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

Proceeding	91252772
Party	Defendant IAC Applications LLC and Mosaic Group Holdings, LLC
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

RLP Ventures, LLC,

Opposer,

v.

IAC Applications LLC and Mosaic Group
Holdings, LLC,

Applicant & Party-Defendant.

Serial No.: 88233543
Filed: Dec. 18, 2018
Published: Oct. 08, 2019
Mark: MOSAIC GROUP

Opposition No.: 91252772

**APPLICANT’S REPLY BRIEF IN SUPPORT OF MOTION TO COMPEL DISCOVERY
& DETERMINE SUFFICIENCY OF RESPONSES TO REQUESTS FOR ADMISSION**

Applicant IAC Applications LLC (“Applicant”), by and through its attorneys, and in accordance with 37 C.F.R. § 2.127(a) and Trademark Trial and Appeal Board Manual of Procedures (“TBMP”) § 502.02(b), respectfully submits this reply brief in further support of its Motion to Compel Discovery and Determine Sufficiency of Responses to Requests for Admission (the “Motion”).

PRELIMINARY STATEMENT

Applicant recognizes that replies are discouraged in TTAB proceedings but could not let the baseless claims by Opposer RLP Ventures, LLC (“Opposer”) go unanswered. Opposer has a practice of evading discovery obligations through baseless objections.

This is not the first time defendants have had to move to compel Opposer because of its outlandish counting methods. It is not even the second or third time. This is also not the first time Opposer has wrongfully accused a moving party as acting “in bad faith, for the purpose of delay, as well as to overburden, harass and financially tax the Opposer with vexatious litigation

practice.” Nor is it the first time Opposer has moved for a motion for an unwarranted protective order in response to a motion to compel.

Opposer’s Response to the Motion here copies arguments nearly verbatim from at least three prior proceedings in which Opposer similarly tried to claim that three different parties were causing delays in discovery, burdening Opposer, and financially taxing Opposer by filing a motion to compel, as detailed further below. The common element of those three proceedings and this one is Opposer’s refusal to cooperate in discovery and its baseless and unsupported opposition to the motions to compel. Opposer is wasting both the Board’s and Applicant’s time and resources by failing to cooperate in discovery and repeatedly filing unsupported oppositions to properly filed motions.

Further, contrary to Opposer’s Response to the Motion here, Applicant has gone above and beyond in its good faith efforts to resolve the discovery disputes at issue. It engaged in two telephonic conferences, and multiple follow-up correspondence with Opposer, including sending three detailed letters. Despite these efforts, the parties were unable to reach a resolution. Opposer’s refusal to compromise on a single issue left Applicant with no choice but to file the Motion and seek Board intervention, just as three other parties did in prior Board proceedings initiated by Opposer.

Applicant therefore respectfully requests the Board grant the Motion and order Opposer respond, without objections, to Applicant’s Revised First Set of Interrogatories (the “Interrogatories”), First Set of Requests for Production of Documents and Things (the “RFPs”), and First Set of Requests for Admission (the “RFAs”) and rule that these discovery requests are all under the 75-request limit. Applicant finally requests the Board extend fact discovery 90 days from the determination of this Motion and deny Opposer’s Motion for a Protective Order.

ARGUMENTS

I. Opposer's False Claims & Abuse of Process Across Multiple Board Proceedings

Opposer's Response to the Motion recycles arguments in response to motions to compel from at least three different Board proceedings and makes identical, false claims against each party filing the motion to compel. Opposer has initiated approximately thirty-four TTAB proceedings over the last seven years. In at least three of these proceedings, the defendant filed a motion to compel against Opposer due to Opposer's unsupported and unconscionable methods of counting. *See RLP Ventures, LLC v. Heising-Simmons Foundation*, Opp. No. 91246949, Dkt. No. 23 (May 17, 2021); *RLP Ventures, LLC v. Mosaic Learning, Inc.*, Opp. No. 91252016, Dkt. No. 7 (Aug. 22, 2020); *RLP Ventures, LLC v. Mosaic by Ali Clothing, Inc.*, Cancellation No. 92066114, Dkt. No. 6 (March 8, 2018).

