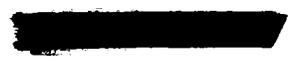


TTAB

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

In re Registration No. 2,335,805
Registered March 28, 2000



01-14-2004

U.S. Patent & TMO/TM Mail Rcpt Dt. #22

-----X
CUISINE COOKWARE, INC.,

Petitioner,

Cancellation No. 42,276

v.

GUTMANN CUTLERY, INC.,

Registrant.
-----X

**PETITIONER'S MOTION TO COMPEL DISCOVERY AND FOR AN
EXTENSION OF THE DISCOVERY AND TRIAL TESTIMONY PERIODS**

Petitioner, Cuisine Cookware Inc., by and through its attorneys Ostrolenk, Faber, Gerb & Soffen, LLP, hereby moves for an Order compelling Registrant, Gutmann Cutlery, Inc., to produce all documents and things responsive to Petitioner's first set of document requests and to verify Registrant's replies to Petitioner's first set of interrogatories. Petitioner further moves for an Order extending the discovery and trial periods for sixty (60) days from the date the Board mails its decision on this motion.

The attorneys for Petitioner have made a good faith effort, by conference and correspondence, to resolve the issues presented in this motion with the attorneys for Registrant, but have been unable to reach agreement. Trademark Board Manual of Procedure § 523.02.

A. Registrant should be Compelled to Produce Documents and Things Responsive to Petitioner's First Set of Document Requests

Registrant is withholding discoverable documents and things from Petitioner. On October 15, 2003, Petitioner served Registrant with a first set of document requests. (Exhibit A). Registrant late served Petitioner with written responses on December 10, 2003, after the November 24, 2003 deadline (Exhibit B).¹

In response to Request No. 1, Registrant stated that "documents are being gathered and will be provided within the next couple of days." In response to many other Requests, Registrant simply stated "[w]ill be produced." Despite the written responses, Registrant has not provided Petitioner with any responsive documents or things.

Petitioner, through its attorney, followed-up with the attorney for Registrant by both telephone and e-mail to try to obtain the responsive documents and things. The undersigned attorney for Petitioner even sent a final warning letter to the attorney for Registrant dated December 30, 2003 (Exhibit C). Still, no responsive documents or things have been received.

In view of the above, Petitioner respectfully requests that the Board issue an Order compelling Registrant to produce all documents and things responsive to Petitioner's first set of document requests. Alternatively, the Board should issue an Order precluding Registrant from relying upon at trial any responsive documents and things not supplied to Petitioner.

B. Registrant Should be Compelled to Verify its Interrogatory Replies

Registrant has served Petitioner with unverified interrogatory replies. On October 15, 2003, Petitioner served Registrant with a first set of interrogatories. (Exhibit D). Registrant late

¹ Registrant labeled its responses as "Petitioner's First Set of Requests for Production of Documents and Things to Registrant and Answers Thereto."

served Petitioner with written replies on December 9, 2003, after the November 24, 2003 deadline (Exhibit E).² The interrogatory replies lack any verification. Verification is required under the Federal Rules of Civil Procedure. See F.R.C.P. 33(b). The attorney for Petitioner objected to the deficiency by telephone and correspondence. See Exhibit C.

In light of the above, Petitioner respectfully requests that the Board issue an Order compelling Registrant to verify its replies to interrogatories. Alternatively, the Board should issue an Order striking those interrogatory replies.

C. Conclusion

In view of the above, Petitioner respectfully requests that the Board grant the instant motion in all respects.³ Considering the time anticipated for the Board to decide this motion, Petitioner further requests that the Board enter an Order extending the discovery and trial periods for sixty (60) days from the date of its decision.

Dated: New York, New York
January 13, 2004

"Express Mail" mailing label No. EV325556985US

Date of Deposit: January 13, 2004

I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to the Commissioner for Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202-3514.

Peter S. Sloane
(Printed name of person mailing paper or fee)


(Signature)

Respectfully submitted,


Peter S. Sloane

OSTROLENK, FABER, GERB & SOFFEN, LLP
1180 Avenue of the Americas
New York, New York 10036-8403
Telephone: (212) 382-0700

Attorneys for Petitioner

2 Registrant labeled its replies as "Petitioner's First Set of Interrogatories to Registrant and Answers Thereo."

3 Petitioner reserves its right to object to the adequacy of Registrant's written responses and replies.

CERTIFICATE OF SERVICE

It is hereby certified that a true copy of the foregoing **PETITIONER'S MOTION TO COMPEL DISCOVERY AND FOR AN EXTENSION OF THE DISCOVERY AND TRIAL TESTIMONY PERIODS** was served by First-Class mail, postage prepaid, upon counsel for Registrant, this 13th day of January 2004, as follows:

Robert E. Rohde, Esq.
Rohe & Van Kampen PLLC
1000 Second Avenue, Suite 3110
Seattle, Washington 98104-1046

A handwritten signature in black ink, appearing to read 'Peter S. Sloane', is written over a horizontal line.

