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

Proceeding	92060353
Party	Plaintiff Bentley Motors Limited
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Signature	/s/ JESSICA BROMALL SPARKMAN
Date	11/06/2015
Attachments	Motion to Compel.pdf(1861498 bytes)

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

BENTLEY MOTORS LIMITED,

Petitioner,

v.

AUCERA SA,

Respondent.

Cancellation No. 92/060353

Reg. Nos. 2007286, 2096184, 2096186

Mark: BENTLEY

Atty. Ref. No.: 58389-9086

PETITIONER’S MOTION TO COMPEL RESPONSES;

DECLARATION OF JESSICA BROMALL SPARKMAN

I. INTRODUCTION

Petitioner Bentley Motors Limited (“BML” or “Petitioner”), by and through its undersigned counsel, hereby moves, pursuant to Rule 37 of the Federal Rules of Civil Procedure and 37 C.F.R. 2.120(e) & (h) of the Trademark Rules of Practice for entry of an order compelling respondent Aucera S.A. (“Aucera” or “Respondent”) to immediately serve responses, without objections on the merits, to Petitioner’s First Request for the Production of Documents and Things to Respondent (the “RFPs”) and Petitioner’s First Interrogatories to Respondent (the “Interrogatories”) (collectively, the “Discovery Requests”), and produce all documents responsive to the Document Requests in Respondent’s possession, custody, or control.

II. FACTUAL BACKGROUND

On or about August 12, 2015, BML served the Discovery Requests on Aucera by mail. Declaration of Jessica Bromall Sparkman (“Sparkman Decl.”), ¶ 2, Exhs. A-B. Upon receipt of the Discovery Requests, Aucera’s counsel asserted that the Discovery Requests were improperly served, and engaged in a dispute with counsel for BML, during which it requested, *inter alia*, that BML withdraw the discovery, or agree to a 15 day extension of the deadline for Aucera to respond. This dispute ultimately resulted in Aucera filing a motion with the Board, and BML will not rehash the details of the dispute here. *See* Docket Nos. 16-18.

In response to Aucera’s motion, the Board ordered that Aucera’s responses to the Discovery Requests were due on October 1, 2015. Docket No. 18. Aucera, however, did not serve responses to the Discovery Requests on or before October 1, 2015, nor did it request or receive an extension of the deadline to respond to the Discovery Requests, and, as of the date of filing, still has not responded to the Discovery Requests.¹ Sparkman Decl., ¶ 3.

On October 16, 2015 counsel for BML wrote to counsel for Aucera stating that it had not received responses to the Discovery Requests, and asking Aucera to serve responses to the Discovery Requests and produce responsive documents no later than October 21, 2015. *Id.* at ¶ 5, Exh. C. BML received no response from Aucera until, on October 21, 2015, counsel for Aucera wrote to counsel for BML asking that BML “provide a date by which you would agree not to file a motion to compel if our client can respond to all discovery requests by that time.” *Id.* at ¶ 5, Exh. D. On October 22, 2015, BML responded to Aucera, and agreed to delay filing any motion to compel for 10 days, until November 2, 2015. *Id.* at ¶ 5, Exh. E. BML also asked that, if Aucera

¹ Concurrently with the Discovery Requests, BML also served Petitioner’s First Requests for Admissions (the “RFAs”). Pursuant to the Board’s order, responses to the RFAs were also required to be served on or before October 1, 2015. Aucera has not, as of the date of filing, served any responses to the RFAs, thus the matters therein are deemed admitted. Sparkman Decl., ¶ 4; Fed. R. Civ. P. 36; TBMP § 407.03(a).

could not provide responses and documents prior to November 2, 2015, that it provide an explanation for the delay. *Id.* Counsel for Aucera responded stating that the “delay was in part due to a docketing error at our firm.” *Id.* at ¶ 5, Exh. F. In that same email, counsel provided what it contended was evidence of use of BENTLEY. *Id.*

A week passed, without word from Aucera. Then, on November 29, 2015 counsel for Aucera contacted counsel for BML and asked whether BML would consider withdrawing its opposition. *Id.* at ¶ 5, Exh. G. Aucera’s counsel said nothing regarding when it would provide responses. *Id.*

On November 3, 2015, counsel for BML again wrote to counsel for Aucera, noting that the November 2, 2015 deadline had elapsed, noting that it had received neither responses, nor any update from Aucera regarding when responses would be provided, and noting that the “evidence” Aucera had provided neither showed current use of BENTLEY, nor did it show that Aucera had not abandoned the BENTLEY mark. *Id.* at ¶ 5, Exh. H. Counsel for BML invited counsel or Aucera to contact it to discuss the matter, and stated that failing such contact, BML would proceed with a motion to compel. *Id.* On November 4, 2015, counsel for Aucera responded only that counsel was “working on the discovery responses” and that it would “greatly appreciate if you could delay filing the motion to compel until the close of discovery.” *Id.* at ¶ 5, Exh. I.

III. ARGUMENT

A. BML Has Made a Good Faith Effort to Resolve this Dispute

As required by the rules, BML has made a good faith effort to resolve this dispute with Aucera. BML has sent numerous emails to Aucera requesting that Aucera comply with its discovery obligations. BML has requested an explanation of the reason for the delay in respond to the Discovery Responses, and attempted to ascertain whether responses might be forthcoming absent the filing of a motion. BML has delayed filing this motion for more than a month after

responses to the Discovery Requests were originally due, and for more than two weeks after it first requested Aucera comply with its discovery obligations.

Despite BML's efforts, however, Aucera still has not responded to the Discovery Requests, still has not explained its failure to respond, and still has not indicated when it will respond to the Discovery Requests.

Under these circumstances, BML has more than complied with the required that it make a good faith effort to resolve its dispute prior to filing a motion.

B. Aucera's Failure to Respond was not the Result of Excusable Neglect

Given the volume of both correspondence and motion practice dedicated to establishing the October 1, 2015 deadline for responding to the Discovery Requests, it strains credulity to believe that Aucera and its counsel simply forgot about them. Aucera had 50 days to between the service of the Discovery Requests and the deadline for responding to prepare its responses. Yet it appears to have done nothing during all that time.

The only explanation Aucera has provided for its total failure to comply with its discovery obligations is that its counsel made a docketing error. Even if a docketing error did constitute excusable neglect, and it does not, it would not excuse Aucera's continued failure to respond to the Discovery Requests during the more than two weeks that have elapsed since BML brought Aucera's failure to respond to counsel's attention on October 16, 2015.

In light of the foregoing, there is no excusable neglect, and Aucera has forfeited its right to object to the Discovery Requests on their merits, including, *inter alia*, objections that the information sought by a request is irrelevant, or that a request is overly broad, vague, ambiguous, burdensome, oppressive, or not likely to lead to the discovery of admissible evidence.

IV. CONCLUSION

For the reasons set forth above, BML requests that the Board order Aucera to immediately serve responses to the Discovery Requests, without objections on the merits, and produce all documents responsive to the Document Requests in Aucera's possession, custody, or control.

