

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

In the Matter of U.S. Trademark Application SN 78/522,085
For the Mark GRAND RIVER

TTAB

Cabela's, Inc.,)	
)	
Opposer,)	
)	
v.)	Opposition No. 91167100
)	
International Outsourcing)	
Services, LLC ,)	
)	
Applicant.)	

Commissioner for Trademarks

MOTION FOR ENTRY OF DEFAULT JUDGMENT

Cabela's, Inc. ("Opposer"), through its attorneys, hereby moves for entry of default judgment for failure of International Outsourcing Services, LLC ("Applicant") to answer Petitioner's Notice of Opposition as required under the Rules and by the Trademark Trial and Appeal Board's ("the Board") scheduling order. In support of this motion, Petitioner states as follows:

1. Opposer filed with the Board a Notice of Opposition on October 24, 2005, opposing the registration of Applicant's mark GRAND RIVER on the grounds that such registration was likely to cause confusion with Opposer's mark GRAND RIVER LODGE.
2. On October 24, 2005, the Board issued a Scheduling Order under which Registrant was required to answer the Notice of Opposition or otherwise plead by December 3, 2005.
3. Registrant failed to file an answer to the Notice of Opposition with the Board or otherwise plead as required by the Scheduling Order.

11-29-2006

4. On December 20, 2005, the Board entered a notice of default against Applicant for failure to file an Answer and issued a show cause order.
5. On January 19, 2006, Applicant filed a consented motion to extend the period of time in which to file an Answer to the Notice of Opposition.
6. On February 20, 2006, Applicant filed a further consented motion to extend the period of time in which to file an Answer to the Notice of Opposition.
7. On March 3, 2006, proceedings were suspended for six months so that the parties could discuss a possible settlement.
8. No settlement was reached by the parties and proceedings, pursuant to the schedule set by Board in the March 3, 2006 suspension letter, were resumed on August 30, 2006. Applicant, pursuant to the schedule set in the suspension letter, was allowed until September 29, 2006 to file an Answer or otherwise plead.
9. To date, Applicant has filed no Answer to the Notice of Opposition and has given Opposer no reason why an Answer has not been filed.
10. On September 19, 2006, Opposer served a First Request for Production of Documents and Things and a First Set of Interrogatories upon Applicant and to date Opposer has not received any answers to said First Request for Production of Documents and Things and to said First Set of Interrogatories.
11. Opposer has filed contemporaneously herewith a motion to compel answers to said First Request for Production of Documents and Things and to said First Set of Interrogatories.
12. Pursuant to TBMP § 508, because Applicant has failed to file an answer or otherwise plead to Opposer's Notice of Opposition by the date set by the Board pursuant to notice to Applicant, Opposer's instant motion for entry of default judgment should be granted and U.S.

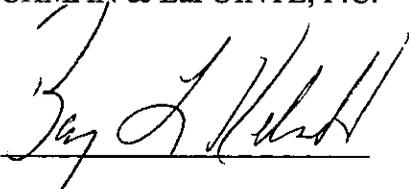
Trademark Application No. 78/522,085 should be withdrawn and/or deemed abandoned without delay and registration of Applicant's mark GRAND RIVER should be denied. At this juncture, given the more than one year since the filing of the Notice of Opposition, Applicant could not show good cause why default judgment should not be entered against it. Applicant has had sufficient time to investigate the matters raised in Opposer's Notice of Opposition. Further, Applicant has displayed nothing but indifference to this proceeding as evidenced by the failure to timely file an Answer and the failure to timely respond to the propounded discovery.

WHEREFORE, Petitioner prays that its motion for entry of default judgment be granted and that registration of Applicant's mark GRAND RIVER be denied.

November 27, 2006

Respectfully submitted,

BACHMAN & LaPOINTE, P.C.

By: 

Barry L. Kelmachter
ATTORNEY FOR OPPOSER
CABELA'S INC

900 Chapel Street, Suite 1201
New Haven, CT 06510-2802

Tel: 203-777-6628
Fax 203-865-0297

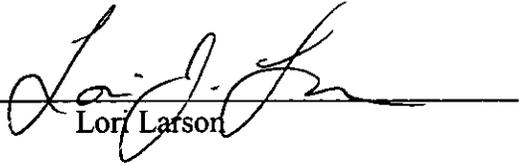
Email: docket@bachlap.com

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the attached MOTION FOR ENTRY OF
DEFAULT JUDGMENT was forwarded by first class mail, postage prepaid, on this 27th day of
November, 2006 to the following attorney of record for Applicant:

Kevin W. Guynn, Esq.
GREER, BURNS & CRAIN, LTD.
300 S. Wacker Drive
Suite 2500
Chicago, IL 60606

Dated: Nov 27, 2006


Lori Larson

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

CABELA'S INC.)	
)	
Opposer,)	
v.)	Opposition No. 91167100
)	
INTERNATIONAL)	
OUTSOURCING)	
SERVICES LLC,)	
)	
Applicant.)	
)	

**COMBINED MOTION TO COMPEL ANSWERS TO INTERROGATORIES
AND PRODUCTION OF DOCUMENTS AND MEMORANDUM OF LAW**

Opposer, CABELA'S INC. (hereinafter "Opposer"), pursuant to 37 C.F.R. § 2.120(e) and Rule 37(a)(2)(B) of the Fed. R. Civ. P., moves for an order compelling discovery in the following particulars:

- (1) Complete and fully responsive answers to Interrogatory Nos. 1-30 propounded by Opposer attached hereto as Exhibit A; and
- (2) All documents and things responsive to Opposer's Document Request Nos. 1-31 attached hereto as Exhibit B.

