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

Proceeding no.	91215293
Party	Plaintiff Monosij Dutta-Roy
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Submission	Motion for Rule 11 Sanctions (Not Discovery)
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

MONOSIJ DUTTA-ROY

**Plaintiff/ Opposer: *Dutta-Roy***

Counsel: *pro se*

v.

JYSK BED'N LINEN, D/B/A BY DESIGN

**Defendant/ Applicant : *Jysk***

Counsel: *Mr. Jonathan Fain*

UNITED STATES PATENT AND TRADEMARK OFFICE  
**TRADEMARK TRIAL AND APPEAL BOARD**

US Application Serial No: **85684016**

***OPPOSITION NUMBER: 91215293***

***Friday, December 30, 2022***

**US Application Serial No:**

**85684016**

**Opposition Number:**

**91215293**

**Word Mark:**

**bydesignfurniture.com**

**Plaintiff/ Opposer *Dutta-Roy's***

**Motion for Sanctions on Counsel Jonathan Fain, with**

**Attached Brief**

**Leave of Board Requested in:**

**Additional Discovery, Excess Pages**

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**LEAVE (Excess Pgs, Addtl Disc) IN PLAINTIFF'S MOTION FOR SANCTIONS {RULE 11 + TBMP 527.01}: TBMP 527.03**

Plaintiff/ Opposer Monosij Dutta-Roy (*Dutta-Roy*) files this Motion for Sanctions against Applicant/ Defendant Jysk Bed'N Linen (*Jysk*) counsel Jonathan Fain (*Fain/ Counsel Fain*) for interim compensatory damages for \$15M in an order by [37 C.F.R. § 42.12\(a\)\(6\)](#).

It is now 90 days from filing of Amended (from September 29 filing) Cross-Motion for Summary Judgment (*Cross-Motion*) filed on Monday October 3, 2022. The Notice of Intent to file Sanctions, filed November 28 noted the basis of the sanctions motion to be submitted.

While this document is being submitted to Jysk Counsel, on Decmebr 30, 2022, Fain for the 21 day notice on Federal Rules of Civil Procedure (**FRCivP**) [Rule 11](#) sanctions the issue of *mentes reae* (surely all four of **purpose** (same as intent), **knowledge**, **recklessness** and **negligence** applies here, of Jysk Counsel Fain and *absent* counsel Joshi (*and hidden counsels DZKL and Jan Meyer Law*), must nullify that requirement, and also find the necessary bad-faith, if not fraud in [Rule 9\(b\)](#), - is posited from the caselaw and publications cited forthwith.

Dutta-Roy is filing this Motion under health conditions in currently with Covid, high-BP and enduring severe financial hardship in at least last seven years (*this alone should show recklessness as counsels and Jysk nice and safe?*).

In having to make significant law, caselaw in seeking an **interim judgment of \$15M** (*stepped in mutually exclusive \$5M calculations shown*) in sanctions, Dutta-Roy requests Leave of Court in the total page court of the Motion (26 pages) and Brief in Support of Motion (27 pages) to be a total of 53 pages.

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**1 | Motion: Sanctions | US Application Serial No: 85684016 | Opposition Number: 91215293**

## 1. Inherent Authority to Sanction: 'Taken Together'<sup>1</sup> in Combined Nature of this Motion in Judicial Efficiency

Indeed while this is a [Rule 11](#) sanction, it is *also* a [TBMP 527.01](#) Discovery sanction, combined into one for judicial efficiency (*shown by the number of laws cited*) into requesting sanctions by [TBMP 527.03](#):

### Board's Inherent Authority to Sanction.<sup>2</sup>

To act under its inherent powers to sanction discovery abuse, the court must make a finding of *bad faith*.<sup>3</sup>

While the basis of this Motion is Sanctions for improper certification Federal Rules of Civil Procedure (FRCivP) [Rule 26\(g\)\(3\)](#) which provides:

**(g)(3): Sanction for Improper Certification.**

**If a certification violates this rule without substantial justification, the court, on motion or on its own, must impose an appropriate sanction on the signer, the party on whose behalf the signer was acting, or both. The sanction may include an order to pay the reasonable expenses, including attorney's fees, caused by the violation.**

... the real basis is *intentional and malicious fraudulent misrepresentation*,<sup>4</sup> in [15 U.S.C. § 1927](#).

Also, Jysk has not made necessary disclosures by [Rule 26\(a\)\(iv\)](#) in necessary insurance agreements between Jysk of US, Jysk of Denmark and lawyers involved in asset purchase agreement by Jysk in purchase of Quick Ship assets.

**(a) Required Disclosures.**

**(iv) for inspection and copying as under Rule 34, any insurance agreement under which an insurance business may be liable to satisfy all or part of a possible judgment in the action or to indemnify or reimburse for payments made to satisfy the judgment.**

- 1 Director's Letter: **OpenSky-v-VLSI.IPR-2021.Paper-102: 'Taken together, the behavior warrants sanctions to the fullest extent of my power.'** Discussed further.
- 2 The sanctions sought are by a multitude of factors, including but not limited to: *Advancing a misleading or frivolous argument or request for relief, Misrepresentation of slew of facts; Engaging in dilatory tactics; Abuse of discovery; Abuse of process; Improper use of the proceedings, including actions that harass or cause unnecessary delay or an unnecessary increase in the cost of the proceeding;* in this matter: **Multiplicity of proceedings;**
- 3 **Bad faith requirement.** See *Goodyear Tire & Rubber Co. v. Haeger*, 581 U.S. —, 137 S. Ct. 1178 197 L. Ed. 2d 585, 593 (2017) (court may instruct party that has acted in bad faith to reimburse legal fees and costs incurred by other side).
- 4 Noted by already filed Notice of Reliance and En Banc Hearing to 11<sup>th</sup> Circuit.

**2 | Motion: Sanctions | US Application Serial No: 85684016 | Opposition Number: 91215293**

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