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

Proceeding	91167151
Party	Defendant Independent Marketing Alliance LP
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Submission	Defendant's Notice of Reliance
Filer's Name	Martyn B. Hill
Filer's e-mail	mbh@pdhlaw.com, bgt@pdhlaw.com
Signature	/s/ Martyn B. Hill
Date	11/27/2007
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

FLOWERS BAKERIES BRANDS, INC.,	)	Opposition No. 91167151
Opposer	)	
v.	)	In the Matter of Application Serial No. 78/432642 Mark: COBBLESTONE MARKET
INDEPENDENT MARKETING ALLIANCE LP,	)	
Applicant.	)	Filing Date: December 6, 2005 Published: September 20, 2005

APPLICANT INDEPENDENT MARKETING ALLIANCE LP'S
NOTICE OF RELIANCE

Pursuant to Trademark Rules of Practice, Applicant Independent Marketing Alliance, LP hereby gives notice to Opposer Flowers Bakeries Brands, Inc. that it offers and intends to rely upon the following evidence at trial:

A. True and correct copies of the Discovery Deposition of Janice Anderson, Vice President of Marketing of Opposer Flowers Bakeries Brands, Inc., and all exhibits attached thereto (Exhibit "A").

B. True and correct copies of the Discovery Deposition of Robert D. Planck, President of Applicant Independent Marketing Alliance, LP, and all exhibits attached thereto (Exhibit "B").

C. True and correct copies of the Discovery Deposition of Bob Fontana, Director of Marketing and General Merchandising of Applicant Independent Marketing Alliance, LP (Exhibit "C").

D. Opposer's Answers to Applicant's First Set of Interrogatories #1,2,3,4,5,6,7,8,9,10, & 11, which Answers were served July 14, 2006 (Exhibit "D").

E. Opposer's Responses to Applicant's Request for Production #5 & 6, which Responses were served July 14, 2006.

F. While reserving all of Applicant's rights to object to documentary evidence submitted by Opposer for the first time long after discovery closed, Applicant gives notice to Opposer that Applicant may rely on evidence submitted by Opposer via Opposer's First Notice of Reliance.

This 26th day of November, 2007

Respectfully submitted,

s/s Martyn B. Hill

Martyn B. Hill
Bartt G. Thompson
PAGEL, DAVIS & HILL, P.C.
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Telephone: 713-951-0160
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Attorneys for Applicant

CERTIFICATE OF SERVICE

This is to certify that on November 27th, 2007 the foregoing document was served upon Opposer by depositing a copy thereof in the United States mail as first class mail, postage pre-paid, addressed as follows:

Theodore H. Davis Jr.
Olivia Maria Baratta
KILPATRICK STOCKTON, LLP
1100 Peachtree Street
Atlanta, Georgia 30309-4530

s/s Martyn B. Hill
Martyn B. Hill

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

Opposition No. 91167151

FLOWERS BAKERIES BRANDS, INC.,

Opposer,

vs.

COPY

INDEPENDENT MARKETING
ALLIANCE, LP,
Applicant.

DEPOSITION OF:	JANICE ANDERSON
TAKEN AT INSTANCE OF:	The Applicant
DATE:	August 17, 2006
TIME:	Commenced at 9:06 a.m. Concluded at 12:05 p.m.
LOCATION:	14138 Highway 19 South Thomasville, Georgia
REPORTED BY:	CHRISTI K. COLE Certified Professional Reporter

PREMIER REPORTING
TALLAHASSEE, FL 32312
(850) 894-0828

PREMIER REPORTING

Exhibit "A" --Evidence Submitted by Defendant IMA

APPEARANCES:

REPRESENTING THE OPPOSER:

THEODORE H. DAVIS, JR., ESQUIRE
OLIVIA MARIA BARATTA, ESQUIRE
Kilpatrick Stockton, LLP
1100 Peachtree Street, NE, Suite 2800
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and

HOLLAND C. KIRBO, ESQUIRE
Flowers Foods
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(229) 227-2392

REPRESENTING THE APPLICANT:

MARTYN B. HILL, ESQUIRE
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PREMIER REPORTING

Exhibit "A" --Evidence Submitted by Defendant IMA

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PREMIER REPORTING

Exhibit "A" --Evidence Submitted by Defendant IMA

1 STIPULATIONS

2 The following deposition of JANICE ANDERSON
3 was taken on oral examination, pursuant to notice, for
4 purposes of discovery, and for use as evidence, and for
5 other uses and purposes as may be permitted by the
6 applicable and governing rules. Reading and signing is
7 not waived.

8 * * *

9 Thereupon,

10 JANICE ANDERSON

11 was called as a witness, having been first duly sworn,
12 was examined and testified as follows:

13 DIRECT EXAMINATION

14 BY MR. HILL:

15 **Q Would you state your name for the record,**
16 **please, Ms. Anderson?**

17 A Janice Anderson.

18 **Q How are you employed?**

19 A Flowers Bakeries, Flowers Foods, Flowers
20 Bakery Group.

21 **Q Is that the formal name of the company,**
22 **Flowers Bakery Group, Inc.?**

23 A That is the division that I work for, Flowers
24 Bakeries.

25 **Q Is there a parent company?**

Exhibit "A" --Evidence Submitted by Defendant IMA

1 A Flowers Foods.
2 Q So Flowers Foods, Inc., owns Flowers Bakery
3 Group --
4 A Correct.
5 Q -- Inc., and you work for Flowers Bakery
6 Group?
7 A That's correct.
8 Q Have you ever had your deposition taken
9 before?
10 A No.
11 Q Just, in general, she's transcribing the
12 testimony and the questions, you understand that?
13 A Right.
14 Q She will try to take down what I ask as a
15 question and what you answer as an answer so that it's a
16 question-and-answer format. You understand that, right?
17 A Right.
18 Q So if we both talk at the same time, it
19 becomes difficult. So I will try to finish my question
20 and I'll try to let you finish your answer, okay?
21 A Okay.
22 Q And if I cut you off, which I sometimes do, or
23 if you cut me off, we will try to fix the record so that
24 we know what the complete question was and we know what
25 the complete answer is. Is that fair?

Exhibit "A" --Evidence Submitted by Defendant IMA

1 A That's fair.
2 **Q Also, you're nodding your head, which I**
3 **understand what you're doing when you are nodding your**
4 **head, but for the purposes of the record, it's better if**
5 **we verbalize the answers. So yes or no, something like**
6 **that. I think you're already doing that.**
7 A Okay.
8 **Q As I understand it, you received a notice of a**
9 **deposition which lists certain types of testimony or**
10 **scope of testimony that you may be called upon to**
11 **testify to today?**
12 A That's correct.
13 **Q Did you have a chance to review those eight**
14 **paragraphs?**
15 A Yes, I did.
16 **Q Is there any of those paragraphs that you**
17 **think that someone other than you would have better**
18 **information or better knowledge?**
19 A No.
20 MR. DAVIS: Marty, could we put that in front
21 of her just to --
22 MR. HILL: I'm sorry. Sure.
23 MR. DAVIS: We have a clean copy, I think,
24 maybe a clean copy.
25 MR. HILL: If you have a clean copy, let's use

Exhibit "A" --Evidence Submitted by Defendant IMA

1 your clean copy.
2 MR. DAVIS: Let's use that.
3 MR. HILL: If there's ever a document in this
4 deposition that you think is helpful for her to
5 look at, you feel free to give that to her. I
6 don't think you're going to be coaching in an
7 adverse way, and if you do and we get out of here
8 quicker, well, so what?
9 BY MR. HILL:
10 **Q So you have had a chance to review the 30-B**
11 **notice of deposition of Flowers Bakeries Brands, Inc.,**
12 **is that right?**
13 A Correct.
14 **Q Is that actually the formal name of the**
15 **company that you work for, Flowers Bakeries Brands,**
16 **Inc.?**
17 A I'm not certain exactly how to answer that. I
18 work for the -- we consider it the Flowers Foods
19 Bakeries Group.
20 **Q So Flowers Bakeries Brands, Inc., may actually**
21 **be a subsidiary or a different company?**
22 A I can't totally tell you the correct legal
23 name, as what the legal records are, but I work for the
24 Flowers Bakeries Group of Flowers Foods.
25 MR. DAVIS: Marty, for purposes of

Exhibit "A" --Evidence Submitted by Defendant IMA

1 clarification, it may be easier if we have our
2 in-house counsel just jump in and respond.
3 MR. HILL: That's fine. Yes, go ahead.
4 MS. KIRBO: Janice works for Flowers Foods
5 Bakeries Group, LLC, which is -- the parent is
6 Flowers Foods, Inc. Flowers Bakeries Brands, Inc.,
7 actually owns the trademark.
8 MR. HILL: Okay.
9 MS. KIRBO: But it, too, is a subsidiary of
10 Flowers Foods, Inc., and Bakeries -- Janice's
11 Bakeries Group utilizes the trademark.
12 MR. HILL: So at the top we have got Flowers
13 Foods?
14 MS. KIRBO: Right.
15 MR. HILL: And as one subsidiary directly
16 underneath that, we have the Flowers Bakeries
17 Group?
18 MS. KIRBO: Right.
19 MR. HILL: And a different subsidiary that I
20 guess is a direct subsidiary of Flowers Foods is
21 Flowers Bakeries Brand, Inc.?
22 MS. KIRBO: Flowers Bakeries Brands, Inc.,
23 yes.
24 MR. HILL: Then Flowers Bakeries Brands, Inc.,
25 allows all the different affiliated entities within

Exhibit "A" --Evidence Submitted by Defendant IMA

1 the Flowers Food Group -- or Flowers Foods to use
2 the brands under certain brands?
3 MS. KIRBO: Within the Flowers Foods Bakeries
4 Group, yes.
5 BY MR. HILL:
6 **Q And with that clarification, not only for the**
7 **company that you actually work for, but the affiliated**
8 **companies that we just described, you are still the**
9 **person with the best knowledge?**
10 A That's correct.
11 **Q You filed or caused your attorneys to file an**
12 **Opposition, which was filed, I believe, in October of**
13 **2005 to the application for a trademark for Cobblestone**
14 **Market filed by Independent Marketing Alliance, correct?**
15 A That's correct.
16 **Q And did you have a chance to review the**
17 **application of what we call IMA, which is short for**
18 **Independent Marketing Alliance?**
19 A I did not review it in detail, but I am very
20 familiar with it.
21 **Q And what did you know about it at the time**
22 **that you made a decision to oppose the mark?**
23 A We felt that it was much too close to our
24 brand to be comfortable with them going forward.
25 **Q What specifically did you know about in terms**

Exhibit "A" --Evidence Submitted by Defendant IMA

1 of how close it was to your brand, both in terms of the
2 types of products, the market itself, that sort of thing
3 just in general?
4 A The brand itself and that they would be
5 residing in the same retail market that Cobblestone Mill
6 resides.
7 Q With regard to the Cobblestone Mill in
8 paragraph 2 of your Opposition, you lay out what appears
9 to be three different versions of the mark registered at
10 three different times. The first is, as is laid out,
11 it's actually not in chronological order -- if you don't
12 have it in front of you, I can show it to you. Do you
13 see paragraph 2 of your Opposition?
14 A Yes.
15 Q The first mark listed is actually just the
16 word mark Cobblestone Mill, as I understand it, from
17 that Opposition, is that right?
18 A That's correct.
19 Q And so it's just spelled out Cobblestone Mill,
20 and that appears to date from August the 6th, 1996, is
21 that right?
22 A Correct.
23 Q From looking at that, is it the case that
24 prior to that, back in 1985, you had the stylistic mark
25 for the logo that you see as the second line of the list

Exhibit "A" --Evidence Submitted by Defendant IMA

1 of marks?
2 A That's correct.
3 Q And in that one it appears to -- again, it
4 says, Cobblestone Mill, but then the featured part of
5 the stylistic mark or the featured item seems to be an
6 old-fashioned gristmill?
7 A Correct.
8 Q It actually sort of seems to dominate the mark
9 with the term Cobblestone Mill above it, right?
10 A Correct.
11 Q That was back in 1985. Is that the mark that
12 you used back in 1985?
13 A That's correct.
14 Q How long have you been with the company?
15 A Forty-one years.
16 Q Then in September 9, 2003, if I read your
17 Opposition correctly, since I'm also reading it upside
18 down, it appears that you have another stylistic mark or
19 logo which shows Cobblestone Mill again, still shows the
20 same gristmill, but the featured part of the mark
21 relating to the gristmill has been reduced substantially
22 in size, is that right?
23 A That's correct.
24 Q And you have added a sort of big curve or half
25 circle at the top sort of outlining the mark, is that a

Exhibit "A" --Evidence Submitted by Defendant IMA

1 fair description?
2 A Yes.
3 Q And it appears that you have added a place
4 below the mark so that as you label each product and
5 place your mark on the product you are able to -- when I
6 say you, I mean the company, is that fair --
7 A That's fair.
8 Q -- you're able to describe the product that
9 the mark is associated with. For example, the one
10 that's listed, I think it says -- what does it say,
11 sourdough?
12 A Yes.
13 Q Does that generally describe the progress of
14 your mark from the old gristmill to the word itself to a
15 sort of new stylistic mark that has these additional
16 features I just described?
17 A Yes, it does.
18 Q Is it fair to say that the mark sort of
19 transitioned over time even though at all times it
20 continued to use the word Cobblestone Mill?
21 A Yes.
22 Q What was the purpose for the transition of the
23 mark?
24 A To better present ourselves in the market, a
25 more readable brand identity, as opposed to graphics and

Exhibit "A" --Evidence Submitted by Defendant IMA

1 pictures, that the brand itself was more easily
2 readable.
3 **Q Well, the size of the wording -- let's go down**
4 **through them a minute. I guess we could call it the**
5 **1996 mark. And that's just really the words themselves,**
6 **right?**
7 A That's correct.
8 **Q I assume that didn't actually change the way**
9 **that you marketed anything, that just, from your**
10 **perspective, gave you some protection for the word**
11 **itself, is that basically right?**
12 A That's correct.
13 **Q Let's call it the 1985 mark, that being the**
14 **stylistic mark that featured the gristmill, right?**
15 A Yes.
16 **Q How would you generally describe what Flowers**
17 **was trying to convey to the marketing public when they**
18 **used this mark of the Cobblestone Mill, if anything,**
19 **with the feature of the gristmill?**
20 A Well, once Cobblestone Mill was established as
21 our name, we were trying to make it a place.
22 **Q And the old-fashioned gristmill was the place**
23 **that you tried to make it?**
24 A That's correct.
25 **Q So that people would identify it being the**

Exhibit "A" --Evidence Submitted by Defendant IMA

1 **sort of old-fashioned gristmill where they grind wheat**
2 **and things like that to make them into flour? Is that**
3 **basically the issue?**
4 A That was the thought process at that time.
5 **Q Did some type of market study or research tell**
6 **you at some point that it would be better to feature**
7 **something other than just the gristmill, or what told**
8 **you -- you said at that time, so I'm taking it from**
9 **that, that sort of changed the theory.**
10 A It was a combination of research and the fact
11 that as time progresses, you realize that the market
12 changes and your identification needs to adjust
13 accordingly. And we felt that the Cobblestone Mill name
14 was more important than the description of the place.
15 **Q So the new stylistic mark that was originated**
16 **in September of 2003 is the one -- it still keeps the**
17 **gristmill, but its feature is a little less prominent?**
18 A That's correct.
19 **Q Now, I notice, though, that you said that you**
20 **wanted to be able to focus more on the word, but the**
21 **size of the word Cobblestone Mill, at least in terms of**
22 **what was presented in the Opposition, does not appear**
23 **any larger in terms of the wording or not much larger**
24 **than the one above it, which was the 1985 one.**
25 A We found it to be more readable.

Exhibit "A" --Evidence Submitted by Defendant IMA

1 Q Did you change the font as well as the size of
2 the Cobblestone Mill wording?
3 A Yes.
4 Q What font do you use?
5 A I can't answer that. I don't know.
6 Q But you still have the gristmill just to the
7 right of the word mill, right?
8 A In a much smaller proportion, yes.
9 Q Is the concept of mill still important to
10 Flowers?
11 A Yes.
12 Q So that if someone were to create a mark that
13 you used the word mill in it which related to bakery
14 goods, that might give you some consternation?
15 A A brand that used cobblestone or mill would
16 give us some consternation.
17 Q Either one?
18 A Yes.
19 Q I received this stack of documents from your
20 attorneys, which you're welcome to look at if you need
21 to. I assume you assembled the document production?
22 A I did.
23 Q Is there anything significant that you would
24 need to provide to us other than what you have already
25 provided?

Exhibit "A" --Evidence Submitted by Defendant IMA

A I don't believe so.

Q I was going to say, which would further sustain your position in paragraph 4 that Cobblestone Mill -- excuse me, and Flowers has spent a lot of money developing this brand and has developed a high degree of recognition, fame and distinctiveness?

A Well, we continue to work on our brands and modify -- continue to do research and modify the logo as we feel is appropriate.

Q Well, other than the three that are listed in paragraph 2, have you now come up with a different logo?

A That is correct, yes.

Q What does the new logo look like? Is it in these documents?

A I don't believe it is.

Q Can you generally describe it?

A It is a larger Cobblestone Mill and a much smaller representation of the mill. And rather than having the full mill, it is a wheel.

Q And why did you do that?

A To further enhance the brand of Cobblestone Mill and downplay the graphics.

Q Are you the one that's been making the decisions on that primarily at Flowers, or has it been sort of a group of you? How does that work?

Exhibit "A" --Evidence Submitted by Defendant IMA

1 A I am the one in charge of setting up research,
2 making the arrangements, providing the documents for
3 research. I receive the research reports. I receive
4 the design reports. When we have design work done,
5 those come to me; and from those, we conduct our
6 research. Certainly, it's not an empire. I don't make
7 all the decisions, but I facilitate the decision-making.
8 **Q You are the Vice President of Marketing?**
9 A That is correct.
10 **Q You have held that title for how long?**
11 A I've been Vice President of Marketing about
12 two or two-and-a-half years. I've been in marketing
13 since '85.
14 **Q Was there a Vice President of Marketing before**
15 **you?**
16 A Yes.
17 **Q Who was that?**
18 A David Roach.
19 **Q Is he still there or did he retire?**
20 A He's still there.
21 **Q Briefly what's your educational background?**
22 A One year of college.
23 **Q And where was that?**
24 A Valdosta.
25 **Q What was your focus, if any, when you were in**

Exhibit "A" --Evidence Submitted by Defendant IMA

college?

A Education.

Q Prior to becoming the Vice President of Marketing two or two-and-a-half years ago, you said that you were involved in marketing. What was your title at that time?

A Director of marketing.

Q And then at that time you reported to the Vice President of Marketing?

A That's correct.

Q How long were you the director of marketing for?

A Probably six or eight years.

Q And before that what did you do?

A I held various marketing positions, brand manger, marketing coordinator, a number of different marketing positions.

Q Does Flowers have a lot of different brands?

A Yes.

Q What are some of the other major brands?

A Nature's Own White Wheat, and we have multiple white bread brands, Sunbeam, Bunny, Evangeline Maid, Dandee, Betsy Ross, ButterKrust. We also have cake brands. The brand of cake is BlueBird.

Q Are you involved in all of those brands?

Exhibit "A" --Evidence Submitted by Defendant IMA

A Yes.

Q As I understand it, all of those brands are actually held by Flowers Bakeries Brands, Inc., that's the owner registrant?

A I believe that would be correct, but counsel would need to confirm.

Q Within your affiliated group, the bakeries group, as I understand it, they are allowed to utilize the brands?

A That's correct.

Q From looking at your various papers filed and discovery responses, it seems that you also do a lot of licensing of your brands, is that true, to other companies?

A On a very limited basis.

Q So when there's a reference in the discovery responses or in the pleadings to, 'and licensees,' to the extent that you're aware, is it referring them to licensing within the affiliated group of Flowers companies as opposed to a separate company?

A I believe that would be correct, yes.

Q Have you ever licensed the Cobblestone Mill brand to any other company that you're aware of?

A Not outside Flowers, no.

Q By the way, if you need to break at any point

Exhibit "A" --Evidence Submitted by Defendant IMA

1 for any reason, just tell me.
2 A Thank you.
3 Q You're not enslavened to be here forever. The
4 Cobblestone Mill marks, whether it be the original mark
5 or the mark as it has transitioned over time, right --
6 so when I call it Cobblestone Mill, I'll be referring to
7 the original mark and then the transition as you have
8 changed it over the years, is that fair?
9 A That's fair.
10 Q Including now the one that I don't think we
11 saw in the discovery responses, but just focuses on the
12 old gristmill wheel, but not -- the little shack itself
13 is not there anymore, is that right?
14 A That's correct.
15 Q So with regard to the Cobblestone Mill brand
16 that we're talking about, it's placed only on bakery
17 goods, is that right?
18 A That is correct.
19 Q Within bakery goods, is it placed on all
20 bakery goods or just certain types of bakery goods?
21 A It is not placed on any sweet goods, it is on
22 breads, buns, rolls and breakfast items, bagels and
23 English muffins and breakfast bread.
24 Q Do you have any intention to extend it to any
25 other products that you are aware of?

Exhibit "A" --Evidence Submitted by Defendant IMA

1 A I am not aware of anything today.
2 **Q And you have other brands that Flowers uses**
3 **for the other products, for example, in your sweet**
4 **breads, is that right?**
5 A Yes, we do.
6 **Q Your white bread is Sunbeam?**
7 A We have multiple white bread brands. That is
8 one of them.
9 **Q That's really the biggest one, isn't it?**
10 A Yes, it is.
11 **Q Do you know just roughly what the sales of**
12 **products with the Cobblestone Mill brand on it totalled**
13 **for any particular year?**
14 A 2006 projections are $100 million annually at
15 retail.
16 **Q Does that mean what you're charging or does**
17 **that mean what the grocery stores are charging the**
18 **customers when you say --**
19 A That is what the -- what the customer pays is
20 $100 million.
21 **Q When we say customer, we mean the customer,**
22 **retail customer?**
23 A The consumer, the shopper.
24 **Q When we talk about the consumer, these are**
25 **consumers who go into grocery stores?**

Exhibit "A" --Evidence Submitted by Defendant IMA

1 A That's correct.
2 **Q And that is the, at least, lion's share of the**
3 **Cobblestone Mill brand, is that right?**
4 A That's correct.
5 **Q Is that really all of it or is there some**
6 **other?**
7 A There's a very small amount sold in food
8 service, but it's maybe 5 percent.
9 **Q I think in looking at some of your materials,**
10 **I think you guys have a term, the bread row or bread**
11 **aisle?**
12 A Bread aisle, that's correct.
13 **Q Bread aisle. What's the bread aisle?**
14 A The bread aisle is the place in the store that
15 the shopper would go to purchase bread.
16 **Q That's usually when you go into a grocery**
17 **store, you look and you've got all kinds of different**
18 **brands like hot dog buns, hamburger buns, all kinds of**
19 **different breads?**
20 A That's correct.
21 **Q Some stores also seem to have an area where**
22 **you can get bread that's supposed to be healthier for**
23 **you, it's got more nuts in it and less flour or**
24 **whatever, I don't know; but it leads you to believe, at**
25 **least, if you eat it, it's a little healthier, is that**

Exhibit "A" --Evidence Submitted by Defendant IMA

1 **true?**
2 A That is true.
3 **Q Is that still on the bread aisle or is that in**
4 **a different section typically in your experience?**
5 A In our experience it's typically on the same
6 aisle.
7 **Q So the specialty part would still be called**
8 **the bread aisle even though all the healthy breads might**
9 **be in a certain section of the bread aisle?**
10 A That's correct.
11 **Q Is it generally true that people who want to**
12 **buy your bread in order to do that have to go to the**
13 **bread aisle?**
14 A That is correct, unless there is an off-rack
15 display somewhere in the store, which would be a
16 temporary location.
17 **Q That would be like one of these big end-aisle**
18 **type of cardboard things or whatever?**
19 A Correct.
20 **Q Sort of rack it up and give a promotion or**
21 **talk about something special about the product?**
22 A Correct.
23 **Q Do you do that very often with the Cobblestone**
24 **Mill brand?**
25 A Probably three to four times a year.

Exhibit "A" --Evidence Submitted by Defendant IMA

1 **Q Do you try to feature that in all of the**
2 **grocery stores that would support your end-aisle**
3 **advertising?**
4 A Yes.
5 **Q Is that end-aisle display of the Cobblestone**
6 **Mill breads still going to generally be in the bread**
7 **aisle area?**
8 A Not necessarily. It sometimes is, but it
9 could be -- if you're doing English muffins, you might
10 be close to the eggs. But it could be anywhere, really.
11 **Q So other than the -- what did you call these**
12 **things, end-aisle, or what did we call these things,**
13 **off --**
14 A Off-rack.
15 **Q Off-rack?**
16 A Off-rack.
17 **Q When you do the off-rack displays, do you**
18 **provide marketing materials to the grocery stores?**
19 A Yes.
20 **Q Are these basically some kind of a big rack**
21 **that's going to have Cobblestone Mill at the top?**
22 A That's correct. It could be a wooden rack, it
23 could be a wire rack or a corrugated rack.
24 **Q Does it have anything on the rack other than**
25 **Cobblestone Mill brand breads?**

Exhibit "A" --Evidence Submitted by Defendant IMA

A It could, or it could have another brand with it or it may be only Cobblestone Mill.

Q So if it had another brand other than Cobblestone Mill, would the other brand be something that still Flowers Bakeries owned?

A Yes.

Q So, for example, you might do one that had the Sunbeam white bread on one side and the Cobblestone Mill on the other side of this off-rack display?

A That's possible, not likely with Sunbeam, but possible.

Q You'd pick other things that were closer to Cobblestone Mill?

A That's correct.

Q Like what would be the other sort of --

A Nature's Own.

Q Is that the one that's supposed to be healthy?

A Yes.

Q Just in general, if you have got $100 million total in sales for Cobblestone Mill breads -- and by breads I mean everything that you defined, breads, buns, rolls and breakfast breads, okay?

A (Nodding head.)

Q You said about 5 percent is food service. So that leaves about $95 million in grocery stores. And we

Exhibit "A" --Evidence Submitted by Defendant IMA

know most of that is sold in the bread aisle, but then we know there's an exception sometimes three to four times a year for these off-rack sales, right?

A That is correct, but I would like to go back and say that the real Cobblestone Mill projection for 2006 is 105.

Q Okay.

A So the 100 million that I gave you is in-store sales as opposed to food service.

Q Well, I assume -- what was 1995 sales of the Cobblestone Mill brand?

A I don't have that retail number with me, but we have increased each year since 1995. But I don't have that number with me.

Q I don't mean 1995. I'm sorry. I'm a decade -- I'm getting older. I'm in the wrong decade. I meant 2005.

A 2005, we've probably got 5 to 7 percent growth this year, so --

Q So maybe 2005 was around 100 million?

A Right.

Q 2006 projected to be about 105 million?

A That's correct.

Q And the numbers are not as -- I mean, they're important, but one of the issues is just sort of

Exhibit "A" --Evidence Submitted by Defendant IMA

percent-wise. What I was trying to get to is, as a percentage of the sales that are in the grocery stores, we know that the vast majority are on the bread aisle and not in these racks, right?

A That's correct.

Q What percentage do you think is sold on these off-rack displays that you talked about, of your total sales?

A I would be hard pressed to give you a good answer on that. I can say that at the time that is going on, a huge percentage of the sales would be coming from the off-rack display, but then it would be a temporary situation.

Q When we talk about a huge percentage, is that 20 percent?

A Yes, probably 20 to 30 percent would be off of that display.

Q I assume that a lot of times this display, you can actually get the same bread over on the normal bread aisle because some people go there and don't see the display, right?

A That's possible.

Q So it's hard to track because you've got bread on the bread aisle and you've got bread in the rack and it comes out the same at the grocery -- at the cash

Exhibit "A" --Evidence Submitted by Defendant IMA

1 register?
2 A That's correct.
3 Q Plus, when you ship it it's the same, there's
4 no distinction between the two?
5 A That's correct.
6 Q How long does these off-rack sales go for each
7 time, typically a week, a month?
8 A Anything from two weeks to four weeks.
9 Q Is it fair to say that the retail consumer
10 from your perspective who goes to the off-rack to look
11 for your -- or to determine if they want to buy some of
12 your Cobblestone Mill bread is intending to buy bread?
13 A They are probably intending to buy bread.
14 They may not be intending to buy Cobblestone Mill bread.
15 Q And when they go to the bread aisle, they
16 surely are intending to buy bread of some kind, maybe
17 not your brand, but somebody else's brand?
18 A Correct.
19 Q So it's not the case that it's an impulse
20 item, it's sort of an intention -- a consumer has to
21 have an intention to want to buy bread in order to even
22 go down the bread aisle, right?
23 A That's correct.
24 Q Then the question becomes, once they get in
25 the bread aisle, I assume, to distinguish your breads

Exhibit "A" --Evidence Submitted by Defendant IMA

1 and convince the consumer to buy the Cobblestone Mill
2 brand of bread as opposed to, I don't know -- who are
3 your competitors? I think I saw something. Who are
4 your top couple of competitors?
5 A Pepperidge Farm and Arnold.
6 Q So when people go down the bread aisle, they
7 look and they want to buy bread, and you're trying to
8 come up with a logo to promote the brand Cobblestone
9 Mill in such a way that people will want to buy
10 Cobblestone Mill-branded bread as opposed to Pepperidge
11 Farm or Arnold, right?
12 A Correct.
13 Q As you over the years have transitioned from
14 making the old gristmill the focus of your mark, the
15 picture itself, to now the picture being less and less
16 important, have you tried to give a different impression
17 to the consumer of it not being the old-fashioned mill
18 or -- I'm trying to understand what the motivation for
19 that transition is.
20 A The motivation is just to continually update
21 the logo.
22 Q Is the connotation still supposed to be given
23 with the logo even though the old shack is not on there
24 anymore and now you have just got a big wheel? Is it to
25 still suggest to the consumer that this is a bread

Exhibit "A" --Evidence Submitted by Defendant IMA

1 that's associated, at least, with some kind of an old
2 gristmill, the concept of milling grain to be able to
3 produce the bread?
4 A A mild power of suggestion, but the brand
5 itself is more important than the graphic.
6 Q Even the brand itself, when you say the brand
7 itself as opposed to the graphic, that's right, there's
8 two ways to get there, I guess, the one is the picture
9 of the wheel now, right?
10 A Right.
11 Q Which suggests an old gristmill, right?
12 A Right.
13 Q And then the word itself, Cobblestone Mill --
14 A Right.
15 Q -- means a gristmill?
16 A That's correct.
17 Q So you still want to convey that same image,
18 but now you're going more with the mark of the word part
19 of the mark as opposed to the picture part of the mark,
20 is that a --
21 A That's true.
22 Q But still conveying the same image of an
23 old-fashioned gristmill that people mill wheat, make it
24 into flour and from the flour they make bread, still the
25 same concept, right?

Exhibit "A" --Evidence Submitted by Defendant IMA

1 A It is the same concept except that we don't
2 think -- we have no reason to believe that the consumer
3 is making that big leap every time they look at
4 Cobblestone Mill. I'm not sure that they are going to a
5 gristmill.
6 **Q With regard to the food service part, I saw**
7 **you listed some national chains that you sell to, is**
8 **that right?**
9 A That's correct.
10 **Q And do you sell to these national chains the**
11 **Cobblestone Mill brand or other brands or all of the**
12 **above?**
13 A You're speaking of food service only?
14 **Q Right.**
15 A Our food service on the Flowers Bakeries
16 business is primarily fast food restaurants that may
17 serve deli sandwiches or specialty sandwiches. But we
18 do not have national distribution on Cobblestone Mill.
19 **Q What do you mean by that, you do not have**
20 **national distribution on Cobblestone Mill?**
21 A Flowers Bakeries is not national, and we only
22 distribute Cobblestone Mill where Flowers Bakeries
23 serves.
24 **Q Which location? Are those the 16 states or**
25 **whatever that you listed?**

Exhibit "A" --Evidence Submitted by Defendant IMA

1 A Yes, that's correct.
2 **Q Which is primarily in the southeast, but then**
3 **you've got some other states that are outside the**
4 **southeast?**
5 A That's correct.
6 **Q So if you sign a contract with -- I can't**
7 **remember -- one of these restaurants -- Denny's? Do you**
8 **have a contract with Denny's? It's some restaurant. I**
9 **can't remember which one it was. You have some**
10 **restaurant chains that you have signed contracts with?**
11 A Yes, that's correct.
12 **Q Can you give me an example of one?**
13 A Olive Garden.
14 **Q If you sign a contract with Olive Garden --**
15 **this is the food service part of the Flowers business**
16 **we're talking about now, right?**
17 A Right.
18 **Q With regard to Olive Garden, is it fair to say**
19 **then that Flowers Bakeries only supplies Olive Gardens**
20 **in the areas where Flowers Bakeries has bakeries -- what**
21 **do you call them, factories?**
22 A That's correct, or where we have distribution.
23 But now I did not say that we served Cobblestone Mill to
24 Olive Garden. You just asked me to give you a name.
25 **Q Right, you're right.**

Exhibit "A" --Evidence Submitted by Defendant IMA

A Okay.

Q Then we will come back and say -- we might as well go ahead and clarify that right now. I understand that Flowers Bakeries provides products to the food service industry, although it's a very small component of Flowers Bakeries' overall business, right?

A Right.

Q You said it's about 5 percent?

A No, I said it's a small part of the Cobblestone Mill food service business.

Q Within Cobblestone Mill, it's about 5 percent?

A I'm guessing, yes.

Q And are you telling me that Olive Garden is not one of the chains that buys the Cobblestone Mill-branded bread?

A I do not know which chains we serve with Cobblestone Mill, but I do not believe we serve Olive Garden.

Q Do you remember any chain that you serve or sell Cobblestone Mill-branded bread to?

A No.

Q When you sell your branded bread to the food service industry, is it to the chains exclusively?

A No.

Q The chains are a big component of the food

Exhibit "A" --Evidence Submitted by Defendant IMA

service?

A They're a big component of the food service, but not necessarily a big component of Cobblestone Mill.

Q How do you sell Cobblestone Mill-branded bread to the food service industry?

A It will be local, almost deli shops, mom-and-pop type of places, a convenience store that has a sandwich rack or something like that.

Q How would they go and how would they buy your product?

A It is delivered by our distributor system.

Q Your distributor system, my recollection is from the past work, can involve people who basically get a truck and you load the truck and you sort of do an inventory of what's on the truck and they're sort of jobbers?

A They're independent. They own their territory. They are independent businessmen.

Q Usually they're really a truck driver with a truck, who, rather than becoming an employee, is designated as an independent contractor of Flowers, right?

A Well, we think of them as more than a truck driver. In the literal sense, that probably is true, but they're representing our company.

Exhibit "A" --Evidence Submitted by Defendant IMA

Q Then you basically charge them for the bread that they sell, and if they bring the bread back and they're not able to sell it, they get some kind of credit for it and you sort of keep an accounting?

A Correct.

Q When you talk about your distribution system, is that the distribution system you're talking about?

A That's correct.

Q Is that the same distribution system that you follow for the grocery stores?

A Yes.

Q The large grocery stores?

A Yes.

Q So even if you want to do business with Krogers or Randall's or whomever, you still utilize this distribution system we just described, right?

A That's correct.

Q And roughly you believe that through that distribution system 95 percent of the Cobblestone Mill-branded breads ultimately are sold on the shelves of grocery stores, retail grocery stores?

A That is an estimate.

Q And roughly you think around 5 percent of the sales of Cobblestone Mill-branded breads end up being sold through this distribution system to the mom and pop

Exhibit "A" --Evidence Submitted by Defendant IMA

restaurants and chains?

A Correct.

Q Do you have any idea what percentage of the food service sales end up being purchased by what you call the mom and pop restaurants or delis versus the chains?

A No.

Q Do you guys at Flowers negotiate contracts with the chains directly?

A Yes.

Q So essentially you would tell a distributor, look, we have a particular chain -- it might be Denny's or Olive Garden, whoever -- and so all of those restaurants within your territory, Mr. Distributor, you need to take care and deliver bread to?

A That is correct. But, again, we would not negotiate that brand to be Cobblestone Mill, for a chain.

Q You would not negotiate that?

A We would not sell Cobblestone Mill to a chain under any kind of contractural arrangement. If we sold a chain food service product it would be under the Flowers food brand, it would not be Cobblestone Mill.

Q Is there a reason for that?

A Cobblestone Mill is intended as a retail

Exhibit "A" --Evidence Submitted by Defendant IMA

1 brand, it's not intended as a food service brand.
2 Q So it might be the same product being sold to
3 food service, but it wouldn't be the same brand?
4 A That's correct.
5 Q I take it then, as far as you know, no
6 restaurant or deli sells its sandwiches by referring to
7 the fact that the sandwich includes a Cobblestone Mill
8 slice of bread or loaf of bread?
9 A That's correct.
10 Q Also, in your Opposition you reference that
11 what you find most offensive about the Cobblestone
12 Market application is the fact that it has the same word
13 cobblestone followed by a word that begins with the
14 letter M, is that fair?
15 A That's fair.
16 Q Does the word itself market create an
17 impression in your mind that's anything close to the
18 old-fashioned gristmill that we've been talking about?
19 A No.
20 Q So it's just the fact that the second word
21 starts with an M?
22 A And that the first word is identical.
23 Q The first word is cobblestone in both marks
24 and the first letter of the second word starts with an
25 M?

Exhibit "A" --Evidence Submitted by Defendant IMA

A Yes, but we would also object to perhaps cobblestone with a word that didn't start with an M. We are very protective of the brand itself in its entirety.

Q Well, when I saw your discovery responses -- they're here somewhere -- I thought that there's other cobblestones out there that you did not object to. Is that true?

A I can't answer that. I don't know.

Q Do you know if there's any preceding that you're objecting to anyone's application for any mark that includes the word cobblestone other than the present one, the one with IMA?

A I am not certain at this time.

Q Are you aware of any objections that you have made -- or when I say you, I mean Flowers and you -- to anyone else's use of the word cobblestone prior to the IMA objection?

A I don't recall.

Q In Discovery Interrogatory Number 4 -- I will hand it to you in just a second -- it lists -- I'll go through them -- Cobblestone Bread owned by Leo Toril Thomas apparently filed an application for an intent to use and then he subsequently abandoned it. Then there's Cobblestone Kitchens, which includes food, beverages and staple goods; Cobblestone Restaurant and Bar; there's

Exhibit "A" --Evidence Submitted by Defendant IMA

Cobblestones Restaurant and Lounge; another Cobblestones for restaurant services; another Cobblestone for spices and extract; a Cobblestone bake shop for retail bakeries in Pennsylvania; another Cobblestone bakery in Spokane, Washington; a Cobblestones for confectionary candy, a Cobblestone Cookery and Imports; another Cobblestone Kitchen for bakeries in Arcadia, Oklahoma; a Cobblestone Diner for seafood; and a Cobblestone Gifts for health and diatetic foods. I will hand you those just to refresh your recollection. You can study them for a second.

A (Witness complies.)

Q Now that you have studied the responses to Interrogatory 4, has it refreshed your recollection as to whether Flowers has taken any action to prohibit or stop any of these uses of the word cobblestone?

A I cannot recall a specific incidence, but I would refer to counsel on that.

Q At least in the last eight or ten years since you've been Vice -- well, you've been Vice President of Marketing or Director of Marketing for the last eight or ten years?

A Right.

Q You're not aware of any personal involvement in disputing any of these, is that right?

Exhibit "A" --Evidence Submitted by Defendant IMA

A That's correct.

Q To the best of your knowledge, has any of these uses of cobblestone harmed your brand or cost you any sales, as far as you know?

A I don't know.

Q So it's fair to say you are not aware of any harm to your brand or to your sales from the use of these other cobblestone marks that I described to you in Interrogatory 4, though it may be the case, you just don't know?

A That's correct.

Q I will hand you this. If you need to look at a document I'm looking at, I will be happy to hand it to you. Just tell me, you know, don't ask me what a document says and not show it to me. So I will show it to you in just a second.

In Interrogatory Number 8 you responded to the complaint about Cobblestone Market and the belief that it causes some confusion with the mark Cobblestone Mill by sort of listing certain categories of possible confusion. And the first category is the fact that the mark is similar, and we just discussed that a minute ago?

A Right.

Q The Cobblestone Mill is a mark which obviously

Exhibit "A" --Evidence Submitted by Defendant IMA

1 has the same first word as Cobblestone Market, right?
2 A Right.
3 Q And it has the first letter of the second word
4 being market, which is the same M --
5 A Right.
6 Q -- as we have with Cobblestone Mill? Now, I
7 will let you look at that just to make sure I have
8 accurately described what the similarity is.
9 A Number 8 we're talking about?
10 Q Yes, your response to Number 8. And there's
11 some other issues we're going to go into, like, for
12 example, trade channel or venue, some other things, but
13 right now I'm just focused on the similarity of the
14 mark.
15 A Okay.
16 Q Other than what we have just discussed, do you
17 see any other similarity?
18 A Nothing other than what you have indicated we
19 will discuss further as far as distribution.
20 Q Trade channels and distribution?
21 A Yes, correct.
22 Q Is it the case that when you think about the
23 word Cobblestone Market, does it suggest to you a market
24 where people buy things? Is that the first impression
25 that you get when you hear Cobblestone Market?

Exhibit "A" --Evidence Submitted by Defendant IMA

1 A Yes.
2 **Q And assuming that the consumer still thought**
3 **of Cobblestone Mill, your brand, as being a gristmill,**
4 **would the first image be different between the first**
5 **impression of Cobblestone Mill as opposed to Cobblestone**
6 **Market, which is the first impression one gets as that**
7 **it's a market where people buy things?**
8 A I believe that where people buy the product
9 affects their perception of what the brand means.
10 **Q Explain that.**
11 A They're both bought in a grocery store. And
12 so if you are in a grocery store environment, then you
13 have an interpretation of what that brand stands for.
14 **Q What if I did no business in grocery stores,**
15 **would that affect your thinking in terms of whether**
16 **there was any possibility of a conflict between**
17 **Cobblestone Mill and Cobblestone Market?**
18 A If the Cobblestone Mill/Market appeared at a
19 place where a consumer purchased food, then I still see
20 a conflict.
21 **Q If it's not in a grocery store, then there's**
22 **not a conflict in the grocery store, right?**
23 A (No response.)
24 **Q Go to the next part. If there is a food**
25 **counter within a grocery store and a little deli area,**

Exhibit "A" --Evidence Submitted by Defendant IMA

let's say, and the deli area markets and sells Cobblestone Market sandwiches, then is what you're telling me that you -- because someone is buying a Cobblestone Market sandwich, that they might be confused with the fact that there is a Cobblestone Mill brand of bread on the bread aisle, you know, maybe 50 feet away?

A Well, and coupled with the fact that there could also be a temporary Cobblestone Mill display adjacent to the deli.

Q So that's one instance where there's a possibility that a consumer in your mind -- and I'm trying to paraphrase what you're saying -- would, possibly because it's the same consumer in the same general area, would see Cobblestone Mill-branded bread on a display rack that you just talked about, but yet maybe right next door there is this delicatessen within the grocery store that sells Cobblestone Market-branded sandwiches, and that's something that would bother you?

A Yes.

Q If the sandwich were not sold as a Cobblestone Market-branded sandwich -- we're focused now on the grocery store context -- would that any longer bother you?

A If the Cobblestone Mill/Market appeared anywhere in the deli and the consumer was aware that

Exhibit "A" --Evidence Submitted by Defendant IMA

1 there was a Cobblestone Mill brand in that --
2 Cobblestone Market brand in that deli, that would bother
3 me.
4 **Q What if the Cobblestone Market brand were only**
5 **on the deli meats and cheeses and not on the sandwich**
6 **itself, but it's just -- it's a Cobblestone Market ham,**
7 **turkey, you know, American cheese, cheddar cheese,**
8 **whatever?**
9 A I believe that's what is at issue now anyway.
10 That does bother me, that there is a product that I
11 would consider to be confusing to the consumer between
12 Cobblestone Market and Cobblestone Mill.
13 **Q So the fact that there is meats and cheeses**
14 **being sold under the Cobblestone Market brand in a**
15 **delicatessen that's in the same grocery store that you**
16 **may have Cobblestone Mill-branded bread being sold is at**
17 **least one aspect of where you think there's a likelihood**
18 **of confusion?**
19 A Yes.
20 **Q Have you done any kind of a market survey to**
21 **see if that is, in fact, the case to the consuming**
22 **public?**
23 A No.
24 **Q Other than your impression in discussions with**
25 **counsel and other people within Flowers, have you done**

Exhibit "A" --Evidence Submitted by Defendant IMA

1 anything else to determine whether the scenario you just
2 depicted as creating a likelihood of confusion, in fact,
3 exists?
4 A No.
5 Q Are you aware of the sales of IMA's brand,
6 Cobblestone Market?
7 A No.
8 Q Have you seen it anywhere?
9 A No.
10 Q Have you any reports of it anywhere?
11 A No.
12 Q Have you to date had a single instance of
13 actual confusion between Cobblestone Market and
14 Cobblestone Mill?
15 A No.
16 Q So I take it everything that you're aware of
17 that serves as a basis for Flowers' objection to IMA's
18 use of Cobblestone Market in the application is based on
19 your subjective anticipated analysis of a possibility of
20 some confusion at some point in the future?
21 A That's correct.
22 Q Following up on our grocery store example for
23 a moment, if the grocery store buyer were going to buy
24 the Cobblestone Market-branded turkey and cheese, as an
25 example, were to make that decision to buy that cheese

Exhibit "A" --Evidence Submitted by Defendant IMA

1 **and that cold meat but not to display it in their**
2 **delicatessen rack to the consuming public, would that**
3 **then bother you?**
4 A If the Cobblestone Mill/Market product was
5 going to be anywhere that the consumer could see it, it
6 would bother me a great deal. I would need to have more
7 detail as to what the other intentions are.
8 **Q So if the use of the Cobblestone Market brand**
9 **were limited to the wholesale purchaser at the grocery**
10 **store level, making a selection of that particular**
11 **brand, Cobblestone Market, and not to display a**
12 **Cobblestone Market-branded meat and cheese in the**
13 **delicatessen counter, that the same consumer who is**
14 **walking somewhere else in a grocery store and may see**
15 **your bread, if that wholesale buyer were to make a**
16 **decision to buy that brand, Cobblestone Market, but not**
17 **display it to the retail consuming public, then you**
18 **would not have a problem?**
19 A I don't have a real high comfort level that
20 that would happen. But if it was never ever seen, it
21 would put a different light on it. But we still would
22 be, I believe, in a position to just not be comfortable
23 with the Cobblestone Market brand in a retail
24 environment regardless.
25 **Q And that really is -- it's the issue of the**

Exhibit "A" --Evidence Submitted by Defendant IMA

1 Cobblestone Market brand in what you call a retail
2 market, right, that's the issue?
3 A Primarily.
4 Q Because, I think you said a moment ago, the
5 Cobblestone Mill brand is a Flowers brand that is
6 designated for the retail public, it's not a wholesale
7 brand?
8 A That's correct.
9 Q It's not a food service brand?
10 A That's correct.
11 Q Is it focused on the retail consumer?
12 A That's correct.
13 Q When you say you -- you still may not be 100
14 percent comfortable, I think is what I hear you saying,
15 is that because you're concerned that if IMA were to be
16 successful in achieving its registration with regard to
17 the Cobblestone Market brand at the wholesale level, and
18 even selling, for example, to the delicatessen within
19 the grocery store, that at some point you might see a
20 transition to the retail consumer who would end up
21 seeing that as a Cobblestone Market-branded product? Is
22 that the issue?
23 A That, plus the fact that I'm not certain that
24 once Cobblestone Market sells that product to their end
25 user that they have any control over where that end user

Exhibit "A" --Evidence Submitted by Defendant IMA

1 puts it or displays it.
2 Q So the same issue that I just described as
3 your sort of second issue, except you're saying even if
4 you had the best intention in the world at IMA, you may
5 not have control?
6 A That's correct.
7 Q The second aspect -- and we've kind of already
8 been touching on it a little bit -- which is the
9 Interrogatory 8 response, which is your objection, after
10 we talk about, which we already have, the similarity of
11 the mark, we've discussed the similarity of the goods in
12 that I think I hear you saying that if it -- even though
13 it may be cheese and meat, if the retail public sees it,
14 do you think they might believe that the Cobblestone
15 Market meat and cheese is actually associated with
16 Flowers?
17 A Yes.
18 Q Just because somebody who produces bread might
19 logically at some point in the future transition into
20 selling meet or cheese?
21 A That, but we would object to the Cobblestone
22 Market brand in a retail environment if it were not that
23 closely associated with bread.
24 Q And the reason there then, it must go beyond
25 the likelihood of confusion, it must be this issue of

Exhibit "A" --Evidence Submitted by Defendant IMA

1 dilution?
2 A Both.
3 Q Let's focus on them one at a time. With
4 regard to the likelihood of confusion, is it conceivable
5 in your mind that a consumer could think, well, the same
6 people who have this old-fashioned wheel now and have
7 had this mill concept for a long time, Cobblestone Mill,
8 suddenly expanded their business model from making bread
9 to processing cheese and meat?
10 A That's possible.
11 MR. DAVIS: Marty, we're aware of your travel
12 schedule, but we've been going at it for an hour.
13 Could we take a break when you get a chance?
14 MR. HILL: Sure.
15 (Brief break.)
16 BY MR. HILL:
17 Q Ms. Anderson, I think when we took a break we
18 had already gone over two basic aspects to the Flowers
19 objection to the Cobblestone Market application for
20 registration, the first being the similarity of the
21 marks which we talked about, right?
22 A Right.
23 Q And then the similarity of the goods. And I
24 think you have acknowledged that the turkey, for
25 example, meats and cheeses are not the same as bread

Exhibit "A" --Evidence Submitted by Defendant IMA

1 obviously, but yet because they could go into a sandwich
2 it's your opinion that it's possible that a consumer
3 could believe that the meat or the cheese originated
4 with Flowers?
5 A That's correct.
6 Q Though you have no evidence of that other than
7 just basic sort of like gut reaction to it?
8 A Correct.
9 Q Then the next aspect in your interrogatory
10 answer was the similarity of the trade channels. And
11 you generally understand what we're talking about when
12 we are talking about the similarity of trade channels,
13 right?
14 A Yes.
15 Q As I understand it, the trade channel for the
16 Cobblestone Mill brand is to grocery stores, and that
17 brand is aimed squarely at the retail consumer, right?
18 A That is correct.
19 Q And we talked about some of your concerns
20 within a grocery store, how the use of a deli in the
21 grocery store which sells the cheeses and meats of IMA's
22 brand, Cobblestone Market, you believe could create some
23 likelihood of confusion --
24 A Correct.
25 Q -- because the same consumer is in the same

Exhibit "A" --Evidence Submitted by Defendant IMA

1 grocery store even if it's in a different section,
2 right?
3 A That's correct.
4 Q Other than your assumption and belief based on
5 whatever we may have submitted or whatever the
6 application states in terms of the trade channel
7 including these delicatessens, markets within a grocery
8 store, do you have any other impression of the trade
9 channel utilized by IMA?
10 A No.
11 Q So to the extent that you believe that there
12 was a similarity of trade channels that caused angst to
13 Flowers regarding the Cobblestone Market brand, it's
14 because of the trade channel within the retail grocery
15 store or the delicatessen part that we discussed a
16 moment ago?
17 A That's correct.
18 Q And nothing else, at least, that you know of
19 at this time?
20 A Nothing that I know of at this time.
21 Q Then the next aspect of your response to
22 Interrogatory Number 8 states, the relatively limited
23 amount of consideration by consumers when purchasing the
24 type products -- I assume that means type of products --
25 covered by opposer's and applicant's mark. You can read

Exhibit "A" --Evidence Submitted by Defendant IMA

1 that if you -- if I didn't read it correctly, you can
2 read it.
3 A This was number -- which one?
4 Q We're still on 8. Lawyers go slow. So, okay,
5 that's the question. And then the answer I'm reading is
6 the part that is after -- it's after the trade channel
7 part. That's the sort of next -- I think it's a
8 dependent clause.
9 A Your question again is what?
10 Q I just referenced another aspect of the
11 Opposition, which is the relatively limited amount of
12 consideration by consumers when purchasing the type of
13 products covered by opposer's and applicant's marks,
14 right?
15 A Right.
16 Q And to the extent that you have any idea who
17 the applicant's target consumers are, the ones you're
18 referring to in this reference, I assume, means the
19 people who may be eating sandwiches in the retail
20 grocery store?
21 A Correct.
22 Q Or does it also include the people who are
23 buying the meats and cheeses in the grocery store at the
24 wholesale level, in other words, the buyer of the --
25 A Absolutely.

Exhibit "A" --Evidence Submitted by Defendant IMA

1 Q So do you think that the buyer, let's say,
2 works for -- give me a grocery store that you guys do a
3 lot of business with.
4 A Publix.
5 Q Publix?
6 A Uh-huh.
7 Q Do you think the buyer at Publix for the meats
8 and cheeses in the deli section who buys meats and
9 cheeses from an IMA-affiliated company, part of the
10 consortium of food companies, would be likely to be
11 confused that that is the same company as this buyer
12 buys breads from Flowers or Flowers -- these independent
13 distributors of Flowers?
14 A I think that is possible, but I am less
15 concerned about that buyer than I am our retail consumer
16 in the grocery store.
17 Q It's back to that issue of the retail
18 consumer, if he sees a Cobblestone Market-branded
19 product on the shelf in a grocery store, in your opinion
20 he may be confused with Cobblestone Mill-branded
21 bread --
22 A Correct.
23 Q -- and may incorrectly assume or believe, in
24 your opinion, that it derives from the same source, that
25 being Flowers?

Exhibit "A" --Evidence Submitted by Defendant IMA

1 A That is correct. And we have found in
2 consumer research that our consumers -- and this is the
3 purchaser.
4 **Q The retail consumer?**
5 A The retail consumer often refers to our mark
6 as just Cobblestone.
7 **Q Is that research within this stack of --**
8 A It would be in that research, but the specific
9 reference would not. Those are research findings.
10 **Q The discovery that you produced to us that**
11 **starts with FBI -- at first I thought it was the**
12 **Government, but then I saw it must be Flowers Bakeries,**
13 **Incorporated, FBI 0001 --**
14 A Flowers Bakeries, Inc., that's correct.
15 **Q -- through whatever the end of the discovery**
16 **is. As far as you know, there is no documents that were**
17 **produced that explained this reference to only**
18 **Cobblestone, is that what you're saying?**
19 A That's correct.
20 **Q But you have other research that you have not**
21 **produced that you think --**
22 A No, it was not a research topic, it was just
23 simply referenced the way the consumers refers to the
24 brand.
25 **Q So it's not documented in research anywhere?**

Exhibit "A" --Evidence Submitted by Defendant IMA

1 A That's correct.
2 **Q Who got that impression from talking to**
3 **consumers, researchers or you or somebody at Flowers?**
4 A Anyone at Flowers, yes.
5 **Q So kind of anecdotal evidence?**
6 A That's correct.
7 **Q So there's no document and there's no study**
8 **that demonstrates that?**
9 A That's correct.
10 **Q It's sort of anecdotal within Flowers that at**
11 **this point you think a lot of the consumers focus on the**
12 **cobblestone by itself without even the mill or the wheel**
13 **or the little gristmill shack?**
14 A That is correct. The point being that we are
15 as protective of cobblestone as we are of the word mill.
16 **Q Let's go back to that phrase, the little**
17 **amount of consideration by consumers. I'm not sure --**
18 **does that basically mean that you think that you**
19 **generally have unsophisticated retail consumers?**
20 A No.
21 **Q So when it says the relatively limited amount**
22 **of consideration by consumers when purchasing the type**
23 **of products covered, what is that referring to?**
24 A Let me read that again, if you don't mind.
25 The reference there would be that through research we

Exhibit "A" --Evidence Submitted by Defendant IMA

1 have sort of named the bread aisle the zoom aisle, and
2 that oftentimes a loyal consumer knows when she goes to
3 the grocery store she's going to buy Cobblestone Mill
4 onion rolls and she knows where they are and she goes
5 and she picks them up without specific thought to, oh,
6 this is a Cobblestone Mill. She knows where it is.
7 It's a habit.
8 **Q I saw something in the documents that you did**
9 **tender as part of your request for production response**
10 **which seemed to say that some of the consumers in doing**
11 **these question and answer sessions in terms of what do**
12 **they look for and whatever, was that to the extent that**
13 **you want to focus on a brand, something bigger and**
14 **bolder that stands out would be easier to see, is that a**
15 **fair --**
16 A Yes.
17 **Q That's kind of an issue that's come up is how**
18 **can you make it bigger and bolder because it's hard --**
19 **with all of this plastic wrap is what it appears in,**
20 **right?**
21 A That's correct.
22 **Q It's kind of hard to see it under the plastic**
23 **wrap?**
24 A That's correct.
25 **Q So you have tried to do certain things to**

Exhibit "A" --Evidence Submitted by Defendant IMA

1 **enhance the ability of the consumer to detect it?**
2 A That's correct.
3 **Q But that phrase that you just described a**
4 **moment ago when we talked about the limited amount of**
5 **consideration, you're saying that you're focused on the**
6 **fact that the consumer goes to this -- what do you call**
7 **it, bread aisle or bread --**
8 A Bread aisle. We refer to it as the zoom
9 aisle --
10 **Q Zoom aisle, that's what it was.**
11 A -- because so many times consumers know when
12 they get there what their purchase is going to be. But
13 that's not always the case, and you want to -- for the
14 consumer, there's perusing the bread aisle and trying to
15 make a decision, and then your package needs to stand
16 out from the crowd.
17 **Q Is there anything else that that phrase is**
18 **supposed to describe other than what you just testified**
19 **to?**
20 A I don't believe so.
21 **Q Then the next phrase talks about the fame of**
22 **the Flowers' Cobblestone Mill marks. We have talked a**
23 **little bit about that previously, right?**
24 A Right.
25 **Q How famous is the Cobblestone Mill mark if**

Exhibit "A" --Evidence Submitted by Defendant IMA

1 **there is an objective way of determining that?**
2 A Our consumer awareness is very high, and when
3 we do studies, we find that consumers, although they may
4 not be purchasers of Cobblestone Mill, they are familiar
5 with Cobblestone Mill.
6 **Q There was some study that was in here that of**
7 **the different brands -- it had Cobblestone Mill at the**
8 **bottom of the list of awareness. And that's not to**
9 **criticize your brand, it's just -- is that familiar with**
10 **your understanding of these documents?**
11 A Well, it depends on when that study was done.
12 The awareness of the brand has grown, you know, over the
13 years. I am not sure which study you're referring to,
14 but it is certainly better known now than it was ten
15 years ago or five years ago or even three years ago.
16 **Q Is the document marked FBI 000048 an example**
17 **of this off-shelf display rack that we were talking**
18 **about a moment ago?**
19 A Yes, it is.
20 **Q Rather than me looking through those**
21 **documents, since you created them maybe it would be**
22 **faster for you to look through them. Do you know which**
23 **study would give us the most recent objective**
24 **documentation to suggest how much awareness the**
25 **consuming public has of your brand?**

Exhibit "A" --Evidence Submitted by Defendant IMA

1 A I'm not sure which studies you have there. It
2 would be whichever one is the most recent.
3 MR. HILL: I don't care if you hand it to her
4 and help. That's fine.
5 MR. DAVIS: We have --
6 THE WITNESS: These all appear to be internal
7 documents here.
8 MR. DAVIS: We just have an index. I think it
9 may help her go through.
10 MR. HILL: Go ahead and give her the index and
11 let her look at it. Has that index been produced
12 or is that just for your sort of internal purposes?
13 MR. DAVIS: That's for our internal purposes.
14 MR. HILL: That's fine, let her.
15 THE WITNESS: The most recent research I see
16 on here on this list is 1999, which would be
17 misleading as to the awareness of the brand in
18 2006.
19 BY MR. HILL:
20 **Q Well, I don't want to say your discovery was**
21 **misleading, but are you saying there's something more**
22 **out there that we don't have that you think exists and**
23 **you just failed to produce, or are you saying what you**
24 **produced is all you have documented but it's misleading**
25 **and not reflective of what you believe the truth to be?**

Exhibit "A" --Evidence Submitted by Defendant IMA

1 A No, what I'm saying is that the brand has
2 grown from 1995 to 2006. So it would be a given, if the
3 brand has grown, the awareness has grown.
4 **Q Or that people just eat more bread. Maybe**
5 **your percentage of the market hasn't grown, it's just**
6 **that the overall pie grew, that's a possibility, right?**
7 A I suppose that's a possibility.
8 **Q And all we can work with is what evidence we**
9 **have. So what's the latest study that you have to show**
10 **what the -- is it the 1999 or 1995 study?**
11 A I would have to --
12 **Q You can look at the list that he has. You can**
13 **go ahead and look through their notes. I mean, you guys**
14 **can discuss it if you want to.**
15 A In looking at this, 1999 is the most recent
16 research we have that was provided to you. But all I'm
17 saying is, that since that time, the brand has grown.
18 **Q Sales have grown?**
19 A Sales have grown, that's correct.
20 **Q So it's your assumption because sales have**
21 **grown probably awareness has grown?**
22 A Absolutely.
23 **Q Although we don't have any documented proof of**
24 **it?**
25 A That's correct.