Dated: November 6, 2015

/s/ JESSICA BROMALL SPARKMAN

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Attorneys for Petitioner BENTLEY MOTORS
LIMITED

DECLARATION OF JESSICA BROMALL SPARKMAN

I, JESSICA BROMALL SPARKMAN, declare as follows:

1. I am an attorney licensed to practice law in the State of California and a partner at the law firm of Jeffer Mangels Butler & Mitchell LLP, counsel for petitioner Bentley Motors Limited (“BML” or “Petitioner”) in the above-referenced matter. I have personal knowledge of the facts set forth herein, or knowledge based on the documents in my firm’s files in the relevant matters, and, if called as a witness, could and would competently testify thereto. I submit this declaration in support of Petitioner’s Motion to Compel.

2. True and correct copies of Petitioner’s First Requests for the Production and Things to Respondent (the “Document Requests”) and Petitioner’s First Interrogatories to Respondent (the “Interrogatories”) (collectively, the “Discovery Requests”) are attached hereto as Exhibits A and B, respectively. The Discovery Requests were served on respondent Aucera S.A. (“Aucera” or “Respondent”) by U.S. Mail on August 12, 2015. Courtesy copies of the Discovery Requests were sent to counsel for Aucera by email on August 12, 2015.

3. Aucera has not requested, and was not granted, any extension of time to serve responses to the Discovery Requests. To date, we have not received any responses to the Discovery Requests.

4. Petitioner’s First Requests for Admissions (the “RFAs”) were served on Aucera concurrently with the Discovery Requests. We have not received any responses to the RFAs either.

5. True and correct copies of emails exchanged between myself and counsel for Aucera, Scott Alprin and Kenny Cheong, between October 16 and November 4, 2015 are attached hereto as Exhibits C-I.

I declare under penalty of perjury under the laws of the United States of America and the State of California that the foregoing is true and correct, and that this Declaration is executed on November 6, 2015 at Los Angeles, California.

/S/ JESSICA BROMALL SPARKMAN

JESSICA BROMALL SPARKMAN

EXHIBIT A

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

BENTLEY MOTORS LIMITED,

Petitioner,

v.

AUCERA SA,

Respondent.

Cancellation No. 92060353

Registration Nos.: 2007286, 2096184,
2096186

Mark: BENTLEY

Atty. Ref. No.: 58389-9026

PETITIONER'S FIRST REQUESTS FOR THE
PRODUCTION OF DOCUMENTS AND THINGS TO RESPONDENT

Petitioner Bentley Motors Limited (“Bentley”), pursuant to 37 C.F.R. § and Rules 26 and 34 of the Federal Rules of Civil Procedure, requests that Respondent Aucera SA (“Aucera”) respond to the following requests for production of documents and things, and produce the requested documents and things in accordance with the Definitions and Instructions set forth below. As required by Rule 34, these requests are to be answered separately, and within thirty (30) days after service. These requests are continuing and responses must be supplemented to the extent required by Fed. R. Civ. P. 26(e).

DEFINITIONS AND INSTURCTIONS

1. “Petitioner” or “Bentley” means Bentley Motors Limited.
2. “You,” “your,” “Respondent,” or “Aucera” means Aucera SA, its predecessors or successors in interest, any parent, subsidiary, affiliate and division, and any parent or former officers, directors, agents, consultants, representatives, employees, or other persons acting or purporting to act on any of those entities’ behalf.

3. "Person" means any natural person, partnership, corporation, or other business entity, and all present and former officers, directors, agents, representatives, and employees acting or purporting to act on behalf of such person.

4. "Consumer" shall mean any person, whether a natural person or an entity, that has purchased, may purchase, or expressed an interest in purchasing or otherwise receiving a product or service.

5. "Petition" means the Petition filed by Bentley on November 11, 2014, which instituted the present proceeding.

6. "Answer" means the Answer filed by Aucera on December 16, 2014.

7. "Communication" means and includes any transmission or exchange of information between two or more persons, whether orally or in writing, including without limitation, any discussion or information carried on or transmitted by means of letter, note, memorandum, interoffice correspondence, internal office communications, telephone, telex, telecopies, cable, e-mail, instant message, text message, or any other electronic or other medium.

8. The term "Aucera's Mark" shall refer to "BENTLEY" as described in U.S. Reg. Nos. 2007286, 2096184, and 2096186, including as used with any and all of the goods set forth therein and/or any additional related or complimentary goods or services.

9. The terms "commerce" or "US commerce" or "United States commerce" shall have the meaning ascribed to the term "commerce" as set forth in the Lanham Act, 15 U.S.C. § 1127 and related federal case law.

10. The term "abandoned" shall have the meaning ascribed to the term "abandoned" as set forth in the Lanham Act, 15 U.S.C. § 1127 and related federal case law.

11. The term "colorable imitation" shall have the meaning ascribed to the term "colorable" as set forth in the Lanham Act, 15 U.S.C. § 1127 and related federal case law.

12. When appropriate in the context of a request, the singular shall encompass the plural; and the masculine gender shall encompass the feminine, and vice versa.

13. "And" and "or" shall be construed conjunctively or disjunctively as necessary to make your response inclusive rather than exclusive.

14. "All" shall include the collective as well as the singular and shall mean "each," "any," and "every," and these terms shall be interchangeable.

15. The terms "refer," "concern," and "describe" when used with respect to any given subject, mean to consist, constitute, contain, compose, comprise, embody, reflect, identify, state, regard, pertain to, deal with, or to have any logical or factual connection whatsoever with that subject.

16. The terms "relate" or "show" or "relating to" or "showing" mean directly and indirectly, describing, recording, referring to, reflecting, concerning, evidencing, or to be related to in any manner legally, logically, factually, indirectly, or directly to the matters discussed.

17. If, in responding to any request, you perceive any ambiguity in construing either the request or the instruction or definition relevant to the request, please set forth the matter deemed ambiguous and the construction chosen or used in answering the request.

18. These requests are to be answered with reference to all information in your possession, custody or control or reasonably available to you. Information is deemed to be in your control if you have the right to secure the information, or documents containing such information, from another person having actual possession thereof. If you know or believe that there may be, or were, documents otherwise meeting the terms of a particular Request, but which

are not within your custody, possession or control, or which no longer exist, please state so in your response to that particular request.

19. Documents produced should be tendered either in the precise form or manner as they are kept in the usual course of business or organized and labeled to correspond with the categories that follow in these Requests.

20. Electronic or magnetic data shall be produced on paper printout and in a computer format on a mutually agreeable computer-readable medium.

21. If any document was, but is no longer in your possession, subject to your control, or in existence, state:

- (a) Whether it is missing or lost, and if so, the name and current address and phone number of the persons who have knowledge of it.
- (b) Whether it has been destroyed, and if so, the circumstances under which it was destroyed and the name and current address and phone number of the persons who destroyed it or who have knowledge of its destruction.
- (c) Whether it has been transferred voluntarily or involuntarily, and in each instance explain the circumstances surrounding the authorization for each disposition and state the date or approximate date of its disposition; and
- (d) The identity of the person who has possession, custody, or control of the document.

22. If you claim any privilege of non-production for any document or communication sought in these Requests, provide a privilege log containing the following information:

- (a) the date, identity and general subject matter of the document, and the grounds asserted in support of the failure to produce the document;

- (b) the identity of each person (other than stenographic or clerical assistants) participating in the preparation of the document;
- (c) the identity of each person to whom the contents of the document was communicated orally, by copy, by distribution, reading or substantial summarization;
- (d) a description of any document or other material transmitted with or attached to the document;
- (e) the number of pages in the document;
- (f) the particular Request(s) and subpart(s) to which the document is responsive; and
- (g) whether any business or non-legal matter is contained or discussed in the document.

