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

Proceeding no.	92079070
Party	Plaintiff Blackstone Labs, LLC
Correspondence address	JESSICA H LEACH BLACKSTONE LABS LLC 1120 HOLLAND DRIVE STE 14 BOCA RATON, FL 33487 UNITED STATES Primary email: Jessica@arthurwleach.com 678-799-0474
Submission	Motion to Compel Discovery or Disclosure
Filer's name	Jessica H. Leach
Filer's email	Jessica@arthurwleach.com
Signature	/Jessica H. Leach/
Date	11/01/2022
Attachments	Blackstone v. Unilever - Motion to Compel - filed 11.01.22.pdf(1352202 bytes)

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

BLACKSTONE LABS, LLC,)	
)	
Petitioner,)	
)	
v.)	Cancellation No. 92079070
)	
UNILEVER IP HOLDINGS B.V.,)	
)	
Respondent.)	
_____)	

BLACKSTONE LABS, LLC’S MOTION TO COMPEL

Pursuant to TBMP § 411.02, Petitioner Blackstone Labs, LLC (“Blackstone”) hereby moves the Board for an order: (1) compelling Respondent Unilever IP Holdings B.V. (“Unilever”) to comply with its discovery obligations; and (2) extending the close of discovery and all subsequent deadlines to compensate for Unilever’s improper delay. In support hereof, Blackstone respectfully shows the Board as follows:

I. BACKGROUND INFORMATION / SUMMARY OF GOOD FAITH EFFORTS

On August 8, 2022, Blackstone served its first interrogatories (Exh. A) and requests for production (Exh. B) on Unilever,¹ via an email to all correspondence email addresses of record (Exh. C – composite of all relevant email communications). Unilever’s responses to Blackstone’s requests were due thirty days later, on September 7, 2022. However, Unilever failed to timely serve its responses.

After the deadline lapsed, Blackstone contacted Unilever inquiring as to its anticipated timeframe for serving the responses. Exh. C. Counsel for Unilever responded that she had not

¹ Blackstone also served requests for admission; however, these requests have been deemed admitted due to Unilever’s failure to respond and, therefore, are not at issue. TBMP § 407.03(a).

received the email serving Blackstone's requests and asked for an extension of the time to respond.

Id. Blackstone consented to a thirty-day extension, but noted its email serving the requests had been sent to all *three* email addresses designated for Unilever's correspondence.

Unilever then failed to serve responses by its extended deadline of October 7, 2022. Unilever did not contact Blackstone before the deadline lapsed to request a further extension, but instead simply allowed the deadline to pass unfulfilled. In the days immediately following the deadline, Blackstone contacted Unilever twice via email, seeking an update regarding the responses. *Id.* On October 12, 2022, Unilever responded that an update would be provided the following day. *Id.* Unilever ultimately did not provide the promised update, and several days passed absent any further correspondence. On October 17, 2022, Blackstone contacted Unilever a third time, again requesting an update regarding the responses and noting they were ten days past due. *Id.* On October 18, 2022, Unilever responded that an update would be provided later that same day. *Id.* Unilever then failed to provide the promised update.

Three days later, on October 21, 2022, Unilever contacted Blackstone to voice an "expectation" that a settlement proposal would be forthcoming within the following week.² *Id.* Unilever asked Blackstone to "hold on the discovery" in light of that possibility. *Id.* Blackstone refused, explaining that the mere prospect of an eventual settlement proposal was an insufficient reason to further delay discovery, and reminded Unilever it had delayed serving its discovery requests based upon similar expectations that never came to pass. *Id.* Nevertheless, Blackstone waited an additional eleven days before moving to compel, to provide Unilever an opportunity to

² This email did not itself constitute an inadmissible or confidential settlement communication. It contained no details regarding the possible settlement proposal, but merely indicated that a future proposal might be forthcoming.

send the proposal it anticipated sending within a week. Unsurprisingly, Blackstone has yet to receive any further communications from Unilever.

In sum, Blackstone has made several efforts to cooperate with Unilever and confer in good-faith to obtain the responses. However, Unilever has refused to participate in the discovery process, instead opting to ignore its obligations altogether. Indeed, Blackstone propounded its requests approximately three months ago, but Unilever has yet to serve any responses, produce any responsive documents, or even provide Blackstone an update regarding its anticipated timeframe for doing so.