In each of these proceedings, like this one, Opposer argued in its brief that the moving party was using "the motion to compel as a means to overburden, harass and financially tax the Opposer with vexatious litigation practice." (Resp. to Applicant's Mot. to Compel Disc. & Determine Sufficiency of Resps. to Reqs. for Admis. and Opposer's Mot. for Protective Order, Dkt. No. 14 ("Opposer Br.") at 8); *Heising-Simmons*, Dkt. No. 25 at 10 ("Applicant seeming use of the motion to compel as a means to overburden, harass and financially tax the Opposer with vexatious litigation practice."); *Mosaic Learning*, Dkt. No. 10 at 8 ("Applicant seeming use of the motion to compel as a means to overburden, harass and financially tax the Opposer with vexatious litigation practice."); *Mosaic by Ali Clothing*, Dkt. No. 8 at 21 ("Registrant's ... use the motion to compel as a means to overburden, harass and financially tax the Petitioner with vexatious litigation practice."). It strains credulity to believe that each and every party seeking discovery through a motion to compel against Opposer is doing so to "overburden, harass and

financially tax” Opposer. And Opposer can hardly claim it is facing any of these hardships when it merely repurposes prior briefs from prior discovery disputes. In all three prior proceedings and now in this one, Opposer claims that the moving party “did not provide the Board with an accurate statement of the facts in the motion to compel,” that the moving party had “Bad Faith in Filing a Motion to Compel” and that Opposer “complied with its obligations during discovery.” (Opposer Br. at 1, 6); *Heising-Simmons*, Dkt. No. 25 at 1, 8; *Mosaic Learning*, Dkt. No. 10 at 1, 6; *Mosaic by Ali Clothing*, Dkt. No. 8 at 1, 18. This Board should not condone Opposer’s tactics.

II. Revised First Set of Interrogatories

In light of the May 12, 2021 telephone conference, and in an attempt to move this proceeding forward, Applicant submits its Revised First Set of Interrogatories, attached hereto as Exhibit A to the Declaration of Kevin M. Wallace in Support of Applicant’s Reply Brief (“Wallace Reply Decl.”). Applicant therefore withdraws the request in its Motion that the Board determine the count of the First Set of Interrogatories totals 65. Instead, Applicant respectfully requests that the Board confirm the Revised First Set of Interrogatories total 50, less than the 75 interrogatory limit. *See* Wallace Reply Decl. Ex. B. Applicant makes this request because it fears that without a definitive Board decision on the number of interrogatories served in this proceeding, Opposer will continue to impermissibly object to the count of Applicant’s Revised First Set of Interrogatories. Applicant does not want to further delay this proceeding and be forced by Opposer to bring another motion to compel on this issue.

III. Applicant Acted in Good Faith

Opposer’s characterization of Applicant’s conduct in discovery belies the facts and must be addressed here. Applicant has complied with the TBMP and the Federal Rules of Civil Procedure in bringing the Motion and in conducting discovery in this proceeding. Contrary to

Opposer's position, Applicant did not act in bad faith by filing the Motion nor did Applicant at any time act in bad faith during the course of discovery. Applicant was forced to file the Motion when it became clear, after numerous exchanges, that Opposer was unwilling to change any of its untenable, impermissible, and unsupported positions.

Applicant's good faith efforts in discovery are well documented and detailed in Applicant's July 23, 2020 opening brief in support of the Motion and is incorporated herein by reference. (Applicant's Mot. to Compel Disc. & Determine Sufficiency of Resps. to Reqs. For Admis., Dkt. No. 10, ("Applicant Br.") at 2-10; Decl. of Kevin M. Wallace in Supp. of Applicant's Mot. to Compel, Dkt. No. 10 ("Wallace Decl.") Exs. G-H, M-N, P, R). Applicant's good faith efforts included participating in two telephonic conferences and sending seven emails to Opposer, three of which attached detailed letters regarding the discovery issues. (Applicant Br. at 2-5; Wallace Decl. Exs. G-H, M-N, P, R). The sheer number of communications alone is sufficient to demonstrate the good faith required to bring the Motion. *See Gilead Scis., Inc.*, No. 91233311 91233327, 2020 WL 2095051, at *3 (Apr. 30, 2020) (finding two correspondences and one telephonic phone call satisfied the requirements of 37 CFR § 2.120(f)(1)).

Further, a review of the contents of the correspondence makes abundantly clear that while Applicant acted in good faith, the same cannot be said of Opposer. Applicant's attempts to resolve the discovery disputes were met with significant resistance and a failure to cooperate by Opposer. For example, after the May 1 Call, Applicant sent Opposer a May 22 Letter that memorialized the call. (Applicant Br. at 3; Wallace Decl. Ex. M). Applicant had to follow up two times with Opposer for its responses to the specific questions posed in the May 22 Letter. (Applicant Br. at 3-4; Wallace Decl. Exs. N, P). Rather than provide answers, as requested twice by Applicant, Opposer finally offered a phone call. (Applicant Br. at 4; Wallace Decl. Ex. Q).

Applicant agreed to the phone call anticipating a good faith discussion of the issues. (Applicant Br. at 4). Opposer, however, had no intention of discussing the issues and instead asked when it could expect revised discovery requests from Applicant, which Applicant had never agreed to provide. (*Id.*; Wallace Decl. Ex. R).

