ESTTA Tracking number: **ESTTA683050**

Filing date: **07/10/2015**

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

Proceeding	91218280
Party	Plaintiff Mya Saray, LLC
Correspondence Address	M KEITH BLANKENSHIP DA VINCIS NOTEBOOK LLC 10302 BRISTOW CENTER DRIVE, NO 52 BRISTOW, VA 20136 UNITED STATES keith@dnotebook.com
Submission	Reply in Support of Motion
Filer's Name	M. Keith Blankenship
Filer's e-mail	keith@dnotebook.com
Signature	/M. Keith Blankenship/
Date	07/10/2015
Attachments	DNMYA-0051_Reply Brief_as filed.pdf(220480 bytes) Exhibits_as filed.pdf(354272 bytes)

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

MYA SARAY, LLC, Plaintiff, v. DABES, IBRAHIM Defendant.	Proceeding No. 91218280

PLAINTIFF-OPPOSER MYA SARAY, LLC'S REPLY TO DEFENDANT-APPLICANT DABES' RESPONSE TO OPPOSER 'S FIRSTMOTION TO COMPEL

ARGUMENT

I. APPLICANT'S INSUFFICIENT AND EVASIVE PRODUCTION HAS NOT BEEN WHOLLY AMELERIOATED BY ITS PRODUCTION CONTEMPORANEOUS TO ITS RESPONSIVE BRIEF.

Dabes began the discovery process with patently evasive and boilerplate discovery responses for which this motion seems a catalyst for meaningful production. The undersigned agrees that Dabes' production in Exhibit J is a genuine step towards fair discovery; however, the relevance of Mya Saray's discovery tailored to unearth circumstantial evidence probative of Dabes' intent remains an outstanding issue.

II. THE ART OF "COMING CLOSE" TO A LEADING BRAND.

Mya Saray is not attempting to litigate Dabes' use of its AMY mark, although Dabes' suggests that this is case. Mya Saray agrees that a strict MYA vs. AMY (in any form) comparison would be improper before this Board. Dabes, on this basis, objects to any discovery related to Dabes' use of AMY believing that an examination of Dabes' use of "AMY" is improper. Dabes' counsel misstates Mya Saray's purpose; evidence related to Dabes use of AMY is not for the purposes of a direct designation-to-designation comparison, but instead applicable to the 'intent' factor underlying the likelihood of confusion analysis.

Mya Saray expects to prove that Dabes is, and was, acutely aware of Mya Saray's product branding. Dabes then sought readily-available counterfeits of Mya Saray products from third-party manufacturing sources, and then sold them, at first, under a non-AMY brand. Having achieved success with Mya Saray's intellectual

property on a product level, Dabes' may have sought to copy Mya Saray's intellectual property on a larger scale, on a brand level. But Mya Saray vigorously enforces its intellectual property rights, so an outright copy of the MYA name would be too blatant. AMY might very well be Dabes' attempt to come as close as possible to the MYA name without an exact duplication. If this were true, then Petitioner suggests that this would infect all of Dabes' branding depicting AMY notwithstanding the inclusion of other elements, and certainly explains how Dabes might fashion this:

from this[1]:

Trademark law lacks tolerance for imitators. *See e.g., Chevron Chemical Co. v. Voluntary Purchasing Groups, Inc.,* 659 F.2d 695 (5th Cir. 1981). *Chevron* is exemplary of a court's attitude towards an infringer that sought, not outright trademark duplication, but branding as close as possible to that of an industry leader. In *Chevron*, a chemical company sued a competitor for its use of its

[1] This is a MYA logo prominently used with hookah accessories by Mya Saray.
[2] Mya Saray continues its exhibit numbering from its initial brief.
[3] In its haste to condemn portions of the undersigned's brief issues as not discussed, opposing counsel seems to have inadvertently included sections expressly covered by the email of April 28. See, e.g., Sections II(B)(1) (alternative brands), II(B)(2) (Alternative brands) II(B)(4) (disclosure and answers for discovery related to Dabes' specific hookahs), and so on.

trademarked trade dress. The district court held that competitor did not infringe, notwithstanding a finding that, "[i]n designing its packaging, [the competitor] intended to copy [the chemical company's] trade dress as much as the law would allow, and consulted its attorney for advice in order to accomplish this end without violating the law." *Id*. at 697. The Fifth Circuit reversed, holding the competitor to be an infringer premised in large, and "critical," part on the competitor's attempt to copy at least "as much as the law would allow." *Id*. at 704.

