

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

_____)	
KNIGHT CORPORATION,)	
)	
Opposer,)	
)	
v.)	Opposition No. 91153630
)	
DAVID H. MEHL,)	
)	
Applicant.)	
_____)	

OPPOSER’S MOTION FOR SANCTIONS AND FOR DEFAULT JUDGMENT

Pursuant to Rules 37 and 55 of the Federal Rules of Civil Procedure and Rules 2.120 and, specifically, Rule 2.120(g) of the Trademark Rules of Practice, Opposer Knight Corporation (“Opposer”) hereby moves for an Order (1) for sanctions against Applicant David H. Mehl (“Applicant”) based on Applicant’s failure to provide responses and produce documents responsive to Opposer’s First Request for Production of Documents and to provide answers to Opposer’s First Set of Interrogatories, in violation of the Board’s Order of October 6, 2005 and (2) for entry of default judgment against Applicant based on Applicant’s failure to provide *any* responses and answers to Opposer’s discovery requests and for its failure to defend the present opposition. In support of this motion, Opposer refers the Board to the accompanying memorandum of law.

Counsel for Opposer hereby certifies that substantial good faith efforts have been made to resolve the matter in dispute through conversation and correspondence with opposing counsel prior to filing this motion. This motion is necessitated by the fact that Applicant has produced no

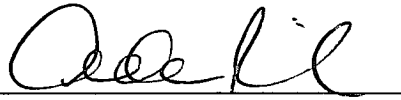


12-05-2005

responses or documents in response to Opposer's First Request for Production of Documents and no answers to Opposer's First Set of Interrogatories and based on Applicant's failure to defend the present opposition. All of Opposer's document requests and interrogatories seek responsive and relevant information, and based on Applicant's disregard of the Board's Order compelling Applicant to produce responsive documents and answers, Opposer has no other recourse but to file the instant motion for sanctions and for default judgment.

Respectfully submitted,

KNIGHT CORPORATION



Charles M. Marmelstein

Adam D. Resnick

ARENT FOX PLLC

1050 Connecticut Ave., N.W.

Washington, D.C. 20036-5339

Phone: (202) 857-6000

Dated: 12/2/05

Attorneys for Opposer

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

KNIGHT CORPORATION,)	
)	
Opposer,)	
)	
v.)	Opposition No. 91153630
)	
DAVID H. MEHL,)	
)	
Applicant.)	
)	

**MEMORANDUM IN SUPPORT OF
OPPOSER'S MOTION FOR SANCTIONS AND FOR DEFAULT JUDGMENT**

Pursuant to Rules 2.120 and, specifically, Rule 2.120(g) of the Trademark Rules of Practice and Rules 37 and 55 of the Federal Rules of Civil Procedure, Opposer Knight Corporation ("Opposer") hereby submits this memorandum in support of its motion for sanctions and for default judgment.

I. STATEMENT OF FACTS

In this proceeding, Opposer opposes registration of Applicant's mark BEVERLY HILLS GOLF CLUB for "jewelry; luggage, namely, suitcases, garment bags for travel, shoe bags for travel, and umbrellas; clothing, namely, shirts, jackets, sweaters, sweatshirts, trousers, shorts, socks, scarves, hats, visors and shoes; golfing articles, namely, golf clubs, hand pulled golf carts, golf bags, golf bag travel covers, golf balls, golf club covers and tees," alleging a likelihood of confusion with its numerous BEVERLY HILLS COUNTRY CLUB marks for all-purpose sports bags, umbrellas, various articles of clothing, and additional goods and services. Opposer filed its

Notice of Opposition against Applicant's Application Serial No. 75/665,334 on September 30, 2002. The Board subsequently set the discovery period in this proceeding to close on June 17, 2003.