Peter S. Sloane

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

In re Registration No. 2,335,805
Registered March 28, 2000

-----X
:
CUISINE COOKWARE, INC., :
:
Petitioner, : Cancellation No. 42,276
:
v. :
:
GUTMANN CUTLERY, INC., :
:
Registrant. :
-----X

A

**PETITIONER'S FIRST SET OF REQUESTS FOR
PRODUCTION OF DOCUMENTS AND THINGS TO REGISTRANT**

Petitioner, by its attorneys, pursuant to Rule 2.120(a) of the Trademark Rules of Practice and Rule 34 of the Federal Rules of Civil Procedure, requests that Registrant produce the documents and things hereinafter described for inspection and copying by forwarding true copies of each document and thing covered by these Requests to Petitioner's counsel, Peter S. Sloane, Esq. at Ostrolenk, Faber, Gerb & Soffen, LLP, 1180 Avenue of the Americas, New York, New York 10036, within thirty (30) days after service of these Requests.

DEFINITIONS AND INSTRUCTIONS

As used herein, the following definitions apply:

"Communication": The term "communication" means the transmittal of information (in the form of facts, ideas, inquiries or otherwise);

"Document": The term "document" is defined to be synonymous in meaning and equal in scope to the usage of this term in Federal Rule of Civil Procedure 34(e). A draft or non-identical copy is a separate document within the meaning of this term;

"Identify" (With Respect to Persons): When referring to a person, to "identify" means to give, to the extent known, the person's full name, present or last known address and, when referred to a natural person, additionally the present or last known place of employment. Once a person has been identified in accordance with this subparagraph, only the names of that person need be listed in response to subsequent discovery requesting the identification of that person;

"Identify" (With Respect to Documents): When referring to documents, to "identify" means to give to the extent known, the (i) type of document; (ii) general subject matter; (iii) date of the document; and (iv) author(s), addressee(s) and recipient(s). Should Registrant deem any document to be privileged or confidential, Registrant is requested to so state, to identify such documents by supplying the above noted information concerning such document, and to identify the grounds on which such claim of privilege or confidentiality rests;

"Identify" (With Respect to Any Other Thing): "Identify" in this context shall mean a description with sufficient particularity that such thing may thereafter be specified and recognized as such;

"Person": The term "person" is defined as any natural person or any business, legal or governmental entity, or associate;

"Concerning": The term "concerning" means which refer or relate to, referring to, describing, evidencing, or constituting;

"All"/"Each": The terms "all" and "each" shall be construed as all and each;

"And"/"Or": The terms "and" and "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope;

"Number": The use of the singular form of any word includes the plural and vice versa;

"Registrant": The term "Registrant" means Gutmann Cutlery, Inc. and any predecessor, parent, subsidiary, division, related company or individual and/or licensee of Gutmann Cutlery, Inc.; and

"MARCO POLO" shall mean "MARCO POLO" in any form including, but not limited to, the mark shown in U.S. Trademark Registration No. 2,335,805.

DOCUMENTS AND THINGS REQUESTED

REQUEST NO. 1:

All documents and things demonstrating that Registrant is currently using the mark MARCO POLO on or in connection with the offering for sale, sale, or distribution of each of the following goods in the U.S.:

- (a) sports knives;
- (b) hunting knives;
- (c) survival knives;
- (d) pocket knives;
- (e) folding knives;
- (f) fishing knives;
- (g) paring knives;

- (h) diving knives;
- (i) mountaineering knives;
- (j) scouting knives;
- (k) multipurpose knives;
- (l) knife sharpening stones; and
- (m) sheaves for knives.

REQUEST NO. 2:

All documents and things which refer or relate to Registrant's consideration and/or decision to select, adopt and/or use the mark MARCO POLO on or in connection with cutlery and hand instruments.

REQUEST NO. 3:

All documents and things which refer or relate to Registrant's first use of the mark MARCO POLO on or in connection with cutlery and hand instruments.

REQUEST NO. 4:

A current sample, copy, photograph, illustration, sketch or other depiction of each different label, sign, print, package, stationary, or other printed item of Registrant bearing the mark MARCO POLO.