23. Each Request shall be deemed continuing so as to require prompt supplemental disclosures if additional information is obtained, discovered, or created subsequent to the time of responding to these Requests.

REQUESTS FOR PRODUCTION OF DOCUMENTS AND THINGS

1. All documents that relate to any fact set forth in your Answer.
2. All documents that relate or refer to the Aucera Mark by you or any licensee or on your or its behalf in United States commerce from November 10, 2011 to the present.
3. All documents that relate to any assignment, license, or any other transfer or grant from any person or entity, of any rights you claim to the Aucera Mark.

4. All non-privileged documents related to any litigation, interferences, conflicts, oppositions, cancellation proceedings, or any other inter-party proceedings you or any licensee or third party have participated in regarding the Aucera Mark.

5. All documents that relate to advertisements, catalogs, brochures, packaging, labels, websites and any other advertising or promotional materials that show your use of the Aucera Mark in United States commerce from November 10, 2011 to the present.

6. All documents referring to, or relating to, your ordinary and customary channels of trade for goods and services sold in United States commerce bearing the Aucera Mark from November 10, 2011 to present.

7. All communication between you and any person you intend to call as an expert witness during the testimony period of this proceeding.

8. All documents that refer or relate to any survey, investigation, study, or market test (hereinafter "survey") conducted or authorized by you, or other individual, company or organization acting on your behalf, relating to the Aucera Mark, including, but not limited to, any survey relating to publication recognition, consumer acceptance, secondary meaning, or confusion, including without limitation, for each survey, any reports or summaries of the results thereof.

9. All documents Bentley requested you identify in any of your responses to Bentley's First Interrogatories to Aucera, separately indexed by the number of the interrogatory to which each such document relates.

10. All documents you reviewed in connection with preparing the responses to Bentley's First Interrogatories to Aucera.

11. All non-privileged documents that refer or relate to any opinion received by you relating to the registration of the Aucera Mark.
12. All documents concerning any communication between you and any other person about Bentley or the subject matter of this proceeding.
13. All documents evidencing your document retention or document destruction policies.
14. All documents referring to or relating to your use or any licensee's use of the Aucera Mark in United States commerce from November 10, 2011 to the present.
15. All documents referring or relating to your or any licensee's promotion, sales, advertisement, or offer for sale of any goods or services bearing the Aucera Mark from November 10, 2011 to the present.
16. All documents sufficient to show your and any licensee's gross annual sales of all goods and services that bear the Aucera Mark from November 10, 2011 to the present, broken down annually or in a similar manner.
17. All documents referring to or relating to any instance of actual confusion between Bentley and you or any licensee, or between goods and services sold or advertised bearing the Aucera Mark and Bentley's goods and services.
18. All documents referring to, or relating to any licenses, contracts, or agreements entered into by you and any third party relating to the Aucera Mark, including, without limitation, consent agreements, co-existence agreements and settlement agreements.
19. All documents that refer to or relate to the suggested and actual retail prices for goods and services promoted and sold, or promoted and sold, under the Aucera Mark.

20. All documents that identify any entity owned or controlled by you that is involved in manufacture or distribution of goods under the Aucera Mark.

21. All documents that relate to the channels of trade through which the goods and services sold bearing the Aucera Mark pass to the end users of the goods and services.

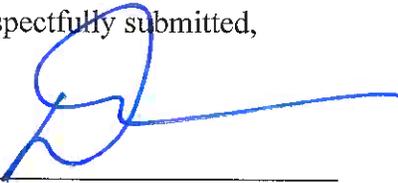
22. All documents that relate to any filings in the United States Patent and Trademark Office regarding the Aucera Mark.

23. All organizational charts that relate to Aucera's ownership, parent corporations or subsidiary corporations.

24. All organizational charts that relate to Aucera's internal organization of officers, directors and managers.

25. All non-privileged statements, interviews, notes or memorandum written or record in any manner, with any third-party, concerning the Aucera Mark.

Respectfully submitted,



Dated: August 12, 2015

Rod S. Berman
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(310) 203-8080
E-mail: trademarkdocket@jmbm.com
Attorneys for Petitioner Bentley Motors Limited

CERTIFICATE OF SERVICE

I hereby certify that on **August 12, 2015**, a copy of the foregoing document is being emailed and deposited with the U.S. Postal Service, first class mail, postage prepaid, addressed to Petitioner's attorney of record and to Petitioner as follows:

M. Scott Alprin
Rabin & Berdo, P.C.
1101 14th Street, N.W., Suite 500 -
Washington, D.C. 20005
firm@rabinberdo.com



Kerene Palmer

EXHIBIT B

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

BENTLEY MOTORS LIMITED,

Petitioner,

v.

AUCERA SA,

Respondent.

Cancellation No. 92060353

Registration Nos.: 2007286, 2096184,
2096186

Mark: BENTLEY

Atty. Ref. No.: 58389-9026

PETITIONER'S FIRST INTERROGATORIES TO RESPONDENT

Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

Petitioner Bentley Motors Limited ("Bentley"), pursuant to 37 C.F.R. § 2.120 and Rules 26 and 33 of the Federal Rules of Civil Procedure, requests that Respondent Aucera SA ("Aucera") answer the following Interrogatories in accordance with the Definitions and Instructions set forth below. As required by Rule 33, these Interrogatories are to be answered separately, under oath, and within thirty (30) days after service. These interrogatories are continuing and responses must be supplemented to the extent required by Federal Rule of Civil Procedure 26(e).

DEFINITIONS AND INSTRUCTIONS

1. "Petitioner" or "Bentley" means Bentley Motors Limited.
2. "You," "your," "Respondent," or "Aucera" means Aucera SA, its predecessors or successors in interest, any parent, subsidiary, affiliate and division, and any present or former officers, directors, agents, consultants, representatives, employees or other persons acting or purporting to act on any of those entities' behalf.

3. "Person" means any natural person, partnership, corporation, or other business entity, and all present and former officers, directors, agents, representatives and employees acting or purporting to act on behalf of such person.

4. "Document" is defined to be synonymous in meaning and equal in scope to the usage of this term in its broadest possible sense in the Federal Rules of Evidence and the Federal Rules of Civil Procedure. For further specificity, documents include all information recorded or stored in any electronic medium such as telephonic memory, computer memory, diskettes, SIM cards or magnetic tape. Any document with any remarks such as initials, comments, or notations of any kind is not deemed to be identical to one without such marks, and is to be produced as a separate document.

5. "Petition" means the Petition filed by Bentley on November 11, 2014 which instituted the present proceeding.

6. "Answer" means the Answer filed by Aucera on December 16, 2014.

7. The term "Aucera's Marks" shall refer to "BENTLEY" as described in U.S. Reg. Nos. 2007286, 2096184, and 2096186, including as used with any and all of the goods set forth therein and/or any additional related or complimentary goods or services.

8. The terms "identify" and "describe" in the case of a natural person mean to state that person's (1) full name; (2) present or last known home address; (3) present or last known business address; (4) current occupation or business, including title and position; and (5) if different from his or her current occupation or business, the occupation or business the person was engaged in at the time relevant to the interrogatory, including title and position.

