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

Proceeding	91165876
Party	Plaintiff House of Blues Brands Corp. House of Blues Brands Corp. ,
Correspondence Address	KIRT S. O'NEILL AKIN GUMP STRAUSS HAUSER & FELD LLP P.O. Box 12870 San Antonio, TX 78212 UNITED STATES sa_ipdocketing@akingump.com
Submission	Motion to Strike
Filer's Name	Daniel Moffett
Filer's e-mail	sa_ipdocketing@akingump.com
Signature	/dm/
Date	07/10/2007
Attachments	MotiontoDismissNRPub&Regs.pdf (56 pages)(1952170 bytes)

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

HOUSE OF BLUES BRANDS CORP.

Opposer,

v.

CELEBRITES PUBLISHING CORP.,

Applicant.

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§

Mark: IN ROCK WE TRUST

Consolidated Opposition Nos.
91165876; 91165899; and 91165901

**OPPOSER'S MOTION TO STRIKE APPLICANT'S NOTICE OF RELIANCE ON
PRINTED PUBLICATIONS AND PORTIONS OF APPLICANT'S NOTICE OF
RELIANCE ON THIRD-PARTY FEDERAL REGISTRATIONS**

Opposer, House of Blues Brands Corp., in accordance with Section 532 of the Trademark Trial and Appeal Board Manual of Procedure, hereby moves to strike Applicant's Notice of Reliance on Printed Publications and portions of Applicant's Notice of Reliance on Third-Party Federal Registrations because of Applicant's failure to produce certain relied upon documents during discovery and because of Applicant's failure to properly authenticate non self-authenticating materials obtained from the internet. *See* Applicant's Notice of Reliance on Printed Publications and Applicant's Notice of Reliance on Third-Party Federal Registrations (both filed as TTABVUE Document No. 24 under consolidated opposition number 91165876).

Applicant's Failure to Produce Responsive Documents Prior to Testimony Period

Applicant is seeking to introduce several printed publications and third-party registrations through notices of reliance that, despite being called for in Opposer's First Set of Requests for Production of Documents and Things (attached hereto as Exhibit "A"), were never produced during discovery. Because the Federal Rules of Civil Procedure mandate that such materials may not be used at trial, the Board should strike the material that was not produced as well as the

accompanying portions of Applicant's Notice of Reliance on Third-Party Federal Registrations and Applicant's Notice of Reliance on Printed Publications.

Under the Federal Rules of Civil Procedure, a party is required to produce documents in response to a Rule 34 Request for Production of Documents and Things and to supplement that production throughout the proceeding.¹ If a party fails to produce responsive documents, that party is unable to use those documents at trial. Specifically, Federal Rule of Civil Procedure 37(c)(1) states:

A party that without substantial justification fails to . . . amend a prior response to discovery as required by Rule 26(e)(2), is not, unless such failure is harmless, permitted to use as evidence at a trial, at a hearing, or on a motion any witness or information not so disclosed.

Through its Notice of Reliance on Printed Publications, Applicant is seeking to introduce twelve printed publications that it never produced during discovery, despite being called for in Opposer's Requests for Production. These publications, namely those included in Celebrities Pub. Corp. Trial Exhibits 32 through 42 and 44, each include dictionary or encyclopedia entries that Applicant claims are relevant to a determination of likelihood of confusion in this opposition.

Such materials are responsive to Opposer's First Set of Requests for Production of Documents and Things numbers 64 and 67 and should have been produced prior to the testimony period. Opposer's Requests for Production numbers 64 and 67 request:

Request No. 64: All documents and things you contend support or refute the various allegations made in the Opposition.

Request No. 67: All documents and things which you intend to produce as an exhibit or evidence in this Opposition.

¹ Procedure and practice in *inter partes* proceedings before the Board are governed by the Federal Rules of Civil Procedure and the assignment of the testimony period in an Opposition corresponds to setting a case for trial in court proceedings. See 37 C.F.R. § 2.116.

It is without question that these document requests seek relevant materials and encompass the objected-to documents. Applicant did not cite any specific objections to these requests in its response and indicated that responsive documents would be produced. *See* Applicant's Response to Opposer's First Set of Requests for Production of Documents and Things (attached hereto as Exhibit "B"). Therefore, Applicant is now barred from relying on the documents identified as Celebrities Pub. Corp. Trial Exhibits 32 through 42 and 44 at trial.

Similarly, through its Notice of Reliance on Third-Party Federal Registrations, Applicant seeks to introduce third party registrations that were not produced during discovery. Specifically, the trademark registrations Applicant has identified as Celebrities Pub. Corp. Trial Exhibits 5, 6, and 19 were never produced to Opposer. These documents are responsive to Opposer's Requests for Production numbers 64 and 67 identified above, as well as Request for Production number 33, which states:

Request No. 33: All documents which refer or relate to the circumstances surrounding Applicant becoming aware of any third party's use of any mark comprising the terms "IN ROCK WE TRUST," "IN BLUES WE TRUST," or any similar term.

Applicant's only specific objection to this request for relevant materials was that it seeks attorney work product. Obviously this objection is moot in light of Applicant's attempt to introduce numerous third-party registrations into evidence and Applicant was obligated to produce Celebrities Pub. Corp. Trial Exhibits 5, 6, and 19 prior to trial.

Because Applicant failed to produce the documents identified as Celebrities Pub. Corp. Trial Exhibits 5, 6, 19, 32 through 42 and 44 despite Opposer's requests for the production of such material, Federal Rule of Civil Procedure 37(c)(1) mandates that the Board should strike these exhibits as well as the accompanying portions of Applicant's Notice of Reliance on Third-Party Federal Registrations and Applicant's Notice of Reliance on Printed Publications.

Applicant's Failure to Authenticate Internet Materials

Celebrities Pub. Corp. Trial Exhibits 34, 37, 40, 42, 43, and 44 are internet materials that are not admissible by notice of reliance, and, therefore, the Board should strike the exhibits and the portion of Applicant's Notice of Reliance on Printed Publications seeking to introduce them into evidence.

It is well established that a Notice of Reliance is not a proper method for introducing materials obtained from the internet. *See* Trademark Trial and Appeal Board Manual of Procedure § 704.08; *Raccioppi v. Apogee, Inc.*, 47 U.S.P.Q.2d 1368, 1370 (TTAB 1998). Despite this, Applicant's Notice of Reliance on Printed Publications seeks to introduce Celebrities Pub. Corp. Trial Exhibits 34, 37, 40, 42, 43, and 44, which, as is apparent from the face of the Notice of Reliance, were all obtained and printed out from the internet. Applicant has not introduced any testimony in this Opposition, and, therefore, has not put on any witnesses to authenticate these internet printouts.

Accordingly, the portions of Applicant's Notice of Reliance on Printed Publications seeking to introduce internet materials do not comply with the procedural requirements of 37 C.F.R. § 2.122(e) and the Board should strike those portions seeking to introduce Celebrities Pub. Corp. Trial Exhibits 34, 37, 40, 42, 43, and 44 into evidence as well as the associated exhibits.

Prayer

For these reasons, Opposer respectfully requests the Board to strike Applicant's Notice of Reliance on Printed Publications together with the accompanying Celebrities Pub. Corp. Trial Exhibits 32 through 44 as well as the portions of Applicant's Notice of Reliance on Third-Party Federal Registrations seeking to introduce Celebrities Pub. Corp. Trial Exhibits 5, 6, and 19 together with accompanying exhibits 5, 6, and 19.

Respectfully submitted,

Date: 7/10/2007

By: 

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San Antonio, Texas 78212
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ATTORNEYS FOR OPPOSER HOUSE OF
BLUES BRANDS CORP.

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Opposer's Motion To Strike Applicant's Notice of Reliance on Printed Publications and Portions Of Applicant's Notice Of Reliance On Third-Party Federal Registrations was served on the following counsel this 10th day of July, 2007, via regular U.S. Mail, postage pre-paid:

Robert Carson Godbey
Jess H. Griffiths
Chad M. Iida
GODBAY GRIFFITHS REISS CHONG
Pauahi Tower, Suite 2300
1001 Bishop Street
Honolulu, Hawaii 96813


Daniel Moffett

EXHIBIT A

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

House of Blues Brand Corp.,	§	
	§	Serial No.: 78/441,161
Opposer,	§	
	§	
v.	§	Mark: IN ROCK WE TRUST
	§	
Celebrities Publishing Corp.,	§	
	§	Opposition No. 91165901
Applicant.	§	

**OPPOSER’S FIRST REQUESTS FOR
PRODUCTION OF DOCUMENTS AND THINGS TO APPLICANT**

Pursuant to Rule 34 of the Federal Rules of Civil Procedure and 37 C.F.R. 2.120, House of Blues Brands Corp. (“Opposer”), through undersigned counsel, hereby serves its First Set of Requests for Production of Documents and Things upon Celebrities Publishing Corp. (“Applicant”). Applicant shall provide its written reply to these requests for production of documents within 30 days of the date of service hereof, and produce the documents and things requested for inspection and copying either where they are normally kept, or at the offices of Opposer’s counsel, Kirt S. O’Neill of Akin Gump Strauss Hauer & Feld L.L.P, 300 Convent Street, Suite 1500, San Antonio, Texas 78205, or at a location mutually agreed between the parties.

