

Our File No.  
1981/663

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02-17-2004

U.S. Patent & TMOrc/TM Mail Rcp't #22

2/12/14  
Date of Deposit  
Scott Slavich  
Name of Applicant, Assignee  
or Registered Representative  
Scott Slavich  
Signature  
2/12/14  
Date of Signature

**UNITED STATES PATENT AND TRADEMARK OFFICE  
TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Application: Serial No. 76/347,403  
Filed: December 12, 2001  
Published in the Official Gazette on: May 14, 2002  
Trademark: SHREDDER

**Schrader-Bridgeport International,** )  
**Inc.,** )  
 ) **Opposition No.**  
**Opposer,** ) **91153015**  
 )  
**v.** )  
 )  
**Greenball Corporation,** )  
 )  
**Applicant.** )

**OPPOSER'S MOTION TO COMPEL AND POSTPONE PARTIES'  
TESTIMONY PERIODS**

Opposer hereby moves for an order requiring Applicant to answer:

Opposer's First Request for Production of Documents and Things (Exh. A), and

Opposer's First Set of Interrogatories to Applicant (Exh. B).

Opposer also hereby moves for an order postponing the parties' testimony periods until after Opposer has had a sufficient opportunity to review Applicant's discovery responses.

Opposer's discovery requests were timely served on August 26, 2003. Applicant's answers were therefore due on September 30, 2003. To date, no answers or any form of response have been provided.

Applicant has not sought any time extensions from the Board. Likewise, Applicant has not requested Opposer's consent for additional time.

To date, almost four months after the original due date, Applicant has not provided any answer or any form of response to Opposer's discovery requests.

Requiring Opposer to provide testimony before it has had a sufficient opportunity to review Applicant's discovery responses would only serve to reward Applicant's refusal to respond to Opposer's discovery requests. Instead, Opposer requests that the Board postpone the parties' testimony periods until after Opposer has had a sufficient opportunity to review Applicant's discovery responses as Applicant's discovery responses will inform Opposer's witnesses.

Accordingly, Opposer requests a Board order requiring Applicant to:

- (a) answer Opposer's discovery requests, and produce all documents and things requested by the requests, in full within five business days after the Board's order;
- (b) answer all requests and produce all documents and things without interposing any objections, which have been waived by Applicant's failure to obtain a Board order (or Opposer's consent) for additional time to answer the requests, *see Krewson v. City of Quincy*, 120 F.R.D. 6, 7 (D. Mass. 1988); *Perry v. Golub*, 74 F.R.D. 360, 363 (N.D. Ala. 1976); and
- (c) postpone the parties' testimony periods until after Opposer has had a sufficient opportunity to review Applicant's discovery responses.

Respectfully submitted,



John T. Gabrielides  
Scott J. Slavick  
Brinks Hofer Gilson & Lione  
P.O. Box 10395  
Chicago, IL 60610  
Tel.: 312 321 4200

Attorneys for Opposer  
Schrader-Bridgeport International, Inc.

Dated: February 12, 2004

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of **OPPOSER'S MOTION TO COMPEL AND POSTPONE PARTIES' TESTIMONY PERIODS** was mailed by first-class mail, postage prepaid, and by facsimile transmission, to H. G. Robert Fong, Esq., Ku & Fong, 523 West Sixth Street, Suite 528, Los Angeles, California 90014-1400, (213) 236-9235, attorney for Applicant, this 12<sup>th</sup> day of February, 2004.

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Scott J. Slavick

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



SCHRADER-BRIDGEPORT  
INTERNATIONAL, INC.,

Opposer,

v.

GREENBALL CORPORATION,

Applicant.

02-17-2004

U.S. Patent & TMO/TM Mail Rcpt Dt. #22

Opposition No. 153,015  
Serial No.: 76/347,403

**OPPOSER'S FIRST REQUEST  
FOR PRODUCTION OF DOCUMENTS AND THINGS**

Pursuant to Rule 34 of the Federal Rules of Civil Procedure, Opposer SCHRADER-BRIDGEPORT INTERNATIONAL, INC. ("Opposer"), through its attorneys, hereby requests that Applicant GREENBALL CORPORATION ("Applicant") produce the documents and things described herein for inspection and copying at the offices of Brinks Hofer Gilson & Lione, 455 North Cityfront Plaza Drive, Chicago, Illinois 60611, at the time required by the applicable rules.

