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

Proceeding	91252685
Party	Defendant Ashley James dba Carnival Mode
Correspondence Address	ASHLEY JAMES DBA CARNIVAL MODE PO BOX 150365 KEW GARDENS, NY 11415-0365 UNITED STATES Primary Email: ajames7200@gmail.com 917-797-9774
Submission	Opposition/Response to Motion
Filer's Name	Ashley James
Filer's email	ajames7200@gmail.com
Signature	/Ashley James/
Date	08/14/2020
Attachments	8.14.20 Applicant_Opposition to NMI Motion to Compel Final.pdf(3288339 bytes)

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

NATIONAL MILL INDUSTRY INC.,

Opposer,

v.

ASHLEY JAMES, DBA CARNIVAL MODE

Applicant,

Opposition No: 91252685

MARK: CM CARNIVAL MODE

Application Serial No. 88416188

Published in the Official Gazette:

Oct. 15, 2019

**APPLICANT’S OPPOSITION TO OPPOSER’S MOTION TO COMPEL AND REQUEST
FOR BOARD TO ENTER ORDER RESUMING PROCEEDINGS**

I, Ashley James (“Applicant”) hereby submits its’ opposition to National Mill Industry Inc. (“Opposer”) motion to compel that was filed on August 12, 2020. Applicant is requesting the board to enter an order denying the Opposer’s motion to compel because the Opposer has acted in bad faith and rushed to file this motion after the Applicant has continuously communicated with Opposer’s counsel throughout this entire opposition proceeding. As of today’s date, the Applicant has not received any of the Opposer’s outstanding discovery interrogatories and production requests that were sent to the Opposer by email on February 12, 2020. Opposer is using this motion to falsely suggest and accuse the Applicant of “unsuccessfully responding” to the Opposer’s First Set of Interrogatories and Production Requests. Furthermore, the Opposer’s motion is improper because under TBMP § 523 and 37 C.F.R. § 2.120(f), the Opposer must demonstrate that they made good faith efforts to resolve the dispute among parties after all communications have been completely unsuccessful. Communications never ceased between both parties in this opposition proceeding nor did the Applicant give the Opposer any difficult time. Applicant has fully complied with all Opposer’s discovery requests thus far in this proceeding.

FACTUAL BACKGROUND

1. Applicant and Opposer held a telephonic discovery conference on January 22, 2020 at 10AM which ended with both parties not coming to any resolution and decided to proceed with the opposition proceeding. Opposer verbally acknowledged that the connotation of the Applicant's mark and their alleged "family of marks" does not share the same meaning in the marketplace.
2. Both the Applicant and Opposer exchanged their First Set of Interrogatories and Production Requests on February 12, 2020. The Applicant was the first party to send her responses to the Opposer in March 2020. As noted in the Opposer's motion (10 TTABVUE), the Opposer acknowledged that they had received the Applicant's First Set of Interrogatories and Production Requests with answers. However, as of August 12, 2020 the Opposer did not expedite or show any reasonable interest in promptly sending the Applicant any outstanding discovery items. A copy of the Applicant's unanswered First Set of Interrogatories and Production Requests for National Mill Industry Inc. to complete is attached to this motion (**See EXHIBIT 1 – attached to Applicant's motion**)
3. Applicant filed a Motion for Summary Judgment on March 13, 2020 requesting the board to enter a judgment in favor of the Applicant on the grounds that there were no genuine issues of material fact. Opposer filed an opposition (See 7 TTABVUE) in response claiming that there was no "meaningful discovery" and alleged before the Board that the Applicant made "brazen assertions" in regards to showing that there was no priority and no likelihood of confusion between the marks.
4. On July 28, 2020, the Trademark Trial and Appeal Board entered an order denying the Applicant's motion for summary judgment and informed both parties to decide within 30 days from the board order whether they were going to proceed with an Accelerated Case Resolution or resume proceedings as scheduled.
5. On July 28, 2020, the Applicant contacted the Opposer's counsel by email discussing that the Applicant wishes to resume proceedings without using the Accelerated Case Resolution. The Opposer responded to the Applicant's email asking whether she wanted to speak with the USPTO attorney handling the case and told the Applicant to get an attorney. Subsequently after email exchanges on this date, both parties mutually accepted that the case would proceed without an ACR. (**See EXHIBIT 2 – attached to Applicant's motion**)

6. Six days after the board order (9 TTABVUE), Applicant contacted Opposer's counsel via email on August 3, 2020 sending a combination of the following email attachments to the Opposer (**See EXHIBIT 3 – attached to Applicant's motion**). The Opposer acknowledged receipt of all the below items.
 - Letter requesting National Mill Industry to submit their past due (outstanding) first set of interrogatories and document requests
 - Letter requesting National Mill Industry to complete the Applicant's Second Set of Interrogatories and Request for Admission which are due 30 days from the date of service date
 - Copies of the Applicant's Second Set of Interrogatories and First Request for Admission for National Mill Industry Inc which are also due 30 days from the date of service

7. In various email exchanges that took place on August 10, 2020 (approximately 2 days before the Opposer filed their Motion to Compel), the Opposer repeatedly kept asking the Applicant for a "telephone call to discuss the Applicant's responses" and kept asking the Applicant to "please make herself available for a telephone call". Meanwhile, Applicant has been very responsive to the Opposer's exchanges and even requested the Opposer to send all inquiries via email not by telephone. Applicant expressed to the Opposer that they will receive another response to their July 30th notice via email sometime in September. (**See EXHIBIT 4- attached to Applicant's motion**) Applicant specifically told the Opposer that it is audit season on her end and voiced that the Applicant has a very busy work schedule. The Opposer did not 1) care 2) wait until the end of the month 3) wait until September and 4) take Applicant's busy work schedule into any consideration. Nor did the Opposer utilize any "virtue of patience" after receiving a response directly from the Applicant by email on August 10, 2020.

8. Three days after the Applicant told the Opposer that she will follow up on their July 30th notice in September, the Opposer filed a Motion to Compel Discovery (10 TTABVUE) on 8/12/2020 before the Board expressing the following ludicrous summarized statements:
 - Board's intervention is required because the Applicant has not complied with her outstanding discovery obligations
 - Opposer cannot prepare for trial without Applicant's responses to First Set of Interrogatories and Production Requests
 - Opposer is requesting answers from the Applicant without any objections
 - Opposer made repeated requests for a telephone call or for a substantive response to Opposer's discovery requests
 - Opposer is compelling Applicant to respond to all of Opposer's February 12, 2020 Interrogatories and Documents Requests within 15 days from the date of the order
 - Opposer requests board to reset the close of discovery

ARGUMENT

I. APPLICANT RESPONDED IN A TIMELY FASHION TO OPPOSER'S FIRST SET OF INTERROGATORIES AND PRODUCTION REQUESTS IN MARCH 2020

As evidence shows, the Applicant has never avoided, evaded, ignored, or dodged any discovery requests or emails sent by the Opposer. In the Opposer's attached Exhibits A and B, the Applicant provided adequate responses and objections to the Opposer's interrogatories and production requests. Opposer cannot demand or require the Applicant to not 1) respond without any objections 2) only respond to their inquiries via telephone calls. Opposer filed a motion to compel two days after receiving an email which shows the Applicant specifically told the Opposer's counsel that she was going to follow up with the Opposer in September. In addition, Opposer was served abundant information directly from the Applicant during this proceeding from all of the following submissions: Answer to Notice of Opposition(4 TTABVUE), Defendant Motion for Summary Judgment (5 TTABVUE), and Defendant Reply in Support of Motion (8 TTABVUE). All of these submissions contain high volumes of Applicant's arguments in connection to disputing why the consuming public will not be confused between the CM CARNIVAL MODE design mark and the Opposer's pleaded marks.

II. APPLICANT'S RESPONSES ARE NOT "SEVERELY DEFICIENT"

Opposer is attempting to paint the picture that the Applicant's responses are severely deficient. The belief that the Applicant did not supply substantial or adequate responses is pure exaggeration and an overstatement. Applicant fully cooperated in a timely manner and supplied substantial responses for the Opposer to absorb, analyze, and understand. There is absolutely no presence of "severely deficient" responses in any of the Opposer's exhibits. For instance, in Interrogatory No 2. in Exhibit A submitted by the Opposer, the Opposer specifically asked the following question and the Applicant gave the following response.

“Set forth the facts and circumstances concerning Applicant’s selection of Applicant’s mark, and describe any and all due diligence and/or clearance efforts taken before filing the application to register Applicant’s Mark.”

Applicant’s Answer: Applicant designed the CM CARNIVAL MODE mark in the beginning of the year 2019 prior to filing the trademark application on May 5, 2019. Applicant performed due diligence, researched database records before submitting the application in the International Class 25 via the USPTO to apply for the mark. Applicant did not copy any other company’s trademarks. The Examining Attorney who was assigned to the Applicant’s Trademark Application utilized due diligence as well when reviewing the Applicant’s Trademark application and determined no conflicts existed with any other registered trademarks in the USPTO records. No such clearance efforts were needed as the Applicant’s CM CARNIVAL MODE mark is distinctive and has not been used by any other business or individual in commerce. No other business including National Mill Industry, Inc owns or designed the Applicant’s mark.

The Applicant’s answer to the above interrogatory is not an incomplete response. Furthermore, if there are production requests that the Applicant does not have in her possession, the Opposer cannot request the Board to force the Applicant to not supply any objections. If the Applicant does not possess documents such as: copies of business or marketing plans, documents identifying Applicant’s organization structure then the Opposer must accept that response from the Applicant. As noted in 37 C.F.R. § 2.120(a)(3), objections going to the merits of an interrogatory or other discovery request include claims that the information sought by the request is irrelevant, overly broad, unduly vague and ambiguous, burdensome and oppressive or not likely to lead to the discovery of admissible evidence.

Here is another instance where the Opposer had asked a question and the Opposer was not satisfied with the Applicant’s response. In Interrogatory No. 11 in Exhibit A of the Opposer’s Motion to Compel, the Opposer asked the following question below.

“Identify all websites and social media channels/handles used by Applicant to promote goods under Applicant’s mark in the United States”

Applicant’s Answer: Applicant objects to this interrogatory as this information is already in your possession. No need to restate information that the Opposer has in their possession.

The Applicant supplied that response to Interrogatory No. 11 because the Opposer is fully aware of all websites and social media channels that the Applicant uses to sell goods to the general public. Applicant has not hidden or blocked National Mill Industry from knowing any of this information. In addition, the Opposer is pretending that they do not know the Applicant's store websites and social medial channels. The Applicant should not be subjected to repeat information that has already in the possession by the Opposer.