REQUEST NO. 5:

Representative current samples of each different advertisement or other promotional material of Registrant referring to the mark MARCO POLO.

REQUEST NO. 6:

Representative current samples of each different press release or article referring to Registrant and the mark MARCO POLO.

REQUEST NO. 7:

All documents which refer or relate to the type, purpose, nature and/or characteristics of all products currently marketed by Registrant under the mark MARCO POLO.

REQUEST NO. 8:

All documents and things which identify each of the channels of trade through which Registrant currently markets, promotes, advertises, distributes or sells products under the mark MARCO POLO.

REQUEST NO. 9:

All documents and things which identify the current customers and class of customers who purchase goods sold under the mark MARCO POLO from Registrant.

REQUEST NO. 10:

All documents and things including, but not limited to, any computer printouts or other summaries, referring to the amount of Registrant's annual sales of goods under the mark MARCO POLO for each of the past five years.

REQUEST NO. 11:

All documents and things including, but not limited to, any computer printouts or other summaries, referring to the amount of Registrant's annual expenditures for the advertising and promotion of goods under the mark MARCO POLO for each of the past five years.

REQUEST NO. 12:

Copies of all licenses, assignments, agreements, or contracts between Registrant and any third party relating to the mark MARCO POLO.

REQUEST NO. 13:

All documents and things referring to any plans to expand the goods beyond the cutlery and hand instruments currently sold by Registrant, or any licensees, under the mark MARCO POLO.

REQUEST NO. 14:

All documents and things referring to the retail price of each of Registrant's goods currently sold under the mark MARCO POLO.

REQUEST NO. 15:

All documents which refer or relate to any application for registration or any registration by Registrant of the mark MARCO POLO for any goods:

- (a) in the United States Patent and Trademark Office; and/or
- (b) in any state or states of the United States.

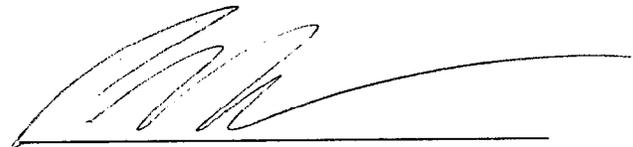
REQUEST NO. 16:

All documents and things demonstrating that Registrant has not abandoned any trademark rights it may own in the mark MARCO POLO.

REQUEST NO. 17:

All documents and things supporting the Affirmative Defense asserted in Registrant's Answer to Petition for Cancellation.

Dated: October 15, 2003
New York, New York



Peter S. Sloane

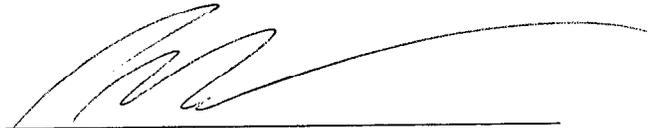
OSTROLENK, FABER, GERB & SOFFEN, LLP
1180 Avenue of the Americas
New York, New York 10036
(212) 382-0700

Attorneys for Petitioner

CERTIFICATE OF SERVICE

It is hereby certified that a true copy of the foregoing **PETITIONER'S FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS AND THINGS TO REGISTRANT** was served by First-Class mail, postage prepaid, upon counsel for Registrant, this 15th day of October, 2003, as follows:

Robert E. Rohde, Esq.
Rohe & Van Kampen PLLC
1000 Second Avenue, Suite 3110
Seattle, Washington 98104-1046



Peter S. Sloane

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

In re Registration No. 2,335,805
Registered March 28, 2000

CUISINE COOKWARE INC.,

Petitioner,

B

Cancellation No. 42,276

v.

GUTMANN CUTLERY, INC.,

Registrant.

**PETITIONER'S FIRST SET OF REQUESTS FOR PRODUCTION OF
DOCUMENTS AND THINGS TO REGISTRANT AND RESPONSES THERETO**

Petitioner, by its attorneys, pursuant to Rule 2.120(a) of the Trademark Rules of Practice and Rule 33 of the Federal Rules of Civil Procedure, requests that Registrant produce the documents and things covered by these Requests to Petitioner's counsel, Peter Sloane, Esq. at Ostrolenk, Faber, Gerb & Soffen, LLP, 1180 Avenue of the Americas, New York, New York 10036, within thirty (30) days after service of these Requests.