**INSTRUCTIONS FOR PRODUCTION OF DOCUMENTS**

1. You are to produce all originals, drafts, copies and photographs of the documents requested.
2. The documents to be produced in response to this request include all documents within your possession, custody or control. This includes documents in the possession, custody or control of your attorneys, agents, employees, investigators, consultants, and experts, as well as any firm, company, corporation or business in which you

own a controlling interest or over which you exercise control in fact. You are required to use reasonable diligence to locate the documents, including those that are not in your immediate possession.

3. If you claim that the attorney-client privilege, or any other privilege, doctrine or reason for withholding a document is applicable, please set forth in writing: (a) the date of the document; (b) the type of document; (c) the subject matter of the document; (d) the name, employment and title of each person who prepared or received the document or any copy thereof; and (e) the basis for the claim of privilege or other ground for withholding the document. If it is claimed that only part of the document is privileged or otherwise need not be produced, please produce the remaining part of the document.

4. If any document to be produced has been lost, discarded, transferred to another person or entity, destroyed, or otherwise disposed of, please set forth in writing: (a) the date, name and subject matter of the document; (b) the name, employment and title of each person who prepared, received, reviewed, or had custody, possession, or control of the document; (c) all persons with knowledge of the contents or any portion of the contents of the document; (d) the previous location of the document; (e) the date of disposal or transfer of the document; (f) the reason for disposal or transfer of the document; and, if applicable, (g) the manner of disposal of the document; or, if applicable, (h) the names and addresses of the transferees of the document.

5. Documents shall be produced in an order corresponding to each paragraph of this document request or, in the alternative, they may be produced in the same order as they are maintained in the ordinary course of business.

6. This request shall be deemed continuing, so as to require further and supplemental production promptly if you receive, generate or discover additional documents called for herein between the time of the production and the time of any motion or evidentiary hearing.

### DEFINITIONS

1. "Document" or "documents" includes every original (and every copy of any original or copy which differs in any way from any original) and every writing or recording of every kind or description, whether handwritten, typed, drawn, sketched, printed or recorded by any physical, mechanical, electronic or electrical means whatsoever, including without limitation, books, records, papers, pamphlets, brochures, flyers, mailings, circulars, advertisements, specifications, surveys, drawings, sketches, graphs, charts, plans, ledger accounts, audits, inventories, tax returns, financial statements, profit and loss statements, cash flow statements, balance sheets, annual or other periodic reports, prospectuses, registrations, solicitations, minutes, stock ledgers, stock certificates, licenses, permits, calendars, appointment books, diaries, telephone bill and toll call records, expense reports, commission statements, itineraries, agendas, checkbooks, canceled checks, receipts, contracts, agreements, assignments, applications, offers, acceptances, proposals, financing statements, documents of title, appraisals, purchase orders, invoices, bills of lading, written memorials of oral communications, forecasts, photographs, photographic slides, or negatives, films, filmstrips, tape recordings and computer stored data, as well as any drafts of the foregoing.