Dabes knew about MYA, but nonetheless adopted his AMY mark and incorporated it into the logo of the present dispute. There are differences, but courts are skeptical of these differences once intent is in dispute. *American Chicle Co. v. Topps Chewing Gum, Inc.*, 208 F.2d 560, 563 (2d Cir. 1953) (L. Hand, J.)("(A)s soon as we see that a second comer in a market has, for no reason that he can assign, plagiarized the 'make-up' of an earlier comer, we need no more; for he at any rate thinks that any differentia he adds will not, or at least may not, prevent the diversion and we are content to accept his forecast that he is 'likely' to succeed."). Armed with knowledge of the MYA brand, a prudent competitor would give wide berth to the branding of an industry leader; if not for purposes of legal risk management, then at least for the sound business principle that one should avoid intermingling one's reputation with another competing business, for good or ill. *See Chevron,* 659 F.2d at 704 *quoting Florence Manufacturing Co. v. J. C. Dowd & Co.*, 178 F. 73, 75 (2d Cir. 1910)("It is so easy for a business man who wishes to sell his goods upon their merits to select marks and packagings that cannot possibly be confused with his competitor's that 'courts look with suspicion upon one who, in dressing his

goods for the market, approaches so near to his successful rival that the public may fail to distinguish between them.'").

Dabes in his response brief alludes to holdings by this Board indicating that discovery of brands other than those exactly under the registration process is not permitted where irrelevant. However, Mya Saray suggests that Dabes' use of counterfeit brands is material and relevant, and the cases cited by Dabes are inapplicable. In none of the cases is the specter of counterfeiting in relation to intent a consideration. In *Fossil Inc. v. Fossil Group*, 49 U.S.P.Q.2d 1451 (TTAB 1998), the legal point contested related more to the opposer's trademark form rather than the applicant's. In *Volkswagenwerk Aktiengesellschaft v. Mtd Products Inc.*, 181 U.S.P.Q. 471 (TTAB 1974), the opposer's flaw was that he had "not attempted to justify the interrogatories" at all. In *Varian Associates v. Fairfield-Noble Corp.*, 188 U.S.P.Q. 581, 584 (TTAB 1975), this Board denied an opposer's inquiries as to the use of 'other marks' for purposes unexplained, but cautioned that the use of 'other marks' may be relevant for specific issues:

> Applicant has asked opposer to list all marks other than "PALO ALTO" used by opposer. Such use is irrelevant to the issue of applicant's right to register its mark and opposer's claim of damage. See: Volkswagenwerk Aktiengesellschaft, supra. However, if opposer is using the term "PALO ALTO" alone or in conjunction with other marks, this information, under the liberal rules of discovery, should be revealed inasmuch as opposer's use of the term may have a bearing on its claim of damage.

Id. In this case, Mya Saray seeks the use of "other marks" for the issue of intent. In *General Foods Corp. v. Costa Ice Cream Co.* 165 U.S.P.Q. 797 (TTAB 1970), the Board considered only one factor in its decision, the similarity of the designations. Although the Board refused to consider evidence of similar packaging, there was no

indication of whether similarity of trade dress was offered for purposes of further coloring a designation-to-designation comparison or its relationship to intent. *Id*. at n. 2.

