

ESTTA Tracking number: **ESTTA85226**

Filing date: **06/13/2006**

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

Proceeding	92044761
Party	Defendant Krauter, Sherry Krauter, Sherry 118 Purgatory Road Campbell Hall, NY 10916
Correspondence Address	Steven W. Teppler, Esq. Steven W. Teppler, Esq. 5715 Firestone Court Sarasota, FL 34238 UNITED STATES steppler@timecertain.com
Submission	Motion to Compel Discovery
Filer's Name	Steven W. Teppler, Esq.
Filer's e-mail	steppler@timecertain.com
Signature	/Steven W. Teppler/
Date	06/13/2006
Attachments	Registrants Motion to Compel Attendance at Deposition Filed 2006-06-13.pdf (35 pages)(825520 bytes)

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

LEICA MICROSYSTEMS IR GMBH, et al.)	)	Consolidated Cancellation Nos.
Petitioner,	)	92044757 and 92044761
)	
v.	)	Reg. No. 2892058
)	
SETH LEVINE d/b/a M CLASSICS. et al.,	)	Mark: LEITZ & Design
)	
Registrants)	

REGISTRANTS' MOTION TO COMPEL LEICA CAMERA, INC.
PRESIDENT ROGER HORN'S ATTENDANCE AT A DEPOSITION

COMES NOW Registrants Sherry Krauter and Seth Levine, d/b/a M CLASSICS ("Krauter," "Levine" or "Registrants" respectively) and pursuant to T.B.M.P. §§ 411.03, 523.01, 37 CFR §2.120(e) and Rule 37 of the Federal Rules of Civil Procedure move to compel Petitioners LEICA MICROSYSTEMS IR GMBH and LEICA MICROSYSTEMS HOLDINGS GMBH (hereafter, "Leica" or "Petitioners") to produce Leica Camera, Inc. president Roger Horn's attendance at a discovery deposition. Upon information and belief, Roger Horn is a resident of the United States, and is located in the United States. Registrant Krauter's counsel Steven Teppler hereby states that he has made a good faith effort, by conference or correspondence, to resolve with the other party or the attorney therefor the issues presented in the motion and has been unable to reach agreement. Registrants hereby incorporate by reference the allegations and facts contained in Registrants' Motion to Join additional parties made pursuant to Fed. R. Civ. P. 19.

Registrants respectfully submit that Petitioners refuse to produce Mr. Horn for discovery deposition in accordance with a Notice of Deposition duly served pursuant to Fed. R. Civ. P. 30(a)1. Registrants further respectfully submit that Roger Horn is or

should be deemed a party witness because: (1) Leica Camera, Inc. (the entity of which Mr. Horn is president) has been identified as a related party by petitioners; (2) Roger Horn has been identified by Petitioners as a person who contributed to or participated in the preparation of Petitioner's discovery responses; (3) upon information and belief, Leica Camera, Inc. and "Leica Camera USA, Inc." are the same entity; (4) that Petitioners counsel Crowell & Moring only disclosed to Registrant Krauter's counsel on June 9, 2006 that they also represent "Leica Camera USA, Inc." and on information and belief, Leica Camera, Inc."

In support of this Motion, Registrant states as follows:

1. On February 7, 2006, Registrant served Petitioners with Interrogatories (Pertinent Excerpts Attached as Exhibit "A" hereto) and Requests for Production (Pertinent Excerpts attached as Exhibit "B" hereto).
2. On or about March 10, 2006, Registrant consented to extend for thirty (30) days, until April 13, 2006, the deadline for Petitioners' responses to Registrant's Interrogatories and Request for Production.
3. On or about April 13, 2006, Registrant consented to further extend until April 19, 2006, the deadline for Petitioners' responses to Registrant's Interrogatories and Requests for Production.
4. A Protective Order drafted by Petitioners was signed by counsel for Registrant and forwarded to counsel for Petitioners on or about February 7, 2006.
5. On or about April 25, 2006, Petitioners served responses to Registrant's Interrogatories and Request for Production.
6. Petitioner's response to Interrogatory Number "1" identifies and discloses

Leica Camera, Inc. as a shareholder and/or related party of Petitioner Leica Microsystems, IR GmbH. (See Exhibit “C” attached hereto).

