, and corporations.

B. The terms "Opposer", "Registrant" and "Ferrero" shall mean Ferrero S.p.A., and shall include its predecessors-in-interest, successor in interest and its affiliated or related companies and, individually or collectively, its officers, directors, employees, agents or representatives.

C. The term "Applicant", "Petitioner" and "Ruchi Soya" shall mean Ruchi Soya Industries Limited, and any predecessors-in-interest, licensees and any affiliated or related companies having any involvement with the use of the term, mark, or designation "NUTRELA" as defined below, and shall include, individually or collectively, partners, officers, directors, employees, agents or representatives.

D. In the following discovery requests, the term "document" or "documents" is used in its customary broad sense to mean all non-identical copies of all documents within the scope of Rule 34, Fed. R. Civ. P., including, without limitation, reports and/or summaries of interviews; reports and/or summaries of investigations; opinions or reports of consultants; opinions of counsel; communications of any nature including internal company communications; memoranda; notes; letters; e-mail; agreements; reports or summaries of negotiations; brochures; pamphlets; advertisements; circulars; trade letters; press releases; drafts of documents and revisions of drafts of document and any written, printed, typed or other graphic matter of any kind of nature; drawings; photographs; charts; electronically stored data; and all mechanical and electronic sound recordings or transcripts thereof, in the possession and/or control of Petitioner or its employees or agents, or known to Petitioner to exist, and shall include all non-identical copies of documents by whatever means made and whether or not claimed to be privileged or otherwise excludable from discovery. By way of illustration only and not by way of limitation, any documents bearing on any sheet or side thereof any marks, including, but not limited to, initials, stamped indicia, comment or notation of any character and not a part of the original text or any reproduction thereof, is to be considered a separate document.

E. All references in these discovery requests to "commerce" signify commerce that may lawfully be regulated by United States Congress.

F. In the following discovery requests, unless the context of the question dictates a broader geographical reference, the geographical scope of the questions is limited to the United States of America and territories under the administration of the United States of America.

G. Whenever used herein, the singular shall be deemed to include the plural, the plural shall be deemed to include the singular; the masculine shall be deemed to include the feminine and the feminine shall be deemed to include the masculine; the disjunctive ("or") shall be deemed to include the conjunctive ("and"), and the conjunctive ("and") shall be deemed to include the disjunctive ("or"); and each of the functional words "each," "every," "any," and "all" shall be deemed to include each of the other functional words.

H. The term COUNTERCLAIMS refers to the Counterclaims for cancellation of Registration Nos. 3,930,669 and 4,192,415 filed by Petitioner in this proceeding on May 11, 2015.

REQUESTS

Registrant requests production of the following:

REQUEST NO. 1

All documents and things which reflect, refer to, relate to, evidence or concern the earliest date of Petitioner's use of the NUTRELA mark in commerce for goods identified in Application No. 86/184,298.

REQUEST NO. 2

All documents and things which reflect, refer to, relate to, evidence or concern Petitioner's consideration, selection, and adoption of the NUTRELA mark.

REQUEST NO. 3

Documents and things sufficient to identify all advertising/marketing and promotional agencies, public relations firms, website design firms and/or internet consulting firms that are now or have ever been employed by Petitioner in connection with the use, scheduled use or planned use of the NUTRELA mark in the United States.

REQUEST NO. 4

Documents and things sufficient to identify each product promoted by Petitioner in connection with the NUTRELA mark at any time in the United States.

REQUEST NO. 5

Documents and things sufficient to identify each product proposed to be promoted by Petitioner in connection with its use of the NUTRELA mark at any time in the United States.

REQUEST NO. 6

Documents and things sufficient to identify the geographical areas in the United

States in which Petitioner offers for sale, has offered for sale, sells, and/or has sold products under the NUTRELA mark.

REQUEST NO. 7

Documents and things sufficient to show the revenue made from Petitioner's products sold under the NUTRELA Mark in the United States from the date of the earliest priority date on which Petitioner intends to rely in this proceeding to the present, including all revenue made by third-party licensees or vendors, indicating the revenue for each year (or for each month for periods of less than a year).

REQUEST NO. 8

Documents and things sufficient to show the total annual advertising and promotional expenditures in the United States by or on behalf of Petitioner relating to the promotion of products under the NUTRELA mark, from the first advertisement or promotion to the present, indicating the advertising and promotional expenditures for each year (or for each month for periods of less than a year).

REQUEST NO. 9

All documents and things which reflect, refer to, relate to, evidence or concern any and all instances of actual confusion, potential confusion, mistake or deception known to Petitioner as to the source, origin, sponsorship or association as between its use or proposed use of the NUTRELA mark and Ferrero's use of the mark NUTELLA in the United States.

REQUEST NO. 10

Documents and things sufficient to identify all of the channels of trade in the United States in or through which Petitioner has or currently offers products under the

NUTRELA mark.

REQUEST NO. 11

All documents and things which reflect, refer to, relate to, evidence or concern any survey, market research study, poll or investigation concerning confusion or potential confusion or likelihood of confusion between Ferrero's products bearing the NUTELLA mark and Petitioner's products bearing the NUTRELA mark in the United States.

REQUEST NO. 12

All documents and things which reflect, refer to, relate to, evidence or concern any agreement, arrangement, license and/or contract between Petitioner and any person relating to the promotion of any good or service bearing the NUTRELA mark in the United States.

REQUEST NO. 13

All documents and things which reflect, refer to, relate to, evidence or concern the consumer awareness, consumer understanding, acceptance of, or reaction to, the trademark availability of, or the protectability of, the NUTRELA mark in the United States.

REQUEST NO. 14

All documents and things which mention, reflect, refer to, relate to, evidence or concern Ferrero's NUTELLA Mark.

REQUEST NO. 15

To the extent not produced in response to an earlier request, all advertisement and promotional materials, whether relating to past, present or future distribution, that mention, identify, or describe any products offered by Petitioner under the NUTRELA mark.

REQUEST NO. 16

All documents and things which reflect, refer to, relate to, evidence or concern Petitioner's consideration and decision to file Application No. 86/184,298 for the NUTRELA mark, including any trademark search report.

REQUEST NO. 17

All documents and things which support Petitioner's allegations in Paragraph 14 of the COUNTERCLAIMS.

REQUEST NO. 18

All documents and things which support Petitioner's allegations in Paragraph 15 of the COUNTERCLAIMS.

REQUEST NO. 19

All documents and things which support Petitioner's allegations in Paragraph 16 of the COUNTERCLAIMS.

REQUEST NO. 20

All documents and things which support Petitioner's allegations in Paragraph 25 of the COUNTERCLAIMS.

REQUEST NO. 21

All documents and things which support Petitioner's allegations in Paragraph 26 of the COUNTERCLAIMS.

REQUEST NO. 22

All documents and things which support Petitioner's allegations in Paragraph 27 of the COUNTERCLAIMS.

REQUEST NO. 23

All documents and things which support Petitioner's allegations in Paragraph 36 of the COUNTERCLAIMS.

REQUEST NO. 24

All documents and things which support Petitioner's allegations in Paragraph 38 of the COUNTERCLAIMS.

REQUEST NO. 25

To the extent not otherwise produced, all documents mentioned or identified in response to Opposer/Registrant's First Set of Interrogatories to Applicant/Petitioner.

Respectfully submitted,

Ferrero S.p.A.

Dated: February 26, 2016

By: _____

Leo M. Loughlin
Attorneys for Ferrero S.p.A.
Rothwell, Figg, Ernst & Manbeck P.C.
607 14th Street, N.W.; Suite 800
Washington, DC 20005
Ph: 202-783-6040

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing REGISTRANT'S FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS was served first-class mail, postage prepaid, on the following individual at the address indicated below:

Robert B. Golden
Jeffrey M. Rollings
Lackenbach Siegel LLP
Lackenbach Siegel Building, Penthouse
1 Chase Road
Scarsdale, NY 10583

This 26th day of February, 2016

Leo M. Loughlin

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

Application Ser. No:	**86/184,298**
Mark:	**NUTRELA**
International Classes:	**29, 30, 32**
Applicant:	**Ruchi Soya Industries Limited**
Date of Publication:	**December 2, 2014**

FERRERO S.P.A.,

Opposer,

v.

RUCHI SOYA INDUSTRIES LIMITED,

Applicant.

Opposition No.91221291

Registration No: 3,930,669	**Registration No: 4,192,415**
Mark: NUTELLA LOVE & DESIGN	**Mark: NUTELLA & DESIGN**
International Classes: 30	**International Classes: 30**
Owner: Ferro S.p.A	**Owner: Ferro S.p.A**
Date of Registration: March 15, 2011	**Date of Registration: August 21, 2012**

RUCHI SOYA INDUSTRIES LIMITED,

Petitioner,

v.

FERRERO S.P.A.,

Respondent.

RUCHI SOYA INDUSTRIES LIMITED'S RESPONSES AND OBJECTIONS TO OPPOSER/REGISTRANT'S FIRST SET OF INTERROGATORIES TO APPLICANT/PETITIONER

Pursuant to Rules 26 and 33 of the Federal Rules of Civil Procedure and the TBMP, Applicant, Ruchi soya Industries Limited ("Applicant"), by their attorneys of record, hereby responds and objects to opposer/respondent's, Ferrero, S.p.A. ("Opposer"), Opposer/Registrant's

First Set Of Interrogatories To Applicant/Petitioner (the "Interrogatories") (collectively the "Responses"), as follows:

GENERAL RESPONSES AND OBJECTIONS

Applicant's responses to individual Interrogatories are all subject to the following general objections (the "General Objections"):

1. Applicant objects to the Interrogatories to the extent individual Interrogatories consist of multiple subparts and therefore the total number of Interrogatories exceeds the number of interrogatories permitted by the TBMP.

