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

INTERNATIONAL BEAUTY EXCHANGE, INC.]

Petitioner,]

v.]

K & N DISTRIBUTORS]

Registrant.]

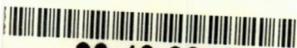
] Cancellation No. 92063647
] *86 130835*
] Reg. No. 4,941,822

Attorney Docket: C16681825

MOTION TO DETERMINE SUFFICIENCY OF RESPONSES
TO REQUEST FOR ADMISSIONS

The undersigned counsel for Petitioner, hereby moves the Honorable Board to require the Registrant to provide full and complete responses to the Request for Admissions served upon counsel for the Registrant on July 12, 2016 by mail and also electronically. A copy of the Request is enclosed as required.

The Registrant submitted its response and objections on August 11, 2016 and a copy of the same is also enclosed.



09-12-2016

U.S. Patent & TMO/TM Mail Rcpt Dt. #

A good faith attempt was made to resolve this matter and a copy of an e-mail letter to counsel for Registrant dated August 13, 2016 is enclosed. To date no meaningful response or supplemental answers have been received by the undersigned.

This Motion is brought pursuant to 37 C.F.R. §2.120(h) and TBMP § 524.

Requests # 1,3,4, and 6 were objected to on the ground that the terms "aware" and "product" were not defined and are "vague and ambiguous". Clearly Petitioner is entitled to know if the Registrant was aware of it's registered mark.

Requests 3, 4, and 6 specifically refer to Registrant's "AFRICAN CLAIR FORMULA PLUS product". It is not understood what further identification is required for Registrant's product as demanded by counsel for Registrant.

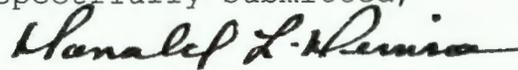
Registrant's product packaging as seen in the specimen of use in it's registrant refers to "NATURE COSMETICS LLC". Additionally, Registrant filed an application to register this

mark. Registrant has objected to requests Numbers 8 and 9 because Nature Cosmetics LLC is a different party than "Petitioner" (obviously meaning Registrant. This error confusing the parties is repeated several times in the response). Certainly if the name of this company appears on Registrant's packaging, the Petitioner is entitled to seek the admissions noted.

The entire Response from the Registrant is replete with objections based upon perceived "vague and ambiguous" boiler plate.

In view of the comments above, the Honorable Board is requested to compel the Registrant to provide complete and meaningful responses to Petitioner's legitimate Requests for Admissions.

Respectfully submitted,



Donald L. Dennison
Attorney for Petitioner
LADAS & PARRY LLP
1727 King Street, Suite 105
Alexandria, VA 22314
(703) 837-9600 Ext. 15
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September 12, 2016

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing Motion was served electronically as agreed between counsel, this 12th day of September, 2016 upon counsel for Registrant, Rishi Nair, Esq., rishi.nair@keenerlegal.com .



Donald L. Dennison

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

INTERNATIONAL BEAUTY EXCHANGE, INC.	}	
	}	
Petitioner,	}	Cancellation No. 92063647
	}	
v.	}	Reg. No. 4,941,822
	}	
K & N DISTRIBUTORS,	}	
	}	
Registrant.	}	
	}	

REQUEST FOR ADMISSIONS

Petitioner request that Registrant admit in writing and under oath in accordance with Rule 36 of the Federal Rules of Civil Procedure and 37 C.F.R. §2.120, the truth of the following facts:

1. Registrant was aware of Petitioner's AFRICAN FORMULA trademark prior to the filing of its application that led to the registration here sought to be cancelled.

2. Registrant or its agent obtained a sample of Petitioner's AFRICAN FORMULA product prior to the design of its packaging for its 'AFRICAN CLAIR FORMULA PLUS products.

3. Registrant's AFRICAN CLAIR FORMULA PLUS product is not manufactured in the United States.

COPY

4. Registrant' packaging of its AFRICAN CLAIR FORMULA PLUS products does not indicate the country of origin of its product.

5. Federal laws require that the country of origin of products of the type sold by Registrant under its mark here in issue appear on the product, its container or packaging.

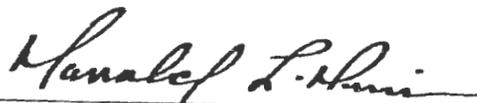
6. Registrant's AFRICAN CLAIR FORMULA PLUS products and Petitioner's AFRICAN FORMULA products are known to be sold in the same beauty supply stores.

7. Registrant and Petitioner are competitors in the beauty supply trade.

8. Nature Cosmetics LLC is the subject of a trademark application filed by Registrant and is not a company organized and existing under the laws of Florida or any other state.

9. The website of Nature Cosmetics LLC as listed on the packaging for Registrant's AFRICAN CLAIR FORMULA PLUS is inactive as is the OCR device on the packaging.

Served by mail with proper postage affixed and electronically this 12th day of July, 2016 to counsel for the Registrant, Rishi Nair, c/o Keener & Associates, P.C., 161 No. Clark Street, Suite 4700, Chicago, IL 60601.



Donald L. Dennison
Attorney for Petitioner
Ladas & Parry LLP
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2. Registrant or its agent obtained a sample of Petitioner's AFRICAN FORMULA product prior to the design of its packaging for its' AFRICAN CLAIR FORMULA PLUS products.