In *Crawford Fitting Co. v. C. B. Crawford Co.* 135 U.S.P.Q. 381 (TTAB 1953), it is not a minor point that the decision predated the creation of the *DuPont* factors in 1973 that expressly sanctioned "[a]ny other established fact probative of the effect of use" *In re E.I. du Pont de Nemours & Co.*, 476 F.2d 1357, 1361 (CCPA 1973)(And "We find no warrant, in the statute or elsewhere, for discarding any evidence bearing on the question of likelihood of confusion.") The intent of an infringer can be evidenced by his use of imitating products and packaging. In the end, this Board may not be so persuaded, but the liberal rules of discovery sanction Mya Saray's attempt to gather information to support its opinion. *See Varian,* 188 U.S.P.Q. at 584.

Dabes is a slavish counterfeiter of MYA products, and this makes him more likely to loosely imitate the MYA brand with ill-intent. Mya Saray asks this Board for the opportunity to establish Dabes' counterfeiting over his objection. Dabes' experimentation with counterfeiting MYA products was successful; this makes him more likely to expand his imitation. Mya Saray asks this Board for the opportunity to establish this success over Dabes' objection. Mya Saray's discovery seeks information on multiple products, even those unrelated to counterfeiting, because counterfeiting success is relative. Because Dabes' intent is a central element in this matter, Mya Saray asks for leave to explore Dabes' activities as they might provide circumstantial evidence of his intent.

III. THE MEET AND CONFER PROCESS

Even the most cursory glance at Dabes' discovery responses demonstrates that he has failed to make any meaningful attempt at discovery prior to the filing of this motion. Not a single objection basis was explained, and Dabes' repeatedly objects to the relevance of requests mimicking language from the *DuPon*t factors. Now counsel for Dabes complains, suggesting that the scope of the meet-and-confer conferences differ from the scope of the motion to compel.

Counsel for Dabes' primary basis of complaint seems to be that the agenda for the series of teleconferences lacks the detail found in the brief. Dabes' counsel exaggerates the purpose of a simplified topic list, and conveniently diminishes the following teleconference, and omits any indication of a second teleconference. The counsel for both parties did have an initial meet-and-confer in which the parties went *one-by-one* through Dabes' discovery where the undersigned discussed the problems of each answer – or at least the ones pertinent to the motion to compel.

When it became evident that Dabes was trying to stall production, the undersigned initiated another teleconference that resulted in a deadline. *See* Exhibit A. Whatever opposing counsels' problems with the meet-and-confer may be, the numerous contacts comprising the meet-and-confer were thorough, spanning multiple sessions, and provided opposing counsel ample time to re-draft and file answers. Instead, Dabes consumed months of valuable discovery time.

A. The First Teleconference

The contacts comprising the meet-and-confer were numerous. On April 22, 2015, the undersigned first reached out to opposing counsel to discuss the defects in its discovery responses, which were pervasive and glaring. In response to opposing counsel's request for an agenda, the undersigned supplied "a brief list of topics" for the meeting between opposing counsels on April 28th. On April 28th, counsels for the parties had an extensive telephone conversation to discuss the extensive defects in Dabes' discovery, that resulted in the undersigned going *response-by-response* through Dabes' production. The undersigned pointed out that the objections in total were boilerplate and seemingly unrelated to the questions asked and production sought, including at one point, discussing Dabes' objection as to matters that turned out to be *DuPont* factors.

B. The Second Teleconference

Over two weeks later, counsel for Dabes had not indicated whether they would provide updated discovery responses based on the April 28th teleconference. *See* Exhibit 6[2]. The undersigned reinitiated contact with counsel for Dabes to ascertain why they had not responded and whether any additional documents/answers would be produced. The parties agreed to a second teleconference on May 18, 2015 to further discuss the discovery defects and wherein the undersigned asked for a deadline, Friday May 26th. That deadline passed without Dabes' supplementing its production as it had agreed to do.

Counsel for Dabes attempts to paint the teleconferences as being restricted to the general topics emailed on April 28, rather than the slog through Dabes'

[2] Mya Saray continues its exhibit numbering from its initial brief.

minimalist discovery responses answer-by-answer. If this were true, then why would counsel for Dabes' ask for "*a complete list* of all deficiencies and requested changes" raised during the teleconference? Ct. Doc. 17, p. 2.