Applicant's Answer was filed and served on Opposer on January 6, 2003. Thereafter, Applicant disappeared and failed to either serve discovery of its own or respond to timely discovery. In this regard, on May 29, 2003, Opposer served its First Request for Production of Documents and First Set of Interrogatories on counsel for Applicant. *See Exhibits 1 and 2.* Applicant's responses to these discovery requests were due on July 3, 2003. *TBMP §403.03.* Applicant neither responded to this written discovery, nor requested an extension of time in which to serve its responses or objections. Thereafter, the discovery and testimony periods were closed and reopened by this Board's Order granting Opposer's Motion to Reopen Discovery and Testimony Periods filed on July 2, 2004. *See Exhibit 3.*

Opposer has attempted in good faith to resolve the matter and move this proceeding forward. Throughout, Applicant has given no indication that documents and answers responsive to Opposer's discovery requests would be produced. After the discovery and testimony periods were reopened, Opposer's counsel sent Applicant's counsel a letter on November 16, 2004 requesting responses and answers to Opposer's discovery requests. *See Exhibit 4.* The November 16 letter of Opposer's counsel noted the new deadline for the close of discovery of December 20, 2004, and informed Applicant's counsel that Opposer would be forced to file its Motion to Compel if it did not promptly receive responses and answers to its discovery requests. In a good faith effort to move this proceeding forward, on December 1, 2004, the date by which Opposer's counsel requested Applicant's counsel to furnish Applicant's discovery responses,

Opposer's counsel contacted Applicant's counsel by telephone to determine whether responses and answers to Opposer's discovery requests would be forthcoming. Applicant's counsel stated to Opposer's counsel that he was unable to provide Opposer with responses and answers to its discovery requests and that, in fact, he was unable to locate his client. As such, Opposer was forced to bring a Motion to Compel.

Shortly after filing its Motion to Compel, Opposer's counsel received correspondence from Applicant's counsel once again reiterating that he was unable to locate his client and, as such, he would be unable to provide Opposer with responses and answers to its discovery requests. *See Exhibit 5.* Thereafter, on October 6, 2005, the Board granted Opposer's Motion to Compel and allowed Applicant thirty days to respond to Opposer's discovery requests. *See Exhibit 6.* Notwithstanding the Board's Order, Applicant has once again failed to respond to Opposer's discovery requests. As such, Opposer has been forced to bring this Motion for Sanctions and for Default Judgment.

II. ARGUMENT

A. Applicant Has Once Again Failed to Produce Any Responses or Documents Responsive to Document Requests, or Any Answers to Interrogatories

Under Trademark Rule 2.120(g), the Board may make an appropriate order for sanctions, including any of the orders provided in Rule 37(b)(2) of the Federal Rules of Civil Procedure, if a party "fails to comply with an order of the Trademark Trial and Appeal Board." Rule 37(b)(2) of the Federal Rules of Civil Procedure provides for sanctions, including: "(A) An order that the matters regarding which the order was made or any other designated facts shall be taken to be established for the purposes of the action in accordance with the claim of the party obtaining the

order; (B) An order refusing to allow the disobedient party to support or oppose designated claims or defenses, or prohibiting that party from introducing designated matters in evidence; (C) An order striking out pleadings or parts thereof, or staying further proceedings until the order is obeyed, or dismissing the action or proceeding or any part thereof, or *rendering a judgment by default against the disobedient party.*” Fed. R. Civ. P. 37(b)(2). If an Order is not obeyed, the Board may strike all or part of the pleading of the party, dismiss the proceeding, enter judgment by default against the party, or take any other action as may be appropriate in the particular case. *Caterpillar Tractor Co. v. Catfish Anglers Together, Inc.*, 194 U.S.P.Q.2d 99 (TTAB 1976). Here, Applicant has failed to comply with the Board’s Order that all responsive documents be produced and answers be provided by November 5, 2005. Furthermore, Applicant has disappeared and does not appear willing to defend the present action. Applicant’s complete failure to defend has prejudiced Opposer’s ability to pursue the present action. Thus, appropriate sanctions are therefore in order.

Consequently, in view of Applicant’s failure to comply with the Board’s Order, its failure to provide *any* responses and answers to Opposer’s discovery requests, and its inability to defend the opposition, Opposer requests that the Board enter judgment against Applicant.