BACKGROUND

On September 19, 2006, Opposer served upon Applicant, International Outsourcing Services, LLC, (hereinafter "Applicant"), Opposer's First Set of Interrogatories and Opposer's First Request for Production of Documents and Things. Copies of Opposer's First Set of Interrogatories and First Set of Document Requests are attached hereto as Exhibits A and B.

Applicant had thirty-five (35) days from September 19, 2006 to respond to Opposer's First Set of Interrogatories and Opposer's First Request for Production of Documents and Things. As yet, Applicant has provided no answers and/or objections to the propounded discovery.

On November 1, 2006, as part of a good faith effort to amicably resolve the issues presented herein, Opposer's attorney forwarded an email to Applicant's attorney requesting answers to Opposer's First Set of Interrogatories and to Opposer's First Request for Production of Documents and Things. A copy of Opposer's email dated November 1, 2006 is attached hereto as Exhibit C.

On November 2, 2006, Applicant's attorney forwarded a response to Opposer's November 1, 2006 email. A copy is attached hereto as Exhibit D. There is no mention in the letter of providing any answers to Opposer's First Set of

Interrogatories and to Opposer's First Request for Production of Document and Things.

To date, the answers to Opposer's discovery are outstanding.

DISCUSSION

Pursuant to Rule 33(b)(3), Fed.R.Civ.P., and 37 C.F.R. §2.119(c), answers and/or objections to Opposer's First Set of Interrogatories were due on October 24, 2006. Pursuant to Rule 34(b), Fed.R.Civ.P., and 37 C.F.R. §2.119(c), Applicant's answers and/or objections to Opposer's First Request for Production of Documents and Things were due on October 24, 2006. Applicant has not provided Opposer, or its counsel, with any reason why answers and/or objections to these discovery requests were not timely provided.

Given the foregoing circumstances and the indifference displayed by Applicant, pursuant to Rule 2.120(e) and Rule 37(a)(2)(B), Fed.R.Civ.P., Opposer is entitled to an order from the Board compelling answers to the outstanding interrogatories and to an order compelling production of documents and things responsive to the outstanding document requests.

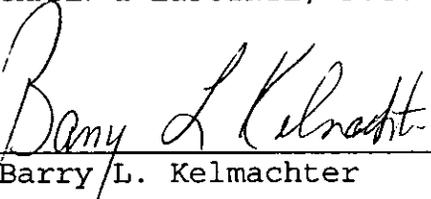
For these reasons, Opposer seeks an order from the Board compelling answers to the outstanding interrogatories and responses to the outstanding document requests. Opposer further

seeks an order extending the discovery and the other dates in this proceeding by 60 days to allow Opposer to file any necessary follow-up discovery.

Respectfully submitted,

BACHMAN & LaPOINTE, P.C.

Dated: November 27, 2006

By 
Barry L. Kelmachter

Attorney for Opposer,
CABELA'S INC.

900 Chapel Street
Suite 1201
New Haven, CT 06510-2802
Tel: (203) 777-6628-ext. 112
Fax: (203) 865-0297

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing **COMBINED MOTION TO COMPEL ANSWERS TO INTERROGATORIES AND PRODUCTION OF DOCUMENTS AND MEMORANDUM OF LAW** was sent to the attorney for the Applicant by first class mail, postage prepaid, to the following address on this 27th day of November, 2006:

Kevin W. Gynn
GREER, BURNS & CRAIN, LTD.
300 South Wacker Drive
Suite 2500
Chicago, IL 60606-6771

Dated: Nov. 27, 2006


Lori Larson

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
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<hr/>)	
CABELA'S INC.)	
	Opposer,)	
	v.)	Opposition No. 91167100
INTERNATIONAL OUTSOURCING SERVICES LLC)	
	Applicant.)	
<hr/>)	

**OPPOSER'S FIRST SET OF INTERROGATORIES
TO APPLICANT INTERNATIONAL OUTSOURCING SERVICES LLC**

Pursuant to the provisions of 37 CFR §2.120 and Rule 33 of the Federal Rules of Civil Procedure, Opposer, CABELA'S INC., hereby serves the following interrogatories upon Applicant, INTERNATIONAL OUTSOURCING SERVICES LLC, to be answered under oath by Applicant within thirty (30) days of service hereof.

INSTRUCTIONS AND DEFINITIONS

A. As used herein, the term "Opposer" refers to CABELA'S INC., and includes all other partnerships, corporations or other business entities (whether or not separate legal entities) subsidiary to, parent to, or affiliated with Opposer, including all of its or their partners, principals, officers, directors, trustees, employees, staff members, agents and representatives, including counsel for Opposer.

