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

Proceeding	91152940
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the matter of Trademark Application Serial No. 76/212,011  
Published in the Official Gazette of May 28, 2002, on page TM 497, Int'l Class 35  
Filed: February 20, 2001  
Mark: STAACHI'S CO. 1996 & DESIGN

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SINCLAIR OIL CORPORATION	)	Opposition No. 91152940
Opposer,	)	
v.	)	<b>SINCLAIR'S MOTION FOR</b>
SUMATRA KENDRICK	)	<b>SUMMARY JUDGMENT AND</b>
Applicant.	)	<b>MEMORANDUM IN SUPPORT</b>
	)	<b>THEREOF</b>

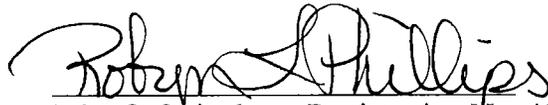
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Opposer, Sinclair Oil Corporation ("Sinclair"), is the owner of United States Trademark Registration Nos. 929,749, 929,750, 2,897,067 and 2,978,288 ("Sinclair's Marks") all involving sun designs. Applicant, Sumatra Kendrick ("Applicant"), filed Application Serial No. 76/212,011 ("the Application") with the United States Patent and Trademark Office ("USPTO") under § 1(a) of the Trademark Act. Applicant's mark, STACCHI'S CO. 1996 & DESIGN ("the Mark"), contains a sun design confusingly similar to the registered and pending registrations owned by Sinclair.

Despite Applicant's representations in the Application stating that the Mark was in use in commerce since March 20, 1996, Applicant has in these proceedings now admitted that the Mark was never used in commerce. Accordingly, Sinclair hereby moves the Trademark Trial and Appeal Board for an order granting its Motion for Summary Judgment and refusing registration of Applicant's Mark.

This motion is supported by the Memorandum of Law and Declaration of Robyn L. Phillips, filed concurrently herewith.

DATED this 1<sup>st</sup> day of March, 2006.



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## MEMORANDUM OF LAW

Sinclair submits this Memorandum of Law in support of its Motion for Summary Judgment. For the reasons set forth below, registration of Applicant's Mark should be refused because Applicant has not satisfied the "use in commerce" requirement of § 1(a) of the Trademark Act and has made fraudulent misrepresentations to the USPTO.

### **I. STATEMENT OF UNDISPUTED FACTS**

1. Applicant filed the Application under § 1(a) of the Trademark Act on February 20, 2001. [Declaration of Robyn L. Phillips ("Phillips Decl.")<sup>1</sup>, Exh. A.]

2. On July 10, 2001, in response to an Office Action, Applicant restated that the Mark was "in commerce use" since 1996. [Exh. B.]

3. On August 10, 2001, Applicant provided the date of first use of the mark as March 20, 1996, in response to a second Office Action. [Exh. C.]

4. On June 6, 2003, Sinclair served Sinclair's First Set of Interrogatories to Applicant. [Exh. D.]

5. On August 29, 2003, Applicant served Sumatra Kendrick's Second Set of Supplemental Answers to Interrogatories. [Exh. E.] In response to Interrogatory No. 3, Applicant states:

The name and mark "STAACHI'S & CO. 1996" **has never been used in commerce.**

This name and mark was registered as a Fictitious Business Name Statement in California in March 1996 to reserve the name and notice others that I intended to do business in the future under that name[.] Applicant in 1996 created about 25 sample products, none are now in existence, and this was a one time creation.

[*Id.* at 6 (emphasis added).]

6. In response to Interrogatory No. 1, Applicant asserts:

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<sup>1</sup> All subsequent references to "Exhibits" or "Exh." are to the lettered attachments accompanying the Phillips Declaration.

Applicant is in the formation stage of her business and has not been able to acquire any additional funding to allow her to conduct her business in commerce. **Applicant has not engaged in commerce**, but has only attempted to reserve the name and sought a trademark to protect the utilization of the mark when and if her business is opened.

[Exh. E, at 1, para. no. 3 (emphasis added); *see also* Responses to Interrogatory Nos. 2-36.]

7. In response to Interrogatory No. 2, Applicant states:

Applicant in 1996 created about 25 sample products, none are now in existence, and **this was a one time creation**.

[Exh. E, at 4 (emphasis added); *see also* Response to Interrogatory No. 3.]

8. In response to Interrogatory No. 4, Applicant asserts that it “has no invoices, documents, or writings that would establish ‘use’ in commerce.” [Exh. E, at 8.]

9. In response to Interrogatory No. 6, when asked about the income from goods the Mark is used on and the projected income, Applicant states:

Applicant is in the formation stage of her business and has not been able to acquire any additional funding to allow her to conduct her business in commerce. **Applicant has not engaged in commerce and has not had any income**. It has been over 6 years and Applicant has not been able to do business, therefore, Applicant does not anticipate any income in the next 5 years. . . .

[Exh. E, at 13 (emphasis added); *see also* Response to Interrogatory 22, at 43.]

10. In response to Interrogatory No. 7, when asked what marketing channels Applicant had used, Applicant states:

Applicant is in the formation stage of her business and has not been able to acquire any additional funding to allow her to conduct her business in commerce. **Applicant has not engaged in commerce and has not done any marketing**. Applicant would anticipate utilizing introduction letters and brochures.

[Exh. E, at 15 (emphasis added).]

11. In response to Interrogatory No. 12, Applicant asserts that “[a]ny will be in the Bay are [sic] of California. **The one time project** was in the Bay area.” [Exh. E, at 24 (emphasis added).]

12. On August 29, 2003, Applicant served a Second Set of Supplemental Answers to Production of Documents and Things. Attached thereto Applicant produced the Fictitious Business Name Statement, filed with the state of California on May 20, 1996, for the name “STaaCHi’s Exclusives” and the publication of the same. [Exh. F.]

13. On October 17, 2003, Sinclair propounded Sinclair’s First Set of Request for Admissions on Applicant. [Exh. G.]

14. Request for Admission No. 13 states: “Admit that Applicant has not engaged in commerce with products bearing the mark ‘STAACHI’S & CO. 1996’ with DESIGN.” [*Id.* at 6.]

15. Applicant responded with an admission. [Exh. H, at 3.]

16. Request for Admission No. 15 states: “Admit that the name and mark ‘STAACHI’S & CO. 1996’ has never been used in commerce.” [Exh. G, at 6.]

17. Applicant responded with an admission. [Exh. H, at 3.]

18. Request for Admission No. 23 states: “Admit that none of Applicant’s sample products created in 1996 bearing the mark ‘STACCHI’S CO. 1996’ & DESIGN were ever sold.” [Exh. G, at 7.]

19. Applicant responded with an admission. [Exh. H, at 4.]

20. Request for Admission No. 31 states: “Admit that Applicant sought to register the name or mark ‘STACCHI’S CO. 1996’ & DESIGN to protect the utilization of the mark when and if her business is opened.” [Exh. G, at 8.]

21. Applicant responded with an admission. [Exh. H, at 5.]

22. Request for Admission No. 33 states: “Admit that Applicant’s business has never been open.” [Exh. G, at 9.]

23. Applicant responded with an admission. [Exh. H, at 5.]

24. Similarly, Request for Admission No. 52 states: “Admit that Applicant has not engaged in commerce.” [Exh. G, at 11.]

25. Applicant again responded with an admission. [Exh. H, at 7.]

## **II. SUMMARY JUDGMENT STANDARD**

Summary judgment is proper “if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.” Fed. R. Civ. P. 56(c); *see, e.g., Celotex Corp. v. Catrett*, 477 U.S. 317 (1986); *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242 (1986). The purpose of a summary judgment motion is judicial economy, that is, to avoid an unnecessary trial where there is no genuine issue of material fact and more evidence than is already available in connection with the summary judgment motion could not reasonably be expected to change the result in the case. *See, e.g., Pure Gold, Inc. v. Syntex (U.S.A.), Inc.*, 739 F.2d 624, 743 (Fed. Cir. 1984) (evidence which might be adduced at trial would not change result.)

## **III. INTRODUCTION**

Applicant filed the Application under § 1(a) of the Trademark Act on February 20, 2001. [Exh. A.] The Mark contains a sun design which is nearly identical to and confusingly similar with the sun designs used in Sinclair’s Marks. Like Sinclair’s Marks, Applicant seeks to register its Mark in International Class 35. [*Id.*] On August 26, 2002, Sinclair filed a Notice of Opposition. [Dkt. No. 1.] Sinclair now moves for Summary Judgment on the bases that: (1) Applicant’s Mark does not meet the requirements for registration under § 1(a) of the Trademark Act (15 U.S.C. § 1051(a)) because Applicant has not used the Mark in commerce, and thus, the application is void *ab initio*; and (2) Applicant’s Application is invalid because Applicant made false, material representations to the USPTO that Applicant knew to be false.

## **IV. ARGUMENT**

The material facts in this matter are not in dispute. Applicant filed a “use” trademark application under § 1(a) of the Trademark Act. [Exh. A.] In the Application,

Applicant asserts that the Mark was first used in commerce on March 20, 1996. [*Id.*; Exh. C; *see also* Exh. B.] During the course of discovery in this proceeding, however, Applicant admitted that she never used the Mark in commerce. [Exh. H, Response to Request for Admission Nos. 13 and 15, at 3; *see* Exh. G, Request for Admission Nos. 13 and 15, at 6.] In fact, Applicant’s only alleged use of the Mark consists of a one time creation of twenty-five sample products allegedly bearing the Mark and a California Fictitious Business Name filing for the name “STaaCHi’s Exclusives.” [Exh. E, Response to Interrogatories Nos. 2 and 3, at 4, 6; *see also* Exh. F.] Irrespective of Applicant’s own admission that, contrary to Applicant’s representation in the Application, the Mark was never used in commerce, neither of the alleged uses identified by Applicant meet the “use in commerce” requirement of § 1(a) of the Trademark Act. Therefore, the Mark is not eligible for federal trademark registration.

**A. Applicant Is Not Entitled To Trademark Registration Under § 1(A) Because Applicant Admits That The Mark Was Never Used In Commerce.**

Under § 1(a) of the Trademark Act, an “applicant must submit a verified statement that the mark is in use in commerce on or in connection with the goods or services listed in the application . . . as of the application filing date.” 15 U.S.C. § 1051(a); *see also* 37 C.F.R. § 2.34(a)(1); TMEP § 806.01(a). Furthermore, an applicant may not claim a § 1(a) basis unless the mark was in use in commerce on or in connection with *all* the goods or services covered by the §1(a) basis as of the application filing date. *See* 37 C.F.R. § 2.34(a)(1)(i); *see also E.I. du Pont de Nemours & Co. v. Sunlyra Int’l, Inc.*, 35 U.S.P.Q.2d 1787, 1791 (TTAB 1995).

As previously stated, Applicant has admitted that the Mark was never used in commerce. [Exh. H, Response to Request for Admission Nos. 13 and 15, at 3; *see* Exh. G, Request for Admission Nos. 13 and 15, at 6.] Applicant’s responses to interrogatories are consistent with this admission. [Exh. E, Response to Interrogatory 3, at 6 (“The name

and mark STAACHI'S & CO. 1996 has never been used in commerce.”), Response to Interrogatory No. 1, at 1, para. no. 3 (“Applicant has not engaged in commerce”); *see also id.*, Response to Interrogatory Nos. 6 and 7, at 13, 15.]

Obviously, if Applicant has not engaged in commerce (which Applicant admits that it has not) surely Applicant is not eligible for federal trademark registration under § 1(a) of the Trademark Act. Therefore, the Mark should not be granted registration.

**B. Applicant Is Not Entitled To Trademark Registration Under § 1(A) Because Applicant Attempted To Procure A Trademark Registration By Fraud.**

“A trademark applicant commits fraud in procuring a registration when it makes material representations of fact in its declaration which it knows or should know to be false or misleading.” *Medinol Ltd. v. Neuro Vasx Inc.*, 67 U.S.P.Q.2d 1205, 1209 (TTAB 2003) (citing *Torres v. Cantine Torresella S.r.l.*, 808 F.2d 46, 1 U.S.P.Q.2d 1483, 1484-85 (Fed. Cir. 1986)); *see also Le Cordon Bleu, S.A. v. BPC Publ'g Ltd.*, 451 F. Supp. 63, 72 n.14 (S.D.N.Y. 1978); *Schwinn Bicycle Co. v. Murray Ohio Mfg. Co.*, 339 F. Supp. 973, 983 (M.D. Tenn. 1971). “The obligation which the Lanham Act imposes on an applicant is that he [or she] will not make *knowingly* inaccurate or *knowingly* misleading statements in the verified declaration forming a part of the application for registration.” *Bart Schwartz Int'l Textiles, Ltd. v. Federal Trade Comm'n*, 289 F.2d 665, 669 (CCPA 1961) (emphasis in original). Statements regarding the use of the mark on goods are clearly material to issuance of the registration. *See Western Farmers Assn. v. Loblaw, Inc.*, 180 U.S.P.Q. 345, 347 (TTAB 1973); *see also First Int'l Servs. Corp. v. Chuckles, Inc.*, 5 U.S.P.Q.2d 1628, 1636 (TTAB 1988).

26. By her own admission, Applicant, at the time of the filing of the Application, had not: (1) engaged in commerce; or (2) used the Mark in commerce. [Exh. H, Response to Request for Admission Nos. 13, 15, and 52, at 3, 11; *see* Exh. G, Request for Admission Nos. 13, 15, 52, at 3, 7.] Further, in the Application, Applicant

asserts that the Mark was first used in commerce on March, 1996. [Exh. A.] Subsequently, during prosecution of the Application, on multiple occasions Applicant told the USPTO that the date of first use in commerce of the Mark is 1996 or, more specifically, March 20, 1996. [See Exhs. B and C.] In fact, the March 20, 1996 date corresponds to the date of filing by Applicant of a California Fictitious Business Name of “STaaCHi’s Exclusives,” which is not even the Mark at issue in this proceeding. [Exh. F (compare “STaaCHi’s Exclusives” with “STACCHI’S CO. 1996 & DESIGN”).]

Applicant also admits that she sought to register the Mark to protect the utilization of the mark when and if her business is opened. [Exh. H, Response to Request for Admission No. 31, at 5; see Exh. G, Request for Admission No. 31, at 8.] As a result, Applicant’s only alleged use of the Mark consists of a one time production of twenty-five sample products allegedly bearing the Mark and a California Fictitious Business Name filing for the name “STaaCHi’s Exclusives.” [See Exh. E, Response to Interrogatory Nos. 2 and 12, at 4 and 24; Exh. F.] Therefore, Applicant’s representation to the USPTO that she had used the Mark in commerce since March 20, 1996 was false.

The relevant inquiry to determine whether Applicant has committed fraud on the USPTO is not Applicant’s subjective intent, but the objective manifestations of that intent. *Medinol Ltd. v. Neuro Vasx Inc.*, 67 U.S.P.Q.2d 1205, 1209 (TTAB 2003). “[I]t is difficult, if not impossible, to prove what occurs in a person’s mind, and that intent must often be inferred from the circumstances and related statement made by that person.” *First Int’l Servs. Corp. v. Chuckles, Inc.*, 5 U.S.P.Q.2d 1628, 1636 (TTAB 1988); see *Medinol Ltd. v. Neuro Vasx Inc.*, 67 U.S.P.Q.2d 1205, 1209 (TTAB 2003); see also *Torres*, 1 U.S.P.Q.2d at 1484-85; *General Car and Truck Leasing Sys., Inc. v. General Rent-A-Care Inc.*, 17 U.S.P.Q.2d 1398, 1400 (S.D. Fla. 1990). Further, “proof of specific intent to commit fraud is not required, rather, fraud occurs when an applicant or registrant makes a false material representation that the applicant or registrant know or should have known was false.” *General Car and Truck*, 17 U.S.P.Q.2d at 1400; see

*Western Farmers Assn.*, 180 U.S.P.Q. at 347. If fraud is shown in the procurement of a registration, the entire resulting registration is void. *General Car and Truck*, 17 U.S.P.Q.2d at 1401.

Applicant knew what name she filed in California as a fictitious business name. [See Exh. F.] Further, Applicant had to have known that name of the California business was different from her Mark before the USPTO. Likewise, Applicant had to have known at that time that she had never engaged in commerce, much less used the Mark in commerce. As a result, Applicant's representation to the Board that she had used the Mark in commerce since March 20, 1996 was made knowingly.<sup>2</sup> In any event, Applicant's knowledge or reckless disregard for the truth concerning the fact that her Mark had not been used in commerce, her knowledge that the business registration was not for the Mark, and the date of first use Applicant provided to the USPTO was for a name different than the Mark, all show an intent to commit fraud in the procurement of a registration. *See Medinol Ltd.*, 67 U.S.P.Q.2d at 1210. As a result, Applicant should not be granted registration due to her fraudulent representations to the USPTO.

C. **Applicant's Twenty-Five Sample Products do Not Constitute "Use in Commerce" and as Such Applicant Is Not Entitled To Trademark Registration Under § 1(A).**

As previously discussed, under § 1(a) an applicant may register a trademark that has been "used in commerce" as of the application filing date of the application. *See* 15 U.S.C. § 1051(a); *see also* 37 C.F.R. §2.34(a)(1) and TMEP § 806.01(a). "Use in commerce" is defined as "the bona fide use of a mark in the ordinary course of trade. . . ." 15 U.S.C. § 1127. The current definition of "use in commerce" was a result of an amendment to this section whose purpose was to eliminate the ability of an applicant to attempt to use a mere "token use" as a basis for registration under § 1(a). *See Paramount*

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<sup>2</sup> Further, allowing Applicant to change the Application to an intent-to-use application does not remedy the alleged fraud upon the USPTO. *See Medinol Ltd.*, 67 U.S.P.Q.2d at 1208 (holding deleting the goods upon which the mark had not yet been used does not remedy the fraud on the USPTO due to the filing of a false statement of use.)

*Pictures Corp. v. White*, 31 U.S.P.Q.2d 1768, 1774 (TTAB 1994). Accordingly, the requirement that the use of the trademark be use in the “ordinary course of trade” established a higher hurdle than the “token use.” *Id.*

Applicant’s application was filed in February, 2001. Therefore, the existing definition of “use in commerce” applies. Even under the “token use” standard, “sporadic, casual, and nominal shipments of goods bearing a mark” does not give rise to trademark rights which can be registered under § 1(a). *Id.* at 1773. Rather, there had to be a trade in the goods sold under the mark, or at least an active and public attempt to establish such a trade, in order for a trademark (and registerable rights) to exist.” *Id.* (citing *Bellanca Aircraft Corp. v. Bellanca Aircraft Eng’g., Inc.*, 190 U.S.P.Q. 158, 167 (TTAB 1976)); see, e.g., *La Societe Anonyme des Parfums le Galion v. Jean Patou, Inc.*, 495 F.2d 1265, 1272 (2d Cir. 1974) (holding that 89 sales of trademarked perfume in a 20-year period did not constitute the type of bona fide use needed for trademark protection).

Under the current “ordinary course of trade” standard, the TTAB has held that even where over a hundred products were sold and given away was an insufficient use under § 1(a) of the Trademark Act for federal registration. See *Paramount Pictures*, 31 U.S.P.Q.2d at 1773. In the *Paramount Pictures* case, the applicant, White, applied for a trademark under § 1(a) of the Trademark Act. *Id.* White affixed his mark on a game which he sometimes sold, and other times gave away. *Id.* at 1771. White testified that, in total, he sold “at least two hundred” games, and that “in a typical year, he [sold] about 20 to 25 games.” *Id.* Paramount opposed the mark and moved for summary judgment based “on the ground that there had been no bona fide use of the mark in the ordinary course of trade.” *Id.* The TTAB granted Paramount’s motion. *Id.* at 1775-76.<sup>3</sup>

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<sup>3</sup> The Federal Circuit upheld this decision in an unpublished opinion. See *White v. Paramount Pictures Corp.*, No. 96-1096, 1997 U.S. App. LEXIS 3079 (Fed. Cir. 1997) (unpublished opinion) (“[White’s] quantum of use is ‘sporadic, casual and nominal’ and, moreover, White’s use does not reflect a ‘continual effort to create a viable business in the goods so marked,’ [and therefore did] not meet the requirements for registration on the principal register.”). [Exh. I.]

Similarly, in the present case, Applicant alleged a date of first use in commerce of March 20, 1996 for International Class 35. [Exh. C; *see also* Exh. A.] Applicant testifies that she made a “one time creation” of “about 25 sample products” bearing the mark in 1996. [Exh. E, Response to Interrogatory No. 3, at 6; *see id.*, Response to Interrogatory No. 2, at 4; *see also id.*, Response to Interrogatory No.12, at 24.] Applicant elaborates on the “25 sample products” in response to Sinclair’s Interrogatory No. 5:

INTERROGATORY NO. 5(a): [State] [t]he identity of the goods or services which were so first displayed, advertised, promoted, sold, distributed, and/or offered;

ANSWER: Sample bath beads.

INTERROGATORY NO. 5(b): [State] [t]he manner in which the name or mark STaaChi’s Co. 1996 & DESIGN and/or any portion thereof, either alone or in combination was used, e.g., by affixation to containers, or labels, etc;

ANSWER: Labels on sample

INTERROGATORY NO. 5(c): [State] [t]he various media used in connection with the display, advertisement, promotion, sale, distribution, and/or offer of the goods or services;

ANSWER: None

INTERROGATORY NO. 5(d): [State] [w]hether the goods or services were actually sold;

ANSWER: None were sold-free samples

INTERROGATORY NO. 5(e): [State] [w]hether the goods or services were displayed, advertised, promoted, sold, distributed an/or offered free of charge;

ANSWER: Given away free of charge

\* \* \*

INTERROGATORY NO. 5(h): [State] [w]hether the display, advertisement, promotion, sale, distribution and/or offer of goods or services under the name or mark STAACHI’S CO. 1996 & DESIGN and/or any portion thereof, either alone or in combination, has been

continuous from [the date of first use or the exact date Applicant actually first used the name or mark STAACHI'S CO. 1996 & DESIGN];

ANSWER: No. That was a one time project.

[Exh. E, Response to Interrogatory No. 5, at 10-11.]

Likewise, Applicant further testifies that she has not had any income from the goods that the Mark was allegedly used on and has not done any marketing. [Exh. E, Response to Interrogatory Nos. 6 and 7, at 13 and 15.] Applicant admitted that the 25 samples were given away for free and she made no money. [Exh. H, Response to Request for Admission Nos. 26-28, at 4-5; Exh. G, Request for Admission Nos. 26-28, at 6.] In addition, Applicant stated during discovery that “[i]t has been over 6 years and Applicant has not been able to do business. [Exh. E, Response to Interrogatory No. 6, at 13.] Applicant consistently testified that she “has no invoices, documents, or writings that would establish ‘use’ in commerce.” [Exh. E, Response to Interrogatory No. 4, at 8.] Finally, Applicant testified that she does not have any employees. [Exh. E, Response to Interrogatory No. 11, at 22.] The only conclusion that can be reached is that Applicant has not used the Mark in commerce in the ordinary course of trade.

Simply put, giving away 25 bath beads over 8 years ago does not qualify as “use in commerce.” *See Paramount Pictures*, 31 U.S.P.Q.2d at 1775. In fact, even Applicant does not consider the 25 sample bath beads to be use in the ordinary course of trade as shown by Applicant’s response in the Second Set of Supplemental Answers to Interrogatories, where Applicant repeatedly states: “The name and mark ‘STACCHI’S [sic] & CO. 1996’ has never been used in commerce.” [Exh. E, Response to Interrogatory No. 1, at 6 (emphasis added); *see also* Exh. E, Response to Interrogatory Nos. 2-36.] Likewise, Applicant additionally admits that the Mark has never been used in commerce. [Exh. G, Response to Request for Admission No. 13 and 15, at 6.] At best, Applicant’s use of her Mark is sporadic, casual and nominal, and therefore does not meet

the requirements for federal trademark registration. Applicant's Mark should be refused registration on this ground.

**D. Applicant Is Not Entitled To Trademark Registration Under § 1(A) Based On The Filing Of A Fictitious Business Name In California.**

Use of a mark merely to reserve a right in the future use of a mark is insufficient to meet the "use in commerce" requirement of § 1(a) of the Trademark Act. An applicant may claim both use in commerce under § 1(a) of the Act and intent-to-use under § 1(b) of the Act as a filing basis in the same application, but may not assert both § 1(a) and § 1(b) for the identical goods or services. 37 C.F.R. §2.34(b)(1); TMEP § 806.02(b). Further, the definition of "use in commerce" specifically excludes uses "made merely to reserve a right in a mark." 15 U.S.C. § 1127.

On March 20, 1996 (the date Applicant claims as the date of first use in commerce), Applicant filed the name "STaaCHi's Exclusives" as a fictitious business name in California. [Exh. F; *see also* Exh. E, Response to Interrogatory No. 1, at 6.] Applicant's California Registration of a Fictitious Business Name does not meet the "use in commerce" standard of § 1(a) of the Trademark Act because Applicant clearly filed the registration with the intent to reserve a future right in the mark. Applicant asserts that:

This name [STaaCHi's & Co. 1996] and [sic] was registered as a Fictitious Business Name Statement in March 1996 to reserve the name and notice others that I intended to do business in the future under that name[.]

[Exh. E, Response to Interrogatory No. 3, at 6.] Likewise, Applicant admitted that it was precisely here intent to register the Mark to protect the utilization of the mark when and if her business opened. [Exh. H, Response to Request for Admission No. 31, at 5; *see* Exh. G, Request for Admission No. 31, at 8.] In addition, the filing of a Fictitious Business name is not use of the Mark on the goods.

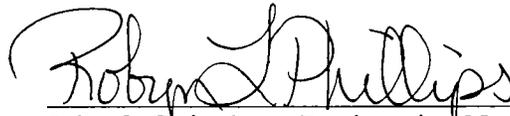
Importantly, the California Fictitious Business Name filing and publication was for the name "STaaCHi's Exclusives" and did not include the sun design. [Exh. F.] In other words, the fictitious business name does not match even the word portion of

Applicant's mark. [Compare "STaaCHi's Exclusives" with STACCHI'S CO. 1996 & DESIGN]. Therefore, even if the California Fictitious Business Name filing was a "use in commerce," and was not filed merely to reserve a right in a mark (which it was not), Applicant should still be precluded federal registration on this basis.

**V. CONCLUSION**

Based on the foregoing, the undisputed facts and law demonstrate that Applicant's Mark does not qualify for registration and Applicant has committed fraud upon the USPTO. Accordingly, Sinclair's Motion for Summary Judgment should be granted and Applicant's Mark refused registration.

DATED this 1<sup>st</sup> day of March, 2006.



John C. Stringham, Registration No. 40,831  
Robyn L. Phillips, Registration No. 39,330

WORKMAN NYDEGGER  
1000 Eagle Gate Tower  
60 East South Temple  
Salt Lake City, Utah 84111  
Telephone: (801) 533-9800  
Facsimile: (801) 328-1707

Attorneys for Opposer  
SINCLAIR OIL CORPORATION

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing **SINCLAIR'S MOTION FOR SUMMARY JUDGMENT AND MEMORANDUM IN SUPPORT THEREOF** was served on Applicant by mailing a true copy thereof, by First Class Mail, postage prepaid, this 1<sup>st</sup> day of March, 2006, in an envelope addressed as follows:

Sumatra Kendrick  
P.O Box 434  
Berkeley, California 94701

A handwritten signature in cursive script, reading "Robert L. Phillips", is written over a horizontal line.

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

In the matter of Trademark Application Serial No. 76/212,011  
Published in the Official Gazette of May 28, 2002, on page TM 497, Int'l Class 35  
Filed: February 20, 2001  
Mark: STAACHI'S CO. 1996 & DESIGN

SINCLAIR OIL CORPORATION	}	Opposition No. 152,940
Opposer,		
v.		<b>DECLARATION OF ROBYN PHILLIPS IN SUPPORT OF SINCLAIR'S MOTION FOR SUMMARY JUDGMENT</b>
SUMATRA KENDRICK		
Applicant.		