B. Applicant Should Be Precluded from Offering at Trial Any Evidence Not Already Produced

Rule 37(b)(2) of the Federal Rules of Civil Procedure provides that a court may order that a party who has failed to “provide or permit discovery” be precluded from supporting or opposing designated claims or defenses and prohibited from introducing designated matters in

evidence. Fed. R. Civ. P. 37(b)(2)(A). Such a remedy is warranted here, since Applicant has failed to provide any discovery at all.


As the closing of the discovery period nears once again, Opposer has been unable to prepare its case due to the failures of Applicant to produce *any* responsive documents or answers. Applicant should not benefit from its complete failure to participate in the discovery process. Thus, to the extent that *no* responsive information and documents have been produced, Applicant should be precluded from relying on them.

III. CONCLUSION

As Applicant has failed to comply with the Board's Order, failed to provide *any* responses and answers to Opposer's discovery requests, and is incapable and unwilling to defend the opposition, Opposer requests that the Board make an appropriate order for sanctions against Applicant by entering judgment by default against Applicant. For the reasons presented herein, Opposer's motion for sanctions and for default judgment should be granted.

Respectfully submitted,

KNIGHT CORPORATION



Charles M. Marmelstein
Adam D. Resnick
ARENT FOX PLLC
1050 Connecticut Ave., N.W.
Washington, D.C. 20036-5339
Phone: (202) 857-6000
Attorneys for Opposer

Dated: _____

12/2/05

CERTIFICATE OF SERVICE

It is hereby certified that a copy of the foregoing *Opposer's Motion for Sanctions and for Default Judgment* and *Memorandum in Support of Opposer's Motion for Sanctions and for Default Judgment* has been served upon Applicant's counsel, Thomas I. Rozsa, Esq., Rozsa & Chen LLP, 15910 Ventura Boulevard, Suite 1601, Encino, California 91436-2185 this 2nd day of December, 2005 marked first class mail, postage prepaid.



Adam D. Resnick

CERTIFICATE OF FIRST CLASS MAILING

It is hereby certify that the foregoing *Opposer's Motion for Sanctions and for Default Judgment* and *Memorandum in Support of Opposer's Motion for Sanctions and for Default Judgment* is being deposited with the United States Postal Service, marked first class mail postage prepaid and is addressed to the Commissioner for Trademarks, P.O. Box 1451, Alexandria, Virginia 22313-1451 this 2nd day of December, 2005.



Adam D. Resnick

EXHIBIT 1

communications and correspondence; electronic mail; faxes; cablegrams; radio-grams; telegrams; notes and memoranda; summaries, minutes and records of telephone conversations, meetings and conferences; summaries and records of personal conversations or interviews; books, manuals, publications, calendars and diaries; laboratory and engineering reports and notebooks; charts; plans; sketches and drawings; photographs; reports and/or summaries of investigations and/or surveys; brochures; pamphlets, catalogs and catalog sheets; advertisements, including storyboard and/or scripts for television and/or radio commercials; circulars; trade letters; press publicity and trade and product releases; drafts of original or preliminary notes on, and marginal comments appearing on; any document; any other information comprising paper, writing or physical thing, letters, notes, memoranda, records, minutes, bills, contracts, agreements, orders, receipts, drawings, sketches, advertising or promotional literature, operating manuals, instruction bulletins, cables, telegrams, tape- or other recordings, test data, and reports.

C. Where the interrogatories request the identity of:

a. a person, state the name and current or last known address of each person, employer or business affiliation, and occupation and business position held.

b. a company, state the name, place of incorporation or organization, principal place of business, and the identity of the persons having knowledge of the matter with respect to which the company is named

c. a Document, state:

- 1) the identity of the person or persons who prepared it, the sender and recipient, if any;
- 2) the title or a description of the general nature of its subject matter;
- 3) the date of preparation;
- 4) the date and manner of distribution and publication, if any;
- 5) the location of each copy and the identity of the present custodian;
- 6) the identity of the person or persons who can identify it;
- 7) the contents of the document verbatim

- 8) if privilege is claimed, the specific basis for the claim;

In lieu of the foregoing, a copy may be supplied.

d. an act or event, state:

- 1) a description of the act or event;
- 2) when it occurred;
- 3) where it occurred;
- 4) the identity of the person or persons performing said act (or, in case of an omission, the identity of the person or persons failing to act) or involved in said event;
- 5) the identity of all persons who have knowledge, information or belief about the act;
- 6) when the act, event or omission first became known;
- 7) the circumstances and manner in which such knowledge was first obtained.