Exhibit "A" --Evidence Submitted by Defendant IMA

1 **Q Let's look at 1999. Can you figure out which**
2 **one that is?**
3 A Which one is --
4 **Q Go ahead. If you need me to leave for a**
5 **second I can if you want to talk about it.**
6 A Okay.
7 MR. HILL: Is this from mine or is this from
8 yours?
9 MS. BARATTA: That was from ours.
10 MR. DAVIS: That's from our production.
11 MR. HILL: Is this an extra copy or is this
12 what you guys need?
13 MR. DAVIS: I think we can probably use this
14 to locate what I think you're looking for --
15 MR. HILL: Go ahead.
16 MR. DAVIS: -- in your documents --
17 MR. HILL: Go ahead.
18 MR. DAVIS: -- if you were asking about the
19 1999 study.
20 MR. HILL: If that's the latest one, I thought
21 we ought to look at it.
22 THE WITNESS: It's going to be towards the
23 bottom. It may be this one that doesn't -- the top
24 page is not -- what is that right there? No,
25 that's not it -- well, it may be. Yes, there's

Exhibit "A" --Evidence Submitted by Defendant IMA

1 something else on top of it.
2 BY MR. HILL:
3 **Q I'll put these sideways. It looks like**
4 **somebody paper-clipped them to sort of keep them in**
5 **order rather than anything else. This report, which**
6 **starts FBI 00344, it says prepared by Greg Rathjen,**
7 **R-A-T-H-J-E-N --**
8 A Correct.
9 **Q -- of Marketecture?**
10 A Marketecture.
11 **Q Which is M-A-R-K-E-T-E-C-T-U-R-E. August 6,**
12 **1999?**
13 A Correct.
14 **Q That's the latest report --**
15 A That's the latest, yes.
16 **Q -- or study? Do you remember generally**
17 **what -- or could you generally summarize what the --**
18 **let's call this the 1999 report, the one that we're**
19 **studying. We'll call it the 1999 study, the one that**
20 **starts with FBI 00344. Is that fair?**
21 A Okay.
22 **Q What was the general summary of what this 1999**
23 **study told you?**
24 A Well, this was to assess a proposed new
25 package design. And we recruited consumers who were in

Exhibit "A" --Evidence Submitted by Defendant IMA

1 the -- what we refer to as the specialty bread category,
2 which is where Cobblestone Mill lives, along with the
3 competition. And the aim was to get the consumer
4 feedback on whether they liked our present design or
5 whether they liked some of the proposed new designs.
6 And as a part of that study we established who
7 we were talking to, what their primary bread of choice
8 was and their perception of the Cobblestone Mill brand.
9 **Q As a result of this study, is it fair to say**
10 **that that's at least one of the motivating factors for**
11 **you to change the stylistic mark?**
12 A That's correct.
13 **Q And to emphasize the wheel and to sort of**
14 **deemphasize, actually remove the gristmill shack from**
15 **the trademark?**
16 A No, that was not that study. This study went
17 from the mark that you showed me in the beginning, that
18 evolution. There were -- what you originally showed me
19 was just the words Cobblestone Mill and then two
20 designs.
21 **Q We've got the -- let's call it the 1985 mark.**
22 A Right.
23 **Q It's the one that prominently displays the**
24 **gristmill?**
25 A That's correct.

Exhibit "A" --Evidence Submitted by Defendant IMA

1 Q We will call it the '85 mark. And then the
2 '96 was when you, for whatever reason, decided to go
3 ahead and trademark the word?
4 A Right.
5 Q Then in 2003 is when you changed to -- I'm
6 sorry, you're right -- you minimized the size of the
7 gristmill, but it still appears on there basically the
8 same as it had previously?
9 A Right.
10 Q Now, which we don't have yet, but maybe we're
11 getting a copy of sort of a new logo which has just the
12 wheel with the words Cobblestone Mill, right?
13 A Right.
14 Q So what I should have said was, is the 1999
15 study and results of it in the analysis by Flowers what
16 sort of led to the 2003 version of the trademark?
17 A Yes.
18 Q A moment ago when you said -- I may be
19 misquoting you, so correct me if I'm wrong -- that the
20 Cobblestone Mill brand resides within the specialty
21 bread section, is that what you said?
22 A Yes.
23 Q What specialty bread versus just bread?
24 A The bread aisle is divided into, in most
25 cases, white bread, soft variety bread and specialty

Exhibit "A" --Evidence Submitted by Defendant IMA

1 bread, and Cobblestone Mill resides in the specialty
2 bread section of the bread aisle.
3 **Q Is it a little more expensive, a little**
4 **heavier bread?**
5 A Typically, yes.
6 **Q Is that in there with some of the other breads**
7 **that talk about having nuts in them and --**
8 A That's correct. But that category also
9 includes specialty buns and rolls, it's not exclusive to
10 sliced bread.
11 **Q So when we talk about a percentage of**
12 **specialty bread, that's a sub-category of the category**
13 **of bread?**
14 A Correct.
15 **Q You probably don't know this answer exactly,**
16 **but just in general, what percentage of bread does**
17 **specialty bread compose, if that's a fair question?**
18 A Are you speaking of specialty sliced bread or
19 the specialty category which includes buns and rolls?
20 Just the sliced bread portion of it?
21 MR. DAVIS: Marty, let me ask for a
22 clarification. Are you talking about the market
23 generally or for the Flowers lines of goods?
24 BY MR. HILL:
25 **Q I was talking about in general, not just -- if**

Exhibit "A" --Evidence Submitted by Defendant IMA

1 you know. We can go through this however, and feel free
2 to correct me so we get it right, whatever it takes,
3 there is a specialty bread section which has more than
4 just sliced bread in it in a grocery store, right?
5 A Uh-huh.
6 Q I was wondering just in general what
7 percentage of overall sliced breads -- excuse me, of
8 overall bread sales, whatever that category is, is the
9 specialty breads section? And if we can't do it that
10 way, we can go --
11 A I would be afraid to make a guess. And it
12 would be a guess.
13 Q Do you have any rough idea or any --
14 A Maybe 20 percent.
15 Q So then if we talk about just the sliced bread
16 as a category, and within sliced bread as a category
17 there's a sub-category of specialty bread that's sliced,
18 is that right?
19 A Uh-huh.
20 Q And what percentage, if you know, of the
21 sliced bread does the specialty sliced bread compose,
22 about the same?
23 A Anything I tell you is going to be a guess.
24 Q Well, just the best estimate that you have.
25 A Probably 15 or 20 percent, yes.

Exhibit "A" --Evidence Submitted by Defendant IMA

1 Q Cobblestone Mill doesn't even sit over in the
2 regular sliced bread section, it only sits in the
3 specialty bread section?
4 A That's correct.
5 Q Within the specialty bread section, does the
6 1999 study show, at least within whatever the target
7 markets are, what percentage of the market that
8 Cobblestone Mill brand specialty sliced bread occupies
9 as compared to -- I shouldn't just say sliced bread
10 because you actually have more than just sliced bread,
11 right?
12 A That's correct.
13 Q So go ahead and answer.
14 A The research was not aimed at answering that
15 question. That answer is in these IRI documents that
16 you have that give market share by variety. And that's
17 in the IRI documents that we provided you.
18 Q That's a different company than this other
19 one. What's the most recent one on the IRA (sic)
20 documents, do you know?
21 A I don't know what the most recent one is that
22 you have there, but we get it monthly.
23 Q That would tell you what your sales are as a
24 percentage of whatever the market is, the IRA (sic)
25 documents, right?

Exhibit "A" --Evidence Submitted by Defendant IMA

1 A That's correct.
2 Q But it wouldn't necessarily tell you the
3 importance or lack of importance of the brand as being
4 the reason that people buy or don't buy your product
5 versus somebody else's?
6 A That's correct. It's just hard data.
7 Q The 1999 study was designed to examine and
8 focus on your mark and how you might improve your mark
9 to actually eventually improve the numbers, is that --
10 A That's correct.
11 Q And did the 1999 study compare the strengths
12 of various people's marks?
13 A Yes.
14 Q Not necessarily sales, but the strength of the
15 marks?
16 A That's correct.
17 Q I remember -- I don't know if it was the 1999
18 study or some of the others, but in reviewing some of
19 these documents -- for example, on the FBI 00372 it has
20 the Cobblestone Mill mark. And that mark actually would
21 be the 2003 mark, but the largest wording is Hearty
22 Recipe on this particular page as opposed to being
23 actually the brand. Do you see that?
24 A That is a brand that we tested. We never used
25 that brand. That was one of the marks that we were

Exhibit "A" --Evidence Submitted by Defendant IMA

1 testing in research. But we did not move forward with
2 it.
3 **Q And some of these breads even like Earth**
4 **Grains, I assume they did use -- on FBI 00375 by**
5 **comparison you see the Earth Grains registered mark,**
6 **right?**
7 A That is their actual mark, correct.
8 **Q And then under it, which I assume is not part**
9 **of the mark, is Honey Wheatberry? Is that what it says?**
10 A Right.
11 **Q Did the 1999 study or any other study that you**
12 **do analyze the importance of the description of the**
13 **product, meaning in this case it's a honey wheatberry**
14 **premium bread, whatever that means, versus the brand, in**
15 **this case being Earth Grains on FBI 375? Did anybody do**
16 **a comparison to see how important that description is in**
17 **terms of a consumer's decision to buy the product versus**
18 **the brand?**
19 A We did not probe that in the study.
20 **Q Do you have any anecdotal opinions on that?**
21 A Consumers want to be able to easily determine
22 what the variety is that they're purchasing. They don't
23 want to have to search for it. So it needs to be large
24 enough that they don't have to get their glasses out to
25 find it. But it's a combination. It's a balancing act

Exhibit "A" --Evidence Submitted by Defendant IMA

1 of logo size versus product description.
2 **Q I notice in both the case of Earth Grains and**
3 **at least in the FBI 370 -- well, yes, 374 being**
4 **Pepperidge Farm, same issue, the description of the**
5 **product is much larger than that the reference to the**
6 **brand of Pepperidge Farm, right?**
7 A Yes.
8 **Q Does that seem to be the most significant**
9 **determining factor then when a consumer wants to buy a**
10 **bread product is what type of bread are they buying, are**
11 **they buying honey bread or are they buying wheat bread,**
12 **that's the first big issue?**
13 A Yes.
14 **Q And then the secondary or tertiary issue is**
15 **what brand it is?**
16 A I wouldn't always call it secondary because
17 some consumers are very brand-loyal. We have
18 brand-loyal consumers that are going to buy Cobblestone
19 Mill, and within Cobblestone Mill they're going to find
20 the variety they're looking for.
21 **Q Does the '99 study deal with how much brand**
22 **loyalty --**
23 A No.
24 **Q -- there is?**
25 A It was purely a package assessment.

Exhibit "A" --Evidence Submitted by Defendant IMA

1 Q And the IRA (sic) documents would only show
2 you market share pure numbers, it won't show how much
3 brand loyalty there is, right?
4 A That is correct.
5 Q On any of the documents that you have
6 produced, does it show the brand loyalty opinions of
7 consumers?
8 A Only to the degree that that will come out.
9 And if that information is available, it will be in that
10 report as to what consumer feedback was. But, again, it
11 was not a loyalty study, it was a package design study,
12 which is different.
13 Q When you say that report, we're talking about
14 the 1999 study, right?
15 A Right.
16 Q Can you just tell me when we talk about the
17 1999 study -- I know it starts on FBI 00344 -- what's
18 the last Bates number so that we know what comprises
19 that study?
20 A That's the study.
21 Q So you have handed me what's Bates stamped on
22 the first page FBI 00344 through FBI 00397. And we've
23 denominated that as the 1999 study, right?
24 A Right.
25 Q Again, the intention of the 1999 study was to

Exhibit "A" --Evidence Submitted by Defendant IMA

1 focus on how you might improve the packaging of your
2 brand, not to determine how strong the Cobblestone Mill
3 brand was in the market?
4 A That's correct.
5 Q Is there any documents that you have produced
6 or that you are aware of that show the importance of the
7 Cobblestone Mill brand in the target market, that being
8 the retail consumer, regarding the Cobblestone Mill
9 brand purchase decision?
10 A If you're asking if we have done an attitude
11 and awareness study, we have not.
12 Q Well, not only that, but any documents that
13 would reflect it, even if it's not a formal study, other
14 than the fact that you have significant sales of
15 Cobblestone Mill-branded products, right?
16 A Right.
17 Q But there's no documents that tell us why you
18 have --
19 A That's correct.
20 Q -- right -- substantial sales?
21 A Correct.
22 Q It might be you're the cheapest?
23 A It's not, but that's correct.
24 Q It might be that you taste the best?
25 A Right.

Exhibit "A" --Evidence Submitted by Defendant IMA

1 Q You weren't going to say no on that, right?
2 A That's a given.
3 Q And it might be because of the brand? It's
4 sort of a combination of reasons, right?
5 A Right.
6 Q And you really don't know sitting here today
7 why, other than some combination of quality, price --
8 A And package.
9 Q -- distribution, packaging and branding --
10 A Correct.
11 Q -- all combine to give you a relatively
12 significant market share of specialty-branded breads
13 under the Cobblestone Mill market to the retail
14 consumer, right?
15 A That's correct.
16 MR. HILL: I don't think we need to make these
17 as exhibits since we know what the documents are.
18 You're not going to dispute later if we say 344
19 through whatever it is?
20 MR. DAVIS: I don't think we'll be disputing
21 that.
22 MR. HILL: Not to save too much money on
23 deposition costs, but --
24 BY MR. HILL:
25 Q Let's look then at the actual sales of the

Exhibit "A" --Evidence Submitted by Defendant IMA

1 **products and see if we can determine the percentages**
2 **from the other documents that you have provided that I**
3 **think you said are the IRA (sic) documents.**
4 A IRI.
5 **Q IRI?**
6 A We have IRI, which is syndicated data that we
7 buy; and then we have internal data that is obviously
8 more accurate because it is internal data. IRI data is
9 a measuring stick.
10 **Q Which is more accurate, the IRA (sic), which**
11 **is internal or the IRI, which is syndicated?**
12 A Internal is not 'I' anything. Internal is
13 what we refer to as SDW, which is sales data warehouse.
14 The internal data is exactly what we sold. The IRI is
15 projectable data.
16 **Q Does that basically mean if there are ten**
17 **brands the IRI tells you roughly who is selling what**
18 **percentage?**
19 A That is correct.
20 **Q That would be the best way to determine market**
21 **share --**
22 A Correct.
23 **Q -- of the evidence that we have available to**
24 **us, right?**
25 A That's correct.

Exhibit "A" --Evidence Submitted by Defendant IMA

1 **Q What's the most recent IRI data then that we**
2 **can look at to determine the answer to that question?**
3 A This IRI information is all by individual
4 market, so there's going to be a specialty report for
5 probably a dozen different markets. And I'm pulling out
6 those that relate to the specialty category.
7 MR. HILL: It may be most efficient then to
8 mark that as an exhibit. You will make some extra
9 money after all.
10 (Exhibit No. 1 was marked for
11 identification.)
12 (Brief break.)
13 BY MR. HILL:
14 **Q Let's go back a second because I marked a**
15 **different exhibit first. It's probably better to go in**
16 **sequential order. I was handed during the break**
17 **something I've identified as Anderson Exhibit Number 1.**
18 **Let me ask you to identify that document.**
19 A This document represents the latest version of
20 our Cobblestone Mill logo.
21 **Q And this is the one we talked about a moment**
22 **ago where the actual old gristmill has been removed, and**
23 **now it's just the wheel from the gristmill along with**
24 **the Cobblestone Mill mark, correct?**
25 A That's correct.

Exhibit "A" --Evidence Submitted by Defendant IMA

1 Q And do you know if you have filed an
2 application yet to trademark this new stylistic mark or
3 new logo?
4 A I believe that has been -- is in the works.
5 Q It hasn't been granted yet?
6 A I'm not sure where the process is, but it has
7 been provided.
8 Q Your intention is at least to pursue this?
9 A Absolutely.
10 Q As you pursue this Cobblestone Mill mark,
11 assuming that you get the registration, will it be the
12 intention to then transition to this mark?
13 A That's correct.
14 Q And so you will still want to keep as your
15 history the old marks, but you will stop using the prior
16 stylistic marks and you will start branding everything
17 with the new transition mark, right?
18 A That's correct.
19 Q And this talks about, as you have been talking
20 about all along, the specialty baked foods segment of, I
21 guess, breads or baked goods. Can you just generally
22 describe what makes it a specialty baked product versus
23 a non-specialty. What is the distinguishing
24 characteristic?
25 A The primary difference is that oftentimes

Exhibit "A" --Evidence Submitted by Defendant IMA

1 consumers purchase these products for a specific
2 occasion. It may not be their everyday bread, but they
3 know they're going to have corned beef and they want rye
4 bread or they know they're having guests for dinner and
5 they want a specific kind of sandwich roll or they're
6 going to have spaghetti and they want French bread.
7 In the older segment of the population, the
8 loaf bread is frequently their regular bread, but
9 oftentimes it is in addition to what their other regular
10 bread purchase might be.
11 **Q That's the only thing we buy is specialty**
12 **breads, so I still -- I probably am in the older**
13 **section.**
14 A I'm not going to go there.
15 **Q But still we only buy specialty breads. All**
16 **right. We will sit that over there.**
17 A Okay.
18 (Exhibit No. 2 was marked for
19 identification.)
20 BY MR. HILL:
21 **Q Now, Exhibit Number 2 is what?**
22 A This is IRI syndicated data through 1998. And
23 this shows the Birmingham market and our dollar share of
24 the category.
25 **Q Now, it says through 1999, and you said we**

Exhibit "A" --Evidence Submitted by Defendant IMA

1 only asked -- we only asked back as far as '98, or did
2 we only ask for '97 and '98? That seems hard to
3 believe, but who knows.
4 A I can't answer that. I don't know.
5 Q You have these same kind of data all the way
6 through 2005 or maybe even into 2006, right?
7 A That's correct.
8 Q You don't think we asked for it?
9 A I don't believe so.
10 Q Anything is possible. Well, let's just make
11 sure we understand what this means then. You have
12 different markets that you do business in, you being
13 Flowers, right?
14 A That's correct.
15 Q And if I look in the far left-hand column of
16 Anderson Exhibit Number 2, I see about 10 different
17 markets, is that right?
18 A That's correct.
19 Q And are those your 10 markets?
20 A That is the 10 markets -- that is the 10 IRI
21 markets that were available to us at that time. IRI
22 does not cover 100 percent of our territory. They have
23 clearly defined markets that you buy sales data for.
24 Q We talked about earlier we thought that there
25 was about 16 states that some of your paperwork suggests

Exhibit "A" --Evidence Submitted by Defendant IMA

1 that you do business in?
2 A Right.
3 Q Would it be fair to say that the IRI numbers,
4 as referenced in Exhibit Number 2, are consistent with
5 what market conditions are in markets that IRI does not
6 cover?
7 A I think that's fair, yes.
8 Q So if we look at the 1997 market share in
9 Birmingham, if I read this right, does it mean that 26.2
10 percent of the specialty market is Cobblestone Mill?
11 A That's correct.
12 Q So presumably about 73.8 percent of people who
13 buy specialty breads in the grocery stores in
14 Birmingham, Alabama, buy somebody's brand other than
15 Cobblestone Mill, right?
16 A That's correct. Well, that is dollar share,
17 it's not people. That's the dollar share of the market.
18 Q Okay. And then down, for example, toward the
19 bottom of Anderson Exhibit Number 2 it shows the Miami
20 market, and that shows 6.9 percent for the four weeks
21 ended February 9, 1997, is held by Cobblestone Mill,
22 right?
23 A Right.
24 Q And it says at the bottom, 8.3 percent total
25 Flowers markets. So I take it by that for that

Exhibit "A" --Evidence Submitted by Defendant IMA

1 **four-week period ending February 9, 1997, in the markets**
2 **surveyed by Infoscan, on average 8.3 percent of the**
3 **dollars spent on specialty breads involved the sale of**
4 **Cobblestone Mill-branded specialty breads?**
5 A That's correct.
6 **Q I have no idea why we would not have asked for**
7 **something more recent than this, but maybe that's what**
8 **we did.**
9 MR. DAVIS: Marty, if I could break in there.
10 MR. HILL: Okay.
11 MR. DAVIS: This is the document that we have
12 most recently provided to you which contains
13 summaries of the sales not broken down by market.
14 MR. HILL: Okay.
15 MR. DAVIS: That is FBI 000879.
16 MR. HILL: Okay. Now, you have marked this
17 one as highly confidential, and I have no purpose
18 for this other than this proceeding, so if you
19 don't want this -- are the documents -- we need to
20 deal with this eventually, if we produce any
21 documents, we use them at the PTO as documents or
22 we need to do them under seal or you need to tell
23 me how you want to do that because I don't want to
24 violate them. But tell me later how you want to do
25 that. And I have no reason to want to disclose

Exhibit "A" --Evidence Submitted by Defendant IMA

1 this to anybody that you don't want it disclosed
2 to, okay?
3 MR. DAVIS: We'll address that later.
4 MR. HILL: Let's mark this one as the next one
5 then. That's Anderson Number 3.
6 (Exhibit No. 3 was marked for
7 identification.)
8 BY MR. HILL:
9 **Q Let me hand you, Ms. Anderson, what's marked**
10 **as Anderson Exhibit Number 3 and ask you to explain that**
11 **then, that document.**
12 A Okay.
13 **Q What does it mean?**
14 A This means that beginning in the far right,
15 1999 forward to 2006, this is our net. And I should
16 write -- can I write on here?
17 **Q Go right ahead.**
18 A This is wholesale dollars.
19 **Q Probably still aimed for the retail market,**
20 **but --**
21 A That's correct, but we capture what our income
22 was when we sold it to the retailer. So this is the
23 money that we gained from selling to the retailer. And
24 then in order to get the retail dollars, which I
25 addressed to you earlier, our retailer gets 25 percent

Exhibit "A" --Evidence Submitted by Defendant IMA

1 markup. So if you divide these dollars by .75 you get
2 the retail value.
3 And then I made a reference over here to the
4 105 million. And I took this 42 million -- this is
5 through week 28, through our week 28 -- for 2006,
6 divided this by 28, multiplied it by 52, divided it by
7 .75 to get our annual retail dollars.
8 **Q Then it comes out to around 105 million?**
9 A That's correct. And then this is the units,
10 obviously.
11 **Q Now, when you talk about the wholesale and the**
12 **25 percent markup, I'm not trying to get into the**
13 **details of that, but you actually go through these**
14 **independent contractor distributor guys, right?**
15 A Right.
16 **Q Is this how much they're paying you or is this**
17 **what the --**
18 A That is correct, that is our wholesale
19 dollars. I can't address all the internal workings of
20 how we get to that number, but that is our wholesale
21 dollars out of your sales data warehouse.
22 **Q That's all I really need to know, is what your**
23 **sales are. I guess we can look at it that way rather**
24 **than retail sales. But if we add -- is it 25 percent**
25 **markup or 25 percent gross margin?**

Exhibit "A" --Evidence Submitted by Defendant IMA

1 A Gross margin.
2 Q So if we just added 25 percent gross margin
3 factored to the numbers in Anderson Exhibit Number 3 we
4 can basically get to what the retail sales of the
5 product -- of the Cobblestone Mill sales are, right?
6 A Right.
7 Q Does Anderson Exhibit Number 3 tell us what
8 percentage of the specialty breads category of bread
9 sales is attributable to Cobblestone Mill versus other
10 brands?
11 A No.
12 Q So could we look -- it says, total CSM net
13 dollars. That's the money that Flowers received in each
14 of those categories, right?
15 A Right.
16 Q Do you know if the Infoscan, which is Exhibit
17 Number 2, exists for '99 through 2006? I think you said
18 it did.
19 A Yes, it does.
20 Q Do you know if the percentages increased or
21 decreased of Cobblestone Mill market share over the
22 years?
23 A It would have increased.
24 Q I know that the dollars increased because we
25 can see that.

Exhibit "A" --Evidence Submitted by Defendant IMA

1 A Right.
2 **Q In addition to your dollars increasing, your**
3 **market share in the territories that you sell and**
4 **distribute into increased?**
5 A It's going to vary by market.
6 **Q But overall it increased?**
7 A I believe it has. I feel confident it has,
8 but without something in front of me to confirm that, I
9 would hesitate to be absolute on it.
10 **Q We see on average -- it looks like in 1997 on**
11 **average Cobblestone Mill-branded specialty bread**
12 **products held about 8.3 percent of the market in the**
13 **markets at year end, right?**
14 A Uh-huh, that's correct.
15 **Q Do you know if today you hold, you think, a**
16 **little more than 8.3 percent?**
17 A I believe we do.
18 **Q Is it above 10 percent or you just don't know?**
19 A I would rather not say.
20 **Q Because it's a secret or just because you're**
21 **not sure?**
22 A No, because I'm not sure.
23 **Q Could we just put a blank line on your**
24 **deposition and have you go back and then look?**
25 A Sure.

Exhibit "A" --Evidence Submitted by Defendant IMA

1 Q For each year, let's do a blank line for each
2 year, and I'll list the years in a minute. Tell me what
3 percentage that would correspond to this total
4 percentage of the share of the specialty breads category
5 that Cobblestone Mill holds which would only be
6 reflective of the markets in which you actually
7 participate as a seller and would also be limited then
8 to those markets that Infoscan actually analyzes, which
9 we know is not all of them --
10 A Right.
11 Q -- but we believe that would be reflective,
12 right?
13 A Yes.
14 Q So I would like to do a blank line for 1998
15 _____, '99 _____, 2000 _____, 2001 _____, 2002 _____,
16 2003 _____, 2004 _____, 2005 _____, and 2006 _____, just
17 as a summary sort of annual summary totals. Is that
18 fair?
19 A That's fair.
20 MR. DAVIS: Marty, would it be easier if we
21 just went back and produced corresponding reports
22 for those years, or would you rather do it with the
23 blank-line method?
24 MR. HILL: We could do either, but as far as
25 I'm concerned, that gives me sort of the summary

Exhibit "A" --Evidence Submitted by Defendant IMA

1 total of everything. And I'm not going to get into
2 analyzing one market versus another.
3 MR. DAVIS: Okay.
4 MR. HILL: I will do it either way that you
5 want to do it. If you guys want to do it that way
6 instead, I can go from those documents and analyze
7 it myself. Whatever is easier for you guys. How
8 about that?
9 MR. DAVIS: Okay.
10 THE WITNESS: The thing that we need to be
11 aware of is that since 1998 we have entered new
12 markets with our brand, and therefore, they're not
13 going to be as mature as these markets are, which
14 could dilute the bottom line.
15 BY MR. HILL:
16 **Q And then I suppose it's also possible that**
17 **Infoscan may have picked up additional markets or may**
18 **not be doing the same markets that they analyzed back in**
19 **1997?**
20 A They could have changed their geography,
21 that's correct.
22 **Q Let's do both. Let's do your summary totals,**
23 **and then if we get the documents, that will help us tell**
24 **what specific changes there are. Because if you added**
25 **three new markets and you only have a small percentage,**

Exhibit "A" --Evidence Submitted by Defendant IMA

1 actually your sales has grown, yet the total percentage
2 may have decreased, I think is what you're -- it would
3 have had an adverse effect on your market share?
4 A That's correct.
5 Q We're still working on Question Number 8. And
6 the last phrase was -- we're talking about why Flowers
7 has opposed the application of IMA -- it says, and the
8 very small number of third-party marks in use on similar
9 goods. You can read that if you want to, but I think
10 you understand what I read. Could you explain that
11 phrase or the relevance of it to the issue of IMA's
12 application?
13 A Well, I think, you know, the top line is that
14 Flowers has a concern with anyone, regardless of their
15 size, infringing on our Cobblestone Mill brand. Does
16 that answer your question?
17 Q Maybe. Regardless of their size, you mean
18 regardless of applicant size, in this case IMA?
19 A Right.
20 Q Do you know which food companies constitute
21 IMA?
22 A No.
23 Q Does that have any effect on your thinking one
24 way or the other, in other words, how national they are,
25 how large they are versus how small they are?

Exhibit "A" --Evidence Submitted by Defendant IMA

1 A No.
2 Q So regardless of the size of IMA or of anybody
3 who wanted to register a mark, you're saying you have a
4 concern about a mark, which I think you have already
5 said earlier, that at least in your view has the
6 potential to lead to some consumer confusion to the
7 extent that that retail consumer may eventually see that
8 mark?
9 A That and the fact that it would have the
10 potential to dilute our mark.
11 Q Now, would it dilute your mark if retail --
12 because retail consumers are your targets. So if retail
13 consumers didn't see the mark, it wouldn't dilute your
14 mark, would it?
15 A That's correct.
16 Q So, again, it goes back to if retail consumers
17 at the retail level see any mark that contains the word
18 cobblestone in it, it's your view that that would be
19 dilution of your mark?
20 A Potentially, yes.
21 Q Or if any mark used the word mill?
22 A Yes.
23 Q At least any kind of food service product?
24 A Correct.
25 Q Now, to the specific phrase we talked about,

Exhibit "A" --Evidence Submitted by Defendant IMA

1 **it says, the small number of third-party marks in use on**
2 **similar goods. I understood that to mean that you**
3 **didn't have that many different competing marks in the**
4 **specialty bread sector, you had Pepperidge Farm, you had**
5 **Arnold? I don't know what else.**
6 A That's correct. There's Arnold, there's Earth
7 Grains, there's Sara Lee, there's Martins. And many of
8 the stores have their own store brand of specialty
9 bread. And then there are many regional brands of
10 specialty bread that today we may not compete against,
11 but are in the market.
12 And then there are others that -- for
13 instance, in the northeast there are retail specialty
14 brands that we compete against that are not in Texas.
15 **Q So when it says the very small number of**
16 **third-party marks on similar goods, does that mean that**
17 **generally speaking there's not very many -- you don't**
18 **have very many competitors with brands within your**
19 **market niche? Is that what that's intended to say?**
20 A There are typically four to five specialty
21 bread brands in any given market.
22 **Q And it's Flowers' contention that because**
23 **that's a relatively small number, 4 or 5, as opposed to,**
24 **let's say there were 50, that that small number of**
25 **competing brands in that specialty market -- I think you**

Exhibit "A" --Evidence Submitted by Defendant IMA

1 called it the zoom aisle -- would tend to make it more
2 easy for consumers to be confused, or is it because of
3 the dilution effect?
4 A I don't think there would be any confusion
5 between the four or five brands. I'm not sure where
6 you're going with this.
7 Q Well, I'm trying to understand -- the question
8 was, why do you think the Cobblestone Market brand as
9 proposed and applied for by IMA would cause likelihood
10 of confusion with your Cobblestone Mill brand? And the
11 answer -- we went over some of the areas, the
12 similarity --
13 A Right.
14 Q -- the trade channels, that sort of thing.
15 But then this last phrase says: And the very small
16 number of third-party marks in use on similar goods.
17 And I'm trying to get an explanation of what that means.
18 Why is it, for example, that having a small number of
19 third-party marks, yours being one of those small
20 number, would tend to cause more confusion in the
21 marketplace rather than less?
22 A I think any time you've got -- I'm not sure I
23 can answer that question to your satisfaction. We're
24 just simply stating that regardless of the number of
25 players in the market, whether it's two or a dozen, we

Exhibit "A" --Evidence Submitted by Defendant IMA

1 are defending our mark and anything that we perceive to
2 be a confusion to the consumer as to what our mark is
3 and what it stands for.
4 **Q Other than what you have already testified to**
5 **in response to my questions, is there any other basis**
6 **that you have -- and we went through your discovery**
7 **answers in some detail on this -- for making the claim**
8 **that IMA's proposed mark Cobblestone Market either is**
9 **likely to cause confusion in the marketplace or would**
10 **have a dilution effect on your mark?**
11 A I don't believe I have anything to add to
12 what's already been said.
13 **Q And we have already said that there's no study**
14 **or documentation regarding recognition, fame of the**
15 **Cobblestone Mill brand, no documented study on that,**
16 **right?**
17 A Correct.
18 **Q And you have given some testimony, some**
19 **anecdotal opinions about it. Other than what you have**
20 **already testified to, is there anything else that you**
21 **need to add in order to share with me what you may**
22 **testify to at some point regarding the claim that**
23 **Cobblestone Mill has acquired a high degree of**
24 **recognition, fame and distinctiveness?**
25 A I don't believe so.

Exhibit "A" --Evidence Submitted by Defendant IMA

1 Q I think you testified earlier that you have no
2 instances that you are aware of of any actual confusion
3 between IMA's mark, Cobblestone Market; and Flowers'
4 mark, Cobblestone Mill, right?
5 A That's correct.
6 Q Is there anything else that you're aware of,
7 that you can testify about today, that would tend to
8 approve or support the notion that the public would
9 likely be confused from IMA's use of its mark?
10 A No.
11 Q Also, we already talked about the fact, IMA's
12 mark is intended to be associated with meats and
13 cheeses, though the application does include sandwiches
14 that may derive from those components, right?
15 A Right.
16 Q Other than what you have already testified to,
17 is there anything else in terms of the actual similarity
18 of the products that you know of, at least at this
19 point, that you may testify about regarding that
20 similarity that would tend to suggest that there's going
21 to be either confusion or dilution?
22 A No.
23 Q Now, we have already talked in some detail
24 about the fact that your Cobblestone Mill brand is aimed
25 squarely at the retail consumer and that the trade

Exhibit "A" --Evidence Submitted by Defendant IMA

1 channel, although it's through your distributors, it
2 ends up being in retail grocery stores. Is there
3 anything that you need to add or clarify about that in
4 terms of that trade channel being similar to the trade
5 channel of IMA as you understand it?
6 A I don't believe so.
7 Q And to summarize that, the testimony on your
8 similar trade channel issue, as I understood it, was
9 primarily that if IMA's brand, Cobblestone Market,
10 either directly or indirectly ends up in a grocery store
11 being displayed to the retail consumer, even if it's
12 associated with meats and cheeses, especially if it ends
13 up in a sandwich with that mark either on the sandwich
14 or even in the deli counter at a grocery store, that's
15 the primary focus of your concern with the applicant's
16 request to have the trademark Cobblestone Market,
17 correct?
18 A That's correct.
19 Q Is there anything that you need to add to that
20 to clarify your concerns about it?
21 A No, other than just to clarify the position.
22 I know that oftentimes in deli shops where we sell our
23 bread, it is frequently on the counter in clear view of
24 the consuming public as the person there that's making
25 the sandwich. She's clearly taking it from a

Exhibit "A" --Evidence Submitted by Defendant IMA

1 Cobblestone Mill package. So the same could be assumed
2 might happen with the meat.
3 **Q So even if the sandwich weren't wrapped with**
4 **the Cobblestone Market wrapper on the sandwich, your**
5 **concern extends to the fact that it's a possibility that**
6 **some type of a labeled product could be sitting on the**
7 **counter where the consumer -- the retail consumer that**
8 **you're focused on could actually see that box of meat --**
9 A Correct.
10 **Q -- and think that the meat derives from the**
11 **same source?**
12 A Correct.
13 **Q Anything else in that regard?**
14 A I don't believe so.
15 **Q Is there any question that I did ask you that**
16 **in retrospect either I asked a bad question or you would**
17 **like to supplement now to be able to clarify the record**
18 **to make sure that we have got clear testimony as to each**
19 **of the questions?**
20 A I can't think of anything.
21 MR. HILL: In that case, I will pass the
22 witness.
23 MR. DAVIS: Can we take about five minutes?
24 MR. HILL: Sure.
25 MR. DAVIS: I think we only need about five

Exhibit "A" --Evidence Submitted by Defendant IMA

1 minutes, and we will wrap it up and get out of
2 here.
3 MR. HILL: Go right ahead.
4 (Brief break.)
5 CROSS EXAMINATION
6 BY MR. DAVIS:
7 **Q We will go ahead and try to wrap things up**
8 **fairly quickly. Ms. Anderson, you testified earlier**
9 **about the zoom aisle --**
10 A Right.
11 **Q -- and that there is a certain percentage of**
12 **consumers that arrive at the zoom aisle with a specific**
13 **brand in mind?**
14 A That's correct.
15 **Q Is there a percentage of consumers who arrive**
16 **at the zoom aisle without a specific brand in mind?**
17 A Yes, that is especially true if consumers are
18 shopping for a special occasion bread as opposed to
19 their regular typical sandwich bread, which would fall
20 into their zoom purchase.
21 But if they have a special occasion in mind,
22 then they're going to be looking for a bread that fits
23 that particular occasion, at which point they may very
24 well shop brands looking for a specific item.
25 **Q And then we talked earlier about the marketing**

Exhibit "A" --Evidence Submitted by Defendant IMA

1 **study that begins on Bates number FBI 00344. We did not**
2 **mark this as an exhibit, so I just want to clarify what**
3 **it is. And I would like to ask you to read off the**
4 **title.**
5 A Cobblestone Mill New Package Design
6 Assessment.
7 **Q And so is this study a study of the new**
8 **package design?**
9 A It is a study of a proposed new package
10 design.
11 **Q And not of the Cobblestone Mill brand?**
12 A That's correct.
13 MR. DAVIS: Your witness again.
14 MR. HILL: I don't think I have any more
15 questions at this time.
16 (Deposition concluded at 12:05 p.m.)
17
18
19
20
21
22
23
24
25

Exhibit "A" --Evidence Submitted by Defendant IMA

1 CERTIFICATE OF OATH

2

3

4

5 STATE OF FLORIDA)

6 COUNTY OF LEON)

7

8

9

10

11 I, the undersigned authority, certify that

12 said designated witness personally appeared before me

13 and was duly sworn.

14

15

16 WITNESS my hand and official seal this 18th

17 day of August, 2006.

18

19

20

21

22

23 CHRISTI K. COLE
Certified Professional Reporter

24 (850) 894-0828

25

Exhibit "A" --Evidence Submitted by Defendant IMA

1

2 CERTIFICATE OF REPORTER

3

4 STATE OF FLORIDA)

5 COUNTY OF LEON)

6

7 I, CHRISTI K. COLE, Professional Reporter,

8 certify that the foregoing proceedings were taken before

9 me at the time and place therein designated; that my

10 shorthand notes were thereafter translated under my

11 supervision; and the foregoing pages numbered 1 through

12 98 are a true and correct record of the aforesaid

13 proceedings.

14

15 I further certify that I am not a relative,

16 employee, attorney or counsel of any of the parties, nor

17 am I a relative or employee of any of the parties'

18 attorney or counsel connected with the action, nor am I

19 financially interested in the action.

20 DATED this 18th day of August, 2006.

21

22 CHRISTI K. COLE
Notary Public

23 (850) 894-0828

24

25

Exhibit "A" --Evidence Submitted by Defendant IMA

Exhibit 1

Exhibit "A" --Evidence Submitted by Defendant IMA

FlowersFoods

Flowers Foods Web Sites: Select a site

Our Brands

Our popular brands are backed by delicious, quality baked foods and more than 80 years of baking experience.

Company Info | Investor Center | Brands | News Releases | Nutrition Center | Recipes | Contact Us

Print this page

Home ▸ Brands ▸ **Cobblestone Mill**

Cobblestone Mill

Select a Brand: Cobblestone Mill

Cobblestone Mill is a premium brand of specialty baked foods with hearty flavors and textures.

With more than 40 different varieties, Cobblestone Mill offers something delicious for every taste and meal of the day—from garlic bread sticks to sub rolls to wheatberry bread.

Cobblestone Mill makes any meal special.

New From Cobblestone Mill!

Three new tasty varieties have joined the Cobblestone Mill line-up. Perking up breakfast are **Multi-Grain Bagels**, made with whole grains, and **Cinnamon Swirl Breakfast Bread**. For great sandwiches anytime, try new Cobblestone Mill **12-Grain Sub Rolls**, also made with whole grain. Look for these new items at your supermarket today!

Brand Facts

EXHIBIT
Anderson 1
PENGAD 800-631-6989

Exhibit "A" --Evidence Submitted by Defendant IMA

Exhibit 2

InfoScan Market Dollar Share Analysis

Category: Class 3 - Cobblestone Mill

TOTAL COBBLESTONE MILL	4 Weeks Ending Feb 9, 97	4 Weeks Ending Mar 9, 97	4 Weeks Ending Apr 6, 97	4 Weeks Ending May 4, 97	4 Weeks Ending Jun 1, 97	4 Weeks Ending Jun 29, 97	4 Weeks Ending Jul 27, 97	4 Weeks Ending Aug 24, 97	4 Weeks Ending Sep 21, 97	4 Weeks Ending Oct 19, 97	4 Weeks Ending Nov 16, 97	4 Weeks Ending Dec 14, 97	4 Weeks Ending Jan 11, 98	4 Weeks , 98
Flowers Birmingham														
$ Share: Specialty	26.2	25.9	27.1	26.7	25.2	24.3	24.1	23.7	24.9	23.4	24.4	26.6	26.4	26.2
$ Share: Specialty Chg	NA	-4.5	-3.2	-2.7	-1.9	-0.8	-2.7	-5.2	-5.2	-3.0	-2.8	-1.6	-1.4	0.0
Flowers - East Tenn.														
$ Share: Specialty	15.6	15.5	15.7	15.7	15.3	15.7	15.2	14.7	14.4	15.5	15.4	16.7	17.4	16.7
$ Share: Specialty Chg	NA	-0.1	-0.9	-1.8	-0.4	-1.5	-1.8	-2.1	-2.5	-0.8	0.2	-1.9	0.8	1.1
Flowers - Atlanta														
$ Share: Specialty	16.5	16.1	16.3	15.8	14.9	15.0	14.4	14.6	14.6	14.3	13.9	16.7	16.2	15.4
$ Share: Specialty Chg	NA	-1.2	-2.0	-2.7	-2.8	-2.4	-2.7	-2.6	-3.0	-2.6	-2.9	-0.4	-0.4	-1.1
Raleigh/Greensboro														
$ Share: Specialty	15.3	14.9	14.5	13.8	13.3	13.2	12.5	12.8	14.1	14.2	13.9	14.0	15.7	13.8
$ Share: Specialty Chg	NA	-2.0	-2.6	-3.5	-3.4	-3.6	-3.8	-3.2	-2.6	-2.2	-1.8	-2.0	-1.1	-1.6
Roanoke, Va.														
$ Share: Specialty	9.9	9.2	10.1	9.9	9.4	9.5	9.7	9.7	10.8	10.3	10.2	13.0	14.0	12.4
$ Share: Specialty Chg	NA	-2.0	-1.6	-0.6	-1.1	-0.3	-0.6	-0.5	0.5	0.2	0.1	-0.3	2.7	2.5
Charlotte, NC														
$ Share: Specialty	13.8	13.9	14.6	13.8	13.4	13.1	12.6	12.7	12.5	11.3	11.7	12.5	12.9	12.1
$ Share: Specialty Chg	NA	-1.8	-1.5	-2.1	-1.8	-2.1	-2.1	-2.9	-3.8	-5.7	-4.1	-2.8	-2.5	-1.6
Flowers New Orleans-Mobile														
$ Share: Specialty	9.9	10.5	9.3	9.2	9.5	9.5	9.0	9.6	9.5	9.4	9.4	9.4	9.7	10.5
$ Share: Specialty Chg	NA	0.8	-1.9	-2.0	-1.6	-1.1	-2.7	-1.9	-1.3	-1.8	-1.2	-0.2	0.5	0.6
South Carolina														
$ Share: Specialty	7.9	8.3	9.0	9.2	9.2	8.9	9.0	8.9	9.6	9.0	8.6	9.7	10.6	10.4
$ Share: Specialty Chg	NA	3.9	4.2	4.6	2.7	3.3	3.5	2.9	2.7	2.5	1.6	2.5	3.4	2.5
Richmond/Norfolk														
$ Share: Specialty	11.8	10.9	11.8	10.5	10.7	11.0	9.6	9.4	9.1	10.7	10.1	12.1	13.3	10.3
$ Share: Specialty Chg	NA	-3.6	-2.0	-2.4	-3.1	-2.2	-3.1	-4.1	-4.5	-1.9	-2.4	0.7	2.3	-1.5
Flowers Miami														
$ Share: Specialty	6.9	6.5	7.0	6.5	6.0	6.2	5.5	5.8	5.5	5.5	5.7	6.9	6.8	8.9
$ Share: Specialty Chg	NA	-1.7	-1.5	-2.0	-2.3	-1.8	-2.4	-2.1	-2.0	-1.5	-1.2	-0.1	0.1	2.0
Total Flower's Markets														
$ Share: Specialty	8.3	7.9	8.3	8.0	8.0	8.0	7.9	7.7	7.8	7.8	7.5	8.6	8.7	8.6
$ Share: Specialty Chg	NA	-1.1	-1.0	-1.1	-1.0	-0.8	-0.9	-1.5	-1.2	-0.8	-1.2	-1.0	0.0	0.3

Exhibit A Motion to Quash Deposition Subpoena

EXHIBIT Andersen 2

ENGAD 800-631-6989

Markets Ranked by Current Period

Source: Information Resources, Inc., 1996

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InfoScan Market Dollar Share Analysis

Category: Class 3 - Cobblestone Mill

TOTAL COBBLESTONE MILL

	4 Weeks Ending Feb 9, 97	4 Weeks Ending Mar 9, 97	4 Weeks Ending Apr 6, 97	4 Weeks Ending May 4, 97	4 Weeks Ending Jun 1, 97	4 Weeks Ending Jun 29, 97	4 Weeks Ending Jul 27, 97	4 Weeks Ending Aug 24, 97	4 Weeks Ending Sep 21, 97	4 Weeks Ending Oct 19, 97	4 Weeks Ending Nov 16, 97	4 Weeks Ending Dec 14, 97	4 Weeks Ending Jan 11, 98	4 Weeks , 98
Flowers Jacksonville														
$ Share: Specialty	8.2	7.9	8.3	8.3	8.1	8.3	7.9	7.8	8.2	7.6	6.9	7.7	7.7	8.1
$ Share: Specialty Chg	NA	-1.1	-0.9	-0.7	-1.0	-0.9	-1.1	-1.9	-0.4	-1.4	-1.8	-1.7	-0.5	-0.2
Flowers Tampa														
$ Share: Specialty	6.4	6.1	6.5	6.2	6.5	6.5	6.3	6.2	6.5	7.7	7.0	7.9	8.4	7.5
$ Share: Specialty Chg	NA	-2.9	-3.5	-2.4	-2.2	-2.2	-2.1	-2.4	-1.1	0.7	-0.1	-1.2	1.2	1.0
Orlando, FL														
$ Share: Specialty	6.8	6.6	6.8	6.9	6.8	6.8	6.5	6.3	6.8	6.6	6.1	6.7	6.9	7.3
$ Share: Specialty Chg	NA	-1.4	-1.3	-0.5	-0.4	-0.3	-0.5	-1.2	0.4	-0.1	-0.9	-1.2	0.3	0.5
Flowers San Antonio														
$ Share: Specialty	6.9	5.8	6.1	5.7	6.3	6.0	5.6	5.8	6.3	6.1	5.6	6.6	6.6	6.6
$ Share: Specialty Chg	NA	1.3	1.2	1.1	1.6	0.9	0.3	0.6	0.8	-0.5	-0.9	-0.3	0.0	-0.3
Memphis, TN														
$ Share: Specialty	5.3	5.0	4.8	4.5	5.0	4.3	4.4	3.9	4.7	4.9	4.0	4.3	5.1	5.5
$ Share: Specialty Chg	NA	4.1	3.9	3.5	4.1	3.3	3.5	3.0	3.4	1.0	-2.6	-2.0	-0.1	0.2
Dallas/Ft Worth														
$ Share: Specialty	5.9	4.5	4.9	4.7	4.5	5.5	9.2	5.8	5.4	4.6	4.1	5.8	5.9	4.7
$ Share: Specialty Chg	NA	2.7	3.4	3.2	3.3	3.9	7.1	2.8	2.2	1.3	-0.1	-4.0	-1.1	-1.2
Flowers Houston														
$ Share: Specialty	3.7	3.6	3.9	3.6	4.2	4.1	4.3	4.3	4.7	4.4	4.3	4.4	4.6	4.1
$ Share: Specialty Chg	NA	-0.7	0.0	-0.4	0.5	0.3	0.5	0.1	0.5	0.5	-0.1	0.8	0.7	0.4
Nashville, TN														
$ Share: Specialty	2.4	2.5	2.7	2.5	2.2	1.8	1.7	1.7	1.8	1.6	1.4	1.3	1.6	1.6
$ Share: Specialty Chg	NA	2.5	2.7	2.5	2.2	1.6	1.4	1.4	1.4	1.3	1.0	0.1	-0.8	-0.8

Exhibit "A" --Evidence Submitted by Defendant IMA

Flowers Industries Birmingham - Monthly InfoScan Sales Analysis

Category: Class 3 - Specialty

Exhibit "A" Evidence Submitted by Defendant WA

Flowers Birmingham	4 Weeks Ending Feb 9, 97	4 Weeks Ending Mar 9, 97	4 Weeks Ending Apr 6, 97	4 Weeks Ending May 4, 97	4 Weeks Ending Jun 1, 97	4 Weeks Ending Jun 29, 97	4 Weeks Ending Jul 27, 97	4 Weeks Ending Aug 24, 97	4 Weeks Ending Sep 21, 97	4 Weeks Ending Oct 19, 97	4 Weeks Ending Nov 16, 97	4 Weeks Ending Dec 14, 97	4 Weeks Ending Jan 11, 98	4 Weeks , 98	Latest 52 Weeks
CLASS 3 - SPECIALTY															
Units (000)	224	223	227	228	218	215	214	210	198	193	192	201	235	203	2,757
Dollars (000)	$428	$427	$436	$445	$426	$417	$423	$418	$400	$385	$388	$400	$446	$419	$5,431
Avg Price per Unit	$1.92	$1.91	$1.92	$1.95	$1.95	$1.94	$1.98	$1.99	$2.03	$2.00	$2.01	$1.99	$1.90	$2.07	$1.97
Unit Share	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
ACV Weighted Dist	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
COBBLESTONE MILL															
Units (000)	57	56	62	61	55	52	51	49	47	46	47	58	71	52	706
Dollars (000)	$112	$111	$118	$119	$107	$101	$102	$99	$100	$90	$95	$106	$118	$110	$1,376
Avg Price per Unit	$1.98	$1.98	$1.92	$1.96	$1.96	$1.96	$1.99	$2.02	$2.12	$1.95	$2.03	$1.83	$1.66	$2.10	$1.95
Unit Share	25.3	25.0	27.2	26.5	25.1	24.1	23.9	23.4	23.9	23.9	24.3	28.9	30.2	25.8	25.6
ACV Weighted Dist	95.8%	93.7%	94.7%	94.5%	94.5%	93.3%	92.6%	92.7%	92.7%	93.0%	93.2%	95.6%	96.0%	95.6%	96.0%
PEPPERIDGE FARM															
Units (000)	37	37	35	42	40	39	39	42	41	44	42	43	51	47	542
Dollars (000)	$80	$78	$75	$87	$86	$83	$84	$90	$89	$93	$92	$92	$106	$102	$1,157
Avg Price per Unit	$2.13	$2.11	$2.13	$2.10	$2.14	$2.15	$2.13	$2.15	$2.15	$2.13	$2.18	$2.15	$2.08	$2.18	$2.14
Unit Share	16.8	16.5	15.6	18.2	18.4	18.1	18.3	19.9	20.9	22.7	21.9	21.4	21.6	23.1	19.7
ACV Weighted Dist	76.9%	72.2%	80.0%	80.6%	81.8%	81.8%	77.5%	88.2%	81.9%	81.8%	78.6%	82.3%	85.9%	83.7%	88.2%
Arn/Oro/Fran															
Units (000)	36	36	39	40	37	35	35	36	34	32	31	30	35	36	456
Dollars (000)	$75	$74	$81	$86	$81	$75	$75	$76	$70	$69	$66	$65	$74	$80	$974
Avg Price per Unit	$2.07	$2.08	$2.07	$2.13	$2.16	$2.16	$2.15	$2.12	$2.09	$2.14	$2.12	$2.17	$2.14	$2.22	$2.13
Unit Share	16.2	15.9	17.3	17.7	17.1	16.2	16.3	17.1	17.0	16.8	16.3	14.9	14.8	17.8	16.5
ACV Weighted Dist	96.6%	96.7%	93.1%	93.1%	95.7%	94.8%	91.6%	95.2%	90.9%	93.8%	90.9%	87.5%	87.5%	83.5%	96.7%
EARTH GRAINS															
Units (000)	23	24	23	22	22	23	23	22	21	23	24	19	19	17	280
Dollars (000)	$48	$50	$47	$46	$45	$47	$49	$46	$45	$47	$48	$41	$42	$37	$589
Avg Price per Unit	$2.07	$2.07	$2.08	$2.09	$2.04	$2.08	$2.11	$2.11	$2.13	$2.05	$2.04	$2.21	$2.18	$2.21	$2.10
Unit Share	10.4	10.8	10.1	9.6	10.1	10.5	10.9	10.3	10.6	11.9	12.3	9.3	8.3	8.2	10.2
ACV Weighted Dist	87.4%	83.3%	87.2%	84.3%	87.1%	87.3%	87.3%	88.7%	84.4%	88.0%	85.4%	85.6%	84.7%	84.8%	88.7%

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Flowers Industries Birmingham - Monthly InfoScan Sales Analysis

Category: Class 3 - Specialty

Flowers Birmingham	4 Weeks Ending Feb 9, 97	4 Weeks Ending Mar 9, 97	4 Weeks Ending Apr 6, 97	4 Weeks Ending May 4, 97	4 Weeks Ending Jun 1, 97	4 Weeks Ending Jun 29, 97	4 Weeks Ending Jul 27, 97	4 Weeks Ending Aug 24, 97	4 Weeks Ending Sep 21, 97	4 Weeks Ending Oct 19, 97	4 Weeks Ending Nov 16, 97	4 Weeks Ending Dec 14, 97	4 Weeks Ending Jan 11, 98	4 Weeks , 98	Latest 52 Weeks
Harvest Ridge															
Units (000)	0	0	0	0	0	0	0	0	0	0	0	0	0	0	3
Dollars (000)	$0	$0	$0	$0	$0	$0	$0	$1	$1	$1	$1	$1	$1	$1	$5
Avg Price per Unit	$.00	$.00	$.00	$.00	$.00	$.00	$1.85	$1.85	$1.83	$1.84	$1.82	$1.82	$1.82	$1.81	$1.83
Unit Share	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.1	0.2	0.1	0.2	0.2	0.2	0.2	0.1
ACV Weighted Dist	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	3.2%	6.0%	6.9%	6.1%	6.6%	5.3%	7.2%	7.3%	7.3%
PL/GENERIC															
Units (000)	13	15	14	13	12	13	13	13	10	9	12	10	11	13	158
Dollars (000)	$18	$20	$18	$17	$16	$16	$17	$17	$14	$13	$15	$13	$14	$17	$208
Avg Price per Unit	$1.36	$1.31	$1.29	$1.32	$1.30	$1.30	$1.29	$1.31	$1.38	$1.37	$1.28	$1.31	$1.29	$1.30	$1.31
Unit Share	6.0	6.9	6.1	5.8	5.7	5.9	6.2	6.0	5.3	4.9	6.0	4.8	4.7	6.3	5.7
ACV Weighted Dist	50.9%	35.2%	35.5%	38.6%	37.5%	34.6%	32.1%	32.5%	31.4%	32.2%	31.5%	31.6%	31.5%	32.1%	38.6%

Exhibit "A" Evidence Submitted by Defendant IMA

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FBI 00761

Flowers Industries Atlanta - Monthly InfoScan Sales Analysis

Category: Class 3 - Specialty

Exhibit "A" - Plaintiff's Supplemental Expert Report

Flowers - Atlanta	4 Weeks Ending Feb 9, 97	4 Weeks Ending Mar 9, 97	4 Weeks Ending Apr 6, 97	4 Weeks Ending May 4, 97	4 Weeks Ending Jun 1, 97	4 Weeks Ending Jun 29, 97	4 Weeks Ending Jul 27, 97	4 Weeks Ending Aug 24, 97	4 Weeks Ending Sep 21, 97	4 Weeks Ending Oct 19, 97	4 Weeks Ending Nov 16, 97	4 Weeks Ending Dec 14, 97	4 Weeks Ending Jan 11, 98	4 Weeks , 98	Latest 52 Weeks
CLASS 3 - SPECIALTY															
Units (000)	453	444	414	425	457	434	424	458	450	487	471	473	486	448	6,870
Dollars (000)	$910	$904	$840	$862	$927	$891	$878	$908	$928	$965	$996	$957	$960	$967	$11,984
Avg Price per Unit	$2.01	$2.04	$2.03	$2.03	$2.03	$2.05	$2.07	$1.98	$2.06	$1.98	$2.11	$2.03	$1.97	$2.16	$2.04
Unit Share	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
ACV Weighted Dist	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
COBBLESTONE MILL															
Units (000)	83	75	70	70	71	68	62	73	65	90	66	94	102	71	976
Dollars (000)	$150	$146	$137	$136	$138	$134	$126	$132	$135	$138	$139	$160	$155	$148	$1,825
Avg Price per Unit	$1.81	$1.96	$1.96	$1.96	$1.96	$1.96	$2.03	$1.81	$2.07	$1.53	$2.11	$1.70	$1.52	$2.10	$1.87
Unit Share	18.3	16.8	16.9	16.4	15.5	15.7	14.7	16.0	14.5	18.5	14.0	19.9	21.0	15.8	16.6
ACV Weighted Dist	99.1%	99.1%	99.2%	99.2%	99.2%	99.2%	97.4%	97.3%	97.3%	97.3%	97.5%	97.2%	97.2%	96.5%	99.2%
ARN/ORO/FRAN															
Units (000)	87	85	84	83	89	87	88	96	88	85	85	79	81	89	1,119
Dollars (000)	$179	$176	$173	$181	$192	$187	$189	$191	$187	$180	$180	$171	$175	$197	$2,379
Avg Price per Unit	$2.07	$2.09	$2.07	$2.17	$2.16	$2.15	$2.15	$1.99	$2.13	$2.13	$2.12	$2.15	$2.15	$2.20	$2.13
Unit Share	19.1	19.0	20.2	19.6	19.4	20.0	20.7	21.0	19.6	17.4	18.1	16.8	16.7	19.9	19.1
ACV Weighted Dist	92.1%	92.0%	89.5%	89.6%	90.1%	89.9%	89.2%	89.1%	89.2%	89.7%	89.2%	87.8%	87.7%	87.9%	92.0%
EARTH GRAINS															
Units (000)	63	61	61	64	70	68	72	75	72	71	74	73	72	71	902
Dollars (000)	$129	$125	$128	$123	$144	$143	$148	$152	$153	$157	$169	$152	$149	$160	$1,902
Avg Price per Unit	$2.06	$2.06	$2.08	$1.94	$2.07	$2.11	$2.05	$2.02	$2.12	$2.22	$2.28	$2.09	$2.09	$2.26	$2.11
Unit Share	13.9	13.6	14.8	14.9	15.3	15.7	17.0	16.4	16.0	14.5	15.7	15.4	14.7	15.8	15.4
ACV Weighted Dist	98.7%	98.6%	98.7%	96.6%	98.6%	98.6%	98.5%	98.6%	98.6%	98.6%	98.6%	97.9%	96.7%	96.7%	98.7%
PEPPERIDGE FARM															
Units (000)	104	114	89	95	97	93	91	93	103	118	109	102	105	107	1,319
Dollars (000)	$222	$238	$191	$201	$208	$200	$195	$199	$219	$249	$240	$224	$225	$235	$2,824
Avg Price per Unit	$2.15	$2.09	$2.13	$2.11	$2.14	$2.14	$2.13	$2.13	$2.12	$2.11	$2.20	$2.19	$2.14	$2.20	$2.14
Unit Share	22.9	25.6	21.6	22.4	21.4	21.5	21.5	20.4	23.0	24.2	23.1	21.7	21.6	23.9	22.5

FBI 00748

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Flowers Industries Atlanta - Monthly InfoScan Sales Analysis

Category: Class 2 - Soft Variety

owers - Atlanta	4 Weeks Ending Feb 9, 97	4 Weeks Ending Mar 9, 97	4 Weeks Ending Apr 6, 97	4 Weeks Ending May 4, 97	4 Weeks Ending Jun 1, 97	4 Weeks Ending Jun 29, 97	4 Weeks Ending Jul 27, 97	4 Weeks Ending Aug 24, 97	4 Weeks Ending Sep 21, 97	4 Weeks Ending Oct 19, 97	4 Weeks Ending Nov 16, 97	4 Weeks Ending Dec 14, 97	4 Weeks Ending Jan 11, 98	4 Weeks , 98	Latest 52 Weeks
otn John Derst Variety															
Units (000)	2	2	2	2	2	2	2	2	2	2	1	1	2	2	22
Dollars (000)	$3	$3	$3	$3	$3	$3	$3	$3	$3	$3	$3	$2	$3	$3	$37
Avg Price per Unit	$1.70	$1.70	$1.71	$1.72	$1.72	$1.72	$1.72	$1.63	$1.72	$1.72	$1.74	$1.74	$1.73	$1.73	$1.71
Unit Share	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1
ACV Weighted Dist	2.4%	2.4%	3.5%	3.5%	3.5%	3.4%	3.2%	3.1%	3.0%	3.2%	3.2%	3.2%	3.7%	3.7%	3.7%
vate Label															
Units (000)	781	664	613	695	694	663	755	808	708	662	699	671	598	619	8,849
Dollars (000)	$908	$773	$714	$709	$783	$796	$780	$870	$818	$720	$722	$685	$660	$717	$9,746
Avg Price per Unit	$1.16	$1.17	$1.16	$1.02	$1.13	$1.20	$1.03	$1.08	$1.15	$1.09	$1.03	$1.02	$1.10	$1.16	$1.10
Unit Share	51.3	46.4	45.6	47.0	46.6	42.8	46.3	49.1	47.3	43.8	45.7	44.9	40.0	40.6	45.1
ACV Weighted Dist	97.8%	97.8%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