B. The term "Opposer's Mark(s)" refers to any designation and/or trademark used or intended to be used by Opposer to identify Opposer or the goods or services offered or promoted by Opposer in connection with that term, and collectively refers to the GRAND RIVER LODGE mark owned by Opposer, cited by Opposer in its Notice of Opposition.

C. The term "Applicant" refers to INTERNATIONAL OUTSOURCING SERVICES LLC and/or its licensee(s), and includes all other partnerships, corporations or other business entities (whether or not separate legal entities) subsidiary to, parent to, or affiliated with Applicant, including all of its or their partners, principals, officers, directors, trustees, employees, staff members, agents and representatives, including counsel for Applicant.

D. The terms "Applicant's Mark" refers to the designation and/or trademark sought to be registered by means of Application Serial No. 78/522,085.

E. Wherever in the following interrogatories Applicant is asked to identify documents, it is requested that the documents be identified by stating:

- a. General type of document, i.e., letter, memorandum, report, miscellaneous, notes, etc.;
- b. Date;
- c. Author;
- d. Organization, if any, with which author was connected;
- e. Addressee or recipient;
- f. Other distributees;
- g. Organization, if any, with which addressee or recipient, or distributees were connected.
- h. General nature of the subject matter to extent that Applicant can do so without divulging matter considered by it to be privileged;
- i. Present location of such document and each copy thereof known to Applicant, including the title, index number and location, if any, of the file in which the document is kept or the file from which such document was removed, if removed for the purposes of this case, and the identity of all persons responsible for the filing or other disposition of the document.

F. Wherever in the following interrogatories Applicant is asked to identify persons, it is requested that the persons be identified by stating:

- a. Their full name, home and business addresses, if known;
- b. Their employment, job title or description; and
- c. If employed by Applicant, their dates and regular places of employment and general duties.

G. Wherever in the following interrogatories Applicant is asked to identify companies or the response to an interrogatory would require the identification of a company, it is requested that the company be identified by stating:

- a. Its full corporate name;
- b. A brief description of the general nature of its business;
- c. Its state of incorporation;
- d. The address and principal place of business; and
- e. The identity of the officers or other person having knowledge of the matter with respect to which the company has been identified.

H. Wherever in the following interrogatories Applicant is asked to identify goods, products or services, or the marking used in combination with the goods or services, it is requested that the same be identified by stating the catalog, stock, model or the like number or designation, the trademark, name, type, grade, design element, or stylized appearance of the mark, and any other designation customarily used by the party concerned to designate such goods, products or services, or the like, and to distinguish it from others made by the same or a different producer.

I. Should Applicant deem to be privileged any document concerning information which is requested by any of the following interrogatories, Applicant shall list such documents and supply information as requested in Paragraph E above concerning such documents, and additionally shall indicate that they claim privilege therefor, briefly state the nature of the document, the sender, the author, the recipient of each copy, the date, the name of each person to whom the original was circulated, the names appearing on any circulation list of Applicant associated with such document, a summary statement of the subject matter(s) of such document in sufficient detail to permit the Trademark Trial and Appeal Board to conduct an analysis to reach a determination of any claim of privilege or exclusion and separate indication of the basis for assertion of privilege or the like for each such document.

J. Whenever the terms "documents" or "all documents" are used herein, these terms are meant to include all documents available to Applicant and further to include, without limitation, any written, recorded, graphic, or printed matter, in whatever form, whether printed and/or produced by hand or any other process, specifically including (1) all originals, copies or drafts, and (2) originals, copies or drafts on which appear any notes or writings placed thereon after the document was first printed, typed, recorded, or made into graphic matter, however produced or reproduced, in the actual or constructive possession of Applicant, including, without limitation, any letters, telegrams, memoranda, writings, circulars, monographs, bulletins, manuals, speeches, audio and video tapes, drawings, blueprints, recordings, computer disks or tapes, computer electronic or optical memory devices in readable form, computer printouts, computer electronic messages, notes, correspondence, communications of any nature, summaries of records of conversations or conferences, information which can be retrieved by any process, test and/or analysis, reports and data sheets, specifications, sketches, minutes or reports and/or summaries or interviews, reports

and/or summaries of investigations, opinions or reports of consultants, agreements and contracts, brochures, pamphlets, advertisements, letters to the trade, and including any tangible things within the scope of Rule 34(a)(1), Federal Rules of Civil Procedure.

Any document bearing on any sheet or side thereof any marks not a part of the original text or any reproduction thereof is to be considered a separate document for purposes of responding to the following specific document requests.

K. Each of the separate interrogatories herein is deemed to seek separate answers and responses as of the date hereof and these interrogatories shall be deemed to be continuing and any additional information relating in any way to these interrogatories and to events occurring or documents existing prior to the filing of the Opposition herein which Applicant acquires or which becomes known to Applicant up to and including the close of the rebuttal testimony period shall be furnished to Applicant within a reasonable time after such information is acquired or becomes known.

INTERROGATORIES

Interrogatory No. 1:

Identify all officers and directors of Applicant from 2000 to present.

Interrogatory No. 2:

Describe in detail all past and existing relations, including contracts, agreements, licenses, assignments, or other relations, between Applicant and any third party, including predecessor companies, related, or affiliated companies, relating in any manner to Applicant's Mark.