9. The terms "identify" and "describe" in the case of an entity or organization mean to state (1) the entity's or organization's full name; (2) the entity or organization's type (e.g.,

public or private corporation, partnership, etc.); (3) the present or last known street and post office addresses of its principal place of business; (4) the place of incorporation or registration; (5) its date of incorporation or registration; and (6) its principal executive officers.

10. The terms "identify" and "describe" in relation to any use of the Aucera Mark shall mean to provide a description of the date(s) or range of dates of use, the geographic location(s) of use, the goods or services with which the use was made, the type of use (e.g., sale, offering, promotion), the trade channels utilized and the person(s) to whom the use was provided or offered.

11. The terms "commerce" or "US commerce" or "United States commerce" shall have the meaning ascribed to the term "commerce" as set forth in the Lanham Act, 15 U.S.C. § 1127 and related federal case law.

12. The term "abandoned" shall have the meaning ascribed to the term "abandoned" as set forth in the Lanham Act, 15 U.S.C. § 1127 and related federal case law.

13. The term "colorable imitation" shall have the meaning ascribed to the term "colorable" as set forth in the Lanham Act, 15 U.S.C. § 1127 and related federal case law.

14. In the case of a document that has not been produced, the terms "identify" and "describe" mean to state (1) the document's title, if any, as well as a brief description of its subject matter; (2) the type or nature of the document (e.g., letter, memorandum, etc.) and the number of pages it contains; (3) the date the document was drafted; (4) the identify of any person who prepared the document (and, if different, the identity of any person who signed the document; (5) the identity of ay person who received a copy of the document; (6) the present location of the document and the identity of its custodian; and (7) all other means of identifying

the document with sufficient particularity to support a request for production under Federal Rule of Civil Procedure 34.

15. In the case of a document that has been produced or otherwise available in this dispute, the terms “identify” and “describe” mean to state: (1) the document’s Bates number or other identifying information (e.g., exhibit number, or witness name and transcript date for a deposition); and (2) all relevant portions of that document by page numbers.

16. When appropriate in the context of an interrogatory, the singular shall encompass the plural; and the masculine gender shall encompass the feminine, and vice versa.

17. “All” shall include the collective as well as the singular and shall mean “each,” “any,” and “every,” and these terms shall be interchangeable.

18. “And” and “or” shall be construed conjunctively or disjunctively as necessary to make your response inclusive rather than exclusive.

19. The terms “refer,” “concern,” and “describe” when used with respect to any given subject, mean to consist, constitute, contain, compose, comprise, embody, reflect, identify, state, regard, pertain to, deal with, or to have any logical or factual connection whatsoever with that subject.

20. The terms “relate” or “show” or “relating to” or “showing” mean directly or indirectly describing, recording, referring to, reflecting, concerning, evidencing, or to be related to in any manner legally, logically, factually, indirectly, or directly to the matters discussed.

21. If, in responding to any interrogatory, you perceive any ambiguity in construing either the interrogatory or the instruction or definition relevant to the interrogatory, please set forth the matter deemed ambiguous and the construction chosen or used in answering the interrogatory.

22. These interrogatories are to be answered with reference to all information in your possession, custody or control or reasonably available to you. Information is deemed to be in your control if you have the right to secure the information, or documents containing such information, from another person having actual possession thereof.

23. Each interrogatory shall be deemed continuing so as to require prompt supplemental disclosures if additional information is obtained, discovered, or created subsequent to the time of responding to these interrogatories.

INTERROGATORIES

1. Identify every person who may have knowledge or information regarding your Answer.

2. Identify all uses in US commerce of the Aucera Mark by you or on your behalf from November 10, 2011 - present.

3. Identify all licensees of the Aucera Mark and uses of the Aucera Mark by any licensee or on its behalf from November 10, 2011 - present.

4. Identify your or your licensees' efforts to police unauthorized third party uses in US commerce of the Aucera Mark or any colorable imitation thereof.

5. Identify all goods and services sold, offered or otherwise used or promoted by you or on your behalf in US commerce in connection with the Aucera Mark from November 10, 2011 - present.

6. If you have transferred any rights in the Aucera Mark, or received any rights regarding the Aucera Mark from any person, identify the rights granted; and to whom, or from whom you received such rights.

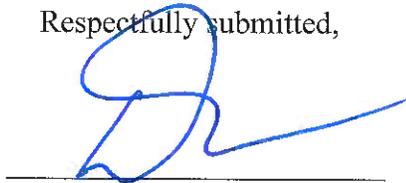
7. Identify all documents evidencing the transfers identified in response to Interrogatory 6.
8. Identify all marketing and promotional materials created by or on behalf of you or any authorized licensee or utilized by or on behalf of you or any licensee behalf from November 10, 2011 - present that bear or relate to the Aucera Mark.
9. Identify all documents relating to plans to use the Aucera Mark in US commerce in the next three years.
10. Identify all documents relating to your plans for ceasing use of the Aucera Mark in United States commerce.
11. Identify all channels of trade in United States commerce for goods or services promoted under the Aucera Mark.
12. Describe in detail any instance of actual confusion between you or your goods or services and Bentley or Bentley's goods and services.
13. Identify each person who provided information for the preparation of any answer to these Interrogatories.
14. Identify all officers, managers, directors, and/or shareholders of Aucera.
15. Identify all locations of any Aucera office.
16. Identify all sales by or on behalf of you or any authorized licensee in United States commerce of goods or services bearing the Aucera Mark from November 10, 2011 - present.
17. Describe with particularity all facts supporting your contention that the Aucera Mark has not been abandoned.

18. Describe with particularity all facts supporting your contentions in paragraph 4 of the Answer.

19. Describe with particularity all facts supporting your contentions in Affirmative Defense Paragraph 1 of the Answer.

20. Describe with particularity all facts supporting your contentions in Affirmative Defense Paragraph 2 of the Answer.

Respectfully submitted,



Dated: August 12, 2015

Rod S. Berman
JEFFER, MANGELS, BUTLER & MITCHELL LLP
1900 Avenue of the Stars, Seventh Floor
Los Angeles, CA 90067
(310) 203-8080
E-mail: trademarkdocket@jmbm.com
Attorneys for Petitioner Bentley Motors Limited

CERTIFICATE OF SERVICE

I hereby certify that on **August 12, 2015**, a copy of the foregoing document is being emailed and deposited with the U.S. Postal Service, first class mail, postage prepaid, addressed to Petitioner's attorney of record and to Petitioner as follows:

M. Scott Alprin
Rabin & Berdo, P.C.
1101 14th Street, N.W., Suite 500
Washington, D.C. 20005
firm@rabinberdo.com



Kerene Palmer

EXHIBIT C

Bromall Sparkman, Jessica

From: Bromall Sparkman, Jessica
Sent: Friday, October 16, 2015 3:30 PM
To: salprin@rabinberdo.com
Cc: kcheong@rabinberdo.com; Berman, Rod S.; Duncan, Sharon; Palmer, Kerene
Subject: Bentley v. Aucera: Meet and Confer re Motion to Compel [JMBM-LA.58389.9026.FID1382791]

Dear Scott:

Our calendar shows that your client's discovery responses were due on Thursday, October 1, 2015. It is now Friday, October 16, 2015, and we have still not received your discovery responses. As a result of your failure to timely respond, all objections to the interrogatories and requests for production have been waived, and all matters in the requests for admissions have been admitted.