I. INSTRUCTIONS AND DEFINITIONS

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

B. The following requests for production of documents are continuing in nature and require timely supplemental production of documents should additional documents come within Applicant’s possession, custody or control.

C. 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 Applicant or which Applicant 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, computer databases, computer printouts or other computer-generated matter, computer records of all types (including text files, graphics files, audio and multimedia files and electronic mail messages) studies, surveys, technical reports, laboratory reports, engineering reports, patents, registrations or marks, copyrights, applications for a patent, applications for a mark, applications for a copyright, patent appraisals, infringement searches or studies, patentability searches or studies, validity searches or studies, 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, and insurance policies. 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 Applicant has knowledge, information or belief.

4. The words/phrases “identify”, “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 covered by the interrogatory or document request.

5. 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.

6. Parties. The terms “Opposer” and “Applicant” as well as a party’s full or abbreviated name or a pronoun referring to a party, shall mean the party and, where applicable, its officers, directors, employees, stockholders, trustees, partners, predecessors, divisions, corporate parent, subsidiaries, affiliates and agents. The term “Applicant” also includes any and all predecessors of Applicant including, but not limited to, all businesses, partnerships, corporations, associations, firms, proprietorships, organizations or entities in which Applicant is in any way involved presently or in the past, through ownership, equity interest, or otherwise, who at any time has used Applicant’s Mark (as defined herein) or has had a right, title or interest in Applicant’s Mark, or any predecessor’s mark or mark similar to Applicant’s Mark.

7. “Person”. The term “person” shall include without limitation, any natural person or any business, business association, business entity, partnership, corporation, legal, or governmental entity.

8. “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.

9. “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.

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

11. “Applicant’s Mark”. Unless otherwise specified, the words “Applicant’s Mark” refers to the marks as depicted in or alleged in the Notice of Opposition and any actual uses of IN ROCK WE TRUST or similar versions thereof.

12. “Applicant’s Goods”. Unless otherwise specified, the words “Applicant’s Goods” refer to those goods set forth in Applicant’s application referred to in the Notice of Opposition, and the actual goods of Applicant used in connection with Applicant’s Mark.

13. “Opposer’s Mark”. Unless otherwise specified, the words “Opposer’s Mark” refer to the mark IN BLUES WE TRUST or any similar versions thereof.

REQUEST FOR PRODUCTION OF DOCUMENTS AND THINGS

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

REQUEST NO. 1

All documents referring or relating to any person having or having had any right to use Applicant's Mark through or under which Applicant claims any rights in such mark.

REQUEST NO. 2

All documents and things referring or relating to Applicant's adoption and use of Applicant's Mark in connection with any products or services of Applicant:

- i. in commerce which Congress may regulate;
- ii. anywhere in the United States; or
- iii. anywhere in the world.

REQUEST NO. 3

All documents and things referring or relating to Applicant's adoption and use of Applicant's Mark in connection with any goods or services:

- i. in commerce which Congress may regulate;
- ii. anywhere in the United States; or
- iii. anywhere in the world.

REQUEST NO. 4

All documents and things concerning, evidencing, or reflecting the date or manner of first use of Applicant's Mark in connection with any goods or services of Applicant:

- i. in commerce which Congress may regulate;

- ii. anywhere in the United States; or
- iii. anywhere in the world.

REQUEST NO. 5

All documents and things concerning, evidencing, or reflecting the date or manner of first use of Applicant's Mark in connection with any goods or services:

- i. in commerce which Congress may regulate;
- ii. anywhere in the United States; or
- iii. anywhere in the world.

REQUEST NO. 6

Each different use of Applicant's Mark (e.g., tags, labels, packaging, advertisements, or other printed materials) made or intended to be made by or on behalf of Applicant.

REQUEST NO. 7

All documents relating to any survey, poll or similar investigation conducted by or on behalf of Applicant relating to actual or intended recognition of Applicant's Mark by the public or the trade.

REQUEST NO. 8

All documents showing that Applicant's Mark is intended to create a public perception of Applicant's Mark as an indication of source or origin.

REQUEST NO. 9

All documents relating to any unsolicited publicity or recognition obtained or received by Applicant for any product or service identified by Applicant's Mark.

REQUEST NO. 10

Any documents setting forth each specific product or service offered or intended to be offered by Applicant that utilizes or will utilize Applicant's Mark, and the actual or intended price for each such product or service, including, but not limited to, price lists or catalogs.

REQUEST NO. 11

All documents which evidence, refer to, or otherwise relate to Applicant's actual or projected annual gross sales, in terms of units and dollars, for each product or service sold or intended to be sold under Applicant's Mark.

REQUEST NO. 12

Each different print media advertisement, including each catalog, direct mail literature, brochure, advertisement or piece of promotional material, used or intended to be used by Applicant in advertising Applicant's Goods under Applicant's Mark.

REQUEST NO. 13

Each different advertisement used or intended to be used by Applicant not included in response to the preceding request, including, but not limited to, television, radio and/or other broadcast advertisements for Applicant's Mark, including television and/or radio scripts, storyboards, video tape containing television advertisements or audio tape containing radio advertisements.

REQUEST NO. 14

All documents which evidence, refer to or otherwise relate to Applicant's actual or intended annual monetary expenditures for advertising, promoting, and/or offering for sale each or any of Applicant's goods under Applicant's Mark.

REQUEST NO. 15

All correspondence between any advertising agencies and Applicant relating or referring to the actual or intended promotion of Applicant's Goods under or by reference to Applicant's Mark.

REQUEST NO. 16

All marketing plans Applicant has utilized or intends to utilize in relation to goods offered under or by reference to Applicant's Mark.

REQUEST NO. 17

All documents and things comprising, referring or relating to actual or planned advertising or promotion of Applicant's Goods under Applicant's Mark.

REQUEST NO. 18

All documents and things referring or relating to the channels of trade employed or anticipated to be employed by Applicant to offer goods under Applicant's Mark.

REQUEST NO. 19

All documents that refer or relate to all outlets (i.e., locations, licensees, representatives, agents, etc.) through which each good identified by Applicant's Mark either has been or will be offered, rendered or marketed.

REQUEST NO. 20

Documents sufficient to permit the identification of all actual or likely customers procuring goods sold or offered for sale under Applicant's Mark.

REQUEST NO. 21

All documents that refer or relate to the actual or intended market for each good identified by Applicant's Mark, including the class, type, qualities or characteristics of customers for each such good.

REQUEST NO. 22

If Applicant's use has been continuous since the date of first use, documents by which such continuous use can be established, e.g., one invoice per month for goods or services sold under the mark and/or one bill of lading per month for goods or services shipped under the mark from the date of first use of the mark through the date of receipt of this request. Without limiting the foregoing, and solely for illustrative purposes, such documents would include dated packaging samples showing Applicant's Mark, invoices referring to Applicant's goods or services sold under Applicant's Mark, purchase orders referencing Applicant's Mark, invoices for Applicant's Goods sold or offered under Applicant's Mark, and advertisements for goods sold under Applicant's Mark.

REQUEST NO. 23

All documents that refer or relate to all periods of non-use of Applicant's Mark in connection with Applicant's Goods, including, but not limited to, documents setting forth in detail the reasons for non-use and the reasons for resumption of use, if any. If Applicant has intentionally ceased use of Applicant's Mark altogether, all documents that refer or relate to such cessation of use.

REQUEST NO. 24

All written agreements to which Applicant is or intends to be a party to which relate to the acquisition of, and/or actual or intended use, promotion, and/or licensing of Applicant's Mark for Applicant's Goods, including any modification of such agreements and all correspondence regarding or referring to such agreements and modifications thereto.

REQUEST NO. 25

All documents pertaining to any actual or intended license, assignment or right granted by Applicant to a third party, or by a third party to Applicant, regarding the use of Applicant's

Mark, or any similar mark for Applicant's Services, including correspondence relating to the same.

REQUEST NO. 26

Each document that contains any reference to a conflict or potential conflict between Opposer's Mark and Applicant's Mark.

