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

Proceeding	91231595
Party	Defendant Hawktown Teas, Inc.
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of Application Serial Nos. 86/880,772, 86/880,757, 86/880,819, 86/880,836, and 86/880,855
Marks: HAWKTOWN HEROES, STRAIGHT OUTTA HAWKTOWN, AND HAWKTOWN

CHICAGO BLACKHAWK HOCKEY TEAM, INC., Opposer, v. HAWKTOWN TEAS, INC., Applicant.	Opposition No. 91231595

HAWKTOWN TEAS, INC.'S OPPOSITION TO CHICAGO BLACKHAWK HOCKEY TEAM, INC.'S MOTION TO COMPEL

Opposer Chicago Blackhawk Hockey Team, Inc. ("Opposer") Motion to Compel should be denied.

I. Opposer's Motion to Compel Should be Denied in Its Entirety

Applicant Hawktown Teas, Inc. ("Applicant") opposes each aspect of Opposer's Motion to Compel. Applicant has fully and completely provided written responses and objections to each of Opposer's onerous discovery requests, and through the extensive oral testimony of Applicant's at a Rule 30(b)(6) deposition. Opposer, a multi-billion dollar entity with unlimited resources is simply grinding down Applicant, a start-up entity that intends to open a restaurant and bar under the applied-for mark HAWKTOWN. Applicant responded in writing in full to Opposer's interrogatories, document requests and requests for admission. Applicant's principal, an elderly black woman with meager resources, sat for many hours answering question after question from Opposer's New York counsel. If Opposer had any issue with any of Applicant's written responses (which were all submitted prior to the deposition), Opposer should have sought

to have the responses clarified then and there at the deposition. Instead, after wasting its time during the deposition asking irrelevant questions, Opposer has now concocted a list of alleged deficiencies in Applicant's written responses, and demands that Applicant waste its time and resources responding to Opposer's incessant letters, phone calls and emails demanding that Applicant redraft the responses to Opposer's specifications. This is improper and should be forcefully rejected by the TTAB.

Federal Rule of Civil Procedure 26(b)(1) states in pertinent part "Parties may obtain discovery regarding any nonprivileged matter that is relevant to any party's claim or defense and **proportional to the needs of the case**, considering the **importance of the issues at stake in the action**, the amount in controversy, the parties' relative access to relevant information, **the parties' resources**, the importance of the discovery in resolving the issues, and **whether the burden or expense of the proposed discovery outweighs its likely benefit**." (emphasis added) Thus, the principles of proportionality require the Board to consider, among other things, the importance of the issues, the parties' resources and whether the burden of Opposer's requests outweighs the likely benefit to it. Here, Opposer fails on all grounds.

Opposer complains that Applicant's document request is meager and charges that Applicant failed to conduct any searches for documents. This is false. Applicant, through its principal, Ms. Leslie Cosby, fully explained its document retention policy and explained what documents it has. Applicant explained its searching and its production. Applicant explained that it did not have any electronic documents. Obviously, Applicant searched for documents, because Applicant produced documents. At the deposition, Applicant explained that its moving forward with its liquor license for its HAWKTOWN branded bar and restaurant was suspended when Ms. Cosby's partner passed away. Ms. Cosby's partner had been funding the development of the

HAWKTOWN branded bar and restaurant. When he died, Applicant was unable to continue moving forward with its planned development. Applicant produced to Opposer copies of the relevant documents showing the liquor license application. Nonetheless, Opposer, apparently seeking to rub salt in the wounds of the bereaved Ms. Cosby, claims that Applicant's document production is inadequate.

Opposer has received written responses to its discovery requests. Opposer deposed Applicant through Ms. Cosby for many hours. Opposer has all the discovery it is entitled to obtain. Opposer simply does not want to have to actually address the ultimate issue in the matter, whether there would be a likelihood of confusion between Applicant's marks (HAWKTOWN, etc.) and Opposer's marks (BLACKHAWKS, etc.). It is hard to blame Opposer for trying to avoid this ultimate issue, as it is clear on its face that there would be no likelihood of confusion. Instead, Opposer seeks to grind down Applicant and Ms. Cosby, a boot to the throat of this elderly black woman by one of America's largest entities, the virtually lily-white National Hockey League.

As Applicant's counsel explained in the parties' meet and confer, Applicant has no other documents to produce. Opposer, which generates hundreds of pages in a single wasteful motion to compel obviously cannot understand how a start-up with limited resources operates. Ms. Cosby testified about this extensively.

In addition, Applicant was questioned at length about the exact topics in the interrogatories and the requests for admission Opposer seeks to rehash here. Opposer may not like the testimony it obtained, but there are no other answers Opposer is going to obtain. Forcing Applicant to waste precious resources in answering and re-answering the same questions over

and over again in multiple formats is not going to change the answers nor is it proportionate to the needs of this matter.

Due to the ongoing coronavirus pandemic and Illinois' related stay at home emergency orders, as well as the shut-down of all non-essential businesses in the state of Illinois, Applicant is unable to provide a declaration from its principal regarding the matters addressed inthis response. As thousands of people die around the country and the world, and as billions are forced to shelter in place to avoid infection, it is sad to see Opposer waste the TTAB's (and Applicant's) time and resources with so trivial a matter as its motion to compel.

Perhaps the most ironic part of Opposer's motion to compel is the fact that Opposer refused to produce a single page of documents, refused to answer a single interrogatory and refused to answer a single request for admission. Opposer has produced no responses to Applicant's discovery propounded on Opposer. Yet Opposer continues to harangue Applicant with its picayune requests for more information, more written responses, more documents. Opposer has no sense of proportionality, and that is the guiding principle here. Opposer's motion should be denied in its entirety.

II. The Proceedings Should Not be Suspended.

Applicant further opposes Opposer's request to suspend the proceedings during the pendency of this motion. Opposer recently sought a 30 day extension of time, and Applicant agreed in part to that request. As part of Opposer's scorched earth, leave not a pebble unturned, approach to this matter, Opposer is seeking to take the deposition of Applicant's attorney. Applicant agreed to the 30 day extension of time for that to occur, but opposed any other extension of time. The TTAB unilaterally extended certain dates because of the ongoing coronavirus pandemic, so Applicant did not file any written opposition to Opposer's motion.

Applicant hereby opposes Opposer's unilateral additional request to suspend the dates in this matter. More than enough time has passed, this matter should proceed to resolution. There is no reason to keep suspending the dates in this matter.

III. Conclusion

For the foregoing reasons, Applicant respectfully requests that Opposer's motion be denied in its entirety.

Respectfully submitted,

Date: April 21, 2020

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CERTIFICATE OF SERVICE

I hereby certify that on April 21, 2020, I electronically served the foregoing **HAWKTOWN TEAS, INC.'S OPPOSITION TO CHICAGO BLACKHAWK HOCKEY TEAM, INC.'S MOTION TO COMPEL** by email to the following:

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