

ESTTA Tracking number: **ESTTA1049013**

Filing date: **04/14/2020**

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

Proceeding	91252082
Party	Plaintiff Guess? IP Holder L.P.
Correspondence Address	MICHAEL J MACDERMOTT LEWIS ROCA ROTHGERBER CHRISTIE LLP PO BOX 29001 GLENDALE, CA 91209-9001 UNITED STATES pto@lrrc.com 626-795-9900
Submission	Motion to Compel Discovery or Disclosure
Filer's Name	MICHAEL J. MACDERMOTT
Filer's email	pto@lrrc.com
Signature	/Michael J. MacDermott/
Date	04/14/2020
Attachments	Motion to Compel Initial Disclosures.pdf(720732 bytes)

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

Guess? IP Holder L.P.		Opposition No. 91252082
	Opposer,	Mark: Inverted Triangle Design
v.		S.N.: 88/352,959
Gabriel Vincent Dupree		Filed: March 22, 2019
	Applicant.	

OPPOSER'S MOTION TO COMPEL APPLICANT'S INITIAL DISCLOSURES

Pursuant to Rule 37(a) of the Federal Rules of Civil Procedure and 37 C.F.R. § 2.120(e), Opposer Guess? IP Holder L.P. (“Guess”) moves the Honorable Board for an order to compel Applicant Gabriel Vincent Dupree (“Dupree”) to fully comply with the requirement to provide Initial Disclosures to Guess.

This motion is based on the facts and argument below, as well as the record and file of this proceeding and any other oral or documentary evidence that may be relevant.

On February 12, 2020, Guess served its Initial Disclosures on Dupree. A copy of said Initial Disclosures is appended hereto as Exhibit A. The parties’ Initial Disclosures were due on or before February 14, 2020. As of this date, Dupree has not provided his Initial Disclosures.

Guess has made a good faith effort by correspondence to resolve Dupree’s failure to provide his Initial Disclosures.

Appended hereto as Exhibit B is a copy of counsel’s e-mail of March 13, 2020 requesting Dupree’s disclosures. Appended hereto as Exhibit C is Dupree’s e-mail of March 18, 2020,

presumably in response to Guess' e-mail.

It has now been over thirty days since the Guess e-mail and Dupree has failed to provide his Initial Disclosures.

Dupree will have the allotted time within which to respond to this motion and thereafter, if the Board grants this motion, Dupree will have additional time within which to provide his Initial Disclosures and/or to retain counsel in the case. While the COVID-19 epidemic presents unique circumstances, it does not preclude Dupree from retaining counsel and submitting his Initial Disclosures. In person meetings with counsel are not required. Dupree can retain counsel telephonically or electronically. This proceeding was instituted on November 6, 2019. Dupree has now had over five months within which to retain counsel. Notwithstanding that fact, Guess has no objection if the Board provides additional time for Dupree to respond, provided that the trial dates in this proceeding are adjusted accordingly.

We therefore urge that, in the absence of the submission of Dupree's Initial Disclosures, this motion to compel be granted.

Respectfully submitted,

LEWIS ROCA ROTHGERBER CHRISTIE
LLP



Michael J. MacDermott
Attorneys for Opposer
P.O. Box 29001
Glendale, California 91209-9001
626/795-9900

Date: April 14, 2020

CERTIFICATE OF SERVICE

I certify that on April 14, 2020, the foregoing **OPPOSER'S MOTION TO COMPEL APPLICANT'S INITIAL DISCLOSURES** is being served by e-mail addressed to:

Mr. Gabriel Vincent Dupree
8835 Hines Road
Disputanta, Virginia 23842

E-mail: Gvdupree@gmail.com

By /Raymond W. Oo/
Raymond W. Oo
Lewis Roca Rothgerber Christie LLP
P.O. Box 29001
Glendale, CA 91209-9001

EXHIBIT A

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

Guess? IP Holder L.P.	Opposition No. 91252082
Opposer,	
v.	Mark: Inverted Triangle Design
Gabriel Vincent Dupree	S.N.: 88/352,959
Applicant.	Filed: March 22, 2019

OPPOSER'S INITIAL DISCLOSURES

In accordance with 37 C.F.R. § 2.120 and Fed. R. Civ. P. 26, Opposer Guess? IP Holder L.P. provides the following information in satisfaction of the requirement to provide initial disclosures.

