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

Proceeding	92055558
Party	Defendant Emmmanouil Kokologiannis and Sons, Societe Anonyme of Trade, Hotels And Tourism S.A. "with the business title "Scala" "Pangosmio"
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Submission	Motion to Compel Discovery
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

ECONOMY RENT-A-CAR, INC.	§	
	§	
Petitioner,	§	
	§	
v.	§	Cancellation No. 92055558
	§	
EMMANOUIL KOKOLOGIANIS AND SONS, SOCIETE ANONYME OF TRADE, HOTELS AND TOURISM S.A.	§	Registration No. 3256667
	§	
	§	
Respondent.	§	
	§	

**RESPONDENT EMM. KOKOLOGIANIS AND SONS S.A.’S MOTION TO
COMPEL ANSWERS TO INTERROGATORIES AND PRODUCTION OF
DOCUMENTS, AND MOTION FOR LEAVE TO SERVE ADDITIONAL
INTERROGATORIES EXCEEDING THE LIMIT**

Pursuant to 37 C.F.R. § 2.120, Rule 2.120 of the Trademark Rules of Practice and Federal Rule of Civil Procedure 37, Respondent Emmanouil Kokologiannis and Sons S.A. (“Kokologiannis”) hereby moves for entry of an order compelling Petitioner Economy Rent-A-Car, Inc. (“Petitioner”) to provide full and complete responses to certain of Respondent’s interrogatories and document requests. Because there is an unresolved disagreement over whether the interrogatories served by Kokologiannis have exceeded the limit of 75 or not, this motion also incorporates a motion for leave to serve interrogatories exceeding the limit, for the Board’s consideration in the event it determines that the limit is exceeded by the interrogatories that are the subject of the motion to compel. In support of this motion, Kokologiannis states as follows:

1. Discovery opened in this cancellation proceeding on August 10, 2012. On the same day, Petitioner served its initial disclosures, its first set of interrogatories (numbered 1 – 30), and its first set of document requests (numbered 1 – 35).
2. On September 10, 2012, Respondent Kokologiannis served its Initial Disclosure statement.
3. On September 12, 2012, Petitioner served a second set of interrogatories (numbered 31 – 33).
4. On September 25, 2012, Petitioner served its first set of admission requests (numbered 1 – 18).
5. On September 26, 2012, Petitioner’s counsel sent an email of 15 paragraphs of “concerns” asserting the insufficiency of Respondent’s prior responses to its document requests. During October 2012 Respondent’s counsel spent many hours to respond in detail to those concerns, including producing a memorandum of 12 single-spaced pages.
6. On October 29, 2012, Petitioner served its second set of document requests (numbered 36 – 45). Respondent Kokologiannis served its answer on December 4, 2012.
7. On November 21, 2012, Respondent Kokologiannis served its first set of interrogatories (numbered 1 – 42). Petitioner’s response was a General

Objection, served 18 days later on December 9, 2012, on the basis that the interrogatories exceeded “the number of interrogatories permitted under 37 CFR §2/120(d)(1)” [sic] “and, as such, are excessive in the absence of an Order from the Trademark Trial and Appeal Board or a stipulation by the parties.” In the email message covering the General Objection, Petitioner’s counsel stated “I am certainly prepared to discuss the basis of our objection with you, but urge that you simply re-serve a more limited set of interrogatories.”

8. Discussion by email ensued, over the question of how Petitioner’s counsel could find that Respondent’s interrogatories exceeded 75. Nominally, they were 42 plus 13 subparts. During the discussion, Petitioner’s counsel never provided a count of Respondent’s interrogatories, but did provide enough explanation to convince Respondent’s counsel that a new first set of interrogatories, more limited and specific, would have to be prepared and served.
9. The day before Petitioner’s General Objection to Respondent’s first interrogatories, Petitioner’s counsel sent an email of 9 paragraphs criticizing Kokologiannis’s answers to most of Petitioner’s second set of document requests as “incomplete and/or evasive”, and threatening a motion to compel.
10. By the time of its General Objection to Kokologiannis’s first (later withdrawn) interrogatories, Petitioner had already served the following discovery requests:

Interrogatories 1 – 39; Document Requests 1 – 63; Admissions Requests 1 – 34.

11. On December 18 and 19, 2012, Kokologiannis served its first and second sets of interrogatories, numbered 1 – 16 (plus 3 subparts) and 17 – 24 (plus 2 subparts).

12. Around December 20, 2012, counsel for the parties agreed to grant each other 30 days of additional time to respond to the discovery requests that were pending at the time. This meant that Petitioner had a total of 65 days to respond to Kokologiannis's interrogatories 1 – 24. Those responses were timely served, February 22, 2013.

13. On March 1, 2013, Petitioner served additional discovery requests: interrogatories 40 – 44, document requests 64 – 85, and admission requests 35 – 55.

14. During March and April 2013, Petitioner's counsel pressed Respondent's counsel for supplemental responses to discovery requests, by means of lengthy written demands, notably a 35-page letter received April 15, 2013. In response to the letter, Kokologiannis eventually provided supplemental responses to 19 different requests for admission, and a 5-page memorandum from its counsel, addressing Petitioner's demands concerning document production.

15. On April 4, 2013, Petitioner served additional discovery requests: document requests 86 – 90, and admission requests 56 – 98.

16. On April 26, 2013, while preparing a third (and anticipated final) set of Respondent Kokologiannis’s interrogatories, Respondent’s counsel initiated an exchange of emails with Petitioner’s counsel, concerning the “count” of interrogatories already served by Respondent. In the course of the email exchange, Petitioner’s counsel stated his belief that Kokologiannis had already served a total of 76 interrogatories. Respondent’s counsel did not agree or disagree with that count.

17. On May 7, 2013, the last day of discovery, Respondent Kokologiannis served a fourth set of interrogatories, numbered 26 – 50. That set of interrogatories is the primary subject of the present motion to compel.

18. On June 7, 2013, Petitioner served a General Objection to Kokologiannis’s fourth set of interrogatories, “on the basis that they exceed the number of interrogatories permitted under 37 CFR §2/120(d)(1)” [sic] “and, as such, are excessive in the absence of an Order from the Trademark Trial and Appeal Board or a stipulation by the parties (neither of which have been obtained by Respondent).” See attached Exhibit D. It is notable as indicative of a rote response without due consideration on the part of Petitioner’s counsel, that Petitioner’s General Objection contained the same typographical error (the slash mark in the CFR section number) that was in Petitioner’s earlier General

Objection (December 9, 2012) to Respondent's initial set of (later withdrawn) interrogatories.

19. On June 19, 2013, counsel for Kokologiannis sent a letter to Petitioner's counsel, requesting complete responses to Kokologiannis's fourth set of interrogatories, and seeking supplemental answers to Interrogatory No. 18 and Document Request No. 36. A copy of that letter is attached here as Exhibit A.
20. On June 20, 2013, Kokologiannis's counsel received a letter from Petitioner's counsel, which affirmed that Petitioner believed Kokologiannis's interrogatories exceeded the limit and indicated Petitioner would oppose any motion that Kokologiannis might file concerning the matter.
21. On June 21, 2013, Kokologiannis's counsel again wrote to Petitioner's counsel, asking that Petitioner reconsider its position. A copy of that letter is attached here as Exhibit B. On the same day, Petitioner's counsel responded by email, saying that Petitioner stood by its positions.
22. On June 24, 2013, Respondent's counsel received an email from Petitioner's counsel, advising Respondent's counsel that information and documents responsive to Kokologiannis's Interrogatory No. 18 and Document Request No. 36 had been sought from Petitioner's predecessor-in-interest by Petitioner's counsel "on at least three prior occasions", and had not been received. Petitioner's counsel further advised Respondent's counsel that "the

information and documents are most certainly not in our [sic] possession, custody or control of the Petitioner.”

23. Even from the initial Petition in this proceeding, it was evident that the factual background on the Petitioner’s side was not straightforward. Petitioner claimed priority over Respondent’s 2007 trademark registration, based on an unregistered trademark allegedly used by an unidentified predecessor-in-interest. The lack of clarity as to the scope of Petitioner’s trademark rights meant that Kokologiannis needed to use interrogatories to identify even the most fundamental bases of the petition.

24. Ambiguous language in the Petition for Cancellation made it necessary for Kokologiannis to write interrogatories that would encompass more than one interpretation of Petitioner’s stated claim. For example, paragraph 2 of the Petition stated, “Through its predecessor-in-interest and licensee, Petitioner has been rendering its vehicle rental services in California since at least as early as December of 1993 and has done so under the name or service mark ECONOMY RENT-A-CAR.” How can Petitioner claim to have been rendering its services since 1993, while Petitioner did not even exist until 2009? Are the predecessor-in-interest and the licensee one and the same? If not, then at least two interrogatories are needed in order to identify them. Is Petitioner’s claim of priority based on use of a “name”, a “service mark”, or both? Multiple interrogatories are necessary in order to understand this part of Petitioner’s claim.