DEFINITIONS AND INSTRUCTIONS

As used herein, the following definitions apply:

“Communication”: The term “communication” means the transmittal of information (in form of facts, ideas, inquiries or otherwise);

“Document”: The term “document” is defined to be synonymous in meaning and equal scope to the usage of this term in Federal Rule of Civil Procedure 34(e). A draft or non-identical copy is a separate document within the meaning of this term;

(“Identify”) (With Respect to Persons): When referring to a person, to “identify” means to give, to the extent known, the person’s full name, present or last known address and, when referred to a natural person, additionally the present or last known place of employment. Once a person has been identified in accordance with this subparagraph, only the names of that person need be listed in response to subsequent discovery requesting the identification of that person;

“Identify” (With Respect to Documents): When referring to documents, to “identify” means to give to the extent known, the (i) type of document; (ii) general subject matter; (iii) date of the document; and (iv) author(s), addressee(s) and recipient(s). Should Registrant deem any document to be privileged or confidential, Registrant is requested to so state, to identify such documents by supplying the above noted information concerning such document, and to identify the grounds on which such claim of privilege or confidentiality rests;

“Identify (With Respect to Any Other Thing): “Identify” in this context shall mean a description with sufficient particularity that such thing may thereafter be specified and recognized as such;

“Person”: The term “person” is defined as any natural person or any business, legal or governmental entity, or associate;

“Concerning”: The term “concerning” means which refer or relate to, referring to, describing, evidencing, or constituting;

“All”/“Each”: The terms “all” and “each” shall be construed as all and each;

“And”/“Or”: The terms “and” and “or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope;

“Number”: The use of the singular form of any word includes the plural and vice versa;

“Registrant”: The term “Registrant” means Gutmann Cutlery, Inc. and any predecessor, parent, subsidiary, division, related company or individual and/or licensee of Gutmann Cutlery, Inc.; and

“MARCO POLO” shall mean “MARCO POLO” in any form including, but not limited to, the mark shown in U.S. Trademark Registration No. 2,335,805.

DOCUMENTS AND THINGS REQUESTED

Registrant, Gutmann Cutlery, Inc. ("Registrant") hereby answers
Petitioner's First Set of Requests for Production of Documents and Things to Registrant
as follows:

REQUEST NO. 1.

All documents and things demonstrating that Registrant is currently using
the mark MARCO POLO on or in connection with the offering for sale, sale, or
distribution of each of the following goods in the U.S.:

- (a) sports knives;
- (b) hunting knives;
- (c) survival knives;
- (d) pocket knives;
- (e) folding knives;
- (f) fishing knives;
- (g) paring knives;
- (h) diving knives;
- (i) mountaineering knives;
- (j) scouting knives;
- (k) multipurpose knives;
- (l) knife sharpening stones; and
- (m) sheaves for knives.

Response

Registrant has provided an inventory report of one of its distributors showing knives bearing the mark offered for sale. Additional documents are being gathered and will be provided within the next couple of days.

REQUEST NO. 2.

All documents and things which refer or relate to Registrant's consideration and/or decision to select, adopt and/or use the mark MARCO POLO on or in connection with cutlery and hand instruments.

Response

None

REQUEST NO. 3.

All documents and things which refer or relate to Registrant's first use of the mark MARCO POLO on or in connection with cutlery and hand instruments.

Response

Will be produced.

REQUEST NO. 4.

A current sample, copy, photograph, illustration, sketch or other depiction of each different label, sign, print, package, stationery, or other printed item of Registrant bearing the mark MARCO POLO.

Response

Will be produced.

REQUEST NO. 5.

Representative current samples of each different advertisement or other promotional material of Registrant referring to the mark MARCO POLO.

Response

Will be produced.

REQUEST NO. 6.

Representative current samples of each different press release or article referring to Registrant and the mark MARCO POLO.

Response

None

REQUEST NO. 7.

All documents which refer or relate to the type, purpose, nature and/or characteristics of all products currently marketed by Registrant under the mark MARCO POLO.

Response

None

REQUEST NO. 8.

All documents and things which identify each of the channels of trade through which Registrant currently markets, promotes, advertises, distributes or sells products under the mark MARCO POLO.

RESPONSE

None

REQUEST NO. 9.

All documents and things which identify the current customers and class of customers who purchase goods sold under the mark MARCO POLO from Registrant.

Response

This document seek information that is confidential. Registrant objects to producing this information to a competitor or potential competitor without entry of a protective order.

REQUEST NO. 10.

All documents and things including, but not limited to, any computer printouts or other summaries, referring to the amount of Registrant's annual sales of goods under the mark MARCO POLO for each of the past five years.