Seemingly forgetting the point of his Section I, opposing counsel erratically hops from being offended (i) that the scope of the appeal brief differed from the scope of the "topic list" of the First Teleconference, which was allegedly identical to the discussion of the First Teleconference and (ii) that the undersigned did not rehash in written form the numerous issues covered in the First Teleconference.

- "In a later email, the undersigned requested *a complete list* of all deficiencies and requested changes; however, none was provided." Ct. Doc. 17, p. 2 (emphasis added)
- "Counsel for Petitioner did not raise any other concerns during the telephonic conference." Ct. Doc. 17, p. 3.
- "…counsel for Petitioner indicated in a later email that the issues presented during the conference were comprehensive: 'I don't recall being tasked with sending over any description of deficiencies.'" Ct. Doc. 17, p. 3

Offense at both concepts is mutually exclusive and undersigned takes exception to opposing counsel's assertion that the topic list and the conference were equal in scope, which the undersigned hereby refutes. It is plain to see by opposing counsel's actions that it's an exaggeration; otherwise, there would be no need to seek a transcript of the First Teleconference from the undersigned. It is plain to see by the undersigned's statements that the scope differed: "Other than our meeting agenda, *and our telephonic discussion*, I'm not sure that there is more to add."

The undersigned further takes exception to opposing counsel's description of the conference as lacking discussion of "Section 1-2, 4-15, 17-18, and 20-21,"[3] and hereby refutes the same. The undersigned furthermore hereby reaffirms his certification that the parties met and conferred on the issues of this motion. One-by-one did the parties crawl through the discovery responses, related to the issues presented in the motion. Opposing counsel for unknown reasons omits entirely the follow-up teleconference of May 18, 2015.

C. The Timing of the Present Motion

Counsel for Dabes takes issue with the present motion based on its timing, specifically that it was filed so quickly after counsel for Dabes agreed to provide supplemental discovery. However, when a counterfeiting party fails to acknowledge glaring discovery defects, with the appearance of purposefully evasion, for 2.5 weeks, and then promises discovery 4 weeks later with hints of its minimal nature, a party doesn't sit idly on his hands.[4] An objective observer could draw the rational conclusion that counsel for Dabes is not stung by the quick nature of Mya Saray's solution, but rather that Mya Saray was fully prepared to counter, and accurately predicted, Dabes' lack of responsiveness.[5]

[3] In its haste to condemn portions of the undersigned's brief issues as not discussed, opposing counsel seems to have inadvertently included sections expressly covered by the email of April 28. See, e.g., Sections II(B)(1) (alternative brands), II(B)(2) (Alternative brands) II(B)(4) (disclosure and answers for discovery related to Dabes' specific hookahs), and so on.

[4] For example, a month is plenty of time to make a chart – notwithstanding the opposing counsel's skepticism that the undersigned would have a chart on May 28th that he lacked on April 28.

[5] Applicant with reference to its Exhibit I strains to suggest that this motion to compel was filed notwithstanding a request for additional time. The undersigned never received such a request; instead, undersigned first learned of Dabes' failure to supplement its discovery when he contacted opposing counsel to ask why he had received no supplement! In the undersigned's experience, requests for extended time are generally phrased as questions and provided prior to an applicable deadline. *See* Exhibit 7

CONCLUSION

Despite all the contention that seems to surround the present motion, the parties are probably now in close agreement as to the central issues. Dabes' belated discovery has mooted many of the issues presented by its initial boilerplate and evasive responses, leaving as the primary issue of whether Mya Saray may probe Dabes' intent in adopting his AMY brand via his relative sales success, information related to a handful of hookah models that Mya Saray intends to show as counterfeit with existence predating the adoption of "AMY," and Dabes' other brands and their product attributes.