25. Petitioner's Initial Disclosure statement did very little to clear the fog. The name of Petitioner's alleged predecessor-in-interest was not included therein. It was not mentioned, in the Petition itself or in the Initial Disclosure, that Petitioner was relying on its rights in the pleaded mark as a licensee, and the owner and licensor of the pleaded mark was not identified. The last name of one of the individuals "likely to have discoverable information" was misspelled, but Kokologiannis's counsel only discovered this much later, after extensive research. The address of another individual was written in an incomplete and arguably misleading format. Documents identified in the Initial Disclosure included "assignment and transfer documents conveying rights in the ECONOMY RENT-A-CAR mark to Petitioner's related companies and licensing mark to Petitioner", but Petitioner's related companies were not identified. Also listed were "Internet website materials of Petitioner's Licensor", but the Licensor was not named.

26. It turns out that at least four other companies are essential to Petitioner's claims in this proceeding. This makes it necessary for Kokologiannis to serve specific interrogatories directed to the identity and activities of each of those companies, in addition to inquiries directed to Petitioner's identity, activities, and relationships with those other companies.

27. In its first set of interrogatories, Petitioner introduced erroneous information, upon which Kokologiannis based some of its later-served interrogatories. In this way, some of Kokologiannis's interrogatories were "wasted", which would have been avoided if Petitioner had given correct information in the

first instance. One example is Petitioner's Interrogatory No. 13, which asked Kokologiannis to identify documents in its possession or control "which mention Petitioner and/or Petitioner's parent company, Proveedores y Soluciones DAC S.A." By this interrogatory (served by Petitioner August 10, 2012), Kokologiannis was led to believe that Proveedores y Soluciones DAC S.A. was the parent company of Petitioner. This turned out to be untrue, but the truth was revealed only much later, and only as a consequence of Respondent's effort to get a clear answer to its Interrogatory No. 3 (served December 18, 2012). Petitioner's answer (served February 21, 2013) to that interrogatory again referred to Proveedores as Petitioner's parent company. Respondent's counsel challenged the answer as non-responsive, and only after that (in a letter dated April 9, 2013) did Petitioner's counsel reveal that Proveedores was not the parent company of Petitioner.

28. By its answers to Kokologiannis's first two sets of interrogatories and first set of document requests, Petitioner created the need for Respondent to serve additional interrogatories in order to obtain complete responses. For example, Respondent's Interrogatory No. 6 asked Petitioner to "Describe each transfer of any rights in Petitioner's alleged trademark, identifying ... the scope of rights transferred", and Petitioner produced documents "in lieu of a written description." This left open many questions about what trademark rights were covered by each transfer. In response to document requests, Petitioner produced documents without identifying them, so that Kokologiannis would have to serve additional discovery requests to determine the significance of those documents. For example, Petitioner produced a number of photographs

that appear to demonstrate use of the mark ECONOMY RENT-A-CAR, but without identifying the location or date of the photograph.

29. Counsel for the parties have corresponded in several cycles concerning the sufficiency of each other's discovery responses. Kokologiannis believes it has fully responded to Petitioner's concerns in this regard. There remains a dispute, however, over Petitioner's inability or refusal to provide answers to Kokologiannis's Interrogatory No. 18 and Document Request No. 36. These discovery requests concern the annual numbers of car rental bookings made by Petitioner's predecessor-in-interest over the years during which Petitioner claims continuous use of its mark. If the Board grants Kokologiannis's motion to compel answers to Respondent's fourth set of interrogatories, then Respondent's Interrogatory No. 27 in that set will adequately substitute for Interrogatory No. 18, and Respondent will withdraw its motion to compel with respect to the prior interrogatory. Respondent will maintain, however, its motion to compel the production of documents in response to its request no. 36. In correspondence on this subject, Petitioner's counsel has stated that the documents were sought from Petitioner's predecessor-in-interest "on at least three prior occasions", and "[t]hat information was not received" ... "and is, therefore, not readily available to the Petitioner." Petitioner made a similar assertion in answer to Interrogatory No. 18. Petitioner has, however, been able to produce documents that were generated by its predecessor (copies of rental agreements) during the time period in question. If the historical rental agreements can be produced, Respondent does not see why the number of agreements per year cannot be known or documented. Given the crucial nature

of such documentary evidence to the issues in this proceeding, and based on the knowledge that Petitioner and its predecessor have an ongoing business relationship of licensor and licensee, Respondent Kokologiannis respectfully submits that a motion to compel is appropriate in this situation.

30. In light of Petitioner's refusal to answer Kokologiannis's fourth set of interrogatories, and taking into account the foregoing discussion of difficulties in the discovery process to date, Respondent Kokologiannis now moves to compel those answers.

31. In the event that the Board finds that Respondent's interrogatories do exceed the limit of 75, Respondent moves for leave to serve additional interrogatories exceeding the limit. Respondent respectfully submits that the complex factual background on Petitioner's side of this proceeding makes a relatively large number of interrogatories necessary and appropriate. Petitioner's claim of priority, which is at the heart of this case, cannot be evaluated without factual inquiry into the past actions of at least four other companies. Respondent has done its best to avoid superfluous discovery requests, and submits that it is preferable to get as much information as possible into the case by means of discovery, rather than relegating further inquiry to the trial phase. Petitioner's answers to Respondent's interrogatories are essential not only to the streamlining and clarification of issues for trial, but also to inform Respondent's decisions about the taking of trial testimony and attendance at trial depositions. Since both Respondent and Respondent's counsel are located

outside the United States, such decisions have a large impact on Respondent's costs.

32. Respondent also moves to compel supplemental answers to certain previous discovery requests (Interrogatory No. 18 and Document Request No. 36), where Respondent believes that Petitioner has provided incomplete and evasive responses. In the event that the Board grants Respondent's motion to compel answers to its fourth set of interrogatories, Respondent's motion to compel supplemental answers is applicable only to Document Request No. 36.

33. The information requested by this motion is clearly relevant to the present cancellation proceeding. Petitioner is challenging Kokologiannis's federally registered trademark on the basis of an unregistered mark, in which Petitioner allegedly acquired a proprietary interest from a third party. Facts relating to the history of use of that mark are central to the resolution of this dispute. Nearly all of the interrogatories in Kokologiannis's fourth set, the subject of this motion, are directed toward such inquiry.

34. Attached to this motion are copies of all four sets of interrogatories served by Respondent Kokologiannis in this proceeding (Exhibit C). Also attached are copies of Respondent's Interrogatory No. 18, Respondent's Document request No. 36, and Petitioner's answers to them (Exhibit E).

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Respectfully submitted,

**Emmanouil Kokologiannis and Sons,
Societe Anonyme of Trade, Hotels and
Tourism S.A.**

By its attorneys,

Dated: July 2, 2013

/Sharon Gobat/

John Moetteli, Esq.
Sharon Gobat, Esq., *of counsel*
Da Vinci Partners LLC
St. Leonhardstrasse 4
CH-9000 St. Gallen
Switzerland
Tel: 011 4171 230 1000

RULE 2.120(e)(2) CERTIFICATION

I hereby certify that the parties have made a good faith effort, by multiple cycles of correspondence, to resolve the issues presented in this motion and have been unable to reach agreement.

/Sharon Gobat/

Sharon Gobat, Esq., *of counsel*
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing Respondent's Motion to Compel Answers to Interrogatories and Production of Documents, and Motion for Leave to Serve Additional Interrogatories Exceeding the Limit, was served upon Counsel for the Petitioner on July 2, 2013, via email, by fax, and by Priority Mail, postage prepaid, as identified below:

Samuel D. Littlepage, Esquire
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EXHIBIT A

DICKINSON WRIGHT PLLC
Attn.: Mr. Samuel D. Littlepage
1875 Eye St. N.W.
Suite 1200
Washington, D.C. 20006-5420

Dear Samuel:

This letter is intended as a good faith request for complete responses to Registrant's discovery requests, pursuant to Trademark Rule 2.120(e)(1). Our specific requests are detailed in the following paragraphs. I respectfully request your prompt response, in view of the short time that remains for filing a Motion to Compel, should that become necessary.

Interrogatory Responses

Interrogatory Nos. 26 – 50

Petitioner has served a General Objection to Respondent's Fourth Set of Written Interrogatories (Nos. 26 – 50), asserting that they exceed the number of interrogatories permitted under 37 CFR §2.120(d)(1). Based on previous email communications from you, it is clear that your count of Respondent's Interrogatories differs greatly from our own. If we take this question to the Board, we believe that the Board will either find Respondent's Interrogatories to be within the limit, or grant our motion to serve interrogatories exceeding the limit, as well as any other motion that may be necessary in order to give effect to the Board's decision. In light of that possibility, we ask that you consider withdrawing Petitioner's General Objection and providing answers to our client's Interrogatory Nos. 26 through 50.