2. Applicant further objects to the Interrogatories to the extent they are cumulative and/or duplicative of Plaintiffs' document requests and pursuant to Federal Rule of Civil Procedure 33(d), Applicant's specific Responses to each Interrogatory may in part be answered by reference to documents produced by Applicant in response to Plaintiff's document requests.

3. Applicant objects to the Definitions and the Interrogatories to the extent that they exceed or are inconsistent with the requirements of the Federal Rules of Civil Procedure, the TMBP, regulations and/or law, and to the extent that they seek information or documents beyond what can be made available from a reasonable investigation.

4. Applicant further objects to the Interrogatories to the extent any Interrogatories seek documents or information for a time period for which such documents or information is not reasonably accessible or available, and further to the extent any Interrogatories seek documents from, and/or information concerning, any period of time beyond the time period relevant to any of Opposer's allegations set forth in its Opposition.

5. Applicant further objects to the Interrogatories to the extent that they may seek, or would result in, the disclosure of documents, communications and other information protected by the attorney-client privilege, and/or materials produced by or for attorneys in anticipation of, or

during trademark application prosecution at the USPTO and/or litigation and protected from disclosure by the attorney work-product doctrine. In the event that any privileged information is disclosed, such disclosure shall be deemed unintentional and shall not constitute a waiver of the privilege, and Applicant reserves the right to request such privileged information be returned and/or destroyed.

6. Applicant further objects to the Interrogatories to the extent that they seek confidential, sensitive and/or proprietary trade secrets, and/or financial and/or other confidential business information or information subject to rights of privacy and/or publicity (the "Confidential Information"). Applicant will only produce Confidential Information pursuant to, and in accordance with, a protective order issued in this case. Applicant further reserves the right to withhold disclosure of any documents and information subject to the privacy and/or publicity rights of any third party, or that it is bound to keep confidential pursuant to any contract or agreement with any third party from whom Applicant cannot obtain a waiver or consent.

7. Applicant further objects to the Interrogatories to the extent that they purport to require Applicant to obtain information from unaffiliated third parties and/or otherwise identify and obtain documents that are not within its possession, custody and/or control.

8. Applicant further objects to the Interrogatories to the extent that they call for unreasonably cumulative or duplicative documents and/or information.

9. Applicant further objects to the Interrogatories to the extent that they seek the discovery of information that Opposer itself is able to obtain by less burdensome and/or costly means than formal discovery requests, whether because responsive documents and/or information can be obtained from non-parties, is publicly available, is already in Opposer's possession and/or control, or otherwise.

10. Applicant further objects to each Interrogatory to the extent that it is overly broad, unduly burdensome and/or not reasonably calculated to lead to the discovery of admissible evidence and/or compliance with the Interrogatory would be cost-prohibitive, impractical and/or impossible; Applicant will nevertheless endeavor to reasonably comply with each such Interrogatory, and reserves the right to seek an extension of time to respond accordingly.

11. Applicant further objects to Instruction "E" in the Interrogatories to the extent it is overly broad and overly burdensome.

12. Applicant further objects to Instruction "G" in the Interrogatories to the extent it is improper and/or non-compliant with Rule 33(d).

13. Applicant further objects to Instruction "H" in the Interrogatories to the extent it is overly broad and overly burdensome.

14. Applicant's Responses are as complete and as accurate as is possible given the state of Applicant's current knowledge and investigation. Applicant's investigations are ongoing and Applicant reserves the right to correct and/or supplement its Responses to the extent its ongoing investigations yield different and/or additional information.

15. Applicant's specific objections to each Interrogatory are in addition to the objections set forth in these General Objections. The General Objections form a part of Applicant's Responses to each and every Interrogatory, and are set forth here to avoid the duplication and repetition of restating them for each response. The absence of a reference to a General Objection is not to be construed as a waiver of the General Objections as to a specific Interrogatory.

SPECIFIC RESPONSES AND OBJECTIONS

As stated above, each of Applicant's General Objections is incorporated into each of the following specific Responses and Objections ("Specific Objections") to Opposer's Interrogatories as numbered below:

1. State Petitioner's date of first use in commerce in the United States for the mark NUTRELA in connection with the products identified in Serial No. 86/184,298.

Response to Interrogatory 1.

Applicant objects to this Interrogatory in part because it is cumulative and duplicative of, and pursuant to Federal Rule of Civil Procedure 33(d) can be answered in whole or in part by reference to, documents produced in response to Opposer's document requests (the "Requests"), including without limitation, Requests 1, 3-8, 10, 12, 15 and 25. Pursuant to Rule 33(d), and subject to any and all applicable objections to relevant Requests, Applicant will produce representative documents responsive to such Requests to the extent such documents exist and are not privileged and/or otherwise protected from disclosure.

Subject to and without waiving the foregoing General and Specific Objections, Applicant responds to the above Interrogatory as follows: Nutrela has been, and is being, exported into the U.S. for over ten (10) years through merchant exporters. Applicant started directly exporting Nutrela products into the U.S. for the first time in January, 2016.

2. Identify the person or persons in the employ of or associated in any manner with Petitioner most knowledgeable with respect to the following: (a) Petitioner's consideration, selection, and adoption of the term NUTRELA; (b) Petitioner's use of the NUTRELA mark; (c) Petitioner's sales and advertising of the products identified by Petitioner's NUTRELA mark; and (d) Petitioner's consideration and decision to file the application Serial No. 86/184,298.

Response to Interrogatory 2.

Applicant objects to this Interrogatory in part because it is cumulative and duplicative of, and pursuant to Federal Rule of Civil Procedure 33(d) can be answered in whole or in part by

reference to, documents produced in response to Opposer's document requests (the "Requests"), including without limitation, Requests 2-8, 10, 12, 15, 16 and 25. Pursuant to Rule 33(d), and subject to any and all applicable objections to relevant Requests, Applicant will produce representative documents responsive to such Requests to the extent such documents exist and are not privileged and/or otherwise protected from disclosure.

Applicant further objects to this Interrogatory as to form, as it contains multiple subparts; and each subpart should be deemed to be an additional independent interrogatory question and counted toward the total amount of interrogatory questions allowed pursuant to The TBMP.

Applicant further objects to this Interrogatory on the grounds, and to the extent that it seeks a narrative response, and thus is stated in the form of, and should properly be posed or stated as, a deposition question to an individual witness.

Subject to and without waiving the foregoing General and Specific Objections, Applicant responds to the above Interrogatory as follows: Hitesh Vora, Amit Khatak, Darshan Panchal, Rohit Motkari and/or Nilesh Bhawsar.

3. Identify all parties, including but not limited to, advertising, public relations, website design or internet consulting firms, that will be, are now or have ever been employed or engaged by Petitioner in connection with the use, scheduled use or planned use of its NUTRELA mark, including the identity of those persons responsible for Petitioner's account and/or work performed on Petitioner's behalf with respect to the use, scheduled use, or planned use of the NUTRELA trademark.

Response to Interrogatory 3.

Applicant objects to this Interrogatory in part because it is cumulative and duplicative of, and pursuant to Federal Rule of Civil Procedure 33(d) can be answered in whole or in part by reference to, documents produced in response to Opposer's document requests (the "Requests"), including without limitation, Requests 1, 3 – 8, 10, 12 15 and 25. Pursuant to Rule 33(d), and subject to any and all applicable objections to relevant Requests, Applicant will produce

representative documents responsive to such Requests to the extent such documents exist and are not privileged and/or otherwise protected from disclosure.

Applicant objects to this Interrogatory as to form, as it contains multiple subparts; and each subpart should be deemed to be an additional independent interrogatory question and counted toward the total amount of interrogatory questions allowed pursuant to The TBMP.

Applicant further objects to this Interrogatory on the grounds, and to the extent that it seeks a narrative response, and thus is stated in the form of, and should properly be posed or stated as, a deposition question to an individual witness.

Subject to and without waiving the foregoing General and Specific Objections, Applicant responds to the above Interrogatory as follows: Applicant has not employed and/or engaged with any such parties to date.

4. Identify with particularly each type of product or service sold or offered for sale by Petitioner in connection with the NUTRELA trademark at any time in the United States.

Response to Interrogatory 4.

Applicant objects to this Interrogatory in part because it is cumulative and duplicative of, and pursuant to Federal Rule of Civil Procedure 33(d) can be answered in whole or in part by reference to, documents produced in response to Opposer's document requests (the "Requests"), including without limitation, Requests 1, 6, 7, 10, 12, 15 and 25. Pursuant to Rule 33(d), and subject to any and all applicable objections to relevant Requests, Applicant will produce representative documents responsive to such Requests to the extent such documents exist and are not privileged and/or otherwise protected from disclosure.

Applicant further objects to this Interrogatory on the grounds, and to the extent that it seeks a narrative response, and thus is stated in the form of, and should properly be posed or stated as, a deposition question to an individual witness.

Subject to and without waiving the foregoing General and Specific Objections, Applicant responds to the above Interrogatory as follows: Applicant sells/sold, offers/offered for sale and/or exports/exported in(to) the U.S. the following products: Nutrela Soya Chunks in 200g Boxes, 500g sachets, 1kg sachets; Nutrela Soya Mini Chunks in 200g boxes; Nutrela Soya Granules in 200g boxes; and Nutrela Instant Soya in 180g Sachets.

5. Identify each publication, catalog, and broadcast advertisement (e.g., radio, television, internet, website, email) authorized by or on behalf of Petitioner, in which products under the NUTRELA trademark have been, or are scheduled to be mentioned, by stating the following: (a) State the title(s) and date(s) / place(s) and date(s) of each publication, billboard or catalog in which any advertisement or display of goods or services appeared or is scheduled to appear; and (b) Identify each actual or scheduled broadcast by: (1) date(s); and (2) station(s) or website(s); and (3) whether the broadcast was or will be on radio, television or the internet.

