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

Proceeding	92053631
Party	Defendant CAI Global Group Ltd.
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LEALEA ENTERPRISE CO., LTD.	:	
	:	Cancellation No. 92053631
Petitioner	:	
	:	Mark: REPET
v.	:	
	:	Reg. No. 3,778,791
CAI GLOBAL GROUP LTD.	:	
	:	
Registrant	:	
-----	X	

REGISTRANT'S RESPONSE TO PETITIONER'S
MOTION FOR SANCTIONS AND REQUEST TO SUSPEND PROCEEDINGS

Petitioner LEALEA ENTERPRISE CO., LTD (hereinafter "Petitioner") has moved for order to sanction Registrant CAI GLOBAL GROUP LTD. ("Registrant") for allegedly violating the Trademark Trial & Appeal Board's ("Board") August 6, 2012 Order granting Petitioner's Motion to Compel Registrant's discovery responses. Petitioner's Motion should be denied because Registrant has substantially complied with its discovery obligations. (Applicant does not oppose Petitioner's request that the Board suspend proceedings pursuant to 37 C.F.R. Section 2.127(d).)

Registrant complied fully with the Board's Order and Petitioner's discovery requests. On November 10, 2011, Registrant had responded to Petitioner's First Request for Production, producing 122 responsive documents. (Petitioner attached a copy of Registrant's response to its motion papers as Exhibit 7 but did not include the actual production. For the sake of completing the record, these documents are attached to the accompanying Declaration of the undersigned as Exhibit A.) Subsequently, on September 5, 2012, Registrant produced a further four documents.

(See Exhibit 1, attached to Petitioner's moving papers) Supplementing its production, Registrant now has located two further documents, supporting its claim of priority of use as well as supporting its extensive sales of the REPET products in the United States. These additional documents have been produced to Petitioner concurrently herewith and are also attached to the accompanying Declaration as Exhibit B. Despite Petitioner's speculations to the contrary, Registrant has no further responsive documents.

In addition, Registrant timely responded to Petitioner's First and Second Set of Interrogatories. (See Exhibit 2, attached to Petitioner's moving papers.)

Finally, on February 15, 2012, Registrant timely responded to 102 Requests for Admission.

Petitioner specifically alleges that Registrant violated the Board's Order by submitting 1) responses "with general and specific objections"; 2) "a complete lack of meaningful and responsive documents" to Petitioner's discovery requests; 3) "non-responsive responses"; 4) "clearly erroneous responses; and 5) no further response to Petitioner's First Request for Production of Documents.

While Registrant's objections may technically to violate the Board's Order, Petitioner's general objections simply reiterate the requirements of the Federal Rules of Civil Procedure ("FRCP"). To wit, they object to the imposition of obligations beyond what the FRCP require, object to production for documents not reasonable calculated to lead to the admission of admissible evidence, object to production of documents protected by the attorney-client privilege (Registrant did provide a privilege log concerning such documents to Petitioner), object to production of documents in the possession, custody or control of Petitioner, and, object to

production of proprietary or confidential information. As for Registrant's specific objections, to wit, the objections to Interrogatories 16, 20, 25, 26, 28, 35, and 37 (see Petitioner's Exhibit 2), the first two object to the production of documents that are readily available to Petitioner as they are a public record and the remainder of the objected interrogatories presumes that Registrant has knowledge concerning Petitioner's business and products that Registrant could not possibly have.

Petitioner's claim that Registrant's production comprises a complete lack of meaningful and responsive documents clearly is incorrect. Registrant has produced responsive documents, in the form of invoices, product labels, and testimonial letters, sufficient to show Registrant's sale and distribution of the REPET products. Registrant further produced responsive documents concerning its promotion of the REPET products by providing printouts of its website. In connection with Petitioner's allegation that Registrant committed fraud when obtaining its registration, Registrant produced the full application record of its registration including, but not limited to, the specimens of use of record. In addition, Registrant's production also includes documentation showing use of the mark in connection with all of the products listed in the challenged registration. Finally, as requested by Petitioner, Registrant has provided documents concerning its corporate structure and documents supporting Registrant's policing of its registered mark.

Similarly, Petitioner's suggestion that Registrant's responses to interrogatories are "unresponsive" is misplaced. Registrant responded to each and every interrogatory and/or provided responsive documents that were available. Registrant simply does not maintain documents concerning many of the areas into which Petitioner inquired.

Specifically, despite Petitioner's assertions to the contrary, on p. 13 of Petitioner's Memorandum, Registrant's response to interrogatory 5 responds to all subparts of the interrogatory. Concerning Petitioner's complaint that the response to interrogatory 7 does not identify "by whom such first commercial use was made", Registrant provided this information in the documents responsive to interrogatory 8. Regarding interrogatory 22, the description of customers of Registrant's products as "consumers" clearly suffices in response to Petitioner's inquiry concerning the "types and classes of customers". As Registrant has no documents concerning advertising in publications, its response to interrogatory 23 is correct and responsive. As for Registrant's responses to 25, 28, 35, and 37, the so-called inappropriate specific objection was interposed as the objected interrogatories presumes that Registrant has knowledge concerning Petitioner's business and products that Registrant could not possibly have. Petitioner's objections to Registrant's responses to interrogatories 31, 33, 34 are not understood as Registrant clearly responded in full to these interrogatories. Despite Petitioner's assertion to the contrary, Registrant's responses to interrogatories 38-4 refer to specific documents and, therefore, are factual and not conclusory.

Petitioner asserts that Registrant "should have responsive documents to production request 53 and 55." This simply is not the case and, therefore, Registrant's response is correct.

Petitioner's suggestion that Registrant's responses to interrogatories 11 and 12 are contradictory has no merit. In response to Petitioner's inquiry regarding the meaning of REPET, Registrant responded that it is a coined term, except that it is suggestive of the term RPET, which is an abbreviation for recycled polyethylene terephthalate. This clearly is consistent with

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