DATED: 7/10/2015

By: /M. Keith Blankenship/
Attorney for Petitioner
M. Keith Blankenship, Esq.
Da Vinci's Notebook, LLC
10302 Bristow Center Dr. #52
Bristow, VA 20136
Ph: (703) 646-1406
keith@dnotebook.com

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the forgoing PLAINTIFF-OPPOSER MYA SARAY, LLC'S REPLY TO DEFENDANT-APPLICANT DABES' RESPONSE TO OPPOSER 'S FIRST MOTION TO COMPEL PLAINTIFF'S BRIEF IN SUPPORT OF ITS FIRST MOTION TO COMPEL has been served on counsel for Applicant by mailing said copy via First Class Mail, postage prepaid to:

Paul D. Bianco
Fleit Gibbons Gutman Bongini & Bianco PL
21355 E Dixie Hwy Ste 115
Miami, Florida 33180-1244
United States

This 10th day of July 2015.

By : M. Keith Blankenship
M. Keith Blankenship

Exhibits

Exhibit 6

From: **M. Keith Blankenship** keith@dnotebook.com
Subject: Re: Discovery Responses
Date: May 17, 2015 at 5:38 PM
To: Paul Bianco pbianco@fggbb.com
Cc: Lourdes Perez lperez@fggbb.com

Hi Paul,

4:00pm is fine. Unless otherwise directed, I will telephone you at that time.

Best Regards,

M. Keith Blankenship
Da Vinci's Notebook, LLC
10302 Bristow Center Dr.
No. 52
Bristow, VA 20136
703-581-9562
keith@dnotebook.com

On May 17, 2015, at 4:22 PM, Paul Bianco <pbianco@fggbb.com> wrote:

> Keith-
>
> Let's speak at 4PM on Monday. If this doesn't work, 3:30PM would be fine. Otherwise, I am tied up in the morning and have a meeting at 5PM, so I could also do 6PM. Please confirm the time.
>
> Thanks
> Paul
>
> <image002.png>
> Paul Bianco Ph.D.
> Registered Patent Attorney, U.S. Patent & Trademark Office
> FLEIT GIBBONS GUTMAN BONGINI & BIANCO P.L.
> 21355 E. Dixie Highway, Suite 115, Miami, FL 33180, USA
> 305-830-2600, fax 305-830-2605, www.fggbb.com, pbianco@fggbb.com
>
>
>
> **From:** M. Keith Blankenship [mailto:keith@dnotebook.com]
> **Sent:** Friday, May 15, 2015 5:02 PM
> **To:** Paul Bianco
> **Cc:** Lourdes Perez
> **Subject:** Re: Discovery Responses
>
> Hi Paul,
>
> This is [illegible] until Monday. Have a question or two. What time would

This isn't anything that can't wait until Monday. Have a productive meeting. What time would you like to talk by telephone on Monday?

Best Regards,

M. Keith Blankenship
Da Vinci's Notebook, LLC
10302 Bristow Center Dr.
No. 52
Bristow, VA 20136
703-581-9562
keith@dnotebook.com

On May 15, 2015, at 4:20 PM, M. Keith Blankenship <keith@dnotebook.com> wrote:

Hi Paul,

I don't recall being tasked with sending over any description of deficiencies. Other than our meeting agenda, and our telephonic discussion, I'm not sure that there is more to add. I did indicate that I would consider sending over support for some of my discovery requests. I don't believe that we indicated that this was a contingency. Incidentally, I don't think that there is anything special to provide in the way of caselaw supporting discovery into the relevance of products associated with a trademark and the ability of a party to physically examine a product.

Although we set no fixed dates whereby you would make a decision on whether you would provide updated disclosure to me, I had expected something by this point. It has been 2.5 weeks. I can appreciate that your client is in Germany, but most of the concerns that I had for you related to legal positions. Do you have any updates, documents, answers to provide at this time?

Best Regards,

M. Keith Blankenship
Da Vinci's Notebook, LLC
10302 Bristow Center Dr.
No. 52
Bristow, VA 20136
703-581-9562
keith@dnotebook.com

On May 15, 2015, at 4:07 PM, Paul Bianco <pbianco@fggbb.com> wrote:

Keith-

I am in a break from my meeting, but am headed back in. The meeting is still going on and will be for some time.

