

ESTTA Tracking number: **ESTTA79061**

Filing date: **05/02/2006**

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

Proceeding	91169502
Party	Plaintiff LEO STOLLER CENTRAL MFG. CO
Correspondence Address	LEO STOLLER Central Mfg co. 7115 W. North Avenue #272 Oak Park, IL 60302 UNITED STATES ldms4@hotmail.com
Submission	Motion to Compel Discovery
Filer's Name	Leo Stoller
Filer's e-mail	ldms4@hotmail.com
Signature	/Leo Stoller/
Date	05/02/2006
Attachments	ExhibitsMay 2, 2006.pdf (8 pages)(221446 bytes)

STEALTH®
7115 W. North Ave. #272
Oak Park, Illinois 60302

303-449 5426

Facsimile Transmittal

Date: 05-02-06
To: BETH MAGNUSON
From: LEO STOLLER
Subject: DISCOVERY Dispute opp. No 91169502
No. of Pages: 1 of 1 Lowland
(including this one)

BETH

Thank you for your fax dated 5-2-06.
Today we both met and conferred on the
phone in an attempt to resolve the
discovery dispute. It is clear that
we are unable to resolve the discovery
dispute as between our selves. Therefore
I have filed a motion to compel today.

Fax: (773) 589-0915 Most cordially
Voice: (773) 589-0340
Email: info@rentamark.com Leo Stoller

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*** TX REPORT ***

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STEALTH®
7115 W. North Ave. #272
Oak Park, Illinois 60302

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UNITED STATES | ENGLAND | GERMANY | CHINA

FACSIMILE TRANSMISSION

FROM: Beth Magnuson	TELEPHONE: 303/447-7729
	EMAIL: Bmagnuson@faegre.com
DATE: May 2, 2006	TIME: 3:20 p.m. (Boulder)
NUMBER OF PAGES (including this page): 6	F&B FILE: 334555 REC: 0497
TO: Leo Stoller Central Mfg. Co.	TELEPHONE: (773) 589-0304
	FAX: (773) 589-0915

MESSAGE

Letter dated 5/2/06 with Opposer's First set of Interrogatories, marked to indicate number enclosed herewith.

Trademark Opposition No. 91169502

Leo Stoller Central Mfg. Co., Opposer v. Loveland Products, Inc., Applicant.

IF YOU DO NOT RECEIVE ALL PAGES, PLEASE CALL OFFICE SERVICES AT 303.447.7900 OR
LAURA B. MELLBLÖM AT 303.447-7757.

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UNITED STATES | ENGLAND | GERMANY | CHINA

BETH MAGNUSON
BMagnuson@faegre.com
303.447.7729

May 2, 2006

VIA FACSIMILE

Leo Stoller
Central Mfg. Co.
P.O. Box 35189
Chicago IL 60707-0189

Re: *Stoller v. Loveland Products*, Trademark Opposition No. 91169502
Objections to Opposer's Interrogatories

Dear Mr. Stoller:

As promised in our telephone conference this morning, the attached document shows how we have counted the number of interrogatories contained in Opposer's First Set of Interrogatories to Applicant. Counting them under the guidelines set forth in TBMP § 405.03, you served approximately 94 interrogatories – well in excess of the 75 interrogatory limit. We have counted your interrogatories in a conservative manner, and have given you the benefit of the doubt where their may be questions as to how the interrogatory should be counted. Indeed, we believe that certain interrogatories, such as your Interrogatory No. 5, could be considered to contain as many as 10 interrogatories, even though we used the more conservative number of 5. If the interrogatories were counted in strict compliance with the TBMP instructions, they could number close to 150.

We will, of course, respond appropriately to a revised set of interrogatories that do not exceed the numerical limits.

Best regards,

FAEGRE & BENSON LLP

Beth Magnuson

Enclosure: Opposer's First Set of Interrogatories, marked to indicate number.
11/06153249778.01

18. As to these Interrogatories, state:

- a. The identity of the person who drafted the answer, the identity of the person, entity who provided the information contained in the answer and the identity of the entity, the person who was to obtain the information on which the answers were based;
- b. The identity of the documents and records consulted to obtain information; and
- c. In the unlikely event that no information or any partial information is given to such answer, a description of the efforts made to locate information needed for such answer.
- d. State who has helped the Applicant with this document.
- e. An Affidavit from the Applicant stating that he has complied fully with this Request for Production attached hereto.

INTERROGATORY NO. 1

Has the Applicant conducted any business in Chicago, Illinois? If the answer is yes, identify the type of business, your customers, and types of accounts.

INTERROGATORY NO. 2

Identify any and all respective goods upon, or in connection, with which the Applicant's subject mark has been used and/or intends to be used by or associated with the Applicant.

INTERROGATORY NO. 3

With respect to Applicant's first use in commerce please identify the date.

- a. Identify each party to that commercial transaction.
- b. Identify the goods on which the Applicant's claimed mark were used.

INTERROGATORY NO. 4

Identify the annual sales and/or the total sales in dollars of the Applicant's identified goods under the mark in the United States and any other country in the world.