Robyn L. Phillips, declarant herein, deposes and states:

- I am a shareholder of the firm of Workman Nydegger, counsel for Opposer, Sinclair Oil Corporation ("Sinclair") in the above-captioned action.
- I make this declaration based upon my own personal knowledge, and based upon records maintained by Workman Nydegger in the ordinary course of business, to which I have access in the course of fulfilling my duties for the firm and its clients.
- Attached hereto as Exhibit A is a true and correct copy of the application for Trademark Application Serial No. 76/212,011 for the mark STAACHI'S CO. 1996 & DESIGN and a print out off the data base of the Untied States Patent and Trademark Office regarding the same.

4. Attached hereto as Exhibit B is a true and correct copy of a document submitted by Applicant on July 10, 2001, in response to an Office Action in which Applicant restated that the Mark was “in commerce use” since 1996.
5. Attached hereto as Exhibit C is a true and correct copy of a document submitted by Applicant on August 10, 2001, in response to a second Office Action, in which Applicant provided the date of first use of the mark as March 20, 1996.
6. Attached hereto as Exhibit D is a true and correct copy of Sinclair’s First Set of Interrogatories to Applicant served on June 6, 2003.
7. Attached hereto as Exhibit E is a true and correct copy of Applicant’s Second Set of Supplemental Answers to Sinclair’s Interrogatories served on August 29, 2003.
8. Attached hereto as Exhibit F is a true and correct copy of Applicant’s California Fictitious Business Name filing for the name “STaaCHI’s Exclusives” and the publication thereof.
9. Attached hereto as Exhibit G is a true and correct copy of Sinclair’s First Set of Requests for Admissions served October 17, 2003.
10. Attached hereto as Exhibit H is a true and correct copy of Applicant’s Response to Opposer, Sinclair’s Request for Admissions served November 17, 2003.
11. Attached hereto as Exhibit I is a true and correct copy of Federal Circuit’s unpublished opinion for *White v. Paramount Pictures Corp.*, No. 96-1096, 1997 U.S. App. LEXIS 3079 (Fed. Cir. 1997).

I declare under penalty of perjury under the laws of the United States of America that the statements set forth hereinabove are true and correct to the best of my knowledge and understanding.

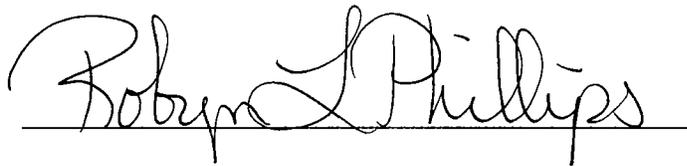
Dated this 1<sup>st</sup> day of March, 2006.

  
Robyn L. Phillips

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing DECLARATION OF ROBYN PHILLIPS IN SUPPORT OF SINCLAIR'S MOTION FOR SUMMARY JUDGMENT was served on Applicant by mailing a true copy thereof, by First Class Mail, postage prepaid, this 1<sup>st</sup> day of March, 2006, in an envelope addressed as follows:

Sumatra Kendrick  
P.O Box 434  
Berkeley, California 94701

A handwritten signature in cursive script that reads "Robyn Phillips". The signature is written in black ink and is positioned above a solid horizontal line.

# **Exhibit A**

TR A REGI	N	MARK (Word(s) and/or Design) <u>STACHIS Co. 1996</u> <u>Design</u>	CLASS NO. (If known)
TO THE ASSISTANT COMMISSIONER FOR TRADEMARKS:			
APPLICANT'S NAME: <u>STACHIS Co. 1996</u>			
APPLICANT'S MAILING ADDRESS: <u>1900 Ascot Parkway #1718</u> <u>Vallejo, California 94591</u> <small>(Display address exactly as it should appear on registration)</small>			
APPLICANT'S ENTITY TYPE: (Check one and supply requested information)			
<input type="checkbox"/> Individual - Citizen of (Country): <u>USA -</u>			
<input type="checkbox"/> Partnership - State where organized (Country, if appropriate): _____ Names and Citizenship (Country) of General Partners: _____			
<input type="checkbox"/> Corporation - State (Country, if appropriate) of Incorporation: _____			
<input type="checkbox"/> Other (Specify Nature of Entity and Domicile): _____			
GOODS AND/OR SERVICES:			
Applicant requests registration of the trademark/service mark shown in the accompanying drawing in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. 1051 et. seq., as amended) for the following goods/services (SPECIFIC GOODS AND/OR SERVICES MUST BE INSERTED HERE): <u>Intended for advertisements on retail goods,</u> <u>Bags, Boxes, Labels, clothing, Brochures, Business cards,</u> <u>Letterhead, envelopes,</u>			
BASIS FOR APPLICATION: (Check boxes which apply, but never both the first AND second boxes, and supply requested information related to each box checked.)			
<input checked="" type="checkbox"/>	Applicant is using the mark in commerce on or in connection with the above identified goods/services. (15 U.S.C. 1051(a), as amended.) Three specimens showing the mark as used in commerce are submitted with this application. • Date of first use of the mark in commerce which the U.S. Congress may regulate (for example, interstate or between the U.S. and a foreign country): _____ • Specify the type of commerce: <u>U.S.</u> <small>(for example, interstate or between the U.S. and a specified foreign country)</small> • Date of first use anywhere (the same as or before use in commerce date): <u>03-1996</u> • Specify intended manner or mode of use of mark on or in connection with the goods/services: <u>Labels, Business cards, Brochures, Bottles, Letterheads, Bags, Clothing, Retail products Affixed</u> <small>(for example, trademark is applied to labels, service mark is used in advertisements) to any products.</small>		
<input type="checkbox"/>	Applicant has a bona fide intention to use the mark in commerce on or in connection with the above identified goods/services. (15 U.S.C. 1051(b), as amended.) • Specify manner or mode of use of mark on or in connection with the goods/services: _____ <small>(for example, trademark will be applied to labels, service mark will be used in advertisements)</small>		
<input type="checkbox"/>	Applicant has a bona fide intention to use the mark in commerce on or in connection with the above identified goods/services, and asserts a claim of priority based upon a foreign application in accordance with 15 U.S.C. 1126(d), as amended. • Country of foreign filing: _____ • Date of foreign filing: _____		
<input type="checkbox"/>	Applicant has a bona fide intention to use the mark in commerce on or in connection with the goods/services and, accompanying this application, submits a certification or certified copy of registration in accordance with 15 U.S.C. 1126(e), as amended • Country of registration: _____ • Registration number: _____		
<b>NOTE: Declaration, on Reverse Side, MUST be Signed</b>			

**CANCELLED**

**DECLARATION**

The undersigned being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001, and that such willful false statements may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or if the application is being filed under 15 U.S.C. 1051(b), he/she believes the applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the above identified mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of his/her own knowledge are true and that all statements made on information and belief are believed to be true.

December 7, 2000  
DATE

*Sumatra Kendrick*  
SIGNATURE

1-888-STA-ACHI  
TELEPHONE NUMBER

Sumatra Kendrick - owner  
PRINT OR TYPE NAME AND POSITION

**INSTRUCTIONS AND INFORMATION FOR APPLICANT**

**TO RECEIVE A FILING DATE, THE APPLICATION MUST BE COMPLETED AND SIGNED BY THE APPLICANT AND SUBMITTED ALONG WITH:**

1. The prescribed <sup>325.00</sup> **FEE (\$245.00)** for each class of goods/services listed in the application;
2. A **DRAWING PAGE** displaying the mark in conformance with 37 CFR 2.52;
3. If the application is based on use of the mark in commerce, **THREE (3) SPECIMENS** (evidence) of the mark as used in commerce for each class of goods/services listed in the application. All three specimens may be the same. Examples of good specimens include: (a) labels showing the mark which are placed on the goods; (b) photographs of the mark as it appears on the goods, (c) brochures or advertisements showing the mark as used in connection with the services.
4. An **APPLICATION WITH DECLARATION** (this form) - The application must be signed in order for the application to receive a filing date. Only the following persons may sign the declaration, depending on the applicant's legal entity: (a) the individual applicant; (b) an officer of the corporate applicant; (c) one general partner of a partnership applicant; (d) all joint applicants.

**SEND APPLICATION FORM, DRAWING PAGE, FEE, AND SPECIMENS (IF APPROPRIATE) TO:**

**CANCELLED**

*0/2*  
Assistant Commissioner for Trademarks  
Box New App/Fee  
2900 Crystal Drive  
Arlington, VA 22202-3513



02-20-2001

U.S. Patent & TMO/™ Mail Rpt Dt. #59

U.S. Patent & TMO/™ Mail Rpt Dt. #26

Additional information concerning the requirements for filing an application entitled **Basic Facts About Registering a Trademark**, which may be obtained by writing to the above address or by calling: (703) 308-HELP.

**76212011**

This form is estimated to take an average of 1 hour to complete, including time required for reading and understanding information, recordkeeping, and actually providing the information. Any comments on this form, including the amount should be sent to the Office of Management and Organization, U.S. Patent and Trademark Office, U.S. Department of Commerce. Do NOT send completed forms to this address.

Sample for  
Trademark Office



02-20-2001  
U.S. Patent & TMO/TM Mail Rpt Dt #26

Sampler of Bag w/  
Name & Logo.





# UNITED STATES PATENT AND TRADEMARK OFFICE

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# STaaCHi'S Co. 1996



**Word Mark** STAACHI'S CO. 1996  
**Goods and Services** IC 035. US 100 101 102. G & S: RETAIL STORE SERVICES FEATURING, BATH PRODUCTS, GIFT PRODUCTS, CANDY PRODUCTS. FIRST USE: 19960300. FIRST USE IN COMMERCE: 19960320  
**Mark Drawing Code** (3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS  
**Design Search Code** 010503  
**Serial Number** 76212011  
**Filing Date** February 20, 2001  
**Current Filing Basis** 1A  
**Original Filing Basis** 1A  
**Published for Opposition** May 28, 2002  
**Owner** (APPLICANT) Kendrick, Sumatra INDIVIDUAL UNITED STATES 11760 San Pablo Ave. # 3-202 El Cerrito CALIFORNIA 94530  
**Disclaimer** NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "CO. 1996" APART

FROM THE MARK AS SHOWN

**Type of Mark** SERVICE MARK

**Register** PRINCIPAL

**Live/Dead Indicator** LIVE

---

<a href="#">PTO HOME</a>	<a href="#">TRADEMARK</a>	<a href="#">TESS HOME</a>	<a href="#">NEW USER</a>	<a href="#">STRUCTURED</a>	<a href="#">FREE FORM</a>	<a href="#">BROWSE DOC</a>	<a href="#">TOP</a>	<a href="#">HELP</a>	<a href="#">PREV DOC</a>
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# **Exhibit B**

{APPLICANT # 76/212011}

2A

STaaCHI'S Co. 1996 

July 8, 2001

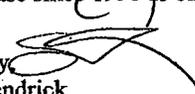
Commissioner for TradeMarks  
2900 Crystal Drive  
Arlington, Virginia 22202-3513

Attention: Pamela Willis  
Trademarks Attorney, Law Office 106

Applicant responding to the following section codes 37 C.F.R. Section 2.61(b); TMEP sections 1105.01 and 1105.02.

In response to a verbal conversation on July 6, 2001 with Pamela Willis, Part of my company name 1996 was too far apart on the application and the sun was on the bottom. This does not sound like the re-submitted version. I am unsure of what part of my re-submitted application form was sent to you. I would like a faxed copy of the original STaaCHI'S Co. 1996 and sun that was submitted to your office to verify if this is the same paper work we submitted.

According to our records, the second re-submitted application was correct. The STaaCHI'S Co. 1996 along with the sun were all on one line together, they have been in commerce use since 1996 as one entity.

Respectfully,  
  
Sumatra Kendrick

STaaCHI'S Co. 1996  
1900 Ascot Parkway suite 1718  
Vallejo, California 94591  
1-888-STA-ACHI  
or  
1-707-648-8836

RECEIVED

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T.M.E.O.  
LAW OFFICE 106

# **Exhibit C**

{APPLICANT # 76/212011}

STaaCHI'S Co. 1996 

August 10, 2001

Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, Virginia 22202-3513

Attention: Pamela Willis  
Trademarks Attorney, Law Office 106

Applicant responding to the various section codes for verification and amendments

Response to: #1. Wording in the Recitation of Goods and Services.

Amendment to: Class 35- retail store services featuring..... Bath Products  
Gift Products  
Candy Products

Response to: #2. Clarification of Number of Classes being Applied-For is Needed

Amendment to: "Please refer to response #1.

- Specimen is Needed if Applicant Chooses to Add Classes  
Please refer to response #1.
- Dates of Use are Needed if Applicant Chooses to Add Classes  
Please refer to response #1.

Response to #3. Applicant must clarify its Entity

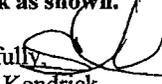
Amendment to: Sumatra Kendrick {owner}..... United States Citizen

Response to #4. Applicant must provide the Date of First Use in Commerce

Amendment to: March 20, 1996

Response to #5. Applicant must Disclaim Descriptive Wording in the Mark

Amendment to: No claim is made to the exclusive right to use "CO. 1996" apart from  
the mark as shown.

Respectfully   
Sumatra Kendrick

STaaCHI'S Co. 1996  
1900 Ascot Parkway suite 1718  
Vallejo, California 94591  
1-888-STA-ACHI or 1-707-648-8836

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2001 AUG 19 P 5:11  
LAW OFFICE 106  
T.M.E.O.

PRESENT

# **Exhibit D**

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

In the matter of Trademark Application Serial No. 76/212,011  
Published in the Official Gazette of May 28, 2002, on page TM 497, Int'l Class 35  
Filed: February 20, 2001  
Mark: STAACHI'S CO. 1996 & DESIGN

---

SINCLAIR OIL CORPORATION

Opposer,

v.

SUMATRA KENDRICK

Applicant.

---

Opposition No. 152,940

**SINCLAIR'S FIRST SET OF  
INTERROGATORIES TO APPLICANT**

Pursuant to Rule 33 of the Federal Rules of Civil Procedure and 37 C.F.R. § 2.120(d),  
Opposer, SINCLAIR OIL CORPORATION ("SINCLAIR") by and through its attorneys, hereby  
requests that Applicant, SUMATRA KENDRICK ("Applicant") answer under oath the  
interrogatories hereinafter propounded within thirty (30) days after services hereof.

## DEFINITIONS AND INSTRUCTIONS

1. "Opposer" or "SINCLAIR" means SINCLAIR OIL CORPORATION, its predecessors in interests, its present and former officers, directors, agents, representatives and employees, and any other person acting on behalf of any of the foregoing.

2. "Applicant," "you," or "your" means SUMATRA KENDRICK the Applicant of United States Trademark Application Serial No. 76/212,011 for the mark STAACHI'S CO. 1996 & DESIGN, or any assignee, predecessor in interest, successor in interests, its present and former directors, agents, representatives, employees, divisions, subsidiaries, and/or any other party acting on behalf of or in concert with any of the foregoing.

3. The "Mark" shall refer to the mark STAACHI'S CO. 1996 & DESIGN.

4. "DESIGN" refers to the graphical portion of the mark STAACHI'S CO. 1996 & DESIGN excluding letters and numbers.

5. "Any portion" of the name or mark means the text "STAACHI'S CO. 1996" and/or the graphical "DESIGN" used either alone or in combination.

6. "Document" or "Documents" means, without limitation, the following items, whether printed or recorded, filmed, stored in a data processing system, or reproduced by any process, or written or produced by hand, and whether claimed to be privileged against discovery on any ground, and whether an original, master or copy, namely: agreements, communications, including intercompany communications and correspondence, cablegrams, radiograms and telegrams, notes and memoranda, summaries, minutes and records of telephone conversations; meetings and conferences, including lists of persons attending the meetings or conferences; summaries and records of personal conversations or interviews; books, manuals, publications and diaries; charts; plans, sketches and drawings; photographs; reports and/or summaries of

investigations and/or surveys; opinions and reports of consultants; opinions of counsel; reports and summaries of negotiations; brochures; pamphlets, catalogs and catalog sheets; advertisements, including story book and/or scripts for television and radio commercials; circulars and trade letters; press publicity in trade and product releases; drafts of original or preliminary notes on, and marginal comments appearing on, any documents; other reports and records; and any other information containing paper, writing, or a physical thing. This definition of the term "Document" or "Documents" includes all such documents whether or not a particular document is privileged or within Applicant's possession, custody or control.

7. "Person" shall include not only natural persons, but also all firms, partnerships, associations, joint ventures, corporations, governmental entities and other entities and each division, department, and other unit thereof.

8. Reference to any corporate or other business entity includes each of the past or present directors, officers, partners, managing agents, employees, agents, servants, representatives, subsidiaries, divisions, or affiliates, wherever located and whether or not owned, either wholly or in part, by such entity.

9. "Statement" means any representation made by word or deed. The representation may be written or oral, expressed, or implied. Statements, by way of example and without limitation, include everything contained in a document as previously defined, anything written in any form, any oral utterance of any type, and any gesture made. The absence of these may also be a statement.

10. As used herein, the words "identify" or "identification," when used in reference to a natural person, means to state his or her full name, present or last known address, present or last known position and business affiliation and each of his or her positions during the applicable

time period as hereinafter defined; when used in reference to a statement, “identify” or “identification” means to state the exact language or nature of the statement, the person who made the statement, the person to whom the statement was made, and how the statement was conveyed; when used in reference to a document, “identify” or “identification” means to state the document’s date, its subject and substance, its author, the type of document (e.g., letter, tape recording, memorandum, telegram, chart, computer input or printout, photograph, sound reproduction, etc.) or, if the above information is not available, some other means of identifying the document, its present location, and the name of each of its present custodians. If any such document was, but is no longer, in your possession or subject to your control or in existence, state whether it is (i) missing or lost, (ii) has been destroyed, (iii) has been transferred, voluntarily or involuntarily, to others, or (iv) has been otherwise disposed of, and, in each instance, explain the circumstances surrounding an authorization for such dispositions thereof, state the date or approximate date of disposition, state the name of the person who authorized the disposition, and state the name of all persons having knowledge of the disposition. If privilege is claimed, state the specific basis therefore along with a log identifying the date, author, recipient(s), and descriptions of each such document.

11. “Trademark” and “mark” shall refer to both trademarks and service marks.

12. All other terms not otherwise defined are to be given their ordinary and common meaning.

13. In producing documents and things, indicate the paragraph and subparagraph to which a produced document or thing is responsive.

14. In producing documents and things, furnish all documents or things known or available to you, regardless of whether such documents or things are possessed directly by you or

your directors, officers, agents, employees, representatives, investigators, or by your attorneys or their agents, employees, representatives or investigators.

15. If any requests cannot be answered in full, answer them to the extent possible, specifying each reason for your inability to answer in full and stating what information, knowledge or belief you have concerning the unanswered portion.

16. This set of interrogatories is deemed to be continuing in nature. If after responding, you are aware of any further documents, things or information responsive to these interrogatories, you are required to produce to SINCLAIR such additional responses, documents, and things, and/or provide SINCLAIR with such additional information.

## INTERROGATORIES

### INTERROGATORY NO. 1:

Identify the date of Applicant's first use of the name or mark STAACHI'S CO. 1996 & DESIGN and/or any portion thereof, either alone or in combination.

### INTERROGATORY NO. 2:

Identify the exact date that Applicant actually first used the name or mark STAACHI'S CO. 1996 & DESIGN and/or any portion thereof, either alone or in combination, to publicly display, advertise, promote, sell, distribute, and/or offer goods or services.

### INTERROGATORY NO. 3:

If Applicant has used the name or mark STAACHI'S CO. 1996 & DESIGN and/or any portion thereof, either alone or in combination, in interstate commerce, identify the exact date(s) of the first such use.

### INTERROGATORY NO. 4:

Identify all documents, purchase orders, invoices, labels, or any writing whatsoever, upon which Applicant will rely to establish the date(s) specified in response to Interrogatory Nos. 1, 2 and 3.

### INTERROGATORY NO. 5:

With respect to the dates of actual use, if any, as stated in response to Interrogatory No. 2, state:

- (a) The identity of the goods or services which were so first displayed, advertised, promoted, sold, distributed, and/or offered;

- (b) The manner in which the name or mark STAACHI'S CO. 1996 & DESIGN and/or any portion thereof, either alone or in combination, was used, *e.g.*, by affixation to containers, or labels, etc;
- (c) The various media used in connection with the display, advertisement, promotion, sale, distribution, and/or offer of the goods or services;
- (d) Whether the goods or services were actually sold;
- (e) Whether the goods or services were displayed, advertised, promoted, sold, distributed and/or offered free of charge;
- (f) The names, addresses and telephone numbers of the person(s) or organization(s) that participated in any way with the display, advertisement, promotion, sale, distribution and/or offer of goods or services;
- (g) Who manufactured each of the goods, or performed the services, sold or distributed under the name or mark STAACHI'S CO. 1996 & DESIGN and/or any portion thereof, either alone or in combination.
- (h) Whether the display, advertisement, promotion, sale, distribution and/or offer of goods or services under the name or mark STAACHI'S CO. 1996 & DESIGN and/or any portion thereof, either alone or in combination, has been continuous from the date(s) specified in Interrogatory Nos. 1 and 2 to the present;

- (i) For each affirmative response to Interrogatory No. 5(h), state whether the circumstances described in answer to Interrogatories Nos. 5(b), 5(c), 5(d), 5(e), 5(f), 5(g) prevailed throughout the period identified in Interrogatory No. 5(h);
- (j) If the circumstances described in answer to Interrogatory Nos. 5(b), 5(c), 5(d), 5(e), 5(f), 5(g) did not prevail throughout the period identified in Interrogatory No. 5(h), state how they changed, providing specific dates and names wherever requested; and
- (k) For each negative response to Interrogatory No. 5(h), state the periods of time during which any element of the name or mark STAACHI'S CO. 1996 & DESIGN was not used by Applicant in connection with the display, advertising, promotion, sale distribution and/or offer of any of the goods and/or services.

INTERROGATORY NO. 6:

State per year all income Applicant has received, if any, to date from the sale or distribution of goods and/or services under the name or mark STAACHI'S CO. 1996 & DESIGN and/or any portion thereof, either alone or in combination, and state Applicant's projected annual income from the sale or distribution of such goods and services for the next five (5) years.

INTERROGATORY NO. 7:

Identify each and every marketing channel that Applicant has used, or intends to use, to sell and/or distribute goods or services under any element of the STAACHI'S CO. 1996 & DESIGN mark or name such as, but not limited to, television and radio advertising, print advertising, retail or wholesale outlets and trade shows.

INTERROGATORY NO. 8:

Identify the type of consumers that are intended to or have actually purchased, received or obtained goods or services under the name or mark STAACHI'S CO. 1996 & DESIGN and/or any portion thereof, either alone or in combination, including, but not limited to, age, gender, income, and personal or business-related purchases.

INTERROGATORY NO. 9:

Identify the names, addresses and relationship to Applicant, if any, of any witness including, but not limited to expert witnesses, Applicant may or will use in this opposition proceeding through direct examination, deposition, affidavit and/or declaration, and identify the topic(s) regarding which each such witness may or will provide testimony.

INTERROGATORY NO. 10:

Identify each cease and desist letter, challenge, or warning that Applicant has sent to or received from any person or organization relating to the name or mark STAACHI'S CO. 1996 & DESIGN and/or any portion thereof, either alone or in combination.

INTERROGATORY NO. 11:

Identify those persons employed or connected with Applicant who have the best knowledge of the name or mark STAACHI'S CO. 1996 & DESIGN and/or any portion thereof, either alone or in combination, as used or intended to be used in connection with Applicant's goods or services.

INTERROGATORY NO. 12:

For each use of the name or mark STAACHI'S CO. 1996 & DESIGN and/or any portion thereof, either alone or in combination, state the geographic region where such mark has been used and the date of first use thereof in each geographic region.

INTERROGATORY NO. 13:

Identify the grounds for Applicant's selection and adoption, including without limitation all proposals, resolutions, memorandums, correspondence, marketing research, trade name or mark search results, legal opinions, art work, and press releases of:

- (a) The text portion "STACCHI'S CO. 1996" of the mark STAACHI'S CO. 1996 & DESIGN both alone and in combination with either the "DESIGN" portion of the name or mark STAACHI'S CO. 1996 & DESIGN, and/or any other name or mark similar thereto; and/or
- (b) The grounds for Applicant's selection and adoption of the "DESIGN" portion of the mark STAACHI'S CO. 1996 & DESIGN both alone and in combination with either the text portion "STACCHI'S CO. 1996" of the name or mark STAACHI'S CO. 1996 & DESIGN, and/or any name or mark similar thereto.

INTERROGATORY NO. 14:

State whether Applicant will make available for inspection and copying the writings identified in response to Interrogatory No. 13.

INTERROGATORY NO. 15:

If the response to Interrogatory No. 14 is in the negative, state why.

INTERROGATORY NO. 16:

Identify every grant of authority or permission granted to you or given by you relating to the use of the name or mark STAACHI'S CO. 1996 & DESIGN and/or any portion thereof, either alone or in combination, to or from any person, firm, corporation or other business entity.

INTERROGATORY NO. 17:

Set forth the basis for any consideration of, decisions about, or activities concerning the intended use or actual use by Applicant of the name or mark STAACHI'S CO. 1996 & DESIGN, and/or any portion thereof, either alone or in combination, and/or any name or mark similar thereto as a mark and/or trade name in connection with retail store services featuring bath products, gift products, and candy products.

INTERROGATORY NO. 18:

Identify, by description and amount, all expenditures made by Applicant in identifying, creating, adapting, using and/or promoting the name or mark STAACHI'S CO. 1996 & DESIGN and/or any portion thereof, either alone or in combination, and/or any name or mark similar thereto as a mark or trade name, and all documents pertaining thereto, including, without limitation, all invoices, brochures, or ordering documentation containing the name or mark STAACHI'S CO. 1996 & DESIGN and/or any portion thereof, either alone or in combination, and/or any term and/or design similar thereto and all invoices related to advertising expenses involving the mark STAACHI'S CO. 1996 & DESIGN, and/or any portion thereof, either alone or in combination, and/or any name or mark similar thereto.

INTERROGATORY NO. 19:

Identify all communications, agreements, or understandings between Applicant, its agents or employees, and any person, entity or corporation concerning the name or mark STAACHI'S CO. 1996 & DESIGN and/or any portion thereof, either alone or in combination.

INTERROGATORY NO. 20:

Identify by name and title, any and all officers, directors, agents, employees, whether full time, part time or specially retained, as well as any attorneys, in fact or law, and any person,

entity or corporation associated with Applicant having knowledge, communications, agreements, or understandings concerning the name or mark STAACHI'S CO. 1996 & DESIGN and/or any portion thereof, either alone or in combination, including but not limited to, the creation, adoption, use or intended use of by Applicant of the mark STAACHI'S CO. 1996 & DESIGN and/or any portion thereof, either alone or in combination. Individuals whose knowledge does not extend beyond the fact that Applicant does use the mark need not be identified in response to this Interrogatory.

INTERROGATORY NO. 21:

Identify any instances of actual confusion involving the name or mark STAACHI'S CO. 1996 & DESIGN and/or any portion thereof, either alone or in combination, of which Applicant, its agents, or employees have become aware.

INTERROGATORY NO. 22:

State every basis for Applicant's plans for future expansion insofar as that expansion involves or pertains to the name or mark STAACHI'S CO. 1996 & DESIGN and/or any portion thereof, either alone or in combination, or Applicant's use thereof.

INTERROGATORY NO. 23:

State whether Applicant ever conducted a trademark search or other investigation or study regarding the name or mark STAACHI'S CO. 1996 & DESIGN and/or any portion thereof, either alone or in combination.

