

ESTTA Tracking number: **ESTTA1061503**

Filing date: **06/11/2020**

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

Proceeding	92070407
Party	Plaintiff AWP USA Inc.
Correspondence Address	DAVID LUDWIG DUNLAP BENNETT & LUDWIG PLLC 211 CHURCH STREET SE LEESBURG, VA 20175 UNITED STATES trademarks@dbllawyers.com, dludwig@dbllawyers.com 703-777-7319
Submission	Plaintiff's Notice of Reliance
Filer's Name	David Ludwig
Filer's email	dludwig@dbllawyers.com, hsun@dbllawyers.com, litigation@dbllawyers.com
Signature	/David Ludwig/
Date	06/11/2020
Attachments	AWP Second Notice of Reliance.pdf(127952 bytes) Exhibit B.pdf(228098 bytes)

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

**IN THE MATTER OF Trademark Registration No. 5,323,248
For the mark CHUBB TRAVEL SMART;
Registered on October 31, 2017**

AWP USA INC.,)	
)	
Petitioner,)	
)	
v.)	Cancellation No. 92070407
)	
CHUBB INA HOLDINGS INC.,)	
)	
Registrant.)	
_____)	

PETITIONER'S SECOND NOTICE OF RELIANCE

Petitioner, through counsel, hereby submits this Notice of Reliance pursuant to 37 C.F.R. § 2.210(k).

Attached hereto as **Exhibit B** is a true and correct copy of Registrant's Responses to Petitioner's First Set of Interrogatories, dated September 30, 2019, and its verification page dated October 1, 2019. The Registrant's responses to Petitioner's interrogatories contain a number of facts and/or allegations relevant to determining Registrant's and Petitioner's priority in using their marks in connection with their respective goods and services as well as to establishing why Registrant's CHUBB TRAVEL SMART mark used in connection with its goods/services is likely to cause consumer confusion as to the source of its goods/services.

For instance, the responses note Registrant's alleged first-use dates of its mark in connection with its goods, and its respective trade channels of the goods. These listed interrogatory responses are only an example of the relevance of these responses to Petitioner's case as Petitioner

anticipates being able to refer to other interrogatory responses of the Registrant herein, which relevance will be evident from a cumulative review of all of Petitioner's evidence and Notices of Reliance.

DATED this 11th day of June 2020.

Respectfully submitted,

AWP USA INC.,
Petitioner,
By counsel,

/s/ David Ludwig
David Ludwig
Hyung Gyu Sun
Dunlap Bennett & Ludwig PLLC
211 Church Street, SE
Leesburg, VA 20175
Tel.: (703) 777-7319
Fax.: (703) 777-3656
dludwig@dbllawyers.com
hsun@dbllawyers.com

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing has been served upon Registrant by E-Mail on this 11th day of June 2020, addressed as follows:

Jenifer Dewolf Paine
Fish & Richardson PC
Times Square Tower 20th Floor
New York, NY, 10036
paine@fr.com; tmdoctc@fr.com; steinman@fr.com;
jlynch@fr.com; walden@fr.com

/s/ David Ludwig
David Ludwig

EXHIBIT B

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

AWP USA INC.,)	
)	
Petitioner,)	
)	Reg. No.: 5,323,248
v.)	Mark: CHUBB TRAVEL SMART
)	Cancellation No.: 92070407
CHUBB INA HOLDINGS INC.,)	
)	
Registrant.)	
)	

**REGISTRANT’S RESPONSES TO PETITIONER’S
FIRST SET OF INTERROGATORIES**

Registrant, Chubb INA Holdings Inc. (“Registrant”), by and through its attorneys, Blank Rome LLP, responds to Petitioner’s First Set of Interrogatories as follows:

GENERAL OBJECTIONS

1. Registrant objects to the Definitions and Instructions to the extent that they impose duties over and above those required by the Federal Rules of Civil Procedure and the Trademark Trial and Appeal Board Rules of Practice.
2. Registrant objects to Petitioner’s discovery requests to the extent that they seek information and documents that are protected by the attorney-client privilege or attorney work-product doctrine or that are otherwise protected from disclosure.
3. Registrant objects to Petitioner’s discovery requests to the extent that they seek information or documents that consist of proprietary business information or other confidential information.
4. Registrant objects to Petitioner’s discovery requests to the extent that the scope of the requests for information, documents, and things relate to policies, plans, suggestions,

recommendations, or research concerning goods, services, trademarks, trade names, or service marks or the advertising, promotion, positioning, marketing, or distribution of same that have not been implemented or publicly announced by Registrant.

