

ESTTA Tracking number: **ESTTA1312894**
Filing date: **09/28/2023**

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

Proceeding no.	92079337
Party	Plaintiff Mija Clean, LLC
Correspondence address	JOSEPH T NABOR FITCH EVEN TABIN & FLANNERY LLP 120 S. LASALLE STREET SUITE 2100 CHICAGO, IL 60603 UNITED STATES Primary email: trademark@fitcheven.com Secondary email(s): jtnabo@fitcheven.com 312-577-7000
Submission	Motion to Compel Discovery or Disclosure
Filer's name	Kerianne A. Strachan
Filer's email	jtnabo@fitcheven.com, kstrachan@fitcheven.com, trademark@fitcheven.com
Signature	/Kerianne A. Strachan/
Date	09/28/2023
Attachments	21345-150426 - Motion to Compel - MIJA.pdf(388714 bytes)

21345-150426

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

Mija Clean, LLC,)
)
) Petitioner,) Cancellation No. 92079337
)
) v.)
)
) Mija, LLC and Mija LLC,)
)
) Respondents.)
)
)

**PETITIONER’S MOTION TO COMPEL RESPONDENTS TO PROVIDE RESPONSES
TO SECOND SET OF INTERROGATORIES AND SECOND SET OF REQUESTS FOR
PRODUCTION OF DOCUMENTS AND THINGS**

Petitioner, Mija Clean, LLC (hereinafter, “Petitioner”), by undersigned counsel, respectfully moves that the Trademark Trial and Appeal Board (the “Board”) compel Respondents, Mija, LLC and Mija LLC, to provide responses to Petitioner’s Second Set of Interrogatories and Second Set of Requests for Production of Documents and Things served via email on August 17, 2023 in accordance with the Trademark Rules of Practice and Federal Rules of Civil Procedure, and in support thereof states as follows:

1. Petitioner provided its Second Set of Interrogatories and Second Set of Requests for Production of Documents and Things via email on August 17, 2023 in accordance with the Trademark Rules of Practice and Federal Rules of Civil Procedure.

2. After having not received Respondents’ responses to Petitioner’s Second Set of Interrogatories and Second Set of Requests for Production of Documents and Things, Petitioner’s counsel contacted Respondents’ counsel, Ms. Jamie Shelden, by email on various occasions, as identified below, inquiring as to the status of the disclosures.

3. Petitioner's counsel sent an email to Respondents' counsel on September 27, 2023, a copy of which is attached hereto as Exhibit A, requesting a conference call to discuss and resolve any issues regarding Petitioner's second set of discovery requests.

4. Petitioner's counsel sent emails to Respondents' counsel on September 28, 2023, copies of which are attached hereto as Exhibit B, requesting a status update regarding Respondents' responses to Petitioner's second set of discovery requests.

5. On September 28, 2023, Respondents' counsel inadequately responded via email to Petitioner's prior correspondence and provided an update regarding her intent to issue responses to Petitioner's second set of discovery requests, yet failed to provide such responses in a manner necessary for Petitioner to timely provide its pretrial disclosures which are due on October 1, 2023.

6. Respondents' counsel has yet to respond substantively in any manner to any correspondence issued by Petitioner's counsel regarding Respondents' failure to respond to Petitioner's Second Set of Interrogatories and Second Set of Requests for Production of Documents and Things.

7. On the basis of its efforts to contact Respondents' counsel by correspondence regarding Respondents' failure to respond to Petitioner's Second Set of Interrogatories and Second Set of Requests for Production of Documents and Things, the Petitioner in this case has in good faith attempted to resolve the present issue.

8. Despite Petitioner's efforts to resolve the issue as to Respondents' failure to provide responses to Petitioner's Second Set of Interrogatories and Second Set of Requests for Production of Documents and Things, Petitioner has been unable to resolve this dispute and, as such, this matter requires the Board's intervention.

WHEREFORE, Petitioner respectfully prays that the Board enter an Order compelling Respondents to provide their responses to Petitioner's Second Set of Interrogatories and Second Set of Requests for Production of Documents and Things in accordance with the Trademark Rules of Practice and the Federal Rules of Civil Procedure.