INTERROGATORY NO. 24:

If the response to Interrogatory No. 23 is in the affirmative, identify the exact date(s) that the search, investigation, or study was conducted, and set forth the results referring or relating to each trademark search or other investigation or study regarding the name or mark STAACHI'S CO. 1996 & DESIGN and/or any portion thereof, either alone or in combination.

INTERROGATORY NO. 25:

State whether Applicant had knowledge, e.g. an opinion or evaluation regarding whether the selection and/or use by Applicant of the name or mark STAACHI'S CO. 1996 & DESIGN and/or any portion thereof, either alone or in combination, would be, was, or is in conflict with Opposer's use of its SUN DESIGN, SUN VALLEY & SUN DESIGN and/or SUN VALLEY & RISING SUN DESIGN marks.

INTERROGATORY NO. 26:

Describe in detail Applicant's present and/or anticipated distribution system for goods or services offered in association with the name or mark STAACHI'S CO. 1996 & DESIGN and/or any portion thereof, either alone or in combination.

INTERROGATORY NO. 27:

If any of the interrogatories 1-26 was answered on the basis of the DESIGN being used exclusive of the other portions of the name or mark STAACHI'S CO. 1996 & DESIGN, identify such interrogatories.

INTERROGATORY NO. 28:

Identify the date of Applicant's first use or intended date of first use of the DESIGN apart from other portions of the name or mark STAACHI'S CO. 1996 & DESIGN.

INTERROGATORY NO. 29:

Identify the exact date that Applicant intends to use or date Applicant actually first used the DESIGN apart from other portions of the name or mark STAACHI'S CO. 1996 & DESIGN in the public display, advertising, sale, promotion and/or offer of goods and/or services.

INTERROGATORY NO. 30:

If Applicant has used the DESIGN apart from other portions of the name or mark STAACHI'S CO. 1996 & DESIGN in interstate commerce, identify the exact date(s) of first such use.

INTERROGATORY NO. 31:

Identify all documents, purchase orders, invoices, labels, or any writing whatsoever, which Applicant will rely upon to establish the date(s) specified in response to Interrogatory Nos. 28, 29 and 30.

INTERROGATORY NO. 32:

For each use of the DESIGN apart from other portions of the name or mark STAACHI'S CO. 1996 & DESIGN, state each geographic region of such use and the date of first use thereof for each geographic region.

INTERROGATORY NO. 33:

Identify any instances of actual confusion involving the DESIGN apart from other portions of the name or mark STAACHI'S CO. 1996 & DESIGN which Applicant, its agents, or employees have become aware.

INTERROGATORY NO. 34:

Identify by Interrogatory Number the name or names of all persons who prepared responses to this set of Interrogatories.

INTERROGATORY NO. 35:

Identify by Request Number the name or names of all persons who prepared responses to the Requests for Production of Documents served concurrently herewith.

DATED this 6<sup>th</sup> day of June, 2003.

By: Robyn L Phillips  
John C. Stringham, Registration No. 40,831  
Robyn L. Phillips, Registration No. 39,330

WORKMAN, NYDEGGER & SEELEY  
1000 Eagle Gate Tower  
60 East South Temple  
Salt Lake City, Utah 84111  
Telephone: (801) 533-9800  
Facsimile: (801) 328-1707

Attorneys for Opposer  
SINCLAIR OIL CORPORATION

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing SINCLAIR'S FIRST SET OF INTERROGATORIES TO APPLICANT was served on Applicant by mailing a true copy thereof to its attorney of record, by First Class Mail, postage prepaid, this 6<sup>th</sup> day of June, 2003, in an envelope addressed as follows:

Sumatra Kendrick  
11760 San Pablo Ave. #3-202  
El Cerrito, California 94530

A handwritten signature in cursive script, reading "Robyn L Phillips", is written over a horizontal line.

# **Exhibit E**



RESPONSE TO INTERROGATORY NO.1:

Applicant supplements and clarifies her response to this INTERROGATORY subject to any objections and without waiving such objections. Applicant objects to this Interrogatory in the following specifically noted and outlined objections:

1. Applicant objects to this Interrogatory in that the question is vague, ambiguous and not stated in a clear, concise and understandable manner in it's wording to allow for Applicant to be able to reasonable ascertain as to what specifically is meant by the Interrogatory.
2. Applicant objects to this Interrogatory in that it is burdensome, repetitive, and in combination with the other Interrogatories and subparts are more than 25 in number as outlined Federal Rule 33 (a).
3. Applicant objects to this Interrogatory, 26 other Interrogatories and the additional 10 subpart questions as burdensome and unreasonable in relation to the severity and complexity of this case. The burden of answering these Interrogatories is outweighed by the likely benefit, taking into account the controversy, the resources of the parties (particularly Applicant) and the issues at stake. Sinclair's sole purpose in propounding this exorbitant number of Interrogatories is to harass, intimidate, manipulate, confuse and frustrate the Applicant. Applicant is in the formation stage of her business and has not been able to acquire any additional funding to allow her to conduct her business in commerce. Applicant has not engaged in commerce, but has only attempted to reserve the name and sought a trademark to protect the utilization of the mark when and if her business is opened.
4. Applicant objects to this Interrogatory and the other Interrogatories in that they are presented in **BAD FAITH** and they do not carry out the purpose and spirit of the Federal Rules of Discovery. Sinclair in this Interrogatory and the 26 other Interrogatories and subparts has purposely complicated and stated questions that they knew were objectionable, unclear and vague. Sinclair is represented by a well-recognized and qualified law firm that has a very good rating among law firms. This

firm has a degree of expertise in the field of Trademarks and by judicial standards would be qualified to handle complex matters in this area of law. Applicant is a single mom living near the poverty level. Applicant finished high school and has no training or experience in the law. Applicant in **GOOD FAITH** used the same structure and wording (as Sinclair had used in their Interrogatory request to her) in asking her Interrogatories to Sinclair. To Applicants' shock and amazement, Sinclair has objected to every Interrogatory presented by Applicant. In essence, Sinclair has objected (in theory) to the wording, vagueness and substance of its own Interrogatories. The Applicant objects to Sinclair's **BAD FAITH** dealings in this discovery procedure. Applicant has at all times acted in **GOOD FAITH** and answered Sinclair's trickery questions when Sinclair knew that they would in all likelihood confuse, scare, intimidate and cause delay in this discovery process. Applicant now realizes that Sinclair can utilize trickery, deceitfulness and unscrupulous conduct to confuse, intimidate, harass, burden, scare and frustrate Applicant if Applicant does not object to such tactics. Applicant acting as an ordinary, reasonable and prudent person believed in **GOOD FAITH** Sinclair would act in good faith and answered the Interrogatories previously to the best of her knowledge not knowing that Sinclair's strategy and plan of action was to utilize trickery, deceitfulness and unscrupulous conduct to confuse, intimidate, harass, burden, scare and frustrate Applicant in the discovery procedure.

5. Applicant objects to this Interrogatory to the extent it request information that is protected by work-product doctrine and other privileges

Subject to and without waiving its general and specific objections Applicant responds as follows..

*The name and mark "STACCHI'S & CO. 1996" has never been used in commerce.*

*This name and was registered as a Fictitious Business Name Statement in March 1996 to reserve the name and notice others that I intended to do business in the future under that name.*

*Applicant in 1996 created about 25 sample products, none are now in existence, and this was a one time creation.*

RESPONSE TO INTERROGATORY NO. 2 :

Applicant supplements and clarifies her response to this INTERROGATORY subject to any objections and without waiving such objections. Applicant objects to this Interrogatory in the following specifically noted and outlined objections:

6. Applicant objects to this Interrogatory in that the question is vague, ambiguous and not stated in a clear, concise and understandable manner in it's wording to allow for Applicant to be able to reasonable ascertain as to what specifically is meant by the Interrogatory.
7. Applicant objects to this Interrogatory in that it is burdensome, repetitive, and in combination with the other Interrogatories and subparts are more than 25 in number as outlined Federal Rule 33 (a).
8. Applicant objects to this Interrogatory, 26 other Interrogatories and the additional 10 subpart questions as burdensome and unreasonable in relation to the severity and complexity of this case. The burden of answering these Interrogatories is outweighed by the likely benefit, taking into account the controversy, the resources of the parties (particularly Applicant) and the issues at stake. Sinclair's sole purpose in propounding this exorbitant number of Interrogatories is to harass, intimidate, manipulate, confuse and frustrate the Applicant. Applicant is in the formation stage of her business and has not been able to acquire any additional funding to allow her to conduct her business in commerce. Applicant has not engaged in commerce, but has only attempted to reserve the name and sought a trademark to protect the utilization of the mark when and if her business is opened.
9. Applicant objects to this Interrogatory and the other Interrogatories in that they are presented in **BAD FAITH** and they do not carry out the purpose and spirit of the Federal Rules of Discovery. Sinclair in this Interrogatory and the 26 other Interrogatories and subparts has purposely complicated and stated questions that they knew were objectionable, unclear and vague. Sinclair is represented by a well-

recognized and qualified law firm that has a very good rating among law firms. This firm has a degree of expertise in the field of Trademarks and by judicial standards would be qualified to handle complex matters in this area of law. Applicant is a single mom living near the poverty level. Applicant finished high school and has no training or experience in the law. Applicant in **GOOD FAITH** used the same structure and wording (as Sinclair had used in their Interrogatory request to her) in asking her Interrogatories to Sinclair. To Applicants' shock and amazement, Sinclair has objected to every Interrogatory presented by Applicant. In essence, Sinclair has objected (in theory) to the wording, vagueness and substance of its own Interrogatories. The Applicant objects to Sinclair's **BAD FAITH** dealings in this discovery procedure. Applicant has at all times acted in **GOOD FAITH** and answered Sinclair's tricky questions when Sinclair knew that they would in all likelihood confuse, scare, intimidate and cause delay in this discovery process. Applicant now realizes that Sinclair can utilize trickery, deceitfulness and unscrupulous conduct to confuse, intimidate, harass, burden, scare and frustrate Applicant if Applicant does not object to such tactics. Applicant acting as an ordinary, reasonable and prudent person believed in **GOOD FAITH** Sinclair would act in good faith and answered the Interrogatories previously to the best of her knowledge not knowing that Sinclair's strategy and plan of action was to utilize trickery, deceitfulness and unscrupulous conduct to confuse, intimidate, harass, burden, scare and frustrate Applicant in the discovery procedure.

10. Applicant objects to this Interrogatory to the extent it request information that is protected by work-product doctrine and other privileges

Subject to and without waiving it's general and specific objections Applicant responds as follows:

*The name and mark "STACCHI'S & CO. 1996" has never been used in commerce.*

*This name and mark was registered as a Fictitious Business Name Statement in California in March 1996 to reserve the name and notice others that I intended to do business in the future under that name.*

*Applicant in 1996 created about 25 sample products, none are now in existence, and this was a one time creation.*

RESPONSE TO INTERROGATORY NO.3 :

Applicant supplements and clarifies her response to this INTERROGATORY subject to any objections and without waiving such objections. Applicant objects to this Interrogatory in the following specifically noted and outlined objections:

11. Applicant objects to this Interrogatory in that the question is vague, ambiguous and not stated in a clear, concise and understandable manner in it's wording to allow for Applicant to be able to reasonable ascertain as to what specifically is meant by the Interrogatory.
12. Applicant objects to this Interrogatory in that it is burdensome, repetitive, and in combination with the other Interrogatories and subparts are more than 25 in number as outlined Federal Rule 33 (a).
13. Applicant objects to this Interrogatory, 26 other Interrogatories and the additional 10 subpart questions as burdensome and unreasonable in relation to the severity and complexity of this case. The burden of answering these Interrogatories is outweighed by the likely benefit, taking into account the controversy, the resources of the parties (particularly Applicant) and the issues at stake. Sinclair's sole purpose in propounding this exorbitant number of Interrogatories is to harass, intimidate, manipulate, confuse and frustrate the Applicant. Applicant is in the formation stage of her business and has not been able to acquire any additional funding to allow her to conduct her business in commerce. Applicant has not engaged in commerce, but has only attempted to reserve the name and sought a trademark to protect the utilization of the mark when and if her business is opened.
14. Applicant objects to this Interrogatory and the other Interrogatories in that they are presented in **BAD FAITH** and they do not carry out the purpose and spirit of the Federal Rules of Discovery. Sinclair in this Interrogatory and the 26 other Interrogatories and subparts has purposely complicated and stated questions that they knew were objectionable, unclear and vague. Sinclair is represented by a well-recognized and qualified law firm that has a very good rating among law firms. This

firm has a degree of expertise in the field of Trademarks and by judicial standards would be qualified to handle complex matters in this area of law. Applicant is a single mom living near the poverty level. Applicant finished high school and has no training or experience in the law. Applicant in **GOOD FAITH** used the same structure and wording (as Sinclair had used in their Interrogatory request to her) in asking her Interrogatories to Sinclair. To Applicants' shock and amazement, Sinclair has objected to every Interrogatory presented by Applicant. In essence, Sinclair has objected (in theory) to the wording, vagueness and substance of its own Interrogatories. The Applicant objects to Sinclair's **BAD FAITH** dealings in this discovery procedure. Applicant has at all times acted in **GOOD FAITH** and answered Sinclair's trickery questions when Sinclair knew that they would in all likelihood confuse, scare, intimidate and cause delay in this discovery process. Applicant now realizes that Sinclair can utilize trickery, deceitfulness and unscrupulous conduct to confuse, intimidate, harass, burden, scare and frustrate Applicant if Applicant does not object to such tactics. Applicant acting as an ordinary, reasonable and prudent person believed in **GOOD FAITH** Sinclair would act in good faith and answered the Interrogatories previously to the best of her knowledge not knowing that Sinclair's strategy and plan of action was to utilize trickery, deceitfulness and unscrupulous conduct to confuse, intimidate, harass, burden, scare and frustrate Applicant in the discovery procedure.

15. Applicant objects to this Interrogatory to the extent it request information that is protected by work-product doctrine and other privileges

Subject to and without waiving its general and specific objections Applicant responds as follows:.

*The name and mark "STACCHI'S & CO. 1996" has never been used in commerce.*

*This name and mark was registered as a Fictitious Business Name Statement in California in March 1996 to reserve the name and notice others that I intended to do business in the future under that name*

*Applicant in 1996 created about 25 sample products, none are now in existence, and this was a one time creation.*

RESPONSE TO INTERROGATORY NO. 4 :

Applicant supplements and clarifies her response to this INTERROGATORY subject to any objections and without waiving such objections. Applicant objects to this Interrogatory in the following specifically noted and outlined objections:

16. Applicant objects to this Interrogatory in that the question is vague, ambiguous and not stated in a clear, concise and understandable manner in it's wording to allow for Applicant to be able to reasonable ascertain as to what specifically is meant by the Interrogatory.
17. Applicant objects to this Interrogatory in that it is burdensome, repetitive, and in combination with the other Interrogatories and subparts are more than 25 in number as outlined Federal Rule 33 (a).
18. Applicant objects to this Interrogatory, 26 other Interrogatories and the additional 10 subpart questions as burdensome and unreasonable in relation to the severity and complexity of this case. The burden of answering these Interrogatories is outweighed by the likely benefit, taking into account the controversy, the resources of the parties (particularly Applicant) and the issues at stake. Sinclair's sole purpose in propounding this exorbitant number of Interrogatories is to harass, intimidate, manipulate, confuse and frustrate the Applicant. Applicant is in the formation stage of her business and has not been able to acquire any additional funding to allow her to conduct her business in commerce. Applicant has not engaged in commerce, but has only attempted to reserve the name and sought a trademark to protect the utilization of the mark when and if her business is opened.
19. Applicant objects to this Interrogatory and the other Interrogatories in that they are presented in **BAD FAITH** and they do not carry out the purpose and spirit of the Federal Rules of Discovery. Sinclair in this Interrogatory and the 26 other Interrogatories and subparts has purposely complicated and stated questions that they knew were objectionable, unclear and vague. Sinclair is represented by a well-recognized and qualified law firm that has a very good rating among law firms. This

firm has a degree of expertise in the field of Trademarks and by judicial standards would be qualified to handle complex matters in this area of law. Applicant is a single mom living near the poverty level. Applicant finished high school and has no training or experience in the law. Applicant in **GOOD FAITH** used the same structure and wording (as Sinclair had used in their Interrogatory request to her) in asking her Interrogatories to Sinclair. To Applicants' shock and amazement, Sinclair has objected to every Interrogatory presented by Applicant. In essence, Sinclair has objected (in theory) to the wording, vagueness and substance of its own Interrogatories. The Applicant objects to Sinclair's **BAD FAITH** dealings in this discovery procedure. Applicant has at all times acted in **GOOD FAITH** and answered Sinclair's tricky questions when Sinclair knew that they would in all likelihood confuse, scare, intimidate and cause delay in this discovery process. Applicant now realizes that Sinclair can utilize trickery, deceitfulness and unscrupulous conduct to confuse, intimidate, harass, burden, scare and frustrate Applicant if Applicant does not object to such tactics. Applicant acting as an ordinary, reasonable and prudent person believed in **GOOD FAITH** Sinclair would act in good faith and answered the Interrogatories previously to the best of her knowledge not knowing that Sinclair's strategy and plan of action was to utilize trickery, deceitfulness and unscrupulous conduct to confuse, intimidate, harass, burden, scare and frustrate Applicant in the discovery procedure.

20. Applicant objects to this Interrogatory to the extent it request information that is protected by work-product doctrine and other privileges

Subject to and without waiving its general and specific objections Applicant responds as follows:.

*Applicant is in the formation stage of her business and has not been able to acquire any additional funding to allow her to conduct her business in commerce. Applicant has no invoices, documents, or writings that would establish "use" in commerce.*

RESPONSE TO INTERROGATORY NO.5 :

Applicant supplements and clarifies her response to this INTERROGATORY subject to any objections and without waiving such objections. Applicant objects to this Interrogatory in the following specifically noted and outlined objections:

21. Applicant objects to this Interrogatory in that the question is vague, ambiguous and not stated in a clear, concise and understandable manner in it's wording to allow for Applicant to be able to reasonable ascertain as to what specifically is meant by the Interrogatory.
22. Applicant objects to this Interrogatory in that it is burdensome, repetitive, and in combination with the other Interrogatories and subparts are more than 25 in number as outlined Federal Rule 33 (a).
23. Applicant objects to this Interrogatory, 26 other Interrogatories and the additional 10 subpart questions as burdensome and unreasonable in relation to the severity and complexity of this case. The burden of answering these Interrogatories is outweighed by the likely benefit, taking into account the controversy, the resources of the parties (particularly Applicant) and the issues at stake. Sinclair's sole purpose in propounding this exorbitant number of Interrogatories is to harass, intimidate, manipulate, confuse and frustrate the Applicant. . Applicant is in the formation stage of her business and has not been able to acquire any additional funding to allow her to conduct her business in commerce. Applicant has not engaged in commerce, but has only attempted to reserve the name and sought a trademark to protect the utilization of the mark when and if her business is opened.
24. Applicant objects to this Interrogatory and the other Interrogatories in that they are presented in **BAD FAITH** and they do not carry out the purpose and spirit of the Federal Rules of Discovery. Sinclair in this Interrogatory and the 26 other Interrogatories and subparts has purposely complicated and stated questions that they knew were objectionable, unclear and vague. Sinclair is represented by a well-recognized and qualified law firm that has a very good rating among law firms. This firm has a degree of expertise in the field of Trademarks and by judicial standards

would be qualified to handle complex matters in this area of law. Applicant is a single mom living near the poverty level. Applicant finished high school and has no training or experience in the law. Applicant in **GOOD FAITH** used the same structure and wording (as Sinclair had used in their Interrogatory request to her) in asking her Interrogatories to Sinclair. To Applicants' shock and amazement, Sinclair has objected to every Interrogatory presented by Applicant. In essence, Sinclair has objected (in theory) to the wording, vagueness and substance of its own Interrogatories. The Applicant objects to Sinclair's **BAD FAITH** dealings in this discovery procedure. Applicant has at all times acted in **GOOD FAITH** and answered Sinclair's tricky questions when Sinclair knew that they would in all likelihood confuse, scare, intimidate and cause delay in this discovery process. Applicant now realizes that Sinclair can utilize trickery, deceitfulness and unscrupulous conduct to confuse, intimidate, harass, burden, scare and frustrate Applicant if Applicant does not object to such tactics. Applicant acting as an ordinary, reasonable and prudent person believed in **GOOD FAITH** Sinclair would act in good faith and answered the Interrogatories previously to the best of her knowledge not knowing that Sinclair's strategy and plan of action was to utilize trickery, deceitfulness and unscrupulous conduct to confuse, intimidate, harass, burden, scare and frustrate Applicant in the discovery procedure.

25. Applicant objects to this Interrogatory to the extent it request information that is protected by work-product doctrine and other privileges.

Subject to and without waiving it's general and specific objections Applicant responds as follow:

- A. Sample bath beads.
- B Labels on sample
- C None
- D None were sold-free samples
- E Given away free of charge
- F No one other than myself
- G Applicant made the sample beads

- H No. That was a one time project.
- I NONE
- J No changes, this was a one time experimental project
- K. Approximately April 1996 to present

**RESPONSE TO INTERROGATORY NO.6 :**

Applicant supplements and clarifies her response to this INTERROGATORY subject to any objections and without waiving such objections. Applicant objects to this Interrogatory in the following specifically noted and outlined objections:

- 26. Applicant objects to this Interrogatory in that the question is vague, ambiguous and not stated in a clear, concise and understandable manner in it's wording to allow for Applicant to be able to reasonable ascertain as to what specifically is meant by the Interrogatory.
- 27. Applicant objects to this Interrogatory in that it is burdensome, repetitive, and in combination with the other Interrogatories and subparts are more than 25 in number as outlined Federal Rule 33 (a).
- 28. Applicant objects to this Interrogatory, 26 other Interrogatories and the additional 10 subpart questions as burdensome and unreasonable in relation to the severity and complexity of this case. The burden of answering these Interrogatories is outweighed by the likely benefit, taking into account the controversy, the resources of the parties (particularly Applicant) and the issues at stake. Sinclair's sole purpose in propounding this exorbitant number of Interrogatories is to harass, intimidate, manipulate, confuse and frustrate the Applicant. . Applicant is in the formation stage of her business and has not been able to acquire any additional funding to allow her to conduct her business in commerce. Applicant has not engaged in commerce, but has only attempted to reserve the name and sought a trademark to protect the utilization of the mark when and if her business is opened.
- 29. Applicant objects to this Interrogatory and the other Interrogatories in that they are presented in **BAD FAITH** and they do not carry out the purpose and spirit of the Federal Rules of Discovery. Sinclair in this Interrogatory and the 26 other

Interrogatories and subparts has purposely complicated and stated questions that they knew were objectionable, unclear and vague. Sinclair is represented by a well-recognized and qualified law firm that has a very good rating among law firms. This firm has a degree of expertise in the field of Trademarks and by judicial standards would be qualified to handle complex matters in this area of law. Applicant is a single mom living near the poverty level. Applicant finished high school and has no training or experience in the law. Applicant in **GOOD FAITH** used the same structure and wording (as Sinclair had used in their Interrogatory request to her) in asking her Interrogatories to Sinclair. To Applicants' shock and amazement, Sinclair has objected to every Interrogatory presented by Applicant. In essence, Sinclair has objected (in theory) to the wording, vagueness and substance of its own Interrogatories. The Applicant objects to Sinclair's **BAD FAITH** dealings in this discovery procedure. Applicant has at all times acted in **GOOD FAITH** and answered Sinclair's tricky questions when Sinclair knew that they would in all likelihood confuse, scare, intimidate and cause delay in this discovery process. Applicant now realizes that Sinclair can utilize trickery, deceitfulness and unscrupulous conduct to confuse, intimidate, harass, burden, scare and frustrate Applicant if Applicant does not object to such tactics. Applicant acting as an ordinary, reasonable and prudent person believed in **GOOD FAITH** Sinclair would act in good faith and answered the Interrogatories previously to the best of her knowledge not knowing that Sinclair's strategy and plan of action was to utilize trickery, deceitfulness and unscrupulous conduct to confuse, intimidate, harass, burden, scare and frustrate Applicant in the discovery procedure.

30. Applicant objects to this Interrogatory to the extent it request information that is protected by work-product doctrine and other privileges
  
31. Applicant objects to this Interrogatory to the extent it is requesting financial information that is irrelevant to these proceedings and it is asking for speculations that Applicant cannot reasonable do.

Subject to and without waiving its general and specific objections Applicant responds as follows:

*Applicant is in the formation stage of her business and has not been able to acquire any additional funding to allow her to conduct her business in commerce. Applicant has not engaged in commerce and has not had any income. It has been over 6 years and Applicant has not been able to do business, therefore, Applicant does not anticipate any income in the next 5 years. Applicant anticipates that due to the financial burden of this proceedings and other intangibles, it will suffer losses for the next five years.*

RESPONSE TO INTERROGATORY NO. 7 :

Applicant supplements and clarifies her response to this INTERROGATORY subject to any objections and without waiving such objections. Applicant objects to this Interrogatory in the following specifically noted and outlined objections:

32. Applicant objects to this Interrogatory in that the question is vague, ambiguous and not stated in a clear, concise and understandable manner in it's wording to allow for Applicant to be able to reasonable ascertain as to what specifically is meant by the Interrogatory.
33. Applicant objects to this Interrogatory in that it is burdensome, repetitive, and in combination with the other Interrogatories and subparts are more than 25 in number as outlined Federal Rule 33 (a).
34. Applicant objects to this Interrogatory, 26 other Interrogatories and the additional 10 subpart questions as burdensome and unreasonable in relation to the severity and complexity of this case. The burden of answering these Interrogatories is outweighed by the likely benefit, taking into account the controversy, the resources of the parties (particularly Applicant) and the issues at stake. Sinclair's sole purpose in propounding this exorbitant number of Interrogatories is to harass, intimidate, manipulate, confuse and frustrate the Applicant. . Applicant is in the formation stage

of her business and has not been able to acquire any additional funding to allow her to conduct her business in commerce. Applicant has not engaged in commerce, but has only attempted to reserve the name and sought a trademark to protect the utilization of the mark when and if her business is opened.

35. Applicant objects to this Interrogatory and the other Interrogatories in that they are presented in **BAD FAITH** and they do not carry out the purpose and spirit of the Federal Rules of Discovery. Sinclair in this Interrogatory and the 26 other Interrogatories and subparts has purposely complicated and stated questions that they knew were objectionable, unclear and vague. Sinclair is represented by a well-recognized and qualified law firm that has a very good rating among law firms. This firm has a degree of expertise in the field of Trademarks and by judicial standards would be qualified to handle complex matters in this area of law. Applicant is a single mom living near the poverty level. Applicant finished high school and has no training or experience in the law. Applicant in **GOOD FAITH** used the same structure and wording (as Sinclair had used in their Interrogatory request to her) in asking her Interrogatories to Sinclair. To Applicants' shock and amazement, Sinclair has objected to every Interrogatory presented by Applicant. In essence, Sinclair has objected (in theory) to the wording, vagueness and substance of its own Interrogatories. The Applicant objects to Sinclair's **BAD FAITH** dealings in this discovery procedure. Applicant has at all times acted in **GOOD FAITH** and answered Sinclair's trickery questions when Sinclair knew that they would in all likelihood confuse, scare, intimidate and cause delay in this discovery process. Applicant now realizes that Sinclair can utilize trickery, deceitfulness and unscrupulous conduct to confuse, intimidate, harass, burden, scare and frustrate Applicant if Applicant does not object to such tactics. Applicant acting as an ordinary, reasonable and prudent person believed in **GOOD FAITH** Sinclair would act in good faith and answered the Interrogatories previously to the best of her knowledge not knowing that Sinclair's strategy and plan of action was to utilize trickery, deceitfulness and unscrupulous conduct to confuse, intimidate, harass, burden, scare and frustrate Applicant in the discovery procedure.