Exhibit "A" - Evidence Submitted by Defendant IMA

FBI 00747

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Monthly Sales Trends

Source: Information Resources, Inc., 1996

Flowers Industries Charlotte - Monthly InfoScan Sales Analysis

Category: Class 3 - Specialty

Exhibit "A" Filed Pursuant to Deposition by Defendant IMA

Charlotte, NC	4 Weeks Ending Feb 9, 97	4 Weeks Ending Mar 9, 97	4 Weeks Ending Apr 6, 97	4 Weeks Ending May 4, 97	4 Weeks Ending Jun 1, 97	4 Weeks Ending Jun 29, 97	4 Weeks Ending Jul 27, 97	4 Weeks Ending Aug 24, 97	4 Weeks Ending Sep 21, 97	4 Weeks Ending Oct 19, 97	4 Weeks Ending Nov 16, 97	4 Weeks Ending Dec 14, 97	4 Weeks Ending Jan 11, 98	4 Weeks, 98	Latest 52 Weeks
CLASS 3 - SPECIALTY															
Units (000)	251	237	235	225	234	215	217	224	226	234	236	237	253	247	3,021
Dollars (000)	$443	$431	$429	$416	$429	$398	$401	$406	$414	$431	$436	$444	$466	$467	$5,569
Avg Price per Unit	$1.77	$1.82	$1.83	$1.85	$1.84	$1.85	$1.85	$1.81	$1.83	$1.84	$1.84	$1.87	$1.84	$1.89	$1.84
Unit Share	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
ACV Weighted Distribution	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
TTL COBBLESTONE MILL															
Units (000)	33	32	34	31	31	28	28	28	28	29	27	33	36	32	396
Dollars (000)	$61	$60	$63	$57	$58	$52	$51	$52	$52	$49	$51	$56	$60	$57	$716
Avg Price per Unit	$1.87	$1.86	$1.86	$1.86	$1.86	$1.87	$1.86	$1.86	$1.86	$1.71	$1.87	$1.67	$1.65	$1.79	$1.81
Unit Share	13.0	13.5	14.3	13.6	13.2	13.0	12.8	12.4	12.3	12.2	11.6	14.0	14.4	12.9	13.1
ACV Weighted Distribution	87.1%	89.1%	91.9%	92.1%	89.6%	89.6%	89.4%	89.8%	90.1%	89.7%	89.4%	87.3%	87.4%	87.4%	92.1%
TTL ARNOLD/ORO/FRAN															
Units (000)	40	40	38	37	38	37	38	41	37	37	37	38	40	38	496
Dollars (000)	$81	$80	$79	$78	$80	$77	$81	$83	$79	$79	$76	$80	$82	$84	$1,037
Avg Price per Unit	$2.03	$2.00	$2.05	$2.09	$2.13	$2.10	$2.13	$2.01	$2.10	$2.10	$2.08	$2.13	$2.07	$2.19	$2.09
Unit Share	15.9	16.9	16.3	16.5	16.1	17.1	17.4	18.4	16.6	16.0	15.5	15.9	15.7	15.4	16.4
ACV Weighted Distribution	85.1%	85.1%	85.0%	84.9%	84.1%	85.9%	86.2%	84.7%	83.9%	85.1%	83.6%	84.7%	83.6%	83.7%	86.2%
TTL PEPPERIDGE FARM															
Units (000)	52	54	49	47	46	41	41	42	48	54	50	50	53	52	624
Dollars (000)	$110	$111	$104	$101	$98	$87	$89	$90	$102	$114	$107	$109	$109	$111	$1,332
Avg Price per Unit	$2.10	$2.07	$2.15	$2.14	$2.15	$2.14	$2.16	$2.15	$2.14	$2.11	$2.16	$2.18	$2.07	$2.15	$2.13
Unit Share	20.8	22.6	20.7	21.0	19.6	18.9	19.0	18.7	21.1	23.0	21.0	21.0	20.8	20.9	20.7
ACV Weighted Distribution	90.0%	92.6%	92.6%	92.6%	94.7%	92.9%	93.8%	94.0%	94.1%	95.0%	94.0%	89.5%	89.6%	87.5%	95.0%
Harvest Ridge															
Units (000)	2	2	3	3	2	2	2	3	3	2	2	2	2	2	32
Dollars (000)	$4	$4	$5	$5	$4	$4	$4	$5	$5	$4	$4	$4	$4	$3	$56
Avg Price per Unit	$1.83	$1.77	$1.73	$1.62	$1.77	$1.79	$1.84	$1.78	$1.66	$1.79	$1.80	$1.80	$1.70	$1.68	$1.75

FBI 00773

CONFIDENTIAL COUNSEL ONLY
Inc., 199

Flowers Industries Charlotte - Monthly InfoScan Sales Analysis

Category: Class 2 - Soft Variety

harlotte,

	4 Weeks Ending Feb 9, 97	4 Weeks Ending Mar 9, 97	4 Weeks Ending Apr 6, 97	4 Weeks Ending May 4, 97	4 Weeks Ending Jun 1, 97	4 Weeks Ending Jun 29, 97	4 Weeks Ending Jul 27, 97	4 Weeks Ending Aug 24, 97	4 Weeks Ending Sep 21, 97	4 Weeks Ending Oct 19, 97	4 Weeks Ending Nov 16, 97	4 Weeks Ending Dec 14, 97	4 Weeks Ending Jan 11, 98	4 Weeks , 98	Latest 52 Weeks
vate Label															
Units (000)	263	243	237	239	253	245	241	251	230	225	231	227	231	238	3,089
Dollars (000)	$303	$285	$279	$285	$303	$297	$289	$298	$276	$279	$285	$283	$293	$307	$3,768
Avg Price per Unit	$1.15	$1.17	$1.18	$1.19	$1.20	$1.21	$1.20	$1.19	$1.20	$1.24	$1.23	$1.25	$1.27	$1.29	$1.22
Unit Share	30.7	30.1	28.9	28.6	29.1	29.4	26.9	28.1	27.3	27.9	27.0	27.3	27.1	29.0	28.2
ACV Weighted Distribution	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

Exhibit "A" - Evidence Submitted by Defendant IMA

CONFIDENTIAL COUNSEL ONLY

FBI 00772

Monthly Sales Trends

Source: Information Resources, Inc., 1996

Flowers Industries Raleigh/Greensboro - Monthly InfoScan Sales Analysis

Category: Class 3 - Specialty

Exhibit "A" - Evidence Submitted by Defendant MA

Raleigh/Greensboro	4 Weeks Ending Feb 9, 97	4 Weeks Ending Mar 9, 97	4 Weeks Ending Apr 6, 97	4 Weeks Ending May 4, 97	4 Weeks Ending Jun 1, 97	4 Weeks Ending Jun 29, 97	4 Weeks Ending Jul 27, 97	4 Weeks Ending Aug 24, 97	4 Weeks Ending Sep 21, 97	4 Weeks Ending Oct 19, 97	4 Weeks Ending Nov 16, 97	4 Weeks Ending Dec 14, 97	4 Weeks Ending Jan 11, 98	4 Weeks , 98	Latest 52 Weeks
CLASS 3 - SPECIALTY															
Units (000)	283	262	243	254	270	251	248	255	271	284	271	288	320	302	3,519
Dollars (000)	$545	$507	$473	$497	$530	$490	$487	$496	$532	$545	$529	$561	$609	$596	$6,849
Avg Price per Unit	$1.93	$1.93	$1.95	$1.96	$1.96	$1.96	$1.97	$1.94	$1.96	$1.92	$1.95	$1.95	$1.90	$1.97	$1.95
Unit Share	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
ACV Weighted Distribution	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
TTL COBBLESTONE MILL															
Units (000)	45	41	37	37	38	35	33	34	41	46	40	47	58	46	531
Dollars (000)	$84	$75	$69	$68	$71	$65	$61	$63	$75	$77	$73	$78	$96	$82	$953
Avg Price per Unit	$1.86	$1.85	$1.85	$1.86	$1.86	$1.85	$1.85	$1.85	$1.85	$1.70	$1.86	$1.68	$1.64	$1.78	$1.80
Unit Share	15.9	15.5	15.2	14.5	14.1	13.9	13.3	13.4	14.9	16.0	14.6	16.2	18.2	15.2	15.1
ACV Weighted Distribution	94.3%	91.8%	91.9%	91.9%	93.0%	93.0%	93.4%	95.3%	95.3%	95.3%	95.6%	95.5%	95.5%	95.3%	95.6%
ARN/ORO/FRAN															
Units (000)	77	75	72	74	78	71	73	73	75	72	72	73	79	78	965
Dollars (000)	$162	$157	$152	$160	$170	$157	$159	$156	$163	$156	$153	$160	$167	$175	$2,085
Avg Price per Unit	$2.10	$2.10	$2.12	$2.16	$2.19	$2.19	$2.17	$2.14	$2.16	$2.16	$2.13	$2.20	$2.12	$2.25	$2.16
Unit Share	27.4	28.6	29.6	29.2	28.7	28.5	29.4	28.5	27.8	25.5	26.6	25.4	24.7	25.7	27.4
ACV Weighted Distribution	84.6%	84.4%	84.5%	85.0%	86.4%	86.5%	86.6%	87.6%	87.6%	87.5%	90.4%	91.7%	91.7%	92.1%	92.1%
TTL WONDER/BRD DJ															
Units (000)	0	0	0	0	0	0	0	0	0	0	0	1	0	1	4
Dollars (000)	$1	$0	$0	$0	$0	$1	$1	$0	$0	$1	$1	$1	$1	$1	$9
Avg Price per Unit	$2.02	$2.04	$1.89	$2.06	$2.03	$1.91	$1.89	$1.88	$1.87	$1.91	$2.02	$1.80	$1.97	$2.09	$1.94
Unit Share	0.2	0.1	0.1	0.1	0.1	0.1	0.2	0.1	0.1	0.1	0.2	0.3	0.1	0.2	0.1
ACV Weighted Distribution	18.5%	18.1%	10.8%	8.9%	11.6%	11.7%	18.0%	15.3%	9.0%	17.6%	23.1%	27.9%	18.5%	26.8%	27.9%
TTL PEPPERIDGE FARM															
Units (000)	71	70	60	65	69	65	64	66	76	81	75	77	84	85	938
Dollars (000)	$150	$144	$129	$140	$148	$139	$138	$143	$162	$171	$164	$170	$178	$184	$2,009
Avg Price per Unit	$2.12	$2.07	$2.14	$2.15	$2.15	$2.14	$2.15	$2.15	$2.13	$2.12	$2.19	$2.19	$2.12	$2.15	$2.14

CONFIDENTIAL COUNSEL ONLY

Source: Information Resources, Inc., 1996

Flowers Industries Raleigh/Greensboro - Monthly InfoScan Sales Analysis

Category: Class 3 - Specialty

Raleigh/Greensboro	4 Weeks Ending Feb 9, 97	4 Weeks Ending Mar 9, 97	4 Weeks Ending Apr 6, 97	4 Weeks Ending May 4, 97	4 Weeks Ending Jun 1, 97	4 Weeks Ending Jun 29, 97	4 Weeks Ending Jul 27, 97	4 Weeks Ending Aug 24, 97	4 Weeks Ending Sep 21, 97	4 Weeks Ending Oct 19, 97	4 Weeks Ending Nov 16, 97	4 Weeks Ending Dec 14, 97	4 Weeks Ending Jan 11, 98	4 Weeks , 98	Latest 52 Weeks
Unit Share	25.0	26.6	24.8	25.7	25.5	25.9	25.9	26.1	28.0	28.4	27.6	26.9	26.2	28.2	26.6
ACV Weighted Distribution	95.0%	98.1%	96.9%	96.9%	97.1%	97.1%	97.1%	96.8%	98.8%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
Harvest Ridge															
Units (000)	3	3	3	3	3	2	2	2	2	2	2	2	3	2	32
Dollars (000)	$6	$5	$5	$5	$5	$4	$4	$4	$4	$4	$4	$4	$5	$4	$56
Avg Price per Unit	$1.83	$1.81	$1.70	$1.62	$1.83	$1.82	$1.84	$1.81	$1.67	$1.84	$1.81	$1.80	$1.71	$1.71	$1.76
Unit Share	1.2	1.1	1.3	1.2	1.0	0.9	1.0	0.9	0.9	0.7	0.7	0.7	0.9	0.7	0.9
ACV Weighted Distribution	39.5%	34.3%	33.5%	38.1%	38.5%	38.8%	38.9%	38.9%	36.5%	38.8%	41.3%	41.0%	41.0%	40.9%	41.3%
TTL PL GENERIC															
Units (000)	23	18	20	22	28	27	24	29	24	29	31	29	31	34	345
Dollars (000)	$35	$27	$29	$29	$40	$38	$36	$43	$36	$42	$45	$45	$48	$50	$509
Avg Price per Unit	$1.51	$1.53	$1.46	$1.37	$1.45	$1.39	$1.49	$1.47	$1.50	$1.46	$1.47	$1.55	$1.53	$1.47	$1.47
Unit Share	8.3	6.7	8.2	8.5	10.2	10.8	9.7	11.4	8.9	10.3	11.3	10.2	9.8	11.3	9.8
ACV Weighted Distribution	76.9%	78.3%	85.0%	79.3%	87.1%	86.8%	86.6%	87.6%	92.4%	95.5%	94.9%	96.3%	98.7%	98.9%	98.9%

Exhibit "A" - Evidence Submitted by Defendant IMA

CONFIDENTIAL COUNSEL ONLY

FBI 00787

Source: Information Resources, Inc., 1996

Flowers Industries East Tennessee - Monthly InfoScan Sales Analysis

Category: Class 3 - Specialty

Flowers - East Tenn.	4 Weeks Ending Feb 9, 97	4 Weeks Ending Mar 9, 97	4 Weeks Ending Apr 6, 97	4 Weeks Ending May 4, 97	4 Weeks Ending Jun 1, 97	4 Weeks Ending Jun 29, 97	4 Weeks Ending Jul 27, 97	4 Weeks Ending Aug 24, 97	4 Weeks Ending Sep 21, 97	4 Weeks Ending Oct 19, 97	4 Weeks Ending Nov 16, 97	4 Weeks Ending Dec 14, 97	4 Weeks Ending Jan 11, 98	4 Weeks , 98	Latest 52 Weeks
CLASS 3 - SPECIALTY															
Units (000)	92	95	97	102	100	101	96	101	105	109	102	99	113	104	1,326
Dollars (000)	$173	$180	$184	$193	$190	$191	$182	$191	$197	$203	$192	$186	$203	$195	$2,488
Avg Price per Unit	$1.87	$1.89	$1.89	$1.89	$1.89	$1.89	$1.90	$1.88	$1.88	$1.87	$1.89	$1.88	$1.80	$1.87	$1.88
Unit Share	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
ACV Weighted Distribution	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
TTL COBBLESTONE MILL															
Units (000)	16	15	15	16	15	16	15	15	15	18	16	18	22	18	214
Dollars (000)	$27	$28	$29	$30	$29	$30	$28	$28	$28	$31	$30	$31	$35	$33	$391
Avg Price per Unit	$1.73	$1.87	$1.87	$1.86	$1.88	$1.87	$1.88	$1.89	$1.91	$1.77	$1.89	$1.75	$1.60	$1.79	$1.82
Unit Share	16.9	15.7	15.9	15.9	15.4	15.8	15.4	14.7	14.2	16.3	15.4	18.0	19.7	17.5	16.2
ACV Weighted Distribution	73.7%	74.9%	73.8%	72.3%	70.5%	70.3%	70.8%	71.5%	71.8%	72.8%	72.9%	73.0%	73.1%	71.6%	74.8%
TOTAL COOPERS MILL															
Units (000)	6	7	10	9	10	10	8	10	11	11	10	9	11	11	127
Dollars (000)	$11	$13	$17	$17	$18	$18	$15	$17	$19	$19	$18	$17	$19	$20	$227
Avg Price per Unit	$1.84	$1.86	$1.77	$1.81	$1.76	$1.76	$1.81	$1.74	$1.78	$1.71	$1.85	$1.78	$1.77	$1.77	$1.78
Unit Share	6.4	7.2	10.0	9.1	10.2	10.1	8.7	9.7	10.1	10.0	9.7	9.6	9.7	10.6	9.6
ACV Weighted Distribution	74.3%	84.7%	85.0%	85.3%	85.6%	85.5%	85.2%	85.1%	84.9%	84.7%	85.3%	85.3%	89.3%	89.7%	89.7%
ARNLD/DRO/FRAN/S-MD															
Units (000)	1	2	1	1	1	1	1	1	1	1	1	1	1	1	16
Dollars (000)	$4	$4	$4	$4	$4	$3	$4	$4	$3	$3	$3	$3	$3	$3	$45
Avg Price per Unit	$2.87	$2.90	$2.88	$2.87	$2.90	$2.91	$2.85	$2.57	$2.88	$2.82	$2.81	$2.83	$2.83	$2.82	$2.83
Unit Share	1.6	1.6	1.4	1.3	1.2	1.1	1.4	1.5	1.1	1.0	1.1	1.0	0.9	1.1	1.2
ACV Weighted Distribution	77.0%	83.9%	66.3%	67.2%	66.7%	66.7%	73.2%	73.1%	61.8%	60.9%	66.0%	66.0%	64.1%	67.2%	83.9%
TTL PEPPERIDGE FARM															
Units (000)	25	27	24	28	27	28	25	27	28	30	25	24	27	27	346
Dollars (000)	$54	$57	$54	$60	$59	$60	$56	$58	$61	$64	$55	$53	$56	$59	$753
Avg Price per Unit	$2.21	$2.15	$2.21	$2.17	$2.19	$2.18	$2.19	$2.18	$2.14	$2.14	$2.24	$2.20	$2.08	$2.20	$2.17
Unit Share	26.7	28.0	25.2	26.9	26.9	27.2	26.3	26.4	27.0	27.6	24.4	24.1	23.9	25.7	28.1

Exhibit "A" Filed in Cause No. 4:98-CV-00 Date 4/1/99

FBI 00799

Sour Inc., 199
CONFIDENTIAL COUNSEL ONLY

Flowers Industries East Tennessee - Monthly InfoScan Sales Analysis

Category: Class 2 - Soft Variety

owers - East Tenn.	4 Weeks Ending Feb 9, 97	4 Weeks Ending Mar 9, 97	4 Weeks Ending Apr 6, 97	4 Weeks Ending May 4, 97	4 Weeks Ending Jun 1, 97	4 Weeks Ending Jun 29, 97	4 Weeks Ending Jul 27, 97	4 Weeks Ending Aug 24, 97	4 Weeks Ending Sep 21, 97	4 Weeks Ending Oct 19, 97	4 Weeks Ending Nov 16, 97	4 Weeks Ending Dec 14, 97	4 Weeks Ending Jan 11, 98	4 Weeks , 98	Latest 52 Weeks
ACV Weighted Distribution	96.1%	95.5%	94.5%	96.3%	95.6%	95.5%	94.6%	94.5%	94.3%	93.9%	94.5%	94.8%	94.9%	94.8%	96.3%
NBEAM															
Units (000)	5	6	6	6	6	9	8	7	7	7	7	6	8	8	92
Dollars (000)	$10	$10	$11	$12	$11	$13	$12	$11	$12	$12	$12	$11	$13	$13	$150
Avg Price per Unit	$1.85	$1.76	$1.79	$1.89	$1.67	$1.48	$1.54	$1.65	$1.63	$1.63	$1.63	$1.63	$1.62	$1.50	$1.63
Unit Share	1.5	1.5	1.7	1.6	1.4	2.0	1.6	1.5	1.8	1.7	1.8	1.5	1.9	2.0	1.7
ACV Weighted Distribution	84.9%	78.2%	78.0%	78.2%	79.3%	79.4%	85.0%	85.6%	88.9%	89.8%	87.7%	87.0%	87.3%	87.7%	89.8%
rns															
Units (000)	25	25	20	23	21	21	24	16	14	16	12	13	12	10	227
Dollars (000)	$30	$31	$28	$31	$30	$29	$31	$25	$22	$24	$18	$19	$19	$17	$324
Avg Price per Unit	$1.19	$1.26	$1.40	$1.34	$1.38	$1.37	$1.28	$1.61	$1.57	$1.51	$1.57	$1.50	$1.51	$1.71	$1.43
Unit Share	6.8	6.7	5.5	5.9	4.8	4.9	5.3	3.5	3.5	3.7	2.7	3.0	3.0	2.3	4.2
ACV Weighted Distribution	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
ivate Label															
Units (000)	94	103	94	110	100	107	112	117	114	120	108	112	105	130	1,433
Dollars (000)	$110	$118	$112	$125	$112	$121	$128	$132	$131	$137	$126	$129	$121	$142	$1,634
Avg Price per Unit	$1.17	$1.15	$1.19	$1.14	$1.13	$1.13	$1.14	$1.13	$1.15	$1.14	$1.16	$1.15	$1.15	$1.09	$1.14
Unit Share	25.7	27.7	26.1	28.2	22.1	24.6	24.5	26.0	27.6	28.0	25.7	26.8	25.6	30.2	26.3
ACV Weighted Distribution	100.0%	100.0%	99.4%	99.4%	99.5%	99.5%	99.5%	99.5%	99.5%	99.6%	99.6%	99.6%	99.6%	99.5%	100.0%

Exhibit "A" --Evidence Submitted by Defendant IMA

CONFIDENTIAL COUNSEL ONLY

FBI 00798

Monthly Sales Trends

Source: Information Resources, Inc., 1996

Flowers Industries Richmond/Norfolk - Monthly IntoScan Sales Analysis

Category: Class 3 - Specialty

Richmond/Norfolk	4 Weeks Ending Feb 9, 97	4 Weeks Ending Mar 9, 97	4 Weeks Ending Apr 6, 97	4 Weeks Ending May 4, 97	4 Weeks Ending Jun 1, 97	4 Weeks Ending Jun 29, 97	4 Weeks Ending Jul 27, 97	4 Weeks Ending Aug 24, 97	4 Weeks Ending Sep 21, 97	4 Weeks Ending Oct 19, 97	4 Weeks Ending Nov 16, 97	4 Weeks Ending Dec 14, 97	4 Weeks Ending Jan 11, 98	4 Weeks , 98	Latest 52 Weeks
CLASS 3 - SPECIALTY															
Units (000)	466	458	446	443	416	405	398	413	425	454	438	422	447	453	5,619
Dollars (000)	$841	$825	$795	$820	$762	$732	$719	$751	$773	$816	$796	$759	$790	$812	$10,151
Avg Price per Unit	$1.80	$1.80	$1.78	$1.86	$1.83	$1.81	$1.80	$1.82	$1.82	$1.80	$1.82	$1.80	$1.77	$1.79	$1.81
Unit Share	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
ACV Weighted Distribution	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
TTL COBBLESTONE MILL															
Units (000)	56	48	53	46	44	44	36	37	37	48	43	53	63	44	596
Dollars (000)	$99	$90	$94	$86	$81	$81	$69	$70	$71	$88	$80	$92	$105	$83	$1,089
Avg Price per Unit	$1.78	$1.86	$1.78	$1.87	$1.87	$1.82	$1.90	$1.92	$1.91	$1.81	$1.87	$1.74	$1.66	$1.89	$1.83
Unit Share	11.9	10.5	11.8	10.4	10.5	10.9	9.1	8.9	8.7	10.6	9.8	12.5	14.2	9.7	10.6
ACV Weighted Distribution	99.2%	99.2%	100.0%	100.0%	100.0%	100.0%	98.2%	98.0%	98.1%	98.1%	98.1%	98.1%	98.1%	98.1%	100.0%
TTL PEPPERIDGE FARM															
Units (000)	81	92	76	88	75	69	66	75	82	88	83	71	76	79	1,021
Dollars (000)	$188	$211	$178	$203	$174	$159	$151	$173	$190	$205	$195	$166	$171	$186	$2,360
Avg Price per Unit	$2.32	$2.29	$2.32	$2.29	$2.30	$2.31	$2.31	$2.32	$2.30	$2.33	$2.35	$2.32	$2.26	$2.35	$2.31
Unit Share	17.4	20.1	17.2	20.0	18.1	17.0	16.5	18.0	19.4	19.3	18.9	16.9	16.9	17.5	18.2
ACV Weighted Distribution	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	99.2%	99.2%	100.0%
TOTAL MAMA KAYERS															
Units (000)	16	16	16	17	16	18	17	17	16	16	15	14	15	19	211
Dollars (000)	$32	$31	$31	$34	$31	$34	$34	$33	$32	$32	$30	$27	$29	$34	$412
Avg Price per Unit	$1.98	$1.98	$1.98	$1.97	$1.97	$1.96	$1.96	$1.96	$1.97	$2.00	$1.97	$1.98	$1.94	$1.82	$1.96
Unit Share	3.5	3.4	3.5	3.9	3.8	4.3	4.3	4.1	3.8	3.6	3.4	3.3	3.3	4.1	3.7
ACV Weighted Distribution	52.2%	52.5%	56.0%	54.9%	56.9%	56.6%	55.3%	54.1%	55.8%	55.7%	55.4%	55.7%	52.4%	50.6%	56.9%
Arno/Oroweat															
Units (000)	67	66	60	62	57	53	52	57	53	51	54	50	49	56	721
Dollars (000)	$140	$136	$126	$133	$124	$114	$110	$118	$112	$109	$115	$109	$104	$125	$1,536
Avg Price per Unit	$2.09	$2.05	$2.11	$2.15	$2.16	$2.14	$2.12	$2.06	$2.11	$2.13	$2.13	$2.17	$2.15	$2.22	$2.13

Exhibit "A" Deposition of Defendant Vidence Smith

Montly Sales Trends

FBI 00812

Source: Information Resources, Inc., 1996

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Flowers Industries Richmond/Norfolk - Monthly InfoScan Sales Analysis

Category: Class 3 - Specialty

Richmond/Norfolk	4 Weeks Ending Feb 9, 97	4 Weeks Ending Mar 9, 97	4 Weeks Ending Apr 6, 97	4 Weeks Ending May 4, 97	4 Weeks Ending Jun 1, 97	4 Weeks Ending Jun 29, 97	4 Weeks Ending Jul 27, 97	4 Weeks Ending Aug 24, 97	4 Weeks Ending Sep 21, 97	4 Weeks Ending Oct 19, 97	4 Weeks Ending Nov 16, 97	4 Weeks Ending Dec 14, 97	4 Weeks Ending Jan 11, 98	4 Weeks, 98	Latest 52 Weeks
Unit Share	14.4	14.5	13.4	14.0	13.8	13.1	13.0	13.9	12.5	11.3	12.3	12.0	10.9	12.4	12.8
ACV Weighted Distribution	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	99.5%	99.5%	99.5%	99.0%	100.0%	100.0%	100.0%	98.1%	100.0%
Harvest Ridge															
Units (000)	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
Dollars (000)	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$1
Avg Price per Unit	$1.71	$1.73	$1.58	$1.69	$1.79	$1.79	$1.79	$1.69	$1.64	$1.79	$1.79	$1.79	$1.70	$1.65	$1.72
Unit Share	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
ACV Weighted Distribution	2.7%	3.1%	3.7%	3.6%	3.7%	3.7%	3.1%	3.5%	3.0%	2.8%	2.8%	2.8%	2.8%	2.8%	3.7%
Martins															
Units (000)	45	38	37	38	34	34	34	36	38	45	44	40	40	42	501
Dollars (000)	$80	$67	$65	$71	$64	$63	$64	$68	$71	$79	$79	$76	$76	$80	$924
Avg Price per Unit	$1.79	$1.74	$1.78	$1.88	$1.88	$1.88	$1.88	$1.88	$1.84	$1.75	$1.81	$1.89	$1.89	$1.89	$1.85
Unit Share	9.6	8.4	8.2	8.5	8.2	8.3	8.6	8.7	9.0	9.9	10.0	9.5	9.0	9.4	8.9
ACV Weighted Distribution	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
TTL PL/GENERIC															
Units (000)	77	71	70	67	69	72	79	74	73	77	84	80	77	88	980
Dollars (000)	$93	$83	$84	$78	$80	$84	$96	$91	$91	$96	$103	$99	$94	$109	$1,188
Avg Price per Unit	$1.20	$1.18	$1.19	$1.18	$1.17	$1.17	$1.21	$1.24	$1.23	$1.25	$1.22	$1.24	$1.23	$1.24	$1.21
Unit Share	16.5	15.4	15.7	15.0	16.5	17.8	19.9	17.8	17.3	17.0	19.2	19.0	17.2	19.4	17.4
ACV Weighted Distribution	77.7%	78.4%	77.1%	88.9%	97.1%	100.0%	100.0%	96.2%	100.0%	100.0%	100.0%	100.0%	97.3%	95.3%	100.0%

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FBI 00813

Source: Information Resources, Inc., 1996

Exhibit "A" - Evidence Submitted by Defendant IMA

Flowers Industries Jacksonville - Monthly InfoScan Sales Analysis

Category: Class 3 - Specialty

Flowers Jacksonville

	4 Weeks Ending Feb 9, 97	4 Weeks Ending Mar 9, 97	4 Weeks Ending Apr 6, 97	4 Weeks Ending May 4, 97	4 Weeks Ending Jun 1, 97	4 Weeks Ending Jun 29, 97	4 Weeks Ending Jul 27, 97	4 Weeks Ending Aug 24, 97	4 Weeks Ending Sep 21, 97	4 Weeks Ending Oct 19, 97	4 Weeks Ending Nov 16, 97	4 Weeks Ending Dec 14, 97	4 Weeks Ending Jan 11, 98	4 Weeks , 98	Latest 52 Weeks
CLASS 3 - SPECIALTY															
Units (000)	655	661	629	617	584	589	600	590	582	609	653	631	667	703	8,115
Dollars (000)	$1,082	$1,080	$1,045	$1,020	$965	$964	$971	$954	$957	$1,007	$1,065	$1,018	$1,060	$1,163	$13,270
Avg Price per Unit	$1.65	$1.64	$1.66	$1.65	$1.65	$1.64	$1.62	$1.62	$1.64	$1.65	$1.63	$1.61	$1.59	$1.66	$1.64
Unit Share	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
ACV Weighted Dist	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
COBBLESTONE MILL															
Units (000)	51	49	50	48	45	45	42	41	44	49	42	49	57	59	619
Dollars (000)	$89	$86	$87	$85	$78	$80	$77	$75	$79	$76	$74	$78	$81	$94	$1,050
Avg Price per Unit	$1.75	$1.76	$1.76	$1.76	$1.75	$1.77	$1.81	$1.83	$1.79	$1.57	$1.76	$1.59	$1.44	$1.60	$1.70
Unit Share	7.7	7.4	7.9	7.8	7.7	7.7	7.0	6.9	7.6	8.0	6.4	7.8	8.5	8.3	7.6
ACV Weighted Dist	99.0%	99.5%	99.6%	99.4%	99.2%	98.7%	98.7%	99.3%	99.6%	100.0%	99.4%	99.0%	99.1%	99.2%	100.0%
PEPPERIDGE FARM															
Units (000)	146	164	139	134	128	127	124	124	139	149	141	132	147	157	1,806
Dollars (000)	$304	$330	$296	$284	$270	$267	$260	$261	$284	$312	$310	$287	$305	$342	$3,806
Avg Price per Unit	$2.09	$2.01	$2.12	$2.12	$2.11	$2.09	$2.10	$2.11	$2.04	$2.09	$2.20	$2.18	$2.08	$2.18	$2.11
Unit Share	22.2	24.9	22.2	21.7	21.9	21.6	20.7	21.0	23.9	24.5	21.6	20.9	22.0	22.4	22.3
ACV Weighted Dist	98.5%	98.8%	99.3%	99.3%	99.3%	99.3%	99.3%	99.3%	99.3%	99.3%	99.3%	99.4%	99.3%	99.3%	99.4%
ARN/GRO/FRAN															
Units (000)	94	98	91	87	80	88	87	88	80	81	87	82	84	91	1,123
Dollars (000)	$182	$184	$181	$177	$163	$170	$172	$169	$160	$169	$180	$170	$169	$196	$2,262
Avg Price per Unit	$1.93	$1.88	$1.99	$2.04	$2.05	$1.94	$1.99	$1.92	$2.01	$2.08	$2.07	$2.08	$2.02	$2.16	$2.02
Unit Share	14.4	14.8	14.4	14.1	13.6	14.9	14.4	15.0	13.7	13.3	13.3	13.0	12.6	12.9	13.8
ACV Weighted Dist	97.8%	98.1%	98.1%	97.8%	97.9%	97.0%	97.0%	97.0%	97.1%	97.2%	97.2%	97.1%	97.1%	96.2%	98.1%
Bread Du Jour															
Units (000)	3	6	3	2	2	2	2	2	2	2	3	3	4	5	38
Dollars (000)	$6	$7	$5	$4	$4	$3	$3	$4	$4	$3	$4	$5	$6	$7	$60
Avg Price per Unit	$1.75	$1.22	$1.82	$1.81	$1.82	$1.82	$1.82	$1.82	$1.82	$1.82	$1.57	$1.54	$1.51	$1.39	$1.60
Unit Share	0.5	0.9	0.5	0.4	0.4	0.3	0.3	0.3	0.3	0.3	0.4	0.5	0.6	0.7	0.5
ACV Weighted Dist	38.1%	38.6%	37.0%	36.8%	35.5%	35.6%	33.7%	35.6%	34.6%	33.4%	57.0%	69.4%	68.8%	71.7%	71.7%

Exhibit A Video Deposition of Deepan Jain, MA

Monthly Sales Trends

FBI 00731

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Inc., 1996

Flowers Industries Jacksonville - Monthly InfoScan Sales Analysis

Category: Class 2 - Soft Variety

wers Jacksonville	4 Weeks Ending Feb 9, 97	4 Weeks Ending Mar 9, 97	4 Weeks Ending Apr 6, 97	4 Weeks Ending May 4, 97	4 Weeks Ending Jun 1, 97	4 Weeks Ending Jun 29, 97	4 Weeks Ending Jul 27, 97	4 Weeks Ending Aug 24, 97	4 Weeks Ending Sep 21, 97	4 Weeks Ending Oct 19, 97	4 Weeks Ending Nov 16, 97	4 Weeks Ending Dec 14, 97	4 Weeks Ending Jan 11, 98	4 Weeks , 98	Latest 52 Weeks
vate Label/Generic															
Units (000)	499	503	457	502	470	445	454	457	431	450	494	455	454	496	6,069
Dollars (000)	$577	$582	$535	$556	$544	$518	$528	$524	$495	$511	$565	$521	$523	$566	$6,968
Avg Price per Unit	$1.16	$1.16	$1.17	$1.11	$1.16	$1.16	$1.16	$1.15	$1.15	$1.14	$1.14	$1.14	$1.15	$1.14	$1.15
Unit Share	33.3	34.0	31.1	33.6	34.4	30.6	29.5	30.9	28.9	30.7	32.6	32.6	32.5	32.2	31.8
ACV Weighted Distribution	99.6%	99.6%	99.7%	99.7%	99.7%	99.7%	99.5%	99.5%	99.5%	100.0%	100.0%	100.0%	100.0%	99.7%	100.0%

Exhibit "A" to Response Submitted by Defendant IMA

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FBI 00730

Monthly Sales Trends

Source: Information Resources, Inc., 1996

Flowers Industries Jacksonville - Monthly InfoScan Sales Analysis

Category: Class 3 - Specialty

Flowers Jacksonville	4 Weeks Ending Feb 9, 97	4 Weeks Ending Mar 9, 97	4 Weeks Ending Apr 6, 97	4 Weeks Ending May 4, 97	4 Weeks Ending Jun 1, 97	4 Weeks Ending Jun 29, 97	4 Weeks Ending Jul 27, 97	4 Weeks Ending Aug 24, 97	4 Weeks Ending Sep 21, 97	4 Weeks Ending Oct 19, 97	4 Weeks Ending Nov 16, 97	4 Weeks Ending Dec 14, 97	4 Weeks Ending Jan 11, 98	4 Weeks , 98	Latest 52 Weeks
Harvest Ridge															
Units (000)	4	3	5	5	4	4	4	4	4	5	6	5	6	6	60
Dollars (000)	$7	$6	$9	$8	$7	$8	$7	$6	$6	$8	$10	$9	$10	$10	$104
Avg Price per Unit	$1.80	$1.79	$1.75	$1.53	$1.79	$1.69	$1.81	$1.70	$1.62	$1.71	$1.81	$1.83	$1.71	$1.73	$1.73
Unit Share	0.6	0.5	0.9	0.9	0.7	0.8	0.6	0.6	0.7	0.7	0.8	0.8	0.9	0.8	0.7
ACV Weighted Dist	49.2%	45.9%	55.1%	48.7%	49.0%	51.9%	52.0%	51.9%	50.8%	61.3%	63.6%	60.4%	63.9%	63.9%	63.9%
PRIVATE LABEL/GENERIC															
Units (000)	178	176	178	172	174	173	176	169	155	160	198	184	194	211	2,321
Dollars (000)	$220	$216	$220	$212	$212	$210	$213	$205	$192	$198	$237	$223	$233	$253	$2,824
Avg Price per Unit	$1.24	$1.23	$1.24	$1.23	$1.22	$1.21	$1.21	$1.21	$1.24	$1.23	$1.20	$1.21	$1.20	$1.20	$1.22
Unit Share	27.2	26.6	28.3	27.9	29.8	29.3	29.3	28.7	26.7	26.3	30.3	29.2	29.2	30.0	28.6
ACV Weighted Dist	99.3%	99.3%	99.4%	99.4%	98.1%	98.3%	98.1%	98.1%	97.7%	98.4%	97.8%	98.3%	99.4%	99.3%	99.4%

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FBI 00732

Exhibit "A" - Evidence Submitted by Defendant IMA

Flowers Industries Jacksonville - Monthly InfoScan Sales Analysis

Category: Class 4 - Buns

Exhibit "A" - Evidence Submitted by Defendant IMA

Flowers Jacksonville	4 Weeks Ending Feb 9, 97	4 Weeks Ending Mar 9, 97	4 Weeks Ending Apr 6, 97	4 Weeks Ending May 4, 97	4 Weeks Ending Jun 1, 97	4 Weeks Ending Jun 29, 97	4 Weeks Ending Jul 27, 97	4 Weeks Ending Aug 24, 97	4 Weeks Ending Sep 21, 97	4 Weeks Ending Oct 19, 97	4 Weeks Ending Nov 16, 97	4 Weeks Ending Dec 14, 97	4 Weeks Ending Jan 11, 98	4 Weeks , 98	Latest 52 Weeks
TL CLASS 4 - BUNS															
Units (000)	565	595	646	639	803	769	908	690	714	580	584	469	492	584	8,474
Dollars (000)	$597	$630	$661	$670	$765	$754	$846	$677	$683	$592	$586	$484	$517	$589	$8,452
Avg Price per Unit	$1.06	$1.06	$1.02	$1.05	$.95	$.98	$.93	$.98	$.96	$1.02	$1.00	$1.03	$1.05	$1.01	$1.00
Unit Share	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
ACV Weighted Distribution	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
SUNBEAM/FLOWERS															
Units (000)	52	69	86	87	100	102	109	92	92	80	80	64	70	72	1,102
Dollars (000)	$72	$83	$94	$96	$109	$111	$119	$100	$101	$87	$87	$70	$76	$83	$1,214
Avg Price per Unit	$1.38	$1.20	$1.11	$1.10	$1.09	$1.09	$1.09	$1.09	$1.09	$1.08	$1.09	$1.09	$1.08	$1.15	$1.10
Unit Share	9.2	11.5	13.2	13.6	12.4	13.2	12.0	13.3	13.0	13.8	13.8	13.7	14.2	12.4	13.0
ACV Weighted Distribution	73.1%	75.0%	75.3%	79.1%	81.1%	80.4%	85.8%	85.2%	86.0%	87.5%	86.5%	83.7%	83.8%	83.6%	87.5%
nterstate															
Units (000)	61	63	65	65	74	90	114	83	82	76	74	68	76	88	1,017
Dollars (000)	$88	$91	$94	$89	$94	$107	$127	$100	$100	$93	$92	$81	$88	$103	$1,260
Avg Price per Unit	$1.43	$1.46	$1.45	$1.37	$1.27	$1.19	$1.11	$1.21	$1.23	$1.23	$1.25	$1.19	$1.16	$1.18	$1.24
Unit Share	10.9	10.5	10.0	10.2	9.3	11.7	12.6	12.0	11.4	13.0	12.6	14.6	15.4	15.1	12.0
ACV Weighted Distribution	97.4%	97.5%	98.1%	97.3%	97.7%	97.0%	96.8%	96.9%	96.8%	96.7%	96.9%	96.4%	96.6%	97.0%	98.1%
VONDER															
Units (000)	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
Dollars (000)	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$1
Avg Price per Unit	$1.29	$1.29	$.00	$.00	$.00	$.99	$.99	$.99	$.99	$.99	$.99	$.99	$1.06	$1.09	$1.05
Unit Share	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
ACV Weighted Distribution	0.5%	2.1%	0.0%	0.0%	0.0%	1.5%	1.8%	0.3%	0.3%	0.3%	0.3%	0.3%	2.0%	0.3%	2.1%
COUNTRY HEARTH															
Units (000)	10	8	10	13	18	22	17	18	14	15	12	9	10	11	178
Dollars (000)	$15	$14	$15	$18	$23	$27	$23	$21	$19	$19	$17	$14	$15	$17	$242
Avg Price per Unit	$1.49	$1.68	$1.55	$1.38	$1.25	$1.19	$1.34	$1.16	$1.41	$1.32	$1.45	$1.51	$1.48	$1.47	$1.36
Unit Share	1.7	1.4	1.5	2.1	2.3	2.9	1.9	2.7	1.9	2.5	2.0	1.9	2.1	2.0	2.1

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Flowers Industries San Antonio - Monthly InfoScan Sales Analysis

Category: Class 3 - Specialty

Exhibit "A" - Evidence Submitted by Defendant/MA

Flowers San Antonio	4 Weeks Ending Feb 9, 97	4 Weeks Ending Mar 9, 97	4 Weeks Ending Apr 6, 97	4 Weeks Ending May 4, 97	4 Weeks Ending Jun 1, 97	4 Weeks Ending Jun 29, 97	4 Weeks Ending Jul 27, 97	4 Weeks Ending Aug 24, 97	4 Weeks Ending Sep 21, 97	4 Weeks Ending Oct 19, 97	4 Weeks Ending Nov 16, 97	4 Weeks Ending Dec 14, 97	4 Weeks Ending Jan 11, 98	4 Weeks , 98	Latest 52 Weeks
CLASS 3 - SPECIALTY															
Units (000)	433	510	508	516	482	453	457	468	456	509	513	499	531	492	6,393
Dollars (000)	$716	$792	$793	$793	$742	$710	$709	$740	$746	$794	$818	$798	$846	$799	$10,081
Avg Price per Unit	$1.65	$1.55	$1.56	$1.54	$1.54	$1.57	$1.55	$1.58	$1.64	$1.56	$1.60	$1.60	$1.59	$1.63	$1.58
Unit Share	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
ACV Weighted Distribution	100.0%	99.7%	99.7%	100.0%	100.0%	99.7%	99.6%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
COBBLESTONE MILL															
Units (000)	24	22	23	21	22	20	18	20	22	22	21	29	32	26	299
Dollars (000)	$49	$46	$49	$45	$47	$42	$39	$43	$47	$49	$46	$53	$56	$53	$615
Avg Price per Unit	$2.04	$2.11	$2.11	$2.11	$2.11	$2.12	$2.14	$2.15	$2.16	$2.18	$2.17	$1.82	$1.73	$2.06	$2.06
Unit Share	5.6	4.3	4.5	4.2	4.6	4.4	4.0	4.3	4.7	4.4	4.1	5.8	6.1	5.2	4.7
ACV Weighted Distribution	92.4%	93.2%	94.1%	93.8%	93.9%	93.3%	91.4%	91.3%	91.9%	91.9%	93.1%	93.8%	95.1%	91.5%	95.1%
ARN/ORO/FRAN/S-MD															
Units (000)	97	97	88	96	83	85	79	91	93	88	98	94	98	108	1,199
Dollars (000)	$196	$197	$185	$197	$170	$173	$164	$189	$198	$190	$212	$207	$213	$232	$2,528
Avg Price per Unit	$2.02	$2.03	$2.10	$2.05	$2.05	$2.03	$2.09	$2.08	$2.12	$2.16	$2.17	$2.20	$2.17	$2.15	$2.11
Unit Share	22.4	19.1	17.4	18.6	17.2	18.8	17.2	19.4	20.5	17.3	19.0	18.9	18.5	22.0	18.7
ACV Weighted Distribution	79.7%	81.1%	81.4%	81.5%	80.7%	80.3%	79.3%	81.1%	81.0%	81.2%	83.8%	88.8%	88.6%	87.1%	88.8%
TTL PEPPERIDGE FARM															
Units (000)	41	47	45	47	41	39	37	38	42	44	42	40	44	48	556
Dollars (000)	$85	$97	$95	$93	$85	$83	$79	$81	$90	$90	$90	$83	$92	$100	$1,157
Avg Price per Unit	$2.07	$2.05	$2.10	$1.97	$2.06	$2.10	$2.11	$2.11	$2.12	$2.06	$2.13	$2.10	$2.08	$2.08	$2.08
Unit Share	9.5	9.3	8.9	9.1	8.6	8.7	8.2	8.2	9.3	8.6	8.2	7.9	8.3	9.8	8.7
ACV Weighted Distribution	71.5%	71.8%	72.8%	72.5%	72.0%	75.0%	74.8%	76.0%	76.1%	75.3%	74.7%	75.3%	75.8%	76.8%	76.8%
TOTAL EARTH GRAINS															
Units (000)	39	38	37	39	40	36	35	37	41	40	42	40	43	43	511
Dollars (000)	$77	$76	$77	$80	$82	$75	$73	$77	$84	$80	$85	$81	$88	$89	$1,047
Avg Price per Unit	$1.98	$2.02	$2.05	$2.05	$2.07	$2.07	$2.07	$2.06	$2.05	$2.03	$2.00	$2.03	$2.06	$2.08	$2.05

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Flowers Industries San Antonio - Monthly InfoScan Sales Analysis

Flowers Industries San Antonio - Monthly InfoScan Sales Analysis

Category: Class 2 - Soft Variety

ers San Antonio	4 Weeks Ending Feb 9, 97	4 Weeks Ending Mar 9, 97	4 Weeks Ending Apr 6, 97	4 Weeks Ending May 4, 97	4 Weeks Ending Jun 1, 97	4 Weeks Ending Jun 29, 97	4 Weeks Ending Jul 27, 97	4 Weeks Ending Aug 24, 97	4 Weeks Ending Sep 21, 97	4 Weeks Ending Oct 19, 97	4 Weeks Ending Nov 16, 97	4 Weeks Ending Dec 14, 97	4 Weeks Ending Jan 11, 98	4 Weeks , 98	Latest 52 Weeks
V Weighted Distribution	95.0%	95.4%	95.6%	97.6%	97.4%	98.4%	98.3%	98.8%	98.7%	98.5%	97.9%	98.3%	98.3%	98.5%	98.8%
o/Colonial															
its (000)	75	74	71	68	68	71	68	70	78	85	80	78	78	86	977
llars (000)	$117	$112	$111	$106	$104	$104	$104	$109	$119	$123	$125	$122	$122	$126	$1,487
g Price per Unit	$1.55	$1.52	$1.55	$1.55	$1.53	$1.46	$1.54	$1.56	$1.52	$1.45	$1.55	$1.56	$1.57	$1.46	$1.52
it Share	5.0	4.8	4.5	4.4	4.3	4.7	4.3	4.5	5.0	5.2	5.0	5.1	4.8	5.0	4.7
V Weighted Distribution	95.0%	96.7%	95.4%	97.5%	97.2%	97.1%	96.0%	96.5%	96.4%	97.4%	97.8%	97.9%	97.9%	97.9%	97.9%
e Label															
its (000)	761	757	763	752	756	754	784	792	773	744	767	730	763	827	9,961
llars (000)	$615	$613	$618	$605	$593	$602	$623	$631	$614	$594	$610	$576	$603	$652	$7,934
g Price per Unit	$.81	$.81	$.81	$.81	$.78	$.80	$.79	$.80	$.79	$.80	$.80	$.79	$.79	$.79	$.80
it Share	51.0	49.0	47.8	48.2	48.4	49.8	49.8	51.0	48.9	45.7	47.8	47.5	47.2	47.6	48.3
V Weighted Distribution	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

Exhibit "A" - Evidence Submitted by Defendant IMA

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FBI 00643

Monthly Sales Trends

Source: Information Resources, Inc., 1996

Flowers Industries Dallas - Monthly InfoScan Sales Analysis

Category: Class 3 - Specialty

Dallas/Ft Worth	4 Weeks Ending Feb 9, 97	4 Weeks Ending Mar 9, 97	4 Weeks Ending Apr 6, 97	4 Weeks Ending May 4, 97	4 Weeks Ending Jun 1, 97	4 Weeks Ending Jun 29, 97	4 Weeks Ending Jul 27, 97	4 Weeks Ending Aug 24, 97	4 Weeks Ending Sep 21, 97	4 Weeks Ending Oct 19, 97	4 Weeks Ending Nov 16, 97	4 Weeks Ending Dec 14, 97	4 Weeks Ending Jan 11, 98	4 Weeks, 98	Latest 52 Weeks
Unit Share	10.4	10.2	11.9	10.8	11.4	10.4	10.9	11.8	11.6	10.9	11.8	11.2	9.7	9.7	10.9
ACV Weighted Distribution	98.7%	98.8%	98.8%	98.8%	98.2%	98.2%	98.0%	98.0%	98.3%	98.7%	98.6%	98.5%	97.9%	99.0%	99.0%
TOTAL MRS BAIRDS															
Units (000)	42	38	37	43	49	37	38	36	34	32	32	30	36	32	475
Dollars (000)	$72	$66	$64	$70	$75	$63	$65	$63	$62	$58	$59	$55	$64	$59	$823
Avg Price per Unit	$1.74	$1.75	$1.73	$1.62	$1.53	$1.72	$1.71	$1.75	$1.81	$1.80	$1.82	$1.81	$1.77	$1.84	$1.73
Unit Share	5.2	4.7	4.8	5.4	6.5	4.8	4.7	4.5	4.3	4.2	4.0	3.8	3.9	3.6	4.5
ACV Weighted Distribution	93.7%	92.6%	92.2%	92.2%	90.1%	90.0%	90.6%	90.6%	90.7%	92.9%	92.9%	90.9%	90.8%	90.6%	92.9%
Bread Du Jour															
Units (000)	3	3	3	2	2	2	3	2	3	2	3	3	3	3	33
Dollars (000)	$6	$7	$6	$4	$5	$4	$6	$5	$6	$5	$7	$6	$6	$6	$73
Avg Price per Unit	$2.22	$2.23	$2.23	$2.23	$2.09	$2.12	$1.87	$2.24	$2.23	$2.23	$2.23	$2.24	$2.24	$2.25	$2.18
Unit Share	0.4	0.4	0.4	0.3	0.3	0.3	0.4	0.3	0.3	0.3	0.4	0.3	0.3	0.3	0.3
ACV Weighted Distribution	73.9%	73.6%	65.3%	60.5%	59.6%	56.8%	58.6%	53.9%	54.5%	51.0%	59.5%	54.3%	51.8%	58.5%	73.6%
TTL PL GENERIC															
Units (000)	221	233	226	219	222	215	221	236	248	251	260	249	318	325	3,223
Dollars (000)	$272	$283	$274	$263	$264	$253	$261	$278	$317	$307	$320	$323	$407	$405	$3,955
Avg Price per Unit	$1.23	$1.22	$1.22	$1.20	$1.19	$1.18	$1.18	$1.17	$1.28	$1.22	$1.23	$1.30	$1.28	$1.25	$1.23
Unit Share	27.6	29.0	29.4	27.6	29.3	27.7	27.6	29.2	31.1	32.1	32.2	30.8	34.2	36.9	30.7
ACV Weighted Distribution	84.9%	84.5%	86.2%	83.0%	81.9%	87.6%	91.1%	90.9%	88.7%	90.0%	90.0%	91.2%	90.3%	91.3%	91.3%

Exhibit A -- Evidence Submitted by Defendant IMA

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FBI 00670

Flowers Industries Dallas - Monthly InfoScan Sales Analysis

Category: Class 3 - Specialty

Exhibit "A" Evidence Submitted by Defendant IMA

as/Ft Wo	4 Weeks Ending Feb 9, 97	4 Weeks Ending Mar 9, 97	4 Weeks Ending Apr 6, 97	4 Weeks Ending May 4, 97	4 Weeks Ending Jun 1, 97	4 Weeks Ending Jun 29, 97	4 Weeks Ending Jul 27, 97	4 Weeks Ending Aug 24, 97	4 Weeks Ending Sep 21, 97	4 Weeks Ending Oct 19, 97	4 Weeks Ending Nov 16, 97	4 Weeks Ending Dec 14, 97	4 Weeks Ending Jan 11, 98	4 Weeks , 98	Latest 52 Weeks
ASS 3 - SPECIALTY															
its (000)	801	805	766	795	757	774	801	811	796	779	805	809	930	880	10,508
llars (000)	$1,415	$1,419	$1,361	$1,383	$1,331	$1,366	$1,380	$1,428	$1,426	$1,415	$1,456	$1,476	$1,649	$1,574	$18,663
g Price per Unit	$1.77	$1.76	$1.78	$1.74	$1.76	$1.76	$1.72	$1.76	$1.79	$1.82	$1.81	$1.82	$1.77	$1.79	$1.78
it Share	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
CV Weighted Distribution	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	98.8%	100.0%	100.0%
BLESTONE MILL															
its (000)	47	31	33	34	30	37	89	43	38	32	29	50	65	36	548
llars (000)	$83	$63	$66	$65	$60	$74	$126	$82	$77	$64	$60	$86	$98	$73	$996
g Price per Unit	$1.76	$2.01	$1.99	$1.90	$2.00	$2.00	$1.42	$1.93	$2.00	$2.01	$2.03	$1.74	$1.52	$2.03	$1.82
it Share	5.9	3.9	4.3	4.3	4.0	4.8	11.1	5.3	4.8	4.1	3.7	6.1	6.9	4.1	5.2
CV Weighted Distribution	63.4%	62.0%	61.9%	62.1%	62.1%	62.4%	62.1%	62.1%	61.5%	61.7%	63.7%	64.6%	63.6%	63.8%	64.6%
ORO/FRANKS-MD															
its (000)	158	161	136	160	133	174	134	164	141	130	144	138	151	160	1,926
llars (000)	$322	$323	$282	$315	$277	$340	$288	$335	$295	$290	$318	$309	$338	$354	$4,063
vg Price per Unit	$2.03	$2.01	$2.08	$1.96	$2.09	$1.96	$2.15	$2.04	$2.09	$2.23	$2.21	$2.24	$2.23	$2.21	$2.11
it Share	19.8	19.9	17.7	20.2	17.5	22.5	16.7	20.2	17.7	16.7	17.9	17.1	16.3	18.2	18.3
CV Weighted Distribution	96.8%	95.9%	96.8%	95.9%	97.4%	96.5%	95.7%	95.4%	96.0%	95.5%	96.6%	96.9%	97.4%	97.4%	97.4%
PEPPERIDGE FARM															
Units (000)	114	131	119	131	118	117	113	117	124	137	120	118	130	130	1,605
Dollars (000)	$243	$269	$253	$266	$254	$250	$243	$251	$264	$298	$266	$260	$281	$284	$3,441
Avg Price per Unit	$2.13	$2.05	$2.13	$2.02	$2.15	$2.14	$2.15	$2.15	$2.13	$2.18	$2.23	$2.20	$2.16	$2.18	$2.14
Unit Share	14.3	16.3	15.5	16.5	15.6	15.1	14.1	14.4	15.6	17.5	14.8	14.6	14.0	14.8	15.3
ACV Weighted Distribution	90.7%	88.6%	90.6%	90.6%	91.5%	91.4%	90.8%	91.2%	90.7%	91.2%	90.8%	91.4%	92.3%	92.3%	92.3%
OTAL EARTH GRAINS															
Units (000)	84	82	91	86	86	80	87	96	92	85	95	90	90	85	1,146
Dollars (000)	$173	$175	$188	$181	$182	$173	$177	$198	$192	$184	$198	$187	$190	$181	$2,497
Avg Price per Unit	$2.07	$2.14	$2.07	$2.11	$2.11	$2.16	$2.03	$2.07	$2.07	$2.17	$2.08	$2.07	$2.12	$2.12	$2.10

Source: Information Resources, Inc., 1996

Flowers Industries West TexNew Mex - Monthly InfoScan Sales Analysis

Category: Class 3 - Specialty

Flowers West Tex-New Mex	4 Weeks Ending Feb 9, 97	4 Weeks Ending Mar 9, 97	4 Weeks Ending Apr 6, 97	4 Weeks Ending May 4, 97	4 Weeks Ending Jun 1, 97	4 Weeks Ending Jun 29, 97	4 Weeks Ending Jul 27, 97	4 Weeks Ending Aug 24, 97	4 Weeks Ending Sep 21, 97	4 Weeks Ending Oct 19, 97	4 Weeks Ending Nov 16, 97	4 Weeks Ending Dec 14, 97	4 Weeks Ending Jan 11, 98	4 Weeks , 98	Latest 52 Weeks
CLASS 3 - SPECIALTY															
Units (000)	285	299	292	298	291	304	322	327	322	296	288	286	304	294	3,922
Dollars (000)	$537	$557	$558	$568	$558	$572	$612	$625	$624	$574	$553	$552	$584	$564	$7,499
Avg Price per Unit	$1.88	$1.87	$1.91	$1.91	$1.92	$1.88	$1.90	$1.91	$1.94	$1.94	$1.92	$1.93	$1.92	$1.92	$1.91
Unit Share	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
ACV Weighted Distribution	98.2%	98.2%	98.2%	98.3%	98.2%	98.1%	98.0%	98.2%	98.2%	98.2%	98.2%	98.2%	98.2%	100.0%	100.0%
COBBLESTONE MILL															
Units (000)	6	6	7	6	5	5	5	6	6	6	6	6	8	6	76
Dollars (000)	$13	$12	$14	$12	$11	$10	$11	$13	$14	$13	$12	$12	$15	$13	$164
Avg Price per Unit	$2.11	$2.19	$2.16	$2.17	$2.17	$2.17	$2.18	$2.18	$2.18	$2.18	$2.19	$2.07	$1.94	$2.17	$2.14
Unit Share	2.1	1.9	2.3	1.9	1.8	1.5	1.6	1.8	2.0	2.0	2.0	2.1	2.6	2.1	1.9
ACV Weighted Distribution	27.9%	27.9%	33.3%	33.3%	32.8%	32.6%	32.0%	32.0%	32.4%	32.4%	32.4%	32.4%	32.5%	35.1%	35.1%
ARNOLDS/DROWEAT															
Units (000)	67	74	68	70	69	77	80	81	77	71	68	73	73	75	955
Dollars (000)	$156	$168	$158	$163	$162	$175	$186	$190	$183	$170	$160	$167	$177	$180	$2,238
Avg Price per Unit	$2.32	$2.29	$2.34	$2.32	$2.33	$2.27	$2.33	$2.34	$2.38	$2.40	$2.36	$2.28	$2.43	$2.40	$2.34
Unit Share	23.5	24.6	23.1	23.5	23.9	25.5	24.8	24.8	23.9	24.0	23.5	25.5	23.9	25.4	24.4
ACV Weighted Distribution	76.7%	77.0%	75.3%	75.1%	74.9%	74.3%	74.3%	74.2%	74.2%	75.3%	75.5%	76.5%	75.1%	75.0%	77.0%
EARTH GRAINS															
Units (000)	51	51	57	61	58	58	63	60	62	57	55	54	55	50	742
Dollars (000)	$122	$120	$134	$142	$137	$137	$147	$143	$148	$137	$133	$130	$131	$123	$1,763
Avg Price per Unit	$2.37	$2.34	$2.33	$2.34	$2.35	$2.36	$2.34	$2.39	$2.38	$2.42	$2.42	$2.40	$2.39	$2.43	$2.38
Unit Share	18.0	17.2	19.6	20.5	20.1	19.1	19.5	18.3	19.4	19.1	19.2	18.8	18.1	17.2	18.9
ACV Weighted Distribution	92.7%	92.9%	88.3%	88.0%	88.7%	88.5%	88.6%	88.5%	88.6%	89.0%	89.1%	89.2%	89.8%	89.9%	92.9%
MRS. BAIRDS															
Units (000)	2	2	2	2	3	2	2	2	2	2	2	2	2	2	29
Dollars (000)	$3	$3	$3	$4	$4	$4	$3	$4	$4	$4	$4	$3	$4	$4	$48
Avg Price per Unit	$1.66	$1.63	$1.62	$1.52	$1.54	$1.60	$1.59	$1.63	$1.66	$1.73	$1.72	$1.73	$1.65	$1.80	$1.64

Exhibit "A" Voice Subpoenaed by Defendant

CONFIDENTIAL COUNSEL ONLY

FBI 00680

Flowers Industries West TexNew Mex - Monthly InfoScan Sales Analysis

Category: Class 3 - Specialty

Flowers West Tex-New Mex	4 Weeks Ending Feb 9, 97	4 Weeks Ending Mar 9, 97	4 Weeks Ending Apr 6, 97	4 Weeks Ending May 4, 97	4 Weeks Ending Jun 1, 97	4 Weeks Ending Jun 29, 97	4 Weeks Ending Jul 27, 97	4 Weeks Ending Aug 24, 97	4 Weeks Ending Sep 21, 97	4 Weeks Ending Oct 19, 97	4 Weeks Ending Nov 16, 97	4 Weeks Ending Dec 14, 97	4 Weeks Ending Jan 11, 98	4 Weeks , 98	Latest 52 Weeks
Unit Share	0.7	0.7	0.7	0.8	0.9	0.8	0.7	0.7	0.7	0.7	0.7	0.7	0.8	0.8	0.7
ACV Weighted Distribution	12.5%	12.6%	12.6%	12.5%	12.4%	12.4%	12.4%	12.6%	12.7%	12.6%	12.5%	12.6%	12.6%	12.7%	12.7%
PRIVATE LABEL															
Units (000)	95	97	89	86	85	93	103	105	104	96	96	89	97	100	1,240
Dollars (000)	$106	$104	$98	$95	$93	$99	$114	$117	$122	$110	$110	$103	$109	$113	$1,387
Avg Price per Unit	$1.11	$1.07	$1.10	$1.10	$1.09	$1.07	$1.11	$1.11	$1.18	$1.15	$1.15	$1.15	$1.12	$1.13	$1.12
Unit Share	33.3	32.4	30.4	29.0	29.3	30.7	32.1	32.2	32.2	32.3	33.3	31.1	31.9	34.1	31.6
ACV Weighted Distribution	38.8%	38.8%	38.8%	41.4%	40.8%	40.7%	40.9%	42.0%	41.2%	41.5%	40.5%	41.6%	41.6%	41.7%	42.0%

