

ESTTA Tracking number: **ESTTA562281**

Filing date: **09/30/2013**

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

Proceeding	92055795
Party	Plaintiff Terrence Hastings
Correspondence Address	JESS M COLLEN COLLEN IP INTELLECTUAL PROPERTY LAW PC THE HOLYOKE-MANHATTAN BUILDING, 80 SOUTH HIGHLAND AVENUE OSSINING, NY 10562 UNITED STATES jcollen@collenip.com, docket@collenip.com, pmulhern@collenip.com
Submission	Motion to Compel Discovery
Filer's Name	Govinda M. Davis
Filer's e-mail	gdavis@collenip.com, pmulhern@collenip.com, docket@collenip.com
Signature	/Govinda M. Davis/
Date	09/30/2013
Attachments	N1407 Motion to Compel REDACTED.pdf(4904332 bytes)

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

In the matter of Trademark Registration No. 4,122,970
For the Mark: E.F. HUTTON
Date registered: April 3, 2012

In the matter of Trademark Registration No. 4,126,754
For the Mark: EF HUTTON and Design
Date registered: April 10, 2012

_____)
TERRENCE HASTINGS,)
) Consolidated Cancellation No. 92055795
)
Petitioner,)
)
v.)
)
E.F. HUTTON GROUP, INC.,)
)
Respondent.)
_____)

Trademark Trial and Appeal Board
Commissioner for Trademarks
PO Box 1451
Alexandra, Virginia 22313-1451

**PETITIONER'S MOTION TO COMPEL THE DISCOVERY DEPOSITION OF
ERIC J. VON VORYS**

Petitioner, Terrence Hastings, through his undersigned counsel, pursuant to 37 C.F.R. §§ 2.120(e) and 2.127, seeks to compel the deposition of Eric J. Von Vorys, the individual who signed the Respondent's Statements of Use in connection with the U.S. Trademark Registrations that are the subject of this cancellation proceeding. Petitioner respectfully requests disposition of this Motion by telephone conference between the Board and counsel. Additionally, Petitioner moves the Board to suspend the proceeding

while it resolves this outstanding Motion to Compel.

Preliminary Statement

This motion presents an issue of the fundamental right to take discovery in proceedings before the Trademark Trial and Appeal Board: namely, whether the signatory/declarant of a Statement of Use filed pursuant to 37 C.F.R. § 2.88 can be deposed with regard to the truth of the factual statements contained therein. Petitioner respectfully submits that his ability to depose the declarant as an essential right afforded under the Federal Rules of Evidence and Trademark Rules of Practice -- particularly here, where Petitioner alleges fraud on the Trademark Office and/or other deliberate malfeasance in the creation and filing of the subject specimens and statements of use.

Petitioner Has Made a Good Faith Attempt to Resolve this Dispute Prior to Filing this Motion to Compel

On July 12, 2013, Petitioner noticed Von Vorys's deposition pursuant to Federal Rule of Civil Procedure 30(b)(1). Rather than file a motion to quash the discovery deposition, Mr. Von Vorys stated that he would not appear and that his role as an attorney in this case has made him immune from having to appear at the deposition. Petitioner has made a good-faith attempt to resolve this dispute prior to bring this motion pursuant to Trademark Rule 2.120(e)(1) and TBMP § 523.02. *See*, correspondence between the parties attached hereto and incorporated herein as "Exhibit A."

Background

This is an action for cancellation based upon fraud and related causes of action in the filing of Statements of Use in connection with U.S. Reg. No. 4122970 of E.F. HUTTON and 4126754 of EF HUTTON and Design. The sworn Statements of Use in the applications leading to registrations of those marks were signed by Respondent's attorney, Eric Von Vorys. The Statements of Use are annexed hereto and incorporated herein as "Exhibit B." Mr. Von Vorys is the attorney for both the original applicant, Dominant Brands, and Respondent (the current owner of the subject registrations by assignment). Dominant Brands and Respondent are controlled by Mr. Von Vorys' client, Christopher Daniels, and have has filed numerous other applications for historical brands such as TWA, Bank of Boston, Salomon Brothers, and First Boston. *See* Petition to Cancel at ¶ 7, *see also*, Deposition of Mr. Christopher Daniels pages 25-27 attached hereto and incorporated herein as "Exhibit C."

In this action, Petitioner has *inter alia*, challenged the veracity of the Specimens, and validity of the Statements of Use filed with the Trademark Office. Relevant allegations in this matter include:

- "E.F. Hutton & Company, Inc.," the entity that allegedly sponsored the advertisement contained in the specimen, was not incorporated at the time the specimen was published and the Statement of Use filed on January 18, 2012. Petition to Cancel at ¶¶ 20-21.
- The applicant, Dominant Brands LLC, was not using the subject marks on any and/or all of the related services set forth in the identification of services at the time the specimen was published and the Statements of use filed on January 18, 2012. *Id.* at ¶¶ 29-40.
- The Applicant improperly used the ® symbol in connection with the EF Hutton and Design mark that appeared in the Specimen of Use, the identical design mark that was the subject of inactive U.S. Reg. 1,581,877 of EF HUTTON and Design

owned by the original E.F. Hutton & Company, Inc. *Id.* ¶ 41.

In addition, Petitioner has discovered that backpage.com, the free internet classified in which the specimens of use were advertised, has been investigated and cited by the Association of Attorneys General as one of the leading sex trafficking websites in the United States. This fact is germane to whether the Applicant has submitted bona fide proof of use and had bona fide use of the mark at the time of the filing of the Statements of Use. *See*, TMEP 901.02.

Argument

I. Mr. Von Vorys Is A Relevant Witness to Support Petitioner's Claims of Fraud and Related Causes of Action

Statements regarding the use of a mark on applied for goods and/or services are material to the issuance of a registration. *See, Hachette Phillipacchi Presse v. Elle Belle, LLC* 85 USPQ2d 1090 (TTAB 2007). The requirements for the signing of a Statement of Use are found in 37 C.F.R. § 2.88(b), which states, in relevant part:

A complete statement of use must include:

(1) A statement that is signed and verified (sworn to) or supported by a declaration under § 2.20 by a person properly authorized to sign on behalf of the applicant (*see* § 2.193(e)(1)) that:

(i) The applicant believes it is the owner of the mark; and

(ii) The mark is in use in commerce, specifying the date of the applicant's first use of the mark and first use of the mark in commerce on or in connection with the goods or services identified in the notice of allowance, and setting forth or incorporating by reference those goods/services identified in the notice of allowance on or in connection with which the mark is in use in commerce.

As the declarant in the Statements of Use of the subject trademark applications, Mr.

Von Vorys attested to the existence of facts necessary to establish the statutory requirements for registration. As the declarant under 37 C.F.R. § 2.20, Mr. Von Vorys had an obligation to verify that “all statements made of his/her own knowledge are true; and all statements made on information and belief are believed to be true.”

In a similar case where the attorney signed the Statement of Use, the Board reasoned as follows:

Even if Xel’s attorney was signing the statement of use based on information and belief, he was clearly in a position to know (or to inquire) as to the truth of the statements providing reason to believe. Statements under oath are made with a degree of solemnity requiring thorough investigation prior to signature and submission to the USPTO.

