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Filing date: **08/02/2017**

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

Proceeding	91231512
Party	Defendant DermaForce Holdings, LLC
Correspondence Address	TERRENCE J MCALLISTER OHLANDT GREELEY RUGGIERO & PERLE LLP ONE LANDMARK SQUARE , 10TH FLOOR STAMFORD, CT 06901-2682 UNITED STATES Email: tmcallister@ogrp.com, jscepanski@ogrp.com, trademark@ogrp.com
Submission	Motion for Summary Judgment Yes , the Filer previously made its initial disclosures pursuant to Trademark Rule 2.120(a); OR the motion for summary judgment is based on claim or issue preclusion, or lack of jurisdiction. The deadline for pretrial disclosures for the first testimony period as originally set or reset: 12/20/2017
Filer's Name	Terrence J. McAllister
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Date	08/02/2017
Attachments	Motion for Summary Judgment.pdf(526612 bytes)

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

In the matter of App. No. 87/020085,

CRXIP, LLC,

Opposer,

Opposition No. 91231512

vs.

DERMAFORCE HOLDINGS, LLC,

Applicant.

APPLICANT’S MOTION FOR SUMMARY JUDGMENT

Applicant DermaForce Holdings, LLC (“Applicant”), by and through its undersigned attorneys, hereby moves for summary judgment pursuant to Fed. R. Civ. P. 56 and Trademark Rule 2.127(e) (“Motion”), for dismissal of this opposition against U.S. Trademark Application Serial No. 87/020085 for the mark INVISILIFT (“Applicant’s Application”).

As set forth in the attached memorandum and exhibits, this Motion is made on the grounds that the Opposer, CRXIP, LLC (“Opposer”) lacks standing to oppose Applicant’s Application. There is no genuine issue of material fact that would contradict this conclusion. As set forth below, Opposer has admitted every fact necessary to move that it lacks standing to oppose Applicant’s Application. Accordingly, Applicant requests that summary judgment be awarded to Applicant dismissing Opposer’s opposition against Applicant’s Application, since a trial would be superfluous given the present undisputed facts in this case and would be an unnecessary waste of fees and the Board’s time and resources.

DermaForce Holdings, LLC

Dated: August 2, 2017

By: /Terrence J. McAllister/
Terrence J. McAllister, Esq.
Jeffrey J. Scepaniski, Esq.
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ATTORNEYS FOR APPLICANT

IN THE UNITED STATES PATENT & TRADEMARK OFFICE
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In the matter of App. No. 87/020085,

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Opposer,

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DERMAFORCE HOLDINGS, LLC,

Applicant.

MEMORANDUM IN SUPPORT OF APPLICANT’S MOTION FOR SUMMARY JUDGMENT

I. INTRODUCTION

Applicant DermaForce Holdings, LLC (“Applicant”), hereby respectfully submits this memorandum in support of Applicant’s Motion for Summary Judgment (“Motion”). Applicant seeks summary judgment on the basis that there are no genuine issues of material fact as to Opposer’s lack of standing in this matter, and as a matter of law and in accordance with Fed. R. Civ. P. 56, Opposer’s opposition against U.S. Trademark Application Serial No. 87/020085 for the mark INVISILIFT for “Lotions for skin; Beauty creams; Beauty lotions; Beauty masks; Body and beauty care cosmetics; Cleansing creams; Cosmetic creams for skin care; Non-medicated skin care preparations; Non-medicated skin care preparations, namely, creams, lotions, gels, toners, cleaners and peels; Skin abrasive preparations; Skin cleansers; Skin cleansing lotion; Skin conditioners; Skin cream; Skin lighteners; Skin lotions; Skin moisturizer; Skin soap; Skin toners; Wrinkle removing skin care preparations; Anti-aging skin care preparations” in Class 3 and “Topical gel for medical and therapeutic treatment of the skin; Topical analgesics; Topical creams and lotions for medical and therapeutic treatment of the skin; Pharmaceutical preparations for dermatological use; pharmaceutical preparations for use in augmentation

of soft tissue, smoothing out wrinkles and fine lines, and contouring the face; Medicated skin lotions; Medicated skin care preparations; Non-prescription medication of the skin, namely, medicated skin lotions and creams” in Class 5 (“Applicant’s Application”), must be dismissed.