Exhibit "A"-Evidence Submitted by Defendant IMA

CONFIDENTIAL COUNSEL ONLY

FBI 00681

Montly Sales Trends

Source: Information Resources, Inc., 1996

Flowers Industries Nashville - Monthly InfoScan Sales Analysis

Exhibit "A"
Vocelle Burton Deposition

Category: Class 3 - Specialty

Nashville, TN	4 Weeks Ending Feb 9, 97	4 Weeks Ending Mar 9, 97	4 Weeks Ending Apr 6, 97	4 Weeks Ending May 4, 97	4 Weeks Ending Jun 1, 97	4 Weeks Ending Jun 29, 97	4 Weeks Ending Jul 27, 97	4 Weeks Ending Aug 24, 97	4 Weeks Ending Sep 21, 97	4 Weeks Ending Oct 19, 97	4 Weeks Ending Nov 16, 97	4 Weeks Ending Dec 14, 97	4 Weeks Ending Jan 11, 98	4 Weeks , 98	Latest 52 Weeks
CLASS 3 - SPECIALTY															
Units (000)	161	168	159	162	161	165	165	171	165	166	165	158	175	161	2,140
Dollars (000)	$306	$317	$303	$309	$309	$316	$317	$326	$322	$320	$320	$305	$327	$299	$4,091
Avg Price per Unit	$1.90	$1.89	$1.90	$1.91	$1.92	$1.92	$1.92	$1.91	$1.95	$1.93	$1.94	$1.93	$1.88	$1.86	$1.91
Unit Share	14.1	15.1	14.5	14.3	13.3	12.4	12.2	12.4	12.9	13.3	12.9	12.8	12.6	11.9	13.1
ACV Weighted Distribution	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
COBBLESTONE MILL															
Units (000)	4	4	4	4	3	3	2	3	3	3	2	2	3	2	37
Dollars (000)	$7	$8	$8	$8	$7	$6	$5	$5	$6	$5	$4	$4	$5	$5	$77
Avg Price per Unit	$2.06	$2.08	$2.08	$2.08	$2.08	$2.09	$2.14	$2.15	$2.29	$1.98	$2.15	$2.10	$1.68	$2.13	$2.07
Unit Share	0.3	0.3	0.4	0.3	0.3	0.2	0.2	0.2	0.2	0.2	0.2	0.2	0.2	0.2	0.2
ACV Weighted Distribution	15.8%	15.6%	15.4%	14.3%	14.4%	12.4%	12.3%	12.6%	13.9%	13.9%	12.3%	9.4%	12.3%	12.7%	15.6%
BREAD DUJOUR/WONDER															
Units (000)	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
Dollars (000)	$0	$0	$0	$0	$0	$1	$0	$0	$0	$0	$0	$0	$0	$0	$2
Avg Price per Unit	$2.02	$1.97	$2.04	$1.97	$2.06	$2.00	$2.02	$2.01	$1.99	$2.04	$1.99	$1.99	$1.99	$1.99	$2.00
Unit Share	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
ACV Weighted Distribution	9.0%	9.0%	6.9%	6.8%	6.8%	14.5%	15.0%	15.0%	13.7%	4.1%	2.4%	2.4%	4.9%	5.0%	15.0%
EARTH GRAINS															
Units (000)	22	22	21	21	22	25	26	27	24	23	26	24	25	20	305
Dollars (000)	$46	$47	$46	$45	$49	$54	$56	$58	$52	$50	$57	$53	$53	$44	$664
Avg Price per Unit	$2.15	$2.16	$2.16	$2.17	$2.20	$2.18	$2.15	$2.17	$2.20	$2.19	$2.20	$2.17	$2.09	$2.21	$2.17
Unit Share	1.9	1.9	1.9	1.8	1.8	1.9	1.9	1.9	1.8	1.8	2.0	2.0	1.8	1.5	1.9
ACV Weighted Distribution	92.5%	94.3%	94.3%	94.2%	94.0%	94.3%	94.2%	94.2%	91.6%	97.4%	91.6%	91.7%	91.7%	94.0%	97.4%
PEPPERIDGE FARM															
Units (000)	47	52	45	47	48	48	48	50	53	53	48	44	46	41	623
Dollars (000)	$102	$111	$97	$101	$103	$104	$104	$106	$113	$112	$106	$96	$98	$90	$1,340
Avg Price per Unit	$2.16	$2.14	$2.16	$2.14	$2.15	$2.15	$2.15	$2.13	$2.14	$2.13	$2.19	$2.18	$2.13	$2.18	$2.15
Unit Share	4.1	4.6	4.1	4.2	3.9	3.6	3.6	3.6	4.1	4.2	3.8	3.6	3.3	3.0	3.8
ACV Weighted Distribution	92.2%	92.9%	93.2%	92.8%	92.6%	93.6%	92.7%	92.9%	93.0%	98.9%	92.9%	93.0%	93.0%	92.9%	98.9%
ARNOLDS/OROWEAT															

Flowers Industries Nashville - Month

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Flowers Industries Nashville - Monthly InfoScan Sales Analysis

Category: Class 2 - Soft Variety

ille, TN	4 Weeks Ending Feb 9, 97	4 Weeks Ending Mar 9, 97	4 Weeks Ending Apr 6, 97	4 Weeks Ending May 4, 97	4 Weeks Ending Jun 1, 97	4 Weeks Ending Jun 29, 97	4 Weeks Ending Jul 27, 97	4 Weeks Ending Aug 24, 97	4 Weeks Ending Sep 21, 97	4 Weeks Ending Oct 19, 97	4 Weeks Ending Nov 16, 97	4 Weeks Ending Dec 14, 97	4 Weeks Ending Jan 11, 98	4 Weeks , 98	Latest 52 Weeks
it Share	11.0	9.3	12.6	10.9	10.3	9.9	8.7	10.3	9.3	10.6	8.9	9.2	9.1	8.4	10.0
CV Weighted Distribution	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
ATE LABEL															
its (000)	213	211	186	209	213	207	219	216	225	208	204	202	236	313	2,849
llars (000)	$250	$247	$223	$244	$245	$246	$263	$257	$271	$249	$241	$238	$267	$318	$3,310
g Price per Unit	$1.17	$1.17	$1.20	$1.17	$1.15	$1.19	$1.20	$1.19	$1.20	$1.19	$1.18	$1.18	$1.13	$1.02	$1.16
it Share	18.7	19.0	16.9	18.4	17.6	15.6	16.2	15.7	17.5	16.7	16.0	16.4	17.1	23.2	17.6
CV Weighted Distribution	85.8%	86.7%	86.9%	94.4%	94.0%	85.7%	82.3%	82.4%	88.0%	89.0%	83.6%	84.9%	91.9%	94.0%	94.4%

Exhibit "A" --Evidence Submitted by Defendant IMA

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Flowers Industries Nashville - Monthly InfoScan Sales Analysis

Category: Class 3 - Specialty

ashville, TN	4 Weeks Ending Feb 9, 97	4 Weeks Ending Mar 9, 97	4 Weeks Ending Apr 6, 97	4 Weeks Ending May 4, 97	4 Weeks Ending Jun 1, 97	4 Weeks Ending Jun 29, 97	4 Weeks Ending Jul 27, 97	4 Weeks Ending Aug 24, 97	4 Weeks Ending Sep 21, 97	4 Weeks Ending Oct 19, 97	4 Weeks Ending Nov 16, 97	4 Weeks Ending Dec 14, 97	4 Weeks Ending Jan 11, 98	4 Weeks, 98	Latest 52 Weeks
Units (000)	0	1	1	1	0	0	0	1	1	1	2	1	1	1	11
Dollars (000)	$0	$1	$1	$1	$1	$1	$1	$1	$2	$2	$4	$2	$2	$4	$23
Avg Price per Unit	$2.36	$2.32	$2.32	$2.33	$2.32	$2.36	$2.36	$2.35	$2.37	$2.42	$1.65	$2.06	$2.46	$2.47	$2.20
Unit Share	0.0	0.1	0.1	0.0	0.0	0.0	0.0	0.0	0.1	0.1	0.2	0.1	0.1	0.1	0.1
ACV Weighted Distribution	29.1%	30.0%	30.8%	25.9%	18.6%	15.8%	11.9%	15.5%	18.3%	30.2%	43.6%	39.6%	20.7%	30.4%	43.6%
RIVATE LABEL															
Units (000)	37	41	37	41	38	34	32	35	34	36	33	33	39	45	478
Dollars (000)	$50	$53	$48	$57	$50	$44	$42	$46	$48	$51	$45	$47	$52	$58	$641
Avg Price per Unit	$1.37	$1.31	$1.31	$1.38	$1.31	$1.32	$1.31	$1.32	$1.40	$1.40	$1.35	$1.43	$1.35	$1.29	$1.34
Unit Share	3.2	3.7	3.3	3.6	3.1	2.5	2.3	2.5	2.7	2.9	2.6	2.7	2.8	3.3	3.0
ACV Weighted Distribution	83.5%	86.7%	85.5%	84.6%	85.3%	77.6%	75.6%	77.0%	82.4%	85.6%	76.8%	76.8%	85.5%	85.6%	86.7%

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FBI 00698

Exhibit "A" - Evidence Submitted by Defendant IMA

Flowers Industries Nashville - Monthly InfoScan Sales Analysis

Category: Class 4 - Buns

Exhibit "A" to Motion to Supplement by Defendant

Nashville, TN	4 Weeks Ending Feb 9, 97	4 Weeks Ending Mar 9, 97	4 Weeks Ending Apr 6, 97	4 Weeks Ending May 4, 97	4 Weeks Ending Jun 1, 97	4 Weeks Ending Jun 29, 97	4 Weeks Ending Jul 27, 97	4 Weeks Ending Aug 24, 97	4 Weeks Ending Sep 21, 97	4 Weeks Ending Oct 19, 97	4 Weeks Ending Nov 16, 97	4 Weeks Ending Dec 14, 97	4 Weeks Ending Jan 11, 98	4 Weeks , 98	Latest 52 Weeks
CLASS 4 - BUNS															
Units (000)	218	225	298	294	454	387	522	350	371	267	272	206	222	237	4,105
Dollars (000)	$239	$259	$296	$323	$423	$416	$494	$395	$354	$300	$279	$245	$264	$266	$4,313
Avg Price per Unit	$1.09	$1.15	$.99	$1.10	$.93	$1.07	$.95	$1.13	$.95	$1.13	$1.03	$1.19	$1.19	$1.12	$1.05
Unit Share	56.1	57.0	58.4	63.9	72.1	67.7	74.7	65.9	68.0	59.8	57.3	34.6	35.3	56.0	62.1
ACV Weighted Distribution	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
FLOWERS SPECIAL HARVEST															
Units (000)	3	3	6	7	4	2	3	3	2	1	1	1	1	1	34
Dollars (000)	$4	$5	$7	$8	$4	$2	$4	$3	$2	$2	$1	$1	$1	$1	$42
Avg Price per Unit	$1.45	$1.45	$1.12	$1.10	$1.13	$1.09	$1.21	$1.24	$1.43	$1.44	$1.42	$1.43	$1.43	$1.43	$1.22
Unit Share	0.8	0.8	1.2	1.5	0.6	0.4	0.5	0.5	0.3	0.3	0.2	0.1	0.1	0.2	0.8
ACV Weighted Distribution	15.8%	15.6%	15.4%	14.3%	14.3%	12.4%	12.3%	12.6%	13.9%	12.3%	12.3%	12.2%	12.3%	12.3%	15.6%
Wonder															
Units (000)	0	0	0	0	0	1	1	1	1	1	1	1	0	0	9
Dollars (000)	$0	$1	$0	$1	$1	$2	$2	$2	$1	$1	$1	$1	$1	$1	$13
Avg Price per Unit	$1.49	$1.49	$1.49	$1.49	$1.49	$1.49	$1.49	$1.49	$1.49	$1.49	$1.49	$1.49	$1.49	$1.49	$1.49
Unit Share	0.1	0.1	0.1	0.1	0.1	0.2	0.2	0.2	0.2	0.1	0.1	0.1	0.1	0.1	0.2
ACV Weighted Distribution	7.5%	7.6%	7.4%	7.2%	7.2%	15.1%	14.2%	16.2%	15.6%	15.2%	14.6%	14.0%	14.1%	7.3%	16.2%
RAINBO/COLONIAL															
Units (000)	21	25	23	26	36	49	61	45	32	30	29	27	21	19	423
Dollars (000)	$30	$33	$34	$36	$47	$66	$77	$63	$45	$43	$41	$41	$34	$30	$590
Avg Price per Unit	$1.40	$1.32	$1.47	$1.41	$1.29	$1.34	$1.26	$1.40	$1.41	$1.44	$1.42	$1.52	$1.58	$1.61	$1.40
Unit Share	5.4	6.3	4.6	5.6	5.8	8.5	8.7	8.5	5.9	6.7	6.1	4.5	3.4	4.5	6.6
ACV Weighted Distribution	100.0%	100.0%	100.0%	100.0%	97.0%	97.1%	96.9%	96.9%	94.3%	100.0%	94.3%	94.3%	94.3%	94.3%	100.0%
Bunny Sunbeam															
Units (000)	24	28	34	38	61	51	55	45	42	42	47	33	38	36	550
Dollars (000)	$36	$42	$51	$55	$79	$74	$76	$61	$58	$57	$58	$48	$55	$53	$767
Avg Price per Unit	$1.52	$1.49	$1.48	$1.45	$1.30	$1.44	$1.39	$1.36	$1.39	$1.34	$1.24	$1.43	$1.46	$1.46	$1.39
Unit Share	6.1	7.2	6.7	8.2	9.7	9.0	7.8	8.4	7.6	9.5	9.8	5.6	6.1	8.5	8.3
ACV Weighted Distribution	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	98.8%	100.0%	100.0%	98.8%	100.0%	100.0%	100.0%	100.0%
PRIVATE LABEL															
Units (000)	147	139	208	194	308	251	362	221	269	169	175	126	141	160	2,722

FBI 00699

Monthly Sales Trends

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Sales Analysis

Monthly

Flowers Industries Miami - Monthly InfoScan Sales Analysis

Category: Class 3 - Specialty

Flowers Miami	4 Weeks Ending Feb 9, 97	4 Weeks Ending Mar 9, 97	4 Weeks Ending Apr 6, 97	4 Weeks Ending May 4, 97	4 Weeks Ending Jun 1, 97	4 Weeks Ending Jun 29, 97	4 Weeks Ending Jul 27, 97	4 Weeks Ending Aug 24, 97	4 Weeks Ending Sep 21, 97	4 Weeks Ending Oct 19, 97	4 Weeks Ending Nov 16, 97	4 Weeks Ending Dec 14, 97	4 Weeks Ending Jan 11, 98	4 Weeks , 98	Latest 52 Weeks
CLASS 3 - SPECIALTY															
Units (000)	1,602	1,633	1,504	1,432	1,392	1,295	1,498	1,386	1,579	1,572	1,592	1,509	1,643	1,695	19,728
Dollars (000)	$2,737	$2,764	$2,594	$2,496	$2,393	$2,237	$2,431	$2,359	$2,676	$2,703	$2,795	$2,598	$2,763	$2,898	$33,706
Avg Price per Unit	$1.71	$1.69	$1.72	$1.74	$1.72	$1.73	$1.62	$1.70	$1.70	$1.72	$1.76	$1.72	$1.68	$1.71	$1.71
Unit Share	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
ACV Weighted Distribution	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
TOTAL COBBLESTONE MILL															
Units (000)	114	105	105	94	83	80	78	81	86	110	98	122	136	188	1,367
Dollars (000)	$188	$181	$181	$163	$143	$139	$135	$138	$147	$149	$159	$180	$188	$257	$2,157
Avg Price per Unit	$1.65	$1.72	$1.72	$1.73	$1.73	$1.72	$1.72	$1.70	$1.72	$1.35	$1.63	$1.47	$1.38	$1.36	$1.58
Unit Share	7.1	6.4	7.0	6.6	6.0	6.2	5.2	5.8	5.4	7.0	6.1	8.1	8.3	11.1	6.9
ACV Weighted Distribution	99.6%	99.9%	100.0%	99.5%	99.0%	98.8%	98.8%	98.1%	98.9%	99.0%	99.1%	99.0%	99.1%	99.4%	100.0%
TOTAL PEPPERIDGE FARM															
Units (000)	405	453	380	367	318	307	308	291	346	370	372	368	404	412	4,694
Dollars (000)	$820	$887	$787	$743	$644	$625	$627	$594	$684	$762	$790	$776	$837	$886	$9,642
Avg Price per Unit	$2.03	$1.96	$2.07	$2.03	$2.03	$2.04	$2.04	$2.05	$1.97	$2.06	$2.12	$2.11	$2.07	$2.15	$2.05
Unit Share	25.3	27.7	25.3	25.6	22.8	23.7	20.5	21.0	21.9	23.5	23.4	24.4	24.6	24.3	23.8
ACV Weighted Distribution	99.7%	99.9%	100.0%	99.6%	99.1%	99.0%	99.0%	99.0%	100.0%	100.0%	100.0%	99.5%	99.6%	99.7%	100.0%
ARNOLD/FRNSC/SNMD															
Units (000)	298	311	299	264	257	235	263	259	237	239	258	266	279	302	3,470
Dollars (000)	$606	$614	$608	$557	$526	$490	$515	$511	$496	$513	$549	$558	$580	$667	$7,185
Avg Price per Unit	$2.03	$1.98	$2.04	$2.11	$2.05	$2.08	$1.96	$1.97	$2.09	$2.14	$2.13	$2.10	$2.08	$2.21	$2.07
Unit Share	18.6	19.0	19.9	18.4	18.5	18.2	17.6	18.7	15.0	15.2	16.2	17.6	17.0	17.8	17.6
ACV Weighted Distribution	99.7%	99.9%	100.0%	99.6%	99.1%	99.0%	99.0%	99.0%	100.0%	100.0%	100.0%	99.5%	99.6%	99.7%	100.0%
TOTAL A&C ITALIAN BAKERIES															
Units (000)	6	6	7	6	5	5	5	5	5	5	5	5	5	5	69
Dollars (000)	$9	$9	$10	$8	$7	$7	$7	$7	$7	$8	$8	$8	$8	$8	$103
Avg Price per Unit	$1.42	$1.42	$1.42	$1.42	$1.42	$1.42	$1.41	$1.42	$1.42	$1.59	$1.62	$1.62	$1.62	$1.62	$1.49
Unit Share	0.4	0.4	0.5	0.4	0.4	0.4	0.3	0.4	0.3	0.3	0.3	0.3	0.3	0.3	0.4
ACV Weighted Distribution	28.0%	28.4%	28.5%	28.0%	27.5%	27.1%	26.7%	25.4%	33.9%	48.9%	49.6%	46.6%	42.3%	41.5%	49.6%
TOTAL EARTH GRAINS															
Units (000)	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Dollars (000)	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Avg Price per Unit	$.00	$.00	$.00	$.00	$.00	$.00	$.00	$.00	$.00	$.00	$.00	$.00	$.00	$.00	$.00
Unit Share	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
ACV Weighted Distribution	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Continental Specialty															

Exhibit 6 Deposition of Joseph Vogel

FBI 00708
So CONFIDENTIAL COUNSEL ONLY Inc., 199

Flowers Industries Miami - Monthly InfoScan Sales Analysis

Category: Class 2 - Soft Variety

rs Miami	4 Weeks Ending Feb 9, 97	4 Weeks Ending Mar 9, 97	4 Weeks Ending Apr 6, 97	4 Weeks Ending May 4, 97	4 Weeks Ending Jun 1, 97	4 Weeks Ending Jun 29, 97	4 Weeks Ending Jul 27, 97	4 Weeks Ending Aug 24, 97	4 Weeks Ending Sep 21, 97	4 Weeks Ending Oct 19, 97	4 Weeks Ending Nov 16, 97	4 Weeks Ending Dec 14, 97	4 Weeks Ending Jan 11, 98	4 Weeks , 98	Latest 52 Weeks
llars (000)	$37	$36	$35	$32	$34	$39	$35	$35	$36	$41	$51	$38	$38	$32	$481
g Price per Unit	$2.00	$1.99	$2.00	$2.01	$1.86	$1.60	$1.79	$1.69	$1.59	$1.55	$1.54	$1.75	$1.84	$1.83	$1.74
it Share	0.9	0.9	0.9	0.8	1.1	1.4	1.1	1.2	1.2	1.5	1.8	1.2	1.1	0.9	1.2
V Weighted Distribution	99.6%	99.9%	100.0%	97.5%	97.1%	96.9%	96.9%	98.1%	96.9%	97.1%	98.4%	97.3%	99.1%	99.4%	100.0%
e Label Variety															
its (000)	600	613	552	624	502	487	494	478	500	501	507	521	508	550	6,837
llars (000)	$692	$716	$649	$648	$584	$576	$582	$554	$583	$567	$592	$611	$589	$623	$7,873
g Price per Unit	$1.15	$1.17	$1.18	$1.04	$1.16	$1.18	$1.18	$1.16	$1.17	$1.13	$1.17	$1.17	$1.16	$1.13	$1.15
it Share	30.7	30.8	29.0	32.6	29.0	28.2	27.4	27.6	27.2	28.6	27.8	29.2	26.9	28.5	28.7
V Weighted Distribution	99.3%	99.7%	99.9%	99.1%	98.2%	97.8%	97.8%	97.1%	98.0%	98.2%	98.4%	98.6%	98.7%	99.1%	99.9%

Exhibit "A"-Evidence Submitted by Defendant IMA

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FBI 00707

Monthly Sales Trends

Source: Information Resources, Inc., 1996

Flowers Industries Miami - Monthly InfoScan Sales Analysis

Category: Class 3 - Specialty

lowers Miami	4 Weeks Ending Feb 9, 97	4 Weeks Ending Mar 9, 97	4 Weeks Ending Apr 6, 97	4 Weeks Ending May 4, 97	4 Weeks Ending Jun 1, 97	4 Weeks Ending Jun 29, 97	4 Weeks Ending Jul 27, 97	4 Weeks Ending Aug 24, 97	4 Weeks Ending Sep 21, 97	4 Weeks Ending Oct 19, 97	4 Weeks Ending Nov 16, 97	4 Weeks Ending Dec 14, 97	4 Weeks Ending Jan 11, 98	4 Weeks , 98	Latest 52 Weeks
Units (000)	1	2	2	1	1	1	1	1	1	1	1	1	2	2	16
Dollars (000)	$3	$3	$3	$2	$2	$2	$2	$2	$2	$2	$2	$2	$3	$3	$28
Avg Price per Unit	$1.86	$1.50	$1.89	$1.90	$1.92	$1.93	$1.91	$1.93	$1.91	$1.91	$1.75	$1.75	$1.66	$1.53	$1.77
Unit Share	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1
ACV Weighted Distribution	8.9%	9.1%	8.7%	9.2%	8.3%	9.6%	9.6%	9.0%	9.0%	9.0%	9.0%	9.2%	8.5%	9.4%	9.6%
TOTAL PRIVATE LABEL/GENERIC															
Units (000)	499	512	495	439	419	395	458	409	426	391	460	473	553	562	5,992
Dollars (000)	$625	$642	$620	$552	$516	$489	$534	$505	$536	$488	$565	$583	$681	$689	$7,401
Avg Price per Unit	$1.25	$1.25	$1.25	$1.26	$1.23	$1.24	$1.17	$1.23	$1.26	$1.25	$1.23	$1.23	$1.23	$1.23	$1.24
Unit Share	31.2	31.4	32.9	30.6	30.1	30.5	30.6	29.5	27.0	24.9	28.9	31.3	33.7	33.2	30.4
ACV Weighted Distribution	99.3%	99.7%	99.9%	99.1%	98.2%	97.8%	97.8%	97.1%	98.0%	98.2%	98.4%	98.6%	98.7%	99.1%	99.9%

CONFIDENTIAL COUNSEL ONLY

FBI 00709

Exhibit "A" - Evidence Submitted by Defendant IMA

Montly Sales Trends

Source: Information Resources, Inc., 1996

Flowers Industries Miami - Monthly InfoScan Sales Analysis

Category: Class 4 - Buns

Exhibit "A" - Evidence Supporting Motion

Flowers Miami	4 Weeks Ending Feb 9, 97	4 Weeks Ending Mar 9, 97	4 Weeks Ending Apr 6, 97	4 Weeks Ending May 4, 97	4 Weeks Ending Jun 1, 97	4 Weeks Ending Jun 29, 97	4 Weeks Ending Jul 27, 97	4 Weeks Ending Aug 24, 97	4 Weeks Ending Sep 21, 97	4 Weeks Ending Oct 19, 97	4 Weeks Ending Nov 16, 97	4 Weeks Ending Dec 14, 97	4 Weeks Ending Jan 11, 98	4 Weeks, 98	Latest 52 Weeks
TTL CLASS 4 - BUNS															
Units (000)	988	1,014	1,050	998	1,230	1,116	1,341	1,059	1,107	875	889	778	845	930	13,231
Dollars (000)	$1,106	$1,129	$1,168	$1,167	$1,262	$1,211	$1,353	$1,124	$1,141	$1,008	$1,010	$902	$999	$1,060	$14,535
Avg Price per Unit	$1.12	$1.11	$1.11	$1.17	$1.03	$1.08	$1.01	$1.06	$1.03	$1.15	$1.14	$1.16	$1.18	$1.14	$1.10
Unit Share	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
ACV Weighted Distribution	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
FLWR/DAND/SPCHRV															
Units (000)	121	104	112	125	144	140	149	102	112	105	112	94	102	98	1,502
Dollars (000)	$126	$109	$118	$130	$153	$149	$157	$105	$115	$108	$115	$97	$106	$110	$1,573
Avg Price per Unit	$1.04	$1.04	$1.05	$1.04	$1.06	$1.06	$1.06	$1.03	$1.03	$1.03	$1.03	$1.03	$1.04	$1.13	$1.05
Unit Share	12.3	10.3	10.7	12.5	11.7	12.6	11.1	9.7	10.1	12.1	12.6	12.1	12.1	10.5	11.3
ACV Weighted Distribution	69.1%	77.3%	72.5%	73.8%	89.8%	79.9%	87.7%	90.5%	93.4%	96.1%	92.3%	83.8%	83.6%	80.1%	96.1%
MERITA/FAYSTEE															
Units (000)	11	10	11	10	10	13	16	14	10	11	13	11	12	11	153
Dollars (000)	$20	$20	$22	$19	$19	$23	$25	$22	$19	$19	$21	$21	$23	$20	$272
Avg Price per Unit	$1.85	$1.96	$1.97	$2.00	$1.93	$1.76	$1.53	$1.58	$1.83	$1.71	$1.60	$1.87	$1.87	$1.81	$1.78
Unit Share	1.1	1.0	1.1	1.0	0.8	1.1	1.2	1.3	0.9	1.3	1.5	1.4	1.5	1.2	1.2
ACV Weighted Distribution	26.2%	27.7%	25.4%	25.7%	26.2%	26.5%	26.3%	26.3%	26.9%	27.7%	29.8%	30.1%	29.8%	32.0%	32.0%
HOLSUM															
Units (000)	27	28	29	29	34	40	53	34	32	29	29	23	27	30	417
Dollars (000)	$44	$45	$46	$46	$54	$60	$73	$48	$50	$45	$46	$36	$43	$48	$641
Avg Price per Unit	$1.59	$1.59	$1.59	$1.60	$1.60	$1.50	$1.38	$1.43	$1.55	$1.55	$1.59	$1.60	$1.60	$1.59	$1.54
Unit Share	2.8	2.8	2.8	2.9	2.7	3.6	4.0	3.2	2.9	3.3	3.3	2.9	3.2	3.3	3.2
ACV Weighted Distribution	98.1%	98.4%	96.8%	98.1%	98.5%	98.5%	97.3%	96.6%	96.6%	96.7%	96.8%	97.6%	97.7%	98.3%	98.5%
PRIVATE LABEL															
Units (000)	567	592	597	550	687	623	766	526	620	470	481	429	442	518	7,300
Dollars (000)	$474	$477	$474	$498	$520	$495	$562	$458	$454	$397	$395	$368	$396	$424	$5,917
Avg Price per Unit	$.84	$.81	$.79	$.91	$.76	$.79	$.73	$.87	$.73	$.84	$.82	$.86	$.89	$.82	$.81
Unit Share	57.4	58.3	56.9	55.1	55.9	55.8	57.1	49.6	56.0	53.7	54.1	55.1	52.4	55.6	55.2
ACV Weighted Distribution	99.6%	99.9%	100.0%	99.5%	99.0%	98.8%	98.8%	98.1%	98.1%	98.2%	98.4%	99.0%	99.1%	99.4%	100.0%

FBI 00710

CONFIDENTIAL COUNSEL ONLY

Monthly Sales Trends

Source: Information Resources, Inc., 1996

Flowers Industries Orlando - Monthly InfoScan Sales Analysis

Category: Class 3 - Specialty

Exhibit "A" Entitled Deposition of Mr. Jim Bryce Submitted by Defendant

Orlando, FL	4 Weeks Ending Feb 9, 97	4 Weeks Ending Mar 9, 97	4 Weeks Ending Apr 6, 97	4 Weeks Ending May 4, 97	4 Weeks Ending Jun 1, 97	4 Weeks Ending Jun 29, 97	4 Weeks Ending Jul 27, 97	4 Weeks Ending Aug 24, 97	4 Weeks Ending Sep 21, 97	4 Weeks Ending Oct 19, 97	4 Weeks Ending Nov 16, 97	4 Weeks Ending Dec 14, 97	4 Weeks Ending Jan 11, 98	4 Weeks , 98	Latest 52 Weeks
CLASS 3 - SPECIALTY															
Units (000)	695	695	654	649	608	623	641	631	604	641	705	690	728	764	8,632
Dollars (000)	$1,099	$1,088	$1,045	$1,031	$964	$978	$994	$973	$950	$1,010	$1,085	$1,060	$1,113	$1,211	$13,502
Avg Price per Unit	$1.58	$1.57	$1.60	$1.59	$1.59	$1.57	$1.55	$1.54	$1.57	$1.58	$1.54	$1.54	$1.53	$1.59	$1.56
Unit Share	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
ACV Weighted Dist	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
COBBLESTONE MILL															
Units (000)	43	41	40	40	37	38	35	33	37	44	38	44	53	56	537
Dollars (000)	$75	$72	$71	$71	$65	$67	$64	$61	$64	$67	$66	$70	$77	$88	$903
Avg Price per Unit	$1.75	$1.77	$1.76	$1.77	$1.76	$1.77	$1.81	$1.83	$1.75	$1.52	$1.73	$1.59	$1.43	$1.59	$1.68
Unit Share	6.2	5.9	6.1	6.2	6.1	6.0	5.5	5.3	6.1	6.9	5.4	6.4	7.3	7.3	6.2
ACV Weighted Dist	97.6%	98.8%	99.0%	98.5%	98.2%	97.0%	97.0%	98.4%	99.0%	100.0%	98.7%	97.8%	98.0%	98.1%	100.0%
PEPPERIDGE FARM															
Units (000)	133	146	125	123	112	115	112	111	121	129	127	120	138	147	1,624
Dollars (000)	$273	$291	$261	$256	$235	$238	$233	$232	$243	$267	$277	$262	$283	$315	$3,394
Avg Price per Unit	$2.06	$2.00	$2.09	$2.09	$2.09	$2.08	$2.09	$2.10	$2.02	$2.07	$2.19	$2.18	$2.06	$2.14	$2.09
Unit Share	19.1	21.0	19.1	18.9	18.5	18.4	17.4	17.6	20.0	20.1	18.0	17.5	18.9	19.3	18.8
ACV Weighted Dist	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
Ttl Arn/Oro/Fran															
Units (000)	101	106	97	94	86	97	93	95	82	84	91	86	91	98	1,198
Dollars (000)	$198	$200	$196	$195	$175	$184	$183	$184	$168	$176	$192	$183	$186	$215	$2,437
Avg Price per Unit	$1.95	$1.89	$2.02	$2.07	$2.05	$1.90	$1.98	$1.93	$2.05	$2.11	$2.10	$2.13	$2.05	$2.20	$2.03
Unit Share	14.6	15.2	14.8	14.5	14.1	15.5	14.4	15.1	13.6	13.0	12.9	12.5	12.5	12.8	13.9
ACV Weighted Dist	100.0%	99.7%	99.8%	99.7%	99.6%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
PRIVATE LABEL/GENERIC															
Units (000)	202	199	200	191	197	195	200	190	178	181	224	218	229	246	[illegible]
Dollars (000)	$251	$246	$250	$238	$241	$241	$247	$237	$225	$230	$274	$270	$281	$302	[illegible]
Avg Price per Unit	$1.24	$1.24	$1.25	$1.25	$1.23	$1.23	$1.23	$1.25	$1.26	$1.27	$1.22	$1.24	$1.23	$1.22	[illegible]
Unit Share	29.1	28.6	30.7	29.4	32.3	31.3	31.3	30.1	29.5	28.3	31.8	31.5	31.4	32.3	[illegible]

Flowers Industries Orlando - Monthly InfoScan Sales Analysis

Category: Class 2 - Soft Variety

ndo,	4 Weeks Ending Feb 9, 97	4 Weeks Ending Mar 9, 97	4 Weeks Ending Apr 6, 97	4 Weeks Ending May 4, 97	4 Weeks Ending Jun 1, 97	4 Weeks Ending Jun 29, 97	4 Weeks Ending Jul 27, 97	4 Weeks Ending Aug 24, 97	4 Weeks Ending Sep 21, 97	4 Weeks Ending Oct 19, 97	4 Weeks Ending Nov 16, 97	4 Weeks Ending Dec 14, 97	4 Weeks Ending Jan 11, 98	4 Weeks , 98	Latest 52 Weeks
nit Share	13.1	10.7	10.9	10.1	11.8	10.5	10.3	11.4	10.9	10.3	10.4	10.6	13.3	12.0	11.0
CV Weighted Distribution	100.0%	99.7%	99.8%	99.7%	99.6%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
an Meal															
nits (000)	8	7	6	5	5	7	9	8	10	7	8	12	6	17	108
ollars (000)	$12	$11	$10	$9	$9	$11	$13	$12	$15	$11	$12	$19	$10	$20	$162
vg Price per Unit	$1.52	$1.58	$1.74	$1.77	$1.68	$1.54	$1.43	$1.52	$1.42	$1.57	$1.53	$1.61	$1.63	$1.17	$1.50
nit Share	0.7	0.6	0.5	0.4	0.5	0.6	0.7	0.7	0.9	0.6	0.7	1.0	0.6	1.4	0.7
CV Weighted Distribution	95.9%	96.9%	97.0%	92.8%	96.6%	95.4%	97.6%	97.6%	98.4%	97.6%	98.4%	97.6%	97.9%	96.9%	98.4%
rivate Label/Generic															
nits (000)	488	490	441	483	450	426	437	430	413	421	470	453	450	492	5,857
ollars (000)	$574	$576	$523	$545	$531	$503	$515	$506	$480	$490	$550	$531	$532	$575	$6,858
vg Price per Unit	$1.18	$1.18	$1.19	$1.13	$1.18	$1.18	$1.18	$1.18	$1.16	$1.16	$1.17	$1.17	$1.18	$1.17	$1.17
nit Share	41.5	40.3	36.7	39.9	41.5	36.4	35.4	37.4	35.9	36.3	39.3	39.1	39.2	38.8	38.2
CV Weighted Distribution	99.6%	99.7%	100.0%	100.0%	100.0%	100.0%	99.6%	99.6%	99.6%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

CONFIDENTIAL COUNSEL ONLY

FBI 00717

Exhibit "A" - Evidence Submitted by Defendant IMA

Flowers Industries Orlando - Monthly InfoScan Sales Analysis

Category: Class 3 - Specialty

Orlando, FL	4 Weeks Ending Feb 9, 97	4 Weeks Ending Mar 9, 97	4 Weeks Ending Apr 6, 97	4 Weeks Ending May 4, 97	4 Weeks Ending Jun 1, 97	4 Weeks Ending Jun 29, 97	4 Weeks Ending Jul 27, 97	4 Weeks Ending Aug 24, 97	4 Weeks Ending Sep 21, 97	4 Weeks Ending Oct 19, 97	4 Weeks Ending Nov 16, 97	4 Weeks Ending Dec 14, 97	4 Weeks Ending Jan 11, 98	4 Weeks , 98	Latest 52 Weeks
	99.6%	99.7%	100.0%	100.0%	100.0%	100.0%	99.6%	99.6%	99.6%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

CONFIDENTIAL COUNSEL ONLY

FBI 00719

Exhibit "A" --Evidence Submitted by Defendant IMA

Monthly Sales Trends

Source: Information Resources, Inc., 1996

Flowers Industries Orlando - Monthly InfoScan Sales Analysis

Category: Class 4 - Buns

Exhibit "A" - Genesis submitted by Defendant WA

Orlando, FL	4 Weeks Ending Feb 9, 97	4 Weeks Ending Mar 9, 97	4 Weeks Ending Apr 6, 97	4 Weeks Ending May 4, 97	4 Weeks Ending Jun 1, 97	4 Weeks Ending Jun 29, 97	4 Weeks Ending Jul 27, 97	4 Weeks Ending Aug 24, 97	4 Weeks Ending Sep 21, 97	4 Weeks Ending Oct 19, 97	4 Weeks Ending Nov 16, 97	4 Weeks Ending Dec 14, 97	4 Weeks Ending Jan 11, 98	4 Weeks , 98	Latest 52 Weeks
TTL CLASS 4 - BUNS															
Units (000)	489	526	558	550	711	678	795	596	608	493	486	406	439	514	7,360
Dollars (000)	$512	$553	$566	$580	$670	$652	$736	$576	$566	$495	$485	$417	$458	$511	$7,267
Avg Price per Unit	$1.05	$1.05	$1.02	$1.06	$.94	$.96	$.93	$.97	$.93	$1.00	$1.00	$1.03	$1.04	$.99	$.99
Unit Share	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
ACV Weighted Distribution	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
SNBM/FLWR/SPC HVST															
Units (000)	37	51	61	59	66	66	72	56	54	47	47	40	47	45	711
Dollars (000)	$48	$58	$67	$65	$71	$72	$77	$61	$58	$50	$50	$42	$49	$51	$771
Avg Price per Unit	$1.31	$1.14	$1.10	$1.09	$1.08	$1.08	$1.08	$1.08	$1.07	$1.06	$1.06	$1.07	$1.04	$1.14	$1.08
Unit Share	7.5	9.7	10.9	10.8	9.3	9.8	9.0	9.5	8.8	9.6	9.7	9.8	10.6	8.7	9.7
ACV Weighted Distribution	47.8%	52.3%	52.8%	56.5%	57.3%	59.6%	70.5%	70.4%	72.8%	76.4%	74.1%	66.5%	68.2%	67.4%	76.4%
MERITA/TAYSTEE/AUT GRN															
Units (000)	54	58	59	58	69	94	117	90	89	82	79	68	74	90	1,027
Dollars (000)	$75	$81	$81	$80	$85	$102	$122	$96	$93	$87	$85	$76	$81	$98	$1,169
Avg Price per Unit	$1.37	$1.39	$1.37	$1.38	$1.24	$1.09	$1.05	$1.07	$1.05	$1.06	$1.07	$1.11	$1.10	$1.08	$1.14
Unit Share	11.1	11.0	10.6	10.5	9.7	13.8	14.7	15.1	14.6	16.7	16.3	16.8	16.8	17.6	14.0
ACV Weighted Distribution	96.5%	97.5%	98.0%	96.9%	96.6%	95.5%	94.9%	95.9%	96.0%	95.5%	94.7%	94.7%	95.3%	96.3%	98.0%
COUNTRY HEARTH															
Units (000)	6	5	5	10	19	18	15	12	9	9	9	8	10	11	140
Dollars (000)	$9	$8	$8	$14	$21	$21	$19	$16	$12	$13	$13	$11	$14	$15	$186
Avg Price per Unit	$1.54	$1.74	$1.63	$1.36	$1.13	$1.17	$1.25	$1.27	$1.44	$1.40	$1.44	$1.45	$1.41	$1.38	$1.33
Unit Share	1.2	0.9	0.9	1.9	2.6	2.7	1.9	2.1	1.4	1.8	1.9	1.9	2.3	2.1	1.9
ACV Weighted Distribution	46.4%	46.4%	51.0%	62.1%	75.0%	79.4%	74.0%	71.4%	61.8%	61.3%	72.3%	72.3%	74.7%	72.7%	71.4%
WONDER															
Units (000)	0	0	0	0	0	0	0	0	0	0	0	0	0	0	[illegible]
Dollars (000)	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$1
Avg Price per Unit	$1.29	$1.29	$.00	$.00	$.00	$.99	$.99	$.99	$.99	$.99	$.99	$.99	$1.06	$1.09	[illegible]
Unit Share	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.1	[illegible]

Monthly Sales Trends

FBI 00720

Source:

CONFIDENTIAL COUNSEL ONLY

Flowers Industries Memphis - Monthly InfoScan Sales Analysis

Category: Class 3 - Specialty

Memphis, TN	4 Weeks Ending Feb 9, 97	4 Weeks Ending Mar 9, 97	4 Weeks Ending Apr 6, 97	4 Weeks Ending May 4, 97	4 Weeks Ending Jun 1, 97	4 Weeks Ending Jun 29, 97	4 Weeks Ending Jul 27, 97	4 Weeks Ending Aug 24, 97	4 Weeks Ending Sep 21, 97	4 Weeks Ending Oct 19, 97	4 Weeks Ending Nov 16, 97	4 Weeks Ending Dec 14, 97	4 Weeks Ending Jan 11, 98	4 Weeks , 98	Latest 52 Weeks
CLASS 3 - SPECIALTY															
Units (000)	102	103	91	103	86	95	87	106	97	91	101	97	110	114	1,280
Dollars (000)	$206	$205	$190	$206	$181	$193	$189	$219	$207	$197	$212	$210	$234	$231	$2,675
Avg Price per Unit	$2.02	$2.00	$2.09	$2.00	$2.11	$2.04	$2.17	$2.06	$2.12	$2.17	$2.09	$2.18	$2.13	$2.03	$2.09
Unit Share	9.2	9.6	8.9	9.4	8.1	8.4	7.4	8.5	8.4	8.3	9.0	8.2	8.9	9.0	8.7
ACV Weighted Distribution	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
COBBLESTONE MILL															
Units (000)	5	5	4	4	4	4	4	4	4	4	4	4	6	5	57
Dollars (000)	$11	$10	$9	$9	$9	$8	$8	$9	$10	$10	$8	$9	$12	$13	$124
Avg Price per Unit	$2.09	$2.11	$2.13	$2.13	$2.12	$2.14	$2.23	$2.27	$2.34	$2.26	$2.21	$2.17	$2.03	$2.39	$2.19
Unit Share	0.5	0.5	0.4	0.4	0.4	0.3	0.3	0.3	0.4	0.4	0.3	0.4	0.5	0.4	0.4
ACV Weighted Distribution	73.2%	72.1%	72.0%	74.4%	76.6%	75.3%	72.3%	69.2%	77.0%	71.0%	77.3%	77.9%	80.5%	77.9%	80.5%
BREAD DUJOUR															
Units (000)	1	1	1	1	1	1	1	1	1	1	1	1	1	1	12
Dollars (000)	$2	$2	$2	$2	$2	$2	$2	$2	$2	$2	$2	$2	$3	$2	$25
Avg Price per Unit	$2.27	$2.28	$1.97	$2.27	$2.26	$2.28	$2.28	$2.28	$2.31	$1.95	$2.11	$1.69	$1.98	$2.26	$2.12
Unit Share	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1
ACV Weighted Distribution	77.5%	68.4%	70.4%	67.2%	67.6%	68.7%	67.3%	73.7%	70.1%	73.4%	78.2%	85.4%	84.2%	76.7%	85.4%
EARTH GRAINS															
Units (000)	22	23	23	23	23	23	22	23	23	23	22	23	27	22	300
Dollars (000)	$48	$49	$51	$50	$50	$50	$49	$53	$51	$49	$48	$51	$59	$49	$659
Avg Price per Unit	$2.16	$2.15	$2.16	$2.19	$2.18	$2.19	$2.21	$2.25	$2.20	$2.15	$2.21	$2.23	$2.19	$2.23	$2.19
Unit Share	2.0	2.1	2.3	2.1	2.2	2.0	1.9	1.9	2.0	2.1	1.9	1.9	2.2	1.8	2.0
ACV Weighted Distribution	96.7%	95.8%	97.3%	96.0%	96.0%	96.0%	97.5%	97.3%	95.8%	95.8%	95.7%	95.7%	95.7%	97.4%	97.5%
ARNOLD/OROWEAT/SUNMAID															
Units (000)	26	30	20	32	16	27	18	27	24	18	30	17	17	39	315
Dollars (000)	$51	$57	$44	$60	$37	$51	$41	$54	$49	$44	$59	$42	$41	$71	$650
Avg Price per Unit	$1.98	$1.89	$2.18	$1.86	$2.33	$1.90	$2.31	$2.02	$2.07	$2.40	$1.96	$2.44	$2.46	$1.80	$2.06
Unit Share	2.3	2.8	2.0	3.0	1.5	2.4	1.6	2.1	2.0	1.7	2.7	1.6	1.4	3.1	2.3
ACV Weighted Distribution	81.4%	82.1%	77.3%	77.6%	77.7%	78.8%	81.3%	82.1%	83.2%	83.2%	84.9%	85.4%	83.5%	83.4%	85.4%
PEPPERIDGE FARM															

Exhibit "A" - Evidence Submitted by Defendant IMA

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FBI 00847

Flowers Industries Memphis - Monthly InfoScan Sales Analysis

Exhibit "A" Page 3 of 3 Produced by Defendant WAL

Category: Class 2 - Soft Variety

	4 Weeks Ending Feb 9, 97	4 Weeks Ending Mar 9, 97	4 Weeks Ending Apr 6, 97	4 Weeks Ending May 4, 97	4 Weeks Ending Jun 1, 97	4 Weeks Ending Jun 29, 97	4 Weeks Ending Jul 27, 97	4 Weeks Ending Aug 24, 97	4 Weeks Ending Sep 21, 97	4 Weeks Ending Oct 19, 97	4 Weeks Ending Nov 16, 97	4 Weeks Ending Dec 14, 97	4 Weeks Ending Jan 11, 98	4 Weeks , 98	Latest 52 Weeks
S 2 - SOFT VARIETY															
its (000)	390	378	361	398	376	379	416	459	405	374	407	448	460	445	5,306
llars (000)	$549	$532	$512	$549	$530	$540	$570	$621	$585	$534	$556	$579	$615	$588	$7,312
g Price per Unit	$1.41	$1.41	$1.42	$1.38	$1.41	$1.43	$1.37	$1.35	$1.45	$1.43	$1.37	$1.29	$1.34	$1.32	$1.38
it Share	35.3	35.3	35.4	36.5	35.3	33.7	35.5	36.5	35.1	34.0	36.1	38.0	37.2	35.3	35.7
V Weighted Distribution	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
RES OWN															
its (000)	19	17	20	23	28	19	19	21	20	17	15	19	33	23	274
llars (000)	$29	$25	$30	$35	$40	$32	$33	$36	$34	$29	$26	$31	$43	$41	$435
g Price per Unit	$1.54	$1.49	$1.54	$1.54	$1.46	$1.64	$1.72	$1.68	$1.72	$1.70	$1.75	$1.63	$1.31	$1.74	$1.59
it Share	1.7	1.6	1.9	2.1	2.6	1.7	1.6	1.7	1.7	1.6	1.3	1.6	2.6	1.8	1.9
CV Weighted Distribution	78.8%	77.1%	78.7%	82.6%	82.6%	82.6%	83.5%	83.5%	84.2%	84.2%	84.4%	84.2%	100.0%	100.0%	100.0%
S															
its (000)	30	25	27	28	26	25	30	23	30	19	18	19	19	17	308
ollars (000)	$42	$38	$40	$40	$39	$37	$45	$35	$40	$29	$27	$28	$29	$27	$455
vg Price per Unit	$1.42	$1.52	$1.49	$1.43	$1.52	$1.50	$1.49	$1.50	$1.37	$1.53	$1.50	$1.50	$1.53	$1.55	$1.49
nit Share	2.7	2.3	2.6	2.6	2.4	2.2	2.6	1.8	2.6	1.8	1.6	1.6	1.5	1.4	2.2
CV Weighted Distribution	84.0%	84.0%	84.0%	84.1%	84.1%	84.1%	82.6%	82.6%	83.8%	80.6%	82.7%	77.2%	80.6%	77.3%	84.1%
IDER/INTERSTATE															
nits (000)	64	58	63	64	54	56	63	65	67	59	55	57	56	61	779
ollars (000)	$107	$100	$105	$109	$95	$98	$105	$115	$112	$103	$95	$98	$100	$108	$1,341
vg Price per Unit	$1.67	$1.72	$1.66	$1.68	$1.74	$1.74	$1.67	$1.76	$1.67	$1.76	$1.72	$1.72	$1.78	$1.77	$1.72
nit Share	5.8	5.5	6.2	5.9	5.1	5.0	5.4	5.2	5.8	5.3	4.9	4.8	4.5	4.8	5.3
CV Weighted Distribution	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
ONIAL															
Units (000)	34	39	34	35	38	41	36	43	46	49	58	56	39	40	555
Dollars (000)	$55	$63	$59	$56	$62	$69	$64	$71	$78	$80	$91	$88	$70	$70	$922
Avg Price per Unit	$1.62	$1.62	$1.72	$1.58	$1.63	$1.67	$1.77	$1.66	$1.71	$1.64	$1.58	$1.57	$1.79	$1.73	$1.66
Unit Share	3.0	3.7	3.3	3.2	3.5	3.7	3.1	3.4	4.0	4.5	5.1	4.8	3.2	3.2	4.5
ACV Weighted Distribution	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

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Exhibit "A" Evidence Submitted by Defendant IMA

Category: Class 3 - Specialty

Memphis, TN	4 Weeks Ending Feb 9, 97	4 Weeks Ending Mar 9, 97	4 Weeks Ending Apr 8, 97	4 Weeks Ending May 4, 97	4 Weeks Ending Jun 1, 97	4 Weeks Ending Jun 29, 97	4 Weeks Ending Jul 27, 97	4 Weeks Ending Aug 24, 97	4 Weeks Ending Sep 21, 97	4 Weeks Ending Oct 19, 97	4 Weeks Ending Nov 16, 97	4 Weeks Ending Dec 14, 97	4 Weeks Ending Jan 11, 98	4 Weeks , 98	Latest 52 Weeks
Units (000)	12	11	11	12	12	12	13	12	13	14	14	14	14	13	164
Dollars (000)	$25	$23	$23	$24	$24	$25	$26	$27	$29	$29	$29	$30	$30	$28	$347
Avg Price per Unit	$2.05	$2.06	$2.03	$2.08	$2.08	$2.10	$2.07	$2.13	$2.15	$2.15	$2.18	$2.16	$2.12	$2.22	$2.12
Unit Share	1.1	1.0	1.1	1.1	1.1	1.1	1.1	1.0	1.2	1.2	1.2	1.2	1.1	1.0	1.1
ACV Weighted Distribution	73.8%	73.7%	73.5%	73.5%	74.9%	73.5%	71.4%	71.5%	72.4%	72.5%	72.5%	72.9%	73.0%	73.1%	74.9%

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Flowers Industries Memphis - Monthly InfoScan Sales Analysis

Category: Class 4 - Buns

Exhibit "A" - Bridgeport Bakery

Memphis, TN	4 Weeks Ending Feb 9, 97	4 Weeks Ending Mar 9, 97	4 Weeks Ending Apr 6, 97	4 Weeks Ending May 4, 97	4 Weeks Ending Jun 1, 97	4 Weeks Ending Jun 29, 97	4 Weeks Ending Jul 27, 97	4 Weeks Ending Aug 24, 97	4 Weeks Ending Sep 21, 97	4 Weeks Ending Oct 19, 97	4 Weeks Ending Nov 16, 97	4 Weeks Ending Dec 14, 97	4 Weeks Ending Jan 11, 98	4 Weeks , 98	Latest 52 Weeks
CLASS 4 - BUNS															
Units (000)	228	216	253	267	397	334	456	305	401	235	257	209	228	298	3,855
Dollars (000)	$229	$231	$262	$281	$366	$330	$424	$316	$405	$254	$247	$223	$252	$260	$3,850
Avg Price per Unit	$1.00	$1.07	$1.03	$1.06	$.92	$.99	$.93	$1.04	$1.01	$1.08	$.96	$1.07	$1.10	$.87	$1.00
Unit Share	64.8	63.8	57.0	68.7	76.5	74.4	79.3	70.9	75.6	65.5	66.5	38.7	41.5	68.7	67.5
ACV Weighted Distribution	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
FLOWERS SB,FL															
Units (000)	1	1	2	3	5	5	4	4	3	2	4	5	5	5	48
Dollars (000)	$1	$1	$2	$3	$6	$5	$5	$5	$4	$3	$4	$5	$6	$6	$55
Avg Price per Unit	$1.11	$1.04	$1.03	$1.07	$1.05	$1.09	$1.13	$1.16	$1.33	$1.40	$1.10	$1.05	$1.17	$1.33	$1.15
Unit Share	0.3	0.4	0.4	0.8	1.0	1.1	0.7	0.9	0.5	0.7	1.0	0.8	1.0	1.1	0.9
ACV Weighted Distribution	12.9%	15.6%	12.6%	48.4%	51.4%	53.5%	54.3%	58.3%	59.4%	58.8%	55.5%	55.4%	74.5%	71.2%	74.5%
Harts/Lewis Bake Shop															
Units (000)	2	3	3	4	5	4	4	6	5	4	3	4	5	6	56
Dollars (000)	$3	$3	$4	$5	$6	$5	$5	$7	$6	$5	$4	$4	$7	$7	$70
Avg Price per Unit	$1.29	$1.20	$1.17	$1.20	$1.26	$1.24	$1.30	$1.20	$1.23	$1.27	$1.28	$1.24	$1.30	$1.26	$1.24
Unit Share	0.6	0.8	0.7	1.1	0.9	1.0	0.7	1.4	0.9	1.1	0.9	0.7	0.9	1.4	1.0
ACV Weighted Distribution	26.9%	36.0%	34.3%	47.1%	47.1%	47.3%	46.3%	49.2%	48.5%	47.4%	43.1%	43.0%	43.0%	42.9%	49.2%
WONDER															
Units (000)	8	7	8	7	7	7	7	7	7	7	7	29	10	7	118
Dollars (000)	$12	$11	$12	$11	$11	$12	$11	$12	$11	$11	$11	$36	$15	$11	$175
Avg Price per Unit	$1.59	$1.59	$1.46	$1.57	$1.59	$1.60	$1.61	$1.62	$1.63	$1.55	$1.58	$1.21	$1.52	$1.63	$1.48
Unit Share	2.2	2.1	1.9	1.8	1.3	1.7	1.2	1.7	1.3	2.0	1.8	5.4	1.8	1.6	2.6
ACV Weighted Distribution	90.7%	94.2%	96.9%	91.5%	94.3%	93.1%	93.1%	94.3%	94.9%	95.1%	97.0%	92.0%	88.3%	88.3%	97.0%
Colonial															
Units (000)	19	19	23	22	24	21	24	23	27	19	20	18	23	21	285
Dollars (000)	$25	$25	$30	$29	$31	$28	$33	$31	$35	$28	$28	$25	$33	$30	$385
Avg Price per Unit	$1.31	$1.32	$1.31	$1.32	$1.32	$1.32	$1.36	$1.33	$1.31	$1.43	$1.40	$1.39	$1.40	$1.39	$1.35
Unit Share	5.3	5.7	5.2	5.6	4.5	4.7	4.2	5.4	5.0	5.4	5.2	3.4	4.2	4.9	4.9
ACV Weighted Distribution	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

CONFIDENTIAL COUNSEL ONLY

FBI 00849

Flowers Industries New Orleans- Monthly InfoScan Sales Analysis

Category: Class 3 - Specialty

Flowers New Orleans-Mobile	4 Weeks Ending Feb 9, 97	4 Weeks Ending Mar 9, 97	4 Weeks Ending Apr 6, 97	4 Weeks Ending May 4, 97	4 Weeks Ending Jun 1, 97	4 Weeks Ending Jun 29, 97	4 Weeks Ending Jul 27, 97	4 Weeks Ending Aug 24, 97	4 Weeks Ending Sep 21, 97	4 Weeks Ending Oct 19, 97	4 Weeks Ending Nov 16, 97	4 Weeks Ending Dec 14, 97	4 Weeks Ending Jan 11, 98	4 Weeks 98	Latest 52 Weeks
Unit Share	11.5	11.4	12.0	11.3	11.8	12.5	11.7	11.7	11.3	11.1	11.8	12.2	11.8	11.2	11.7
ACV Weighted Distribution	52.1%	52.2%	56.1%	61.1%	61.3%	61.1%	60.9%	59.7%	59.6%	59.6%	59.6%	59.9%	58.9%	58.8%	61.3%
ARNOLDS/OROWEAT															
Units (000)	11	12	11	10	9	10	10	10	10	10	11	10	12	13	141
Dollars (000)	$27	$30	$27	$25	$22	$24	$27	$26	$26	$26	$29	$27	$31	$34	$356
Avg Price per Unit	$2.45	$2.42	$2.45	$2.45	$2.42	$2.42	$2.57	$2.55	$2.59	$2.56	$2.59	$2.60	$2.61	$2.58	$2.53
Unit Share	2.6	3.0	3.1	2.7	2.6	2.8	2.7	2.7	2.8	2.8	2.9	2.7	2.9	3.4	2.9
ACV Weighted Distribution	46.8%	51.6%	51.6%	50.9%	49.0%	47.0%	47.0%	46.5%	48.4%	45.8%	45.8%	46.5%	45.3%	41.2%	51.6%
TTL PL/GENERIC															
Units (000)	176	169	140	154	149	145	157	159	143	144	150	144	157	150	1,959
Dollars (000)	$218	$208	$176	$188	$178	$180	$194	$191	$178	$178	$187	$180	$201	$186	$2,424
Avg Price per Unit	$1.23	$1.23	$1.26	$1.22	$1.19	$1.25	$1.24	$1.20	$1.24	$1.24	$1.25	$1.26	$1.28	$1.24	$1.24
Unit Share	41.9	41.2	38.0	40.4	42.9	40.9	41.4	42.1	39.1	39.6	39.2	37.0	38.6	38.5	39.9
ACV Weighted Distribution	85.0%	84.2%	82.5%	84.3%	85.3%	66.4%	65.7%	63.9%	67.1%	67.9%	65.0%	64.9%	60.6%	66.0%	85.3%
TOTAL ALL OTHERS															
Units (000)	64	59	55	51	46	47	50	49	47	47	50	59	57	48	665
Dollars (000)	$97	$90	$84	$80	$75	$77	$81	$80	$79	$79	$83	$98	$97	$78	$1,080
Avg Price per Unit	$1.53	$1.53	$1.52	$1.58	$1.62	$1.62	$1.64	$1.64	$1.67	$1.66	$1.66	$1.67	$1.70	$1.64	$1.62
Unit Share	15.1	14.4	15.0	13.3	13.3	13.4	13.1	12.9	13.0	13.1	13.0	15.2	14.1	12.3	13.5
ACV Weighted Distribution	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

Exhibit "A" - Evidence Submitted by Defendant IMA

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FBI 00860

Montly Sales Trends

Source: Information Resources, Inc., 1996

Flowers New Orleans - Monthly InfoScan Sales Analysis

Category: Class 3 - Specialty

Flowers New Orleans-Mobile	4 Weeks Ending Feb 9, 97	4 Weeks Ending Mar 9, 97	4 Weeks Ending Apr 6, 97	4 Weeks Ending May 4, 97	4 Weeks Ending Jun 1, 97	4 Weeks Ending Jun 29, 97	4 Weeks Ending Jul 27, 97	4 Weeks Ending Aug 24, 97	4 Weeks Ending Sep 21, 97	4 Weeks Ending Oct 19, 97	4 Weeks Ending Nov 16, 97	4 Weeks Ending Dec 14, 97	4 Weeks Ending Jan 11, 98	4 Weeks , 98	Latest 52 Weeks
Unit Share	11.5	11.4	12.0	11.3	11.8	12.5	11.7	11.7	11.3	11.1	11.8	12.2	11.8	11.2	11.7
ACV Weighted Distribution	52.1%	52.2%	56.1%	61.1%	61.3%	61.1%	60.9%	59.7%	59.6%	59.6%	59.6%	59.9%	58.9%	58.8%	61.3%
ARNOLDS/OROWEAT															
Units (000)	11	12	11	10	9	10	10	10	10	10	11	10	12	13	141
Dollars (000)	$27	$30	$27	$25	$22	$24	$27	$26	$26	$26	$29	$27	$31	$34	$356
Avg Price per Unit	$2.45	$2.42	$2.45	$2.45	$2.42	$2.42	$2.57	$2.55	$2.59	$2.56	$2.59	$2.60	$2.61	$2.58	$2.53
Unit Share	2.6	3.0	3.1	2.7	2.6	2.8	2.7	2.7	2.8	2.8	2.9	2.7	2.9	3.4	2.9
ACV Weighted Distribution	46.8%	51.6%	51.6%	50.9%	49.0%	47.0%	47.0%	46.5%	48.4%	45.8%	45.8%	46.5%	45.3%	41.2%	51.6%
TTL PL/GENERIC															
Units (000)	176	169	140	154	149	145	157	159	143	144	150	144	157	150	1,959
Dollars (000)	$218	$208	$176	$188	$178	$180	$194	$191	$178	$178	$187	$180	$201	$186	$2,424
Avg Price per Unit	$1.23	$1.23	$1.26	$1.22	$1.19	$1.25	$1.24	$1.20	$1.24	$1.24	$1.25	$1.26	$1.28	$1.24	$1.24
Unit Share	41.9	41.2	38.0	40.4	42.9	40.9	41.4	42.1	39.1	39.6	39.2	37.0	38.6	38.5	39.9
ACV Weighted Distribution	85.0%	84.2%	82.5%	84.3%	85.3%	66.4%	65.7%	63.9%	67.1%	67.9%	65.0%	64.9%	60.6%	66.0%	85.3%
TOTAL ALL OTHERS															
Units (000)	64	59	55	51	46	47	50	49	47	47	50	59	57	48	665
Dollars (000)	$97	$90	$84	$80	$75	$77	$81	$80	$79	$79	$83	$98	$97	$78	$1,080
Avg Price per Unit	$1.53	$1.53	$1.52	$1.58	$1.62	$1.62	$1.64	$1.64	$1.67	$1.66	$1.66	$1.67	$1.70	$1.64	$1.62
Unit Share	15.1	14.4	15.0	13.3	13.3	13.4	13.1	12.9	13.0	13.1	13.0	15.2	14.1	12.3	13.5
ACV Weighted Distribution	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