Interrogatory No. 3:

With respect to Applicant's Mark, identify the person or persons most knowledgeable about Applicant's sales, advertising and sales promotion, adoption and use, licensing, and assignment or other transfer of rights.

Interrogatory No. 4:

Identify all state and federal registrations, applications for registration, and uses by the Applicant of any mark which incorporates the term "GRAND RIVER", and for each such registration, application, and use, identify all documents relating thereto.

Interrogatory No. 5:

Identify all third-party state and federal registrations, applications for registration, and uses known to Applicant of any mark which incorporates the term "GRAND RIVER", and for each such registration, application, and use, identify all documents relating thereto.

Interrogatory No. 6:

Describe in detail the nature of Applicant's business or businesses, including the date on which Applicant first engaged in each such business.

Interrogatory No. 7:

Identify and describe each of the goods and/or services on which Applicant intends to use or has used Applicant's Mark, or any variation thereof.

Interrogatory No. 8:

Identify all documents and set forth with specificity all facts regarding the selection by Applicant of Applicant's Mark including, without limitation, the circumstances and method by which Applicant adopted the term "GRAND RIVER" as part of its mark.

Interrogatory No. 9:

Describe in detail the derivation of the term "GRAND RIVER" as Applicant's Mark and identify all documents related thereto.

Interrogatory No. 10:

Identify all persons who were involved in, or participated in any way with, the decision to adopt, register and/or use the "GRAND RIVER" designation, and for each such person state his/her title and the role he/she played to adopt, register and/or use the "GRAND RIVER" designation.

Interrogatory No. 11:

State whether any searches or investigations were conducted by Applicant, its attorneys, or any persons on its behalf to determine whether Applicant's Mark was available for use and/or registration, and, if so, identify each such search or investigation including the date such search or investigation was performed and the marks located in such search or investigation.

Interrogatory No. 12:

Identify all manufacturers or intended manufacturers of goods, and all promoters or intended promoters of services, bearing Applicant's Mark.

Interrogatory No. 13:

For each of the goods identified in Applicant's application, Serial No. 78/522,085, identify all documents supporting the date on which the mark was first used, if use has commenced.

Interrogatory No. 14:

Identify all documents and set forth with specificity all facts with respect to any instance where a person or entity has been confused, mistaken, and/or deceived as to whether any goods or services advertised or sold under Applicant's Mark are those of Opposer, or are connected or associated with Opposer, and for each such incident provide the date of such incident, the identity of the person or entity, and a detailed description of the circumstances of such confusion, mistake and/or deception.

Interrogatory No. 15:

Identify all documents and set forth with specificity the substance of each communication, oral or written, received by Applicant, which suggests, implies or infers that any of the products of Applicant sold under Applicant's Mark, or any mark that includes the term "GRAND RIVER", is a product of Opposer or is affiliated, connected and/or associated with Opposer, or which inquires as to whether there is or may be an affiliation, connection and/or association between Applicant and Opposer, and identify any response(s) by Applicant to each such communication.

Interrogatory No. 16:

Identify all inquiries, investigations, surveys, evaluations and/or studies conducted by Applicant or by anyone acting for or on its behalf with respect to Applicant's Mark, and marks owned or used by Applicant which incorporate the term "GRAND RIVER" as an element of the mark, including the date conducted, the name, address and title of each person who conducted it, the purpose for which it was conducted, the findings or conclusions made, and

identify all documents which record, refer to, or relate to such inquiry, investigation, survey, evaluation or study.

Interrogatory No. 17:

Identify each different sign, display, point-of-sale display, label, hangtag, wrapper, container, package, advertisement, brochure, promotional material, and the like, known to Applicant which contains or bears Applicant's Mark or any variation thereof and which is intended to be used or has been used or disseminated at any time by Applicant.

Interrogatory No. 18:

Identify each person employed by Applicant, or each outside agency or agent retained by Applicant, who has been or now is responsible for the following activity with respect to any of the goods or services intended to be offered or rendered or actually offered or rendered under Applicant's Mark:

- a. marketing;
- b. advertising and promotion; and
- c. bookkeeping and accounting.

Interrogatory No. 19:

Has Applicant ever licensed or permitted or had negotiations to license or permit, or otherwise granted rights to third parties to use Applicant's Mark or any mark including the term "GRAND RIVER" as a component? If so, identify the party or parties who have received or sought such license or permission or other right, state the nature and extent of any such license or permitted use or right, given or negotiated, and identify and describe all documents comprising or containing any such license, permission, or other right, or any agreement in respect to such mark.

Interrogatory No. 20:

For each of the goods or services identified in response to Interrogatory No. 7, set forth the number of units and dollar amount of the annual sales of such goods or services, the dollar amount of annual advertising expenditure on such goods or services, and the individual media through which such advertising took place, and the dollar amount of advertising through each such media; and identify documents sufficient to support your response to this interrogatory.

Interrogatory No. 21:

State in detail the channels of trade in which Applicant's Mark is used and/or in which goods bearing Applicant's Mark are sold, including the geographic area by state, territory or possession in which Applicant's Mark is used and/or sold, the manner in which the goods or services reach the ultimate consumer, the geographical reach of each such channel, and the approximate percentage of total sales of goods and/or services through each such channel, and identify documents sufficient to support your response to this interrogatory.