II. PROCEDURAL AND FACTUAL BACKGROUND

Applicant filed U.S. Trademark Application Serial No. 87/020085 for the mark INVISILIFT on April 29, 2016. Opposer filed a Notice of Opposition against Applicant’s Application on November 30, 2016 in which Opposer alleges the following grounds for opposition:

1. Applicant’s application to register “INVISILIFT” was published for opposition in the Official Gazette on August 2, 2016. On September 1, 2016, Opposer requested and received a 30-day extension to file a notice of opposition. On September 30, 2016, Opposer requested and received a 60-day extension to file a notice of opposition. Thus, this opposition is timely.
2. Opposer is a limited liability company duly incorporated under the laws of Delaware with its principal place of business in St. Petersburg, Florida.
3. Opposer has a license from Invisilift, Inc., a corporation organized under the laws of Alabama with its principal place of business in Vestavia, Alabama (“Invisilift”).
4. At least as early as 2003, Invisilift has been selling skin care apparatuses, namely ultrasonic devices for the treatment of skin wherein the apparatus is used by physicians for skin care services and non-surgical facelift services under the mark INVISILIFT.
5. Invisilift is the owner of abandoned U.S. Trademark Registration No. 3089443, the abandonment of which was unintentional.
6. Opposer has licensed from Invisilift its trademark rights in and to the

mark INVISILIFT to use the mark INVISALIFT for use in connection with cosmetic adhesive tape and eyelid correcting tape.

7. Opposer, upon information from its Licensor Invisilift submits that Applicant's intended use of the term "INVISILIFT" on or in connection with Applicant's applied-for goods is likely to cause confusion, mistake or deception in violation of Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d), in that customers and the general public are likely to be confused, mistaken, or deceived as to the origin and sponsorship of Applicant's proposed goods to be marketed under Applicant's proposed INVISILIFT mark and misled into believing that such goods emanate from, are licensed by, or are in some way directly or indirectly associated with, or approved by, or sponsored by Invisilift or Opposer, to the damage and detriment of Invisilift and Opposer.

8. Opposer, upon information and belief, also submits that it will be damaged by the registration of Applicant's trademark as set forth in Applicant's application because such registration may impede Opposer's ability to use and register the mark INVISALIFT. Accordingly, registration of Applicant's trademark would cause serious damage to Opposer, and registration therefore should be refused pursuant to 15 U.S.C. §1052.

On May 17, 2017, Applicant served a copy of its "Applicant's First Set of Requests for Admissions" on Opposer. These requests for admissions requested that Opposer admit or deny the following facts:

1. That CRXIP does not own the marks INVISILIFT or INVISALIFT in the United States.
2. That Invisilift, Inc. has not sold skin care apparatuses in the United States for at least the past 3 years.
3. That Invisilift, Inc. has not performed skin care services or non-surgical facelift services in the United States for at least the past 3 years.
4. That Invisilift, Inc. has not licensed use of the mark INVISILIFT to other individuals or entities in the United States for at least the past 3 years.
5. That Invisilift, Inc. has not exercised any quality control over any skin care services or non-surgical facelift services that may be performed by doctors in the United States using a skin care apparatus provided by Invisilift, Inc. for at least the past 3 years.
6. That CRXIP has not sold or shipped cosmetic adhesive tape or eyelid correcting tape in the United States under the mark INVISALIFT for at least the past 3 years.
7. That Invisilift, Inc. does not exercise any quality control over any cosmetic adhesive tape or eyelid correcting tape that may be sold by CRXIP under the mark INVISALIFT in the United States.
8. That CRXIP sought to be a licensee of Invisilift, Inc. with respect to use of the mark INVISALIFT in order to claim the benefit of Invisilift Inc.'s alleged prior rights in the mark INVISILIFT, which is the subject of cancelled U.S. Trademark Registration No. 3089443, for the purpose of establishing priority over Applicant's mark INVISILIFT.

