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Filing date: **06/21/2024**

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

Proceeding no.	91284555
Party	Defendant REVERSE ATM LLC
Correspondence address	BRIAN H. BATZLI MERCHANT & GOULD P.C. P.O. BOX 2910 MINNEAPOLIS, MN 55402-0910 UNITED STATES Primary email: dockmpls@merchantgould.com Secondary email(s): bbatzli@merchantgould.com, cro- gers@merchantgould.com, ggolla@merchantgould.com 612-332-5300
Submission	Defendant's Notice of Reliance
Filer's name	Gregory Golla
Filer's email	ggolla@merchantgould.com, jolson@merchantgould.com
Signature	/gcg/
Date	06/21/2024
Attachments	Applicants NOR on Opposers Discovery Responses Corrected.pdf(560995 bytes)

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

MOBILEMONEY, INC.,)	
)	Opposition No. 91284555
Opposer)	
)	Mark: REVERSE ATM
v.)	
)	Serial No. 97/056344
REVERSE ATM LLC,)	
)	
Applicant.)	
)	

APPLICANT’S NOTICE OF RELIANCE ON OPPOSER’S DISCOVERY RESPONSES

Pursuant to Trademark Trial and Appeal Board Manual of Procedure (“TBMP”) § 704.10, Applicant Reverse ATM LLC (“Applicant”) hereby makes of record and notifies Opposer MOBILEMONEY, Inc. (“Opposer”) of its reliance on the following discovery responses of Opposer:

1. A true and correct copy of Opposer’s response to Applicant’s Interrogatory No. 2, which is attached hereto as **Exhibit 3** (designated **Attorneys’ Eyes Only**). Applicant submits this response for the purpose of showing Opposer’s use of Applicant’s REVERSE ATM trademark, the incorrect assertion that Opposer is using Applicant’s mark in a descriptive or generic sense, the nature of Opposer’s products and services, and geographic regions in which Opposer’s products and services are offered.
2. A true and correct copy of the Opposers responses to Applicant’s Requests for Admissions, attached hereto as **Exhibit 4**. Applicant submits Opposer’s responses to Applicant’s Requests for Admissions for the purpose of showing the various admissions and denials regarding usage of REVERSE ATM and the first usage of Applicant’s REVERSE ATM mark by Opposer.

Respectfully submitted,

REVERSE ATM LLC,

By its Attorneys,

Date: June 21, 2024

/s/ Gregory C. Golla
Gregory C. Golla
Brian H. Batzli
John P. Olson
MERCHANT & GOULD P.C.
150 South Fifth Street, Suite 2200
Minneapolis, MN 55402
(612) 332-5300

CERTIFICATE OF SERVICE

I hereby certify that I am one of the attorneys for Applicant Reverse ATM LLC and that a true and correct copy of the foregoing APPLICANT’S NOTICE OF RELIANCE ON OPPOSER’S DISCOVERY RESPONSES was served upon counsel for Opposer by email this June 21, 2024:

Ronald P. Oines
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/John P. Olson/
John P. Olson

EXHIBIT 3
(Attorneys' Eyes Only)

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

MOBILEMONEY, INC.,

Opposer,

v.

REVERSE ATM LLC,

Applicant.

Opposition No.: 91284555

Application Serial No. 97/056,344

Trademark: REVERSE ATM

***CONTAINS CONFIDENTIAL – FOR ATTORNEYS’ EYES ONLY (TRADE SECRET /
COMMERCIALY SENSITIVE) MATERIAL PURSUANT TO TRADEMARK TRIAL AND
APPEAL BOARD STANDARD PROTECTIVE ORDER***

OPPOSER’S RESPONSE TO FIRST SET OF INTERROGATORIES

Opposer MOBILEMONEY, INC. (“Opposer”), hereby responds to the First Set of Interrogatories propounded by Applicant REVERSE ATM LLC’s (“Applicant”) in Opposition No. 91284555 as follows:

PRELIMINARY STATEMENT

Discovery has only recently begun in this matter, and Opposer’s responses to these Interrogatories are based upon facts of which Opposer presently is aware and upon claims and defenses asserted or contemplated at this time. Opposer’s responses are given without prejudice to its right to supplement or modify its responses based on subsequently discovered facts or facts which become relevant based on subsequent discovery or newly asserted claims or defenses in this matter.

