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

Proceeding	91174380
Party	Plaintiff Daniel A. Mendoza
Correspondence Address	Daniel A. Mendoza P.O. Box 193156 San Francisco, CA 94119-3156 UNITED STATES voiceplay@gmail.com, danielm@infinex.com
Submission	Other Motions/Papers
Filer's Name	Daniel A. Mendoza
Filer's e-mail	voiceplay@gmail.com
Signature	/Daniel A. Mendoza/
Date	05/28/2009
Attachments	FINAL_IRREGULARITY.pdf ( 13 pages )(378253 bytes )

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

DANIEL A. MENDOZA, )  
 )  
 Opposer, )  
 )  
 vs. )  
 )  
 CITIGROUP, INC., )  
 )  
 Applicant. )  
 )  
 \_\_\_\_\_ )

Serial No. 76643015  
Opposition No. 91174380

**NOTICE OF IRREGULARITY  
OF PLAINTIFF'S DISCOVERY  
EVIDENCE; BY DEFENDANT-  
APPLICANT CITIGROUP**

Commissioner for Trademarks  
Trademark Trial and Appeal Board  
BOX 1451,  
Alexandria, VA 22313 –1451

**NOTICE OF IRREGULARITY BY DEFENDANT'S OF PLAINTIFF'S EVIDENCIARY  
EXHIBITS AND FACTS.**

**1. ) THE IRREGULARITY OF DEFENDANT'S CLAIMS AND THEIR  
MIS-REPRESENTATIONS AGAINST PLAINTIFF'S DISCOVERY EVIDENCE  
BEFORE THE BOARD; ARE MADE OF RECORD.**

a. ) By the Fabrication and Manipulation of DISCOVERY EVIDENCE; namely  
EXHIBITS and Material Facts provided by Plaintiff at Discovery; in addition to their supportive  
WRITTEN STATEMENTS and Declarations; are a Misrepresentation before the Honorable  
Board, by Ms. Rochelle Alpert, Ms. Anita Polott, Ms. Kelly Bargman, of Morgan, Backus, Lewis,  
LLP; with collaborative intent to injure, or harm a person, and obstruct justice, and berate  
Plaintiff, and to carry the case.

**2. ) PLAINTIFF'S LIMITED EXAMPLE OF DEFENDANT'S COLLABORATIVE, MANIPULATION AND MISREPRESENTATION BEFORE THE HONORABLE BOARD; BY THEIR WRITTEN WORDS (STATEMENTS), AND THEIR PROVIDED MALFORMED EXHIBIT(S) OF PLAINTIFF.**

Defendants; Motion to Compel; Nov. 8, 2007;

**IN TWO PARTS; EXHIBIT 1 AND 3.**

**Exhibit 1.** ( DEFENDANT'S EXHIBIT 'F' with PHOTOGRAPH.) (**EXCERPT**);

**AND Exhibit 3.** (DEFENDANT'S Motion to Compel) (**COMPLETE**)

**SEE Exhibit 3,** Page 6; last paragraph; (excerpted)

In sum, every one of Opposer's responses is either completely incoherent or does not answer the question posed. Furthermore, although Opposer purports to identify documents that are responsive to the Interrogatories, the documents are either not actually produced or not sufficiently identified for Applicant to even evaluate let alone understand the response. Alpert Decl. ¶ 6.

Defendants; Motion to Compel; Nov. 8, 2007; **Attached as Exhibit 3.**

See **Exhibit 3,** Page 7; last paragraph. (excerpted)

Opposer likewise failed to produce any responsive documents in response to Applicant's properly propounded First Set of Requests to produce Documents. Instead, Opposer answers almost every request with " See all Exhibits supplied 100-500". Upon viewing the Exhibits, there is nothing even remotely that addresses Applicant's requests. **ALPERT DECL. 6.**

Defendants; Motion to Compel; Nov. 8, 2007; **Attached as Exhibit 3.**

See **Exhibit 3**, Page 9, CONCLUSION;

Final 3 sentences; (excerpted)

Revealingly, based on the discovery responses, Applicant continues not to have access to information as to how Opposer actually uses and has used Opposer's registration, to whom he has offered and sold his services, how he offers and sells his services, or even who beyond Opposer would be the proper persons to depose to obtain further information on these particulars, although this is a core issue in this opposition proceeding. That is the case although the discovery at issue has been outstanding for over six months now. Such dilatory behavior simply should not be countenanced.

Dated: November 8, 2007

The Motion was Signed by Ms. Rochelle Alpert, of Morgan, Lewis & Bockius, LLP.

**3. ) PLAINTIFF'S PROVIDES HIS ACTUAL DISCOVERY EXHIBIT NO. 310, WITH REGISTERED MARK AS USED IN COMMERCE, ON MOTION PICTURE VIDEO; WITH USE RIGHTS GRANTED PLAINTIFF DANIEL A. MENDOZA, BY SONY PICTURES.**

Plaintiffs; Response to Interrogatories; October 29, 2007, (Pros. History No. 16), Plaintiff response to Defendant's Motion(s).