REQUEST NO. 27

Each document that contains any reference to a conflict or potential conflict between Applicant's Mark and a third party mark.

REQUEST NO. 28

All documents comprising, referring or relating to market research or competitive research done by Applicant and referring or relating to Applicant's Mark.

REQUEST NO. 29

All documents, correspondence, or internal memoranda that refer or relate to any instances where a person has been confused, mistaken or deceived as to the source of Applicant's Goods offered under or by reference to Applicant's Mark, or as to the source of Applicant's Goods offered under Applicant's Mark.

REQUEST NO. 30

All documents comprising, referring or relating to any surveys, studies, investigations or analyses of whether Applicant's Mark is likely to be confused with any other trademark, service mark or trade name.

REQUEST NO. 31

All documents relating in any way to or referring to Opposer's Mark, including documents evidencing the date when Applicant first became aware of Opposer or Opposer's Mark.

REQUEST NO. 32

All documents which refer or relate to the circumstances surrounding Applicant becoming aware of Opposer's use of Opposer's Mark.

REQUEST NO. 33

All documents which refer or relate to the circumstances surrounding Applicant becoming aware of any third party's use of any mark comprising the terms "IN ROCK WE TRUST", "IN BLUES WE TRUST" or any similar term.

REQUEST NO. 34

All documents referring or relating to any investigation, including any inquiry, survey, poll, credit check or other type of investigation Applicant has ever conducted or caused to be conducted involving:

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

REQUEST NO. 35

All documents relating or referring to the actual or intended use of Applicant's Mark by Applicant, or any third party on or in connection with (a) Applicant's Goods, and/or (b) any service.

REQUEST NO. 36

All documents relating or referring to any and all actual or intended state and federal trademark or trade name applications filed by Applicant for Applicant's Mark, including documents which show the filing date(s) and serial number(s) of such application(s), the date(s) of publication, the date(s) of registration, the registration number(s), if any, and the current status

of said application(s). “State” shall mean and include all 50 states of the United States and all territories and possessions of the United States.

REQUEST NO. 37

All documents relating or referring to any and all actual or intended foreign trademark or trade name applications filed by Applicant for Applicant’s Mark, including documents which show the filing date(s) and serial number(s) of such application(s), the date(s) of publication, the date(s) of registration, the registration number(s), if any, and the current status of said application(s).

REQUEST NO. 38

All trademark searches in the United States conducted by or on behalf of Applicant with regard to Applicant’s Mark, including any documents relating to said searches that refer to the date each search was ordered, each database searched, each reference noted on each search and the person who conducted the search.

REQUEST NO. 39

All trademark searches in any foreign country, conducted by or on behalf of Applicant with regard to Applicant’s Mark, including any documents relating to said searches that refer to the date each search was ordered, each database searched, each reference noted on each search and the person who conducted the search.

REQUEST NO. 40

All documents comprising, referring or relating to any opinion concerning the registrability of Applicant’s Mark.

REQUEST NO. 41

All documents comprising, referring or relating to any opinion concerning any likelihood of confusion between Applicant’s Mark and any other trademark, service mark or trade name.

REQUEST NO. 42

All documents referring or relating to each complaint, petition, objection, opposition, Opposition, administrative proceeding, or civil action involving Applicant's use, proposed use, registration, or application for registration, of Applicant's Mark.

REQUEST NO. 43

All documents referring or relating to each complaint, petition, objection, opposition, Opposition, administrative proceeding, or civil action involving any third party's use, proposed use, registration, or application for registration, of any mark or name comprising the term IN ROCK WE TRUST.

REQUEST NO. 44

The complete file of all applications in the United States to register Applicant's Mark, including all communications sent to or received from the applicable trademark office in which such application was filed.

REQUEST NO. 45

The complete file of all applications in any foreign country to register Applicant's Mark, including all communications sent to or received from the applicable trademark office in which such application was filed.

REQUEST NO. 46

All internal memoranda prepared by any present or former director, officer, manager, partner, or employee of Applicant which refers to or in any manner mentions Opposer or Opposer's Mark.

REQUEST NO. 47

All internal memoranda prepared by any present or former director, officer, manager, partner, or employee of Applicant which refers to or in any manner mentions a third party's use of Applicant's Mark or similar mark.

REQUEST NO. 48

All correspondence sent to Applicant from any individual or company not a party to these proceedings in which (i) Opposer or Opposer's Mark and (ii) Applicant or Applicant's Mark are referred to or mentioned.

REQUEST NO. 49

All correspondence sent to Applicant from any individual or company not a party to these proceedings relating to a third party's use of Applicant's Mark or any similar mark.

REQUEST NO. 50

Any correspondence addressed to, or received by, Applicant from any person expressing any complaint or dissatisfaction with any products or services sold under or in connection with Applicant's Mark.

REQUEST NO. 51

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

REQUEST NO. 52

All documents identified in, or referred to or relied on in preparing, any response to any interrogatories propounded by Opposer.

REQUEST NO. 53

All documents which in any way support or relate to Applicant's answers to any interrogatories propounded by Opposer.

REQUEST NO. 54

A copy of the curriculum vitae or resume for each individual whom you intend to call as an expert witness in this Opposition.

REQUEST NO. 55

All documents prepared by an expert or which reflect or contain the observations, mental impressions, opinions and/or conclusions of any expert who you intend to call as a witness in this Opposition.

REQUEST NO. 56

Any and all documents prepared by an expert whose work product was reviewed by any expert who you intend to call as a witness in this Opposition.

REQUEST NO. 57

All documents and things sent to you or received by you from any expert who you intend to call as a witness in this Opposition.

REQUEST NO. 58

All documents and things sent to or received from any person or entity designated by Applicant or Opposer as a witness in this Opposition.

REQUEST NO. 59

All documents and things pertaining to this proceeding and given to or received from any person whom Applicant may or will call as a witness in this Opposition.

REQUEST NO. 60

Any and all documents which refer or relate to any written or recorded statements of any witnesses or persons with knowledge of relevant facts about the occurrences made the basis of this proceeding and/or potential parties in connection with the prosecution or investigation of this

proceeding, including but not limited to, experts or other persons having any opinions or knowledge of such occurrence or damages, if any, resulting therefrom.

REQUEST NO. 61

Any and all documents which refer or relate, in any manner whatsoever, to any statement by any agent, officer or employee of Applicant or Opposer which reference or refer to this proceeding.

REQUEST NO. 62

All statements or other documents, written or recorded, of Applicant or anyone acting on its behalf, regarding the occurrences made the basis of this proceeding.

REQUEST NO. 63

All statements or other documents, written or recorded, of any person not a party to this proceeding regarding the occurrences made the basis of this proceeding.

REQUEST NO. 64

All documents and things that you contend support or refute the various allegations made in the Opposition.

REQUEST NO. 65

All documents and things containing the information and providing a basis for the answers supplied to any of Opposer's interrogatories to Applicant.

REQUEST NO. 66

Any and all documents which will be used to impeach Opposer or any witness in this proceeding.

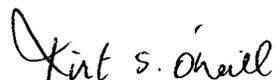
REQUEST NO. 67

All documents and things which you intend to introduce as an exhibit or evidence in this Opposition.

REQUEST NO. 68

Any and all documents that pertain or relate, in any manner whatsoever to any aspect of this proceeding which you have furnished to your counsel and which are not otherwise privileged.

Respectfully Submitted,



Kirt S. O'Neill
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Akin Gump Strauss Hauer & Feld LLP
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210.281.7106
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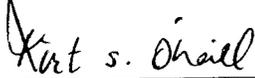
ATTORNEYS FOR OPPOSER, HOUSE
OF BLUES BRANDS CORP.

CERTIFICATE OF SERVICE

The undersigned certifies that a true copy of the foregoing OPPOSER'S FIRST REQUESTS FOR PRODUCTION OF DOCUMENTS AND THINGS was served via first class mail to:

Robert Carson Godbey
Jess H. Griffiths
Chad M. Iida
GODBEY GRIFFITHS REISS CHONG
Pauahi Tower, Suite 2300
1001 Bishop Street
Honolulu, HI 96813

on September 20, 2005



Kirt S. O'Neill

EXHIBIT B

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of Application Serial No. 78/441,161
Filed June 25, 2004
Mark IN ROCK WE TRUST
Published on June 7, 2005

House of Blues Brands Corp.,

Opposer,

v.

Celebrities Publishing Corporation,

Applicant.