36. Applicant objects to this Interrogatory to the extent it request information that is protected by work-product doctrine and other privileges  
Subject to and without waiving its general and specific objections Applicant responds as follows:

*Applicant is in the formation stage of her business and has not been able to acquire any additional funding to allow her to conduct her business in commerce. Applicant has not engaged in commerce and has not done any marketing. Applicant would anticipate utilizing introduction letters and brochures. .*

RESPONSE TO INTERROGATORY NO.8 :

Applicant supplements and clarifies her response to this INTERROGATORY subject to any objections and without waiving such objections. Applicant objects to this Interrogatory in the following specifically noted and outlined objections:

37. Applicant objects to this Interrogatory in that the question is vague, ambiguous and not stated in a clear, concise and understandable manner in it's wording to allow for Applicant to be able to reasonable ascertain as to what specifically is meant by the Interrogatory.
38. Applicant objects to this Interrogatory in that it is burdensome, repetitive, and in combination with the other Interrogatories and subparts are more than 25 in number as outlined Federal Rule 33 (a).
39. Applicant objects to this Interrogatory, 26 other Interrogatories and the additional 10 subpart questions as burdensome and unreasonable in relation to the severity and complexity of this case. The burden of answering these Interrogatories is outweighed by the likely benefit, taking into account the controversy, the resources of the parties (particularly Applicant) and the issues at stake. Sinclair's sole purpose in propounding this exorbitant number of Interrogatories is to harass, intimidate, manipulate, confuse and frustrate the Applicant. . Applicant is in the formation stage of her business and has not been able to acquire any additional funding to allow her to conduct her business in commerce. Applicant has not engaged in commerce, but has

only attempted to reserve the name and sought a trademark to protect the utilization of the mark when and if her business is opened.

40. Applicant objects to this Interrogatory and the other Interrogatories in that they are presented in **BAD FAITH** and they do not carry out the purpose and spirit of the Federal Rules of Discovery. Sinclair in this Interrogatory and the 26 other Interrogatories and subparts has purposely complicated and stated questions that they knew were objectionable, unclear and vague. Sinclair is represented by a well-recognized and qualified law firm that has a very good rating among law firms. This firm has a degree of expertise in the field of Trademarks and by judicial standards would be qualified to handle complex matters in this area of law. Applicant is a single mom living near the poverty level. Applicant finished high school and has no training or experience in the law. Applicant in **GOOD FAITH** used the same structure and wording (as Sinclair had used in their Interrogatory request to her) in asking her Interrogatories to Sinclair. To Applicants' shock and amazement, Sinclair has objected to every Interrogatory presented by Applicant. In essence, Sinclair has objected (in theory) to the wording, vagueness and substance of its own Interrogatories. The Applicant objects to Sinclair's **BAD FAITH** dealings in this discovery procedure. Applicant has at all times acted in **GOOD FAITH** and answered Sinclair's tricky questions when Sinclair knew that they would in all likelihood confuse, scare, intimidate and cause delay in this discovery process. Applicant now realizes that Sinclair can utilize trickery, deceitfulness and unscrupulous conduct to confuse, intimidate, harass, burden, scare and frustrate Applicant if Applicant does not object to such tactics. Applicant acting as an ordinary, reasonable and prudent person believed in **GOOD FAITH** Sinclair would act in good faith and answered the Interrogatories previously to the best of her knowledge not knowing that Sinclair's strategy and plan of action was to utilize trickery, deceitfulness and unscrupulous conduct to confuse, intimidate, harass, burden, scare and frustrate Applicant in the discovery procedure.
41. Applicant objects to this Interrogatory to the extent it request information that is protected by work-product doctrine and other privileges

Subject to and without waiving its general and specific objections Applicant responds as follows:

*All races and ages with an emphasis on age group from birth to 72*

RESPONSE TO INTERROGATORY NO.9 :

Applicant supplements and clarifies her response to this INTERROGATORY subject to any objections and without waiving such objections. Applicant objects to this Interrogatory in the following specifically noted and outlined objections:

42. Applicant objects to this Interrogatory in that the question is vague, ambiguous and not stated in a clear, concise and understandable manner in it's wording to allow for Applicant to be able to reasonable ascertain as to what specifically is meant by the Interrogatory.
43. Applicant objects to this Interrogatory in that it is burdensome, repetitive, and in combination with the other Interrogatories and subparts are more than 25 in number as outlined Federal Rule 33 (a).
44. Applicant objects to this Interrogatory, 26 other Interrogatories and the additional 10 subpart questions as burdensome and unreasonable in relation to the severity and complexity of this case. The burden of answering these Interrogatories is outweighed by the likely benefit, taking into account the controversy, the resources of the parties (particularly Applicant) and the issues at stake. Sinclair's sole purpose in propounding this exorbitant number of Interrogatories is to harass, intimidate, manipulate, confuse and frustrate the Applicant. . Applicant is in the formation stage of her business and has not been able to acquire any additional funding to allow her to conduct her business in commerce. Applicant has not engaged in commerce, but has only attempted to reserve the name and sought a trademark to protect the utilization of the mark when and if her business is opened.
45. Applicant objects to this Interrogatory and the other Interrogatories in that they are presented in **BAD FAITH** and they do not carry out the purpose and spirit of the Federal Rules of Discovery. Sinclair in this Interrogatory and the 26 other

Interrogatories and subparts has purposely complicated and stated questions that they knew were objectionable, unclear and vague. Sinclair is represented by a well-recognized and qualified law firm that has a very good rating among law firms. This firm has a degree of expertise in the field of Trademarks and by judicial standards would be qualified to handle complex matters in this area of law. Applicant is a single mom living near the poverty level. Applicant finished high school and has no training or experience in the law. Applicant in **GOOD FAITH** used the same structure and wording (as Sinclair had used in their Interrogatory request to her) in asking her Interrogatories to Sinclair. To Applicants' shock and amazement, Sinclair has objected to every Interrogatory presented by Applicant. In essence, Sinclair has objected (in theory) to the wording, vagueness and substance of its own Interrogatories. The Applicant objects to Sinclair's **BAD FAITH** dealings in this discovery procedure. Applicant has at all times acted in **GOOD FAITH** and answered Sinclair's tricky questions when Sinclair knew that they would in all likelihood confuse, scare, intimidate and cause delay in this discovery process. Applicant now realizes that Sinclair can utilize trickery, deceitfulness and unscrupulous conduct to confuse, intimidate, harass, burden, scare and frustrate Applicant if Applicant does not object to such tactics. Applicant acting as an ordinary, reasonable and prudent person believed in **GOOD FAITH** Sinclair would act in good faith and answered the Interrogatories previously to the best of her knowledge not knowing that Sinclair's strategy and plan of action was to utilize trickery, deceitfulness and unscrupulous conduct to confuse, intimidate, harass, burden, scare and frustrate Applicant in the discovery procedure.

46. Applicant objects to this Interrogatory to the extent it request information that is protected by work-product doctrine and other privileges  
Subject to and without waiving its general and specific objections Applicant responds as follows:.

*None known at this time.*

RESPONSE TO INTERROGATORY NO.10 :

Applicant supplements and clarifies her response to this INTERROGATORY subject to any objections and without waiving such objections. Applicant objects to this Interrogatory in the following specifically noted and outlined objections:

47. Applicant objects to this Interrogatory in that the question is vague, ambiguous and not stated in a clear, concise and understandable manner in it's wording to allow for Applicant to be able to reasonable ascertain as to what specifically is meant by the Interrogatory.
48. Applicant objects to this Interrogatory in that it is burdensome, repetitive, and in combination with the other Interrogatories and subparts are more than 25 in number as outlined Federal Rule 33 (a).
49. Applicant objects to this Interrogatory, 26 other Interrogatories and the additional 10 subpart questions as burdensome and unreasonable in relation to the severity and complexity of this case. The burden of answering these Interrogatories is outweighed by the likely benefit, taking into account the controversy, the resources of the parties (particularly Applicant) and the issues at stake. Sinclair's sole purpose in propounding this exorbitant number of Interrogatories is to harass, intimidate, manipulate, confuse and frustrate the Applicant. . Applicant is in the formation stage of her business and has not been able to acquire any additional funding to allow her to conduct her business in commerce. Applicant has not engaged in commerce, but has only attempted to reserve the name and sought a trademark to protect the utilization of the mark when and if her business is opened.
50. Applicant objects to this Interrogatory and the other Interrogatories in that they are presented in **BAD FAITH** and they do not carry out the purpose and spirit of the Federal Rules of Discovery. Sinclair in this Interrogatory and the 26 other Interrogatories and subparts has purposely complicated and stated questions that they knew were objectionable, unclear and vague. Sinclair is represented by a well-recognized and qualified law firm that has a very good rating among law firms. This

firm has a degree of expertise in the field of Trademarks and by judicial standards would be qualified to handle complex matters in this area of law. Applicant is a single mom living near the poverty level. Applicant finished high school and has no training or experience in the law. Applicant in **GOOD FAITH** used the same structure and wording (as Sinclair had used in their Interrogatory request to her) in asking her Interrogatories to Sinclair. To Applicants' shock and amazement, Sinclair has objected to every Interrogatory presented by Applicant. In essence, Sinclair has objected (in theory) to the wording, vagueness and substance of its own Interrogatories. The Applicant objects to Sinclair's **BAD FAITH** dealings in this discovery procedure. Applicant has at all times acted in **GOOD FAITH** and answered Sinclair's tricky questions when Sinclair knew that they would in all likelihood confuse, scare, intimidate and cause delay in this discovery process. Applicant now realizes that Sinclair can utilize trickery, deceitfulness and unscrupulous conduct to confuse, intimidate, harass, burden, scare and frustrate Applicant if Applicant does not object to such tactics. Applicant acting as an ordinary, reasonable and prudent person believed in **GOOD FAITH** Sinclair would act in good faith and answered the Interrogatories previously to the best of her knowledge not knowing that Sinclair's strategy and plan of action was to utilize trickery, deceitfulness and unscrupulous conduct to confuse, intimidate, harass, burden, scare and frustrate Applicant in the discovery procedure.

51. Applicant objects to this Interrogatory to the extent it request information that is protected by work-product doctrine and other privileges

Subject to and without waiving its general and specific objections Applicant responds as follows:

*Applicant has not received any cease and desist letters, warning or objections to her attempting to be an entrepreneur and start her own business. The only opposition, harassment and intimidation she has received in reference to her trying to join the free enterprise market has been from Sinclair*

**RESPONSE TO INTERROGATORY NO.11 :**

Applicant supplements and clarifies her response to this INTERROGATORY subject to any objections and without waiving such objections. Applicant objects to this Interrogatory in the following specifically noted and outlined objections:

52. Applicant objects to this Interrogatory in that the question is vague, ambiguous and not stated in a clear, concise and understandable manner in it's wording to allow for Applicant to be able to reasonable ascertain as to what specifically is meant by the Interrogatory.
53. Applicant objects to this Interrogatory in that it is burdensome, repetitive, and in combination with the other Interrogatories and subparts are more than 25 in number as outlined Federal Rule 33 (a).
54. Applicant objects to this Interrogatory, 26 other Interrogatories and the additional 10 subpart questions as burdensome and unreasonable in relation to the severity and complexity of this case. The burden of answering these Interrogatories is outweighed by the likely benefit, taking into account the controversy, the resources of the parties (particularly Applicant) and the issues at stake. Sinclair's sole purpose in propounding this exorbitant number of Interrogatories is to harass, intimidate, manipulate, confuse and frustrate the Applicant. Applicant is in the formation stage of her business and has not been able to acquire any additional funding to allow her to conduct her business in commerce. Applicant has not engaged in commerce, but has only attempted to reserve the name and sought a trademark to protect the utilization of the mark when and if her business is opened.
55. Applicant objects to this Interrogatory and the other Interrogatories in that they are presented in **BAD FAITH** and they do not carry out the purpose and spirit of the Federal Rules of Discovery. Sinclair in this Interrogatory and the 26 other Interrogatories and subparts has purposely complicated and stated questions that they knew were objectionable, unclear and vague. Sinclair is represented by a well-recognized and qualified law firm that has a very good rating among law firms. This firm has a degree of expertise in the field of Trademarks and by judicial standards would be qualified to handle complex matters in this area of law. Applicant is a

single mom living near the poverty level. Applicant finished high school and has no training or experience in the law. Applicant in **GOOD FAITH** used the same structure and wording (as Sinclair had used in their Interrogatory request to her) in asking her Interrogatories to Sinclair. To Applicants' shock and amazement, Sinclair has objected to every Interrogatory presented by Applicant. In essence, Sinclair has objected (in theory) to the wording, vagueness and substance of its own Interrogatories. The Applicant objects to Sinclair's **BAD FAITH** dealings in this discovery procedure. Applicant has at all times acted in **GOOD FAITH** and answered Sinclair's tricky questions when Sinclair knew that they would in all likelihood confuse, scare, intimidate and cause delay in this discovery process. Applicant now realizes that Sinclair can utilize trickery, deceitfulness and unscrupulous conduct to confuse, intimidate, harass, burden, scare and frustrate Applicant if Applicant does not object to such tactics. Applicant acting as an ordinary, reasonable and prudent person believed in **GOOD FAITH** Sinclair would act in good faith and answered the Interrogatories previously to the best of her knowledge not knowing that Sinclair's strategy and plan of action was to utilize trickery, deceitfulness and unscrupulous conduct to confuse, intimidate, harass, burden, scare and frustrate Applicant in the discovery procedure.

56. Applicant objects to this Interrogatory to the extent it request information that is protected by attorney-client privilege and work-product doctrine and other privileges Subject to and without waiving its general and specific objections Applicant responds as follows:.

*Applicant is in the formation stage of her business and she is still working on planning and design of her business. Applicant has not engaged in commerce and does not have any employees and knows of no persons that have DIRECT or best knowledge of Applicant's business.*

**RESPONSE TO INTERROGATORY NO. 12 :**

Applicant supplements and clarifies her response to this INTERROGATORY subject to any objections and without waiving such objections. Applicant objects to this Interrogatory in the following specifically noted and outlined objections:

57. Applicant objects to this Interrogatory in that the question is vague, ambiguous and not stated in a clear, concise and understandable manner in it's wording to allow for Applicant to be able to reasonable ascertain as to what specifically is meant by the Interrogatory.
58. Applicant objects to this Interrogatory in that it is burdensome, repetitive, and in combination with the other Interrogatories and subparts are more than 25 in number as outlined Federal Rule 33 (a).
59. Applicant objects to this Interrogatory, 26 other Interrogatories and the additional 10 subpart questions as burdensome and unreasonable in relation to the severity and complexity of this case. The burden of answering these Interrogatories is outweighed by the likely benefit, taking into account the controversy, the resources of the parties (particularly Applicant) and the issues at stake. Sinclair's sole purpose in propounding this exorbitant number of Interrogatories is to harass, intimidate, manipulate, confuse and frustrate the Applicant. . Applicant is in the formation stage of her business and has not been able to acquire any additional funding to allow her to conduct her business in commerce. Applicant has not engaged in commerce, but has only attempted to reserve the name and sought a trademark to protect the utilization of the mark when and if her business is opened.
60. Applicant objects to this Interrogatory and the other Interrogatories in that they are presented in **BAD FAITH** and they do not carry out the purpose and spirit of the Federal Rules of Discovery. Sinclair in this Interrogatory and the 26 other Interrogatories and subparts has purposely complicated and stated questions that they knew were objectionable, unclear and vague. Sinclair is represented by a well-recognized and qualified law firm that has a very good rating among law firms. This firm has a degree of expertise in the field of Trademarks and by judicial standards would be qualified to handle complex matters in this area of law. Applicant is a single mom living near the poverty level. Applicant finished high school and has no

training or experience in the law. Applicant in **GOOD FAITH** used the same structure and wording (as Sinclair had used in their Interrogatory request to her) in asking her Interrogatories to Sinclair. To Applicants' shock and amazement, Sinclair has objected to every Interrogatory presented by Applicant. In essence, Sinclair has objected (in theory) to the wording, vagueness and substance of its own Interrogatories. The Applicant objects to Sinclair's **BAD FAITH** dealings in this discovery procedure. Applicant has at all times acted in **GOOD FAITH** and answered Sinclair's tricky questions when Sinclair knew that they would in all likelihood confuse, scare, intimidate and cause delay in this discovery process. Applicant now realizes that Sinclair can utilize trickery, deceitfulness and unscrupulous conduct to confuse, intimidate, harass, burden, scare and frustrate Applicant if Applicant does not object to such tactics. Applicant acting as an ordinary, reasonable and prudent person believed in **GOOD FAITH** Sinclair would act in good faith and answered the Interrogatories previously to the best of her knowledge not knowing that Sinclair's strategy and plan of action was to utilize trickery, deceitfulness and unscrupulous conduct to confuse, intimidate, harass, burden, scare and frustrate Applicant in the discovery procedure.

61. Applicant objects to this Interrogatory to the extent it request information that is protected by work-product doctrine and other privileges  
Subject to and without waiving its general and specific objections Applicant responds as follows.

*Any use will be in the Bay are of California. The one time project was in the Bay area.*

**RESPONSE TO INTERROGATORY NO 13 :**

Applicant supplements and clarifies her response to this INTERROGATORY subject to any objections and without waiving such objections. Applicant objects to this Interrogatory in the following specifically noted and outlined objections:

62. Applicant objects to this Interrogatory in that the question is vague, ambiguous and not stated in a clear, concise and understandable manner in it's wording to allow for Applicant to be able to reasonable ascertain as to what specifically is meant by the Interrogatory.
63. Applicant objects to this Interrogatory in that it is burdensome, repetitive, and in combination with the other Interrogatories and subparts are more than 25 in number as outlined Federal Rule 33 (a).
64. Applicant objects to this Interrogatory, 26 other Interrogatories and the additional 10 subpart questions as burdensome and unreasonable in relation to the severity and complexity of this case. The burden of answering these Interrogatories is outweighed by the likely benefit, taking into account the controversy, the resources of the parties (particularly Applicant) and the issues at stake. Sinclair's sole purpose in propounding this exorbitant number of Interrogatories is to harass, intimidate, manipulate, confuse and frustrate the Applicant. Applicant is in the formation stage of her business and has not been able to acquire any additional funding to allow her to conduct her business in commerce. Applicant has not engaged in commerce, but has only attempted to reserve the name and sought a trademark to protect the utilization of the mark when and if her business is opened.
65. Applicant objects to this Interrogatory and the other Interrogatories in that they are presented in **BAD FAITH** and they do not carry out the purpose and spirit of the Federal Rules of Discovery. Sinclair in this Interrogatory and the 26 other Interrogatories and subparts has purposely complicated and stated questions that they knew were objectionable, unclear and vague. Sinclair is represented by a well-recognized and qualified law firm that has a very good rating among law firms. This firm has a degree of expertise in the field of Trademarks and by judicial standards would be qualified to handle complex matters in this area of law. Applicant is a single mom living near the poverty level. Applicant finished high school and has no training or experience in the law. Applicant in **GOOD FAITH** used the same structure and wording (as Sinclair had used in their Interrogatory request to her) in asking her Interrogatories to Sinclair. To Applicants' shock and amazement, Sinclair has objected to every Interrogatory presented by Applicant. In essence,

Sinclair has objected (in theory) to the wording, vagueness and substance of its own Interrogatories. The Applicant objects to Sinclair's **BAD FAITH** dealings in this discovery procedure. Applicant has at all times acted in **GOOD FAITH** and answered Sinclair's tricky questions when Sinclair knew that they would in all likelihood confuse, scare, intimidate and cause delay in this discovery process. Applicant now realizes that Sinclair can utilize trickery, deceitfulness and unscrupulous conduct to confuse, intimidate, harass, burden, scare and frustrate Applicant if Applicant does not object to such tactics. Applicant acting as an ordinary, reasonable and prudent person believed in **GOOD FAITH** Sinclair would act in good faith and answered the Interrogatories previously to the best of her knowledge not knowing that Sinclair's strategy and plan of action was to utilize trickery, deceitfulness and unscrupulous conduct to confuse, intimidate, harass, burden, scare and frustrate Applicant in the discovery procedure.

66. Applicant objects to this Interrogatory to the extent it request information that is protected by work-product doctrine and other privileges

Subject to and without waiving its general and specific objections Applicant responds as follows:

- (a) Applicants sole grounds for the text part of her business is an idea and thought that she created herself. She had no professional, research and/or any other form of assistance .*
- (b) Applicants sole grounds for the "design" part of her business is family related. The face is that of her cousin, the eyes are that of her niece and the rays are that of her mother.*

**RESPONSE TO INTERROGATORY NO. 14 :**

Applicant supplements and clarifies her response to this INTERROGATORY subject to any objections and without waiving such objections. Applicant objects to this Interrogatory in the following specifically noted and outlined objections:

67. Applicant objects to this Interrogatory in that the question is vague, ambiguous and not stated in a clear, concise and understandable manner in it's wording to allow for

Applicant to be able to reasonable ascertain as to what specifically is meant by the Interrogatory.

68. Applicant objects to this Interrogatory in that it is burdensome, repetitive, and in combination with the other Interrogatories and subparts are more than 25 in number as outlined Federal Rule 33 (a).
69. Applicant objects to this Interrogatory, 26 other Interrogatories and the additional 10 subpart questions as burdensome and unreasonable in relation to the severity and complexity of this case. The burden of answering these Interrogatories is outweighed by the likely benefit, taking into account the controversy, the resources of the parties (particularly Applicant) and the issues at stake. Sinclair's sole purpose in propounding this exorbitant number of Interrogatories is to harass, intimidate, manipulate, confuse and frustrate the Applicant. Applicant is in the formation stage of her business and has not been able to acquire any additional funding to allow her to conduct her business in commerce. Applicant has not engaged in commerce, but has only attempted to reserve the name and sought a trademark to protect the utilization of the mark when and if her business is opened.
70. Applicant objects to this Interrogatory and the other Interrogatories in that they are presented in **BAD FAITH** and they do not carry out the purpose and spirit of the Federal Rules of Discovery. Sinclair in this Interrogatory and the 26 other Interrogatories and subparts has purposely complicated and stated questions that they knew were objectionable, unclear and vague. Sinclair is represented by a well-recognized and qualified law firm that has a very good rating among law firms. This firm has a degree of expertise in the field of Trademarks and by judicial standards would be qualified to handle complex matters in this area of law. Applicant is a single mom living near the poverty level. Applicant finished high school and has no training or experience in the law. Applicant in **GOOD FAITH** used the same structure and wording (as Sinclair had used in their Interrogatory request to her) in asking her Interrogatories to Sinclair. To Applicants' shock and amazement, Sinclair has objected to every Interrogatory presented by Applicant. In essence, Sinclair has objected (in theory) to the wording, vagueness and substance of its own Interrogatories. The Applicant objects to Sinclair's **BAD FAITH** dealings in this

discovery procedure. Applicant has at all times acted in **GOOD FAITH** and answered Sinclair's trickery questions when Sinclair knew that they would in all likelihood confuse, scare, intimidate and cause delay in this discovery process. Applicant now realizes that Sinclair can utilize trickery, deceitfulness and unscrupulous conduct to confuse, intimidate, harass, burden, scare and frustrate Applicant if Applicant does not object to such tactics. Applicant acting as an ordinary, reasonable and prudent person believed in **GOOD FAITH** Sinclair would act in good faith and answered the Interrogatories previously to the best of her knowledge not knowing that Sinclair's strategy and plan of action was to utilize trickery, deceitfulness and unscrupulous conduct to confuse, intimidate, harass, burden, scare and frustrate Applicant in the discovery procedure.

71. Applicant objects to this Interrogatory to the extent it request information that is protected by work-product doctrine and other privileges  
Subject to and without waiving its general and specific objections Applicant responds as follows:.

*Applicant will make available for inspection and copying writings, if any, identified in Interrogatory 13.*

**RESPONSE TO INTERROGATORY NO. 15 :**

Applicant supplements and clarifies her response to this INTERROGATORY subject to any objections and without waiving such objections. Applicant objects to this Interrogatory in the following specifically noted and outlined objections:

72. Applicant objects to this Interrogatory in that the question is vague, ambiguous and not stated in a clear, concise and understandable manner in it's wording to allow for Applicant to be able to reasonable ascertain as to what specifically is meant by the Interrogatory.
73. Applicant objects to this Interrogatory in that it is burdensome, repetitive, and in combination with the other Interrogatories and subparts are more than 25 in number as outlined Federal Rule 33 (a).

74. Applicant objects to this Interrogatory, 26 other Interrogatories and the additional 10 subpart questions as burdensome and unreasonable in relation to the severity and complexity of this case. The burden of answering these Interrogatories is outweighed by the likely benefit, taking into account the controversy, the resources of the parties (particularly Applicant) and the issues at stake. Sinclair's sole purpose in propounding this exorbitant number of Interrogatories is to harass, intimidate, manipulate, confuse and frustrate the Applicant. Applicant is in the formation stage of her business and has not been able to acquire any additional funding to allow her to conduct her business in commerce. Applicant has not engaged in commerce, but has only attempted to reserve the name and sought a trademark to protect the utilization of the mark when and if her business is opened.
75. Applicant objects to this Interrogatory and the other Interrogatories in that they are presented in **BAD FAITH** and they do not carry out the purpose and spirit of the Federal Rules of Discovery. Sinclair in this Interrogatory and the 26 other Interrogatories and subparts has purposely complicated and stated questions that they knew were objectionable, unclear and vague. Sinclair is represented by a well-recognized and qualified law firm that has a very good rating among law firms. This firm has a degree of expertise in the field of Trademarks and by judicial standards would be qualified to handle complex matters in this area of law. Applicant is a single mom living near the poverty level. Applicant finished high school and has no training or experience in the law. Applicant in **GOOD FAITH** used the same structure and wording (as Sinclair had used in their Interrogatory request to her) in asking her Interrogatories to Sinclair. To Applicants' shock and amazement, Sinclair has objected to every Interrogatory presented by Applicant. In essence, Sinclair has objected (in theory) to the wording, vagueness and substance of its own Interrogatories. The Applicant objects to Sinclair's **BAD FAITH** dealings in this discovery procedure. Applicant has at all times acted in **GOOD FAITH** and answered Sinclair's tricky questions when Sinclair knew that they would in all likelihood confuse, scare, intimidate and cause delay in this discovery process. Applicant now realizes that Sinclair can utilize trickery, deceitfulness and unscrupulous conduct to confuse, intimidate, harass, burden, scare and frustrate

Applicant if Applicant does not object to such tactics. Applicant acting as an ordinary, reasonable and prudent person believed in **GOOD FAITH** Sinclair would act in good faith and answered the Interrogatories previously to the best of her knowledge not knowing that Sinclair's strategy and plan of action was to utilize trickery, deceitfulness and unscrupulous conduct to confuse, intimidate, harass, burden, scare and frustrate Applicant in the discovery procedure.

76. Applicant objects to this Interrogatory to the extent it request information that is protected by work-product doctrine and other privileges  
Subject to and without waiving it's general and specific objections Applicant responds as follows:

*Applicant answered Interrogatory 14 positive.*

**RESPONSE TO INTERROGATORY NO. 16 :**

Applicant supplements and clarifies her response to this INTERROGATORY subject to any objections and without waiving such objections. Applicant objects to this Interrogatory in the following specifically noted and outlined objections:

77. Applicant objects to this Interrogatory in that the question is vague, ambiguous and not stated in a clear, concise and understandable manner in it's wording to allow for Applicant to be able to reasonable ascertain as to what specifically is meant by the Interrogatory.
78. Applicant objects to this Interrogatory in that it is burdensome, repetitive, and in combination with the other Interrogatories and subparts are more than 25 in number as outlined Federal Rule 33 (a).
79. Applicant objects to this Interrogatory, 26 other Interrogatories and the additional 10 subpart questions as burdensome and unreasonable in relation to the severity and complexity of this case. The burden of answering these Interrogatories is outweighed by the likely benefit, taking into account the controversy, the resources of the parties (particularly Applicant) and the issues at stake. Sinclair's sole purpose in propounding this exorbitant number of Interrogatories is to harass, intimidate,

manipulate, confuse and frustrate the Applicant. . Applicant is in the formation stage of her business and has not been able to acquire any additional funding to allow her to conduct her business in commerce. Applicant has not engaged in commerce, but has only attempted to reserve the name and sought a trademark to protect the utilization of the mark when and if her business is opened.