7. Petitioner’s response to Interrogatory Number “1” does not identify Leica Camera USA, Inc. in any manner.

8. Registrant’s Interrogatory Number 28 (Exhibit “A” hereto) recites as follows:

For each of the preceding Interrogatories, identify: all persons who were consulted or participated in the preparation of the answer to each Interrogatory, all persons who are presently knowledgeable as to any of the facts recited in the answer to each Interrogatory; whether or not such persons were consulted or participated in the preparation of the answer; and all files and areas searched in attempting to locate any documents requested to be identified by each Interrogatory.

Petitioner responded to this Interrogatory by providing 6 names, including that of Leica Camera Inc./Leica Camera USA, Inc. president Roger Horn, but otherwise failed utterly to respond to any other portion of this Interrogatory. (See Petitioner’s Response to Interrogatory No. 28, Exhibit “D” hereto).

9. Petitioners have failed to respond completely to Interrogatories Number 1 and 28.

10. Petitioners state that “they will respond” but as of the date of the filing of this Motion, have failed to provide documents responsive to Document Production Request Number 28 (See Exhibit “E” hereto).

11. Petitioners have failed to provide, pursuant to Registrants’ Requests for Production Number 28, any documentation regarding their insufficient response to Registrants’ Interrogatory Number 1 (See “Petitioner’s Response to Document Production Request No. 28,” Exhibit “E” hereto).

12. On June 7, 2006, Registrants' counsel served, in accordance with Fed R. Civ. P. 30(a), a Notice of Deposition for Leica Camera, Inc. president Roger Horn (See Notice of Deposition, Exhibit "F" hereto).

13. On June 9, 2006, counsel for Registrant Krauter and Petitioners' counsel Conferred by telephone to discuss Registrants' Notice of Deposition of Roger Horn in an attempt to resolve a discovery dispute ("June 9, 2006 Telephone Call").

14. Following the June 9, 2006 Telephone Call, Registrant Krauter's counsel Steven Teppler contacted Petitioner's counsel by e-mail to confirm the substance of the June 9 2006 Telephone Call (See "Registrant's June 9, 2006 Email", Exhibit "G" hereto). That e-mail requested clarification in connection with Petitioners' counsels representation that Leica Camera, Inc. president Roger Horn was not a party witness and that Petitioners' counsel did not represent an Leica Camera, Inc. Registrant's counsel also sought clarification of Petitioner's counsel's statement that Roger Horn was president of *Leica Camera, USA, Inc.*

15. Petitioners' counsel responded by e-mail to Registrant's counsel with "points of clarification" (See Petitioner's June 9, 2006 e-mail, Exhibit "H" hereto). These "points of clarification" included:

- a. The disclosure by petitioners of an additional related party;
- b. The statement that Roger Horn was the president of Leica Camera USA, Inc.;
- c. Petitioners' counsel's first disclosure to Registrants that they represent "Leica Camera, USA"; and

- d. An apparent “invitation” from Petitioners’ counsel to serve a Notice of Deposition on Roger Horn personally as opposed to Mr. Horn as president of Leica Camera, Inc.

16. On June 12, 2006, Registrant Krauter’s counsel Steven Teppler e-mailed Petitioners’ counsel to clarify their misunderstanding in connection with (i) the Notice of Deposition of Roger Horn, (ii) the June 9, 2006 Telephone Call, and (iii) the e-mails exchanged by the parties subsequent to that discussion (See Registrant Krauter’s June 12, 2006 Email, Exhibit “I” hereto). In that e-mail, Registrant Krauter’s counsel stated that Registrant’s Notice of Deposition was intended for Mr. Horn as president of Leica Camera, Inc., that Mr. Horn had recently confirmed his status as Leica Camera, Inc. president to Registrant Krauter, and that Registrants expected Petitioners’ compliance with that Notice of Deposition.

17. As of the filing of the instant Motion, Petitioners have not responded to her June 12 2006 e-mail, nor have they agreed to a deposition date for Mr. Horn.

18. The time to take discovery depositions ends on June 26, 2006.

ARGUMENT

Petitioners have represented that Leica Camera Inc.and/or Leica Camera USA, Inc., and its president, Roger Horn are not party witnesses for purposes of taking Mr. Horn’s discovery deposition.¹ What information that has been provided by Petitioner to Registrant supports a contrary conclusion. Petitioners disclose in their responses to

¹ Petitioners’ counsel , in seeming contradiction to their assertion that Mr. Horn is not a “party witness,” appear to be nonetheless intimately involved in the decision to produce Mr. Horn’s attendance at a discovery deposition (See Petitioner’s June 9, 2006 email to Registrant Krauter’s Counsel (Exhibit “H” hereto).