II. ARGUMENT AND CITATION OF AUTHORITIES

Per TBMP §§ 405.04(a), 406.04(a), responses to interrogatories and requests for production are due within thirty days of service of such requests, and the time for responding to requests may be extended only by stipulation of the parties or an order of the Board. *Id.*

Unilever's responses were originally due on September 7, 2022. The parties stipulated to a thirty-day extension of the time to respond, such that the responses were due on October 7, 2022. Since Unilever's extended deadline passed, Unilever has ignored Blackstone's three requests for an update regarding the status and anticipated timeframe for serving its responses. Unilever has not expressed that it is working to complete and serve the responses, and Blackstone has no reason to suspect this is, in fact, the case. Simply put, Unilever has made clear that it will not fulfill its discovery obligations on its own accord, and the Board's intervention is required.

Blackstone cannot meaningfully conduct depositions, issue follow-up discovery requests, or prepare for trial until Unilever complies with its discovery obligations. Hence, the close of discovery and all subsequent deadlines must be extended to counterbalance Unilever's improper delay and ensure Unilever does not unfairly benefit from the same.

Therefore, Blackstone respectfully moves the Board for an order: (1) compelling Unilever to respond to Blackstone's requests; and (2) extending the close of discovery and all subsequent deadlines to counterbalance Unilever's improper delay and allow Blackstone time to conduct follow up discovery and depositions after the service of Unilever's responses and production.

Date: November 1, 2022

Respectfully submitted,

/s/ Jessica H. Leach

Jessica H. Leach, Esq.

The Law Office of Arthur W. Leach

4080 McGinnis Ferry Rd, Suite 401

Alpharetta, Georgia 30005

Telephone: (678) 799-0474

Jessica@ArthurWLeach.com

Attorney for Petitioner Blackstone Labs, LLC

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing was served on November 1, 2022 upon Unilever's correspondence email addresses of record.

/s/ Jessica H. Leach
Jessica H. Leach, Esq.

EXHIBIT A

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

BLACKSTONE LABS, LLC,)	
)	
Petitioner,)	
)	
v.)	Cancellation No. 92079070
)	
UNILEVER IP HOLDINGS B.V.,)	
)	
Registrant.)	
_____)	

**PETITIONER BLACKSTONE LABS, LLC’S
FIRST SET OF INTERROGATORIES
TO REGISTRANT UNILEVER IP HOLDINGS, B.V.**

Petitioner Blackstone Labs, LLC (“Blackstone”) requests that Registrant Unilever IP Holdings, B.V. respond to the following interrogatories in compliance with 37 C.F.R. § 2.120(a)(1) and Federal Rule of Civil Procedure 33(b).

INSTRUCTIONS

1. Privilege: In compliance with 37 C.F.R. § 2.120(a)(1) and Federal Rule of Civil Procedure 26(b)(5), if you withhold information, documents, or communications based upon an assertion that such material is privileged or otherwise protected, you must expressly identify the nature of the privilege or protection being claimed and describe the nature of the withheld materials in a manner that will enable Petitioner to assess your claim.

2. Objections – In compliance with 37 C.F.R. § 2.120(a)(1) and Federal Rule of Civil Procedure 33(b)(4), if you object to any interrogatory, state the grounds for the objection “with specificity,” in such a manner that Petitioner may assess your objection and work to resolve it.

3. Supplementation – In compliance with 37 C.F.R. § 2.120(a)(1) and Federal Rule of Civil Procedure 26(e), you must promptly supplement or correct any response to the following

discovery requests upon learning such response is incomplete or incorrect.

DEFINITIONS

A. **“AND” and “OR”** shall be construed expansively as “and/or” and shall not be construed to limit the documents or information sought in any manner.

B. **BLACKSTONE’S MARK** shall mean the trademark BCAA RESURGENCE, which is the subject of U.S. Application Serial No. 90629608.

C. **“CHALLENGED MARK”** shall mean the trademark that is the subject of U.S. Registration No. 5788923 and TTAB Cancellation No. 92079070.

D. **“CONCERNING”** shall be construed expansively to mean relating to, consisting of, referring to, reflecting, regarding, assessing, constituting, describing, discussing, evidencing, mentioning, stating, summarizing or being in any way legally, logically, or factually connected with the matters discussed.

E. **“DATE”** means the exact day, month, and year if ascertainable, or, if not, the best available approximation.

F. **“USE” and “USE IN COMMERCE”** shall be construed to have the meaning ascribed in 15 U.S.C. § 1127, quoted below:

“[U]se in commerce” means the bona fide use of a mark in the ordinary course of trade, and not made merely to reserve a right in a mark. ... A mark shall be deemed to be in use in commerce – (1) on goods when—

(A) it is placed in any manner on the goods or their containers or the displays associated therewith or on the tags or labels affixed thereto ... and

(B) the goods are sold or transported in commerce...