GENERAL OBJECTIONS

Opposer objects to the Interrogatories and the instructions contained therein to the extent they purport to impose any requirement or discovery obligation other than or beyond those set forth in the Federal Rules of Civil Procedure or applicable TTAB rules or procedures.

Opposer objects to the Interrogatories to the extent that they seek information or documents protected from disclosure by the attorney-client privilege, attorney work product

doctrine, or any other applicable privilege or protection. To the extent that the Interrogatories may be construed as seeking such privileged or protected information or documents, Opposer hereby claims such privilege and invokes such protection. The fact that Opposer does not specifically object to an individual interrogatory on the ground that it seeks such privileged or protected information or documents shall not be deemed a waiver of the protection afforded by the attorney-client privilege, the attorney work product doctrine, or any other applicable privilege or protection. Opposer's inadvertent furnishing of such information, should that occur, shall not be construed as a waiver of any applicable privilege or other legal protection.

Opposer objects to the Interrogatories to the extent that they purport to impose a burden of providing information that is not in Opposer's possession, custody or control, including information that is within Applicant's possession, custody or control.

In responding to these Interrogatories, Opposer does not concede the relevancy, materiality or admissibility of any specific information, or of the subject matter to which it refers or relates. These responses are made without waiving any objections as to the competency, relevancy, materiality, or admissibility of any of the questions or responses, or the subject matter thereof, in any proceeding in this action.

Opposer incorporates each of the foregoing General Objections by reference into its response to each interrogatory set forth below.

INTERROGATORIES AND RESPONSES THERETO

INTERROGATORY NO. 1:

Identify all facts of which Opposer is aware which tend to support Opposer's Notice of Opposition.

RESPONSE TO INTERROGATORY NO. 1:

Opposer objects to this Interrogatory on the grounds that it is (a) overbroad and unduly oppressive in that it purports to require Opposer to identify every fact that might be relevant to this proceeding in response to an interrogatory; and (b) is premature because Applicant has not produced any documents or responded to discovery in this matter.

Subject to and without waiving the foregoing objections, Opposer further responds as follows: The term “reverse ATM” is descriptive and generic for an ATM that dispenses prepaid cards in exchange for cash. A traditional ATM dispenses cash after a user inserts a card. An ATM that dispenses a card in exchange for cash does the “reverse” of a traditional ATM.

Opposer and numerous other parties have used the term “reverse ATM” descriptively and generically, including prior to Applicant’s use of the term. Opposer will produce documents and provide testimony showing this. Opposer also believes Applicant knew others used “reverse ATM” before Applicant, yet Applicant failed to disclose this to the USPTO.

INTERROGATORY NO. 2:

Specify the name and description of each type of good and/or service in connection with which Opposer has ever used Opposer’s Term, or in connection with which Opposer intends to use Opposer’s Term, and for each of the goods/services so identified, specify:

- (1) The date of first use in the United States in connection with any goods/services;
- (2) The geographic area, by state, territory, or possession, in which Opposer’s Term has been used, and/or will be used, on or in connection with said goods/services;
- (3) The channels of trade in which each of the goods/services were offered, and/or will be offered.
- (4) The types of customers who are expected to purchase and or use the goods/services;
- (5) The approximate gross revenue generated by sales of each of the goods/services under Opposer’s Term for each year since such sales began; and
- (6) The approximate annual dollar amount expended by Opposer in advertising and promoting each of the goods/services under Opposer’s Term.