III. OPPOSER'S MOTION TO COMPEL DISCOVERY SHOULD BE DENIED BY THE BOARD

As the discovery efforts have continued without ACR, the Opposer used this motion to unnecessarily delay a straightforward case and continue to make ambiguous arguments. There was no plausible reason for the Opposer to file the Motion to Compel Discovery within a 15-day time frame (beginning from the recent board order denying the Applicant's motion for summary judgment and their motion to compel filing date, August 12, 2020).

The Opposer's motion should be denied for lack of patience and for deceitfully pretending that the Applicant is not contributing any answers to their discovery requests. The Opposer has not shown any real amicable interest to promptly respond to any of the Applicant's outstanding discovery requests. Instead, the Opposer chose to quickly file a motion to compel to push for a second follow-up for responses that were already answered by the Applicant in March 2020 (approximately five months ago). Opposer also argued before the Board in their motion to compel that they "can't prepare for trial" without Applicant's answers. At this stage in the proceeding, Applicant has been exceedingly vocal in all her submissions throughout this proceeding. The Opposer, on the other hand, has continuously refused to accept the Applicant's responses as sufficient which is clearly bizarre. The Applicant is still waiting to receive responses to Opposer's past due First Set of Interrogatories and Production Requests. Applicant also served her Second Set of Interrogatories and Admission Requests to National Mill Industry Inc on August 3, 2020 to

address various critical topics involving the marks in this proceeding and to address Opposer's claims of "brazen assertions". The Opposer has an ongoing obligation to answer any outstanding and future discovery requests from the Applicant in a timely fashion.

IV. BOARD SHOULD ENTER AN ORDER RESUMING PROCEEDINGS AND REJECTING OPPOSER'S REQUEST FOR APPLICANT TO RESPOND IN 15 DAYS FROM DATE OF BOARD ORDER

Applicant is requesting the Board to enter an order resuming proceedings and continue with the following set trial dates initially ordered by the Board (2 TTABVUE). Opposer had ample time since the filing date of the Notice of Opposition back in December 2019 to prepare for trial. It has been nine months since they filed the Notice of Opposition and they are now arguing that the Applicant has been difficult. The remaining dates should continue as scheduled with discovery set to close on Christmas Day 12/25/2020. Opposer has not provided any plausible explanations or reasons to change the close of discovery deadline.

Expert Disclosures Due	11/25/2020
Discovery Closes	12/25/2020
Plaintiff's Pretrial Disclosures Due	2/8/2021
Plaintiff's 30-Day Trial Period Ends	3/25/2021
Defendant's Pretrial Disclosure Due	4/9/2021
Defendant's 30-Day Trial Period Ends	5/24/2021
Plaintiff's Rebuttal Disclosures Due	6/8/2021
Plaintiff's 15-day Rebuttal Period Ends	7/8/2021
Plaintiff's Opening Brief Due	9/6/2021
Defendant's Brief Due	10/6/2021
Plaintiff's Reply Brief Due	10/21/2021
Request for Oral Hearing(Optional)Due	10/31/2021

Applicant has repeatedly argued throughout the proceeding that there were a large number of issues in the Opposer's Notice of Opposition. Applicant recently had expressed to the Opposer that she was going to give a second follow-up to the Opposer sometime in September and has fully cooperated throughout the entire proceeding without any excuses. The Opposer had valuable time on their hands since December 2019 to be vocal about their "alleged issues" with the Applicant's CM CARNIVAL MODE trademark application. Therefore, discovery should close by December 25, 2020. There are high volumes of false statements that the Applicant already

noticed in the Opposer's submissions which will later be addressed before the Board at trial. Given that the Opposer already made remarks that the Applicant's discovery responses are "obnoxious", this is a clear indication of the lack of respect displayed by the Opposer's counsel as she is collecting information from the Applicant. The Applicant has the right to share the tone and manner in how the Opposer is presently evaluating the Applicant's responses. Applicant never sent any obnoxious responses to any of the Opposer's interrogatories and inquiries. Nor has the Applicant dodged any discovery obligations that were sent from Opposer's counsel.

Moreover, the Opposer is not exempt from promptly delivering any outstanding discovery requests that were supposed to be sent to the Applicant's attention. In addition, Opposer should not reject the Applicant's comprehensible responses that were already supplied back in March 2020.

V. CONCLUSION

The Opposer's motion to compel on August 12, 2020 is improper and was filed with attempts to further delay this proceeding. Opposer has clearly shown no real interest in accepting any of the Applicant's responses, recklessly demanded the Applicant to refrain from supplying any objections and demanded that everything must be discussed over the phone. This is a highly inappropriate approach to proceed given that Opposer has already twisted several statements in their submissions thus far. Applicant witnessed untrue statements by the Opposer which led the Applicant to desire all future communications and inquiries to resume in writing or delivered by email.

Applicant has been in continuous contact with Opposer's counsel and evidently responsive to the Opposer's inquiries. Opposer cannot submit a motion based on an observation of a 15-day time frame of "unsuccessfully" resolving Applicant's outstanding discovery obligation. No such outstanding obligations even exist. It was an immediate attack because the Applicant mentioned that she had a busy work schedule. The Opposer has emphasized several times in this proceeding

that they already received responses from the Applicant. Yet out of the blue, the Applicant's responses are viewed as "severely deficient" and the Opposer "can't prepare for trial" without full answers. Applicant is respectfully requesting the Board to deny the Opposer's motion in its entirety and enter an order to resume proceedings as scheduled in the initial board order. The Opposer utilized no virtue of patience after the Applicant's most recent email conversation on August 10, 2020 and clearly continues to unnecessarily describe the Applicant's answers as "severely deficient" and "obnoxious".

The Applicant is currently left emptyhanded of any their February 12, 2020 discovery requests for the Applicant to inspect or review for trial. This is clear indication that the Opposer is nonchalantly refusing to send over these requests in a speedy fashion. Additionally, the Applicant is also waiting for the arrival of responses for the second round of interrogatories and first set of admission request from the Opposer that was served to the Opposer on August 3, 2020.

Moreover, the Applicant has adequately demonstrated before the Board why the Opposer's motion to compel should rightfully be denied.

CERTIFICATE OF SERVICE

I hereby certify that on the 14th day of August, 2020, a copy of the foregoing **APPLICANT'S OPPOSITION TO OPPOSER'S MOTION TO COMPEL** has been served electronically via email to the correspondent on record for the Opposer at the following address:

Stacy J. Grossman
Law Office of Stacy J. Grossman, PLLC
888 Seventh Avenue, 10th Floor
New York, NY 10106
Email: stacy@stacygrossmanlaw.com
ipDocket@stacygrossmanlaw.com

By: /Ashley James/

Ashley James
PO Box 150365
Kew Gardens, NY 11415
Email: ajames7200@gmail.com

Applicant

EXHIBIT 1



Ashley James <ajames7200@gmail.com>

Action Required: Initial Disclosures and First Set of Interrogatories Opposition No. 91252685

Ashley James <ajames7200@gmail.com>

Wed, Feb 12, 2020 at 7:22 AM

To: Stacy Grossman <stacy@stacygrossmanlaw.com>

Cc: jcohen@natmills.com, Kelly Glenn <kelly@stacygrossmanlaw.com>

Good Morning,

As you are aware, the discovery period has opened for the Opposition you filed against Application Serial No. 88416188 with the USPTO Trademark Trial and Appeal Board (TTAB)

Attached to this email are the following documents that are appropriate for the trial:

- Applicant's Initial Disclosures
- Applicant's First Set of Interrogatories
- Word Document copy of the Interrogatories that you are required to answer and return

Please note:

- All Interrogatories and additional discovery requests **will be ongoing and sent directly to National Mills Industry's Attorney until the close of the discovery period (see trial date schedule)**
- No conversations about settlement and trademark abandonment will be discussed upon your receipt of this email (Applicant already discussed this with Attorney during the Discovery Conference)
- All communications between counsel and Applicant must be in writing and submitted to Applicant via email communications.
- If you the, "Opposer" wishes to withdraw the opposition, please kindly state that in writing and file that statement via the Trademark Trial and Appeal Board
- All answers to the Interrogatories **must be answered in writing under oath and served to the applicant within 30 days after receipt.** (See federal guidelines)
- Failure to answer any of the Interrogatories and other discovery requests will result in filing motions to compel discovery
- Applicant has no attorney at this time. All statements must be served to the Applicant.

As I mentioned in the Answer to the Opposition, I am confident that you are intentionally delaying the approval of the Trademark Application using court proceedings. Your client is 100% responsible for providing facts and evidence to support all claims you mentioned in the Notice of Opposition and demand letter.


Keep in mind, I will routinely check my emails throughout the day but I will not be able to chat on the phone as I have other important pressing deadlines with clients to focus on this month and the next.


Thank you for your cooperation in advance.

Best Regards,
Ashley James

3 attachments

 **Applicant's Initial Disclosures - Opposition 91252685 2.12.20.pdf**
399K

 **Applicant - First Set of Interrogatories - Opposition Proceeding 91252685 2.12.20.pdf**
425K

 **INTERROGATORIES_ Opposition No. 91252685 - For National Mill Industry.docx**
14K



Ashley James <ajames7200@gmail.com>

Action Required: Applicant's First Set of Requests for Production - Opposition No. 91252685

Ashley James <ajames7200@gmail.com>

Wed, Feb 12, 2020 at 9:45 PM

To: Stacy Grossman <stacy@stacygrossmanlaw.com>

Stacy,

Attached to this email is the Applicant's First Set of Production Requests to be fulfilled by your client.

Thanks for your cooperation in advance.

Best Regards,
Ashley James

 **Applicant's First Set of Production Requests - Opposition 91252685 2.12.20.pdf**
404K

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

NATIONAL MILL INDUSTRY, INC.

Opposer,

v.

ASHLEY JAMES, DBA CARNIVAL MODE

Applicant,

OPPOSITION NO: 91252685

MARK: CM CARNIVAL MODE

APPLICATION SERIAL NO: 88416188

PUBLISHED IN OFFICIAL GAZETTE

OCT 15, 2019

APPLICANT’S FIRST SET OF INTERROGATORIES TO OPPOSER

You are hereby served with the Applicant’s First Set of Interrogatories for the Opposition Proceeding No. 91252685 filed by (“You”) (“Opposer”), National Mill Industry, Inc. Pursuant to Rule 33 of the Federal Rules of Civil Procedure, you are required to fully answer in writing under oath each interrogatory with any answers or objections within 30 days after the date of service of the interrogatories.

