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

Proceeding	91170256
Party	Plaintiff CENTRAL MFG. CO. (INC.)
Correspondence Address	LEO STOLLER CENTRAL MFG. CO. (INC.) 7115 W. North Avenue #272 Oak Park, IL 60707-0189 UNITED STATES ldms4@hotmail.com
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Date	05/20/2006
Attachments	googlemotiontostrike.pdf (3 pages)(9203 bytes)

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

CENTRAL MFG. CO. (Inc)
(Delaware Corporation)
Opposer,

Vs.

Opposition No: 91170256

GOOGLE, INC.,
Applicant.

**MOTION TO STRIKE REPLY BRIEF AND/OR DECLARATION OF
ROSE HAGAN WHICH WAS NOT PROPERLY MADE OF RECORD
AND UNTIMELY SUBMITTED IN THE SAID REPLY AND
CANNOT BE CONTROVERTED BY THE OPPOSERE AT THIS
STAGE**

NOW COMES the Opposer and moves the Board to Strike Applicant's reply in further support of its combined motion for protective order re opposer's service and preliminary response to opposer's motion to consolidate. Opposer states as follows: Reply briefs may be considered by this Board pursuant to the discretion of the Board under trademark Rule 2.127(a). Opposer states that it would be an abuse of the Board discretion to consider Applicant's under the circumstances at bar for the following reasons:

Opposer asserts that Applicant's reference to the newly submitted affidavit is untimely. See generally Rule 2.142(d) for the proposition that "the board will ordinarily not consider additional evidence filed with the Board...after the appeal is filed." Likewise, the Board should not in this case consider the alleged new evidence consisting of an

affidavit of Rose Hagan in applicant's reply brief. There is no reference made in Applicant's said reply brief, that the Rose Hagan was unable to supply her affidavit with the Applicant's initial Motion. The newly provided affidavit of Rose Hagan prejudices the Opposer. The Rose Hagan affidavit should be considered untimely and was not properly made of record, having been submitted in a reply brief. A party cannot introduce previously undisclosed evidence in a reply. Applicant is attempting to introduce evidence that cannot be controverted by the opposer at this stage. Applicant presented no valid valid evidence in support of Applicant's combined motion for protective order Re: opposer's service and preliminary response to opposer's motion to consolidate. Applicant presented only an ineffectual affidavit of Michael Zeller an attorney, who entered the case on May 3, 2006 and had no direct knowledge of the alleged mailing incident that the Applicant was complaining of. The Opposer responded to the said motion accordingly. Now, after the fact the Applicant is attempting to introduce in "reply" new evidence, the affidavit of Rose Hagan, which cannot be controverted by the opposer at this stage, which is prejudicial to the Opposer.

WHEREFORE, the opposer prays that the Board strike Applicant's said Reply in its entirety and/or strike the untimely-filed affidavit of Rose Hagan.

RESPECTFULLY SUBMITTED,

/Leo Stoller/
Leo Stoller, President
CENTRAL MFG. CO., Opposer/Respondent
7115 W. North Avenue #272
Oak Park, Illinois 60302
(773) 589-0340

Date May 20, 2006

Certificate of On-Line Filing

I hereby certify that on May 20, 2006, this paper is being filed online in this case with the Trademark Trial and Appeal Board.

/Leo Stoller/

Certificate of Service

I hereby certify that on May 20, 2006 a copy of the foregoing was sent by First Class mail with the U.S. Postal Service in an envelope addressed to:

Michael Zeller
Quinn Emanuel
865 South Aifueroa Street, 10th Floor
Los Angeles Ca 90017

Leo Stoller
Date: May 20, 2006