See, Herbaceuticals, Inc. v. Xel Herbaceuticals, Inc., 86 USPQ2d 1572 (TTAB 2008) (citations omitted), see *also*, Model Rule of Professional Conduct 3.3, see *also*, *In re Brainybrawn.Com, Inc.*, 2002 TTAB LEXIS 406, *15-17 (TTAB June 26, 2002) (“Consequently, if the declaration accompanying the statement of use is signed by an attorney, then it is the attorney who additionally must be the declarant and make the averments required by Trademark Rule 2.88(b)(1); plainly, an attorney may not verify statements if the attorney has no personal knowledge, which is the case herein as applicant's attorney candidly admits.”)

As the declarant in the Statements of Use, Mr. Von Vorys is a relevant fact witness on the issue of the veracity of the factual, material representations made in support of the subject registrations. This is not a case where the witness’s testimony is tangential to the proceeding; indeed, it is central to the Petitioner’s case to support whether the subject registrations should be cancelled for fraud and/or the intentional filing of false statements

with the Trademark Office.

II. Petitioner Has No Other Means Exist To Obtain the Information Sought From Mr. Von Vorys' Testimony

Respondent's President, Christopher Daniels, testified that he did not have any knowledge as to the factual bases for Mr. Von Vorys's statements filed pursuant to 37 C.F.R. § 2.20. *See*, Deposition of Mr. Christopher Daniels pages 91-92, attached hereto and incorporated herein as "Exhibit D." This fact further substantiates the need for the oral deposition testimony of Mr. Von Vorys. While Mr. Von Vorys is not apparently a shareholder, the company's stock directory shows that he hold shares of stock for his children. *See*, Deposition of Mr. Christopher Daniels pages 141-144, attached hereto and incorporated herein as "Exhibit E."

Petitioner has attempted to proceed in the least invasive manner. Petitioner's is pursuit of this testimony from counsel is due to the fact that counsel has chosen to interject himself as a fact witness. The Notice of Deposition only seeks a limited deposition, taken by telephone, with regard to facts only known by Mr. Von Vorys.

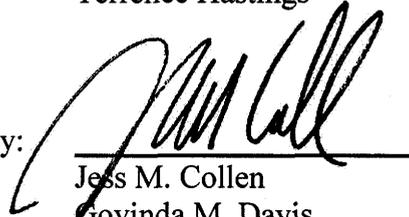
CONCLUSION

Respondent respectfully submits requests that the Board issue an order compelling Mr. Von Vorys to appear for discovery testimony as a necessary fact witness in the above-mentioned proceeding for the purpose of testifying as it relates to the circumstances surrounding his signing and filing the Statements of Use for the trademark registrations that are the subject of this proceeding. Petitioner further requests that all trial

testimony dates and subsequent dates be suspended pending disposition of this motion.

Respectfully submitted for,
Terrence Hastings

By:



Jess M. Collen

Govinda M. Davis

COLLEN IP

The Holyoke-Manhattan Building

80 South Highland Avenue

Ossining, New York 10562

Tel.: (914) 941-5668

Fax: (914) 941-6091

jcollen@collenip.com

gdavis@collenip.com

Attorneys for Petitioner

Dated: September 30, 2013

CERTIFICATE OF SERVICE

I, Govinda M. Davis, hereby certify that on September 30, 2013, I caused a true and correct copy of the foregoing **Motion to Compel** to be filed with the Trademark Trial and Appeal Board and served via first class mail, postage pre-paid, upon the following counsel of record:

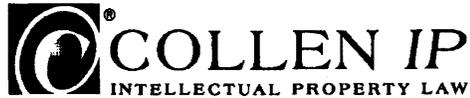
Shulman Rogers Gandal Pordy & Ecker, P.A.
12505 Park Potomac Ave Fl 6
Potomac, MD 20854-6803
Attention: Mr. Eric J. Von Vorys



A handwritten signature in black ink, appearing to read "Govinda", is written over a horizontal line.

EXHIBIT A

Terrence Hastings v. E.F. Hutton Group, Inc.
U.S. Trademark Consolidated Cancellation No. 92055795 against Registration Nos. 4,122,970
and 4,126,754
Petitioner's Exhibit to his Motion to Compel the Discovery Deposition of Eric J. Von Vorys



Telephone (914) 941-5668
Facsimile (914) 941-6091
www.collenIP.com
E-mail: gdavis@collenIP.com

July 12, 2013

BY FIRST CLASS MAIL

Shulman Rogers Gandal Pordy & Ecker, P.A.
12505 Park Potomac Avenue, 6th Floor
Potomac, MD 20854
Attention: Eric Von Vorys, Esq.

RE: U.S. Trademark Consolidated Cancellation No. 92055795
Terrence Hastings v. E.F. Hutton Group, Inc.
Our Reference : N1407

Dear Mr. Von Vorys:

Enclosed please find Notices of Deposition for Frank Campanale, Christopher Daniels and yourself regarding the above-mentioned matter.

Very truly yours,
COLLEN IP


Govinda M. Davis

GMD:mcm

Enclosures: Notice of Depositions of Frank Campanale, Eric Von Vorys, and Christopher Daniels

N1407_Letter to Mr. Von Vorys enclosing deposition notices_130712

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

In the matter of Trademark Registration No. 4,122,970
For the Mark: E.F. HUTTON
Date registered: April 3, 2012

In the matter of Trademark Registration No. 4,126,754
For the Mark: EF HUTTON and Design
Date registered: April 10, 2012

TERRENCE HASTINGS,)	
)	Consolidated Cancellation No. 92055795
)	
Petitioner,)	
)	
v.)	
)	
E.F. HUTTON GROUP, INC.,)	
)	
Respondent.)	

NOTICE OF DEPOSITION PURSUANT TO FED. R. CIV. P. 30(b)(1)

To: Frank Campanale, Director, E.F. Hutton Group, Inc. & President, E.F. Hutton & Company, Inc.
c/o E.F. Hutton Group, Inc.
77 Water Street, 7th Floor
New York, New York 10005

c/o
Eric J. Von Vorys, Esq.
Shulman Rogers Gandal Pordy & Ecker, P.A.
12505 Park Potomac Ave Fl 6
Potomac, MD 20854

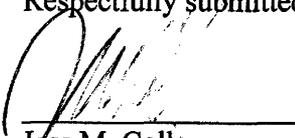
PLEASE TAKE NOTICE that, pursuant to Rule 30(b)(1) of the Federal Rules of Civil Procedure, on July 30, 2013, at 10:00 am at the offices of Collen IP, The Holyoke-Manhattan Building, 80 South Highland Avenue, Ossining, New York 10562, or another mutually agreed-

upon location, Petitioner, Terrence Hastings, will take the deposition upon oral examination of Frank Campanale, an individual in the employ of Respondent E.F. Hutton Group, Inc.

PLEASE TAKE FURTHER NOTICE, pursuant to Rule 30(b)(3) of the Federal Rules of Civil Procedure that the deposition will be recorded by one or more of the following means: stenographic, sound and/or sound-and-visual means.

The deposition will continue from day to day until complete. You are invited to attend and cross-examine.