Additionally, we have also reviewed the "evidence" of use you sent at the end of August, consisting of domain name and a photograph of a newspaper advertisement. As you are surely aware, neither print advertisements nor websites constitute use in commerce. Indeed, none of the "evidence" you provided indicates that your client is using BENTLEY in commerce, that it has continuously used BENTLEY in commerce since obtaining its registrations in 1996 and 1997, that it intends to resume using BENTLEY in commerce, or that it has *ever* sold *any* BENTLEY product in the United States. We also note that the domain name appears to be owned by Pyxis Enterprise Co., Ltd., not your client.

As you may be aware, our clients are involved in similarly cancellation actions in numerous jurisdictions throughout the world, and many of those actions have already been decided against your client, including two in the United States. To date, our client's investigations have not located any genuine use of BENTLEY by your client, *anywhere* in the world. If your client were selling goods in the U.S. bearing the BENTLEY mark, it should be easy to locate and produce evidence showing such sales. Yet nearly a year into this proceeding, your client still has not produced any evidence showing its use of BENTLEY, and now, your client has defaulted on its discovery obligations, despite the Board's granting of a 15 day extension of the deadline.

Please serve responses to the outstanding discovery and produce all responsive documents immediately, and in any event, no later than Wednesday, October 21, 2015. If you wish to discuss this matter, please let me know some dates and times you are available on Monday or Tuesday of next week. If your client does not serve responses and documents, we will have no choice but to proceed with a motion to compel.

Best regards,

Jessica

Jessica Bromall Sparkman | Partner

Jeffer Mangels Butler & Mitchell LLP | JMBM

1900 Avenue of the Stars, 7th Floor, Los Angeles, CA 90067

D: (310) 712-6838 | **F:** (310) 023-0567 | **E:** JBromall@JMBM.com

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EXHIBIT D

Bromall Sparkman, Jessica

From: Kenny Lai Cheong <kcheong@rabinberdo.com>
Sent: Wednesday, October 21, 2015 3:38 PM
To: Bromall Sparkman, Jessica; Scott Alprin
Cc: Berman, Rod S.; Duncan, Sharon; Palmer, Kerene
Subject: RE: Bentley v. Aucera: Meet and Confer re Motion to Compel [JMBM-LA.58389.9026.FID1382791]

Dear Jessica:

Thank you for your email. Mr. Alprin has asked me to confirm receipt. He will be out of the office for much of the week due to the AIPLA Pre-Conference and Main Conference. He would like to ensure you that we understand the urgency of responding to your client's discovery requests as soon as possible. Mr. Alprin has requested that you provide a date by which you would agree not to file a motion to compel if our client can respond to all discovery requests by that time. We kindly await your reply.

Best regards,

Kenny Lai Cheong
RABIN & BERDO, P.C.

From: Bromall Sparkman, Jessica [<mailto:JZB@JMBM.COM>]
Sent: Friday, October 16, 2015 6:30 PM
To: Scott Alprin
Cc: Kenny Lai Cheong; Berman, Rod S.; Duncan, Sharon; Palmer, Kerene
Subject: Bentley v. Aucera: Meet and Confer re Motion to Compel [JMBM-LA.58389.9026.FID1382791]

Dear Scott:

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Best regards,

Jessica

Jessica Bromall Sparkman | Partner

Jeffer Mangels Butler & Mitchell LLP | JMBM

1900 Avenue of the Stars, 7th Floor, Los Angeles, CA 90067

D: (310) 712-6838 | **F:** (310) 023-0567 | **E:** JBromall@JMBM.com

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EXHIBIT E

Bromall Sparkman, Jessica

From: Bromall Sparkman, Jessica
Sent: Thursday, October 22, 2015 12:43 PM
To: kcheong@rabinberdo.com
Cc: salprin@rabinberdo.com; Berman, Rod S.; Palmer, Kerene; Duncan, Sharon
Subject: FW: Bentley v. Aucera: Meet and Confer re Motion to Compel [JMBM-LA.58389.9026.FID1382791]

Dear Kenny –

At this point your client's discovery responses are already three weeks late. I note that you provide no explanation for your client's total failure to respond. As it appears there is going to be further delay in responding, we propose extending the case management dates by 30 days. If you consent to the 30 day extension, please file an appropriate consent motion with the Board (service by email is fine).

Assuming you consent to the extension, we can agree to delay filing a motion to compel until Monday, November 2, 2015. Prior to November 2, 2015, we expect to receive complete and substantive responses, as well as your client's document production, all without objection. If you will not be able to provide such responses and documents by November 2, please immediately provide a full and complete explanation for the delay.

Best regards,

Jessica

From: Kenny Lai Cheong [<mailto:kcheong@rabinberdo.com>]
Sent: Wednesday, October 21, 2015 3:38 PM
To: Bromall Sparkman, Jessica; Scott Alprin
Cc: Berman, Rod S.; Duncan, Sharon; Palmer, Kerene
Subject: RE: Bentley v. Aucera: Meet and Confer re Motion to Compel [JMBM-LA.58389.9026.FID1382791]

Dear Jessica:

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Best regards,

Kenny Lai Cheong
RABIN & BERDO, P.C.

From: Bromall Sparkman, Jessica [<mailto:JZB@JMBM.COM>]
Sent: Friday, October 16, 2015 6:30 PM
To: Scott Alprin
Cc: Kenny Lai Cheong; Berman, Rod S.; Duncan, Sharon; Palmer, Kerene
Subject: Bentley v. Aucera: Meet and Confer re Motion to Compel [JMBM-LA.58389.9026.FID1382791]

Dear Scott:

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Best regards,

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Jeffer Mangels Butler & Mitchell LLP | JMBM

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EXHIBIT F

Bromall Sparkman, Jessica

From: Kenny Lai Cheong <kcheong@rabinberdo.com>
Sent: Thursday, October 22, 2015 3:37 PM
To: Bromall Sparkman, Jessica
Cc: Scott Alprin; Berman, Rod S.; Palmer, Kerene; Duncan, Sharon
Subject: RE: Bentley v. Aucera: Meet and Confer re Motion to Compel [JMBM-LA.58389.9026.FID1382791]
Attachments: Blount Jewels-2.jpg; Blount Jweels-1.jpg; Bentley Jewelry Invoice.pdf; Bentley Jewelry.pdf; Bentley Jewelry received.pdf; Watch-4.jpg; Jewelry-2.jpg; Pen-2.jpg; Jewelry-1.jpg; Watch-1.jpg; Watch-2.jpg; Pen-1.jpg; Watch-3.jpg

Dear Jessica,

Thank you for your reply. The delay was in part due to a docketing error at our firm. We apologize for this oversight. We appreciate your suggestion to extend for an additional 30 days. We will file the consent motion and provide service by email.

Please find attached the evidence of use. We are doing our best to get the responses to the discovery request in order.

Best regards,

Kenny Lai Cheong, for
Scott Alprin
RABIN & BERDO, P.C.