Response to Interrogatory 5.

Applicant objects to this Interrogatory in part because it is cumulative and duplicative of, and pursuant to Federal Rule of Civil Procedure 33(d) can be answered in whole or in part by reference to, documents produced in response to Opposer's document requests (the "Requests"), including without limitation, Request 1, 3-5, 8 10, 12, 15 and 25. Pursuant to Rule 33(d), and subject to any and all applicable objections to relevant Requests, Applicant will produce representative documents responsive to such Requests to the extent such documents exist and are not privileged and/or otherwise protected from disclosure.

Applicant further objects to this Interrogatory as to form, as it contains multiple subparts; and each subpart should be deemed to be an additional independent interrogatory question and counted toward the total amount of interrogatory questions allowed pursuant to The TBMP.

Applicant further objects to this Interrogatory on the grounds, and to the extent that it seeks a narrative response, and thus is stated in the form of, and should properly be posed or stated as, a deposition question to an individual witness.

Subject to and without waiving the foregoing General and Specific Objections, Applicant responds to the above Interrogatory as follows: Applicant has made no broadcast and/or publication for and/or regarding Nutrela in the U.S. to date.

6. Identify all trade shows, fashion shows, photo shoots, professional shows, professional meetings, seminars, events, conferences, conventions and the like where Petitioner or someone on Petitioner's behalf has promoted or offered products, or is scheduled to promote or offer products, under Petitioner's NUTRELA mark, by stating, for each show, shoot, meeting, seminar, event, conference, or convention, the following: (a) the name of the show, shoot, meeting, seminar, event, conference or convention, where held or to be held, and the dates when held or to be held; and (b) the type of goods or services promoted or offered at each show, shoot, meeting, seminar, event, conference or convention by Petitioner under that mark; and (d) each employee or representative of Petitioner who was present at, assisted in planning or who has knowledge of, such show, shoot, meeting, seminar, event, conference or convention.

Response to Interrogatory 6.

Applicant objects to this Interrogatory in part because it is cumulative and duplicative of, and pursuant to Federal Rule of Civil Procedure 33(d) can be answered in whole or in part by reference to, documents produced in response to Opposer's document requests (the "Requests"), including without limitation, Requests 1, 3-8, 10, 12, 15 and 25. Pursuant to Rule 33(d), and subject to any and all applicable objections to relevant Requests, Applicant will produce representative documents responsive to such Requests to the extent such documents exist and are not privileged and/or otherwise protected from disclosure.

Applicant further objects to this Interrogatory as to form, as it contains multiple subparts; and each subpart should be deemed to be an additional independent interrogatory question and counted toward the total amount of interrogatory questions allowed pursuant to The TBMP.

Applicant further objects to this Interrogatory on the grounds, and to the extent that it seeks a narrative response, and thus is stated in the form of, and should properly be posed or stated as, a deposition question to an individual witness.

Subject to and without waiving the foregoing General and Specific Objections, Applicant responds to the above Interrogatory as follows: Applicant has not attended and/or advertised and/or promoted its products and NUTRELA at any such events listed above.

7. State the total dollar value of Petitioner's revenues in the United States associated with Petitioner's products under the NUTRELA mark for the products listed in application Serial No. 86/184,298, from the date of the earliest priority date on which Petitioner intends to rely in this proceeding to the present; indicating the revenue for each year (or for each month for periods of less than a year).

Response to Interrogatory 7.

Applicant objects to this Interrogatory in part because it is cumulative and duplicative of, and pursuant to Federal Rule of Civil Procedure 33(d) can be answered in whole or in part by reference to, documents produced in response to Opposer's document requests (the "Requests"), including without limitation, Requests 1, 6, 7, 10, 12 and 25. Pursuant to Rule 33(d), and subject to any and all applicable objections to relevant Requests, Applicant will produce representative documents responsive to such Requests to the extent such documents exist and are not privileged and/or otherwise protected from disclosure.

Applicant further objects to this Interrogatory as to form, as it contains multiple subparts; and each subpart should be deemed to be an additional independent interrogatory question and counted toward the total amount of interrogatory questions allowed pursuant to The TBMP.

Applicant further objects to this Interrogatory on the grounds, and to the extent that it seeks a narrative response, and thus is stated in the form of, and should properly be posed or stated as, a deposition question to an individual witness.

8. State the total annual advertising and promotional expenditures in dollars in the United States by or on behalf of Petitioner relating to the promotion of the NUTRELA mark for the products listed in application Serial No. 861184,298, from the date of the earliest priority date on which Petitioner intends to rely in this proceeding to the present.

Response to Interrogatory 8.

Applicant objects to this Interrogatory in part because it is cumulative and duplicative of, and pursuant to Federal Rule of Civil Procedure 33(d) can be answered in whole or in part by reference to, documents produced in response to Opposer's document requests (the "Requests"), including without limitation, Requests 1, 3-5, 8, 10, 15 and 25. Pursuant to Rule 33(d), and subject to any and all applicable objections to relevant Requests, Applicant will produce representative documents responsive to such Requests to the extent such documents exist and are not privileged and/or otherwise protected from disclosure.

Applicant further objects to this Interrogatory on the grounds, and to the extent that it seeks a narrative response, and thus is stated in the form of, and should properly be posed or stated as, a deposition question to an individual witness.

Subject to and without waiving the foregoing General and Specific Objections, Applicant responds to the above Interrogatory as follows: Applicant has not made any such expenditures.

9. Describe when and by what means Petitioner first became aware of (a) Ferrero; (b) Ferrero's NUTELLA mark; and (c) Ferrero's use of any mark or designation consisting of or including the term "NUTELLA", not identified in (b).

Response to Interrogatory 9.

Applicant objects to this Interrogatory in part because it is cumulative and duplicative of, and pursuant to Federal Rule of Civil Procedure 33(d) can be answered in whole or in part by reference to, documents produced in response to Opposer's document requests (the "Requests"), including without limitation, Requests 14 and 25. Pursuant to Rule 33(d), and subject to any and all applicable objections to relevant Requests, Applicant will produce representative documents responsive to such Requests to the extent such documents exist and are not privileged and/or otherwise protected from disclosure.

Applicant further objects to this Interrogatory as to form, as it contains multiple subparts;

and each subpart should be deemed to be an additional independent interrogatory question and counted toward the total amount of interrogatory questions allowed pursuant to The TBMP.

Applicant further objects to this Interrogatory on the grounds, and to the extent that it seeks a narrative response, and thus is stated in the form of, and should properly be posed or stated as, a deposition question to an individual witness.

Subject to and without waiving the foregoing General and Specific Objections, Applicant responds to the above Interrogatory as follows: Applicant was aware of Opposer and its mark NUTELLA when Applicant filed an Opposition against Opposer's application in India.

10. State whether Petitioner performed a trademark search prior to filing Application Serial No. 86/184,298 and identify the results of said search.

Response to Interrogatory 10.

Applicant objects to this Interrogatory in part because it is cumulative and duplicative of, and pursuant to Federal Rule of Civil Procedure 33(d) can be answered in whole or in part by reference to, documents produced in response to Opposer's document requests (the "Requests"), including without limitation, Requests 2, 16 and 25. Pursuant to Rule 33(d), and subject to any and all applicable objections to relevant Requests, Applicant will produce representative documents responsive to such Requests to the extent such documents exist and are not privileged and/or otherwise protected from disclosure.

Applicant further objects to this Interrogatory as to form, as it contains multiple subparts; and each subpart should be deemed to be an additional independent interrogatory question and counted toward the total amount of interrogatory questions allowed pursuant to The TBMP.

Applicant further objects to this Interrogatory on the grounds, and to the extent that it seeks a narrative response, and thus is stated in the form of, and should properly be posed or stated as, a deposition question to an individual witness.

Subject to and without waiving the foregoing General and Specific Objections, Applicant responds to the above Interrogatory as follows: Applicant did not conduct and such search(es).

11. Identify all facts which reflect, refer to, relate to, evidence or concern any and all instances of actual confusion, potential confusion, mistake or deception known to Petitioner as to the source, origin, sponsorship or association as between its use or proposed use of the NUTRELA mark and Ferrero's use of the NUTELLA mark in the United States.

Response to Interrogatory 11.

Applicant objects to this Interrogatory in part because it is cumulative and duplicative of, and pursuant to Federal Rule of Civil Procedure 33(d) can be answered in whole or in part by reference to, documents produced in response to Opposer's document requests (the "Requests"), including without limitation, Requests 9, 11 and 25. Pursuant to Rule 33(d), and subject to any and all applicable objections to relevant Requests, Applicant will produce representative documents responsive to such Requests to the extent such documents exist and are not privileged and/or otherwise protected from disclosure.

Applicant further objects to this Interrogatory as to form, as it contains multiple subparts; and each subpart should be deemed to be an additional independent interrogatory question and counted toward the total amount of interrogatory questions allowed pursuant to The TBMP.

Applicant further objects to this Interrogatory on the grounds, and to the extent that it seeks a narrative response, and thus is stated in the form of, and should properly be posed or stated as, a deposition question to an individual witness.

Subject to and without waiving the foregoing General and Specific Objections, Applicant responds to the above Interrogatory as follows: Applicant has no knowledge of any confusion between the parties' respective products.

12. Identify all facts that support Petitioner's allegations in Paragraph 14 of the COUNTERCLAIMS.

Response to Interrogatory 12.