Respectfully submitted,

By: 

Jess M. Collen

Govinda M. Davis

COLLEN IP

The Holyoke-Manhattan Building

80 South Highland Avenue

Ossining, New York 10562

Tel.: (914) 941-5668

Fax: (914) 941-6091

jcollen@collenip.com

Counsel for Petitioner Terrence Hastings

Dated: July 12, 2013

CERTIFICATE OF SERVICE

I, Govinda M. Davis, hereby certify that on July 12, 2013, the enclosed Notice of Deposition Pursuant to Fed. R. Civ. P. 30(b)(1) was delivered via U.S. First Class Mail upon Respondent's Attorney of Record at the following address:

Eric J. Von Vorys, Esq.
Shulman Rogers Gandall Pordy & Ecker, P.A.
12505 Park Potomac Ave Fl 6
Potomac, MD 20854



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

In the matter of Trademark Registration No. 4,122,970
For the Mark: E.F. HUTTON
Date registered: April 3, 2012

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For the Mark: EF HUTTON and Design
Date registered: April 10, 2012

TERRENCE HASTINGS,)	
)	Consolidated Cancellation No. 92055795
)	
Petitioner,)	
)	
v.)	
)	
E.F. HUTTON GROUP, INC.,)	
)	
Respondent.)	

NOTICE OF DEPOSITION PURSUANT TO FED. R. CIV. P. 30(b)(1)

To: Christopher Daniels, President E. F. Hutton Group, Inc.
E.F. Hutton Group, Inc.
77 Water Street, 7th Floor
New York, New York 10005

c/o
Eric J. Von Vorys, Esq.
Shulman Rogers Gandal Pordy & Ecker, P.A.
12505 Park Potomac Ave Fl 6
Potomac, MD 20854

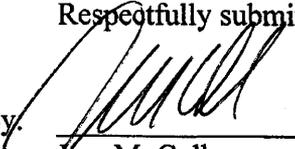
PLEASE TAKE NOTICE that, pursuant to Rule 30(b)(1) of the Federal Rules of Civil Procedure, on August 2, 2013, at 10:00 am at the offices of Collen IP, The Holyoke-Manhattan Building, 80 South Highland Avenue, Ossining, New York 10562, or another mutually agreed-

upon location, Petitioner, Terrence Hastings, will take the deposition upon oral examination of Christopher Daniels, an individual in the employ of Respondent E.F. Hutton Group, Inc.

PLEASE TAKE FURTHER NOTICE, pursuant to Rule 30(b)(3) of the Federal Rules of Civil Procedure that the deposition will be recorded by one or more of the following means: stenographic, sound and/or sound-and-visual means.

The deposition will continue from day to day until complete. You are invited to attend and cross-examine.

Respectfully submitted,

By: 

Jess M. Collen
Govinda M. Davis
COLLEN IP
The Holyoke-Manhattan Building
80 South Highland Avenue
Ossining, New York 10562
Tel.: (914) 941-5668
Fax: (914) 941-6091
jcollen@collenip.com
Counsel for Petitioner Terrence Hastings

Dated: July 12, 2013

CERTIFICATE OF SERVICE

I, Govinda M. Davis, hereby certify that on Friday, July 12, 2013, the enclosed Notice of Deposition Pursuant to Fed. R. Civ. P. 30(b)(1) was delivered via e-mail and U.S. First Class Mail upon Respondent's Attorney of Record at the following address:

Eric J. Von Vorys, Esq.
Shulman Rogers Gandal Pordy & Ecker, P.A.
12505 Park Potomac Ave Fl 6
Potomac, MD 20854



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

In the matter of Trademark Registration No. 4,122,970
For the Mark: E.F. HUTTON
Date registered: April 3, 2012

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_____)	
TERRENCE HASTINGS,)	Consolidated Cancellation No. 92055795
)	
Petitioner,)	
)	
v.)	
)	
E.F. HUTTON GROUP, INC.,)	
)	
Respondent.)	
_____)	

NOTICE OF DEPOSITION PURSUANT TO FED. R. CIV. P. 30(b)(1)

To: Eric J. Von Vorys, Esq., Legal Counsel for Respondent
Shulman Rogers Gandal Pordy & Ecker, P.A.
12505 Park Potomac Ave Fl 6
Potomac, MD 20854

PLEASE TAKE NOTICE that, pursuant to Rule 30(b)(1) of the Federal Rules of Civil Procedure, on August 1, 2013, at 10:00 am at the offices of Collen IP, The Holyoke-Manhattan Building, 80 South Highland Avenue, Ossining, New York 10562, or another mutually agreed-upon location, Petitioner, Terrence Hastings, will take the deposition upon oral examination of Eric J. Von Vorys, Legal Counsel for Respondent E.F. Hutton Group, Inc.

PLEASE TAKE FURTHER NOTICE, pursuant to Rule 30(b)(3) of the Federal Rules of Civil Procedure that the deposition will be recorded by one or more of the following means: stenographic, sound and/or sound-and-visual means.

The deposition will continue from day to day until complete. You are invited to attend and cross-examine.

Respectfully submitted,

By:



Jess M. Collen
Govinda M. Davis
COLLEN IP
The Holyoke-Manhattan Building
80 South Highland Avenue
Ossining, New York 10562
Tel.: (914) 941-5668
Fax: (914) 941-6091
jcollen@collenip.com
Counsel for Petitioner Terrence Hastings

Dated: July 12, 2013

CERTIFICATE OF SERVICE

I, Govinda M. Davis, hereby certify that on July 12, 2013, the enclosed Notice of Deposition Pursuant to Fed. R. Civ. P. 30(b)(1) was delivered via U.S. First Class Mail upon Respondent's Attorney of Record at the following address:

Eric J. Von Vorys, Esq.
Shulman Rogers Gandall Pordy & Ecker, P.A.
12505 Park Potomac Ave Fl 6
Potomac, MD 20854



Govinda Davis

From: Eric Von Vorys <EVonVorys@shulmanrogers.com>
Sent: Wednesday, July 17, 2013 5:20 PM
To: Jess Collen
Cc: Govinda Davis
Subject: Notices of Deposition

Dear Jess,

I received the Notices of Deposition yesterday for Chris Daniels, Frank Campanale and me. I'm confused why I'm named. I can't testify to anything because of the attorney-client privilege. Please withdraw the notice or I'll have to file a motion to quash.

With respect to the Notice of Deposition to Frank Campanale, he is not a party to the cancellation proceeding and I do not represent him. In addition, there is nothing relevant he can testify to because he was not associated with E.F. Hutton & Company, Inc. until March 2012 (two months after the Respondent filed its Statement of Use). If after this explanation you still need his deposition, you'll have to serve him directly.

Finally, with respect to Chris Daniels, the August 2, 2013 date you noticed is not convenient for him or us. Mr. Daniels is scheduled to be out of the country from July 29th through August 12th and then my litigation partner is on vacation. As a matter of convenience and courtesy, I'd like to try to reschedule Mr. Daniels deposition for around the first week in September. I am agreeable to extending the discovery deadline to accommodate this change. Is this okay with you?