Registrant's Interrogatories Numbers 1 and 28 that Leica Camera, Inc. is a related party and that Leica Camera, Inc. president Roger Horn contributed to and/or participated in the preparation of *Petitioners'* discovery responses (see Exhibits "C" and "D" hereto).² In a startling revelation prompted only by repeated queries from Registrants' counsel, *Petitioners'* counsel further disclosed only on June 9, 2006 that they represent "Leica Camera USA, Inc." and, apparently, Leica Camera, Inc., and Mr. Horn in his capacity as president of Leica Camera USA, Inc. and/or Leica Camera, Inc. Registrant uses the term "apparently" because *Petitioners* and their counsel have made no substantive discovery responses and have produced no documentation addressing or clarifying these issues. Registrant Krauter states that Mr. Horn confirmed his position as Leica Camera, Inc. president in February 2006; that, as an authorized Leica dealer, Registrant Krauter has and continues to remit payments for Leica parts she purchases to Leica Camera, Inc. in Allendale New Jersey; that "Leica Camera, USA, Inc." was a prior corporate name of Leica Camera, Inc.; and that Leica Camera, Inc. and Leica Camera, USA Inc. are the same entity (See Declaration of Registrant Sherry Krauter, Exhibit "J" hereto). *Petitioners'* discovery responses show a continuing pattern of making vague, ambiguous, evasive, and non-responsive answers in connection with their identification and characterization of related or interested parties to this proceeding, as well as identifying both the nature and extent of those who participated in or preparation of *Petitioners'* discovery responses.³ As a consequence of *Petitioners'* willful ignorance of their

² It is perhaps telling that *Petitioner's* fail utterly to explain this representation as requested by the remainder of Interrogatory Number 28 (Exhibit "A" hereto).

³ See, for example, Interrogatory 28 (Exhibit "A"), which requires that *Petitioners* disclose not only the identity of those who participated in or assisted in the preparation of *Petitioners'* discovery responses, but in general also requires that *Petitioners* describe the nature and extent of such activities. *Petitioners'* response was to identify six individuals only, and not provide any of the additional information requested in that Interrogatory. *Petitioners* have represented to Registrants' counsel on numerous occasions that no

discovery obligations, as well as their continued practice of providing vague, ambiguous and evasive discovery responses, Registrants are left with little alternative but to file the instant Motion to Compel.

Registrants respectfully submit that Petitioners have and continue to refuse to produce Mr. Horn for discovery deposition in accordance with a Notice of Deposition duly served pursuant to Fed. R. Civ. P. 30(a)1 and relevant TTAB rules. Registrants further respectfully submit that Roger Horn is or should be deemed a party witness because (1) Leica Camera, Inc. (the entity of which he is president) has been identified as a related party by petitioners, (2) that Roger Horn has been identified by Petitioners as a person who, at minimum, contributed to or participated in the preparation of Petitioner's discovery responses, (3) that, upon information and belief, Leica Camera, Inc. and "Leica Camera USA, Inc." are the same entity, (4) that Petitioners counsel Crowell & Moring disclosed to Registrants' Krauter's only on June 9, 2006 that they also represent "Leica Camera USA, Inc." and on information and belief, Leica Camera, Inc., and (5) that, upon information and belief, there is sufficient interlocking control, influence or interest between these entities and Petitioner's as to deem Roger Horn a party witness for purposes of discovery.

It is also significant that Registrant Krauter is an authorized Leica dealer in the United States, and has had continuing dealings with both Leica Camera, Inc. and with its president, Roger Horn for many years. Indeed, in a February 2006 conversation, Mr. Horn confirmed to Registrant Krauter that he was president of Leica Camera, Inc.

documents or other information requested by Registrants' discovery is being withheld on the basis of any privilege.. Petitioners' refusal to comply with properly propounded discovery requests should not be rewarded by the Board, and, accordingly it is respectfully submitted that the Board grant the instant Motion to Compel

Further, Registrant Krauter has and continues to remit checks for parts payments to Leica Camera, Inc. and not to “Leica Camera USA, Inc.” Registrant Krauter further states that Leica Camera USA, Inc. was the previous name of Leica Camera, Inc. and that to her continuing knowledge the two are and have been one and the same entity (See Declaration of Registrant Sherry Krauter, Exhibit “J” hereto). Finally, Petitioners’ vague and ambiguous responses do not contradict Registrant’s representations and understanding that Leica Camera, Inc. and “Leica Camera USA, Inc.” are one and the same. Accordingly, and for the foregoing reasons, the Board should rule that Leica Camera Inc., and/or Leica Camera USA, Inc., are related parties for discovery purposes in these proceedings.