Interrogatory No. 22:

Identify with specificity the marketing methods used in the advertising and/or sale of goods and/or services by or for Applicant under Applicant's Mark, including, without limitation, the names of television stations, radio stations, Internet web sites, newspapers, magazines, trade journals or periodicals, and/or retail establishments in which Applicant has advertised and intends to advertise its goods and/or services under Applicant's Mark, and identify documents sufficient to support your response to this interrogatory.

Interrogatory No. 23:

Identify the ordinary purchaser of the goods or services sold and intended to be sold under Applicant's Mark including, without limitation, the level of care exercised by such an ordinary purchaser in purchasing the goods or services sold under the Applicant's Mark.

Interrogatory No. 24:

Identify all documents relating to and set forth with specificity all facts regarding any instance where Applicant has notified anyone that any trademark or service mark used by that person or entity infringed Applicant's Mark and/or any mark of Applicant that includes the term "GRAND RIVER", and for each such instance provide a detailed description of any action taken thereafter.

Interrogatory No. 25:

Has Applicant even been a party to any litigation or administrative proceeding, other than the present opposition, involving Applicant's Mark? If so, state all circumstances surrounding same including, without limitation, the name of the parties and identification of the proceeding, Applicant's status therein, the mark or marks involved, the type of proceeding involved, the name of the court or agency in which it was filed, the date of the filing and the file number, the ultimate disposition of the proceedings, and identify each document relating to such proceeding.

Interrogatory No. 26:

For purposes of establishing priority of use, identify the earliest date upon which Applicant intends to rely in this proceeding with respect to its use of Applicant's Mark and/or any mark that includes the term "GRAND RIVER", and produce all documents relating to such use(s).

Interrogatory No. 27:

State the approximate percentage of sales of products bearing Applicant's Mark via the Internet versus other sales channels, and identify documents sufficient to support your response to this interrogatory.

Interrogatory No. 28:

Identify all experts employed by Applicant for purposes of this action. For each expert, identify his or her field of specialization, whether Applicant intends to call him or her as a witness, the subject matter on which he or she is expected to testify, the bases for each opinion, and identify all documents that relate in any way to the subject matter, facts, and/or circumstances as to which the expert is expected to testify.

Interrogatory No. 29:

Identify each non-expert witness that Applicant expects to testify, the subject matter on which the witness is expected to testify, each fact and/or opinion to which the witness is expected to testify, the bases for each opinion and identify all documents that relate in any way to the subject matter, facts, and/or circumstances as to which the witness is expected to testify.

Interrogatory No. 30:

Identify each person who participated in or supplied information used in answering any of the above interrogatories; beside the name of each such person, state the number of the interrogatory answer(s) with respect to which that person participated in or supplied information.

Dated: _____

9/15/06

By: _____



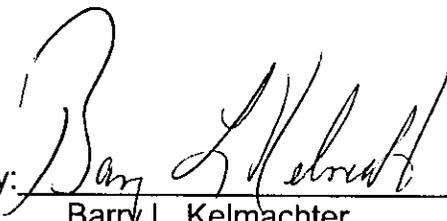
Barry L. Kelmachter
BACHMAN & LaPOINTE, P.C.
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New Haven, CT 06510
Phone: (203) 777-6628, ext. 112
Fax: (203) 865-0297
E-mail: kelmachterb@bachlap.com

ATTORNEY FOR OPPOSER

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 19th day of September, 2006, a copy of the foregoing **OPPOSER'S FIRST SET OF INTERROGATORIES TO APPLICANT INTERNATIONAL OUTSOURCING SERVICES LLC** was served, via first class U.S. mail, postage prepaid, to the following attorney of record for Applicant:

Kevin W. Gynn
SONNENSTEIN NATH & ROSENTHAL LLP
Post Office Box #061080
Wacker Drive Station, Sears Tower
Chicago, IL 60606-1080

By: 
Barry L. Kelmacher

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
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	v.)	Opposition No. 91167100
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**OPPOSER'S FIRST REQUEST TO APPLICANT
FOR PRODUCTION OF DOCUMENTS AND THINGS**

Pursuant to the provisions of 37 CFR §2.120 and Rule 34 of the Federal Rules of Civil Procedure, Opposer, CABELA'S INC., hereby addresses its First Set of Requests for Production of Documents to Applicant INTERNATIONAL OUTSOURCING SERVICES, LLC to be responded to and complied with fully within thirty (30) days of service thereof at the offices of Bachman & LaPointe, P.C., 900 Chapel Street, Suite 1201, New Haven, CT 06510.

INSTRUCTIONS AND DEFINITIONS

A. As used herein, the term "Opposer" refers to Cabela's Inc., and includes all other partnerships, corporations or other business entities (whether or not separate legal entities) subsidiary to, parent to, or affiliated with Opposer, including all of its or their partners, principals, officers, directors, trustees, employees, staff members, agents and representatives, including counsel for Opposer.

