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

Proceeding	91207983
Party	Defendant Added Extras LLC
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Date	08/14/2013
Attachments	Applicant's Surreply .pdf(257665 bytes )

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

EMANUEL UNGARO ITALIA S.R.L.,

Opposer

Opposition No. 91/207,983

vs.

Serial No. 85/500,670

ADDED EXTRAS LLC,

Applicant.

**APPLICANT’S SURREPLY TO OPPOSER’S REPLY IN SUPPORT OF MOTION TO  
COMPEL DISCOVERY RESPONSES, SANCTIONS, ENTRY OF PROTECTIVE  
ORDER AND STAY**

Applicant Added Extras LLC (“Applicant”), through its undersigned attorneys, hereby submits this surreply to address the false accusations contained in Opposer’s Reply in Support of Motion to Compel Discovery Responses, Sanctions, Entry of Protective Order and Stay (“Motion”).

Opposer’s counsel never sought to resolve the issues concerning the Protective Order. Instead, counsel elected to shoot first and ask questions later. More disturbing, however, are the wholly unfounded accusations that Applicant’s counsel have prevaricated and acted unethically.

In support of these incendiary accusations, Opposer’s counsel submits self-serving internal memorandums, allegedly “reflecting” the parties’ agreement that both counsel and their clients would be signatories to the modified Protective Order.<sup>1</sup> Opposer’s counsel failed to submit any confirming letter or email, reflecting this alleged “agreement” discussed over the phone. Had Applicant’s counsel received such a communication, or even a draft of the

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<sup>1</sup> The other minor changes inserted by Applicant’s counsel tracked the terms of the Trademark Trial and Appeal Board’s Standard Protective Order.

Protective Order (prior to May 16, 2013), counsel would have immediately responded, indicating that the parties had not agreed to such terms.

Opposer's counsel admits that the initial draft of the Protective Order was sent to Applicant's counsel four months after the January 17, 2013 settlement conference. Reply Declaration of Ralph H. Cathcart, Esq. ("Cathcart Declaration") at ¶ 21. The reason why Opposer's counsel did not send the proposed Protective Order until mid-May was because the parties were actively discussing settlement (as reflected by the multiple redactions contained in the exhibits to the Cathcart Declaration). However, when Opposer's settlement demands became unreasonable,<sup>2</sup> Applicant refused to capitulate; thus, starting the discovery process.

Notwithstanding the forgoing, Applicant submits that Opposer's Motion is moot, because Applicant is concurrently abandoning its application.

Respectfully submitted,

Dated: New York, New York  
August 14, 2013

SALANS FMC SNR DENTON EUROPE LLP

By: /s/ Lora A. Moffatt

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LLC**

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<sup>2</sup> Opposer's settlement demand exceeded the relief to which it would have been entitled had Opposer been successful in this opposition proceeding.

**CERTIFICATE OF TRANSMISSION AND SERVICE**

I hereby certify that a true and correct copy of the foregoing APPLICANT'S SURREPLY TO OPPOSER'S REPLY IN SUPPORT OF MOTION TO COMPEL DISCOVERY RESPONSES, SANCTIONS, ENTRY OF PROTECTIVE ORDER AND STAY is being electronically transmitted to the United States Patent and Trademark Office's Trademark Trial and Appeal Board on this 14<sup>th</sup> day of August 2013 and sent via First Class Mail, postage prepaid, to the following counsel for Opposer:

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