G. **“VITAMINS AND DIETARY FOOD SUPPLEMENTS”** refers to, and shall have the meaning YOU ascribed and intended when drafting, the identification of goods in YOUR application for the CHALLENGED MARK, filed on or about March 20, 2018, which was assigned

Serial No. 87841483.

H. “YOU,” “YOUR,” and “REGISTRANT” shall mean Unilever IP Holdings, B.V. and any persons or parties acting on its behalf, including, but not limited to, agents, directors, employees, managers, members, officers, partners, and representatives.

I. Terms in the singular shall be deemed to include the plural and terms in the plural shall be deemed to include the singular.

INTERROGATORIES

Please respond to the following interrogatories in compliance with 31 C.F.R. § 2.120(a)(1) and Federal Rule of Civil Procedure 33(b):

INTERROGATORY NO. 1:

Describe in detail the facts and circumstances concerning your conception, creation, selection, and adoption of the CHALLENGED MARK including, without limitation, the DATE of such events.

INTERROGATORY NO. 2:

Identify by full name, present or last known address, and present or last known place of employment, all persons who participated in or were or are responsible for the conception, creation, selection, or adoption of the CHALLENGED MARK and describe each of their respective roles in these processes.

INTERROGATORY NO. 3:

Identify and describe all trademark clearance searches and inquiries YOU conducted or commissioned before YOUR USE of the CHALLENGED MARK in the United States, and the results of each.

INTERROGATORY NO. 4:

Identify and describe all “VITAMINS AND DIETARY FOOD SUPPLEMENTS” YOU sold, offered, provided, or licensed under the CHALLENGED MARK in the United States, during the timeframe of January 1, 2015 to present.

INTERROGATORY NO. 5:

For each “VITAMIN[] AND DIETARY FOOD SUPPLEMENT[]” required to be identified in response to Interrogatory No. 4, state the inclusive DATES of use of the CHALLENGED MARK in the United States, in connection with each, specifying DATES of first use.

INTERROGATORY NO. 6:

For each “VITAMIN[] AND DIETARY FOOD SUPPLEMENT[]” that you have offered, sold, or provided under the CHALLENGED MARK in the United States, identify any periods of six or more months when YOU paused or ceased use of the CHALLENGED MARK in connection with the goods.

INTERROGATORY NO. 7:

For each time period required to be identified in response to Interrogatory No. 6, state YOUR reason(s) for pausing or ceasing USE of the CHALLENGED MARK in connection with the goods.

INTERROGATORY NO. 8:

Identify and describe all channels of trade in the United States through which YOU sold, offered for sale, or provided “VITAMINS AND DIETARY FOOD SUPPLEMENTS” under the CHALLENGED MARK during the timeframe of January 1, 2015 to present.

INTERROGATORY NO. 9:

Identify representative examples of websites, venues, and retailers that currently sell, offer, or license “VITAMINS AND DIETARY FOOD SUPPLEMENTS” under or in connection with the CHALLENGED MARK in the United States.

INTERROGATORY NO. 10:

Identify and describe all expenditures YOU incurred in connection with the development, production, distribution, promotion, advertisement, and sale of any “VITAMINS AND DIETARY FOOD SUPPLEMENTS” offered in the United States under the CHALLENGED MARK during the timeframe of January 1, 2015 to present, including by specifying the nature and amount of each expenditure.

INTERROGATORY NO. 11:

State YOUR total annual sales of each “VITAMIN[] AND DIETARY FOOD SUPPLEMENT[]” offered under the CHALLENGED MARK in the United States for each year since January 1, 2015.

INTERROGATORY NO. 12:

State YOUR total annual advertising expenditures for each type of “VITAMIN[] AND DIETARY FOOD SUPPLEMENT[]” offered under or in connection with the CHALLENGED MARK in the United States for each year since January 1, 2015.

INTERROGATORY NO. 13:

Identify all surveys YOU have conducted or commissioned CONCERNING the CHALLENGED MARK or any other mark that incorporates the CHALLENGED MARK in whole or in part, by DATE, title, the entity conducting the survey, and the person requesting the survey.

INTERROGATORY NO. 14:

Describe all market research YOU have conducted or commissioned concerning the CHALLENGED MARK or any goods marketed or sold under the CHALLENGED MARK, including the results of such research.

INTERROGATORY NO. 15:

Describe in detail any communications between YOU and any third party concerning Blackstone or BLACKSTONE'S MARK, and any actions YOU took as a result of such communications.