WHEREFORE: Registrants, pursuant to TBMP §§411.03, 411.04, 523.01, 37 CFR §2.120 (e), and the Federal Rules of Civil Procedure, respectfully move this Board for an Order:

Compelling the attendance of Leica Camera, Inc., and/or Leica Camera USA, Inc. president Roger Horn at a discovery deposition at a time and place of Registrants’ choice, and as soon as ten days from the granting of this Motion;

Requiring Petitioners to be responsible for any costs incurred in producing the witness;

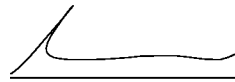
Preventing Petitioners from introducing any other evidence or testimony in support of its claims;

Prohibiting Petitioners from producing any additional evidence regarding use of the LEITZ marks in the United States since 1990;

Suspending these proceedings and all deadlines in these proceedings until such time as Petitioners produce Roger Horn for a discovery deposition, and until Petitioners' otherwise fully and completely respond to all of Registrant's February 7, 2006, Interrogatories and Requests for Production;

Requiring Petitioners to pay Registrant's costs, expenses and attorney fee's incurred in connection with this Motion, pursuant to F.R.C.P. Rule 37(a)(4); and

For such other and further relief as the Board deems appropriate.



Steven W. Teppler
Attorney for Registrant Sherry Krauter
5715 Firestone Court
Sarasota, FL 34238

/s/

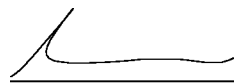
Erik M. Pelton, Attorney at Law
PO Box 100637
Arlington, Virginia 22210
Attorney for Registrant
Seth Levine d/b/a M Classics

CERTIFICATE OF SERVICE

I hereby certify that a true copy of Registrants' Motion to Compel was delivered by hand delivery on June 13, 2006 to William J. Sauers and Joseph D. Evans, counsel for Petitioners at the following address:

CROWELL & MORING, LLP
P.O. BOX 14300
WASHINGTON, DC 20004-4300

By:



Steven W. Teppler, Esq.

EXHIBIT A

- a. Identify the information with sufficient particularity to allow the matter to be brought before the Court, including a description of the information's type (e.g. event, conversation, occurrence), subject matter, date, and participants; and
- b. State briefly the legal and factual basis for the claim of privilege or work-product protection.

INTERROGATORIES

Interrogatory No. 1:

Identify fully, as described in Instruction No. 3, the Petitioner, Leica Microsystems IR GmbH, its shareholders and related companies.

ANSWER:

Interrogatory No. 2:

Identify any entity associated with Petitioner that is associated with the sale of goods and/or services bearing Petitioner's marks, including its state and date of incorporation, principal place of business, any affiliated or related entities, and relationship to Petitioner.

ANSWER:

Interrogatory No. 3:

Identify and describe with specificity each good and service in connection with which LEICA Marks or LEITZ Marks, or any variation thereof, have been used or are currently being used by Petitioner, or any authorized user of such marks.

ANSWER:

or other transactions between Petitioner and its related companies or shareholders and any other party.

ANSWER:

Interrogatory No. 28

For each of the preceding Interrogatories, identify: all persons who were consulted or participated in the preparation of the answer to each Interrogatory; all persons who are presently knowledgeable as to any of the facts recited in the answer to each Interrogatory; whether or not such persons were consulted or participated in the preparation of the answer; and all files and areas searched in attempting to locate any documents requested to be identified by each Interrogatory.

ANSWER:

Interrogatory No. 29

Identify any person who may be used at Trial to present evidence under Rules 702, 703, or 705 of the Federal Rules of Evidence. For each such person, provide a separate written report satisfying the provisions of F.R.Civ.P. 26(a)(2)(B).

ANSWER:

Dated: February 7, 2006

EXHIBIT B

rights to Registrant's Mark, including, but not limited to, all documents identifying the date of any such opinion and the attorney rendering the opinion, and all documents and things referring to, relating to, or discussing any action Petitioner may have taken, or considered taking, in reliance upon said opinion.

