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Filing date: **11/29/2013**

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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Date	11/29/2013
Attachments	2013-11-29-motion-serve-additional-interrogatories.pdf(96360 bytes) 2013-11-29-motion-Annex-1-interrogatories-sets-1-3.pdf(372067 bytes) 2013-11-29-motion-Annex-2-proposed-interrogatories-set-4.pdf(131468 bytes)

**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 EMM. KOKOLOGIANIS AND SONS S.A.’S MOTION FOR
LEAVE TO SERVE ADDITIONAL INTERROGATORIES EXCEEDING THE
LIMIT**

Respondent Emmanouil Kokologiannis and Sons S.A. (“Kokologiannis”) hereby moves for leave to serve interrogatories exceeding the limit of 75. In support of this motion, Kokologiannis states as follows:

1. Under Trademark Rule 2.120 (d)(1), the “total number of written interrogatories which a party may serve ... shall not exceed seventy-five, counting subparts, except that the Trademark Trial and Appeal Board, in its discretion, may allow additional interrogatories upon motion therefor showing good cause.”

2. By the Board’s count, according to the decision issued November 4, 2013 on Respondent’s motion to compel answers to its fourth set of interrogatories,

Respondent has propounded sixty (60) interrogatories through its third set of interrogatories.

3. The need for a number of interrogatories exceeding 75 results from the combined effect of two things: (1) complexity of the factual background underlying Petitioner's claims; and (2) ambiguity and misinformation in Petitioner's initial disclosures and responses to discovery requests.
4. 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.
5. 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.

6. Petitioner's Initial Disclosure statement did not include the name of Petitioner's alleged predecessor-in-interest. 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 and otherwise unnecessary, costly research. The address of another potentially critical individual witness 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*. Each of these omissions required one or more otherwise unnecessary interrogatories from the Respondent, and, after review of the disclosure material, waiting for Petitioner's responses before being able to make any real progress toward understanding the basis for Petitioner's claims.

7. Due to the complexity of Petitioner's business organization, it turns out that at least four other companies are essential to Petitioner's claims in this proceeding. This complexity 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.

8. 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 *expressly told (and therefore led to believe)* that Proveedores y Soluciones DAC S.A. was the parent company of Petitioner. This turned out to be untrue (at least Petitioner now says it is untrue), but the alleged truth (i.e., the clarification of the false and misleading information) 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 state (in contradiction to its

earlier express and unequivocal assertions) that Proveedores was not the parent company of Petitioner.

9. 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 merely produced documents "in lieu of a written description." This half-answer left open many questions about what trademark rights were covered by each transfer.

10. 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 locations or dates of the photographs. Petitioner's claim of priority in this case depends on continuous use of its alleged unregistered mark, so the dates and locations of such photographs are highly relevant.

11. 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, unless the Board deems the Petitioner's conduct described in this motion to be grounds for *sua sponte*

dismissal of this cancellation petition. 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, namely, UDBC, Inc., Economy Rent-A-Car Leasing, Inc., BLT Consulting, LLC, and Proveedores y Soluciones DAC S.A.. Furthermore, research on behalf of Respondent has shown that several other business entities are implicated in the historical use of Petitioner's alleged trademark. These entities include A & M Rent-A-Car, Ugly Duckling Rent-A-Car, Robin Hood Rent-A-Car, and an entity doing business as Alpine Motors. Each of them is the subject of one or more interrogatories included in Respondent's fourth set of interrogatories, the subject of this motion. 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.

12. 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. If Respondent is permitted to serve only 75 interrogatories, it will be necessary to "triage" Respondent's final set of interrogatories. Some issues that could have been clarified may remain poorly defined. Respondent will likely be forced to choose between doing without some essential facts, and

attempting to obtain those facts through testimony depositions later, at considerable expense.

13. 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.

14. Attached to this motion are copies of the three prior sets of interrogatories served by Respondent Kokologiannis in this proceeding (Annex 1), and a copy of the fourth set of interrogatories proposed to be served (Annex 2).

###

Respectfully submitted,

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

By its attorneys,

Dated: November 29,
2013

/Sharon Gobat/

John Moetteli, Esq.
Sharon Gobat, Esq., *of counsel*
Da Vinci Partners LLC
(new address below)
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing Respondent's Motion for Leave to Serve Additional Interrogatories Exceeding the Limit, was served upon Counsel for the Petitioner on November 29, 2013, via email, by fax, and by mail or courier, postage prepaid, as identified below:

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Date: November 29, 2013

/Sharon Gobat/

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ANNEX 1

**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 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.

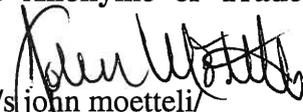
Answer

- (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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Counsel for Respondent

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
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ECONOMY RENT-A-CAR INC.	§	
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AND SONS, SOCIETE	§	
ANONYME OF TRADE,	§	
HOTELS AND TOURISM S.A.	§	
	§	
Respondent.	§	
	§	

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:

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Nicole M. Meyer, Esquire
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Date: December 18, 2012



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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.

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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)

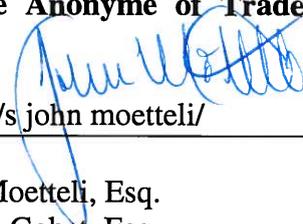
(b)

Answer

###

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

December 19, 2012

By:  /s/ john moetteli/

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Sharon Gobat, Esq.
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Tel: 011 4171 230 1000
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Email: moetteli@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 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:

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Nicole M. Meyer, Esquire
Melissa Alcantara, Esquire
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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.

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).

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/

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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 KOKOLOGIANNIS	§	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 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
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Date: February 22, 2013

/sharon gobat/

ANNEX 2

**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 KOKOLOGIANNIS 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 and original 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

Identify the business entity doing business historically as A & M Rent-A-Car at the location 7256 Sepulveda Blvd, Van Nuys, California, and having a 1996 San Fernando Valley Yellow Pages advertisement at that address, with the telephone number 901-1828.

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 business entity doing business historically as Ugly Duckling Rent-A-Car at the location 7256 Sepulveda Blvd, Van Nuys, California, and having a 1993 and 1994 San Fernando Valley West Yellow Pages advertisement at that address, and with the telephone number 901-1828.

Answer

Interrogatory No. 41

Identify the business entity doing business historically as Robin Hood Rent-A-Car at the location 7256 Sepulveda Blvd, Van Nuys, California, and having a 1995 San Fernando

Valley West Yellow Pages advertisement at that address, with the telephone number 901-1828.

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. 44

Set forth Petitioner's annual expenses from 2009 through 2012 for advertising and promotion of its services under the ECONOMY RENT-A-CAR mark.

Answer

Interrogatory No. 45

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. 46

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. 47

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

Answer

Interrogatory No. 48

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. 49

Identify any documents that would evidence publication of display advertising in the San Fernando Valley Yellow Pages print edition, displaying the mark or trade name ECONOMY RENT-A-CAR, published in the year 2003 or in any year 2005 through 2012.

Answer

###

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

November 29, 2013

By: /sharon gobat/

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