2. The conjunctive shall include the disjunctive and the disjunctive shall include the conjunctive.



3. The singular shall include the plural and the plural shall include the singular.
4. A masculine, feminine or neuter pronoun shall not exclude the other genders.
5. “Refers to” or “relates to” means directly or indirectly mentioning or describing, referring to, pertaining to, concerning, evidencing, being connected with, constituting, comprising or reflecting upon a stated subject matter.
6. “Applicant” means Applicant Greenball Corporation, any of its related companies within the meaning of the Trademark Act, and its employees, agents, officers, directors, attorneys, licensees, assignees and any predecessors-in-interest.
7. “Opposer” means Opposer Schrader-Bridgeport International, Inc., and any of its related companies within the meaning of the Trademark Act, including all companies that are authorized to use Opposer’s mark, and its employees, agents, officers, directors, attorneys, licensees, assignees and any predecessors-in-interest.
8. “Applicant’s mark” shall mean the mark SHREDDER, the subject of the application being opposed in this proceeding, Serial No. 76/347,403, used either alone or in connection with other words or designs, in any typestyle, format or design.
9. “Opposer’s mark” shall mean the mark SCHRADER, as referenced in the Notice of Opposition in this case, used either alone or in connection with other words or designs, in any typestyle, format or design.
10. “Mark” includes trademarks, service marks, and trade names as defined in 15 U.S.C. § 1127.
11. “Person” refers to both natural persons and to corporate or other business entities.

## **DOCUMENTS REQUESTED**

1. All documents and things that relate to or refer to Applicant's knowledge of the existence and/or activities of Opposer.
2. All documents and things that relate to or refer to Opposer's mark and to trademark registrations or applications covering Opposer's mark.
3. All documents and things that relate to or refer to the selection and adoption of Applicant's mark and Applicant's decision to use Applicant's mark.
4. All documents and things that relate to or refer to Applicant's intended first use of Applicant's mark in the United States.
5. All documents and things that relate to or refer to any papers filed with the U.S. Patent and Trademark Office concerning Applicant's mark.
6. All documents and things that relate to or refer to any products or services sold or to be sold under Applicant's mark.
7. All documents and things that relate to or refer to any market research or other studies or investigations, whether formal or informal, regarding the types of individuals and the classes of consumers who use goods or services sold under Applicant's mark.
8. All documents and things that relate to or refer to or reflect the dollar volume of sales of goods or services sold under Applicant's mark in the United States from the first such sales to date.
9. All documents and things that relate to or refer to or reflect the dollar volume of advertising and promotional expenditures made in connection with goods or services sold under Applicant's mark in the United States from the first such expenditures to date.

10. Original specimens of all advertising and promotional materials relating to goods or services sold or intended to be sold under Applicant's mark in the United States, such as but not limited to labels, packaging, flyers, hangtags, direct mail pieces, point of sale pieces, signs, posters, newspaper advertisements, magazine advertisements, media articles, catalogs, circulars, leaflets, brochures, and any other publicly distributed materials.

11. All documents and things that relate to or refer to any trademark searches which were conducted by or for Applicant in connection with the use or registration of Applicant's mark in the United States, including searches of databases such as Lexis, Nexis, Dialog and Trademarkscan.

12. All documents and things that relate to or refer to the question of whether Applicant's use of Applicant's mark for the goods identified in the opposed application gives rise to a likelihood of confusion with respect to Opposer's use of Opposer's mark.

13. All documents and things that relate to or refer to Applicant's advertising and promotion or intended advertising and promotion, of goods or services sold or intended to be sold under Applicant's mark.

14. All magazine articles, newspaper articles or other publications which relate to or refer to Applicant's use or intended use of Applicant's mark.

15. All documents which relate to or refer to any modification of Applicant's mark as used or intended to be used in connection with Applicant's goods or services, including all documents relating to the reason(s) such modification(s) were made.

16. All documents and things that relate to or refer to any consumer survey or poll made by or for Applicant, including the results thereof, which relates to or refers to

Opposer's mark, Applicant's mark, or to Applicant's use or intended use of Applicant's mark.

17. All documents and things which relate to or refer to any instance in which a member of the public has been, or may have been, confused as a result of the contemporaneous use of Applicant's mark and Opposer's mark, including without limitation all documents describing each such instance of confusion.

18. All documents and things which relate to or refer to Opposer's mark as being a potential conflict with Applicant's mark.

19. All documents and things that relate to or refer to when Applicant first became aware of Opposer's mark and the circumstances relating to Applicant's first knowledge of Opposer's mark, including how Applicant first became aware of Opposer's mark and the names of the individuals with knowledge concerning Applicant's first knowledge of Opposer's mark.

20. All documents and things that relate to or refer to the dates Applicant's mark was first used in connection with goods or services sold in the United States.

