

ESTTA Tracking number: **ESTTA384739**

Filing date: **12/20/2010**

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

Proceeding	91195847
Party	Plaintiff philosophy, inc.
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Date	12/20/2010
Attachments	91195847.OpposerInitDisclStmnt.pdf (6 pages)(168687 bytes)

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

In the matter of Application Serial No. 77/853,464
Mark: GYM IN A JAR

philosophy, inc.,

Opposer,

vs.

Levit Labs LLC,

Applicant.

Opposition No.: 91195847

**OPPOSER'S INITIAL DISCLOSURE
STATEMENT**

Pursuant to Rule 2.120 of the Trademark Rules of Practice and Rule 26(a)(1) of the Federal Rules of Civil Procedure, Opposer philosophy, inc., makes the following statement of initial disclosures. These disclosures are based upon the information Opposer currently possesses, and are made without prejudice to its right to supplement these disclosures based on the information learned through further investigation and discovery. These disclosures are also made without prejudice to Opposer's right to conduct discovery or rely upon other evidence that if later discovered.

I. INDIVIDUALS LIKELY TO HAVE DISCOVERABLE INFORMATION.

Opposer hereby discloses the name, business address and telephone number of individuals likely to have discoverable information that it may use to support its claims, and identifies generally the subject of such information. All employees of philosophy, inc. should be contacted through Opposer's counsel, and should not be contacted directly by Applicant's counsel.

1. Christine Nevin
philosophy, inc.
3809 E. Watkins Street
Phoenix, Arizona 85034
(602) 794-8500

Ms. Nevin is Director of Product Development for philosophy, inc. Ms. Nevin is believed to have information concerning the history of philosophy, inc., its business generally and product lines, the structure and organization of philosophy, inc. and its day-to-day operations. Ms. Nevin is also believed to have information concerning philosophy's use of its trademarks from the date of first use and its continuing use to date, in connection with the advertising, promotion and sales of philosophy's products. Ms. Nevin is believed to have information relating to the channels of trade in which philosophy's products are sold.

Ms. Nevin is also believed to have information concerning the similarities between philosophy's PHILOSOPHY trademarks, and the Applicant's opposed mark as well as the similarities between philosophy's products and the products for which Applicant states an intent to use Applicant's marks.

2. Debbie Slota
philosophy, inc.
3809 E. Watkins Street
Phoenix, Arizona 85034
(602) 794-8500

Ms. Slota is Product Development Planner for philosophy, inc. She is believed to have information concerning philosophy's products and trademarks generally as well as the products bearing, promoted under and advertised under philosophy's trademarks. She is believed to have information specifically relating to the use of these marks from the date of first use and continuing use to date and the channels of trade in which philosophy's products are sold.

3. Valerie Shepard
philosophy, inc.
3809 E. Watkins Street
Phoenix, Arizona 85034
(602) 794-8500

Ms. Shepard is Director of Finance for philosophy, inc. Ms. Shepard is believed to have information concerning philosophy's sales of products bearing its PHILOSOPHY trademarks including the sales in dollar volume from the date of first use to the present. Ms. Shepard is also believed to have information concerning philosophy's marketing, advertising and promotional activities relating to the philosophy's products including the money expended in connection with such activities.

4. Hannah Toiaivao
philosophy, inc.
3809 E. Watkins Street
Phoenix, Arizona 85034
(602) 794-8500

Ms. Toiaivao is Buyer 1 Purchasing for philosophy, inc. She is believed to have information concerning the marketing, advertising and promotional activities relating to philosophy's products bearing, promoted under and advertised under philosophy's trademarks including the money spent in connection with such activities.

5. Christina Carlino
philosophy, inc.
3809 E. Watkins Street
Phoenix, Arizona 85034
(602) 794-8500

Ms. Carlino is the founder of philosophy, inc., its former President and current Executive Chairman. Ms. Carlino is expected to have knowledge concerning the history of philosophy, inc. and the company's reputation for quality products and services and the use of philosophy's trademarks.

II. DOCUMENTS, DATA COMPILATIONS, INTANGIBLE THINGS.

Opposer discloses the following description by category of documents, data compilations, intangible things that are in its possession, custody or control, unless otherwise noted, and that it may use to support its claims, unless solely for impeachment. The documents are located at Opposer's offices in Phoenix, Arizona or at the offices of Opposer's counsel, Snell & Wilmer L.L.P. in Phoenix, Arizona. Opposer agrees to provide copies of such documents to Applicant or to make such documents available for inspection and review in a reasonable manner and at a time and place to be arranged. Certain documents may be produced by Opposer pursuant to any stipulated protective order to be entered by the Trademark Trial Appeal Board.

1. A copy of the registration certificates for U.S. Registration Nos. 2,006,904; 3,538,557.
2. A copy of the file history for the registrations listed in paragraph 1 above.
3. A copy of the TARR records for U.S. Serial No. 78/663,704, abandoned for GYM IN A JAR, and for U.S. Serial No. 77/853,464, pending for GYM IN A JAR.
4. Photos of philosophy's products bearing and/or advertised, promoted and sold under philosophy's trademarks.
5. Advertising and promotional materials, product packaging and/or hang tags for products bearing philosophy's trademarks.
6. Documents relating to philosophy's advertising and promotional activities for products bearing its trademarks including documents reflecting the money spent in connection with such activities.
7. Documents related to philosophy's use in commerce of products bearing its trademarks including summaries reflecting the sales volume in dollar amounts of such products.

III. INSURANCE AGREEMENT.

philosophy is not aware of any applicable insurance agreement that should be disclosed under the Rule 26(a)(1)(D).

Dated this 20th day of December, 2010.

SNELL & WILMER L.L.P.

By David O. Caplan

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Opposer's Initial Disclosure Statement is being deposited in the United States mail, first class postage prepaid, to Applicant at the address and on the date indicated below:

Jan Tamulewicz
KATTEN MUCHIN ROSENMAN LLP
575 Madison Ave
New York, NY 10022-2585

Date: December 20, 2010

By Paige Detella