The dispute between us regarding the number of interrogatories served has already gone through several cycles, starting with Petitioner's General Objection to Respondent's original first set of interrogatories as being already over the limit. Our replacement of those interrogatories with a new first set does not mean we accepted your count. In the most recent iteration of this dispute, near the end of the discovery period, you asserted that with Respondent's Third Set of Interrogatories, we had already exceeded the limit. We never agreed with that assertion, either. Our service of Respondent's Fourth Set of Interrogatories, and your service of Petitioner's General Objection, are ample support for the conclusion that despite several cycles of discussion in good faith, we are at an impasse on this subject. Therefore, with regard to our prospective Motion to

Compel, we believe Respondent has already met the requirement of good faith effort to resolve the issues presented in the motion.

Interrogatory No. 18

This interrogatory requested Petitioner to “[s]et forth, on an annual basis starting in 1992, the total number of rental car bookings fulfilled in the United States under Petitioner’s alleged trademark ECONOMY RENT-A-CAR.” Petitioner objected to it “on the basis of lack of relevancy,” and without waiver of the objection, stated that “Petitioner does not know the number of fulfilled rental car bookings realized by its predecessor since 1993 and does not have that information within its possession or control (nor is it reasonably available to it).”

We respectfully submit that the claim of lack of relevancy is untenable, given that Petitioner has the burden of proving continuous use of its pleaded mark over, at a minimum, the period 2005 to 2012.

We also note that Petitioner has been able to produce numerous documents that purport to be copies of rental agreements made by Petitioner’s predecessor over a period of at least five years (see, for example, Petitioner’s responses to Respondent’s Document Request Nos. 21 and 22, Petitioner’s documents numbered P-366-418). In light of Petitioner’s access to those documents, it seems unlikely that Petitioner cannot obtain related information from its predecessor that would allow at least a reliable quantitative estimate of annual bookings fulfilled.

Our Memorandum sent to you on March 29, 2013, detailing Respondent’s demands for better or more complete answers to certain discovery requests, did not specifically criticize Petitioner’s answer to Interrogatory No. 18. However, in your letter of April 9, 2013, responding to that Memorandum, on page 2, you refer to the principle of reciprocity, concerning the disclosure of annual revenues from the sale of car rental services. Petitioner’s answer to Interrogatory No. 18 states that this “interrogatory is the equivalent of the ‘gross revenues’ inquiry made by Petitioner in its Document Request No. 14.” Registrant has disclosed and produced documents detailing its annual numbers of car rental bookings for the years 2002 through 2012. Thus Registrant believes it is entitled to a complete response to its Interrogatory No. 18 on the same subject.

Respondent’s Interrogatory No. 27, included in its Fourth Set of Written Interrogatories (currently the subject of Petitioner’s General Objection), closely resembles Interrogatory No. 18. It asks Petitioner to “[s]et forth the annual numbers of bookings fulfilled under the ECONOMY RENT-A-CAR mark by UDBC, from 1994 through 2010.” By its General Objection, Petitioner effectively refused to answer this Interrogatory. Respondent’s Document Request No. 36, similarly, asks for “Documents sufficient to demonstrate, accurately and reliably, the annual numbers of bookings fulfilled by UDBC under the ECONOMY RENT-A-CAR mark, for the years 1994 through 2010.” Petitioner answered Document Request No. 26 by stating that “Petitioner is not in possession of the requested documents.” Taken

together, these refusals to provide information that is clearly relevant in the proceeding and central to Petitioner's claim of priority amount to an unacceptable level of evasiveness. If, after further consideration, Petitioner still refuses to answer all of Respondent's discovery requests that concern annual numbers of bookings under Petitioner's pleaded mark, Respondent will have no choice but to file a Motion to Compel those answers.

Responses to Document Requests

Document Request No. 36

This request asks for "Documents sufficient to demonstrate, accurately and reliably, the annual numbers of bookings fulfilled by UDBC under the ECONOMY RENT-A-CAR mark, for the years 1994 through 2010." Petitioner answered Document Request No. 26 by stating that "Petitioner is not in possession of the requested documents." Such documents are highly relevant to support Petitioner's claim that its pleaded mark has been in continuous use during the time period relevant to Petitioner's claim of priority. Petitioner has an ongoing business relationship with its predecessor UDBC, which should enable Petitioner to at least make an inquiry as to whether responsive documents can be produced. Given the relevance of these documents and the involvement of UDBC in the factual grounding of Petitioner's claims, Respondent expects that Petitioner will, at a minimum, make an attempt to produce the requested documents. If they are not produced, and Petitioner does not explain why they cannot be produced, Respondent will interpret this as a refusal to produce the requested documents.

Document Request No. 31

In its answer to this request, "Petitioner notes that it has already produced numerous documents relating to the association of ECONOMY RENT-A-CAR with UDBC during the time period in question." Respondent requests that Petitioner identify those "numerous" documents by their Bates numbers.

Document Request No. 31 does not concern the type of "association of ECONOMY RENT-A-CAR with UDBC" that is shown on any documents so far produced by Petitioner. Instead, it concerns the association of the ECONOMY RENT-A-CAR mark in the mind of the consuming public with UDBC's vehicle rental services. If Petitioner does not have, or declines to produce, documents responsive to the request, it should so state.

Document Request Nos. 31, 32, 33, and 40

Petitioner's answer to each of these requests refers to Petitioner's Document Nos. P-333 and P-334 as being responsive to the request. These documents are purported copies of rental agreements issued by Petitioner's licensee Allied Rent-A-Car in April 2013. As such they are non-responsive to the document requests. If this is a repeated typographical error, Petitioner is requested to correct it.

Document Request No. 33

This request asks for documents that demonstrate UDBC's advertising and promotion of the ECONOMY RENT-A-CAR mark. Petitioner's answer includes, among the allegedly responsive documents, its Document Nos. "P-343 through P-345." P-343 and P-344 appear to be responsive, but P-345 is not. If this is a typographical error, Petitioner is requested to correct it.

Document Request No. 39

This request asks for "documents dated during the years 2010 through 2012, that show Petitioner has provided vehicle rental services to customers under the mark ECONOMY RENT-A-CAR." In its answer, Petitioner states that it "has previously produced representative documents demonstrating use of the ECONOMY RENT-A-CAR mark through its authorized licensees during this time period." Petitioner is requested to identify those allegedly responsive documents by their Bates numbers.

In the same answer, Petitioner states "In addition, Petitioner produces herewith Document Nos. P-343 through P-344, as well as P-433 through P-445." Document Nos. P-343 and P-344 appear to be screen prints from the web site www.yellowpages.com. These are non-responsive because (1) they are dated September 23, 2009, outside the date range of the request, and (2) they relate to the offering of vehicle rental services, not to the provision of such services. If Petitioner's designation of its Document Nos. P-343 and P-344 as responsive to the request was made in error, Petitioner is requested to correct the error.

There is an apparent error in Petitioner's statement that it "produces herewith Document Nos. P-433 through P-445." Petitioner did not produce any documents with Bates numbers greater than 435. Petitioner is requested to correct what appears to be a typographical error.

Document Request No. 40

This request asks for "copies of any Yellow Pages display advertising ... published in any Yellow Pages directory published after March 2005." Petitioner answered as follows: "See Document Nos. P-333 and 334 (as well as Document Nos. P-424 through 434)." The designation of P-333 and 334 appears to be a typographical error, which Petitioner is requested to correct (as noted above in the paragraph concerning the same error in Petitioner's answers to Document Request Nos. 31, 32, 33 and 40). Regarding Document Nos. P-424 through 434, these are non-responsive, since none of them is a copy of a published display advertisement. Petitioner is respectfully requested to either produce the requested documents, or state that it does not possess or is unable to produce any responsive documents.

Responses to Requests for Admission

Admission Request No. 67, 68, 69 and 70

This request relates to the production of “any document showing a display ad published in any print edition of the Yellow Pages after 2004 and using the ECONOMY RENT-A-CAR mark.” It asks Petitioner to admit that it “has not produced, nor will it produce,” any such document. In its answer, Petitioner asserts that it “was not requested during discovery to produce such a “print” advertisement from the Yellow Pages”. In fact, Respondent’s Document Request No. 40 asked for copies of Yellow Pages advertising paid for by UDBC and published after March 2005. To that Document Request, Petitioner’s answer was “See Document Nos. P-333 and 334 (as well as Document Nos. P-424 through 434.” Petitioner’s Document Nos. P-333 and 334 have nothing to do with advertising of any kind, but as noted above, Petitioner’s designation of these Document numbers is probably a typographical error. Document Nos. 424 through 434 are related to Yellow Pages advertising, but none of these documents is a copy of any published display advertisement.

Respondent did ask Petitioner to produce documents showing Yellow Pages display advertisements published after March 2005. Therefore, it is misleading for Petitioner to base its admission of Request No. 67 on the premise that it was not asked to produce the documents in question.