Opposition No. 91,165,901

APPLICANT'S RESPONSE TO
OPPOSER'S FIRST SET OF REQUESTS
FOR PRODUCTION OF DOCUMENTS
AND THINGS; CERTIFICATE OF
SERVICE

**APPLICANT'S RESPONSE TO OPPOSER'S FIRST SET OF
REQUESTS FOR PRODUCTION OF DOCUMENTS AND THINGS**

Applicant Celebrities Publishing Corporation ("Celebrities"), a Hawaii corporation having a principal place of business at 328 Front Street, Lahaina, Hawaii, by its undersigned attorneys, pursuant to the Trademark Rules of Practice and the Federal Rules of Civil Procedure, hereby responds to Opposer House of Blues Brands Corp.'s ("HOB"'s) First Set of Requests For Production Of Documents And Things as follows:

INTRODUCTORY STATEMENT

Celebrities will respond to the Requests for Production of Documents and Things on the basis of the best information available to it at the time of gathering responsive materials, within the limits of, and subject to, the objections described below. The fact that Celebrities states that it will produce responsive documents does not constitute an admission or acknowledgment that the Request is proper, that the requested documents exist in Celebrities' possession custody or control, that the documents Opposer seeks are within the proper bounds of discovery or that requests for similar documents will be treated in similar fashion. In addition, any and all responses and documents provided by Celebrities pursuant to the Requests are for the purposes of this action only and are not responses for any other purpose, nor may they be used against Celebrities in any other proceeding.

GENERAL OBJECTIONS

1. Celebrities asserts all of its general objections with respect to each and every Request, and its responses thereto should be read to be consistent with all of its general objections unless specifically stated otherwise.
2. Celebrities objects to any Request calling for documents or information the disclosure of which is covered by the attorney-client privilege, attorney work product doctrine, any other applicable privilege, or that is otherwise protected or protectable from discovery, including any Request calling for documents or information that contain or refer to confidential, proprietary or trade secret information, absent the entry of an appropriate protective order. The inadvertent disclosure of any documents subject to such privileges or protection is not intended to relinquish any privilege or protection and shall not be deemed to be a waiver of any applicable

privilege or protection.

3. Celebrities objects to the Requests to the extent they attempt to impose burdens that exceed the requirements of the Federal Rules of Civil Procedure or the Trademark Rules of Practice.

4. Celebrities objects to the Requests to the extent that they are overly broad, vague, ambiguous and interposed to harass or annoy Celebrities.

5. Celebrities objects to the Requests to the extent that they do not specify the information sought with reasonable particularity and, as such, are improper.

6. Celebrities objects to the Requests to the extent that they or some of them are more properly interposed as interrogatories.

7. Celebrities objects to the Requests to the extent that they seek documents regarding matters that are not relevant to the subject matter of this action or that are not reasonably calculated to lead to the discovery of admissible evidence.

8. Celebrities objects to the Requests to the extent that they purport to impose a burden of locating documents that are not in Celebrities' possession, custody or control, or that cannot be found in the course of a reasonable search.

9. Celebrities objects to the Requests to the extent that they are duplicative or redundant.

10. Celebrities objects to the Requests to the extent that they call for the creation of documents that do not currently exist.

11. Celebrities objects to the Requests to the extent that they call for the production of documents that are available to the public and/or to which Celebrities and Opposer have equal

access.

SUPPLEMENTATION

Celebrities expressly reserves the right to modify and supplement its responses and objections should it discover additional information responsive to these Requests prior to the final resolution of this proceeding.

NON-WAIVER

Should Celebrities provide information in response to the Requests, which information is or may be the subject of any of the foregoing objections, such a provision is not intended to be nor shall it be deemed a waiver of any and all objections with respect to such information or withheld information.

RESPONSES AND OBJECTIONS TO SPECIFIC REQUESTS

Subject to and without waiver of the foregoing general objections, which will not be restated, but which apply to each Response as if set forth fully below, Celebrities makes the following specific responses and objections:

REQUEST NO. 1: All documents referring or relating to any person having had any right to use Applicant's Mark through or under which Applicant claims any rights in such mark.

Celebrities' Response To Request No. 1:

Celebrities incorporates its General Objections as if fully set forth herein. Subject to and without waiving its objections, Celebrities responds: Celebrities will make available for copying and inspection at the office of Godbey Griffiths Reiss Chong, documents bates numbered 00001-00306.

REQUEST NO. 2: All documents and things referring or relating to Applicant's adoption and use of Applicant's Mark in connection with any products or services of Applicant:

- i. in commerce which Congress may regulate;

- ii. anywhere in the United States; or
- iii. anywhere in the world.

Celebrities' Response To Request No. 2:

Celebrities incorporates its General Objections as if fully set forth herein. Subject to and without waiving its objections, Celebrities responds: Celebrities will make available for copying and inspection at the office of Godbey Griffiths Reiss Chong, documents bates numbered 00001-00306.

REQUEST NO. 3: All documents and things referring or relating to Applicant's adoption and use of Applicant's Mark in connection with any goods or services:

- i. in commerce which Congress may regulate;
- ii. anywhere in the United States; or
- iii. anywhere in the world.

Celebrities' Response To Request No. 3:

Celebrities incorporates its General Objections as if fully set forth herein. Subject to and without waving its general objections, Celebrities responds: Celebrities will make available for copying and inspection at the office of Godbey Griffiths Reiss Chong, documents bates numbered 00001-00306.

REQUEST NO. 4: All documents and things concerning, evidencing, or reflecting the date or manner of first use of Applicant's Mark in connection with any goods or services of Applicant:

- i. in commerce which Congress may regulate;
- ii. anywhere in the United States; or
- iii. anywhere in the world.

Celebrities' Response To Request No. 4:

Celebrities incorporates its General Objections as if fully set forth herein. Subject to and without waving its general objections, Celebrities responds: Celebrities will make available for copying and inspection at the office of Godbey Griffiths Reiss Chong, documents bates

numbered 00001-00306.

REQUEST NO. 5: All documents and things concerning, evidencing, or reflecting the date or manner of first use of Applicant's Mark in connection with any goods or services:

- i. in commerce which Congress may regulate;
- ii. anywhere in the United States; or
- iii. anywhere in the world.

Celebrities' Response To Request No. 5:

Celebrities incorporates its General Objections as if fully set forth herein. Subject to and without waving its general objections, Celebrities responds: Celebrities will make available for copying and inspection at the office of Godbey Griffiths Reiss Chong, documents bates numbered 00001-00306.

REQUEST NO. 6: Each different use of Applicant's Mark (e.g., tags, Labels, packaging, advertisements, or other printed materials) made or intended to be made by or on behalf of Applicant.

Celebrities' Response To Request No. 6:

Celebrities incorporates its General Objections as if fully set forth herein. Subject to and without waving its general objections, Celebrities responds: Celebrities will make available for copying and inspection at the office of Godbey Griffiths Reiss Chong, documents bates numbered 00001-00306.

REQUEST NO. 7: All documents relating to any survey, poll or similar investigation conducted by or on behalf of Applicant relating to actual or intended recognition of Applicant's Mark by the public or the trade.

Celebrities' Response To Request No. 7:

Celebrities incorporates its General Objections as if fully set forth herein. Subject to and without waving its general objections, Celebrities responds: Celebrities will make available for copying and inspection at the office of Godbey Griffiths Reiss Chong, documents bates

numbered 00001-00306.

REQUEST NO. 8: All documents showing that Applicant's Mark is intended to create a public perception of Applicant's Mark as an indication of source or origin.

Celebrities' Response To Request No. 8:

Celebrities incorporates its General Objections as if fully set forth herein. Subject to and without waving its general objections, Celebrities responds: Celebrities will make available for copying and inspection at the office of Godbey Griffiths Reiss Chong, documents bates numbered 00001-00306.

REQUEST NO. 9: All documents relating to any unsolicited publicity or recognition obtained or received by Applicant for any product or service identified by Applicant's Mark.

Celebrities' Response To Request No. 9:

Celebrities incorporates its General Objections as if fully set forth herein. Subject to and without waving its general objections, Celebrities responds: Celebrities will make available for copying and inspection at the office of Godbey Griffiths Reiss Chong, documents bates numbered 00001-00306.

REQUEST NO. 10: Any documents setting forth each specific product or service offered or intended to be offered by Applicant that utilizes or will utilize Applicant's Mark, and the actual or intended price for each such product or service, including, but no limited to, price lists or catalogs.

Celebrities' Response To Request No. 10:

Celebrities incorporates its General Objections as if fully set forth herein. Subject to and without waving its general objections, Celebrities responds: Celebrities will make available for copying and inspection at the office of Godbey Griffiths Reiss Chong, documents bates numbered 00001-00306.