B. The terms "Opposer's Marks" refers to any designation and/or trademark used or intended to be used by Opposer to identify Opposer or the goods or services offered or promoted by Opposer in connection with that term, and collectively refers to the GRAND RIVER LODGE mark owned by Opposer, and cited by Opposer in its Notice of Opposition.

C. The term "Applicant" refers to INTERNATIONAL OUTSOURCING SERVICES, LLC and includes all other partnerships, corporations or other business entities (whether or not separate legal entities) subsidiary to, parent to, or affiliated with Applicant, including all of

its or their partners, principals, officers, directors, trustees, employees, staff members, agents and representatives, including counsel for Applicant.

D. The terms "Applicant's Mark" refers to the designation and/or trademark sought to be registered by means of Application Serial No. 78/522,085.

E. Whenever the terms "documents" or "all documents" are used herein, these terms are meant to include all documents available to Applicant and further to include, without limitation, any written, recorded, graphic, or printed matter, in whatever form, whether printed and/or produced by hand or any other process, specifically including (1) all originals, copies or drafts, and (2) originals, copies or drafts on which appear any notes or writings placed thereon after the document was first printed, typed, recorded, or made into graphic matter, however produced or reproduced, in the actual or constructive possession of Applicant, including, without limitation, any letters, telegrams, memoranda, writings, circulars, monographs, bulletins, manuals, speeches, audio and video tapes, drawings, blueprints, recordings, computer disks or tapes, computer electronic or optical memory devices in readable form, computer printouts, computer electronic messages, notes, correspondence, communications of any nature, summaries of records of conversations or conferences, information which can be retrieved by any process, test and/or analysis, reports and data sheets, specifications, sketches, minutes or reports and/or summaries or interviews, reports and/or summaries of investigations, opinions or reports of consultants, agreements and contracts, brochures, pamphlets, advertisements, letters to the trade, and including any tangible things within the scope of Rule 34(a)(1), Federal Rules of Civil Procedure.

Any document bearing on any sheet or side thereof any marks, not a part of the original text or any reproduction thereof is to be considered a separate document for purposes of responding to the following specific document requests.

In the event Applicant wishes to assert either attorney-client privilege or work-product exclusion, or both, as to any document for which production is requested by any of the following specific document requests, then as to each document subject to such assertion, Applicant is requested to provide such identification to include: the nature of the document, the sender, the author, the recipient, the recipient of each copy, the date, the name of each person to whom the original or any copy was circulated, the names appearing on any circulation list of Applicant associated with such document, a summary statement of the subject matter(s) of such document in sufficient detail to permit the Trademark Trial and Appeal Board to conduct an analysis to reach a determination of any claim of privilege or exclusion and separate indication of the basis for assertion of privilege or the like for each such document.

F. Over and above the requirements of Rule 26(e) of the Federal Rules of Civil Procedure to supplement responses, it is requested that these discovery requests be treated as continuing. If Applicant becomes aware of any supplemental information or documents relating to these discovery requests and which were not included in the initial responses hereto, Applicant is requested to furnish said additional information or documents to the attorneys for Applicant as soon as possible.

REQUESTS FOR PRODUCTION

Request No. 1:

Produce all documents which record, refer to, or relate to the organization, incorporation, structure, operation and activities of Applicant insofar as they relate to any products sold and/or services offered by and/or intended to be sold, offered or promoted by Applicant under Applicant's Mark.

Request No. 2:

Produce all documents which record, refer to, or relate to any licenses, assignments, agreements, contracts, and/or arrangements between Applicant and any third party which relate in any manner to Applicant's Mark and/or any mark that includes the term "GRAND RIVER".

Request No. 3:

Produce all documents which record, refer to, or relate to Applicant's use of the "GRAND RIVER" designation, including Applicant's investigation of Applicant's Mark for its availability for adoption and registration, its licensing, use, intended use, exploitation, and/or intended exploitation.

Request No. 4:

Produce all documents which record, refer to, or relate to Applicant's use of the term "GRAND RIVER" in connection with any goods and/or services.

Request No. 5:

Produce all documents which record, refer to, or relate in any manner to the subject matter of this opposition proceeding.

Request No. 6:

Produce all documents which record, refer to, or relate to goods and/or services which are or are to be provided under Applicant's Mark.

Request No. 7:

Produce all documents which record, refer to, or relate to Applicant's advertising, intended advertising, promotion, and/or intended promotion of any goods and/or services under Applicant's Mark.

Request No. 8:

Produce all documents which record, refer to, or relate to Applicant's sales or intended sales of any goods and/or services under Applicant's Mark.

Request No. 9:

Produce all documents which record, refer to, or relate to the selection, design, adoption, proposed use of, decision to use, and first use of Applicant's Mark and/or any mark including the term "GRAND RIVER", including samples of any names, designations and/or other marks considered and rejected.

Request No. 10:

Produce all documents which record, refer to, or relate to any searches, investigations, studies, analyses, or inquiries conducted by or on behalf of Applicant, or by any person acting for or on its behalf, regarding the availability and/or registrability of Applicant's Mark, or of the term "GRAND RIVER".

