

I. INSTRUCTIONS AND DEFINITIONS

A. These discovery requests require responses which are complete and accurate as of the date when such responses are made.

B. These discovery requests are continuing in character so as to require Opposer to supplement its responses as to:

1. the identity of persons having knowledge of discoverable matters;
2. the identity of each person expected to be called as an expert witness at trial, the subject matter on which the expert is expected to testify, and the substance of the expert's testimony. Fed.R.Civ.P. 26(e)(1).

C. Opposer has a duty to amend a response if Opposer obtains information indicating that the response was incorrect when made, or that the response, though correct when made, is in some material respect incomplete or incorrect. Fed.R.Civ.P. 26(e)(2).

D. As used herein, the following definitions apply:

1. "Communication". The term "communication(s)" means the information that has been transmitted (in the form of facts, ideas, inquiries, or otherwise), regardless of means utilized.

2. "Document". The term "document(s)" has the meaning ascribed to it in Fed.R.Civ.P. 34(a), and includes, but is not limited to, every writing or record of every type and description that is or has been in the possession, control, or custody of Opposer or which Opposer has knowledge, including without limitation: originals, masters and every copy of writings, including handwritings, and printed, typed or other graphic or

photographic matter including film or microfilm, video tape, recordings (tape, disc or other), correspondence, communications, contracts, agreements, assignments, licenses, purchase orders, invoices, statements, memoranda, notes (in pencil, ink, or typewritten), letters, notebooks, reports, photographs, drawings, tracings, sketches, charts, catalogs, brochures, advertisements, records of communications oral and otherwise, instructions, telegrams, studies, surveys, minutes, reports calendars, inter-office communications, price lists, bulletins, circulars, statements, manuals, summaries, maps, charts, graphs, invoices, canceled or voided checks, bills or statistical material. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.

3. “Data”. The term “data” shall mean any facts, documents or communications, oral or otherwise, of which Opposer has knowledge, information or belief.

4. “Identify” or “Specify”. As used herein, “identify” or “specify” when used in reference to:

(a) a person who is an individual shall mean to state his or her full name, present or last known residence address (designating which), and present or last known position or business affiliation (designating which), job title, employment address, and business and residence telephone numbers;

(b) a person who is a firm, partnership, corporation, proprietorship, association, or other organization or entity shall mean to state its full name, present or last known (designating which) address, telephone number, legal form of such entity or organization, (including state and country of incorporation or organization) and the identity of its present and former officers, directors, controlling shareholder(s) and all employees, agents, and staff members who have responsibilities relating to use of trademarks;

(c) data, shall mean to state: in the case of a document, the title (if any), the date, author(s), sender(s), recipient(s), the identity of the persons signing it, type of document (i.e., a letter, memorandum, book, telegram, chart, etc.) or some other means of identifying it, its present location or custodian and whether Opposer is in the possession of the original, master, or a copy of the document, and if not in possession of the original, master or copy to furnish the name and last known address of the custodian of the original, master or copy; in the case of an oral communication, the date, subject matter, communicator, the recipient of the communication, nature of communication, whether it was recorded, and the identity of any witness thereto; and in the case of a fact, the source thereof.

5. The words/phrases “identity”, “circumstances”, “detail(s)”, and “all information”, whether used alone or in connection with any other words, shall include, but are not limited to, identifying all facts, persons, places, dates, events, documents, physical items of any kind, time periods, geographical locations, data, communications of any kind, or any other information in any way related to, pertaining to, connected with or otherwise responsive to the interrogatory or document request such that all information shall be brought within the scope of the interrogatory or document request which may otherwise be deemed not to be covered by the interrogatory or document request.

6. The words/phrases “respecting”, “relating”, “referring to”, or “regarding”, whether used alone or in connection with any other words, shall mean making a statement about, referring to, mentioning, discussing, describing, reflecting, dealing with, consisting of, comprising, recording or in any other way pertaining to the subject either in whole or in part directly or indirectly.

7. “Opposer”. The term “Opposer” shall mean Artisan Cinematic Enterprises, Inc. and, where applicable, its officers, directors, employees, agents and representatives.

8. “Applicant”. The term “Applicant” shall mean Artisan Entertainment Inc.

