

ESTTA Tracking number: **ESTTA388537**

Filing date: **01/14/2011**

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

Proceeding	91195593
Party	Defendant Active Organics, LP
Correspondence Address	SCOTT A. MEYER CHALKER FLORES, LLP 2711 LBJ FREEWAY, SUITE 1036 DALLAS, TX 75234 UNITED STATES smeyer@chalkerflores.com, tjacks@chalkerflores.com
Submission	Other Motions/Papers
Filer's Name	Daniel Chalker
Filer's e-mail	dchalker@chalkerflores.com, cminchillo@chalkerflores.com
Signature	/daniel chalker/
Date	01/14/2011
Attachments	Applicant's Initial Disclosures 2011.1.14.pdf (4 pages)(180612 bytes)

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

Guthy-Renker, LLC,)	
)	
Petitioner,)	
)	
v.)	Opposition No. 91195593
)	
Active Organics, LP)	
)	Serial No. 77/723,498
)	Mark: ECO-ACTIVES
Applicant.)	
)	

APPLICANT'S INITIAL DISCLOSURES

To: Guthy Renker, by and through its attorney of record Cislo & Thomas, LLP, 1333 2nd Street, Suite 500, Santa Monica, California 90401.

In accordance with the Rules of the Trademark Trial and Appeals Board, Active Organics, LP (“Applicant” and/or “Defendant”) hereby submits its Applicant’s Initial Disclosures to Guthy-Renker, LLC (“Petitioner”):

A. Individuals with Discoverable Information

1. The names, addresses (work and home), and telephone numbers (work and home) of individuals likely to have discoverable information – along with the subject matter of that information - that Applicant may use to support its claims or defenses are:

The following person(s) or entities may have discoverable information that the Applicant may use to support its position. While these person(s) or entities may have discoverable information, Applicant makes no representations as to its intent to rely upon this information in this action. Furthermore, Applicant has not yet determined the witnesses to be called in this action, and will make those disclosures pursuant to the Board’s further orders.

Michael Bishop
Active Organics, Inc. f/k/a Active Organics, LP
c/o Chalker Flores, LLP
2711 LBJ Freeway, Suite 1036
Dallas, Texas 75234
214-866-0001

Representative of Applicant; knowledge of its business operations and use of the ECO-ACTIVES mark in commerce.

Linda DeFratus
Active Organics, Inc. f/k/a Active Organics, LP
c/o Chalker Flores, LLP
2711 LBJ Freeway, Suite 1036
Dallas, Texas 75234
214-866-0001

Representative of Applicant; knowledge of its business operations and use of the ECO-ACTIVES mark in commerce.

Mary Hazuda
Active Organics, Inc. f/k/a Active Organics, LP
c/o Chalker Flores, LLP
2711 LBJ Freeway, Suite 1036
Dallas, Texas 75234
214-866-0001

Representative of Applicant; knowledge of its business operations and use of the ECO-ACTIVES mark in commerce.

B. Relevant Documents & Tangible Things

2. In addition to those documents attached and identified as exhibits to Petitioner's Notice of Opposition, the following is a list of documents, data compilations, and tangible things in Applicant's possession, custody, or control, described by category and location, that Applicant may use to support its claims or defenses:

Subject to the execution and entry of a mutually agreeable Protective Order, the following relevant and non-privileged items will be made available for copying and/or inspection at a mutually agreeable date and time at Chalker Flores, LLP, 2711 LBJ Freeway, Suite 1036, Dallas, Texas 75234:

Documents evidencing the use of "ECO-ACTIVES" mark in commerce. Relevant and non-privileged items will be made available for copying and/or inspection at a mutually agreeable date/time at Chalker Flores, LLP, 2711 LBJ Freeway, Suite 1036, Dallas, Texas 75234;

Documents evidencing the products offered by Applicant utilizing the "ECO-ACTIVES" mark. Relevant and non-privileged items will be made available for copying and/or inspection at a mutually agreeable date/time at Chalker Flores, LLP, 2711 LBJ Freeway, Suite 1036, Dallas, Texas 75234;

Documents evidencing the geographic area where the "ECO-ACTIVES" mark is used. Relevant and non-privileged items will be made available for copying and/or inspection at a mutually agreeable date/time at Chalker Flores, LLP, 2711 LBJ Freeway, Suite 1036, Dallas, Texas 75234;

Documents evidencing filings with the USPTO related to Serial No. 77/723,498 ("ECO-ACTIVES "). Relevant and non-privileged items will be made available for copying and/or inspection at a mutually agreeable date/time at Chalker Flores, LLP, 2711 LBJ Freeway, Suite 1036, Dallas, Texas 75234; and

Documents evidencing costs and expenses, including reasonable attorneys' fees, incurred as a result of this litigation. Relevant and non-privileged items will be made available for copying and/or inspection at a mutually agreeable date/time at Chalker Flores, LLP, 2711 LBJ Freeway, Suite 1036, Dallas, Texas 75234.

Please note that Applicant's investigation and case preparation are ongoing, continuing efforts and that Applicant therefore reserves its rights to use any relevant documents subsequently obtained or prepared, and any such non-privileged documents will be produced. Further, Applicant makes no representations as to its intent to rely upon any of these disclosed documents in this action, and will make the disclosures of said documents as per the Board's future order.

C. Information Related to Calculation of Damages

3. All non-privileged documents used in computing each category of damages claimed by Registrant.

Documents evidencing costs and expenses, including reasonable attorneys' fees, incurred as a result of this litigation. Relevant and non-privileged items will be made available for copying and/or inspection at a mutually agreeable date/time at Chalker Flores, LLP, 2711 LBJ Freeway, Suite 1036, Dallas, Texas 75234. Further, Applicant may supplement this initial disclosure with additional documents obtained through the discovery process.

D. Insurance

4. Any insurance agreement under which an insurance business may be liable.

Not applicable.

Dated: January 14, 2011

Respectfully submitted,

CHALKER FLORES, LLP

By: /s/Scott A. Meyer

Scott A. Meyer
Texas Bar No. 24013162
Thomas G. Jacks
Texas Bar No. 24067681
2711 LBJ Freeway, Suite 1036
Dallas, Texas 75234
(214) 866-0001 (telephone)
(214) 866-0010 (telecopy)
smeyer@chalkerflores.com
tjacks@chalkerflores.com

ATTORNEYS FOR APPLICANT

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on January 14, 2011 a true and correct copy of the foregoing document was served on the following parties via certified mail, return receipt requested:

Daniel M. Cislo, Esq.
Cislo & Thomas, LLP
1333 2nd Street, Suite 500
Santa Monica, CA 90401-4110

/s/Scott A. Meyer

Scott A. Meyer