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Filing date: **06/14/2013**

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

Proceeding	91197266
Party	Plaintiff Classic Ink, Inc.
Correspondence Address	D SCOTT HEMINGWAY HEMINGWAY HANSEN LLP 1700 PACIFIC AVENUE, SUITE 4800 DALLAS, TX 75201 UNITED STATES shemingway@hemlaw.org,shemingway@hh-iplaw.com,amykasper@hh-iplaw.com,adavis@hh-iplaw.com
Submission	Opposition/Response to Motion
Filer's Name	D. Scott Hemingway
Filer's e-mail	shemingway@hemlaw.org, amykasper@hemlaw.org, amykasper@hh-iplaw.com
Signature	/D. Scott Hemingway/
Date	06/14/2013
Attachments	06.13.13 Resubmission.Exhibits.1and 2.Response to Motion Discovery Sanctions.001.pdf(10708 bytes) Exhibits 1 and 2.Response to Motion for Discovery Sanctions.001.pdf(25334 bytes)

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

CLASSIC INK, INC.,)	
)	Opposition No.: 91197266
Opposer,)	Mark: JACKSONVILLE SHARKS
v.)	(logo)
JACKSONVILLE SPORTS GROUP, LLC,)	App. SIN: 77/872,197
)	Pub. Date: October 5, 2010
Applicant.)	

CLASSIC INK, INC.,)	
)	Opposition No.: 91197267
Opposer,)	Mark: JACKSONVILLE SHARKS
v.)	
JACKSONVILLE SPORTS GROUP, LLC,)	App. SIN: 77/868,164
)	Pub. Date: October 5, 2010
Applicant.)	

**RESUBMISSION OF EXHIBITS 1 AND 2 TO OPPOSER'S
RESPONSE TO MOTION FOR DISCOVERY SANCTIONS**

Comes Now Opposer, Classic Ink, Inc., to re-submit Exhibits 1 and 2 to
Opposer's Response to Motion for Discovery Sanctions as follows:

I. REQUEST

On June 13, 2013, Opposer submitted its Response to Motion for
Discovery Sanctions, and it appears Exhibits 1 and 2 to that Response were not properly
uploaded. For that reason, Opposer re-submits its Exhibits 1 and 2 to that Response
forthwith, and respectfully requests that the TTAB consider these exhibits with the
Opposer's Response to the Motion for Discovery Sanctions.

Dated: June 14, 2013

Respectfully submitted,

/D. Scott Hemingway/
D. Scott Hemingway
Hemingway & Hansen, LLP
1700 Pacific Avenue, Ste. 4800
Dallas, Texas 75201
Ph: (214) 292-8301
Fax: (214) 292-8999
Attorneys for Classic Ink, Inc.

CERTIFICATE OF SERVICE

I hereby certify that a copy of this document was served by electronic filing and electronic mail delivery (with first class mail copy) at the following address on June 14, 2013.

Richard S. Vermut
Stephen E. Kelly
Rogers Towers, P.A.
1301 Riverplace Blvd Ste 1500
Jacksonville, Fl 32207-1811

/D. Scott Hemingway/
D. Scott Hemingway

Exhibit 1

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
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CLASSIC INK, INC.,)	
a Texas corporation,)	Opposition No.: 91197266
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a Delaware limited liability company,)	Pub. Date: October 5, 2010
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DECLARATION OF AMY KASPER

Comes Now, Amy Kasper, to declare under penalty of perjury the following:

1. I am over the age of eighteen years and reside in Oak Cliff, Texas. I have personal knowledge of the facts stated in this Declaration and would be competent to testify to them if called upon to do so. I declare under penalty of perjury that the following is true and correct to the best of my knowledge and belief.
2. I have been employed by Hemingway & Hansen, LLP (or its predecessor firm) since April 2004 as a personal assistant and paralegal secretary.
3. One of my responsibilities at the law firm of Hemingway & Hansen, LLP is to submit work requests for any possible problems with the firm's telecommunications systems and email systems to the firm's IT firm, Architel. Architel supports all email computer servers for

the firm at their office and computer server location, and is a widely-known and respected IT firm that handles these matters for businesses across the southwest United States.

4. At the end of March, 2013, Hemingway & Hansen, LLP began to believe that a small number of emails directed to the firm's "@hemlaw.org" email domain name were not being delivered promptly. We conducted self-tests to see if our own emails to this domain name were being delivered in a timely manner. There were some speed problems and delays, but it was unclear whether email delivery was failing entirely for any email self-tests. A couple clients indicated they, too, were encountering some speed, and sometimes, dropped emails directed to this "@hemlaw.org" domain name. Emails directed to the firm's other domain name "@hhiplaw.com" email domain name were not affected by this problem.