From: Bromall Sparkman, Jessica [mailto:JZB@JMBM.COM]
Sent: Thursday, October 22, 2015 3:43 PM
To: Kenny Lai Cheong
Cc: Scott Alprin; Berman, Rod S.; Palmer, Kerene; Duncan, Sharon
Subject: FW: Bentley v. Aucera: Meet and Confer re Motion to Compel [JMBM-LA.58389.9026.FID1382791]

Dear Kenny –

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Best regards,

Jessica

From: Kenny Lai Cheong [mailto:kcheong@rabinberdo.com]
Sent: Wednesday, October 21, 2015 3:38 PM

To: Bromall Sparkman, Jessica; Scott Alprin
Cc: Berman, Rod S.; Duncan, Sharon; Palmer, Kerene
Subject: RE: Bentley v. Aucera: Meet and Confer re Motion to Compel [JMBM-LA.58389.9026.FID1382791]

Dear Jessica:

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Best regards,

Kenny Lai Cheong
RABIN & BERDO, P.C.

From: Bromall Sparkman, Jessica [<mailto:JZB@JMBM.COM>]
Sent: Friday, October 16, 2015 6:30 PM
To: Scott Alprin
Cc: Kenny Lai Cheong; Berman, Rod S.; Duncan, Sharon; Palmer, Kerene
Subject: Bentley v. Aucera: Meet and Confer re Motion to Compel [JMBM-LA.58389.9026.FID1382791]

Dear Scott:

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EXHIBIT G

Bromall Sparkman, Jessica

From: Scott Alprin <salprin@rabinberdo.com>
Sent: Thursday, October 29, 2015 12:32 PM
To: Bromall Sparkman, Jessica
Cc: Berman, Rod S.; Palmer, Kerene; Duncan, Sharon; Kenny Lai Cheong
Subject: RE: Bentley v. Aucera: Meet and Confer re Motion to Compel [JMBM-LA.58389.9026.FID1382791]

Dear Jessica:

Thank you for working with Kenny in this case. I would like to receive your assurance that the documents that we have sent to you that have customer and pricing information will be treated as confidential and commercially sensitive by your firm, and will not be shown to your client. If you would like us to label the documents and re-send them, we would be happy to do so. These documents were supposed to be used in the "informal discovery" process that I thought Rod had agreed to. When we send you our client's official discovery responses in the near future, we will be sure to properly label the documents, and apologize for failing to label them appropriately up until now.

In light of the new evidence, please let us know if you have had a change of heart with respect to possibly withdrawing this opposition (as I thought Rod indicated was a possibility when we spoke earlier this year). We would consider a withdrawal without prejudice.

Thank you.

Yours truly,

Scott

Scott Alprin
RABIN & BERDO, PC
Patent, Trademark and Copyright Law
1101 14th Street, N.W., Suite 500
Washington DC, 20005
Phone: (202) 371-8976
Fax: (202) 408-0924
Email: firm@rabinberdo.com - address for all official email correspondence
Website: www.rabinberdo.com

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From: Kenny Lai Cheong
Sent: Thursday, October 29, 2015 2:41 PM
To: Bromall Sparkman, Jessica
Cc: Scott Alprin; Berman, Rod S.; Palmer, Kerene; Duncan, Sharon
Subject: RE: Bentley v. Aucera: Meet and Confer re Motion to Compel [JMBM-LA.58389.9026.FID1382791]

Dear Jessica,

Further to our email below. Please find attached the copy of the extension filed. Also, we would like to make sure you have received all the current evidence we have. I previously sent the images that I thought were omitted. So I now attach the links to all the files. Most of them if not all may be duplicate of what we previously sent.

<https://www.dropbox.com/sh/mu3nyw6pjzo01b/AAB-yyV5aMp0VZTxTIRICy6Ba?dl=0>

Please let us know if you have any difficulty opening the files.

Best regards,

Kenny

From: Kenny Lai Cheong
Sent: Thursday, October 22, 2015 6:37 PM
To: 'Bromall Sparkman, Jessica'
Cc: Scott Alprin; Berman, Rod S.; Palmer, Kerene; Duncan, Sharon
Subject: RE: Bentley v. Aucera: Meet and Confer re Motion to Compel [JMBM-LA.58389.9026.FID1382791]

Dear Jessica,

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Best regards,

Kenny Lai Cheong, for
Scott Alprin
RABIN & BERDO, P.C.

From: Bromall Sparkman, Jessica [<mailto:JZB@JMBM.COM>]
Sent: Thursday, October 22, 2015 3:43 PM
To: Kenny Lai Cheong
Cc: Scott Alprin; Berman, Rod S.; Palmer, Kerene; Duncan, Sharon
Subject: FW: Bentley v. Aucera: Meet and Confer re Motion to Compel [JMBM-LA.58389.9026.FID1382791]

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Jessica

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Sent: Wednesday, October 21, 2015 3:38 PM
To: Bromall Sparkman, Jessica; Scott Alprin

Cc: Berman, Rod S.; Duncan, Sharon; Palmer, Kerene

Subject: RE: Bentley v. Aucera: Meet and Confer re Motion to Compel [JMBM-LA.58389.9026.FID1382791]

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Best regards,

Kenny Lai Cheong
RABIN & BERDO, P.C.

From: Bromall Sparkman, Jessica [<mailto:JZB@JMBM.COM>]

Sent: Friday, October 16, 2015 6:30 PM

To: Scott Alprin

Cc: Kenny Lai Cheong; Berman, Rod S.; Duncan, Sharon; Palmer, Kerene

Subject: Bentley v. Aucera: Meet and Confer re Motion to Compel [JMBM-LA.58389.9026.FID1382791]

Dear Scott:

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Best regards,

Jessica

Jessica Bromall Sparkman | Partner

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EXHIBIT H

Bromall Sparkman, Jessica

From: Bromall Sparkman, Jessica
Sent: Tuesday, November 03, 2015 6:19 PM
To: 'Scott Alprin'
Cc: Berman, Rod S.; Palmer, Kerene; Duncan, Sharon; Kenny Lai Cheong
Subject: RE: Bentley v. Aucera: Meet and Confer re Motion to Compel [JMBM-LA.58389.9026.FID1382791]
Attachments: Blount Jewels-2.jpg; Blount Jweels-1.jpg; Bentley Jewelry Invoice.pdf; Bentley Jewelry.pdf; Bentley Jewelry received.pdf; Watch-4.jpg; Jewelry-2.jpg; Pen-2.jpg; Jewelry-1.jpg; Watch-1.jpg; Watch-2.jpg; Pen-1.jpg; Watch-3.jpg

Kenny & Scott –

We are in receipt of your emails dated October 29, 2015. Our comments regarding those emails, the motion to extend dates, and our motion to compel discovery responses follow.

(1) Corrected Motion to Extend Dates Needs to be Filed

The extension you filed on October 29 did not reflect the correct dates. The Board's August 21, 2015 Order granted your motion to continue the case management dates, and set the case management dates as follows:

Expert Disclosure Due: 10/18/2015
Discovery Closes: 11/17/2015
Plaintiff's Pretrial Disclosures: 01/01/2015
Plaintiff's 30-day Trial Period Ends: 02/15/2016
Defendant's Pretrial Disclosures: 03/2/2016
Defendant's 30-day Trial Period Ends: 04/15/2016
Plaintiff's Rebuttal Disclosures: 04/30/2016
Plaintiff's 15-day Rebuttal Period Ends: 05/30/2016

Please prepare a corrected stipulation to extend the case management dates 30 days from the dates set in the Board's August 21, 2015 Order.