REQUEST NO. 11: All documents which evidence, refer to, or otherwise relate to Applicant's actual or projected annual gross sales, in terms of units and dollars, for each product or service sold or intended to be sold under Applicant's Mark.

Celebrities' Response To Request No. 11:

Celebrities incorporates its General Objections as if fully set forth herein. Subject to and without waving its general objections, Celebrities responds: Celebrities will make available for copying and inspection at the office of Godbey Griffiths Reiss Chong, documents bates numbered 00001-00306.

REQUEST NO. 12: Each different print media advertisement, including each catalog, direct mail literature, brochure, advertisement or piece of promotional material, used or intended to be used by Applicant in advertising Applicant's Goods under Applicant's Mark.

Celebrities' Response To Request No. 12:

Celebrities incorporates its General Objections as if fully set forth herein. Subject to and without waving its general objections, Celebrities responds: Celebrities will make available for copying and inspection at the office of Godbey Griffiths Reiss Chong, documents bates numbered 00001-00306.

REQUEST NO. 13: Each different advertisement used or intended to be used by Applicant not included in response to the preceding request, including, but not limited to, television, radio and/or other broadcast advertisements for Applicant's Mark, including television and/or radio scripts, storyboards, video tape containing television advertisements or audio tape containing radio advertisements.

Celebrities' Response To Request No. 13:

Celebrities incorporates its General Objections as if fully set forth herein. Subject to and without waving its general objections, Celebrities responds: Celebrities will make available for copying and inspection at the office of Godbey Griffiths Reiss Chong, documents bates numbered 00001-00306.

REQUEST NO. 14: All documents which evidence, refer to or otherwise relate to Applicant's actual or intended annual monetary expenditures for advertising, promotion, and/or offering for sale each or any of Applicant's goods under Applicant's Mark.

Celebrities' Response To Request No. 14:

Celebrities incorporates its General Objections as if fully set forth herein. Subject to and without waving its general objections, Celebrities responds: Celebrities will make available for copying and inspection at the office of Godbey Griffiths Reiss Chong, documents bates numbered 00001-00306.

REQUEST NO. 15: All correspondence between any advertising agencies and Applicant relating or referring to the actual or intended promotion of Applicant's Goods under or by reference to Applicant's Mark.

Celebrities' Response To Request No. 15:

Celebrities incorporates its General Objections as if fully set forth herein. Subject to and without waving its general objections, Celebrities responds: Celebrities will make available for copying and inspection at the office of Godbey Griffiths Reiss Chong, documents bates numbered 00001-00306.

REQUEST NO. 16: All marketing plans Applicant has utilized or intends to utilize in relation to goods offered under or by reference to Applicant's Mark.

Celebrities' Response To Request No. 16:

Celebrities incorporates its General Objections as if fully set forth herein. Subject to and without waving its general objections, Celebrities responds: Celebrities will make available for copying and inspection at the office of Godbey Griffiths Reiss Chong, documents bates numbered 00001-00306.

REQUEST NO. 17: All documents and things comprising, referring or relating to actual or planned advertising or promotion of Applicant's Goods under Applicant's Mark.

Celebrities' Response To Request No. 17:

Celebrities incorporates its General Objections as if fully set forth herein. Subject to and without waving its general objections, Celebrities responds: Celebrities will make available for copying and inspection at the office of Godbey Griffiths Reiss Chong, documents bates numbered 00001-00306.

REQUEST NO. 18: All documents and things referring or relating to the channels of trade employed or anticipated to be employed by Applicant to offer goods under Applicant's Mark.

Celebrities' Response To Request No. 18:

Celebrities incorporates its General Objections as if fully set forth herein. Subject to and without waving its general objections, Celebrities responds: Celebrities will make available for copying and inspection at the office of Godbey Griffiths Reiss Chong, documents bates numbered 00001-00306.

REQUEST NO. 19: All documents that refer or relate to all outlets (i.e., locations, licensees, representatives, agents, etc.) through which each good identified by Applicant's Mark either has been or will be offered, rendered or marketed.

Celebrities' Response To Request No. 19:

Celebrities incorporates its General Objections as if fully set forth herein. Subject to and without waving its general objections, Celebrities responds: Celebrities will make available for copying and inspection at the office of Godbey Griffiths Reiss Chong, documents bates numbered 00001-00306.

REQUEST NO. 20: Documents sufficient to permit the identification of all actual or likely customers procuring goods sold or offered for sale under Applicant's Mark.

Celebrities' Response To Request No. 20:

Celebrities incorporates its General Objections as if fully set forth herein. Subject to and

without waving its general objections, Celebrities responds: Celebrities will make available for copying and inspection at the office of Godbey Griffiths Reiss Chong, documents bates numbered 00001-00306.

REQUEST NO. 21: All documents that refer or relate to the actual or intended market for each good identified by Applicant's Mark, including the class, type, qualities or characteristics of customers for each such good.

Celebrities' Response To Request No. 21:

Celebrities incorporates its General Objections as if fully set forth herein. Subject to and without waving its general objections, Celebrities responds: Celebrities will make available for copying and inspection at the office of Godbey Griffiths Reiss Chong, documents bates numbered 00001-00306.

REQUEST NO. 22: If Applicant's use has been continuous since the date of first use, documents by which such continuous use can be established, e.g., one invoice per month for goods or services sold under the mark and/or one bill of lading per month for goods or services shipped under the mark from the date of first use of the mark through the date of receipt of this request. Without limiting the foregoing, and solely for illustrative purposes, such documents would include dated packaging samples showing Applicant's Mark, invoices referring to Applicant's goods or services sold under Applicant's Mark, purchase order referencing Applicant's Mark, invoices for Applicant's Goods sold or offered under Applicant's Mark, and advertisements for goods sold under Applicant's Mark.

Celebrities' Response To Request No. 22:

Celebrities incorporates its General Objections as if fully set forth herein. Subject to and without waving its general objections, Celebrities responds: Celebrities will make available for copying and inspection at the office of Godbey Griffiths Reiss Chong, documents bates numbered 00001-00306.

REQUEST NO. 23: All documents that refer or relate to all periods of non-use of Applicant's Mark in connection with Applicant's Goods, including, but not limited to, documents setting forth in detail the reasons for non-use and the reasons for resumption of use, if any. If Applicant has intentionally ceased use of Applicant's Mark altogether, all documents that refer or relate to

such cessation of use.

Celebrities' Response To Request No. 23:

Celebrities incorporates its General Objections as if fully set forth herein. Subject to and without waving its general objections, Celebrities responds: Celebrities will make available for copying and inspection at the office of Godbey Griffiths Reiss Chong, documents bates numbered 00001-00306.

REQUEST NO. 24: All written agreements to which Applicant is or intends to be a party to which relate to the acquisition of, and/or actual or intended use, promotion, and/or licensing of Applicant's Mark for Applicant's Goods, including any modification of such agreements and all correspondence regarding or referring to such agreements and modifications thereto.

Celebrities' Response To Request No. 24:

Celebrities incorporates its General Objections as if fully set forth herein. Subject to and without waving its general objections, Celebrities responds: Celebrities will make available for copying and inspection at the office of Godbey Griffiths Reiss Chong, documents bates numbered 00001-00306.

REQUEST NO. 25: All documents pertaining to any actual or intended license, assignment or right granted by Applicant to a third party, or by a third party to Applicant, regarding the use of Applicant's Mark, or any similar mark for Applicant's Services, including correspondence relating to the same.

Celebrities' Response To Request No. 25:

Celebrities incorporates its General Objections as if fully set forth herein. Subject to and without waving its general objections, Celebrities responds: Celebrities will make available for copying and inspection at the office of Godbey Griffiths Reiss Chong, documents bates numbered 00001-00306.

REQUEST NO. 26: Each document that contains any reference to a conflict or potential conflict between Opposer's Mark and Applicant's Mark.

Celebrities' Response To Request No. 26:

Celebrities incorporates its General Objections as if fully set forth herein. Subject to and without waving its general objections, Celebrities responds: Celebrities will make available for copying and inspection at the office of Godbey Griffiths Reiss Chong, documents bates numbered 00001-00306.

REQUEST NO. 27: Each document that contains any reference to a conflict or potential conflict between Applicant's Mark and a third party mark.

Celebrities' Response To Request No. 27:

Celebrities incorporates its General Objections as if fully set forth herein. Celebrities further objects to this request on the grounds that it is overly broad, vague, ambiguous, irrelevant and immaterial to a resolution of this proceeding. Subject to and without waving its general objections, Celebrities responds: Celebrities will make available for copying and inspection at the office of Godbey Griffiths Reiss Chong, documents bates numbered 00001-00306.