We can talk on Monday, if that works for you. We have been working on the issues we discussed regarding the discovery responses. However, we have been expecting an email from you with a complete listing of the asserted deficiencies/requested changes so that we can address all at once. Also, we specifically requested case law from you on the importance of the appearance of the product/producing physical samples in the likelihood of confusion analysis. When do you think you will have this to us?

Kind Regards
Paul

<image002.png>

Paul Bianco Ph.D.
Registered Patent Attorney, U.S. Patent & Trademark Office
FLEIT GIBBONS GUTMAN BONGINI & BIANCO P.L.
21355 E. Dixie Highway, Suite 115, Miami, FL 33180, USA
305-830-2600, fax 305-830-2605, www.fggbb.com, pbianco@fggbb.com

information. Any use, disclosure, dissemination, retransmission, distribution, or copying, of the information in this communication by other than the intended recipient(s) is strictly prohibited. If you received this email in error, please contact the sender, delete the email from all computers, and destroy all copies.

From: Paul Bianco
Sent: Tuesday, April 28, 2015 2:49 PM
To: 'M. Keith Blankenship'
Cc: Lourdes Perez
Subject: RE: Discovery Responses

Thanks.

Paul Bianco Ph.D.
Registered Patent Attorney, U.S. Patent & Trademark Office
FLEIT GIBBONS GUTMAN BONGINI & BIANCO P.L.
21355 E. Dixie Highway, Suite 115, Miami, FL 33180, USA
305-830-2600, fax 305-830-2605, www.fggbb.com, pbianco@fggbb.com

---

From: M. Keith Blankenship [mailto:keith@dnotebook.com]
Sent: Tuesday, April 28, 2015 2:19 PM
To: Paul Bianco
Cc: Lourdes Perez
Subject: Re: Discovery Responses

Sure.

Best Regards,

M. Keith Blankenship
Da Vinci's Notebook, LLC
10302 Bristow Center Dr.
No. 52
Bristow, VA 20136
703-581-9562
keith@dnotebook.com

---

sender via e-mail, or by e-mail to "keith@dnotebook.com", and please delete this e-mail and any accompanying attachments from your in box, recycle bin, and any other directory, file, or electronic storage. Thank you for your cooperation.

On Apr 28, 2015, at 1:32 PM, Paul Bianco <pbianco@fggbb.com> wrote:

Keith

I am at a meeting out of the office that is running late. Can we move our call to 430pm?

Please let me know. Thanks
Paul

Sent from my Verizon Wireless 4G LTE smartphone

-------- Original message --------
From: "M. Keith Blankenship"
Date:04/27/2015 11:07 PM (GMT-05:00)
To: Paul Bianco
Cc: Lourdes Perez
Subject: Re: Discovery Responses

Paul,

Unless otherwise directed, I will telephone you at 4:00pm EST on Tuesday.

Agenda

1. Reconsideration of marking all discovery production and answers as a whole as commercially sensitive.

2. Reconsideration of disclosure and answers for discovery related to Dabes' specific hookahs

3. Arranging for inspection of physical samples.

4. Indicating which documents are responsive to which requests for production.

5. Reconsideration of disclosure and answers for discovery related to design of specific hookahs.

6. Reconsideration of disclosure and answer for discovery related to alternative brands of Dabes.

Best Regards,

M. Keith Blankenship
Da Vinci's Notebook, LLC
10302 Bristow Center Dr.
No. 52
Bristow, VA 20136
703-581-9562
keith@dnotebook.com

On Apr 25, 2015, at 10:04 PM, Paul Bianco <pbianco@fggbb.com> wrote:

Keith-

Tuesday at 4PM works. I look forward to receiving the issues you wish to discuss beforehand.

Kind Regards
Paul

<image002.png>

Paul Bianco Ph.D.
Registered Patent Attorney, U.S. Patent & Trademark Office
FLEIT GIBBONS GUTMAN BONGINI & BIANCO P.L.
21355 E. Dixie Highway, Suite 115, Miami, FL 33180, USA
305-830-2600, fax 305-830-2605, www.fggbb.com, pbianco@fggbb.com

From: M. Keith Blankenship [mailto:keith@dnotebook.com]
Sent: Thursday, April 23, 2015 3:49 PM
To: Paul Bianco
Cc: Lourdes Perez
Subject: Re: Discovery Responses

Paul,

Thank you. I have wide availability Monday and Tuesday. You can have your choice of times.