5. Not sure whether there was a problem with this domain name email service or not, I personally submitted the work request to the Architel IT firm requesting that they investigate the situation; see if they could determine if a problem existed; and, if so, what the solution to that "@hemlaw.org" email domain problem might be. Architel indicated there was a problem with their email computer server handling the firm's "@hemlaw.org" emails.

6. Architel, and with the assistance of Mr. Hemingway, obtained authorization to transfer the "@hemlaw.org" email server designation at "GoDaddy.com" to a new email computer server at Architel. Mr. Hemingway had to personally authorize this transfer with GoDaddy.com with Architel personnel. This solution bypassed any problematic email server at Architel, and allowed a new e-mail computer server at Architel to receive and process the "@hemlaw.org" emails. This problem is believed to have been fixed by mid-April 2013 to the present time, but the TTAB's April 5, 2013 email notification of the April 5, 2013 Order appears to have been dropped or not delivered to the firm recipients because of the faulty email server at Architel.

7. I work closely with the firm's docketing clerk, who processes emails, responses and Orders received from the USPTO and docket response dates. I asked other personnel at the firm, including the firm's docketing paralegal and Mr. Hemingway, whether they had received

the April 5, 2013 Order by email or an email notification about the April 5, 2013 Order. Everyone else at the firm confirmed that they had not seen, received or reviewed this April 5, 2013 Order or an email notification issued by the TTAB around that date regarding this Order, and that no one at the firm had seen the TTAB's April 5, 2013 Order until the electronic copy was received on or around May 28, 2013 as downloaded from the TTAB website.

8. One of my responsibilities and duties at the law firm of Hemingway & Hansen, LLP includes collecting the firm's mail delivered by the United States Postal Service on a daily basis (non federal holidays and not week-ends) at the postal box located in our office building. During the time period from April 1, 2013 to May 28, 2013, I believe I collected all mail received by the firm in that manner. I date stamp all received mail when it comes into the office, and distribute the mail to the relevant personnel at the law firm.

9. I have now reviewed the TTAB's April 5, 2013 Order in the above matters for the first time on May 29, 2013 when it was delivered to me from the TTAB website, and I do not believe this April 5, 2013 TTAB Order was, on or around April 5, 2013: (1) delivered to the mailbox for the office of Hemingway & Hansen, LLP by the United States Postal Service, (2) collected by anyone at our firm, or (3) distributed to any personnel at the firm. I believe the first time anyone at the firm saw the TTAB's April 5, 2013 Order was on or around May 28, 2013 when Applicant's counsel first told us about the TTAB Order in his email and subsequent investigations ensued.

10. I asked other personnel at the firm, including the firm's docketing paralegal that docket incoming mail and orders for future action as well as Mr. Hemingway, whether they had received a paper copy of the April 5, 2013 Order, an electronic copy of same, or an email regarding that Order. Everyone at the firm confirmed that they had not seen, received or reviewed this April 5, 2013 Order issued by the TTAB, either by a paper copy or by receipt of an electronic copy; that is, until the electronic copy was received on May 28, 2013 as downloaded from the TTAB website.

11. Hemingway & Hansen, LLP moved its offices to a new physical office location in 2011. The firm notified the United States Patent and Trademark Office enrollment of the physical new location for Hemingway & Hansen, LLP by submitting a Change of Address form and updating the correspondence address to the United States Patent & Trademark Office (“PTO”), and the firm’s address was updated for pending Trademark matters. I personally submitted these Change of Address submissions to the PTO.

12. I personally reviewed email correspondence to counsel for the Applicant at the end of March and April, 2013 of this year regarding possible settlement proposals. Mr. Hemingway’s communications to counsel for Applicant regarding a possible settlement extend through April 4, 2013 of this year, which were not responded to by Applicant’s counsel, Mr. Kelley.

I declare the above to be true and correct under penalty of perjury.

Dated: May 31, 2013

/Amy Kasper/
Amy Kasper

Exhibit 2

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
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CLASSIC INK, INC.,)	
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JACKSONVILLE SPORTS GROUP, LLC,)	App. SIN: 77/868,164
a Delaware limited liability company,)	Pub. Date: October 5, 2010
Applicant.)	

DECLARATION OF D. SCOTT HEMINGWAY

Comes Now, D. Scott Hemingway, to declare under penalty of perjury the following:

1. I am over the age of eighteen years and reside in Dallas, Texas. I have personal knowledge of the facts stated in this Declaration and would be competent to testify to them if called upon to do so. I declare under penalty of perjury that the following is true and correct to the best of my knowledge and belief.
2. I founded Hemingway & Hansen, LLP (or its predecessor firm) in 2000, and have knowledge about the receipt, distribution and processing of orders, mail and communications received from U.S. Patent & Trademark Office.
3. I personally engaged in communications with counsel for the Applicant in March and beginning April, 2013 of this year regarding possible settlement proposals. My settlement communications to counsel for Applicant regarding a possible settlement extend through April 4,

2013 of this year, which were not responded to by Applicant's counsel, Mr. Kelley. And, I reviewed the status of this matter periodically since its initiation, up to and including April 4, 2013, to see if any Orders were issued by the TTAB.