D. "Referring or relating to" means comprising, relating to, pertaining to, referring to or in any way relevant within the meaning of Rule 26(b)(1) of the Federal Rules of Civil Procedure.

E. "And," or "or" or "and/or" shall be construed conjunctively or disjunctively as necessary to make the request inclusive rather than exclusive.

F. "Applicant" refers to Applicant David H. Mehl and all predecessors- or successors-in-interest, and its officers, employees, attorneys, agents, consultants and representatives, either United States or foreign.

G. "Mark" means BEVERLY HILLS GOLF CLUB, Application Serial No. 75/665,334 (filed by the Applicant).

H. "Opposer" refers to Opposer Knight Corporation, and all predecessors- or successors-in-interest, and its officers, employees, attorneys, agents, consultants and representatives, either United States or foreign.

I. "Opposer's Marks" refers to the common law and federal uses of the following: BEVERLY HILLS COUNTRY CLUB, Registration No. 1,752,203 for all-purpose sports bags, umbrellas, and leather luggage tags; metal keychains; paperweights, penholders, plastic coasters, mugs, crystal glassware and beverage ware, and plastic water bottles; towels; clothing; namely, shirts, pants, skirts, shorts, sweaters, jackets, hats, leotards, unitards, tights, track suits, sweatshirts, dresses, robes, and socks; stuffed toy animals and flying discs, and BEVERLY HILLS COUNTRY CLUB, Registration No. 1,617,683 for articles of clothing, namely t-shirts and sweatshirts, and scarves.

J. "Person" refers to both natural persons and to corporate or other business entities, whether or not in the employ of Applicant, and the acts and knowledge of a person are defined to include the acts and knowledge of that person's directors, officers, members, employees, representatives, agents, and attorneys.

K. To the extent that Applicant has any objection to answering any of the interrogatories on the basis that the requested information or documents is privileged or otherwise protected by the attorney-client privilege or work-product immunity, Applicant is requested to identify the information or document; identify the person who authored the information or documents; identify each person who ever received or had access to the information or document, or a copy thereof; identify the person or persons who presently have custody of the information or document; and state the basis of the alleged privilege or work-product immunity.

INTERROGATORIES

1. Identify all persons who have knowledge concerning the facts and issues in this case, including without limitation facts relating to the adoption and first use of the Mark with respect to each good or services offered in connection therewith, the marketing and sale of any products or services under the Mark, and advertising and promotion of any such products or services.

2. Identify each person who was ever employed by, affiliated with, or had any dealings with Opposer.

3. Identify and describe the facts relating to the acquisition, selection, adoption, creation and/or design by Applicant of the Mark, including without limitation, the reasons for and date of the selection and the identity of all persons who participated in the selection.

4. Identify and describe the facts relating to the decision to use or intent to use the Mark in connection with the goods identified in Application No. 75/665,334.

5. Describe with particularity the results of any searches or surveys performed by Applicant prior to or in connection with the selection, creation or use of the Mark including, without limitation, the dates of each search, records examined and Persons involved.

6. Identify and describe each type of product or service which Applicant has sold or intends to sell under the Mark.

7. Identify and describe the facts relating to the date and manner in which Applicant first used the Mark in connection with the sale or advertising of each product or service required to be identified in the preceding interrogatory.

8. Identify all federal and state trademark registration(s) or application(s) for the Mark.

9. Identify and describe with particularity the circumstances of first use in interstate commerce of the Mark in connection with the sale or advertising of each product or service required to be identified in response to Interrogatory No. 6, including how the Mark was used, the date and place of any bona fide sale, and the date on which literature or advertising of any sort bearing the mark was first disseminated or distributed concerning the provision of good(s) or service(s).