**Attached as Exhibit 2. (AS EXHIBIT 310)**

Plaintiff provided Documentary Evidence (Exhibit No. 310) of use by way of the website film clip, of the Sony Pictures Film; *Crouching Tiger Hidden Dragon*. **Exhibit 2.**

Plaintiff notes that attached **Plaintiff Exhibit 310**, (is in fact one of the Exhibits 100 thru 500), on page 113, 114; EVIDENCE; “A DOCUMENT SPECIMEN” which specifically addressed one or more of Applicants specific Discovery Requests;

SURELY, though Defendants claim blindness and have manipulated Evidence of Plaintiff; even a *child* could see the coherency and validity of the evidence (document) so produced, (Plaintiff’s EXHIBIT 310) and the reason for producing it; which did allow the subject (Applicant) to evaluate it’s response.

Indeed, Plaintiff has produced a responsive document, to show how he uses his services, whom he offers services too, and plaintiff has identified whom provided the permissions to use; (*Courtesy Sony Pictures*); it is properly identified as **Exhibit 310**, and the “audience” is identified as the viewers of the motion picture advertisement and film clip for the movie.

Defendants have purposely presented this falsified Evidence in an effort to scuttle Plaintiff’s opposition, since they have awareness of the known actual use demonstrated to them in plain view, and they could easily verify it’s use; however they continue to deny it, even beyond their oaths, canons and ethics of the practice of law before the Trademark Office; even under any manner or belief.

**WHEREAS;** Defendant's above written statements and declarations; and Defendant's provided Exhibit(s), signed and approved by their counsel's own hand; are intentionally false and misleading and a connivance to undercut Plaintiff's Discovery Specimens Evidence and this case, which goes beyond any manner of Judicial Responsibility and governance by the Federal Rules of Civil Procedure; and the oaths, canons and ethics of the practice of Law.

Plaintiff humbly footnotes; that it is not now, nor has it ever been, Plaintiff's express intention to over-litigate this trademark proceeding before the Honorable Board.

Respectfully Submitted;

A handwritten signature in black ink, appearing to read "Daniel A. Mendoza". The signature is written in a cursive style with some capital letters.

Daniel A. Mendoza

May 28, 2009

## **Certificate of Submission via ESSTA**

I hereby certify that the foregoing **NOTICE OF IRREGULARITY BY DEFENDANT'S OF PLAINTIFF'S DISCOVERY EVIDENCE** is being transmitted to the Trademark Trial and Appeal Board via ESSTA on May 28, 2009.



Daniel A. Mendoza, pro. per

## **Certificate of Service**

I hereby certify that I have this date served the above and foregoing **NOTICE OF IRREGULARITY BY DEFENDANT'S OF PLAINTIFF'S DISCOVERY EVIDENCE** on:

Anita B. Polott  
Morgan, Lewis & Bockius LLP  
1111 Pennsylvania Avenue, NW  
Washington, DC. 20004

By placing a copy of same in the United States Mail, in an envelope, postage prepaid, and addressed to Counsel's regular mailing address, on May 28, 2009.



Daniel A. Mendoza, pro. per

PROCEEDING NO. 91174380  
SN. 76643015  
MENDOZA V. CITIGROUP, INC.  
**PLAINTIFF'S EXHIBIT 1 WITH PHOTOGRAPH.**  
(TWO PAGES)

(This Exhibit shows DEFENDANT'S EXHIBIT 'F' )



# EXHIBIT F

to DECLARATION OF ROCHELLE D. ALPERT IN SUPPORT OF  
APPLICANT'S MOTION TO COMPEL FURTHER DISCOVERY RESPONSES

1-SF/7627875.1

DANIEL A. MENDOZA v. CITIGROUP INC.  
Opposition No.: 91174380  
Submitted by: Citigroup Inc. (Applicant and Counterclaim Petitioner)