INTERROGATORY NO. 16:

Describe every instance of which YOU are aware in which any person has been in any way confused, mistaken, or deceived as to the origin or sponsorship of any goods sold or offered for sale under or in connection with the CHALLENGED MARK.

INTERROGATORY NO. 17:

Identify by full name, present or last known address, and present or last known place of employment, all persons who furnished information for the responses to these interrogatories, designating the number of each interrogatory for which such persons furnished information.

Date: August 8, 2022

/s/ Jessica H. Leach
Jessica H. Leach, Esq.
The Law Office of Arthur W. Leach
4080 McGinnis Ferry Rd, Suite 401
Alpharetta, Georgia 30005
Telephone: (678) 799-0474
Jessica@ArthurWLeach.com

*Attorney for Petitioner
Blackstone Laboratories, Inc.*

EXHIBIT B

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

BLACKSTONE LABS, LLC,)	
)	
Petitioner,)	
)	
v.)	Cancellation No. 92079070
)	
UNILEVER IP HOLDINGS B.V.,)	
)	
Registrant.)	
_____)	

**PETITIONER BLACKSTONE LABS, LLC’S FIRST SET OF REQUESTS FOR
PRODUCTION TO REGISTRANT UNILEVER IP HOLDINGS B.V.**

Petitioner Blackstone Labs, LLC (“Blackstone”) requests that Registrant Unilever IP Holdings B.V. respond to the following requests in compliance with 31 C.F.R. § 2.120(a)(1) and Federal Rule of Civil Procedure 34(b)(2).

INSTRUCTIONS

1. Privilege: In compliance with 37 C.F.R. § 2.120(a)(1) and Federal Rule of Civil Procedure 26(b)(5), if you withhold information, documents, or communications based upon an assertion that such material is privileged or otherwise protected, you must expressly identify the nature of the privilege or protection being claimed and describe the nature of the withheld materials in a manner that will enable Petitioner to assess your claim.

2. Objections – In compliance with 37 C.F.R. § 2.120(a)(1) and Federal Rule of Civil Procedure 34(b)(2), if you object to any request for production: identify the portion(s) of the request to which you object; state “with specificity” the grounds for the objection, in such a manner that Petitioner may assess your objection and work to resolve it; and state whether any responsive materials are being withheld based upon the objection.

3. Supplementation – In compliance with 37 C.F.R. § 2.120(a)(1) and Federal Rule of Civil Procedure 26(e), you must promptly supplement or correct any response to the following discovery requests upon learning that such response is incomplete or incorrect.

DEFINITIONS

A. **“AND” and “OR”** shall be construed expansively as “and/or” and shall not be construed to limit the documents or information sought in any manner.

B. **BLACKSTONE’S MARK** shall mean the trademark BCAA RESURGENCE, which is the subject of U.S. Application Serial No. 90629608.

C. **“CHALLENGED MARK”** shall mean the trademark that is the subject of U.S. Registration No. 5788923 and TTAB Cancellation No. 92079070.

D. **“COMMUNICATION”** shall refer to any correspondence, whether written, oral, or by electronic means, including, but not limited to, comments, consultations, electronic messages, emails and their attachments, facsimiles, iMessages, letters, memoranda, messages sent via social media websites and other digital platforms, notes, reports, telephone conversations, and text messages.

E. **“CONCERNING”** shall be construed expansively to mean relating to, consisting of, referring to, reflecting, regarding, assessing, constituting, describing, discussing, evidencing, mentioning, stating, summarizing or being in any way legally, logically, or factually connected with the matters discussed.

F. **“DATE”** means the exact day, month, and year if ascertainable, or, if not, the best available approximation.

G. **“DOCUMENT”** shall be construed expansively to mean information recorded on any medium, including, but not limited to, acknowledgments, advertisements, agreements,

analyses, applications, blueprints, brochures, calculations, calendars, catalogs, certificates, charts, claims, compilations, contracts, communications, data, declarations, designs, diaries, drawings, Electronic Evidence (as hereafter defined), facsimiles, files, filings, fliers, forms, graphs, journals, letters, logs, mailings, memoranda, messages, minutes, mock-ups, notes, notices, papers, photocopies, photographs, pleadings, policies, records, registrations, reports, sketches, statements, studies, summaries, tables, transcripts, *and any draft of the foregoing.*

H. **“USE”** and **“USE IN COMMERCE”** shall be construed to have the meaning ascribed in 15 U.S.C. § 1127, quoted below:

“[U]se in commerce” means the bona fide use of a mark in the ordinary course of trade, and not made merely to reserve a right in a mark. ... A mark shall be deemed to be in use in commerce – (1) on goods when—

(A) it is placed in any manner on the goods or their containers or the displays associated therewith or on the tags or labels affixed thereto ... and

(B) the goods are sold or transported in commerce...