10. Identify and describe the facts relating to any periods of non-use of the Mark for greater than three months, including without limitation, the dates of non-use and the reasons therefor.

11. Identify each person who designed, created or made any materials on which the Mark has ever been displayed, including any posters, advertisements, brochures, annual reports, signs, handbills, stationery, business cards, decals, badges, catalogs, labels, computer screens, or other materials, specifying which items were designed, created or made by each such person.

12. Identify all facts relating to any instances of misdirected mail or other communications, or other instances of actual confusion wherein any person has been confused, mistaken or deceived as a result of the use of the Mark, including the date it occurred, and the persons or business entities involved.

13. Identify on an annual basis, for each year since the Mark was first used, the volume of sales or amount of revenue received in connection with each product or service sold under the Mark.

14. Identify on an annual basis, for each year since the Mark was first used, the dollar amount of advertising and promotional expenditures for each product or service sold under the Mark.

15. Identify the geographical areas, by state, in which products or services under the Mark have been sold, including without limitation, the volume of such sales, date of first sale and total sales and revenue in each state.

16. Describe with particularity the results of any surveys, polls or research referring or relating to the Mark, or the goods or services sold or intended to be sold under the Mark.

17. Identify all advertising and promotional methods, or types of media, used by Applicant in advertising, offering or promoting the sale of any products or services under the Mark.

18. Identify each publication, radio station, television station or other advertising medium used by Applicant in connection with the advertising of its goods or services and the date or dates on which each such advertisement or promotional activity occurred.

19. Identify and describe the types of customers to whom Applicant has sold, or intends to sell, goods or services under the Mark.

20. Identify at least ten (10) representative customers for to whom Applicant has sold or intends to sell any goods or services under the Mark.

21. Identify and describe all oral or written agreements entered into by Applicant referring or relating to the Mark including without limitation the date of each agreement, the identity of all the parties thereto and the reason and purpose of the agreement.

22. If Applicant claims to have acquired any rights in the Mark through any predecessor in interest, identify and describe the facts pertaining to said acquisition, including each such predecessor and the date on which each purported use of the Mark began and ended.

23. If Applicant or any predecessor or related company has ever filed any other applications to register any marks other than the one subject to Application No. 75/665,334 in the U.S. Patent and Trademark Office or with any state, identify and describe the facts pertaining to each such application including without limitation, the status of the application, whether or not any registration was issued, and any reasons for which registration was denied.

24. Describe any policies Applicant has regarding the use, display, or advertising of the Mark.

25. Identify all advertising agencies Applicant has used and/or currently uses in developing advertising for all good(s) or service(s) provided or intended to be provided under the Mark, and identify all individuals responsible for Applicant's account at each advertising agency.

26. Identify and describe all third parties who are or ever were authorized to use the Mark.


27. Identify and describe the facts relating to when any officer, director, or employee of Applicant first became aware of Opposer or Opposer's Marks.

28. Identify all persons that manufacture any goods or services under the Mark.

29. Identify all persons that distribute any goods or services under the Mark to wholesalers, distributors or consumers.

30. Identify and describe all channels of trade through which products or services under the Mark travel.

Dated: May 29, 2003



Charles M. Marmelstein
Sarah Wolf Crispi
ARENT FOX KINTNER PLOTKIN & KAHN, PLLC
1050 Connecticut Avenue, N.W.
Washington, D.C. 20036
(202) 857-6000

Attorney for Opposer

CERTIFICATE OF SERVICE

The undersigned attorney certifies that a true and accurate copy of the foregoing instrument was served upon the following attorney, by first class mail, postage prepaid, this 29th day of May, 2003.

Thomas I. Rozsa
Rozsa & Chen LLP
15910 Ventura Boulevard
Suite 1601
Encino, California 91436
(818) 783-0990



Charles M. Marmelstein
Sarah Wolf Crispi

EXHIBIT 2

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

In re Application No. 75/665,334 for the mark BEVERLY HILLS GOLF CLUB filed March 22, 1999 and published August 6, 2002.

