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Filing date: **05/23/2014**

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

Proceeding	92058054
Party	Plaintiff Morris Visitor Publications, LLC
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Submission	Opposition/Response to Motion
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Date	05/23/2014
Attachments	Opposition to Motion to Compel_final.pdf(135113 bytes )

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

Morris Visitor Publications, LLC,  
*Petitioner,*

vs.

GMA Accessories, Inc.,  
*Respondent.*

Cancellation No. **92058054**

Mark : **CHARLOTTE**  
Reg. No.: **3600046**

**Opposition to Motion to Compel**

NOW COMES counsel of record for Petitioner in the above-referenced cancellation procedure (this "Cancellation"), to oppose the motion to compel and shows as follows:

1. Respondent has filed a "*Declaration in Support of Motion to Compel*," dated May 8, 2014 (hereinafter, the "Declaration") seeking to compel a response to "*Respondent's First Set of Interrogatories.*"<sup>1</sup>
2. After the Board set aside Respondent's default, the deadlines and dates were reset for this Cancellation proceeding. As a result, the discovery period opened on March 31, 2014 and the initial disclosures were due by April 30, 2014.
3. On April 3, 2014, Petitioner's counsel received "*Respondent's First Set of Interrogatories*," which were dated March 31, 2014.
4. **Ten (10) days later** on April 13, 2014, Petitioner's counsel received "*Respondent's Initial Disclosures*," which were dated April 10, 2014.
5. Respondent's motion to compel should be dismissed because Respondent failed to serve its initial disclosures *prior* to serving discovery upon counsel for Petitioner. It is clear that "[a] party *must* make its initial disclosures *prior to seeking discovery*, absent modification of this requirement by a stipulation of the parties

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<sup>1</sup> While the Declaration is dated May 8, 2014, it was not filed with the Trademark Trial and Appeal Board until May 12, 2014.

approved by the Board, or a motion granted by the Board, or by order of the Board.” 37 CFR § 2.120(a)(3) (emphases added).

6. The parties’ counsel participated in a discovery conference on or about March 19, 2014. During that conference there was no discussion between counsel related to modifying any requirements of the Board related to discovery or anything else. Subsequent to the discovery conference, there has been no discussion or stipulation between counsel related to discovery.

7. Further, there has been no motion granted by the Board or order of the Board related to discovery in this Cancellation.

8. Thus, it is clear that Respondent failed to make its initial disclosures *prior* to seeking discovery as required by 37 CFR § 2.120(a)(3).

9. Since Respondent’s initial disclosures were not made until after Respondent served its first set of interrogatories, the interrogatories are premature and invalid.

10. Alternatively, and without waiving the defenses or objections set forth, above, Petitioner represents that responses to “*Respondent’s First Set of Interrogatories*” will be provided to counsel for Respondent not later than June 6, 2014.

WHEREFORE, Petitioner respectfully requests that the Board deny Respondent’s Declaration in Support of Motion to Compel.

Respectfully submitted, this 23<sup>rd</sup> day of May, 2014.



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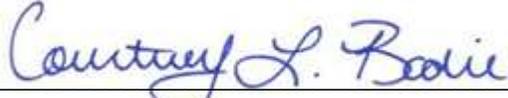
Cancellation No. **92058054**

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**Certificate of Service**

I, Courtney L. Bodie, hereby certify that the Opposition to Motion to Compel is being deposited with the United States Postal Service on this 23<sup>rd</sup> day of May, 2014, postage pre-paid, addressed to the following:

Dennison D. Marzocco  
Bostany Law Firm PLLC  
75 Wall Street, Suite 24F  
New York, NY 10005

By:   
Courtney L. Bodie