80. Applicant objects to this Interrogatory and the other Interrogatories in that they are presented in **BAD FAITH** and they do not carry out the purpose and spirit of the Federal Rules of Discovery. Sinclair in this Interrogatory and the 26 other Interrogatories and subparts has purposely complicated and stated questions that they knew were objectionable, unclear and vague. Sinclair is represented by a well-recognized and qualified law firm that has a very good rating among law firms. This firm has a degree of expertise in the field of Trademarks and by judicial standards would be qualified to handle complex matters in this area of law. Applicant is a single mom living near the poverty level. Applicant finished high school and has no training or experience in the law. Applicant in **GOOD FAITH** used the same structure and wording (as Sinclair had used in their Interrogatory request to her) in asking her Interrogatories to Sinclair. To Applicants' shock and amazement, Sinclair has objected to every Interrogatory presented by Applicant. In essence, Sinclair has objected (in theory) to the wording, vagueness and substance of its own Interrogatories. The Applicant objects to Sinclair's **BAD FAITH** dealings in this discovery procedure. Applicant has at all times acted in **GOOD FAITH** and answered Sinclair's tricky questions when Sinclair knew that they would in all likelihood confuse, scare, intimidate and cause delay in this discovery process. Applicant now realizes that Sinclair can utilize trickery, deceitfulness and unscrupulous conduct to confuse, intimidate, harass, burden, scare and frustrate Applicant if Applicant does not object to such tactics. Applicant acting as an ordinary, reasonable and prudent person believed in **GOOD FAITH** Sinclair would act in good faith and answered the Interrogatories previously to the best of her knowledge not knowing that Sinclair's strategy and plan of action was to utilize trickery, deceitfulness and unscrupulous conduct to confuse, intimidate, harass, burden, scare and frustrate Applicant in the discovery procedure.

81. Applicant objects to this Interrogatory to the extent it request information that is protected by work-product doctrine and other privileges

Subject to and without waiving its general and specific objections Applicant responds as follows:

*Applicant is in the formation stage of her business and has not conducted her business in commerce. Applicant has not engaged in commerce and she has not granted or been granted any authority in reference to her business. She has filed the name as a fictitious business name.*

RESPONSE TO INTERROGATORY NO. 17 :

Applicant supplements and clarifies her response to this INTERROGATORY subject to any objections and without waiving such objections. Applicant objects to this Interrogatory in the following specifically noted and outlined objections:

82. Applicant objects to this Interrogatory in that the question is vague, ambiguous and not stated in a clear, concise and understandable manner in it's wording to allow for Applicant to be able to reasonable ascertain as to what specifically is meant by the Interrogatory.

83. Applicant objects to this Interrogatory in that it is burdensome, repetitive, and in combination with the other Interrogatories and subparts are more than 25 in number as outlined Federal Rule 33 (a).

84. Applicant objects to this Interrogatory, 26 other Interrogatories and the additional 10 subpart questions as burdensome and unreasonable in relation to the severity and complexity of this case. The burden of answering these Interrogatories is outweighed by the likely benefit, taking into account the controversy, the resources of the parties (particularly Applicant) and the issues at stake. Sinclair's sole purpose in propounding this exorbitant number of Interrogatories is to harass, intimidate, manipulate, confuse and frustrate the Applicant. . Applicant is in the formation stage of her business and has not been able to acquire any additional funding to allow her to conduct her business in commerce. Applicant has not engaged in commerce, but has

only attempted to reserve the name and sought a trademark to protect the utilization of the mark when and if her business is opened.

85. Applicant objects to this Interrogatory and the other Interrogatories in that they are presented in **BAD FAITH** and they do not carry out the purpose and spirit of the Federal Rules of Discovery. Sinclair in this Interrogatory and the 26 other Interrogatories and subparts has purposely complicated and stated questions that they knew were objectionable, unclear and vague. Sinclair is represented by a well-recognized and qualified law firm that has a very good rating among law firms. This firm has a degree of expertise in the field of Trademarks and by judicial standards would be qualified to handle complex matters in this area of law. Applicant is a single mom living near the poverty level. Applicant finished high school and has no training or experience in the law. Applicant in **GOOD FAITH** used the same structure and wording (as Sinclair had used in their Interrogatory request to her) in asking her Interrogatories to Sinclair. To Applicants' shock and amazement, Sinclair has objected to every Interrogatory presented by Applicant. In essence, Sinclair has objected (in theory) to the wording, vagueness and substance of its own Interrogatories. The Applicant objects to Sinclair's **BAD FAITH** dealings in this discovery procedure. Applicant has at all times acted in **GOOD FAITH** and answered Sinclair's tricky questions when Sinclair knew that they would in all likelihood confuse, scare, intimidate and cause delay in this discovery process. Applicant now realizes that Sinclair can utilize trickery, deceitfulness and unscrupulous conduct to confuse, intimidate, harass, burden, scare and frustrate Applicant if Applicant does not object to such tactics. Applicant acting as an ordinary, reasonable and prudent person believed in **GOOD FAITH** Sinclair would act in good faith and answered the Interrogatories previously to the best of her knowledge not knowing that Sinclair's strategy and plan of action was to utilize trickery, deceitfulness and unscrupulous conduct to confuse, intimidate, harass, burden, scare and frustrate Applicant in the discovery procedure.
86. Applicant objects to this Interrogatory to the extent it request information that is protected by work-product doctrine and other privileges

Subject to and without waiving its general and specific objections Applicant responds as follows:.

*Applicant is in the formation stage of her business and has not been able to acquire any additional funding to allow her to conduct her business in commerce. Applicant has no basis at this time for intended use and can not anticipate any basis until funding is found and Applicant. Applicant sole focus, other than fighting Sinclair, is seeking funding to engage in commerce.. It has been over 6 years and Applicant has not been able to do business, therefore, Applicant does not anticipate any retail store services being used.*

**RESPONSE TO INTERROGATORY NO. 18 :**

Applicant supplements and clarifies her response to this INTERROGATORY subject to any objections and without waiving such objections. Applicant objects to this Interrogatory in the following specifically noted and outlined objections:

87. Applicant objects to this Interrogatory in that the question is vague, ambiguous and not stated in a clear, concise and understandable manner in it's wording to allow for Applicant to be able to reasonable ascertain as to what specifically is meant by the Interrogatory.
88. Applicant objects to this Interrogatory in that it is burdensome, repetitive, and in combination with the other Interrogatories and subparts are more than 25 in number as outlined Federal Rule 33 (a).
89. Applicant objects to this Interrogatory, 26 other Interrogatories and the additional 10 subpart questions as burdensome and unreasonable in relation to the severity and complexity of this case. The burden of answering these Interrogatories is outweighed by the likely benefit, taking into account the controversy, the resources of the parties (particularly Applicant) and the issues at stake. Sinclair's sole purpose in propounding this exorbitant number of Interrogatories is to harass, intimidate, manipulate, confuse and frustrate the Applicant. . Applicant is in the formation stage of her business and has not been able to acquire any additional funding to allow her to

conduct her business in commerce. Applicant has not engaged in commerce, but has only attempted to reserve the name and sought a trademark to protect the utilization of the mark when and if her business is opened.

90. Applicant objects to this Interrogatory and the other Interrogatories in that they are presented in **BAD FAITH** and they do not carry out the purpose and spirit of the Federal Rules of Discovery. Sinclair in this Interrogatory and the 26 other Interrogatories and subparts has purposely complicated and stated questions that they knew were objectionable, unclear and vague. Sinclair is represented by a well-recognized and qualified law firm that has a very good rating among law firms. This firm has a degree of expertise in the field of Trademarks and by judicial standards would be qualified to handle complex matters in this area of law. Applicant is a single mom living near the poverty level. Applicant finished high school and has no training or experience in the law. Applicant in **GOOD FAITH** used the same structure and wording (as Sinclair had used in their Interrogatory request to her) in asking her Interrogatories to Sinclair. To Applicants' shock and amazement, Sinclair has objected to every Interrogatory presented by Applicant. In essence, Sinclair has objected (in theory) to the wording, vagueness and substance of its own Interrogatories. The Applicant objects to Sinclair's **BAD FAITH** dealings in this discovery procedure. Applicant has at all times acted in **GOOD FAITH** and answered Sinclair's tricky questions when Sinclair knew that they would in all likelihood confuse, scare, intimidate and cause delay in this discovery process. Applicant now realizes that Sinclair can utilize trickery, deceitfulness and unscrupulous conduct to confuse, intimidate, harass, burden, scare and frustrate Applicant if Applicant does not object to such tactics. Applicant acting as an ordinary, reasonable and prudent person believed in **GOOD FAITH** Sinclair would act in good faith and answered the Interrogatories previously to the best of her knowledge not knowing that Sinclair's strategy and plan of action was to utilize trickery, deceitfulness and unscrupulous conduct to confuse, intimidate, harass, burden, scare and frustrate Applicant in the discovery procedure.
91. Applicant objects to this Interrogatory to the extent it request information that is protected by work-product doctrine and other privileges

Subject to and without waiving its general and specific objections Applicant responds as follows:

Not sure of question, but none to the best of my knowledge in answering this question.

RESPONSE TO INTERROGATORY NO 19 :

Applicant supplements and clarifies her response to this INTERROGATORY subject to any objections and without waiving such objections. Applicant objects to this Interrogatory in the following specifically noted and outlined objections:

92. Applicant objects to this Interrogatory in that the question is vague, ambiguous and not stated in a clear, concise and understandable manner in it's wording to allow for Applicant to be able to reasonable ascertain as to what specifically is meant by the Interrogatory.
93. Applicant objects to this Interrogatory in that it is burdensome, repetitive, and in combination with the other Interrogatories and subparts are more than 25 in number as outlined Federal Rule 33 (a).
94. Applicant objects to this Interrogatory, 26 other Interrogatories and the additional 10 subpart questions as burdensome and unreasonable in relation to the severity and complexity of this case. The burden of answering these Interrogatories is outweighed by the likely benefit, taking into account the controversy, the resources of the parties (particularly Applicant) and the issues at stake. Sinclair's sole purpose in propounding this exorbitant number of Interrogatories is to harass, intimidate, manipulate, confuse and frustrate the Applicant. Applicant is in the formation stage of her business and has not been able to acquire any additional funding to allow her to conduct her business in commerce. Applicant has not engaged in commerce, but has only attempted to reserve the name and sought a trademark to protect the utilization of the mark when and if her business is opened.
95. Applicant objects to this Interrogatory and the other Interrogatories in that they are presented in **BAD FAITH** and they do not carry out the purpose and spirit of the Federal Rules of Discovery. Sinclair in this Interrogatory and the 26 other

Interrogatories and subparts has purposely complicated and stated questions that they knew were objectionable, unclear and vague. Sinclair is represented by a well-recognized and qualified law firm that has a very good rating among law firms. This firm has a degree of expertise in the field of Trademarks and by judicial standards would be qualified to handle complex matters in this area of law. Applicant is a single mom living near the poverty level. Applicant finished high school and has no training or experience in the law. Applicant in **GOOD FAITH** used the same structure and wording (as Sinclair had used in their Interrogatory request to her) in asking her Interrogatories to Sinclair. To Applicants' shock and amazement, Sinclair has objected to every Interrogatory presented by Applicant. In essence, Sinclair has objected (in theory) to the wording, vagueness and substance of its own Interrogatories. The Applicant objects to Sinclair's **BAD FAITH** dealings in this discovery procedure. Applicant has at all times acted in **GOOD FAITH** and answered Sinclair's tricky questions when Sinclair knew that they would in all likelihood confuse, scare, intimidate and cause delay in this discovery process. Applicant now realizes that Sinclair can utilize trickery, deceitfulness and unscrupulous conduct to confuse, intimidate, harass, burden, scare and frustrate Applicant if Applicant does not object to such tactics. Applicant acting as an ordinary, reasonable and prudent person believed in **GOOD FAITH** Sinclair would act in good faith and answered the Interrogatories previously to the best of her knowledge not knowing that Sinclair's strategy and plan of action was to utilize trickery, deceitfulness and unscrupulous conduct to confuse, intimidate, harass, burden, scare and frustrate Applicant in the discovery procedure.

96. Applicant objects to this Interrogatory to the extent it request information that is protected by work-product doctrine and other privileges

Subject to and without waiving its general and specific objections Applicant responds as follows:.

*None*

RESPONSE TO INTERROGATORY NO.20 :

Applicant supplements and clarifies her response to this INTERROGATORY subject to any objections and without waiving such objections. Applicant objects to this Interrogatory in the following specifically noted and outlined objections:

97. Applicant objects to this Interrogatory in that the question is vague, ambiguous and not stated in a clear, concise and understandable manner in it's wording to allow for Applicant to be able to reasonable ascertain as to what specifically is meant by the Interrogatory.
98. Applicant objects to this Interrogatory in that it is burdensome, repetitive, and in combination with the other Interrogatories and subparts are more than 25 in number as outlined Federal Rule 33 (a).
99. Applicant objects to this Interrogatory, 26 other Interrogatories and the additional 10 subpart questions as burdensome and unreasonable in relation to the severity and complexity of this case. The burden of answering these Interrogatories is outweighed by the likely benefit, taking into account the controversy, the resources of the parties (particularly Applicant) and the issues at stake. Sinclair's sole purpose in propounding this exorbitant number of Interrogatories is to harass, intimidate, manipulate, confuse and frustrate the Applicant. . Applicant is in the formation stage of her business and has not been able to acquire any additional funding to allow her to conduct her business in commerce. Applicant has not engaged in commerce, but has only attempted to reserve the name and sought a trademark to protect the utilization of the mark when and if her business is opened.
100. Applicant objects to this Interrogatory and the other Interrogatories in that they are presented in **BAD FAITH** and they do not carry out the purpose and spirit of the Federal Rules of Discovery. Sinclair in this Interrogatory and the 26 other Interrogatories and subparts has purposely complicated and stated questions that they knew were objectionable, unclear and vague. Sinclair is represented by a well-recognized and qualified law firm that has a very good rating among law firms. This

firm has a degree of expertise in the field of Trademarks and by judicial standards would be qualified to handle complex matters in this area of law. Applicant is a single mom living near the poverty level. Applicant finished high school and has no training or experience in the law. Applicant in **GOOD FAITH** used the same structure and wording (as Sinclair had used in their Interrogatory request to her) in asking her Interrogatories to Sinclair. To Applicants' shock and amazement, Sinclair has objected to every Interrogatory presented by Applicant. In essence, Sinclair has objected (in theory) to the wording, vagueness and substance of its own Interrogatories. The Applicant objects to Sinclair's **BAD FAITH** dealings in this discovery procedure. Applicant has at all times acted in **GOOD FAITH** and answered Sinclair's tricky questions when Sinclair knew that they would in all likelihood confuse, scare, intimidate and cause delay in this discovery process. Applicant now realizes that Sinclair can utilize trickery, deceitfulness and unscrupulous conduct to confuse, intimidate, harass, burden, scare and frustrate Applicant if Applicant does not object to such tactics. Applicant acting as an ordinary, reasonable and prudent person believed in **GOOD FAITH** Sinclair would act in good faith and answered the Interrogatories previously to the best of her knowledge not knowing that Sinclair's strategy and plan of action was to utilize trickery, deceitfulness and unscrupulous conduct to confuse, intimidate, harass, burden, scare and frustrate Applicant in the discovery procedure.

101. Applicant objects to this Interrogatory to the extent it request information that is protected by work-product doctrine and other privileges  
Subject to and without waiving its general and specific objections Applicant responds as follows:.

*Applicant is in the formation stage of her business and said business will be a sole proprietorship. There are no other persons, officers or individuals with knowledge or information in regards to this not yet started business.*

RESPONSE TO INTERROGATORY NO. 21 :

Applicant supplements and clarifies her response to this INTERROGATORY subject to any objections and without waiving such objections. Applicant objects to this Interrogatory in the following specifically noted and outlined objections:

102. Applicant objects to this Interrogatory in that the question is vague, ambiguous and not stated in a clear, concise and understandable manner in it's wording to allow for Applicant to be able to reasonable ascertain as to what specifically is meant by the Interrogatory.
103. Applicant objects to this Interrogatory in that it is burdensome, repetitive, and in combination with the other Interrogatories and subparts are more than 25 in number as outlined Federal Rule 33 (a).
104. Applicant objects to this Interrogatory, 26 other Interrogatories and the additional 10 subpart questions as burdensome and unreasonable in relation to the severity and complexity of this case. The burden of answering these Interrogatories is outweighed by the likely benefit, taking into account the controversy, the resources of the parties (particularly Applicant) and the issues at stake. Sinclair's sole purpose in propounding this exorbitant number of Interrogatories is to harass, intimidate, manipulate, confuse and frustrate the Applicant. Applicant is in the formation stage of her business and has not been able to acquire any additional funding to allow her to conduct her business in commerce. Applicant has not engaged in commerce, but has only attempted to reserve the name and sought a trademark to protect the utilization of the mark when and if her business is opened.
105. Applicant objects to this Interrogatory and the other Interrogatories in that they are presented in **BAD FAITH** and they do not carry out the purpose and spirit of the Federal Rules of Discovery. Sinclair in this Interrogatory and the 26 other Interrogatories and subparts has purposely complicated and stated questions that they knew were objectionable, unclear and vague. Sinclair is represented by a well-recognized and qualified law firm that has a very good rating among law firms. This firm has a degree of expertise in the field of Trademarks and by judicial standards would be qualified to handle complex matters in this area of law. Applicant is a

single mom living near the poverty level. Applicant finished high school and has no training or experience in the law. Applicant in **GOOD FAITH** used the same structure and wording (as Sinclair had used in their Interrogatory request to her) in asking her Interrogatories to Sinclair. To Applicants' shock and amazement, Sinclair has objected to every Interrogatory presented by Applicant. In essence, Sinclair has objected (in theory) to the wording, vagueness and substance of its own Interrogatories. The Applicant objects to Sinclair's **BAD FAITH** dealings in this discovery procedure. Applicant has at all times acted in **GOOD FAITH** and answered Sinclair's tricky questions when Sinclair knew that they would in all likelihood confuse, scare, intimidate and cause delay in this discovery process. Applicant now realizes that Sinclair can utilize trickery, deceitfulness and unscrupulous conduct to confuse, intimidate, harass, burden, scare and frustrate Applicant if Applicant does not object to such tactics. Applicant acting as an ordinary, reasonable and prudent person believed in **GOOD FAITH** Sinclair would act in good faith and answered the Interrogatories previously to the best of her knowledge not knowing that Sinclair's strategy and plan of action was to utilize trickery, deceitfulness and unscrupulous conduct to confuse, intimidate, harass, burden, scare and frustrate Applicant in the discovery procedure.

106. Applicant objects to this Interrogatory to the extent it request information that is protected by work-product doctrine and other privileges  
Subject to and without waiving its general and specific objections Applicant responds as follows:

*Applicant is in the formation stage of her business and has not had met any opposition, confusion or concerns in reference to her business from anybody other than Sinclair. Sinclair is the sole and proximate cause of any and all confusion, if any.*

**RESPONSE TO INTERROGATORY NO. 22 :**

Applicant supplements and clarifies her response to this INTERROGATORY subject to any objections and without waiving such objections. Applicant objects to this Interrogatory in the following specifically noted and outlined objections:

107. Applicant objects to this Interrogatory in that the question is vague, ambiguous and not stated in a clear, concise and understandable manner in it's wording to allow for Applicant to be able to reasonable ascertain as to what specifically is meant by the Interrogatory.
108. Applicant objects to this Interrogatory in that it is burdensome, repetitive, and in combination with the other Interrogatories and subparts are more than 25 in number as outlined Federal Rule 33 (a).
109. Applicant objects to this Interrogatory, 26 other Interrogatories and the additional 10 subpart questions as burdensome and unreasonable in relation to the severity and complexity of this case. The burden of answering these Interrogatories is outweighed by the likely benefit, taking into account the controversy, the resources of the parties (particularly Applicant) and the issues at stake. Sinclair's sole purpose in propounding this exorbitant number of Interrogatories is to harass, intimidate, manipulate, confuse and frustrate the Applicant. . Applicant is in the formation stage of her business and has not been able to acquire any additional funding to allow her to conduct her business in commerce. Applicant has not engaged in commerce, but has only attempted to reserve the name and sought a trademark to protect the utilization of the mark when and if her business is opened.
110. Applicant objects to this Interrogatory and the other Interrogatories in that they are presented in **BAD FAITH** and they do not carry out the purpose and spirit of the Federal Rules of Discovery. Sinclair in this Interrogatory and the 26 other Interrogatories and subparts has purposely complicated and stated questions that they knew were objectionable, unclear and vague. Sinclair is represented by a well-recognized and qualified law firm that has a very good rating among law firms. This firm has a degree of expertise in the field of Trademarks and by judicial standards would be qualified to handle complex matters in this area of law. Applicant is a single mom living near the poverty level. Applicant finished high school and has no training or experience in the law. Applicant in **GOOD FAITH** used the same structure and wording (as Sinclair had used in their Interrogatory request to her) in asking her Interrogatories to Sinclair. To Applicants' shock and amazement,

Sinclair has objected to every Interrogatory presented by Applicant. In essence, Sinclair has objected (in theory) to the wording, vagueness and substance of its own Interrogatories. The Applicant objects to Sinclair's **BAD FAITH** dealings in this discovery procedure. Applicant has at all times acted in **GOOD FAITH** and answered Sinclair's tricky questions when Sinclair knew that they would in all likelihood confuse, scare, intimidate and cause delay in this discovery process. Applicant now realizes that Sinclair can utilize trickery, deceitfulness and unscrupulous conduct to confuse, intimidate, harass, burden, scare and frustrate Applicant if Applicant does not object to such tactics. Applicant acting as an ordinary, reasonable and prudent person believed in **GOOD FAITH** Sinclair would act in good faith and answered the Interrogatories previously to the best of her knowledge not knowing that Sinclair's strategy and plan of action was to utilize trickery, deceitfulness and unscrupulous conduct to confuse, intimidate, harass, burden, scare and frustrate Applicant in the discovery procedure.

111. Applicant objects to this Interrogatory to the extent it request information that is protected by work-product doctrine and other privileges

Subject to and without waiving its general and specific objections Applicant responds as follows:

*Applicant is in the formation stage of her business and has not been able to acquire any additional funding to allow her to conduct her business in commerce. Applicant has not engaged in commerce.. It has been over 6 years and Applicant has not been able to do business, therefore, Applicant has no future plans for expansion and it would be pure speculation to anticipate any expansion. Applicant at this time does not anticipate any expansion.*

**RESPONSE TO INTERROGATORY NO. 23 :**

Applicant supplements and clarifies her response to this INTERROGATORY subject to any objections and without waiving such objections. Applicant objects to this Interrogatory in the following specifically noted and outlined objections:

112. Applicant objects to this Interrogatory in that the question is vague, ambiguous and not stated in a clear, concise and understandable manner in it's wording to allow for Applicant to be able to reasonable ascertain as to what specifically is meant by the Interrogatory.
113. Applicant objects to this Interrogatory in that it is burdensome, repetitive, and in combination with the other Interrogatories and subparts are more than 25 in number as outlined Federal Rule 33 (a).
114. Applicant objects to this Interrogatory, 26 other Interrogatories and the additional 10 subpart questions as burdensome and unreasonable in relation to the severity and complexity of this case. The burden of answering these Interrogatories is outweighed by the likely benefit, taking into account the controversy, the resources of the parties (particularly Applicant) and the issues at stake. Sinclair's sole purpose in propounding this exorbitant number of Interrogatories is to harass, intimidate, manipulate, confuse and frustrate the Applicant. . Applicant is in the formation stage of her business and has not been able to acquire any additional funding to allow her to conduct her business in commerce. Applicant has not engaged in commerce, but has only attempted to reserve the name and sought a trademark to protect the utilization of the mark when and if her business is opened.
115. Applicant objects to this Interrogatory and the other Interrogatories in that they are presented in **BAD FAITH** and they do not carry out the purpose and spirit of the Federal Rules of Discovery. Sinclair in this Interrogatory and the 26 other Interrogatories and subparts has purposely complicated and stated questions that they knew were objectionable, unclear and vague. Sinclair is represented by a well-recognized and qualified law firm that has a very good rating among law firms. This firm has a degree of expertise in the field of Trademarks and by judicial standards would be qualified to handle complex matters in this area of law. Applicant is a single mom living near the poverty level. Applicant finished high school and has no training or experience in the law. Applicant in **GOOD FAITH** used the same structure and wording (as Sinclair had used in their Interrogatory request to her) in asking her Interrogatories to Sinclair. To Applicants' shock and amazement, Sinclair has objected to every Interrogatory presented by Applicant. In essence,

Sinclair has objected (in theory) to the wording, vagueness and substance of its own Interrogatories. The Applicant objects to Sinclair's **BAD FAITH** dealings in this discovery procedure. Applicant has at all times acted in **GOOD FAITH** and answered Sinclair's tricky questions when Sinclair knew that they would in all likelihood confuse, scare, intimidate and cause delay in this discovery process. Applicant now realizes that Sinclair can utilize trickery, deceitfulness and unscrupulous conduct to confuse, intimidate, harass, burden, scare and frustrate Applicant if Applicant does not object to such tactics. Applicant acting as an ordinary, reasonable and prudent person believed in **GOOD FAITH** Sinclair would act in good faith and answered the Interrogatories previously to the best of her knowledge not knowing that Sinclair's strategy and plan of action was to utilize trickery, deceitfulness and unscrupulous conduct to confuse, intimidate, harass, burden, scare and frustrate Applicant in the discovery procedure.

116. Applicant objects to this Interrogatory to the extent it request information that is protected by work-product doctrine and other privileges  
Subject to and without waiving its general and specific objections Applicant responds as follows:

*Applicant had no knowledge or information available that indicated that her design would be in conflict with Sinclair.*

**RESPONSE TO INTERROGATORY NO. 24 :**

Applicant supplements and clarifies her response to this INTERROGATORY subject to any objections and without waiving such objections. Applicant objects to this Interrogatory in the following specifically noted and outlined objections:

117. Applicant objects to this Interrogatory in that the question is vague, ambiguous and not stated in a clear, concise and understandable manner in it's wording to allow for Applicant to be able to reasonable ascertain as to what specifically is meant by the Interrogatory.