REQUEST NO. 28: All documents comprising, referring or relating to market research or competitive research done by Applicant and referring or relating to Applicant's Mark

Celebrities' Response To Request No. 28:

Celebrities incorporates its General Objections as if fully set forth herein. Subject to and without waving its general objections, Celebrities responds: Celebrities will make available for copying and inspection at the office of Godbey Griffiths Reiss Chong, documents bates numbered 00001-00306.

REQUEST NO. 29: All documents, correspondence, or internal memoranda that refer or relate to any instances where a person has been confused, mistaken or deceived as to the source of Applicant's Goods offered under or by reference to Applicant's Mark, or as to the source of

Applicant's Goods offered under Applicant's Mark.

Celebrities' Response To Request No. 29:

Celebrities incorporates its General Objections as if fully set forth herein. Celebrities further objects to this request on the grounds that it is overly broad, vague, ambiguous, irrelevant and immaterial to a resolution of this proceeding. Subject to and without waving its general objections, Celebrities responds: Celebrities will make available for copying and inspection at the office of Godbey Griffiths Reiss Chong, documents bates numbered 00001-00306.

REQUEST NO. 30: All documents comprising, referring or relating to any surveys, studies, investigations or analyses of whether Applicant's Mark is likely to be confused with any other trademark, service mark or trade name.

Celebrities' Response To Request No. 30:

Celebrities incorporates its General Objections as if fully set forth herein. Celebrities further objects to this request on the grounds that it is overly broad, vague, ambiguous, irrelevant and immaterial to a resolution of this proceeding. Subject to and without waving its general objections, Celebrities responds: Celebrities will make available for copying and inspection at the office of Godbey Griffiths Reiss Chong, documents bates numbered 00001-00306.

REQUEST NO. 31: All documents relating in any way to or referring to Opposer's Mark, including documents evidencing the date when Applicant first became aware of Opposer or Opposer's Mark.

Celebrities' Response To Request No. 31:

Celebrities incorporates its General Objections as if fully set forth herein. Celebrities further objects to this Request to the extent that it seeks the disclosure of information that is protected from discovery by the attorney work product doctrine and/or the attorney-client privilege. Subject to and without waving its objections, Celebrities responds: Celebrities will

make available for copying and inspection at the office of Godbey Griffiths Reiss Chong, documents bates numbered 00001-00306.

REQUEST NO. 32: All documents which refer or relate to the circumstances surrounding Applicant becoming aware of Opposer's use of Opposer's Mark.

Celebrities' Response To Request No. 32:

Celebrities incorporates its General Objections as if fully set forth herein. Celebrities further objects to this Request to the extent that it seeks the disclosure of information that is protected from discovery by the attorney work product doctrine and/or the attorney-client privilege. Subject to and without waiving its objections, Celebrities responds: Celebrities will make available for copying and inspection at the office of Godbey Griffiths Reiss Chong, documents bates numbered 00001-00306.

REQUEST NO. 33: All documents which refer or relate to the circumstances surrounding Applicant becoming aware of any third party's use of any mark comprising the terms "IN ROCK WE TRUST", "IN BLUES WE TRUST" or any similar term.

Celebrities' Response To Request No. 33:

Celebrities incorporates its General Objections as if fully set forth herein. Celebrities further objects to this Request to the extent that it seeks the disclosure of information that is protected from discovery by the attorney work product doctrine and/or the attorney-client privilege. Subject to and without waiving its objections, Celebrities responds: Celebrities will make available for copying and inspection at the office of Godbey Griffiths Reiss Chong, documents bates numbered 00001-00306.

REQUEST NO. 34: All documents referring or relating to any investigation, including any inquiry, survey, poll, credit check or other type of investigation Applicant has ever conducted or caused to be conducted involving:

- (a) Opposer's business;
- (b) Opposer's Mark; or

(c) Opposer.

Celebrities' Response To Request No. 34:

Celebrities incorporates its General Objections as if fully set forth herein. Celebrities further objects to this Request to the extent that it seeks the disclosure of information that is protected from discovery by the attorney work product doctrine and/or the attorney-client privilege. Subject to and without waiving its objections, Celebrities responds: Celebrities will make available for copying and inspection at the office of Godbey Griffiths Reiss Chong, documents bates numbered 00001-00306.

REQUEST NO. 35: All documents relating or referring to the actual or intended use of Applicant's Mark by Applicant, or any third party on or in connection with (a) Applicant's Goods, and/or (b) any service.

Celebrities' Response To Request No. 35:

Celebrities incorporates its General Objections as if fully set forth herein. Subject to and without waving its general objections, Celebrities responds: Celebrities will make available for copying and inspection at the office of Godbey Griffiths Reiss Chong, documents bates numbered 00001-00306.

REQUEST NO. 36: All documents relating or referring to any and all actual or intended state and federal trademark or trade name applications filed by Applicant for Applicant's Mark, including documents which show the filing date(s) and serial number(s) of such application(s), the date(s) of publication, the date(s) of registration, the registration number(s), if any, and the current status of said application(s). "State" shall mean and include all 50 states of the United States and all territories and possessions of the United States.

Celebrities' Response To Request No. 36:

Celebrities incorporates its General Objections as if fully set forth herein. Celebrities further objects to this Request on the grounds that it is overly broad, vague, ambiguous, unduly

burdensome, irrelevant and immaterial to a resolution of this proceedings. Subject to and without waving its general objections, Celebrities responds: Celebrities will make available for copying and inspection at the office of Godbey Griffiths Reiss Chong, documents bates numbered 00001-00306.

REQUEST NO. 37: All documents relating or referring to any and all actual or intended foreign trademark or trade name applications filed by Applicant for Applicant's Mark, including documents which show the filing date(s) and serial number(s) of such application(s), the date(s) of publication, the date(s) of registration, the registration number(s), if any, and the current status of said application(s).

Celebrities' Response To Request No. 37:

Celebrities incorporates its General Objections as if fully set forth herein. Celebrities further objects to this Request on the grounds that it is overly broad, vague, ambiguous, unduly burdensome, irrelevant and immaterial to a resolution of this proceedings. Subject to and without waving its general objections, Celebrities responds: Celebrities will make available for copying and inspection at the office of Godbey Griffiths Reiss Chong, documents bates numbered 00001-00306.

REQUEST NO. 38: All trademark searches in the United States conducted by or on behalf of Applicant with regard to Applicant's Mark, including any documents relating to said searches that refer to the date each search was ordered, each database searched, each reference noted on each search and the person who conducted the search.

Celebrities' Response To Request No. 38:

Celebrities incorporates its General Objections as if fully set forth herein. Celebrities further objects to this Request to the extent that it seeks the disclosure of information that is protected from discovery by the attorney work product doctrine and/or the attorney-client privilege. Subject to and without waving its objections, Celebrities responds: Celebrities will

make available for copying and inspection at the office of Godbey Griffiths Reiss Chong, documents bates numbered 00001-00306.

REQUEST NO. 39: All trademark searches in any foreign country, conducted by or on behalf of Applicant with regard to Applicant's Mark, including any documents relating to said searches that refer to the date each search was ordered, each database searched, each reference noted on each search and the person who conducted the search.

Celebrities' Response To Request No. 39:

Celebrities incorporates its General Objections as if fully set forth herein. Celebrities further objects to this Request to the extent that it seeks the disclosure of information that is protected from discovery by the attorney work product doctrine and/or the attorney-client privilege. Subject to and without waiving its objections, Celebrities responds: Celebrities will make available for copying and inspection at the office of Godbey Griffiths Reiss Chong, documents bates numbered 00001-00306.

REQUEST NO. 40: All documents comprising, referring or relating to any opinion concerning the registrability of Applicant's Mark.

Celebrities' Response To Request No. 40:

Celebrities incorporates its General Objections as if fully set forth herein. Celebrities further objects to this Request to the extent that it seeks the disclosure of information that is protected from discovery by the attorney work product doctrine and/or the attorney-client privilege. Subject to and without waiving its objections, Celebrities responds: Celebrities will make available for copying and inspection at the office of Godbey Griffiths Reiss Chong, documents bates numbered 00001-00306.

REQUEST NO. 41: All documents comprising, referring or relating to any opinion concerning any likelihood of confusion between Applicant's Mark and any other trademark, service mark or trade name.

Celebrities' Response To Request No. 41:

Celebrities incorporates its General Objections as if fully set forth herein. Celebrities further objects to this Request to the extent that it seeks the disclosure of information that is protected from discovery by the attorney work product doctrine and/or the attorney-client privilege. Subject to and without waiving its objections, Celebrities responds: Celebrities will make available for copying and inspection at the office of Godbey Griffiths Reiss Chong, documents bates numbered 00001-00306.

