ESTTA Tracking number:

ESTTA484107 07/18/2012

Filing date:

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

Proceeding	91201925
Party	Plaintiff Starbuzz Tobacco, Inc.
Correspondence Address	NATU J PATEL TTHE PATEL LAW FIRM PC 2532 DUPONT DRIVE IRVINE, CA 92612 UNITED STATES NPatel@thePatelLawFirm.com
Submission	Opposition/Response to Motion
Filer's Name	Natu J. Patel
Filer's e-mail	NPatel@thePatelLawFirm.com
Signature	/natupatel/
Date	07/18/2012
Attachments	Starbuzz - Opposition to Motion to Compel RFP - 071812.pdf (12 pages)(768350 bytes) Decl of N. Patel RFP - 071812.pdf (16 pages)(968902 bytes)



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

In the Matter of Application Serial No. 85/6 Mark: MAI TAI Filed: June 2, 2010 Published: June 14, 2011	952,510
STARBUZZ TOBACCO, INC., Opposer,	
v. FANTASIA DISTRIBUTION, INC., Applicant.	OPPOSITION NO: 91201925 STARBUZZ TOBACCO, INC.'S OPPOSITION TO APPLICANT'S MOTION TO COMPEL RESPONSES TO REQUESTS FOR PRODUCTION Opposition Filed: October 5, 2011

TABLE OF CONTENTS

INTRODUCT	TION		1
FACTUAL B	ACKGI	ROUND	1
ARGUMENT			3
I.	COM	ASIA'S MOTION SHOULD BE DENIED SINCE IT IS IMPROPERLY BINED WITH TWO OTHER MOTIONS AND FAILS TO PROVIDE EXPLANATION FOR SEEKING RESPONSES TO THE REQUESTS AT	Γ
		D	
II.		OF STARBUZZ'S OBJECTIONS TO FANTASIA'S REQUESTS ARE	4
	A.	The Requests at Issue are Irrelevant to the Present Opposition Proceeding	
	B.	The Requests are Also Completely Overbroad and therefore Burdensome	
	C.	The Remaining Objections to Fantasia's RFP are Also Justified	7
CONCLUSIO	NT.		Q

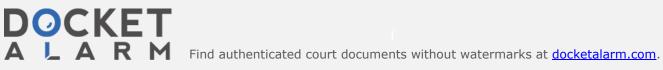


TABLE OF AUTHORITIES

Cases

Johnston Pump/General Valve Inc. v. Chromalloy American Corp., 10 U.S.P.Q. 1671, 1675 (TTAB 1988)				
Volkswagewerk Aktiengesellschaft v. Thermo-Chem Corp., 176 U.S.P.Q. 493, 493 (TTAB 1973)				
Other Authorities				
TBMP § 402.02	7, 8			
TBMP § 414(11)	6			
TBMP § 414(18)	5			
Rules				
Fed. R. Civ. P. 26(b)(1)	6			



INTRODUCTION

Applicant, Fantasia Distribution, Inc.'s ("Fantasia") motion to compel responses to requests for production (the "Motion") is clearly improper. Fantasia's mere six page motion to compel three different sets of discovery requests is procedurally and substantively deficient. The Motion is designed to do nothing more than waste Opposer, Starbuzz Tobacco, Inc.'s ("Starbuzz") resources in an effort to force the abandonment of this Opposition.

Under the TTAB rules, Fantasia's combination of three discovery motions into one memorandum is highly inappropriate. Furthermore, even assuming that the Motion was procedurally filed properly, it is still substantively deficient. The Motion fails to provide detailed explanations as to why Starbuzz's responses or objections were insufficient. In fact, the disputed requests for production (RFP) seek information that are simply irrelevant and completely overbroad to the issues in the Opposition. Additionally, several of the requests are highly objectionable because they are compound, call for legal conclusions, and seek highly confidential and proprietary business information. Therefore, Starbuzz's objections are completely warranted.

Accordingly, Starbuzz respectfully requests the Honorable Board to deny Fantasia's Motion in its entirety.

FACTUAL BACKGROUND

Background Facts. On June 2, 2010, Fantasia filed Application No. 85/052,510 for the protection of the mark "MAI TAI" in International Class 034 for use in various tobacco products (the "Application"). The Application was filed, pursuant to Section 1(a) of the Lanham Act,

¹ Starbuzz notes that Fantasia's combination of three motions in one memorandum and filing the same memorandum three times on the ESTTA system is completely improper. *See* TBMP § 502.02(b). To avoid any further confusion and in accordance with the TTAB rules, Starbuzz is concurrently filing separate oppositions to the three motions. Each motion addresses each set of discovery request.



DOCKET

Explore Litigation Insights



Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time** alerts and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.

