

ESTTA Tracking number: **ESTTA561002**

Filing date: **09/24/2013**

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

Proceeding	92056574
Party	Plaintiff Frank Clegg Leatherworks LLC
Correspondence Address	STEVEN WEINBERG HOLMES WEINBERG PC 30765 PACIFIC COAST HIGHWAY, SUITE 411 MALIBU, CA 90265 UNITED STATES msalvatore@holmesweinberg.com, smweinberg@holmesweinberg.com, hwtrademarks@gmail.com, msalvatore@holmesweinberg.com
Submission	Reply in Support of Motion
Filer's Name	Michael J. Salvatore
Filer's e-mail	hwtrademarks@gmail.com, msalvatore@holmesweinberg.com, smweinberg@holmesweinberg.com
Signature	/MJSalvatore/
Date	09/24/2013
Attachments	2013.09.24_Reply ISO Motion to Extend Time.pdf(27493 bytes ) Ex A - EI Group Discovery Requests.pdf(2302894 bytes )

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

In re Reg. No. 3872561

Frank Clegg Leatherworks LLC,

Petitioner,

v.

El Group, LLC,

Respondent.

Cancellation No. 92056574

**PETITIONER’S REPLY IN SUPPORT OF ITS**

**MOTION TO EXTEND DISCOVERY PERIOD AND TRIAL DATES**

Since Petitioner filed its Motion to Extend Discovery Period and Trial Dates on August 23, 2013, Respondent El Group, LLC (“Respondent”) has served extensive written discovery on Petitioner. Because both parties have now exchanged and will be responding to written discovery, it is in the interest of justice to grant an extension of the discovery period and subsequent trial dates so that the parties may conduct full discovery, and so this case may be tried on the merits with a full record.

**RELEVANT FACTS**

After a failed business endeavor between Petitioner and Respondent, Respondent registered the mark LOTUFF & CLEGG without Petitioner’s knowledge or consent. As discovery will reveal, the word CLEGG in Respondent’s mark refers to Frank Clegg, Petitioner’s founder and sole member. Upon learning of the existence of Respondent’s registration during

the application process for its marks FRANK CLEGG and F. CLEGG, Petitioner initiated this Cancellation proceeding. (Dkt. No. 1) Petitioner's counsel was substituted into this Cancellation proceeding on August 19, 2013, just five days before the close of the discovery period. (Dkt. No. 5) At that point, no discovery had yet been conducted in this proceeding and no prior extension requests had been made. Respondent's counsel refused Petitioner's counsel's request for an extension of the discovery period, stating that there was "little chance that extending discovery would lead to the production of additional evidence." Salvatore Decl., ¶ 3; Ex. A. Despite this statement, on August 26, 2013, two days after the scheduled closing day of the discovery period, Respondent served extensive discovery on Petitioner, including forty Requests for Production of Documents and Things, fourteen Interrogatories and two Requests for Admission, to which Petitioner is currently endeavoring to respond. *See* attached Exhibit A. And in light of Respondent's refusal to agree to an extension, Petitioner served written discovery on Respondent on August 21, 2013.

## ARGUMENT

Because both parties have now served and will be responding to written discovery, it is in the interest of justice to allow this matter to proceed upon a full record, and to be tried on the merits. Respondent's refusal to consent to a short extension of the discovery period because "too many resources have already been expended on this matter" and "[i]n light of [] the little chance that extending discovery would lead to the production of additional evidence that would substantially impact the resolution of this matter" is belied by the fact that Respondent has now served extensive written discovery on Petitioner. The parties, now having both exchanged written discovery, should be allowed the opportunity to test their respective written discovery

responses through depositions and to create a full record for trial. There has been no prior extension of the original discovery dates.

Contrary to the assertions in Respondent's Opposition, Petitioner has set out detailed facts constituting good cause to extend the discovery period in this matter. As stated in Petitioner's Motion, Petitioner's counsel substituted into this matter on August 19, 2013, just five days before the close of the discovery period. Because Petitioner's primary counsel Steven Weinberg was attending out of town depositions in another pressing litigation matter during the week of August 19, Petitioner sought a brief extension of the discovery period so that its newly substituted counsel could familiarize itself with the case and take the discovery appropriate to competently represent its client. This Motion was necessitated by Respondent's counsel's refusal to accommodate Petitioner's newly substituted counsel's request,<sup>1</sup> and because the Board has granted Motions to Extend Time in similar circumstances. *See, e.g., Societa Per Azioni Chianti Ruffino Esportazione Vinicola Toscana v. Colli Spolentini Spoletoducale SCRL*, 59 USPQ2d 1383, 1384 (TTAB 2001) (granting an extension of opposer's testimony period upon a finding that opposer's counsel's "press of other litigation may indeed constitute good cause for an extension of time, in appropriate circumstances").