(2) Request to Treat Documents as Confidential

As none of the documents you previously sent were marked confidential, and none of the accompanying correspondence indicated that any of documents were confidential, we sent copies of the documents then in our possession to our client via email on October 23, 2015. Copies of the documents we sent are attached. If you specify which of the documents are to be treated confidentially, we will convey that information to our client.

Please also provide a replacement set of your document production, properly bates stamped and marked with any applicable confidentiality designations to avoid any confusion moving forward.

(3) Evidence of Use

To avoid a finding of abandonment your client will need to show (1) consistent sales of BENTLEY products (2) in the United States (3) from the date of first use of BENTLEY through the present. Practically speaking, this evidence would include annual U.S. sales information for BENTLEY products in the U.S., from at least 2005 through the present, together with some historical evidence showing how the mark was used on the products sold.

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We look forward to receiving complete sales information as described above.

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At your request, we agreed to delay filing a motion to compel until Monday, November 2, 2015, with the understanding that your client would provide complete and fully responsive answers to the discovery requests prior to that date. We still have not received your client's discovery responses, or its formal document production.

It has now been over a month since the responses were due, and more than two weeks since we first contacted you to confer regarding your client's failure to comply with its discovery obligations. Given the time devoted to securing an extension of the deadline to respond to the discovery requests when they were first served, it is difficult for us to conceive of a reasonable explanation for the failure to respond, and the only explanation you have provided for the delay is that it was due "in part" to a "docketing error at [your] firm."

Not having received the responses, and not having received any further communication from you regarding when you will serve the responses, we have no choice but to proceed with a motion to compel. If you would like to discuss this matter, please contact us prior to noon (PST) tomorrow, November 4, 2015. Should we not hear from you, we will proceed to file our motion.

Best regards,

Jessica

From: Scott Alprin [mailto:salprin@rabinberdo.com]
Sent: Thursday, October 29, 2015 12:32 PM
To: Bromall Sparkman, Jessica
Cc: Berman, Rod S.; Palmer, Kerene; Duncan, Sharon; Kenny Lai Cheong
Subject: RE: Bentley v. Aucera: Meet and Confer re Motion to Compel [JMBM-LA.58389.9026.FID1382791]

Dear Jessica:

Thank you for working with Kenny in this case. I would like to receive your assurance that the documents that we have sent to you that have customer and pricing information will be treated as confidential and commercially sensitive by your firm, and will not be shown to your client. If you would like us to label the documents and re-send them, we would be happy to do so. These documents were supposed to be used in the "informal discovery" process that I thought Rod had agreed to. When we send you our client's official discovery responses in the near future, we will be sure to properly label the documents, and apologize for failing to label them appropriately up until now.

In light of the new evidence, please let us know if you have had a change of heart with respect to possibly withdrawing this opposition (as I thought Rod indicated was a possibility when we spoke earlier this year). We would consider a withdrawal without prejudice.

Thank you.

Yours truly,

Scott

Scott Alprin
RABIN & BERDO, PC
Patent, Trademark and Copyright Law
1101 14th Street, N.W., Suite 500
Washington DC, 20005
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Fax: (202) 408-0924
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Website: www.rabinberdo.com

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From: Kenny Lai Cheong
Sent: Thursday, October 29, 2015 2:41 PM
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Dear Jessica,

Further to our email below. Please find attached the copy of the extension filed. Also, we would like to make sure you have received all the current evidence we have. I previously sent the images that I thought were omitted. So I now attach the links to all the files. Most of them if not all may be duplicate of what we previously sent.

<https://www.dropbox.com/sh/mu3nyw6pjzo01b/AAB-yyV5aMp0VZTxTIRICy6Ba?dl=0>

Please let us know if you have any difficulty opening the files.

Best regards,

Kenny

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Dear Jessica,

Thank you for your reply. The delay was in part due to a docketing error at our firm. We apologize for this oversight. We appreciate your suggestion to extend for an additional 30 days. We will file the consent motion and provide service by email.

Please find attached the evidence of use. We are doing our best to get the responses to the discovery request in order.

Best regards,

Kenny Lai Cheong, for
Scott Alprin
RABIN & BERDO, P.C.

From: Bromall Sparkman, Jessica [<mailto:JZB@JMBM.COM>]
Sent: Thursday, October 22, 2015 3:43 PM
To: Kenny Lai Cheong
Cc: Scott Alprin; Berman, Rod S.; Palmer, Kerene; Duncan, Sharon
Subject: FW: Bentley v. Aucera: Meet and Confer re Motion to Compel [JMBM-LA.58389.9026.FID1382791]

Dear Kenny –

At this point your client's discovery responses are already three weeks late. I note that you provide no explanation for your client's total failure to respond. As it appears there is going to be further delay in responding, we propose extending the case management dates by 30 days. If you consent to the 30 day extension, please file an appropriate consent motion with the Board (service by email is fine).

Assuming you consent to the extension, we can agree to delay filing a motion to compel until Monday, November 2, 2015. Prior to November 2, 2015, we expect to receive complete and substantive responses, as well as your client's document production, all without objection. If you will not be able to provide such responses and documents by November 2, please immediately provide a full and complete explanation for the delay.

Best regards,

Jessica

From: Kenny Lai Cheong [<mailto:kcheong@rabinberdo.com>]
Sent: Wednesday, October 21, 2015 3:38 PM
To: Bromall Sparkman, Jessica; Scott Alprin
Cc: Berman, Rod S.; Duncan, Sharon; Palmer, Kerene
Subject: RE: Bentley v. Aucera: Meet and Confer re Motion to Compel [JMBM-LA.58389.9026.FID1382791]

Dear Jessica:

Thank you for your email. Mr. Alprin has asked me to confirm receipt. He will be out of the office for much of the week due to the AIPLA Pre-Conference and Main Conference. He would like to ensure you that we understand the urgency of responding to your client's discovery requests as soon as possible. Mr. Alprin has requested that you provide a date by which you would agree not to file a motion to compel if our client can respond to all discovery requests by that time. We kindly await your reply.

Best regards,

Kenny Lai Cheong
RABIN & BERDO, P.C.

From: Bromall Sparkman, Jessica [<mailto:JZB@JMBM.COM>]
Sent: Friday, October 16, 2015 6:30 PM
To: Scott Alprin
Cc: Kenny Lai Cheong; Berman, Rod S.; Duncan, Sharon; Palmer, Kerene
Subject: Bentley v. Aucera: Meet and Confer re Motion to Compel [JMBM-LA.58389.9026.FID1382791]

Dear Scott:

Our calendar shows that your client's discovery responses were due on Thursday, October 1, 2015. It is now Friday, October 16, 2015, and we have still not received your discovery responses. As a result of your failure to timely respond, all objections to the interrogatories and requests for production have been waived, and all matters in the requests for admissions have been admitted.