Opposer maintained that the only way to reach resolution on the issues as to the number of requests would be for Applicant to submit revised discovery requests that comported with Opposer's method of counting; Opposer flatly refused to respond to any of the requests that were within the TBMP rules, even under Opposer's flawed counting methods. (Applicant Br. at 4-5; Wallace Decl. Ex. R). Opposer refused to change its stance on a single position, including its view that Applicant had put forth 81 RFPs and 345 Interrogatories. (Applicant Br. at 3, 5-6). Applicant's own counting amounted to 47 RFPs and 65 Interrogatories. (*Id.* at 3; Wallace Decl. Ex. L). The large difference between these counts created an insurmountable starting point to try to reach any agreement on the total number. It quickly became an unresolvable situation when Opposer refused to make any compromises, necessitating the Motion.

This record of Applicant's good faith exceeds the required showing to bring the Motion as it "reflect[s] an unresolvable situation" between the parties. *Hot Tamale Mama...and More, LLC v. SF Invs., Inc.*, 110 USPQ2d 1080, 182 (TTAB 2014). Further, Opposer's Response to the Motion fails to identify a single issue improperly raised in the Motion that was not discussed in the meet and confers or correspondence. The issues raised in the phone calls and memorialized in the letters form the basis of the Motion and therefore do not run afoul of TBMP 524.02, Fed. R. Civ. P. 37(a)(1), (d)(1)(B), or 37 CFR § 2.120(f)(1).

Applicant's conduct also was in accordance with TBMP § 411.03 concerning Applicant's request to determine the sufficiency of Opposer's response to Applicant's First Set of Requests

for Admission. Opposer's responses on their face do not "admit or deny each request" as required under the TBMP and the Federal Rules of Civil Procedure. Opposer never uses the words "admit" or "deny" in any of its responses and only offered impermissible objections. Opposer's responses therefore do not comply with TBMP §411.03, where a party must provide a proper response but also includes objections. Opposer's Response to the Motion fails to provide any support, factual or legal, for the denial of Applicant's good faith Motion to determine the sufficiency of these responses.

Opposer's efforts to mischaracterize Applicant's good faith efforts prior to bringing the Motion are unavailing. Opposer fails to cite any case law to support its conclusory allegations and cites to only one exchange on July 9, 2020 as evidence of Applicant's bad faith. However, a reading of the exchange does not evidence any bad faith, in fact it shows Applicant wanting to discuss the issues and try to reach an understanding on the number of requests. Applicant has therefore sufficiently alleged that it acted in good faith to resolve the issues raised in discovery and to be addressed by its Motion prior to filing the Motion.

IV. Opposer Has Failed To Comply with its Obligations in this Proceeding

Opposer's mischaracterization of discovery to date overlooks its failure to comply with discovery obligations, including to cooperate in discovery. The Board expects that "the parties will cooperate in discovery and endeavor, in good faith, to resolve issues that may arise during the course of discovery." (Order, Dkt. No. 13 at 2 n. 4). "In order for the meet and confer process to be meaningful and serve its intended purpose, 'the parties must present to each other the merits of their respective positions with the same candor, specificity, and support during informal negotiations as during the briefing of discovery motions.' *Nevada Power Co. v. Monsanto Co.*, 151 F.R.D. 118, 120 (D. Nev. 1993) (emphasis supplied) (construing a local rule

containing meet and confer requirements similar to those in Trademark Rule 2.120(e)(1)).” *Amazon Techs., Inc. v. Jeffrey S. Wax*, 93 U.S.P.Q.2d 1702 (T.T.A.B. 2009). “While it was initially applicant's obligation to confer with opposer prior to filing his motion, opposer [is] under an equal obligation to participate in good faith in applicant's efforts to resolve the matter.” *Id.* Here, Opposer can not show that it participated in good faith at any stage of this proceeding.

Opposer has failed to engage in frank conversation to “resolve issues by agreement or to at least narrow and focus the matters in controversy.” *Id.* For example, the basis of Opposer’s objections to RFAs Nos. 3-14 is a typographical error that transposed the “L” and “P” in the Definition or “RLP” or “Opposer.” (Applicant Br. at 9). Opposer failed to make this specific objections in its responses but raised it for the first time on the May 1 Call. (*Id.*). Applicant thereafter provided Opposer with citations to the TBMP and case law explaining why such objection was impermissible and asked if Opposer would withdraw the objection and respond. (*Id.*). Opposer refused, claiming it complied with the TBMP, despite the clear case law providing that “[a]t barest minimum, [Opposer] should have accepted [Applicant’s] explanation, during the later good faith effort to resolve the issue, that the single reference to [RPL], was merely a typographical error.” *Cadbury Uk Ltd. v. Meenaxi Enter., Inc.*, 115 U.S.P.Q.2d 1404 (T.T.A.B. 2015). Opposer refused to resolve even this smallest and easiest of issues, forcing Applicant to file the Motion on this and other issues.