118. Applicant objects to this Interrogatory in that it is burdensome, repetitive, and in combination with the other Interrogatories and subparts are more than 25 in number as outlined Federal Rule 33 (a).
119. Applicant objects to this Interrogatory, 26 other Interrogatories and the additional 10 subpart questions as burdensome and unreasonable in relation to the severity and complexity of this case. The burden of answering these Interrogatories is outweighed by the likely benefit, taking into account the controversy, the resources of the parties (particularly Applicant) and the issues at stake. Sinclair's sole purpose in propounding this exorbitant number of Interrogatories is to harass, intimidate, manipulate, confuse and frustrate the Applicant. Applicant is in the formation stage of her business and has not been able to acquire any additional funding to allow her to conduct her business in commerce. Applicant has not engaged in commerce, but has only attempted to reserve the name and sought a trademark to protect the utilization of the mark when and if her business is opened.
120. Applicant objects to this Interrogatory and the other Interrogatories in that they are presented in **BAD FAITH** and they do not carry out the purpose and spirit of the Federal Rules of Discovery. Sinclair in this Interrogatory and the 26 other Interrogatories and subparts has purposely complicated and stated questions that they knew were objectionable, unclear and vague. Sinclair is represented by a well-recognized and qualified law firm that has a very good rating among law firms. This firm has a degree of expertise in the field of Trademarks and by judicial standards would be qualified to handle complex matters in this area of law. Applicant is a single mom living near the poverty level. Applicant finished high school and has no training or experience in the law. Applicant in **GOOD FAITH** used the same structure and wording (as Sinclair had used in their Interrogatory request to her) in asking her Interrogatories to Sinclair. To Applicants' shock and amazement, Sinclair has objected to every Interrogatory presented by Applicant. In essence, Sinclair has objected (in theory) to the wording, vagueness and substance of its own Interrogatories. The Applicant objects to Sinclair's **BAD FAITH** dealings in this discovery procedure. Applicant has at all times acted in **GOOD FAITH** and answered Sinclair's tricky questions when Sinclair knew that they would in all

likelihood confuse, scare, intimidate and cause delay in this discovery process. Applicant now realizes that Sinclair can utilize trickery, deceitfulness and unscrupulous conduct to confuse, intimidate, harass, burden, scare and frustrate Applicant if Applicant does not object to such tactics. Applicant acting as an ordinary, reasonable and prudent person believed in GOOD FAITH Sinclair would act in good faith and answered the Interrogatories previously to the best of her knowledge not knowing that Sinclair's strategy and plan of action was to utilize trickery, deceitfulness and unscrupulous conduct to confuse, intimidate, harass, burden, scare and frustrate Applicant in the discovery procedure.

121. Applicant objects to this Interrogatory to the extent it request information that is protected by work-product doctrine and other privileges  
Subject to and without waiving its general and specific objections Applicant responds as follows:

*My response is in the negative to Interrogatory 23.*

RESPONSE TO INTERROGATORY NO.25 :

Applicant supplements and clarifies her response to this INTERROGATORY subject to any objections and without waiving such objections. Applicant objects to this Interrogatory in the following specifically noted and outlined objections:

122. Applicant objects to this Interrogatory in that the question is vague, ambiguous and not stated in a clear, concise and understandable manner in it's wording to allow for Applicant to be able to reasonable ascertain as to what specifically is meant by the Interrogatory.
123. Applicant objects to this Interrogatory in that it is burdensome, repetitive, and in combination with the other Interrogatories and subparts are more than 25 in number as outlined Federal Rule 33 (a).
124. Applicant objects to this Interrogatory, 26 other Interrogatories and the additional 10 subpart questions as burdensome and unreasonable in relation to the severity and

complexity of this case. The burden of answering these Interrogatories is outweighed by the likely benefit, taking into account the controversy, the resources of the parties (particularly Applicant) and the issues at stake. Sinclair's sole purpose in propounding this exorbitant number of Interrogatories is to harass, intimidate, manipulate, confuse and frustrate the Applicant. Applicant is in the formation stage of her business and has not been able to acquire any additional funding to allow her to conduct her business in commerce. Applicant has not engaged in commerce, but has only attempted to reserve the name and sought a trademark to protect the utilization of the mark when and if her business is opened.

125. Applicant objects to this Interrogatory and the other Interrogatories in that they are presented in **BAD FAITH** and they do not carry out the purpose and spirit of the Federal Rules of Discovery. Sinclair in this Interrogatory and the 26 other Interrogatories and subparts has purposely complicated and stated questions that they knew were objectionable, unclear and vague. Sinclair is represented by a well-recognized and qualified law firm that has a very good rating among law firms. This firm has a degree of expertise in the field of Trademarks and by judicial standards would be qualified to handle complex matters in this area of law. Applicant is a single mom living near the poverty level. Applicant finished high school and has no training or experience in the law. Applicant in **GOOD FAITH** used the same structure and wording (as Sinclair had used in their Interrogatory request to her) in asking her Interrogatories to Sinclair. To Applicants' shock and amazement, Sinclair has objected to every Interrogatory presented by Applicant. In essence, Sinclair has objected (in theory) to the wording, vagueness and substance of its own Interrogatories. The Applicant objects to Sinclair's **BAD FAITH** dealings in this discovery procedure. Applicant has at all times acted in **GOOD FAITH** and answered Sinclair's tricky questions when Sinclair knew that they would in all likelihood confuse, scare, intimidate and cause delay in this discovery process. Applicant now realizes that Sinclair can utilize trickery, deceitfulness and unscrupulous conduct to confuse, intimidate, harass, burden, scare and frustrate Applicant if Applicant does not object to such tactics. Applicant acting as an ordinary, reasonable and prudent person believed in **GOOD FAITH** Sinclair would

act in good faith and answered the Interrogatories previously to the best of her knowledge not knowing that Sinclair's strategy and plan of action was to utilize trickery, deceitfulness and unscrupulous conduct to confuse, intimidate, harass, burden, scare and frustrate Applicant in the discovery procedure.

126. Applicant objects to this Interrogatory to the extent it request information that is protected by work-product doctrine and other privileges  
Subject to and without waiving its general and specific objections Applicant responds as follows:

*Applicant had no prior knowledge of Sinclair and/or its affiliates design.*

RESPONSE TO INTERROGATORY NO.26 :

Applicant supplements and clarifies her response to this INTERROGATORY subject to any objections and without waiving such objections. Applicant objects to this Interrogatory in the following specifically noted and outlined objections:

127. Applicant objects to this Interrogatory in that the question is vague, ambiguous and not stated in a clear, concise and understandable manner in it's wording to allow for Applicant to be able to reasonable ascertain as to what specifically is meant by the Interrogatory.
128. Applicant objects to this Interrogatory in that it is burdensome, repetitive, and in combination with the other Interrogatories and subparts are more than 25 in number as outlined Federal Rule 33 (a).
129. Applicant objects to this Interrogatory, 26 other Interrogatories and the additional 10 subpart questions as burdensome and unreasonable in relation to the severity and complexity of this case. The burden of answering these Interrogatories is outweighed by the likely benefit, taking into account the controversy, the resources of the parties (particularly Applicant) and the issues at stake. Sinclair's sole purpose in propounding this exorbitant number of Interrogatories is to harass, intimidate, manipulate, confuse and frustrate the Applicant. . Applicant is in the formation stage of her business and has not been able to acquire any additional funding to allow her to

conduct her business in commerce. Applicant has not engaged in commerce, but has only attempted to reserve the name and sought a trademark to protect the utilization of the mark when and if her business is opened.

130. Applicant objects to this Interrogatory and the other Interrogatories in that they are presented in **BAD FAITH** and they do not carry out the purpose and spirit of the Federal Rules of Discovery. Sinclair in this Interrogatory and the 26 other Interrogatories and subparts has purposely complicated and stated questions that they knew were objectionable, unclear and vague. Sinclair is represented by a well-recognized and qualified law firm that has a very good rating among law firms. This firm has a degree of expertise in the field of Trademarks and by judicial standards would be qualified to handle complex matters in this area of law. Applicant is a single mom living near the poverty level. Applicant finished high school and has no training or experience in the law. Applicant in **GOOD FAITH** used the same structure and wording (as Sinclair had used in their Interrogatory request to her) in asking her Interrogatories to Sinclair. To Applicants' shock and amazement, Sinclair has objected to every Interrogatory presented by Applicant. In essence, Sinclair has objected (in theory) to the wording, vagueness and substance of its own Interrogatories. The Applicant objects to Sinclair's **BAD FAITH** dealings in this discovery procedure. Applicant has at all times acted in **GOOD FAITH** and answered Sinclair's tricky questions when Sinclair knew that they would in all likelihood confuse, scare, intimidate and cause delay in this discovery process. Applicant now realizes that Sinclair can utilize trickery, deceitfulness and unscrupulous conduct to confuse, intimidate, harass, burden, scare and frustrate Applicant if Applicant does not object to such tactics. Applicant acting as an ordinary, reasonable and prudent person believed in **GOOD FAITH** Sinclair would act in good faith and answered the Interrogatories previously to the best of her knowledge not knowing that Sinclair's strategy and plan of action was to utilize trickery, deceitfulness and unscrupulous conduct to confuse, intimidate, harass, burden, scare and frustrate Applicant in the discovery procedure.

131. Applicant objects to this Interrogatory to the extent it request information that is protected by work-product doctrine and other privileges

Subject to and without waiving its general and specific objections Applicant responds as follows:

*Applicant is in the formation stage of her business and has not been able to acquire any additional funding to allow her to conduct her business in commerce. Applicant has not engaged in commerce and anticipates when and if this business is ever engaged in commerce that the goods will be distributed from Applicants home based business and flea markets. .*

**RESPONSE TO INTERROGATORY NO.27 :**

Applicant supplements and clarifies her response to this INTERROGATORY subject to any objections and without waiving such objections. Applicant objects to this Interrogatory in the following specifically noted and outlined objections:

132. Applicant objects to this Interrogatory in that the question is vague, ambiguous and not stated in a clear, concise and understandable manner in it's wording to allow for Applicant to be able to reasonable ascertain as to what specifically is meant by the Interrogatory.
133. Applicant objects to this Interrogatory in that it is burdensome, repetitive, and in combination with the other Interrogatories and subparts are more than 25 in number as outlined Federal Rule 33 (a).
134. Applicant objects to this Interrogatory, 26 other Interrogatories and the additional 10 subpart questions as burdensome and unreasonable in relation to the severity and complexity of this case. The burden of answering these Interrogatories is outweighed by the likely benefit, taking into account the controversy, the resources of the parties (particularly Applicant) and the issues at stake. Sinclair's sole purpose in propounding this exorbitant number of Interrogatories is to harass, intimidate, manipulate, confuse and frustrate the Applicant. . Applicant is in the formation stage of her business and has not been able to acquire any additional funding to allow her to

conduct her business in commerce. Applicant has not engaged in commerce, but has only attempted to reserve the name and sought a trademark to protect the utilization of the mark when and if her business is opened.

135. Applicant objects to this Interrogatory and the other Interrogatories in that they are presented in **BAD FAITH** and they do not carry out the purpose and spirit of the Federal Rules of Discovery. Sinclair in this Interrogatory and the 26 other Interrogatories and subparts has purposely complicated and stated questions that they knew were objectionable, unclear and vague. Sinclair is represented by a well-recognized and qualified law firm that has a very good rating among law firms. This firm has a degree of expertise in the field of Trademarks and by judicial standards would be qualified to handle complex matters in this area of law. Applicant is a single mom living near the poverty level. Applicant finished high school and has no training or experience in the law. Applicant in **GOOD FAITH** used the same structure and wording (as Sinclair had used in their Interrogatory request to her) in asking her Interrogatories to Sinclair. To Applicants' shock and amazement, Sinclair has objected to every Interrogatory presented by Applicant. In essence, Sinclair has objected (in theory) to the wording, vagueness and substance of its own Interrogatories. The Applicant objects to Sinclair's **BAD FAITH** dealings in this discovery procedure. Applicant has at all times acted in **GOOD FAITH** and answered Sinclair's trickery questions when Sinclair knew that they would in all likelihood confuse, scare, intimidate and cause delay in this discovery process. Applicant now realizes that Sinclair can utilize trickery, deceitfulness and unscrupulous conduct to confuse, intimidate, harass, burden, scare and frustrate Applicant if Applicant does not object to such tactics. Applicant acting as an ordinary, reasonable and prudent person believed in **GOOD FAITH** Sinclair would act in good faith and answered the Interrogatories previously to the best of her knowledge not knowing that Sinclair's strategy and plan of action was to utilize trickery, deceitfulness and unscrupulous conduct to confuse, intimidate, harass, burden, scare and frustrate Applicant in the discovery procedure.

136. Applicant objects to this Interrogatory to the extent it request information that is protected by work-product doctrine and other privileges

Subject to and without waiving its general and specific objections Applicant responds as follows:

*None of interrogatories 1-26 answers were based on the use of the "design" exclusive of other parts..*

RESPONSE TO INTERROGATORY NO. 28 :

Applicant supplements and clarifies her response to this INTERROGATORY subject to any objections and without waiving such objections. Applicant objects to this Interrogatory in the following specifically noted and outlined objections:

137. Applicant objects to this Interrogatory in that the question is vague, ambiguous and not stated in a clear, concise and understandable manner in it's wording to allow for Applicant to be able to reasonable ascertain as to what specifically is meant by the Interrogatory.
138. Applicant objects to this Interrogatory in that it is burdensome, repetitive, and in combination with the other Interrogatories and subparts are more than 25 in number as outlined Federal Rule 33 (a).
139. Applicant objects to this Interrogatory, 26 other Interrogatories and the additional 10 subpart questions as burdensome and unreasonable in relation to the severity and complexity of this case. The burden of answering these Interrogatories is outweighed by the likely benefit, taking into account the controversy, the resources of the parties (particularly Applicant) and the issues at stake. Sinclair's sole purpose in propounding this exorbitant number of Interrogatories is to harass, intimidate, manipulate, confuse and frustrate the Applicant. . Applicant is in the formation stage of her business and has not been able to acquire any additional funding to allow her to conduct her business in commerce. Applicant has not engaged in commerce, but has only attempted to reserve the name and sought a trademark to protect the utilization of the mark when and if her business is opened.
140. Applicant objects to this Interrogatory and the other Interrogatories in that they are presented in **BAD FAITH** and they do not carry out the purpose and spirit of the

Federal Rules of Discovery. Sinclair in this Interrogatory and the 26 other Interrogatories and subparts has purposely complicated and stated questions that they knew were objectionable, unclear and vague. Sinclair is represented by a well-recognized and qualified law firm that has a very good rating among law firms. This firm has a degree of expertise in the field of Trademarks and by judicial standards would be qualified to handle complex matters in this area of law. Applicant is a single mom living near the poverty level. Applicant finished high school and has no training or experience in the law. Applicant in **GOOD FAITH** used the same structure and wording (as Sinclair had used in their Interrogatory request to her) in asking her Interrogatories to Sinclair. To Applicants' shock and amazement, Sinclair has objected to every Interrogatory presented by Applicant. In essence, Sinclair has objected (in theory) to the wording, vagueness and substance of its own Interrogatories. The Applicant objects to Sinclair's **BAD FAITH** dealings in this discovery procedure. Applicant has at all times acted in **GOOD FAITH** and answered Sinclair's tricky questions when Sinclair knew that they would in all likelihood confuse, scare, intimidate and cause delay in this discovery process. Applicant now realizes that Sinclair can utilize trickery, deceitfulness and unscrupulous conduct to confuse, intimidate, harass, burden, scare and frustrate Applicant if Applicant does not object to such tactics. Applicant acting as an ordinary, reasonable and prudent person believed in **GOOD FAITH** Sinclair would act in good faith and answered the Interrogatories previously to the best of her knowledge not knowing that Sinclair's strategy and plan of action was to utilize trickery, deceitfulness and unscrupulous conduct to confuse, intimidate, harass, burden, scare and frustrate Applicant in the discovery procedure.

141. Applicant objects to this Interrogatory to the extent it request information that is protected by work-product doctrine and other privileges  
Subject to and without waiving its general and specific objections Applicant responds as follows:.

*Applicant has never used or intends to use the Design apart from the name or any other part.*

RESPONSE TO INTERROGATORY NO. 29 :

Applicant supplements and clarifies her response to this INTERROGATORY subject to any objections and without waiving such objections. Applicant objects to this Interrogatory in the following specifically noted and outlined objections:

142. Applicant objects to this Interrogatory in that the question is vague, ambiguous and not stated in a clear, concise and understandable manner in it's wording to allow for Applicant to be able to reasonable ascertain as to what specifically is meant by the Interrogatory.
143. Applicant objects to this Interrogatory in that it is burdensome, repetitive, and in combination with the other Interrogatories and subparts are more than 25 in number as outlined Federal Rule 33 (a).
144. Applicant objects to this Interrogatory, 26 other Interrogatories and the additional 10 subpart questions as burdensome and unreasonable in relation to the severity and complexity of this case. The burden of answering these Interrogatories is outweighed by the likely benefit, taking into account the controversy, the resources of the parties (particularly Applicant) and the issues at stake. Sinclair's sole purpose in propounding this exorbitant number of Interrogatories is to harass, intimidate, manipulate, confuse and frustrate the Applicant. . Applicant is in the formation stage of her business and has not been able to acquire any additional funding to allow her to conduct her business in commerce. Applicant has not engaged in commerce, but has only attempted to reserve the name and sought a trademark to protect the utilization of the mark when and if her business is opened.
145. Applicant objects to this Interrogatory and the other Interrogatories in that they are presented in **BAD FAITH** and they do not carry out the purpose and spirit of the Federal Rules of Discovery. Sinclair in this Interrogatory and the 26 other Interrogatories and subparts has purposely complicated and stated questions that they knew were objectionable, unclear and vague. Sinclair is represented by a well-recognized and qualified law firm that has a very good rating among law firms. This firm has a degree of expertise in the field of Trademarks and by judicial standards

would be qualified to handle complex matters in this area of law. Applicant is a single mom living near the poverty level. Applicant finished high school and has no training or experience in the law. Applicant in **GOOD FAITH** used the same structure and wording (as Sinclair had used in their Interrogatory request to her) in asking her Interrogatories to Sinclair. To Applicants' shock and amazement, Sinclair has objected to every Interrogatory presented by Applicant. In essence, Sinclair has objected (in theory) to the wording, vagueness and substance of its own Interrogatories. The Applicant objects to Sinclair's **BAD FAITH** dealings in this discovery procedure. Applicant has at all times acted in **GOOD FAITH** and answered Sinclair's tricky questions when Sinclair knew that they would in all likelihood confuse, scare, intimidate and cause delay in this discovery process. Applicant now realizes that Sinclair can utilize trickery, deceitfulness and unscrupulous conduct to confuse, intimidate, harass, burden, scare and frustrate Applicant if Applicant does not object to such tactics. Applicant acting as an ordinary, reasonable and prudent person believed in **GOOD FAITH** Sinclair would act in good faith and answered the Interrogatories previously to the best of her knowledge not knowing that Sinclair's strategy and plan of action was to utilize trickery, deceitfulness and unscrupulous conduct to confuse, intimidate, harass, burden, scare and frustrate Applicant in the discovery procedure.

146. Applicant objects to this Interrogatory to the extent it request information that is protected by work-product doctrine and other privileges  
Subject to and without waiving its general and specific objections Applicant responds as follows..

*Applicant is in the formation stage of her business and has not been able to acquire any additional funding to allow her to conduct her business in commerce. Applicant has not used or intends to use the Design apart from other portions of the name or mark.*

RESPONSE TO INTERROGATORY NO. 30 :

Applicant supplements and clarifies her response to this INTERROGATORY subject to any objections and without waiving such objections. Applicant objects to this Interrogatory in the following specifically noted and outlined objections:

147. Applicant objects to this Interrogatory in that the question is vague, ambiguous and not stated in a clear, concise and understandable manner in it's wording to allow for Applicant to be able to reasonable ascertain as to what specifically is meant by the Interrogatory.
148. Applicant objects to this Interrogatory in that it is burdensome, repetitive, and in combination with the other Interrogatories and subparts are more than 25 in number as outlined Federal Rule 33 (a).
149. Applicant objects to this Interrogatory, 26 other Interrogatories and the additional 10 subpart questions as burdensome and unreasonable in relation to the severity and complexity of this case. The burden of answering these Interrogatories is outweighed by the likely benefit, taking into account the controversy, the resources of the parties (particularly Applicant) and the issues at stake. Sinclair's sole purpose in propounding this exorbitant number of Interrogatories is to harass, intimidate, manipulate, confuse and frustrate the Applicant. . Applicant is in the formation stage of her business and has not been able to acquire any additional funding to allow her to conduct her business in commerce. Applicant has not engaged in commerce, but has only attempted to reserve the name and sought a trademark to protect the utilization of the mark when and if her business is opened.
150. Applicant objects to this Interrogatory and the other Interrogatories in that they are presented in **BAD FAITH** and they do not carry out the purpose and spirit of the Federal Rules of Discovery. Sinclair in this Interrogatory and the 26 other Interrogatories and subparts has purposely complicated and stated questions that they knew were objectionable, unclear and vague. Sinclair is represented by a well-recognized and qualified law firm that has a very good rating among law firms. This

firm has a degree of expertise in the field of Trademarks and by judicial standards would be qualified to handle complex matters in this area of law. Applicant is a single mom living near the poverty level. Applicant finished high school and has no training or experience in the law. Applicant in **GOOD FAITH** used the same structure and wording (as Sinclair had used in their Interrogatory request to her) in asking her Interrogatories to Sinclair. To Applicants' shock and amazement, Sinclair has objected to every Interrogatory presented by Applicant. In essence, Sinclair has objected (in theory) to the wording, vagueness and substance of its own Interrogatories. The Applicant objects to Sinclair's **BAD FAITH** dealings in this discovery procedure. Applicant has at all times acted in **GOOD FAITH** and answered Sinclair's tricky questions when Sinclair knew that they would in all likelihood confuse, scare, intimidate and cause delay in this discovery process. Applicant now realizes that Sinclair can utilize trickery, deceitfulness and unscrupulous conduct to confuse, intimidate, harass, burden, scare and frustrate Applicant if Applicant does not object to such tactics. Applicant acting as an ordinary, reasonable and prudent person believed in **GOOD FAITH** Sinclair would act in good faith and answered the Interrogatories previously to the best of her knowledge not knowing that Sinclair's strategy and plan of action was to utilize trickery, deceitfulness and unscrupulous conduct to confuse, intimidate, harass, burden, scare and frustrate Applicant in the discovery procedure.

151. Applicant objects to this Interrogatory to the extent it request information that is protected by work-product doctrine and other privileges  
Subject to and without waiving its general and specific objections Applicant responds as follows:.

*Applicant is in the formation stage of her business and has not been able to acquire any additional funding to allow her to conduct her business in commerce. Applicant has not used or intends to use the Design apart from other portions of the name or mark in commerce..*

RESPONSE TO INTERROGATORY NO 31 :

Applicant supplements and clarifies her response to this INTERROGATORY subject to any objections and without waiving such objections. Applicant objects to this Interrogatory in the following specifically noted and outlined objections:

152. Applicant objects to this Interrogatory in that the question is vague, ambiguous and not stated in a clear, concise and understandable manner in it's wording to allow for Applicant to be able to reasonable ascertain as to what specifically is meant by the Interrogatory.
153. Applicant objects to this Interrogatory in that it is burdensome, repetitive, and in combination with the other Interrogatories and subparts are more than 25 in number as outlined Federal Rule 33 (a).
154. Applicant objects to this Interrogatory, 26 other Interrogatories and the additional 10 subpart questions as burdensome and unreasonable in relation to the severity and complexity of this case. The burden of answering these Interrogatories is outweighed by the likely benefit, taking into account the controversy, the resources of the parties (particularly Applicant) and the issues at stake. Sinclair's sole purpose in propounding this exorbitant number of Interrogatories is to harass, intimidate, manipulate, confuse and frustrate the Applicant. . Applicant is in the formation stage of her business and has not been able to acquire any additional funding to allow her to conduct her business in commerce. Applicant has not engaged in commerce, but has only attempted to reserve the name and sought a trademark to protect the utilization of the mark when and if her business is opened.
155. Applicant objects to this Interrogatory and the other Interrogatories in that they are presented in **BAD FAITH** and they do not carry out the purpose and spirit of the Federal Rules of Discovery. Sinclair in this Interrogatory and the 26 other Interrogatories and subparts has purposely complicated and stated questions that they knew were objectionable, unclear and vague. Sinclair is represented by a well-recognized and qualified law firm that has a very good rating among law firms. This

Sinclair has objected to every Interrogatory presented by Applicant. In essence, Sinclair has objected (in theory) to the wording, vagueness and substance of its own Interrogatories. The Applicant objects to Sinclair's **BAD FAITH** dealings in this discovery procedure. Applicant has at all times acted in **GOOD FAITH** and answered Sinclair's tricky questions when Sinclair knew that they would in all likelihood confuse, scare, intimidate and cause delay in this discovery process. Applicant now realizes that Sinclair can utilize trickery, deceitfulness and unscrupulous conduct to confuse, intimidate, harass, burden, scare and frustrate Applicant if Applicant does not object to such tactics. Applicant acting as an ordinary, reasonable and prudent person believed in **GOOD FAITH** Sinclair would act in good faith and answered the Interrogatories previously to the best of her knowledge not knowing that Sinclair's strategy and plan of action was to utilize trickery, deceitfulness and unscrupulous conduct to confuse, intimidate, harass, burden, scare and frustrate Applicant in the discovery procedure.

161. Applicant objects to this Interrogatory to the extent it request information that is protected by work-product doctrine and other privileges  
Subject to and without waiving its general and specific objections Applicant responds as follows:.

*Applicant is in the formation stage of her business and has not been able to acquire any additional funding to allow her to conduct her business in commerce. Applicant has not used or intends to use the Design apart from other portions of the name or mark in commerce or in any region. Any commerce of the name and mark would be in the California bay area.*

*Applicant is in the formation stage of her business and said business will be a sole proprietorship. There are no other persons, officers or individuals with knowledge or information in regards to this not yet started business.*

RESPONSE TO INTERROGATORY NO. 33 :

Applicant supplements and clarifies her response to this INTERROGATORY subject to any objections and without waiving such objections. Applicant objects to this Interrogatory in the following specifically noted and outlined objections:

162. Applicant objects to this Interrogatory in that the question is vague, ambiguous and not stated in a clear, concise and understandable manner in it's wording to allow for Applicant to be able to reasonable ascertain as to what specifically is meant by the Interrogatory.
163. Applicant objects to this Interrogatory in that it is burdensome, repetitive, and in combination with the other Interrogatories and subparts are more than 25 in number as outlined Federal Rule 33 (a).
164. Applicant objects to this Interrogatory, 26 other Interrogatories and the additional 10 subpart questions as burdensome and unreasonable in relation to the severity and complexity of this case. The burden of answering these Interrogatories is outweighed by the likely benefit, taking into account the controversy, the resources of the parties (particularly Applicant) and the issues at stake. Sinclair's sole purpose in propounding this exorbitant number of Interrogatories is to harass, intimidate, manipulate, confuse and frustrate the Applicant. Applicant is in the formation stage of her business and has not been able to acquire any additional funding to allow her to conduct her business in commerce. Applicant has not engaged in commerce, but has only attempted to reserve the name and sought a trademark to protect the utilization of the mark when and if her business is opened.
165. Applicant objects to this Interrogatory and the other Interrogatories in that they are presented in **BAD FAITH** and they do not carry out the purpose and spirit of the Federal Rules of Discovery. Sinclair in this Interrogatory and the 26 other Interrogatories and subparts has purposely complicated and stated questions that they knew were objectionable, unclear and vague. Sinclair is represented by a well-recognized and qualified law firm that has a very good rating among law firms. This firm has a degree of expertise in the field of Trademarks and by judicial standards would be qualified to handle complex matters in this area of law. Applicant is a

single mom living near the poverty level. Applicant finished high school and has no training or experience in the law. Applicant in **GOOD FAITH** used the same structure and wording (as Sinclair had used in their Interrogatory request to her) in asking her Interrogatories to Sinclair. To Applicants' shock and amazement, Sinclair has objected to every Interrogatory presented by Applicant. In essence, Sinclair has objected (in theory) to the wording, vagueness and substance of its own Interrogatories. The Applicant objects to Sinclair's **BAD FAITH** dealings in this discovery procedure. Applicant has at all times acted in **GOOD FAITH** and answered Sinclair's trickery questions when Sinclair knew that they would in all likelihood confuse, scare, intimidate and cause delay in this discovery process. Applicant now realizes that Sinclair can utilize trickery, deceitfulness and unscrupulous conduct to confuse, intimidate, harass, burden, scare and frustrate Applicant if Applicant does not object to such tactics. Applicant acting as an ordinary, reasonable and prudent person believed in **GOOD FAITH** Sinclair would act in good faith and answered the Interrogatories previously to the best of her knowledge not knowing that Sinclair's strategy and plan of action was to utilize trickery, deceitfulness and unscrupulous conduct to confuse, intimidate, harass, burden, scare and frustrate Applicant in the discovery procedure.