INSTRUCTIONS

Responses to these interrogatories, document requests, and other discovery requests shall be submitted electronically via email and the originals should be mailed directly to Ashley James (“Applicant”) with notarized signatures of the attorney and each person(s) answering the interrogatories. Any incomplete or ambiguous answers to the interrogatories and document requests will be observed as a failure to answer. If an answer to an Interrogatory is left blank, ignored, or skipped, this will also be viewed as a failure to answer. If for some reason an Interrogatory cannot be answered, you must state in full detail why you cannot provide a response

to the Interrogatory. If any Interrogatory must be answered with documents, printouts, and other printable data information, you must attach those documents with references to the Interrogatories you are responding to.

DEFINITIONS

“You”, “Your”, “Opposer” means National Mill Industry, Inc.

“Applicant” means Ashley James

“Identify” means you should list names and business addresses of individual(s) persons employed by National Mills Industry, Inc and other witnesses if applicable

“State” means you must express in detail your responses to the interrogatories on a factual basis

“Explain” means you shall disclose all truthful explanations, reasons, information, and clarifications for any interrogatories on a factual basis

“Documents” shall mean any printed, typewritten, publications, articles, statements, announcements, computer printouts, files, reports, photographs, images, database records, email correspondence, written agreements, contracts, statistics, surveys, charts, posters, marketing materials, advertisements, receipts, worksheets, meeting minutes, letters, accounting records, company records, digital copies, personal records, business records, bank statements, graphics, notes, drawings, transcripts, memos, exported data and etc. Documents shall mean any recorded matter that is in “tangible form”. “Tangible” means items that can be physically touched.

“Goods/Services” Each item, product, or service that is sold to consumers

For interrogatories with document requests, please do the following:

- 1) state the nature of the document (letter, publication, invoice)
- 2) the author or sender of the document
- 3) the recipient of the document
- 4) the date the document was printed, sent or authored
- 5) the reason why the document is restricted or confidential

“CARNIVAL Family of Marks” means Opposer’s Trademark Owner Registration Numbers 2,020,106, 4,297,862, 5,249,742, 5,527,373, 5,742,984, 5,675,765, 5,807,860, 5,675,766, and pending application Serial No. 87/847,156

“Applicant’s Mark” means CM CARNIVAL MODE, pending Application Serial No. 88416188

INTERROGATORIES

INTERROGATORY 1: Identify the names of all individuals and witnesses likely to have discoverable information to support the Opposer's claims/defenses in the opposition.

INTERROGATORY 2: Identify all persons involved in the designs, branding, and adoption of the CARNIVAL Family of Marks owned the Opposer.

INTERROGATORY 3: Describe in detail when and where did the Opposer first sell the goods/services under the Opposer's CARNIVAL FAMILY OF MARKS.

INTERROGATORY 4: State each state, country, and all other geographical locations where the Opposer sells their goods/service to consumers under the (CARNIVAL Family of Marks)

INTERROGATORY 5: State each type of goods/service that is sold by the Opposer under the CARNIVAL Family of Marks.

INTERROGATORY 6: Provide documents including photographic evidence that shows the packaging of each type of goods/service that is sold by the Opposer under the CARNIVAL Family of Marks

INTERROGATORY 7: State all facts, documents, law, and other information that the Opposer will rely on to support their Likelihood to Cause Confusion claim in the opposition

INTERROGATORY 8: State all facts and provide documents that shows evidence that the Opposer lost sales as a direct result of the Applicant's mark in commerce

INTERROGATORY 9: State all facts and provide documents that shows evidence that the Opposer's brand was damaged by the Applicant's mark in commerce

INTERROGATORY 10: State each advertising and promotion method (in-store advertising, online advertising, and outdoor advertising) that the Opposer uses to promote their goods/service in commerce under the CARNIVAL Family of Marks

INTERROGATORY 11: State each sales/distribution channel that the Opposer uses to sell goods/services under the CARNIVAL Family of Marks

INTERROGATORY 12: List all the retail stores and online stores where the Opposer sells goods/services under the CARNIVAL Family of Marks

INTERROGATORY 13: State all domains and websites presently owned and previously owned by the Opposer in which consumers are accessing to acquire goods sold by the Opposer

INTERROGATORY 14: Explain in detail all the similarities in overall design and appearance between the Applicant's Mark and the Opposer's CARNIVAL Family of Marks.

INTERROGATORY 15: State in detail all the similarities in relatedness of goods sold between the Applicant and the Opposer.

INTERROGATORY 16: Describe in detail the number of individuals who are actually confused between the Applicant's and Opposer's marks (Any confused person can include consumers and other individuals employed by National Mills Industry, Inc.).

INTERROGATORY 17: Provide facts and documents from consumers and any other individuals employed at National Mill Industry complaining about the actual confusion between the Applicant's Mark and CARNIVAL Family of Marks.

INTERROGATORY 18: Describe and state evidences in which anyone has communicated and inquired to the Opposer about whether there was a connection between the Applicant's goods/services and Opposer's goods/services.

INTERROGATORY 19: Provide documents that shows the Opposer's CARNIVAL Family of Marks was distinctive prior to the date of Applicant's first use of the CM CARNIVAL MODE mark.

INTERROGATORY 20: Briefly state the meaning of the words "CARNIVAL", "CARNIVAL CREATIONS", "CARNIVAL ACTIVE", "CARNIVAL GIRL", "CARNIVAL INTIMATES", "CARNIVAL FASHION" in the Opposer's branding.

INTERROGATORY 21: Answer Yes or No.

Are you recognized as a well-known bridal brand in the United States and other geographical locations?

INTERROGATORY 22: Answer Yes or No.

Are you recognized as a wholesale bra and lingerie company in the United States and other geographical locations?

INTERROGATORY 23: Answer Yes or No.

Did you acknowledge that other third parties and companies registered the word “CARNIVAL” for other goods prior to the Opposer’s filing date as displayed in the United States Trademark Database?

INTERROGATORY 24: Answer Yes or No.

Do you admit that CARNIVAL is a worldwide word that existed in the English language prior to the Opposer’s alleged first use in commerce?

Respectfully submitted, the 12th day of February, 2020.

By:/Ashley James/
Ashley James
PO Box 150365
Kew Gardens, NY 11415
Email:ajames7200@gmail.com

Applicant

CERTIFICATE OF SERVICE

I hereby certify that on the 12th day of February, 2020, a copy of the foregoing **APPLICANT'S FIRST SET OF INTERROGATORIES TO OPPOSER** has been served electronically via email to the correspondent on record for the Opposer at the following address:

Stacy J. Grossman
Law Office of Stacy J. Grossman, PLLC
888 Seventh Avenue, 10th Floor
New York, NY 10106
Email: stacy@stacygrossmanlaw.com
ipDocket@stacygrossmanlaw.com

By:/Ashley James/
Ashley James
PO Box 150365
Kew Gardens, NY 11415
Email: ajames7200@gmail.com

Applicant

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
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NATIONAL MILL INDUSTRY, INC
Opposer,

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Applicant,

OPPOSITION NO: 91252685

MARK: CM CARNIVAL MODE

APPLICATION SERIAL NO: 88416188

PUBLISHED IN OFFICIAL GAZETTE

OCT 15, 2019

APPLICANT’S FIRST SET OF REQUESTS FOR PRODUCTION

In accordance with Rule 37 CFR § 2.120 and Rule 34 of the Federal Rules of Civil Procedure, Ashley James (“Applicant”) requests that National Mill Industry, Inc. (“Opposer”) produces the following documents to be examined by the Applicant for this trial. All documents should be sent to Applicant electronically within thirty (30) days after the service of these requests. These requests will be ongoing throughout the trial.

DEFINITIONS

"You", "your" “their” and “Opposer” refers to National Mill Industry, Inc herein and to all other persons acting on behalf of the Opposer

"Communications" shall mean all inquiries, statements, discussions, conversations, negotiations, agreements, understandings, meetings, telephone conversations, letters, correspondence, notes, telegrams, telexes, advertisements, facsimiles, e-mails, or other forms of verbal and/or communicative intercourse.

"Documents" shall mean all written, typed statements, photographic items, presentations, marketing materials, whether draft or final, original or reproduction signed or unsigned, and regardless of whether approved, signed, sent, received, redrafted, or executed, including but not limited to: reports, accounting records, financial records, business records, written communications, letters, correspondence, facsimiles, e-mail, memoranda, minutes, notes, films, recordings, of any type, transcripts, contracts, agreements, purchase or sales orders, memoranda of telephone conversations of personal conversations, diaries, desk calendars, interoffice communications, reports, studies, bills, receipts, checks, checkbooks, invoices, requisitions or material similar to any of the foregoing

however denominated, by whomever prepared, and to whomever addressed, which are in your possession, custody or control or to which you have had or can obtain access.

"Persons" means an individual, corporation, partnership, trust, associations, company, organization, or any form of a business or commercial entity

"Identify" when used with respect to an individual, means to state (1) their name; (2) business affiliation and official title and/or position; and (3) their last known residential and business address.

"Identify" when used with respect to a document, means to state (1) the type of document (e.g. letter, memorandum, hand-written note, facsimile, e-mail); (2) its date of origin or creation; (3) its author and addressee; (4) its last known custodian or locations; and (5) a brief description of its subject matter and size. In lieu of identifying any document(s), you may attach a copy of it to your answer, indicating the question to which it is responsive.

“Exhibits” means shows factual evidence to the document request

INSTRUCTIONS

Each response to all the document requests should be labeled separately with a reference to the Document Request No you are responding to. If for some reason a document request cannot be fulfilled or sent to the Applicant, you must state the detailed reason(s) as to why the documents are not available. If you object to any document request, you must state the detailed reason(s) as to why you are objecting to the document requests.

DOCUMENT REQUESTS

REQUEST 1: All documents in your possession starting from the launch of Opposer’s first date of business that identifies the company’s full legal business name(s) and all brand names that were marketed in commerce since its’ inception to your consumers. If your company underwent various business name changes, please supply documentation with dates to support evidence of those changes. If there are business names or brand names that are no longer in use by the Opposer, please state those details and reasons why those names are no longer in use.

REQUEST 2: Documents that exhibits your ownership of any social media websites (Instagram, Facebook, LinkedIn, Pinterest, Twitter, YouTube) and other web based platforms that the Opposer uses to distribute, promote, and market all goods in commerce to consumers in the United States and outside of the United States.

REQUEST 3: Documents relating to your ownership of website domains, online shopping websites, and other ecommerce platforms in which the Opposes uses to sell goods directly to consumers and other external parties.

REQUEST 4: Documents in your possession that relate to Opposer's motive, intention, and reasons to file the opposition prior to your Notice of Opposition's filing date on December 4, 2019.