REQUEST NO. 42: All documents referring or relating to each complaint, petition, objection, opposition, Opposition, administrative proceeding, or civil action involving Applicant's use, proposed use, registration, or application for registration, of Applicant's Mark.

Celebrities' Response To Request No. 42:

Celebrities incorporates its General Objections as if fully set forth herein. Celebrities further objects to this Request to the extent that it seeks the disclosure of information that is protected from discovery by the attorney work product doctrine and/or the attorney-client privilege. Subject to and without waiving its objections, Celebrities responds: Celebrities will make available for copying and inspection at the office of Godbey Griffiths Reiss Chong, documents bates numbered 00001-00306.

REQUEST NO. 43: All documents referring or relating to each complaint, petition, objection, opposition, Opposition, administrative proceeding, or civil action involving any third party's use, proposed use, registration, or application for registration, of any mark or name comprising the term IN ROCK WE TRUST.

Celebrities' Response To Request No. 43:

Celebrities incorporates its General Objections as if fully set forth herein. Celebrities further objects to this Request to the extent that it seeks the disclosure of information that is

protected from discovery by the attorney work product doctrine and/or the attorney-client privilege. Celebrities further objects to this Request on the grounds that it is overly broad, vague, ambiguous, unduly burdensome, irrelevant and immaterial to a resolution of this proceedings. Subject to and without waiving its objections, Celebrities responds: Celebrities will make available for copying and inspection at the office of Godbey Griffiths Reiss Chong, documents bates numbered 00001-00306.

REQUEST NO. 44: The complete file of all applications in the United States to register Applicant's Mark, including all communications sent to or received from the applicable trademark office in which such application was filed.

Celebrities' Response To Request No. 44:

Celebrities incorporates its General Objections as if fully set forth herein. Celebrities further objects to this Request to the extent that it seeks the disclosure of information that is protected from discovery by the attorney work product doctrine and/or the attorney-client privilege. Celebrities further objects to this Request on the grounds that it is overly broad, vague, ambiguous, unduly burdensome, irrelevant and immaterial to a resolution of this proceedings, and that Opposer has equal access to this information. Subject to and without waiving its objections, Celebrities responds: Celebrities will make available for copying and inspection at the office of Godbey Griffiths Reiss Chong, documents bates numbered 00001-00306.

REQUEST NO. 45: The complete file of all applications in any foreign country to register Applicant's Mark, including all communications sent to or received from the applicable trademark office in which such application was filed.

Celebrities' Response To Request No. 45:

Celebrities incorporates its General Objections as if fully set forth herein. Celebrities further objects to this Request to the extent that it seeks the disclosure of information that is

protected from discovery by the attorney work product doctrine and/or the attorney-client privilege. Celebrities further objects to this Request on the grounds that it is overly broad, vague, ambiguous, unduly burdensome, irrelevant and immaterial to a resolution of this proceedings. Subject to and without waiving its objections, Celebrities responds: Celebrities will make available for copying and inspection at the office of Godbey Griffiths Reiss Chong, documents bates numbered 00001-00306.

REQUEST NO. 46: All internal memoranda prepared by any present or former director, officer, manager, partner, or employee of Applicant which refers to or in any manner mentions Opposer or Opposer's Mark.

Celebrities' Response To Request No. 46:

Celebrities incorporates its General Objections as if fully set forth herein. Celebrities further objects to this Request to the extent that it seeks the disclosure of information that is protected from discovery by the attorney work product doctrine and/or the attorney-client privilege. Subject to and without waiving its objections, Celebrities responds: Celebrities will make available for copying and inspection at the office of Godbey Griffiths Reiss Chong, documents bates numbered 00001-00306.

REQUEST NO. 47: All internal memoranda prepared by any present or former director, officer, manager, partner, or employee of Applicant which refers to or in any manner mentions a third party's use of Applicant's Mark or similar mark.

Celebrities' Response To Request No. 47:

Celebrities incorporates its General Objections as if fully set forth herein. Celebrities further objects to this Request to the extent that it seeks the disclosure of information that is protected from discovery by the attorney work product doctrine and/or the attorney-client privilege. Celebrities further objects to this Request on the grounds that it is overly broad, vague,

ambiguous, unduly burdensome, irrelevant and immaterial to a resolution of this proceedings.

Subject to and without waiving its objections, Celebrities responds: Celebrities will make available for copying and inspection at the office of Godbey Griffiths Reiss Chong, documents bates numbered 00001-00306.

REQUEST NO. 48: All correspondence sent to Applicant from any individual company not a party to these proceedings in which (i) Opposer or Opposer's Mark and (ii) Applicant or Applicant's Mark are referred to or mentioned.

Celebrities' Response To Request No. 48:

Celebrities incorporates its General Objections as if fully set forth herein. Celebrities further objects to this Request on the grounds that it is overly broad, vague, ambiguous, unduly burdensome, irrelevant and immaterial to a resolution of this proceedings. Subject to and without waiving its objections, Celebrities responds: Celebrities will make available for copying and inspection at the office of Godbey Griffiths Reiss Chong, documents bates numbered 00001-00306.

REQUEST NO. 49: All correspondence sent to Applicant from any individual or company not a party to these proceedings relating to a third party's use of Applicant's Mark or any similar mark.

Celebrities' Response To Request No. 49:

Celebrities incorporates its General Objections as if fully set forth herein. Celebrities further objects to this Request on the grounds that it is overly broad, vague, ambiguous, unduly burdensome, irrelevant and immaterial to a resolution of this proceedings. Subject to and without waiving its objections, Celebrities responds: Celebrities will make available for copying and inspection at the office of Godbey Griffiths Reiss Chong, documents bates numbered 00001-00306.

REQUEST NO. 50: Any correspondence addressed to, or received by, Applicant from any person expressing any complaint or dissatisfaction with any products or services sold under or in connection with Applicant's Mark.

Celebrities' Response To Request No. 50:

Celebrities incorporates its General Objections as if fully set forth herein. Celebrities further objects to this Request on the grounds that it is overly broad, vague, ambiguous, unduly burdensome, irrelevant and immaterial to a resolution of this proceedings. Subject to and without waiving its objections, Celebrities responds: Celebrities will make available for copying and inspection at the office of Godbey Griffiths Reiss Chong, documents bates numbered 00001-00306.

REQUEST NO. 51: Copies of all letters and other communications published, sent to and/or addressed to third parties by Applicant relating or referring to the subject matter of this opposition.

Celebrities' Response To Request No. 51:

Celebrities incorporates its General Objections as if fully set forth herein. Celebrities further objects to this Request on the grounds that it is overly broad, vague, ambiguous, unduly burdensome, irrelevant and immaterial to a resolution of this proceedings. Subject to and without waiving its objections, Celebrities responds: Celebrities will make available for copying and inspection at the office of Godbey Griffiths Reiss Chong, documents bates numbered 00001-00306.

REQUEST NO. 52: All documents identified in, or referred to or relied on in preparing, any response to any interrogatories propounded by Opposer.

Celebrities' Response To Request No. 52:

Celebrities incorporates its General Objections as if fully set forth herein. Subject to and

without waiving its objections, Celebrities responds: Celebrities will make available for copying and inspection at the office of Godbey Griffiths Reiss Chong, documents bates numbered 00001-00306.

REQUEST NO. 53: All documents which in any way support or relate to Applicant's answers to any interrogatories propounded by Opposer.

Celebrities' Response To Request No. 53:

Celebrities incorporates its General Objections as if fully set forth herein. Subject to and without waiving its objections, Celebrities responds: Celebrities will make available for copying and inspection at the office of Godbey Griffiths Reiss Chong, documents bates numbered 00001-00306.

REQUEST NO. 54: A copy of the curriculum vitae or resume for each individual whom you intend to call as an expert witness in this Opposition.

Celebrities' Response To Request No. 54:

Celebrities incorporates by reference its General Objections. Subject to, and without waiving its objections, Celebrities states that it has not yet identified an expert witness to testify in this matter. Celebrities will amend its response as required by the Federal Rules of Civil Procedure and the Trademark Rules of Practice upon identifying any such expert.

REQUEST NO. 55: All documents prepared by an expert or which reflect or contain the observations, mental impressions, opinions and/or conclusions of any expert who you intend to call as a witness in this Opposition.

Celebrities' Response To Request No. 55:

Celebrities incorporates by reference its General Objections. Subject to, and without waiving its objections, Celebrities states that it has not yet identified an expert witness to testify in this matter. Celebrities will amend its response as required by the Federal Rules of Civil

Procedure and the Trademark Rules of Practice upon identifying any such expert.