Response

Will be produced.

REQUEST NO. 11.

All documents and things including, but not limited to, any computer printouts or other summaries, referring to the amount of Registrant's annual expenditures for the advertising and promotion of goods under the mark MARCO POLO for each of the past five years..

Response

No documents segregate costs attributable to the mark in question

REQUEST NO. 12.

Copies of all licenses, assignments, or contracts between Registrant and any third party relating to the mark MARCO POLO.

Response

Will be produced

REQUEST NO. 13.

All documents and things referring to any plans to expand the goods beyond the cutlery and hand instruments currently sold by Registrant, or any licensees, under the mark MARCO POLO.

Response

Registrant objects that this seeks information that is confidential. Registrant will produce after entry of a protective order.

REQUEST NO. 14.

All documents and things referring to the retail price of each of Registrant's goods currently sold under the mark MARCO POLO.

Response

Will be produced

REQUEST NO. 15.

All documents which refer or relate to any application for registration or any registration by Registrant of the mark MARCO POLO for any goods:

- (a) in the United States Patent and Trademark Office; and/or
- (b) in any state or states of the United States.

Response

Will be produced

REQUEST NO. 16.

All documents and things demonstrating that Registrant has not abandoned any trademark rights it may own in the mark MARCO POLO.

Response

Will be produced

REQUEST NO. 17.

All documents and things supporting the Affirmative Defense asserted in
Registrant's Answer to Petition for Cancellation.

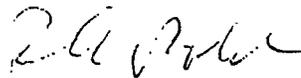
Response

Will be produced

Dated this 10th day of December 2003.

Respectfully submitted,

ROHDE & VAN KAMPEN PLLC



Robert E. Rohde
Attorneys for Registrant, Gutmann Cutlery, Inc.
1000 Second Avenue, Suite 3110
Seattle, Washington 98104-1046
(206) 386-7353

CERTIFICATE OF MAILING

I hereby certify that one copy of the attached PETITIONER'S FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS AND THINGS TO REGISTRANT AND RESPONSES THERETO is faxed and emailed to:

Peter S. Sloane
Ostrolenk, Faber, Gerb & Soffen, LLP
1180 Avenue of the Americas
New York, New York 10036-8403

on December ____, 2003.

Dated this ____ day of December 2003.

Mary L. Lyles

OSTROLENK, FABER, GERB & SOFFEN, LLP

1180 AVENUE OF THE AMERICAS, NEW YORK, NEW YORK 10036-8403

TEL 212 382 0700 FAX 212 382 0888 FAX 212 398 0681

email@ostrolenk.com

PARTNERS

SAMUEL H. WEINER
ROBERT C. FABER
MAX MOSKOWITZ
JAMES A. FINDER
WILLIAM O. GRAY, III
LOUIS C. DUJMICH
CHARLES P. LAPOLLA

DOUGLAS A. MIRO
ALFRED R. FABRICANT
MARC LIEBERSTEIN

ASSOCIATES

CHARLES C. ACHKAR, Ph.D.
PETER S. SLOANE
MARY G. FONTENOT
JOEL J. FELBER**
BRENDAN J. KENNEDY**
KOUROSH SALEHI**
LAWRENCE C. DRUCKER

DOUGLAS Q. HAHN
J. ANTHONY LOVENSHEIMER***
CHRISTOPHER PARADIES, PH.D
BRYAN N. DEMATTEO

OF COUNSEL

MARTIN PFEFFER
LEON ZITVER*
LAWRENCE A. HOFFMAN
MARTIN J. BERAN
PAUL GRANDINETTI*
JOSEPH J. ZITO*
KLAUS P. STOFFEL

*DC BAR

**CONNECTICUT BARS

***OHIO BARS

WASHINGTON OFFICE

1725 K STREET, N. W.
WASHINGTON, D.C. 20006
TEL 202 457 7785
FAX 202 429 8919

Writer's Direct Dial:
(212) 596-0561

Writer's E-Mail:
psloane@ostrolenk.com

December 30, 2003

VIA FACSIMILE AND FIRST-CLASS MAIL

(206) 405-2825

Robert E. Rohde, Esq.
Rohde & Van Kampen PLLC
1000 Second Avenue, Suite 3110
Seattle, Washington 98104-1046

Re: OFGS Ref. : 7/4000-21
Registrant : Gutmann Cutlery, Inc.
Petitioner : Cuisine Cookware, Inc.
Mark : **MARCO POLO**
Class : 8
Reg. No. : 2,335,805
Cancellation No. : 42,276
Country : United States

Dear Robert:

Thank you for your e-mail dated December 17, 2003 in the above cancellation action. Have you received the responsive documents from your client? I still have not yet received any documents responsive to our discovery requests.