Applicant objects to this Interrogatory in part because it is cumulative and duplicative of, and pursuant to Federal Rule of Civil Procedure 33(d) can be answered in whole or in part by reference to, documents produced in response to Opposer's document requests (the "Requests"), including without limitation, Requests 14, 17 and 25. Pursuant to Rule 33(d), and subject to any and all applicable objections to relevant Requests, Applicant will produce representative documents responsive to such Requests to the extent such documents exist and are not privileged and/or otherwise protected from disclosure.

Applicant further objects to this Interrogatory on the grounds, and to the extent that it seeks a narrative response, and thus is stated in the form of, and should properly be posed or stated as, a deposition question to an individual witness.

Applicant further objects to this Interrogatory to the extent it seeks privileged information such as attorney-client and/or attorney work product.

13. Identify all facts that support Petitioner's allegations in Paragraph 15 of the COUNTERCLAIMS.

Response to Interrogatory 13.

Applicant objects to this Interrogatory in part because it is cumulative and duplicative of, and pursuant to Federal Rule of Civil Procedure 33(d) can be answered in whole or in part by reference to, documents produced in response to Opposer's document requests (the "Requests"), including without limitation, Requests 14, 18 and 25. Pursuant to Rule 33(d), and subject to any and all applicable objections to relevant Requests, Applicant will produce representative

documents responsive to such Requests to the extent such documents exist and are not privileged and/or otherwise protected from disclosure.

Applicant further objects to this Interrogatory on the grounds, and to the extent that it seeks a narrative response, and thus is stated in the form of, and should properly be posed or stated as, a deposition question to an individual witness.

Applicant further objects to this Interrogatory to the extent it seeks privileged information such as attorney-client and/or attorney work product.

14. Identify all facts that support Petitioner's allegations in Paragraph 16 of the COUNTERCLAIMS.

Response to Interrogatory 14.

Applicant objects to this Interrogatory in part because it is cumulative and duplicative of, and pursuant to Federal Rule of Civil Procedure 33(d) can be answered in whole or in part by reference to, documents produced in response to Opposer's document requests (the "Requests"), including without limitation, Requests 14, 19 and 25. Pursuant to Rule 33(d), and subject to any and all applicable objections to relevant Requests, Applicant will produce representative documents responsive to such Requests to the extent such documents exist and are not privileged and/or otherwise protected from disclosure.

Applicant further objects to this Interrogatory on the grounds, and to the extent that it seeks a narrative response, and thus is stated in the form of, and should properly be posed or stated as, a deposition question to an individual witness.

Applicant further objects to this Interrogatory to the extent it seeks privileged information such as attorney-client and/or attorney work product.

15. Identify all facts that support Petitioner's allegations ill Paragraph 25 of the COUNTERCLAIMS.

Response to Interrogatory 15.

Applicant objects to this Interrogatory in part because it is cumulative and duplicative of, and pursuant to Federal Rule of Civil Procedure 33(d) can be answered in whole or in part by reference to, documents produced in response to Opposer's document requests (the "Requests"), including without limitation, Requests 14, 20 and 25. Pursuant to Rule 33(d), and subject to any and all applicable objections to relevant Requests, Applicant will produce representative documents responsive to such Requests to the extent such documents exist and are not privileged and/or otherwise protected from disclosure.

Applicant further objects to this Interrogatory on the grounds, and to the extent that it seeks a narrative response, and thus is stated in the form of, and should properly be posed or stated as, a deposition question to an individual witness.

Applicant further objects to this Interrogatory to the extent it seeks privileged information such as attorney-client and/or attorney work product.

16. Identify all facts that support Petitioner's allegations in Paragraph 26 of the COUNTERCLAIMS.

Response to Interrogatory 16.

Applicant objects to this Interrogatory in part because it is cumulative and duplicative of, and pursuant to Federal Rule of Civil Procedure 33(d) can be answered in whole or in part by reference to, documents produced in response to Opposer's document requests (the "Requests"), including without limitation, Requests 14, 21 and 25. Pursuant to Rule 33(d), and subject to any and all applicable objections to relevant Requests, Applicant will produce representative documents responsive to such Requests to the extent such documents exist and are not privileged and/or otherwise protected from disclosure.

Applicant further objects to this Interrogatory on the grounds, and to the extent that it

seeks a narrative response, and thus is stated in the form of, and should properly be posed or stated as, a deposition question to an individual witness.

Applicant further objects to this Interrogatory to the extent it seeks privileged information such as attorney-client and/or attorney work product.

17. Identify all facts that support Petitioner's allegations in Paragraph 27 of the COUNTERCLAIMS.

Response to Interrogatory 17.

Applicant objects to this Interrogatory in part because it is cumulative and duplicative of, and pursuant to Federal Rule of Civil Procedure 33(d) can be answered in whole or in part by reference to, documents produced in response to Opposer's document requests (the "Requests"), including without limitation, Requests 14, 22 and 25. Pursuant to Rule 33(d), and subject to any and all applicable objections to relevant Requests, Applicant will produce representative documents responsive to such Requests to the extent such documents exist and are not privileged and/or otherwise protected from disclosure.

Applicant further objects to this Interrogatory on the grounds, and to the extent that it seeks a narrative response, and thus is stated in the form of, and should properly be posed or stated as, a deposition question to an individual witness.

Applicant further objects to this Interrogatory to the extent it seeks privileged information such as attorney-client and/or attorney work product.

18. Identify all facts that support Petitioner's allegations In Paragraph 36 of the COUNTERCLAIMS.

Response to Interrogatory 18.

Applicant objects to this Interrogatory in part because it is cumulative and duplicative of, and pursuant to Federal Rule of Civil Procedure 33(d) can be answered in whole or in part by

reference to, documents produced in response to Opposer's document requests (the "Requests"), including without limitation, Requests 14, 23 and 25. Pursuant to Rule 33(d), and subject to any and all applicable objections to relevant Requests, Applicant will produce representative documents responsive to such Requests to the extent such documents exist and are not privileged and/or otherwise protected from disclosure.

Applicant further objects to this Interrogatory on the grounds, and to the extent that it seeks a narrative response, and thus is stated in the form of, and should properly be posed or stated as, a deposition question to an individual witness.

Applicant further objects to this Interrogatory to the extent it seeks privileged information such as attorney-client and/or attorney work product.

19. Identify those persons who had more than a clerical role in the answering of the foregoing interrogatories or in any search for documents in connection with said interrogatories or Ferrero's First Set of Requests for Production of Documents.

Response to Interrogatory 19.

Applicant objects to this Interrogatory as to form, as it contains multiple subparts; and each subpart should be deemed to be an additional independent interrogatory question and counted toward the total amount of interrogatory questions allowed pursuant to The TBMP.

Applicant further objects to this Interrogatory on the grounds, and to the extent that it seeks a narrative response, and thus is stated in the form of, and should properly be posed or stated as, a deposition question to an individual witness.

Subject to and without waiving the foregoing General and Specific Objections, Applicant responds to the above Interrogatory as follows: Hitesh Vora, Amit Khatak, Darshan Panchal, Rohit Motkari and/or Nilesh Bhawsar.

Dated: Scarsdale, New York
April 1, 2016

LACKENBACH SIEGEL, LLP

By: *<u>/s/ Robert B. Golden</u>*
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CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the enclosed RUCHI SOYA INDUSTRIES LIMITED'S INITIAL DISCLOSURES was served on Opposer on April 1, 2016 via U.S. 1st Class Mail and via email, addressed to counsel for Opposer as follows:

Leo M. Loughlin, Esq.
Rothwell, Figg, Ernst & Manbeck, P.C.
607 14th Street, NW, Suite 800
Washington, D.C. 20005
lloughlin@rothwellfigg.com

Dated: Scarsdale, New York
April 1, 2016

<u>/s/ Eric A. Menist</u>
Eric A. Menist

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

Application Ser. No:	**86/184,298**
Mark:	**NUTRELA**
International Classes:	**29, 30, 32**
Applicant:	**Ruchi Soya Industries Limited**
Date of Publication:	**December 2, 2014**

FERRERO S.P.A.,

Opposer,

v.

RUCHI SOYA INDUSTRIES LIMITED,

Applicant.

Opposition No.91221291

Registration No: 3,930,669
Mark: NUTELLA LOVE & DESIGN
International Classes: 30
Owner: Ferro S.p.A
Date of Registration: March 15, 2011

Registration No: 4,192,415
Mark: NUTELLA & DESIGN
International Classes: 30
Owner: Ferro S.p.A
Date of Registration: August 21, 2012

RUCHI SOYA INDUSTRIES LIMITED,

Petitioner,

v.

FERRERO S.P.A.,

Respondent.

RUCHI SOYA INDUSTRIES LIMITED'S RESPONSES AND OBJECTIONS TO REGISTRANT'S FIRST SET OF REQUESTS FOR THE PRODUCTION OF DOCUMENTS

Pursuant to Rules 26 and 34 of the Federal Rules of Civil Procedure and the TBMP, Applicant, Ruchi soya Industries Limited ("Applicant"), by their attorneys of record, hereby responds and objects to opposer/respondent's, Ferrero, S.p.A. ("Opposer"), Registrant's First Set

of Requests for Production of Documents (the "Requests") (collectively the "Responses"), as follows:

GENERAL RESPONSES AND OBJECTIONS

Applicant's responses to individual Requests are all subject to the following general objections (the "General Objections"):

1. Applicant objects to the Definitions and the Requests to the extent that they exceed or are inconsistent with the requirements of the Federal Rules of Civil Procedure, the TBMP and/or any other applicable rules, regulations and/or law, and to the extent that they seek information or documents beyond what can be made available from a reasonable investigation.

2. Applicant further objects to the Requests to the extent any Requests seek documents and/or information for a time period for which such documents or information is not reasonably accessible and/or available, and further to the extent any Requests seek documents from, and/or information concerning, any period of time beyond the time period relevant to any of Plaintiffs' allegations set forth in its complaint.