9. “Person”. The term “person” shall include without limitation, any natural person or any business, business association, business entity, partnership, corporation, legal, or governmental entity. Whenever an interrogatory requests identification of persons, as to those individuals named in response to the interrogatory now in the employ of or associated with Applicant, state the title or position, duties and present residence and business addresses of each such individual. As to those “persons” who have previously been but are not now in the employ of or associated with Opposer, state the periods of employment or association with Applicant, the person's title or positions during that period, and the last known residences and business address of such persons. As to all “persons” state their residence and business addresses.

10. “And” and “Or”. The connectives “and” and “or” shall be construed broadly, both conjunctively and disjunctively, to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope.

11. “Date”. The term “date” shall mean the exact day, month and year, if ascertainable, or if not, the best approximation, including the temporal relationship to other events.

12. “Number”. The use of the singular form of any word includes the plural and vice versa.

13. “Applicant's Mark”. Unless otherwise specified, the phrase “Applicant's Mark” refers to the trademark and service mark ARTISAN ENTERTAINMENT (Stylized).

14. “Applicant's Services”. Unless otherwise specified, the phrase “Applicant's Services” refers to “providing information on current and future movie offerings via a global computer network.”

15. “Opposer's Mark”. Unless otherwise specified, the phrase “Opposer's Mark” refers to the service mark ARTISAN.

II. INTERROGATORIES

INTERROGATORY NO. 1

Identify each officer of Opposer and each officer's position with Opposer since 1985.

INTERROGATORY NO. 2

Identify each officer or employee responsible for production and distribution of commercial motion pictures, and identify each person's area of responsibility.

INTERROGATORY NO. 3

Identify each motion picture produced and distributed for theatrical release including:

- A. Title;
- B. Year of production;
- C. Year of theatrical release; and
- D. Territory in which each motion picture was theatrically released.

INTERROGATORY NO. 4

Identify each video encompassing a motion picture produced and distributed to the general public including:

- A. Title;
- B. Date of distribution of each title for release to the public.
- C. Year date of release of video;
- D. Territories in which the videos were distributed; and
- E. Number of videos sold for each title.

INTERROGATORY NO. 5

Identify each motion picture distributor to which Opposer has promoted The Driveaway Movie Project, including the individual contacted at each distributor.

INTERROGATORY NO. 6

Describe the circumstances in which Opposer became aware of Applicant's application herein opposed, including the date on which Opposer learned of the application.

INTERROGATORY NO. 7

Identify each business entity that has acted at the direction of Opposer or cooperation with Opposer in any way in connection with Opposer's commercial use of Opposer's mark and identify each person that has acted as Opposer's business partner, agent, representative, or managerial employee in any way in connection with Opposer's commercial use of Opposer's mark.

INTERROGATORY NO. 8

Identify any actions Opposer has taken against third party uses of ARTISAN in any aspect of the entertainment industry, including;

- (a) Name of person or entity against which action was taken.;
- (b) Basis on which the action was taken; and
- (c) Resolution of action.

INTERROGATORY NO. 9

Identify all searches conducted by Opposer for the mark ARTISAN prior to:

- (a) the filing of Application Serial No. 75/765,407
- (b) prior to the filing of the subject opposition

INTERROGATORY NO. 10

Identify each instance of actual confusion of which Opposer is aware and which was occasioned by Applicant's use of the mark **ARTISAN ENTERTAINMENT (stylized)**. With respect to each instance of actual confusion describe:

- (a) The person or entity confused;
- (b) The nature of the confusion;
- (c) The date and circumstances under which the confusion occurred; and
- (d) The damage suffered by Opposer as the result of the confusion.

INTERROGATORY NO. 11

Identify the names of Opposer's properties registered with the Motion Picture Association of America including identification of the screenplay submitted to the Guild.

INTERROGATORY NO. 12

Identify each instance in which Opposer's mark was featured in a newspaper or was the subject of a radio or television interview, including: the media in which Opposer's mark was featured and the date of each feature in each media.

INTERROGATORY NO. 13

Identify and describe in detail all types of media, including publications, radio and television, through which Opposer has advertised its services, and state the dollar amounts, by type of media and by date, which have been expended by Opposer in advertising its services under the **ARTISAN** mark.