Also relevant to Petitioner's request for an extension of the discovery period in this matter is the fact that this is Petitioner's first such request for an extension of time. Respondent points to the Board's decision in *Leumme, Inc. v. D.B. Plus Inc.*, 53 USPQ2d 1758 (TTAB 1999) in opposition. However, the decision in *Leumme* addressed a refusal to grant petitioner's *second*

---

<sup>1</sup> While Respondent's counsel asserts that there were no settlement discussions between Petitioner and Respondent during the discovery period, Respondent's counsel admits that a telephone conversation was held with Petitioner's prior counsel during which Respondent's counsel "proposed certain terms to resolve this matter." (Dkt. No. 8, p. 2)

request for extension, after its first request had been granted, and is thus distinguishable. *Nat'l Football League v. DNH Management LLC*, 85 USPQ2d 1852 (TTAB 2008), another case relied on by Respondent, is also distinguishable from the present matter due to the fact that the NFL waited until two days *after* the close of discovery to serve its initial requests, which is not the case here. On the contrary, Petitioner's new counsel diligently served discovery requests immediately upon receiving Respondent's counsel's initial refusal to extend the discovery period.

Finally, Respondent is in no way prejudiced by Petitioner's request to extend time. Since both parties have now served written discovery, the only prejudice that could arise is that which would mutually affect both Petitioner and Respondent should they not be allowed to complete discovery and proceed to a trial on the merits based on a full record. The interests of justice would not be served by denying Petitioner the ability to competent representation, namely the taking of discovery through its newly substituted counsel, nor by the unconsented registration of its name by Respondent.

### CONCLUSION

In light of the foregoing, Petitioner's Motion to Extend Discovery Period and Trial Dates should be granted.

Dated: September 24, 2013

Respectfully submitted,

HOLMES WEINBERG, PC

/Steven M. Weinberg/  
Steven M. Weinberg  
30765 Pacific Coast Highway, Suite 411  
Malibu, CA 90265  
Tel: 310.457.6100

Fax: 310.457.9555  
Email: smweinberg@holmesweinberg.com

Attorneys for Petitioner, Frank Clegg  
Leatherworks LLC

**CERTIFICATE OF SERVICE**

I hereby certify that on September 24, 2013, a true and correct copy of this PETITIONER'S REPLY IN SUPPORT OF ITS MOTION TO EXTEND TIME was served by Priority Mail to Respondent's counsel at the below address:

James C. Duda  
Bulkley, Richardson and Gelinas, LLP  
1500 Main Street, Suite 2700  
P.O. Box 15507  
Springfield, MA 01115-5507

/Nelda Piper/  
Nelda Piper

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

In re Registration of EL GROUP, LLC d/b/a Lotuff & Clegg

Registration No. : 3,872,561

Registration Date : November 9, 2010

Mark : LOTUFF & CLEGG

Cancellation No. :

FRANK CLEGG LEATHERWORKS, LLC, )  
Petitioner, )

v. )

EL GROUP, LLC d/b/a LOTUFF & CLEGG, )  
Registrant. )

REGISTRANT'S FIRST REQUEST  
FOR PRODUCTION OF  
DOCUMENTS AND THINGS

Registrant EL GROUP, LLC, ("EL GROUP" or "Registrant"), by its attorneys, submits the following Requests for Production of Documents and Things to FRANK CLEGG LEATHERWORKS, LLC ("Clegg Leatherworks" or "Petitioner") pursuant to TBMP § 406 and Rule 34 of the Federal Rules of Civil Procedure. Designated documents are to be produced at the offices of Bulkley, Richardson and Gelinias, LLP, 1500 Main Street, Suite 2700, Springfield, Massachusetts on or before September 25, 2013.

These requests not only include documents or things currently known to you, but every document that can be located or discovered by reasonably diligent efforts throughout the course of this matter. Documents produced in response to these requests must be produced as they are kept in the ordinary course of business or organized and labeled to correspond with the

categories in this First Request for Production of Documents and Things, as required by the Federal Rule of Civil Procedure Rule 34 and TBMP § 406.04.