REQUEST 5: Documents in your possession that relate to Opposer's reason to include Joseph Cohen, President of National Mill Industry, as one of the sole employees with discoverable information in your initial disclosures.

REQUEST 6: All Opposer's quarterly financial records and financial statements audited or unaudited between May 2019 and present.

REQUEST 7: Documents that exhibits where each product sold by the Opposer is manufactured. Please include the states and geographical locations of those vendors within the U.S. and outside of the United States.

REQUEST 8: Documents in your possession that evidences all marketing expenses the Opposer paid between May 2019 to present to promote its' goods in commerce with your CARNIVAL Family of Marks

REQUEST 9: Documents in your possession that identifies words, mottos, slogans, catchphrases, tags, and verbal statements used by the Opposer to market, distribute, and promote all these goods to their consumers in person, in stores, online, and other sales channels in the United States and outside of the United States.

REQUEST 10: Documents in your possession aside from what you have already submitted to the Trademark Trial and Appeal Board that supports the Opposer's Likelihood to Cause Confusion claim in your opposition.

REQUEST 11: Photographic evidence of all labels, tags, wrapping, and packaging of each type of good listed in the Opposer's CARNIVAL Family of Marks trademark registrations. Front and Back image of each good should be submitted.

REQUEST 12: Two copies of each item: sale announcements, email blasts, invoices, sale receipts, thank you emails to customers, order confirmation emails that was submitted to the Opposer's consumers before or after a good is purchased.

REQUEST 13: Two copies of invoices that is submitted to the Opposer's vendors, retail stores, and wholesalers.

REQUEST 14: Documents exhibiting special sale announcements, inserts, flyers, posters, and catalogs that were sent to the Opposer's targeted consumers between May 2019 to present.

REQUEST 15: Documents detailing the Opposer's future business plans, brand name plans, and trademark name plans for their business in the near future

REQUEST 16: Documents relating to consumer awareness of the CARNIVAL Family of Marks in commerce.

REQUEST 17: Documents exhibiting the popularity of the CARNIVAL Family of Marks in commerce (expert witness statements, statistics, surveys, and reports).

Respectfully submitted, the 12th day of February, 2020.

By:/Ashley James/
Ashley James
PO Box 150365
Kew Gardens, NY 11415
Email:ajames7200@gmail.com

Applicant

CERTIFICATE OF SERVICE

I hereby certify that on the 12th day of February, 2020, a copy of the foregoing **APPLICANT'S FIRST SET OF REQUESTS FOR PRODUCTION** has been served electronically via email to the correspondent on record for the Opposer at the following address:

Stacy J. Grossman
Law Office of Stacy J. Grossman, PLLC
888 Seventh Avenue, 10th Floor
New York, NY 10106
Email: stacy@stacygrossmanlaw.com
ipDocket@stacygrossmanlaw.com

By:/Ashley James/
Ashley James
PO Box 150365
Kew Gardens, NY 11415
Email: ajames7200@gmail.com

Applicant

EXHIBIT 2



Ashley James <ajames7200@gmail.com>

TTAB Order - Do Not Reply By E-mail. Mail Box Not Monitored - proceeding 91252685

Ashley James <ajames7200@gmail.com>

Tue, Jul 28, 2020 at 7:04 PM

To: Stacy Grossman <stacy@stacygrossmanlaw.com>

Stacy,

Hope all is well!

As I am sure that you have received a notification today with the board rejecting my motion for summary judgment and we have 30 days to respond to the board order with an agreed decision on how we are resuming proceedings.

After reviewing their response, I am interested in resuming proceedings without the ACR method which means the next trial deadline date continues to I believe November 25, 2020 which says Expert Disclosures are Due as noted in their submission.

Since my mark is causing zero interference with National Mill Industry Inc consumer demographics and your client alleges the mark is confusingly similar to their "Family of Marks", it makes perfect sense to move this unnecessary opposition forward to the full remaining dates of the trial schedule.

So let me know your thoughts and you can draft a notice to submit to the board order with our signed signatures.

I look forward to hearing from you soon.

Ashley James

[Quoted text hidden]



Ashley James <ajames7200@gmail.com>

TTAB Order - Do Not Reply By E-mail. Mail Box Not Monitored - proceeding 91252685

Stacy Grossman <stacy@stacygrossmanlaw.com>

Wed, Jul 29, 2020 at 12:39 PM

To: Ashley James <ajames7200@gmail.com>

Hello Ashley -

I did receive and review the decision.

Are you unwilling to speak with the USPTO attorney handling this matter to discuss this possibility of accelerated resolution? If so, then there's no need to contact the Board - we can just proceed with the existing schedule. If this is something you do want to discuss, we can arrange a time for a conference call. Please confirm either way.

I note that in its Order, the Board recommended that you get an attorney. See page 11. I agree, and if you do engage counsel to represent you in this matter, please put me in touch with that person.

Sincerely,
Stacy Grossman

[Quoted text hidden]

--



Law Office of Stacy J. Grossman PLLC

t. [212.873.6120](tel:212.873.6120) c. [917.693.9143](tel:917.693.9143)www.stacygrossmanlaw.com

CONFIDENTIALITY. This email and any attachments are confidential, except where the email states it can be disclosed; it may also be privileged. If received in error, please do not disclose the contents to anyone, but notify the sender by return email and delete this email (and any attachments) from your system.



Ashley James <ajames7200@gmail.com>

TTAB Order - Do Not Reply By E-mail. Mail Box Not Monitored - proceeding 91252685

Ashley James <ajames7200@gmail.com>

Wed, Jul 29, 2020 at 1:21 PM

To: Stacy Grossman <stacy@stacygrossmanlaw.com>

Stacy,

Thanks for the prompt response. As I am aware that you have not withdrawn this opposition, we can certainly continue with the remaining trial schedule without the accelerated resolution that was recommended in the board's decision.

Just sending you an email to confirm my final decision on this matter.

Best Regards,
Ashley James
[Quoted text hidden]



Ashley James <ajames7200@gmail.com>

TTAB Order - Do Not Reply By E-mail. Mail Box Not Monitored - proceeding 91252685

Stacy Grossman <stacy@stacygrossmanlaw.com>
To: Ashley James <ajames7200@gmail.com>

Wed, Jul 29, 2020 at 1:36 PM

Understood.

[Quoted text hidden]

EXHIBIT 3



Ashley James <ajames7200@gmail.com>

Letter and Request for Telephone Call to Discuss Discovery

Ashley James <ajames7200@gmail.com>
To: Stacy Grossman <stacy@stacygrossmanlaw.com>
Cc: Kelly Glenn <kelly@stacygrossmanlaw.com>

Mon, Aug 3, 2020 at 7:13 PM

Stacy,

Hope you had a terrific weekend!

See the following attached documents in reference to Opposition Proceeding 91252685.

Attached to this email are the following items....

- Notice/Letter - addressing the National Mill Industry, Inc Past Due First Set of Interrogatories and Document Requests that you received from me back in February 2020
- Copy of the missing First Set of Interrogatories and Document Requests that National Mill Industry Inc. did not complete on time
- Notice/Letter - addressing the Second Set of Interrogatories for National Mill Industry, Inc which are due within 30 days from the date of Service
- A copy of the Second Set of Interrogatories for Opposer, National Mill Industry, Inc for you to complete
- A copy of the First Request for Admission for Opposer, National Mill Industry, Inc which are also due within 30 days from the date of service

All of the files attached are pretty straightforward and require detailed comprehensible responses. As we are preparing for trial, discovery will continue to be ongoing until Christmas Day.

Audit season is around the corner, so that means I have high volumes of work to do. All future communications, discovery requests inquiries, generic questions, miscellaneous subjects should be in writing and sent via email.

I am looking forward to collecting the past due First Set of Interrogatories/Document Requests from you this Friday, August 7, 2020. As well as the Second Set of Interrogatories and First Set of Admission Request within 30 days from the date of service.

Best Regards,
Ashley James
[Quoted text hidden]

4 attachments

-  **8.3.20 Notice- Past Due Interrogatories and Document Requests.pdf**
1046K
-  **8.3.20 - Second Set of Interrogatories - National Mill Industry Letter.pdf**
66K
-  **Second Set of Interrogatories - National Mill Industry 8.3.20 (1).pdf**
110K
-  **REQUEST FOR ADMISSION - National Mill Industry 8.3.20 (1).pdf**
120K

Ashley James
PO Box 150365
Kew Gardens, NY 11415

August 3, 2020

VIA EMAIL

Stacy J. Grossman
Law Office of Stacy J. Grossman, PLLC
888 Seventh Avenue, 10th Floor
New York, NY 10106
Email: stacy@stacygrossmanlaw.com

Subject: Missing Responses for Applicant's First Set of Interrogatories and Document Requests for National Mill Industry, Inc.

Dear Stacy,

As we both have agreed to proceed with this opposition proceeding without Accelerated Case Resolution (ACR), there are items that National Mill Industry Inc never submitted.

Both parties must follow through with all requests until the close of the discovery period.

As of today's date, August 3, 2020, you failed to respond to the Applicant's First Set of Interrogatory Responses and Document Requests for National Mill Industry Inc. in relation to Opposition Proceeding 91252685 – Application Serial No. 88416188.

The below documents are **significantly past due** and was supposed to be submitted to my attention back in March 2020 (approximately 5 months ago). At this phase in this proceeding, there was substantial time for you and your client to supply your interrogatory answers and document requests.

1) Document Name: Applicant's First Set of Interrogatories to Opposer -**PAST DUE**
Delivered to you via email on February 12, 2020
Not Received as of August 3, 2020

2) Document Name: Applicant's First Set of Productions – **PAST DUE**
Delivered to you via email on February 12, 2020
Not Received as of August 3, 2020

Enclosed with this letter are the following:

- A printout of the email that you received requesting you to complete these documents on February 12, 2020
- A printout of the email where you acknowledged receiving these documents back in February 2020
- A copy of the Applicant's First Set of Interrogatories to Opposer and a copy Applicant's First Set of Productions Requests for National Mill Industry

Promptly submit the above missing documents upon receipt of this letter by this Friday, August 7, 2020.

As mentioned in prior email communications, you are certainly welcome to continue your inquiries via emails.

I am looking forward to collecting these outstanding documents from National Mill Industry Inc.

Thank you for your prompt attention on this matter!