166. Applicant objects to this Interrogatory to the extent it request information that is protected by work-product doctrine and other privileges

Subject to and without waiving its general and specific objections Applicant responds as follows:

*Applicant is in the formation stage of her business and has not had met any opposition, confusion or concerns in reference to her business from anybody other than Sinclair. Sinclair is the sole and proximate cause of any and all confusion, if any.*

**RESPONSE TO INTERROGATORY NO. 34 :**

Applicant supplements and clarifies her response to this INTERROGATORY subject to any objections and without waiving such objections. Applicant objects to this Interrogatory in the following specifically noted and outlined objections:

167. Applicant objects to this Interrogatory in that the question is vague, ambiguous and not stated in a clear, concise and understandable manner in it's wording to allow for Applicant to be able to reasonable ascertain as to what specifically is meant by the Interrogatory.
168. Applicant objects to this Interrogatory in that it is burdensome, repetitive, and in combination with the other Interrogatories and subparts are more than 25 in number as outlined Federal Rule 33 (a).
169. Applicant objects to this Interrogatory, 26 other Interrogatories and the additional 10 subpart questions as burdensome and unreasonable in relation to the severity and complexity of this case. The burden of answering these Interrogatories is outweighed by the likely benefit, taking into account the controversy, the resources of the parties (particularly Applicant) and the issues at stake. Sinclair's sole purpose in propounding this exorbitant number of Interrogatories is to harass, intimidate, manipulate, confuse and frustrate the Applicant. Applicant is in the formation stage of her business and has not been able to acquire any additional funding to allow her to conduct her business in commerce. Applicant has not engaged in commerce, but has only attempted to reserve the name and sought a trademark to protect the utilization of the mark when and if her business is opened.
170. Applicant objects to this Interrogatory and the other Interrogatories in that they are presented in **BAD FAITH** and they do not carry out the purpose and spirit of the Federal Rules of Discovery. Sinclair in this Interrogatory and the 26 other Interrogatories and subparts has purposely complicated and stated questions that they knew were objectionable, unclear and vague. Sinclair is represented by a well-recognized and qualified law firm that has a very good rating among law firms. This firm has a degree of expertise in the field of Trademarks and by judicial standards would be qualified to handle complex matters in this area of law. Applicant is a single mom living near the poverty level. Applicant finished high school and has no training or experience in the law. Applicant in **GOOD FAITH** used the same structure and wording (as Sinclair had used in their Interrogatory request to her) in asking her Interrogatories to Sinclair. To Applicants' shock and amazement,

Sinclair has objected to every Interrogatory presented by Applicant. In essence, Sinclair has objected (in theory) to the wording, vagueness and substance of its own Interrogatories. The Applicant objects to Sinclair's **BAD FAITH** dealings in this discovery procedure. Applicant has at all times acted in **GOOD FAITH** and answered Sinclair's tricky questions when Sinclair knew that they would in all likelihood confuse, scare, intimidate and cause delay in this discovery process. Applicant now realizes that Sinclair can utilize trickery, deceitfulness and unscrupulous conduct to confuse, intimidate, harass, burden, scare and frustrate Applicant if Applicant does not object to such tactics. Applicant acting as an ordinary, reasonable and prudent person believed in **GOOD FAITH** Sinclair would act in good faith and answered the Interrogatories previously to the best of her knowledge not knowing that Sinclair's strategy and plan of action was to utilize trickery, deceitfulness and unscrupulous conduct to confuse, intimidate, harass, burden, scare and frustrate Applicant in the discovery procedure.

171. Applicant objects to this Interrogatory to the extent it request information that is protected by work-product doctrine and other privileges  
Subject to and without waiving its general and specific objections Applicant responds as follows:.

*A minister friend, George Long, prayed and helped to explain the tricky questions and gave ideas on answering Interrogatory 1-35 and the 12 or so subparts..*

**RESPONSE TO INTERROGATORY NO. 35 :**

Applicant supplements and clarifies her response to this INTERROGATORY subject to any objections and without waiving such objections. Applicant objects to this Interrogatory in the following specifically noted and outlined objections:

172. Applicant objects to this Interrogatory in that the question is vague, ambiguous and not stated in a clear, concise and understandable manner in it's wording to allow for Applicant to be able to reasonable ascertain as to what specifically is meant by the Interrogatory.

173. Applicant objects to this Interrogatory in that it is burdensome, repetitive, and in combination with the other Interrogatories and subparts are more than 25 in number as outlined Federal Rule 33 (a).
174. Applicant objects to this Interrogatory, 26 other Interrogatories and the additional 10 subpart questions as burdensome and unreasonable in relation to the severity and complexity of this case. The burden of answering these Interrogatories is outweighed by the likely benefit, taking into account the controversy, the resources of the parties (particularly Applicant) and the issues at stake. Sinclair's sole purpose in propounding this exorbitant number of Interrogatories is to harass, intimidate, manipulate, confuse and frustrate the Applicant. Applicant is in the formation stage of her business and has not been able to acquire any additional funding to allow her to conduct her business in commerce. Applicant has not engaged in commerce, but has only attempted to reserve the name and sought a trademark to protect the utilization of the mark when and if her business is opened.
175. Applicant objects to this Interrogatory and the other Interrogatories in that they are presented in **BAD FAITH** and they do not carry out the purpose and spirit of the Federal Rules of Discovery. Sinclair in this Interrogatory and the 26 other Interrogatories and subparts has purposely complicated and stated questions that they knew were objectionable, unclear and vague. Sinclair is represented by a well-recognized and qualified law firm that has a very good rating among law firms. This firm has a degree of expertise in the field of Trademarks and by judicial standards would be qualified to handle complex matters in this area of law. Applicant is a single mom living near the poverty level. Applicant finished high school and has no training or experience in the law. Applicant in **GOOD FAITH** used the same structure and wording (as Sinclair had used in their Interrogatory request to her) in asking her Interrogatories to Sinclair. To Applicants' shock and amazement, Sinclair has objected to every Interrogatory presented by Applicant. In essence, Sinclair has objected (in theory) to the wording, vagueness and substance of its own Interrogatories. The Applicant objects to Sinclair's **BAD FAITH** dealings in this discovery procedure. Applicant has at all times acted in **GOOD FAITH** and answered Sinclair's tricky questions when Sinclair knew that they would in all

likelihood confuse, scare, intimidate and cause delay in this discovery process. Applicant now realizes that Sinclair can utilize trickery, deceitfulness and unscrupulous conduct to confuse, intimidate, harass, burden, scare and frustrate Applicant if Applicant does not object to such tactics. Applicant acting as an ordinary, reasonable and prudent person believed in GOOD FAITH Sinclair would act in good faith and answered the Interrogatories previously to the best of her knowledge not knowing that Sinclair's strategy and plan of action was to utilize trickery, deceitfulness and unscrupulous conduct to confuse, intimidate, harass, burden, scare and frustrate Applicant in the discovery procedure.

176. Applicant objects to this Interrogatory to the extent it request information that is protected by work-product doctrine and other privileges Subject to and without waiving its general and specific objections Applicant responds as follows:.

*A minister friend, George Long, prayed and helped to explain the tricky questions and gave ideas on answering Document Requests 1-42 .*

RESPONSE TO INTERROGATORY NO. 36 :

Applicant supplements and clarifies her response to this INTERROGATORY subject to any objections and without waiving such objections. Applicant objects to this Interrogatory in the following specifically noted and outlined objections:

177. Applicant objects to this Interrogatory in that the question is vague, ambiguous and not stated in a clear, concise and understandable manner in it's wording to allow for Applicant to be able to reasonable ascertain as to what specifically is meant by the Interrogatory.

178. Applicant objects to this Interrogatory in that it is burdensome, repetitive, and in combination with the other Interrogatories and subparts are more than 25 in number as outlined Federal Rule 33 (a).
179. Applicant objects to this Interrogatory, 26 other Interrogatories and the additional 10 subpart questions as burdensome and unreasonable in relation to the severity and complexity of this case. The burden of answering these Interrogatories is outweighed by the likely benefit, taking into account the controversy, the resources of the parties (particularly Applicant) and the issues at stake. Sinclair's sole purpose in propounding this exorbitant number of Interrogatories is to harass, intimidate, manipulate, confuse and frustrate the Applicant. Applicant is in the formation stage of her business and has not been able to acquire any additional funding to allow her to conduct her business in commerce. Applicant has not engaged in commerce, but has only attempted to reserve the name and sought a trademark to protect the utilization of the mark when and if her business is opened.
180. Applicant objects to this Interrogatory and the other Interrogatories in that they are presented in **BAD FAITH** and they do not carry out the purpose and spirit of the Federal Rules of Discovery. Sinclair in this Interrogatory and the 26 other Interrogatories and subparts has purposely complicated and stated questions that they knew were objectionable, unclear and vague. Sinclair is represented by a well-recognized and qualified law firm that has a very good rating among law firms. This firm has a degree of expertise in the field of Trademarks and by judicial standards would be qualified to handle complex matters in this area of law. Applicant is a single mom living near the poverty level. Applicant finished high school and has no training or experience in the law. Applicant in **GOOD FAITH** used the same structure and wording (as Sinclair had used in their Interrogatory request to her) in asking her Interrogatories to Sinclair. To Applicants' shock and amazement, Sinclair has objected to every Interrogatory presented by Applicant. In essence, Sinclair has objected (in theory) to the wording, vagueness and substance of its own Interrogatories. The Applicant objects to Sinclair's **BAD FAITH** dealings in this discovery procedure. Applicant has at all times acted in **GOOD FAITH** and answered Sinclair's tricky questions when Sinclair knew that they would in all

likelihood confuse, scare, intimidate and cause delay in this discovery process. Applicant now realizes that Sinclair can utilize trickery, deceitfulness and unscrupulous conduct to confuse, intimidate, harass, burden, scare and frustrate Applicant if Applicant does not object to such tactics. Applicant acting as an ordinary, reasonable and prudent person believed in **GOOD FAITH** Sinclair would act in good faith and answered the Interrogatories previously to the best of her knowledge not knowing that Sinclair's strategy and plan of action was to utilize trickery, deceitfulness and unscrupulous conduct to confuse, intimidate, harass, burden, scare and frustrate Applicant in the discovery procedure.

181. Applicant objects to this Interrogatory to the extent it request information that is protected by work-product doctrine and other privileges

Subject to and without waiving its general and specific objections Applicant responds as follows:.

DATED this 29th day of August, 2003.

By:   
SUMATRA KENDRICK

P.O. Box 434  
Berkeley, CA 94701  
(510) 799.6447

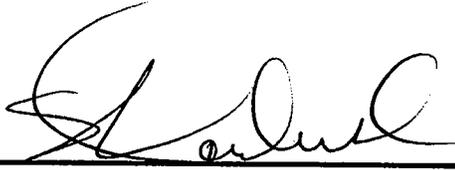
*PRO SAE*

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing SUMANTRA KENDRICK'S SECOND SET OF SUPPLEMENTAL ANSWERS TO INTERROGATORIES was served on Opposer by mailing a true copy thereof to Opposer, by Certified Mail, postage prepaid, this 29th, Day of August, 2003.

MAILED TO:

MR. JOHN C. STRINGHAM  
WORKMAN, NYDEGGER,  
& SEELY  
1000 Eagle Gate Tower  
60 East South Temple  
Salt Lake City, UT. 84111



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# **Exhibit F**

Exhibit "B"

COUNTY CLERK - RECORDER

100 MAIN STREET  
P.O. Box 155, Danvers, Ca 94625  
(510) 442-2254

THIS SPACE FOR USE OF COUNTY CLERK

**FILE**

MAR 20 1996

SJ. WEIR, COUNTY CLERK  
CONTRA COSTA COUNTY  
BY **S. TAYLOR**

PLEASE PRINT OR TYPE

**SEE REVERSE SIDE FOR INSTRUCTIONS**

**FILING FEE**

\$125 - FOR FIRST BUSINESS NAME OR STATEMENT  
 \$ 50 - FOR EACH ADDITIONAL BUSINESS NAME FILED ON SAME STATEMENT AND DONE BUSINESS AT THE SAME LOCATION  
 \$ 50 - FOR EACH ADDITIONAL OWNER IN EXCESS OF ONE OWNER

**FICTITIOUS BUSINESS NAME STATEMENT**

NEW  RENEW

THE NAME(S) OF THE BUSINESS(ES):

FILE NO. 96-188

\* Stachis exclusives

(Print Fictitious Business Name(s) of Line Above)

\*\* LOCATED AT: 545 SUNNYSIDE DRIVE

(Street Address of Business - If No Street Address Assigned - Give Exact Location of Business Plus P.O. Box or Rural Route)

Pinole

(City and Zip)

IS (ARE) HEREBY REGISTERED BY THE FOLLOWING OWNER(S):

\*\*\* Sumatra Ophelia Kandrak

(Full Name - Type/Print)

(Full Name - Type/Print)

545 SUNNYSIDE DRIVE

(Residence Address of incorporation, state or incorporation)

(Residence Address of state of incorporation if incorporated)

Pinole CA 94564

(City and Zip)

(City and Zip)

(Signature)

(Full Name - Type/Print)

(Signature)

(Full Name - Type/Print)

(Residence Address of state of incorporation if incorporated)

(Residence Address of state of incorporation if incorporated)

(City and Zip)

(City and Zip)

(If More Than 4 Registrants - Attach Additional Sheet Showing Owner Information)

\*\*\*\* This business is conducted by:  an individual  individuals - Husband and Wife  a General Partnership  a Limited Partnership  a Corporation  a Business Trust  Co-Partners  a Joint Venture  an Unincorporated Association - other than a Partnership  a Limited Liability Co.  Other (specify)

\*\*\*\* The registrant commenced to transact business under the fictitious business name or names listed above on 3/20/96

SIGNATURE OF REGISTRANT:

Sumatra Ophelia Kandrak  
Sumatra Ophelia Kandrak

(Print name of person signing and, if a corporate officer, also state title)

THIS STATEMENT WAS FILED WITH THE COUNTY CLERK OF CONTRA COSTA COUNTY ON DATE INDICATED BY FILE STAMP ABOVE

NOTICE: THIS FICTITIOUS BUSINESS NAME STATEMENT EXPIRES ON 3/20 2001. A NEW FICTITIOUS BUSINESS NAME STATEMENT MUST BE FILED PRIOR TO 3/20 2001. THE FILING OF THIS STATEMENT DOES NOT OF ITSELF AUTHORIZE THE USE IN THIS STATE OF A FICTITIOUS BUSINESS NAME IN VIOLATION OF THE RIGHTS OF ANOTHER UNDER FEDERAL STATE OR COMMON LAW (SEE SECTION 14401 ET SEQ. BUSINESS AND PROFESSIONS CODE)

**PROOF OF PUBLICATION**  
**(2015.5 C.C.P.)**

STATE OF CALIFORNIA  
County of Contra Costa

I am a citizen of the United States and a resident of the County aforesaid; I am over the age of eighteen years, and not a party to or interested in the above-entitled matter.

I am the Principal Legal Clerk of the West County Times, a newspaper of general circulation, printed and published at 2640 Shadelands Drive in the City of Walnut Creek, County of Contra Costa, 94598.

And which newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of Contra Costa, State of California, under the date of August 29, 1978. Case Number 188884.

The notice, of which the annexed is a printed copy (set in type not smaller than nonpareil), has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to-wit:

.....  
all in the year of 19.....  
*June 5, 8, 15, 22*

I certify (or declare) under penalty of perjury that the foregoing is true and correct.

Executed at Walnut Creek, California.

On this..... day of..... 19.....  
*22 June 96*

.....  
Signature  
*Chris Kraft*

West County Times  
P.O. Box 100  
Pinole, CA 94564  
(510) 262-2740

Proof of Publication of:  
(attached is a copy of the legal advertisement that published)

FILED  
May 2, 1996  
STEPHEN L. WEIR,  
County Clerk  
CONTRA COSTA COUNTY  
By M. RICHARDS, Deputy  
FILE NO. 86-2906  
**FICTITIOUS BUSINESS  
NAME STATEMENT**  
The name of the business:  
STASCH'S Exclusive located  
at 545 Sunnyview Drive #301  
in Pinole, CA 94564 is hereby  
registered by the following  
owner(s):  
Sumatra Ophelia Kendrick  
545 Sunnyview Drive #301  
Pinole, CA 94564  
  
This business is conducted  
by: an individual  
a/ Sumatra Kendrick  
This statement was filed  
with the County Clerk of Con-  
tra Costa on date indicated  
by file stamp above.  
Business commenced on  
Expires May 2, 1996  
May 2, 2001  
Legal WCT 0321  
Publish June 5, 6, 15, 22,  
1996

# **Exhibit G**



## DEFINITIONS AND INSTRUCTIONS

1. "Opposer" or "SINCLAIR" means SINCLAIR OIL CORPORATION, its predecessors in interests, its present and former officers, directors, agents, representatives and employees, and any other person acting on behalf of any of the foregoing.

2. "Applicant," "you," or "your" means SUMATRA KENDRICK the Applicant of United States Trademark Application Serial No. 76/212,011 for the mark STAACHI'S CO. 1996 and DESIGN, or any assignee, predecessor in interest, successor in interests, its present and former directors, agents, representatives, employees, divisions, subsidiaries, and/or any other party acting on behalf of or in concert with any of the foregoing.

3. The "Mark" shall refer to the mark STAACHI'S CO. 1996 & DESIGN.

4. "DESIGN" or "SUN DESIGN" refers to the graphical portion of the mark STAACHI'S CO. 1996 and DESIGN excluding letters and numbers as filed in United States Trademark Application Serial No. 76/212,011.

5. "Any portion" of the name or mark means the text "STAACHI'S CO. 1996" and/or the graphical "DESIGN" used either alone or in combination.

6. "Person" shall include not only natural persons, but also all firms, partnerships, associations, joint ventures, corporations, governmental entities and other entities and each division, department, and other unit thereof.

7. Reference to any corporate or other business entity includes each of the past or present directors, officers, partners, managing agents, employees, agents, servants, representatives, subsidiaries, divisions, or affiliates, wherever located and whether or not owned, either wholly or in part, by such entity.

8. "Statement" means any representation made by word or deed. The representation may be written or oral, expressed, or implied. Statements, by way of example and without limitation, include everything contained in a document as previously defined, anything written in any form, any oral utterance of any type, and any gesture made. The absence of these may also be a statement.

9. "Trademark" and "mark" shall refer to both trademarks and service marks.

10. All other terms not otherwise defined are to be given their ordinary and common meaning.

## **REQUESTS FOR ADMISSIONS**

### **REQUEST FOR ADMISSION NO. 1:**

Admit that Applicant filed United States Trademark Application Serial No. 76/212,011.

### **REQUEST FOR ADMISSION NO. 2:**

Admit that Applicant filed United States Trademark Application Serial No. 76/212,011 seeking federal trademark registration for the mark “STAACHI’S & CO. 1996” and DESIGN.

### **REQUEST FOR ADMISSION NO. 3:**

Admit that Applicant filed United States Trademark Application Serial No. 76/212,011 seeking registration of the mark “STAACHI’S & CO. 1996” and DESIGN on the principal register.

### **REQUEST FOR ADMISSION NO. 4:**

Admit that Applicant filed United States Trademark Application Serial No. 76/212,011 seeking federal trademark registration for the mark “STAACHI’S & CO. 1996” and DESIGN on February 20, 2001.

### **REQUEST FOR ADMISSION NO. 5:**

Admit that United States Trademark Application Serial No. 76/212,011 for the mark “STACCHI’S & CO. 1996” and DESIGN claims that the mark “STACCHI’S & CO. 1996” and DESIGN was first used in March 1996.

**REQUEST FOR ADMISSION NO. 6:**

Admit that United States Trademark Application Serial No. 76/212,011 for the mark “STACCHI’S & CO. 1996” and DESIGN claims that the mark “STACCHI’S & CO. 1996” and DESIGN was first used in commerce on March 20, 1996.

**REQUEST FOR ADMISSION NO. 7:**

Admit that all representations made by Applicant to the United States Trademark Office regarding United States Trademark Application Serial No. 76/212,011 have been true.

**REQUEST FOR ADMISSION NO. 8:**

Admit that Applicant filed United States Trademark Application Serial No. 76/212,011 for the mark “STAACHI’S & CO. 1996” and DESIGN under penalty of perjury.

**REQUEST FOR ADMISSION NO. 9:**

Admit that when Applicant filed United States Trademark Application Serial No. 76/212,011 for the mark “STAACHI’S & CO. 1996” and DESIGN Applicant declared that all the statements made therein were truthful.

**REQUEST FOR ADMISSION NO. 10:**

Admit that Applicant is in the formation stage of her business.

**REQUEST FOR ADMISSION NO. 11:**

Admit that Applicant has not been able to acquire any additional funding to allow her to conduct her business in commerce.

**REQUEST FOR ADMISSION NO. 12:**

Admit that Applicant has not acquired funding sufficient to conduct any business using the mark "STAACHI'S & CO. 1996" and DESIGN.

**REQUEST FOR ADMISSION NO. 13:**

Admit that Applicant has not engaged in commerce with products bearing the mark "STAACHI'S & CO. 1996" with DESIGN.

**REQUEST FOR ADMISSION NO. 14:**

Admit that Applicant has not "used" the name or mark "STAACHI'S & CO. 1996" and DESIGN in regular business.

**REQUEST FOR ADMISSION NO. 15:**

Admit that the name and mark "STAACHI'S & CO. 1996" has never been used in commerce.

**REQUEST FOR ADMISSION NO. 16:**

Admit that Applicant did create some sample products in 1996.

**REQUEST FOR ADMISSION NO. 17:**

Admit that in 1996 Applicant created sample products bearing the mark "STAACHI'S & CO. 1996" and DESIGN.

**REQUEST FOR ADMISSION NO. 18:**

Admit that the sample products created in 1996 by Applicant bearing the mark "STAACHI'S & CO. 1996" and DESIGN were bath beads.

**REQUEST FOR ADMISSION NO. 19:**

Admit that the sample products Applicant created in 1996 used the mark “STAACHI’S & CO. 1996” and DESIGN on the label.

**REQUEST FOR ADMISSION NO. 20:**

Admit that the sample products Applicant created in 1996 bearing the mark “STAACHI’S & CO. 1996” and DESIGN were limited to about 25.

**REQUEST FOR ADMISSION NO. 21:**

Admit that the creation of the 25 sample products by Applicant in 1996 was a one time creation.

**REQUEST FOR ADMISSION NO. 22:**

Admit that the 25 sample products created in 1996 by Applicant were a one time experimental project.

**REQUEST FOR ADMISSION NO. 23:**

Admit that none of Applicant’s sample products created in 1996 bearing the mark “STAACHI’S & CO. 1996” and DESIGN were ever sold.

**REQUEST FOR ADMISSION NO. 24:**

Admit that Applicant did no advertising or promotion for the sample products Applicant created in 1996 which used the mark “STAACHI’S & CO. 1996” and DESIGN.

**REQUEST FOR ADMISSION NO. 25:**

Admit that none of the 25 sample products created by Applicant in 1996 bearing the mark “STAACHI’S & CO. 1996” and DESIGN are now in existence.

**REQUEST FOR ADMISSION NO. 26:**

Admit that the 25 sample products created in 1996 bearing the mark “STAACHI’S & CO. 1996” and DESIGN were given away as free samples.

**REQUEST FOR ADMISSION NO. 27:**

Admit that the 25 sample products created in 1996 bearing the mark “STAACHI’S & CO. 1996” and DESIGN were given away free of charge.

**REQUEST FOR ADMISSION NO. 28:**

Admit that Applicant received no money for the 25 sample products created in 1996.

**REQUEST FOR ADMISSION NO. 29:**

Admit that Applicant has not used the mark “STAACHI’S & CO. 1996” and DESIGN since approximately April 1996.

**REQUEST FOR ADMISSION NO. 30:**

Admit that since 1996 Applicant has only attempted to reserve the name or mark “STAACHI’S & CO. 1996” and DESIGN.

**REQUEST FOR ADMISSION NO. 31:**

Admit that Applicant sought to register the name or mark “STAACHI’S & CO. 1996” and DESIGN to protect the utilization of the mark when and if her business is opened.

**REQUEST FOR ADMISSION NO. 32:**

Admit that Applicant’s business is not open.

**REQUEST FOR ADMISSION NO. 33:**

Admit that Applicant's business has never been open.

**REQUEST FOR ADMISSION NO. 34:**

Admit that Applicant has only created sample products bearing the mark "STAACHI'S & CO. 1996" and the DESIGN.

**REQUEST FOR ADMISSION NO. 35:**

Admit that Applicant's business has never sold products bearing the mark "STAACHI'S & CO. 1996" and DESIGN.

**REQUEST FOR ADMISSION NO. 36:**

Admit that Applicant does not have any invoices, documents or writings to establish any use in commerce of the mark "STAACHI'S & CO. 1996" and DESIGN.

**REQUEST FOR ADMISSION NO. 37:**

Admit that Applicant has not had any income from the sale of products using the mark "STAACHI'S & CO. 1996" and DESIGN.

**REQUEST FOR ADMISSION NO. 38:**

Admit that Applicant does not anticipate deriving income from any business using the mark "STAACHI'S & CO. 1996" and DESIGN over the next five years.

**REQUEST FOR ADMISSION NO. 39:**

Admit that Applicant has never used the mark "STAACHI'S & CO. 1996" and DESIGN in commerce in the United States.

**REQUEST FOR ADMISSION NO. 40:**

Admit that Applicant has not done any marketing using the mark “STAACHI’S & CO. 1996” and DESIGN.

**REQUEST FOR ADMISSION NO. 41:**

Admit that Applicant would anticipate utilizing introduction letters having the mark “STAACHI’S & CO. 1996” and DESIGN on them.

**REQUEST FOR ADMISSION NO. 42:**

Admit that Applicant has never used introduction letters having the mark “STAACHI’S & CO. 1996” and DESIGN on them.

**REQUEST FOR ADMISSION NO. 43:**

Admit that Applicant would anticipate utilizing brochures having the mark “STAACHI’S & CO. 1996” and DESIGN on them.

**REQUEST FOR ADMISSION NO. 44:**

Admit that Applicant has never used brochures having the mark “STAACHI’S & CO. 1996” and DESIGN on them.

**REQUEST FOR ADMISSION NO. 45:**

Admit that none of Applicant’s sample products created bearing the mark “STAACHI’S & CO. 1996” and DESIGN were ever sold.

**REQUEST FOR ADMISSION NO. 46:**

Admit that Applicant’s sample products created bearing the mark “STAACHI’S & CO. 1996” and DESIGN were given away in the Bay area of California.

**REQUEST FOR ADMISSION NO. 47:**

Admit that Applicant has no basis at this time for intended use of the mark “STAACHI’S & CO. 1996” and DESIGN.

**REQUEST FOR ADMISSION NO. 48:**

Admit that Applicant cannot anticipate any basis of intended use of the mark “STAACHI’S & CO. 1996” and DESIGN until funding is found.

**REQUEST FOR ADMISSION NO. 49:**

Admit that it has been over 6 years and Applicant has not been able to do business using the mark “STAACHI’S & CO. 1996” and DESIGN.

**REQUEST FOR ADMISSION NO. 50:**

Admit that Applicant does not anticipate any retail store services being used under the mark “STAACHI’S & CO. 1996” and DESIGN.

**REQUEST FOR ADMISSION NO. 51:**

Admit that Applicant has no future plans for expansion using the mark “STAACHI’S & CO. 1996” and DESIGN.

**REQUEST FOR ADMISSION NO. 52:**

Admit that Applicant has not engaged in commerce.