23. All documents and things referring to, relating to, evidencing, or comprising any instance or occurrence of actual confusion on the part of any person due to the use of Registrant's Mark and Petitioner's Marks.

24. All documents and things referring to, relating to, evidencing, or comprising any inquiry, investigation, or survey conducted by or on behalf of Petitioner regarding any issues involved or the allegations made in this Opposition proceeding.

25. All surveys, studies or other documents relating to the fame of the Petitioner's Marks.

26. All documents provided to, reviewed by, or generated by any testifying witness.

27. All documents and things upon which any expert or consultant retained by Petitioner or any person acting for or on behalf of Petitioner relied upon to generate his or her opinions, statements, or other documents regarding any of the issues involved or the allegations made in this Cancellation proceeding.

28. All documents and things, other than those produced in response to any of the foregoing requests, identified or used by Petitioner in its answers to Registrant's First Set of Interrogatories.

29. All documents and things, other than those produced in response to any of the foregoing requests, upon which Petitioner intends to rely in connection with this Opposition proceeding.

EXHIBIT C

information, it will produce/provide such documents, things, or information as they exist and can be located after a reasonable search of documents, things, and information within Petitioner's possession, custody and control.

6. In addition to all facts, information and documents identified or referred to in these responses, Petitioner reserves its right to use and rely upon any facts, information or documents provided by Registrant during discovery.

7. These General Objections shall apply to each of Petitioner's responses. To the extent that specific objections are provided because they are believed to be particularly applicable to specific interrogatories, they are not to be construed as a waiver of any General Objection applicable to the information falling within the scope of the interrogatory.

Subject to these General Objections and the specific objections hereinafter set forth, Petitioner responds to Registrant's First Set of Interrogatories as follows:

INTERROGATORIES

Interrogatory No. 1:

Identify fully, as described in Instruction No. 3, the Petitioner, Leica Microsystems IR GmbH, its shareholders and related companies.

RESPONSE:

In addition to the General Objections, Petitioners object that the Interrogatory as vague, overbroad, unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without

waiving its objections, Petitioner names the following, and directs Applicant to

www.leica.com:

Leica Microsystems GmbH
35578 Wetzlar, Germany
Handelsregister Wetzlar, HRB 2156

Leica Microsystems IR GmbH
35578 Wetzlar, Germany
Handelsregister Wetzlar, HRB 2349

Leica Microsystems Holdings GmbH
35578 Wetzlar, Germany
Handelsregister Wetzlar, HRB 7

Leica Microsystems CMS GmbH
35578 Wetzlar, Germany
Handelsregister Wetzlar, HRB 2432

Leica Microsystems Nussloch GmbH
69226 Nussloch, Germany
Handelsregister Heidelberg, HRB 3205

Leica Microsystems (Schweiz) AG
9435 Heerbrugg, Switzerland
Handelsregister St. Gallen, Firmen-Nr. CH-270.3.012.009-D

Leica Mikrosysteme GmbH (Austria)
1170 Wien, Austria
Handelsregister Wien FN 82532

Leica Microsystems Cambridge Ltd. (UK)
Cambridge CB1 3QH, United Kingdom
Company No. 914067

Leica Microsystems Inc.
Depew, NY 14043

Leica Geosystems AG
Heinrich Wild Strasse
CH-9435 Heerbrugg
St. Gallen, Switzerland

EXHIBIT D

Interrogatory to the extent it seeks to invade the attorney-client privilege and/or attorney work product doctrine. Subject to and without waiving its objections, none.

Interrogatory No. 27

Identify and describe with specificity any and all licenses, assignments, stock transfers or other transactions between Petitioner and its related companies or shareholders and any other party.

RESPONSE: In addition to the General Objections, Petitioners object that the Interrogatory as overbroad, unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence. Petitioners further object to this Interrogatory to the extent it seeks to invade the attorney-client privilege and/or attorney work product doctrine. Petitioners object to this Interrogatory to the extent that it seeks to obtain information that is already publicly available or in the possession of Registrant. Subject to and without waiving its objections, Petitioners direct registrant to the public records available at www.uspto.gov.

Interrogatory No. 28

For each of the preceding Interrogatories, identify: all persons who were consulted or participated in the preparation of the answer to each Interrogatory; all persons who are presently knowledgeable as to any of the facts recited in the answer to each Interrogatory; whether or not such persons were consulted or participated in the preparation of the answer; and all files and areas searched in attempting to locate any documents requested to be identified by each Interrogatory.