4. I have assigned Ms. Kasper the responsibility of retrieving mail from the U.S. Postal Service mailbox, and she has performed that responsibility for many years, including the time frame of April 1 to present for this year, 2013. I have also assigned her the responsibility of submitting work orders to the firm's IT (Information Technology) firm that handles telecommunications and email support for the firm.

5. One of Ms. Kasper's responsibilities and duties at the law firm of Hemingway & Hansen, LLP includes collecting the firm's mail delivered by the United States Postal Service on a daily basis (non federal holidays and not week-ends) at the postal box located in our office building. During the time period from April 1, 2013 to May 28, 2013, I instructed her to collect all mail received by the firm in that manner. She date stamps all received mail when it comes into the office, and distributes the mail to the relevant personnel at the law firm.

6. I reviewed the TTAB's April 5, 2013 Order in the above matters for the first time on May 28, 2013 when it was identified to me in an email from Applicant's counsel, and I do not believe this April 5, 2013 TTAB Order was, on or around April 5, 2013, collected by Ms. Kasper to the mailbox for the office of Hemingway & Hansen, LLP or distributed to any personnel at the firm. I believe the first time anyone at the firm saw the TTAB's April 5, 2013 Order was on or around May 28, 2013 when Applicant's counsel first told us about the TTAB Order in his email and subsequent investigations ensued.

7. I asked that all personnel at the firm be questioned about whether they have seen the April 5, 2013 Order prior to the May 28, 2013 time frame, and everyone at the firm confirms that they never received a paper copy of the April 5, 2013 Order, an electronic copy of same, or an email notification regarding that Order.

8. As part of her responsibilities at the law firm of Hemingway & Hansen, LLP, Ms. Kasper also submits work requests for any possible problems with the firm's telecommunications

systems and email systems to the firm's IT firm, Architel. Architel supports all email computer servers for the firm at their office and computer server location, and is a widely-known and respected IT firm that handles these matters for businesses across the southwest United States.

9. At the end of March, 2013, Hemingway & Hansen, LLP began to believe that a small number of emails directed to the firm's "@hemlaw.org" email domain name were not being delivered promptly. I personally conducted several self-tests to see if my own emails to this domain name were being delivered in a timely manner. There were some speed problems and delays, but it was unclear whether email delivery was failing entirely for any email self-tests. A couple clients indicated they, too, were encountering some speed, and sometimes, dropped emails directed to this "@hemlaw.org" domain name. Emails directed to the firm's other domain name "@hh-iplaw.com" email domain name were not affected by this problem.

10. Not sure whether there was a problem with this domain name email service or not, I personally requested that Ms. Kasper submit a work request to the Architel IT firm requesting that they investigate the situation to see if they could determine if a problem existed; and, if so, what the solution to that "@hemlaw.org" email domain problem might be. Architel indicated there was a problem with their email computer server handling the firm's "@hemlaw.org" emails.

11. Architel obtained my authorization to transfer the "@hemlaw.org" email server designation at "GoDaddy.com" to a new email computer server at Architel. I personally spoke to GoDaddy.com personnel to effectuate this transfer. This solution bypassed any problematic email server at Architel, and allowed a new e-mail computer server at Architel to receive and process the "@hemlaw.org" emails. This problem is believed to have been fixed by mid-April 2013 to the present time, but the TTAB's April 5, 2013 email notification of the April 5, 2013 Order appears to have been dropped or not delivered to the firm recipients because of the faulty email server at Architel.

12. Everyone at the firm confirmed that they had not seen, received or reviewed this April 5, 2013 Order or an email notification issued by the TTAB around that date regarding this

Order, and that no one at the firm had seen the TTAB's April 5, 2013 Order until the electronic copy was received on or around May 28, 2013 as downloaded from the TTAB website.

13. Hemingway & Hansen, LLP moved its offices to a new physical office location in 2011. I instructed and authorized transmissions and notifications to the United States Patent and Trademark Office enrollment rolls of the physical new location for Hemingway & Hansen, LLP by submitting a Change of Address form and updating the correspondence address to the United States Patent & Trademark Office ("PTO") and the firm's address was updated for pending Trademark matters. Ms. Kasper personally submitted these Change of Address submissions to the PTO.

I declare the above to be true and correct under penalty of perjury.

Dated: May 31, 2013

/D. Scott Hemingway/
D. Scott Hemingway