**REQUEST FOR ADMISSION NO. 53:**

Admit that Applicant anticipates when and if her business is ever engaged in commerce using the mark “STAACHI’S & CO. 1996” and DESIGN the goods will be distributed from Applicant’s home based business and flea markets.

**REQUEST FOR ADMISSION NO. 54:**

Admit that Applicant filed a Fictitious Business Name Statement in Contra County, CA for the mark "STAACHI'S & CO. 1996" in March 1996.

**REQUEST FOR ADMISSION NO. 55:**

Admit that the name "STAACHI'S & CO. 1996" was registered as a Fictitious Business Name Statement in March 1996.

**REQUEST FOR ADMISSION NO. 56:**

Admit that the name "STAACHI'S & CO. 1996" was registered as a Fictitious Business Name Statement in March 1996 to reserve the name.

**REQUEST FOR ADMISSION NO. 57:**

Admit that the name "STAACHI'S & CO. 1996" was registered as a Fictitious Business Name Statement in March 1996 to notify others that Applicant intended to do business in the future under that name.

**REQUEST FOR ADMISSION NO. 58:**

Admit that Exhibit A attached hereto is a copy of the Fictitious Business Name Statement in Contra County, CA for the mark "STAACHI'S & CO. 1996" filed by Applicant in March 1996.

**REQUEST FOR ADMISSION NO. 59:**

Admit that Applicant's filing of a Fictitious Business Name Statement in Contra County, CA for the name "STAACHI'S & CO. 1996" did not include the design portion of the mark claimed in United States Trademark Application Serial No. 76/212,011.

**REQUEST FOR ADMISSION NO. 60:**

Admit that Exhibit B attached hereto is a copy of the Proof of Publication of Applicant's Fictitious Business Name for the mark "STAACHI'S & CO. 1996."

**REQUEST FOR ADMISSION NO. 61:**

Admit that the Proof of Publication for Applicant's filing of a Fictitious Business Name "STAACHI'S & CO. 1996" attached as Exhibit B did not include the design portion of the mark claimed in United States Trademark Application Serial No. 76/212,011.

**REQUEST FOR ADMISSION NO. 62:**

Admit that Applicant's business has no employees.

**REQUEST FOR ADMISSION NO. 63:**

Admit that Applicant has not been granted any authority to use the mark "STAACHI'S & CO. 1996" and DESIGN in her business.

DATED this 17<sup>th</sup> day of October, 2003.

By: Robyn L Phillips

John C. Stringham, Registration No. 40,831

Robyn L. Phillips, Registration No. 39,330

WORKMAN, NYDEGGER & SEELEY

1000 Eagle Gate Tower

60 East South Temple

Salt Lake City, Utah 84111

Telephone: (801) 533-9800

Facsimile: (801) 328-1707

Attorneys for Opposer

SINCLAIR OIL CORPORATION

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing **SINCLAIR'S FIRST SET OF REQUESTS FOR ADMISSION** was served on Applicant by mailing a true copy thereof to its attorney of record, by First Class Mail, postage prepaid, this 17<sup>th</sup> day of October, 2003, in an envelope addressed as follows:

Sumatra Kendrick  
P.O. Box 434  
Berkeley, CA 94701

J:\15027203\011 First Requests for Admissions.doc

  
\_\_\_\_\_

J:\15027203\011 First Requests for Admissions.doc

# **Exhibit A**

Exhibit "B"

COUNTY CLERK - RECORDER

300 Main Street  
P.O. Box 350, Martinez, CA 94553  
(510) 440-2354

This Space For Use of County Clerk

**FILE**

MAR 20 1996

ST. WEIR, COUNTY CLERK  
CONTRA COSTA COUNTY  
BY **STAYLOR**

PLEASE PRINT OR TYPE

**SEE REVERSE SIDE FOR INSTRUCTIONS**

**FILING FEE**

\$15.00 FOR FIRST BUSINESS NAME ON STATEMENT  
 \$ 5.00 FOR EACH ADDITIONAL BUSINESS NAME FILED ON SAME STATEMENT AND SAME BUSINESS AT THE SAME LOCATION  
 \$ 5.00 FOR EACH ADDITIONAL OWNER IN EXCESS OF ONE OWNER

**FICTITIOUS BUSINESS NAME STATEMENT**

NEW  RENEW

THE NAME(S) OF THE BUSINESS(ES):

FILE NO. 96-188

\* StaaCHi'S exclusives  
(Print Fictitious Business Name(s) of Line Above)

\*\* LOCATED AT: 545 SUNNYVIEW DRIVE  
(Street Address of Business - If No Street Address Assigned - Give Exact Location of Business Plus P.O. Box or Rural Route)

# Pittole  
(City and Zip)

IS (ARE) HEREBY REGISTERED BY THE FOLLOWING OWNER(S):

\*\*\* Sumatra Oshola Kenbeck \*\*\*  
(Full Name - Type/Print)

545 SUNNYVIEW DRIVE  
(Residence Address of if corporation, state of incorporation)

Pittole CA 94564  
(City and Zip)

Sumatra Oshola Kenbeck  
(Full Name - Type/Print)

(Residence Address or state of incorporation if incorporated)

(City and Zip)

Sumatra Oshola Kenbeck  
(Full Name - Type/Print)

(Residence Address or state of incorporation if incorporated)

(City and Zip)

(If More Than 4 Registrants - Attach Additional Sheet Showing Owner Information)

\*\*\*\* This business is conducted by:  an individual  individuals - Husband and Wife  a General Partnership  a Limited Partnership  a Corporation  a Business Trust  Co-Partners  a Joint Venture  an Unincorporated Association - other than a Partnership  a Limited Liability Co.  Other (specify)

\*\*\*\* The registrant commenced to transact business under the fictitious business name or names listed above on 3/20/96

SIGNATURE OF REGISTRANT: Sumatra Oshola Kenbeck

(Print name of person signing and, if a corporate officer, also state title)

THIS STATEMENT WAS FILED WITH THE COUNTY CLERK OF CONTRA COSTA COUNTY ON DATE INDICATED BY FILE STAMP ABOVE

NOTICE THIS FICTITIOUS BUSINESS NAME STATEMENT EXPIRES ON 3/20 2001. A NEW FICTITIOUS BUSINESS NAME STATEMENT MUST BE FILED PRIOR TO 3/20 2001

THE FILING OF THIS STATEMENT DOES NOT OF ITSELF AUTHORIZE THE USE IN THIS STATE OF A FICTITIOUS BUSINESS NAME IN VIOLATION OF THE RIGHTS OF ANOTHER UNDER FEDERAL, STATE OR COMMON LAW (SEE SECTION 14400 ET SEQ., BUSINESS AND PROFESSIONS CODE)

CH 15-00 #40

# **Exhibit B**

Exhibit "C"

**PROOF OF PUBLICATION**  
**(2015.5 C.C.P.)**

STATE OF CALIFORNIA  
County of Contra Costa

I am a citizen of the United States and a resident of the County aforesaid; I am over the age of eighteen years, and not a party to or interested in the above-entitled matter.

I am the Principal Legal Clerk of the West County Times, a newspaper of general circulation, printed and published at 2640 Shadelands Drive in the City of Walnut Creek, County of Contra Costa, 94598.

And which newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of Contra Costa, State of California, under the date of August 29, 1978. Case Number 188884.

The notice, of which the annexed is a printed copy (set in type not smaller than nonpareil), has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to-wit:

June 5, 8, 15, 22, 29

all in the year of 19...96

I certify (or declare) under penalty of perjury that the foregoing is true and correct.

Executed at Walnut Creek, California.

On this 22 day of June, 1996

*Chris Kraft*  
Signature

West County Times  
P.O. Box 100  
Pinole, CA 94564  
(510) 262-2740

Proof of Publication of:  
(attached is a copy of the legal advertisement that published)

FILED  
May 2, 1996  
STEPHEN L. WEIR,  
County Clerk  
CONTRA COSTA COUNTY  
By M. RICHARDS, Deputy  
FILE NO. 96-2806  
**FICTITIOUS BUSINESS  
NAME STATEMENT**  
The name of the business:  
STAFF'S Explosive located  
at 545 Sunnyview Drive #301  
in Pinole, CA 94564 is hereby  
registered, by the following  
owner(s):  
Sumatra Ophelia Kendrick  
545 Sunnyview Drive #301  
Pinole, CA 94564  
This business is conducted  
by an individual  
/s/ Sumatra Kendrick  
This statement was filed  
with the County Clerk of Con-  
tra Costa on date indicated  
by the stamp above.  
Business commenced on  
May 2, 1996  
Expires May 2, 2001  
Legal WCT 0321  
Publish June 5, 8, 15, 22,  
1996

# **Exhibit H**

**TRADEMARK OPPOSITION**  
File No. 15027.203

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

In the matter of Trademark Application Serial No. 76/212,011  
Published in the Official Gazette of May 28, 2002, at page TM 1497, Int'l Class 35  
Filed: February 20, 2001  
Mark: STAACHI'S CO. 1996 & DESIGN

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SINCLAIR OIL CORPORATION

Opposer,

Opposition No. 152,940

v.

APPLICANT'S RESPONSE TO  
OPPOSER, SINCLAIR'S  
REQUEST FOR ADMISSIONS

SUMATRA KENDRICK

Applicant.

---

**RESPONSE**

Applicant, Sumatra Kendrick files this her response and objections to the Request for Admissions filed by the Opposer, Sinclair Oil Corporation. Applicant responds as follows:

## REQUEST FOR ADMISSION RESPONSE

1. RESPONSE TO REQUEST FOR ADMISSION # 1

RESPONSE: ADMIT

2. RESPONSE TO REQUEST FOR ADMISSION # 2

RESPONSE: ADMIT

3. RESPONSE TO REQUEST FOR ADMISSION # 3

**OBJECTION:** Applicant objects to this request for admission in that it is a duplication of prior request and repetitive. Subject to Applicants objection Applicant would respond as follows:

RESPONSE: ADMIT

4. RESPONSE TO REQUEST FOR ADMISSION # 4

**OBJECTION:** Applicant objects to this request for admission in that it is a duplication of prior request and repetitive. Subject to Applicants objection Applicant would respond as follows:

RESPONSE: ADMIT

5. RESPONSE TO REQUEST FOR ADMISSION # 5

RESPONSE: ADMIT

6. RESPONSE TO REQUEST FOR ADMISSION # 6

RESPONSE: DENY

7. RESPONSE TO REQUEST FOR ADMISSION # 7

RESPONSE: ADMIT

8. RESPONSE TO REQUEST FOR ADMISSION # 8

**OBJECTION:** Applicant objects to this request for admission in that it is a duplication of prior request and repetitive. Subject to Applicants objection Applicant would respond as follows:

**RESPONSE: ADMIT**

**9. RESPONSE TO REQUEST FOR ADMISSION # 9**

**OBJECTION:** Applicant objects to this request for admission in that it is a duplication of prior request and repetitive. Subject to Applicants objection Applicant would respond as follows:

**RESPONSE: ADMIT**

**10. RESPONSE TO REQUEST FOR ADMISSION # 10**

**RESPONSE: ADMIT**

**11. RESPONSE TO REQUEST FOR ADMISSION # 11**

**RESPONSE: ADMIT**

**12. RESPONSE TO REQUEST FOR ADMISSION # 12**

**RESPONSE: DENY**

**13. RESPONSE TO REQUEST FOR ADMISSION # 13**

**RESPONSE: ADMIT**

**14. RESPONSE TO REQUEST FOR ADMISSION # 14**

**RESPONSE: ADMIT**

**15. RESPONSE TO REQUEST FOR ADMISSION # 15**

**RESPONSE: ADMIT**

**16. RESPONSE TO REQUEST FOR ADMISSION # 16**

**RESPONSE: ADMIT**

**17. RESPONSE TO REQUEST FOR ADMISSION # 17**

**RESPONSE: ADMIT**

18. RESPONSE TO REQUEST FOR ADMISSION # 18

RESPONSE: ADMIT

19. RESPONSE TO REQUEST FOR ADMISSION # 19

RESPONSE: ADMIT

20. RESPONSE TO REQUEST FOR ADMISSION # 20

OBJECTION: Applicant objects to this request for admission in that it is a duplication of prior request and repetitive. Subject to Applicants objection Applicant would respond as follows:

RESPONSE: ADMIT

21. RESPONSE TO REQUEST FOR ADMISSION # 21

RESPONSE: ADMIT

22. RESPONSE TO REQUEST FOR ADMISSION # 22

RESPONSE: DENY

23. RESPONSE TO REQUEST FOR ADMISSION # 23

RESPONSE: ADMIT

24. RESPONSE TO REQUEST FOR ADMISSION # 24

RESPONSE: ADMIT

25. RESPONSE TO REQUEST FOR ADMISSION # 25

RESPONSE: ADMIT

26. RESPONSE TO REQUEST FOR ADMISSION # 26

RESPONSE: ADMIT

27. RESPONSE TO REQUEST FOR ADMISSION # 27

**OBJECTION:** Applicant objects to this request for admission in that it is a duplication of prior request and repetitive. Subject to Applicants objection Applicant would respond as follows:

**RESPONSE: ADMIT**

**28. RESPONSE TO REQUEST FOR ADMISSION # 28**

**OBJECTION:** Applicant objects to this request for admission in that it is a duplication of prior request and repetitive. Subject to Applicants objection Applicant would respond as follows:

**RESPONSE: ADMIT**

**29. RESPONSE TO REQUEST FOR ADMISSION # 29**

**RESPONSE: DENY**

**30. RESPONSE TO REQUEST FOR ADMISSION # 30**

**RESPONSE: DENY**

**31. RESPONSE TO REQUEST FOR ADMISSION # 31**

**RESPONSE: ADMIT**

**32. RESPONSE TO REQUEST FOR ADMISSION # 32**

**RESPONSE: ADMIT**

**33. RESPONSE TO REQUEST FOR ADMISSION # 33**

**RESPONSE: ADMIT**

**34. RESPONSE TO REQUEST FOR ADMISSION # 34**

**RESPONSE: ADMIT**

**35. RESPONSE TO REQUEST FOR ADMISSION # 35**

**RESPONSE: ADMIT**

**36. RESPONSE TO REQUEST FOR ADMISSION # 36**

**RESPONSE: ADMIT**

37. RESPONSE TO REQUEST FOR ADMISSION # 37

RESPONSE: ADMIT

38. RESPONSE TO REQUEST FOR ADMISSION # 38

RESPONSE: DENY

39. RESPONSE TO REQUEST FOR ADMISSION # 39

RESPONSE: DENY

40. RESPONSE TO REQUEST FOR ADMISSION # 40

RESPONSE: ADMIT

41. RESPONSE TO REQUEST FOR ADMISSION # 41

RESPONSE: ADMIT

42. RESPONSE TO REQUEST FOR ADMISSION # 42

RESPONSE: ADMIT

43. RESPONSE TO REQUEST FOR ADMISSION # 43

RESPONSE: DENY

44. RESPONSE TO REQUEST FOR ADMISSION # 44

RESPONSE: ADMIT

45. RESPONSE TO REQUEST FOR ADMISSION # 45

OBJECTION: Applicant objects to this request for admission in that it is a duplication of prior request and repetitive. Subject to Applicants objection Applicant would respond as follows:

RESPONSE: ADMIT

46. RESPONSE TO REQUEST FOR ADMISSION # 46

RESPONSE: ADMIT

47. RESPONSE TO REQUEST FOR ADMISSION # 47

**RESPONSE: DENY**

**48. RESPONSE TO REQUEST FOR ADMISSION # 48**

**RESPONSE: DENY**

**49. RESPONSE TO REQUEST FOR ADMISSION # 49**

**RESPONSE: ADMIT**

**50. RESPONSE TO REQUEST FOR ADMISSION # 50**

**RESPONSE: ADMIT**

**51. RESPONSE TO REQUEST FOR ADMISSION # 51**

**RESPONSE: DENY**

**52. RESPONSE TO REQUEST FOR ADMISSION # 52**

**RESPONSE: ADMIT**

**53. RESPONSE TO REQUEST FOR ADMISSION # 53**

**RESPONSE: ADMIT**

**54. RESPONSE TO REQUEST FOR ADMISSION # 54**

**RESPONSE: ADMIT**

**55. RESPONSE TO REQUEST FOR ADMISSION # 55**

**RESPONSE: ADMIT**

**56. RESPONSE TO REQUEST FOR ADMISSION # 56**

**RESPONSE: ADMIT**

**57. RESPONSE TO REQUEST FOR ADMISSION # 57**

**RESPONSE: ADMIT**

**58. RESPONSE TO REQUEST FOR ADMISSION # 58**

**RESPONSE: ADMIT**

59. RESPONSE TO REQUEST FOR ADMISSION # 59

RESPONSE: ADMIT

60. RESPONSE TO REQUEST FOR ADMISSION # 60

RESPONSE: ADMIT

61. RESPONSE TO REQUEST FOR ADMISSION # 61

RESPONSE: ADMIT

62. RESPONSE TO REQUEST FOR ADMISSION # 62

RESPONSE: ADMIT

63. RESPONSE TO REQUEST FOR ADMISSION # 63

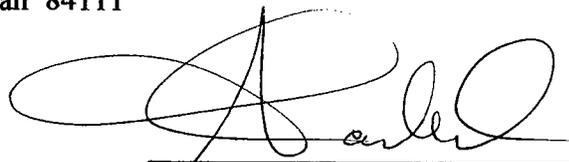
RESPONSE: DENY

  
BY SUMATRA KENDRICK

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing APPLICANT'S  
RESPONSE TO OPPOSER SINCLAR'S REQUEST FOR ADMISSION was served on  
Opposer by mailing a true copy herein by certified mail, return receipt requested, ,  
prepaid, on this the 17 day of November, 2003, in an envelope addressed as follows:

Robyn L. Phillips  
WORKMAN, NYDEGGER & SEELEY  
1000 Eagle Gate Tower  
60 East South Temple  
Salt Lake City, Utah 84111

  
SUMATRA KENDRICK

# **Exhibit I**

**JAMES E. WHITE, d/b/a R.I. PRODUCTIONS, Appellant, v. PARAMOUNT PICTURES CORPORATION, Appellee.**

**96-1096, (Opposition No. 90-130)**

**UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT**

*1997 U.S. App. LEXIS 3079*

**February 21, 1997, Decided**

**NOTICE:** [\*1] RULES OF THE FEDERAL CIRCUIT COURT OF APPEALS MAY LIMIT CITATION TO UNPUBLISHED OPINIONS. PLEASE REFER TO THE RULES OF THE UNITED STATES COURT OF APPEALS FOR THIS CIRCUIT.

**SUBSEQUENT HISTORY:** Reported in Table Case Format at: *108 F.3d 1392, 1997 U.S. App. LEXIS 9917.*

**DISPOSITION:** Affirmed.

**JUDGES:** Before MICHEL, Circuit Judge, SMITH, Senior Circuit Judge, and CLEVENGER, Circuit Judge.

**OPINIONBY:** SMITH

**OPINION:** SMITH, Senior Circuit Judge.

*Decision*

Mr. White appeals the decision of the Trademark Trial and Appeal Board, granting summary judgment sustaining Paramount's opposition and denying White's application for registration of the mark THE ROMULANS on the principal register. The judgment of the Trademark Trial and Appeal Board is affirmed.

*Facts*

Appellant is the principal member of, and songwriter for, a rock-and-roll band called "The Romulans." The band performs at concerts and parties and advertises in rock-and-roll magazines. Mr. White also promotes his band by sending recordings to radio stations and distributing fliers and promotional handouts. One such promotional device is The Romulans' connect-the-dots game. Mr. White created the connect-the-dots game in 1982. The game consists of three photocopied pages stapled together. The first page bears the instructions for the [\*2] game, the name and address of the band, and the mark THE ROMULANS with a design mark consisting of

three overlapping triangles. The second page is the actual game. The third page depicts the "solution" to the game, the Romulans' logo, a three triangle design, which is visible through the second page of the game, and the mark THE ROMULANS. Mr. White filed an application to register the mark THE ROMULANS for "parlor games namely connect the dots game sets."

Mr. White distributes the games at performances by the band, at performances by other bands, through the mail, and to friends, sometimes giving away the game, sometimes selling the game. He has sold these games for 25 cents, 50 cents, and sometimes a dollar. He does not keep business records as to how many games that he has sold, but attests that he has sold "at least a couple of hundred games" since 1982 and estimates that he now sells approximately twenty to twenty-five games per year.

Paramount Pictures Corporation ("Paramount") opposes the registration. Paramount produced the television programs "Star Trek" and "Star Trek: The Next Generation" along with five "Star Trek" movies. Paramount coined the term ROMULANS to [\*3] refer to an alien race of space creatures and Romulans have been featured in the Star Trek productions from 1966 to the present. n1

n1 This is the second trademark litigation between these parties. In the first, Paramount opposed White's application to use the mark THE ROMULANS for his band. White prevailed and the mark was registered to him on the principal register for "entertainment services, namely, live and recorded performances by a vocal and instrumental group." See *Paramount Pictures Corp. v. Romulan Invasions*, 1988 TTAB LEXIS 34, 7 U.S.P.Q.2D (BNA) 1897 (T.T.A.B. 1988).

*Proceedings Below*

On August 6, 1991, appellant filed an application in the United States Patent and Trademark Office, Serial Number 74/192,222, to register the mark THE ROMULANS for "parlor games namely connect the dots game sets." Paramount filed a notice of opposition on December 15, 1992.

Before the Trademark Trial and Appeal Board ("TTAB"), Paramount moved for summary judgment sustaining the opposition and denying registration of the mark. The [\*4] TTAB granted Paramount's motion for summary judgment finding that the mark did not qualify for trademark registration because the game in question was not a "good" and the use of the game was not a "bona fide use in commerce." *Paramount Pictures Corp. v. White*, 31 U.S.P.Q.2D (BNA) 1768, 1773, 1775 (T.T.A.B. 1994). n2

n2 After this decision, the proceedings were suspended pending Paramount's submission of a showing of standing. On August 10, 1995, the TTAB ruled that Paramount had standing in this proceeding.

#### *Jurisdiction and Standard of Review*

This court has jurisdiction over appeals from decisions of the TTAB under 15 U.S.C. § 1071. In reviewing a grant of summary judgment, this court must make an independent determination as to whether the standards for summary judgment have been met. See *Intellicall Inc. v. Phonometrics Inc.*, 952 F.2d 1384, 1387, 21 U.S.P.Q.2D (BNA) 1383, 1386 (Fed. Cir. 1992); *Ortho Pharmaceutical Corp. v. Genetics Institute, Inc.*, 52 F.3d 1026, 1033, 34 U.S.P.Q.2D (BNA) 1444, 1448 (Fed. Cir. 1995). [\*5]

#### *Discussion*

Paramount contends that sales of Mr. White's game do not meet the requirements of bona fide sales of a good in commerce needed for trademark registration. Section 45 of the Lanham Act ("Act") defines a trademark as a "word, name, symbol, or device . . . used by a person . . . to identify and distinguish his or her goods." 15 U.S.C. § 1127 (emphasis added). Moreover, Section 1 of the Act speaks of registration of marks "used in commerce." 15 U.S.C. 1051(a). For Mr. White's mark to qualify for registration on the principal register, therefore, the game must be considered a "good" and, further, must be "used in commerce." Because we determine that Mr. White's dissemination of the game was not a sufficient "use in commerce," we do not address whether his connect-the-dots game constitutes a "good."

Section 45 of the Act defines the term "use in commerce" to mean "the bona fide use of a mark in the ordinary course of trade, and not made merely to reserve a right in a mark." 15 U.S.C. § 1127. The "ordinary course of trade" requirement is the result of the amendments to the Act made by the Trademark Law Revision Act of 1988, Pub. L. 100-667, 102 Stat. 3935 (1988) ("Revision [\*6] Act"). The Revision Act provided for a new concept of trademark use than that which had been employed in the past. Prior to the Revision Act's effective date of November 16, 1989, "token" use of a trademark was enough for registration purposes. Under the current law, applicants for registration can file either based on use or intent to use the mark. Therefore, the Revision Act eliminated the necessity for a token use system to reserve a mark, and instituted the requirement that the use must be in the "ordinary course of trade." 15 U.S.C. § 1127.

This court has yet to set any bright line rules concerning the quantum and nature of use necessary to constitute an "ordinary use in trade" under the Revision Act. The legislative history of the Revision Act is instructive as to the quantum of use required for registration. The House Report states:

While use made merely to reserve a right in a mark will not meet this standard, the [House Judiciary] committee recognizes that the "ordinary course of trade" varies from industry to industry. Thus, for example, it might be in the ordinary course of trade for an industry that sells expensive or seasonable products to make infrequent [\*7] sales. Similarly, a pharmaceutical company that markets a drug to treat a rare disease will make correspondingly few sales in the ordinary course of its trade."

House Judiciary Committee Report on H.R. 5372, H.R. No. 100-1028, p. 15 (Oct. 3, 1988).

The Senate Report also recommends that a flexible test for use be employed, stating: "The [Senate Judiciary] committee intends that the revised definition of 'use in commerce' be interpreted to mean *commercial use which is typical in a particular industry*. Additionally, the definition should be interpreted with flexibility so as to encompass genuine, but less traditional, trademark uses[.]" Senate Judiciary Committee Report on S. 1883, S. Rep. No. 100-515, p. 44-45 (Sept. 15, 1988)(emphasis added).

Prior case law is instructive as to the minimum requirements set forth under the old "token use" requirement. Because the new requirement poses a higher hurdle for quantum and nature of use, we can assume that uses that did not qualify under the token use system will not qualify under the newer, more stringent system. The TTAB has specified that a use will not qualify under the token use system if it is comprised of "sporadic, [\*8] casual or nominal shipments of goods bearing a mark." *Bellanca Aircraft Corp. v. Bellanca Aircraft Eng'g., Inc.*, 190 U.S.P.Q. (BNA) 158, 167 (T.T.A.B. 1976); see *Mastic, Inc. v. Mastic Corp.*, 230 U.S.P.Q. (BNA) 699, 701 (T.T.A.B. 1986). The Second Circuit has held that some 89 sales of trademarked perfume in a 20-year period did not constitute the type of bona fide use needed to afford trademark protection, and that limited sales of wine over a three-year period did not constitute the quantum of use to afford trademark protection. See *La Societe Anonyme des Parfums le Galion v. Jean Patou, Inc.*, 495 F.2d 1265, 1272, 181 U.S.P.Q. (BNA) 545, 548 (2d Cir. 1974); *Chandon Champagne Corp. v. San Marino Wine Corp.*, 335 F.2d 531, 534, 142 U.S.P.Q. (BNA) 239, 242 (2d Cir. 1964). The use of a mark under the former code provision was required to "reflect a continual effort to create a viable business in the goods so marked." *LaMaur, Inc. v. International Pharmaceutical Corp.*, 199 U.S.P.Q. (BNA) 612, 617 (T.T.A.B. 1978). Although

these cases are not binding, but only persuasive, authority, we generally accept these Board and regional circuit cases as accurately summarizing the law on "use in commerce."

Appellant [\*9] contends that he has sold or given away "a couple of hundred" of the game sets in question since 1982. He sells the game sets at cost and gives them away if he is "in a good mood." Based on his testimony that he sold twenty to twenty-five games last year, Mr. White's gross income from the games could not be more than \$ 12.50. This quantum of use is "sporadic, casual and nominal," and, moreover, White's use does not reflect a "continual effort to create a viable business in the goods so marked." Therefore, the use would not qualify under the old standard, much less qualify as a use in a volume "which is typical in [White's] particular industry." For these reasons, appellant's use of the game does not rise to the level of a "use in commerce" that would satisfy the requirements of trademark registration under the Act.

Because we conclude that the appellant's use of the mark THE ROMULANS in connection with his connect-the-dots game does not constitute a "use in commerce" as contemplated by the Act, the ruling of the TTAB that the mark does not meet the requirements for registration on the principal register is affirmed.