I also continue to look forward to receiving the verification to the replies to our interrogatories. Verification is required by the Federal Rules of Civil Procedure.

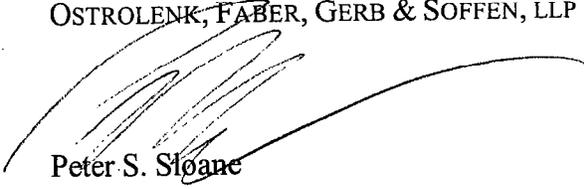
OSTROLENK, FABER, GERB & SOFFEN, LLP

Robert E. Rohde, Esq.
December 30, 2003
Page 2

If I do not receive the responsive documents by the end of next week, I will prepare a Motion to Compel and file it with the Trademark Trial and Appeal Board.

Very truly yours,

OSTROLENK, FABER, GERB & SOFFEN, LLP



Peter S. Sloane

PSS:nb

cc: Ms. Grace Ciafardini (via fax)
Robert C. Faber, Esq.

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

In re Registration No. 2,335,805
Registered March 28, 2000

-----X
CUISINE COOKWARE, INC.,
Petitioner,
v.
GUTMANN CUTLERY, INC.,
Registrant.
-----X

Cancellation No. 42,276

D

PETITIONER'S FIRST SET OF INTERROGATORIES TO REGISTRANT

Petitioner, by its attorneys, pursuant to Rule 2.120(a) of the Trademark Rules of Practice and Rule 33 of the Federal Rules of Civil Procedure, requests that Registrant answer the following interrogatories separately and fully in writing under oath within thirty (30) days after service hereof.

These interrogatories shall be deemed to be continuing and it is requested that Registrant serve upon Petitioner supplemental answers as required by Rule 26(e) of the Federal Rules of Civil Procedure.

For the convenience of the Board and counsel, it is requested that each interrogatory be set forth immediately preceding the answer thereto.

DEFINITIONS AND INSTRUCTIONS

The Definitions and Instructions set forth in Petitioner's First Set of Requests for Production of Documents and Things to Registrant, served simultaneously herewith, shall apply.

INTERROGATORIES

INTERROGATORY NO. 1.

Specify any and all period(s) of use or non-use by Registrant in commerce of the mark MARCO POLO by giving the beginning and ending dates of all such period(s) of use and non-use.

INTERROGATORY NO. 2.

For each of the periods of non-use specified in response to Interrogatory No. 1 above, provide Registrant's reasons for non-use of the mark MARCO POLO.

INTERROGATORY NO. 3.

Identify each state(s) of the United States in which Registrant is currently marketing or selling products under the mark MARCO POLO.

INTERROGATORY NO. 4.

Describe in detail all of the goods on or in connection with which Registrant is currently using the mark MARCO POLO.

INTERROGATORY NO. 5.

Describe the markets to which Registrant currently sells, distributes or renders products under the mark MARCO POLO.

INTERROGATORY NO. 6.

(a) Set forth the dates on which the mark MARCO POLO were first used by Registrant on or in connection with goods.

(b) Explain the nature of such first uses.

INTERROGATORY NO. 7.

(a) Set forth the dates on which the mark MARCO POLO were first used by Registrant on or in connection with goods offered for sale, transported or rendered in commerce.

(b) Explain the nature of such first uses in commerce.

INTERROGATORY NO. 8.

Identity each person working with or for Registrant who has been or now is responsible for the following activities in connection with the mark MARCO POLO:

- (a) sales;
- (b) advertising or promotion;
- (c) adoption, use and registration of trademarks; and
- (d) licensing, franchising or assignment of trademarks.

INTERROGATORY NO. 9.

Identify any authorizations or licenses to use the mark MARCO POLO which have been granted or received by Registrant.

INTERROGATORY NO. 10.

Set forth the approximate dollar amount of Registrant's annual sales of all goods sold or distributed under the mark MARCO POLO for each of the past five years.

INTERROGATORY NO. 11.

Set forth the approximate dollar amount of Registrant's annual expenditures on the advertising, publicity or promotion of goods sold or distributed under the mark MARCO POLO for each of the past five years.

INTERROGATORY NO. 12.

Describe through what media (i.e., television, radio, newspapers, magazines, brochures, etc.) Registrant currently advertises or promotes goods under the mark MARCO POLO.