Best Regards,
Ashley James



Ashley James <ajames7200@gmail.com>

Action Required: Initial Disclosures and First Set of Interrogatories Opposition No. 91252685

Ashley James <ajames7200@gmail.com>

Wed, Feb 12, 2020 at 7:22 AM

To: Stacy Grossman <stacy@stacygrossmanlaw.com>

Cc: jcohen@natmills.com, Kelly Glenn <kelly@stacygrossmanlaw.com>

Good Morning,

As you are aware, the discovery period has opened for the Opposition you filed against Application Serial No. 88416188 with the USPTO Trademark Trial and Appeal Board (TTAB)

Attached to this email are the following documents that are appropriate for the trial:

- Applicant's Initial Disclosures
- Applicant's First Set of Interrogatories
- Word Document copy of the Interrogatories that you are required to answer and return

Please note:

- All Interrogatories and additional discovery requests **will be ongoing and sent directly to National Mills Industry's Attorney until the close of the discovery period (see trial date schedule)**
- No conversations about settlement and trademark abandonment will be discussed upon your receipt of this email (Applicant already discussed this with Attorney during the Discovery Conference)
- All communications between counsel and Applicant must be in writing and submitted to Applicant via email communications.
- If you the, "Opposer" wishes to withdraw the opposition, please kindly state that in writing and file that statement via the Trademark Trial and Appeal Board
- All answers to the Interrogatories **must be answered in writing under oath and served to the applicant within 30 days after receipt.** (See federal guidelines)
- Failure to answer any of the Interrogatories and other discovery requests will result in filing motions to compel discovery
- Applicant has no attorney at this time. All statements must be served to the Applicant.

As I mentioned in the Answer to the Opposition, I am confident that you are intentionally delaying the approval of the Trademark Application using court proceedings. Your client is 100% responsible for providing facts and evidence to support all claims you mentioned in the Notice of Opposition and demand letter.


Keep in mind, I will routinely check my emails throughout the day but I will not be able to chat on the phone as I have other important pressing deadlines with clients to focus on this month and the next.


Thank you for your cooperation in advance.

Best Regards,
Ashley James

3 attachments

 **Applicant's Initial Disclosures - Opposition 91252685 2.12.20.pdf**
399K

 **Applicant - First Set of Interrogatories - Opposition Proceeding 91252685 2.12.20.pdf**
425K

 **INTERROGATORIES_ Opposition No. 91252685 - For National Mill Industry.docx**
14K



Ashley James <ajames7200@gmail.com>

Action Required: Applicant's First Set of Requests for Production - Opposition No. 91252685

Ashley James <ajames7200@gmail.com>

Wed, Feb 12, 2020 at 9:45 PM

To: Stacy Grossman <stacy@stacygrossmanlaw.com>

Stacy,

Attached to this email is the Applicant's First Set of Production Requests to be fulfilled by your client.

Thanks for your cooperation in advance.

Best Regards,
Ashley James

 **Applicant's First Set of Production Requests - Opposition 91252685 2.12.20.pdf**
404K

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

NATIONAL MILL INDUSTRY, INC.

Opposer,

v.

ASHLEY JAMES, DBA CARNIVAL MODE

Applicant,

OPPOSITION NO: 91252685

MARK: CM CARNIVAL MODE

APPLICATION SERIAL NO: 88416188

PUBLISHED IN OFFICIAL GAZETTE

OCT 15, 2019

APPLICANT’S FIRST SET OF INTERROGATORIES TO OPPOSER

You are hereby served with the Applicant’s First Set of Interrogatories for the Opposition Proceeding No. 91252685 filed by (“You”) (“Opposer”), National Mill Industry, Inc. Pursuant to Rule 33 of the Federal Rules of Civil Procedure, you are required to fully answer in writing under oath each interrogatory with any answers or objections within 30 days after the date of service of the interrogatories.

INSTRUCTIONS

Responses to these interrogatories, document requests, and other discovery requests shall be submitted electronically via email and the originals should be mailed directly to Ashley James (“Applicant”) with notarized signatures of the attorney and each person(s) answering the interrogatories. Any incomplete or ambiguous answers to the interrogatories and document requests will be observed as a failure to answer. If an answer to an Interrogatory is left blank, ignored, or skipped, this will also be viewed as a failure to answer. If for some reason an Interrogatory cannot be answered, you must state in full detail why you cannot provide a response

to the Interrogatory. If any Interrogatory must be answered with documents, printouts, and other printable data information, you must attach those documents with references to the Interrogatories you are responding to.

DEFINITIONS

“You”, “Your”, “Opposer” means National Mill Industry, Inc.

“Applicant” means Ashley James

“Identify” means you should list names and business addresses of individual(s) persons employed by National Mills Industry, Inc and other witnesses if applicable

“State” means you must express in detail your responses to the interrogatories on a factual basis

“Explain” means you shall disclose all truthful explanations, reasons, information, and clarifications for any interrogatories on a factual basis

“Documents” shall mean any printed, typewritten, publications, articles, statements, announcements, computer printouts, files, reports, photographs, images, database records, email correspondence, written agreements, contracts, statistics, surveys, charts, posters, marketing materials, advertisements, receipts, worksheets, meeting minutes, letters, accounting records, company records, digital copies, personal records, business records, bank statements, graphics, notes, drawings, transcripts, memos, exported data and etc. Documents shall mean any recorded matter that is in “tangible form”. “Tangible” means items that can be physically touched.

“Goods/Services” Each item, product, or service that is sold to consumers

For interrogatories with document requests, please do the following:

- 1) state the nature of the document (letter, publication, invoice)
- 2) the author or sender of the document
- 3) the recipient of the document
- 4) the date the document was printed, sent or authored
- 5) the reason why the document is restricted or confidential

“CARNIVAL Family of Marks” means Opposer’s Trademark Owner Registration Numbers 2,020,106, 4,297,862, 5,249,742, 5,527,373, 5,742,984, 5,675,765, 5,807,860, 5,675,766, and pending application Serial No. 87/847,156

“Applicant’s Mark” means CM CARNIVAL MODE, pending Application Serial No. 88416188

INTERROGATORIES

INTERROGATORY 1: Identify the names of all individuals and witnesses likely to have discoverable information to support the Opposer's claims/defenses in the opposition.

INTERROGATORY 2: Identify all persons involved in the designs, branding, and adoption of the CARNIVAL Family of Marks owned the Opposer.

INTERROGATORY 3: Describe in detail when and where did the Opposer first sell the goods/services under the Opposer's CARNIVAL FAMILY OF MARKS.

INTERROGATORY 4: State each state, country, and all other geographical locations where the Opposer sells their goods/service to consumers under the (CARNIVAL Family of Marks)

INTERROGATORY 5: State each type of goods/service that is sold by the Opposer under the CARNIVAL Family of Marks.

INTERROGATORY 6: Provide documents including photographic evidence that shows the packaging of each type of goods/service that is sold by the Opposer under the CARNIVAL Family of Marks

INTERROGATORY 7: State all facts, documents, law, and other information that the Opposer will rely on to support their Likelihood to Cause Confusion claim in the opposition

INTERROGATORY 8: State all facts and provide documents that shows evidence that the Opposer lost sales as a direct result of the Applicant's mark in commerce

INTERROGATORY 9: State all facts and provide documents that shows evidence that the Opposer's brand was damaged by the Applicant's mark in commerce

INTERROGATORY 10: State each advertising and promotion method (in-store advertising, online advertising, and outdoor advertising) that the Opposer uses to promote their goods/service in commerce under the CARNIVAL Family of Marks

INTERROGATORY 11: State each sales/distribution channel that the Opposer uses to sell goods/services under the CARNIVAL Family of Marks

INTERROGATORY 12: List all the retail stores and online stores where the Opposer sells goods/services under the CARNIVAL Family of Marks

INTERROGATORY 13: State all domains and websites presently owned and previously owned by the Opposer in which consumers are accessing to acquire goods sold by the Opposer

INTERROGATORY 14: Explain in detail all the similarities in overall design and appearance between the Applicant's Mark and the Opposer's CARNIVAL Family of Marks.

INTERROGATORY 15: State in detail all the similarities in relatedness of goods sold between the Applicant and the Opposer.

INTERROGATORY 16: Describe in detail the number of individuals who are actually confused between the Applicant's and Opposer's marks (Any confused person can include consumers and other individuals employed by National Mills Industry, Inc.).

INTERROGATORY 17: Provide facts and documents from consumers and any other individuals employed at National Mill Industry complaining about the actual confusion between the Applicant's Mark and CARNIVAL Family of Marks.

INTERROGATORY 18: Describe and state evidences in which anyone has communicated and inquired to the Opposer about whether there was a connection between the Applicant's goods/services and Opposer's goods/services.

INTERROGATORY 19: Provide documents that shows the Opposer's CARNIVAL Family of Marks was distinctive prior to the date of Applicant's first use of the CM CARNIVAL MODE mark.

INTERROGATORY 20: Briefly state the meaning of the words "CARNIVAL", "CARNIVAL CREATIONS", "CARNIVAL ACTIVE", "CARNIVAL GIRL", "CARNIVAL INTIMATES", "CARNIVAL FASHION" in the Opposer's branding.

INTERROGATORY 21: Answer Yes or No.

Are you recognized as a well-known bridal brand in the United States and other geographical locations?

INTERROGATORY 22: Answer Yes or No.

Are you recognized as a wholesale bra and lingerie company in the United States and other geographical locations?

INTERROGATORY 23: Answer Yes or No.

Did you acknowledge that other third parties and companies registered the word “CARNIVAL” for other goods prior to the Opposer’s filing date as displayed in the United States Trademark Database?

INTERROGATORY 24: Answer Yes or No.

Do you admit that CARNIVAL is a worldwide word that existed in the English language prior to the Opposer’s alleged first use in commerce?

Respectfully submitted, the 12th day of February, 2020.

By:/Ashley James/
Ashley James
PO Box 150365
Kew Gardens, NY 11415
Email:ajames7200@gmail.com

Applicant

CERTIFICATE OF SERVICE

I hereby certify that on the 12th day of February, 2020, a copy of the foregoing **APPLICANT'S FIRST SET OF INTERROGATORIES TO OPPOSER** has been served electronically via email to the correspondent on record for the Opposer at the following address:

Stacy J. Grossman
Law Office of Stacy J. Grossman, PLLC
888 Seventh Avenue, 10th Floor
New York, NY 10106
Email: stacy@stacygrossmanlaw.com
ipDocket@stacygrossmanlaw.com

By:/Ashley James/
Ashley James
PO Box 150365
Kew Gardens, NY 11415
Email: ajames7200@gmail.com

Applicant

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

NATIONAL MILL INDUSTRY, INC
Opposer,

v.