RESPONSE: In addition to the General Objections, Petitioners object that the Interrogatory as overbroad, unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence. Petitioners further object to this Interrogatory to the extent it seeks to invade the attorney-client privilege and/or

attorney work product doctrine. Subject to and without waiving its objections, Petitioners respond as follows: Roger Horn, Anita Schefranek, Harald Stamer, Dr. Georg A. Lang, Molly Lundberg, Ralf Niggemann

Interrogatory No. 29

Identify any person who may be used at Trial to present evidence under Rules 702, 703, or 705 of the Federal Rules of Evidence. For each such person, provide a separate written report satisfying the provisions of Fed.R.Civ.P. 26(a)(2)(B).

RESPONSE: In addition to the General Objections set forth above, Opposer objects to this interrogatory as premature. Subject to and without waiving its objections, Opposer states that it will disclose anticipated expert witnesses in accordance with applicable Pretrial Orders, the Federal Rules of Civil Procedure and the Trademark Trial and Appeal Board Practice and Procedure rules.

Respectfully submitted,

**LEICA MICROSYSTEMS IR GMBH
LEICA MICROSYSTEMS
HOLDINGS GMBH**

April 25, 2006

As to objections:

By:  _____

Joseph D. Evans, Esq.
Attorney for Petitioners

CROWELL & MORING, LLP
P.O. Box 14300
Washington, DC 20044-4300
Telephone No.: (202) 624-2500
Facsimile No.: (202) 628-8844
JDE:wjs

EXHIBIT E

28. All documents and things, other than those produced in response to any of the foregoing requests, identified or used by Petitioner in its answers to Registrant's First Set of Interrogatories.

RESPONSE: Subject to and without waiving its objections, Petitioners will produce non-privileged documents and things responsive to this Request.

29. All documents and things, other than those produced in response to any of the foregoing requests, upon which Petitioner intends to rely in connection with this Opposition proceeding.

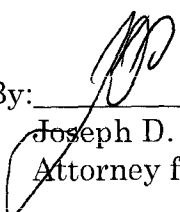
RESPONSE: Subject to and without waiving the General Objections, Petitioners state that they intend to rely on all non-privileged documents produced herewith or in any supplement hereto and reserve the right to rely on any documents produced by Registrant.

Respectfully submitted,

**LEICA MICROSYSTEMS IR GMBH
LEICA MICROSYSTEMS
HOLDINGS GMBH**

April 25, 2006

As to objections:

By: 

Joseph D. Evans, Esq.
Attorney for Petitioners

CROWELL & MORING, LLP
P.O. Box 14300
Washington, DC 20044-4300
Telephone No.: (202) 624-2500
Facsimile No.: (202) 628-8844
JDE:wjs

EXHIBIT F

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

LEICA MICROSYSTEMS IR GMBH, et al.)	
Petitioners,	)	CONSOLIDATED
	)	Cancellation Nos. 92044761
	)	& 92044757
v.	)	Mark: LEITZ & Design
)	
SHERRY KRAUTER)	
Registrant)	
)	
SETH LEVINE)	
Registrant)	

**NOTICE OF DEPOSITION
TO LEICA CAMERA, Inc., SUBSIDIARY OF
LEICA MICROSYSTEMS HOLDINGS, GmBH**

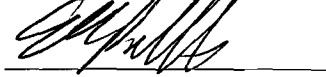
TO: Leica Microsystems Holdings, GmBH
 Leica Microsystems IR, GmBH
 c/o WILLIAM SAUERS, ESQ.
 CROWELL & MORING, LLP
 P.O. BOX 14300
 WASHINGTON, DC 20004-4300

Please take notice that Registrants Seth Levine and Sherry Krauter, by their attorneys, pursuant to TBMP § 404, Trademark Rule 2.120 and Rule 30(a) of the Federal Rules of Civil Procedure, will take the deposition upon oral examination of the following individual, pursuant to Fed. R. Civ. P. Rule 28, located at Esquire Deposition Services, 1020 19th Street NW, #620A Washington, District of Columbia 20036, at the date and time listed below (or as otherwise agreed), and continuing until completed, at which time you are invited to appear and cross-examine. Such depositions shall be taken for the purpose of discovery or for use in evidence, and for all purposes permitted by Federal Rules, statutes, and regulations, in the above-referenced proceedings and will continue from time to time until completed. The matters on which examination is requested include specifically the facts and circumstances surrounding the use or non-use by Petitioners, their subsidiaries, and related entities, of the Leitz mark between 1990 and the present day in the United States, and generally the witness' knowledge of the underlying facts in connections with the assertions and allegations made by Petitioners in support of the instant Cancellation, including both those matters within his knowledge, as well as matters known or reasonably available to the corporation.