I. **“VITAMINS AND DIETARY FOOD SUPPLEMENTS”** refers to, and shall have the meaning YOU ascribed and intended when drafting, the identification of goods in YOUR application for the CHALLENGED MARK, filed on or about March 20, 2018, which was assigned Serial No. 87841483.

J. **“YOU,” “YOUR,”** and **“REGISTRANT”** shall mean Unilever IP Holdings B.V. and any persons or parties acting on its behalf, including, but not limited to, agents, directors, employees, managers, members, officers, partners, and representatives.

K. Terms in the singular shall be deemed to include the plural and terms in the plural shall be deemed to include the singular.

REQUESTS FOR PRODCUTION

Please produce all documents and things sought in the following requests:

REQUEST FOR PRODUCTION NO. 1:

All DOCUMENTS referenced or relied upon in drafting your responses to Blackstone's First Set of Interrogatories.

REQUEST FOR PRODUCTION NO. 2:

Documents sufficient to show the circumstances of YOUR first use of the CHALLENGED MARK in connection with "VITAMINS AND DIETARY FOOD SUPPLEMENTS" in the United States, including, but not limited to, the time, place, and manner of such use.

REQUEST FOR PRODUCTION NO. 3:

DOCUMENTS sufficient to identify all "VITAMINS AND DIETARY FOOD SUPPLEMENTS" YOU sold, offered, provided, or licensed under the CHALLENGED MARK in the United States during the timeframe of January 1, 2015 to present.

REQUEST FOR PRODUCTION NO. 4:

For each "VITAMIN[] AND DIETARY FOOD SUPPLEMENT[]" that YOU sold, offered, provided, or licensed under the CHALLENGED MARK in the United States during the timeframe of January 1, 2015 to present, DOCUMENTS sufficient to show the inclusive DATES of use of the CHALLENGED MARK in connection with each.

REQUEST FOR PRODUCTION NO. 5:

DOCUMENTS showing the following information for each sale or transaction in United States commerce of "VITAMINS AND DIETARY FOOD SUPPLEMENTS" YOU offered under the CHALLENGED MARK during the timeframe of January 1, 2015 to present: the date, trade channel (identifying whether each sale is wholesale, retail, online, etc.), the product sold or transacted (by name, SKU, or other sufficient identifier), unit quantity, and customer identity (name and address).

REQUEST FOR PRODUCTION NO. 6:

DOCUMENTS sufficient to show the gross and net profits for all “VITAMINS AND DIETARY FOOD SUPPLEMENTS” offered under the CHALLENGED MARK during the timeframe of January 1, 2015 to present, on an annual basis.

REQUEST FOR PRODUCTION NO. 7:

DOCUMENTS sufficient to show any plans or agreements to license the CHALLENGED MARK that were authored, created, exchanged, sent, or received during, or which pertain to, the timeframe of January 1, 2015 to present, and for which the applicable territory is the United States.

REQUEST FOR PRODUCTION NO. 8:

DOCUMENTS sufficient to identify all channels of trade through which YOU advertised, promoted, distributed, sold, or offered to sell any goods under or in connection with the CHALLENGED MARK during the timeframe of January 1, 2015 to present.

REQUEST FOR PRODUCTION NO. 9:

Representative samples of each type of advertisement and promotional material (e.g., print, radio, television, brochures, catalogues, flyers, press releases, website pages, website banners, in-store displays, point-of-sale promotional items) that displayed the CHALLENGED MARK during the timeframe of January 1, 2015 to present; namely, DOCUMENTS sufficient to show every manner of presentation of the CHALLENGED MARK in each type of advertisement or promotional material.

REQUEST FOR PRODUCTION NO. 10:

DOCUMENTS sufficient to show all tags, labels, signs, and packaging that displayed the CHALLENGED MARK during the timeframe of January 1, 2015 to present; namely,

DOCUMENTS sufficient to show every manner of presentation of the CHALLENGED MARK in such materials.

REQUEST FOR PRODUCTION NO. 11:

DOCUMENTS sufficient to show all costs and amounts YOU expended annually to promote, market, and advertise goods sold, offered, distributed, or licensed under or in connection with the CHALLENGED MARK, during the timeframe of January 1, 2015 to present.

