

ESTTA Tracking number: **ESTTA715951**

Filing date: **12/21/2015**

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

Proceeding	92060308
Party	Defendant Corcamore, LLC
Correspondence Address	CHARLES L THOMASON 55 W 12TH AVE COLUMBUS, OH 43210 UNITED STATES thomason@spatlaw.com
Submission	Other Motions/Papers
Filer's Name	Charles L. Thomason
Filer's e-mail	thomason@spatlaw.com
Signature	/Charles L. Thomason/
Date	12/21/2015
Attachments	Sprout_SupplCit_12_21_2015.pdf(178433 bytes)

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

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

ELECTRONICALLY SERVED

SUPPLEMENTAL CITATION OF AUTHORITY.

With regard to the pending motions, the Respondent-registrant submits the following supplemental citation of authority. The briefing on the motions present a question whether the Board should follow the U.S. District Court’s decision¹ that the *Lexmark*² standards for statutory standing to plead for Lanham Act remedies are applicable to both a civil action under §43(a) as well as a §14 administrative petition for cancellation. See, e.g., section III of document #18.

Oral argument on the appeal³ of that District Court’s decision occurred recently, and the link below is to the recording of the arguments of counsel and the colloquy with the panel of judges on the U.S. Court of Appeals for the Fourth Circuit.

<http://coop.ca4.uscourts.gov/OAarchive/mp3/15-1335-20151027.mp3>

Based upon the arguments presented, and the undersigned’s reading all of the briefs submitted on that appeal, it can be predicted that the decision that *Lexmark* applies to both §43(a) and §14 action will not be overturned.

¹ *Belmora LLC v. Bayer Consumer Care AG*, 115 U.S.P.Q.2d 1032, 1038 (E.D. Va. 2015).

² *Lexmark International, Inc. v. Static Control Components, Inc.*, ___ U.S. ___, 109 USPQ2d 2061 (2014).

³ *Belmora LLC v. Bayer Consumer Care AG*, Docket #15-1335 (4th Cir.).

The foregoing link to the supplemental authority is submitted in accordance with *Safer Inc. v. OMS Investments Inc.*, 94 USPQ2d 1031 (TTAB 2010). Attached is a printout of the page from the Circuit Court's website through which the recordings are accessed.

Respectfully submitted,

Date: 21 DEC 2015

~ S ~ /Charles L. Thomason/

Charles L. Thomason
55 W. 12th Ave.
Columbus, OH 43210
thomason@spatlaw[dot]com
Telep. (502) 349-7227
Attorney for Respondent-registrant
and Counterclaimant
Sprout Retail, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on this 21st day of December, 2015, I electronically filed the foregoing Supplemental Citation of Authority, and mailed a copy to the attorneys for the Petitioner, directed to the address of the attorney indicated below:

Nicole M. Murray, Esq.
Quarles & Brady LLP
300 N. LaSalle St., Suite 4000
Chicago, IL 60654

Date: 21 DEC 2015

~ S ~ /Charles L. Thomason/
Charles L. Thomason



UNITED STATES COURT *of APPEALS* for the **FOURTH CIRCUIT**



Home / Oral Argument / Listen to Oral Arguments

Listen to Oral Arguments

Audio Files

Fourth Circuit oral argument audio files in MP3 format are posted on the court's Internet site by the next business day. The court began posting links to oral argument audio files in May 2011.

- Listen to Oral Arguments **May 2011-present** in the list below.
- Argument sessions between **September 2002 and May 2011**: CDs of oral argument recordings may be requested from the clerk's office using the Oral Argument CD Request Form. A fee of \$30 applies (except to the United States and to individuals providing services under the Criminal Justice Act).

More Information

- Reminder to Counsel: Oral Argument & I.O.P. 34.3
- RSS Feed Email Subscription

Instructions

- **Sorting:** click on **Argument Date** or **Case Number** to sort by date or case number.
- **Searching:** To search for a party name, case number or date on this page, select "Ctrl F" and enter a search term in the box that opens.
- **Saving:** To save the MP3 file, right-click a case number and select "Save link as..." or "Save target as..."
- **Help:** If you have trouble playing the MP3 files, please review [How to Set Your Computer to Play Oral Argument Audio Files](#).

10/27/2015	15-1335	Belmora LLC v. Bayer Consumer Care AG	G. Steven Agee, Henry F. Floyd, Stephanie D. Thacker	Bradley Cohn, Lewis Yelin, Martin Schwimmer	
------------	---------	---------------------------------------	--	---	--

Accessible at <http://www.ca4.uscourts.gov/oral-argument/listen-to-oral-arguments>