Admission Request Nos. 68, 69 and 70

These requests concern Petitioner’s Document No. P-117, which purports to be an advertising leaflet showing the use of Petitioner’s pleaded mark. Petitioner is asked to admit that it has not identified the date of printing, the quantity of printing, or the method, locations and dates of distribution for the leaflet. In its answer to each of these requests, Petitioner states, “Because Petitioner was not properly requested to identify” such attributes, “it admits this request.” Respondent did, in fact, make these requests in its Interrogatory Nos. 46, 47 and 48. Those interrogatories are part of Respondent’s Fourth Set of Written Interrogatories, to which Petitioner has served a General Objection, on the basis that they exceed the limit on the number of interrogatories permitted. The question of whether Respondent’s interrogatories have exceeded the limit is yet to be decided, and Petitioner does not have the authority to decide it. Therefore Petitioner cannot claim that it was not properly requested to identify the attributes of its Document No. P-117. Unless Petitioner answers Respondent’s Interrogatory Nos. 46, 47, and 48, Respondent can only interpret Petitioner’s answers to Admission Request Nos. 68, 69 and 70 as a refusal to identify Petitioner’s Document No. P-117.

Please let me have your response to this letter by June 25, 2013. If Petitioner decides to withdraw its General Objection to Respondent's Fourth Set of Interrogatories, we will stipulate to an extension of time to answer them. Otherwise, we will bring the matter before the TTAB in a Motion to Compel those answers.

Sincerely,

A handwritten signature in black ink, appearing to read 'Sharon Gobat', written in a cursive style.

Sharon Gobat, Esq., *Of Counsel*

EXHIBIT B

June 21, 2013

Dickinson Wright PLLC
Attn: Mr. Samuel D. Littlepage
1875 Eye St. N.W., Suite 1200
Washington, D.C. 20006-5420

Dear Samuel:

Thank you for your response to my letter, which I will refer to as my letter of June 19, 2013, even though, as you pointed out, it was undated. I apologize for the omission.

Thank you also for Petitioner's Amended Response to my client's Third set of Document Requests, which resolves many of the concerns addressed in my letter.

I wish to clear up one discrepancy between your letter of June 20, 2013 and the associated amended responses. On page 2 of your letter, you state that "Document No. 345 is believed to be responsive to Document Request No. 33 because it is part of an internet advertisement displaying UDBC's ECONOMY RENT-A-CAR trademark in 2009." I indicated in my letter of June 19 that Document No. 345 was not responsive to Document Request No. 33. It seems you must have discovered that I was correct in this statement, because Petitioner's amended response to Document Request No. 33 omits Document No. P-345. I point this out only with a view toward keeping the record straight, and to conclude that the complaint regarding non-responsiveness of Document No. P-345 is now resolved.

You have requested that if we intend to file a discovery motion, we do so "this week." Considering that we have received your request on a Thursday afternoon, it is unlikely that we will be able to prepare the motion within that time. Furthermore, we need to be sure that we have made the required good faith attempt to resolve all of the issues that will be presented in the motion. With respect to Respondent's Interrogatory Nos. 26 – 50, I trust you will agree that the burden has been met. With regard to the other outstanding matters I am not completely sure. I therefore ask you to respond as soon as you can to the following.

Interrogatory No. 18 and Document Request No. 36

This interrogatory requested Petitioner to "[s]et forth, on an annual basis starting in 1992, the total number of rental car bookings fulfilled in the United States under Petitioner's alleged trademark ECONOMY RENT-A-CAR." Petitioner objected to it "on the basis of lack of relevancy." In my letter of June 19, 2013, I

wrote, "We respectfully submit that the claim of lack of relevancy is untenable, given that Petitioner has the burden of proving continuous use of its pleaded mark over, at a minimum, the period 2005 to 2012." In your responding letter of June 20, 2013, you do not say whether or not Petitioner maintains its objection based on lack of relevancy. You refer to the demand for a response to this interrogatory as a "complaint about the absence of certain financial information." We do not agree that annual numbers of bookings constitute financial information. Further, for reasons detailed in my letter of June 19, we do not see how Petitioner can claim that it cannot obtain the requested information.

Regarding Respondent's Document Request No. 36, I note there was a typographical error in my letter of June 19, referring to it as Document Request No. 26. I will therefore repeat the pertinent part of the letter, while correcting the error. *Respondent's Document Request No. 36, similarly, asks for "Documents sufficient to demonstrate, accurately and reliably, the annual numbers of bookings fulfilled by UDBC under the ECONOMY RENT-A-CAR mark, for the years 1994 through 2010." Petitioner answered Document Request No. 26 by stating that "Petitioner is not in possession of the requested documents."*

It bears repeating, at this point, that Respondent has produced, at considerable expense of time and money, information and documents that demonstrate its annual numbers of rental car bookings.

Since we cannot be sure that the TTAB will grant our discovery motion with respect to Respondent's Fourth Set of Interrogatories (Nos. 26 – 50), we must ask again that Petitioner reconsider its position on Respondent's Interrogatory No. 18 and Document Request No. 36. In particular, we need to know whether Petitioner maintains its objection to answering Interrogatory No. 18 "on the basis of lack of relevancy". We note that Petitioner has made no objection to Document Request No. 36 on the same subject.

Conclusion

We continue to believe that Respondent is entitled to receive complete responses to the Interrogatories and Document Request discussed above. Our Motion to Compel those answers will be filed as soon as possible, provided that you first agree in writing that we have met our burden under Trademark Rule 2.120(e)(1) with respect to the good faith effort required before filing the motion.

Sincerely,



Sharon Gobat, Esq., *of counsel*

EXHIBIT C

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

<hr/>	§	
ECONOMY RENT-A-CAR INC.	§	
	§	
Petitioner,	§	
	§	
v.	§	Cancellation No. 92055558
	§	
EMMANOUIL KOKOLOGIANIS	§	Registration No. 3256667
AND SONS, SOCIETE	§	
ANONYME OF TRADE,	§	
HOTELS AND TOURISM S.A.	§	
	§	
Respondent.	§	
<hr/>	§	

RESPONDENT'S FIRST SET OF WRITTEN INTERROGATORIES

Pursuant to Rule 2.120 of the Trademark Rules of Practice, Respondent Emmanouil Kokologiannis and Sons, Societe Anonyme of Trade, Hotels and Tourism S.A. (Kokologiannis), through its undersigned counsel, hereby requests Petitioner Economy Rent-A-Car Inc. to serve upon Respondent sworn answers to the interrogatories set forth below within thirty (30) days after service thereof. These interrogatories are continuing in nature and any information which may be discovered subsequent to the service of the answers should be brought to the attention of Respondent's counsel through supplemental answers in accordance with Fed.R.Civ.P. 26(e).

These interrogatories are to be interpreted and responded to pursuant to the Definitions and Instructions set forth below.

DEFINITIONS

A. The term "Registrant" means Emmanouil Kokologiannis and Sons, Societe Anonyme of Trade, Hotels And Tourism S.A., as well as its predecessors-in-interest,

subsidiaries, parent companies, sister companies, related companies, licensees, assignees, and their officers, directors, employees, agents, representatives, and majority stockholders.

B. The term "Petitioner" means Economy Rent-A-Car Inc., the named Petitioner in the above-styled proceeding, as well as its predecessors-in-interest, subsidiaries, parent companies, sister companies, related companies, licensees, assignees, and their officers, directors, employees, agents, representatives, and majority stockholders. The term "related companies" encompasses licensees, affiliates, parent companies, licensors, predecessors-in-interest, and business entities with overlapping ownership or management, both within and outside the United States.

C. The term "Registrant's Mark" means, unless otherwise stated, the service mark which is the subject of Reg. No. 3,256,667.

D. The term "Petitioner's trademark" or "Petitioner's alleged trademark" means, unless otherwise stated, the alleged unregistered word mark "ECONOMY RENT-A-CAR" pleaded in the Petition for Cancellation in the above-styled proceeding.

E. The term "United States" means the several States of the United States, the District of Columbia, and the commonwealths, territories, and possessions of the United States. Thus the term "State" in the context of the United States also encompasses commonwealths, territories, and possessions of the United States.

F. The term "document" means any written, recorded or graphic material of any kind or description, whether sent or received or neither, and whether or not claimed to be privileged or otherwise excludable from discovery, including originals, non-identical copies, (whether different from the original because of marginal notes or other material inserted therein or attached thereto, or otherwise), drafts, and both sides thereof, and including, but not limited to, papers, letters, memoranda, notes, telephone memos, minutes, opinions, reports, contracts, agreements, licenses, correspondence, telegrams, cables, telex messages,

reports and recordings of telephone and other conversations, or other interviews, or of conferences or other meetings, affidavits, statements, summaries, diagrams, maps, photographs, drawings, sketches, specifications, blueprints, charts, graphs, indexes, bulletins or circulars, publications, articles, data sheets, electronic mail, materials maintained in electronic storage systems (including personal Internet Provider System email accounts of any officer of Petitioner), solid and floppy disks; CD-ROMS; magnetic disks and tapes, recordings and tapes, video recordings and tapes, pamphlets, brochures, advertisements, purchase orders, invoices, shipping tickets, notebooks, research reports, diaries, desk calendars, appointment books, financial ledgers and statements.