REQUEST FOR PRODUCTION NO. 12:

DOCUMENTS sufficient to show all trademark searches, trademark clearances, internet print-outs, and other inquiries YOU conducted or commissioned concerning the availability to use or register the CHALLENGED MARK, and all memos, correspondence, and other DOCUMENTS relating thereto.

REQUEST FOR PRODUCTION NO. 13:

DOCUMENTS sufficient to show each price at which YOU sold goods under or in connection with the CHALLENGED MARK, during the timeframe of January 1, 2015 to present.

REQUEST FOR PRODUCTION NO. 14:

DOCUMENT sufficient to show all geographic regions in the United States in which YOU sold, provided, or licensed goods under or in connection with the CHALLENGED MARK, during the timeframe of January 1, 2015 to present.

REQUEST FOR PRODUCTION NO. 15:

DOCUMENTS sufficient to identify all third parties that have sold, offered, distributed, or licensed goods under or in connection with the CHALLENGED MARK.

REQUEST FOR PRODUCTION NO. 16:

All DOCUMENTS and COMMUNICATIONS CONCERNING any consumer, governmental, or other complaints or investigations concerning “VITAMINS AND DIETARY FOOD SUPPLEMENTS” YOU have sold, offered, distributed, or licensed under the CHALLENGED MARK.

REQUEST FOR PRODUCTION NO. 17:

DOCUMENTS sufficient to identify all complaints, petitions, demands, objections, administrative proceedings, and civil actions CONCERNING the CHALLENGED MARK.

REQUEST FOR PRODUCTION NO. 18:

All DOCUMENTS CONCERNING any opinion letter, analysis, or other COMMUNICATION CONCERNING whether YOU have the freedom, right or ability to USE or register the CHALLENGED MARK as a trademark, domain name, or other designation of origin, including the opinion DOCUMENT and DOCUMENTS sufficient to show the identity of the individual or entity that requested the opinion, when the opinion was requested, and who prepared the opinion.

REQUEST FOR PRODUCTION NO. 19:

All studies, surveys, investigations, research, development, analysis, or opinions CONCERNING the CHALLENGED MARK, including, but not limited to, any such DOCUMENTS comparing the CHALLENGED MARK to BLACKSTONE’S MARK or CONCERNING any similarity, actual confusion, or likelihood of confusion between the CHALLENGED MARK and BLACKSTONE’S MARK.

REQUEST FOR PRODUCTION NO. 20:

All DOCUMENTS CONCERNING any observations, perceptions, impressions, or inquiries as to whether goods YOU have sold or offered for sale in the United States, directly or

indirectly, under the CHALLENGED MARK are produced by, sponsored, or endorsed by, or in any manner associated or affiliated with Blackstone or any goods offered under BLACKSTONE'S MARK.

REQUEST FOR PRODUCTION NO. 21:

To the extent not produced in response to the foregoing requests, all DOCUMENTS that support or refute YOUR defense of this proceeding, including, but not limited to, any DOCUMENTS that support or refute any factual allegations or legal theories or conclusions YOU intend to present or rely upon.

Date: August 8 2022

/s/ Jessica H. Leach _____
Jessica H. Leach, Esq.
The Law Office of Arthur W. Leach
4080 McGinnis Ferry Rd, Suite 401
Alpharetta, Georgia 30005
Telephone: (678) 799-0474
Jessica@ArthurWLeach.com

*Attorney for Petitioner
Blackstone Laboratories, Inc.*

EXHIBIT C

Subject: Blackstone v. Unilever - Cancellation No. 92079070 | Blackstone's First Set of Discovery Requests
Date: Monday, August 8, 2022 at 11:13:47 AM Eastern Daylight Time
From: Jessica Leach <Jessica@arthurwleach.com>
To: *DAL - Trademarks <dallastrademarks@bakermckenzie.com>, IPSU Office Support SNow <ipsu.officesupportsnow@bakermckenzie.com>, IPSUSNOW <ipsusnow@bakermckenzie.com>
Attachments: Blackstone's 1st RFAs to Unilever_08.08.22.pdf, Blackstone 1st Rogs to Unilever_08.08.22.pdf, Blackstone 1st RFPs to Unilever_08.08.22.pdf, Blackstone v. Unilever - Blackstone's Initial Disclosures_08.08.22.pdf

Counsel,

Please find attached:

- Petitioner Blackstone Labs, LLC's Initial Disclosures;
- Petitioner Blackstone Labs, LLC's First Set of Interrogatories to Registrant Unilever IP Holdings, B.V.;
- Petitioner Blackstone Labs, LLC's First Set of Requests for Production to Registrant Unilever IP Holdings, B.V.;
and
- Petitioner Blackstone Labs, LLC's First Set of Requests for Admission to Registrant Unilever IP Holdings, B.V.

