

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

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FABRIQUE COSMETIQUE, INC.,

Petitioner,

v.

HONEYBEE GARDENS, INC.



10-03-2005

Registrant.

U.S. Patent & TMOtc/TM Mail Rcpt Dt. #10

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TRADEMARK REGISTRATION NO. 2,552,813

92043570

MARK: COLORBALM NATURALS

REGISTERED: March 26, 2002
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September 15, 2005

12:12 p.m.

Deposition of ROBERT LANG, held at 41 Raemont Road,
Granite Springs, New York, before April Pearl Schirm,
a Court Reporter and Notary Public of the State of
New York.

A P P E A R A N C E S :

ROBERT LANG, PRO SE

Fabrique Cosmetique, Inc., President

P.O. BOX 361

Cross River, New York 10518

AKIN GUMP STRAUSS HAUER & FELD, LLP

Attorneys for the Registrant

One Commerce Square

2005 Market Street

suite 2200

Philadelphia, Pennsylvania, 19103-7013

BY: LAURA GENOVESE MILLER, ESQ.

ROBERT LANG,

having been first duly sworn by the
Notary Public (April Pearl Schirm), and
stating his business address as P.O. Box
361, Cross River, New York 10518, was
examined and testified as follows:

(Exhibits A and 1 through 17, marked
for identification.)

THE WITNESS: For the record,
Exhibit A, my statement in this subject
matter, is the truth, the whole truth and
nothing but the truth.

MS. MILLER: Do you have anything
else that you want to put into the record
before I move to my part?

THE WITNESS: No.

MS. MILLER: Before I start with the

1
2 cross-examination, I just want to note my
3 objections on the record to the following
4 exhibits as not having been produced in the
5 course of discovery, and therefore, I object
6 to their appearance at this deposition.

7 And they are Exhibit 5, Exhibit 6
8 Exhibit 7, Exhibit 9, Exhibit 13, Exhibit 14,
9 Exhibit 15, Exhibit 16 and Exhibit 17. I'm
10 also objecting to Exhibit 10 because
11 information relating to a different version of
12 this exhibit was requested in the course of
13 discovery and was not provided. And for that
14 reason, I'm going to object and move to strike
15 all of those exhibits.

16 THE WITNESS: Actually, those
17 exhibits -- there's two things, first off, a
18 large number of those exhibits are invoices
19 and to be very honest with you, we simply, in
20 the original discovery, had never thought of
21 invoices as a source of information, just as,
22 for the record, you didn't either. Melissa
23 provided me with none of the invoices that we
24 had sent her. To that extent, we probably
25 both made the same error. And I see no reason

1

ROBERT LANG

5

2

why an objection should be sustained because I

3

don't think it interferes -- in other words,

4

if you had this information before, it

5

wouldn't have changed anything. There is no

6

difference that you can have.

7

Exhibit 17, the Googling, that was

8

something which we just happened to think of

9

afterwards. And, again, this is information

10

that has always been available. So you know,

11

in other words, I don't think we've hidden

12

anything from you that would materially affect

13

your case in any way. And we didn't

14

intentionally withhold anything from you.

15

Just as it developed, the Googling was

16

actually a matter of just trying to present a

17

case. Here is a way to prove our case. It

18

wasn't really information that we had at that

19

time.

20

MS. MILLER: It's too late at this

21

stage in the game to bring it in. If what you

22

say is true, and it makes no difference, then

23

why should you rely on it.

24

THE WITNESS: It would not in any

25

way affect your case. In other words, it's

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