Respectfully submitted,

Dated: September 28, 2023

/Joseph T. Nabor/
Joseph T. Nabor
Kerianne A. Strachan
Fitch, Even, Tabin & Flannery LLP
120 South LaSalle Street, Suite 2100
Chicago, IL 60603
Telephone: 312-577-7000
Fax: 312-577-7007
jtnabo@fitcheven.com
kstrachan@fitcheven.com
trademark@fitcheven.com

CERTIFICATE OF SERVICE

I, Joseph T. Nabor, Attorney for the Petitioner, hereby certify that a copy of the foregoing *Petitioner's Motion to Compel Respondents to Provide Responses to Second Set of Interrogatories and Second Set of Requests for Production of Documents and Things* has been served via email upon:

Jamie Shelden
Law Office of Jamie Shelden
1760-F Airline Highway, PMB 220
Hollister, CA 95023
Telephone: 831.261.5444
jamie@justtrademarks.com

Attorney for Respondents

Dated: September 28, 2023

/Kerianne A. Strachan/

Joseph T. Nabor
Kerianne A. Strachan
Fitch, Even, Tabin & Flannery LLP
120 South LaSalle Street, Suite 2100
Chicago, IL 60603
312-577-7000 Telephone
312-577-7007 Fax
jtnabo@fitcheven.com
kstrachan@fitcheven.com
trademark@fitcheven.com

Attorneys for Petitioner

Exhibit A

From: [Kerianne A. Strachan](#)
To: [JAMIE SHELDEN](#)
Cc: [Joseph Nabor](#)
Subject: RE: Discovery Requests - Cancellation No. 92079337
Date: Wednesday, September 27, 2023 1:49:00 PM
Attachments: [image001.png](#)

Hello Jamie,

We confirm receipt of your email. We note that we have yet to receive your responses to our second set of interrogatories served via email on August 17, 2023. Please provide your availability for a conference call to resolve any issues regarding the discovery requests at your earliest convenience, preferably by this Friday, September 29, 2023. We will need to discuss this matter prior to **October 1, 2023** as our pretrial disclosures are due on this date.

Kind regards,
Kerianne

[Kerianne Strachan](#) | Associate

FITCH EVEN

Fitch, Even, Tabin & Flannery LLP
120 South LaSalle Street, Suite 2100 | Chicago, Illinois 60603
P 312.629.7970 | F 312.577.7007
kstrachan@fitcheven.com | www.fitcheven.com

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From: Jamie Shelden <jamie@justtrademarks.com>
Sent: Monday, September 25, 2023 2:35 PM
To: Kerianne A. Strachan <KStrachan@fitcheven.com>
Subject: Re: Discovery Requests - Cancellation No. 92079337

Protected Communication Under Rule 408, Federal Rules of Evidence

Hi Kerianne,

Thanks for your patience on this. I have had a chance to speak with my client regarding potential ideas for settling this matter. As you will recall, I mentioned on our call last month that perhaps Mija

Exhibit B

From: [Kerianne A. Strachan](#)
To: [JAMIE SHELDEN](#)
Subject: RE: Discovery Requests - Cancellation No. 92079337
Date: Thursday, September 28, 2023 12:32:00 PM
Attachments: [image001.png](#)

Jamie, for clarification purposes, this request for a status update also pertains to the *Second Set of Requests for Production of Documents and Things* served on August 17, 2023.

Thank You,
Kerianne

From: Kerianne A. Strachan
Sent: Thursday, September 28, 2023 11:50 AM
To: JAMIE SHELDEN <jamie@justtrademarks.com>
Cc: Joseph Nabor <Jtnabo@fitcheven.com>
Subject: RE: Discovery Requests - Cancellation No. 92079337

Hello Jamie,

Please provide a status update regarding your responses to our second set of interrogatories.

Thank You,
Kerianne

[Kerianne Strachan](#) | Associate

FITCH EVEN

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From: Kerianne A. Strachan
Sent: Wednesday, September 27, 2023 1:41 PM
To: JAMIE SHELDEN <jamie@justtrademarks.com>

Cc: Joseph Nabor <Jtnabo@fitcheven.com>

Subject: RE: Discovery Requests - Cancellation No. 92079337

Hello Jamie,

We confirm receipt of your email. We note that we have yet to receive your responses to our second set of interrogatories served via email on August 17, 2023. Please provide your availability for a conference call to resolve any issues regarding the discovery requests at your earliest convenience, preferably by this Friday, September 29, 2023. We will need to discuss this matter prior to **October 1, 2023** as our pretrial disclosures are due on this date.

Kind regards,
Kerianne

[Kerianne Strachan](#) | Associate

FITCH EVEN

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P 312.629.7970 | F 312.577.7007

kstrachan@fitcheven.com | www.fitcheven.com

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From: Jamie Sheldon <jamie@justtrademarks.com>

Sent: Monday, September 25, 2023 2:35 PM

To: Kerianne A. Strachan <KStrachan@fitcheven.com>

Subject: Re: Discovery Requests - Cancellation No. 92079337

Protected Communication Under Rule 408, Federal Rules of Evidence

Hi Kerianne,

Thanks for your patience on this. I have had a chance to speak with my client regarding potential ideas for settling this matter. As you will recall, I mentioned on our call last month that perhaps Mija LLC might be interested in a settlement that would allow your client to continue with its use of the MIJO brand. My client's are institutional in their space and are experienced in developing and