Opposer has further failed to comply with the Board’s most recent order in this proceeding. The Board, on the May 12 telephone conference and in its May 17 Order, advised Opposer that it expected “the arguments put forth by Opposer in support of its opposition to Applicant’s motion are adequately supported by authority.” (Order, Dkt. No. 13 at 7 n. 15).

Opposer cites one case in its brief, which discusses only the counting of interrogatories. Opposer otherwise fails to provide any support, factual or legal, in support of its opposition to the Motion.

V. Opposer's Motion for a Protective Order Should Be Denied

Opposer's Motion for a Protective Order should be denied because Opposer has not, and cannot, show that Applicant's use of a motion to compel constitutes harassment. In order to obtain this type of a protective order, Opposer must establish good cause, i.e., "a particular and specific demonstration of fact, as distinguished from stereotyped and conclusory statements." *FRM Corp. v. Alliant Partners*, 51 USPQ2d 1759, 1761 (TTAB 2013). Here, Opposer makes nothing but conclusory statements claiming the motion to compel was a means to "overburden, harass and financially tax the opposer with vexatious litigation practice." (Opposer Br. at 8). However, Opposer fails to point to any specific facts to show how Applicant's discovery requests or the motion to compel are improper, harassing, or "financially taxing." This is because there are no facts to support these conclusory statements.

Applicant's discovery requests to date are for "information and documents [which] are standard and typical for a proceeding involving the asserted grounds, are tailored to the claims and are framed to seek information that is clearly relevant." *Emilio Pucci Intl. BV v. Sachdev*, 118 U.S.P.Q.2d 1383 (T.T.A.B. 2016) (denying motion for protective order). Opposer, however, claims Applicant's discovery requests are "excessive, unnecessary, unduly burdensome and overbroad categories of documents and information, many of which exceed the scope of discoverable information..." (Opposer Br. at 2). Yet Opposer fails to point to a single request that falls under these categories. *See Emilio Pucci*, 118 U.S.P.Q.2d at 1383 (denying motion for protective order when moving party "set forth no details regarding her position, neglected to identify which discovery requests she considered to be not reasonably calculated to lead to the

discovery of admissible evidence, failed to explain how or why the requests are burdensome, and made no attempt to delineate which requests are overbroad or oppressive.”).

Moreover, any “financial taxing” that the Opposer has experienced is the result of its own conduct. Applicant has tried to resolve the discovery disputes numerous times through meet and confers and correspondence. Applicant has also tried to amicably resolve the entire proceeding on multiple occasions, including prior to the filing of the original Notice of Opposition, so that both parties could avoid the unnecessary expense of discovery. But Opposer has either refused to consider an amicable resolution or outright ignored requests for such discussions. It is Opposer’s insistence on proceeding with this litigation that has created the “financial taxing,” not any conduct by Applicant.

Finally, as noted in Section I *supra*, Opposer’s basis for its request for a protective order is the same basis alleged in three prior Board proceedings involving three different parties all of whom filed motions to compel. Opposer’s recycled arguments and baseless claims of “financial taxing” are without merit. Its request for a protective order should therefore be denied.

CONCLUSION

For the foregoing reasons, the Applicant respectfully requests the Board grant Applicant’s Motion and (1) determine that Applicant’s RFPs total 47 and that Applicant’s Revised First Set of Interrogatories total 50 and (2) compel Opposer to serve amended responses to the RFPs and RFAs without objection, responses to the Revised First Set of Interrogatories without objections, and produce responsive documents without objection. Applicant further requests the Board grant a 90-day extension of discovery given Opposer’s discovery delays, once the Board considers this Motion. Applicant finally requests the Board deny Opposer’s motion for protective order.

Date: June 21, 2021

BAKER & HOSTETLER LLP

By: /s/ Gerald J. Ferguson

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CERTIFICATE OF SERVICE

I hereby certify that on this 21st day of June, 2021, a true and correct copy of the foregoing **APPLICANT’S REPLY BRIEF IN SUPPORT OF MOTION TO COMPEL DISCOVERY AND DETERMINE SUFFICIENCY OF RESPONSES TO REQUESTS FOR ADMISSION** were served by email on Opposer at:

Ramona Prioleau
RLP Ventures LLC
rlpvllc@gmail.com

/s/ Andrew Hsu

Andrew Hsu

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Serial No.: 88233543
Filed: Dec. 18, 2018
Published: Oct. 08, 2019
Mark: MOSAIC
GROUP

Opposition No.: 91252772

DECLARATION OF KEVIN M. WALLACE

I, Kevin M. Wallace, declare under penalty of perjury as follows:

1. I am an attorney at Baker & Hostetler LLP and counsel for IAC Applications LLC (“Applicant”).

2. Attached hereto as Exhibit A is a true and correct copy of Applicant’s Revised First Set of Interrogatories, dated June 21, 2020.