G. The term "identify", means:

(1) With respect to any person, state his or her full name, present home address, employment or business affiliation, and business address.

(2) With respect to a corporation, partnership, or other entity, state its current name, address, domicile, date and place of incorporation (if applicable), principal place of business and identify its directors (or, if applicable, partners, principal officers and those shareholders holding 25 percent or more of its capital stock).

(3) With respect to a communication, set forth the date thereof, and state whether said communication was oral or in writing. If oral, identify each party and witness thereto, the place where such communication was made (or if by telephone, the places from which, and to which, the call was made), set forth in words or substance what each party said to the other, and identify each document concerning said communication. If the communication was written, identify it (in accordance with instructions regarding identification of documents) and identify each other document concerning the same.

(4) With respect to a document, set forth the date thereof, identify each author and signatory thereof, including their corporate or official title (if any), the number of

pages, the substance thereof, the present location of the document, and, identify the custodian of the original copy thereof.

INSTRUCTIONS

A. Whenever asked in these interrogatories to "state", "describe", "explain", or "set forth" a fact, event, or allegation, you are to do so in detail, giving reasons therefor, dates and places involved, and identifying all relevant persons and documents.

B. Whenever appropriate in these interrogatories: the singular form shall be interpreted as plural and *vice-versa*; the present tense includes the past tense and *vice-versa*; and the masculine gender shall be interpreted as the feminine gender and *vice-versa*.

C. If you lack knowledge necessary to answer any of the following interrogatories herein, it should be so stated. If your response is based upon information and belief, however, it should be so stated and the grounds for said belief should be set forth (and the source of such information identified).

INTERROGATORIES

Interrogatory No. 1

Set forth the facts, including the date, and including the business purpose, concerning the formation of Petitioner as a business entity.

Answer

Interrogatory No. 2

Identify all officers and directors of Petitioner Economy Rent-A-Car, Inc., a Delaware corporation, (a) at the time of formation of the company, and (b) set forth any changes in the officers and/or directors that have occurred since the company was formed.

Answer

(a)

(b)

Interrogatory No. 3

Identify all documents that mention or evidence any relationship between Petitioner Economy Rent-A-Car, Inc., and Petitioner's alleged parent company, Proveedores y Soluciones DAC S.A.

Answer

Interrogatory No. 4

Identify the "predecessor-in-interest" in paragraph 7 of Petitioner's Amended Petition for Cancellation in the above-styled proceeding, through which Petitioner claims to have established priority of use for the unregistered word mark ECONOMY RENT-A-CAR.

Answer

Interrogatory No. 5

Identify the "predecessor-in-interest" and the "licensee", including names and addresses of the responsible individuals, officers and directors, in paragraph 2 of Petitioner's Amended Petition for Cancellation in the above-styled proceeding, through which Petitioner claims to have been "rendering its vehicle rental services in California since at least as early as December of 1993."

Answer

Interrogatory No. 6

Describe each transfer of any rights in Petitioner's alleged trademark ECONOMY RENT-A-CAR, identifying the date and the parties and the scope of rights transferred, from 1992 to the present, including any transfer of rights involving third parties.

Answer

Interrogatory No. 7

Set forth and describe individually, including date ranges by month and year, the principal uses of Petitioner's alleged trademark ECONOMY RENT-A-CAR as a trade name.

Answer

Interrogatory No. 8

Set forth, including date ranges by month and year, all uses of ECONOMY RENT-A-CAR as a service mark on internet websites that Petitioner alleges amounts to use of the service mark by Petitioner or inuring to Petitioner.

Answer

Interrogatory No. 9

Identify the business entity that first established United States trademark rights in the Petitioner's alleged mark ECONOMY RENT-A-CAR, including the company's physical address, the State of incorporation, the date of formation, its business purposes, its officers' and directors' names, and its current status.

Answer

Interrogatory No. 10

Set forth the facts supporting Petitioner's claim that United States trademark rights in the Petitioner's alleged mark ECONOMY RENT-A-CAR were established prior to 2005.

Answer

Interrogatory No. 11

Identify all ways in which Petitioner advertised, promoted and/or marketed the services identified in Petitioner's answer to Interrogatory No. 18, prior to November 2005.

Answer

Interrogatory No. 12

Identify all internet domain names owned by Petitioner and Petitioner's predecessor-in-interest, whether through private registration or not, where the domain name contains the letter string "economy" or the content displayed on the website is related to vehicle rental services.

Answer

Interrogatory No. 13

Set forth, on an annual basis starting in 1992, the total revenues obtained or realized by Petitioner from the sale of vehicle rental services under Petitioner's alleged trademark ECONOMY RENT-A-CAR, where those rentals have occurred in the State of California.

Answer

Interrogatory No. 14

Identify those persons employed by Petitioner or Petitioner's predecessor-in-interest who reside in the United States.

Answer

Interrogatory No. 15

Identify all instances of any known actual confusion occurring in the United States and related to the existence of Registrant's Mark and Petitioner's alleged trademark ECONOMY RENT-A-CAR.

Answer

Interrogatory No. 16

Identify the physical location where each of the three photographs were taken, and the approximate date of each of the three photographs, that constitute the specimen of record

dated March 23, 2010, in the United States Federal trademark Registration No. 3786010 for ECONOMY RENT-A-CAR & design, as follows:

- (a) Photograph of a van that displays both “Economy Rent a Car” and “TARGET RENT A CAR” marks;
- (b) Photograph of a display panel showing a variety of car rental companies and other tourism-related images, with 3-digit numbers to dial;
- (c) Photograph of a man and a woman standing with a car in front of a building on the façade of which is a sign displaying the mark “Economy Rent a Car” approximately as registered in Registration No. 3786010.

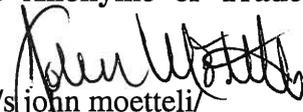
Answer

- (a)
- (b)
- (c)

###

**Emmanouil Kokologiannis and Sons,
Societe Anonyme of Trade, Hotels and Tourism
S.A.**

December 18, 2012

By:  /s/ john moeteli/

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Sharon Gobat, Esq.
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Switzerland
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Email: moeteli@davincipartners.com
Email: gobat@davincipartners.com

Counsel for Respondent

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

<hr/>	§	
ECONOMY RENT-A-CAR INC.	§	
	§	
Petitioner,	§	
	§	
v.	§	Cancellation No. 92055558
	§	
EMMANOUIL KOKOLOGIANIS	§	Registration No. 3256667
AND SONS, SOCIETE	§	
ANONYME OF TRADE,	§	
HOTELS AND TOURISM S.A.	§	
	§	
Respondent.	§	
<hr/>	§	

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing Respondent's First Set of Written Interrogatories is being served upon Counsel for the Petitioner, via email, by fax, and by Priority Mail, as identified below:

Samuel D. Littlepage, Esquire
Nicole M. Meyer, Esquire
Melissa Alcantara, Esquire
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Email: malcantara@dickinsonwright.com

Date: December 18, 2012



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

ECONOMY RENT-A-CAR INC.	§	
	§	
Petitioner,	§	
	§	
v.	§	Cancellation No. 92055558
	§	
EMMANOUIL KOKOLOGIANIS	§	Registration No. 3256667
AND SONS, SOCIETE	§	
ANONYME OF TRADE,	§	
HOTELS AND TOURISM S.A.	§	
	§	
Respondent.	§	
	§	

RESPONDENT'S SECOND SET OF WRITTEN INTERROGATORIES

Pursuant to Rule 2.120 of the Trademark Rules of Practice, Respondent Emmanouil Kokologiannis and Sons, Societe Anonyme of Trade, Hotels and Tourism S.A. (Kokologiannis), through its undersigned counsel, hereby requests Petitioner Economy Rent-A-Car Inc. to serve upon Respondent sworn answers to the interrogatories set forth below within thirty (30) days after service thereof. These interrogatories are continuing in nature and any information which may be discovered subsequent to the service of the answers should be brought to the attention of Respondent's counsel through supplemental answers in accordance with Fed.R.Civ.P. 26(e).

These interrogatories are to be interpreted and responded to pursuant to the Definitions and Instructions set forth below.

DEFINITIONS

A. The term "Registrant" means Emmanouil Kokologiannis and Sons, Societe Anonyme of Trade, Hotels And Tourism S.A., as well as its predecessors-in-interest,

subsidiaries, parent companies, sister companies, related companies, licensees, assignees, and their officers, directors, employees, agents, representatives, and majority stockholders.

B. The term "Petitioner" means Economy Rent-A-Car Inc., the named Petitioner in the above-styled proceeding, as well as its predecessors-in-interest, subsidiaries, parent companies, sister companies, related companies, licensees, assignees, and their officers, directors, employees, agents, representatives, and majority stockholders. The term "related companies" encompasses licensees, affiliates, parent companies, licensors, predecessors-in-interest, and business entities with overlapping ownership or management, both within and outside the United States.