21. All documents and things that relate to or refer to how products sold or intended to be sold under Applicant's mark are distributed and sold to customers.

22. All documents and things that relate to or refer to any surveys and any market research that has been conducted concerning Applicant's mark or Opposer's mark, the individuals with knowledge concerning any such surveys and market research, and the nature and methodology of any such surveys and market research, including all questionnaires and tabulations.

23. All documents and things that relate to or refer to Applicant's responses to Opposer's Request for Admissions in this case, including all documents that support Applicant's responses or that were reviewed in connection with the preparation of Applicant's responses.

24. All documents and things that relate to or refer to Applicant's responses to Opposer's Interrogatories in this case, including all documents that support Applicant's responses or that were reviewed in connection with the preparation of Applicant's responses.

25. All documents and things that relate to or refer to the roll out or to the introduction of goods or services sold or intended to be sold under Applicant's mark, including all marketing plans, business plans, projections and the like.

26. All documents and things that relate to or refer to the meaning or intended meaning of Applicant's mark.

27. All documents and things that relate to or refer to consumer perception or intended consumer perception of Applicant's mark.

28. All documents and things that relate to or refer to the channels of trade for goods and services sold under Applicant's mark.

29. All documents and things that relate to or refer to the manner in which Applicant's mark is displayed or is intended to be displayed in connection with Applicant's goods or services.

30. All documents and things that relate to or refer to the nature and function of the goods or services sold or intended to be sold under Applicant's mark.

31. Two original specimens of all products sold under Applicant's mark.

32. Specimens of all television commercials and radio commercials concerning goods or services sold or intended to be sold under Applicant's mark.

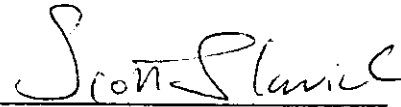
33. All documents and things that relate to or refer to actual consumer confusion between Applicant's mark and any other mark.

Respectfully submitted,

SCHRADER-BRIDGEPORT  
INTERNATIONAL, INC.

Dated: August 26, 2003

By: \_\_\_\_\_



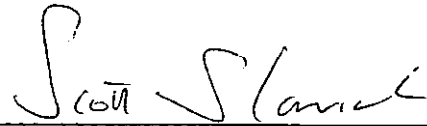
John T. Gabrielides  
Scott J. Slavick  
BRINKS HOFER GILSON & LIONE  
P.O. Box 10395  
Chicago, Illinois 60610  
(312) 321-4200 Telephone  
(312) 321-4299 Facsimile

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that true and correct copies of the foregoing  
**OPPOSER'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS AND THINGS**  
was served on counsel for Applicant by first class mail, postage prepaid, addressed as  
follows:

H. G. Robert Fong, Esq.  
Ku & Fong  
523 West Sixth Street, Suite 528  
Los Angeles, CA 90014-1225

this 26th day of August, 2003

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

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SCHRADER-BRIDGEPORT  
INTERNATIONAL, INC.,

Opposer,

v.

GREENBALL CORPORATION,

Applicant.

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Opposition No. 153,015  
Serial No.: 76/347,403

**OPPOSER'S FIRST SET OF INTERROGATORIES TO APPLICANT**

Opposer SCHRADER-BRIDGEPORT INTERNATIONAL, INC. ("Opposer"), by and through its attorneys, hereby propounds, pursuant to Rule 33 of the Federal Rules of Civil Procedure, the following Interrogatories to Applicant GREENBALL CORPORATION ("Applicant"), to be answered separately and fully in writing and under oath within the time required by the applicable rules.

**INTRODUCTION AND DEFINITIONS**

The definitions set forth in Opposer's First Request for Production of Documents and Things, served concurrently herewith, shall also apply to these Interrogatories.

In addition, the following instructions and definitions apply herein:

A. These Interrogatories shall be deemed to seek answers as of the date hereof and shall be deemed to be continuing so that any additional information relating in any way to these Interrogatories which Applicant acquires or which becomes known to Applicant to

and including the time of trial shall be furnished to Opposer promptly after such information is acquired or becomes known.