5. The responses given herein, or the production of documents or tangible things, by Registrant in response to any one or more of the Interrogatories or Document Requests, shall not be deemed to waive any claim of privilege or immunity Registrant may have as to any response, document, or thing, or any question or right of objection as to competency, relevance, materiality, or admissibility, or any objection Registrant may have as to a demand for further response to these or other discovery requests.

6. Nothing contained herein may be construed as an admission related to the existence or non-existence of any document, and no response is an admission respecting the relevance or admissibility in evidence of any statement or characterization contained in the discovery requests.

7. Redaction of any information from any document produced by Registrant in response to Petitioner's discovery requests shall not be deemed to waive any objections Registrant may have to the production of unredacted versions of such documents.

8. The responses to Petitioner's discovery requests, when made, shall be made without waiver of, or prejudice to, any objections herein made or hereafter made, and all such objections are hereby expressly reserved.

9. Petitioner's discovery requests are premature, as discovery is ongoing. Registrant will not be limited by its responses herein if, as this matter progresses, Registrant gathers additional information responsive to Petitioner's discovery requests.

10. These general objections are applicable to each specific response herein without further reference. The insertion of specific objections in the response to any discovery request shall not be construed as a waiver of such objection in any other response.

RESPONSES

INTERROGATORY NO. 1:

State the earliest date on which Registrant will rely in this proceeding to establish any rights in Registrant's Mark vis-a-vis Petitioner, and state in detail the basis for Registrant's claim of rights in Registrant's Mark as of that date, including:

- a. a description of the manner of use of Registrant's Mark as of that date (e.g., promotional or advertising materials, store/office signage, etc.);
- b. the identity of each person involved in any way in such use, including but not limited to the identity of each witness who can testify on personal knowledge as to such use;
- c. the identification of each service in connection with which the mark was used on that date; and
- d. the identification of each document which evidences or supports such claim of use as of that date.

RESPONSE:

- a. Registrant used Registrant's Mark from the January 15, 2016 date of first use on promotional webpages and brochures, as well as in connection with the launch of Registrant's mobile application CHUBB TRAVEL SMART through the Apple and Google app stores.
- b. Natasha Reoutt of Chubb has been involved in the use of Registrant's Mark from January 15, 2016 through today.

- c. Registrant's Mark is not used in the United States in connection with any services.
- d. Registrant will provide non-privileged, responsive documents evidencing use of the mark as of the date of first use. By way of further response, Registrant's investigation of this matter is ongoing, and Registrant reserves the right to supplement or amend its response to this Interrogatory in the future.

INTERROGATORY NO. 2:

Identify all services with which Registrant's Mark has been used, and with respect to each such service identify:

- a. the period of time during which Registrant's Mark has been used with said services;
- b. if the use of Registrant's Mark was by a person other than Registrant, identify that person, and state in detail the basis upon which Registrant claims such use inures, or will inure, to its benefit; and
- c. identify all documents which evidence, support, relate and/or refer to all of Registrant's responses to this Interrogatory.

RESPONSE:

Registrant does not use Registrant's Mark in connection with any services. Registrant's Mark is only registered and used in connection with a downloadable mobile application for planning trips, receiving travel, weather, medical, safety, health, and security information, receiving security alerts, and currency conversion.

INTERROGATORY NO. 3:

Identify all goods with which Registrant's Mark has been used, and with respect to each such good identify:

- a. the period of time during which Registrant's Mark has been used with said goods;

- b. if the use of Registrant's Mark was by a person other than Registrant, identify that person, and state in detail the basis upon which Registrant claims such use inures, or will inure, to its benefit; and
- c. identify all documents which evidence, support, relate and/or refer to all of Registrant's responses to this Interrogatory.

RESPONSE:

- a. Registrant has used Registrant's Mark in connection with a downloadable mobile application for planning trips, receiving travel, weather, medical, safety, health, and security information, receiving security alerts, and currency conversion in the United States since January 15, 2016.
- b. Use of Registrant's Mark was by Registrant.
- c. Registrant will provide non-privileged, responsive documents evidencing use of the mark between January 15, 2016 and today. By way of further response, Registrant's investigation of this matter is ongoing, and Registrant reserves the right to supplement or amend its response to this Interrogatory in the future.