C. The term "Registrant's Mark" means, unless otherwise stated, the service mark which is the subject of Reg. No. 3,256,667. Where the term "Registrant's Mark" is qualified by the term "in any form", it means any textual and/or figurative sign that includes the words "ECONOMY CAR RENTALS".

D. The term "Petitioner's trademark" or "Petitioner's alleged trademark" means, unless otherwise stated, the alleged unregistered word mark "ECONOMY RENT-A-CAR" pleaded in the Petition for Cancellation in the above-styled proceeding.

E. The term "United States" means the several States of the United States, the District of Columbia, and the commonwealths, territories, and possessions of the United States. Thus the term "State" in the context of the United States also encompasses commonwealths, territories, and possessions of the United States.

F. The term "document" means any written, recorded or graphic material of any kind or description, whether sent or received or neither, and whether or not claimed to be privileged or otherwise excludable from discovery, including originals, non-identical copies, (whether different from the original because of marginal notes or other material inserted therein or attached thereto, or otherwise), drafts, and both sides thereof, and including, but

not limited to, papers, letters, memoranda, notes, telephone memos, minutes, opinions, reports, contracts, agreements, licenses, correspondence, telegrams, cables, telex messages, reports and recordings of telephone and other conversations, or other interviews, or of conferences or other meetings, affidavits, statements, summaries, diagrams, maps, photographs, drawings, sketches, specifications, blueprints, charts, graphs, indexes, bulletins or circulars, publications, articles, data sheets, electronic mail, materials maintained in electronic storage systems (including personal Internet Provider System email accounts of any officer of Petitioner), solid and floppy disks; CD-ROMS; magnetic disks and tapes, recordings and tapes, video recordings and tapes, pamphlets, brochures, advertisements, purchase orders, invoices, shipping tickets, notebooks, research reports, diaries, desk calendars, appointment books, financial ledgers and statements.

G. The term "identify", means:

(1) With respect to any person, state his or her full name, present home address, employment or business affiliation, and business address.

(2) With respect to a corporation, partnership, or other entity, state its current name, address, domicile, date and place of incorporation (if applicable), principal place of business and identify its directors (or, if applicable, partners, principal officers and those shareholders holding 25 percent or more of its capital stock).

(3) With respect to a communication, set forth the date thereof, and state whether said communication was oral or in writing. If oral, identify each party and witness thereto, the place where such communication was made (or if by telephone, the places from which, and to which, the call was made), set forth in words or substance what each party said to the other, and identify each document concerning said communication. If the communication was written, identify it (in accordance with instructions regarding identification of documents) and identify each other document concerning the same.

(4) With respect to a document, set forth the date thereof, identify each author and signatory thereof, including their corporate or official title (if any), the number of pages, the substance thereof, the present location of the document, and, identify the custodian of the original copy thereof.

INSTRUCTIONS

A. Whenever asked in these interrogatories to "state", "describe", "explain", or "set forth" a fact, event, or allegation, you are to do so in detail, giving reasons therefor, dates and places involved, and identifying all relevant persons and documents.

B. Whenever appropriate in these interrogatories: the singular form shall be interpreted as plural and *vice-versa*; the present tense includes the past tense and *vice-versa*; and the masculine gender shall be interpreted as the feminine gender and *vice-versa*.

C. If you lack knowledge necessary to answer any of the following interrogatories herein, it should be so stated. If your response is based upon information and belief, however, it should be so stated and the grounds for said belief should be set forth (and the source of such information identified).

INTERROGATORIES

Interrogatory No. 17

Identify the types or nature of the documents that display Petitioner's alleged trademark ECONOMY RENT-A-CAR to customers during the period when they are renting vehicles in the United States.

Answer

Interrogatory No. 18

Set forth, on an annual basis starting in 1992, the total number of rental car bookings fulfilled in the United States (fulfilled meaning for which the cars rented were delivered to customers in the United States) under Petitioner's alleged trademark ECONOMY RENT-A-CAR.

Answer

Interrogatory No. 19

Set forth, on an annual basis starting in 1992, the total expenditures by Petitioner in the promotion or advertising of Petitioner's alleged trademark ECONOMY RENT-A-CAR to United States residents for rentals to be fulfilled (as above defined) in the United States.

Answer

Interrogatory No. 20

Of the expenditures set forth in Petitioner's answer to Interrogatory No. 19, identify those years where the promotion or advertising included the trademark that is the subject of United States Federal trademark Registration No. 3786010 for ECONOMY RENT-A-CAR & design.

Answer

Interrogatory No. 21

Set forth any time periods (by month and year) since 1992 during which use of Petitioner's alleged trademark ECONOMY RENT-A-CAR in the State of California, for the rental of vehicles located in California, was ceased or interrupted.

Answer

Interrogatory No. 22

List the States in the United States in which Petitioner claims priority, i.e. trademark rights anterior to Registrant's priority date of November 29, 2005, based on Petitioner's alleged trademark as pleaded in the above-styled proceeding.

Answer

Interrogatory No. 23

Set forth the description of services (a) offered to United States residents, and (b) rendered in the United States, under Petitioner's alleged trademark ECONOMY RENT-A-CAR, prior to November 2005.

Answer

(a)

(b)

Answer

Interrogatory No. 24

Set forth the date and describe the means by which:

(a) any person who is now an executive or principal in Economy Rent-A-Car, Inc. became aware of Registrant's Mark in any form;

(b) any person who is now an executive or principal in Petitioner's predecessor-interest became aware of Registrant's Mark in any form;

and in each case, identify the person.

Answer

(a)

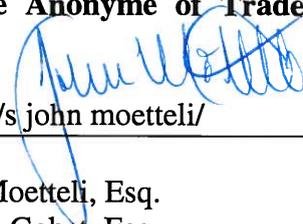
(b)

Answer

###

**Emmanouil Kokologiannis and Sons,
Societe Anonyme of Trade, Hotels and Tourism
S.A.**

December 19, 2012

By:  /s/ john moetteli/

John Moetteli, Esq.
Sharon Gobat, Esq.
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Email: gobat@davincipartners.com

Counsel for Respondent

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

<hr/>	§	
ECONOMY RENT-A-CAR INC.	§	
	§	
Petitioner,	§	
	§	
v.	§	Cancellation No. 92055558
	§	
EMMANOUIL KOKOLOGIANIS AND SONS, SOCIETE ANONYME OF TRADE, HOTELS AND TOURISM S.A.	§	Registration No. 3256667
	§	
	§	
Respondent.	§	
<hr/>	§	

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing Respondent's Second Set of Written Interrogatories is being served upon Counsel for the Petitioner, via email, by fax, and by Priority Mail, as identified below:

Samuel D. Littlepage, Esquire
Nicole M. Meyer, Esquire
Melissa Alcantara, Esquire
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Email: nmeyer@dickinsonwright.com
Email: malcantara@dickinsonwright.com

Date: December 19, 2012



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

ECONOMY RENT-A-CAR INC.	§	
	§	
Petitioner,	§	
	§	
v.	§	Cancellation No. 92055558
	§	
EMMANOUIL KOKOLOGIANIS	§	Registration No. 3256667
AND SONS, SOCIETE	§	
ANONYME OF TRADE,	§	
HOTELS AND TOURISM S.A.	§	
	§	
Respondent.	§	
	§	

RESPONDENT'S THIRD SET OF WRITTEN INTERROGATORIES

Pursuant to Rule 2.120 of the Trademark Rules of Practice, Respondent Emmanouil Kokologiannis and Sons, Societe Anonyme of Trade, Hotels and Tourism S.A. (Kokologiannis), through its undersigned counsel, hereby requests Petitioner Economy Rent-A-Car Inc. to serve upon Respondent sworn answers to the interrogatories set forth below within thirty (30) days after service thereof. These interrogatories are continuing in nature and any information which may be discovered subsequent to the service of the answers should be brought to the attention of Respondent's counsel through supplemental answers in accordance with Fed.R.Civ.P. 26(e).

These interrogatories are to be interpreted and responded to pursuant to the Definitions and Instructions set forth below.

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

ECONOMY RENT-A-CAR INC.	§	
	§	
Petitioner,	§	
	§	
v.	§	Cancellation No. 92055558
	§	
EMMANOUIL KOKOLOGIANIS AND SONS, SOCIETE ANONYME OF TRADE, HOTELS AND TOURISM S.A.	§	Registration No. 3256667
	§	
Respondent.	§	
	§	

RESPONDENT'S FOURTH SET OF WRITTEN INTERROGATORIES

Pursuant to Rule 2.120 of the Trademark Rules of Practice, Respondent Emmanouil Kokologiannis and Sons, Societe Anonyme of Trade, Hotels and Tourism S.A. (Kokologiannis), through its undersigned counsel, hereby requests Petitioner Economy Rent-A-Car Inc. to serve upon Respondent sworn answers to the interrogatories set forth below within thirty (30) days after service thereof. These interrogatories are continuing in nature and any information which may be discovered subsequent to the service of the answers should be brought to the attention of Respondent's counsel through supplemental answers in accordance with Fed.R.Civ.P. 26(e).