#### Definitions

1. As used herein, the terms “you” and “yours” and related terms shall mean Petitioner Frank Clegg Leatherworks, LLC and any of its affiliates, family members, agents, servants, employees, officers, directors, members, representatives or any other person or entity acting or purporting to act within its control or on its behalf, or those possessing information available to any such entities or persons.

2. The terms “document” and “documents” are used in the broadest extent permitted and shall have the meaning employed in the Federal Rules of Civil Procedure and shall include all forms of written, electronic, digital, computerized, recorded, videotaped, or photographed information, including letters, e-mails, agreements, memoranda, notes, reports, compilations, data, notebooks, laboratory notebooks, technical drawings, text messages, instant messaging communications, communications, including internal company communications, notes, correspondence, telegrams, memoranda, translations, summaries or records of telephone conversations, routing slips or memoranda, audibly reproducible recordings on tape, disks or the like, summaries or records of personal interviews and conversations, diaries, statistical notebooks of any character, ledger, journals, invoices, shipping papers, purchase orders, specifications, instructions, manuals, motion or still pictures, minutes or records of conferences and meetings, lists of persons attending meetings or conferences, expressions or statements of policy, reports or summaries of interviews, reports or summaries of investigations, opinions or

reports of consultants, reports of market surveys, opinions of counsel, records or summaries of negotiations, contracts and agreements, including all modifications, drafts, memoranda, brochures, pamphlets, correspondence and any other documents relating to contracts, advertisements, circulars, trade letters, press releases, drafts of any documents, revisions of drafts of any documents, and compilations of computer generated data, including any ancillary programming material such as that reflected in native format documents. "Document" or "documents" also include all non-identical copies, such as those bearing marginal comments or other marks, postscripts, changes, amendments, addenda or other notations not present on the original document as initially written, typed, or otherwise prepared, as well as any other information associated with that document, including, but not limited to, metadata. Each such non-identical copy is to be considered and identified as a separate document. To the extent any communication was reduced to a writing or other recordation, it is expressly included in the term "document".

3. When a document or thing that "refers" or "relates" to any given matter is requested, the request encompasses any document or thing that discusses, embodies, contains, reflects, identifies, states or concerns that matter, or that is in any way pertinent to that matter.

4. The term "any" includes "all" and "all" includes "any"; the term "and" includes "or" and "or" includes "and".

5. Unless otherwise established by the context, the plural shall be construed to include the singular and the singular to include the plural.

6. The terms "Frank Clegg Leatherworks, LLC", "Frank Clegg", "F. Clegg" or "Francis A. Clegg" or "Petitioner" means that Massachusetts limited liability company with a present or former business address of 1 Ace Street, Fall River, Massachusetts and any of its affiliates, family members, agents, servants, employees, officers, directors, members, representatives or any other person or entity acting or purporting to act within its control or on its behalf, or those possessing information available to any such entities or persons.

7. The term "Frank Clegg Marks" means the marks that are the subject of U.S. Patent and Trademark Office Application Nos. 85/677,529 and 85/677,632 and the marks FRANK CLEGG and F. CLEGG to the extent that you claim they are protected under the common law.

8. The terms "EL GROUP, LLC d/b/a LOTUFF & CLEGG", "EL GROUP, LLC", "EL GROUP", and "Registrant" mean the registrant in this matter with an office located at 44 Carriage House, Ware, Massachusetts and any of its affiliates, family members, agents, servants, employees, officers, directors, members, representatives or any other person or entity acting or purporting to act within its control or on its behalf, or those possessing information available to any such entities or persons, including, but not limited to Frederick "Rick" Lotuff, Joseph "Joe" Lotuff or E. Alden "Alden" Edmonds.

9. The terms "LOTUFF & CLEGG," "U.S. Registration No. 3,872,561", "Registration No. 3,872,561" or "Trademark Registration No. 3,872,561" mean the trademark with United State Patent and Trademark Office registration number 3,872,561, registered by the United States Patent and Trademark Office on November 9, 2010 and owned by EL GROUP, LLC.

10. The term "Petition" means the "Petition to Cancel Registration" filed with the Petition for Cancellation in this matter by Petitioner.