3. Attached hereto as Exhibit B is a true and correct copy of Applicant’s count of Applicant’s Revised First Set of Interrogatories.

4. The undersigned, being hereby warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements and the like may jeopardize the validity of the application or submission or any registration resulting therefrom, declares that all statements made of his/her own knowledge are true and all statements made on information and belief are believed to be true.

Executed on the 21th day of June, 2021, at New York, New York.



Kevin M. Wallace

Exhibit A

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
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**APPLICANT IAC APPLICATIONS LLC'S REVISED FIRST SET OF
INTERROGATORIES**

Pursuant to Rules 26 and 33 of the Federal Rules of Civil Procedure and 37 C.F.R. §§2.116 and 2.120, Applicant, IAC Applications LLC, ("IAC") requests that Opposer, RLP Ventures, LLC, ("RLP") answer separately and completely in writing under oath within thirty (30) days of service hereof each of the Interrogatories set forth below in accordance with the following Definitions and Instructions.

DEFINITIONS

The rules of construction and definitions set forth in Federal Rules of Civil Procedure 26 and 34 are incorporated as if set forth fully herein. In addition the following definitions and instructions shall apply:

1. "IAC" or "Applicant" means and refers to the Applicant, IAC Applications LLC.
2. "RLP" or "Opposer" means and refers to Opposer, RLP Ventures, LLC, the corporation, business, parent company, subsidiaries, affiliates and each of its respective shareholders, partners, officers, directors, agents, attorneys, employees, representatives of such business, and all persons

acting or purporting to act on behalf of Opposer, or who are subject to Opposer's direction or control as related to the use of the MOSAEC mark.

3. "Opposition" means Opposition No. 91252772.

4. "Opposer's Mark" means Opposer's purported MOSAEC trademark used in connection with the class 35 services and services identified in Reg. No. 5284032 and App. No. 87469079, including registered, applied for, and unregistered uses of the MOSAEC trademark.

5. "Applicant's Mark" means Applicant's mark MOSAIC GROUP which is the subject of Opposition No. 91252772, and App. No. 88233543.

6. "Persons" means and refers to natural persons, groups of natural persons acting as individuals, groups of natural persons acting in a collegial capacity (such as a committee or board of directors), corporations, partnerships, joint ventures and any other incorporated or unincorporated business or social entity.

7. "Document" has the same meaning as in Federal Rule of Civil Procedure 34(a) and 45 and includes electronic data. In addition, "Document" shall mean any "writing" as defined in Federal Rule of Evidence 1001.

8. "Communication" or "communications" means any oral, written or electronic utterance, notation or statement of any nature whatsoever, by and to whomsoever made, including, but not limited to, any documents, correspondence, letters, facsimiles, e-mails, text messages, voice recordings, video recordings, voicemail, instant messages, conversations, dialogues, discussions, interviews, conferences, meetings, consultations, agreements, and other understandings or exchanges between or among two or more people.

9. "Relates to" whether in the singular or plural, and all tenses thereof, means directly or indirectly mentioning or describing, pertaining to, reflecting, disclosing, referring to, commenting

upon, evidencing, or in any way being factually or logically connected with, the matter described in these discovery requests.

10. “Referring to” or “relating to” mean constituting, consisting of, regarding, associated with, or in any way connected with the matter discussed, in whole or in part.

11. “Include,” or any derivative thereof, means including without limitation.

12. “Concerning” means relating to, referring to, describing, evidencing, or constituting.

13. "Identify" means to provide sufficient information so that the subject matter can be located.

14. “You” and “Your” refer collectively and individually to RLP and any of its representatives.

INSTRUCTIONS

1. Pursuant to Federal Rule of Civil Procedure 26(e) and 37 C.F.R. § 2.120 (a) these Interrogatories are continuing in nature. If, after making the initial response, RLP obtains or become aware of any further information responsive to these Interrogatories, RLP must promptly supplement its initial response.

2. If any Interrogatory cannot be answered in full after exercising due diligence to secure the information to do so, please so state and answer the Interrogatory to the extent possible, specifying any inability to answer each such Interrogatory and stating whatever information or knowledge is available concerning the unanswered portion of the Interrogatory.