These interrogatories are to be interpreted and responded to pursuant to the Definitions and Instructions set forth below.

DEFINITIONS

A. The term "Registrant" means Emmanouil Kokologiannis and Sons, Societe Anonyme of Trade, Hotels And Tourism S.A., as well as its predecessors-in-interest, subsidiaries, parent companies, sister companies, related companies, licensees, assignees, and their officers, directors, employees, agents, representatives, and majority stockholders.

B. The term "Petitioner" means Economy Rent-A-Car Inc., the named Petitioner in the above-styled proceeding.

C. The term "Registrant's Mark" means, unless otherwise stated, the service mark which is the subject of Reg. No. 3,256,667.

D. The term "Petitioner's trademark" or "Petitioner's alleged trademark" means, unless otherwise stated, the alleged unregistered word mark "ECONOMY RENT-A-CAR" pleaded in the Petition for Cancellation in the above-styled proceeding.

E. The term "United States" means the several States of the United States, the District of Columbia, and the commonwealths, territories, and possessions of the United States. Thus the term "State" in the context of the United States also encompasses commonwealths, territories, and possessions of the United States.

F. The term "document" means any written, recorded or graphic material of any kind or description, whether sent or received or neither, and whether or not claimed to be privileged or otherwise excludable from discovery, including originals, non-identical copies, (whether different from the original because of marginal notes or other material inserted therein or attached thereto, or otherwise), drafts, and both sides thereof, and including, but not limited to, papers, letters, memoranda, notes, telephone memos, minutes, opinions, reports, contracts, agreements, licenses, correspondence, telegrams, cables, telex messages, reports and recordings of telephone and other conversations, or other interviews, or of conferences or other meetings, affidavits, statements, summaries, diagrams, maps,

photographs, drawings, sketches, specifications, blueprints, charts, graphs, indexes, bulletins or circulars, publications, articles, data sheets, electronic mail, materials maintained in electronic storage systems (including personal Internet Provider System email accounts of any officer of Petitioner), solid and floppy disks; CD-ROMS; magnetic disks and tapes, recordings and tapes, video recordings and tapes, pamphlets, brochures, advertisements, purchase orders, invoices, shipping tickets, notebooks, research reports, diaries, desk calendars, appointment books, financial ledgers and statements.

G. The term "identify", means:

(1) With respect to any person, state his or her full name, present home address, employment or business affiliation, and business address.

(2) With respect to a corporation, partnership, or other entity, state its current name, address, domicile, date and place of incorporation (if applicable), principal place of business and identify its directors (or, if applicable, partners, principal officers and those shareholders holding 25 percent or more of its capital stock).

(3) With respect to a communication, set forth the date thereof, and state whether said communication was oral or in writing. If oral, identify each party and witness thereto, the place where such communication was made (or if by telephone, the places from which, and to which, the call was made), set forth in words or substance what each party said to the other, and identify each document concerning said communication. If the communication was written, identify it (in accordance with instructions regarding identification of documents) and identify each other document concerning the same.

(4) With respect to a document, set forth the date thereof, identify each author and signatory thereof, including their corporate or official title (if any), the number of pages, the substance thereof, the present location of the document, and, identify the custodian of the original copy thereof.

INSTRUCTIONS

A. Whenever asked in these interrogatories to "state", "describe", "explain", or "set forth" a fact, event, or allegation, you are to do so in detail, giving reasons therefor, dates and places involved, and identifying all relevant persons and documents.

B. Whenever appropriate in these interrogatories: the singular form shall be interpreted as plural and *vice-versa*; the present tense includes the past tense and *vice-versa*; and the masculine gender shall be interpreted as the feminine gender and *vice-versa*.

C. If you lack knowledge necessary to answer any of the following interrogatories herein, it should be so stated. If your response is based upon information and belief, however, it should be so stated and the grounds for said belief should be set forth (and the source of such information identified).

ABBREVIATIONS

In these interrogatories, Registrant / Respondent may employ the following abbreviations.

ERAC	Economy Rent-A-Car, Inc., a Delaware corporation, the named Petitioner
ERAC Leasing	Economy Rent-A-Car Leasing, Inc., a Nevada corporation
UDBC	UDBC, Inc., a California corporation that is Petitioner's alleged predecessor-in-interest for Petitioner's pleaded ECONOMY RENT-A-CAR trademark
Provedores	Provedores y Soluciones DAC S.A., a Costa Rica corporation that Petitioner alleges is its licensor for certain trademark rights
P-x or P-xx or P-xxx, and ranges	Reference to Bates Numbers of Petitioner's documents produced in this proceeding

INTERROGATORIES

Interrogatory No. 26

Describe the ways in which UDBC advertised and promoted the ECONOMY RENT-A-CAR trademark from 2006 through 2010.

Answer

Interrogatory No. 27

Set forth the annual numbers of bookings fulfilled under the ECONOMY RENT-A-CAR mark by UDBC, from 1994 through 2010.

Answer

Interrogatory No. 28

Identify the owner or owners of the domain name www.lacarrentals.com from January 1999 through June 2006.

Answer

Interrogatory No. 29

Identify the owner or owners of the domain name www.lacarrentals.com from July 2006 through May 2013.

Answer

Interrogatory No. 30

Identify the owner or owners of the domain name www.economyrentacarla.com from January 1994 through May 2013.

Answer

Interrogatory No. 31

Identify the essential documents that will show UDBC's expenditures for advertising or promotion of the ECONOMY RENT-A-CAR mark from 2006 through 2010.

Answer

Interrogatory No. 32

Identify the essential documents that will demonstrate sales of vehicle rental services sold by UDBC under the ECONOMY RENT-A-CAR mark from 2006 through 2010.

Answer

Interrogatory No. 33

Describe the nature of the goodwill transferred from UDBC to Proveedores by the assignment alleged by Petitioner's document P-56-57.

Answer

Interrogatory No. 34

Identify the date (at least the month and year) of the photograph shown in Petitioner's document P-121-122, which shows an ECONOMY RENT-A-CAR sign below a larger Alpine Motors sign.

Answer

Interrogatory No. 35

Identify any documents that demonstrate Petitioner is the owner, as opposed to licensee or sub-licensee, of any mark containing the term ECONOMY.

Answer

Interrogatory No. 36

Identify the business entity behind the name Alpine Motors shown in Petitioner's document P-121-122.

Answer

Interrogatory No. 37

Identify the business entity behind the name Alpine Motors shown in Petitioner's document P-340.

Answer

Interrogatory No. 38

Identify the date ranges (by month and year) during which the ECONOMY RENT-A-CAR sign shown in P-340 was continuously present, mounted on a pole at the Van Nuys location of Petitioner's alleged predecessor-in-interest.

Answer

Interrogatory No. 39

Identify the date when the ECONOMY RENT-A-CAR sign shown in P-121-122 was first installed as shown in that document.

Answer

Interrogatory No. 40

Identify the date when the ECONOMY-RENT-A-CAR sign shown in Petitioner's document P-121-122 was purchased, and the amount actually paid for it.

Answer

Interrogatory No. 41

Identify the dimensions and material of the ECONOMY RENT-A-CAR sign shown in Petitioner's document P-121-122.

Answer

Interrogatory No. 42

Explain why it was Proveedores, and not Petitioner, that acquired the alleged ECONOMY RENT-A-CAR mark from UDBC by means of the assignment allegedly demonstrated by Petitioner's document P-56-57.

Answer

Interrogatory No. 43

Explain why it was BLT Consulting, LLC, an Oklahoma limited liability company, and not Petitioner or Proveedores, that acquired from UDBC a license and option to sell UDBC's alleged ECONOMY RENT-A-CAR service mark, under the agreement allegedly demonstrated by Petitioner's document P-51-53.

Answer

Interrogatory No. 45

Set forth Petitioner's annual expenses from 2009 through 2012 for advertising and promotion of its services, and identify the categories of products or services paid for, and the type of recipient, and whether that recipient is a related company.

Answer

Interrogatory No. 46

Set forth the dates and quantities of printing for the document, apparently an advertising flyer, that is Petitioner's document P-117.

Answer

Interrogatory No. 47

Set forth the date ranges and methods of distribution for the document, apparently an advertising flyer, that is Petitioner's document P-117.

Answer

Interrogatory No. 48

Describe the geographic boundaries of distribution for the document, apparently an advertising flyer, that is Petitioner's document P-117.

Answer

Interrogatory No. 49

Identify the services that Petitioner itself provides under the mark ECONOMY RENT-A-CAR, if any, as opposed to the services provided through Petitioner's licensees.