### REQUESTS FOR PRODUCTION

1. Please produce all documents relating to, or which you believe support, the allegation contained in Paragraph 1 of the Petition.

2. Please produce all documents relating to Application Nos. 85/677,529 and 85/677,632, including but not limited to all correspondence with any representative of the U.S. Patent and Trademark Office, including attachments thereto, and including any drafts of any of the foregoing.

3. Please provide all documents relating to, or which you believe support, the allegations contained in Paragraph 4 of the Petition.

4. Please produce all documents relating to, or which you believe support, the allegations contained in Paragraph 5 of the Petition.

5. Please produce all documents relating to, or which you believe support, the allegations contained in Paragraph 6 of the Petition.

6. Please produce all documents relating to, or which you believe support, the allegations contained in Paragraph 7 of the Petition that Registrant registered LOTUFF & CLEGG without the written permission, authorization, or consent of Petitioner.

7. Please produce all documents relating to, or which you believe support, the allegations contained in Paragraph 7 of the Petition that LOTUFF & CLEGG is confusingly similar to Petitioner's marks F. CLEGG and FRANK CLEGG.

8. Please produce all documents relating to, quantifying, or which you believe provide evidence of any and all damage or injury to the Petitioner as alleged in Paragraph 9 of the Petition, including all documents evidencing or relating to your statement that Petitioner "is or will be damaged by the continued registration of Registrant's Mark..., " as claimed in the penultimate paragraph of your Petition.

9. Please produce all documents relating to, demonstrating, quantifying, or which you believe provide evidence of deception to the public by U.S. Registration No. 3,872,561 as alleged in Paragraph 9 of the Petition.

10. Please produce all documents of any objections that you or any other party has raised to the registration of the LOTUFF & CLEGG trademark, U.S. Registration No. 3,872,561.

11. Please produce all documents evidencing or otherwise relating to any objections that you or any other party has raised to the use of the LOTUFF & CLEGG trademark, U.S. Registration No. 3,872,561, by Registrant or any other party.

12. Please produce a copy of all correspondence with El Group or with Rick Lotuff, Joe Lotuff, Alden Edmonds or any other individual or entity associated with EL Group.

13. Please produce a copy of all agreements or contracts with El Group or with Rick Lotuff, Joe Lotuff, Alden Edmonds or any other individual or entity associated with EL Group.

14. Please produce all invoices, bills of sale, purchase orders or lading slips issued by or to El Group, any individual associated with EL Group, or to Rick Lotuff, Joe Lotuff, or Alden Edmonds or any individual or entity with which any of the foregoing are associated or affiliated.

15. Please produce all documents that indicate any payments to or from El Group, Rick Lotuff, Joe Lotuff, Alden Edmonds or any other individual or entity associated with EL Group.

16. Please produce federal and state income tax returns or any other documents sufficient to show all sources of income, and amount of income by source, for Frank Clegg Leatherworks, LLC since January 1, 2009, including the name of each entity that was a source of income and the amount of income derived from each such source annually.

17. Please produce all federal and state income tax returns and W2s or other documents sufficient to show all sources of income, and amount of income by source, for Francis A. Clegg since November 1, 2009, including the name of each entity that was a source of income and the amount of income derived from each such source annually.

18. Please produce all documents evidencing, supporting, or otherwise relating to your denial, if any, that FRANK CLEGG and F. CLEGG are each primarily merely a surname which cannot be registered by the U.S. Patent and Trademark Office.

19. Please produce all documents evidencing, supporting, or otherwise relating to your denial, if any, that Petitioner has acquiesced in, participated in, or profited from Registrant's adoption, registration, and use of LOTUFF & CLEGG.

20. Please provide a copy of all documents relating to each and every survey, study or poll conducted by or on behalf of you in connection with this proceeding.

21. Please provide a copy of all documents to be offered by you at trial in this proceeding.

22. Please produce all documents evidencing Petitioner's use in commerce of the Frank Clegg Marks for each of the goods identified in the registration by year.

23. Please produce all documents describing each of the goods identified in each of the applications for registration with the U.S. Patent and Trademark Office of the Frank Clegg Marks.

24. Please produce all documents describing each of the goods sold under the Frank Clegg Marks by year.

25. Please produce all documents relating to any activities engaged in or on behalf of Petitioner relating to determining whether each of the Frank Clegg Marks is available for use and registration for the goods identified in their respective application for registration.