KNIGHT CORPORATION,)	
)	
Opposer,)	
)	
v.)	Opp. No. 91153630
)	
DAVID H. MEHL,)	
)	
Applicant.)	
_____)	

OPPOSER'S FIRST REQUEST FOR DOCUMENTS

Pursuant to Rule 34 of the Federal Rules of Civil Procedure, Opposer Knight Corporation ("Opposer"), requests that Applicant David H. Mehl ("Applicant") produce for inspection and copying the Documents listed below, at the offices of Arent Fox Kintner Plotkin & Kahn, PLLC, 1050 Connecticut Avenue, N.W., Washington, D.C. 20036, within thirty (30) days after the service hereof, or at such other time and place as may be mutually agreed upon by the parties.

This request seeks the production of Documents as of the date on which Applicant responds and, as to those requests falling within Rules 26(e)(1) and (2) of the Federal Rules of Civil Procedure, shall be deemed continuing, requiring Applicant to serve upon Opposer such further responses promptly after Applicant has acquired additional knowledge or information.

Any document withheld in responding to these requests on the ground of privilege is to be identified by author or authors, recipient or recipients, person or persons to whom copies were furnished, job titles of all such persons as well as the date and subject matter of the document, and the nature of the privilege claimed.

If Applicant is aware with respect to any request that any responsive document once existed but has been destroyed, it should identify who destroyed it, why it was destroyed, and the circumstances under which it was destroyed.

The introduction and definitions set forth in Opposer's First Set of Interrogatories are incorporated herein by reference and made a part hereof.

REQUESTS

1. All Documents that Applicant was required to identify in its response to Opposer's First Set of Interrogatories, or from which it derived information used in preparing said responses.
2. All Documents on which Applicant intends to rely at the trial of this proceeding.
3. All Documents referring or relating to the selection, availability, adoption, creation, design, proposal to use, attempt to register, or registration of the Mark, including without limitation any minutes or notes from any meetings in which such topics were discussed.
4. Representative samples of all Documents or other materials on which the Mark have been displayed including without limitation all labels, packaging, hang tags, posters, advertisements, signs, brochures, handbills, billboards, stationery, business cards, identification cards, promotional materials, contracts, decals, badges, catalogs, mail order solicitations, and computer screens or screen printouts.
5. Representative samples of all Documents or other materials which explain or describe the goods or services offered or intended to be offered by Applicant under the Mark, including without limitation any packaging, sales materials, catalogs, price lists, training materials, memoranda and bulletins.
6. All Documents referring or relating to Applicant's knowledge of the use of Opposer's Mark.

7. All Documents referring or relating to any affiliation, association or dealings between Opposer, or any of its past or present owners, officers, directors or employees, and Applicant.

8. All Documents referring or relating to the date on which the Mark was first used in connection with the advertising of any goods or services.

9. All Documents referring or relating to the date on which the Mark was first used in connection with the sale of any goods or services.

10. All Documents referring or relating to the annual volume of sales made by Applicant under the Mark, per state, and the total amount of revenue Applicant has derived from the use of the Mark, per state, for each year from the date of first use to the present.

11. All Documents referring or relating to the annual amount of expenditures incurred in connection with the advertising or promotion of goods or services offered under the Mark from the date of first use to the present.

12. All Documents referring or relating to the creation, design, development or manufacture of any labels, packaging, advertisements or other materials bearing the Mark, including without limitation any correspondence, purchase orders or invoices sent to or received from any Person involved in such creation, design, development or manufacture.

13. All Documents referring or relating to any transfer or assignment of rights in the Mark, or any other agreements relating to the Mark.

14. All Documents in the possession, custody or control of Applicant referring or relating to Opposer or Opposer's Marks.

15. All Documents referring or relating to the use, intended use, registration or application to register the Mark, or any similar mark.

16. All Documents referring or relating to the Mark that Applicant has filed with or received from any federal, state or local government office or regulatory agency, including without limitation all Documents filed in connection with any application(s) to register the Mark.

17. All Documents referring or relating to any objections received by Applicant from any third party other than Opposer concerning the use or registration of the Mark.

18. All Documents referring or relating to any objections communicated by Applicant to any third party concerning the use or registration of the Mark.