INTERROGATORY NO. 4:

Identify each survey, search, or other investigation conducted and/or obtained with respect to either Petitioner's Mark or Registrant's Mark.

RESPONSE:

Objection. Subject to the General Objections, Registrant objects to this interrogatory as it seeks documents that are protected by the attorney-client privilege.

INTERROGATORY NO. 5:

For each of the services in connection with which Registrant is using and/or intends to use Registrant's Mark,

- a. identify the channels of trade through which such services have been and/or are intended to be promoted and/or rendered, including but not limited to a general description of the type of customers to whom Registrant currently or intends to advertise, promote, and/or render Registrant's services in connection with Registrant's Mark; and
- b. identify all documents which evidence, support, relate and/or refer to Registrant's response to this Interrogatory.

RESPONSE:

Registrant does not use Registrant's Mark in the United States in connection with any services.

INTERROGATORY NO. 6:

For each of the goods in connection with which Registrant is using and/or intends to use Registrant's Mark,

- a. identify the channels of trade through which such goods have been and/or are intended to be promoted and/or sold, including but not limited to a general description of the type of customers to whom Registrant currently or intends to advertise, promote, and/or sell Registrant's goods in connection with Registrant's Mark; and
- b. identify all documents which evidence, support, relate and/or refer to Registrant's response to this Interrogatory.

RESPONSE:

- a. Registrant markets and sells its downloadable mobile application through online channels, namely, through its website www.chubb.com and mobile application stores, including the Apple App Store (<https://apps.apple.com/us/app/chubb-travel-smart/id962110182>) and Google Play (https://play.google.com/store/apps/details?id=com.ace.intrepid_android&hl=en_US).

Registrant's intended purchasers and customers are Registrant's existing business travel insurance insureds, which are foreign companies, and employees of these insured companies.

b. Registrant will provide non-privileged, responsive documents regarding the subject of this Interrogatory. By way of further response, Registrant's investigation of this matter is ongoing, and Registrant reserves the right to supplement or amend its response to this Interrogatory in the future.

INTERROGATORY NO. 7:

State whether Registrant has stopped using Registrant's Mark at any period of time for any or all of Registrant's Goods/Services and the particular period of time and reasons for said cessation of use since Registrant alleges that it had initiated use of Registrant's Mark.

RESPONSE:

From the date on which Registrant first used Registrant's Mark, Registrant has not stopped using Registrant's Mark at any period of time for any or all of Registrant's Goods/Services.

INTERROGATORY NO. 8:

Identify each agreement, including, but not limited to any assignment, license, contract, consent grant, or transfer of rights which concerns, refers or relates to Registrant's Mark and/or any rights in connection with such mark.

RESPONSE:

Registrant is not aware of any such agreements.

INTERROGATORY NO. 9:

Describe the creation of Registrant's Mark, including without limitation:

- a. identify each person who participated in the selection, creation, and/or decision to adopt and/or to use Registrant's Mark;
- b. describe in detail the reasons for and/or relating to the selection and adoption of Registrant's Mark, and the date of such selection/adoption; and
- c. identify all documents which evidence, support, relate and/or refer to the selection, creation, and/or decision to adopt and/or to use Registrant's Mark.

RESPONSE:

- a. Natasha Reoutt participated in the decision to adopt and use Registrant's Mark.
- b. Registrant's CHUBB TRAVEL SMART mark was adopted on or about January 15, 2016. Registrant had been using the ACE TRAVEL SMART mark prior to January 15, 2016 and since at least as early as March 17, 2015, and Registrant's CHUBB TRAVEL SMART mark was the revised mark adopted after Registrant rebranded most of its ACE marks to CHUBB.
- c. Registrant will provide non-privileged, responsive documents regarding the subject of this Interrogatory. By way of further response, Registrant's investigation of this matter is ongoing, and Registrant reserves the right to supplement or amend its response to this Interrogatory in the future.

INTERROGATORY NO. 10:

Provide the domain name/URL for each web site owned by or controlled by Registrant through which Registrant's Goods/Services bearing Registrant's Mark are currently and/or intended to be promoted and/or advertised.

