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

Proceeding	92060308
Party	Defendant Corcamore, LLC
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Submission	Reply in Support of Motion
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Date	08/19/2015
Attachments	Sprout_Corc_Reply_Mo_R11_08_19_2015.pdf(40518 bytes)

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

SFM, LLC,	}	
	}	Cancellation No: 92 060308
v.	}	
	}	
Corcamore, LLC	}	Registration No. 3708453
	}	
Respondent-Registrant.	}	

**REPLY OF RESPONDENT-REGISTRANT
ON RULE 11 MOTION.**

Respondent-Registrant Corcamore LLC replies to the parts of petitioner’s opposition brief and exhibits filed 3 August 2015, which are “germane to the motion” before the Board.

Petitioner’s Key Averments Remain Unsupported.

Nothing in the petitioner’s opposition supports its pleaded averments of: (A) vending machines `owned or operated’ by the Respondent-Registrant, or (B) `owned or operated’ vending machines branded SPROUT by Respondent-Registrant.¹ These averments are essential to petitioner’s theories of standing and of consumer confusion. Both averments – owned or operated and branded machines - are factually unsupportable.

Petitioner’s opposition goes far afield, but never finds on any factual support for the existence of a vending machine branded SPROUT allegedly owned or operated by Respondent-Registrant. No actual machines, and no website images of a so-branded machine exist.

Petitioner, who apparently made an inadequate prefiling investigation, now clips to its opposition some recent webpage screenshots. Consider petitioner’s Exhibit C, which shows an

¹ For example, ¶11 of SFM’s First Amended Petition alleges that the “Respondent’s vending machines offer a variety of products, including the same or similar products than those offered at retail ...specifically Sprouts Farmers Markets.” Petitioner’s Response, dated June 18, 2015, complains of the “Respondent’s conduct, namely its use of a registration for the SPROUT mark on vending machines selling food, is proximately causing injury to SFM.”

unbranded, indeed unmarked vending machine, over the text “We [*meaning Respondent*] connect you with **your** vending and foodservice operators.” {*em. added*}. That text cannot be read to say Respondent owns or operates vending machines. It plainly refers to other companies, those “operators” that own or operate “your,” *i.e.*, the consumer or its employer’s, vending machines.

No image of a Sprout branded machine and no text indicating ownership or operation of vending machines by Respondent-Registrant is to be found in petitioner’s opposition.

The absence of any factual basis being shown by petitioner for its key averments provides good cause to grant the Rule 11 motion, applicable here pursuant to TBMP 527.02, and to grant appropriate relief to Respondent-Registrant.

Respectfully submitted,

19 AUG 2015

~ S ~ /Charles L. Thomason/

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CERTIFICATE OF SERVICE

I hereby certify that on this 19th day of August, 2015, I electronically filed the foregoing Reply on Notice of Motion, and mailed a copy to the attorneys for the Petitioner, directed to the address of the attorney indicated below:

Nicole M. Murray, Esq.
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Date: 19 AUG 2015

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