As shown in the attached declaration and other included materials, Opposer never responded to “Applicant’s First Set of Requests for Admissions” by the deadline of June 16, 2017. Accordingly, the facts above should be deemed as admitted by Opposer. See Fed. R. Civ. P. 6(b) and 36(a). See also *Hobie Designs Inc. v. Fred Hayman Beverly Hills Inc.*, 14 USPQ2d 2064 (TTAB 1990) (if a party upon whom requests for admission have been served fails to timely respond thereto, the requests will stand admitted unless the party is able to show that its failure to timely respond was the result of excusable neglect; or unless a motion to withdraw or amend the admissions is filed pursuant to Fed. R. Civ. P. 36(b), and granted by the Board).

In view of the facts in Applicant’s requests for admissions being admitted, it is beyond dispute that Opposer has no standing to oppose Applicant’s Application. Since there is no genuine issue of material fact left for trial that Opposer lacks standing in this matter, this opposition should be dismissed by summary judgment in accordance with Fed. R. Civ. P. 56.

III. ARGUMENT

Summary judgment is appropriate in cases where the moving party demonstrates that there are no genuine issues of material fact in dispute, thus enabling the case to be disposed of as a matter of law. See Fed. R. Civ. P. 56(c). The non-moving party cannot rely on mere denials or conclusory allegations or assertions, but instead must provide countering evidence by affidavit or as otherwise set forth in Fed. R. Civ. P. 56, demonstrating “specific facts showing that there is a genuine issue for trial.” *Celotex Corp. v. Catrett*, 477 U.S. 317, 324 (1986). Based on the facts and law set forth herein, summary judgment should be granted in favor of Applicant and Opposer’s opposition should be dismissed.

Beyond Opposer's tenuous, tortured, and confusing allegations in its Notice of Opposition that it has licensed use of a mark (INVISALIFT) *different* than the mark allegedly owned by its alleged licensor Invisilift (INVISILIFT) for use on goods ("cosmetic adhesive tape and eyelid correcting tape") *different* than those allegedly sold by Invisilift ("skin care apparatuses, namely ultrasonic devices for the treatment of skin"), the facts admitted by Opposer conclusively show that it has no standing to oppose Applicant's Application. "Standing is a threshold inquiry directed solely to establishing plaintiff's interest in the proceeding. The purpose of requiring standing is to prevent litigation where there is no real controversy between the parties, i.e. where a plaintiff is no more than a mere intermeddler." *Harjo v. Pro Football Inc.*, 30 USPQ2d 1828, 1830 (TTAB 1994). At the pleading stage, an opposer must "allege facts sufficient to show a "real interest" in the proceeding, and a "reasonable basis" for its belief that it would suffer some kind of damage if the mark is registered." TBMP § 309.03(b).

In the present case, Opposer does not own the marks INVISILIFT or INVISALIFT in the United States and has admitted that it has not sold or shipped cosmetic adhesive tape or eyelid correcting tape in the United States under the mark INVISALIFT. Opposer's Notice of Opposition clearly shows that Opposer's alleged interest in the proceeding and basis for believing that it would suffer some kind of damage if Applicant's mark is registered is predicated entirely upon Opposer's alleged position as a licensee of Invisilift and alleged rights and interests derived entirely from this alleged licensor-licensee relationship. Indeed, Paragraph 7 of Opposer's Notice of Opposition even states that "Opposer, *upon information from its Licensor Invisilift* submits that Applicant's intended use of the term "INVISILIFT" on or in connection with Applicant's applied-for goods is likely to cause confusion, mistake or deception in

violation of Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d)...” (emphasis added). As such, Opposer’s entire interest in the proceeding and basis for believing that it would be damaged by registration of Applicant’s mark are inextricably linked to the alleged licensor-licensee relationship between Opposer and Invisilift. The facts herein show beyond dispute that the alleged licensor-licensee relationship between Opposer and Invisilift does not exist. As such, Opposer’s stated interest in the proceeding and basis for believing that it would be damaged if Applicant’s mark is registered are nonexistent and Opposer therefore lacks standing in this matter and is clearly just an intermeddler seeking to undermine Applicant’s right and ability to register its INVISILIFT mark.