RESPONSE TO INTERROGATORY NO. 2:

Opposer objects to this Interrogatory on the grounds that it (a) contains six discreet subparts and therefore constitutes six interrogatories; (b) seeks information that is highly confidential, proprietary and trade secret; (c) is overbroad and unduly burdensome and

oppressive; (d) seeks documents that are neither relevant nor reasonably calculated to the discovery of admissible evidence. Opposer does not claim that it owns trademark rights in “reverse ATM,” but rather uses the term “reverse ATM” in a descriptive and generic sense, as do others including Applicant.

***CONFIDENTIAL – FOR ATTORNEYS’ EYES ONLY (TRADE SECRET /
COMMERCIALLY SENSITIVE) MATERIAL BEGINS HERE***

[REDACTED]

***CONFIDENTIAL – FOR ATTORNEYS’ EYES ONLY (TRADE SECRET /
COMMERCIALLY SENSITIVE) MATERIAL ENDS HERE***

INTERROGATORY NO. 3:

Identify the Persons associated with Opposer who are knowledgeable about:

- (1) Opposer’s selection, adoption and use of Opposer’s Term,
- (2) Opposer’s advertising and promotion of Opposer’s Term,
- (3) Opposer’s sale of services in connection with Opposer’s Term.

RESPONSE TO INTERROGATORY NO. 3:

Opposer objects to this Interrogatory on the grounds that it (a) contains three distinct subparts and therefore constitutes three interrogatories; and (b) is vague and ambiguous because of its use of the terms “adoption and use,” “advertising and promotion” and “sale of services in connection with.” Opposer does not claim to use “reverse ATM” as a trademark, but rather in a descriptive and generic sense to refer to an ATM that dispenses a prepaid card in exchange for cash.

Subject to and without waiving the foregoing objections, Opposer further responds as follows: Larry Dunnwald provided information; documents referred to herein will be produced.

Dated: July 27, 2023

Respectfully submitted,

By: /Ronald P. Oines/
Ronald P. Oines
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Attorneys for Opposer,
MOBILEMONEY, Inc.

VERIFICATION

STATE OF CALIFORNIA, COUNTY OF ORANGE

I have read the foregoing **OPPOSER’S RESPONSE TO FIRST SET OF INTERROGATORIES** and know its contents.

I am an officer of MobileMoney, Inc., a party to this action, and am authorized to make this verification for and on its behalf, and I make this verification for that reason. The matters stated in the foregoing document are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters I am informed and believe that they are true.

Executed on July July 28, 2023, 2023, at San Clemente, California.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

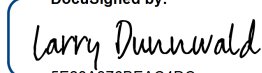
MobileMoney, Inc. DocuSigned by:
By: 
5C20A376DEA44DC...
Larry Dunnwald, President

EXHIBIT 4

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

MOBILEMONEY, INC.,

Opposer,

v.

REVERSE ATM LLC,

Applicant.

Opposition No.: 91284555

Application Serial No. 97/056,344

Trademark: REVERSE ATM

**OPPOSER'S RESPONSE TO APPLICANT'S
FIRST SET OF REQUESTS FOR ADMISSION**

Opposer MOBILEMONEY, INC. ("Opposer") hereby responds to Applicant REVERSE ATM LLC's ("Applicant") First Set of Requests for Admission, as follows:

GENERAL OBJECTIONS

Opposer objects to the Requests insofar as they seek to impose greater obligations on Opposer than those permitted under Rule 36 of the Federal Rules of Civil Procedure or other applicable rules.

In responding to these Requests, Opposer does not concede the relevancy, materiality or admissibility of any specific information, or of the subject matter to which it refers or relates. These responses are made without waiving any objections as to the competency, relevancy, materiality, or admissibility of any of the Requests or responses, or the subject matter thereof, in any proceeding, including the trial of this action.

Opposer incorporates each of the foregoing General Objections by reference into its response to each Request set forth below.

Subject to, and without waiving any of Opposer's general or specific objections and reservations to the Requests set forth in these responses, Opposer responds to the Requests, as follows:

REQUESTS FOR ADMISSION AND RESPONSES THERETO

REQUEST FOR ADMISSION NO. 1:

Admit that Opposer placed no advertisements using the term REVERSE ATM prior to October 1, 2021.