Request No. 11:

Produce all documents which refer to, relate to, or are in any way concerned with the preparation, filing and/or prosecution of any applications for registration, state or federal, of marks incorporating the term "GRAND RIVER" by Applicant including, without limitation, Application Serial No. 78/522,085.

Request No. 12:

Produce all documents which record, refer to, or relate to Applicant's consideration or decision to select, adopt and/or use Applicant's Mark and/or any designation including the term "GRAND RIVER" in each different logotype, design, hang tag, packaging, font of type or style in which said designation is being used, or is intended to be used, by or on behalf of Applicant.

Request No. 13:

Produce a sample of each different logotype, design, hang tag, packaging, font of type or style in which Applicant's Mark and/or any designation including the term "GRAND RIVER" is being used, or is intended to be used, by or on behalf of Applicant.

Request No. 14:

Produce a sample of each and every different advertisement, intended advertisement, item or promotional material and/or intended item of promotional material printed and/or disseminated by or for Applicant in which Applicant's Mark appears and/or any designation that includes the term "GRAND RIVER".

Request No. 15:

Produce a sample of each product which is being sold, offered for sale or is intended to be sold by Applicant on which Applicant's Mark appears.

Request No. 16:

Produce copies of all television commercials, press releases, radio scripts and other media advertising not previously requested herein, prepared by or for Applicant whether or not released or aired, in which Applicant's Mark appears.

Request No. 17:

Produce all documents which record, refer to, or relate to Applicant's advertising and/or promotional expenditures, or expected advertising and/or promotional expenditures, for any goods offered for sale, sold and/or distributed under Applicant's Mark including, without limitation, the advertising medium, the dates of any such advertisements or promotions, and the cost associated with such advertisements and/or promotions.

Request No. 18:

Produce all documents which record, refer to, or relate to the amount of sales (actual and/or projected) by calendar quarter of goods sold by or for Applicant under Applicant's Mark including, without limitation, the identification of the goods or services, the number of units and/or services sold, the dates of the sales, and the dollar value of the sales.

Request No. 19:

Produce all documents which record, refer to, or relate to any communication, oral or written, received by Applicant from any person which suggests, implies, or infers any connection or association between Opposer Cabela's Inc., and Applicant, or which inquires as to whether there is or may be such a connection or association, based upon Applicant's and/or its licensees' or sublicensees' use of the mark "GRAND RIVER" and/or any designation that includes the term "GRAND RIVER".

Request No. 20:

Produce all documents which record, refer to, or relate to any instance or occurrence of likelihood of confusion and/or actual confusion on the part of any person between Applicant's use of the "GRAND RIVER" mark, and any of the Opposer's Marks.

Request No. 21:

Produce all documents which record, refer to, or relate to Applicant's knowledge and/or awareness of the use and/or application for registration of Opposer's Marks by Opposer Cabela's Inc.

Request No. 22:

Produce all documents which record, refer to, or relate to any inquiry, investigation, evaluation, analysis, or survey conducted by Applicant or any person acting for or on behalf of Applicant regarding any issues involved in this proceeding.

Request No. 23:

Produce all documents which record, refer to, or which constitute any research, reports, surveys, or studies conducted by or on behalf of Applicant of consumer or customer perception of Applicant's Mark.

Request No. 24:

Produce all documents in Applicant's possession or control that refer or relate to Opposer or Opposer's Marks.

Request No. 25:

Produce all press releases, articles and clippings relating to or commenting on goods or services marketed or sold under Applicant's Mark.

Request No. 26:

Produce documents sufficient to identify all goods and/or services in connection with which Applicant uses and/or intends to use Applicant's Mark and/or any designation that includes the term "GRAND RIVER".

Request No. 27:

Produce a copy of any statements and/or opinions of any expert obtained by Applicant or any person acting for or on behalf of Applicant regarding any of the issues in this opposition proceeding.

Request No. 28:

Produce a copy of all documents, other than those produced to any of the foregoing requests, upon which Applicant intends to rely in connection with this opposition proceeding.

Request No. 29:

Produce all documents whose identification was requested in response to Opposer's First Set of Interrogatories to Applicant, not produced in response to the above requests.

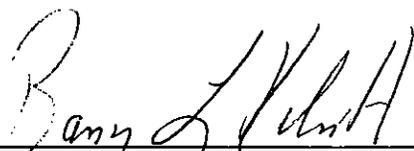
Request No. 30:

Produce all documents which show Applicant's first use of the marks "GRAND RIVER" predates any first use of a similar mark by Opposer.

Request No. 31:

Produce all documents which show that Opposer has not used "GRAND RIVER" as a mark within the meaning of 15 U.S.C. §1127, related statutes or the common law sufficient to create trademark rights.