3. If a claim of privilege is asserted in objecting to any of these Interrogatories, or any sub-part thereof, and an answer is not provided on the basis of such assertion, furnish the following information with respect to each Interrogatory as to which the claim of privilege is asserted: (i) the nature of the privilege (including work product) being claimed; and (ii) the general topic of the information claimed to be privileged to the extent possible in a manner consistent with the claimed privilege.

4. If you find the meaning of any term in any Interrogatory unclear, without waiver of IAC's rights to seek a full and complete response to the Interrogatory, you shall assume a reasonable meaning, state what the assumed meaning is, and respond to the Interrogatory according to the assumed meaning.

5. Definitions or usages of words or phrases in these Interrogatories are not intended to be, and shall not be, construed as admissions as to the meaning of words or phrases at issue in the action and shall have no binding effect on IAC in this or any other proceedings.

6. Any assumptions necessary to answer these Interrogatories are not intended to be, and shall not be, construed as admissions as to the existence or truth of those assumptions and shall have no binding effect on IAC in this or any other proceedings.

7. Wherever in the following Interrogatories you are asked to identify documents, it is requested that the documents be identified by saying:

- a. General type of document, i.e., letter, memorandum, report, etc.;
- b. Date;
- c. Author;
- d. Organization, if any, with which author was connected;
- e. Addressee or recipient;
- f. Other recipients;
- g. Organization, if any, with which the addressee or recipients were connected;
- h. General nature of the subject matter of the document;
- i. Present location of such document and each copy thereof known to you, including the title, index number and location, if any, of the file in which the document is kept by you or the file from which such document was removed for the purposes of this

case, and the identity of all persons responsible for filing or other disposition of the document.

8. Wherever in the following Interrogatories you are asked to identify persons, it is requested that the persons be identified by stating:

- a. Their full name, home and business addresses, if known;
- b. Their employment, job title or description; and
- c. If employed by you, their dates and regular places of employment and general duties.

9. Wherever in the following Interrogatories you are asked to identify companies or the response to an Interrogatory would require the identification of a company, it is requested that the company be identified by stating:

- a. Its full corporate name;
- b. A brief description of the general nature of its business;
- c. Its state of incorporation;
- d. The address and principal place of business; and
- e. The identity of the officers or other person having knowledge of the matter with respect to which the company has been identified.

10. All terms used in these Interrogatories have the broadest meaning accorded to them under Federal Rule of Civil Procedure 34, and all information should be provided in accordance with those rules. In particular:

- a. The terms “all” and “each” shall be construed as all and each.

- b. The connectives “and” and “or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of the scope.
- c. The use of the singular form of any word includes the plural and vice versa.

11. Unless words or terms have been given a specific definition herein, each word or term used herein shall be given its usual and customary dictionary definition except where such words have a usual custom and usage definition in Your trade or industry, in which case they shall be interpreted in accordance with such usual custom and usage definition of which You are aware.

12. These Interrogatories may make reference to allegations in the Notice of Opposition, including particular numbered paragraphs thereof. In the event that You amend the Notice of Opposition, these Interrogatories should be understood to encompass the corresponding allegations in all future amended pleadings, regardless of any changes in numbering of paragraphs.

INTERROGATORIES

- 1. Identify all Person(s) who have owned the rights to Opposer’s Mark and the periods of such ownership.
- 2. Identify all Persons who have any license, permission, consent, authorization or other grant of rights permitting any Person to use Opposer’s Mark.
- 3. Identify all Persons: (a) who were previously employed by, and, (b) who are currently employed by Opposer having knowledge of Opposer’s use of Opposer’s Marks from the dates of first use claimed for each class of services through December 7, 2019.
- 4. Identify the date of first use anywhere of Opposer’s Mark in connection with the services registered for in Class 35.

5. Identify the date of first use in commerce of Opposer's Mark in connection with the services registered by Opposer in Class 35.
6. Identify the date of first use anywhere of Opposer's Mark in connection with the services applied for by Opposer in Class 36.
7. Identify the date of first use in commerce of Opposer's Mark in connection with the services applied for by Opposer in Class 36.
8. Identify the date of first use anywhere of Opposer's Mark in connection with the services registered by Opposer in Class 42.
9. Identify the date of first use in commerce of Opposer's Mark in connection with the services registered by Opposer in Class 42.
10. Describe in detail the promotion of the services offered by Opposer in connection with Opposer's Mark since commencement of use of Opposer's Mark.
11. Describe in detail the selection of Opposer's Mark.
12. Identify the date Opposer registered the domain name mosaec.com.
13. Identify the date of Opposer's first use of the domain name mosaec.com in connection with Opposer's Mark.
14. Describe in detail use of Opposer's Mark in commerce, social media, and content as alleged in Paragraph 1 of the Notice of Opposition.
15. Describe in detail use of Opposer's Mark to "advance personal, educational, and career goals and in schools for philanthropic purposes" as alleged in Paragraph 2 of the Notice of Opposition.
16. Describe in detail how the "concept for the MOSAEC platform was developed during calendar years 1996—1998" as alleged in Paragraph 2 of the Notice of Opposition.