3. Applicant further objects to the Requests to the extent that they may seek, or would result in, the disclosure of documents, communications and/or other information protected by the attorney-client privilege, and/or materials produced by or for attorneys in anticipation of, or during trademark application prosecution at the USPTO and/or litigation and protected from disclosure by the attorney work-product doctrine. In the event that any privileged information is disclosed, such disclosure shall be deemed unintentional and shall not constitute a waiver of the privilege, and Applicant reserves the right to request such privileged information be returned and/or destroyed.

4. Applicant further objects to the Interrogatories to the extent that they seek confidential, sensitive and/or proprietary trade secrets, and/or financial and/or other confidential

business information or information subject to rights of privacy and/or publicity (the "Confidential Information"). Applicant will only produce Confidential Information pursuant to, and in accordance with, a protective order issued in this case. Applicant further reserves the right to withhold disclosure of any documents and information subject to the privacy and/or publicity rights of any third party, or that it is bound to keep confidential pursuant to any contract or agreement with any third party from whom Applicant cannot obtain a waiver or consent.

5. Applicant further objects to the Requests to the extent that they purport to require Applicant to obtain information from third parties and/or otherwise identify and obtain documents that are not within its possession, custody and/or control.

6. Applicant further objects to the Requests to the extent that they call for unreasonably cumulative and/or duplicative documents and/or information.

7. Applicant further objects to the Requests to the extent that they seek the discovery of information that Opposer itself is able to obtain by less burdensome and/or costly means than formal document requests, whether because responsive documents and/or information can be obtained from non-parties, is publicly available, is already in Opposer's possession and/or control, or otherwise.

8. Applicant further objects to each Request to the extent that it is overly broad, unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence and/or compliance with the Request would be cost-prohibitive, impractical and/or impossible; however, Applicant will use its best efforts to reasonably comply with the Requests and reserves the right to seek an extension of time to respond accordingly.

9. Applicant's Responses and responsive documents and things are as complete and as accurate as is possible given the state of Applicant's current knowledge and investigation.

Applicant's investigations are ongoing and Applicant reserves the right to correct and/or supplement its Responses to the extent its ongoing investigations yield different and/or additional information.

10. Applicant's specific objections to each Request are in addition to the objections set forth in these General Objections. The General Objections form a part of Applicant's response to each and every Request, and are set forth here to avoid the duplication and repetition of restating them for each response. The absence of a reference to a General Objection is not to be construed as a waiver of the General Objections as to a specific Request.

SPECIFIC RESPONSES AND OBJECTIONS

As stated above, each of Applicant ' General Objections is incorporated into each of the following specific Responses and Objections ("Specific Objections") to Plaintiff's Requests as numbered below:

1. All documents and things which reflect, refer to, relate to, evidence or concern the earliest date of Petitioner's use of the NUTRELA mark in commerce for goods identified in Application No. 86/184,298.

Response to Doc. Request No 1.

Applicant objects to this Request as overly broad and unduly burdensome. Applicant further objects to this Request on the grounds, and to the extent that it calls for the production of irrelevant documents and/or information, and thus the Request is not reasonably calculated to lead to the discovery of admissible evidence in this matter. Applicant further objects to this Request on the grounds, and to the extent that it seeks documents or information protected from disclosure by the attorney-client and/or attorney work product privileges. Applicant further objects to the extent the Request purports to compel production of documents in the possession, custody and/or control of third parties. Applicant further objects to the extent the Request

purports to compel production of documents in the possession, custody and/or control of Opposer and/or is in the public domain and is readily available to Opposer without the need of a specific Request made to Applicant.

Subject to and without waiving the foregoing General Objections and Specific Objections, Applicant grants Opposer the right to inspect and copy any non-objected responsive records and/or documents located at Applicant's principal place of business at a time mutually agreeable between Applicant and Opposer.

2. All documents and things which reflect, refer to, relate to, evidence or concern Petitioner's consideration, selection, and adoption of the NUTRELA mark.

Response to Doc. Request No 2.

Applicant objects to this Request as overly broad and unduly burdensome. Applicant further objects to this Request on the grounds, and to the extent that it calls for the production of irrelevant documents and/or information, and thus the Request is not reasonably calculated to lead to the discovery of admissible evidence in this matter. Applicant further objects to this Request on the grounds, and to the extent that it seeks documents or information protected from disclosure by the attorney-client and/or attorney work product privileges. Applicant further objects to the extent the Request purports to compel production of documents in the possession, custody and/or control of third parties.

Subject to and without waiving the foregoing General Objections and Specific Objections, Applicant grants Opposer the right to inspect and copy any non-objected responsive records and/or documents located at Applicant's principal place of business at a time mutually agreeable between Applicant and Opposer.

3. Documents and things sufficient to identify all advertising/marketing and promotional agencies, public relations firms, website design firms and/or internet consulting firms that are

now or have ever been employed by Petitioner in connection with the use, scheduled use or planned use of the NUTRELA mark in the United States.

Response to Doc. Request No 3.

Applicant objects to this Request as overly broad and unduly burdensome. Applicant further objects to this Request on the grounds, and to the extent that it calls for the production of irrelevant documents and/or information, and thus the Request is not reasonably calculated to lead to the discovery of admissible evidence in this matter. Applicant further objects to this Request on the grounds, and to the extent that it seeks documents or information protected from disclosure by the attorney-client and/or attorney work product privileges. Applicant further objects to the extent the Request purports to compel production of documents in the possession, custody and/or control of third parties.

Applicant further objects to this Request on the grounds, and to the extent that it is, in total or in part, cumulative and duplicative of Opposer's Requests, including without limitation Request No. 1.

Subject to and without waiving the foregoing General Objections and Specific Objections, Applicant states there are no such documents.

4. Documents and things sufficient to identify each product promoted by Petitioner in connection with the NUTRELA mark at any time in the United States.

Response to Doc. Request No 4.

Applicant objects to this Request as overly broad and unduly burdensome. Applicant further objects to this Request on the grounds, and to the extent that it calls for the production of irrelevant documents and/or information, and thus the Request is not reasonably calculated to lead to the discovery of admissible evidence in this matter. Applicant further objects to this Request on the grounds, and to the extent that it seeks documents or information protected from

disclosure by the attorney-client and/or attorney work product privileges. Applicant further objects to the extent the Request purports to compel production of documents in the possession, custody and/or control of third parties. Applicant further objects to the extent the Request purports to compel production of documents in the possession, custody and/or control of Opposer and/or is in the public domain and is readily available to Opposer without the need of a specific Request made to Applicant.

Applicant further objects to this Request on the grounds, and to the extent that it is, in total or in part, cumulative and duplicative of Opposer's Requests, including without limitation Request Nos. 1 and 2.

Subject to and without waiving the foregoing General Objections and Specific Objections, Applicant grants Opposer the right to inspect and copy any non-objected responsive records and/or documents located at Applicant's principal place of business at a time mutually agreeable between Applicant and Opposer.

5. Documents and things sufficient to identify each product proposed to be promoted by Petitioner in connection with its use of the NUTRELA mark at any time in the United States.

Response to Doc. Request No 5.

Applicant objects to this Request as overly broad and unduly burdensome. Applicant further objects to this Request on the grounds, and to the extent that it calls for the production of irrelevant documents and/or information, and thus the Request is not reasonably calculated to lead to the discovery of admissible evidence in this matter. Applicant further objects to this Request on the grounds, and to the extent that it seeks documents or information protected from disclosure by the attorney-client and/or attorney work product privileges. Applicant further objects to the extent the Request purports to compel production of documents in the possession, custody and/or control of third parties. Applicant further objects to the extent the Request

purports to compel production of documents in the possession, custody and/or control of Opposer and/or is in the public domain and is readily available to Opposer without the need of a specific Request made to Applicant.

Applicant further objects to this Request on the grounds, and to the extent that it is, in total or in part, cumulative and duplicative of Opposer's Requests, including without limitation Request Nos. 1-4.

Subject to and without waiving the foregoing General Objections and Specific Objections, Applicant states there are no such documents.

6. Documents and things sufficient to identify the geographical areas in the United States in which Petitioner offers for sale, has offered for sale, sells, and/or has sold products under the NUTRELA mark.

Response to Doc. Request No 6.

Applicant objects to this Request as overly broad and unduly burdensome. Applicant further objects to this Request on the grounds, and to the extent that it calls for the production of irrelevant documents and/or information, and thus the Request is not reasonably calculated to lead to the discovery of admissible evidence in this matter. Applicant further objects to this Request on the grounds, and to the extent that it seeks documents or information protected from disclosure by the attorney-client and/or attorney work product privileges. Applicant further objects to the extent the Request purports to compel production of documents in the possession, custody and/or control of third parties. Applicant further objects to the extent the Request purports to compel production of documents in the possession, custody and/or control of Opposer and/or is in the public domain and is readily available to Opposer without the need of a specific Request made to Applicant.

Applicant further objects to this Request on the grounds, and to the extent that it is, in total or in part, cumulative and duplicative of Opposer's Requests, including without limitation Request Nos. 1 and 3-5.

Subject to and without waiving the foregoing General Objections and Specific Objections, Applicant grants Opposer the right to inspect and copy any non-objected responsive records and/or documents located at Applicant's principal place of business at a time mutually agreeable between Applicant and Opposer.

7. Documents and things sufficient to show the revenue made from Petitioner's products sold under the NUTRELA Mark in the United States from the date of the earliest priority date on which Petitioner intends to rely in this proceeding to the present, including all revenue made by third-party licensees or vendors, indicating the revenue for each year (or for each month for periods of less than a year).

Response to Doc. Request No 7.