B. As used herein, "identify" or to give the "identity" of means:

(1) in the case of a natural person to state

- (a) full name;
- (b) present residence address and telephone number;
- (c) present business address and telephone number;
- (d) present position, business affiliation and job description;
- (e) if any of the information set forth in (a) - (d) is unknown, so

state and set forth the corresponding last known such information;

(2) in the case of a corporation or other business entity, to state

- (a) full name;
- (b) address and principal place of business;
- (c) identity of officers or other persons having knowledge of the

matter with respect to which the corporation or entity is named;

(3) in the case of a document, to state

- (a) identity of the person(s) originating and preparing it and the

sender;

- (b) its general type (*e.g.*, letter, memo, report, invoice, etc.), title,

identifying number and the general nature of its subject matter;

- (c) the identity of the addresses and distributors, if any;

- (d) its date of preparation;

- (e) its date and manner of transmission, distribution and publication, if any;
- (f) location of each copy (including title, index number and location of the file in which it is kept or from which it was removed) and identity of the present custodian or persons responsible for its filing or other disposition;
- (g) identity of persons who can authenticate or identify it.

**Interrogatory No. 1:**

Identify or describe all products and services for which Applicant has used, or intends to use, Applicant's mark and identify the individuals with knowledge concerning the subject of this interrogatory.

**Interrogatory No. 2:**

For all products and services sold or intended to be sold under Applicant's mark, state the date of first use, or the intended date of first use, of Applicant's mark in connection with each product or service, and the circumstances surrounding such first use. Identify the individuals with knowledge concerning the subject of this interrogatory.

**Interrogatory No. 3:**

State how Applicant's mark was created, and the meaning or intended meaning of Applicant's mark as used for Applicant's goods or services. Identify the individuals who created Applicant's mark and made the decision to adopt Applicant's mark.

**Interrogatory No. 4:**

Identify and describe the types of individuals and the classes of consumers who purchase or are expected to purchase goods or services sold under Applicant's mark, and identify the individuals with knowledge regarding the subject of this interrogatory.

**Interrogatory No. 5:**

Describe how goods or services are advertised or promoted, or are intended to be advertised or promoted, under Applicant's mark. Identify the individuals with knowledge concerning the subject of this interrogatory.

**Interrogatory No. 6:**

Identify the various media through which Applicant advertises its goods or services under Applicant's mark. Identify the individuals with knowledge concerning the subject of this interrogatory.

**Interrogatory No. 7:**

If Applicant, or any attorney or agent acting on behalf of Applicant, has ever made, or caused to be made, any search relating to the registration or use of Applicant's mark, identify each document referring to relating to any such search, including, but not limited to, each search report. Identify the individuals with knowledge concerning the subject of this interrogatory.

**Interrogatory No. 8:**

If Applicant has ever received an opinion concerning Applicant's right to use or register Applicant's mark, or an opinion as to whether Applicant's use of Applicant's mark i

*ttab*

Scott J. Slavick  
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sslavick@brinkshofer.com

BRINKS  
HOFFER  
GILSON  
& LIONE

Date of Deposit: February 12, 2004



02-17-2004

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A PROFESSIONAL CORPORATION  
INTELLECTUAL PROPERTY ATTORNEYS

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**Re: Opposer: SCHRADER-BRIDGEPORT  
INTERNATIONAL, INC.**  
**Serial No.: 76/347,403**  
**Opposition No.: 91153015**  
**Our Ref. No. 1981/663**

SAN JOSE, CA  
INDIANAPOLIS, IN  
ANN ARBOR, MI  
ARLINGTON, VA

Dear Sir/Madam:

Enclosed for filing is the following document:

1. Opposer's Motion to Compel and Postpone Parties' Testimony Periods

The Commissioner is hereby authorized to charge payment of any additional filing fees required to Deposit Account No. 23-1925. A duplicate copy of this sheet is enclosed.

If you have any questions, please contact the undersigned at the above telephone number.

Sincerely,

Scott J. Slavick

SJS/jlc  
Enclosures