17. Describe in detail the release of the MOSAEC platform in a 'beta' form during the fall of 1998 as alleged in Paragraph 3 of the Notice of Opposition.

18. Identify the persons having access to the beta version of the MOSAEC platform.

19. Describe in detail the launch of the 'gamma' version of the MOSAEC in the spring of 1999 as alleged in Paragraph 3 of the Notice of Opposition.

20. Identify the persons having access to the gamma version of the MOSAEC platform.

21. Identify the date on which the MOSAEC platform was publicly available for use.

22. Identify the amount invested in building the MOSAEC platform, including "promoti[on] of the MOSAEC platform via national and international advertising channels" as alleged in Paragraph 4 of the Notice of Opposition.

23. Describe in detail Opposer's current use, plans to use, and/or intended uses of Opposer's Mark in connection with the services applied for by Applicant in Class 35.

24. Describe in detail Opposer's current use, plans, or intent to use Opposer's Mark in connection with the services applied for by Applicant in Class 36.

25. Describe in detail Opposer's current use, plans, or intent to use Opposer's Mark in connection with the services applied for by Applicant in Class 42.

26. Describe in detail the users targeted by Opposer in connection with Opposer's Mark.

27. Describe in detail how Opposer "has cultivated its diverse community of users through its long, extensive, and continuous use of Opposer's Mark" as alleged in Paragraph 14 of the Notice of Opposition.

28. Describe in detail the types of customers or purchasers of services offered by Opposer under Opposer's Mark.

29. Describe in detail all services and goods that Opposer considers related to Opposer's goods and services.

30. Describe in detail how Applicant's Mark is intended to be used in connection with services which are related to goods and services which Opposer has used and registered its trademarks as alleged in Paragraph 10 of the Notice of Opposition.

31. Describe in detail how Applicant's use of Applicant's Mark for the services applied for in class 35 are within the natural zone of expansion of Opposer's Mark.

32. Describe in detail how Applicant's use of Applicant's Mark for the services applied for in class 36 are within the natural zone of expansion of Opposer's Mark.

33. Describe in detail how Applicant's use of Applicant's Mark for the services applied for in class 42 are within the natural zone of expansion of Opposer's Mark.

34. Identify Opposer's actual or intended channels of distribution of services offered and/or sold under Opposer's Mark in the United States.

35. Identify all settlement or coexistence agreements between Opposer and third parties regarding or involving Opposer's Mark.

36. Identify any third-party uses of the term MOSAEC or MOSAIC for services in classes 35, 36, and/or 42.

37. Describe in detail sales for all services sold under Opposer's Mark for the last ten (10) years.

38. Identify the total annual profits in dollars for each of Opposer's goods and services offered under Opposer's Mark for the last ten (10) years.

39. Identify each person who participated in or supplied information used in answering any of the Interrogatories, including each Interrogatory such person participated in answering.

40. Identify all Documents that Applicant reviewed, referenced, or relied upon to answer these Interrogatories.

Date: June 21, 2021

BAKER & HOSTETLER LLP

By: /s/ Kevin M. Wallace
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VERIFICATION

I, _____, hereby verify and declare:

As _____ of RLP Ventures, LLC, I am authorized to verify Opposer RLP Ventures, LLC's Responses to Applicant IAC Applications LLC's Revised First Set of Interrogatories. The substantive information contained in the Interrogatory responses has been assembled by individuals authorized to act on behalf of RLP Ventures, LLC. To the best of my knowledge, information and belief, all of the substantive information contained in the Interrogatory responses is true and correct.

I declare under penalty of perjury, as set forth in 28 U.S.C. § 1746, that the foregoing is true and correct.

Executed this ___ day of ___ 2021, in _____.