Witness: Roger W. Horn, President
Leica Camera, Inc.
One Pearl Court
Allendale, NJ 0740
Date: June 15, 2006
Time: 9:00 a.m.

Dated: June 7, 2006

Respectfully Submitted,



Erik M. Pelton, Esq.
Attorney for Registrant Seth Levine
PO Box 100637
Arlington, VA 22210



Steven W. Teppler, Esq.
Attorney for Registrant Sherry Krauter
5715 Firestone Court
Sarasota, FL 34238

CERTIFICATE OF SERVICE

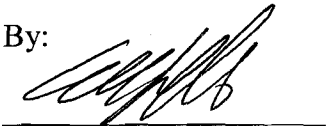
I hereby certify that a true copy of the Registrants' Notice of Deposition was sent by First Class mail, postage prepaid, on June 7, 2006, to WILLIAM SAUERS, ESQ. CROWELL & MORING, LLP P.O. BOX 14300 WASHINGTON, DC 20004-4300

By:



Steven W. Teppler, Esq.

By:



Erik M. Pelton, Esq.

EXHIBIT G

Steven W. Teppler

From: Steven W. Teppler [steppler@timecertain.com]
Sent: Friday, June 09, 2006 4:49 PM
To: Sauers, William; jdevans@crowell.com
Cc: Erik Pelton
Subject: RE: LEITZ Cancellation Proceedings 92044761 and 92044757

Dear Counselors:

This will confirm that you have represented to me today by telephone that Leica Camera, Inc. is not a party to these proceedings, and will not be producing Roger Horn, Leica Inc.'s president, as a witness pursuant to our Notice of Deposition served on June 7, 2007. It is my understanding that you further represented to me today that you do not represent Leica Camera, Inc. in connection with these proceedings.

If you disagree with our understanding of your representation, please contact me at your earliest convenience.

Best regards
Steven Teppler

This email has been seen and consented to by Erik Pelton

6/13/2006

EXHIBIT H

Steven W. Teppler

From: Sauers, William [WSauers@crowell.com]
Sent: Friday, June 09, 2006 6:15 PM
To: steppler@timecertain.com
Cc: Erik Pelton
Subject: RE: LEITZ Cancellation Proceedings 92044761 and 92044757

Dear Steven:

Thank you for your below e-mail. We have a few points of clarification we wish to make so everyone is on the same page. First, Mr. Horn is president of Leica Camera USA, Inc. Leica Camera USA, Inc. is not a party to these proceedings. You stated on the phone that your notice was a personal deposition of Mr. Horn. Accordingly, because Mr. Horn is employed by Leica Camera USA, a non-party, we stated that the notice was defective because it was not served to Mr. Horn under subpoena.

As to representation, we stated only that we have not been retained by Mr. Horn in this matter, but that he may choose to do so if he is served with a notice of deposition. We are counsel for Leica Camera USA.

Regards,

Bill

William J. Sauers
Crowell & Moring LLP
1001 Pennsylvania Ave.
Washington, DC 20004
tel: (202) 624-2746
fax: (202) 628-8844
wsauers@crowell.com
www.crowell.com

From: Steven W. Teppler [mailto:steppler@timecertain.com]
Sent: Friday, June 09, 2006 4:49 PM
To: Sauers, William; Evans, Joseph D.
Cc: Erik Pelton
Subject: RE: LEITZ Cancellation Proceedings 92044761 and 92044757

Dear Counselors:

This will confirm that you have represented to me today by telephone that Leica Camera, Inc. is not a party to these proceedings, and will not be producing Roger Horn, Leica Inc.'s president, as a witness pursuant to our Notice of Deposition served on June 7, 2007. It is my understanding that you further represented to me today that you do not represent Leica Camera, Inc. in connection with these proceedings.

If you disagree with our understanding of your representation, please contact me at your earliest convenience.