Thank you,

Jessica H. Leach, Esq.
The Law Office of Arthur W. Leach
4080 McGinnis Ferry Rd, Suite 401
Alpharetta, GA 30005
Direct: (678) 799-0474

Subject: Re: [EXTERNAL] Re: Blackstone v. Unilever - Cancellation No. 92079070 | Blackstone's First Set of Discovery Requests

Date: Thursday, September 22, 2022 at 5:33:46 PM Eastern Daylight Time

From: House, Dyan <Dyan.House@bakermckenzie.com>

To: Jessica Leach <Jessica@arthurwleach.com>

Hi Jessica,

Thank you. That should work.

Best,
Dyan

On Sep 20, 2022, at 6:23 AM, Jessica Leach <Jessica@arthurwleach.com> wrote:

Hi Dyan,

Thirty days from the original deadline would be my preference, if preparing the responses in that amount of time is feasible. Please let me know.

Thanks,

Jessica H. Leach, Esq.

The Law Office of Arthur W. Leach
4080 McGinnis Ferry Rd, Suite 401
Alpharetta, GA 30005
Direct: (678) 799-0474

On Sep 19, 2022, at 5:39 PM, House, Dyan <Dyan.House@bakermckenzie.com> wrote:

Hi Jessica,

Thank you for your email. An extension of the discovery period is fine. Would you propose 60 days for such an extension?
I'm happy to chat if helpful as well.

Best,
Dyan

Dyan M. House

Partner, IP
Baker & McKenzie LLP
Direct: +1 214 978 3090
dyan.house@bakermckenzie.com

<image001.png>

From: Jessica Leach <Jessica@arthurwleach.com>

Sent: Monday, September 19, 2022 10:51 AM

To: House, Dyan <Dyan.House@bakermckenzie.com>
Cc: *DAL - Trademarks <dallastrademarks@bakermckenzie.com>; IPSU Office Support SNow <ipsu.officesupportsnow@bakermckenzie.com>; IPSUSNOW <IPSUSNOW@bakermckenzie.com>
Subject: [EXTERNAL] Re: Blackstone v. Unilever - Cancellation No. 92079070 | Blackstone's First Set of Discovery Requests

Hi Dyan,

I'm following up on my previous email. Please advise how you would like to proceed regarding the extension.

Thanks,

Jessica H. Leach, Esq.
The Law Office of Arthur W. Leach
4080 McGinnis Ferry Rd, Suite 401
Alpharetta, GA 30005
Direct: (678) 799-0474

On Sep 13, 2022, at 6:52 PM, Jessica Leach <Jessica@arthurwleach.com> wrote:

Hi Dyan,

The requests were sent to all email addresses listed for correspondence in the cancellation proceeding.

An extension is acceptable as long as we can agree to extend the discovery period and subsequent deadlines by the same amount of time. Assuming this is agreeable, please advise whether you will need 30 or 60 days from the original deadline.

Thanks,

Jessica H. Leach, Esq.
The Law Office of Arthur W. Leach
4080 McGinnis Ferry Rd, Suite 401
Alpharetta, GA 30005
Direct: (678) 799-0474

On Sep 13, 2022, at 6:41 PM, House, Dyan <Dyan.House@bakermckenzie.com> wrote:

Dear Jessica,

Thank you for reaching out. I did not receive a copy of your requests. Would you kindly grant us an extension so that we may review and respond appropriately? Many thanks.

Best regards,
Dyan

Dyan M. House
Partner, IP
Baker & McKenzie LLP
Direct: +1 214 978 3090
dyan.house@bakermckenzie.com

<image001.png>

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From: Jessica Leach <Jessica@arthurwleach.com>
Sent: Tuesday, September 13, 2022 5:29 PM
To: House, Dyan <Dyan.House@bakermckenzie.com>;
*DAL - Trademarks
<dallastrademarks@bakermckenzie.com>; IPSU Office
Support SNow
<ipsu.officesupportsnow@bakermckenzie.com>;
IPSUSNOW <IPSUSNOW@bakermckenzie.com>
Subject: [EXTERNAL] Fwd: Blackstone v. Unilever -
Cancellation No. 92079070 | Blackstone's First Set of
Discovery Requests

Counsel,

I am following up regarding Blackstone's first set of discovery requests. When can I expect to receive responses?