19. All Documents referring or relating to any complaints received from customers or others concerning the quality of any goods or services rendered under the Mark.

20. All Documents referring or relating to any press release, newspaper article or other publication which mentions Applicant or its goods or services in association with the Mark.

21. All Documents relied upon as a basis for each opinion to be rendered by each expert witness which Applicant may call, or from whom it will obtain or may obtain statements or affidavits, or who is expected to give opinion testimony in this proceeding.

22. All Documents referring or relating to any search or evaluation of any records conducted by or on behalf of Applicant to determine whether use of the Mark was available to use or would conflict with the rights of any other person or entity.

23. All Documents referring or relating to any misdirected mail, telephone calls, or other instances wherein any person or business entity has been confused, mistaken or deceived as a result of the use of the Mark by Applicant, or by use of any similar name or mark by any other person or entity.

24. All Documents referring or relating to any action taken by Applicant to identify or prevent any instances of confusion arising from the use of the Mark, or any similar mark.

25. All Documents referring or relating to the classes or types of customers to whom Applicant has sold or intends to sell goods or services under the Mark.

26. All Documents referring or relating to the trade channels through which products or services bearing the Mark have been sold or intend to be sold, including the distributors and manufacturers of the goods or services bearing the Mark.

27. All Documents referring or relating to any mailing lists utilized by Applicant in connection with direct mail solicitations, or other mailings pertaining to goods or services offered or intended to be offered under the Mark.

28. Documents referring or relating to the geographical area in which goods or services have been offered and sold or are intended to be offered or sold, or channels of distribution under the Mark.

29. All Documents referring or relating to the extent to which the Mark has become associated with Applicant in the minds of prospective customers or the extent to which the Mark is known to such customers.

30. All Documents referring or relating to any survey, poll or research referring or relating to the Mark, or the goods or services sold or intended to be sold under the Mark.

31. Representative samples of Documents showing sales of products or services under the Mark to customers in each state in which products bearing the Mark have been sold.


32. Representative samples of packaging intended to be used or used for the sale of products or services identified in Application No. 75/665,334.

33. All Documents referring or relating to distribution agreements of products or services under the Mark.

34. All Documents referring or relating to Applicant's authority to transact business in any state and any country other than the United States.

If any of the foregoing Documents are deemed to contain confidential information, Applicant should so designate said Documents and access thereto will be confined to Opposer's counsel unless further dissemination thereof is authorized by mutual agreement of the parties or by order of the Board.

Dated: May 29, 2003



Charles M. Marmelstein
Sarah Wolf Crispi
ARENT FOX KINTNER PLOTKIN & KAHN, PLLC
1050 Connecticut Avenue, N.W.
Washington, D.C. 20036
(202) 857-6000

Attorney for Opposer

CERTIFICATE OF SERVICE

The undersigned attorney certifies that a true and accurate copy of the foregoing instrument was served upon the following attorney, by first class mail, postage prepaid, this 29th day of May, 2003.

Thomas I. Rozsa
Rozsa & Chen LLP
15910 Ventura Boulevard
Suite 1601
Encino, California 91436
(818) 783-0990



Charles M. Marmelstein
Sarah Wolf Crispi

EXHIBIT 3

UNITED STATES PATENT AND TRADEMARK OFFICE
Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

Mailed: November 5, 2004

Opposition No. 91153630

KNIGHT CORPORATION

v.

MEHL, DAVID H.

Cheryl Goodman, Interlocutory Attorney:

Opposer's motion to extend, filed July 2, 2004, which the Board construes as a motion to reopen discovery and trial dates is granted as conceded. Trademark Rule 2.127.

However, in view of the inordinate delay of opposer in prosecuting this case, discovery is reopened for a limited period. Trial dates are as indicated below.