Additionally, we have also reviewed the “evidence” of use you sent at the end of August, consisting of domain name and a photograph of a newspaper advertisement. As you are surely aware, neither print advertisements nor websites constitute use in commerce. Indeed, none of the “evidence” you provided indicates that your client is using BENTLEY in commerce, that is has continuously used BENTLEY in commerce since obtaining its registrations in 1996 and 1997, that it intends to resume using BENTLEY in commerce, or that it has *ever* sold *any* BENTLEY product in the United States. We also note that the domain name appears to be owned by Pyxis Enterprise Co., Ltd., not your client.

As you may be aware, our clients are involved in similarly cancellation actions in numerous jurisdictions throughout the world, and many of those actions have already been decided against your client, including two in the United States. To date, our client’s investigations have not located any genuine use of BENTLEY by your client, *anywhere* in the world. If your client were selling goods in the U.S. bearing the BENTLEY mark, it should be easy to locate and produce evidence showing such sales. Yet nearly a year into this proceeding, your client still has not produced any evidence showing its use of BENTLEY, and now, your client has defaulted on its discovery obligations, despite the Board’s granting of a 15 day extension of the deadline.

Please serve responses to the outstanding discovery and produce all responsive documents immediately, and in any event, no later than Wednesday, October 21, 2015. If you wish to discuss this matter, please let me know some dates and times you are available on Monday or Tuesday of next week. If your client does not serve responses and documents, we will have no choice but to proceed with a motion to compel.

Best regards,

Jessica

Jessica Bromall Sparkman | Partner

Jeffer Mangels Butler & Mitchell LLP | JMBM

1900 Avenue of the Stars, 7th Floor, Los Angeles, CA 90067

D: (310) 712-6838 | **F:** (310) 023-0567 | **E:** JBromall@JMBM.com

[VCARD](#) | [BIO](#) | [LINKEDIN](#)



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EXHIBIT I

Bromall Sparkman, Jessica

From: Kenny Lai Cheong <kcheong@rabinberdo.com>
Sent: Wednesday, November 04, 2015 10:55 AM
To: Bromall Sparkman, Jessica; Scott Alprin
Cc: Berman, Rod S.; Palmer, Kerene; Duncan, Sharon
Subject: RE: Bentley v. Aucera: Meet and Confer re Motion to Compel [JMBM-LA.58389.9026.FID1382791]
Attachments: Document 1 - Bentely Jewelry Invoice.pdf; Document 2 - Bentely Jewelry received.pdf; Document 3 - Bentley Jewelry.pdf; Document 4 - Jewelry-1.jpg; Document 5 - Jewelry-2.jpg; Document 6 - Pen-1.jpg; Document 7- Pen-2.jpg; Document 8 - Watch-1.jpg; Document 9 - Watch-2.jpg; Document 10 - Watch-3.jpg; Document 11 - Watch-4.jpg; Document 12 - Blount Jewels-2.jpg; Document 13 - Blount Jweels-1.jpg

Dear Jessica,

Thank you for your email below. We will refile the corrected dates as requested. Please find attached the documents which have been relabeled. Documents 1-3 have been watermarked as “confidential” and “commercially sensitive”. We appreciate you cooperation on this matter.

Our client is putting together the sales information and further evidence of use that you requested. In this vein, we have shared many documents and we are working earnestly to provide you with the requested evidence. Scott is working on the discovery responses and we would greatly appreciate if you could delay filing the motion to compel until the close of discovery, but we understand if you must proceed in a different manner.

Should you have any questions or wish to discuss these matters please feel free to contact us by email or phone.

Best regards,

Kenny
RABIN & BERDO, PC
Patent, Trademark and Copyright Law
1101 14th Street, N.W., Suite 500
Washington DC, 20005
Phone: (202) 371-8976
Fax: (202) 408-0924
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From: Bromall Sparkman, Jessica [mailto:JZB@JMBM.COM]
Sent: Tuesday, November 03, 2015 9:19 PM
To: Scott Alprin
Cc: Berman, Rod S.; Palmer, Kerene; Duncan, Sharon; Kenny Lai Cheong
Subject: RE: Bentley v. Aucera: Meet and Confer re Motion to Compel [JMBM-LA.58389.9026.FID1382791]

Kenny & Scott –

We are in receipt of your emails dated October 29, 2015. Our comments regarding those emails, the motion to extend dates, and our motion to compel discovery responses follow.

(1) Corrected Motion to Extend Dates Needs to be Filed

The extension you filed on October 29 did not reflect the correct dates. The Board's August 21, 2015 Order granted your motion to continue the case management dates, and set the case management dates as follows:

Expert Disclosure Due: 10/18/2015
Discovery Closes: 11/17/2015
Plaintiff's Pretrial Disclosures: 01/01/2015
Plaintiff's 30-day Trial Period Ends: 02/15/2016
Defendant's Pretrial Disclosures: 03/2/2016
Defendant's 30-day Trial Period Ends: 04/15/2016
Plaintiff's Rebuttal Disclosures: 04/30/2016
Plaintiff's 15-day Rebuttal Period Ends: 05/30/2016

Please prepare a corrected stipulation to extend the case management dates 30 days from the dates set in the Board's August 21, 2015 Order.

(2) Request to Treat Documents as Confidential

As none of the documents you previously sent were marked confidential, and none of the accompanying correspondence indicated that any of documents were confidential, we sent copies of the documents then in our possession to our client via email on October 23, 2015. Copies of the documents we sent are attached. If you specify which of the documents are to be treated confidentially, we will convey that information to our client.

Please also provide a replacement set of your document production, properly bates stamped and marked with any applicable confidentiality designations to avoid any confusion moving forward.

(3) Evidence of Use

To avoid a finding of abandonment your client will need to show (1) consistent sales of BENTLEY products (2) in the United States (3) from the date of first use of BENTLEY through the present. Practically speaking, this evidence would include annual U.S. sales information for BENTLEY products in the U.S., from at least 2005 through the present, together with some historical evidence showing how the mark was used on the products sold.

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Thank you.

Yours truly,

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Scott Alprin
RABIN & BERDO, P.C.

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Best regards,

Jessica

Jessica Bromall Sparkman | Partner

Jeffer Mangels Butler & Mitchell LLP | JMBM

1900 Avenue of the Stars, 7th Floor, Los Angeles, CA 90067

D: (310) 712-6838 | **F:** (310) 023-0567 | **E:** JBromall@JMBM.com

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CERTIFICATE OF SERVICE

It is hereby certified that one (1) copy of the foregoing **PETITIONER'S MOTION TO COMPEL RESPONSES; DECLARATION OF JESSICA BROMALL SPARKMAN** is being sent via U.S. mail and email to Petitioner Aucera SA's attorney of record as follows:

Scott Alpin

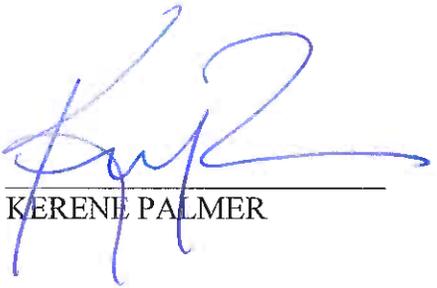
Rabin & Berdo, PC

1101 14th Street, N.W. Suite 500

Washington DC, 2005

salprin@rabinberdo.com

Dated: November 6, 2015



KERENE PALMER