26. For each of the goods offered by Petitioner under the Frank Clegg Marks, please provide a copy of all documents sufficient to identify each distributor and retailer through which each of such goods was, has been or is being sold, if any.

27. For each of the goods offered by Petitioner under the Frank Clegg Marks, please provide a copy of all documents sufficient to identify each of the channels of trade through which each of the goods was, has been or is being sold, if any.

28. Please provide a copy of all documents identifying or otherwise relating to the first use in commerce of each of the Frank Clegg Marks for each of the goods identified in its respective application for registration.

29. For each of the goods offered by Petitioner under the Frank Clegg Marks since 1976, please provide a copy of all documents relating to the advertising for each such Mark and the media in which it was advertised.

30. For each of the goods offered by Petitioner under the Frank Clegg Marks, please provide a copy of all documents relating to the promotions for each by year.

31. For each of the goods offered by Petitioner under the Frank Clegg Marks, please provide a copy of all documents relating to each of the goods to the demographics of the consumers of such goods.

32. For each of the goods offered by Petitioner under the Frank Clegg Marks, please provide a copy of all documents sufficient to identify, for each year in which such goods were sold, the total revenues derived by Petitioner from such sales.

33. Please provide a copy of all documents that identify, for each of the goods offered by Petitioner under each of the Frank Clegg Marks, each of the suggested retail purchase prices and each of the corresponding actual retail purchase prices, as each of those goods has been sold since January 1, 2009.

34. Please provide a copy of all documents identifying all persons who have been in charge of or have had primary responsibility for sales of goods under the Frank Clegg Marks since 1976.

35. Please provide a copy of all documents that identify persons who have had primary responsibility for the marketing of goods sold under the Frank Clegg Marks since 1976.

36. Please provide a copy of all documents relating to the promotion, marketing, or sale of goods under one or more of the Frank Clegg Marks since 1976.

37. Please provide a copy of all documents relating to your enforcement of the Frank Clegg Marks under United States law or state trademark or unfair competition laws.

38. Please produce all documents identified in your answers to interrogatories.

39. Please provide a copy of all documents relating to your policy with respect to retention of documents, including business records.

40. Please produce a privilege log identifying the author, recipient, date, content and basis of withholding of any responsive document not produced.

Respectfully Submitted,  
EL GROUP, LLC

Dated: August 26, 2013

By 

James C. Duda, Esq.  
BULKLEY, RICHARDSON AND GELINAS, LLP  
1500 Main Street, Suite 2700  
Springfield, MA 01115  
Tel.: (413) 781-2820  
Fax: (413) 272-6806  
Email: jduda@bulkley.com

CERTIFICATION OF SERVICE

I hereby certify that a copy of the foregoing was served, by Federal Express, standard overnight delivery, on the 26<sup>th</sup> day of August, 2013.

  
James C. Duda

1587562v1



B. The term “document” is defined to be synonymous in meaning and equal in scope to the usage of this term in Federal Rules of Civil Procedure. A draft or non-identical copy is a separate document within the meaning of this term.

C. The term “identify”, when used in reference to a natural person, means to state to the fullest extent possible his or her full name, present or last known residential address, and present or last known business address and position at that time. The term “identify”, when used in reference to any entity other than a natural person, means to state to the fullest extent possible the full name and present or last known address of the principal place of business of the entity to be identified. The term “identify”, when used in reference to a place, means to state to the fullest extent possible the street address, city and state in which it is situated or, if such identification is not possible, otherwise to describe its location. The term “identify”, when used in reference to a document, means to state the date, author and type of document (e.g. letter, memorandum, telegram, chart, etc.), or to provide some other means of identifying it, and to disclose its present location and custodian. If any document was but no longer is in your possession or subject to your control, state what disposition was made of it. The term “identify”, when used in reference to an oral communication, means to state the speaker, the person spoken to, the other persons who were present or in a position to hear, the date, the place of communication and the substance of such oral communication.

D. “Documents relating to” or “documents concerning” means documents containing, showing, relating, or referring in any way, directly or indirectly, and is meant to

include, among other documents, documents underlying, supporting, now or previously attached or appended to, or used in the preparation of any document called for by each request.

E. "Communications" means conversations (whether face-to-face, by telephone or otherwise), correspondence, memoranda, meetings, discussions, e-mails, telegrams, electronic communications, releases and all other means of exchanging or imparting information.

