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Filing date: **12/14/2016**

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

Proceeding	91222153
Party	Plaintiff Arcor S.A.I.C.
Correspondence Address	PERLA M KUHN FOX ROTHSCHILD LLP 100 PARK AVENUE, SUITE 1500 NEW YORK, NY 10017 UNITED STATES ipdocket@foxrothschild.com, pkuhn@foxrothschild.com, vekmekjian@foxrothschild.com
Submission	Other Motions/Papers
Filer's Name	Perla M. Kuhn
Filer's e-mail	pkuhn@foxrothschild.com, BFrankfurter@foxrothschild.com, vekmekjian@foxrothschild.com, ipdocket@foxrothschild.com
Signature	/Perla M. Kuhn/
Date	12/14/2016
Attachments	BON BON Joint Stipulation.PDF(236564 bytes)

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

In the Matter of Application Serial No. 79/151,042
Filed on June 6, 2014
For the Mark BON BON AND DESIGN
Published in the Official Gazette on January 27, 2015

Arcor S.A.I.C.,

Opposer,

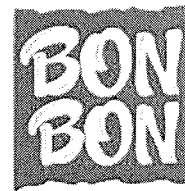
-v-

“ROT FRONT” ; Open-type Joint Stock Company,

Applicant.

Opposition No. : 91222153

Trademark :



JOINT STIPULATION

Arcor S.A.I.C. (“Opposer” or “Arcor”) and “ROT FRONT” ; Open-type Joint Stock Company (“Applicant” or “ROT FRONT”) (collectively, the “Parties”) hereby agree and stipulate, subject to the approval of the Trademark Trial and Appeal Board (the “TTAB”), to use the Accelerated Case Resolution (“ACR”) procedure of the TTAB to resolve this proceeding. The Parties stipulate to the following for purposes of the proposed ACR proceeding:

1. The TTAB may resolve any disputed issues of material fact in making a final determination on the merits.
2. The Parties agree that the following fact stipulations are being made for the purposes of the instant Opposition proceeding only and will not operate as admissions outside of the Opposition context.
3. The Parties shall not conduct discovery.

4. The Parties shall submit to the TTAB their evidence and briefs at the same time as if proceeding on summary judgment.

5. The Parties may offer into evidence testimony by declaration or affidavit, including testimony by expert witnesses.

6. The Parties reserve the right to object to the admissibility of evidence offered by declaration or affidavit on any grounds available under the Federal Rules of Evidence, provided that such objections are made within fourteen (14) days from the service of a declaration or affidavit containing the evidence being objected to by the party.

7. Opposer has standing to bring this opposition.

8. Evidence may be marked as “Confidential” or “Attorney’s Eyes Only” and such marked evidence (and any briefs containing such evidence) shall be handled pursuant to the TTAB’s standard protective order which is deemed entered in this case.

9. The Parties stipulate to forgo oral hearing.

10. Opposer is the owner of U.S. Trademark Registration No. 2,779,822 (the “’822 Registration”) for the mark BON O BON in standard characters on the Principal Register for “Chocolates, pastries filled with sweet fillings, alfajores, and wafers” in Class 30.

11. The application that matured to the ‘822 Registration was filed on November 17, 1999 and the registration issued November 4, 2003.

12. Opposer is the owner of the U.S. Trademark Reg. No. 4,633,325 (the “’325 Registration”) for the mark BON O BON (and design) on the Principal Register for “chocolates, bonbons, alfajores and filled obleas (wafers)” in Class 30 (collectively with the ‘822 Registration, the “BON O BON Registrations”).

13. The application that matured to the '325 Registration was filed on May 24, 2013 and the registration issued on November 4, 2014.

14. On June 6, 2016 Applicant filed Application Serial Number 79/151,042 (the "042" Application") for the mark BON BON.

15. The '042 Application is a request for extension of the International Registration number 1213719 for use in connection with "confectionery made of sugar, namely, candy, sweets, caramels."

16. Opposer is the prior user and priority of use is not at issue in this opposition.

17. The mark BON O BON is used by Opposer in connection with goods that are closely related to the goods with which Applicant seeks to use the mark BON BON.

18. The channels of trade through which Opposer's and Applicant's goods move are similar.


19. The issues in contention in this Proceeding are the likelihood of confusion between Opposer's and Applicant's marks and whether the terms "BON BON" or "BONBON" are merely descriptive in connection with confectionery.

The Parties propose the following schedule:

- | | | |
|----|-----------------------------------|-------------------|
| 1. | Discovery closes: | No Discovery |
| 2. | Opposer's ACR Brief Due: | February 17, 2017 |
| 3. | Applicant's ACR Brief Due: | May 18, 2017 |
| 4. | Opposer's ACR Rebuttal Brief Due: | June 7, 2017 |

Dated: December 14, 2016

FOX ROTHSCHILD LLP

By: 

Perla Kuhn, Esq.
Barri Frankfurter, Esq.
100 Park Ave, 15th Floor
New York, New York 10017
Telephone: (212) 878-7900
Attorneys for Opposer
Arcor S.A.I.C.

Lazouski IP LLC

By: 

Alex Lazouski, Esq.
14726 Bowfin Ter., Suite 1
Lakewood Ranch, Florida 34202
Telephone: (202) 645-5616
Attorneys for Applicant
"ROT FRONT" ; Open-type Joint Stock Company

CERTIFICATE OF SERVICE

I hereby certify that I am over the age of 18 years, not a party to this action, and that on the 14th day of December, 2016, I caused to be served a true and correct copy of the foregoing JOINT STIPULATION by first class mail to the following attorney for the Applicant:

Alex Lazouski, Esq.
Lazouski IP LLC
14726 Bowfin Ter., Suite 1
Lakewood Ranch, Florida 34202

Dated: December 14, 2016
New York, New York

By: 
Varant Ekmekjian