INTERROGATORY NO. 13.

Describe the classes or types of purchasers or persons to whom Registrant currently is selling or distributing goods under the mark MARCO POLO.

INTERROGATORY NO. 14.

Describe the trade or distribution channels through which Registrant currently is selling or distributing any goods under the mark MARCO POLO.

INTERROGATORY NO. 15.

Describe the type of end users of any products sold or distributed by Registrant under the mark MARCO POLO.

INTERROGATORY NO. 16.

Identify any applications for trademark registration owned by Registrant consisting of or comprising the mark MARCO POLO.

INTERROGATORY NO. 17.

Specify the approximate retail prices of each of Registrant's goods currently sold or distributed under the mark MARCO POLO.

INTERROGATORY NO. 18.

Identify any written or unwritten plans which Registrant has to expand the line of goods for which the mark MARCO POLO is used.

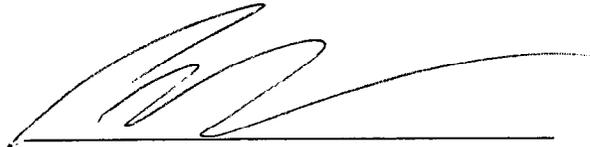
INTERROGATORY NO. 19.

Identify any assignments or other transfers of ownership of the mark MARCO POLO which are known to Registrant.

INTERROGATORY NO. 20.

Identify any and all persons who participated in any way in the preparation of responses to the Interrogatory questions set forth herein.

Dated: October 15, 2003
New York, New York



Peter S. Sloane

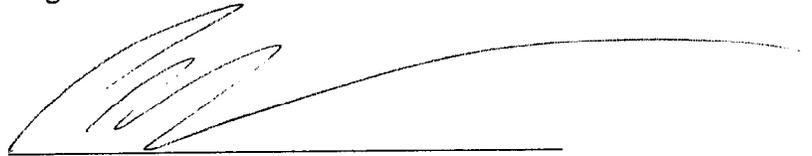
OSTROLENK, FABER, GERB & SOFFEN, LLP
1180 Avenue of the Americas
New York, New York 10036
(212) 382-0700

Attorneys for Petitioner

CERTIFICATE OF SERVICE

It is hereby certified that a true copy of the foregoing **PETITIONER'S FIRST SET OF INTERROGATORIES TO REGISTRANT** was served by First-Class mail, postage prepaid, upon counsel for Registrant, this 15th day of October, 2003, as follows:

Robert E. Rohde, Esq.
Rohe & Van Kampen PLLC
1000 Second Avenue, Suite 3110
Seattle, Washington 98104-1046

A handwritten signature in black ink, appearing to read 'Peter S. Sloane', is written over a horizontal line. The signature is stylized and cursive.

Peter S. Sloane

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

In re Registration No. 2,335,805
Registered March 28, 2000

CUISINE COOKWARE INC.,

Petitioner,

Cancellation No. 42,276

v.

GUTMANN CUTLERY, INC.,

Registrant.

E

**PETITIONER'S FIRST SET OF INTERROGATORIES TO REGISTRANT AND
ANSWERS THERETO**

Petitioner, by its attorneys, pursuant to Rule 2.120(a) of the Trademark Rules of Practice and Rule 33 of the Federal Rules of Civil Procedure, requests that Registrant answer the following interrogatories separately and fully in writing under oath within thirty (30) days after service hereof.

These interrogatories shall be deemed to be continuing and it is requested that Registrant serve upon Petitioner supplemental answers as required by Rule 26(e) of the Federal Rules of Civil Procedure.

For convenience of the Board and counsel, it is requested that each interrogatory be set forth immediately preceding the answer thereto.

DEFINITIONS AND INSTRUCTIONS

The Definitions and Instructions set forth in Petitioner's First set of Requests for Production of Documents and Things to Registrant, served simultaneously herewith, shall apply.

INTERROGATORIES

Registrant, Gutmann Cutlery, Inc. ("Registrant") hereby answers Petitioner's First Set of Interrogatories to Registrant as follows:

INTERROGATORY NO. 1.

Specify any and all period(s) of use or non-use by Registrant in commerce of the mark MARCO POLO by giving the beginning and ending dates of all such period(s) of use and non-use.

Answer

The mark has been in use continuously.

INTERROGATORY NO. 2.

For each of the periods of non-use specified in response to Interrogatory No. 1 above, provide Registrant's reasons for non-use of the mark MARCO POLO.

Answer

N/A.

INTERROGATORY NO. 3.