Regards,
Eric

ERIC J. VON VORYS
INTELLECTUAL PROPERTY AND CORPORATE LAW ATTORNEY

evonvorys@shulmanrogers.com | T 301.230.5242 | F 301.230.2891

SHULMAN, ROGERS, GANDAL, PORDY & ECKER, P.A.
12505 PARK POTOMAC AVENUE, 6TH FLOOR, POTOMAC, MD 20854

ShulmanRogers.com | BIO | VCARD

SHULMAN | **GANDAL**
ROGERS | **PORDY**
| **ECKER**

 Please consider the environment before printing this email

Govinda Davis

From: Jess Collen
Sent: Wednesday, July 17, 2013 5:30 PM
To: Eric Von Vorys
Cc: Govinda Davis
Subject: Re: Notices of Deposition

Dear Eric,

I will respond shortly. I am en route to a meeting.

As to your deposition I believe you signed a fact declaration under oath. If I am mistaken we ll address and in any case I look forward to discussing these issues with you.

Regards
Jess

Mr. Jess M. Collen

COLLEN IP
INTELLECTUAL PROPERTY LAW PC
The Holyoke-Manhattan Building
80 South Highland Avenue |
Ossining-on-Hudson, Westchester County, NEW YORK 10562 | U.S.A.
Tel: 914.941.5668 |
Fax: 9149416091
www.collnip.com

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On Jul 17, 2013, at 5:20 PM, "Eric Von Vorys" <EVonVorys@shulmanrogers.com> wrote:

Dear Jess,

I received the Notices of Deposition yesterday for Chris Daniels, Frank Campanale and me. I'm confused why I'm named. I can't testify to anything because of the attorney-client privilege. Please withdraw the notice or I'll have to file a motion to quash.

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Regards,
Eric

ERIC J. VON VORYS
INTELLECTUAL PROPERTY AND CORPORATE LAW ATTORNEY

evonvorys@shulmanrogers.com | T 301.230.5242 | F 301.230.2891

SHULMAN, ROGERS, GANDAL, PORDY & ECKER, P.A.
12505 PARK POTOMAC AVENUE, 6TH FLOOR, POTOMAC, MD 20854

ShulmanRogers.com | [BIO](#) | [VCARD](#)

<image001.jpg>

 Please consider the environment before printing this email



Telephone (914) 941-5668

Facsimile (914) 941-6091

www.collnip.com

E-mail: jcollen@collnip.com

July 30, 2013

BY FIRST CLASS MAIL

CONFIRMATION BY E-MAIL: evonvorys@shulmanrogers.com

Shulman Rogers Gandal Pordy & Ecker, P.A.

12505 Park Potomac Avenue, 6th Floor

Potomac, MD 20854

Attention: Eric Von Vorys, Esq.

RE: U.S. Trademark Consolidated Cancellation No. 92055795
Terrence Hastings v. E.F. Hutton Group, Inc.
Our Reference : N1407

Dear Mr. Von Vorys:

We write further to our e-mail dated July 17, 2013. Our client does not consent to an extension of the discovery period. Mr. Hastings does agree to take Mr. Daniels' deposition outside of the discovery period in order to accommodate Mr. Daniels' schedule. Please advise of Mr. Daniels' availability during the week of September 3, 2013, to sit for the deposition.

Additionally, please confirm that you are available to sit for the noticed deposition on August 1. If not, please suggest an alternative date during the week of August 19.

We look forward to hearing from you.

Very truly yours,
COLLEN IP

A handwritten signature in black ink, appearing to read 'Jess M. Collen', written over the typed name.

Jess M. Collen

JMC/GMD

N1407_Letter to Mr. Von Vorys re deposition schedules

COLLEN IP Intellectual Property Law, P.C., THE HOLYOKE-MANHATTAN BUILDING,
80 South Highland Avenue, Ossining-on-Hudson, Westchester County, New York 10562 USA



Govinda Davis

From: Jess Collen
Sent: Wednesday, July 31, 2013 4:15 PM
To: Govinda Davis
Subject: FW: time sensitive -- FW: N1407 - U.S. Trademark Consolidated Cancellation No. 92055795

Mr. Jess M. Collen

COLLEN IP

INTELLECTUAL PROPERTY LAW, P.C.
The Holyoke-Manhattan Building
80 South Highland Avenue | Ossining-on-Hudson, Westchester County, New York 10562 | U.S.A.
Tel: +1-914-941-5668 | Fax: +1-914-941-6091 | www.collenip.com

JESS COLLEN on Forbes.com - <http://blogs.Forbes.com/jesscollen>

PAPERCUT PROTOCOL® is a registered trademark of Collen IP

Collen IP's goal is to eliminate waste and utilize environmentally friendly alternatives -
<http://www.collenip.com/papercut>

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From: Eric Von Vorys [mailto:EVonVorys@shulmanrogers.com]
Sent: Wednesday, July 31, 2013 3:57 PM
To: Jess Collen
Cc: Michael Lichtenstein; Peter Mulhern
Subject: RE: time sensitive -- FW: N1407 - U.S. Trademark Consolidated Cancellation No. 92055795

Dear Jess,

Respecting the deposition of Mr. Daniels, your letter dated July 30, 2013 (yesterday), requests that we advise you of Mr. Daniel's availability for his deposition the week of September 3, 2013. Please note that this week will not work for us. Monday is Labor Day and the rest of the week are Jewish holidays. Mr. Daniels is available the following week on Thursday, September 12, 2012 for his deposition. Does this date work with your schedule?

As Discovery is slated to close on August 2, 2013, I again suggest that we extend it another 60 days.

Respecting taking my deposition, let me reiterate that there is no basis for it. I am neither a party nor an officer, director, or managing agent of a party, or a person designated under Fed. R. Civ. P. 30(b)(6) or 31(a)(4) to testify on behalf of a party. TBMP 404.03(a)(1). I am a party's attorney and any information I received is bound by the Attorney-Client privilege. If you insist on taking my deposition, I will file a motion to quash. In addition, your Notice of Deposition to me stated that my deposition would be conducted at your office. Just so we are clear, I am not subject to deposition at your office in Ossining-on-Hudson, NY. TBMP 404.03(a). Further, I do not consent to deposition at your office. The federal district in which I reside and am regularly employed is the southern district of Maryland. If in the unlikely

scenario the Board does not quash your Notice of Deposition for my testimony, you will have to come to Maryland to take my deposition.

Regards,
Eric

From: Peter Mulhern [mailto:pmulhern@collenip.com]
Sent: Wednesday, July 31, 2013 1:32 PM
To: Eric Von Vorys
Subject: time sensitive -- FW: N1407 - U.S. Trademark Consolidated Cancellation No. 92055795

POLITE REMINDER

From: Jess Collen
Sent: Tuesday, July 30, 2013 2:47 PM
To: evonvorys@shulmanrogers.com
Subject: N1407 - U.S. Trademark Consolidated Cancellation No. 92055795

Our Ref.: N1407

Dear Mr. Von Vorys,

Please see the attached letter from Jess Collen.