Exhibit "A" - Evidence Submitted by Plaintiff IMA

CONFIDENTIAL COUNSEL ONLY

FBI 00859

Source: Information Resources, Inc., 1996

Flowers Industries Houston - Monthly InfoScan Sales Analysis

Category: Class 3 - Specialty

Exhibit "A" Evidence Submitted by Plaintiff

Flowers Houston	4 Weeks Ending Feb 9, 97	4 Weeks Ending Mar 9, 97	4 Weeks Ending Apr 6, 97	4 Weeks Ending May 4, 97	4 Weeks Ending Jun 1, 97	4 Weeks Ending Jun 29, 97	4 Weeks Ending Jul 27, 97	4 Weeks Ending Aug 24, 97	4 Weeks Ending Sep 21, 97	4 Weeks Ending Oct 19, 97	4 Weeks Ending Nov 16, 97	4 Weeks Ending Dec 14, 97	4 Weeks Ending Jan 11, 98	4 Weeks , 98	Latest 52 Weeks
CLASS 3 - SPECIALTY															
Units (000)	578	605	579	647	631	633	597	621	611	611	623	620	670	651	8,099
Dollars (000)	$1,015	$1,064	$1,020	$1,149	$1,108	$1,106	$1,059	$1,080	$1,079	$1,091	$1,125	$1,117	$1,207	$1,178	$14,382
Avg Price per Unit	$1.76	$1.76	$1.76	$1.77	$1.76	$1.75	$1.77	$1.74	$1.77	$1.79	$1.81	$1.80	$1.80	$1.81	$1.78
Unit Share	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
ACV Weighted Distribution	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
COBBLESTONE MILL															
Units (000)	19	19	20	21	23	23	22	22	25	25	24	26	32	24	307
Dollars (000)	$38	$38	$40	$41	$47	$45	$45	$46	$51	$48	$48	$49	$56	$49	$603
Avg Price per Unit	$1.97	$2.01	$2.00	$1.99	$2.01	$1.99	$2.04	$2.05	$2.04	$1.92	$2.02	$1.86	$1.77	$2.00	$1.97
Unit Share	3.3	3.1	3.4	3.2	3.7	3.6	3.7	3.6	4.1	4.1	3.8	4.3	4.7	3.7	3.8
ACV Weighted Distribution	71.1%	71.0%	71.3%	73.9%	76.9%	77.1%	77.4%	77.0%	76.6%	78.2%	78.4%	80.3%	80.9%	78.9%	80.9%
ARN/ORO/FRAN/S-MD															
Units (000)	125	133	119	147	122	147	111	146	134	113	122	121	128	135	1,677
Dollars (000)	$265	$280	$252	$314	$257	$295	$241	$293	$276	$252	$270	$268	$287	$302	$3,589
Avg Price per Unit	$2.12	$2.09	$2.12	$2.14	$2.11	$2.01	$2.17	$2.01	$2.07	$2.23	$2.22	$2.23	$2.25	$2.24	$2.14
Unit Share	21.7	22.1	20.6	22.7	19.3	23.1	18.6	23.5	21.9	18.5	19.5	19.5	19.1	20.7	20.7
ACV Weighted Distribution	73.6%	73.9%	74.0%	73.5%	73.9%	73.8%	71.4%	71.0%	70.7%	71.8%	81.1%	83.3%	84.1%	84.5%	84.5%
TTL PEPPERIDGE FARM															
Units (000)	93	104	101	119	117	108	107	110	114	120	116	114	123	118	1,470
Dollars (000)	$199	$224	$217	$250	$252	$234	$230	$237	$244	$263	$258	$251	$267	$259	$3,188
Avg Price per Unit	$2.14	$2.16	$2.15	$2.11	$2.16	$2.17	$2.14	$2.15	$2.15	$2.20	$2.22	$2.20	$2.18	$2.20	$2.17
Unit Share	16.1	17.1	17.5	18.3	18.5	17.1	18.0	17.8	18.6	19.6	18.7	18.5	18.3	18.1	18.2
ACV Weighted Distribution	77.5%	77.9%	78.4%	75.4%	71.2%	75.1%	74.9%	77.7%	77.6%	78.4%	76.9%	79.3%	79.7%	79.7%	79.7%
TOTAL EARTH GRAINS															
Units (000)	46	49	46	52	51	50	51	51	49	47	52	49	53	49	648
Dollars (000)	$91	$95	$92	$104	$104	$101	$103	$104	$99	$95	$104	$98	$108	$100	$1,307
Avg Price per Unit	$1.96	$1.95	$2.02	$2.00	$2.03	$2.02	$2.02	$2.03	$2.02	$2.02	$2.01	$2.01	$2.03	$2.05	$2.02

CONFIDENTIAL COUNSEL ONLY

FBI 00872

Flowers Industries Houston - Monthly InfoScan Sales Analysis

Category: Class 2 - Soft Variety

owers Houston	4 Weeks Ending Feb 9, 97	4 Weeks Ending Mar 9, 97	4 Weeks Ending Apr 6, 97	4 Weeks Ending May 4, 97	4 Weeks Ending Jun 1, 97	4 Weeks Ending Jun 29, 97	4 Weeks Ending Jul 27, 97	4 Weeks Ending Aug 24, 97	4 Weeks Ending Sep 21, 97	4 Weeks Ending Oct 19, 97	4 Weeks Ending Nov 16, 97	4 Weeks Ending Dec 14, 97	4 Weeks Ending Jan 11, 98	4 Weeks , 98	Latest 52 Weeks
ACV Weighted Distribution	97.7%	98.2%	98.1%	98.3%	98.5%	98.0%	98.0%	98.0%	98.0%	98.0%	98.3%	98.3%	98.6%	98.6%	98.6%
ivate Label															
Units (000)	556	513	531	570	531	541	516	520	481	540	567	484	490	515	6,801
Dollars (000)	$611	$560	$577	$604	$576	$581	$546	$545	$487	$575	$590	$492	$530	$527	$7,191
Avg Price per Unit	$1.10	$1.09	$1.09	$1.06	$1.09	$1.07	$1.06	$1.05	$1.01	$1.06	$1.04	$1.02	$1.08	$1.02	$1.06
Unit Share	35.1	32.7	34.3	35.6	34.4	33.3	32.2	32.1	29.3	32.2	34.2	32.4	31.5	31.2	32.7
ACV Weighted Distribution	97.4%	97.9%	98.1%	97.5%	97.0%	97.2%	96.9%	97.1%	96.9%	98.8%	98.8%	98.8%	98.5%	98.8%	98.8%

CONFIDENTIAL COUNSEL ONLY

FBI 00871

Exhibit "A" -- Evidence Submitted by Defendant IMA

Exhibit A -- Evidence Submitted by Defendant IMA

Houston - Monthly InfoScan Sales Analysis

Category: Class 3 - Specialty

Flowers Houston	4 Weeks Ending Feb 9, 97	4 Weeks Ending Mar 9, 97	4 Weeks Ending Apr 6, 97	4 Weeks Ending May 4, 97	4 Weeks Ending Jun 1, 97	4 Weeks Ending Jun 29, 97	4 Weeks Ending Jul 27, 97	4 Weeks Ending Aug 24, 97	4 Weeks Ending Sep 21, 97	4 Weeks Ending Oct 19, 97	4 Weeks Ending Nov 16, 97	4 Weeks Ending Dec 14, 97	4 Weeks Ending Jan 11, 98	4 Weeks, 98	Latest 52 Weeks
Unit Share	8.0	8.0	7.9	8.0	8.1	7.9	8.5	8.3	8.0	7.7	8.3	7.9	8.0	7.5	8.0
ACV Weighted Distribution	90.4%	93.9%	91.7%	92.7%	92.9%	92.9%	93.0%	93.2%	93.4%	93.3%	94.8%	94.9%	95.0%	95.1%	95.1%
TOTAL MRS BAIRDS															
Units (000)	25	25	26	27	29	26	26	27	25	26	25	22	24	25	333
Dollars (000)	$49	$49	$49	$53	$55	$51	$51	$53	$51	$52	$49	$43	$46	$49	$651
Avg Price per Unit	$1.94	$1.96	$1.93	$1.93	$1.91	$1.94	$1.93	$1.98	$2.02	$1.99	$1.99	$1.98	$1.87	$1.98	$1.95
Unit Share	4.4	4.1	4.4	4.2	4.6	4.1	4.4	4.3	4.2	4.3	3.9	3.5	3.6	3.8	4.1
ACV Weighted Distribution	91.8%	91.7%	91.7%	97.5%	97.4%	97.4%	97.3%	96.6%	96.7%	96.6%	96.8%	96.8%	96.8%	93.7%	97.5%
TTL PL/GENERIC															
Units (000)	184	194	186	203	211	202	197	191	193	212	215	212	224	236	2,676
Dollars (000)	$217	$231	$220	$240	$249	$236	$236	$207	$222	$250	$260	$258	$273	$288	$3,169
Avg Price per Unit	$1.18	$1.19	$1.18	$1.18	$1.18	$1.17	$1.20	$1.09	$1.15	$1.18	$1.21	$1.22	$1.22	$1.22	$1.18
Unit Share	31.9	32.1	32.2	31.4	33.4	31.9	33.0	30.8	31.5	34.7	34.4	34.2	33.5	36.3	33.0
ACV Weighted Distribution	69.1%	66.4%	68.5%	67.7%	67.0%	67.6%	65.8%	63.6%	61.9%	67.7%	67.4%	67.9%	69.0%	69.1%	69.1%
TOTAL ALL OTHERS															
Units (000)	84	81	81	79	76	76	80	71	70	66	68	75	85	64	972
Dollars (000)	$154	$148	$149	$146	$141	$141	$149	$135	$132	$126	$131	$146	$168	$128	$1,840
Avg Price per Unit	$1.84	$1.82	$1.83	$1.86	$1.85	$1.86	$1.86	$1.89	$1.89	$1.91	$1.92	$1.95	$1.98	$2.01	$1.89
Unit Share	14.5	13.4	14.1	12.1	12.1	12.0	13.4	11.5	11.5	10.8	11.0	12.0	12.6	9.8	12.0
ACV Weighted Distribution	96.7%	98.3%	100.0%	96.7%	97.7%	97.8%	97.9%	98.0%	96.8%	98.0%	97.8%	98.0%	98.1%	98.1%	100.0%

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FBI 00873

Montly Sales Trends

Source: Information Resources, Inc., 1996

Flowers Industries Houston - Monthly InfoScan Sales Analysis

Category: Class 4 - Buns

Exhibit "A" - Evidence Submitted by Defendant IIMA

Flowers Houston	4 Weeks Ending Feb 9, 97	4 Weeks Ending Mar 9, 97	4 Weeks Ending Apr 6, 97	4 Weeks Ending May 4, 97	4 Weeks Ending Jun 1, 97	4 Weeks Ending Jun 29, 97	4 Weeks Ending Jul 27, 97	4 Weeks Ending Aug 24, 97	4 Weeks Ending Sep 21, 97	4 Weeks Ending Oct 19, 97	4 Weeks Ending Nov 16, 97	4 Weeks Ending Dec 14, 97	4 Weeks Ending Jan 11, 98	4 Weeks , 98	Latest 52 Weeks
TTL CLASS 4 - BUNS															
Units (000)	831	841	937	937	1,108	1,151	1,293	1,011	1,106	874	918	715	746	816	12,454
Dollars (000)	$912	$926	$965	$1,002	$1,126	$1,188	$1,248	$1,049	$1,081	$930	$952	$782	$826	$878	$12,953
Avg Price per Unit	$1.10	$1.10	$1.03	$1.07	$1.02	$1.03	$.97	$1.04	$.98	$1.06	$1.04	$1.09	$1.11	$1.08	$1.04
Unit Share	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
ACV Weighted Distribution	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
Flowers															
Units (000)	41	42	50	53	61	77	78	66	52	47	42	37	40	42	685
Dollars (000)	$59	$64	$72	$81	$83	$91	$88	$81	$80	$71	$64	$56	$62	$64	$958
Avg Price per Unit	$1.43	$1.51	$1.44	$1.53	$1.38	$1.19	$1.13	$1.23	$1.54	$1.52	$1.53	$1.54	$1.53	$1.51	$1.40
Unit Share	5.0	5.0	5.3	5.6	5.5	6.7	6.0	6.5	4.7	5.4	4.5	5.1	5.4	5.2	5.5
ACV Weighted Distribution	45.6%	52.1%	52.0%	52.3%	52.2%	59.0%	59.3%	59.7%	59.0%	58.9%	56.4%	56.5%	56.6%	56.1%	59.7%
Mrs Baird's															
Units (000)	154	150	161	137	155	165	174	163	149	125	117	110	118	123	1,848
Dollars (000)	$237	$232	$245	$212	$224	$231	$242	$227	$217	$194	$179	$169	$183	$189	$2,744
Avg Price per Unit	$1.54	$1.54	$1.52	$1.54	$1.45	$1.40	$1.39	$1.39	$1.46	$1.55	$1.54	$1.53	$1.54	$1.54	$1.48
Unit Share	18.6	17.8	17.2	14.7	14.0	14.3	13.5	16.1	13.5	14.3	12.7	15.4	15.9	15.0	14.8
ACV Weighted Distribution	97.6%	97.6%	97.6%	97.7%	97.7%	97.7%	97.7%	97.8%	97.8%	97.8%	97.8%	97.7%	97.8%	97.8%	97.8%
Roman Meal															
Units (000)	14	15	15	15	18	18	17	17	17	15	16	14	14	15	205
Dollars (000)	$23	$23	$24	$24	$28	$28	$27	$26	$27	$24	$25	$22	$23	$23	$323
Avg Price per Unit	$1.58	$1.58	$1.58	$1.58	$1.58	$1.57	$1.57	$1.57	$1.57	$1.57	$1.56	$1.56	$1.57	$1.56	$1.57
Unit Share	1.7	1.8	1.6	1.6	1.6	1.5	1.3	1.7	1.5	1.8	1.7	1.9	1.9	1.8	1.7
ACV Weighted Distribution	69.2%	68.7%	69.5%	70.1%	75.8%	72.1%	67.0%	67.9%	69.1%	71.0%	70.7%	71.8%	73.5%	69.7%	75.8%
Rainbo/Colonial															
Units (000)	96	96	96	101	135	155	181	131	147	120	112	105	107	116	1,603
Dollars (000)	$124	$131	$135	$144	$176	$193	$218	$164	$174	$151	$140	$129	$135	$147	$2,038
Avg Price per Unit	$1.30	$1.36	$1.40	$1.42	$1.31	$1.25	$1.21	$1.25	$1.18	$1.27	$1.26	$1.23	$1.25	$1.27	$1.27
Unit Share	11.5	11.5	10.3	10.8	12.2	13.4	14.0	12.9	13.3	13.7	12.2	14.7	14.4	14.2	12.9

[redacted]

CONFIDENTIAL COUNSEL ONLY

Source: [redacted]

[redacted]

Flowers Industries Roanoke - Monthly InfoScan Sales Analysis

Category: Class 3 - Specialty

Roanoke, VA	4 Weeks Ending Feb 9, 97	4 Weeks Ending Mar 9, 97	4 Weeks Ending Apr 6, 97	4 Weeks Ending May 4, 97	4 Weeks Ending Jun 1, 97	4 Weeks Ending Jun 29, 97	4 Weeks Ending Jul 27, 97	4 Weeks Ending Aug 24, 97	4 Weeks Ending Sep 21, 97	4 Weeks Ending Oct 19, 97	4 Weeks Ending Nov 16, 97	4 Weeks Ending Dec 14, 97	4 Weeks Ending Jan 11, 98	4 Weeks , 98	Latest 52 Weeks
LASS 3 - SPECIALTY															
Units (000)	291	288	283	292	285	282	289	300	312	318	291	296	332	300	3,868
Dollars (000)	$515	$527	$517	$536	$528	$519	$535	$555	$570	$582	$538	$544	$594	$558	$7,103
Avg Price per Unit	$1.77	$1.83	$1.82	$1.84	$1.85	$1.84	$1.85	$1.85	$1.83	$1.83	$1.85	$1.84	$1.79	$1.86	$1.84
Unit Share	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
ACV Weighted Distribution	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
TL COBBLESTONE MILL															
Units (000)	27	25	29	28	26	27	27	28	32	34	28	39	52	37	413
Dollars (000)	$51	$49	$52	$53	$49	$49	$52	$54	$61	$60	$55	$71	$83	$69	$756
Avg Price per Unit	$1.89	$1.91	$1.81	$1.90	$1.91	$1.81	$1.89	$1.90	$1.92	$1.76	$1.93	$1.80	$1.59	$1.90	$1.83
Unit Share	9.3	8.8	10.1	9.5	9.1	9.6	9.5	9.4	10.2	10.7	9.8	13.3	15.6	12.2	10.7
ACV Weighted Distribution	87.8%	87.9%	87.9%	87.6%	87.7%	87.7%	89.3%	89.9%	90.0%	90.3%	94.2%	94.3%	94.7%	94.7%	94.7%
TL PEPPERIDGE FARM															
Units (000)	76	84	74	82	80	80	82	85	96	97	84	84	96	91	1,116
Dollars (000)	$170	$182	$166	$182	$179	$179	$185	$191	$206	$215	$192	$188	$204	$204	$2,474
Avg Price per Unit	$2.22	$2.17	$2.25	$2.22	$2.24	$2.24	$2.24	$2.24	$2.14	$2.21	$2.28	$2.24	$2.13	$2.24	$2.22
Unit Share	26.2	29.1	26.1	28.2	28.0	28.4	28.5	28.5	30.8	30.7	28.9	28.4	28.9	30.4	28.9
ACV Weighted Distribution	96.3%	96.5%	96.5%	98.6%	94.7%	94.7%	94.7%	96.4%	96.3%	93.8%	93.7%	96.4%	96.5%	99.5%	99.5%
ARWORO/FRAN															
Units (000)	28	28	28	26	25	25	27	31	31	29	28	25	26	28	358
Dollars (000)	$56	$57	$58	$55	$52	$53	$57	$61	$63	$61	$57	$53	$53	$61	$740
Avg Price per Unit	$2.03	$2.01	$2.05	$2.09	$2.11	$2.10	$2.07	$1.98	$2.05	$2.08	$2.03	$2.12	$2.05	$2.15	$2.07
Unit Share	9.5	9.8	9.9	9.0	8.7	9.0	9.5	10.2	9.8	9.2	9.6	8.4	7.8	[illegible]	[illegible]
ACV Weighted Distribution	66.2%	65.3%	62.8%	59.9%	58.3%	58.4%	58.4%	61.4%	61.5%	61.0%	61.2%	60.9%	63.1%	61.7%	[illegible]
Harvest Ridge															
Units (000)	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Dollars (000)	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]

Exhibit "A" - Evidence Submitted by Defendant FMA

CONFIDENTIAL COUNSEL ONLY

FBI 00825

Exhibit "A" - Evidence Submitted by Defendant IMA

Flowers Industries Roanoke - Monthly InfoScan Sales Analysis

Category: Class 2 - Soft Variety

anoke, VA	4 Weeks Ending Feb 9, 97	4 Weeks Ending Mar 9, 97	4 Weeks Ending Apr 6, 97	4 Weeks Ending May 4, 97	4 Weeks Ending Jun 1, 97	4 Weeks Ending Jun 29, 97	4 Weeks Ending Jul 27, 97	4 Weeks Ending Aug 24, 97	4 Weeks Ending Sep 21, 97	4 Weeks Ending Oct 19, 97	4 Weeks Ending Nov 16, 97	4 Weeks Ending Dec 14, 97	4 Weeks Ending Jan 11, 98	4 Weeks 98	Latest 52 Weeks
onial/Rain/Aut Grn															
Units (000)	2	2	5	9	5	10	8	6	6	4	3	3	4	5	70
Dollars (000)	$4	$4	$7	$11	$8	$14	$12	$10	$10	$7	$6	$5	$6	$7	$107
Avg Price per Unit	$1.78	$1.85	$1.38	$1.31	$1.67	$1.33	$1.57	$1.58	$1.53	$1.79	$1.75	$1.79	$1.67	$1.34	$1.52
Unit Share	0.3	0.2	0.7	1.1	0.6	1.2	0.9	0.7	0.7	0.5	0.4	0.3	0.4	0.6	0.6
ACV Weighted Distribution	22.1%	19.7%	19.6%	19.6%	19.2%	18.7%	18.8%	19.1%	19.0%	18.8%	18.7%	21.4%	21.4%	20.9%	21.4%
ate Label															
Units (000)	365	342	342	374	378	377	363	385	383	374	363	370	370	389	4,812
Dollars (000)	$411	$376	$397	$422	$428	$415	$404	$433	$449	$423	$392	$407	$426	$420	$5,398
Avg Price per Unit	$1.13	$1.10	$1.16	$1.13	$1.13	$1.10	$1.11	$1.12	$1.17	$1.13	$1.08	$1.10	$1.15	$1.08	$1.12
Unit Share	45.5	43.1	44.7	45.7	45.2	45.9	41.7	42.0	42.9	44.0	44.5	43.7	42.9	43.6	43.8
ACV Weighted Distribution	99.3%	99.4%	95.3%	95.3%	95.4%	95.4%	95.4%	97.6%	97.6%	97.4%	96.7%	99.5%	100.0%	100.0%	100.0%

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FBI 00824

Monthly Sales Trends

Source: Information Resources, Inc., 1996

Flowers Industries Roanoke - Monthly InfoScan Sales Analysis

Category: Class 3 - Specialty

Roanoke, VA	4 Weeks Ending Feb 9, 97	4 Weeks Ending Mar 9, 97	4 Weeks Ending Apr 6, 97	4 Weeks Ending May 4, 97	4 Weeks Ending Jun 1, 97	4 Weeks Ending Jun 29, 97	4 Weeks Ending Jul 27, 97	4 Weeks Ending Aug 24, 97	4 Weeks Ending Sep 21, 97	4 Weeks Ending Oct 19, 97	4 Weeks Ending Nov 16, 97	4 Weeks Ending Dec 14, 97	4 Weeks Ending Jan 11, 98	4 Weeks , 98	Latest 52 Weeks
ACV Weighted Distribution	14.7%	12.1%	11.3%	11.1%	10.7%	10.5%	8.8%	10.5%	10.3%	10.0%	8.1%	5.0%	5.1%	4.8%	12.1%
TTI PL/GENERIC															
Units (000)	64	56	57	56	58	57	56	59	58	62	61	59	59	58	756
Dollars (000)	$82	$82	$84	$81	$88	$84	$81	$89	$84	$88	$87	$84	$87	$81	$1,099
Avg Price per Unit	$1.29	$1.46	$1.47	$1.45	$1.51	$1.47	$1.45	$1.51	$1.44	$1.42	$1.43	$1.42	$1.49	$1.39	$1.45
Unit Share	21.9	19.5	20.2	19.0	20.3	20.2	19.3	19.8	18.6	19.4	20.9	20.0	17.6	19.4	19.5
ACV Weighted Distribution	85.3%	83.7%	82.5%	80.7%	79.9%	83.7%	81.6%	84.4%	83.4%	84.9%	84.4%	87.4%	87.3%	89.1%	89.1%

Exhibit "A" -- Filed & Submitted by Defendant IMA

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FBI 00826

Montly Sales Trends

Source: Information Resources, Inc., 1996

Flowers Industries Roanoke - Monthly InfoScan Sales Analysis

Category: Class 4 - Buns

Exhibit "A" Weekly Sales Submitted by Defendant

Roanoke, VA	4 Weeks Ending Feb 8, 97	4 Weeks Ending Mar 9, 97	4 Weeks Ending Apr 6, 97	4 Weeks Ending May 4, 97	4 Weeks Ending Jun 1, 97	4 Weeks Ending Jun 29, 97	4 Weeks Ending Jul 27, 97	4 Weeks Ending Aug 24, 97	4 Weeks Ending Sep 21, 97	4 Weeks Ending Oct 19, 97	4 Weeks Ending Nov 16, 97	4 Weeks Ending Dec 14, 97	4 Weeks Ending Jan 11, 98	4 Weeks , 98	Latest 52 Weeks
TTL CLASS 4 - BUNS															
Units (000)	588	594	671	781	1,025	1,010	1,239	895	824	657	573	508	528	591	9,897
Dollars (000)	$608	$622	$708	$812	$1,043	$1,054	$1,243	$923	$842	$697	$612	$544	$573	$610	$10,282
Avg Price per Unit	$1.03	$1.05	$1.05	$1.04	$1.02	$1.04	$1.00	$1.03	$1.02	$1.06	$1.07	$1.07	$1.09	$1.03	$1.04
Unit Share	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
ACV Weighted Distribution	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
TTL SNBM/FLW/SPC HRVT															
Units (000)	65	65	67	79	110	98	126	87	81	65	62	53	56	63	1,012
Dollars (000)	$74	$80	$86	$101	$143	$129	$158	$115	$111	$89	$85	$73	$76	$77	$1,325
Avg Price per Unit	$1.15	$1.24	$1.29	$1.28	$1.31	$1.31	$1.26	$1.33	$1.38	$1.37	$1.36	$1.38	$1.36	$1.21	$1.31
Unit Share	11.0	10.9	9.9	10.1	10.7	9.7	10.2	9.7	9.8	9.9	10.9	10.4	10.6	10.7	10.2
ACV Weighted Distribution	72.2%	73.7%	73.8%	74.0%	74.0%	74.0%	78.0%	75.1%	75.5%	77.8%	77.8%	78.1%	77.5%	77.5%	78.1%
TOTAL WONDER															
Units (000)	1	1	0	1	3	3	3	4	2	1	1	1	2	2	26
Dollars (000)	$1	$1	$0	$2	$3	$4	$4	$5	$3	$2	$1	$1	$2	$3	$31
Avg Price per Unit	$1.10	$1.25	$1.25	$1.10	$1.28	$1.28	$1.28	$1.15	$1.28	$1.28	$1.29	$1.29	$1.29	$1.29	$1.25
Unit Share	0.2	0.1	0.0	0.2	0.2	0.3	0.3	0.5	0.3	0.2	0.2	0.2	0.3	0.3	0.3
ACV Weighted Distribution	3.4%	2.7%	2.7%	11.3%	11.4%	11.4%	11.4%	11.4%	12.0%	7.2%	7.1%	4.7%	4.4%	4.3%	12.0%
Interstate															
Units (000)	28	27	29	34	40	44	51	38	37	27	23	20	25	24	420
Dollars (000)	$37	$36	$39	$46	$53	$57	$66	$49	$48	$39	$33	$28	$34	$33	$561
Avg Price per Unit	$1.30	$1.33	$1.33	$1.33	$1.30	$1.29	$1.29	$1.29	$1.31	$1.42	$1.41	$1.41	$1.40	$1.40	$1.34
Unit Share	4.8	4.6	4.3	4.4	3.9	4.4	4.1	4.2	4.5	4.1	4.0	3.9	4.6	4.0	4.2
ACV Weighted Distribution	57.1%	51.7%	51.5%	51.5%	51.3%	57.2%	55.4%	55.7%	57.3%	48.9%	48.6%	48.6%	50.2%	47.3%	57.3%
Private Label															
Units (000)	328	338	374	437	577	563	714	517	489	380	321	290	297	344	5,639
Dollars (000)	$280	$289	$315	$361	$460	$473	$569	$423	$387	$317	$268	$244	$253	$277	$4,635
Avg Price per Unit	$.85	$.85	$.84	$.83	$.80	$.84	$.80	$.82	$.79	$.83	$.84	$.84	$.85	$.81	$.82
Unit Share	55.8	56.9	55.6	55.9	56.3	55.7	57.6	57.7	59.3	57.9	56.0	57.1	56.3	58.1	57.0

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FBI 00827

Exhibit 3

Exhibit "A" --Evidence Submitted by Defendant IMA

Wholesale

Brand	2006 Net $ Sales	2005 Net $ Sales	2004 Net $ Sales	2003 Net $ Sales	2002 Net $ Sales	2001 Net $ Sales	2000 Net $ Sales	1999 Net $ Sales
Total CSM Net Dollars	$42,612,268	$77,024,959	$75,375,313	$72,816,046	$64,642,880	$60,083,850	$60,085,990	$55,939,353
Total CSM Net Units	26,230,523	47,951,576	50,104,968	51,859,291	45,463,466	39,962,383	41,709,450	41,038,143
	2006 thru Q2							

Shown not 28

EXHIBIT
Anderson 3
PENGAD 800-631-6989

FBI 000879
HIGHLY
CONFIDENTIAL

Exhibit "A" --Evidence Submitted by Defendant IMA

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

Opposition No. 91167151

FLOWERS BAKERIES BRANDS, INC.,

Opposer,

vs.

INDEPENDENT MARKETING
ALLIANCE, LP,
Applicant.

DEPOSITION OF:	JANICE ANDERSON
TAKEN AT INSTANCE OF:	The Applicant
DATE:	August 17, 2006
TIME:	Commenced at 9:06 a.m. Concluded at 12:05 p.m.
LOCATION:	14138 Highway 19 South Thomasville, Georgia
REPORTED BY:	CHRISTI K. COLE Certified Professional Reporter

PREMIER REPORTING
TALLAHASSEE, FL 32312
(850) 894-0828

1 CERTIFICATE OF OATH

2

3

4

5 STATE OF FLORIDA)

6 COUNTY OF LEON)

7

8

9

10

11 I, the undersigned authority, certify that

12 said designated witness personally appeared before me

13 and was duly sworn.

14

15

16 WITNESS my hand and official seal this 18th

17 day of August, 2006.

18

19

20

21

22 Christi K. Cole

23 CHRISTI K. COLE
Certified Professional Reporter

24 (850) 894-0828

25

Exhibit "A" --Evidence Submitted by Defendant IMA

1
2 CERTIFICATE OF REPORTER
3
4 STATE OF FLORIDA)
5 COUNTY OF LEON)
6
7 I, CHRISTI K. COLE, Professional Reporter,
8 certify that the foregoing proceedings were taken before
9 me at the time and place therein designated; that my
10 shorthand notes were thereafter translated under my
11 supervision; and the foregoing pages numbered 1 through
12 98 are a true and correct record of the aforesaid
13 proceedings.
14
15 I further certify that I am not a relative,
16 employee, attorney or counsel of any of the parties, nor
17 am I a relative or employee of any of the parties'
18 attorney or counsel connected with the action, nor am I
19 financially interested in the action.
20 DATED this 18th day of August, 2006.
21 Christi K. Cole
22 CHRISTI K. COLE
23 Notary Public
(850) 894-0828
24
25

Exhibit "A" --Evidence Submitted by Defendant IMA

FlowersFoods
Our Brands
Flowers Foods Web Sites: Select a site

1 ERRATA SHEET

2 I have read the transcript of my deposition, pages 1 through 98 and hereby subscribe to same, including any
3 corrections and/or amendments listed below.

4 DATE:_____ _____

5 JANICE ANDERSON

6 (FLOWERS vs. IMA)

7 PAGE/LINE	CORRECTION or AMENDMENT	REASON FOR CHANGE
8		
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23		

24 DATE OF DEPOSITION: 8/17/06 REPORTER: Christi Cole

25

Exhibit "A" --Evidence Submitted by Defendant IMA

FlowersFoods
Flowers Foods Web Sites: Select a site

1 IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD
2

FLOWERS BAKERIES BRANDS,	)	
3 INC.,	)	
Opposer,	)	In the Matter of Application
4	)	Serial No. 78/432642
vs.	)	Mark: COBBLESTONE MARKET
5	)	
INDEPENDENT MARKETING	)	Opposition No. 91167151
6 ALLIANCE LP,	)	
Applicant.	)	

7
8
9 ORAL 30(b)(6) DEPOSITION
10 ROBERT D. PLANCK
11 August 22, 2006
12
13 ORAL 30(b)(6) DEPOSITION OF ROBERT D. PLANCK,
14 produced as a witness at the instance of the Opposer and
15 duly sworn, was taken in the above-styled and numbered
16 cause on the 22nd day of August, 2006, from 9:12 a.m. to
17 12:00 noon, before Laraine L. Toliver, Certified
18 Shorthand Reporter in and for the State of Texas,
19 reported by computerized stenotype machine at the
20 offices of Pagel, Davis & Hill, PC, 1415 Louisiana, 22nd
21 Floor, Houston, Texas 77002, pursuant to the Federal
22 Rules of Civil Procedure and the Trademark Rules of
23 Practice.
24
25

Exhibit "B" -- Evidence Submitted By Defendant IMA

1 APPEARANCES
2
3 FOR OPPOSER:
4 Theodore H. Davis, Jr., Esq.
Olivia Maria Baratta, Esq.
5 Kilpatrick Stockton, LLP
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6 Atlanta, Georgia 30309-4530
Telephone: 404.815.6534
7 Fax: 404.815.6555
E-mail: TDavis@KilpatrickStockton.com
8 E-mail: MBaratta@KilpatrickStockton.com
9 FOR APPLICANT:
10 Martyn B. Hill, Esq.
Pagel Davis & Hill, PC
11 1415 Louisiana Street, 22nd Floor
Houston, Texas 77002
12 Telephone: 713.951.0160
Fax: 713.951.0662
13 E-mail: mbh@pdhlaw.com
14 ALSO PRESENT:
15 Holland C. Kirbo
Associate Counsel
16 Flowers Foods
1919 Flowers Circle
17 Thomasville, Georgia 31757
18
19
20
21
22
23
24
25

Exhibit "B" -- Evidence Submitted By Defendant IMA

1
2 INDEX
3 PAGE

4 ROBERT D. PLANCK
5 Examination by Mr. Davis 5
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6 Court Reporter's Certificate 93
7
8 EXHIBITS

EXHIBIT	DESCRIPTION	PAGE
1	Printout of Independent Marketing Alliance Web site	14
2	Printout of Product/Brands from IMA's Web site	20
3	4/13/04 e-mail, Bartt G. Thompson to Doug	22
4	4/15/04 e-mail, John A. Waters to Bartt G. Thompson, Subject: Cobblestone search	23
5	Trademark.com report on mark "cobble stone"	24
6	Thomson & Thomson trademark research report for mark "Cobblestone Corner"	25
7	4/21/04 memo, Bartt Thompson to Bob Planck, Re: Cobblestone Corner	26
8	Draft page from trademark application	32
9	5/26/05 memo, Bob Planck to Bartt G. Thompson, Subject: Kiosks	35

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Exhibit "B" -- Evidence Submitted By Defendant IMA

1 EXHIBITS (cont.)

2 EXHIBIT	DESCRIPTION	PAGE
3 10	Trademark/Service Mark Application, Principal 4 Register, for mark Cobblestone Market, standard characters	40
5 11	TESS search, Cobblestone Market	42
6 12	Amendment A to application	52
7 13	E-mail string, Re: Cobblestone 8 pictures	69
9 14	Partial e-mails re: Sysco's Hidden Cove mark	73

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Exhibit "B" -- Evidence Submitted By Defendant IMA

1 ROBERT D. PLANCK,
2 having been first duly sworn, testified as follows:
3 EXAMINATION
4 Q. (BY MR. DAVIS) Will you please state your name
5 for the record?
6 A. Robert D. Planck.
7 Q. Have you ever been deposed before, Mr. Planck?
8 A. Yes.
9 Q. And what was that in connection with?
10 A. It was prior to my current employment as an
11 expert witness in another trial.
12 Q. What type of case was that?
13 A. It was a lawsuit.
14 Q. What was the subject matter of the lawsuit?
15 A. It was relative to a dispute between a food
16 service distributor and a restaurant chain.
17 Q. Trademark dispute or --
18 A. No, it was not trademark oriented.
19 Q. Mr. Hill, I suspect, has -- has gone through
20 the rules of these things with you and it sounds like
21 you are familiar with how these things go. Obviously,
22 we all have an interest in making sure that the record
23 is clear. If I ask you something that doesn't make
24 sense or isn't clear, and Mr. Hill does not object to
25 it, feel free to let me know and I will try and clarify

Exhibit "B" -- Evidence Submitted By Defendant IMA

1 that. And, obviously, our court reporter is better at
2 picking up verbal answers than head nods and that sort
3 of thing.
4 Mr. Planck, are you currently employed?
5 A. Yes.
6 Q. By whom?
7 A. By Independent Marketing Alliance.
8 Q. And is Independent Marketing Alliance typically
9 abbreviated IMA?
10 A. Yes, it is.
11 Q. And do you have any objections to us using that
12 convention in this deposition?
13 A. No, I do not.
14 Q. What is your deposition with IMA?
15 A. I'm president of the company.
16 Q. And how long have you held that position?
17 A. Approximately five years.
18 Q. Were you with IMA before that time?
19 A. No, I was not.
20 Q. Were you with Sysco before that?
21 A. I was at one time, yes.
22 Q. Was there an intervening job between Sysco and
23 IMA?
24 A. Yes.
25 Q. And what was that?

Exhibit "B" -- Evidence Submitted By Defendant IMA

1 A. Well, there were a couple. I left Sysco
2 11 years ago, and I was in Australia as director or vice
3 president, U.S. terms, of John Lewis Foodservice of
4 Australia. And I was also general manager of Daymon,
5 D-A-Y-M-O-N, & Associates Food Brokerage Company in the
6 U.S.A., and I was also senior vice president of
7 marketing and merchandising or purchasing at Ameriserve
8 Corporation.
9 Q. Working backwards from IMA, which -- which of
10 those companies were you with immediately before IMA?
11 A. Immediately before IMA, I actually was a
12 consultant.
13 Q. Okay. An independent consultant?
14 A. Yes.
15 Q. And you had your own shop?
16 A. Yes.
17 Q. Okay. What was that called?
18 A. Interconnect Enterprises.
19 Q. So, immediately before IMA it was Interconnect,
20 then John Lewis?
21 A. Ameriserve.
22 Q. Ameriserve. Then John Lewis?
23 A. Well, actually, between Ameriserve and John
24 Lewis was -- I was both a professor of marketing at the
25 University of Houston and general manager of Daymon, so

Exhibit "B" -- Evidence Submitted By Defendant IMA

1 I taught marketing for a year and then John Lewis.
2 Q. Okay.
3 A. I was a busy guy during that 12 years or so.
4 Q. Was that full-time teaching or as an adjunct?
5 A. No, I was -- I was full-time teaching.
6 Q. Do you -- do you have a degree in marketing?
7 A. My bachelor's degree is in hotel and restaurant
8 management.
9 Q. Okay. Any graduate work beyond that?
10 A. Yes, some graduate work at Chapman College on
11 an MBA, but I didn't complete that.
12 Q. Okay. And -- and where did you get the
13 undergraduate degree?
14 A. University of Houston, Conrad Hilton College.
15 Q. How old is IMA?
16 A. As a -- as a legal entity, it was founded
17 September of -- it will be five years this September.
18 Q. So your -- your tenure with IMA, has it been
19 co-extensive with the organization's history?
20 A. I joined IMA prior to its being -- becoming a
21 corporation.
22 Q. Okay.
23 A. Before that, it was an informal organization.
24 Q. But it still went by the name IMA?
25 A. Yes.

Exhibit "B" -- Evidence Submitted By Defendant IMA

1 Q. Okay. How many years before it was
2 incorporated?
3 A. I can give you my impression, because I wasn't
4 here. I think about five years. I'm not certain
5 though.
6 Q. So, it's ten years old or so?
7 A. Approximately.
8 Q. Okay. And have you -- have you been president
9 for the five years you have been with the company?
10 A. Yes.
11 Q. Could you give me an idea of what --
12 understanding that the responsibilities of a president
13 are very broad, do you have any particular
14 responsibilities for trademarks?
15 A. Well, you say correctly it's very broad. You
16 know, I have general responsibility for everything the
17 company does.
18 Q. Is there anybody beneath you in the company
19 that -- that has specific responsibility for trademarks?
20 A. Yes, Bob Fontana, our director of marketing.
21 Q. Okay. Would Mr. Fontana have primary
22 responsibility for branding?
23 A. Yes.
24 Q. Advertising, as well?
25 A. Well, in point of fact, we don't do any

Exhibit "B" -- Evidence Submitted By Defendant IMA

1 advertising, but if we were, he would be responsible for
2 it.
3 Q. Okay. I'd like to show you some notices of
4 deposition that we served earlier in this case. These
5 are what are called Rule 30(b)(6) notices, and Mr. Hill
6 may have gone over this with you, but they basically ask
7 the company to produce witnesses dealing with particular
8 topics.
9 A. Uh-huh.
10 Q. We were given three names of individuals who
11 might be able to answer questions on these topics and
12 I'd like to see which of them apply to you. This is the
13 first one. And you'll see that there are a list of
14 enumerated items on there, and if you could just scroll
15 through them and let me know which of those it's your
16 understanding you may have been produced to discuss.
17 A. Well, in my capacity as president of the
18 company, I would have involvement with all of those.
19 Q. And, just for the record, you have been looking
20 at a notice of deposition that has six categories, and I
21 point that out to distinguish it from this one, which
22 only has two. If you could do the same thing for that
23 one, I'd appreciate it.
24 A. Those two issues I would have the same
25 involvement with as president as the first six.

Exhibit "B" -- Evidence Submitted By Defendant IMA

1 Q. Thank you.
2 Mr. Planck, could you describe in just
3 broad terms what it is that IMA does?
4 A. IMA is an alliance of independent food service
5 distributors, all U.S.A.-based independent companies.
6 We are -- the company is owned by those six entities,
7 and our business is to develop products, brands, and be
8 a purchasing and marketing intermediary on behalf of
9 those companies.
10 Q. What -- what is the relationship of
11 Distribution Marketing Services, LLC, to IMA?
12 A. Well, that's the official name of the company.
13 IMA is a d/b/a for that name, and we've gone by IMA
14 since that ten years ago, approximately.
15 Q. But IMA is a limited partnership?
16 A. IMA is a d/b/a for Distributor Marketing
17 Services, which I believe is organized as a limited
18 partnership.
19 Q. Okay. Would Distribution Marketing Services be
20 the general partner in that partnership?
21 A. I would have to ask counsel to advise me on the
22 corporate structure. I'm really not competent to --
23 prepared to answer that question.
24 Q. Okay. What -- what are the companies? You
25 mentioned member companies a second ago. What are those

Exhibit "B" -- Evidence Submitted By Defendant IMA

1 member companies?

2 A. The companies that are members/owners of IMA

3 are Maines Food Service; Reinhart FoodService; Shamrock

4 Foods Company; the Nicholas Company; the IJ Company,

5 the IJ, letters I-J, Company; and Conco, C-O-N-C-O, Food

6 Service.

7 Q. And I think a second ago you characterized

8 these as independent food service distributors. Could

9 you give me an idea of what companies that fall into

10 that category do?

11 A. Yes. Independent -- independent food service

12 distributors, first of all, implies you're not part of a

13 public corporation. They're privately-owned companies

14 and they all provide services to the food service

15 marketplace, to restaurants, hotels, prisons, colleges,

16 universities, daycare centers, hospitals, any place that

17 food would be consumed in an either away-from-home

18 environment or a captive environment, and they

19 distribute food to those prop -- to those properties,

20 food and food-related items.

21 Q. Some of your or some of IMA's press releases

22 refer to IMA being an "alternative to," and I'm going to

23 quote here, "massive corporate distributor groups."

24 A. Uh-huh.

25 Q. What -- what would those companies be?

Exhibit "B" -- Evidence Submitted By Defendant IMA

1 A. Well, there are -- there are three major public
2 corporations in our market segment: Sysco Corporation
3 being the largest; U.S. Foodservice, a division of
4 Ahold, being the second largest; and the Professional
5 Food Group out of Richmond, Virginia, being the third
6 smaller entity. There may be others. Those are the
7 three I'm aware of that are public corporations.
8 Q. So, in terms of direct competitors, the
9 companies you've just listed would be direct
10 competitors?
11 A. Yes, they would.
12 Q. IMA's mission statement refers to -- and,
13 again, I'm going to quote here -- "increasing
14 efficiencies for member companies" as one of the
15 benefits to IMA membership. How does IMA go about doing
16 that?
17 A. Well, in many categories, we're able to help
18 them amalgamate their buying power so that they can buy
19 larger quantities of products, drive down freight costs
20 and other costs associated with procurement.
21 Q. Do the companies making up IMA consider
22 themselves competitors against each other?
23 A. No, they do not.
24 Q. They serve different -- different segments
25 or --

1 A. No, they're all -- they all serve the same
2 segments. They serve in different market areas,
3 although there may be a little overlap in some cases.
4 Q. And by different areas, do you mean different
5 product lines or --
6 A. Different geographic areas.
7 Q. Okay.
8 A. Not to say that their customer mixes are the
9 same. They aren't identical, but they're in the same
10 general market.
11 Q. Your Web site also refers to -- and I will
12 quote, again, here direct from the quote -- "IMA offers
13 national brand companies an alternative to the corporate
14 giants with their near exclusive focus on their labels."
15 When IMA uses the term "national brand company," what
16 does it mean by that?
17 A. We're -- it would be appropriate to use actual
18 companies as an example. If it were, I would say Heinz
19 Corporation, Sara Lee Corporation, Tyson, Flowers
20 Industries, who we distribute for, are national brands.
21 MR. DAVIS: I'd like to have this marked
22 as Planck Exhibit 1.
23 (Exhibit 1 marked)
24 Q. (BY MR. DAVIS) I'd like you to take a look at
25 that exhibit, which is a printout of some pages from the

Exhibit "B" -- Evidence Submitted By Defendant IMA

1 IMA Web site. The third paragraph from the bottom of
2 that first page reads, "IMA is quick to recognize market
3 niches and pursues specific and targeted proprietary IMA
4 or national brand programs to fill them." Do you see
5 that, that statement?
6 A. Yes.
7 Q. What is the difference between a proprietary
8 IMA program and a national brand program?
9 A. We have around 25 brands that we've developed
10 of our own brands that we license, manufacture to sell
11 to our member companies only, and we also represent
12 relationships with national brand programs such as
13 Hormel, such as Dartcup and others. So, we do have
14 proprietary brands that are owned by -- by our entity.
15 Q. This litigation focuses on the Cobblestone
16 Market trademark.
17 A. Uh-huh.
18 Q. Is that initiative considered a proprietary
19 program or a national brand program?
20 A. It is a proprietary brand program.
21 Q. This -- this document, as well as other pages
22 on your Web site, refer to the "third force." What --
23 what exactly is that?
24 A. Well, first of all, it's a fanciful marketing
25 phrase, but our intention is that it means for the --

Exhibit "B" -- Evidence Submitted By Defendant IMA

1 for the operator that -- well, for the distributor, that
2 we are an alternative to becoming part of a corporate
3 entity; i.e., sharing your -- selling your family
4 business to the large corporation or belonging to a -- a
5 more traditional buying group, which is very different
6 than our alliance structure.
7 Q. How would a traditional buying group differ
8 from what IMA has?
9 A. A traditional buying group would have many of
10 the same functions; however, they would be -- consist of
11 very -- a large number of very small distributors. For
12 example, the largest one would have probably 350 to 400
13 different members. They would be quite small; whereas,
14 IMA is a small number of quite large companies. And
15 that's the primary differentiation.
16 Q. This will sound like a foolish question to you.
17 So, third force really is a -- it's not an industry term
18 of art; it's an IMA marketing slogan?
19 A. It is not an industry term; it's an IMA
20 marketing slogan.
21 Q. Okay. This document also refers to Platinum
22 Partners. Who are they?
23 A. Each year among our -- our vendors, both
24 national branded and proprietary, a group of companies
25 are invited to become Platinum Partners, which are our

Exhibit "B" -- Evidence Submitted By Defendant IMA

1 most valued suppliers based upon the size, the
2 relationship, the quality of the service, et cetera, and
3 that's a group that's invited to become Platinum
4 Partners.
5 Q. And so these -- these are the companies from
6 whom IMA purchases?
7 A. Yes.
8 Q. How do they differ from select suppliers?
9 A. We have a program with -- a formalized buying
10 program and marketing agreements with somewhere -- by
11 the way, I will say the Web page you are using is dated,
12 because our service reverted to an older Web page, so
13 the statistics may not match. We're fixing that. But
14 somewhere around 275 suppliers, where it says 250 in
15 this document, that we have formal relationships with,
16 that would include branded and proprietary branded
17 products, producers, and, frankly, some that do both our
18 brand and their own brands. And they would be basically
19 a small percentage, actually less than 20 percent of
20 those that are selected as the top suppliers.
21 Q. Okay. Several of the documents that have been
22 produced in this case by IMA use the initials N-H-K.
23 A. Oh.
24 Q. Are you familiar with that abbreviation?
25 A. Yes.

Exhibit "B" -- Evidence Submitted By Defendant IMA

1 Q. And what does that stand for?
2 A. Newhall Klein.
3 Q. Okay. What about the abbreviation M-A-C?
4 A. MAC is our internal term for our marketing
5 advisory council.
6 Q. And who are the members of that?
7 A. Well, generically, they're the head marketing
8 person from each of the six companies. The names change
9 from time to time and we're in somewhat of a change
10 period right now. I could tell you who was on the last
11 call, but -- if you would like to know the specific
12 names.
13 Q. I think we can probably do without them, but
14 they -- they are -- the MAC is made up of
15 representatives from the member companies; is that
16 correct?
17 A. Each company has a vote on the marketing
18 advisory council and that's whoever they have designated
19 as their representative in that area of marketing.
20 Q. Mr. Planck, I'd like to ask you about a couple
21 of names that we've seen in -- in the documents that we
22 couldn't quite figure out who they are. One of them is
23 Barb Walker.
24 A. Barb Walker is an employee of Newhall Klein.
25 Q. Okay. What about Sandy Klein?

Exhibit "B" -- Evidence Submitted By Defendant IMA

1 A. Sandy Klein is the principal of Newhall Klein.
2 Q. Okay. And are Barb Walker and Sandy Klein
3 IMA's primary contacts with Newhall Klein?
4 A. Yes, they are.
5 Q. And what -- what does Newhall Klein do for IMA?
6 A. Newhall Klein is an independent advertising and
7 marketing agency that specializes in the food service
8 market segment; and they assist us in brochure, point of
9 sale development, ideation, sub-brand identifiers,
10 marketing slogans for products, and, in the past, in
11 developing our branded positions.
12 Q. Does IMA ever ask Newhall Klein to develop
13 brands from the beginning of that process?
14 A. Yes, we have on several occasions.
15 Q. Does Newhall Klein ever suggest brands to IMA?
16 A. Newhall Klein ideates names, which we then
17 focus in on and then evaluate their availability. So,
18 they suggest potential names, yes.
19 Q. Do they attempt to determine the availability
20 of names before they suggest them to IMA?
21 A. In the very first ideation sessions, no;
22 however, before items are taken forward to serious
23 consideration, they generally do a pre-search on those
24 names of some sort.
25 Q. And do you know what is entailed by that

Exhibit "B" -- Evidence Submitted By Defendant IMA

1 pre-search?
2 A. I would have to -- I'm not sure what their
3 internal process or procedures are specifically.
4 MR. DAVIS: I'd like to have this marked
5 as Planck No. 2.
6 (Exhibit 2 marked)
7 Q. (BY MR. DAVIS) Mr. Planck, if I could have you
8 take a look at this, this is also a set of pages that I
9 have printed off from your Web site. It may also have
10 the same issue as the one you identified earlier.
11 A. Uh-huh.
12 Q. It is -- it appears to be a list of IMA's
13 brands and, based on your earlier testimony, would it be
14 correct to say that these are IMA's proprietary brands?
15 A. Yes, each of these in this exhibit are a brand
16 that we developed and license through IMA.
17 Q. Okay. And, so, IMA would license use of these
18 marks to its member companies?
19 A. We license the use of the marks to vendors and
20 specify they can only sell them to our member companies.
21 Q. Okay. When the company seeks to register the
22 proprietary brands, is it responsible for doing so as
23 opposed to having its member companies do so?
24 A. Yes.
25 Q. And, ultimately, IMA is responsible for

Exhibit "B" -- Evidence Submitted By Defendant IMA

1 clearing these trademarks?
2 A. Ultimately, we're responsible for making a
3 business decision as to whether to proceed based on the
4 evaluations that are done by our legal counsel and their
5 recommendations.
6 Q. And that decision, as I understand it, would
7 ultimately be made by the MAC?
8 A. The -- no, not really. If -- if I believe as
9 president that there is -- that an area is a mistake, in
10 terms of trademark liability, the MAC is aware they do
11 not have the authority to make an adverse decision, so
12 that becomes my decision.
13 Q. Okay. I'd like to move on to some issues more
14 specific to this litigation and, in particular, the
15 adoption and selection of the Cobblestone Market mark.
16 Who first proposed that trademark?
17 A. Well, I have to first of all say I don't know
18 if somebody sitting around the table mentioned the name
19 first or second or last. The -- the idea of using
20 Cobblestone something was originally, I think, offered
21 by Newhall Klein. We discussed a lot of different names
22 and zeroed in on Market because of the trade image of a
23 marketplace that we were trying to -- trying to develop.
24 So, whether that Cobblestone Market in
25 combination came from Newhall Klein or from one of the

Exhibit "B" -- Evidence Submitted By Defendant IMA

1 members of the MAC, I honestly don't know who first said
2 it.
3 Q. Do you recall any consideration of Cobblestone
4 Corner?
5 A. Yes, we did consider Cobblestone Corner as one
6 of the possible names.
7 Q. Would that also have had its genesis with both
8 Newhall Klein and people inside the company?
9 A. It could have been either. Again, I'm not
10 certain who first suggested the name.
11 Q. Okay.
12 MR. DAVIS: I'd like to have this marked
13 Planck No. 3.
14 (Exhibit 3 marked)
15 Q. (BY MR. DAVIS) Mr. Planck, I'd like to have you
16 take a look at -- at this document. I realize that this
17 document does not appear to bear your name on it, so it
18 may be the first time you've seen it, but if you could
19 take a look at it for a second.
20 A. Okay.
21 Q. I'd like for you to take a look at the first
22 page. This document appears to refer to Cobblestone
23 Corner and then characterizes that mark as to be used
24 with "Deli items similar to Boar's Head brand at
25 retail." Is that an accurate description of what IMA

1 had in mind for Cobblestone Corner?
2 A. I don't know that it's a fully accurate
3 representation, but we had in mind were cheeses and this
4 whole series of products, and perhaps some others, that
5 would be sold in a market environment, similar to each
6 of our national brand -- national distributor
7 competitors have a brand position for the food service
8 trade under -- under their own proprietary brands.
9 Boar's Head also sells to delis inside and outside of
10 retail.
11 So, Boar's Head would be an example, but I
12 couldn't characterize it as our target.
13 Q. Okay. But was Boar's Head a point of reference
14 within the company for this program?
15 A. It has been on some occasions used as a point
16 of reference, along with other brands.
17 Q. Okay.
18 MR. DAVIS: I would like to have this
19 marked Planck 4, please.
20 (Exhibit 4 marked)
21 Q. (BY MR. DAVIS) If I could have you take a look
22 at that, do you recognize this document?
23 A. No, I do not.
24 Q. Do you know the individual that sent that
25 e-mail?

Exhibit "B" -- Evidence Submitted By Defendant IMA

1 A. No, I do not know John Waters. I don't recall
2 knowing John Waters.
3 Q. Do you know who might have asked Mr. Waters to
4 conduct the search that is referred to in that e-mail?
5 A. I have no idea. I don't know who John Waters
6 is.
7 MR. DAVIS: May I have this marked as
8 Planck 5, please?
9 (Exhibit 5 marked)
10 Q. (BY MR. DAVIS) If you could take a look at that
11 document, I'd appreciate it.
12 Have you ever seen that document before?
13 A. I've seen documents that are similar to this.
14 I don't know if they're the same document or not. We --
15 we certainly did uncover and consider Cobblestone Mills
16 in our search, but I'm not sure whether I've seen this
17 particular document. I only looked at the first eight
18 pages. It doesn't look dissimilar to some of the other
19 search documents we have, but I'm not certain this is
20 one I've seen or not seen. I just don't -- let me just
21 flip through the pages.
22 Q. Okay.
23 A. I do know that some of these, Cobblestone
24 Crossing and some of these other obscure different
25 channel names, we did see, but I'm not sure it was this

Exhibit "B" -- Evidence Submitted By Defendant IMA

1 document. So that's -- I don't know.
2 Q. Okay. Thank you.
3 This, this document, appears to me to be
4 an online trademark availability search?
5 A. Uh-huh.
6 Q. Does IMA ever conduct those inhouse?
7 A. Generally, no. Sometimes members of our MAC
8 look on some sites, but I'm sure that wasn't the case
9 here. We usually rely on our legal counsel for -- for
10 all levels of searches.
11 Q. So, as far as you know, this document was
12 generated outside of the company?
13 A. As far as I know, it was.
14 Q. Okay.
15 MR. DAVIS: May I have this marked as
16 Planck 6, please?
17 (Exhibit 6 marked)
18 Q. (BY MR. DAVIS) Here is another trademark
19 availability search, this one from a different company.
20 If you could, take a look at it and let me know whether
21 this one is one with which you are familiar.
22 A. Yes, it is.
23 Q. So you have seen this document before?
24 A. Yes, this is the one I was thinking might be
25 similar. This I have seen.

Exhibit "B" -- Evidence Submitted By Defendant IMA

1 Q. Okay. And this appears to be a search to
2 determine the availability of the Cobblestone Corner
3 trademark, does it not?
4 A. Yes.
5 Q. Do you know who requested that this search be
6 run?
7 A. No, I'm not certain. It might have been myself
8 or Bob Fontana. I'm sure it was one of the two of us.
9 Q. And that request would have gone through
10 Mr. Hill's law firm?
11 A. Yes, it would have gone through Pagel, Davis &
12 Hill.
13 Q. So IMA would not have ordered this itself from
14 the vendor?
15 A. No.
16 Q. Can you take a look at the goods described on
17 the first page of this document?
18 A. Yes.
19 Q. Does that description include sandwiches?
20 A. No, it does not.
21 MR. DAVIS: I would like this marked as 7,
22 please.
23 (Exhibit 7 marked)
24 MR. HILL: Just for clarification, this
25 No. 6 is the same one we had yesterday, right, for John

Exhibit "B" -- Evidence Submitted By Defendant IMA

1 Egbert?
2 MR. DAVIS: Yes, that's correct.
3 MR. HILL: Okay.
4 MR. DAVIS: We are --
5 MR. HILL: Killing a lot of trees.
6 MR. DAVIS: We are referring to a
7 single --
8 MR. HILL: That's okay.
9 MR. DAVIS: -- Thomson & Thomson search
10 for both depositions.
11 MR. HILL: Okay.
12 MR. DAVIS: The Trademark.com search,
13 though, was not introduced yesterday.
14 MR. HILL: That's okay. I just -- I was
15 going to make a copy for myself to make my own exhibit
16 because I'm not going to duplicate it. I'll just make a
17 copy as long as you tell me it's the same document.
18 MR. DAVIS: It is the same document.
19 MR. HILL: Okay.
20 Q. (BY MR. DAVIS) If you could take a look at
21 Exhibit No. 7, is this a document that you recognize?
22 A. Yes, I do recognize it.
23 Q. Do you recall having received this document?
24 A. Yes.
25 Q. And you're aware that the -- the opposer in

Exhibit "B" -- Evidence Submitted By Defendant IMA

1 this case, Flowers Bakeries Brands, is asserting rights
2 to the Cobblestone Mill mark?
3 A. Yes.
4 Q. And do you see references to the Cobblestone
5 Mill mark in this document?
6 A. Yes, we -- we became aware of that mark in this
7 process and in this document.
8 Q. If you could take a look at the page numbered
9 140 in the lower right-hand corner. Do you see the
10 reference to Flowers on that page?
11 A. Let me read it here.
12 Yes, I do.
13 Q. And that reference is set off with a dash?
14 A. Yes.
15 Q. Do you have any idea why, why that reference is
16 set off with a dash?
17 A. No, I do not.
18 Q. Do you know why the author of this memo would
19 have considered it important to, quote, note that the
20 owner of the Cobblestone Mill mark is Flowers Bakeries
21 Brands, Inc.?
22 A. Specifically, no, I do not.
23 Q. If you could turn back to the previous page
24 with No. 139 in the lower right-hand corner, there is a
25 reference to the word "Cobblestone" being diluted

Exhibit "B" -- Evidence Submitted By Defendant IMA

1 because, and I'll quote here, there are "several
2 different owners of variations of marks containing the
3 word 'Cobblestone.'"
4 A. I was looking at the right corner and I
5 didn't --
6 Q. I'm sorry.
7 A. You're talking about the last paragraph then?
8 Which paragraph are you speaking of?
9 MR. HILL: Right there.
10 THE WITNESS: Middle, okay, second to the
11 last.
12 Q. (BY MR. DAVIS) Do you see that language?
13 A. I'm reading it.
14 Yes, I do.
15 Q. Do you know, was there any investigation done
16 to determine if the marks referenced by that sentence
17 were being used?
18 A. I'll have to -- I'll have to refer that to
19 legal counsel to agree. The document you referred to as
20 Planck Exhibit No. 6 detailed a number of different
21 companies using Cobblestone, so there was research done
22 as to companies that either had or had not used that
23 name and attempted to use it, applied for, and there
24 were many different product categories.
25 I don't know, did I answer your question?