INTERROGATORY NO. 5

With respect to the adoption or "use" of the subject mark:

- a. Identify all persons who participated in or approved the Applicant's selection, adoption and/or "use" of the subject mark, specifically including the person or persons who made the final decision on behalf of the Applicant to adopt and/or "use" the subject mark and the person or persons who first suggested use and/or "use" by the Applicant of the subject mark.

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INTERROGATORY NO. 6

Identify all persons, entity(ies) who have conducted a search of any records such as, but not limited to, US Patent and Trademark Office records, state or foreign country or investigation of any records such as, but not limited to, US Patent and Trademark Office records, state or foreign country trademark records, trademark or trade publications, catalogs, sales literature, advertisements, business directories, computer data bases or the records of any trademark service organization with regard to Opposer's *STEALTH* mark and for each such search or investigation, identify the marks which were searched or investigated and state on of the documents:

- a. The date or dates the search or investigation was made and the name, address, occupation, and qualifications of each person by whom it was made.
- b. Please identify same.

INTERROGATORY NO. 7

Identify all written or oral reports, opinions, recommendations or other communications made at any time which relate in any way to the likelihood of confusion (and/or no likelihood of confusion) of the subject mark with any existing or previously existing marks.

INTERROGATORY NO. 8

With respect to each and every goods sold and/or intended to be sold using the Applicant's subject mark, describe the type of goods:

INTERROGATORY NO. 9

Identify all documents containing agreements to which the Applicant, its predecessors, or those in privity with it are party and which relate to any assignment or licensing of the subject mark, including all amendments and modifications to such agreements, and other documents relating to the agreements.

INTERROGATORY NO. 10

State whether Applicant or any entity the Applicant has worked with or has knowledge of, has ever published or printed or caused to published or printed, any press release, publicity release, trade release, new goods release, other notice of trade, catalog, coded or printed, any press release, publicity release, trade release, new goods release, other notice of trade, catalog, catalog sheet, sales literature, reprint or other printed matter concerning the subject mark, identify samples of each such item, the geographic area of distribution of each sample, and the amount spent on each such item and name the bank account upon which checks were drawn to pay the bills.

INTERROGATORY NO. 11

If the Applicant has sold its respective goods, give the address(s) of several outlets at which Applicant has sold its goods.

INTERROGATORY NO. 12

If the Applicant has sold its respective goods, give the address(s) of several outlets at which Applicant has sold, intends to sell goods under the subject mark, and the time period for such sales at the related address(s).

INTERROGATORY NO. 13

If the Applicant has sold its respective goods or intends to sell goods upon which the subject mark has been used at wholesale, identify by name and geographical location all distributors, dealers, or agents for Applicant's sales at wholesale within the United States.

INTERROGATORY NO. 14

Identify the class of customer(s) to which each of Applicant's respective goods upon which the subject mark has been used, is, or has been, sold and/or intends to sell.

INTERROGATORY NO. 15

State by year as well as by location (city, state, and market area), the total amount in dollars that the Applicant has expended in advertising and/or otherwise promoting the sale of each and every of the respective goods upon which the subject mark has been used as set forth in Applicant's answer since the alleged date of first use.

INTERROGATORY NO. 16

Identify the segment or segments of the marketplace to which Applicant's advertising and promotional literature or other material is/are directed.

INTERROGATORY NO. 17

Explain the dates, circumstances when and by which Applicant first became aware of Opposer's mark "STEALTH".

