

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION**

JAY FRANCO & SONS, Inc.,)	
)	Civil Action No. 08-cv-0058
Plaintiff/Appellee,)	Consolidated with No. 08-cv-01313
)	
v.)	Judge Dow
)	
CLEMENS FRANEK,)	Appeal No: 09-2155
)	
Defendant/Appellant.)	

APPELLANT CLEMENS FRANEK'S DESIGNATION OF RECORD ON APPEAL

Appellant Clemens Franek hereby designates the following documents filed with the District Court to be incorporated as part of the record on appeal to the Seventh Circuit:

Documents Filed Under Case No. 08-CV- 0058

<u>Docket No.</u>	<u>Description</u>
47	MEMORANDUM by Clemens Franek in Opposition to motion for summary judgment 41 (Attachments: # 1 Declaration Franek, # 2 Exhibit Beach Towel shapes, # 3 Exhibit Notice to REI, # 4 Exhibit Claim Charts)(aac,) (Entered: 08/29/2008)
48	RESPONSE by Clemens Franek Opposition to MOTION by Plaintiff Jay Franco & Sons, Inc. for summary judgment <i>PLAINTIFF JAY FRANCO & SONS, INC.'S MOTION FOR PARTIAL SUMMARY JUDGMENT</i> 41 <i>Response to Statement of Facts</i> (aac,) (Entered: 09/02/2008)
51	MOTION by Defendant Clemens Franek for leave to file <i>Sur-Reply Brief</i> (aac,) (Entered: 09/02/2008)
52	NOTICE of Motion by Mark Daniel Roth for presentment of motion for leave to file 21 before Honorable Robert M. Dow Jr. on 8/28/2008 at 09:15 AM. (aac,) (Entered: 09/02/2008)
54	MINUTE entry before the Honorable Robert M. Dow, Jr: The Court has before it Defendant's motion for leave to file a sur-reply brief 21 and Plaintiff's opposition 23 to that motion. The Court will take the motion under advisement and issue a ruling by mail after it has examined the reply brief, the motion, and the response. Notice of motion date of 8/28/08 is stricken and no appearances are necessary on that date. Mailed notice (aac,) (Entered: 09/02/2008)
58	MINUTE entry before the Honorable Robert M. Dow, Jr: The motion by Defendant Franek for leave to file a sur-reply brief 51 is denied at this time. If the Court determines in course of its consideration of the

motion that further argument from Defendant Franek is warranted, the Court will request a sur-reply at that time. Mailed notice (tbk,) (Entered: 09/09/2008)

- 67 MINUTE entry before the Honorable Robert M. Dow, Jr: Pursuant to Memorandum Opinion and Order dated 3/13/09, Plaintiffs motion for partial summary judgment [41](#) is granted as to Count II of its Complaint for Declaratory Judgment and Other Relief and Franeks U.S. Trademark Registration No. 1,502,261 is invalid as functional. Plaintiffs motion for summary judgment [41](#) is also granted as to Counts I through IV of Clemens Franeks Counterclaims against Jay Franco & Sons. Mailed notice (tbk,) (Entered: 03/13/2009)
- 68 MEMORANDUM Opinion and Order Signed by the Honorable Robert M. Dow, Jr on 3/13/2009. Mailed notice (tbk,) (Entered: 03/13/2009)
- 71 MINUTE entry before the Honorable Robert M. Dow, Jr: For the reasons stated below, Franek's motion [69](#) to amend the Court's March 13, 2009 order [68](#) pursuant to Fed. R. Civ. P. 59(e) is granted. Notice of motion date of 4/1/09 is stricken and no appearances are necessary on that date. [For further details see minute order.] Mailed notice (aac,) (Entered: 03/31/2009)

Documents Filed Under Case No. 08-CV- 1313

<u>Docket No.</u>	<u>Description</u>
17	MEMORANDUM by Clemens Franek in Opposition to motion for summary judgment 10 (Attachments: # 1 Declaration Franek, # 2 Exhibit Beach Towel shapes, # 3 Exhibit Notice to REI, # 4 Exhibit Claim Charts)(Roth, Mark) (Entered: 07/21/2008)
18	RESPONSE by Clemens Franekin Opposition to MOTION by Plaintiff Jay Franco & Sons, Inc. for summary judgment <i>PLAINTIFF JAY FRANCO & SONS, INC.'S MOTION FOR PARTIAL SUMMARY JUDGMENT</i> 10 <i>Response to Statement of Facts</i> (Roth, Mark) (Entered: 07/21/2008)
21	MOTION by Defendant Clemens Franek for leave to file <i>Sur-Reply Brief</i> (Roth, Mark) (Entered: 08/20/2008)
22	NOTICE of Motion by Mark Daniel Roth for presentment of motion for leave to file 21 before Honorable Robert M. Dow Jr. on 8/28/2008 at 09:15 AM. (Roth, Mark) (Entered: 08/20/2008)
24	MINUTE entry before the Honorable Robert M. Dow, Jr: The Court has before it Defendant's motion for leave to file a sur-reply brief 21 and Plaintiff's opposition 23 to that motion. The Court will take the motion under advisement and issue a ruling by mail after it has examined the reply brief, the motion, and the response. Notice of motion date of 8/28/08 is stricken and no appearances are necessary on that date. Mailed notice (tbk,) (Entered: 08/25/2008)

Dated: May 18, 2009

Respectfully submitted,

By: /s/ Mark D. Roth

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