(A) The name and contact information of individuals likely to have discoverable information:

- (1) Jason T. Miller
Secretary of Guess? IP GP LLC,
as sole general partner of Guess? IP Holder L.P.
1444 South Alameda Street
Los Angeles, California 90021
- Information regarding Opposer;
 - Information regarding Opposer's standing to oppose;

- Information regarding Opposer's use and registration of its Inverted Triangle marks;

The knowledgeable persons identified above should not be contacted directly. They may only be contacted via the undersigned counsel at Lewis Roca Rothgerber LLP.

(B) Documents that Opposer may use to support its claims or defenses:

- Documents relating to Opposer's standing to oppose (in the possession of Opposer);
- Documents relating to Opposer's commercial interest in its Inverted Triangle marks (in the possession of Opposer);
- Documents relating to Opposer's use and registration of its Inverted Triangle marks (in the possession of Opposer);
- Documents relating to Opposer's promotion of its Inverted Triangle marks (in the possession of Opposer);
- Documents relating to Opposer's sales information for goods sold in association with its Inverted Triangle marks (in the possession of Opposer);
- Product photographs, catalogues and line sheets depicting Opposer's products sold in association with its Inverted Triangle marks (in the possession of Opposer);
- Documents relating to Opposer's retail outlets and e-commerce site operated under the Inverted Triangle marks (in the possession of Opposer);
- Documents relating to Applicant's use and/or non-use of the opposed trademark Inverted Triangle Design (in the possession of Applicant).

Opposition No. 91252082

This list is not intended to be exhaustive or limiting, but instead is intended to provide the basic information required by initial disclosures. Opposer reserves the right to supplement its responses.

Respectfully submitted,

LEWIS ROCA ROTHGERBER LLP

Date February 14, 2020


By  _____

Michael J. MacDermott
Attorneys for Opposer
P.O. Box 29001
Glendale, California 91209
626/795-9900

CERTIFICATE OF SERVICE

I certify that on February 14, 2020, the foregoing OPPOSER'S INITIAL DISCLOSURES is being served by email addressed to:

Mr. Gabriel Vincent Dupree
8835 Hines Road
Disputanta, Virginia 23842 33301
E-mail: Gvdupree@gmail.com

By 
Raymond W. Oo
Lewis Roca Rothgerber Christie LLP
P.O. Box 29001
Glendale, California 91209-9001
626/795-9900

MM/rwo

RWO 108607006.1-*-02/12/2020 12:46 PM

EXHIBIT B

Oo, Raymond

From: MacDermott, Michael
Sent: Friday, March 13, 2020 3:53 PM
To: 'Gvdupree@gmail.com'
Cc: Oo, Raymond; Vanegas, Yanira A.
Subject: Guess? IP Holder L.P. v. Gabriel Vincent Dupree; Opposition No. 91252082; Trademark Inverted Triangle Design; Serial No. 88/352,959; Filed March 22, 2019 in International Class 25 in the United States; LRRRC Ref. 405063-04032

Importance: High

March 13, 2020

Via e-mail

Gvdupree@gmail.com

Mr. Gabriel Vincent Dupree
8835 Hines Road
Disputanta, Virginia 23842

**Re: Guess? IP Holder L.P. v. Gabriel Vincent Dupree
Opposition No. 91252082
Trademark Inverted Triangle Design
Serial No. 88/352,959; Filed March 22, 2019
in International Class 25 in the United States
LRRRC Ref. 405063-04032**

Dear Mr. Dupree:

As you are aware, on February 12, 2020, the opposer served you with its initial disclosures in this case. As of this date, we have not received your required initial disclosures. We therefore request that you send us your initial disclosures on or before March 20, 2020. Otherwise, we will file the appropriate motion with the Trademark Trial and Appeal Board to compel the initial disclosures.

We look forward to receiving your initial disclosures in the next week. Thank you. You may contact the undersigned if you have any questions.

Very truly yours,

Michael J. MacDermott

MM/rwo

Michael MacDermott
Partner
626.683.4536 office
mmacdermott@lrrc.com

EXHIBIT C

From: GV Dupree <gvdupree@gmail.com>

Sent: Wednesday, March 18, 2020 3:38 PM

To: MacDermott, Michael <mmacdermott@lrrc.com>

Subject: Re: Guess? IP Holder L.P. v. Gabriel Vincent Dupree; Opposition No. 91252082; Trademark Inverted Triangle Design; Serial No. 88/352,959; Filed March 22, 2019 in International Class 25 in the United States; LRRC Ref. 405063-04032

[EXTERNAL]

You won't receive my initial disclosure before March 20th. The growing COVID-19 pandemic has made it harder to convene with council. Many closings of courts and judicial services following government advisement has altered dates I previously planned. This matter will have to be suspended.

Sent from my iPhone