EXHIBIT F  
PAGE 1 OF 2

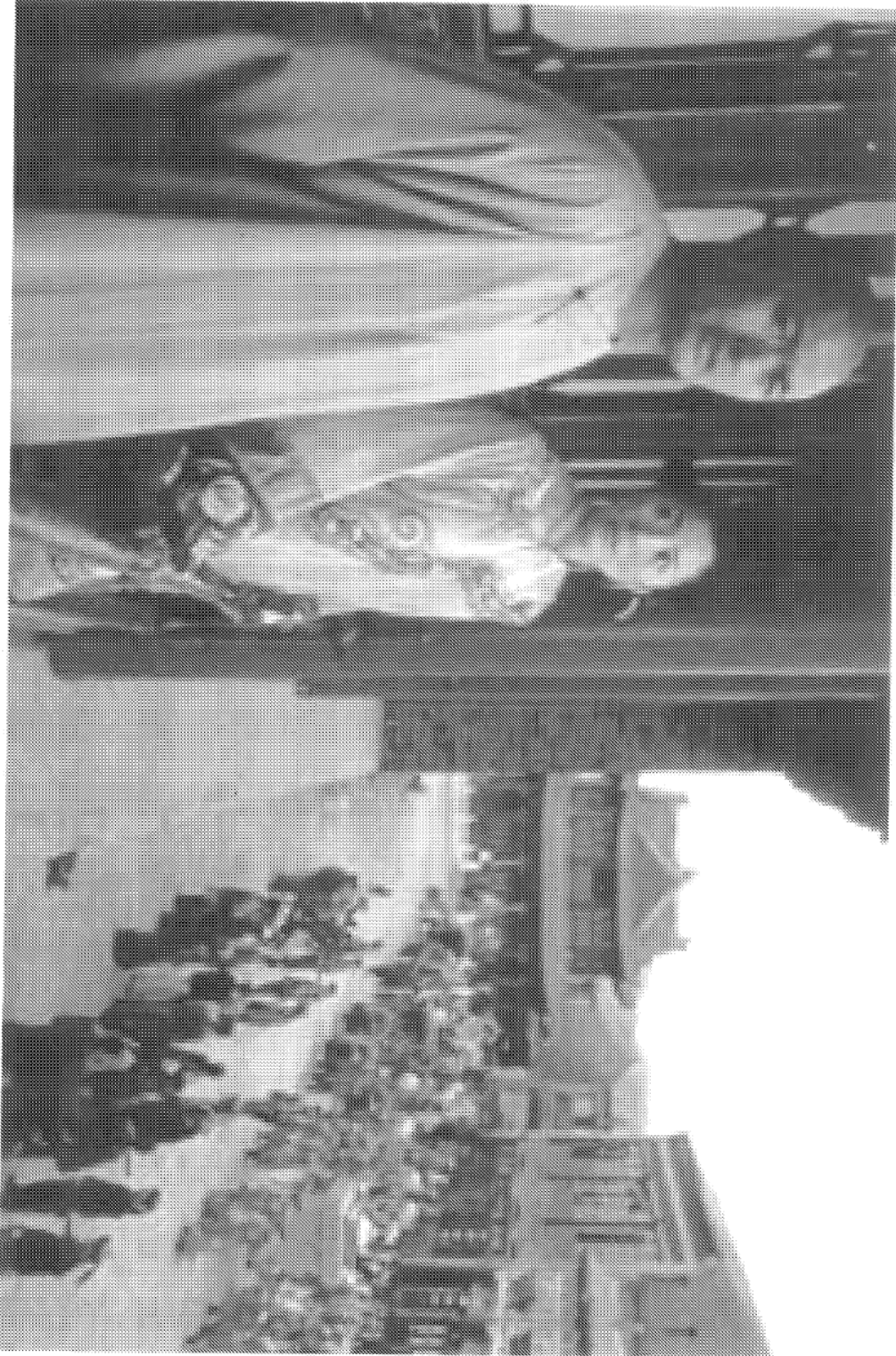


EXHIBIT F  
PAGE 2 OF 2

PROCEEDING NO. 91174380  
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MENDOZA V. CITIGROUP, INC.  
**PLAINTIFF'S EXHIBIT 2**  
(TWO PAGES)

**DESCRIPTION: THE ACTUAL EXHIBIT NO. 310**

[Prosecution History No. 16; filed October 29, 2007- Plaintiff's response to Defendant's Motion(s)]



Movie Clip



Movie Clip

:talking in the house



Movie Clip



Movie Clip

:flying onto balcony



T.T.A.B. PROCEEDING  
PLAINTIFF'S EXHIBITS  
Mendoza v. Citigroup, Inc.,  
Opposition No. 91174380

310

Courtesy Sony Pictures Classics



View Video Clips from Motion Picture. Direct link to Sony Pictures Website featuring comprehensive movie information and updates.

*All Trademarks, ServiceMarks & Copyrights are Properties of their RespectiveOwners*

*Click on double-quotes hyperlink to view video movie clip courtesy of Sony Pictures Classics*

*2007 Design, with 'Look & Feel' & Recording Copyrights; Adplay (sm)  
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*movie,movies, pictures, motion pictures, chow yun fat, michelle yeoh, sony pictures,movie clips, film clips*

PROCEEDING NO. 91174380  
SN. 76643015  
MENDOZA V. CITIGROUP, INC.  
**PLAINTIFF'S EXHIBIT 3 (ATTACHED)**

(DEFENDANT'S MOTION TO COMPEL NOV. 8, 2007; 116 pages in length.)