Answer

Interrogatory No. 50

Identify the major expense categories of Petitioner's business (e.g. salaries & benefits, advertising & promotions, commissions paid to other companies, rent for business premises,

IT infrastructure, etc.), during the period 2010 through 2012, in descending order of magnitude for the category.

Answer

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**Emmanouil Kokologiannis and Sons,
Societe Anonyme of Trade, Hotels and Tourism
S.A.**

May 7, 2013

By: /sharon gobat/

John Moetteli, Esq.
Sharon Gobat, Esq.
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Switzerland
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Email: gobat@davincipartners.com

Counsel for Respondent

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

<hr/>	§	
ECONOMY RENT-A-CAR INC.	§	
	§	
Petitioner,	§	
	§	
v.	§	Cancellation No. 92055558
	§	
EMMANOUIL KOKOLOGIANIS	§	Registration No. 3256667
AND SONS, SOCIETE	§	
ANONYME OF TRADE,	§	
HOTELS AND TOURISM S.A.	§	
	§	
Respondent.	§	
<hr/>	§	

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing Respondent's Fourth Set of Written Interrogatories is being served upon Counsel for the Petitioner, via email, by fax, and by Priority Mail, as identified below:

Samuel D. Littlepage, Esquire
Nicole M. Meyer, Esquire
Melissa Alcantara, Esquire
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Email: nmeyer@dickinsonwright.com
Email: malcantara@dickinsonwright.com

Date: May 7, 2013

/sharon gobat/

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

<hr/>	§	
ECONOMY RENT-A-CAR INC.	§	
	§	
Petitioner,	§	
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	§	
EMMANOUIL KOKOLOGIANIS	§	Registration No. 3256667
AND SONS, SOCIETE	§	
ANONYME OF TRADE,	§	
HOTELS AND TOURISM S.A.	§	
	§	
Respondent.	§	
<hr/>	§	

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Samuel D. Littlepage, Esquire
Nicole M. Meyer, Esquire
Melissa Alcantara, Esquire
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Email: nmeyer@dickinsonwright.com
Email: malcantara@dickinsonwright.com

Date: May 7, 2013

/Emily Baldwin-Walker/

DEFINITIONS

A. The term "Registrant" means Emmanouil Kokologiannis and Sons, Societe Anonyme of Trade, Hotels And Tourism S.A., as well as its predecessors-in-interest, subsidiaries, parent companies, sister companies, related companies, licensees, assignees, and their officers, directors, employees, agents, representatives, and majority stockholders.

B. The term "Petitioner" means Economy Rent-A-Car Inc., the named Petitioner in the above-styled proceeding.

C. The term "Registrant's Mark" means, unless otherwise stated, the service mark which is the subject of Reg. No. 3,256,667.

D. The term "Petitioner's trademark" or "Petitioner's alleged trademark" means, unless otherwise stated, the alleged unregistered word mark "ECONOMY RENT-A-CAR" pleaded in the Petition for Cancellation in the above-styled proceeding.

E. The term "United States" means the several States of the United States, the District of Columbia, and the commonwealths, territories, and possessions of the United States. Thus the term "State" in the context of the United States also encompasses commonwealths, territories, and possessions of the United States.

F. The term "document" means any written, recorded or graphic material of any kind or description, whether sent or received or neither, and whether or not claimed to be privileged or otherwise excludable from discovery, including originals, non-identical copies, (whether different from the original because of marginal notes or other material inserted therein or attached thereto, or otherwise), drafts, and both sides thereof, and including, but not limited to, papers, letters, memoranda, notes, telephone memos, minutes, opinions, reports, contracts, agreements, licenses, correspondence, telegrams, cables, telex messages, reports and recordings of telephone and other conversations, or other interviews, or of conferences or other meetings, affidavits, statements, summaries, diagrams, maps,

photographs, drawings, sketches, specifications, blueprints, charts, graphs, indexes, bulletins or circulars, publications, articles, data sheets, electronic mail, materials maintained in electronic storage systems (including personal Internet Provider System email accounts of any officer of Petitioner), solid and floppy disks; CD-ROMS; magnetic disks and tapes, recordings and tapes, video recordings and tapes, pamphlets, brochures, advertisements, purchase orders, invoices, shipping tickets, notebooks, research reports, diaries, desk calendars, appointment books, financial ledgers and statements.

G. The term "identify", means:

(1) With respect to any person, state his or her full name, present home address, employment or business affiliation, and business address.

(2) With respect to a corporation, partnership, or other entity, state its current name, address, domicile, date and place of incorporation (if applicable), principal place of business and identify its directors (or, if applicable, partners, principal officers and those shareholders holding 25 percent or more of its capital stock).

(3) With respect to a communication, set forth the date thereof, and state whether said communication was oral or in writing. If oral, identify each party and witness thereto, the place where such communication was made (or if by telephone, the places from which, and to which, the call was made), set forth in words or substance what each party said to the other, and identify each document concerning said communication. If the communication was written, identify it (in accordance with instructions regarding identification of documents) and identify each other document concerning the same.

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INSTRUCTIONS

A. Whenever asked in these interrogatories to "state", "describe", "explain", or "set forth" a fact, event, or allegation, you are to do so in detail, giving reasons therefor, dates and places involved, and identifying all relevant persons and documents.

B. Whenever appropriate in these interrogatories: the singular form shall be interpreted as plural and *vice-versa*; the present tense includes the past tense and *vice-versa*; and the masculine gender shall be interpreted as the feminine gender and *vice-versa*.

C. If you lack knowledge necessary to answer any of the following interrogatories herein, it should be so stated. If your response is based upon information and belief, however, it should be so stated and the grounds for said belief should be set forth (and the source of such information identified).

INTERROGATORIES

Interrogatory No. 25

If Petitioner denies, in whole or in part, any of the admission requests in Respondent's First Request for Admissions in this proceeding, set forth the fact basis for each such denial.

Answer

#

**Emmanouil Kokologiannis and Sons,
Societe Anonyme of Trade, Hotels and Tourism
S.A.**

February 22, 2013

By: /sharon gobat/

John Moetteli, Esq.
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Email: gobat@davincipartners.com

Counsel for Respondent

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

<hr/>	§	
ECONOMY RENT-A-CAR INC.	§	
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Petitioner,	§	
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ANONYME OF TRADE,	§	
HOTELS AND TOURISM S.A.	§	
	§	
Respondent.	§	
<hr/>	§	

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing Respondent's Third Set of Written Interrogatories is being served upon Counsel for the Petitioner, via email, by fax, and by Priority Mail, as identified below:

Samuel D. Littlepage, Esquire
Nicole M. Meyer, Esquire
Melissa Alcantara, Esquire
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Email: malcantara@dickinsonwright.com

Date: February 22, 2013

/sharon gobat/

EXHIBIT D

ECONOMY RENT-A-CAR INC.

June 7, 2013

By:



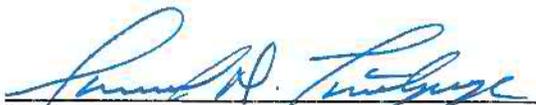
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Email: nmeyer@dickinsonwright.com
Email: malcantara@dickinsonwright.com

Counsel For Petitioner

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing **PETITIONER'S GENERAL OBJECTION TO RESPONDENT'S FOURTH SET OF WRITTEN INTERROGATORIES** was served this 7th day of June, 2013, upon Respondent's counsel of record, *via* fax transmission and first class mail, postage prepaid, as identified below:

John Motteli
Sharon Gobat
Da Vinci Partners LLC
St. Leonhardstrasse 4
CH-9000 St. Gallen
Switzerland
Fax: +41 71 230 1001



Samuel D. Littlepage, Esquire
Counsel for Petitioner

EXHIBIT E

RESPONDENT'S INTERROGATORY NO. 18 AND PETITIONER'S ANSWER

Interrogatory No. 18

Set forth, on an annual basis starting in 1992, the total number of rental car bookings fulfilled in the United States under Petitioner's alleged trademark ECONOMY RENT-A-CAR.

Answer

This interrogatory is objected to on the basis of lack of relevancy. The interrogatory is the equivalent of the "gross revenues" inquiry made by Petitioner in its Document Request No. 14-which Registrant objected to on the basis of irrelevancy. Without waiver of the aforesaid objection, Petitioner does not know the number of fulfilled rental car bookings realized by its predecessor since 1993 and does not have that information within in its possession or control (nor is it reasonably available to it). Petitioner itself has fulfilled at least 812 bookings in the Los Angeles area under the ECONOMY RENT-A-CAR mark during the past two years.

RESPONDENT'S DOCUMENT REQUEST NO. 36 AND PETITIONER'S ANSWER

Document Request No. 36:

Documents sufficient to demonstrate, accurately and reliably, the annual numbers of bookings fulfilled by UDBC under the ECONOMY RENT-A-CAR mark, for the years 1994 through 2010.

Answer:

Petitioner is not in possession of the requested documents.