In Paragraph 4 of Opposer’s Notice of Opposition, Opposer makes the specific allegation that “[a]t least as early as 2003, Invisilift has been selling skin care apparatuses, namely ultrasonic devices for the treatment of skin wherein the apparatus is used by physicians for skin care services and non-surgical facelift services under the mark INVISILIFT.” Opposer subsequently admitted that Invisilift has not sold skin care apparatuses in the United States for at least the past 3 years. Opposer also admits that Invisilift has not licensed use of the mark INVISILIFT to other individuals or entities in the United States for at least the past 3 years and has not exercised any quality control over any skin care services or non-surgical facelift services that may be performed by doctors in the United States using a skin care apparatus provided by Invisilift, Inc. for at least the past 3 years. As such, Opposer has admitted that its alleged licensor, Invisilift, has abandoned its trademark rights in the mark INVISILIFT upon which Opposer exclusively relies as a basis for being a licensee of Invisilift. Under Section 45 of the Trademark Act, 15 U.S.C. Section 1127, a mark is abandoned when "its use has been discontinued with intent not to resume such use. Intent not to resume may be inferred

from circumstances. Nonuse for 3 consecutive years shall be prima facie evidence of abandonment." See also *PSC Revenue Control Systems, Inc. v. Borland Software Corporation*, Cancellation No. 92042644 (TTAB June 16, 2006) (non-precedential) Retrieved from <http://ttabvue.uspto.gov/ttabvue/v?pno=92042644&pty=CAN&eno=13> (in granting a motion for summary judgment, the Board stated that "in view of the effective admissions, and the statutory presumption, petitioner has made a prima facie case of abandonment."). Invisilift's abandonment of any rights that it may have had in the INVISILIFT mark is also confirmed by the fact that its cancelled U.S. Trademark Registration No. 3089443 for the mark INVISILIFT was cancelled due to Invisilift's failure to demonstrate continued use of the mark in commerce. Since there is no trademark for Invisilift to license, Opposer cannot be a licensee. Consequently, Opposer has no standing to bring this opposition.

Also, in Paragraph 6 of Opposer's Notice of Opposition, Opposer makes the specific allegation that "Opposer has licensed from Invisilift its trademark rights in and to the mark INVISILIFT to use the mark INVISALIFT for use in connection with cosmetic adhesive tape and eyelid correcting tape." Opposer subsequently admitted that Invisilift has not licensed use of the mark INVISILIFT to other individuals or entities in the United States for at least the past 3 years. The fact that there is presently no license granted by Invisilift to Opposer also conclusively shows that Opposer is not a licensee of Invisilift and therefore has no standing to bring this opposition.

In addition, Opposer also admits that Invisilift does not exercise any quality control over any cosmetic adhesive tape or eyelid correcting tape that may be sold by Opposer under the mark INVISALIFT in the United States. Since a licensor's control over the quality of the goods sold by a licensee is essential for a licensor to maintain its

trademark rights and is an essential element of a licensor-licensee relationship, this admission further conclusively shows that Opposer is not a licensee of Invisilift and therefore has no standing to bring this opposition.