Applicant objects to this Request as overly broad and unduly burdensome. Applicant further objects to this Request on the grounds, and to the extent that it calls for the production of irrelevant documents and/or information, and thus the Request is not reasonably calculated to lead to the discovery of admissible evidence in this matter. Applicant further objects to this Request on the grounds, and to the extent that it seeks documents or information protected from disclosure by the attorney-client and/or attorney work product privileges. Applicant further objects to the extent the Request purports to compel production of documents in the possession, custody and/or control of third parties. Applicant further objects to the extent the Request purports to compel production of documents in the possession, custody and/or control of Opposer and/or is in the public domain and is readily available to Opposer without the need of a specific Request made to Applicant.

Applicant further objects to this Request on the grounds, and to the extent that it is, in total or in part, cumulative and duplicative of Opposer's Requests, including without limitation Request Nos. 1 and 6.

Subject to and without waiving the foregoing General Objections and Specific Objections, Applicant grants Opposer the right to inspect and copy any non-objected responsive records and/or documents located at Applicant's principal place of business at a time mutually agreeable between Applicant and Opposer.

8. Documents and things sufficient to show the total annual advertising and promotional expenditures in the United States by or on behalf of Petitioner relating to the promotion of products under the NUTRELA mark, from the first advertisement or promotion to the present, indicating the advertising and promotional expenditures for each year (or for each month for periods of less than a year).

Response to Doc. Request No 8.

Applicant objects to this Request as overly broad and unduly burdensome. Applicant further objects to this Request on the grounds, and to the extent that it calls for the production of irrelevant documents and/or information, and thus the Request is not reasonably calculated to lead to the discovery of admissible evidence in this matter. Applicant further objects to this Request on the grounds, and to the extent that it seeks documents or information protected from disclosure by the attorney-client and/or attorney work product privileges. Applicant further objects to the extent the Request purports to compel production of documents in the possession, custody and/or control of third parties. Applicant further objects to the extent the Request purports to compel production of documents in the possession, custody and/or control of Opposer and/or is in the public domain and is readily available to Opposer without the need of a specific Request made to Applicant.

Applicant further objects to this Request on the grounds, and to the extent that it is, in total or in part, cumulative and duplicative of Opposer's Requests, including without limitation Request Nos. 1 and 3-5.

Subject to and without waiving the foregoing General Objections and Specific Objections, Applicant states there are no such documents.

9. All documents and things which reflect, refer to, relate to, evidence or concern any and all instances of actual confusion, potential confusion, mistake or deception known to Petitioner as to the source, origin, sponsorship or association as between its use or proposed use of the NUTRELA mark and Ferrero's use of the mark NUTELLA in the United States.

Response to Doc. Request No 9.

Applicant objects to this Request as overly broad and unduly burdensome. Applicant further objects to this Request on the grounds, and to the extent that it calls for the production of irrelevant documents and/or information, and thus the Request is not reasonably calculated to lead to the discovery of admissible evidence in this matter. Applicant further objects to this Request on the grounds, and to the extent that it seeks documents or information protected from disclosure by the attorney-client and/or attorney work product privileges. Applicant further objects to the extent the Request purports to compel production of documents in the possession, custody and/or control of third parties. Applicant further objects to the extent the Request purports to compel production of documents in the possession, custody and/or control of Opposer and/or is in the public domain and is readily available to Opposer without the need of a specific Request made to Applicant.

Subject to and without waiving the foregoing General Objections and Specific Objections, Applicant states there are no such documents.

10. Documents and things sufficient to identify all of the channels of trade in the United States in or through which Petitioner has or currently offers products under the NUTRELA mark.

Response to Doc. Request No 10.

Applicant objects to this Request as overly broad and unduly burdensome. Applicant further objects to this Request on the grounds, and to the extent that it calls for the production of irrelevant documents and/or information, and thus the Request is not reasonably calculated to lead to the discovery of admissible evidence in this matter. Applicant further objects to this Request on the grounds, and to the extent that it seeks documents or information protected from disclosure by the attorney-client and/or attorney work product privileges. Applicant further objects to the extent the Request purports to compel production of documents in the possession, custody and/or control of third parties. Applicant further objects to the extent the Request purports to compel production of documents in the possession, custody and/or control of Opposer and/or is in the public domain and is readily available to Opposer without the need of a specific Request made to Applicant.

Applicant further objects to this Request on the grounds, and to the extent that it is, in total or in part, cumulative and duplicative of Opposer's Requests, including without limitation Request Nos. 1 and 3-8.

Subject to and without waiving the foregoing General Objections and Specific Objections, Applicant grants Opposer the right to inspect and copy any non-objected responsive records and/or documents located at Applicant's principal place of business at a time mutually agreeable between Applicant and Opposer.

11. All documents and things which reflect, refer to, relate to, evidence or concern any survey, market research study, poll or investigation concerning confusion or potential confusion or likelihood of confusion between Ferrero's products bearing the NUTELLA mark and Petitioner's products bearing the NUTRELA mark in the United States.

Response to Doc. Request No 11.

Applicant objects to this Request as overly broad and unduly burdensome. Applicant further objects to this Request on the grounds, and to the extent that it calls for the production of irrelevant documents and/or information, and thus the Request is not reasonably calculated to lead to the discovery of admissible evidence in this matter. Applicant further objects to this Request on the grounds, and to the extent that it seeks documents or information protected from disclosure by the attorney-client and/or attorney work product privileges. Applicant further objects to the extent the Request purports to compel production of documents in the possession, custody and/or control of third parties. Applicant further objects to the extent the Request purports to compel production of documents in the possession, custody and/or control of Opposer and/or is in the public domain and is readily available to Opposer without the need of a specific Request made to Applicant.

Applicant further objects to this Request on the grounds, and to the extent that it is, in total or in part, cumulative and duplicative of Opposer's Requests, including without limitation Request No. 9.

Subject to and without waiving the foregoing General Objections and Specific Objections, Applicant states there are no such documents.

12. All documents and things which reflect, refer to, relate to, evidence or concern any agreement, arrangement, license and/or contract between Petitioner and any person relating to the promotion of any good or service bearing the NUTRELA mark in the United States.

Response to Doc. Request No 12.

Applicant objects to this Request as overly broad and unduly burdensome. Applicant further objects to this Request on the grounds, and to the extent that it calls for the production of irrelevant documents and/or information, and thus the Request is not reasonably calculated to lead to the discovery of admissible evidence in this matter. Applicant further objects to this

Request on the grounds, and to the extent that it seeks documents or information protected from disclosure by the attorney-client and/or attorney work product privileges. Applicant further objects to the extent the Request purports to compel production of documents in the possession, custody and/or control of third parties. Applicant further objects to the extent the Request purports to compel production of documents in the possession, custody and/or control of Opposer and/or is in the public domain and is readily available to Opposer without the need of a specific Request made to Applicant.

Applicant further objects to this Request on the grounds, and to the extent that it is, in total or in part, cumulative and duplicative of Opposer's Requests, including without limitation Request Nos. 1, 3-5, 8 and 10.

Subject to and without waiving the foregoing General Objections and Specific Objections, Applicant states there are no such documents.

13. All documents and things which reflect, refer to, relate to, evidence or concern the consumer awareness, consumer understanding, acceptance of, or reaction to, the trademark availability of, or the protectability of, the NUTRELA mark in the United States.

Response to Doc. Request No 13.

Applicant objects to this Request as overly broad and unduly burdensome. Applicant further objects to this Request on the grounds, and to the extent that it calls for the production of irrelevant documents and/or information, and thus the Request is not reasonably calculated to lead to the discovery of admissible evidence in this matter. Applicant further objects to this Request on the grounds, and to the extent that it seeks documents or information protected from disclosure by the attorney-client and/or attorney work product privileges. Applicant further objects to the extent the Request purports to compel production of documents in the possession, custody and/or control of third parties. Applicant further objects to the extent the Request

purports to compel production of documents in the possession, custody and/or control of Opposer and/or is in the public domain and is readily available to Opposer without the need of a specific Request made to Applicant.

Subject to and without waiving the foregoing General Objections and Specific Objections, Applicant grants Opposer the right to inspect and copy any non-objected responsive records and/or documents located at Applicant's principal place of business at a time mutually agreeable between Applicant and Opposer.

14. All documents and things which mention, reflect, refer to, relate to, evidence or concern Ferrero's NUTELLA Mark.

Response to Doc. Request No 14.

Applicant objects to this Request as overly broad and unduly burdensome. Applicant further objects to this Request on the grounds, and to the extent that it calls for the production of irrelevant documents and/or information, and thus the Request is not reasonably calculated to lead to the discovery of admissible evidence in this matter. Applicant further objects to this Request on the grounds, and to the extent that it seeks documents or information protected from disclosure by the attorney-client and/or attorney work product privileges. Applicant further objects to the extent the Request purports to compel production of documents in the possession, custody and/or control of third parties. Applicant further objects to the extent the Request purports to compel production of documents in the possession, custody and/or control of Opposer and/or is in the public domain and is readily available to Opposer without the need of a specific Request made to Applicant.

Applicant further objects to this Request on the grounds, and to the extent that it is, in total or in part, cumulative and duplicative of Opposer's Requests, including without limitation Request Nos. 9 and 11.

Subject to and without waiving the foregoing General Objections and Specific Objections, Applicant grants Opposer the right to inspect and copy any non-objected responsive records and/or documents located at Applicant's principal place of business at a time mutually agreeable between Applicant and Opposer.

15. To the extent not produced in response to an earlier request, all advertisement and promotional materials, whether relating to past, present or future distribution, that mention, identify, or describe any products offered by Petitioner under the NUTRELA mark.

Response to Doc. Request No 15.