INTERROGATORY NO. 14

Identify the person or persons most knowledgeable about:

- (a) The marketing and advertising of the services offered under the **ARTISAN** mark, and
- (b) The sale or licensing of services under the **ARTISAN** mark.

INTERROGATORY NO. 15

For each and every Interrogatory above, identify the individual or individuals answering the Interrogatory, and each person who provided any information including opinions, advice, reports, studies, or facts on which you are answered to any of the foregoing Interrogatories was based, specifying each and true Interrogatory to which he or she contributed information.

III. REQUESTS FOR PRODUCTION OF DOCUMENTS AND THINGS

Opposer is hereby requested to produce for inspection and/or copying by Applicant, or to cause copies to be provided to Applicant, the documents and things specified hereunder, to the extent that such documents and things are in the possession, custody or control of Opposer or Opposer's attorneys:

REQUEST NO. 1

Any documents, other than those subject to attorney-client privilege, identified in response to Interrogatory No. 1.

REQUEST NO. 2

Any documents, other than those subject to attorney-client privilege, identified in response to Interrogatory No. 2.

REQUEST NO. 3

Documents which support Opposer's answer to Interrogatory No. 3.

REQUEST NO. 4

Documents which support Opposer's answer to Interrogatory No. 4.

REQUEST NO. 5

Documents which support Opposer's answer to Interrogatory No. 5.

REQUEST NO. 6

Documents that refer to or relate to the circumstances identified by Opposer in answer to Interrogatory No. 6.

REQUEST NO. 7

Documents involved in any actions identified in Opposer's answer to Interrogatory No. 8.

REQUEST NO. 8

Copies of any searches identified by Opposer in response to Interrogatory No. 9.

REQUEST NO. 9

Documents upon which Opposer relied in its Answer to Interrogatory No. 10.

REQUEST NO. 10

For each video marketed under or by reference to the Applicant's Mark, a sample of each different package, label, wrapper, instructional manual, package insert or other form of packaging on which the Opposer's Mark has appeared.

REQUEST NO. 11

Copies of the Motion Picture Association of America's listing of Opposer's properties and a copy of any material from the Guild evidencing submission of the screenplay as identified in response to Opposer's Answer to Interrogatory No. 11.

REQUEST NO. 12

Copies of all documents or videos on interviews identified in Opposer's answer to No. Interrogatory No. 12.

REQUEST NO. 13

Documents which evidence, refer to, or otherwise relate to Applicant's actual annual advertising expenses and gross sales or license fees, for videos and motion picture, in terms of units and dollars, of each product and service which has been offered by Opposer under or by reference to Opposer's Mark.

REQUEST NO. 14

Copies of the results of any survey, poll or similar investigation conducted by or on behalf of Opposer relating to recognition of Opposer's Mark by the public or the trade.

REQUEST NO. 15

A sample of each different print media advertisement, catalog, direct mail piece, brochure, or other item of printed promotional material which Opposer has prepared, caused to be prepared and/or distributed in connection with the advertising and promotion of Opposer's products and/or services offered under or by reference to Opposer's Mark.

REQUEST NO. 16

A copy of the script for each different television or radio advertisement, on interview Opposer has prepared, caused to be prepared and/or used in connection with the advertising and promotion of Opposer's products and/or services offered under or by reference to Opposer's Mark.

REQUEST NO. 17

For each sample of promotional material produced in response to Request No. 15 above, and for each script produced in response to Request No. 16 above, documents which set forth, establish, or substantiate the periods of time during which Opposer used such promotional materials and scripts in marketing products or services in the United States, or enjoyed unpaid promotional endorsements, print exposure or television interviews.

REQUEST NO. 18

Documents which evidence, refer to or otherwise relate to any monetary expenditures which Opposer has made in connection with the advertising and promotion of Opposer's products and/or services offered under or by reference to Opposer's Mark.

REQUEST NO. 19

All correspondence between any advertising agencies and Opposer relating or referring to the advertising or promotion of Opposer's products and/or services offered under or by reference to Opposer's Mark.