In addition to Opposer's factual admissions that have led to the undisputable conclusion that it does not have a trademark license from Invisilift, Opposer has admitted that it *sought* to be a licensee of Invisilift, Inc. with respect to use of the mark INVISALIFT in order to claim the benefit of Invisilift's alleged prior rights in the mark INVISILIFT, which is the subject of cancelled U.S. Trademark Registration No. 3089443, for the purpose of establishing priority over Applicant's mark INVISILIFT. This admission also confirms Opposer's status as a mere intermeddler that attempted unsuccessfully to obtain a trademark license from Invisilift. As demonstrated by Opposer's admissions, the attempt was unsuccessful because Invisilift had in reality abandoned any rights that it may have had in the INVISILIFT mark and was incapable of granting a trademark license. The present opposition is nothing more than an attempt to undermine and circumvent the April 29, 2016 filing date of Applicant's Application and interfere with Applicant's right and ability to register its INVISILIFT mark, since Opposer cannot legitimately establish priority over the filing date of Applicant's Application.

IV. CONCLUSION

In view of the undisputed facts discussed herein, Opposer clearly has no standing in this matter and Applicant respectfully requests that summary judgment be granted in favor of Applicant and that this opposition be dismissed.

DermaForce Holdings, LLC

Dated: August 2, 2017

By: /Terrence J. McAllister/
Terrence J. McAllister, Esq.
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ATTORNEYS FOR APPLICANT

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Opposition No. 91231512

Opposer,

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Applicant.

DECLARATION OF TERRENCE J. MCALLISTER

I, Terrence J. McAllister, declare that the following facts are true and made by me from my personal knowledge of the matter stated. The signatory being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001, and that such willful false statements and the like may jeopardize the validity of the application or submission or any registration resulting therefrom, declares that all statements made of his own knowledge are true and all statements made on information and belief are believed to be true.

1. I am the Attorney of Record in these proceedings representing Applicant DermaForce Holdings, LLC.

2. On May 17, 2017, I transmitted the following documents to Opposer CRXIP, LLC's Attorney of Record, Katherine Bond, via electronic mail to kbond@leechtishman.com, jsheldon@leechtishman.com, ipdocket@leechtishman.com:

- "Applicant's Rule 2.120 Initial Disclosures"

- “Applicant’s First Set of Requests for Admissions”
- “Applicant’s First Set of Interrogatories (1-41) To Opposer CRXIP, LLC”
- “Applicant’s First Set of Requests for Production of Documents and Electronically Stored Information (1-35) to Opposer CRXIP, LLC”

3. To this day neither the Applicant nor I have received any response to the “Applicant’s First Set of Requests for Admissions” or other discovery requests referenced above. True and accurate copies of the “Applicant’s First Set of Requests for Admissions” and the electronic mail message transmitting “Applicant’s First Set of Requests for Admissions” described above are attached as Exhibit A to this Declaration.

Date: August 2, 2017

By: /Terrence J. McAllister/
Terrence J. McAllister

EXHIBIT A

Terrence J. McAllister, Esq.

From: Terrence J. McAllister, Esq.
Sent: Wednesday, May 17, 2017 1:03 PM
To: 'Jeffrey Sheldon'; 'ipdocket@leechtishman.com'
Cc: Jeff Scepanski, Esq.; Katherine M. Bond
Subject: RE: Invislift Trademark Matter
Attachments: Requests for Production of Documents_DermaForce Holdings, LLC.PDF; Initial Disclosures_DermaForce Holdings, LLC.PDF; Interrogatories_DermaForce Holdings, LLC.PDF; Requests for Admissions_DermaForce Holdings, LLC.PDF

Attached are the following documents:

- 1) APPLICANT'S FIRST SET OF INTERROGATORIES (1-41) TO OPPOSER CRXIP, LLC
- 2) APPLICANT'S FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS AND ELECTRONICALLY STORED INFORMATION (1-35) TO OPPOSER CRXIP, LLC
- 3) APPLICANT'S FIRST SET OF REQUESTS FOR ADMISSIONS
- 4) APPLICANT'S INITIAL DISCLOSURES