Exhibit "B" -- Evidence Submitted By Defendant IMA

1 Q. Let me clarify the question, because it
2 probably was confusing.
3 This -- this memo discusses the results of
4 the -- the accompanying search report?
5 A. Uh-huh.
6 Q. Do you know if there was any independent
7 research done to determine whether the names disclosed
8 by the search report actually were out in the
9 marketplace?
10 A. No, I do not know that.
11 Q. If you could turn back to No. 140 on the -- the
12 next page, there is a reference in the last paragraph
13 and it reads, "The trademark office has sent some sort
14 of letter to the applicant for 'Cobblestone Bread.'"
15 Was there any research done to determine what that
16 letter said?
17 A. Not by me or my staff, no. I don't know
18 whether Pagel, Davis & Hill did research or not.
19 Q. I'm sorry to keep jumping back and forth. If I
20 could get you to turn back to page 139, and the second
21 to the last paragraph of that, that page, there is a
22 sentence reading in part, "When a mark is comprised of a
23 word or words, the dominant sounds that a viewer
24 observes is a feature of the mark to be analyzed for
25 purposes of determining likelihood of confusion."

Exhibit "B" -- Evidence Submitted By Defendant IMA

1 A. You said the second to the last paragraph? I
2 didn't read it that way. You said 139, the next to the
3 last paragraph?
4 Q. Second to the last paragraph. I may have the
5 wrong one.
6 MR. HILL: He's right here.
7 A. Okay.
8 Q. (BY MR. DAVIS) I'm sorry. Looks like last
9 complete paragraph.
10 A. Okay. I'm sorry, would you ask the question
11 again?
12 Q. I was just asking if you saw that language.
13 A. I must have misunderstood what you said. I see
14 the paragraph, second to the last, that starts with
15 "When a word has been used in multiple classes" and ends
16 with the word "Cobblestone," period. I did read that
17 paragraph.
18 Q. I'm sorry, I may have the wrong paragraph. I'm
19 sorry, I should have said the -- the second to the last
20 complete paragraph.
21 A. "As we have previously noted"?
22 Q. The next sentence.
23 A. "When a mark is comprised of a word or words
24 the dominant sounds that the viewer observes is in the
25 feature of the mark to be analyzed for the purpose of

Exhibit "B" -- Evidence Submitted By Defendant IMA

1 determining likelihood of confusion," yes, I see that.
2 Q. This, again, is a memo addressing the -- the
3 Cobblestone Corner trademark. What would you consider
4 to be the dominant component of that trademark?
5 A. Well, I think that the word "Corner," because
6 it was looking toward a corner market, as we see in so
7 many cities. And that's why we ultimately went to the
8 word "Market" as the main marketing view of the product.
9 In fact, I think you'll see our logo has a market on it.
10 So, we were looking for that connotation.
11 Q. So what you'd consider to be the dominant
12 component of the Cobblestone Corner market ultimately
13 was dropped?
14 A. Yes, it was ultimately -- it was ultimately --
15 the word that was substituted that more clearly got to
16 that meaning, "Market."
17 Q. Was there any consideration to putting the word
18 "Market" first?
19 A. Market Cobblestone? No, it didn't sound very
20 good. I don't think it was ever considered.
21 Q. Okay.
22 MR. DAVIS: I'd like to have this marked
23 as the next exhibit, please.
24 (Exhibit 8 marked)
25 Q. (BY MR. DAVIS) Mr. Planck, I've handed you a

Exhibit "B" -- Evidence Submitted By Defendant IMA

1 document that bears the number in the lower right-hand
2 corner of 137. This is a document that appears to be
3 one page of a larger document. This is how it was
4 produced to us, so I apologize, I cannot give you the
5 entire document.
6 I'd like for you to take a look at the
7 first line of the second full paragraph.
8 A. Yes.
9 Q. Do you see the words "IMA should anticipate"?
10 A. Oh, that's -- okay, full paragraph. I was
11 looking at the one above.
12 I do see that, yes.
13 Q. And that sentence, that sentence suggests that
14 IMA should anticipate an opposition from Flowers
15 Bakeries Brands, Inc.?
16 A. I do read the -- I do see the sentence, yes.
17 Q. Could I get you to compare the page that you're
18 looking at now with the last page of Planck No. 7?
19 Are -- is that language, "IMA should anticipate,"
20 present in the final copy, and, in particular, on page
21 140?
22 A. It does not seem to be present on 140.
23 Q. So, the prediction that IMA should anticipate
24 an opposition from Flowers Bakeries Brands was deleted
25 from what appears to be an earlier draft of the memo?

Exhibit "B" -- Evidence Submitted By Defendant IMA

1 A. All I can state is that it's not on 140 and, to
2 my knowledge, it was never presented to -- to IMA
3 management.
4 Q. That anticipates my last -- my next question,
5 which is: have you ever seen the single-page document
6 that is Planck Exhibit No. 8 before?
7 A. To my knowledge, I've never seen this before
8 and I don't know who wrote on it or -- I have no idea,
9 so...
10 Q. That was my next question. You don't recognize
11 the handwriting?
12 A. No, I do not.
13 Q. Okay. And you have no idea why those words
14 would have been deleted?
15 A. I have no knowledge of this piece of paper, if
16 there was a draft deleted. I just have no knowledge of
17 it.
18 Q. Had you seen the earlier draft, would it have
19 made a difference to you?
20 A. We rely on the advice of our attorneys to make
21 a business decision and that's what we did, based on the
22 trust and the experience with our counsel.
23 Q. Had you known that the initial conclusion of
24 counsel was that an opposition should be anticipated,
25 would that have made a difference to you?

Exhibit "B" -- Evidence Submitted By Defendant IMA

1 A. If we felt confident it was -- we did this all
2 in good faith. We never thought we infringed. If we
3 thought we were infringing, we would not have pursued a
4 name, any name.
5 Q. Okay.
6 A. Counsel, there is a commercial that talks about
7 a guy having a going problem and I might have that.
8 Could we take a brief recess or a break?
9 Q. We can take a recess for that or any other
10 reason, that's fine.
11 A. Okay. Thank you.
12 (Recess from 10:01 a.m. to 10:07 a.m.)
13 Q. (BY MR. DAVIS) Mr. Planck, we have been talking
14 about some documents. The last few exhibits all seem to
15 bear the dates in mid April 2004.
16 MR. DAVIS: I'd like to have this document
17 marked as an exhibit.
18 (Exhibit 9 marked)
19 Q. (BY MR. DAVIS) I'd like to have you take a look
20 at a document that appears to bear the date of Thursday,
21 May 26, 2005. Are you familiar with this document?
22 A. I vaguely remember it. I signed it and I'm
23 familiar with it. Let me read the whole thing here for
24 a minute.
25 Q. Okay.

Exhibit "B" -- Evidence Submitted By Defendant IMA

1 A. Yes. Yeah, I remember most of the details
2 around this, I think.
3 Q. That -- that document refers to the Cobblestone
4 Market mark being, quote, most critical to IMA. Do you
5 see that reference?
6 A. Let me -- yes.
7 Q. At what point was -- at what point did
8 consideration evolve from -- I'm sorry. Let me withdraw
9 that question.
10 At what point did the company begin
11 consideration of Cobblestone Market as opposed to
12 Cobblestone Corner?
13 A. I'd have to say it was between mid April and
14 May 26. I'm not precisely sure. But this letter is
15 dated May the 26th and we were -- it may be that we had
16 actually launched the Cobblestone Corner search earlier.
17 Cobblestone Corner search turned up all the things that
18 would have conflicted, in our view, with Cobblestone
19 Market. So, I'm not sure when we launched the search
20 process versus when the report came down.
21 I would say by May 26 we had refocused on
22 Cobblestone Market. Other than that it would be
23 conjecture. I'm not certain.
24 THE WITNESS: You getting all that?
25 That's pretty good.

Exhibit "B" -- Evidence Submitted By Defendant IMA

1 Q. (BY MR. DAVIS) And you have anticipated my next
2 question, which is, was a separate search run for
3 Cobblestone Market?
4 A. We didn't feel it was necessary and one
5 separate one was not run.
6 Q. Okay. And the reason for that was?
7 A. The voluminous Thomson & Thomson report on
8 Cobblestone everything that you've got marked as Exhibit
9 No. 6.
10 Q. Okay. So it was the company's determination
11 that a search for Cobblestone was what was important?
12 A. We -- our determination was we believed every
13 combination that used the word "Cobblestone" had been
14 covered in the search, which would have also included
15 Cobblestone Market, "Market" being our -- our primary
16 focus. But that would have been covered, in our view,
17 by the Cobblestone Corner search.
18 Q. I'd like to jump back to an earlier exhibit.
19 And, I'm sorry, if I could refer to your copies very
20 briefly --
21 A. Sure.
22 Q. -- I will -- I've lost track of which one it
23 is.
24 Again, this is Exhibit 2 --
25 MR. HILL: Okay.

Exhibit "B" -- Evidence Submitted By Defendant IMA

1 Q. (BY MR. DAVIS) -- the brand statement.
2 A. Uh-huh.
3 Q. On the second page of this document, there is a
4 discussion of the Cobblestone Market mark, is there not?
5 A. Seems to be on the first page.
6 Q. I'm sorry, if it's on the first page. It may
7 well be.
8 A. Yes, there is.
9 Q. And the description reads, in part, "Our
10 premium quality and consistency will remind everyone of
11 their favorite neighborhood deli taste." Do you see
12 that language?
13 A. I think it says "Everyone of neighborhood
14 deli." I don't see the word "taste" in this version.
15 Q. Okay, I'm sorry.
16 Is this mark intended to remind customers
17 of a traditional deli?
18 A. It's intended to remind them of a market and of
19 deli foods. The primary customer that we sell is
20 restaurants and institutions, but even those accounts
21 want to think of themselves as selling a premium
22 product, which delis and markets conjure up.
23 Q. Okay. Does the word "Cobblestone" play any
24 role in that?
25 A. Cobblestone plays a role or we wouldn't have

Exhibit "B" -- Evidence Submitted By Defendant IMA

1 selected it. The role is of sort of old-timey
2 tradition, and "Market" being the primary focus of our
3 logo, with cobblestones around it.
4 Q. And would the presence of the word
5 "Cobblestone" in the mark aid in getting your buyers --
6 or let me withdraw that question.
7 Would the presence of the word
8 "Cobblestone" invoke the, quote, time honored taste that
9 is referenced by that?
10 A. I -- I think that the term "Market" more so
11 does that than Cobblestone. I think Cobblestone offers
12 a soft, warm, historic feeling, more than the image of
13 the market, which is what we're really -- really
14 selling, deli items from a market.
15 Q. Okay. And I understand you have two separate
16 words here that may --
17 A. Right. They both have a meaning that will have
18 a use, but our primary focus is that it's a market, and
19 Cobblestone offers softness and texture to that.
20 Q. Okay.
21 A. Let's see. One, two -- I hope you didn't take
22 all this paper all the way from Georgia.
23 Q. We had it shipped, but, unfortunately, it all
24 came from Georgia.
25 Let me -- let me ask just a cleanup

1 question about the -- the big trademark availability
2 search.
3 A. Yes.
4 Q. The Thomson & Thomson one.
5 A. Uh-huh.
6 Q. Was there ever a search run for any mark,
7 including the word "Cobblestone," for sandwiches?
8 A. No, not to my knowledge.
9 Q. Okay.
10 A. Nor do we sell sandwiches or intend to, so...
11 Q. Okay.
12 MR. DAVIS: I'd like to have this marked,
13 please.
14 (Exhibit 10 marked)
15 MR. DAVIS: Marty, several of these
16 documents I only have one copy of.
17 MR. HILL: That's fine.
18 MR. DAVIS: This is the original
19 application.
20 Q. (BY MR. DAVIS) Mr. Planck, if I could have you
21 take a look at that document, please.
22 A. Yes, sir.
23 Q. And once you've reviewed it, tell me if this is
24 something with which you are familiar.
25 A. I'm familiar with the contents. I think I may

Exhibit "B" -- Evidence Submitted By Defendant IMA

1 have seen the actual document before, but I'm not sure.
2 Yes, I signed it, so I'm familiar with it.
3 Q. Okay. So, that is your signature on the second
4 page there?
5 A. Yes, it is, yeah.
6 Q. Do you know what this document is?
7 A. This is actually the trademark application
8 registration, for registration, is my understanding,
9 directed to the Commissioner of Trademarks.
10 Q. And are you aware that a trademark application,
11 in addition to identifying the mark, needs to recite the
12 goods and services that the mark will cover?
13 A. In a legal ter -- in terms of the legal meaning
14 of that statement, I am not sure I am fully aware of it.
15 Q. Okay. And I'm obviously not asking you for
16 legal conclusions. Let me --
17 A. Yes, we try to -- we try to present the
18 categories. When we register a brand, we try to present
19 the categories that we know or believe we may market
20 under that brand.
21 Q. Okay. And that document you have in front of
22 you on the first page does list goods in it?
23 A. Yes, it does.
24 Q. How did the company come up with that list of
25 goods?

Exhibit "B" -- Evidence Submitted By Defendant IMA

1 A. Well, I think, first of all, we looked at our
2 competitors. We looked at Block & Barrel brand with
3 Sysco and there is another brand with U.S. Foodservice,
4 and we looked at the categories of products that they
5 sold under those brands. And those were the ones we
6 directed our attention to, so that we would be able to
7 have a -- a deli quality product line to sell to our
8 food service customers in competition with what those
9 two mega corporations are doing to their customers.
10 Q. Okay. So, just to make sure I am straight on
11 this, Block & Barrel is a trademark of Sysco?
12 A. Yes, it is.
13 Q. Okay.
14 A. I registered it when I was there.
15 Q. All right.
16 A. I'm pretty certain it is.
17 Q. And U.S. Foodservice has a corresponding brand?
18 A. Yes, they do, which I assume is registered.
19 Q. Okay. And which one is that?
20 A. I don't remember offhand.
21 Q. Okay.
22 MR. DAVIS: I'd like to have this marked
23 as the next exhibit, please.
24 (Exhibit 11 marked)
25 MR. HILL: Okay.

Exhibit "B" -- Evidence Submitted By Defendant IMA

1 Q. (BY MR. DAVIS) Mr. Planck, I have handed you an
2 exhibit that I suspect you have not seen before. I will
3 represent to you that this is a printout from the Patent
4 and Trademark Office Web site, containing information on
5 the application that is the subject of this proceeding.
6 You will see that in the midsection of the first page of
7 that document there is a recitation of goods once again?
8 A. Uh-huh.
9 MR. HILL: It's better to say yes or no.
10 A. Oh, I'm sorry. Yes, I do see that in the
11 midsection of that page in Exhibit No. 11.
12 Q. (BY MR. DAVIS) And if you compare the
13 description in that document with the one in the
14 previous exhibit, are they the same?
15 A. There are different elements. There are items
16 included in this document that are not included on
17 Exhibit 10, and I'm not sure if the adverse of that is
18 true or not. But there are differences.
19 Q. Does it appear that there are more goods in
20 Exhibit 11 than there are in Exhibit 10?
21 A. Yes, although I believe that some of those
22 goods are components of salads, and I think there may be
23 some other components of goods listed on the other page;
24 but it is a larger list.
25 Q. Okay. Let me follow up on that. For Exhibit

Exhibit "B" -- Evidence Submitted By Defendant IMA

1 No. 11, the document that I would agree with you has the
2 larger list of goods, you've just referred to some of
3 those goods being components. Which of those would fall
4 under that category?
5 A. I think that -- well, I don't know how we got
6 to this list, honestly, but things like vegetables and
7 pasta products would be components of prepared
8 refrigerated salads; and meat, fish, poultry and
9 vegetables might be components of prepared entrees or
10 frozen soups and entrees. I believe those are listed.
11 I'm assuming they're listed because they become
12 components of those other categories.
13 Q. I think that is correct. Leaving aside the --
14 the list of components for entrees, which I think -- I
15 gather from this description that meat, fish, poultry or
16 vegetables simply modifies the word "entree"?
17 A. And to some degree salads, both. You could
18 have tuna fish salad, for example, or you could have a
19 salad that had vegetables in it. I'm assuming that's
20 why it was done this way, but I don't know.
21 Q. Okay.
22 A. Seems to be the case. The two below, which I
23 didn't focus on, the deli mustard and cooked deli items,
24 namely, sandwiches, is -- the "namely, sandwiches" is a
25 different intent than this application indicated,

Exhibit "B" -- Evidence Submitted By Defendant IMA

1 somehow. It's a different wording anyway.
2 Q. Okay. Let me make sure I understand. When you
3 used the word "component" initially -- and I'll pick one
4 of the examples you gave, vegetables -- does the
5 company ultimately intend to sell vegetables as a
6 separate item?
7 A. Not under this brand.
8 Q. Okay. So, if -- if vegetables were to be
9 provided as part of this program, they would be, for
10 example, a component of the entree?
11 A. Of beef stew with carrots in it or a salad with
12 carrot and raisin, as an example, would have vegetables.
13 Q. Okay. There is a reference to refrigerated
14 salads.
15 A. Uh-huh.
16 Q. Would those be sold separately as a branded
17 item?
18 A. They are in bulk food service packs, namely,
19 one gallons, I think, and they're sold business to
20 business to food service operators or deli operators,
21 but not sold as units to consumers.
22 Q. Okay. But tuna, tuna salad, might be an
23 example of that?
24 A. It could be, yes. We do have a tuna and a
25 chicken salad, Cobblestone Market prepared salad item

Exhibit "B" -- Evidence Submitted By Defendant IMA

1 that's sold in bulk.
2 Q. Okay. And those would -- those would arrive at
3 your customer's places of business in the big gallons?
4 A. Yes.
5 Q. Okay. There is some exclusionary language in
6 this description, "except macaroni, rice and pasta
7 salad." Do you know why that language was excluded?
8 A. I have no idea.
9 Q. Okay. Let me start at the beginning of this
10 description, with the deli meats. Would the deli meats
11 be delivered in the same way as the salads? And by
12 that, I understand sort of a large container?
13 A. The deli meats and deli cheeses would be
14 delivered in large bulk units --
15 Q. Okay.
16 A. -- that would then be sliced for sandwiches.
17 The second part of your question was just deli meats and
18 cheeses?
19 Q. You've answered it. Thanks.
20 A. There are some -- I want to make sure I fully
21 answer. There are some pre-portioned deli meats that
22 are also sold in bulk large food service boxes for
23 sandwich makers.
24 Q. Okay.
25 A. But they're not retail size units.

Exhibit "B" -- Evidence Submitted By Defendant IMA

1 Q. What about the pickles?
2 A. The pickles are sold in bulk containers,
3 gallons or five-gallon pails.
4 Q. Okay. The bagged potato chips, would they --
5 would they arrive at your customers bearing the
6 Cobblestone Market trademark?
7 A. Yes, they would.
8 Q. Okay. So the bag itself would --
9 A. Yes, they would --
10 Q. Okay.
11 A. -- bear the trademark.
12 Q. What about frozen soups?
13 A. Frozen soups are also bulk food service
14 concentrated, not individual portion control, and they
15 do arrive bearing Cobblestone Market brand.
16 Q. Okay. And what about the frozen entrees?
17 A. We have not yet introduced that product line,
18 but it would be the same.
19 Q. Okay. Let's jump to the next class of goods,
20 deli mustard. How would you provide that to your
21 customers?
22 A. Well, in this class of goods, it was probably
23 an afterthought of, gee, we might do that some day. We
24 actually do not sell deli mustard at all currently. We
25 have not introduced that product.

Exhibit "B" -- Evidence Submitted By Defendant IMA

1 Q. You don't -- you don't sell it under any brand
2 name?
3 A. We sell Katy's Kitchen gallons of yellow
4 mustard, but, to my knowledge -- and we sell horse
5 radish and stuff, but, to my knowledge, we don't have
6 actually a spicy deli mustard anywhere in our system
7 currently.
8 Q. Okay. And the mustard, the mustard that you do
9 sell, is it provided by another company?
10 A. All of our products are -- are packed under
11 license by or companies.
12 Q. Okay.
13 A. We own no manufacturing facilities.
14 Q. Okay, I'm sorry, I should have been clearer.
15 But the mustard that you do sell bears an
16 IMA trademark as opposed to --
17 A. Some of the mustard we sell bears an IMA
18 trademark, some bears Heinz and other national brand
19 trademarks.
20 Q. Okay.
21 A. And, to be clear, actually, they're -- IMA
22 companies sell it. We don't actually ever take title to
23 product as an entity.
24 Q. Okay.
25 A. The companies are licensed to sell to the

1 members.
2 Q. Okay. What about the sandwiches, the last
3 item?
4 A. Well, we don't sell sandwiches prepared, we
5 never have, under any brand of our own. Sara Lee does
6 sell prepared sandwiches. And, you know, frankly, I
7 added in this thing at some point with Bartt as an
8 afterthought, gee, some day we might sell sandwiches.
9 The fact is we don't, we have no intention to produce
10 sandwiches and, as I've specified previously, we're
11 willing to forego that category completely.
12 Q. Okay. So, for sandwiches, the company might
13 provide the components for a sandwich?
14 A. It's possible an operator would buy all the
15 components for a sandwich, including Flowers breads
16 distributed through our companies.
17 Q. Okay.
18 A. But I don't believe Cobblestone Mills is one of
19 those brands distributed through our companies.
20 Q. But the bread, the bread that would be used,
21 would be bread coming from another company that was not
22 one of your licensees?
23 A. The bread an operator might use could be from
24 any source they procured it from. They aren't -- none
25 of them are required in selling Cobblestone Market to

Exhibit "B" -- Evidence Submitted By Defendant IMA

1 only buy our products. They could buy any bread they
2 wanted to.
3 Q. Okay.
4 A. More likely than not, it would come from a
5 bread company.
6 Q. Okay. You mentioned earlier that you -- that
7 the point of comparison were two brands owned by Sysco
8 and U.S. Foodservice. Did you do any market studies to
9 determine if there was room in that market for the
10 Cobblestone Market program?
11 A. Specific to the -- as you stated it, no.
12 Q. Okay. For the goods listed in Planck No. 11,
13 prior to -- prior to filing the Cobblestone Market
14 application, had you lined up suppliers for the goods
15 listed in that application?
16 A. Many of them were providing other brands,
17 either their own or ours, and I don't believe anyone was
18 ever authorized to go forward with that branding until
19 we had launched the application.
20 Q. Okay. But what -- and this is a broader
21 question. For your proprietary brands, you license
22 providers of those goods to package the goods in
23 packaging bearing IMA's brands?
24 A. Under stricter supervision, yes.
25 Q. Yes. And that either is or will be the case

Exhibit "B" -- Evidence Submitted By Defendant IMA

1 for Cobblestone Market?
2 A. It is the case and would be the case for line
3 extensions of Cobblestone Market.
4 Q. Okay. What about -- has the company considered
5 providing restaurant services under the Cobblestone
6 Market mark?
7 A. Well, we don't provide restaurant services ever
8 in competition with our customers. Our customers are
9 independent and chain and group food service entities.
10 Q. I've seen some references in the documents to
11 kiosks. What are the company's plans for kiosks?
12 A. The kiosk concept is a service to -- to
13 customers. And, in most cases, these kiosks are --
14 exist in college and universities or business and
15 industry-type environments. The operator usually wants
16 to provide some sort of a restaurant-ish kind of a look,
17 without the franchise fees. So, Sysco, U.S., and now
18 IMA offer product concepts so they can package together
19 to have a San Pablo Mexican kind of environment, with
20 Mexican products, et cetera, or Italian or deli-type
21 products.
22 Q. Okay.
23 A. That's the concept.
24 Q. Are there plans to use the Cobblestone mark in
25 connection with the kiosks?

Exhibit "B" -- Evidence Submitted By Defendant IMA

1 A. Yes, there are.
2 Q. So, the kiosk presentation would be one in
3 which the ultimate consumer would be exposed to
4 trademarks used on the kiosks?
5 A. Yes, they would be exposed to the trademark and
6 the component products --
7 Q. Okay.
8 A. -- that were displayed and sold there.
9 Q. For those of your customers that operate delis,
10 are the goods sold in those delis ever displayed to
11 consumers, the ultimate consumers, in a way that
12 displays the trademarks?
13 A. For operators that have display cases that are
14 conveying a purely deli image, the answer would be yes.
15 The vast majority of our customers are using the back of
16 the house to slice sandwiches, but it is possible that
17 it would be displayed where a consumer would see it.
18 Q. Okay.
19 MR. DAVIS: I'd like to have this marked
20 as the next exhibit.
21 (Exhibit 12 marked)
22 MR. DAVIS: This is also from yesterday,
23 Marty.
24 Q. (BY MR. DAVIS) I'd like to have you take a look
25 at this document, and if you could let me know after

Exhibit "B" -- Evidence Submitted By Defendant IMA

1 reviewing it whether it is something that you have seen.
2 A. I'm familiar with some of the material. I
3 don't recall whether I've actually seen this document or
4 not.
5 Q. I'm really only going to ask you about the
6 first couple of pages, so...
7 A. Okay.
8 Q. I will represent to you that this document was
9 used as an exhibit in Mr. Egbert's deposition yesterday.
10 And I will invite Mr. Hill to intervene if he disagrees
11 with my characterization.
12 MR. HILL: No. I mean, I assume it's the
13 same thing. It looks the same.
14 Q. (BY MR. DAVIS) And Mr. Egbert's testimony was
15 that this was a document that his firm prepared in
16 response to an office action received from the Patent
17 and Trademark Office in connection with the Cobblestone
18 Market application.
19 My questions on this are actually fairly
20 simple. Do you see on the first page that this document
21 is proposing an amendment to the goods listed in the
22 original application?
23 A. Let me just read the front page.
24 Q. Okay.
25 A. Under In the Application, is that the section,

Exhibit "B" -- Evidence Submitted By Defendant IMA

1 under here?
2 Q. Yes.
3 A. Okay. Let me read that then.
4 Q. Under that heading, yes.
5 A. I see -- yes, I see it lists those, and it says
6 something about "please delete under Class 29." I'm not
7 sure I know what that means, but I do see it.
8 Q. Did you review this proposed language before it
9 was filed with the Patent and Trademark Office?
10 A. Rela -- relating to that particular paragraph?
11 Q. Yes.
12 A. I don't recall reviewing this specific
13 document, no.
14 Q. What about the language in that paragraph, even
15 if it was in a different form?
16 A. There was some question about the PTO wanting
17 things reclassified from 29 to 30, if that's what this
18 refers to, but -- but I don't recall seeing this
19 specific language. I may have seen it, I just don't
20 recall it.
21 Q. Okay.
22 A. And it talks about Class 29 and 30 in the
23 heading.
24 Q. Yeah, the class -- class references are purely
25 administrative within the Patent and Trademark Office.

Exhibit "B" -- Evidence Submitted By Defendant IMA

1 A. Okay.
2 MR. DAVIS: Could we go off the record?
3 (Recess from 10:38 a.m. to 10:59 a.m.)
4 Q. (BY MR. DAVIS) Let me ask you a quick follow-up
5 question on a subject from earlier this morning. You
6 mentioned that you felt that "Market" was the dominant
7 component of the Cobblestone Market trademark. Has IMA
8 ever run a trademark search for the word "market"?
9 A. As a separate freestanding word, no, we have
10 not.
11 Q. Has it run one for the word as part of a larger
12 mark?
13 A. I don't believe so.
14 Q. I'm going to throw out a phrase that is a -- a
15 term of art under trademark law and see if you recognize
16 it. Are you familiar with the concept of "use in
17 commerce"?
18 A. No.
19 Q. Are you aware that trademark rights under U.S.
20 law depend on sales of goods bearing the mark?
21 A. Yes.
22 Q. Are you familiar with the intent to use
23 trademark application process?
24 A. Familiar may be a broad term. I am aware that
25 there is a process. I couldn't claim to be really, in a

Exhibit "B" -- Evidence Submitted By Defendant IMA

1 legal sense, familiar with it.
2 Q. Okay. I'm sorry, could I refer to your stack
3 of exhibits again?
4 A. Yes, sir. Oh, you need to see it?
5 Q. I'm sorry, yes.
6 A. Okay.
7 Q. I'd like to refer you back to Planck Exhibit
8 No. 10, which I believe is the -- the original trademark
9 application at issue in this case. Do you see in the --
10 the language of the first page of that document a
11 reference to "bona fide intention to use"? It may read
12 "bona fide intent to use."
13 A. Yeah, it says "intent to use" and it refers to
14 "application of bona fide intention to use." Yes, I see
15 that.
16 Q. What is your understanding of that language?
17 A. Bona fide must mean real and intention is a
18 plan, and so I'd say it would be a real plan to use.
19 Q. And if I could refer you to the exhibit for the
20 application as it currently reads, which is Planck No.
21 11 --
22 A. Yes.
23 Q. -- if I could refer you back to the current
24 identification of goods, I'd like to run through those
25 one more time. And I apologize for this, but I've got a

Exhibit "B" -- Evidence Submitted By Defendant IMA

1 threshold question first. Are you aware that for a
2 trademark registration to issue covering all of those
3 goods, there must be sales of those goods under the
4 brand name?
5 MR. HILL: I object to the extent of a
6 legal conclusion. But whatever you, as a nonlawyer,
7 want to respond, you're welcome to do.
8 MR. DAVIS: That's fair enough. I'm only
9 asking for his understanding.
10 A. I'm not sure I do fully understand it that way.
11 I know that we have to submit proof of sales of items
12 under the registered trademark in order to seek
13 registration. If it requires every possible iteration,
14 I'm not fully aware of how that works.
15 Q. (BY MR. DAVIS) Okay. But either at IMA or,
16 say, at Sysco, have you seen a document styled as maybe
17 a Statement of Use to be filed with the trademark
18 application?
19 A. Well, first of all, I have to say I have
20 been -- over 50 your memory fails a bit and that's
21 11 years ago, so I can't really relate to what happened
22 at Sysco. And I don't know of a document with that
23 specific title, that may have been the intent. I may
24 have seen one, but I couldn't say that I have.
25 Q. And I realize I'm using, again, terms of art

Exhibit "B" -- Evidence Submitted By Defendant IMA

1 that may mean something only to us.
2 A. Right.
3 Q. Do you recall ever signing a document for
4 filing with the Patent and Trademark Office that recites
5 that the trademark is now in use?
6 A. I don't recall signing such a document. It
7 doesn't mean that I didn't sign -- sign it if it was put
8 in front of me by legal to sign. I just don't recall
9 it.
10 Q. Okay. I understand.
11 Have you ever been involved in providing a
12 specimen of trademark use to the Patent and Trademark
13 Office?
14 A. Yes.
15 Q. What was your understanding of why you were
16 providing that specimen? And by that, I mean not you
17 personally, but the company.
18 A. My understanding is that after a period of time
19 elapses, that you need to demonstrate that the product
20 is actually being sold, and my recollection is
21 interstate commerce, and then some proof of that is
22 required at some point to move from a -- a TM to an R
23 designation on a product. That's my general
24 understanding.
25 Q. Okay. And is it your understanding that --

Exhibit "B" -- Evidence Submitted By Defendant IMA

1 that to get a registration for a whole list of goods,
2 that each of those goods must be in use?
3 A. No, not really.
4 Q. And it's not your understanding because you've
5 never encountered that or because you believe I'm
6 mischaracterizing what I have just said?
7 A. Well, first of all, I don't maintain you're
8 mischaracterizing anything. Secondly, my recollection
9 from the dark and distant past is that those were filed
10 without examples of every possible use and no question
11 was ever asked. That's my recollection.
12 Q. I understand that this, this application, was
13 filed as an intent to use application and it would not
14 need to have been accompanied by specimens when it was
15 filed, so that's not what I am getting at.
16 And is it your understanding that if the
17 company represents that it has an intent to use a
18 trademark in connection with particular goods, that it
19 should have an intent to use the mark with all the
20 goods?
21 A. No, I'm not aware of that specifically.
22 Q. Okay.
23 A. Intent may not be followed through on by
24 action, and it's certainly possible that some
25 categories, like prepared sandwiches, we would file and

Exhibit "B" -- Evidence Submitted By Defendant IMA

1 ultimately decide not to follow through on that
2 category.
3 Q. I'd like to run down the list of goods in the
4 current application and see if you could tell me which
5 marks are in use and which are not in use.
6 A. Which marks being Cobblestone Market?
7 Q. I mean, I'm sorry, I misspoke there. Which
8 goods are currently being sold under the mark and which
9 are not.
10 A. Okay.
11 Q. And I'd like to you refer to the second of the
12 two documents that you have.
13 Beginning with deli meats?
14 A. Yes, deli meats are being marketed under the
15 brand.
16 Q. Next category is cooked deli items, namely,
17 soups and vegetables?
18 A. Soups are under use in the brand.
19 Q. And vegetables?
20 A. Only as components of soups.
21 Q. Okay. Cheese?
22 A. Cheese is under the brand.
23 Q. Refrigerated salads I think we've covered, but
24 if you could just confirm that?
25 A. Yes, refrigerated salads are marketed under the

Exhibit "B" -- Evidence Submitted By Defendant IMA

1 brand.
2 Q. Pickles you may have covered, but if we could
3 confirm that?
4 A. Pickles are marketed under the brand.
5 Q. Bagged potato chips?
6 A. They have been approved. I'm not certain that
7 they're actually being sold yet.
8 Q. Okay. And by approved, do you have packaging
9 for them?
10 A. We have approved art work for the vendor to
11 produce it. I'm not sure they've introduced it in the
12 market yet.
13 Q. Okay. We may have a duplicate entry. Frozen
14 soups?
15 A. Frozen soups are in the marketplace under the
16 Cobblestone Market brand.
17 Q. Okay. What about the frozen entrees?
18 A. Not at this time.
19 Q. Okay. Deli mustard?
20 A. Not at this time.
21 Q. Okay. Sandwiches we may have covered, but if
22 you could confirm that?
23 A. Sandwiches, in the sense I take this to mean
24 prepared sandwiches, marketed and sold as sandwich
25 units, no, that is not in the marketplace --

Exhibit "B" -- Evidence Submitted By Defendant IMA

1 Q. Okay.
2 A. -- under our brand.
3 Q. Okay. Mr. Planck, I'd like to pass to you your
4 company's answer in this proceeding.
5 A. Uh-huh.
6 Q. And if I could ask you to turn to the very tail
7 end of that document, and, actually, on the second and
8 the final -- second to last and last pages, there is a
9 heading reading Affirmative Defenses and you'll see
10 there that there are two items. If I could bother you
11 to look, for now, at the second of those, which I
12 believe is a reference or it is the affirmative defense
13 that "Flowers has failed to state a claim under
14 Rule 12(b)(6)."
15 MR. HILL: Actually, you've reversed them.
16 Q. (BY MR. DAVIS) I'm sorry. Let's start off with
17 the first one then.
18 A. No. 14.
19 MR. HILL: Is the 12(b)(6).
20 MR. DAVIS: Thank you.
21 Q. (BY MR. DAVIS) Did you -- did you review that
22 language before the answer was filed?
23 A. I saw the language, yes.
24 Q. Do you know why your company believes that
25 Flowers has failed to state a claim in this action?

Exhibit "B" -- Evidence Submitted By Defendant IMA

1 A. In the legal sense of the meaning of those
2 words, I'm not precisely certain that my answer falls
3 within legal code because I'm not a lawyer, but we feel
4 it does not infringe because, first of all, our focus is
5 on markets and products that are sold to the food
6 service marketplace and that we are not in the business
7 of selling bread under this brand anywhere, and that
8 your business is primarily breads in retail
9 environments, which is a totally different product
10 section and market, market and product category than the
11 uses of our product.
12 Q. Okay. Could I now refer you to the second one
13 of those affirmative defenses? And you'll see that this
14 one refers to an alleged absence of the likelihood of
15 confusion. The response that you just gave to the
16 previous question, does that also apply to this
17 affirmative defense?
18 A. They seem to be different types of questions.
19 This question says "Applicant's mark, if used correctly,
20 the absence of goods is not likely to cause confusion
21 with the mark of the opposer," and it is my belief that
22 in the ways that we are using that and intend to use
23 that, that it would not cause confusion --
24 Q. Okay.
25 A. -- with the mark of the opposer.

Exhibit "B" -- Evidence Submitted By Defendant IMA

1 Q. As to the first affirmative defense -- and the
2 language for failure to state a claim is another one of
3 these legal terms of art and I'm using it because your
4 counsel has used it, and I realize it may not be a
5 familiar one to you. But just you personally, do you
6 know why, any reason why -- do you know what the basis
7 of that affirmative defense is?
8 A. I haven't asked for detailed counsel on the
9 meanings of that term from my attorney.
10 Q. Okay. So, is your answer, no, you personally
11 don't know the basis for that?
12 A. I personally don't know the definitions or the
13 application of the term in a legal sense.
14 Q. Okay. That's fine.
15 Jumping back to the second affirmative
16 defense now, and I apologize for jumping around, what --
17 to the extent you have not already given us a response
18 on this, what is the basis for that affirmative defense?
19 A. "When used correctly" would imply to me that,
20 under the guidelines that we have established and then
21 in the markets and product segments that we will use the
22 product in, that it's not likely to cause confusion with
23 the mark of the opposer's goods.
24 Q. Okay. Are there any other reasons why you
25 think there is not a likelihood of confusion in this

Exhibit "B" -- Evidence Submitted By Defendant IMA

1 case?

2 A. I think that the application that we use

3 focuses on a market. A photo, a picture of a market

4 very strongly implies the use of a market. And the

5 opposer's goods focuses on a grist mill or mill or

6 application of parts of a mill and deals with flour and

7 baked goods and products, where ours deals with a market

8 and market environment.

9 Q. If I could refer you very briefly to Exhibit

10 No. 11, are you aware that --

11 A. Do you need this document back? You didn't

12 mark it as an exhibit?

13 Q. Yes, it's already part of the case.

14 MR. HILL: I know. He was showing it to

15 me as --

16 Q. (BY MR. DAVIS) Looking at that exhibit, are you

17 aware that your company's application does not include a

18 design component?

19 A. Looking at this, yes, I am.

20 Q. In your experience, do your customers, which I

21 understand are operating in the food service entry,

22 purchase deli meats and bread at the same time?

23 A. Normally, they don't purchase it at the same

24 time. If the sense is place on the same order for

25 delivery from the same source, the answer would be no.

Exhibit "B" -- Evidence Submitted By Defendant IMA

1 Q. In a temporal sense, do they purchase those two
2 goods at the same time?
3 A. I'm sorry, I failed the spelling bee.
4 Q. Okay.
5 A. In what sense do you mean temporal?
6 Q. Okay. Let me -- let me withdraw that question.
7 I understand your previous answer that
8 your -- your customers would not necessarily order deli
9 meat and bread at the same time because their suppliers
10 for those goods might be two different companies; so,
11 those goods would not be ordered from the same company.
12 I was using time in the temporal sense, so let me
13 rephrase the question.
14 Would your customers purchase deli meats
15 and bread during the same time period?
16 A. Our customers would purchase all their use
17 items, including chemicals, foods and nonfoods, during a
18 similar period of time; however, that would be defined
19 by their sales or purchase cycle.
20 Q. Okay. Would that also apply to mustard and
21 bread?
22 A. Yes, it would.
23 Q. Cheese and bread?
24 A. It would apply to any product that they would
25 consume and use in their business.

Exhibit "B" -- Evidence Submitted By Defendant IMA

1 Q. Including products unrelated to anything in
2 this case?
3 A. Absolutely.
4 Q. Okay. Would you consider sandwiches and bread
5 to be related items?
6 A. They are components that somebody used together
7 or used separately; so, you know, there is some
8 relationship between those, as there is between mustard
9 and ham and mustard and bread. They could be used
10 together under some circumstances.
11 Q. Cheese and bread as well?
12 A. Any item that could conceivably use bread could
13 be related to any other item, including cheese.
14 Q. Are you aware of any other uses by third
15 parties, meaning not the parties to this litigation, of
16 trademarks including the word "Cobblestone"?
17 A. Yes. Yes, we are aware of some other uses.
18 Q. What would those be, if you can --
19 A. Well, first of all, I couldn't recite them all.
20 I think that one was a -- Boston Cobblestone cheese was
21 one example. There were other Cobblestones that were
22 used in totally different product and nonconsumable
23 product channels. There were a whole series of
24 Cobblestone uses uncovered in the Cobblestone Corner
25 document.

Exhibit "B" -- Evidence Submitted By Defendant IMA

1 Q. Have you encountered any actual confusion
2 between IMA's Cobblestone Market trademark and --
3 A. No, sir, I have not.
4 Q. -- and Flowers Cobblestone Mill?
5 A. Absolutely not.
6 Q. Has IMA commissioned any scientific surveys to
7 measure whether there is any actual confusion among
8 consumers?
9 A. We have had no cause to do so, nor have we done
10 so.
11 Q. Have you retained any expert witnesses for this
12 case on that issue?
13 A. There is an expert witness retained, yes.
14 Q. What is that individual's name?
15 A. I don't have -- I have no idea. I probably saw
16 it somewhere. I've never met the person or spoken with
17 them.
18 Q. Is that person conducting a survey?
19 A. Not to my knowledge.
20 Q. Is that person a trademark lawyer?
21 A. I think so, but I -- again, I have not
22 discussed that in any depth with anyone. Just discussed
23 it more with you than anyone else before.
24 Q. Is that person a marketing professional?
25 A. I have no idea.

1 Q. But your counsel knows the -- the particulars
2 and identity of this person?
3 A. Yes.
4 MR. DAVIS: Marty, do we have a report?
5 MR. HILL: I'm not giving my deposition.
6 We'll talk about it later.
7 MR. DAVIS: Okay.
8 Q. (BY MR. DAVIS) Have you seen an expert witness
9 report generated by that person?
10 A. I have not.
11 MR. DAVIS: I'd like to have this marked
12 as an exhibit, please.
13 (Exhibit 13 marked)
14 Q. (BY MR. DAVIS) I'd like to pass to you an
15 exhibit that I believe was an e-mail string, including
16 some e-mails to and from yourself. This was produced to
17 us as a group of single sheets and we've attempted to
18 separate it into a single discrete document, but, if you
19 could, take a look at that and see if it's something
20 with which you are familiar.
21 Mr. Planck, are you familiar with the
22 documents making up this exhibit?
23 A. Well, I haven't nearly gone through all of
24 them.
25 Q. Okay.

Exhibit "B" -- Evidence Submitted By Defendant IMA

1 A. From the first ones, I am familiar that our
2 owner, Shamrock Foods, had some issue with a local gas
3 station using Cobblestone and wanting that defended.
4 And then the rest is just, it looks like, copies of
5 searches, et cetera, that their attorney did. Anne
6 Kleindienst, whatever, is an attorney for Shamrock
7 Foods.
8 Q. Was there a determination in that case that
9 there was no conflict between the two trademarks?
10 A. I don't remember these pictures. I must not
11 have paid much attention to them. They aren't very good
12 pictures, by the way.
13 I -- I mean, I think we determined that it
14 had been used for a long time by those guys and it
15 wasn't really in the same channel of trade and we
16 wouldn't pursue it. That was our attorney's advice.
17 And that's probably -- I'm sure that's the advice I
18 forwarded back to the people at Shamrock.
19 Q. I'm looking at the last or what I understand to
20 be the last piece of correspondence in this exhibit,
21 which is the one -- the very first one. This appears to
22 me to be an e-mail directed to you. Is there any
23 discussion in that e-mail about the parties being in
24 different markets?
25 A. No, I don't see a comment from our attorney in

Exhibit "B" -- Evidence Submitted By Defendant IMA

1 this e-mail on that regard.
2 Q. And the -- this e-mail seems to have two
3 paragraphs. The last sentence of the first paragraph,
4 how does that read?
5 A. "Note that the attorney that filed the
6 applications is Ann Kleindienst who also acts as
7 Shamrock's counsel."
8 Q. I'm sorry, I meant the last sentence of the
9 first paragraph.
10 A. "Based on the 1997 date of use, IMA is not in a
11 position to fight these applications." That's what it
12 says.
13 Q. Okay. So, it appears that the advice of
14 counsel, that the final advice of counsel in this matter
15 was that a challenge should not be made because of a
16 prior date of first use by the other party?
17 A. That seems to be the focus of his comments in
18 this memo.
19 Q. Do you know why Shamrock was originally
20 concerned about this matter?
21 A. I'm trying to recall if there was something
22 besides it just being this -- this operation that was
23 doing it. I do know that Shamrock, in the mountain
24 markets, has strongly developed the Cobblestone brand,
25 with $25 million a year in sales and almost 5,000

Exhibit "B" -- Evidence Submitted By Defendant IMA

1 customers in their food service mix, so they -- the
2 Cobblestone Auto Spa would concern them, although,
3 frankly, my off-the-record, not-in-this-memo advice from
4 the first was, hell, I don't think we can stop
5 Cobblestone Auto Spa. It's nothing to do with what we
6 do in the market. But they have a large volume of
7 business --
8 Q. Okay.
9 A. -- in Cobblestone Market products.
10 Q. Okay.
11 A. And I would just add to that further, Rob
12 Ahrensdorf is the brand champion for that brand. Each
13 of our MAC members have brands that they sort of
14 shepherd through for the group. So, any question on
15 Cobblestone Market would logically come from Rob.
16 Q. Okay. And he is with Shamrock?
17 A. He works for Shamrock.
18 Q. Would he have had particular involvement in the
19 selection of the Cobblestone mark, Cobblestone Market
20 mark? I'm sorry.
21 A. No, no more so than anyone else in the MAC. In
22 fact, I'm not even sure he was employed in April of
23 2004.
24 Q. Okay.
25 MR. DAVIS: I'd like to have this marked

Exhibit "B" -- Evidence Submitted By Defendant IMA

1 as an exhibit, please.
2 (Exhibit 14 marked)
3 Q. (BY MR. DAVIS) If you could take a look at that
4 document, I'd appreciate it. I apologize, this also
5 seems to be something of a fragmentary document.
6 A. Let me have a moment to read it, please.
7 Q. That's fine.
8 A. Okay. I generally have it. I may have to dig
9 into some specific areas that you want to talk about
10 some more, but...
11 Q. You're free to take whatever time you think you
12 need.
13 A. Well, let's go forward, and if I need to read
14 another section again before I answer, I'll indicate
15 that.
16 Q. Okay. That's fine.
17 Do you recognize this document?
18 A. Specifically, no, but -- but I recognize my
19 name on it, so I'm sure I've seen it.
20 Q. Let me try this. Are you familiar with the
21 subject matter of the e-mail?
22 A. Yes. Generally, yes.
23 Q. Okay. And what do you remember about the
24 subject matter of the correspondence?
25 A. Well, are we talking about the correspondence

Exhibit "B" -- Evidence Submitted By Defendant IMA

1 on the top, front page 92 here?
2 Q. I'm sorry. Let's start with -- let's start
3 with the oldest correspondence in that exhibit first.
4 A. Yes, from Marta Levine, uh-huh.
5 Q. Do you -- do you recall this what's called a
6 potential dispute between IMA and Sysco?
7 A. Yes.
8 Q. Do you recall characterizing Sysco's use of the
9 Hidden Cove trademark as an infringement?
10 A. Specifically, no, but I think I thought it was
11 an infringement.
12 Q. Why did you think it was an infringement?
13 A. Because the connotation of "bay" and "cove" are
14 very similar. It was in the same product category, it
15 was in the same channel of trade. It was a food service
16 seafood item and it had a very similar image as well
17 that they were using.
18 Q. What was the significance to you that both
19 parties' marks begin with the word "hidden"?
20 A. It's part of the overall process. It made it
21 sound more similar than if it hadn't said hidden. But
22 "cove" and "bay" and the channel and the product were
23 the primary concerns that -- that I had. However, you
24 must understand, we do not own that mark. Reinhart
25 FoodService owns it. So, we were not able to take a

Exhibit "B" -- Evidence Submitted By Defendant IMA

1 position on defending it; they had to.
2 Q. Okay. And Reinhart is one of your members,
3 right?
4 A. Yes. They license that. There are four
5 brands, none of them the one in question here, that were
6 licensed from IMA companies to IMA for all their
7 members' use and Hidden Bay was one of them.
8 Q. Okay. So, the lawyer whose correspondence is
9 reflected in the tail end of this exhibit would have
10 been a lawyer retained by Reinhart?
11 A. Yes.
12 Q. Okay. Are you aware of how this situation was
13 resolved?
14 A. To my knowledge, Reinhart chose not to pursue
15 it.
16 Q. Okay. Why don't we run through some cleanup
17 questions. Then we'll take a quick break and we may
18 well be done after that.
19 Mr. Planck, I'd like to show you some
20 responses to interrogatories that were served by IMA on
21 Flowers Bakeries Brands by your lawyers and I would like
22 to refer you in particular to Interrogatory No. 18. And
23 I'm not sure if you've seen this document before, but it
24 is -- it reflects interrogatories served on IMA that
25 your counsel has retyped, then inserted answers.

Exhibit "B" -- Evidence Submitted By Defendant IMA

1 MR. HILL: I think so.
2 Q. (BY MR. DAVIS) Okay. That particular
3 interrogatory asks about any expert witness that IMA has
4 retained in this matter, and do you see the response
5 there?
6 A. Yes, I do see the response. Yes, I see the
7 response.
8 Q. It's my understanding from your previous
9 testimony that the company has hired an expert witness
10 for this litigation; is that correct?
11 A. I guess I'm going to get a bill. I have not
12 hired a company, but our lawyers apparently have, I
13 assume subsequent to 9 February 2006.
14 Q. Okay.
15 A. So, I had no knowledge of one at that time.
16 Q. And do you see that that response indicates
17 that there will be a supplemental response?
18 A. Yes. "Unknown at this time. Applicant will
19 supplement" is what it says.
20 Q. Do you know when IMA intends to supplement that
21 response?
22 A. No, I do not know. We have had no counsel in
23 that regard.
24 Q. Okay.
25 A. Do you want this back?

Exhibit "B" -- Evidence Submitted By Defendant IMA

1 Q. Yes, please.
2 A. Sure.
3 Q. This interrogatory also asks for a description
4 of the subject matter about which the expert is expected
5 to testify. Are you aware of the subject matter of your
6 expert's testimony?
7 A. No, I am not.
8 Q. Okay. And do you know, I think you may have
9 mentioned the word "company" in your responses to my
10 question about this interrogatory response. Do you know
11 if your expert is a company or is the expert an
12 individual?
13 A. I'd have -- I'm going to give you an
14 assumption. I assume it's an individual.
15 Q. Okay.
16 A. I don't know whether -- if there is a contract
17 with an individual or a company in this regard, I have
18 not signed it, reviewed it, or have any specific
19 knowledge of it.
20 Q. So, if there is such a contract, it's your
21 understanding that the terms of that contract were
22 negotiated by your counsel?
23 A. I would assume that's correct.
24 Q. Okay. Do you know if this expert has met with
25 your counsel?

Exhibit "B" -- Evidence Submitted By Defendant IMA

1 A. I am aware that counsel has met with the
2 expert, at least in some way, but I don't know any
3 details.
4 Q. Do you know how many times?
5 A. I have no idea.
6 Q. Have you seen any correspondence with the
7 expert?
8 A. I don't recall seeing any correspondence with
9 the expert.
10 Q. Neither to nor from?
11 A. Neither to nor from, in my recollection.
12 Q. Okay. Mr. Planck, I'd like to show you a -- a
13 related document, which is your company's responses to a
14 series of requests for production of documents. Several
15 of the responses to these requests promise some degree
16 of supplementation, and so what I would like to get you
17 to do is to go through and review the ones that have
18 that response and just confirm for the record whether
19 there are documents that are going to be produced or
20 not.
21 A. Fine.
22 Q. Okay.
23 A. Nods don't work, I'm sorry.
24 MR. HILL: That's fine.
25 Q. (BY MR. DAVIS) And the ones in particular --

Exhibit "B" -- Evidence Submitted By Defendant IMA

1 you can take as long as you need to familiarize yourself
2 with these. If you could, take a look at the response
3 to No. 8.
4 A. Where it's response is, "Documents have been
5 produced and will be supplemented"?
6 Q. Yes.
7 A. We are not aware of any documents that need to
8 be added to or supplemented, nor have we been advised
9 that we should seek such documents.
10 Q. And IMA does not intend to rely upon any
11 documents responsive to that request that have not yet
12 been produced?
13 MR. HILL: Object that it calls for a
14 legal conclusion, but to the extent you know you've got
15 any documents that you haven't already turned over.
16 A. I don't know of any documents that we would --
17 I have no intention of turning other documents, based on
18 this statement.
19 Q. (BY MR. DAVIS) Okay. And I am happy to go with
20 Marty's characterization of my question. It really goes
21 to: are there additional documents falling within any of
22 these categories that your company has not yet produced?
23 A. There is -- to my knowledge, there is no
24 pertinent document that we have not produced --
25 Q. Okay.

1 A. -- in any of these interrogatories.
2 Q. Okay. What about -- and just to clarify,
3 you're looking at requests, responses to requests for
4 production, as opposed to interrogatories --
5 A. Sorry.
6 Q. -- which was the document before this.
7 What about No. 9, in particular?
8 A. The only documents I know of in that regard
9 would be contracts with manufacturers limiting them to
10 produce the brand and sell at time of companies. I'll
11 be happy to produce those if you want them. I don't
12 know of any other documents in that category.
13 Q. You've referred to licenses. Would licenses
14 fall within the category of documents you just
15 described?
16 A. License may not be the right -- we do have a
17 manufacturing agreement with our vendors that
18 essentially says you're going to follow our standards
19 and adhere to our quality and safety standards, our
20 packaging standards, and only sell those items to IMA
21 members.
22 Q. Okay.
23 A. Those would be the agreements that would be
24 with manufacturers.
25 Q. So, for the goods that are currently being sold

Exhibit "B" -- Evidence Submitted By Defendant IMA

1 under the Cobblestone Market trademark, you have such an
2 agreement in place?
3 A. Yes. There may be -- I think we have every
4 vendor in place. There may be some that are still in
5 process with their legal departments, but that's our
6 intent.
7 Q. Okay. But right now there are licenses in
8 existence at least for some of those goods?
9 A. Yes, that's correct.
10 Q. And my understanding is that for some of your
11 goods the mark is not yet in use?
12 A. There are -- there could be goods that would be
13 added. Line extensions or entrees, for example, could
14 be added that aren't currently in use.
15 Q. Okay. To the best of your knowledge, has
16 your -- has IMA produced those licenses or those
17 agreements?
18 A. To the best of my knowledge, we have not.
19 Q. Okay.
20 MR. DAVIS: Marty, we would like to renew
21 our request for those documents specific to Cobblestone
22 Market.
23 MR. HILL: Okay. We can deal with that
24 off the record.
25 MR. DAVIS: That's fine.

1 MR. HILL: I'm not sure why or how that's
2 calculated to lead to discovery of admissible evidence.
3 To me, it's irrelevant, it's highly confidential, and
4 even though he said he didn't have a problem producing
5 it -- we can debate this off the record.
6 MR. DAVIS: Okay.
7 MR. HILL: I'd like -- if you can tell me
8 how this has relevance to the issues, then maybe we can
9 deal with it.
10 THE WITNESS: It's a confidentiality
11 clause. Yeah, it could be a confidentiality breach with
12 the vendor.
13 MR. HILL: We can't breach the
14 confidentiality provisions with those people, so...
15 MR. DAVIS: We understand the
16 confidentiality concerns. Okay, why don't -- we'll
17 discuss it off the record.
18 Q. (BY MR. DAVIS) No. 10, if you could take a look
19 at that as well, and, again, confirm whether or not
20 there are responsive documents that will be forthcoming.
21 A. Unless we were advised that there was some
22 document we should dig up and generate by our counsel,
23 we don't have a current plan to submit other documents.
24 Q. Okay. No. 11?
25 A. I have the same answer as No. 10, unless we are

1 advised that more information were needed and pertinent,
2 we have no plan to submit more documents relative to
3 No. 11.
4 Q. Okay. No. 12?
5 MR. HILL: There is where you want us to
6 send you a ham?
7 A. There's a saying in the food service business
8 called "sell it or smell it." You must be smelling it
9 pretty big time pretty quick. We have no intention of
10 sending samples of 222 cheese items for review.
11 Q. (BY MR. DAVIS) We could pass on the cheese.
12 Any packaging?
13 A. We currently -- unless we were advised by our
14 attorneys it was pertinent to the case, we have no
15 intention of submitting other packaging documents or
16 other documents.
17 Q. Okay. So it's your position that how the mark
18 is presented on the packaging is not relevant to this
19 case?
20 MR. HILL: Object to the extent it calls
21 for a legal conclusion or legal tactic or strategy.
22 MR. DAVIS: That's fine. We'll move on.
23 Q. (BY MR. DAVIS) No. 13?
24 A. I don't know what we've actually submitted.
25 MR. HILL: There's a foot of documents in

Exhibit "B" -- Evidence Submitted By Defendant IMA

1 the other room. You can --
2 MR. DAVIS: Okay.
3 A. We do no advertising, so it's just brochures
4 basically.
5 Q. (BY MR. DAVIS) Okay.
6 A. Point of sale material, to my knowledge.
7 Q. No. 14?
8 A. To my knowledge, there are no press releases or
9 articles referring to the opposed mark, so we have
10 nothing to submit that I'm aware of.
11 Q. No. 15?
12 A. We -- no, we have no intention to submit proof
13 of the extent of our advertising costs. We essentially
14 don't have any.
15 Q. No. 16?
16 A. No, we have no intention of submitting any
17 further documentation in that regard.
18 Q. Okay.
19 MR. HILL: He and I, when we take the next
20 break, may discuss this because, while the prices are
21 confidential and proprietary, it may be possible by
22 category to give a representative range that would
23 satisfy you, but at the same time would not violate
24 confidentiality. If that's what you're looking for, as
25 opposed to a specific price list, I think we could -- I

Exhibit "B" -- Evidence Submitted By Defendant IMA

1 need to talk to him.
2 MR. DAVIS: Okay. Why don't we do that.
3 Q. (BY MR. DAVIS) As far as the price goes,
4 though -- and this is to follow up on some earlier
5 questions -- I understand that you probably ship some
6 large shipments to your retailers or to your customers?
7 A. Well, first of all, we don't take invoice to
8 bill any of this stuff.
9 Q. Okay.
10 A. The manufacturer has a price that's agreed to
11 with our members and they sell it to our members for
12 that price. We're not an intermediary --
13 Q. Okay.
14 A. -- in an ongoing way with the pricing that's on
15 the invoice, with -- that's determined between them and
16 the individual company.
17 Q. Okay. I'm sorry, I think you did tell me most
18 of that before.
19 Are your member companies responsible for
20 negotiating the prices they pay to the manufacturers?
21 A. They determine the invoice price that they're
22 charged by the manufacturer, yes, in negotiation with
23 that manufacturer.
24 Q. Okay. So, if -- so, the prices that your
25 individual members might pay could differ?

Exhibit "B" -- Evidence Submitted By Defendant IMA

1 A. Yes, they could.
2 Q. Okay. Depending on how good they are as
3 negotiators with the manufacturers?
4 A. Depending on their negotiation and the outcome
5 of those manufacturers. They each are independently
6 held companies, so they really can't determine price
7 jointly.
8 Q. Okay. And for those of your members that sell
9 goods or provide them in a -- in a deli-type setting,
10 they also would be responsible for setting their own
11 pricing?
12 A. Yes, they would.
13 Q. Okay. IMA would not be involved in that
14 process?
15 A. Not in the slightest.
16 Q. Okay. But for those companies that do provide
17 that type of service, they would be selling individual
18 portions of these goods?
19 A. No, they would normally be selling case lots to
20 their customer base, which is probably 99 percent food
21 service.
22 Q. Yeah, I'm sorry.
23 A. Even in deli. But they're not selling
24 individual units; they're selling, usually, case lots.
25 Q. That question was not a good one.