RESPONSE:

Notwithstanding the General Objections, Registrant promotes and/or advertises Registrant's Mark through <https://www.chubb.com/uk-en/_assets/documents/chubb_travel-

smart-download-instructions_mobile_c1021_01.pdf>, <https://www.chubb.com/uk-en/_assets/documents/chubb_travelsmart_deploymentguide_c1011_03.pdf>, <<https://www.chubb.com/au-en/articles/chubb-travel-smart.aspx>>, <<https://www.chubb.com/hk-en/business/chubb-travel-smart.aspx>>, <<http://news.chubb.com/2017-11-29-Chubb-launches-enhanced-Travel-Smart-app-for-business-travellers>>, and <<https://portal.chubbtravelsmart.com>>.

INTERROGATORY NO. 11:

Identify the circumstances under which (including, but not limited to, the date) Registrant first became aware of Petitioner’s Mark, and/or the actual or possible use in any manner by Petitioner of Petitioner’s Mark; and/or any goods sold or distributed bearing Petitioner’s Mark.

RESPONSE:

Objection. Subject to the General Objections, Registrant objects to this interrogatory as it seeks information that is protected by the attorney-client privilege.

INTERROGATORY NO. 12:

Prior to the institution of the instant proceeding, did Registrant ever consider Petitioner, Petitioner’s website, Petitioner’s Apple Store Application, Petitioner’s Google Play Application, Petitioner’s Mark and/or Petitioner’s goods sold or Petitioner’s services rendered under Petitioner’s Mark, with respect to and/or in connection with Registrant’s Mark and/or the services rendered under Registrant’s Mark or otherwise in connection with Registrant’s business?

RESPONSE:

Subject to the General Objections, Registrant objects to this interrogatory as unduly vague and ambiguous, in particular due to the use of the terms “consider” and “with respect to and/or in connection with”. Notwithstanding the General Objections and specific objections to

this interrogatory, Registrant does not offer any services under Registrant's Mark in the United States.

INTERROGATORY NO. 13:

If the response to the immediately preceding Interrogatory No. 14 is other than an unqualified negative,

- a. state the date of such consideration;
- b. state the action considered;
- c. identify each person involved in, and communication related to, such consideration; and
- d. identify all documents which evidence, support, relate and/or refer to Registrant's response to this Interrogatory.

RESPONSE:

Registrant objects to this request as it is Interrogatory No. 13 and it references Registrant's response to "the immediately preceding Interrogatory No. 14," which is a contradictory statement. If Petitioner is referring to the response to Interrogatory No. 12, Registrant reiterates that it is not aware of any such instances.

INTERROGATORY NO. 14:

Identify each instance of actual confusion between Registrant's Goods/Services identified by Registrant's Mark and goods and/or services identified by the Petitioner's Mark, including any incidences of misdirected communications by third parties between Petitioner and Registrant, and for each such instance of actual confusion or misdirected communication,

- a. state the relevant facts concerning its discovery;
- b. identify the persons with knowledge of the actual confusion or misdirected communication; and

- c. identify all documents evidencing these instances or incidents.

RESPONSE:

Registrant is not aware of any such instances. By way of further response, Registrant's investigation of this matter is ongoing, and Registrant reserves the right to supplement or amend its response to this Interrogatory in the future.

INTERROGATORY NO. 15:

Identify each and every trademark and/or service mark Registrant believes relevant to this Opposition proceeding, including for each such trademark and/or service mark,

- a. state the reason(s) why Registrant believes such to be relevant; and
- b. identify all documents which evidence, support, relate and/or refer to Registrant's response to this Interrogatory.

RESPONSE:

Subject to the General Objections, Registrant objects to this interrogatory as unduly vague and ambiguous because it asks Registrant which trademarks and services marks it "believes relevant" to this proceeding. Moreover, the Interrogatory improperly asks Registrant to reveal its attorneys' strategies and legal impressions, and calls for legal conclusions.

INTERROGATORY NO. 16:

Identify each and every trademark and/or service mark registration Registrant believes relevant to this Opposition proceeding, including for each such trademark and/or service mark registration,

- a. state the reason(s) why Registrant believes such to be relevant; and
- b. identify all documents which evidence, support, relate and/or refer to Registrant's response to this Interrogatory.

RESPONSE:

Subject to the General Objections, Registrant objects to this interrogatory because it improperly asks Registrant to reveal its attorneys' strategies and legal impressions, and calls for a legal conclusion to the extent it asks Registrant to identify trademarks and service marks it believes to be relevant to this proceeding. Furthermore, this interrogatory is duplicative of Interrogatory No. 15.