ASHLEY JAMES, DBA CARNIVAL MODE
Applicant,

OPPOSITION NO: 91252685

MARK: CM CARNIVAL MODE

APPLICATION SERIAL NO: 88416188

PUBLISHED IN OFFICIAL GAZETTE

OCT 15, 2019

APPLICANT’S FIRST SET OF REQUESTS FOR PRODUCTION

In accordance with Rule 37 CFR § 2.120 and Rule 34 of the Federal Rules of Civil Procedure, Ashley James (“Applicant”) requests that National Mill Industry, Inc. (“Opposer”) produces the following documents to be examined by the Applicant for this trial. All documents should be sent to Applicant electronically within thirty (30) days after the service of these requests. These requests will be ongoing throughout the trial.

DEFINITIONS

"You", "your" “their” and “Opposer” refers to National Mill Industry, Inc herein and to all other persons acting on behalf of the Opposer

"Communications" shall mean all inquiries, statements, discussions, conversations, negotiations, agreements, understandings, meetings, telephone conversations, letters, correspondence, notes, telegrams, telexes, advertisements, facsimiles, e-mails, or other forms of verbal and/or communicative intercourse.

"Documents" shall mean all written, typed statements, photographic items, presentations, marketing materials, whether draft or final, original or reproduction signed or unsigned, and regardless of whether approved, signed, sent, received, redrafted, or executed, including but not limited to: reports, accounting records, financial records, business records, written communications, letters, correspondence, facsimiles, e-mail, memoranda, minutes, notes, films, recordings, of any type, transcripts, contracts, agreements, purchase or sales orders, memoranda of telephone conversations of personal conversations, diaries, desk calendars, interoffice communications, reports, studies, bills, receipts, checks, checkbooks, invoices, requisitions or material similar to any of the foregoing

however denominated, by whomever prepared, and to whomever addressed, which are in your possession, custody or control or to which you have had or can obtain access.

"Persons" means an individual, corporation, partnership, trust, associations, company, organization, or any form of a business or commercial entity

"Identify" when used with respect to an individual, means to state (1) their name; (2) business affiliation and official title and/or position; and (3) their last known residential and business address.

"Identify" when used with respect to a document, means to state (1) the type of document (e.g. letter, memorandum, hand-written note, facsimile, e-mail); (2) its date of origin or creation; (3) its author and addressee; (4) its last known custodian or locations; and (5) a brief description of its subject matter and size. In lieu of identifying any document(s), you may attach a copy of it to your answer, indicating the question to which it is responsive.

“Exhibits” means shows factual evidence to the document request

INSTRUCTIONS

Each response to all the document requests should be labeled separately with a reference to the Document Request No you are responding to. If for some reason a document request cannot be fulfilled or sent to the Applicant, you must state the detailed reason(s) as to why the documents are not available. If you object to any document request, you must state the detailed reason(s) as to why you are objecting to the document requests.

DOCUMENT REQUESTS

REQUEST 1: All documents in your possession starting from the launch of Opposer’s first date of business that identifies the company’s full legal business name(s) and all brand names that were marketed in commerce since its’ inception to your consumers. If your company underwent various business name changes, please supply documentation with dates to support evidence of those changes. If there are business names or brand names that are no longer in use by the Opposer, please state those details and reasons why those names are no longer in use.

REQUEST 2: Documents that exhibits your ownership of any social media websites (Instagram, Facebook, LinkedIn, Pinterest, Twitter, YouTube) and other web based platforms that the Opposer uses to distribute, promote, and market all goods in commerce to consumers in the United States and outside of the United States.

REQUEST 3: Documents relating to your ownership of website domains, online shopping websites, and other ecommerce platforms in which the Opposes uses to sell goods directly to consumers and other external parties.

REQUEST 4: Documents in your possession that relate to Opposer's motive, intention, and reasons to file the opposition prior to your Notice of Opposition's filing date on December 4, 2019.

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REQUEST 9: Documents in your possession that identifies words, mottos, slogans, catchphrases, tags, and verbal statements used by the Opposer to market, distribute, and promote all these goods to their consumers in person, in stores, online, and other sales channels in the United States and outside of the United States.

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REQUEST 11: Photographic evidence of all labels, tags, wrapping, and packaging of each type of good listed in the Opposer's CARNIVAL Family of Marks trademark registrations. Front and Back image of each good should be submitted.

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REQUEST 14: Documents exhibiting special sale announcements, inserts, flyers, posters, and catalogs that were sent to the Opposer's targeted consumers between May 2019 to present.

REQUEST 15: Documents detailing the Opposer's future business plans, brand name plans, and trademark name plans for their business in the near future

REQUEST 16: Documents relating to consumer awareness of the CARNIVAL Family of Marks in commerce.

REQUEST 17: Documents exhibiting the popularity of the CARNIVAL Family of Marks in commerce (expert witness statements, statistics, surveys, and reports).

Respectfully submitted, the 12th day of February, 2020.

By:/Ashley James/
Ashley James
PO Box 150365
Kew Gardens, NY 11415
Email:ajames7200@gmail.com

Applicant

CERTIFICATE OF SERVICE

I hereby certify that on the 12th day of February, 2020, a copy of the foregoing **APPLICANT'S FIRST SET OF REQUESTS FOR PRODUCTION** has been served electronically via email to the correspondent on record for the Opposer at the following address:

Stacy J. Grossman
Law Office of Stacy J. Grossman, PLLC
888 Seventh Avenue, 10th Floor
New York, NY 10106
Email: stacy@stacygrossmanlaw.com
ipDocket@stacygrossmanlaw.com

By:/Ashley James/
Ashley James
PO Box 150365
Kew Gardens, NY 11415
Email: ajames7200@gmail.com

Applicant

Ashley James
PO Box 150365
Kew Gardens, NY 11415

August 3, 2020

VIA EMAIL

Stacy J. Grossman
Law Office of Stacy J. Grossman, PLLC
888 Seventh Avenue, 10th Floor
New York, NY 10106
Email: stacy@stacygrossmanlaw.com

Subject: Applicant's Second Set of Interrogatories for National Mill Industry, Inc. –
Opposition No. 91252685

Dear Stacy,

Please see the enclosed Applicant's Second Set of Interrogatories for National Mill Industry, Inc. **Your responses are due within 30 days from the certificate of service date.**

In your opposition to the Applicant's Motion for Summary Judgment, you stated before the Trademark Trial and Appeal Board that the Applicant made "brazen assertions". National Mill Industry Inc has the opportunity to explain in specific detailed sentences the reasons why you disputed several statements that were made in the Applicant's Motion for Summary Judgment.

It would be valuable for National Mill Industry Inc to provide straight to the point responses for all past due and future interrogatory responses and other forthcoming discovery requests. Given that you filed this opposition in December 2019, you have yet to contribute any authentic or genuine responses throughout this opposition proceeding relating to how the Applicant's mark is likely to cause confusion in the marketplace if the registration was approved.

I am looking forward to seeing in writing directly from you how the Applicant has presented "brazen assertions" before the Trademark Trial and Appeal Board thus far in this proceeding.

Thank you for your cooperation and prompt handling on this request in advance!

Best Regards,

Ashley James

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

National Mill Industry, Inc.

Opposer,

v.

ASHLEY JAMES, DBA CARNIVAL MODE

Applicant,

MARK: CM CARNIVAL MODE

APPLICATION SERIAL NO: 88416188

PUBLISHED IN OFFICIAL GAZETTE

OCT 15, 2019

APPLICANT'S SECOND SET OF INTERROGATORIES FOR OPPOSER

You are hereby served with the Applicant's Second Set of Interrogatories for the Opposition Proceeding No. 91252685 filed by ("You") ("Opposer"), National Mill Industry, Inc. Pursuant to Rule 33 of the Federal Rules of Civil Procedure, you are required to fully answer each interrogatory in writing under oath with answers or objections within 30 days after the date of service.

INSTRUCTIONS

Responses to these interrogatories and other discovery requests shall be submitted electronically via email and the originals should be mailed directly to the Applicant, Ashley James (PO Box 150365 Kew Gardens, NY 11415), with notarized signatures of the attorney and each person(s) answering the interrogatories. Any incomplete answers to these interrogatory requests will be observed as a failure to answer. If an answer to an interrogatory is left blank, ignored, or skipped, this will also be viewed as a failure to answer. If for some reason an interrogatory cannot be answered, the answering party ("National Mill Industry, Inc) must state in full detail why you cannot provide a response.

DEFINITIONS

“You”, “Your”, “Opposer” means National Mill Industry, Inc.

“Applicant” means Ashley James, owner of Application Serial No. 88416188

“Applicant’s Mark” means the CM CARNIVAL MODE design mark that was opposed by National Mill Industry, Inc.

“Opposer’s Marks” collectively describes the Opposer’s pleaded trademark registrations in the Notice of Opposition filed by National Mill Industry, Inc.

“Identify” means you shall state the names of individuals(s) including persons at National Mill Industry Inc who is knowledgeable or has information relevant to the interrogatory request. “Identify” means specifying individuals and/or documents to the best of your personal knowledge.

“State” means you shall respond truthfully to the interrogatory by expressing in full detail to the best of your personal knowledge

“Describe” means you shall give a truthful account in words of (someone or something) including all the relevant characteristics, qualities, or events

“Explain” means you shall state in full detail all truthful accounts, explanations, reasons, information and explanations to the subject(s) or matter(s) in question

“Specify” means you shall state a fact clearly and precisely to the subject or matter in question

“Documents” shall mean any printed, typewritten, publications, articles, statements, announcements, computer printouts, files, reports, photographs, images, database records, email correspondence, written agreements, contracts, statistics, surveys, charts, posters, marketing materials, advertisements, receipts, worksheets, meeting minutes, letters, accounting records, company records, digital copies, personal records, business records, bank statements, graphics, notes, drawings, transcripts, memos, exported data and etc. Documents shall mean any recorded matter that is in “tangible form”. “Tangible” means items that can be physically touched.

“Communication” and “Communications” means any interaction, discussion, meeting, conference, face-to-face conversation, events where information was exchanged verbally or electronically, telephone conversation, email conversation, text messages, announcements, and any verbalized expressions

“Goods” and “Services” means items, products, and services that is being sold to consumers in the marketplace

“Facts” means circumstances, events, and evidence pertaining to or touching upon the subject or matter(s) in question

INTERROGATORY 1: Explain and specify in full detail the characterization of the Opposer, National Mill Industry, Inc. and State whether the Opposer is recognized as a wholesale bridal bra company under the Opposer's marks. (Reference- Opposer's dispute in 7 TTABVUE)

INTERROGATORY 2: Explain and specify in full detail how the Applicant's CM CARNIVAL MODE design mark has the same sound, appearance, connotation, and commercial impression as the Opposer's marks. (Reference- Opposer's dispute in 7 TTABVUE)

INTERROGATORY 3: Explain and specify in full detail the similarities in sales/trade channels between the Applicant and Opposer's marks. (Reference – Opposer's dispute in 7 TTABVUE)

INTERROGATORY 4: State each website, online store and retail store that the Opposer, National Mill Industry witnessed both the Applicant and Opposer's marks are crossing paths with customers in marketplace.