F. The terms "and" as well as "or" are to be construed disjunctively or conjunctively, whichever makes the request the most inclusive.

G. The terms "EL GROUP, LLC d/b/a LOTUFF & CLEGG", "EL GROUP, LLC", "EL GROUP", and "Registrant" mean that entity located at 44 Carriage House, Ware Massachusetts and its employees, agents or representatives, including, but not limited to Frederick "Rick" Lotuff, Joseph "Joe" Lotuff or E. Alden "Alden" Edmonds.

H. The terms "LOTUFF & CLEGG", "U.S. Registration No. 3,872,561", "Registration No. 3,872,561" or "Trademark Registration No. 3,872,561" mean the trademark with registration number 3,872,561, registered by the United States Patent and Trademark Office on November 9, 2010 and owned by EL GROUP, LLC.

## INSTRUCTIONS

1. Answer these Interrogatories or subparts thereof separately and fully in writing under oath. Answers should include all responsive information known or reasonably available to you, your agents, your employees, your attorneys, and any other persons consulted concerning any factual matters or matters of opinion relating to any of the facts or issues involved in this case.

2. Any identification, description, or explanation of documents, persons, communications, or other information requested that is specific in nature should not be interpreted to diminish the breadth of any more general request that may otherwise encompass such information or materials.

3. The singular includes the plural and the plural includes the singular.

4. "And" and "or" shall be construed conjunctively or disjunctively, as necessary, to make the request inclusive rather than exclusive.

5. No part of any Interrogatory should be left unanswered because an objection is interposed to another part of the Interrogatory.

6. If any part of any Interrogatory cannot be answered in full, answer to the extent possible and specify the reasons for your inability to answer the remainder. If you assert that you cannot answer an Interrogatory in full or in part because of a protective order or confidentiality agreement, describe the terms of the order or agreement, such that the assertion can be reasonably tested.

7. If a claim of privilege is asserted in objecting to an Interrogatory or subpart thereof, the objection should state the type of privilege asserted and, with reasonable

particularity, all grounds for such objection, such that the assertion can be reasonably tested.

### INTERROGATORIES

1. Please identify each individual who participated in answering these interrogatories.

ANSWER:

2. Please identify the date that you began working with Rick Lotuff, Joe Lotuff or Alden Edmonds, or any other individual associated with EL Group.

ANSWER:

3. Please identify when you first learned of the plans to apply, or application, for a trademark registration for LOTUFF & CLEGG with the U.S. Patent and Trademark Office.

ANSWER:

4. Please describe every communication with anyone at EL Group, including, but not limited to Rick Lotuff, Joe Lotuff, Alden Edmonds, concerning or relating to any objections you had to the *use* of "LOTUFF & CLEGG" by El Group, LLC, any individual or entity associated with El Group, LLC, or any other party, and for each such communication, identify

- a. the form of the communication;
- b. to whom the communication was made;
- c. the date of said communication and
- d. the substance of your objection(s).

ANSWER:

5. Please describe every communication with anyone at EL Group, including, but not limited to Rick Lotuff, Joe Lotuff, Alden Edmonds, concerning or relating to any objections you had to the *registration* of "LOTUFF & CLEGG" with the U.S. Patent and Trademark Office, and for each such communication, identify

- a. the form of the communication;
- b. to whom the communication was made;
- c. the date of said communication and
- d. the substance of your objection(s).

ANSWER:

6. Please describe every communication with any party other than the EL Group concerning or relating to any objections you had to the use or registration of "LOTUFF & CLEGG" in association with any product or service, and for each such communication, identify:

- a. the form of the communication;
- b. to whom the communication was made;
- c. the date of said communication and
- d. the substance of your objection(s).

ANSWER:

7. Please describe each and every damage you have suffered as a result of the registration of U.S. Registration No. 3,872,561.

ANSWER:

8. Please describe each and every injury you have suffered by the registration of U.S. Registration No. 3,872,561.

9. Please describe every communication with any party that evidences or relates to any deception to the public caused by the existence of the U.S. Registration No. 3,872,561, and for each such communication, identify:

- a. the form of the communication;
- b. to whom the communication was made;
- c. the date of said communication and
- d. the substance of your objection(s).

ANSWER:

10. Please describe any deception to the public, not described in your response to the preceding question, caused by the existence of U.S. Registration No. 3,872,561.