Regards,
Peter Mulhern
Legal Assistant for Jess M. Collen

COLLEN IP

INTELLECTUAL PROPERTY LAW, P.C.
The Holyoke-Manhattan Building
80 South Highland Avenue | Ossining-on-Hudson, Westchester County, New York 10562 | U.S.A.
Tel: +1-914-941-5668 | Fax: +1-914-941-6091 | www.collenip.com

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Telephone (914) 941-5668

Facsimile (914) 941-6091

www.collenIP.com

E-mail: jcollen@collenIP.com

August 2, 2013

BY FIRST CLASS MAIL

CONFIRMATION BY E-MAIL: evonvorys@shulmanrogers.com

Shulman Rogers Gandal Pordy & Ecker, P.A.

12505 Park Potomac Avenue, 6th Floor

Potomac, MD 20854

Attention: Eric Von Vorys, Esq.

RE: U.S. Trademark Consolidated Cancellation No. 92055795
Terrence Hastings v. E.F. Hutton Group, Inc.
Our Reference : N1407

Dear Mr. Von Vorys:

We write further to our letter dated July 30, 2013. As we previously mentioned, our client does not consent to an extension of the discovery period. However, we are able to accept your offer to take Mr. Daniels' deposition outside of the discovery period on September 12, 2013. Although, Mr. Daniels' deposition was properly noticed for our office, which is located in the same judicial district as the E.F. Hutton Group, Inc.'s 77 Water Street address, we would be happy to hold the deposition at another mutually convenient location.

Additionally, we do not agree that Mr. Campanale is not a party to this proceeding. E.F. Hutton's Group, Inc.'s verified responses to interrogatories list Mr. Campanale as a member of its Board of Directors. Additionally, Mr. Campanale is mentioned and quoted in various press release documents produced by Respondent regarding Respondent's business and operations. Therefore, he is certainly affiliated with E.F. Hutton Group, Inc. and can testify regarding information that is relevant to this proceeding. Please advise of Mr. Campanale's availability during the week of August 19, 2013, to sit for his properly-noticed deposition.

Further to our e-mail dated July 17, 2013, we note that in signing E.F. Hutton Group, Inc.'s Statement of Use, you declared that you had personal knowledge of E.F. Hutton Group, Inc.'s use of the trademark. Since you have personal knowledge of this, your testimony as a fact witness is necessary to

COLLEN IP Intellectual Property Law, P.C., THE HOLYOKE-MANHATTAN BUILDING,
80 South Highland Avenue, Ossining-on-Hudson, Westchester County, New York 10562 USA



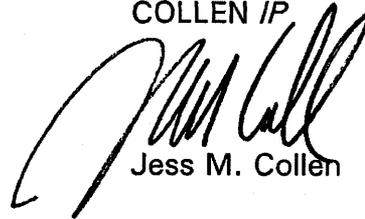
Mr. Eric Von Vorys
August 2, 2013
Page 2 of 2 – N1407

support or refute the grounds of fraud, and other grounds for cancellation set forth in the Petition to Cancel. The attorney-client privilege does not apply to your testimony regarding E.F. Hutton Group's Specimens and Statements of Use, or any reasonably related matters. While it is our intention to respect the attorney-client privilege, your election to swear under oath as to facts underlying use raise critical issues which we are entitled to explore.

With this in mind, our client is willing to consent to taking your deposition by telephone. Please advise of your availability during the week of August 19.

We look forward to hearing from you.

Very truly yours,
COLLEN /P

A handwritten signature in black ink, appearing to read "Jess M. Collen", written over the typed name below.

Jess M. Collen

JMC/GMD

N1407_Letter to Mr. Von Vorys re deposition schedules follow up

August 5, 2013

VIA EMAIL ONLY

Jess M. Collen, Esquire
Collen IP, Intellectual Property Law P.C.
The Holyoke-Manhattan Building
80 South Highland Avenue
Ossining, NY 10562

Re: Hastings v. E.F. Hutton Group, Inc. Cancellation No. 92/055795
Our File No.: 119039.006

Dear Jess:

This is in response to your letter dated August 2, 2013, in which you: (i) do not consent to the extension of discovery, but will accept our offer for you to take Mr. Daniels deposition outside of the discovery period, (ii) do not agree that Mr. Campanale is not a party to the proceeding and request Mr. Campanale's availability for his deposition, and (iii) again insist on taking my deposition because you say I declared that I had personal knowledge of E.F. Hutton Group, Inc.'s use of the trademark.

With respect to Mr. Daniel's deposition, please confirm that it will be taken on September 12, 2013, at 10:00 a.m. and that you will arrange for the locus in Manhattan. As I said before, we can assist in the arrangements if necessary.

With respect to taking Mr. Campanale's deposition, we did not designate him as a 30(b) (6) agent qualified to speak for the company. So, please advise under what authority you believe you have the right to depose anybody who happens to be a Board member of E.F. Hutton Group, Inc. I do not see anything in the FRCP or the TBMP. Moreover, let me reiterate three points: (1) Mr. Campanale is not a party (the only party you named in the amended Complaint was E.F. Hutton Group, Inc.); (2) Mr. Campanale was not hired until March 2012, more than one month after the event in question (so he has no personal knowledge of any facts thereof); and (3) as I said on July 17, 2013, I do not represent Mr. Campanale in his personal capacity. As such, I neither accepted service for him nor will I accept service for him with respect to his deposition. If you want to depose him, you will have to serve him properly (although I note that it is now outside the discovery period).

Finally, with respect to taking my deposition, you have misrepresented the facts. At no time did I declare that I had personal knowledge of E.F. Hutton Group, Inc.'s use of the trademark. The exact language of the declaration that I signed stated:

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements may jeopardize the validity of the form or any resulting registration, declares that he/she is properly authorized to execute this form on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered; and that all

WITHOUT PREJUDICE

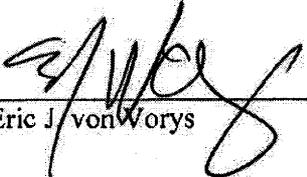
statements made of his/her own knowledge are true; and that all statements made on information and belief are believed to be true.

When I executed the Statement of Use, all of my statements were made on information and belief and were believed to be true. At no time was any statement based on "personal knowledge." Accordingly, nothing I have to say would be outside of the attorney-client privilege. Again, I request that you withdraw your notice for taking my deposition or I will file a motion to quash. I hope that this will not be necessary.

Sincerely,

SHULMAN, ROGERS, GANDAL,
PORDY & ECKER, P.A.

By:


Eric J. von Worys

EJV:dd

cc: Michael J. Lichtenstein, Esq.



Telephone (914) 941-5668

Facsimile (914) 941-6091

www.collenIP.com

E-mail: jcollen@collenIP.com

August 23, 2013

BY FIRST CLASS MAIL

CONFIRMATION BY E-MAIL: evonvorys@shulmanrogers.com

Shulman Rogers Gandal Pordy & Ecker, P.A.

12505 Park Potomac Avenue, 6th Floor

Potomac, MD 20854

Attention: Eric Von Vorys, Esq.

RE: U.S. Trademark Consolidated Cancellation No. 92055795
Terrence Hastings v. E.F. Hutton Group, Inc.
Our Reference : N1407

Dear Mr. Von Vorys:

We write further to our letter dated August 2, 2013, regarding outstanding discovery in this matter. We have not yet received your client's full and complete answers to Petitioner's First Set of Requests for Admissions, which were served on December 5, 2012.