Best regards
Steven Teppler

This email has been seen and consented to by Erik Pelton

6/13/2006

EXHIBIT I

Steven W. Teppler

From: Steven W. Teppler [steppler@comcast.net]
Sent: Monday, June 12, 2006 12:24 AM
To: Sauers, William
Cc: Erik Pelton
Subject: RE: LEITZ Cancellation Proceedings 92044761 and 92044757

Dear Bill:

Thank you for your email. First, a clarification. We did notice Mr. Horn as president of Leica Camera Inc. and not personally as you maintain. As for "Leica Camera USA, Inc" I have been informed by my client that Roger Horn is president of Leica Camera Inc., and that Mr. Horn has made similar representations to my client as recently as February 2006. Whether the caption reads Leica Camera Inc. or Leica Camera USA, Inc. is therefore a distinction without a difference. Accordingly, we expect Mr. Horn to be deposed as a party witness in accordance with the Notice of Deposition as served.

Best regards,
Steven Teppler .

-----Original Message-----

From: Sauers, William [mailto:WSauers@crowell.com]
Sent: Friday, June 09, 2006 6:15 PM
To: steppler@timecertain.com
Cc: Erik Pelton
Subject: RE: LEITZ Cancellation Proceedings 92044761 and 92044757

Dear Steven:

Thank you for your below e-mail. We have a few points of clarification we wish to make so everyone is on the same page. First, Mr. Horn is president of Leica Camera USA, Inc. Leica Camera USA, Inc. is not a party to these proceedings. You stated on the phone that your notice was a personal deposition of Mr. Horn. Accordingly, because Mr. Horn is employed by Leica Camera USA, a non-party, we stated that the notice was defective because it was not served to Mr. Horn under subpoena.

As to representation, we stated only that we have not been retained by Mr. Horn in this matter, but that he may choose to do so if he is served with a notice of deposition. We are counsel for Leica Camera USA.

Regards,

Bill

William J. Sauers
Crowell & Moring LLP
1001 Pennsylvania Ave.
Washington, DC 20004
tel: (202) 624-2746
fax: (202) 628-8844
wsauers@crowell.com
www.crowell.com

From: Steven W. Teppler [mailto:steppler@timecertain.com]
Sent: Friday, June 09, 2006 4:49 PM

6/13/2006

To: Sauers, William; Evans, Joseph D.
Cc: Erik Pelton
Subject: RE: LEITZ Cancellation Proceedings 92044761 and 92044757

Dear Counselors:

This will confirm that you have represented to me today by telephone that Leica Camera, Inc. is not a party to these proceedings, and will not be producing Roger Horn, Leica Inc.'s president, as a witness pursuant to our Notice of Deposition served on June 7, 2007. It is my understanding that you further represented to me today that you do not represent Leica Camera, Inc. in connection with these proceedings.

If you disagree with our understanding of your representation, please contact me at your earliest convenience.

Best regards
Steven Teppler

This email has been seen and consented to by Erik Pelton

EXHIBIT J

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

LEICA MICROSYSTEMS IR GMBH, et al.)	)	Consolidated Cancellation Nos.
Petitioner,	)	92044757 and 92044761
)	
v.	)	Reg. No. 2892058
)	
SETH LEVINE d/b/a M CLASSICS. et al., )	)	Mark: LEITZ & Design
)	
Registrants)	

DECLARATION OF REGISTRANT SHERRY KRAUTER

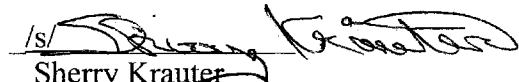
Sherry Krauter, being over the age of 18, hereby declares under penalty of perjury:

1. I have serviced Leica camera products for approximately 30 years.
2. I am currently, and have for some years been, an authorized Leica dealer.
3. In the course of my dealing with Leica camera products, I have come to be acquainted with Roger Horn prior to the time he became president of Leica's United States operations in or around 1990.
4. It is my understanding and knowledge that Leica Camera, USA, Inc. was the predecessor in name to Leica Camera, Inc. and that Leica Camera, Inc., and Leica Camera USA, Inc. are one and the same entity.
5. As an authorized Leica dealer, I am required to send remittance payments for parts I purchase to Leica.
6. As an authorized Leica dealer, I am required to make out any and all remittance payments, and remit such payments for Leica products to Leica Camera, Inc.

7. Mr. Horn confirmed to me in a conversation in February 2006 that he is the president of Leica Camera, Inc.

I hereby declare under penalty of perjury that the foregoing is true to the best of my knowledge and belief.

DATED: June 12, 2006


/s/ Sherry Krauter