We were surprised at your response to our proposed revised coexistence agreement and that you have summarily terminated settlement discussions. Your assertion that our client was never interested in settling this matter could not be further from the truth. In fact, it appears that there is already agreement on terms of coexistence with respect to CRXIP's planned use of the mark INVISALIFT and our client's INVISILIFT mark. In regard to Invisilift, Inc., based on the limited information that we have obtained on our own, our client has serious concerns about any use of the INVISILIFT mark in connection with products / services offered to doctors. If your client was really interested in settling this matter, it is inexplicable why you will not provide any information whatsoever substantiating Invisilift Inc.'s alleged prior rights in the INVISILIFT mark and regarding Invisilift, Inc.'s current or planned use of the mark so that we can better understand any rights and business activities that may exist under the mark and make a more informed decision regarding the feasibility of settlement and coexistence with respect to Invisilift, Inc. If the prior rights that you allege do exist, why would you not disclose this information and therefore force us to take the position that those alleged prior rights do not actually exist? Clearly your refusal to provide this information was and continues to be the main obstacle to an amicable settlement in this matter. Unfortunately, since you have now terminated settlement discussions, you have left us with no other option but to compel CRXIP to disclose the requested information through the formal discovery process. As such, it appears that it is actually your client that prefers to litigate this matter, not ours.

Terrence J. McAllister, Esq. 

Partner*

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Opposition No. 91231512

Opposer,

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Opposer.

APPLICANT'S FIRST SET OF REQUESTS FOR ADMISSIONS

Pursuant to Fed. R. Civ. P. 36, Applicant DermaForce Holdings, LLC ("Applicant") requests that Opposer CRXIP, LLC ("Opposer") admit, for purposes of this action only, the truth of the matters set forth herein. Answers are due within thirty (30) days of service by e-mail, which the parties agreed during their discovery conference to be an acceptable means of service. Please respond to these requests in accordance with the instructions provided herewith. If a denial is not timely submitted within thirty (30) days from the date of receipt, then the matter shall be deemed to be admitted as provided for under Rule 36 of the Federal Rules of Civil Procedure.

INSTRUCTIONS

1. Responses to the following Requests for Admissions are to be made in full compliance with Rule 36(a) of the Federal Rules of Civil Procedure, including, without limitation, the provisions that:

- a. if objection is made to any request, the reasons therefore shall be stated;
- b. if Opposer's response to any request is other than a specific admission or denial,

Opposer shall set forth in detail the reasons why it cannot truthfully admit or deny the matter;

c. if Opposer's response to any request is a denial, such denial shall fairly meet the substance of the requested admission and, if appropriate, Opposer shall qualify its answer or deny only a part of the matter of which an admission is requested, specifying so much of it as true and qualifying or denying the remainder;

d. Opposer shall not give lack of information or knowledge as a reason for failure to admit or deny unless it has made reasonable inquiry and the information known or readily obtainable by defendant is insufficient to enable it to admit or deny; and

e. Opposer shall not object to a requested admission on the ground that it presents a genuine issue for trial.

2. Whenever appropriate in these Requests for Admissions, the singular form of a word should be interpreted as plural and vice-versa.

3. The conjunctions "and" and "or" shall be individually interpreted in every instance as meaning "and/or" and shall not be interpreted disjunctively to exclude any information otherwise within the scope of any Requests for Admissions.

4. These written Requests for Admissions seek admissions from Opposer as of the date the answers are executed, and which reflect or embody all relevant information known to Opposer as of that date. Should Opposer at any time later learn that any denial was incorrect or incomplete when made, or though correct or complete when made is no longer true, then Opposer shall timely amend and/or supplement its answer to properly admit the matter as true, as required by the Federal Rules of Civil Procedure.

5. If a request asks the Opposer to admit the genuineness of any document, a copy of such document will be attached to these Requests for Admissions and will be identified by date, author, names of persons to whom the document is addressed, the nature of the document, and

the identity of any person or persons to whom copies were distributed.