Identify each state(s) of the United States in which Registrant is currently marketing or selling products under the mark MARCO POLO.

Answer

MARCO POLO has been marketed to all states.

INTERROGATORY NO. 4.

Describe in detail all of the goods on or in connection with which Registrant is currently using the mark MARCO POLO.

Answer

Hunting Knife.

INTERROGATORY NO. 5.

Describe the markets to which Registrant currently sells, distributes or renders products under the mark MARCO POLO.

Answer

Cutlery and hardware stores.

INTERROGATORY NO. 6.

(a) Set forth the dates on which the mark MARCO POLO were first used by Registrant on or in connection with goods.

(b) Explain the nature of such first uses.

Answer

(a) First use date September 18, 1997

- (b) Product was sold to a customer.

INTERROGATORY NO. 7.

(a) Set forth the dates on which the mark MARCO POLO were first used by Registrant on or in connection with goods offered for sale, transported or rendered in commerce.

- (b) Explain the nature of such first uses in commerce.

Answer

See answer to Interrogatory No. 6 above.

INTERROGATORY NO. 8.

Identify each person working with or for Registrant who has been or now is responsible for the following activities in connection with the mark MARCO POLO:

- (a) sales;
- (b) advertising or promotion;
- (c) adoption, use and registration of trademarks; and
- (d) licensing, franchising or assignment of trademarks.

ANSWER

- (a) S. Balolia
- (b) S. Balolia
- (c) S. Balolia
- (d) S. Balolia

INTERROGATORY NO. 9.

Identify any authorizations or licenses to use the mark MARCO POLO which have been granted or received by Registrant.

Answer

N/A.

INTERROGATORY NO. 10.

Set forth the approximate dollar amount of Registrant's annual sales of all goods sold or distributed under the mark MARCO POLO for each of the past five years.

Answer

From 1999-2003, approximately \$12,000.00

INTERROGATORY NO. 11.

Set forth the approximate dollar amount of Registrant's annual expenditures on the advertising, publicity or promotion of goods sold or distributed under the mark MARCO POLO for each of the past five years.

Answer

The MARCO POLO knife is marketed through a catalog of many products. It is not possible to segregate and attribute specific costs to the MARCO POLO knife.

INTERROGATORY NO. 12.

Describe through what media (i.e., television, radio, newspapers, magazines, brochures, etc.) Registrant currently advertises or promotes goods under the mark MARCO POLO.

Answer

None.

INTERROGATORY NO. 13.

Describe what classes or types of purchasers or persons to whom Registrant currently is selling or distributing goods under the mark MARCO POLO.

Answer

Wholesale accounts, cutlery shops, hardware shops.

INTERROGATORY NO. 14.

Describe the trade or distribution channels through which Registrant currently is selling or distributing any goods under the mark MARCO POLO.

Answer

Dealers and Distributors.

INTERROGATORY NO. 15.

Describe the type of end users of any products sold or distributed by Registrant under the mark MARCO POLO.

Answer

Hunters, outdoorsmen, and homeowners.

INTERROGATORY NO. 16.

Identify any applications for trademark registration owned by Registrant consisting of or comprising the mark MARCO POLO.

Answer

There are no current registrations or pending applications other than this one.

INTERROGATORY NO. 17.

Specify the approximate retail prices of each of Registrant's goods currently sold or distributed under the mark MARCO POLO.

Answer

\$117.00

INTERROGATORY NO. 18.

Identify any written or unwritten plans on which Registrant has to expand the line of goods for which the mark MARCO POLO is used.

Answer

This information is confidential. As petitioner is a competitor or potential competitor of registrant, registrant objects to producing this information without a protective order.

INTERROGATORY NO. 19.

Identify any assignments or other transfers of ownership of the mark MARCO POLO which are known to Registrant.

Answer

Trademark transferred from Gutmann Cutlery to Woodstock International, Inc. See transfer paperwork.

INTERROGATORY NO. 20.

Identify any and all persons who participated in any way in the preparation of responses to the Interrogatory questions set forth herein.

Answer

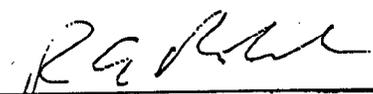
S. Balolia

Robert E. Rohde

Dated this 7th day of December 2003.

Respectfully submitted,

ROHDE & VAN KAMPEN PLLC



Robert E. Rohde
1000 Second Avenue, Suite 3110
Seattle, Washington 98104-1046
(206) 386-7353
Attorneys for Registrant, Gutmann Cutlery, Inc.