REQUEST NO. 56: Any and all documents prepared by an expert whose work product was reviewed by any expert who you intend to call as a witness in this Opposition.

Celebrities' Response To Request No. 56:

Celebrities incorporates by reference its General Objections. Subject to, and without waiving its objections, Celebrities states that it has not yet identified an expert witness to testify in this matter. Celebrities will amend its response as required by the Federal Rules of Civil Procedure and the Trademark Rules of Practice upon identifying any such expert.

REQUEST NO. 57: All documents and things sent to you or received by you from any expert who you intend to call as a witness in this Opposition.

Celebrities' Response To Request No. 57:

Celebrities incorporates by reference its General Objections. Subject to, and without waiving its objections, Celebrities states that it has not yet identified an expert witness to testify in this matter. Celebrities will amend its response as required by the Federal Rules of Civil Procedure and the Trademark Rules of Practice upon identifying any such expert.

REQUEST NO. 58: All documents and things sent to or received from any person or entity designated by Applicant or Opposer as a witness in this Opposition.

Celebrities' Response To Request No. 58:

Celebrities incorporates its General Objections as if fully set forth herein. Celebrities further objects to this Request to the extent that it seeks the disclosure of information that is protected from discovery by the attorney work product doctrine and/or the attorney-client privilege. Subject to and without waiving its objections, Celebrities responds: Celebrities will make available for copying and inspection at the office of Godbey Griffiths Reiss Chong,

documents bates numbered 00001-00306.

REQUEST NO. 59: All documents and things pertaining to this proceeding and given to or received from any person whom Applicant may or will call as a witness in this Opposition.

Celebrities' Response To Request No. 59:

Celebrities incorporates its General Objections as if fully set forth herein. Celebrities further objects to this Request to the extent that it seeks the disclosure of information that is protected from discovery by the attorney work product doctrine and/or the attorney-client privilege. Subject to and without waiving its objections, Celebrities responds: Celebrities will make available for copying and inspection at the office of Godbey Griffiths Reiss Chong, documents bates numbered 00001-00306.

REQUEST NO. 60: Any and all documents which refer or relate to any written or recorded statements of any witnesses or persons with knowledge of relevant facts about the occurrences made the basis of this proceeding and/or potential parties in connection with the prosecution or investigation or this proceeding, including but not limited to, experts or other persons having any opinions or knowledge of such occurrence or damages, if any, resulting therefrom.

Celebrities' Response To Request No. 60:

Celebrities incorporates its General Objections as if fully set forth herein. Celebrities further objects to this Request to the extent that it seeks the disclosure of information that is protected from discovery by the attorney work product doctrine and/or the attorney-client privilege. Subject to and without waiving its objections, Celebrities responds: Celebrities will make available for copying and inspection at the office of Godbey Griffiths Reiss Chong, documents bates numbered 00001-00306.

REQUEST NO. 61: Any and all documents which refer or relate in any manner whatsoever, to any statement by any agent, officer or employee of Applicant or Opposer which reference or refer to this proceeding.

Celebrities' Response To Request No. 61:

Celebrities incorporates its General Objections as if fully set forth herein. Celebrities further objects to this Request to the extent that it seeks the disclosure of information that is protected from discovery by the attorney work product doctrine and/or the attorney-client privilege. Celebrities further objects to this Request on the grounds that it is overly broad, vague, ambiguous, unduly burdensome, irrelevant and immaterial to a resolution of this proceedings. Subject to and without waiving its objections, Celebrities responds: Celebrities will make available for copying and inspection at the office of Godbey Griffiths Reiss Chong, documents bates numbered 00001-00306.

REQUEST NO. 62: All statements or other documents, written or recorded, of Applicant or anyone acting on its behalf, regarding the occurrences made the basis of this proceeding.

Celebrities' Response To Request No. 62:

Celebrities incorporates its General Objections as if fully set forth herein. Celebrities further objects to this Request to the extent that it seeks the disclosure of information that is protected from discovery by the attorney work product doctrine and/or the attorney-client privilege. Celebrities further objects to this Request on the grounds that it is overly broad, vague, ambiguous, unduly burdensome, irrelevant and immaterial to a resolution of this proceedings. Subject to and without waiving its objections, Celebrities responds: Celebrities will make available for copying and inspection at the office of Godbey Griffiths Reiss Chong, documents bates numbered 00001-00306.

REQUEST NO. 63: All statements or other documents, written or recorded, of any person not a party to this proceeding regarding the occurrences made the basis of this proceeding.

Celebrities' Response To Request No. 63:

Celebrities incorporates its General Objections as if fully set forth herein. Celebrities further objects to this Request on the grounds that it is overly broad, vague, ambiguous, unduly burdensome, irrelevant and immaterial to a resolution of this proceedings. Subject to and without waiving its objections, Celebrities responds: Celebrities will make available for copying and inspection at the office of Godbey Griffiths Reiss Chong, documents bates numbered 00001-00306.

REQUEST NO. 64: All documents and things that you contend support or refute the various allegations made in the Opposition.

Celebrities' Response To Request No. 64:

Celebrities incorporates its General Objections as if fully set forth herein. Subject to and without waiving its objections, Celebrities responds: Celebrities will make available for copying and inspection at the office of Godbey Griffiths Reiss Chong, documents bates numbered 00001-00306.

REQUEST NO. 65: All documents and things containing the information and providing a basis for the answers supplied to any of Opposer's interrogatories to Applicant.

Celebrities' Response To Request No. 65:

Celebrities incorporates its General Objections as if fully set forth herein. Celebrities further objects to this Request to the extent that it seeks the disclosure of information that is protected from discovery by the attorney work product doctrine and/or the attorney-client privilege. Subject to and without waiving its objections, Celebrities responds: Celebrities will make available for copying and inspection at the office of Godbey Griffiths Reiss Chong,

documents bates numbered 00001-00306.

REQUEST NO. 66: Any and all documents which will be used to impeach Opposer or any witness in this proceeding.

Celebrities' Response To Request No. 66:

Celebrities incorporates its General Objections as if fully set forth herein. Celebrities further objects to this Request to the extent that it seeks the disclosure of information that is protected from discovery by the attorney work product doctrine and/or the attorney-client privilege. Subject to and without waiving its objections, Celebrities responds: Celebrities will make available for copying and inspection at the office of Godbey Griffiths Reiss Chong, documents bates numbered 00001-00306.

REQUEST NO. 67: All documents and things which you intend to introduce as an exhibit or evidence in this Opposition.

Celebrities' Response To Request No. 67:

Celebrities incorporates its General Objections as if fully set forth herein. Subject to and without waiving its objections, Celebrities responds: Celebrities will make available for copying and inspection at the office of Godbey Griffiths Reiss Chong, documents bates numbered 00001-00306.

REQUEST NO. 68: Any and all documents that pertain or relate, in any manner whatsoever to any aspect of this proceeding which you have furnished to your counsel and which are not otherwise privileged.

Celebrities' Response To Request No. 68:

Celebrities incorporates its General Objections as if fully set forth herein. Celebrities further objects to this Request to the extent that it seeks the disclosure of information that is protected from discovery by the attorney work product doctrine and/or the attorney-client

privilege. Celebrities further objects to this Request on the grounds that it is overly broad, vague, ambiguous, unduly burdensome, irrelevant and immaterial to a resolution of this proceedings. Subject to and without waiving its objections, Celebrities responds: Celebrities will make available for copying and inspection at the office of Godbey Griffiths Reiss Chong, documents bates numbered 00001-00306.

All objections stated above are entered on behalf of Celebrities Publishing Corporation by:

GODBEY GRIFFITHS REISS CHONG
A Limited Liability Law Partnership
Attorneys for Applicant

By: 
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DATED: Honolulu, Hawaii, March 24, 2006.

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

House of Blues Brands Corp.,

Opposer,

v.

Celebrities Publishing Corporation,

Applicant.

Opposition No. 91,165,901

CERTIFICATE OF SERVICE

CERTIFICATE OF SERVICE

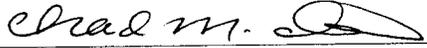
I hereby certify that the foregoing APPLICANT'S RESPONSE TO OPPOSER'S FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS AND THINGS, and this CERTIFICATE OF SERVICE was duly served upon Opposer by first class mail, postage prepaid, on the date and to its last known address set out below:

Kirt S. O'Neill
Marissa Lawson
Akin Gump Strauss Hauer & Feld LLP
P.O. Box 12870
San Antonio, Texas 78212

Attorneys for Opposer

DATED: Honolulu, Hawaii, March 24, 2006.

By:


Chad M. Iida
Attorney for Applicant