Thanks,

Jessica H. Leach, Esq.
The Law Office of Arthur W. Leach
4080 McGinnis Ferry Rd, Suite 401
Alpharetta, GA 30005
Direct: (678) 799-0474

Subject: Re: [EXTERNAL] Re: Blackstone v. Unilever - Cancellation No. 92079070 | Blackstone's First Set of Discovery Requests

Date: Tuesday, October 18, 2022 at 8:15:42 AM Eastern Daylight Time

From: House, Dyan <Dyan.House@bakermckenzie.com>

To: Jessica Leach <Jessica@arthurwleach.com>

Hi Jessica,

I am so sorry for the delay in responding. I've been battling Covid. I'm back in the office now and will come back to you later today.

Best,

Dyan

On Oct 17, 2022, at 11:49 AM, Jessica Leach <Jessica@arthurwleach.com> wrote:

Hi Dyan,

It has been ten days since the extended deadline. Please provide an update regarding Unilever's responses.

Thanks,

Jessica H. Leach, Esq.

The Law Office of Arthur W. Leach

4080 McGinnis Ferry Rd, Suite 401

Alpharetta, GA 30005

Direct: (678) 799-0474

On Oct 12, 2022, at 12:14 AM, House, Dyan <Dyan.House@bakermckenzie.com> wrote:

Hi Jessica

My apologies for the delay in getting back to you. I've been out with Covid. I plan on being back in the office tomorrow and will discuss with my client then. I'll revert to you tomorrow.

Best,

Dyan

Dyan M. House

Partner, IP

Baker & McKenzie LLP

Direct: +1 214 978 3090

dyan.house@bakermckenzie.com

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From: Jessica Leach <Jessica@arthurwleach.com>
Sent: Tuesday, October 11, 2022 1:20 PM
To: House, Dyan <Dyan.House@bakermckenzie.com>
Cc: *DAL - Trademarks <dallastrademarks@bakermckenzie.com>; IPSU Office Support SNow <ipsu.officesupportsnow@bakermckenzie.com>; IPSUSNOW <IPSUSNOW@bakermckenzie.com>; Christine Vega <trademarks@arthurwleach.com>
Subject: [EXTERNAL] Re: Blackstone v. Unilever - Cancellation No. 92079070 | Blackstone's First Set of Discovery Requests

Dyan,

I am following up on my previous email regarding Unilever's responses that were due on Friday. Please provide an update.

Thanks,

Jessica H. Leach, Esq.
The Law Office of Arthur W. Leach
4080 McGinnis Ferry Rd, Suite 401
Alpharetta, GA 30005
Direct: (678) 799-0474

On Oct 10, 2022, at 11:01 AM, Jessica Leach <Jessica@arthurwleach.com> wrote:

Hi Dyan,

I am checking in regarding Unilever's responses to Blackstone's first discovery requests (due on October 7, in light of the 30-day extension from the original deadline). Will these be served today?

Thanks,

Jessica H. Leach, Esq.
The Law Office of Arthur W. Leach
4080 McGinnis Ferry Rd, Suite 401
Alpharetta, GA 30005
Direct: (678) 799-0474

Subject: Re: Cancellation No. 92079070

Date: Tuesday, October 25, 2022 at 2:48:03 PM Eastern Daylight Time

From: Jessica Leach <Jessica@arthurwleach.com>

To: House, Dyan <Dyan.House@bakermckenzie.com>

Dyan,

I am not agreeable to suspending discovery. As you may recall, I expressed during our discovery conference in May that settlement seemed unlikely due to the similarities between the marks and overlap of their respective goods. However, you indicated an intention to speak with your client regarding use of its mark and the potential for settlement, then get back to me. I held off on serving discovery requests for over a month, but didn't hear back. Given these circumstances and the fact that the extended deadline for Unilever's responses lapsed eighteen days ago, I find the vague promise of some eventual settlement offer to be an insufficient reason for further delay.

Regards,

Jessica H. Leach, Esq.

The Law Office of Arthur W. Leach
4080 McGinnis Ferry Rd, Suite 401
Alpharetta, GA 30005
Direct: (678) 799-0474

On Oct 21, 2022, at 9:12 AM, House, Dyan <Dyan.House@bakermckenzie.com> wrote:

Good morning, Jessica.

I expect to have a settlement proposal to send to you within the coming week. In light of that, would you be agreeable to holding on the discovery for now?

Best,
Dyan

Dyan M. House

Partner, IP
Baker & McKenzie LLP
1900 North Pearl
Suite 1500
Dallas, TX 75201
United States
Tel: +1 214 978 3000
Direct: +1 214 978 3090
Fax: +1 214 978 3099
dyan.house@bakermckenzie.com

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