ANSWER:

11. Please describe every communication with any party that evidences or relates to your belief that Registrant no longer uses the LOTUFF & CLEGG mark in commerce in the United States, and for each such communication, identify:

- a. the form of the communication;
- b. to whom the communication was made;
- c. the date of said communication and
- d. the substance of your objection(s).

Please state the basis for your belief that Registrant no longer uses its mark in commerce in the United States.

ANSWER:

12. Please state the basis for your belief that Registrant no longer uses its mark in connection with the services recited in U.S. Registration No. 3,872,561 in the United States.

ANSWER:

13. Please state the basis for your belief that Registrant has "abandoned" U.S. Registration No. 3,872,561.

ANSWER:

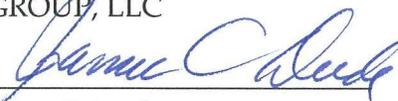
14. Please identify the persons who have had primary responsibility for the marketing of goods sold under the Frank Clegg Marks since 1976, including in your answer the period of time for which each such person has had such responsibility.

ANSWER:

Dated: August 26, 2013

Respectfully Submitted,  
EL GROUP, LLC

By



James C. Duda, Esq.

BULKLEY, RICHARDSON AND GELINAS, LLP

1500 Main Street, Suite 2700

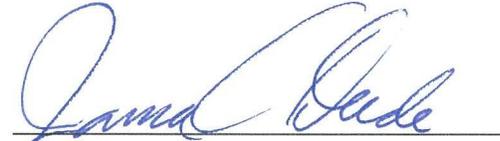
Springfield, MA 01115

Tel.: (413) 781-2820 Fax: (413) 272-6806

jduda@bulkley.com

CERTIFICATION OF SERVICE

I hereby certify that a copy of the foregoing was served, by U.S. mail, postage prepaid, on the 26<sup>th</sup> day of August, 2013.

  
James C. Duda

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

In re Registration of EL GROUP, LLC d/b/a Lotuff & Clegg

Registration No. : 3,872,561

Registration Date : November 9, 2010

Mark : LOTUFF & CLEGG

Cancellation No. :

FRANK CLEGG LEATHERWORKS, LLC, )  
Petitioner, )

v. )

EL GROUP, LLC d/b/a LOTUFF & CLEGG, )  
Registrant. )

REGISTRANT'S FIRST REQUESTs  
FOR ADMISSION

Registrant EL GROUP, LLC, by its attorneys, submits the following Requests for Admissions to FRANK CLEGG LEATHERWORKS LLC ("Petitioner") pursuant to TBMP § 407 and Rule 36 of the Federal Rules of Civil Procedure. Responses are to be produced at the offices of Bulkley, Richardson and Gelinas, LLP, 1500 Main Street, Suite 2700, Springfield, Massachusetts on or before September 25, 2013.

Definitions

1. As used herein, the term Petitioner shall refer to Frank Clegg Leatherworks LLC.

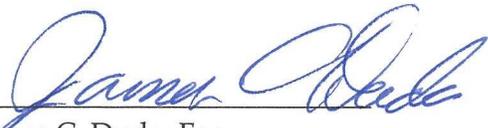
## REQUESTS FOR ADMISSION

1. The term FRANK CLEGG, as used in the mark that is the subject of U.S. Patent and Trademark Office Application No. 85/677,529, refers to Francis A. Clegg, Petitioner's sole member.

2. The term F. CLEGG, as used in the mark that is the subject of U.S. Patent and Trademark Office Application No. 85/677,632, refers to Francis A. Clegg, Petitioner's sole member.

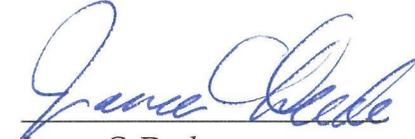
Respectfully Submitted,  
EL GROUP, LLC

Dated: August 26, 2013

By   
James C. Duda, Esq.  
BULKLEY, RICHARDSON AND GELINAS, LLP  
1500 Main Street, Suite 2700  
Springfield, MA 01115  
Tel.: (413) 781-2820  
Fax: (413) 272-6806  
Email: jduda@bulkley.com

CERTIFICATION OF SERVICE

I hereby certify that a copy of the foregoing was served, by Federal Express, standard overnight delivery, on the 26<sup>th</sup> day of August, 2013.

  
James C. Duda