6. If Opposer cannot specifically deny or admit any matter specifically requested herein, Applicant shall specifically set forth in detail the reasons why Opposer cannot truthfully admit or deny the matter. However, Opposer may not give lack of information or knowledge as a suitable reason for refusing and failing to admit or deny the request unless Opposer states that it has made a reasonable inquiry and that the information known or readily available is insufficient to enable Opposer to admit or deny the request.

7. If Opposer claims privilege or exemption from discovery as a ground for not responding to any request or admission, in whole or in part, then Opposer shall describe the factual and legal basis for the claim of privilege (including work product) or other exemption from discovery in sufficient detail so as to permit the Trademark Trial and Appeal Board to adjudicate the validity of the claimed privilege or exemption.

8. Any denial shall fairly meet the requirements of good faith. Should good faith require that Opposer qualify an admission or denial or only deny a portion of a request for admission, then Opposer shall specify so much of the request deemed as true and admitted and qualify or deny the remainder of the request, explaining the basis for such denial.

9. Any admission made by Opposer is strictly limited to the pending action only and is not to be construed as a general admission or an admission for any other purpose and such admission may not be used against Opposer in any other proceeding.

10. Any matter admitted under these requests is considered to be conclusively established unless the court on motion permits withdrawal or amendment of the admission.

ADMISSIONS

1. Admit that CRXIP does not own the marks INVISILIFT or INVISALIFT in the United States.
2. Admit that Invisilift, Inc. has not sold skin care apparatuses in the United States for at least the past 3 years.
3. Admit that Invisilift, Inc. has not performed skin care services or non-surgical facelift services in the United States for at least the past 3 years.
4. Admit that Invisilift, Inc. has not licensed use of the mark INVISILIFT to other individuals or entities in the United States for at least the past 3 years.
5. Admit that Invisilift, Inc. has not exercised any quality control over any skin care services or non-surgical facelift services that may be performed by doctors in the United States using a skin care apparatus provided by Invisilift, Inc. for at least the past 3 years.
6. Admit that CRXIP has not sold or shipped cosmetic adhesive tape or eyelid correcting tape in the United States under the mark INVISALIFT for at least the past 3 years.
7. Admit that Invisilift, Inc. does not exercise any quality control over any cosmetic adhesive tape or eyelid correcting tape that may be sold by CRXIP under the mark INVISALIFT in the United States.
8. Admit that CRXIP sought to be a licensee of Invisilift, Inc. with respect to use of the mark INVISALIFT in order to claim the benefit of Invisilift Inc.'s alleged prior rights in the mark INVISILIFT, which is the subject of cancelled U.S. Trademark Registration No. 3089443, for the purpose of establishing priority over Applicant's mark INVISILIFT.

DermaForce Holdings, LLC

Dated: May 17, 2017

By: /Terrence J. McAllister/
Terrence J. McAllister, Esq.
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ATTORNEY FOR APPLICANT

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing APPLICANT'S FIRST SET OF REQUESTS FOR ADMISSIONS was served on Opposer's counsel of record, Katherine Bond, Leech Tishman Fuscaldo & Lampl, 100 Corson Street, Third Floor, Pasadena, CA 91103, via the e-mail addresses kbond@leechtishman.com, jsheldon@leechtishman.com, ipdocket@leechtishman.com, on this 17th day of May, 2017.

/Terrence J. McAllister/ _____
Terrence J. McAllister

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing APPLICANT'S MOTION FOR SUMMARY JUDGMENT, MEMORANDUM IN SUPPORT OF APPLICANT'S MOTION FOR SUMMARY JUDGMENT, and DECLARATION OF TERRENCE J. MCALLISTER were served on Opposer's counsel of record, Katherine Bond, Leech Tishman Fuscaldo & Lampl, 100 Corson Street, Third Floor, Pasadena, CA 91103, via the e-mail addresses kbond@leechtishman.com, jsheldon@leechtishman.com, ipdocket@leechtishman.com, on this 2nd day of August, 2017.

/Terrence J. McAllister/_____
Terrence J. McAllister