Exhibit "B" -- Evidence Submitted By Defendant IMA

1 For ultimate consumers -- I'm using that
2 term actually to mean the people who consume the
3 product -- if they pick up these products in the deli-
4 style setting and if they pay money to one of your
5 member's customers --
6 A. Right.
7 Q. -- that price is going to be set by the
8 member's customer?
9 A. Yes.
10 Q. And at least some of those sales, especially in
11 the deli context, would be individual portions?
12 A. Well -- individual portions? Well, certainly
13 if somebody would buy a quarter pound of ham and they'd
14 slice a quarter pound of ham off in the deli, so they
15 would sell it by weight or some other way, not usually
16 as individual portions --
17 Q. Okay.
18 A. -- in the sense I think of portions.
19 Q. But an individual consumer would walk into such
20 a place and buy a portion from the larger shipment that
21 went --
22 A. Yes, whether that portion was a two-ounce
23 individual I'm going to consume the cheese or it was two
24 pounds for my family, they would -- or it was a quart of
25 soup. They would buy it in some unit that the end user

Exhibit "B" -- Evidence Submitted By Defendant IMA

1 would determine they were selling.
2 Q. Okay. Does IMA have any information on pricing
3 at that level?
4 A. None whatsoever.
5 Q. Okay. It's not something the company monitors?
6 A. No.
7 Q. Can we get back to that document and move on to
8 category No. 24?
9 A. Okay. That's a lot of words legalistically
10 written, but I take it the question is, do we know of
11 any document or inquiry from anyone that may be confused
12 by the marks, and the answer is no.
13 Q. Okay. 25?
14 A. Well, I think it says it's overbroad. There
15 might be fund that develops five years from today that
16 we don't foresee. I think we've related everything that
17 we're aware of.
18 Q. Okay. We're just asking about existing
19 documents.
20 A. Yeah, I think we're -- you've got it, as far as
21 I know.
22 Q. Okay. Let's jump ahead to No. 32.
23 A. We don't have any such documents at this time.
24 You know, we might rely on our legal counsel to advise
25 if they needed something and we'd see if we had it, but

Exhibit "B" -- Evidence Submitted By Defendant IMA

1 I don't know of anything in that category.
2 Q. Okay. We may be beating this to death. That
3 would include any expert witness reports?
4 A. I haven't seen any expert witness reports.
5 Q. Okay. And No. 33?
6 A. This is basically the same objection, and my
7 answer would be the same as my last question -- answer
8 to 32.
9 Q. Okay. That's fine.
10 A. You need this back, don't you, Counselor?
11 Q. I do need that one back. Thank you.
12 A. Okay.
13 Q. We've -- we have talked about the sale in a
14 deli presentation of some of the goods under the
15 Cobblestone Market mark. Can you tell me some of the
16 names of the businesses that sell in that type of
17 presentation?
18 A. Some of the names of the end user operators
19 that we might sell -- our companies might sell to; is
20 that the answer -- question?
21 Q. Yes, that's the question. Thank you.
22 MR. HILL: Well, I object to the question
23 as being vague and confusing, but if you can answer, go
24 ahead.
25 A. I -- the only list of customers I reviewed, and

Exhibit "B" -- Evidence Submitted By Defendant IMA

1 it's confidential, was from Maines. And they had almost
2 1500 active customers, of which one appeared to be a
3 retail account. And that was a company called Wegman's.
4 Q. Wegman's?
5 A. Yes.
6 Q. Is that W-E-G --
7 A. M-A-N-S. That's the only -- because I did
8 review that document, I do have that knowledge, and it
9 was one account out of 1500 different listings.
10 Q. Okay. So Maines is the member?
11 A. Maines is the member in upstate New York.
12 Q. And Maines sells to its customers?
13 A. Yes.
14 Q. Okay. And the other company that you referred
15 to, is it Wegman?
16 A. Wegman's retail grocery store chain, yes.
17 Q. Okay. Are you aware of any other companies
18 comparable to Wegman?
19 A. No.
20 Q. You mentioned you had referred to documents
21 about Maines?
22 A. Uh-huh.
23 Q. Did you refer to corresponding documents for
24 some of the other members?
25 A. (Witness shakes head)

Exhibit "B" -- Evidence Submitted By Defendant IMA

1 Q. Is it possible if you reviewed any
2 corresponding documents for other members that there
3 might be others?
4 A. Well, let me answer that question as fairly as
5 I can. Yes, it is possible. Is it likely? Possibly,
6 in some cases, we would find some. However, I firmly
7 believe that in all the markets that the opposer markets
8 in the south, I would be shocked if I found a retail
9 store that Conco or IJ were selling anything to.
10 Q. Okay.
11 A. So I don't believe there is any conflict in
12 your co-market areas.
13 Q. Okay.
14 A. It's a very small part of our market
15 everywhere.
16 MR. DAVIS: Could you let us confer for
17 one minute?
18 MR. HILL: Sure.
19 MR. DAVIS: I think we may be done.
20 (Recess from 12:00 noon to 12:10 p.m.)
21 MR. DAVIS: We're done.
22 (Proceedings concluded at 12:00 Noon)
23
24
25

Exhibit "B" -- Evidence Submitted By Defendant IMA

1
2
3
4
5
6
7
8 I declare under penalty of perjury that the
9 foregoing is true and correct.
10
11 _____
12 ROBERT D. PLANCK
13
14
15 SUBSCRIBED AND SWORN TO BEFORE ME, the undersigned
16 authority, by the witness, ROBERT D. PLANCK, on this the
17 _____ day of _____, _____.
18
19 _____
20 NOTARY PUBLIC IN AND FOR
21 THE STATE OF _____
22
23 My Commission Expires: _____
24
25

Exhibit "B" -- Evidence Submitted By Defendant IMA

1 STATE OF TEXAS
2 COUNTY OF HARRIS
3
4 REPORTER'S CERTIFICATE
5 ORAL 30(B)(6) DEPOSITION OF ROBERT D. PLANCK
6 August 22, 2006
7
8 I, the undersigned Certified Shorthand Reporter in
9 and for the State of Texas, certify that the facts
10 stated in the foregoing pages are true and correct.
11 I further certify that I am neither attorney or
12 counsel for, related to, nor employed by any parties to
13 the action in which this testimony is taken and,
14 further, that I am not a relative or employee of any
15 counsel employed by the parties hereto or financially
16 interested in the action.
17 SUBSCRIBED AND SWORN TO under my hand and seal of
18 office on this the _____ day of _____,
19 _____.
20
21 _____
22 Laraine L. Toliver, CSR 433
Expiration: 12/31/2006
23 Esquire Deposition Services (#03)
3401 Louisiana, Suite 300
24 Houston, Texas 77002
713.524.4600; 713.524.4951 fax
25

Exhibit "B" -- Evidence Submitted By Defendant IMA

Exhibit 1

The Third Force

IMA is a new type of player in the foodservice arena. Members combine their respective volumes and mutually cooperate to create and foster close relationships and/or committed volumes programs. Suppliers have been quick to recognize this opportunity. It provides them with a viable alternative to the massive corporate distributor groups with their near exclusive focus on their own labels.

IMA is the procurement, marketing, and product development facilitator of:

Maines Paper & Food Service, Inc

The IJ Company

Conco FoodService

Reinhart FoodService

Shamrock Foods Company

Most members have worked together for years and are involved in several "alliance" programs. For example, all are members of the Distribution Marketing Advantage Group.

The IMA "Third Force" model demands the foodservice industry's attention because it clearly demonstrates how members can work together on numerous fronts and foster the benefits of information sharing and of common action. The organization is empowered to speak with one voice on programs and back them with action because it is networked with all elements of member companies' Management.

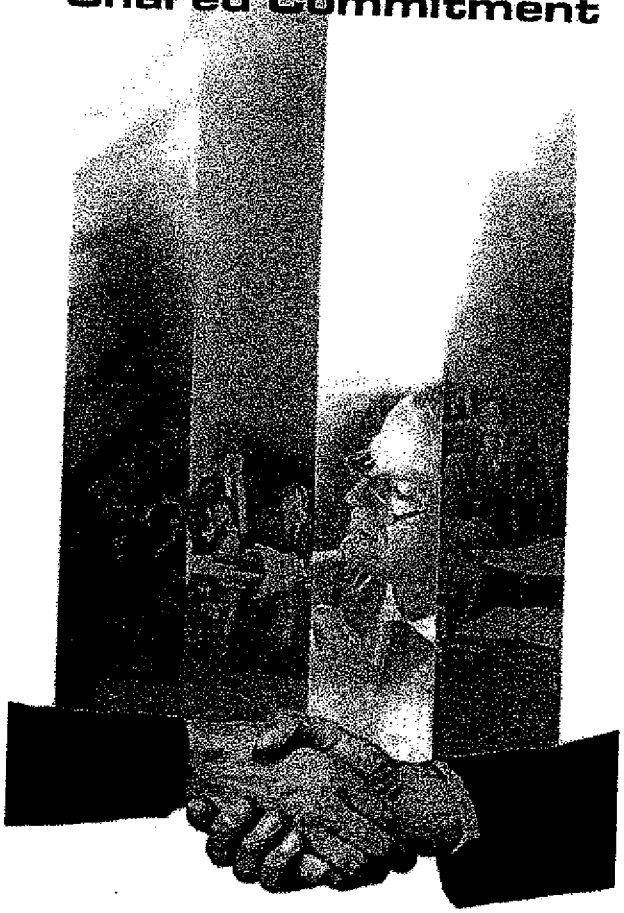
IMA is quick to recognize market niches and pursues specific and targeted proprietary IMA BRAND or National Brand programs to fill them.

IMA is dedicated to involving all elements of its member companies to drive success in product marketing projects.

IMA companies operate 30 distribution centers serving parts or all of the 48 contiguous U. S. states as well as parts of the Caribbean and Europe. Combined trade sales exceed $6 billion. IMA companies are the new force, the independent force, in American foodservice!

PLATINUM PARTNER

Shared Vision
Shared Goals
Shared Commitment



Independent Marketing Alliance

16000 Memorial Drive, Suite 200 • Houston, TX 77079
www.independentmarketingalliance.com

Phone: 281-531-0007 • Fax: 281-531-0022

EXHIBIT
Planck 1

Exhibit "B" -- Evidence Submitted By Defendant IMA

Platinum Partners

Independent Marketing Alliance Platinum Partners are companies that recognize and are willing to take advantage of our emergence as the "Third Force" in America's foodservice industry.

Platinum Partners are suppliers who currently enjoy a close relationship and/or a committed volume program with IMA. Many of them have shared in the initial development of the IMA BRAND concept.

Shared Vision

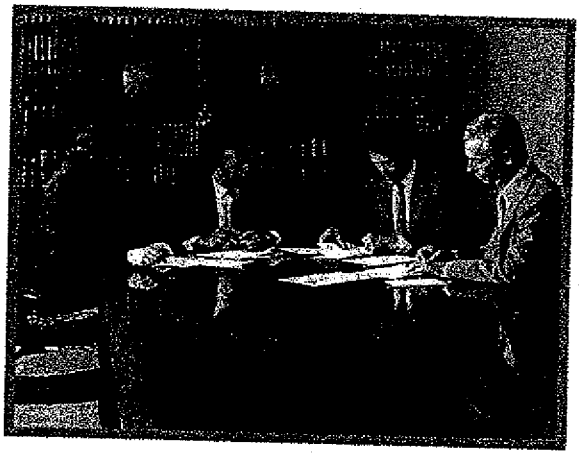
IMA and its Platinum Partners share the "Third Force" vision and are committed to growing it. An annualized $6 billion in trade sales is spectacular evidence that when partners share vision, goals and commitment, exciting results are achieved.

Exclusivity

Platinum Partner supplier programs are reserved for the Top 20 percent of our 250 plus suppliers. Both Platinum Partner and IMA Executive Management benefit from one-on-one interaction and frequent opportunities to share ideas and build relationships.

Benefits

Becoming a Platinum Partner provides tangible value to your organization. Platinum Partner membership status is not a "hunting license" relationship. Its primary purpose is to provide a venue for executive management from all involved companies to build relationships and explore additional opportunities between the organizations.



Your company's top management gains exclusive access to IMA events that include:

- IMA's Top to Top Executive Conference
- IMA's Annual Merchandising Conference
- An invitation to IMA's Top Gun sales training sessions
- IMA's annual preferential trip incentive program

Platinum Partner membership automatically includes a reserved slot at the annual IMA Merchandising Conference.

Results

The IMA "Third Force" foodservice distribution concept is unique to the industry. It is proof positive that when open-minded management embraces innovative business practices with shared vision and commitment, spectacular growth and results can continue to be achieved by all involved.

We acknowledge that Platinum Partners are one of the most important elements in the success we have enjoyed. We trust you recognize the benefits that your organization will derive from your IMA Platinum Partner membership.

Become an IMA Platinum Partner
Call, e-mail or visit
www.independentmarketingalliance.com
Phone: 281-531-0007
Fax: 281-531-0022
E-mail: bfontana@independentmarketingalliance.com

Exhibit "B" -- Evidence Submitted By Defendant IMA

Exhibit 2

Product/Brands

16000 Memorial Drive, Suite 200 • Houston, TX 77079 • (281) 531-0007 • Fax: (281) 531-0022

IMA Brand Positioning

BOUNTIFUL HARVEST™

Bountiful Harvest Brand comes to us courtesy of Mother Nature, an
of high quality agricultural products. Quality assurance is the corner
Harvest product selection.

Bountiful Harvest. High quality, reliable products at unparalle

BRICKFIRE BAKERY™

Brickfire Bakery uses wholesome ingredients and traditional recipes
ready-to-serve and ready-to-bake products with homemade taste an

Brickfire Bakery: Quality baked goods combining homemade ta
operator convenience.

Log In

CHEF MARK™

The Chef Mark Brand delivers excellent taste, consistent texture and
performance in a fine line of high quality tabletop and front-of-the-
Chef Mark. Preferred products endorsed by chefs with their respe

COBBLESTONE MARKET™

Cobblestone Market is the place for delicious deli meats, cheeses, pi
and more. Our premium quality and consistency will remind everyo
neighborhood deli.

Cobblestone Market. Traditional deli offerings, with premium
time-honored taste.

CULINARY SECRETS®

To the discerning chef, Culinary Secrets Brand stands for superior p
exceptional taste in a broad array of food-related products including
and canned entrees, appetizers, baked goods and desserts.

Culinary Secrets. The highest standards and superlative qualit
know the difference.

EXHIBIT
Planck 2

THE "EVER" FAMILY OF BRANDS

The "Ever" Brands deliver premium performance. EverFry® Shorte
Release and EverRich® Liquid Butter Alternative are convenient to
appealing fried foods for maximum value and customer satisfaction.

The "Ever" Family of Brands. Delivering customer satisfaction
through performance.

Exhibit "B" -- Evidence Submitted By Defendant IMA

HIDDEN BAY®

Hidden Bay Brand offers a large selection of seafood products from
exceptional recipe variety and ultimate customer satisfaction.

*Hidden Bay.A vast array of high quality seafood direct from t
waters to your favorite recipe.*

!!INTROS!™

KATY'S KITCHEN™

The Katy's Kitchen Brand offers a wide variety of food products incl
canned and frozen entrees, appetizers, baked goods and desserts, tha
uncompromised quality and value.

*Katy's Kitchen. Foodservice essentials that provide satisfaction
quality with value.*

PIERPORT SEAFOOD™

Pierport Seafood is premium, fresh seafood packed to chefs' specific
and expert cutters ensure that our entire selection—from unique vari
select fillet cuts and seasonal choices—will always please the most di

*Pierport Seafood. Best-of-the-catch seafood, consistently fresh a
customized.*

PRAIRIE CREEK PACKING™

Prairie Creek Packing Brand provides top quality cuts of meats that
quality standards while providing consistency and reliability at a valu
distributor and national brands.

Prairie Creek Packing. Where quality is the hallmark for custo

PROPAK™

The ProPak Brand offers a multi-faceted line of disposable items inc
storage and paper products that are durable and dependable.

*ProPak. Providing reliable disposable products you can depen
back- and front-of-the-house applications.*

Exhibit "B" -- Evidence Submitted By Defendant IMA

PROPOWER™

The ProPower Brand equips the foodservice operator with a comple professional strength chemicals, janitorial and ancillary products desi and sanitizing solutions.

ProPower. The right choice for a bright future.

REJUV™

Delight customers and energize profits with the pure refreshment of beverages. Appealing, delicious and convenient, Rejuv is the foodserv complete beverage system solution.

Refresh, Restore, Revitalize – Rejuv.

SAN PABLO®

San Pablo Brand delivers an exciting variety of authentic and tradition that are convenient, consistent and provide genuine "South of the Bo

San Pablo. South of the Border authenticity with consistency a

SILVERBROOK FARMS®

SilverBrook Farms Brand offers wholesome, top quality dairy, egg ar produced to stringent specifications that ensure freshness and high q

SilverBrook Farms. Fresh from our farms to you.

SMART SOURCE™

Smart Source is the brand that delivers the right combination of con competitive pricing every time. Enjoy the rewards of continued custo improving your bottom line, with Smart Source.

SOUTHERN PEARL™

Southern Pearl is a reliable source of quality Southern-style foods th convenient to offer classic Southern cooking.

Southern Pearl. Genuine Flavors of the South!

TRIFOGLIO®

Trifoglio Brand offers chefs the finest Italian style products for creati traditional dishes, for a truly authentic Italian dining experience.

Trifoglio. Superlative products for the best Italian recipes.

VILLA FRIZZONI®

Villa Frizzoni Brand delivers a family of Italian style products that gi of Old World goodness.

Villa Frizzoni. The Villa of fine Italian style food products.

Exhibit "B" -- Evidence Submitted By Defendant IMA

Exhibit 3

From: Bartt G. Thompson <bgt@pdhlaw.com>
To: dmc@pdhlaw.com <dmc@pdhlaw.com>
Date: Tuesday, April 13, 2004 6:19:19 PM
Subject:
Folder: Inbox - Known/MBH

Doug:

IMA is looking at the mark "Cobblestone Corner" for deli items similar to Boars Head Brand at retail:

Cooked Deli Items

Cheese

Refrigerated Salads

Refrigerated Pickles

Deli Mustard

Bagged Potato Chips

Possibly prepared frozen soups and entrees

Before spending money on a full search I ran a simple search. There is 1 live "Cobblestone Corner" mark that deals with porcelain figures. One dead one dealt with bakery products such as breads, buns and rolls.

EXHIBIT
Planck 3

As for other marks:

"Cobblestone Bread" for fresh baguette breads is live.

"Cobblestone" for table wine is live.
"Cobblestone Kitchens" for staple goods, namely hot chocolate and coffee and dairy-based food beverages is live.

Exhibit "B" -- Evidence Submitted By Defendant IMA

"Boston Cobblestone" for cheese is live.

My initial concern is with "Cobblestone Kitchens" and "Boston Cobblestone", and to some degree "Cobblestone Bread". Your thoughts?

FYI -- This is the second name they have come up with (their initial choice was "Oakwood Farms" but there is an "Oakwood" mark that deals with processed meat products -- so they have backed off on that one).

Thanks for your help.

Bartt

Exhibit 4

Bartt G. Thompson

From: John A. Waters [jawaters@ameritech.net]
Sent: Thursday, April 15, 2004 5:46 PM
To: Bart Thompson
Subject: Cobblestone search

Cobblestone.htm
(65 KB)

Bart:

Nice to talk with you today. I took the liberty of conducting an online search for Cobblestone. Enclosed is a copy of our search report. Hope this is of some use to you. It looks as if Cobblestone Mills is the most pertinent. Any information you have on Oakwood would be appreciated.

John Waters
(phone 616-458-7535)
(fax 616-458-7548)
(email jawaters@watersmorse.com)

EXHIBIT
Planck 4

Exhibit 5

© 2002 trademark.com

Reference: nk
Database(s): Federal / State / Common Law / CA
Mark: cobble stone
39 records.

Table of Contents

Federal

1. 78-360946 **COBBLESTONE WALKING MATS** (Block letters) Pending - Initialized EXERCISE ALTERNATIVES
2. 78-348740 **COBBLESTONE PIZZA** (Block letters) Pending - Initialized MICHAEL JENNINGS
3. 78-275262 **COBBLESTONE BREAD** Pending - Non-final action TORII, THOMAS, LEO
4. 76-507702 **COBBLESTONE CREEK** Pending, Passed by Examiner - Awaiting Publication review COBBLESTONE CREEK, INC.
5. 76-191141 **COBBLESTONE BRIDGE** Registered COBBLESTONE BRIDGE, LLC
6. 76-191140 **COBBLESTONE BRIDGE** Registered COBBLESTONE BRIDGE, LLC
7. 76-191139 **COBBLESTONE BRIDGE** Registered COBBLESTONE BRIDGE, LLC
8. 76-191138 **COBBLESTONE BRIDGE** Registered COBBLESTONE BRIDGE, LLC
9. 76-191137 **COBBLESTONE BRIDGE** Registered COBBLESTONE BRIDGE, LLC
10. 76-191136 **COBBLESTONE BRIDGE** Registered COBBLESTONE BRIDGE, LLC
11. 76-191134 **COBBLESTONE BRIDGE** Registered COBBLESTONE BRIDGE, LLC
12. 76-191133 **COBBLESTONE BRIDGE** Registered COBBLESTONE BRIDGE, LLC
13. 76-009872 **COBBLESTONE SMALL GROUP TOURS** Registered HURDLIK, INC.
14. 75-635109 **COBBLESTONES** Registered OSBORN SPECIALTY SEWING, INC.
15. 75-595745 **COBBLESTONE CLASSIC** (Stylized) Abandoned - Failure to Respond MR. LEE M. TULIN
16. 75-534815 **DOOR COUNTY COBBLESTONE** Registered BUECHEL STONE CORP.
17. 75-463721 **COBBLESTONE** Registered COBBLESTONE VINEYARDS COMPOSED OF LEVINE, ANITA ,LEVINE, SAUL
18. 75-460443 **COBBLESTONE TOURS** Registered HURDLIK, INC.
19. 75-072652 **COBBLESTONES** Registered SUMMITVILLE TILES, INC.
20. 75-055567 **COBBLESTONE** Abandoned - No Statement of Use SUMMITVILLE TILES, INC.
21. 75-006663 **COBBLE STONE** Abandoned - Failure to Respond ROCKWOOD RETAINING WALLS, INC.
22. 74-712640 **COBBLESTONE MILL** Registered FLOWERS BAKERIES BRANDS, INC.
23. 74-689789 **COBBLESTONE** Registered COBB COUNTY BOARD OF COMMISSIONERS
24. 74-564394 **COBBLESTONE CROSSING** Cancelled - Section 8 CTI INDUSTRIES CORPORATION
25. 74-231108 **COBBLESTONE** Cancelled - Section 8 SCENTEX, INC.
26. 73-788327 **COBBLE-STONE** Abandoned - Failure to Respond SOUTHERN READY MIX, INC.
27. 73-505949 **COBBLE STONE SHEEN** (and Design) Abandoned - Failure to Respond CLIFTEX CORPORATION
28. 73-232671 Abandoned - Failure to Respond

Common Law

EXHIBIT
Plank 5

29. BN106436441 D H COBBLE STONE
30. BN65477499 COBBLE-STONE ELECTRIC INC
31. BN102168630 COBBLE STONES GIFT & DECOR
32. BN95481004 COBBLE STONES
33. BN84236308 COBBLE STONE THE
34. BN104080293 COBBLE STONE SOUTH
35. BN2976159 COBBLE STONE HOTEL
36. BN16861746 COBBLE STONE GARDENS
37. BN2976160 COBBLE STONE ALE HOUSE
38. BN53656832 COBBLE STONE
39. BN102377428 COBBLE STONE

Record 1

Mark	COBBLESTONE WALKING MATS (Block letters)
Status	Pending - Initialized
Status Date	Feb 26, 2004
Register	Principal
Ser./App. No.	78-360946
Int'l Class	24 - Fabrics
Goods/Services	PORTABLE MATS FOR THERAPEUTIC EXERCISE AND HEALTH MAINTENANCE, THROUGH THE ACTION OF STIMULATING PROPRIOCEPTORS IN THE SOLES OF THE FEET
U.S. Class	42, 50
Filing Date	Feb 2, 2004
Filed I-T-U	Yes
Correspondent	EXERCISE ALTERNATIVES 3530 HIGH STREET EUGENE, OR 97405
Applicant	EXERCISE ALTERNATIVES (CORP.) 3530 HIGH STREET EUGENE, OR 97405
Action History	Feb 11, 2004 NEW APPLICATION ENTERED IN TRAM

Record 2

Mark	COBBLESTONE PIZZA (Block letters)
Status	Pending - Initialized
Status Date	Jan 16, 2004
Register	Principal
Ser./App. No.	78-348740
Int'l Class	42 - Scientific, Technological and Legal Services
Goods/Services	RESTAURANT SERVICES

U.S. Class	100, 101
1st Use	Apr 1, 2003
Commerce Use	Apr 1, 2003
Filing Date	Jan 7, 2004
Correspondent	JAMES M. LANCHEROS WEAVER LAW GROUP, LLC SUITE 400 549 W. RANDOLPH STREET CHICAGO, IL 60661
Applicant	MICHAEL JENNINGS (INDIVIDUAL) 13405 S. RIDGELAND AVE. PALOS HEIGHTS, IL 60463
Action History	Jan 13, 2004 NEW APPLICATION ENTERED IN TRAM

Record 3

Mark	**COBBLESTONE BREAD**
Status	Pending - Non-final action
Status Date	Feb 3, 2004
Register	Principal
Ser./App. No.	78-275262
Int'l Class	30 - Staple Foods
Goods/Services	FRESH BAGUETTE BREADS
U.S. Class	46
Filing Date	Jul 16, 2003
Filed I-T-U	Yes
Correspondent	TORII, THOMAS, LEO 748 ROSECRANS AVE MANHATTAN BEACH CA 90266-3451
Applicant	TORII, THOMAS, LEO (UNITED STATES INDIVIDUAL) 748 ROSECRANS AVENUE MANHATTAN BEACH, CA 90266
Action History	Feb 3, 2004 NON-FINAL ACTION MAILED Feb 2, 2004 ASSIGNED TO EXAMINER

Record 4

Mark	**COBBLESTONE CREEK**
Status	Pending, Passed by Examiner - Awaiting Publication review
Status Date	Dec 30, 2003
Register	Principal

Exhibit "B" -- Evidence Submitted By Defendant IMA

Ser./App. No.	76-507702
Int'l Class	3 - Cosmetics and Cleaning Preparations
Goods/Services	BATH AND BEAUTY PRODUCTS, NAMELY, BATH SOAPS, PERFUMED SOAPS, BATH SALTS, SEA SALT SCRUBS, SHOWER GELS, LIP BALMS, SHAVING CREAM, SHAVING LATHER, BODY LOTION, FOAMING MILK BATH, MESSAGE OILS AND BATH OILS
U.S. Class	1, 4, 6, 50, 51, 52
1st Use	May 1, 2002
Commerce Use	May 1, 2002
Filing Date	Apr 18, 2003
Correspondent	ANTHONY J. BILLER COATS & BENNETT, P.L.L.C. 1400 CRESCENT GREEN SUITE 300 CARY, NORTH CAROLINA 27511
Applicant	COBBLESTONE CREEK, INC. (NC CORP.) 4817 TROTTER DRIVE RALEIGH, NC 27603-8262

Action History

Dec 30, 2003	APPROVED FOR PUB - PRINCIPAL REGISTER
Nov 14, 2003	PAPER RECEIVED
Nov 10, 2003	COMMUNICATION RECEIVED FROM APPLICANT
Oct 24, 2003	NON-FINAL ACTION MAILED
Oct 24, 2003	ASSIGNED TO EXAMINER
Oct 11, 2003	COMMUNICATION RECEIVED FROM APPLICANT

Record 5

Mark	**COBBLESTONE BRIDGE**
Status	Registered
Status Date	Sep 10, 2002
Register	Principal
Ser./App. No.	76-191141
Registration No.	2617089
Int'l Class	16 - Paper Goods and Printed Matter
Goods/Services	PAPER GIFT BAGS; GIFT WRAPPING PAPER; PAPER GIFT WRAP BOWS; TISSUE WRAPPING PAPER; PAPER GIFT BOXES; CHRISTMAS CARD HOLDERS; AND BOOK ENDS
U.S. Class	2, 5, 22, 23, 29, 37, 38, 50
1st Use	Oct 1, 2000
Commerce Use	Oct 1, 2000
Filing Date	Jan 8, 2001
Published (Last)	Jun 18, 2002
Registered	Sep 10, 2002
Correspondent	ERIC D PAULSRUD LEONARD STREET AND DEINARD 150 S 5TH ST STE 2300

Exhibit "B" -- Evidence Submitted By Defendant IMA

MINNEAPOLIS MN 55402-4223

Applicant COBBLESTONE BRIDGE, LLC (MN LIMITED LIABILITY COMPANY)
32007 64TH AVENUE
CANNON FALLS, MN 55009

Registrant COBBLESTONE BRIDGE, LLC (MN LIMITED LIABILITY COMPANY)
32007 64TH AVENUE
CANNON FALLS, MN 55009

Record 6

Mark COBBLESTONE BRIDGE

Status Registered
Status Date Aug 13, 2002
Register Principal

Ser./App. No. 76-191140
Registration No. 2606988

Int'l Class 35 - Advertising and Business
Goods/Services WHOLESALE DISTRIBUTORSHIP FEATURING DECORATIVE GIFT AND ART ITEMS, NAMELY, CANDLES, BOOK ENDS, TABLETOP GIFT AND ART ITEMS, NAMELY, FIGURES AND FIGURINES MADE OF RESIN, FIGURES AND FIGURINES MADE OF PORCELAIN, CHRISTMAS WREATH HANGERS, CHRISTMAS STOCKING HOLDERS, SEASONAL ORNAMENTS THAT ARE NOT CHRISTMAS ORNAMENTS, PICTURE FRAMES, SNOW GLOBES, CANDLEHOLDERS, VOTIVE CANDLEHOLDERS, BASKETS, SALT AND PEPPER SHAKERS, COOKIE JARS, DECORATIVE PLATES, CANISTER SETS AND MUSIC BOXES; COLLECTIBLES, NAMELY, TABLETOP GIFT AND ART ITEMS, NAMELY FIGURES AND FIGURINES, CHRISTMAS WREATH HANGERS, CHRISTMAS STOCKING HOLDERS, SEASONAL ORNAMENTS THAT ARE NOT CHRISTMAS ORNAMENTS, PICTURE FRAMES, SNOW GLOBES, CANDLEHOLDERS, VOTIVE CANDLEHOLDERS, BASKETS, SALT AND PEPPER SHAKERS, COOKIE JARS, DECORATIVE PLATES, CANISTER SETS AND, MUSIC BOXES; DECORATIONS, NAMELY, CHRISTMAS LIGHTS, CANDLES, TEXTILE WALL HANGINGS, CHRISTMAS TREE ORNAMENTS AND DECORATIONS, CHRISTMAS ORNAMENTS FOR DECORATING TOP OF CHRISTMAS TREES, CHRISTMAS GARLANDS, CHRISTMAS TREE SKIRTS, CHRISTMAS DECORATIVE FIREPLACE OR WALL STOCKINGS, CHRISTMAS WREATHS, DECORATIVE CHRISTMAS WINDSOCKS, CHRISTMAS TABLETOP AND DISPLAY ACCESSORIES, NAMELY, GARLAND, CHRISTMAS SEASONAL DECORATIONS, BASKETS, AND DECORATIVE CONTAINERS; AND DISHES; PAPER GIFT BAGS; GIFT WRAPPING PAPER; BOWS; TISSUE WRAPPING PAPER; PAPER GIFT BOXES; CHRISTMAS CARD HOLDERS AND TABLETOP AND DISPLAY ACCESSORIES FOR THE HOME
U.S. Class 100, 101, 102
1st Use Oct 1, 2000
Commerce Use Oct 1, 2000

Filing Date Jan 8, 2001
Published (Last) May 21, 2002
Registered Aug 13, 2002

Correspondent	ERIC D PAULSRUD LEONARD STREET AND DEINARD 150 S 5TH ST STE 2300 MINNEAPOLIS MN 55402-4223
Applicant	COBBLESTONE BRIDGE, LLC (MN LIMITED LIABILITY COMPANY) 32007 64TH AVENUE CANNON FALLS, MN 55009
Registrant	COBBLESTONE BRIDGE, LLC (MN LIMITED LIABILITY COMPANY) 32007 64TH AVENUE CANNON FALLS, MN 55009

Record 7

Mark	**COBBLESTONE BRIDGE**
Status	Registered
Status Date	Aug 13, 2002
Register	Principal
Ser./App. No.	76-191139
Registration No.	2606987
Int'l Class	28 - Toys and Sporting Goods
Goods/Services	CHRISTMAS TREE ORNAMENTS AND DECORATIONS; CHRISTMAS ORNAMENTS FOR DECORATING TOP OF CHRISTMAS TREES; CHRISTMAS GARLANDS; CHRISTMAS TREE SKIRTS; CHRISTMAS DECORATIVE FIREPLACE OR WALL STOCKING; ARTIFICIAL CHRISTMAS WREATHS; DECORATIVE CHRISTMAS WINDSOCKS; AND CHRISTMAS TABLETOP AND DISPLAY ACCESSORIES, NAMELY, GARLAND
U.S. Class	22, 23, 38, 50
1st Use	Oct 1, 2000
Commerce Use	Oct 1, 2000
Filing Date	Jan 8, 2001
Published (Last)	May 21, 2002
Registered	Aug 13, 2002
Correspondent	ERIC D PAULSRUD LEONARD STREET AND DEINARD 150 S 5TH ST STE 2300 MINNEAPOLIS MN 55402-4223
Applicant	COBBLESTONE BRIDGE, LLC (MN LIMITED LIABILITY COMPANY) 32007 64TH AVENUE CANNON FALLS, MN 55009
Registrant	COBBLESTONE BRIDGE, LLC (MN LIMITED LIABILITY COMPANY) 32007 64TH AVENUE CANNON FALLS, MN 55009

Record 8

Mark	**COBBLESTONE BRIDGE**
Status	Registered
Status Date	Aug 20, 2002
Register	Principal
Ser./App. No.	76-191138
Registration No.	2609051
Int'l Class	24 - Fabrics
Goods/Services	TEXTILE WALL HANGINGS
U.S. Class	42, 50
1st Use	Oct 1, 2000
Commerce Use	Oct 1, 2000
Filing Date	Jan 8, 2001
Published (Last)	May 28, 2002
Registered	Aug 20, 2002
Correspondent	ERIC D PAULSRUD LEONARD STREET AND DEINARD 150 S 5TH ST STE 2300 MINNEAPOLIS MN 55402-4223
Applicant	COBBLESTONE BRIDGE, LLC (MN LIMITED LIABILITY COMPANY) 32007 64TH AVENUE CANNON FALLS, MN 55009
Registrant	COBBLESTONE BRIDGE, LLC (MN LIMITED LIABILITY COMPANY) 32007 64TH AVENUE CANNON FALLS, MN 55009

Record 9

Mark	**COBBLESTONE BRIDGE**
Status	Registered
Status Date	Sep 10, 2002
Register	Principal
Ser./App. No.	76-191137
Registration No.	2617088
Int'l Class	21 - Housewares and Glass
Goods/Services	FIGURES AND FIGURINES MADE OF PORCELAIN; CHRISTMAS TABLETOP AND DISPLAY ACCESSORIES, NAMELY, FIGURES AND FIGURINES MADE OF PORCELAIN; MUGS MADE OF PORCELAIN; CANDY DISHES MADE OF PORCELAIN; CANDLEHOLDERS MADE OF PORCELAIN; CANDLEHOLDERS NOT OF PRECIOUS METAL; VOTIVE CANDLEHOLDERS MADE OF PORCELAIN; VOTIVE CANDLEHOLDERS NOT OF PRECIOUS METAL; [illegible] MADE OF WOOD; SALT AND PEPPER SHAKERS MADE OF

	PORCELAIN; COOKIE JARS MADE OF PORCELAIN; DECORATIVE PLATES MADE OF PORCELAIN; CANISTER SETS MADE OF PORCELAIN; AND SEASONAL ORNAMENTS MADE OF PORCELAIN NOT CHRISTMAS TREE ORNAMENTS
U.S. Class	2, 13, 23, 29, 30, 33, 40, 50
1st Use	Oct 1, 2000
Commerce Use	Oct 1, 2000
Filing Date	Jan 8, 2001
Published (Last)	Jun 18, 2002
Registered	Sep 10, 2002
Correspondent	ERIC D PAULSRUD LEONARD STREET AND DEINARD 150 S 5TH ST STE 2300 MINNEAPOLIS MN 55402-4223
Applicant	COBBLESTONE BRIDGE, LLC (MN LIMITED LIABILITY COMPANY) 32007 64TH AVENUE CANNON FALLS, MN 55009
Registrant	COBBLESTONE BRIDGE, LLC (MN LIMITED LIABILITY COMPANY) 32007 64TH AVENUE CANNON FALLS, MN 55009

Record 10

Mark	**COBBLESTONE BRIDGE**
Status	Registered
Status Date	Aug 20, 2002
Register	Principal
Ser./App. No.	76-191136
Registration No.	2609050
Int'l Class	20 - Furniture and Articles Not Otherwise Classified
Goods/Services	FIGURES AND FIGURINES MADE OF RESIN; CHRISTMAS TABLETOP AND DISPLAY ACCESSORIES, NAMELY, FIGURES AND FIGURINES MADE OF RESIN; CHRISTMAS WREATH HANGERS AND CHRISTMAS STOCKING HOLDERS MADE OF RESIN; SEASONAL ORNAMENTS, NOT CHRISTMAS ORNAMENTS, MADE OF RESIN; PICTURE FRAMES; SNOW GLOBES; AND WALL PLAQUES
U.S. Class	2, 13, 22, 25, 32, 50
1st Use	Oct 1, 2000
Commerce Use	Oct 1, 2000
Filing Date	Jan 8, 2001
Published (Last)	May 28, 2002
Registered	Aug 20, 2002
Correspondent	ERIC D PAULSRUD LEONARD STREET AND DEINARD 150 S 5TH ST STE 2300 MINNEAPOLIS MN 55402-4223

Exhibit "B" -- Evidence Submitted By Defendant IMA

Applicant	COBBLESTONE BRIDGE, LLC (MN LIMITED LIABILITY COMPANY) 32007 64TH AVENUE CANNON FALLS, MN 55009
Registrant	COBBLESTONE BRIDGE, LLC (MN LIMITED LIABILITY COMPANY) 32007 64TH AVENUE CANNON FALLS, MN 55009

Record 11

Mark	**COBBLESTONE BRIDGE**
Status	Registered
Status Date	Nov 12, 2002
Register	Principal
Ser./App. No.	76-191134
Registration No.	2648357
Int'l Class	11 - Environmental Control Apparatus
Goods/Services	ELECTRIC LIGHTS FOR CHRISTMAS TREES, ELECTRIC CHRISTMAS ORNAMENTS AND GARLANDS; FIBER OPTIC CHRISTMAS LIGHTS; AND FIBER OPTIC ORNAMENTS FOR DECORATING THE TOP OF CHRISTMAS TREES
U.S. Class	13, 21, 23, 31, 34
1st Use	Oct 1, 2000
Commerce Use	Oct 1, 2000
Filing Date	Jan 8, 2001
Published (Last)	Aug 20, 2002
Registered	Nov 12, 2002
Correspondent	ERIC D PAULSRUD LEONARD STREET AND DEINARD 150 S 5TH ST STE 2300 MINNEAPOLIS MN 55402-4223
Applicant	COBBLESTONE BRIDGE, LLC (MN LIMITED LIABILITY COMPANY) 32007 64TH AVENUE CANNON FALLS, MN 55009
Registrant	COBBLESTONE BRIDGE, LLC (MN LIMITED LIABILITY COMPANY) 32007 64TH AVENUE CANNON FALLS, MN 55009

Record 12

Mark	**COBBLESTONE BRIDGE**

Correspondent	RONALD J. VENTOLA II MICHAEL D CARBO PLC 700 WHITNEY BANK BUILDING 228 ST. CHARLES AVENUE NEW ORLEANS, LOUISIANA 70130
Applicant	HURDLIK, INC. (LA CORP.) 757 ST. CHARLES AVENUE, SUITE 203 NEW ORLEANS, LA 70130
Registrant	HURDLIK, INC. (LA CORP.) 757 ST. CHARLES AVENUE, SUITE 203 NEW ORLEANS, LA 70130

Record 14

Mark	**COBBLESTONES**
Status	Registered
Status Date	Feb 13, 2001
Register	Principal
Ser./App. No.	75-635109
Registration No.	2427924
Int'l Class	25 - Clothing
Goods/Services	TEAM SPORTSWEAR, NAMELY, BASKETBALL UNIFORMS, BASEBALL/SOFTBALL UNIFORMS, VOLLEYBALL UNIFORMS, TRACK AND FIELD UNIFORMS, SOCCER UNIFORMS, FOOTBALL UNIFORMS, CHEERLEADER UNIFORMS, AND AEROBIC WEAR, EXCLUDING FOOTWEAR
U.S. Class	22, 39
1st Use	May 1, 1976
Commerce Use	May 1, 1976
Filing Date	Oct 6, 1999
Published (Last)	Nov 21, 2000
Registered	Feb 13, 2001
Correspondent	JOHN C. STRINGHAM WORKMAN, NYDEGGER & SEELEY 1000 EAGLE GATE TOWER 60 EAST SOUTH TEMPLE SALT LAKE CITY, UTAH 84111
Applicant	OSBORN SPECIALTY SEWING, INC. (UT CORP.) 7095 WEST 3500 SOUTH WEST VALLEY CITY, UT 84128
Registrant	OSBORN SPECIALTY SEWING, INC. (UT CORP.) 7095 WEST 3500 SOUTH WEST VALLEY CITY, UT 84128

Record 15

Exhibit "B" -- Evidence Submitted By Defendant IMA

Mark	**COBBLESTONE CLASSIC** (Stylized)
Status	Abandoned - Failure to Respond
Status Date	Aug 10, 2000
Register	Principal
Ser./App. No.	75-595745
Int'l Class	25 - Clothing
Goods/Services	A) TERRY CLOTH BATHROBES FLEECE SHIRTS B) DIAMOND WAFFLE BATHROBES (ROBE TEE SHIRT PRODUCTS C) VELOUR BATHROBES OUTER WEAR JACKETS D) TERRY CLOTH BATHROBES TOWELS TAILORED SUITS MEN AND WOMAN WOVEN SHIRTS
U.S. Class	22, 39
Commerce Use	1985
Filing Date	Nov 25, 1998
Correspondent	MR. LEE M. TULIN AS PRESIDENT COBBLESTONE CLASSIC DIV.OF BURKE & WILLS LTD. P.O. BOX 5222 SCOTTSDALE, ARIZONA 85261
Applicant	MR. LEE M. TULIN (CT CORP.) COBBLESTONE CLASSIC DIV. OF BURKE & WILLS LTD., P.O. BOX 5222 SCOTTSDALE, AZ 85261

Record 16

Mark	**DOOR COUNTY COBBLESTONE**
Status	Registered
Status Date	Oct 12, 1999
Register	Principal
Ser./App. No.	75-534815
Registration No.	2285216
Int'l Class	19 - Non-metallic Building Materials
Goods/Services	BUILDING AND GENERAL PURPOSE LANDSCAPING STONES AND ROCKS, NAMELY, PATIO STONE, STEPS AND WALKWAY STONES AND ROCKS, CUSTOM-CUT STONES AND ROCKS, RETAINING WALL STONES AND ROCKS, AGGREGATE, GRANITE, RUBBLE STONE AND ROCK VENEERS, THIN BUILDING STONE AND ROCK VENEERS, FULL BUILDING STONE AND ROCK VENEERS FREE FORM BUILDING STONE AND ROCK VENEERS, BOND STONES, CHIMNEY STONES, AND BOULDERS
U.S. Class	1, 12, 33, 50
1st Use	Mar, 1989
Commerce Use	Mar, 1989
Filing Date	Aug 12, 1998
Published (Last)	Jul 20, 1999

Registered	Oct 12, 1999
Disclaimer	"COBBLESTONE"
Correspondent	BUECHEL STONE CORP W3639 HWY H CHILTON WI 53014
Applicant	BUECHEL STONE CORP. (WI CORP.) W3639 HIGHWAY H CHILTON, WI 53014
Registrant	BUECHEL STONE CORP. (WI CORP.) W3639 HIGHWAY H CHILTON, WI 53014

Record 17

Mark	**COBBLESTONE**
Status	Registered
Status Date	Nov 16, 1999
Register	Principal
Ser./App. No.	75-463721
Registration No.	2292240
Int'l Class	33 - Wines and Spirits
Goods/Services	TABLE WINE
U.S. Class	47, 49
1st Use	Jan 1, 1978
Commerce Use	Jan 1, 1978
Filing Date	Apr 7, 1998
Published (Last)	Aug 24, 1999
Registered	Nov 16, 1999
Correspondent	DAVID W. GRACE LOEB & LOEB LLP SUITE 2200 10100 SANTA MONICA BLVD. LOS ANGELES CA 90067
Applicant	COBBLESTONE VINEYARDS COMPOSED OF LEVINE, ANITA,LEVINE, SAUL (CA PARTNERSHIP) 1500 COTNER AVENUE LOS ANGELES, CA 90025
Registrant	COBBLESTONE VINEYARDS COMPOSED OF LEVINE, ANITA,LEVINE, SAUL (CA PARTNERSHIP) 1500 COTNER AVENUE LOS ANGELES, CA 90025

Action History	Nov 3, 2003 RECEIVED	TEAS CHANGE OF CORRESPONDENCE
	Nov 16, 1999	REGISTERED-PRINCIPAL REGISTER
	Aug 24, 1999	PUBLISHED FOR OPPOSITION

IMA DOC 5 Trademark Application File 202

Exhibit "B" -- Evidence Submitted By Defendant IMA

Ser./App. No.	75-072652
Registration No.	2086553
Int'l Class	19 - Non-metallic Building Materials
Goods/Services	CERAMIC TILES
U.S. Class	1, 12, 33, 50
1st Use	Jul 22, 1996
Commerce Use	Jul 22, 1996
Filing Date	Mar 14, 1996
Filed I-T-U	Yes
Published (Last)	Sep 24, 1996
Allowed	Dec 17, 1996
Registered	Aug 5, 1997
Correspondent	JACK L. RENNER RENNER, KENNER, GREIVE, BOBAK, ET AL. 1610 FIRST NATIONAL TOWER AKRON, OH 44308-1456
Applicant	SUMMITVILLE TILES, INC. (DE CORP.) P.O. BOX 73 SUMMITVILLE, OH 43962
Registrant	SUMMITVILLE TILES, INC. (DE CORP.) P.O. BOX 73 SUMMITVILLE, OH 43962

ASSIGNMENTS

Reel/Frame	1673/0870
Assignor(s)	SUMMITVILLE TILES, INC. (DE CORP.)
Assignee(s)	PNC BANK, NATIONAL ASSOCIATION, TWO PNC PLAZA, PITTSBURGH, PA, 15265
Correspondt	DOEPKEN KEEVICAN & WEISS, CHERLON FRIEDKEN, LEGAL ASSISTANT, 58TH FLOOR - USX TOWER, 600 GRANT STREET, PITTSBURGH, PA 15219
Date Sgnd/Ack	Oct 24, 1997
Date Recorded	Nov 10, 1997
Brief	Security Interest

Record 20

Mark	COBBLESTONE
Status	Abandoned - No Statement of Use
Status Date	Jun 18, 1997
Register	Principal
Ser./App. No.	75-055567
Int'l Class	19 - Non-metallic Building Materials
Goods/Services	CERAMIC TILES
U.S. Class	1, 12, 33, 50
Filing Date	Feb 9, 1996
Filed I-T-U	Yes

Exhibit "B" -- Evidence Submitted By Defendant IMA

Published (Last)	Sep 24, 1996
Allowed	Dec 17, 1996
Correspondent	JACK L. RENNER RENNER, KENNER, GREIVE, BOBAK, ET AL. 1610 FIRST NATIONAL TOWER AKRON, OH 44308-1456
Reference	SUM.T.US0022
Applicant	SUMMITVILLE TILES, INC. (DE CORP.) P.O. BOX 73 SUMMITVILLE, OH 43962

Record 21

Mark	**COBBLE STONE**
Status	Abandoned - Failure to Respond
Status Date	Dec 24, 1996
Register	Principal
Ser./App. No.	75-006663
Int'l Class	19 - Non-metallic Building Materials
Goods/Services	CONCRETE LANDSCAPING RETAINING WALL SYSTEMS AND COMPONENTS THEREFOR SOLD AS A UNIT COMPRISING INTERLOCKABLE WALL PANELS
U.S. Class	1, 12, 33, 50
Filing Date	Oct 17, 1995
Filed I-T-U	Yes
Correspondent	WILLIAM J. RYAN DUNLAP & SEEGER, P.A. 206 SOUTH BROADWAY, SUITE 505 P.O. BOX 549 ROCHESTER, MN 55903
Applicant	ROCKWOOD RETAINING WALLS, INC. (MN CORP.) 7200 HIGHWAY 63 NORTH ROCHESTER, MN 55906

Record 22

Mark	**COBBLESTONE MILL**
Status	Registered
Status Date	Sep 18, 2002
Register	Principal
Ser./App. No.	74-712640
Registration No.	1991258
Int'l Class	30 - Staple Foods

Goods/Services	BAKERY PRODUCTS, NAMELY BREAD, BUNS AND ROLLS
U.S. Class	46
1st Use	Aug 19, 1983
Commerce Use	Aug 19, 1983
Filing Date	Aug 8, 1995
Published (Last)	May 14, 1996
Registered	Aug 6, 1996
Affidavits	Sec. 8 accepted; Sec. 15 acknowledged
Associated Marks	1326230, 1836321 and others.
Correspondent	WILLIAM H. BREWSTER KILPATRICK STOCKTON LLP 1100 PEACHTREE STREET, SUITE 2800 ATLANTA, GA 30309
Registrant	FLOWERS FAMILY BAKERIES, INC. (DE CORP.) WILMINGTON TRUST CENTER, 1100 NORTH MARKET SQUARE, SUITE 780 WILMINGTON, DE 19801
Last Owner	FLOWERS BAKERIES BRANDS, INC. (DE CORP.) 1105 NORTH MARKET STREET, SUITE 1300 WILMINGTON, DE 19899

ASSIGNMENTS

Reel/Frame	1595/0985
Assignor(s)	FLOWERS FAMILY BAKERIES, INC. (DE CORP.)
Assignee(s)	FLOWERS BAKERIES, INC. (DE CORP.), SUITE 780 1100 NORTH MARKET SQUARE, WILMINGTON, DE, 19801
Correspondt	KILPATRICK STOCKTON LLP, SHARAN B. FLEXNER, 1100 PEACHTREE STREET, ATLANTA, GA 30309
Date Sgnd/Ack	Dec 2, 1996
Date Recorded	May 27, 1997
Brief	Change of name

Reel/Frame	1765/0583
Assignor(s)	FLOWERS BAKERIES, INC. (DE CORP.)
Assignee(s)	FLOWERS BAKERIES BRANDS, INC. (DE CORP.), 1100 NORTH MARKET SQUARE, SUITE 780, WILMINGTON, DE, 19801
Correspondt	KILPATRICK STOCKTON LLP, SHARAN B. FLEXNER, 1100 PEACHTREE STREET, SUITE 2800, ATLANTA, GA 30309-4530
Date Sgnd/Ack	Dec 16, 1997
Date Recorded	Jul 27, 1998
Brief	SEE RECORDING ON REEL 1766, FRAME 568. (RE-RECORDED TO REPLACE A INCORRECT COVER SHEET. REVISED COVER SHEET CHANGES ASSIGNEE'S STATE OF INCORPORATION FROM DELAWARE TO SOUTH CAROLINA.)

Reel/Frame	1766/0568
Assignor(s)	FLOWERS BAKERIES, INC. (DE CORP.)
Assignee(s)	FLOWERS BAKERIES BRANDS, INC. (SC CORP.), 1100 NORTH MARKET SQUARE, SUITE 780, WILMINGTON, DE, 19801
Correspondt	KILPATRICK STOCKTON LLP, SHARAN B. FLEXNER, 1100 PEACHTREE STREET, SUITE 2800, ATLANTA, GA 30309-4530
Date Sgnd/Ack	Dec 16, 1997
Date Recorded	Jul 27, 1998

Brief	INVALID RECORDAL, SEE RECORDING AT REEL 1765, FRAME 583.
Reel/Frame	1768/0162
Assignor(s)	FLOWERS BAKERIES BRANDS, INC. (DE CORP.)
Assignee(s)	FLOWERS BAKERIES BRANDS, INC. (SC CORP.), 7101 ASHVILLE HIGHWAY, SPARTANBURG, GA, 29303
Correspondt	KILPATRICK STOCKTON LLP, SHARAN B. FLEXNER, 1100 PEACHTREE STREET, SUITE 2800, ATLANTA, GA 30309-4530
Date Sgnd/Ack	May 15, 1998
Date Recorded	Jul 27, 1998
Brief	(INVALID RECORDING), SEE RECORDIMG AT REEL 1775, FRAME 955.
Reel/Frame	1775/0955
Assignor(s)	FLOWERS BAKERIES BRANDS, INC. (DE CORP.)
Assignee(s)	FLOWERS BAKERIES BRANDS, INC. (SC CORP.), 7101 ASHVILLE HIGHWAY, SPARTANBURG, SC, 29303
Correspondt	KILPATRICK STOCKTON LLP, SHARAN B. FLEXNER, 1100 PEACHTREE STREET, SUITE 2800, ATLANTA, GA 30309-4530
Date Sgnd/Ack	May 15, 1998
Date Recorded	Jul 27, 1998
Brief	CERTIFCATE OF AGREEMENT OF MERGER
Reel/Frame	2295/0574
Assignor(s)	FLOWERS BAKERIES BRANDS, INC. (SC CORP.)
Assignee(s)	FLOWERS BAKERIES BRANDS, INC. (DE CORP.), 1105 NORTH MARKET STREET, SUITE 1300, WILMINGTON, DE, 19899
Correspondt	WILLIAM H. BREWSTER, ESQ., 1100 PEACHTREE ST., SUITE 2800, ATLANTA, GA 30309
Date Sgnd/Ack	Dec 27, 2000
Date Recorded	Mar 22, 2001
Brief	Assigns the entire interest and goodwill
Reel/Frame	2317/0954
Assignor(s)	FLOWERS BAKERIES BRANDS, INC. (DELAWARE CORPORATION)
Assignee(s)	BANKERS TRUST COMPANY, 130 LIBERTY STREET, NEW YORK, NEW YORK, 10006
Correspondt	WHITE & CASE LLP, BRIAN JAENICKE, LEGAL ASSISTANT, 1155 AVENUE OF THE AMERICAS, NEW YORK, NY 10036
Date Sgnd/Ack	Mar 26, 2001
Date Recorded	May 22, 2001
Brief	SECURITY INTEREST

Record 23

Mark	**COBBLESTONE**
Status	Registered
Status Date	Jun 30, 2003
Register	Principal
Ser./App. No.	74-689789
Registration No.	2049796
Int'l Class	42 - Miscellaneous Services
Goods/Services	GOLF COURSE SERVICES

Exhibit "B" -- Evidence Submitted By Defendant IMA

U.S. Class	100, 101
1st Use	May 24, 1995
Commerce Use	May 24, 1995
Filing Date	Jun 19, 1995
Filed I-T-U	Yes
Published (Last)	Apr 2, 1996
Allowed	Jun 25, 1996
Registered	Apr 1, 1997
Affidavits	Sec. 8 accepted; Sec. 15 acknowledged
Correspondent	STEVEN D. KERR WOMBLE CARLYLE SANDRIDGE & RICE, PLLC ONE ATLANTIC CENTER ATLANTA, GA 30309
Applicant	COBB COUNTY BOARD OF COMMISSIONERS (GA GOVERNMENT AGENCY) 100 CHEROKEE STREET, SUITE 300 MARIETTA, GA 30090-9601
Registrant	COBB COUNTY BOARD OF COMMISSIONERS (GA GOVERNMENT AGENCY) 100 CHEROKEE STREET, SUITE 300 MARIETTA, GA 30090-9601

Action History

Jun 30, 2003	REGISTERED - SEC. 8 (6-YR) ACCEPTED & SEC. 15 ACK.
Mar 31, 2003	REGISTERED - SEC. 8 (6-YR) & SEC. 15 FILED
Mar 31, 2003	REGISTERED - SEC. 8 (6-YR) & SEC. 15 FILED
Mar 31, 2003	TEAS SECTION 8 & 15 RECEIVED
Apr 1, 1997	REGISTERED-PRINCIPAL REGISTER
Jan 9, 1997	ALLOWED PRINCIPAL REGISTER - SOU ACCEPTED
Jan 4, 1997	STATEMENT OF USE PROCESSING COMPLETE
Nov 18, 1996	USE AMENDMENT FILED
Jun 25, 1996	NOTICE OF ALLOWANCE-MAILED
Apr 2, 1996	PUBLISHED FOR OPPOSITION
Mar 1, 1996	NOTICE OF PUBLICATION
Jan 18, 1996	APPROVED FOR PUB - PRINCIPAL REGISTER
Jan 18, 1996	PREVIOUS ALLOWANCE COUNT WITHDRAWN
Jan 18, 1996	PREVIOUS ALLOWANCE COUNT WITHDRAWN
Jan 2, 1996	APPROVED FOR PUB - PRINCIPAL REGISTER
Dec 21, 1995	EXAMINERS AMENDMENT MAILED
Nov 15, 1995	NON-FINAL ACTION MAILED
Nov 14, 1995	ASSIGNED TO EXAMINER
Nov 8, 1995	ASSIGNED TO EXAMINER

Record 24

Mark	**COBBLESTONE CROSSING**
Status	Cancelled - Section 8
Status Date	Oct 19, 2002
Register	Principal
Ser./App. No.	74-564394

Registration No. 1949707

Int'l Class	28 - Toys and Sporting Goods
Goods/Services	PLUSH STUFFED TOY ANIMALS
U.S. Class	22, 23, 38, 50
1st Use	Jan 18, 1995
Commerce Use	Jan 18, 1995
Filing Date	Aug 22, 1994
Filed I-T-U	Yes
Published (Last)	May 23, 1995
Registered	Jan 16, 1996
Correspondent	JILL ANDERFUREN TILTON, FALLON, LUNGMUS & CHESTNUT 100 SOUTH WACKER DRIVE, SUITE 960 CHICAGO, IL 60606
Applicant	CTI INDUSTRIES CORPORATION (DE CORP.) 22160 NORTH PEPPER ROAD BARRINGTON, IL 60010
Registrant	CTI INDUSTRIES CORPORATION (DE CORP.) 22160 NORTH PEPPER ROAD BARRINGTON, IL 60010

ASSIGNMENTS

Reel/Frame	1662/0453
Assignor(s)	BANK OF AMERICA ILLINOIS (IL CORP.)
Assignee(s)	CTI INDUSTRIES CORPORATION (DE CORP.), 22160 NORTH PEPPER ROAD, BARRINGTON, IL, 60010
Correspondt	TILTON, FALLON, LUNGMUS & CHESTNUT, JILL ANDERFUREN, ESQ., 100 S. WACKER DRIVE, SUITE 960, CHICAGO, ILLINOIS 60606
Date Sgnd/Ack	Sep 6, 1996
Date Recorded	Nov 20, 1997
Brief	RELEASE AND REASSIGNMENT
Reel/Frame	2228/0227
Assignor(s)	CTI INDUSTRIES CORPORATION (DE CORP.)
Assignee(s)	CONGRESS FINANCIAL CORPORATION (CENTRAL) (IL CORP.), 150 SOUTH WACKER DRIVE, SUITE 2200, CHICAGO, IL, 60606
Correspondt	GOLDBERG KOHN, ELIZABETH BONDS, 55 EAST MONROE STREET, SUITE 3700, CHICAGO, ILLINOIS 60603
Date Sgnd/Ack	Jan 12, 2001
Date Recorded	Jan 23, 2001
Brief	SECURITY AGREEMENT

Record 25

Mark	COBBLESTONE
Status	Cancelled - Section 8
Status Date	Dec 29, 2000
Register	Principal

Applicant	SOUTHERN READY MIX, INC. (AL CORP.) 2653 RUFFNER ROAD BIRMINGHAM, AL 35210

Record 27

Mark	COBBLE STONE SHEEN (and Design)
Status	Abandoned - Failure to Respond
Status Date	Aug 26, 1985
Register	Principal
Ser./App. No.	73-505949
Int'l Class	25 - Clothing
Goods/Services	MEN'S SLACKS, SPORTS COATS AND SUITS
U.S. Class	39
1st Use	May, 1984
Commerce Use	May, 1984
Filing Date	Oct 29, 1984
Applicant	CLIFTEX CORPORATION (DE CORP.) 194 RIVERSIDE AVENUE NEW BEDFORD, MA 02746

Record 28

Status	Abandoned - Failure to Respond
Status Date	Apr 25, 1983
Register	Principal
Ser./App. No.	73-232671
Filing Date	Sep 25, 1979

Record 29

	D H COBBLE STONE 69 DYKE LN STAMFORD, CT 06902-7312 (203) 975-0411
Doc. No.	BN106436441
Int'l Class	42
Goods/Services	CATERERS; RESTAURANTS
Source	Business Name Listing © 2004 Acxiom Corporation

Exhibit "B" -- Evidence Submitted By Defendant IMA

Ser./App. No.	74-231108
Registration No.	1801353
Int'l Class	3 - Cosmetics and Cleaning Preparations
Goods/Services	POTPOURRI
U.S. Class	1, 50
1st Use	Nov 30, 1992
Commerce Use	Nov 30, 1992
Filing Date	Dec 13, 1991
Filed I-T-U	Yes
Published (Last)	Jun 9, 1992
Registered	Oct 26, 1993
Correspondent	HOWARD B. ROCKMAN WELSH & KATZ, LTD. 135 SOUTH LASALLE STREET, SUITE 1625 CHICAGO, IL 60603
Applicant	SCENTEX, INC. (IL CORP.) 4545 WEST AUGUSTA BLVD. CHICAGO, IL 60651
Registrant	SCENTEX, INC. (IL CORP.) 4545 WEST AUGUSTA BLVD. CHICAGO, IL 60651

ASSIGNMENTS

Reel/Frame	1621/0606
Assignor(s)	SCENTEX, INC. (IL CORP.)
Assignee(s)	BRIGHT OF AMERICA, INC. (WV CORP.), 300 GREENBRIER ROAD, SOMMERSVILLE, WV, 26651
Correspondt	RUSS BERRIE AND CO., INC., EVA J. GOLDENBERG, ESQ., 111 BAUER DRIVE, OAKLAND, NEW JERSEY 7436
Date Sgnd/Ack	Aug 4, 1997
Date Recorded	Aug 15, 1997
Brief	Assigns the entire interest and goodwill

Record 26

Mark	COBBLE-STONE
Status	Abandoned - Failure to Respond
Status Date	Dec 23, 1989
Register	Principal
Ser./App. No.	73-788327
Int'l Class	19 - Non-metallic Building Materials
Goods/Services	PAVING STONES
U.S. Class	12
1st Use	Dec 15, 1988
Commerce Use	Dec 15, 1988
Filing Date	Mar 20, 1989

Exhibit "B" -- Evidence Submitted By Defendant IMA

Record 30

COBBLE-STONE ELECTRIC INC
BROOKSVILLE, FL 34601
(352) 796-9000

Doc. No. BN65477499

Int'l Class 37
Goods/Services ELECTRIC CONTRACTORS

Source Business Name Listing © 2004 Acxiom Corporation

Record 31

COBBLE STONES GIFT & DECOR
3412 N. DAL PASO ST
HOBBS, NM 88240-1544
(505) 392-9225

Doc. No. BN102168630

Int'l Class 42
Goods/Services MASSAGE LICENSED THERAPISTS; SKIN CARE & TREATMENT; TANNING SALON

Source Business Name Listing © 2004 Acxiom Corporation

Record 32

COBBLE STONES
5236 BLISS RD
MIDDLETON, MI 48856-9755
(989) 466-9282

Doc. No. BN95481004

Int'l Class 35
Goods/Services CRAFT SHOPS & SUPLS

Source Business Name Listing © 2004 Acxiom Corporation

Record 33

COBBLE STONE THE
217 S. MAIN ST
COPPERAS COVE, TX 76522-2252
(254) 542-7796

Doc. No. BN84236308

Int'l Class 35 41
Goods/Services CERAMIC EQUIP & SUPLS; CRAFT INSTRUCTION & SCHOOLS

Source Business Name Listing © 2004 Acxiom Corporation

Record 34

COBBLE STONE SOUTH
46533 WOODSIDE DR
CANTON, MI 48187-4298
(734) 844-7888

Doc. No. BN104080293

Int'l Class 37
Goods/Services BUILDERS & CONTRACTORS

Source Business Name Listing © 2004 Acxiom Corporation

Record 35

COBBLE STONE HOTEL
400 1ST ST
LIVERPOOL, NY 13088-4955
(315) 457-9851

Doc. No. BN2976159

Int'l Class 36
Goods/Services MOTELS & HOTELS

Source Business Name Listing © 2004 Acxiom Corporation

Record 36

COBBLE STONE GARDENS
8900 S. BROMPTON WAY
PARKER, CO 80134-3980
(303) 680-2400

Doc. No. BN16861746

Int'l Class 31 42
Goods/Services GARDEN CENTERS

Source Business Name Listing © 2004 Acxiom Corporation

Record 37

COBBLE STONE ALE HOUSE
400 1ST ST
LIVERPOOL, NY 13088-4955
(315) 461-8806

Doc. No. BN2976160

Int'l Class 42
Goods/Services BEER TAVERNS

Source Business Name Listing © 2004 Acxiom Corporation

Record 38

COBBLE STONE
4647 N. CRAVER RD ANDERSON HILL RD
PURCHASE, NY 10577-9324
(914) 253-9678

Doc. No. BN53656832

Int'l Class 42
Goods/Services RESTAURANTS

Source Business Name Listing © 2004 Acxiom Corporation

Record 39

COBBLE STONE
4647 N. CRAVER RD
CLOVERDALE, IN 46120-9324
(765) 528-2378

Doc. No. BN102377428

Int'l Class 20 35
Goods/Services CANDLE & CANDLE SUPLS; GIFTS

Source Business Name Listing © 2004 Acxiom Corporation

Exhibit "B" -- Evidence Submitted By Defendant IMA

Open Session - nk

Set #	Search Query	DB	Hits	Comments
1	Mark: **oakwood** Intl Class: **20, or 30, 0r 31 or 32 or 33 or 34 or 42 or 43**	F ST CL CA	Syntax Error	
2	Mark: **oakwood** Intl Class: **29 or 30 or 31 or 32 or 33 or 34 or 42 or 43**	F ST CL CA	14 20 522 8	
3	Mark: **oakwood** Intl Class: **29 or 30 or 31 or 32 or 33 or 34**	F ST CL CA	2 7 202 5	
4	Mark: **oakwood (market or deli)**	F ST CL CA	0 2 10 0	
5	Mark: **oakwood**	F ST CL CA	60 34 1180 12	
6	Limit to Sets: **2 or 4**	F ST CL CA	14 20 530 8	
7	Mark: **"oakwood forest" or "oak wood forest"**	F ST CL CA	0 0 3 0	
8	Mark: **corner market**	F ST CL CA	12 6 362 3	
9	Mark: **oakwood corner**	F ST CL CA	No Matches	
10	Mark: **corner deli**	F ST	10 9	
11	Mark: **corner deli**	F ST CL CA	10 9 216 4	

Exhibit "B" -- Evidence Submitted By Defendant IMA

12	Mark: **cobble stone**	F ST CL CA	28 0 11 0	

Exhibit "B" -- Evidence Submitted By Defendant IMA

Exhibit 6

THOMSON & THOMSON

Our File: 110802811-60
Your File:

Trademark Research Report

Client Name: PAGEL DAVIS & HILL PC

Attention: BARTT THOMPSON

Date Received: April 15, 2004 Received by: Telephone

Date Completed: April 16, 2004

Mark Searched: COBBLESTONE CORNER

Type of Search: FULL SEARCH
Formatted: By Source

Goods/Services: MEAT, CHEESE, REFRIGERATED SALADS, PICKLES, MUSTARD, POTATO CHIPS, FROZEN SOUPS, FROZEN ENTREES, COOKED DELI ITEMS INCLUDING SAUERKRAUT

EXHIBIT
Plank 6

We have taken all reasonable steps to ensure the completeness and accuracy of this report. However, for various reasons, including the subjective nature of trademark searching and the possibility of incomplete and inaccurate data provided by the United States Patent & Trademark Office and other national trademark offices, the Secretary of States' Offices, and all of the many vendors and publishers of trademark and business information used in compiling search reports, we cannot warrant that this report is complete or error free. AS A RESULT, WE DISCLAIM ALL WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. This search is valid only for the mark and goods noted above. If the mark or goods that were the subject of this search change, even slightly, a new search should be performed.