I will also work on a brief list of topics.

- Keith

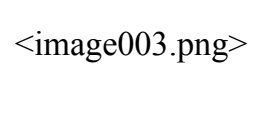
Sent from my Verizon Wireless 4G LTE DROID

Paul Bianco <pbianco@fggbb.com> wrote:

Keith-

Thank you for your email. I am out of the office on business travel, leaving today and do not return until Monday. Let us know what days early next week work for you and we will confirm our availability. I would also appreciate if you could send us an email outlining in some detail the issues with the discovery you wishes to discuss, so we can be prepared to talk.

Thanks and regards
Paul



Paul Bianco Ph.D.
Registered Patent Attorney, U.S. Patent & Trademark Office
FLEIT GIBBONS GUTMAN BONGINI & BIANCO P.L.
21355 E. Dixie Highway, Suite 115, Miami, FL 33180, USA
305-830-2600, fax 305-830-2605, www.fggbb.com, pbianco@fggbb.com

From: M. Keith Blankenship [mailto:keith@dnotebook.com]
Sent: Wednesday, April 22, 2015 1:33 PM
To: Lourdes Perez; Paul Bianco
Subject: Discovery Responses

Lourdes,

Do you have availability this Friday to discuss Dabes' discovery responses and objections?

Best Regards,

M. Keith Blankenship
Da Vinci's Notebook, LLC
10302 Bristow Center Dr.
No. 52

Bristow, VA 20136
703-581-9562
keith@dnotebook.com

_____

Exhibit 7

From: **Lourdes Perez** lperez@fggbb.com
Subject: RE: Our Ref.: 7400-T14-409Opp; Cancellation Proceeding No. 92060249 - Of the Mark: AMY DELUXE (design)
Date: May 26, 2015 at 4:56 PM
To: M. Keith Blankenship keith@dnotebook.com
Cc: Paul Bianco pbianco@fggbb.com, Dinah Fuentes dfuentes@fggbb.com

Dear Keith,

Thank you for your email. As you may know, the Board has recently issued an order in Proceeding 91218280; in light of the Board's decision, we need more time to consider our supplemental answers. The Board also reset the trial dates and discovery will remain open until October 20, 2015.

Please also let me know if you need for me to upload the supplemental answers to the '249 matter again. As you confirmed that you were in receipt of these documents, I deleted them for security reasons.

Kind regards,
Lourdes

FLEIT GIBBONS GUTMAN BONGINI & BIANCO PL
INTELLECTUAL PROPERTY LAW

Lourdes Perez, Esq.
Attorney at Law, Registered to Practice before the U.S. Patent and Trademark Office
FLEIT GIBBONS GUTMAN BONGINI & BIANCO PL
21355 E. Dixie Highway, Suite 115, Miami, FL 33180, USA
305-830-2600, fax 305-830-2605, www.fggbb.com, lperez@fggbb.com

From: M. Keith Blankenship [mailto:keith@dnotebook.com]
Sent: Tuesday, May 26, 2015 4:34 PM
To: Lourdes Perez
Subject: Fwd: Our Ref.: 7400-T14-409Opp; Cancellation Proceeding No. 92060249 - Of the Mark: AMY DELUXE (design)

Hi Lourdes,

Please see below. Also, now all the documents are gone.

Best Regards,

M. Keith Blankenship
Da Vinci's Notebook, LLC
10302 Bristow Center Dr.
No. 52
Bristow, VA 20136

Bristow, VA 20136
703-581-9562
keith@dnotebook.com

Begin forwarded message:

From: "M. Keith Blankenship" <keith@dnotebook.com>
Subject: Re: Our Ref.: 7400-T14-409Opp; Cancellation Proceeding No. 92060249 - Of the Mark: AMY DELUXE (design)
Date: May 26, 2015 at 12:17:07 PM EDT
To: Lourdes Perez <lperez@fggbb.com>

Hi Lourdes,

Thanks. I see the updated documents, but only for the '249 action.