REQUEST NO. 20

All documents, other than those subject to attorney-client privilege, relating or referring to the creation and selection of Opposer's Mark.

REQUEST NO. 21

Copies of the findings resulting from any market research or competitive research done by or for Opposer in relation to Opposer's or Applicant's Mark.

REQUEST NO. 22

All documents, other than documents subject to attorney-client privilege, wherein Applicant or Applicant's Mark is referred to or mentioned.

REQUEST NO. 23

Copies of all letters and other communications published, sent to and/or addressed to third parties by Opposer relating or referring to the subject matter of this action.

REQUEST NO. 24

All documents, other than those subject to attorney-client privilege, referring or relating to any investigation, including any inquiry, survey, poll, credit check or other type of investigation Opposer has ever conducted or caused to be conducted involving:

- (a) Applicant's business;
- (b) Applicant's Mark; or
- (c) Applicant.

REQUEST NO. 25

All documents, other than those subject to attorney-client privilege, that refer or relate to any instances wherein a person has been confused, mistaken or deceived as to the source of products and/or services offered under or by reference to Opposer's Mark or Applicant's Mark.

REQUEST NO. 26

Copies of all written agreements to which Opposer is a party that relate to the acquisition, registration, use, promotion, and/or licensing of Opposer's Mark, and all correspondence, other than correspondence subject to attorney-client privilege, relating or referring to such agreements.

REQUEST NO. 27

All documents relating or referring to any license, assignment or right granted by Opposer to a third party, or by a third party to Opposer, regarding use of Opposer's Mark, including correspondence, other than correspondence subject to attorney-client privilege, relating to the same.

IV. REQUESTS FOR ADMISSION

Applicant hereby requests that Opposer admit the truth of the matters set forth below. In accordance with Fed. R. Civ. P. 36(a), the answer must admit the matter; or specifically deny the matter; or set forth in detail the reasons why Opposer cannot truthfully admit or deny the matter. Opposer may not give lack of information or knowledge as a reason for failure to admit or deny unless Opposer states that it has made reasonable inquiry and that the information known or readily obtainable by Opposer is insufficient to enable it to admit or deny.

REQUEST FOR ADMISSION NO. 1.

Opposer has never produced and distributed an motion picture for theatrical release under Opposer's mark.

REQUEST FOR ADMISSION NO. 2.

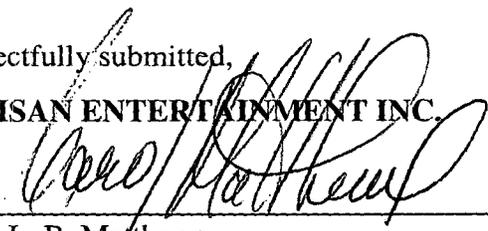
Opposer has never produced and distributed videos embodying motion pictures for general distribution to the public under Opposer's mark.

REQUEST FOR ADMISSION NO. 3.

Admit that the services claimed in Opposer's Application Serial No. 75/765,407 were not rendered in interstate commerce as of September 1, 1985, Opposer's claimed date of first use.

Respectfully submitted,
ARTISAN ENTERTAINMENT INC.

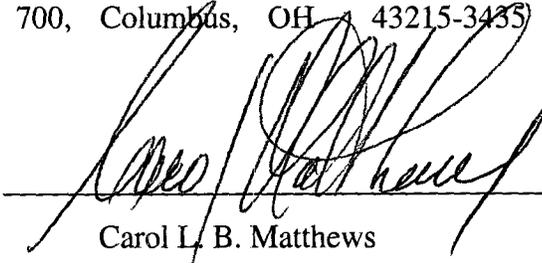
By: _____


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Date: 9 June 03

CERTIFICATE OF SERVICE

The undersigned certifies that a true copy of the foregoing **OPPOSER'S FIRST SET OF INTERROGATORIES, REQUESTS FOR PRODUCTION OF DOCUMENTS AND THINGS, AND REQUESTS FOR ADMISSION** was sent by first class mail, postage pre-paid to James R. Eley, Esq. at Thompson Hine LLP, located at 10 W. Broad Street, Suite 700, Columbus, OH (43215-3435) on June 9th, 2003.



Carol L. B. Matthews