Applicant objects to this Request as overly broad and unduly burdensome. Applicant further objects to this Request on the grounds, and to the extent that it calls for the production of irrelevant documents and/or information, and thus the Request is not reasonably calculated to lead to the discovery of admissible evidence in this matter. Applicant further objects to this Request on the grounds, and to the extent that it seeks documents or information protected from disclosure by the attorney-client and/or attorney work product privileges. Applicant further objects to the extent the Request purports to compel production of documents in the possession, custody and/or control of third parties. Applicant further objects to the extent the Request purports to compel production of documents in the possession, custody and/or control of Opposer and/or is in the public domain and is readily available to Opposer without the need of a specific Request made to Applicant.

Subject to and without waiving the foregoing General Objections and Specific Objections, Applicant grants Opposer the right to inspect and copy any non-objected responsive records and/or documents located at Applicant's principal place of business at a time mutually agreeable between Applicant and Opposer.

16. All documents and things which reflect, refer to, relate to, evidence or concern Petitioner's consideration and decision to file Application No. 86/184,298 for the NUTRELA mark, including any trademark search report.

Response to Doc. Request No 16.

Applicant objects to this Request as overly broad and unduly burdensome. Applicant further objects to this Request on the grounds, and to the extent that it calls for the production of irrelevant documents and/or information, and thus the Request is not reasonably calculated to lead to the discovery of admissible evidence in this matter. Applicant further objects to this Request on the grounds, and to the extent that it seeks documents or information protected from disclosure by the attorney-client and/or attorney work product privileges. Applicant further objects to the extent the Request purports to compel production of documents in the possession, custody and/or control of third parties. Applicant further objects to the extent the Request purports to compel production of documents in the possession, custody and/or control of Opposer and/or is in the public domain and is readily available to Opposer without the need of a specific Request made to Applicant.

Applicant further objects to this Request on the grounds, and to the extent that it is, in total or in part, cumulative and duplicative of Opposer's Requests, including without limitation Request No. 2.

Subject to and without waiving the foregoing General Objections and Specific Objections, Applicant grants Opposer the right to inspect and copy any non-objected responsive records and/or documents located at Applicant's principal place of business at a time mutually agreeable between Applicant and Opposer.

17. All documents and things which support Petitioner's allegations in Paragraph 14 of the COUNTERCLAIMS.

Response to Doc. Request No 17.

Applicant objects to this Request as overly broad and unduly burdensome. Applicant further objects to this Request on the grounds, and to the extent that it calls for the production of irrelevant documents and/or information, and thus the Request is not reasonably calculated to lead to the discovery of admissible evidence in this matter. Applicant further objects to this Request on the grounds, and to the extent that it seeks documents or information protected from disclosure by the attorney-client and/or attorney work product privileges. Applicant further objects to the extent the Request purports to compel production of documents in the possession, custody and/or control of third parties. Applicant further objects to the extent the Request purports to compel production of documents in the possession, custody and/or control of Opposer and/or is in the public domain and is readily available to Opposer without the need of a specific Request made to Applicant.

Applicant further objects to this Request on the grounds, and to the extent that it is, in total or in part, cumulative and duplicative of Opposer's Requests, including without limitation Request No. 14.

Subject to and without waiving the foregoing General Objections and Specific Objections, Applicant grants Opposer the right to inspect and copy any non-objected responsive records and/or documents located at Applicant's principal place of business at a time mutually agreeable between Applicant and Opposer.

18. All documents and things which support Petitioner's allegations in Paragraph 15 of the COUNTERCLAIMS.

Response to Doc. Request No 18.

Applicant objects to this Request as overly broad and unduly burdensome. Applicant further objects to this Request on the grounds, and to the extent that it calls for the production of

irrelevant documents and/or information, and thus the Request is not reasonably calculated to lead to the discovery of admissible evidence in this matter. Applicant further objects to this Request on the grounds, and to the extent that it seeks documents or information protected from disclosure by the attorney-client and/or attorney work product privileges. Applicant further objects to the extent the Request purports to compel production of documents in the possession, custody and/or control of third parties. Applicant further objects to the extent the Request purports to compel production of documents in the possession, custody and/or control of Opposer and/or is in the public domain and is readily available to Opposer without the need of a specific Request made to Applicant.

Applicant further objects to this Request on the grounds, and to the extent that it is, in total or in part, cumulative and duplicative of Opposer's Requests, including without limitation Request Nos. 14 and 17.

Subject to and without waiving the foregoing General Objections and Specific Objections, Applicant grants Opposer the right to inspect and copy any non-objected responsive records and/or documents located at Applicant's principal place of business at a time mutually agreeable between Applicant and Opposer.

19. All documents and things which support Petitioner's allegations in Paragraph 16 of the COUNTERCLAIMS.

Response to Doc. Request No 19.

Applicant objects to this Request as overly broad and unduly burdensome. Applicant further objects to this Request on the grounds, and to the extent that it calls for the production of irrelevant documents and/or information, and thus the Request is not reasonably calculated to lead to the discovery of admissible evidence in this matter. Applicant further objects to this

Request on the grounds, and to the extent that it seeks documents or information protected from disclosure by the attorney-client and/or attorney work product privileges. Applicant further objects to the extent the Request purports to compel production of documents in the possession, custody and/or control of third parties. Applicant further objects to the extent the Request purports to compel production of documents in the possession, custody and/or control of Opposer and/or is in the public domain and is readily available to Opposer without the need of a specific Request made to Applicant.

Applicant further objects to this Request on the grounds, and to the extent that it is, in total or in part, cumulative and duplicative of Opposer's Requests, including without limitation Request Nos. 14, 17 and 18.

Subject to and without waiving the foregoing General Objections and Specific Objections, Applicant grants Opposer the right to inspect and copy any non-objected responsive records and/or documents located at Applicant's principal place of business at a time mutually agreeable between Applicant and Opposer.

20. All documents and things which support Petitioner's allegations in Paragraph 25 of the COUNTERCLAIMS.

Response to Doc. Request No 20.

Applicant objects to this Request as overly broad and unduly burdensome. Applicant further objects to this Request on the grounds, and to the extent that it calls for the production of irrelevant documents and/or information, and thus the Request is not reasonably calculated to lead to the discovery of admissible evidence in this matter. Applicant further objects to this Request on the grounds, and to the extent that it seeks documents or information protected from disclosure by the attorney-client and/or attorney work product privileges. Applicant further objects to the extent the Request purports to compel production of documents in the possession,

custody and/or control of third parties. Applicant further objects to the extent the Request purports to compel production of documents in the possession, custody and/or control of Opposer and/or is in the public domain and is readily available to Opposer without the need of a specific Request made to Applicant.

Applicant further objects to this Request on the grounds, and to the extent that it is, in total or in part, cumulative and duplicative of Opposer's Requests, including without limitation Request Nos. 14 and 17-9.

Subject to and without waiving the foregoing General Objections and Specific Objections, Applicant grants Opposer the right to inspect and copy any non-objected responsive records and/or documents located at Applicant's principal place of business at a time mutually agreeable between Applicant and Opposer.

21. All documents and things which support Petitioner's allegations in Paragraph 26 of the COUNTERCLAIMS.

Response to Doc. Request No 21.

Applicant objects to this Request as overly broad and unduly burdensome. Applicant further objects to this Request on the grounds, and to the extent that it calls for the production of irrelevant documents and/or information, and thus the Request is not reasonably calculated to lead to the discovery of admissible evidence in this matter. Applicant further objects to this Request on the grounds, and to the extent that it seeks documents or information protected from disclosure by the attorney-client and/or attorney work product privileges. Applicant further objects to the extent the Request purports to compel production of documents in the possession, custody and/or control of third parties. Applicant further objects to the extent the Request purports to compel production of documents in the possession, custody and/or control of

Opposer and/or is in the public domain and is readily available to Opposer without the need of a specific Request made to Applicant.

Applicant further objects to this Request on the grounds, and to the extent that it is, in total or in part, cumulative and duplicative of Opposer's Requests, including without limitation Request Nos. 14 and 17-20.

Subject to and without waiving the foregoing General Objections and Specific Objections, Applicant grants Opposer the right to inspect and copy any non-objected responsive records and/or documents located at Applicant's principal place of business at a time mutually agreeable between Applicant and Opposer.

22. All documents and things which support Petitioner's allegations in Paragraph 27 of the COUNTERCLAIMS.

Response to Doc. Request No 22.

Applicant objects to this Request as overly broad and unduly burdensome. Applicant further objects to this Request on the grounds, and to the extent that it calls for the production of irrelevant documents and/or information, and thus the Request is not reasonably calculated to lead to the discovery of admissible evidence in this matter. Applicant further objects to this Request on the grounds, and to the extent that it seeks documents or information protected from disclosure by the attorney-client and/or attorney work product privileges. Applicant further objects to the extent the Request purports to compel production of documents in the possession, custody and/or control of third parties. Applicant further objects to the extent the Request purports to compel production of documents in the possession, custody and/or control of Opposer and/or is in the public domain and is readily available to Opposer without the need of a specific Request made to Applicant.

Applicant further objects to this Request on the grounds, and to the extent that it is, in total or in part, cumulative and duplicative of Opposer's Requests, including without limitation Request Nos. 14 and 17-21.

Subject to and without waiving the foregoing General Objections and Specific Objections, Applicant grants Opposer the right to inspect and copy any non-objected responsive records and/or documents located at Applicant's principal place of business at a time mutually agreeable between Applicant and Opposer.

23. All documents and things which support Petitioner's allegations in Paragraph 36 of the COUNTERCLAIMS.

Response to Doc. Request No 23.