Best Regards,

M. Keith Blankenship
Da Vinci's Notebook, LLC
10302 Bristow Center Dr.
No. 52
Bristow, VA 20136
703-581-9562
keith@dnotebook.com

this communication to the intended recipient, you are hereby notified that any distribution, copying, or use of this communication, electronic or otherwise, is strictly prohibited. Furthermore, we expressly reserve and do not waive any privilege. If you have received this communication in error, please notify us immediately by telephone, by reply to the sender via e-mail, or by e-mail to "keith@dnotebook.com", and please delete this e-mail and any accompanying attachments from your in box, recycle bin, and any other directory, file, or electronic storage. Thank you for your cooperation.

On May 26, 2015, at 12:04 PM, Lourdes Perez <lperez@fggbb.com> wrote:

Dear Keith,

I believe the documents were successfully uploaded to the shared file "AMY Discovery Upload." Please let me know if you are able to view them.

Kind regards,
Lourdes

Lourdes Perez, Esq.
Attorney at Law, Registered to Practice before the U.S. Patent and Trademark Office
FLEIT GIBBONS GUTMAN BONGINI & BIANCO PL
21355 E. Dixie Highway, Suite 115, Miami, FL 33180, USA
305-830-2600, fax 305-830-2605, www.fggbb.com, lperez@fggbb.com

---

From: M. Keith Blankenship [mailto:keith@dnotebook.com]
Sent: Tuesday, May 26, 2015 9:32 AM
To: Lourdes Perez
Cc: Paul Bianco; Dinah Fuentes
Subject: Re: Our Ref.: 7400-T14-409Opp; Cancellation Proceeding No. 92060249 - Of the Mark: AMY DELUXE (design)

Hi Lourdes,

I didn't receive anything on Friday. How about if I arrange a dropbox link?

Best Regards,

M. Keith Blankenship
Da Vinci's Notebook, LLC
10302 Bristow Center Dr

10302 Bristow Center Dr.
No. 52
Bristow, VA 20136
703-581-9562
keith@dnotebook.com

_____

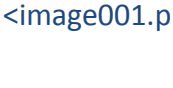
On May 26, 2015, at 9:27 AM, Lourdes Perez <lperez@fggbb.com> wrote:

Dear Keith,

We sent a courtesy copy of our supplemental answers via email on Friday night. As the attached files were rather large, I am not sure whether you received the email. In any case, we sent a copy of our supplemental answers via Priority Mail on Friday and you should be receiving that soon.

Please feel free to contact us if you have any questions.

Kind regards,
Lourdes



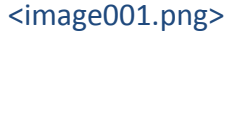
Lourdes Perez, Esq.
Attorney at Law, Registered to Practice before the U.S. Patent and Trademark Office
FLEIT GIBBONS GUTMAN BONGINI & BIANCO PL
21355 E. Dixie Highway, Suite 115, Miami, FL 33180, USA
305-830-2600, fax 305-830-2605, www.fggbb.com, lperez@fggbb.com

From: Lourdes Perez
Sent: Friday, May 22, 2015 10:18 PM
To: 'M. Keith Blankenship'
Cc: Paul Bianco; Dinah Fuentes
Subject: Our Ref.: 7400-T14-409Opp; Cancellation Proceeding No. 92060249 - Of the Mark: AMY DELUXE (design)

Dear Keith,

Please see attached supplemental answers.

Kind regards,
Lourdes



Lourdes Perez, Esq.
Attorney at Law, Registered to Practice before the U.S. Patent and Trademark Office
FLEIT GIBBONS GUTMAN BONGINI & BIANCO PL
21355 E. Dixie Highway, Suite 115, Miami, FL 33180, USA
305-830-2600, fax 305-830-2605, www.fggbb.com, lperez@fggbb.com