Additionally, we have not yet received E.F. Hutton Group, Inc.'s responses to Petitioner's Second Set of Interrogatories, which were served on June 28, 2013, making responses due by August 2, 2013. We expect your full and complete responses to both, without objections, no later than **August 28, 2013**.

Further, we would like to agree upon the date and time that you are available for your discovery deposition. As the trademark statutes and case law clearly state, a person, even an attorney, who signs a declaration in a statement of use swears under penalty of perjury that the statements contained in the declaration are true to the person's knowledge and are true upon information or belief. *See In re Brainybrawn.Com, Inc.*, 2002 TTAB LEXIS 406, *15-17 (TTAB June 26, 2002) ("Consequently, if the declaration accompanying the statement of use is signed by an attorney, then it is the attorney who additionally must be the declarant and make the averments required by Trademark Rule 2.88(b)(1); plainly, an attorney may not verify statements if the attorney has no personal knowledge, which is the case herein as applicant's attorney candidly admits.")

The verified statements of use require your personal knowledge regarding the facts. As such, we can inquire. If you lacked such personal knowledge, we are entitled to discover that as well. As our previous letter indicated, we are willing to

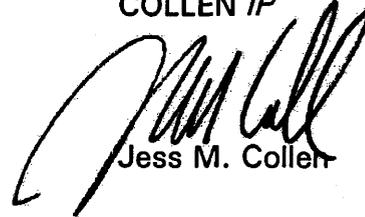


Mr. Eric Von Vorys
August 23, 2013
Page 2 of 2 - N1407

hold the deposition telephonically to accommodate your schedule. If you continue to object, we may move the Board enforce the notice. However, we hope that we can amicably resolve this dispute regarding your testimony.

We look forward to hearing from you.

Very truly yours,
COLLEN /P



Jess M. Collier

JMC/GMD
N1407_Letter to Mr. Von Vorys discovery deficiencies follow up

August 27, 2013

VIA FIRST CLASS MAIL AND EMAIL

Jess M. Collen, Esquire
Collen IP, Intellectual Property Law P.C.
The Holyoke-Manhattan Building
80 South Highland Avenue
Ossining, NY 10562

**UNDER RULE 408 FRE
WITHOUT PREJUDICE**

Re: Hastings v. E.F. Hutton Group, Inc. Cancellation No. 92/055795
Our File No.: 109039.006

Dear Jess:

This is in response to your letter dated August 23, 2013. With respect to the full complete answers to Petitioner's First Set of Admissions, we provided them on January 18, 2012. I have enclosed another copy for your review. If you have specific questions respecting these answers, please identify them and we will respond. With respect to Petitioner's Second Set of Interrogatories, I am in the process of finalizing my client's responses. I will endeavor to send them to you by your requested August 28th date.

In addition, you argue that you are entitled to take my deposition. I repeat. You are not. You assert that trademark statutes and case law clearly state that, a person, even an attorney, who signs a declaration in a Statement of Use swears under penalty of perjury that the statements contained in the declaration are true to the person's knowledge and are true upon information and belief. In support you cite *In re Brainybrawn.com, Inc.* Based on this case, you state that the verified statements require personal knowledge of the facts, which is discoverable, so you are entitled to take my deposition. With due respect, your cited case (i) is inapposite because it involved whether the attorney could physically sign the declaration for the applicant's president, (ii) does not stand for the proposition that verified statements require personal knowledge of the facts and (iii) says nothing about an attorney being required to sit for a deposition. Moreover, the case is not published precedent. Finally, published case law clearly states that attorneys are not subject to depositions when the non-privileged information sought can be discovered directly from a party.

First, *In re Brainybrawn.com, Inc.* does not hold that a party is entitled to take the deposition of a non-party attorney. Evidently, you took one sentence from dicta out of context to support your argument. The issue decided in *In re Brainybrawn.com, Inc.* concerned an attorney who signed a declaration where the declarant was the company's president. The holding in *In re Brainybrawn.com, Inc.* is that the submitted declaration was unacceptable because it was not signed by the declarant, but by the declarant's attorney for him. There is nothing in that case that holds that an attorney is required to sit for a deposition. In fact, neither "deposition" nor "testimony" appears in your cited case. As such, the case provides no support what-so-ever for your argument.

WITHOUT PREJUDICE

Trademark Rule 2.33(a) sets forth the three types of people who are authorized to sign a declaration in a Statement of Use on behalf of the applicant: "(1) a person with legal authority to bind the applicant; or (2) a person with firsthand knowledge of the facts and actual or implied authority to act on behalf of the applicant; or (3) an attorney . . . who has an actual or implied written or verbal power of attorney from the applicant." As the Statements of Use for Registration No. 4122970 and 4126754 evidence, I signed the Declaration for applicant Dominant Brands LLC as its Attorney of Record under Trademark Rule 2.33(a) (3). I did not sign the declaration under Trademark Rule 2.33(a) (2) as a person with firsthand knowledge of the facts.

Second, *In re Brainybrawn.com, Inc.* is unpublished and designated as "not citable as precedent of the TTAB." As unambiguously stated in TBMP § 101.03 "Decisions that are designated by the Board 'citable as precedent,' 'precedent of the Board,' or 'for publication in full' are citable as precedent. Decisions which are not so designated, or which are designated for publication only in digest form, are not binding on the Board." *Id.* Consequently, even if *In re Brainybrawn.com, Inc.* did support your argument, which it does not, it is not binding on the TTAB.

Courts have consistently held that taking the deposition of an attorney "provides a unique opportunity for harassment [because] it disrupts the opposing attorney's preparation for trial." *See e.g., Marco Island Partners v. Oak Develop. Corp.*, 117 F.R.D. 418, 420 (N.D.Ill. 1987). As a result, "courts historically have looked with disfavor on attempts to [de]pose opposing counsel." *Id.* The TTAB has followed the three part test enumerated in *Shelton v. American Motors Corp.*, 805 F.2d 1323, 1327 (8th Cir.1986) to determine when it is proper to depose opposing counsel: the party seeking to take the deposition must prove that (1) no other means exist to obtain the information than to depose opposing counsel, (2) the information sought is relevant and non-privileged; and (3) the information is crucial to the preparation of the case." *Id.* *See also Donut Shops Mgmt. Corp. v. Mace*, 195 U.S.P.Q. 543, 545 (E.D.Va. 1977) (attorney does not have to sit for deposition because his mental impressions, conclusions, opinions or legal theories are protected against disclosure).

Here, there are other means to obtain the information you seek instead of deposing me. You are taking Mr. Daniels' 30(b) (6) deposition in approximately three weeks. You certainly can discover all of the relevant information directly from him, particularly with regard to the first use of the marks in question or the alleged intent to commit fraud on the USPTO, or any other material facts required to prove your allegations. I am not a party, or a person who, at the time set for the taking of the deposition, is an officer, director, or managing agent of a party, or a person designated under Fed. R. Civ. P. 30(b) (6) or 31(a) (4) to testify on behalf of a party. As such, I am not willing to appear voluntarily at your deposition, even if you arrange it to be held telephonically. I have no unprivileged information that is discoverable.