Applicant objects to this Request as overly broad and unduly burdensome. Applicant further objects to this Request on the grounds, and to the extent that it calls for the production of irrelevant documents and/or information, and thus the Request is not reasonably calculated to lead to the discovery of admissible evidence in this matter. Applicant further objects to this Request on the grounds, and to the extent that it seeks documents or information protected from disclosure by the attorney-client and/or attorney work product privileges. Applicant further objects to the extent the Request purports to compel production of documents in the possession, custody and/or control of third parties. Applicant further objects to the extent the Request purports to compel production of documents in the possession, custody and/or control of Opposer and/or is in the public domain and is readily available to Opposer without the need of a specific Request made to Applicant.

Applicant further objects to this Request on the grounds, and to the extent that it is, in total or in part, cumulative and duplicative of Opposer's Requests, including without limitation Request Nos. 14 and 17-22.

Subject to and without waiving the foregoing General Objections and Specific Objections, Applicant grants Opposer the right to inspect and copy any non-objected responsive records and/or documents located at Applicant's principal place of business at a time mutually agreeable between Applicant and Opposer.

24. All documents and things which support Petitioner's allegations in Paragraph 38 of the COUNTERCLAIMS.

Response to Doc. Request No 24.

Applicant objects to this Request as overly broad and unduly burdensome. Applicant further objects to this Request on the grounds, and to the extent that it calls for the production of irrelevant documents and/or information, and thus the Request is not reasonably calculated to lead to the discovery of admissible evidence in this matter. Applicant further objects to this Request on the grounds, and to the extent that it seeks documents or information protected from disclosure by the attorney-client and/or attorney work product privileges. Applicant further objects to the extent the Request purports to compel production of documents in the possession, custody and/or control of third parties. Applicant further objects to the extent the Request purports to compel production of documents in the possession, custody and/or control of Opposer and/or is in the public domain and is readily available to Opposer without the need of a specific Request made to Applicant.

Applicant further objects to this Request on the grounds, and to the extent that it is, in total or in part, cumulative and duplicative of Opposer's Requests, including without limitation Request Nos. 14 and 17-23.

Subject to and without waiving the foregoing General Objections and Specific Objections, Applicant grants Opposer the right to inspect and copy any non-objected responsive

records and/or documents located at Applicant's principal place of business at a time mutually agreeable between Applicant and Opposer.

25. To the extent not otherwise produced, all documents mentioned or identified in response to Opposer/Registrant's First Set of interrogatories to Applicant/Petitioner.

Response to Doc. Request No 25.

Applicant objects to this Request on the grounds, and to the extent, that it is cumulative and duplicative of all of Plaintiff's Requests. Applicant further objects to this Request as overly broad and unduly burdensome.

Dated: Scarsdale, New York
April 1, 2016

LACKENBACH SIEGEL, LLP

By: */s/ Robert B. Golden*
Robert B. Golden (RG 6157)
Jeffrey M. Rollings (JR 6940)
Lackenbach Siegel Building
1 Chase Road
Scarsdale, NY 10583
(914) 723-4300
(914) 723-4301 fax
Attorneys for Opposer, Ultra Records, LLC

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the enclosed RUCHI SOYA INDUSTRIES LIMITED'S INITIAL DISCLOSURES was served on Opposer on April 1, 2016 via U.S. 1st Class Mail and via email, addressed to counsel for Opposer as follows:

Leo M. Loughlin, Esq.
Rothwell, Figg, Ernst & Manbeck, P.C.
607 14th Street, NW, Suite 800
Washington, D.C. 20005
lloughlin@rothwellfigg.com

Dated: Scarsdale, New York
April 1, 2016

/s/ Eric A. Menist
Eric A. Menist

RFEM.Trademark

From: Leo M. Loughlin
Sent: Tuesday, April 12, 2016 6:28 PM
To: 'Robert Golden'
Cc: EMenist@LSLLP.com; RFEM.Trademark
Subject: RE: Opp. No. 91221291 - Ferrero v. Ruchi Soya - Applicant's Responses to Opposer's Discovery Requests (1237-5516)

Rob,

I just wanted to confirm that Ruchi Soya will be reciprocating and forwarding its responsive documents to us, including documents responsive to the interrogatories.

Best regards.

ROTHWELL FIGG
IP Professionals

Leo M. Loughlin, Esq.
Rothwell, Figg, Ernst & Manbeck, P.C.
607 14th Street, NW
Suite 800
Washington, D.C. 20005

Main Number: 202.783.6040
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RFEM.Trademark

From:	Leo M. Loughlin
Sent:	Tuesday, April 26, 2016 6:00 PM
To:	'Robert Golden'
Cc:	'EMenist@LSLLP.com'; RFEM.Trademark
Subject:	RE: Opp. No. 91221291 - Ferrero v. Ruchi Soya - Applicant's Responses to Opposer's Discovery Requests (1237-5516)

Rob,

Following up on my previous email, please let us know when you expect to send to us Ruchi Soya's responsive documents, including documents responsive to the interrogatories. If you are not planning to do so, please let us know that as well.

Best regards.

-Leo

ROTHWELL FIGG
IP Professionals

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From: Eric Menist <EMenist@LSLLP.com>
Sent: Wednesday, April 27, 2016 12:17 PM
To: Leo M. Loughlin; Robert Golden
Cc: RFEM.Trademark
Subject: RE: Opp. No. 91221291 - Ferrero v. Ruchi Soya - Applicant's Responses to Opposer's Discovery Requests (1237-5516)

Lackenbach
INTELLECTUAL PROPERTY ATTORNEYS SINCE 1923 **Siegel, LLP**

Dear Leo,

We are in receipt of your two previous emails. Regarding your request for responsive documents, it is our understanding, based upon Board practice and the FRCP, that Ruchi Soya's responses and objections allow for the copying and inspection of all responsive, non-objectionable, documents located at Applicant's offices that were/are kept in the ordinary course of Applicant's business. Thus, Applicant has complied with its obligations in responding to Opposer's requests.

Very truly yours,

Eric A. Menist
Paralegal
Lackenbach Siegel, LLP
Lackenbach Siegel Building
One Chase Road
Scarsdale, NY 10583
Phone: (914) 723-4300 ext. 171
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From: Robert Golden <RGolden@LSLLP.com>
Sent: Wednesday, April 27, 2016 1:44 PM
To: Leo M. Loughlin; Eric Menist
Cc: RFEM.Trademark
Subject: RE: Opp. No. 91221291 - Ferrero v. Ruchi Soya - Applicant's Responses to Opposer's Discovery Requests (1237-5516)

Leo:

Are you referring to TMBP 406.04(b)?

Though you omitted it from your summary, that provision provides a "party is **only** obliged to make documents and materials available for inspection and copying, where the documents are stored, and as they are kept in the ordinary course of business, or as organized and labeled to correspond to the requests." This is exactly what we offered to do. My emails were not in any way an invitation for both parties to do anything.

I do not see the benefit to further discussion and will agree that the parties have satisfied their obligation to meet and confer, such that we will agree not to oppose any motion on this issue based on the failure to meet and confer.

Rob

From: Leo M. Loughlin [mailto:lloughlin@rothwellfigg.com]
Sent: Wednesday, April 27, 2016 1:35 PM
To: Robert Golden; Eric Menist
Cc: RFEM.Trademark
Subject: RE: Opp. No. 91221291 - Ferrero v. Ruchi Soya - Applicant's Responses to Opposer's Discovery Requests (1237-5516)

Rob,

The TBMP states that exchanging documents is typically done and "the Board believes this is more efficient and thus encourages this method of producing documents." At the very least, your email was an invitation for both parties to do so and we believe the Board will agree, in view of the fact the both parties are located outside the US.

We also believe the Board will be not be pleased at having to intervene on this issue when such a simple solution exists.

I am generally available for a call tomorrow and also Friday morning. Please propose a time that you are available.

Leo M. Loughlin, Esq.
Rothwell, Figg, Ernst & Manbeck, P.C.
607 14th Street, NW
Suite 800
Washington, D.C. 20005

Main Number: 202.783.6040
Fax Number: 202.783.6031
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From: Robert Golden [mailto:RGolden@LSLLP.com]
Sent: Wednesday, April 27, 2016 1:22 PM
To: Leo M. Loughlin; Eric Menist
Cc: RFEM.Trademark
Subject: RE: Opp. No. 91221291 - Ferrero v. Ruchi Soya - Applicant's Responses to Opposer's Discovery Requests (1237-5516)

Leo:

How you chose to respond to our requests was your decision. Pursuant to the rules, you had the option to ask us to come to your client's location for purposes of review and copying. You chose not to do so. Your choice, however, does not bind us to produce documents in the same manner. If we make the documents available for review and copying, and you choose not to so review and copy, your decision does not render the documents inadmissible. Thus, we could still use the documents at a later date for purposes of satisfying our burdens or for any other reason.

If you intend to move to compel, in preparation for a call, could you please let us know what authority you will rely upon so that we may research your position and determine if it has any merit.

Rob

From: Leo M. Loughlin [mailto:lloughlin@rothwellfigg.com]
Sent: Wednesday, April 27, 2016 1:17 PM
To: Eric Menist; Robert Golden
Cc: RFEM.Trademark
Subject: RE: Opp. No. 91221291 - Ferrero v. Ruchi Soya - Applicant's Responses to Opposer's Discovery Requests (1237-5516)

Dear Eric,

Just so I understand your position correctly, you are not going to reciprocate and produce responsive documents even though you demanded that we do so (see Rob's February 18, 2016 email). Is that correct? If so, we take it is also your position you expect Ferrero to travel to India as part of your answers to interrogatories, including interrogatories directed to claims on which you have the burden of proof (Nos. 12-18).

I request that you reconsider this position and produce the responsive documents to us. If you will not reconsider, then let us know when your Office is available for a call to discuss this issue to see if we can resolve it short of a motion to compel.

ROTHWELL FIGG
IP Professionals

Leo M. Loughlin, Esq.
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