INTERROGATORY 5: Explain and specify in full detail how there are no significant dissimilarities between both the Applicant's application and Opposer's registrations. (Reference – Opposer's dispute in 7 TTABVUE).

INTERROGATORY 6: Explain and specify in full detail how the Applicant and Opposer are operating in the same industry since the inception of the Applicant using the CM CARNIVAL MODE design mark. State the industry(s) in which the Applicant and Opposer's marks are coexisting in commerce. (Reference – Opposer's dispute in 7 TTABVUE)

INTERROGATORY 7: Explain and specify in full detail what are the typical customers between the Applicant and Opposer's marks in commerce. (Reference – Opposer's dispute in 7 TTABVUE).

INTERROGATORY 8: Explain and specify in full detail why the Opposer disputes the conclusions that the Applicant has drawn about similar marks in use on similar goods in the Applicant's Motion for Summary Judgment. (Reference – Opposer's dispute in 7 TTABVUE)

INTERROGATORY 9: Explain and specify in full detail how the Applicant's mark is identical in visual presentation and relatedness of goods to the Opposer's marks (Reference – Opposer's dispute in 7 TTABVUE).

INTERROGATORY 10: Explain and specify in full detail why consumers will view the Applicant's mark as a member of the Opposer's marks (Reference – Opposer's dispute in 7 TTABVUE).

INTERROGATORY 11: Explain and specify in full detail what confusion presently exists in commerce between the Applicant and Opposer's marks (Reference – Opposer's dispute in 7 TTABVUE).

INTERROGATORY 12: Explain and specify in full detail how the Applicant is one of the Opposer's competitors in the bridal industry (Reference – Opposer's dispute in 7 TTABVUE).

INTERROGATORY 13: Explain and specify in full detail how the connotation of the Applicant and Opposer's marks are closely related in commerce. (Reference – Opposer's dispute in 7 TTABVUE)

INTERROGATORY 14: Identify the predecessors you referenced in Opposer’s Notice of Opposition (Reference – Opposer’s Notice of Opposition 1 TTABVue).

INTERROGATORY 15: Identify and specify the year that National Mill Industry Inc physically owned or acquired rights to the CARNIVAL the trademark registration, 2020106

INTERROGATORY 16: Explain and specify in full detail how each of the Opposer’s marks are famous within in the marketplace.

INTERROGATORY 17: Explain and specify in full detail how each of the Opposer’s marks are widespread at Caribbean Carnivals, Soca events, and other Caribbean events in the United States and outside of the United States.

INTERROGATORY 18: Explain and specify in full detail the length of time (by months/years) in business that the Opposer, National Mill Industry, Inc is recognized by the consuming public as “C M”. In other words, explain in full details how long National Mill Industry, Inc goes by “C M” in the marketplace.

INTERROGATORY 19: Explain and specify in full detail the length of time (by months/years) in business that the Opposer has utilized the word “MODE” in their trademarks, price tags, social media posts, publications, newsletters, promoted the word “MODE” with their merchandise, and advertised their goods on social media with the word “MODE” to consumers.

INTERROGATORY 20: Explain and specify in full detail the length of time (by months/years) in business that the Opposer, National Mill Industry, Inc has met consumer demand to manufacture clothing for customers attending Caribbean Carnivals.

INTERROGATORY 21: Describe and specify in full detail the length of time (by months/years) in business that the Opposer, National Mill Industry, Inc has met consumer demand to manufacture clothing with interest in the Caribbean culture and Soca music genre.

INTERROGATORY 22: Describe and specify in full detail the length of time (by months/years) in business that the Opposer, National Mill Industry, Inc utilizes Caribbean flags to promote and sell goods to consumers in the marketplace.

INTERROGATORY 23: Explain and specify in full detail whether the Opposer’s marks are descriptive of their clothing in the marketplace.

INTERROGATORY 24: Explain and specify in full detail why the Opposer disclaimed the words “CREATIONS”, “INTIMATES”, “FASHION”, “GIRL”, “ACTIVE” in all their pleaded trademark registrations.

CERTIFICATE OF SERVICE

I hereby certify that on the 3rd day of August, 2020, a copy of the foregoing **APPLICANT'S SECOND SET OF INTERROGATORIES FOR OPPOSER** has been served electronically via email to the correspondent on record for the Opposer at the following address:

Stacy J. Grossman
Law Office of Stacy J. Grossman, PLLC
888 Seventh Avenue, 10th Floor New York, NY 10106
Email: stacy@stacygrossmanlaw.com
ipDocket@stacygrossmanlaw.com

By:/Ashley James/
Ashley James
PO Box 150365
Kew Gardens, NY 11415
Email: ajames7200@gmail.com

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

National Mill Industry, Inc.

Opposer,

v.

88416188

ASHLEY JAMES, DBA CARNIVAL MODE

Applicant,

MARK: CM CARNIVAL MODE

APPLICATION SERIAL NO:

PUBLISHED IN OFFICIAL GAZETTE
OCT 15, 2019

**APPLICANT’S FIRST REQUEST FOR ADMISSION FOR OPPOSER, NATIONAL
MILL INDUSTRY, INC**

You are hereby served with the Applicant’s Request for Admission for the Opposition Proceeding No. 91252685 filed by (“You”) (“Opposer”), National Mill Industry, Inc. Pursuant to Rule 36 of the Federal Rules of Civil Procedure, the answering party must either admit or deny the request, or state in full detail why you cannot truthfully answer the admission request. You are required to truthfully admit or deny each admission request within 30 days after the date of service.

Responses to the admission requests shall be submitted electronically via email and the originals should be mailed directly to the Applicant, Ashley James (PO Box 150365 Kew Gardens, NY 11415), with notarized signatures of the attorney and each person(s) answering the admission requests. Any incomplete responses to any admissions request will be observed as a failure to answer. If for some reason an admission request cannot be answered, you must state in full detail why you cannot provide a response. If the responding party (“National Mill Industry, Inc”) has objections to the admission request, you must state why you are objecting to this request.

DEFINITIONS

“You”, “Your”, “Opposer” means National Mill Industry, Inc.

“Applicant” means Ashley James, owner of Application Serial No. 88416188

“Applicant’s Mark” means the CM CARNIVAL MODE design mark that was opposed by National Mill Industry, Inc.

“Opposer’s Pledged Marks” collectively describes the Opposer’s pleaded trademark registrations in the Notice of Opposition filed by National Mill Industry, Inc.

“Marketplace” means platforms and spaces where exchanges occur between buyers and sellers.

“Witnessed” means you have truthful knowledge of an event or action from personal observation.

“Witnessed” also means the person(s) involved in the Opposer’s initial disclosures and attorney saw the event or action with their own eyes.

“Famous” means widespread reputation in the commerce nationally and globally

“Evidence” shall mean any printed, typewritten, publications, articles, statements, announcements, computer printouts, files, reports, photographs, images, database records, email correspondence, written agreements, contracts, statistics, surveys, charts, posters, marketing materials, advertisements, receipts, worksheets, meeting minutes, letters, accounting records, company records, digital copies, personal records, business records, bank statements, graphics, notes, drawings, transcripts, memos, exported data and etc. “Evidence” shall mean any recorded matter that is in “tangible form”. “Tangible” means items that can be physically touched.

“Communication” and “Communications” means any interaction, discussion, meeting, conference, face-to-face conversation, events where information was exchanged verbally or electronically, telephone conversation, email conversation, text messages, announcements, and any verbalized expressions.

“Goods” and “Services” means items, products, and services that is being sold to consumers in the marketplace.

“Facts” means circumstances, events, and evidence pertaining to or touching upon the subject or matter(s) in question.

REQUESTS FOR ADMISSION

REQUEST NO 1: National Mill Industry, Inc does not sell goods and manufactures clothing in the marketplace using “C M” to its consumers in various marketplaces, online shops, and retail stores within the United States.

_____Admit _____Deny

If denial, please state the reason why.

REQUEST NO 2: National Mill Industry, Inc does not sell goods and manufactures clothing in the marketplace using “CARNIVAL MODE” to its consumers in various marketplaces, online shops, and retail stores within the United States.

_____Admit _____Deny

If denial, please state the reason why.

REQUEST NO 3: The connotation and commercial impression of the Opposer’s pleaded marks in the Notice of Opposition are not in connection to the Caribbean Carnivals, SOCA/Reggae music genre, and Caribbean Culture.

_____Admit _____Deny

If denial, please state the reason why.

REQUEST NO 4: National Mill Industry, Inc did not witness the Applicant manufacturing or selling the following goods for women consumers (Reference: Opposer’s pleaded marks in Notice of Opposition) in commerce: foundation garments, shapewear, girdles, bras, sleepwear, loungewear, dresses, skirts, overalls, jumpers, underwear, robes, and socks.

_____Admit _____Deny

If denial, please state the reason why.

REQUEST NO 5: National Mill Industry, Inc did not witness the Applicant manufacturing or selling the following goods for women consumers (Reference: Opposer’s pleaded marks in Notice of Opposition) in commerce: Athletic apparel bras and underwear.

_____Admit _____Deny

If denial, please state the reason why.

REQUEST NO 6: National Mill Industry, Inc did not witness the Applicant manufacturing or selling the following goods for children consumers (Reference: Opposer’s pleaded marks in the Notice of Opposition) in commerce: Children Underwear, sleepwear, socks

_____Admit _____Deny

If denial, please state the reason why.

REQUEST NO 7: National Mill Industry, Inc does not have any evidence in their possession to show at trial that each of the Opposer’s pleaded marks in the Notice of Opposition are famous in the marketplace.

_____Admit _____Deny

If denial, please state the reason why.

REQUEST NO 8: Some of the Opposer’s pleaded marks in the Notice of Opposition are abandoned in commerce as of today’s date.

_____Admit _____Deny

If denial, please state the reason why.

REQUEST NO 9: National Mill Industry, Inc. does not have any evidence in their possession to show at trial that proves confusion actually took place in commerce between the Applicant and Opposer’s marks since May 2019.

_____Admit _____Deny

If denial, please state the reason why.

REQUEST NO 10: National Mill Industry, Inc. does not have any evidence in their possession to show at trial that the Opposer’s pleaded marks are commercially recognized by consumers in connection to the Caribbean culture and Caribbean Carnivals.

_____Admit _____Deny

If denial, please state the reason why.