RESPONSE TO REQUEST FOR ADMISSION NO. 1:

Opposer further objects to this request on the grounds that it is vague and ambiguous because of its use of the terms “placed no advertisements.”

Subject to and without waiving the foregoing objections, Opposer further responds as follows: Admit.

REQUEST FOR ADMISSION NO. 2:

Admit that Opposer produced no brochures using the term REVERSE ATM prior to October 1, 2021.

RESPONSE TO REQUEST FOR ADMISSION NO. 2:

Opposer further objects to this request on the grounds that it is vague and ambiguous because of its use of the term “brochures.”

Subject to and without waiving the foregoing objections, Opposer further responds as follows: Admit.

REQUEST FOR ADMISSION NO. 3:

Admit that Opposer maintained no internet website using the term REVERSE ATM prior to October 1, 2021.

RESPONSE TO REQUEST FOR ADMISSION NO. 3:

Opposer further objects to this request on the grounds that it is vague and ambiguous because of its use of the terms “maintained no internet website using the term REVERSE ATM.”

Subject to and without waiving the foregoing objections, Opposer further responds as follows: Admit.

REQUEST FOR ADMISSION NO. 4:

Admit that Opposer did not use REVERSE ATM on products prior to October 1, 2021.

RESPONSE TO REQUEST FOR ADMISSION NO. 4:

Opposer further objects to this request on the grounds that it is vague and ambiguous because of its use of the terms “on products.”

Subject to and without waiving the foregoing objections, Opposer further responds as follows: Deny.

REQUEST FOR ADMISSION NO. 5:

Admit that Opposer did not use REVERSE ATM prior to October 1, 2021.

RESPONSE TO REQUEST FOR ADMISSION NO. 5:

Deny.

REQUEST FOR ADMISSION NO. 6:

Admit that the term REVERSE ATM is not generic.

RESPONSE TO REQUEST FOR ADMISSION NO. 6:

Deny.

REQUEST FOR ADMISSION NO. 7:

Admit that the term REVERSE ATM is not merely descriptive.

RESPONSE TO REQUEST FOR ADMISSION NO. 7:

Deny.

REQUEST FOR ADMISSION NO. 8:

Admit that Opposer will not be damaged by Applicant’s use of the REVERSE ATM mark.

RESPONSE TO REQUEST FOR ADMISSION NO. 8:

Opposer further objects to this request on the grounds that it is vague and ambiguous because of its use of the term “Applicant’s use.” In particular, it is not clear if Applicant means “exclusive use” or Applicant’s use coexistent with use by other parties.

Subject to and without waiving the foregoing objections, Opposer further responds as follows: Deny.

REQUEST FOR ADMISSION NO. 9:

Admit that Applicant used REVERSE ATM before OPPOSER began use of REVERSE ATM.

RESPONSE TO REQUEST FOR ADMISSION NO. 9:

Deny.

REQUEST FOR ADMISSION NO. 10:

Admit that all documents produced by Opposer are original documents, or true and correct copies of authentic, original documents.

RESPONSE TO REQUEST FOR ADMISSION NO. 10:

Opposer further objects to this request on the grounds that it is overbroad and unduly burdensome and oppressive, including because it is asking about unidentified documents that have not yet been produced.

Dated: July 28, 2023

Respectfully submitted,

By: /Ronald P. Oines/
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Attorneys for Opposer,
MOBILEMONEY, Inc.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that he is one of the attorneys for Opposer MobileMoney, Inc., in the above-captioned Opposition proceeding and that on the date which appears below, he caused a copy of the foregoing **OPPOSER MOBILEMONEY, INC.’S RESPONSE TO APPLICANT’S FIRST SET OF REQUESTS ADMISSION** to be served on Applicant’s counsel below by email:

Applicant’s Attorney of Record:

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ggolla@merchantgould.com
Phone: (612) 332-5300

Dated: July 28, 2023
Irvine, California

/Ronald P. Oines/
Ronald P. Oines