RLP VENTURES, LLC

By: _____
Name: _____
Title: _____

Exhibit B

APPLICANT'S REVISED FIRST SET OF INTERROGATORIES		
Request No.	Text of Request	Count
1	Identify all Person(s) who have owned the rights to Opposer's Mark and the periods of such ownership.	1
2	Identify all Persons who have any license, permission, consent, authorization or other grant of rights permitting any Person to use Opposer's Mark.	1
3	Identify all Persons: (a) who were previously employed by, and, (b) who are currently employed by Opposer having knowledge of Opposer's use of Opposer's Marks from the dates of first use claimed for each class of services through December 7, 2019.	2
4	Identify the date of first use anywhere of Opposer's Mark in connection with the services registered for in Class 35.	1
5	Identify the date of first use in commerce of Opposer's Mark in connection with the services registered by Opposer in Class 35.	1
6	Identify the date of first use anywhere of Opposer's Mark in connection with the services applied for by Opposer in Class 36.	1
7	Identify the date of first use in commerce of Opposer's Mark in connection with the services applied for by Opposer in Class 36.	1
8	Identify the date of first use anywhere of Opposer's Mark in connection with the services registered by Opposer in Class 42.	1
9	Identify the date of first use in commerce of Opposer's Mark in connection with the services registered by Opposer in Class 42.	1
10	Describe in detail the promotion of the services offered by Opposer in connection with Opposer's Mark since commencement of use of Opposer's Mark.	1
11	Describe in detail the selection of Opposer's Mark.	1
12	Identify the date Opposer registered the domain name mosaec.com.	1
13	Identify the date of Opposer's first use of the domain name mosaec.com in connection with Opposer's Mark.	1
14	Describe in detail use of Opposer's Mark in commerce, social media, and content as alleged in Paragraph 1 of the Notice of Opposition.	1
15	Describe in detail use of Opposer's Mark to "advance personal, educational, and career goals and in schools for philanthropic purposes" as alleged in Paragraph 2 of the Notice of Opposition.	1
16	Describe in detail how the "concept for the MOSAEC platform was developed during calendar years 1996—1998" as alleged in Paragraph 2 of the Notice of Opposition.	1
17	Describe in detail the release of the MOSAEC platform in a 'beta' form during the fall of 1998 as alleged in Paragraph 3 of the Notice of Opposition.	1
18	Identify the persons having access to the beta version of the MOSAEC platform.	1

APPLICANT'S REVISED FIRST SET OF INTERROGATORIES		
19	Describe in detail the launch of the 'gamma' version of the MOSAEC in the spring of 1999 as alleged in Paragraph 3 of the Notice of Opposition.	1
20	Identify the persons having access to the gamma version of the MOSAEC platform.	1
21	Identify the date on which the MOSAEC platform was publicly available for use.	1
22	Identify the amount invested in building the MOSAEC platform, including "promoti[on] of the MOSAEC platform via national and international advertising channels" as alleged in Paragraph 4 of the Notice of Opposition.	1
23	Describe in detail Opposer's current use, plans to use, and/or intended uses of Opposer's Mark in connection with the services applied for by Applicant in Class 35.	3
24	Describe in detail Opposer's current use, plans, or intent to use Opposer's Mark in connection with the services applied for by Applicant in Class 36.	3
25	Describe in detail Opposer's current use, plans, or intent to use Opposer's Mark in connection with the services applied for by Applicant in Class 42.	3
26	Describe in detail the users targeted by Opposer in connection with Opposer's Mark.	1
27	Describe in detail how Opposer "has cultivated its diverse community of users through its long, extensive, and continuous use of Opposer's Mark" as alleged in Paragraph 14 of the Notice of Opposition.	1
28	Describe in detail the types of customers or purchasers of services offered by Opposer under Opposer's Mark.	1
29	Describe in detail all services and goods that Opposer considers related to Opposer's goods and services.	1
30	Describe in detail how Applicant's Mark is intended to be used in connection with services which are related to goods and services which Opposer has used and registered its trademarks as alleged in Paragraph 10 of the Notice of Opposition.	1
31	Describe in detail how Applicant's use of Applicant's Mark for the services applied for in class 35 are within the natural zone of expansion of Opposer's Mark.	1
32	Describe in detail how Applicant's use of Applicant's Mark for the services applied for in class 36 are within the natural zone of expansion of Opposer's Mark.	1
33	Describe in detail how Applicant's use of Applicant's Mark for the services applied for in class 42 are within the natural zone of expansion of Opposer's Mark.	1
34	Identify Opposer's actual or intended channels of distribution of services offered and/or sold under Opposer's Mark in the United States.	2
35	Identify all settlement or coexistence agreements between Opposer and third parties regarding or involving Opposer's Mark.	1
36	Identify any third-party uses of the term MOSAEC or MOSAIC for services in classes 35, 36, and/or 42.	2

APPLICANT'S REVISED FIRST SET OF INTERROGATORIES		
37	Describe in detail sales for all services sold under Opposer's Mark for the last ten (10) years.	1
38	Identify the total annual profits in dollars for each of Opposer's goods and services offered under Opposer's Mark for the last ten (10) years.	1
39	Identify each person who participated in or supplied information used in answering any of the Interrogatories, including each Interrogatory such person participated in answering.	2
40	Identify all Documents that Applicant reviewed, referenced, or relied upon to answer these Interrogatories.	1
Total Count:		50