

**In The United States Patent and Trademark Office
Trademark Trial and Appeal Board**

In the Matter of:

02-19-2003

U.S. Patent & TMO/c/TM Mail Rcpt Dt. #70

A.J. Boggs & Company

Petitioner

v.

General Electric Capital Corporation
Intrado, Inc.

Registrant

Trademark: 911.NET

Registration No. 2551269

Cancellation No. 040559

Box TTAB No Fee
Assistant Commissioner of Trademarks
2900 Crystal Drive
Arlington, VA 22202-3513

Petitioner's Response to Registrant's Motion to Compel

NOW COMES Plaintiff, A.J. Boggs & Company, by and through its attorneys, Howard & Howard Attorneys, P.C., requesting that the board deny Registrant's Motion to Compel.

Applicant responds to Registrant's factual background and basis for the motion as follows:

1. Registrant served its Requests, Interrogatories, and other materials on November 26, 2002, as seen on the Certificate of Service provided by Registrant as Exhibit 1.
2. Petitioner did respond within the required time limit (December 31, 2002) and will provide relevant documents once the protective order is finalized.

3. Petitioner acknowledges the letter received and has tried to contact the Registrant via telephone in an attempt to resolve these issues.
4. Registrant's Interrogatories exceed the total number allowed by the rules, Registrant's Exhibit 2 shows the first 75 interrogatories numbered. "When determining the number of interrogatories, Trademark Rule 2.120(d)(1) requires that each numbered subpart must be counted separately regardless of the propounding party's arguments that the division was made for clarification or convenience. *Pyttronic Industries, Inc. v. Terk Technologies Corp.*, 16 USPQ2d 2055 (TTAB 1990). Further, compound questions seeking separate information but not set forth separately will be broken down by the Board and counted as separate interrogatories. See Calcagno, *Tips From the TTAB; 2.120(d)(1)*, 80 TMR 285 (1990)." *Jan Bell Marketing, Inc. v. Centennial Jewelers, Inc.*, 19 USPQ2d 1636 (TTAB 1990). See also *Kellogg Co. v. Nugget Distributors' Cooperative of America, Inc.*, 16 USPQ2d 1468 (TTAB 1990); and *Brawn of California Inc. v. Bonnie Sportswear Ltd.*, 15 USPQ2d 1572 (TTAB 1990). In *Brawn*, 15 USPQ2d 1574, the Board addressed the situation where, as here, the party mistakenly answers the first 75 interrogatories instead of filing a motion for a protective order. In that case, the Board relieved the party from answering the additional interrogatories.
5. Petitioner's objections are not baseless. Petitioner requests that Registrant state which objections are believed to be baseless.
6. Petitioner has sent a revised protective order and has not provided Registrant with certain information and documents due to the proprietary nature of the items.
7. Petitioner has attempted to contact Registrant via telephone to resolve these issues.

WHEREFORE, Petitioner requests that Registrant's motion to compel be denied and
Petitioner be relieved from answering any further interrogatories.

Respectfully submitted,

HOWARD AND HOWARD ATTORNEYS, P.C.

Date: February 12, 2003

By: Melinda B. Buurma

Jeffrey A. Sadowski, Esq.

Melinda B. Buurma, Esq.

Attorneys for Petitioner

39400 Woodward Avenue, Suite 101

Bloomfield Hills, Michigan 48304-5151

Phone: (248) 645-1483

Fax: (248) 645-1568

The undersigned certifies that a copy of the foregoing instrument was served upon the TTAB, Assistant Commissioner of Trademarks, 2900 Crystal Drive, Arlington, VA 22202-3513 and the attorney of record of all parties to the above by first class mail at the respective business addresses (P.O. Box 368 Charlotte, VT 05445) with postage fully prepaid on February 12, 2003.

Melinda B. Buurma

Melinda B. Buurma

TTAB3

Ann Arbor Bloomfield Hills Kalamazoo Lansing Peoria

Howard & Howard

law for business

Direct dial: 248. 723.0308

Melinda B. Buurma

Email: MBuurma@howardandhoward.com

February 12, 2003

Box TTAB No Fee
Assistant Commissioner of Trademarks
2900 Crystal Drive
Arlington, VA 22202-3513

02-19-2003

U.S. Patent & TMO/c/TM Mail Rcpt Dt: #7C

Re: A.J. Boggs & Company v. General Electric Corporation
Cancellation No.: 040559
Our File No.: 68,151-001

Please find enclosed an original and two copies of Petitioner's Response to Registrant's Motion to Compel and Certificate of Service for filing in your usual manner. If you should have any questions or comments please do not hesitate to contact me.

Very truly yours,

HOWARD & HOWARD ATTORNEYS, P.C.

Melinda B. Buurma

Melinda B. Buurma

Enclosures

DD