Finally, this will suffice as informal notice that if you seek a subpoena for my deposition basing it on *In re Brainybrawn.com, Inc.*, we will prepare and seek Rule 11 sanctions because your legal contentions are unwarranted by existing law and clearly designed to harass, cause unnecessary delay, or needlessly increase the cost of litigation.

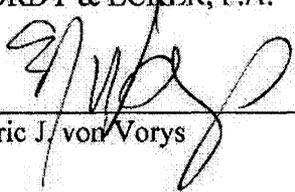
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Again, I request that you withdraw your notice for taking my deposition or I will file a motion to quash and seek sanctions. I hope that this will not be necessary.

Sincerely,

SHULMAN, ROGERS, GANDAL,
PORDY & ECKER, P.A.

By: _____


Eric J. von Vorys

EJV:dd

cc: E.F. Hutton Group, Inc.
Michael J. Lichtenstein, Esq.

EXHIBIT B

Terrence Hastings v. E.F. Hutton Group, Inc.
U.S. Trademark Consolidated Cancellation No. 92055795 against Registration Nos. 4,122,970
and 4,126,754
Petitioner's Exhibit to his Motion to Compel the Discovery Deposition of Eric J. Von Vorys

Trademark/Service Mark Statement of Use (15 U.S.C. Section 1051(d))

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	85268115
LAW OFFICE ASSIGNED	LAW OFFICE 110
EXTENSION OF USE	NO
MARK SECTION	
MARK	E. F. HUTTON
OWNER SECTION	
NAME	Dominant Brands LLC
STREET	28-42 210th Street
CITY	Bayside
STATE	New York
ZIP/POSTAL CODE	11360
COUNTRY	United States
GOODS AND/OR SERVICES SECTION	
INTERNATIONAL CLASS	036
CURRENT IDENTIFICATION	Financial services, namely, investment analysis and advice, investment brokerage, planning and management, investment fund transfer and transaction services, and financial consultation services relating to stocks, bonds, securities, commodities, options, real estate, fixed income products, precious metals, mutual funds and retirement plans; financial services, namely, money lending
GOODS OR SERVICES	KEEP ALL LISTED
FIRST USE ANYWHERE DATE	01/18/2012

FIRST USE IN COMMERCE DATE	01/18/2012
SPECIMEN FILE NAME(S)	
ORIGINAL PDF FILE	<u>SPN0-209255210222-173437060 . Hutton Ad v3.pdf</u>
CONVERTED PDF FILE(S) (1 page)	<u>\\TICRS\EXPORT11\IMAGEOUT11\852\681\85268115\xml10\SOU0002.JPG</u>
ORIGINAL PDF FILE	<u>SPN0-209255210222-173437060 . Hutton Online Ad.pdf</u>
CONVERTED PDF FILE(S) (1 page)	<u>\\TICRS\EXPORT11\IMAGEOUT11\852\681\85268115\xml10\SOU0003.JPG</u>
SPECIMEN DESCRIPTION	digital images of applicant's online advertisements bearing the mark
REQUEST TO DIVIDE	NO
PAYMENT SECTION	
NUMBER OF CLASSES IN USE	1
SUBTOTAL AMOUNT [ALLEGATION OF USE FEE]	100
TOTAL AMOUNT	100
SIGNATURE SECTION	
DECLARATION SIGNATURE	/EricJvonVorys/
SIGNATORY'S NAME	Eric J. von Vorys
SIGNATORY'S POSITION	Attorney of Record, Maryland bar member
DATE SIGNED	01/18/2012
SIGNATORY'S PHONE NUMBER	301-230-5242
FILING INFORMATION	
SUBMIT DATE	Wed Jan 18 17:38:54 EST 2012
TEAS STAMP	USPTO/SOU-209.255.210.222 -20120118173854479803-852 68115-490c6276a32bb63f6cd

	993dda214b6ccf2-DA-4986-2 0120118173437060414
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**Trademark/Service Mark Statement of Use
(15 U.S.C. Section 1051(d))**

To the Commissioner for Trademarks:

MARK: E. F. HUTTON
SERIAL NUMBER: 85268115

The applicant, Dominant Brands LLC, having an address of
28-42 210th Street
Bayside, New York 11360
United States

is submitting the following allegation of use information:

For International Class 036:

Current identification: Financial services, namely, investment analysis and advice, investment brokerage, planning and management, investment fund transfer and transaction services, and financial consultation services relating to stocks, bonds, securities, commodities, options, real estate, fixed income products, precious metals, mutual funds and retirement plans; financial services, namely, money lending

The mark is in use in commerce on or in connection with all goods or services listed in the application or Notice of Allowance or as subsequently modified for this specific class

The mark was first used by the applicant, or the applicant's related company, licensee, or predecessor in interest at least as early as 01/18/2012, and first used in commerce at least as early as 01/18/2012, and is now in use in such commerce. The applicant is submitting one specimen for the class showing the mark as used in commerce on or in connection with any item in the class, consisting of a(n) digital images of applicant's online advertisements bearing the mark.

Original PDF file:

SPN0-209255210222-173437060 . Hutton Ad v3.pdf

Converted PDF file(s) (1 page)

Specimen File1

Original PDF file:

SPN0-209255210222-173437060 . Hutton Online Ad.pdf

Converted PDF file(s) (1 page)

Specimen File1

The applicant is not filing a Request to Divide with this Allegation of Use form.

A fee payment in the amount of \$100 will be submitted with the form, representing payment for the

allegation of use for 1 class.

Declaration

Applicant requests registration of the above-identified trademark/service mark in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq., as amended). Applicant is the owner of the mark sought to be registered, and is using the mark in commerce on or in connection with the goods/services identified above, as evidenced by the attached specimen(s) showing the mark as used in commerce.

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements may jeopardize the validity of the form or any resulting registration, declares that he/she is properly authorized to execute this form on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered; and that all statements made of his/her own knowledge are true; and that all statements made on information and belief are believed to be true.

Signature: /EricJvonVorys/ Date Signed: 01/18/2012
Signatory's Name: Eric J. von Vorys
Signatory's Position: Attorney of Record, Maryland bar member
Signatory's Phone: 301-230-5242

RAM Sale Number: 4986
RAM Accounting Date: 01/19/2012

Serial Number: 85268115
Internet Transmission Date: Wed Jan 18 17:38:54 EST 2012
TEAS Stamp: USPTO/SOU-209.255.210.222-20120118173854
479803-85268115-490c6276a32bb63f6cd993dd
a214b6ccf2-DA-4986-20120118173437060414



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 - Corporate Governance
 - Acquisition & Divestiture
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**Asset Valuation and Advisory
Specializing in:**

- Commercial & Residential Real Estate
 - Illiquid and Intangible Assets
-

E.F. Hutton & Company, Inc.