Dated: 9/19/06

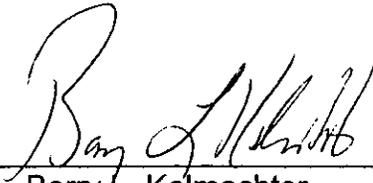
By: 
Barry L. Kelmächter
BACHMAN & LaPOINTE, P.C.
900 Chapel Street
Suite 1201
New Haven, CT 06510
Phone: (203) 777-6628, ext. 112
Fax: (203) 865-0297
E-mail: kelmachterb@bachlap.com

ATTORNEY FOR OPPOSER

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 19th day of September, 2006, a copy of the foregoing **OPPOSER'S FIRST REQUEST TO APPLICANT FOR PRODUCTION OF DOCUMENTS AND THINGS** was served, via first class U.S. mail, postage prepaid, addressed as follows to the following attorney of record for Applicant:

Kevin W. Guynn
SONNENSTEIN NATH & ROSENTHAL LLP
Post Office Box #061080
Wacker Drive Station, Sears Tower
Chicago, IL 60606-1080

By: 
Barry L. Kelmacher

Barry L. Kelmachter

From: Barry L. Kelmachter [kelmacherb@bachlap.com]
Sent: Wednesday, November 01, 2006 10:18 AM
To: 'kguynn@gbclaw.net'
Subject: RE: Grand River Opposition 91167100, your ref 05-442S, my new ref 4443-76131

FOR SETTLEMENT PURPOSES ONLY

November 1, 2006

Dear Kevin:

We still have not received from you and/or your client any responses to the discovery propounded by us. The answers are overdue and discovery is running. We would like to have them by early next week so that we can determine what additional discovery we may need. If we do not receive the answers by November 8, 2006, we will file a motion to compel.

As for resolving this matter, Cabela's application is currently under suspension pending the outcome of this proceeding. Since we are the senior user of a "GRAND RIVER" mark, it should be apparent that your client will lose this proceeding. In order to save the parties from incurring unnecessary legal expense, we suggest resolving this matter by having your client abandon their application. Cabela's will consent to the abandonment. It would be far cheaper for your client to re-file its application. Please let us know whether this is acceptable to your client and will be draw up an appropriate settlement agreement..

Regards,

Barry L. Kelmachter

Bachman & LaPointe, P.C.
900 Chapel Street, Suite 1201
New Haven, Connecticut 06510-2802
Telephone: 203-777-6628 x 112
Fax: 203-865-0297

-----Original Message-----

From: Kevin Guynn [mailto:kguynn@gbclaw.net]
Sent: Wednesday, October 18, 2006 4:10 PM
To: kelmachterb@bachlap.com
Subject: Grand River Opposition 91167100, your ref 05-442S, my new ref 4443-76131

Barry,

Please note that I have changed firms, and that all communications regarding this opposition should be addressed per the contact information listed below.

I am still trying to get all of my files sorted out at my new location, so I may still be missing a part of this file, but I thought that we had reached an agreement to resolve this dispute, without the need to proceed further with the opposition, and that I was waiting for a final draft of the agreement from you.

Please let me know when we can have a telephone conference to see where we stand on resolving this dispute. I will be available most of the day tomorrow and Friday morning.

Kevin W. Guynn
Greer, Burns & Crain, Ltd.
300 S. Wacker Drive, Suite 2500
Chicago, IL 60606

Ex.D

GREER, BURNS & CRAIN, LTD.

Attorneys at Law

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OF COUNSEL:
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SAN DIEGO OFFICE
110 WEST C STREET
SAN DIEGO, CALIFORNIA 92101
TELEPHONE (619) 234-1130

*ADMITTED IN CALIFORNIA AND ILLINOIS

November 2, 2006

Barry L. Kelmachter
Bachman & LaPointe, P.C.
900 Chapel Street
New Haven, CT 06510

Re: Grand River Opposition, our ref. 4443.76131

Dear Barry:

In your email to me of November 1, 2006, you indicate that Cabela's is the senior user of "Grand River," and that, therefore, my client has no rights in the mark. The documentation you have provided, however, does not show that Cabela's was the first to use "Grand River" throughout the United States. Thus, since Cabela's has not established that it is the senior user of "Grand River," there can be no assurance that Cabela's will prevail in the Opposition proceeding.

It seems to me that this controversy can be resolved expeditiously and economically, if you can submit proof to me that Cabela's used "Grand River" throughout the United States before November 23, 2004 - the date my client filed its "Grand River" application with the Trademark Office. If the evidence you forward to me establishes that Cabela's is the senior user of "Grand River" throughout the United States, then I believe my client will accept the terms of the draft Settlement Agreement you sent to me on January 30, 2006 as modified by your letter to me of March 7, 2006.

On the other hand, if what you deliver to me does not show that Cabela's is the senior user, or if you decide not to submit anything to me to establish your client's superior rights, then we will have to proceed with the Opposition.

An alternative to the foregoing, is for Cabela's to purchase the rights of IOS in "Grand River." I have not fully explored this alternative with my client. However, it would seem that a cash purchase of my client's interests in "Grand River" would enable us to quickly dispose of this case.

November 2, 2006

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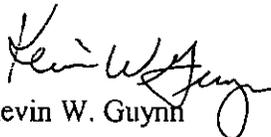
Please let me have your response to the foregoing as soon as possible. If you decline to provide satisfactory proof that Cabela's is the senior user of "Grand River" throughout the United States and if your client decides not to pursue the purchase of my client's interests in the mark, then I will forward our responses to the discovery you propounded.

I shall look forward to hearing from you.

Very truly yours,

GREER, BURNS & CRAIN, LTD.

By


Kevin W. Guynn