INTERROGATORY NO. 17:

Identify all defenses on which Registrant intends to rely in this opposition proceeding, and identify all documents which evidence, support, relate and/or refer to Registrant's defenses.

RESPONSE:

Subject to the General Objections, Registrant objects to this interrogatory because it is premature; it asks Registrant to reveal its attorneys' strategies and legal impressions; and it calls for a legal conclusion.

INTERROGATORY NO. 18:

Identify each and every actual, current use of a trademark or service mark by a person or party other than Petitioner and/or Registrant of which Registrant has actual knowledge and which Registrant contends is relevant to any of Registrant's claims and/or defenses in this proceeding, including for each such mark,

- a. the dates of usage(s) of such mark;
- b. the goods/services sold in connection with the mark;
- c. the identity of the party using the mark;
- d. where (name and address) these goods/services can be found in the marketplace;
- e. the identity of each individual having knowledge of such use; and
- f. whether that knowledge is personal knowledge or information and belief.

RESPONSE:

Subject to the General Objections, Registrant objects to this interrogatory as unduly vague and ambiguous because it asks Registrant to identify information it “contends is relevant” to this proceeding. Registrant further objects to this interrogatory because it calls for a legal conclusion to the extent it asks Registrant to identify third-party trademarks and service marks it believes to be relevant to this proceeding.

INTERROGATORY NO. 19:

Identify each objection, complaint, lawsuit, opposition, cancellation, and other *inter partes* proceeding involving and/or with respect to, and/or in which Registrant asserted any rights in, Registrant’s Mark.

RESPONSE:

Registrant is not aware of any such instances outside of the subject cancellation proceeding.

INTERROGATORY NO. 20:

Identify each person who furnished any information on which any part of an answer to these interrogatories is based, indicating the parts based on information so furnished by such person, and whether such information is within the personal knowledge of such person, and if not within such personal knowledge, identify the source of the information so furnished.

RESPONSE:

Natasha Reoutt provided information about the selection of the CHUBB TRAVEL SMART trademark and the timing of its first use in commerce in the United States.

INTERROGATORY NO. 21:

Identify, by request number, each request in Petitioner's First Request for Production of Documents served in this opposition for which (a) Registrant has not or will not produce any documents; and/or (b) there are no responsive documents in Registrant's possession, custody or control.

RESPONSE:

Registrant objects to this Interrogatory because it calls for responses that are or should be requested in the responses to Petitioner's Requests for Production of Documents and Things.

BLANK ROME LLP

Dated: September 30, 2019

/matthew homyk/

Timothy D. Pecsénye

Matthew A. Homyk

Blake Fink

One Logan Square

Philadelphia, PA 19103

Phone: (215) 569-5500

Fax: (215) 569-5555

<Pecsénye@BlankRome.com>

<MHomyk@BlankRome.com>

<BFink@BlankRome.com>

*Attorneys for Registrant Chubb INA Holdings
Inc.*

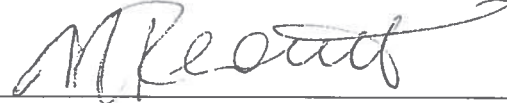
VERIFICATION

Pursuant to 28 U.S.C. § 1746, the undersigned declares the following under penalty of perjury: I am Vice President for Registrant. I have reviewed the foregoing Registrant's Responses to Petitioner's First Set of Interrogatories. The matters stated in the foregoing responses are based upon the collective knowledge of the representatives, agents, and employees of Registrant; I do not have personal knowledge of all such matters; and the matters set forth herein are true and correct to the best of my knowledge, information, and belief.

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

DATE: October 1, 2019

Signed: _____

A handwritten signature in cursive script, appearing to read 'N Reoutt', written over a horizontal line.

Natasha Reoutt

CERTIFICATE OF SERVICE

I, Matthew A. Homyk, do hereby certify that I have on the 9th day of October, 2019, served via electronic mail, the foregoing Registrant's Verified Responses to Petitioner's First Set of Interrogatories to the following counsel of record:

David Ludwig
Dunlap Bennett & Ludwig PLLC
211 Church Street SE
Leesburg, VA 20175
<trademarks@dbllawyers.com>
<dludwig@dbllawyers.com>

/matthew homyk/

Matthew A. Homyk