DISCOVERY PERIOD TO CLOSE:	December 20, 2004
30-day testimony period for party in position of plaintiff to close:	March 20, 2005
30-day testimony period for party in position of defendant to close:	May 19, 2005
15-day rebuttal testimony period for party in position of plaintiff to close:	July 3, 2005

EXHIBIT 4

Arent Fox
ATTORNEYS AT LAW

November 16, 2004

VIA FACSIMILE AND FIRST CLASS MAIL
818-783-0992

Adam D. Resnick
202.857.6121 DIRECT
202.857.6395 FAX
resnick.adam@arentfox.com

Thomas I. Rozsa, Esq.
Rozsa & Chen LLP
15910 Ventura Boulevard
Suite 1601
Encino, CA 91436-2185

Re: *Knight Corporation v. David H. Mehl, Opposition No. 91153630*

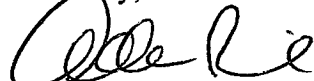
Dear Mr. Rozsa:

As you are likely aware, the Trademark Trial and Appeal Board has recently granted our motion to reopen the discovery and testimony dates in connection with the above-referenced opposition matter. The Board has set a new deadline of December 20, 2004 for the close of discovery.

As you will recall, we served discovery in this matter on behalf of our client in May 2003, but as yet have failed to receive any responses to the discovery. We therefore still await responses to our client's discovery. We would also be interested in learning whether your client still has an interest in its application and defending the subject opposition. If your client is still interested in defending the opposition, please forward us your client's responses to our discovery requests as soon as possible. If you fail to provide us with responses to our discovery by December 1, 2004, we will be forced to file a Motion to Compel on behalf of our client.

We look forward to hearing from you at your earliest convenience. In the meantime, should you wish to discuss this matter further, please do not hesitate to contact us.

Sincerely,

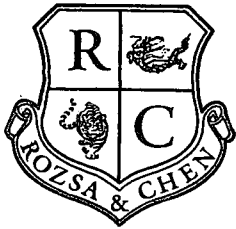


Adam D. Resnick

cc: Knight Corporation

TECH/271825.1

EXHIBIT 5



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December 30, 2004

By Telecopier - Hard Copy By Mail
(202) 857-6395

Adam D. Resnick, Esq.
ARENT FOX
1050 Connecticut Avenue, NW
Washington, DC 20036-5339

Dear Adam:

I have received your Motion to Compel Discovery. As I have told you, the client has effectively disappeared and I cannot locate him and am not able to communicate with him. Therefore, there is nothing that I can do in terms of providing you with the Discovery that you want.

Sincerely,

Thomas I. Rozsa

TIR:kg
200;res

EXHIBIT 6

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

Mailed: October 6, 2005

Opposition No. 91153630

KNIGHT CORPORATION

v.

MEHL, DAVID H.

Cheryl Goodman, Interlocutory Attorney:

This case now comes up on opposer's motion to compel, filed December 23, 2004.

In support of its motion to compel, opposer advises that opposer served discovery requests on May 29, 2003; that applicant's responses were due on July 3, 2003; that applicant has neither responded to the written discovery nor requested an extension; that opposer has made a good faith attempt to resolve the dispute but applicant's counsel advised that he was unable to provide discovery responses or to locate his client.

Applicant has filed no response thereto.

Accordingly, opposer's motion to compel is granted as conceded with respect to providing the discovery requests. See Trademark Rule 2.127(a). Moreover, applicant, by failing to timely respond to the discovery requests, has forfeited its right to object to the requests on their

merits. See *Envirotech Corp. v. Compagnie Des Lampes*, 219 USPQ 448 (TTAB 1979). Thus, applicant is allowed until THIRTY DAYS from the mailing date of this order to respond to opposer's discovery requests, without objection.

Opposer's motion to extend discovery by sixty days is granted as conceded.

Discovery and trial dates are reset as follows:

DISCOVERY PERIOD TO CLOSE:	December 3, 2005
30-day testimony period for party in position of plaintiff to close:	March 3, 2006
30-day testimony period for party in position of defendant to close:	May 2, 2006
15-day rebuttal testimony period for party in position of plaintiff to close:	June 16, 2006

In each instance, a copy of the transcript of testimony together with copies of documentary exhibits, must be served on the adverse party within thirty days after completion of the taking of testimony. Trademark Rule 2.125.

Briefs shall be filed in accordance with Trademark Rule 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.