RESPONSE: Denied.

3. Registrant's AFRICAN CLAIR FORMULA PLUS product is not manufactured in the United States.

RESPONSE: Registrant objects to this Request because it is vague and ambiguous in that "product" is not defined.

4. Registrant' packaging of its AFRICAN CLAIR FORMULA PLUS products does not indicate the country of origin of its product.

RESPONSE: Registrant objects to this Request because it is vague and ambiguous in that "products" and "product" are not defined.

5. Federal laws require that the country of origin of products of the type sold by Registrant under its mark here in issue appear on the product, its container or packaging.

RESPONSE: Objection, Petitioner's Request Number 5 calls for legal conclusions and is therefore Denied. Registrant further objects to this Request to the extent that it seeks information that is protected by attorney-client privilege. Finally, Registrant also objects to this Request because it is vague and ambiguous.

6. Registrant's AFRICAN CLAIR FORMULA PLUS products and Petitioner's AFRICAN FORMULA products are known to be sold in the same beauty supply stores.

RESPONSE: Registrant objects to this Request because it is vague and ambiguous in that it fails to define "products", "product" or "beauty supply stores". Notwithstanding said objections, Registrant admits some retailers could be shared between Registrant and Petitioner.

7. Registrant and Petitioner are competitors in the beauty supply trade.

RESPONSE: Admit.

8. Nature Cosmetics LLC is the subject of a trademark application filed by Registrant and is not a company organized and existing under the laws of Florida or any other state.

RESPONSE: Petitioner objects to this Request as it is aimed at a different party than Petitioner and Petitioner lacks the ability to respond on behalf of another entity. Further, the Request is vague and ambiguous and is therefore Denied.

9. The website of Nature Cosmetics LLC as listed on the packaging for Registrant's AFRICAN CLAIR FORMULA PLUS is inactive as is the OCR device on the packaging.

RESPONSE: Petitioner objects to this Request as it is aimed at a different party than Petitioner and Petitioner lacks the ability to respond on behalf of another entity. Further, the Request is vague and ambiguous and is therefore Denied.

DATED: August 11, 2016

Respectfully Submitted,

/Rishi Nair/

Rishi Nair

Rishi Nair, Esq.
Kevin J. Keener, Esq.
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Telephone: (312) 375-1573

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kevin.keener@keenerlegal.com

Attorneys for Registrant K&N DISTRIBUTORS.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the forgoing Response to Petitioner's Request for Admission of Fact was served upon Petitioner by e-mail per agreement, on this August 11, 2016, at the following address:

Donald L. Dennison <DDennison@ladas.com>
Ladas & Parry
1727 King Street, Suite 105
Alexandria, VA 22314
Attorney for Petitioner International Beauty Exchange, Inc.

/Rishi Nair/

Rishi Nair



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INTELLECTUAL PROPERTY LAW

August 13, 2016

Rishi Nair, Esq.
Kevin J. Keener, Esq.
Keener & Associates, P.C.
161 N. Clark Street, Suite 4700
Chicago, IL 60601

BY E-MAIL

Re: International Beauty Exchange, Inc. v. K&N Distributors
Cancellation #92063647
My File: C15675699

Gentlemen:

As I previously advised Mr. Nair earlier this week by e-mail, your client's responses to Petitioner's Requests for Admissions have been received.

I have reviewed the document and have found the same to be totally unresponsive and in some cases ludicrous.

Request #1 asks if your client was aware of my client's trademark prior to filing its application. To state that it is "vague and ambiguous because awareness in not defined", is a clear attempt to avoid the issue. The term "aware" needs no specific additional definition. It clearly seeks to ascertain if your client *knew* of my client's mark. Your further comment that this request calls for a legal opinion makes no sense at all.

In Requests # 3, 4, and 6 which refer to Registrant's AFRICAN CLAIR FORMULA PLUS product. Your objection is stated as vague and ambiguous "in that "product" is not defined". Certainly a fair reading of the request relates to the product or products that carry the registered mark. I do not believe that it is necessary to further define what is meant by "product".

Request #8 refers to Nature Cosmetics LLC which is the subject of a trademark application filed by the Petitioner and you have objected since it relates to a different party than "Petitioner". I assume that you mean "Registrant" and not "Petitioner" See also your objection to Request #5. Certainly if your client (the Registrant) is using this name as a trademark, it can either admit or deny the request.

COPY

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August 13, 20126
Rishi Nair and Kevin J. Keener

Request #9 refers to this same company whose name appears prominently on Registrant's packaging. To avoid answering on the grounds that the "Request is aimed at a different party than "Petitioner" (again a mis-reference to Registrant), represents evasion and seeks to avoid a reasonable response.

With regard to the Answers to almost all of the Requests for Admissions, you have objected on the grounds that the Requests "are vague and ambiguous". Such a boiler-plate objection is not well taken and is erroneous.

This letter is written in a good-faith attempt to obtain the Admissions or Denials that my client is rightfully entitled to in order to move ahead with its case preparation.

In the event that a more reasonable response to my Request for Admissions is not or cannot be provided, I will seek relief from the TTAB by virtue of a Motion to determine the sufficiency of the responses. 37 C.F.R. §2.120(h) and TBMP §524.02

Sincerely,



Donald L. Dennison