295 Greenwich Street, #211

New York, NY 10007

info @ efhuttonfinance.com

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Specializing In:

- > Commercial & Residential Real Estate
- > Illiquid and Intangible Assets

E.F. Hutton & Company, Inc.
295 Greenwich Street, #211
New York, NY 10007
info@efhutton.com

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[Enlarge Picture](#)

FEE RECORD SHEET

Serial Number: 85268115



RAM Sale Number: 4986

Total Fees: \$100

RAM Accounting Date: 20120119

<u>Transaction</u>	<u>Fee Code</u>	<u>Transaction Date</u>	<u>Fee per Class</u>	<u>Number of Classes</u>	<u>Total Fee</u>
Statement of Use (SOU)	7003	20120118	\$100	1	\$100

Transaction Date: 20120118



Trademark/Service Mark Statement of Use (15 U.S.C. Section 1051(d))

The table below presents the data as entered.

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SERIAL NUMBER	85268140
LAW OFFICE ASSIGNED	LAW OFFICE 110
EXTENSION OF USE	NO
MARK SECTION	
MARK	EF HUTTON (stylized and/or with design)
OWNER SECTION	
NAME	Dominant Brands LLC
STREET	28-42 210th Street
CITY	Bayside
STATE	New York
ZIP/POSTAL CODE	11360
COUNTRY	United States
GOODS AND/OR SERVICES SECTION	
INTERNATIONAL CLASS	036
CURRENT IDENTIFICATION	Financial services, namely, investment analysis and advice, investment brokerage, planning and management, investment fund transfer and transaction services, and financial consultation services relating to stocks, bonds, securities, commodities, options, real estate, fixed income products, precious metals, mutual funds and retirement plans; financial services, namely, money lending
GOODS OR SERVICES	KEEP ALL LISTED
FIRST USE ANYWHERE DATE	01/18/2012

FIRST USE IN COMMERCE DATE	01/18/2012
SPECIMEN FILE NAME(S)	
ORIGINAL PDF FILE	<u>SPN0-209255210222-172712887 . Hutton Ad v3.pdf</u>
CONVERTED PDF FILE(S) (1 page)	\\TICRS\EXPORT11\IMAGEOUT11\852\681\85268140\xml11\SOU0002.JPG
ORIGINAL PDF FILE	<u>SPN0-209255210222-172712887 . Hutton Online Ad.pdf</u>
CONVERTED PDF FILE(S) (1 page)	\\TICRS\EXPORT11\IMAGEOUT11\852\681\85268140\xml11\SOU0003.JPG
SPECIMEN DESCRIPTION	digital images of applicant's online advertisements bearing the mark
REQUEST TO DIVIDE	NO
PAYMENT SECTION	
NUMBER OF CLASSES IN USE	1
SUBTOTAL AMOUNT [ALLEGATION OF USE FEE]	100
TOTAL AMOUNT	100
SIGNATURE SECTION	
DECLARATION SIGNATURE	/EricJvonVorys/
SIGNATORY'S NAME	Eric J. von Vorys
SIGNATORY'S POSITION	Attorney of Record, Maryland bar member
DATE SIGNED	01/18/2012
SIGNATORY'S PHONE NUMBER	301-230-5242
FILING INFORMATION	
SUBMIT DATE	Wed Jan 18 17:33:40 EST 2012
TEAS STAMP	USPTO/SOU-70.88.136.66-20 120118173340206444-852681 40-490c33a58898e2e7d57356

	Odf83b7659cde-DA-4887-201 20118172712887749
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**Trademark/Service Mark Statement of Use
(15 U.S.C. Section 1051(d))**

To the Commissioner for Trademarks:

MARK: EF HUTTON (stylized and/or with design)
SERIAL NUMBER: 85268140

The applicant, Dominant Brands LLC, having an address of
28-42 210th Street
Bayside, New York 11360
United States

is submitting the following allegation of use information:

For International Class 036:

Current identification: Financial services, namely, investment analysis and advice, investment brokerage, planning and management, investment fund transfer and transaction services, and financial consultation services relating to stocks, bonds, securities, commodities, options, real estate, fixed income products, precious metals, mutual funds and retirement plans; financial services, namely, money lending

The mark is in use in commerce on or in connection with all goods or services listed in the application or Notice of Allowance or as subsequently modified for this specific class

The mark was first used by the applicant, or the applicant's related company, licensee, or predecessor in interest at least as early as 01/18/2012, and first used in commerce at least as early as 01/18/2012, and is now in use in such commerce. The applicant is submitting one specimen for the class showing the mark as used in commerce on or in connection with any item in the class, consisting of a(n) digital images of applicant's online advertisements bearing the mark.

Original PDF file:

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Specimen File1

Original PDF file:

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Converted PDF file(s) (1 page)

Specimen File1

The applicant is not filing a Request to Divide with this Allegation of Use form.

A fee payment in the amount of \$100 will be submitted with the form, representing payment for the

allegation of use for 1 class.

Declaration

Applicant requests registration of the above-identified trademark/service mark in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq., as amended). Applicant is the owner of the mark sought to be registered, and is using the mark in commerce on or in connection with the goods/services identified above, as evidenced by the attached specimen(s) showing the mark as used in commerce.

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements may jeopardize the validity of the form or any resulting registration, declares that he/she is properly authorized to execute this form on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered; and that all statements made of his/her own knowledge are true; and that all statements made on information and belief are believed to be true.

Signature: /EricJvonVorys/ Date Signed: 01/18/2012
Signatory's Name: Eric J. von Vorys
Signatory's Position: Attorney of Record, Maryland bar member
Signatory's Phone: 301-230-5242

RAM Sale Number: 4887
RAM Accounting Date: 01/19/2012

Serial Number: 85268140
Internet Transmission Date: Wed Jan 18 17:33:40 EST 2012
TEAS Stamp: USPTO/SOU-70.88.136.66-20120118173340206
444-85268140-490c33a58898e2e7d573560df83
b7659cde-DA-4887-20120118172712887749



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FEE RECORD SHEET

Serial Number: 85268140



RAM Sale Number: 4887

Total Fees: \$100

RAM Accounting Date: 20120119

<u>Transaction</u>	<u>Fee Code</u>	<u>Transaction Date</u>	<u>Fee per Class</u>	<u>Number of Classes</u>	<u>Total Fee</u>
Statement of Use (SOU)	7003	20120118	\$100	1	\$100

Transaction Date: 20120118



EXHIBIT C

[filed under seal]

Terrence Hastings v. E.F. Hutton Group, Inc.
U.S. Trademark Consolidated Cancellation No. 9205579 against Registration Nos. 4,122,970
and 4,126,754
Petitioner's Exhibits to his Motion to Compel the Discovery Deposition of Eric J. Von Vorys

EXHIBIT D

[filed under seal]

Terrence Hastings v. E.F. Hutton Group, Inc.
U.S. Trademark Consolidated Cancellation No. 9205579 against Registration Nos. 4,122,970
and 4,126,754
Petitioner's Exhibits to his Motion to Compel the Discovery Deposition of Eric J. Von Vorys

EXHIBIT E

[filed under seal]

Terrence Hastings v. E.F. Hutton Group, Inc.
U.S. Trademark Consolidated Cancellation No. 9205579 against Registration Nos. 4,122,970
and 4,126,754
Petitioner's Exhibits to his Motion to Compel the Discovery Deposition of Eric J. Von Vorys