REQUEST NO 11: National Mill Industry, Inc. does not have any evidence in their possession to show at trial that the Applicant’s mark is found in the same exact sales/trade channels as the Opposer’s marks.

_____Admit _____Deny

If denial, please state the reason why.

REQUEST NO 12: National Mill Industry, Inc. requested the Applicant, Ashley James to delete/remove all of the goods listed in her Trademark Application and leave only “T-Shirts” for the CM CARNIVAL MODE design mark.

_____Admit _____Deny

If denial, please state the reason why.

REQUEST NO 13: National Mill Industry, Inc filed this Notice of Opposition because the Applicant, Ashley James used the word “CARNIVAL” in her trademark application for CM CARNIVAL MODE design mark.

_____ Admit _____ Deny

If denial, please state the reason why.

REQUEST NO 14: National Mill Industry, Inc filed this Notice of Opposition because the Applicant, Ashley James is a sole proprietor.

_____ Admit _____ Deny

If denial, please state the reason why.

REQUEST NO 15: National Mill Industry, Inc. does not manufacture and sell the same identical goods as the Applicant in commerce using the Opposer’s pleaded marks: headbands against sweating, shirts, shorts, sweat shirts, sweaters, t-shirts, tank tops, beach cover-ups, graphic t-shirts, gym shorts, hooded sweatshirts for men, women, and children, panties, shorts and briefs, and short-sleeved or long-sleeved t-shirts

_____ Admit _____ Deny

If denial, please state the reason why.

REQUEST NO 16: National Mill Industry, Inc. is a wholesale manufacturer selling goods for women consumers in the United States under the label “CARNIVAL CREATIONS” and “CARNIVAL”.

_____ Admit _____ Deny

If denial, please state the reason why.

REQUEST NO 17: National Mill Industry, Inc. does not have evidence in their possession to show at trial that the Applicant’s mark is confusingly similar to all of the Opposer’s pleaded marks in their Notice of Opposition.

_____ Admit _____ Deny

If denial, please state the reason why.

REQUEST NO 18: National Mill Industry, Inc. was aware of the high volume use of the word “CARNIVAL” in commerce by multiple third parties including United States trademark registrants.

_____ Admit _____ Deny

If denial, please state the reason why.

REQUEST NO 19: National Mill Industry, Inc. was aware that the word “CARNIVAL” was registered by other third parties prior to the filing date of Opposer’s standard word mark trademark registration no. 2020106.

_____Admit _____Deny

If denial, please state the reason why.

REQUEST NO 20: National Mill Industry, Inc was aware prior to the telephonic discovery conference that the word “CARNIVAL” in the Applicant’s mark was presented to the consuming public in connection to Caribbean Carnivals and the Caribbean culture.

_____Admit _____Deny

If denial, please state the reason why.

REQUEST NO 21: National Mill Industry, Inc was aware prior to filing the Notice of Opposition that there is a high number of trademark registrants using “CARNIVAL” in connection to clothing.

_____Admit _____Deny

If denial, please state the reason why.

REQUEST NO 22: National Mill Industry, Inc was aware that “CARNIVAL” has multiple connotations in various industries including the apparel industry.

_____Admit _____Deny

If denial, please state the reason why.

REQUEST NO 23: National Mill Industry, Inc owns the domain www.carnivalbras.com and places their store website link www.carnivalbras.com on the packaging of their consumer goods in the marketplace.

_____Admit _____Deny

If denial, please state the reason why.

REQUEST NO 24: National Mill Industry, Inc uses their legal entity name “National Mill Industry, Inc” on their packaging of their consumer goods in the marketplace to indicate the source of the goods.

_____Admit _____Deny

If denial, please state the reason why.

REQUEST NO 25: National Mill Industry, Inc. does not have any evidence in their possession that shows the Applicant's mark is causing any disruption in their business sales, and business operations of National Mill Industry, Inc.

_____Admit _____Deny

If denial, please state the reason why.

REQUEST NO 26: National Mill Industry, Inc. does not have any evidence in their possession that shows consumers are unable to determine the origin of goods since the inception of the Applicant using her CM CARNIVAL MODE mark since May 2019.

_____Admit _____Deny

If denial, please state the reason why.

REQUEST NO 27: In the visual presentation of the Applicant's design mark, the Opposer does not see any images of a bird flying, stars, and hearts as shown in some of the Opposer's pleaded design composite marks.

_____Admit _____Deny

If denial, please state the reason why.

REQUEST NO 28: In the visual presentation of the Applicant's design mark, the Opposer does not see a "stylized font or cursive font" of the word "CARNIVAL" as shown in the Opposer's pleaded marks.

_____Admit _____Deny

If denial, please state the reason why.

REQUEST NO 29: In the visual presentation of the Applicant's design mark, the Opposer does not see a huge curve meeting with a bird flying.

_____Admit _____Deny

If denial, please state the reason why.

REQUEST NO 30: Since the inception of National Mill Industry, Inc using the "CARNIVAL" and "CARNIVAL CREATIONS" pleaded marks, the Opposer told their vendors and the general consuming public that their brand is about the "celebration of women and femininity".

_____Admit _____Deny

If denial, please state the reason why.

CERTIFICATE OF SERVICE

I hereby certify that on the 3rd day of August, 2020, a copy of the foregoing **APPLICANT'S FIRST REQUEST FOR ADMISSION FOR OPPOSER, NATIONAL MILL INDUSTRY** has been served electronically via email to the correspondent on record for the Opposer at the following address:

Stacy J. Grossman
Law Office of Stacy J. Grossman, PLLC
888 Seventh Avenue, 10th Floor New York, NY 10106
Email: stacy@stacygrossmanlaw.com
ipDocket@stacygrossmanlaw.com

By: /Ashley James/
Ashley James
PO Box 150365
Kew Gardens, NY 11415
Email: ajames7200@gmail.com

EXHIBIT 4



Ashley James <ajames7200@gmail.com>

Letter and Request for Telephone Call to Discuss Discovery

Stacy Grossman <stacy@stacygrossmanlaw.com>

Mon, Aug 10, 2020 at 10:54 AM

To: Ashley James <ajames7200@gmail.com>

Cc: Kelly Glenn <kelly@stacygrossmanlaw.com>

Dear Ashely -

I've not heard from you in response to my email from a week ago. Will you be available to speak with me today or tomorrow? In addition to sending this email, I just left you a voicemail at 917-797-9774.

Thank you.

-Stacy

[Quoted text hidden]



Ashley James <ajames7200@gmail.com>

Letter and Request for Telephone Call to Discuss Discovery

Ashley James <ajames7200@gmail.com>
To: Stacy Grossman <stacy@stacygrossmanlaw.com>
Cc: Kelly Glenn <kelly@stacygrossmanlaw.com>

Mon, Aug 10, 2020 at 11:27 AM

Stacy,

As per prior email correspondence that was sent to your attention, all inquiries pertaining to this opposition proceeding should be submitted via email. I even sent you an email informing you that it is audit season on my end. It is not cumbersome for you to send your inquiries via this method of communication. As you have previously reached out to me via email, please continue to follow the same method of communication.

As of today, the opposer, National Mill Industry Inc, never submitted any responses to the Applicant's First Set of Interrogatories and Production Requests. In addition, your client is required to answer the Second Set of Interrogatories, and Admission requests.

Sincerely,
Ashley James

[Quoted text hidden]



Ashley James <ajames7200@gmail.com>

Letter and Request for Telephone Call to Discuss Discovery

Stacy Grossman <stacy@stacygrossmanlaw.com>

Mon, Aug 10, 2020 at 11:32 AM

To: Ashley James <ajames7200@gmail.com>

Cc: Kelly Glenn <kelly@stacygrossmanlaw.com>

Ashley -

Please let me know if/when you will make yourself available for a telephone call to discuss your discovery responses. Your repeatedly ignoring my specific questions and refusing to arrange a time for a call is making it difficult for us to proceed.

-Stacy

[Quoted text hidden]



Ashley James <ajames7200@gmail.com>

Letter and Request for Telephone Call to Discuss Discovery

Ashley James <ajames7200@gmail.com>
To: Stacy Grossman <stacy@stacygrossmanlaw.com>
Cc: Kelly Glenn <kelly@stacygrossmanlaw.com>

Mon, Aug 10, 2020 at 12:34 PM

Stacy,

You are repeatedly asking "Please let me know if/when you will make yourself available for a telephone call". I have expressed to you multiple times via email that all inquiries must be submitted via email. **All future correspondence and conversations must be done in email.**

As the Applicant in this proceeding, I have not been difficult to proceed with anything (that is an overstatement). From my understanding, you and your client are evading and refusing to complete the Applicant's First Set of Interrogatories and First Set of Production Requests that were sent to you back in February 2020.

Please kindly state in an email when you will be submitting National Mill Industry responses to the First Set of Applicant's inquiries and document requests. I am looking forward to seeing those responses.

Thank you.

Sincerely,
Ashley James

National Mill Industry Inc f

[Quoted text hidden]



Ashley James <ajames7200@gmail.com>

Letter and Request for Telephone Call to Discuss Discovery

Stacy Grossman <stacy@stacygrossmanlaw.com>

Mon, Aug 10, 2020 at 2:04 PM

To: Ashley James <ajames7200@gmail.com>

Cc: Kelly Glenn <kelly@stacygrossmanlaw.com>

Ashely -

In my letter of July 30, I laid out (in writing) several examples of my discovery questions and your responses, and requested that you provide complete responses. I also proposed that we arrange a time for a call so that I could understand the nature of your confusion and answer your questions. Apart from refusing to speak, you've not responded to the substance of my letter.

As for my client's discovery responses, as explained in the Board's Order denying your motion for summary judgment (page 11) and in my email of August 3, National Mill's responses to your discovery requests are due on August 27, and my client intends to comply with its discovery obligations.

I understand that you're busy with work, so would be happy to have a call in the morning or evening. One telephone call to discuss your confusion would be much more efficient than this string of emails.

Please either let me know your availability to speak, or let me know when to expect a substantive response to my July 30 letter.

Kind regards,
Stacy

[Quoted text hidden]



Ashley James <ajames7200@gmail.com>

Letter and Request for Telephone Call to Discuss Discovery

Ashley James <ajames7200@gmail.com>
To: Stacy Grossman <stacy@stacygrossmanlaw.com>
Cc: Kelly Glenn <kelly@stacygrossmanlaw.com>

Mon, Aug 10, 2020 at 3:01 PM

Stacy,

You will certainly receive a response via email to your July 30th notice sometime in September. But I will give you notice or a heads up email sometime this month.

Thanks for confirming the date that you will be submitting your client's outstanding interrogatories response and production requests.

Best regards,
Ashley James
[Quoted text hidden]