INTERROGATORY NO. 18

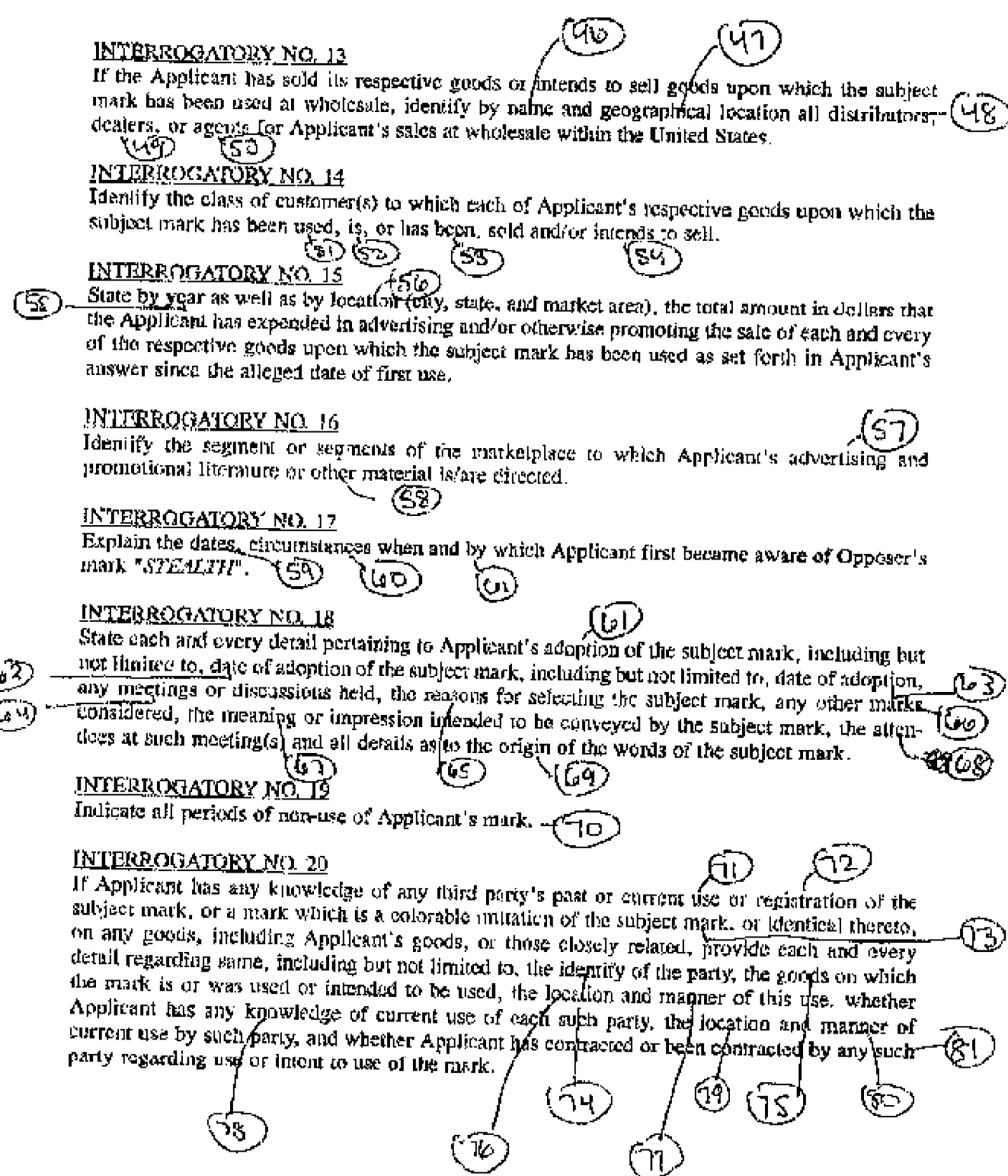
State each and every detail pertaining to Applicant's adoption of the subject mark, including but not limited to, date of adoption of the subject mark, including but not limited to, date of adoption, any meetings or discussions held, the reasons for selecting the subject mark, any other marks considered, the meaning or impression intended to be conveyed by the subject mark, the attendees at such meeting(s) and all details as to the origin of the words of the subject mark.

INTERROGATORY NO. 19

Indicate all periods of non-use of Applicant's mark.

INTERROGATORY NO. 20

If Applicant has any knowledge of any third party's past or current use or registration of the subject mark, or a mark which is a colorable imitation of the subject mark, or identical thereto, on any goods, including Applicant's goods, or those closely related, provide each and every detail regarding same, including but not limited to, the identify of the party, the goods on which the mark is or was used or intended to be used, the location and manner of this use, whether Applicant has any knowledge of current use of each such party, the location and manner of current use by such party, and whether Applicant has contracted or been contracted by any such party regarding use or intent to use of the mark.



INTERROGATORY NO. 21

Provide each and every detail regarding any instances of confusion in which Applicant's mark was mistaken for any other mark similar thereto, instances of confusion in which Applicant's mark was mistaken for Opposer's mark *STEALTH* or any (facts or circumstances which could possibly be interpreted as relating to such instances of confusion, including without limitation, misdirected mail, misdirected telephone calls, inquiries by third parties (including purchasers, prospective purchasers, planners, designers or recipients of Applicant's goods to Opposer in which Applicant's subject mark was mentioned).

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INTERROGATORY NO. 22

If Applicant's mark has ever been altered in any way, state in detail, the nature of such alteration, and the circumstances surrounding such alteration.

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INTERROGATORY NO. 23

If the symbol TM or ^R, or other equivalent reference has ever been used in connection with the Applicant's subject mark, identify the periods during which each such symbol or reference was used and the goods in connection with which each such symbol was used.

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INTERROGATORY NO. 24

Identify each expert witness which Applicant intends to call in this opposition and provide their qualifications as experts and the substance concerning which Applicant proposes to offer their testimony.

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By: Leo Stoller
Leo Stoller
CENTRAL MFG. CO., Opposer
Trademark & Licensing Dept.
P.O. Box 35189
Chicago, Illinois 60707-0189
773-589-0240 FAX 773 589-0915

Dated: March 22, 2006

CERTIFICATE OF SERVICE

I hereby certify that this **FIRST SET OF INTERROGATORIES** is being deposited with the U.S. Postal Service as **Certified Mail No: 7002 3150 0001 5647 9226**.

Eunice P. de Carvalho
Paegro & Benson, LLP
2200 Wells Fargo Center 90 South Seventh Street
Minneapolis, MN 55422

Leo Stoller
Leo Stoller

Date: March 22, 2006

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