This research report includes Internet addresses (Universal Resource Locators, or URLs) of citations in the report. We employ a Web Page Lookup process to provide images of the Web pages associated with these URLs. Infrequently, because of the process used to catalog the unstructured information of the Web, it is possible the Web Page Lookup image returned will not relate to the cited URL.

Any liability arising out of the preparation of this report is limited to a refund of the search fee paid. Acceptance of this search constitutes an acceptance of the aforesaid terms, conditions and limitations. This report in no way constitutes a legal opinion. The ranking of cited references into groups based on their relative relevance to the mark searched is for the convenience of our clients in reviewing the search report and is not intended to convey an opinion regarding the legal significance of any cited reference.

Thomson & Thomson 500 Victory Road, North Quincy, MA 02171-3145 Telephone (617) 479-1600 (800) 692-8833
FAX (617) 786-8273 (800) 543-1983

IMAL DOC "B" -- Evidence Submitted By Defendant IMA

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IMAL DOC 2 Trademark Search Report

"Exhibit "B" -- Evidence Submitted By Defendant IMA

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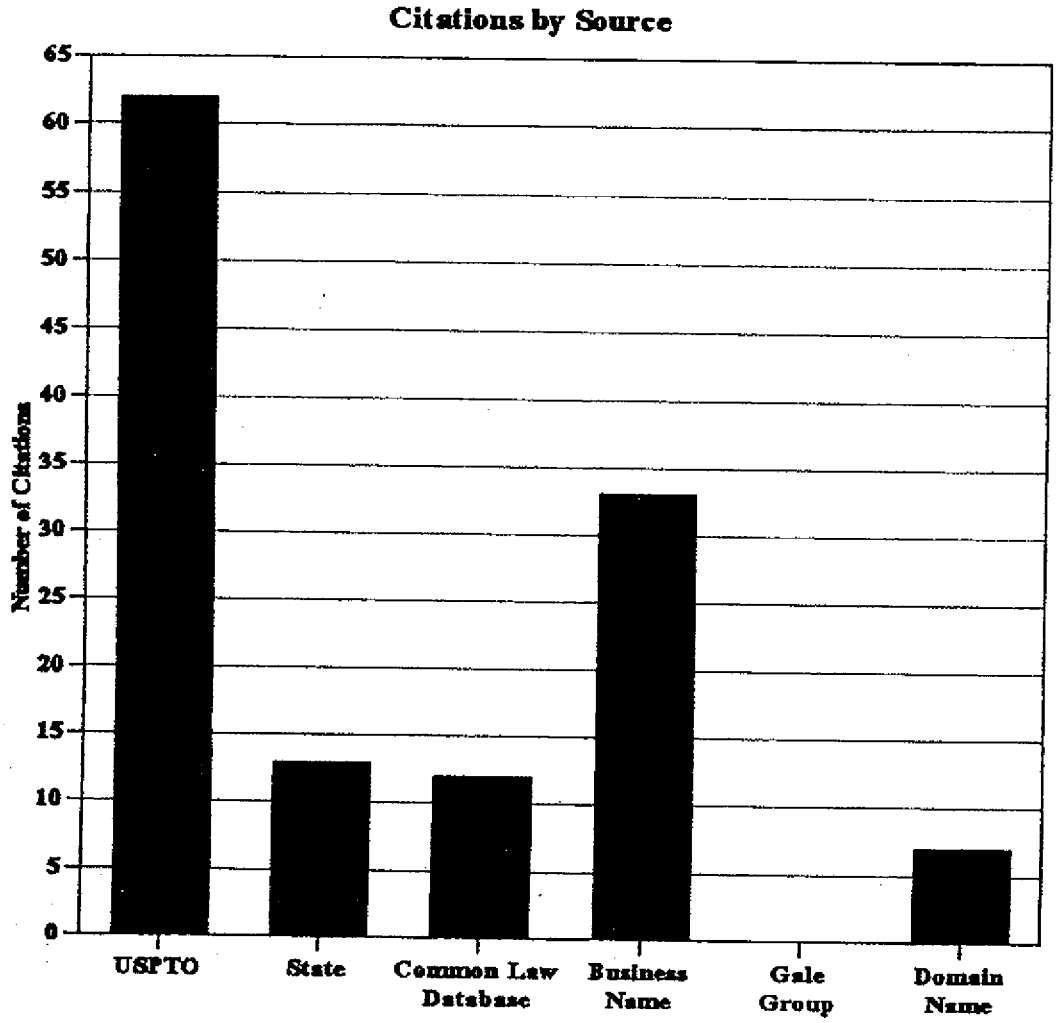
IMA Exhibit "B" -- Evidence Submitted By Defendant IMA



	USPTO	State	Common Law Database	Business Name	Gale Group	Domain Name
Group One	1	0	0	0	0	3
Group Two	0	0	0	1	0	0
Group Three	5	3	5	3	0	4
Group Four	55	10	7	8	0	0
Group Five	1	0	0	21	0	0

Search: 110802811 Analyst: DEBORAH BROMLEY Report Graph Page: 4

Group One Summary

Citation	Status	Class(es)	Owner	Source	Page	Record of Interest
GROUP ONE						
1. **COBBLESTONE CORNER**						
	Cancelled	30	FLOWERS INDUSTRIES,	USPTO	16	☐
2. **COBBLESTONECORNER.COM**						
	N/A	N/A	N/A	Domain Name	133	☐
3. **COBBLESTONE-CORNER.COM**						
	N/A	N/A	N/A	Domain Name	135	☐
4. **COBBLESTONESCORNER.BIZ**						
	N/A	N/A	N/A	Domain Name	137	☐

Exhibit "B" -- Evidence Submitted By Defendant IMA

USPTO Summary Page

Citation	Status	Class(es)	Owner	Reg/Serial Number	Page	Record of Interest
GROUP ONE						
1. COBBLESTONE CORNER	Cancelled	30	FLOWERS INDUSTRIES,	RN-1,301,983 SN-73-416,278	16	☐
GROUP TWO						
No Group Two Matches						
GROUP THREE						
2. CORNERSTONE	Renewed	30	INTERNATIONAL MULTIF	RN-1,833,439 SN-74-311,249	19	☐
3. CORNERSTONE	Registered	31	PURINA MILLS, INC.	RN-1,845,212 SN-74-370,207	21	☐
4. CORNER	Registered	29, 30	MOLKEREI ALOIS MULLE	RN-2,600,384 SN-76-139,443	23	☐
5. CORNERSTONE	Registered	35	CORNERSTONE HOSPITAL	RN-2,209,941 SN-75-021,202	24	☐
6. CORNERSTONE	Abandoned	29	MAIN STREET FOODS LL	SN-75-426,556	25	☐
GROUP FOUR						
7. CORNERSTONE ALE	Pending	32	COMEBACK BREWING, IN	SN-78-331,119	25	☐
8. COBBLESTONE KITCHENS	Registered	29, 30	COBBLESTONE KITCHENS	RN-1,920,539 SN-74-200,844	26	☐
9. BOSTON COBBLESTONE	Renewed	29	BEATRICE CHEESE, INC	RN-1,037,938 SN-73-058,958	27	☐

Exhibit "B" -- Evidence Submitted By Defendant IMA

Citation	Status	Class(es)	Owner	Reg/Serial Number	Page	Record of Interest
10. COBBLESTONE MILL						
	Registered	30	FLOWERS FAMILY BAKER	RN-1,326,230 SN-73-442,931	29	☐
11. COBBLESTONE MILL HEALTHY 'N HEARTY						
	Registered	30	FLOWERS BAKERIES BRA	RN-1,836,321 SN-74-348,138	33	☐
12. COBBLESTONE MILL						
	Registered	30	FLOWERS BAKERIES BRA	RN-1,991,258 SN-74-712,640	36	☐
13. QUALITY BREAD COBBLESTONE MILL A FAMILY OF BAKERS SINCE 1919 SAN FRANCISCO SOURDOUGH CLASSIC RECIPE						
	Registered	30	FLOWERS BAKERIES BRA	RN-2,762,164 SN-76-039,444	39	☐
14. COBBLESTONE BREAD						
	Pending	30	TORII, THOMAS, LEO	SN-78-275,262	40	☐
15. COBBLESTONE PIZZA						
	Pending	42	MICHAEL JENNINGS	SN-78-348,740	41	☐
16. 196 COBBLESTONES RESTAURANT & BAR						
	Registered	43	CHERRYWOOD RESTAURAN	RN-2,741,252 SN-76-384,394	42	☐
17. CORNER DELI						
	Registered	30	INTEGRATED BAKERY RE	RN-1,838,013 SN-74-360,040	42	☐
18. FOUR CORNERS						
	Registered	30, 35	CLARK RETAIL ENTERPR	RN-2,636,329 SN-76-002,924	44	☐
19. CORNER DELI						
	Registered	42	AMERICAN STORES COMP	RN-1,339,708 SN-73-502,112	45	☐
20. CORNER DELI						
	Abandoned	29	STOP & SHOP SUPERMAR	SN-74-012,440	47	☐
21. CORNERSTONE CELLARS						
	Registered	33	CORNERSTONE CELLARS,	RN-1,921,128 SN-74-515,435	48	☐
22. KEBAB KORNER						
	Registered	30, 42	DILLMAN ENTERPRISES,	RN-2,358,088 SN-75-353,745	48	☐

Exhibit "B" -- Evidence Submitted By Defendant IMA

Citation	Status	Class(es)	Owner	Reg/Serial Number	Page	Record of Interest
23. CORNER BAKERY	Registered	32	BRINKER RESTAURANT C	RN-2,565,101 SN-76-112,783	49	☐
24. CORNER BAKERY	Registered	32	BRINKER RESTAURANT C	RN-2,597,079 SN-76-119,881	50	☐
25. CARNIVAL CORNER	Published	29, 30	WESCO, INC.	SN-78-156,379	51	☐
26. COUNTRY CORNER	Registered	29	PERDUE FARMS INCORPO	RN-1,346,518 SN-73-465,028	51	☐
27. CRUNCH CORNER	Registered	29	MOLKEREI ALOIS MUELL	RN-2,687,763 SN-75-866,532	52	☐
28. COSI CORNERS	Registered	30	COSI, INC.	RN-2,659,348 SN-76-380,854	53	☐
29. KATIE'S KORNER	Renewed	30	KATIE'S KORNER, INC.	RN-1,628,515 SN-74-026,173	53	☐
30. FRUIT CORNER	Registered	29	MOLKEREI ALOIS MUELL	RN-2,562,890 SN-75-866,531	54	☐
31. WING CORNER	Published	29	KFC CORPORATION	SN-76-120,642	55	☐
32. BAKER'S CORNER	Registered	30	ALDI INC.	RN-1,495,279 SN-73-692,232	55	☐
33. BAKER'S CORNER	Registered	30	ALDI INC.	RN-1,851,623 SN-74-444,649	56	☐
34. POP-CORNER	Registered	30	SELAURA CORPORATION	RN-1,341,198 SN-73-421,722	57	☐
35. SWEET CORNER	Registered	30	LIDL STIFTUNG & CO.	RN-2,604,467 SN-76-291,314	57	☐

Exhibit "B" -- Evidence Submitted By Defendant IMA

Citation	Status	Class(es)	Owner	Reg/Serial Number	Page	Record of Interest
36. GOODNESS CORNER	Pending	30	GENERAL MILLS IP HOL	SN-78-380,834	58	☐
37. FOUR CORNERS	Pending	31	DENICE AND FILICE PA	SN-76-566,766	59	☐
38. RECIPE CORNER	Published	16	SCHRATTER FOODS INCO	SN-78-203,819	59	☐
39. CHEF'S CORNER	Registered	29, 30, 35	FOODTOWN	RN-2,248,546 SN-75-234,808	60	☐
40. CORNER BUTCHER	Registered	29	SF INVESTMENTS, INC.	RN-1,463,023 SN-73-651,167	61	☐
41. CORNER TAVERN	Published	29	SUGAR BROOK SALES, L	SN-76-442,722	62	☐
42. CRUMBLE CORNER	Registered	29, 30	MUELLER DAIRY (UK) L	RN-2,542,210 SN-75-866,172	63	☐
43. BAKER'S CORNER	Published	30	ALDI INC.	SN-76-417,201	64	☐
44. CARVER'S CORNER	Registered	29, 30, 42	K.S.C.H., INC.	RN-2,588,982 SN-75-742,958	65	☐
45. CROOK'S CORNER	Registered	42	SQUID, INC.	RN-2,107,171 SN-75-188,212	66	☐
46. HAWKEYE'S CORNER	Registered	42	HAWKEYE'S CORNER, IN	RN-1,935,266 SN-74-589,183	67	☐
47. ROUND THE CORNER	Registered	42	RYLAURKEN, INC.	RN-2,614,650 SN-76-233,072	67	☐
48. THE CHERRY CORNER	Registered	42	DAMASTE INVESTMENTS	RN-2,356,655 SN-75-517,714	68	☐

Exhibit "B" -- Evidence Submitted By Defendant IMA

Citation	Status	Class(es)	Owner	Reg/Serial Number	Page	Record of Interest
49. THE QUIET CORNER						
	Registered	42	F. W. WOOLWORTH CO.,	RN-1,297,182 SN-73-445,045	69	☐
50. KABAAB KORNER						
	Pending	43	INDIAN ESSEN, INC.	SN-78-247,354	70	☐
51. CORNER BAKERY CAFE						
	Registered	42	BRINKER RESTAURANT C	RN-2,597,050 SN-76-112,166	70	☐
52. CORNERSTONE COFFEE COMPANY						
	Abandoned	35	HODGE, BURKE A.	SN-78-109,863	71	☐
53. COBBLESTONE MILL BREAKFAST BREADS						
	Cancelled	30	FLOWERS FAMILY BAKER	RN-2,044,677 SN-74-661,524	72	☐
54. COBBLESTONE FARM						
	Cancelled	30	FLOWERS INDUSTRIES,	RN-1,145,190 SN-73-192,439	75	☐
55. CORNERSTONE MARKETPLACE						
	Abandoned	29	GOOD SOURCE SOLUTION	SN-76-302,957	79	☐
56. CORNERSTONE JAVA						
	Abandoned	30	S & D COFFEE, INC.	SN-75-512,012	79	☐
57. CORNERSTONE GRILL						
	Cancelled	42	HOF'S BREA, INC.	RN-1,903,243 SN-74-543,755	80	☐
58. CORNERSTONE GRILL						
	Cancelled	42	HOF'S BREA, INC.	RN-1,902,072 SN-74-535,711	81	☐
59. KOSHER CORNER						
	Cancelled	29	KOSHER CORNER	RN-1,779,077 SN-74-275,733	82	☐
60. CORNER PUB						
	Abandoned	39, 42	ANTIETAM TAVERN INC.	SN-75-950,150	83	☐
61. CORNER DELI CUISINE						
	Cancelled	29, 30	AMERICAN STORES COMP	RN-1,994,475 SN-74-580,286	83	☐

Exhibit "B" -- Evidence Submitted By Defendant IMA

Citation	Status	Class(es)	Owner	Reg/Serial Number	Page	Record of Interest
			GROUP FIVE			
62. COBBLESTONE CORNERS						
	Registered	21	FOUR STAR INTERNATIO	RN-2,345,932 SN-75-323,904	85	☐

Exhibit "B" -- Evidence Submitted By Defendant IMA

ANALYST REVIEW - USPTO REPORT

Search Information

Type of Search: **FULL SEARCH**
Mark: **COBBLESTONE CORNER**
Goods/Services: **MEAT, CHEESE, REFRIGERATED SALADS, PICKLES, MUSTARD, POTATO CHIPS, FROZEN SOUPS, FROZEN ENTREES, COOKED DELI ITEMS INCLUDING SAUERKRAUT**

Data Information

Information from the Official Gazette published on **04/13/2004** is included in this search report. On the date your search was conducted, our most recent pending application data included trademark records filed through **04/09/2004.*** These records are received from the USPTO and are updated in our database as they are made available. Serial numbers filed through **03/28/2004** were complete at the time of this search. (The period between most recent records and complete records is attributable to gaps in serial numbers and dates from the USPTO; some of these gaps are due to differences in processing for electronically-filed applications.)

Active USPTO text records dating from **1884** are included in our database.

All of the queries in the Search Strategy below are applied to all active applications and registrations in our database, as well as inactive applications and registrations from 01/01/1999 to the present; inactive applications and registrations from 01/01/1984 - 01/01/1999 are searched for identical trademarks.

* Except for a small number of applications delayed in processing by the USPTO.

In-Use Information

Citations provide information about whether and how potentially conflicting trademarks are being used on the Web. We provide information, when available, on the Citation, Owner and its use in commerce for all Group One citations located across all sources (except Domain Names). The search results included in this section are a selection of the information available at the time of the preparation of this search report, and are not a comprehensive representation of the Web. Any of the Web links included in your search report may become unavailable at any time following the preparations of this report.

Analyst Information

Name: **DEBORAH BROMLEY**
Comments: **I developed the following search strategy to provide a comprehensive, accurate report. These queries, listed below, retrieved 447 potential references from the database. After careful review and analysis, I have selected 62 records for your review.**

THERE ARE ADDITIONAL "CORNER" FORMATIVES FOR RELATED GOODS AND SERVICES SUCH AS, SAUCES AND RESTAURANT SERVICES.

Search Strategy

Type	Query	Classes	#References
1. EXACT MARK	(C,K)O(BB, B)LESTON(E,ES)(C, K)ORNER <and>	ALL CLASSES	0

Exhibit "B" -- Evidence Submitted By Defendant IMA

Search Strategy

	Type	Query	Classes	#References
	GOODS PREFIX	(MEAT,CHEESE, SALAD,PICKLE, MUSTARD,CHIP,SOUP, ENTREE,DELI, SAUERKRAUT)		
2.	EXACT MARK	(C,K)O(BB, B)LESTON(E,ES)(C, K)ORNER	29,30,31,32	1
3.	EXACT MARK	(C,K)O(BB, B)LESTON(E,ES)(C, K)ORNER	ALL CLASSES	1
4.	PREFIX GOODS PREFIX	(C,K)O(BB, B)LESTONE(C, K)ORNER <and> (MEAT,CHEESE, SALAD,PICKLE, MUSTARD,CHIP,SOUP, ENTREE,DELI, SAUERKRAUT)	ALL CLASSES	0
5.	PREFIX	(C,K)O(BB, B)LESTONE(C, K)ORNER	29,30,31,32	0
6.	PREFIX	(C,K)O(BB, B)LESTONE(C, K)ORNER	ALL CLASSES	0
7.	PREFIX	(C,K)O(BB, B)LESTONE(C,K)OR	ALL CLASSES	0
8.	LETTERSTRING LETTERSTRING LETTERSTRING	CO(B,BB)LE <and> STONE <and> CORNER	ALL CLASSES	0
9.	LETTERSTRING LETTERSTRING	(C,K)O(BB,B)LE <and> (C,K)ORNER	ALL CLASSES	0
10.	LETTERSTRING LETTERSTRING GOODS PREFIX	STONE <and> (C,K)ORNER <and> (MEAT,CHEESE, SALAD,PICKLE, MUSTARD,CHIP,SOUP, ENTREE,DELI, SAUERKRAUT)	ALL CLASSES	8
11.	LETTERSTRING LETTERSTRING	STONE <and> (C,K)ORNER	29,30,31,32	7
12.	PREFIX	(C,K)O(BB, B)LESTONE(C,K)	29,30,31,32	1
13.	PREFIX	(C,K)O(BB,B)LEST <and>	29,30,31,32	0

Exhibit "B" -- Evidence Submitted By Defendant IMA

Search Strategy

	Type	Query	Classes	#References
	SUFFIX	ER		
14.	EXACT MARK	(C,K)O(BB, B)LESTON(E,ES)	29,30,31,32	0
15.	LETTERSTRING GOODS PREFIX	(C,K)O(BB,B)LESTON <and> (MEAT,CHEESE, SALAD,PICKLE, MUSTARD,CHIP,SOUP, ENTREE,DELI, SAUERKRAUT)	ALL CLASSES	1
16.	PREFIX	(C,K)O(BB,B)LESTON	29,30,31,32	8
17.	LETTERSTRING	(C,K)O(BB,B)LEST	29,30,31,32	0
18.	PREFIX LETTERSTRING	(C,K)OB <and> (C,K)ORNER	29,30,31,32	0
19.	SUFFIX	ON(E,ES)(C,K)ORNER	29,30,31,32	0
20.	SUFFIX	N(E,ES)(C,K)ORNER	29,30,31,32	0
21.	EXACT MARK	(C,K)ORNER	29,30,31,32	3
22.	LETTERSTRING GOODS PREFIX	(C,K)ORNER <and> (MEAT,CHEESE, SALAD,PICKLE, MUSTARD,CHIP,SOUP, ENTREE,DELI, SAUERKRAUT)	ALL CLASSES	22
23.	PREFIX LETTERSTRING	(C,K) <and> (C,K)ORNER	29,30,31,32	19
24.	PREFIX	(C,K)ORNER	29,30,31,32	39
25.	LETTERSTRING	(C,K)ORNER	29,30,31,32	0
26.	LETTERSTRING	(C,K)O(B,BB)LESTON	ALL CLASSES	41
27.	LETTERSTRING LETTERSTRING GOODS PREFIX	STONE <and> CORNER <and> (RESTAURANT,CAFE, DINER)	ALL CLASSES	5
28.	LETTERSTRING LETTERSTRING	STONE <and> CORNER	33,42,43	44
29.	LETTERSTRING GOODS PREFIX	CORNER <and> (RESTAURANT,CAFE, DINER)	ALL CLASSES	61
30.	LETTERSTRING	CORNER	33,42,43	186

Exhibit "B" -- Evidence Submitted By Defendant IMA

Class Identification	
29	MEATS AND PROCESSED FOODS
30	STAPLE FOODS
31	NATURAL AGRICULTURAL PRODUCTS
32	LIGHT BEVERAGES
33	WINES AND SPIRITS
42	SCIENTIFIC, TECHNOLOGICAL AND LEGAL SERVICES
43	SERVICES FOR PROVIDING FOOD AND DRINK; TEMPORARY ACCOMMODATION

Exhibit "B" -- Evidence Submitted By Defendant IMA

Ref: 1
Group One

COBBLESTONE CORNER

COBBLESTONE CORNER

Status: CANCELLED **Cancellation Section:** 8

USPTO Status: CANCELLED - SECTION 8
USPTO Status Date: FEB 25, 1991

Chronology:

Filed: MAR 07, 1983 **Serial Number:** 73-416,278
Published For Opposition: FEB 14, 1984
Registered: OCT 23, 1984 **Registration Number:** 1,301,983
Cancelled: APR 09, 1991

Goods/Services:

International Class 30: BAKERY PRODUCTS-NAMELY, BREADS, BUNS, AND ROLLS
First Used: FEB 07, 1983 (INTL. CL. 30)
In Commerce: FEB 07, 1983

Registrant:

FLOWERS INDUSTRIES, INC.
DELAWARE CORPORATION
P.O. BOX 1338
THOMASVILLE, GEORGIA 31792

Assignor: FLOWERS INDUSTRIES, INC.
DELAWARE CORPORATION
U.S. HIGHWAY 19 SOUTH
THOMASVILLE, GEORGIA
Acknowledged: JAN 31, 1986

Brief: ASSIGNS THE ENTIRE INTEREST AND GOOD WILL
Recorded: MAY 01, 1986
Reel/Frame: 0525/0025
Correspondent: HURT RICHARDSON, ET AL.
1100 PEACHTREE CENTER HARRIS TOWER
233 PEACHTREE ST. N.E.
ATLANTA, GA 30043

Assignee: FLOWERS FAMILY BAKERIES, INC.
DELAWARE CORPORATION
WILMINGTON TRUST CENTER, 1100 NORTH MARKET ST.
WILMINGTON, DELAWARE 19801

Other U.S. Registrations: 1,145,190

Filing Correspondent:

JULIUS R. LUNSFORD, JR.
HURT, RICHARDSON, GARNER, TODD&CADENHEAD
1100 PEACHTREE CENTER, HARRIS TOWER

Exhibit "B" -- Evidence Submitted By Defendant IMA

233 PEACHTREE ST., NE.
ATLANTA GA 30043

In-Use Information

Citation Link:	None Found
✓ **Owner Link:**	http://www.flowersfoods.com/
In-Use Link:	None Found

Web Page Information (✓ = Web Page Look-Up)

HTML Title:	Flowers Foods
Status:	Accessible

Exhibit "B" -- Evidence Submitted By Defendant IMA

FlowersFoods

welcome

Visit Flowers' Bakeries Group

Visit Flowers' Specialty Group

TOUR A BAKERY

SIGN UP FOR NEWS ALERT

SIGN UP FOR DAILY STOCK QUOTE ALERT

March 10, 2004 | click here

LATEST NEWS

4/14 Flowers Foods Acquires Bakery in McDonough, Ga.

4/08 Flowers Introduces Nature's Own Wheat 'n Soy Bread

Exhibit "B" -- Evidence Submitted By Defendant IMA

Ref: 2
Group Three

CORNERSTONE

CORNERSTONE

Status: RENEWED

USPTO Status: RENEWED
USPTO Status Date: FEB 24, 2004

Chronology:

Filed: SEP 04, 1992 **Serial Number:** 74-311,249
Published For Opposition: FEB 16, 1993
Registered: APR 26, 1994 **Registration Number:** 1,833,439
Affidavit Section: REGISTERED - SEC. 8 (10-YR) ACCEPTED/SEC. 9 GRANTED FEB 24, 2004
REGISTERED - SEC. 8 (6-YR) ACCEPTED & SEC. 15 ACK.
JAN 07, 2000
Last Renewed: APR 26, 2004

Goods/Services:

International Class 30: BREAD MIXES
First Used: NOV 08, 1993 (INTL. CL. 30)
In Commerce: NOV 08, 1993

Registrant:

INTERNATIONAL MULTIFOODS CORPORATION
DELAWARE CORPORATION
33 SOUTH SIXTH STREET
MINNEAPOLIS, MINNESOTA 55402

Assignor: INTERNATIONAL MULTIFOODS CORPORATION
DELAWARE CORPORATION
Signed: NOV 13, 2001

Brief: SECURITY INTEREST
Recorded: DEC 10, 2001
Reel/Frame: 2398/0487
Correspondent: SIMPSON THACHER & BARTLETT
ROBYN GREENBERG, ESQ.
425 LEXINGTON AVENUE
NEW YORK, NY 10017

Assignee: CANADIAN IMPERIAL BANK OF COMMERCE, AS COLLATERAL AGENT
425 LEXINGTON AVENUE
NEW YORK, NEW YORK 10017

Assignor: INTERNATIONAL MULTIFOODS CORPORATION
DELAWARE CORPORATION
Signed: MAR 17, 2003

Exhibit "B" -- Evidence Submitted By Defendant IMA

Brief: CONTRIBUTION AGREEMENT
Recorded: MAR 25, 2003
Reel/Frame: 2623/0553
Correspondent: MULTIFOODS BRANDS, INC.
COLLEEN M. SARENPA
110 CHESHIRE LANE
MINNETONKA, MN 55305

Assignee: MULTIFOODS BRANDS, INC.
DELAWARE CORPORATION
SUITE 300
110 CHESHIRE LANE
MINNETONKA, MINNESOTA 55305

Assignor: MULTIFOODS BRANDS, INC.
DELAWARE CORPORATION
Signed: MAR 02, 2003

Brief: SECURITY INTEREST
Recorded: MAY 02, 2003
Reel/Frame: 2723/0001
Correspondent: SIMPSON THACHER & BARTLETT
ALISON J. WINICK, ESQ.
425 LEXINGTON AVENUE
NEW YORK, NY 10017

Assignee: CANADIAN IMPERIAL BANK OF COMMERCE, AS COLLATERAL AGENT
425 LEXINGTON AVENUE
NEW YORK, NEW YORK 10017

Assignor: MULTIFOODS BRANDS, INC.
DELAWARE CORPORATION
Signed: AUG 08, 2003

Brief: SECURITY INTEREST
Recorded: OCT 14, 2003
Reel/Frame: 2732/0001
Correspondent: DORSEY & WHITNEY LLP
ELIZABETH C. BUCKINGHAM
INTELLECTUAL PROPERTY DEPARTMENT
SUITE 1500, 50 SOUTH SIXTH STREET
MINNEAPOLIS, MN 55402-1498

Assignee: U.S. BANK NATIONAL ASSOCIATION
800 NICOLLET AVENUE
MINNEAPOLIS, MINNESOTA 55402-7020

Exhibit "B" -- Evidence Submitted By Defendant IMA

Filing Correspondent:
COLLEEN M SARENPA
MULTIFOODS BRANDS INC
110 CHESHIRE LANE
MINNETONKA MN 55305

Ref: 3
Group Three

CORNERSTONE

CORNERSTONE

Status: REGISTERED
USE APPLICATION - CURRENT

USPTO Status: SECTION 8 & 15 - ACCEPTED AND ACKNOWLEDGED
USPTO Status Date: DEC 10, 1999

Chronology:
Filed: MAR 22, 1993 **Serial Number:** 74-370,207
Published For Opposition: SEP 14, 1993
Registered: JUL 12, 1994 **Registration Number:** 1,845,212
Affidavit Section: REGISTERED - SEC. 8 (6-YR) ACCEPTED & SEC. 15 ACK. DEC 10, 1999

Goods/Services:
International Class 31: ANIMAL FEED
First Used: JAN 13, 1994 (INTL. CL. 31)
In Commerce: JAN 13, 1994

Registrant:
PURINA MILLS, INC.
DELAWARE CORPORATION
1401 S. HANLEY ROAD
ST. LOUIS, MISSOURI 63144

Assignor: PURINA MILLS, INC.
DELAWARE CORPORATION
Signed: SEP 27, 1993

Brief: SECURITY INTEREST
Recorded: OCT 08, 1993
Reel/Frame: 1047/0325
Correspondent: JERRY W. MILLS
BAKER & BOTTS, L.L.P.
2001 ROSS AVENUE
DALLAS, TX 75201-2916

Assignee: CIT GROUP/BUSINESS CREDIT, INC., THE
NEW YORK CORPORATION
2110 WALNUT HILL LANEIRVING, TX 75038

Assignor: PURINA MILLS, LLC
DELAWARE LLC
Signed: NOV 07, 2001

Brief: COLLATERAL SECURITY AGREEMENT
Recorded: NOV 15, 2001
Reel/Frame: 2387/0935
Correspondent: FEDERAL RESEARCH CORP.
PENELOPE AGODOA
400 SEVENTH STREET N.W., SUITE 101
WASHINGTON, D.C. 20004

Assignee: CHASE MANHATTAN BANK, THE, AS COLLATERAL AGENT
NEW YORK CORPORATION
270 PARK AVENUE
NEW YORK, NEW YORK 10017

Assignor: CHASE MANHATTAN BANK, THE CORPORATION
Signed: OCT 09, 2001

Brief: RELEASE
Recorded: NOV 14, 2001
Reel/Frame: 2433/0040
Correspondent: FEDERAL RESEARCH CORP.
PENELOPE AGODOA
400 SEVENTH STREET, N.W.
SUITE 101
WASHINGTON, D.C. 20004

Assignee: PURINA MILLS, INC.
MISSOURI CORPORATION
1401 S. HANLEY ROAD
ST. LOUIS, MISSOURI 63144

PM NUTRITION COMPANY, INC.
MISSOURI CORPORATION
1401 SOUTH HANLEY ROAD
ST. LOUIS, MISSOURI 63144

PMI AGRICULTURE, L.L.C.
MISSOURI CORPORATION
1401 SOUTH HANLEY ROAD
ST. LOUIS, MISSOURI 63144

PMI NUTRITION INTERNATIONAL, INC.
MISSOURI CORPORATION
1401 SOUTH HANLEY ROAD
ST. LOUIS, MISSOURI 63144

Exhibit "B" -- Evidence Submitted By Defendant IMA

PMI NUTRITION, INC.
MISSOURI CORPORATION
1401 SOUTH HANELY ROAD
ST. LOUIS, MISSOURI 63144

ACS STORES, LLC
MISSOURI CORPORATION
8621 HWY. N. LAKE
ST. LOUIS, MISSOURI 63366

DAIRY MANAGEMENT SERVICES, L.L.P.
MISSOURI CORPORATION
3901 HIAWATHA AVE. S.
MINNEAPOLIS, MINNESOTA 55406

Filing Correspondent:
ROBERT B. KUHN
PURINA MILLS, INC.
P.O. BOX 66812
ST. LOUIS MO 63166-6812

Ref: 4
Group Three

CORNER

CORNER

Status: REGISTERED
44(E) APPLICATION - CURRENT

USPTO Status: REGISTERED
USPTO Status Date: JUL 30, 2002

Chronology:
Filed: OCT 02, 2000 **Serial Number:** 76-139,443
Published For Opposition: MAY 07, 2002
Registered: JUL 30, 2002 **Registration Number:** 2,600,384

Goods/Services:
International Class 29: YOGURT; YOGURT BASED DESSERTS COMBINED WITH FRUIT, NUTS OR CEREAL; FROMAGE FRAIS; READY TO EAT SNACK FOODS, NAMELY, FRUIT-BASED SNACK FOODS, POTATO-BASED SNACK FOODS, SNACK MIX CONSISTING PRIMARILY OF PROCESSED FRUITS AND PROCESSED NUTS; DAIRY-BASED DIPS AND SNACK DIPS, EXCLUDING SALSA AND OTHER SAUCES USED AS DIPS
International Class 30: SALSA, CEREAL-BASED SNACK FOODS, RICE-BASED SNACK FOODS, WHEAT-BASED SNACK FOODS

Registrant:
MOLKEREI ALOIS MULLER GMBH & CO.
FED REP OF GERMANY CORPORATION

Exhibit "B" -- Evidence Submitted By Defendant IMA

COBBLESTONE CORNER

8935 ARETSRIED, FED REP OF GERMANY

Non-U.S. Application Claimed: 2217558
Non-U.S. Application Date: DEC 17, 1999
Non-U.S. Application Country: UNITED KINGDOM

Non-U.S. Registration Claimed: 2217558
Non-U.S. Registration Date: DEC 17, 1999
Non-U.S. Registration Country: UNITED KINGDOM

Filing Correspondent:
J. SCOTT EVANS
ADAMS, SCHWARTZ & EVANS, P.A.
2180 TWO FIRST UNION CENTER
301 S TRYON ST
CHARLOTTE, NC 28282

Ref: 5
Group Three

CORNERSTONE

CORNERSTONE

Status: REGISTERED

USPTO Status: REGISTERED
USPTO Status Date: DEC 15, 1998

Chronology:
Filed: NOV 17, 1995 **Serial Number:** 75-021,202
Published For Opposition: SEP 22, 1998
Registered: DEC 15, 1998 **Registration Number:** 2,209,941

Goods/Services:
International Class 35: OFFERING TECHNICAL ASSISTANCE IN THE ESTABLISHMENT AND/OR OPERATION OF RESTAURANTS, HOTEL MANAGEMENT FOR OTHERS, BUSINESS MARKETING CONSULTING SERVICE FOR HOTELS AND FOOD SERVICE OPERATIONS WITHIN HOTELS AND PUBLIC RELATIONS ASSISTANCE FOR HOTELS
First Used: SEP 10, 1992 (INTL. CL. 35)
In Commerce: SEP 10, 1992

Registrant:
CORNERSTONE HOSPITALITY GROUP, INC.
MARYLAND CORPORATION
1640 POWERS FERRY ROAD
BUILDING TWENTY
MARIETTA, GEORGIA 30067

Filing Correspondent:
THOMAS J SCHETELICH

Search: 110802811 **Analyst: DEBORAH BROMLEY** **USPTO Page: 24**

FERGUSON SCHETELICH HEFFERNAN ET AL
1300 NATIONSBANK CTR
100 S CHARLES ST
BALTIMORE MD 21201

Ref: 6
Group Three

CORNERSTONE

CORNERSTONE

Status: ABANDONED

USPTO Status: ABANDONED-FAILURE TO RESPOND
USPTO Status Date: FEB 11, 1999

Chronology:

Filed: JAN 30, 1998 **Serial Number:** 75-426,556
Abandoned: FEB 11, 1999

Goods/Services:

International Class 29: FOOD ACTIVITIES
First Used: FEB 01, 1995 (INTL. CL. 29)
In Commerce: FEB 01, 1995

Applicant:

MAIN STREET FOODS LLC
WISCONSIN LIMITY LIABILIYT COMPANY
2946 AIRPORT ROAD
LA CROSSE, WISCONSIN 54603

Filing Correspondent:

PATRICIA A WALKER
WALKER & JOCKE
231 S BROADWAY
MEDINA OH 44256

Ref: 7
Group Four

CORNERSTONE ALE

CORNERSTONE ALE

Status: PENDING
INTENT TO USE - CURRENT

USPTO Status: NEW APPLICATION - RECORD INITIALIZED NOT ASSIGNED TO EXAMINER
USPTO Status Date: JAN 16, 2004

Chronology:

Filed: NOV 20, 2003 **Serial Number:** 78-331,119

Goods/Services:

International Class 32: BEER AND ALE

Exhibit "B" -- Evidence Submitted By Defendant IMA

Applicant:

COMEBACK BREWING, INC.
TEXAS CORPORATION
14800 SAN PEDRO, SUITE 310
SAN ANTONIO, TEXAS 78232

Filing Correspondent:

TURID L. OWREN
TONKON TORP LLP
888 SW 5TH AVE STE 1600
PORTLAND OR 97204-2099

Ref: 8
Group Four

COBBLESTONE KITCHENS

COBBLESTONE KITCHENS

Status: REGISTERED
USE APPLICATION - CURRENT

USPTO Status: SECTION 8 & 15 - ACCEPTED AND ACKNOWLEDGED
USPTO Status Date: SEP 20, 2001

Chronology:

Filed: SEP 05, 1991 **Serial Number:** 74-200,844
Published For Opposition: OCT 25, 1994
Registered: SEP 19, 1995 **Registration Number:** 1,920,539
Affidavit Section: REGISTERED - SEC. 8 (6-YR) ACCEPTED & SEC. 15 ACK. SEP 20, 2001

Goods/Services:

International Class 29: DAIRY-BASED FOOD BEVERAGES
International Class 30: STAPLE GOODS, NAMELY HOT CHOCOLATE AND COFFEE
First Used: FEB 28, 1992 (INTL. CL. 29)
In Commerce: FEB 28, 1992
First Used: FEB 28, 1992 (INTL. CL. 30)
In Commerce: FEB 28, 1992

Registrant:

COBBLESTONE KITCHENS INC.
CANADA CORPORATION
6355 SHAWSON DRIVE- UNIT 3
MISSISSAUGA, ONTARIO, CANADA

Filing Correspondent:

D. PETER HOCHBERG
D. PETER HOCHBERG CO., L.P.A.
THE BAKER BUILDING
1940 EAST 6TH STREET, SIXTH FLOOR
CLEVELAND, OH 44114

Exhibit "B" -- Evidence Submitted By Defendant IMA

Ref: 9
Group Four

BOSTON COBBLESTONE

BOSTON COBBLESTONE

Status: RENEWED

USPTO Status: RENEWED
USPTO Status Date: JUN 05, 1996

Chronology:

Filed: JUL 28, 1975 **Serial Number:** 73-058,958
Published For Opposition: JAN 20, 1976
Registered: APR 13, 1976 **Registration Number:** 1,037,938
Affidavit Section: REGISTERED - SEC. 8 (6-YR) ACCEPTED & SEC. 15 ACK. NOV 30, 1981
Last Renewed: APR 13, 1996
Renewal Filed: APR 15, 1996

Goods/Services:

International Class 29: CHEESE
First Used: OCT 09, 1974 (INTL. CL. 29)
In Commerce: OCT 09, 1974

New Registered Owner:

BEATRICE CHEESE, INC.
DELAWARE CORPORATION
770 NORTH SPRINGDALE ROAD
WAUKESHA, WISCONSIN 53186

Assignor: CHURNY COMPANY, INC.
DELAWARE CORPORATION
39 MEDFORD STREET
SOMERVILLE, MASSACHUSETTS
Signed: JUN 03, 1977

Brief: ASSIGNS THE ENTIRE INTEREST AND GOOD WILL
Recorded: JAN 13, 1978
Reel/Frame: 0319/0328
Correspondent: ALLISON C. COLLARD
1077 NORTHERN BLVD.
ROSLYN, NY 11576

Assignee: OTTO ROTH & COMPANY, INC.
NEW YORK CORPORATION
14 EMPIRE BLVD.
MOONACHIE, NEW JERSEY 07074

Assignor: OTTO ROTH & COMPANY, INC.
NEW YORK CORPORATION
14 EMPIRE BOULEVARD
MOONACHIE, NEW JERSEY

Acknowledged: NOV 11, 1987

Brief: ASSIGNS THE ENTIRE INTEREST AND GOOD WILL
Recorded: JAN 04, 1988
Reel/Frame: 0589/0017
Correspondent: COOPER, DUNHAM, ET AL.
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

Assignee: DORMAN-ROTH FOODS, INC.
DELAWARE CORPORATION
14 EMPIRE BOULEVARD
MOONACHIE, NEW JERSEY 07074

Assignor: DORMAN-ROTH FOODS, INC.
DELAWARE CORPORATION
Signed: JUL 24, 1992

Brief: ASSIGNS THE ENTIRE INTEREST AND GOOD WILL
Recorded: JUL 29, 1992
Reel/Frame: 0883/0205
Correspondent: COOPER & DUNHAM
NORMAN H. ZIVIN
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

Assignee: OTTO ROTH & COMPANY, INC.
NEW YORK CORPORATION
14 EMPIRE BOULEVARD
MOONACHIE, NEW JERSEY 07074

Assignor: OTTO ROTH & COMPANY, INC.
NEW YORK CORPORATION
Signed: NOV 16, 1992

Brief: ASSIGNS THE ENTIRE INTEREST AND GOOD WILL
Recorded: NOV 23, 1992
Reel/Frame: 0909/0578
Correspondent: PATRICK C. STEPHENSON
MCGRATH, NORTH, MULLIN & KRATZ, P.C.
1100 ONE CENTRAL PARK PLAZA
222 SOUTH 15 ST.
OMAHA, NE 68102

Assignee: BEATRICE CHEESE, INC.
DELAWARE CORPORATION
770 NORTH SPRINGDALE ROADWAUKESHA, WI 53186

Exhibit "B" -- Evidence Submitted By Defendant IMA

Filing Correspondent:
ALLEN E. MOLNAR
CUYLER BURK
FOUR CENTURY DRIVE, 3RD FLOOR
PARSIPPANY, NJ 07054

Ref: 10
Group Four

COBBLESTONE MILL

Status: REGISTERED

USPTO Status: SECTION 8 & 15 - ACCEPTED AND ACKNOWLEDGED
USPTO Status Date: JUL 02, 1990

Chronology:
Filed: SEP 08, 1983 **Serial Number:** 73-442,931
Published For Opposition: SEP 25, 1984
Registered: MAR 19, 1985 **Registration Number:** 1,326,230
Affidavit Section: REGISTERED - SEC. 8 (6-YR) ACCEPTED & SEC. 15 ACK.

Goods/Services:
International Class 30: BAKERY PRODUCTS-NAMELY, BREAD, BUNS AND ROLLS
First Used: AUG 19, 1983 (INTL. CL. 30)
In Commerce: AUG 19, 1983

New Registered Owner:
FLOWERS FAMILY BAKERIES, INC.
DELAWARE CORPORATION
WILMINGTON TRUST CENTER
1100 NORTH MARKET SQUARE, SUITE 780
WILMINGTON, DELAWARE 19801

Assignor: FLOWERS INDUSTRIES, INC.
DELAWARE CORPORATION
U.S. HIGHWAY 19 SOUTH
THOMASVILLE, GEORGIA
Acknowledged: JAN 31, 1986

Brief: ASSIGNS THE ENTIRE INTEREST AND GOOD WILL
Recorded: MAY 01, 1986
Reel/Frame: 0525/0025
Correspondent: HURT RICHARDSON, ET AL.
1100 PEACHTREE CENTER HARRIS TOWER
233 PEACHTREE ST. N.E.
ATLANTA, GA 30043

Assignee: FLOWERS FAMILY BAKERIES, INC.

Search: 110802811 **Analyst: DEBORAH BROMLEY** **USPTO Page: 29**

Exhibit "B" -- Evidence Submitted By Defendant IMA

DELAWARE CORPORATION
WILMINGTON TRUST CENTER, 1100 NORTH MARKET ST.
WILMINGTON, DELAWARE 19801

Assignor: FLOWERS FAMILY BAKERIES, INC.
DELAWARE CORPORATION
Signed: DEC 02, 1996

Brief: CHANGE OF NAME
Recorded: MAY 27, 1997
Reel/Frame: 1595/0985
Correspondent: KILPATRICK STOCKTON LLP
SHARAN B. FLEXNER
1100 PEACHTREE STREET
ATLANTA, GA 30309

Assignee: FLOWERS BAKERIES, INC.
DELAWARE CORPORATION
SUITE 780
1100 NORTH MARKET SQUARE
WILMINGTON, DELAWARE 19801

Assignor: FLOWERS BAKERIES, INC.
DELAWARE CORPORATION
Signed: DEC 16, 1997

Brief: SEE RECORDING ON REEL 1766, FRAME 0568. (RE-RECORDED TO REPLACE A INCORRECT COVER SHEET. REVISED COVER SHEET CHANGES ASSIGNEE'S STATE OF INCORPORATION FROM DELAWARE TO SOUTH CAROLINA.)
Recorded: JUL 27, 1998
Reel/Frame: 1765/0583
Correspondent: KILPATRICK STOCKTON LLP
SHARAN B. FLEXNER
1100 PEACHTREE STREET, SUITE 2800
ATLANTA, GA 30309-4530

Assignee: FLOWERS BAKERIES BRANDS, INC.
DELAWARE CORPORATION
1100 NORTH MARKET SQUARE, SUITE 780
WILMINGTON, DELAWARE 19801

Assignor: FLOWERS BAKERIES, INC.
DELAWARE CORPORATION
Signed: DEC 16, 1997

Brief: INVALID RECORDAL, SEE RECORDING AT REEL 1765, FRAME 0583.

Exhibit "B" -- Evidence Submitted By Defendant IMA

Recorded: JUL 27, 1998
Reel/Frame: 1766/0568
Correspondent: KILPATRICK STOCKTON LLP
SHARAN B. FLEXNER
1100 PEACHTREE STREET, SUITE 2800
ATLANTA, GA 30309-4530

Assignee: FLOWERS BAKERIES BRANDS, INC.
SOUTH CAROLINA CORPORATION
1100 NORTH MARKET SQUARE, SUITE 780
WILMINGTON, DELAWARE 19801

Assignor: FLOWERS BAKERIES BRANDS, INC.
DELAWARE CORPORATION
Signed: MAY 15, 1998

Brief: (INVALID RECORDING), SEE RECORDIMG AT REEL 1775, FRAME 0955.
Recorded: JUL 27, 1998
Reel/Frame: 1768/0162
Correspondent: KILPATRICK STOCKTON LLP
SHARAN B. FLEXNER
1100 PEACHTREE STREET, SUITE 2800
ATLANTA, GA 30309-4530

Assignee: FLOWERS BAKERIES BRANDS, INC.
SOUTH CAROLINA CORPORATION
7101 ASHVILLE HIGHWAY
SPARTANBURG, GEORGIA 29303

Assignor: FLOWERS BAKERIES BRANDS, INC.
DELAWARE CORPORATION
Signed: MAY 15, 1998

Brief: CERTIFCATE OF AGREEMENT OF MERGER
Recorded: JUL 27, 1998
Reel/Frame: 1775/0955
Correspondent: KILPATRICK STOCKTON LLP
SHARAN B. FLEXNER
1100 PEACHTREE STREET, SUITE 2800
ATLANTA, GA 30309-4530

Assignee: FLOWERS BAKERIES BRANDS, INC.
SOUTH CAROLINA CORPORATION
7101 ASHVILLE HIGHWAY
SPARTANBURG, SOUTH CAROLINA 29303

Assignor: FLOWERS BAKERIES BRANDS, INC.

Exhibit "B" -- Evidence Submitted By Defendant IMA

SOUTH CAROLINA CORPORATION
Signed: DEC 27, 2000

Brief: ASSIGNS THE ENTIRE INTEREST AND GOOD WILL
Recorded: MAR 22, 2001
Reel/Frame: 2295/0574
Correspondent: WILLIAM H. BREWSTER, ESQ.
1100 PEACHTREE ST., SUITE 2800
ATLANTA, GA 30309

Assignee: FLOWERS BAKERIES BRANDS, INC.
DELAWARE CORPORATION
1105 NORTH MARKET STREET, SUITE 1300
WILMINGTON, DELAWARE 19899

Assignor: FLOWERS BAKERIES BRANDS, INC.
DELAWARE CORPORATION
Signed: MAR 26, 2001

Brief: SECURITY INTEREST
Recorded: MAY 22, 2001
Reel/Frame: 2317/0954
Correspondent: WHITE & CASE LLP
BRIAN JAENICKE, LEGAL ASSISTANT
1155 AVENUE OF THE AMERICAS
NEW YORK, NY 10036

Assignee: BANKERS TRUST COMPANY
130 LIBERTY STREET
NEW YORK, NEW YORK 10006

Lining Stippling:
THE LINING AND/OR STIPPLING SHOWN IN THE MARK ON THE DRAWING IS A FEATURE OF THE MARK AND DOES NOT INDICATE COLOR.

Other U.S. Registrations: 1,145,490

Filing Correspondent:
JULIUS R. LUNSFORD, JR.
JONES, ASKEW & LUNSFORD
230 PECHTREE ST., SUITE 2000
ATLANTA, GA 30043

Ref: 11
Group Four

COBBLESTONE MILL HEALTHY 'N HEARTY

Status: REGISTERED
USE APPLICATION - CURRENT

USPTO Status: SECTION 8 - ACCEPTED
USPTO Status Date: MAR 21, 2001

Chronology:

Filed: JAN 13, 1993 **Serial Number:** 74-348,138
Published For Opposition: JUN 22, 1993
Registered: MAY 10, 1994 **Registration Number:** 1,836,321
Affidavit Section: REGISTERED - SEC. 8 (6-YR) ACCEPTED MAR 21, 2001

Goods/Services:

International Class 30: BAKERY PRODUCTS; NAMELY, BREAD
First Used: SEP 30, 1993 (INTL. CL. 30)
In Commerce: SEP 30, 1993

New Registered Owner:

FLOWERS BAKERIES BRANDS, INC.
SOUTH CAROLINA CORPORATION
7101 ASHVILLE HIGHWAY
SPARTANBURG, SOUTH CAROLINA 29303

Assignor: FLOWERS FAMILY BAKERIES, INC.
DELAWARE CORPORATION
Signed: DEC 02, 1996

Brief: CHANGE OF NAME
Recorded: MAY 27, 1997
Reel/Frame: 1595/0985
Correspondent: KILPATRICK STOCKTON LLP
SHARAN B. FLEXNER
1100 PEACHTREE STREET
ATLANTA, GA 30309

Assignee: FLOWERS BAKERIES, INC.
DELAWARE CORPORATION
SUITE 780
1100 NORTH MARKET SQUARE
WILMINGTON, DELAWARE 19801

Assignor: FLOWERS BAKERIES, INC.
DELAWARE CORPORATION
Signed: DEC 16, 1997

Exhibit "B" -- Evidence Submitted By Defendant IMA

Brief: SEE RECORDING ON REEL 1766, FRAME 0568. (RE-RECORDED TO REPLACE A INCORRECT COVER SHEET. REVISED COVER SHEET CHANGES ASSIGNEE'S STATE OF INCORPORATION FROM DELAWARE TO SOUTH CAROLINA.)
Recorded: JUL 27, 1998
Reel/Frame: 1765/0583
Correspondent: KILPATRICK STOCKTON LLP
SHARAN B. FLEXNER
1100 PEACHTREE STREET, SUITE 2800
ATLANTA, GA 30309-4530

Assignee: FLOWERS BAKERIES BRANDS, INC.
DELAWARE CORPORATION
1100 NORTH MARKET SQUARE, SUITE 780
WILMINGTON, DELAWARE 19801

Assignor: FLOWERS BAKERIES, INC.
DELAWARE CORPORATION
Signed: DEC 16, 1997

Brief: INVALID RECORDAL, SEE RECORDING AT REEL 1765, FRAME 0583.
Recorded: JUL 27, 1998
Reel/Frame: 1766/0568
Correspondent: KILPATRICK STOCKTON LLP
SHARAN B. FLEXNER
1100 PEACHTREE STREET, SUITE 2800
ATLANTA, GA 30309-4530

Assignee: FLOWERS BAKERIES BRANDS, INC.
SOUTH CAROLINA CORPORATION
1100 NORTH MARKET SQUARE, SUITE 780
WILMINGTON, DELAWARE 19801

Assignor: FLOWERS BAKERIES BRANDS, INC.
DELAWARE CORPORATION
Signed: MAY 15, 1998

Brief: (INVALID RECORDING), SEE RECORDIMG AT REEL 1775, FRAME 0955.
Recorded: JUL 27, 1998
Reel/Frame: 1768/0162
Correspondent: KILPATRICK STOCKTON LLP
SHARAN B. FLEXNER
1100 PEACHTREE STREET, SUITE 2800
ATLANTA, GA 30309-4530

Assignee: FLOWERS BAKERIES BRANDS, INC.

SOUTH CAROLINA CORPORATION
7101 ASHVILLE HIGHWAY
SPARTANBURG, GEORGIA 29303

Assignor: FLOWERS BAKERIES BRANDS, INC.
DELAWARE CORPORATION
Signed: MAY 15, 1998

Brief: CERTIFCATE OF AGREEMENT OF MERGER
Recorded: JUL 27, 1998
Reel/Frame: 1775/0955
Correspondent: KILPATRICK STOCKTON LLP
SHARAN B. FLEXNER
1100 PEACHTREE STREET, SUITE 2800
ATLANTA, GA 30309-4530

Assignee: FLOWERS BAKERIES BRANDS, INC.
SOUTH CAROLINA CORPORATION
7101 ASHVILLE HIGHWAY
SPARTANBURG, SOUTH CAROLINA 29303

Assignor: FLOWERS BAKERIES BRANDS, INC.
SOUTH CAROLINA CORPORATION
Signed: DEC 27, 2000

Brief: ASSIGNS THE ENTIRE INTEREST AND GOOD WILL
Recorded: MAR 22, 2001
Reel/Frame: 2295/0574
Correspondent: WILLIAM H. BREWSTER, ESQ.
1100 PEACHTREE ST., SUITE 2800
ATLANTA, GA 30309

Assignee: FLOWERS BAKERIES BRANDS, INC.
DELAWARE CORPORATION
1105 NORTH MARKET STREET, SUITE 1300
WILMINGTON, DELAWARE 19899

Assignor: FLOWERS BAKERIES BRANDS, INC.
DELAWARE CORPORATION
Signed: MAR 26, 2001

Brief: SECURITY INTEREST
Recorded: MAY 22, 2001
Reel/Frame: 2317/0954
Correspondent: WHITE & CASE LLP
BRIAN JAENICKE, LEGAL ASSISTANT
1155 AVENUE OF THE AMERICAS
NEW YORK, NY 10036

IMAL DOC 2 "B" -- Evidence Submitted By Defendant IMA

Assignee: BANKERS TRUST COMPANY
130 LIBERTY STREET
NEW YORK, NEW YORK 10006

Disclaimers:
"HEALTHY" AND "HEARTY"

Other U.S. Registrations: 1,145,190; 1,326,230

Filing Correspondent:
MILES J. ALEXANDER
KILPATRICK & CODY
1100 PEACHTREE STREET
ATLANTA, GA 30309-4530

Ref: 12
Group Four

COBBLESTONE MILL

COBBLESTONE MILL

Status: REGISTERED
USE APPLICATION - CURRENT

USPTO Status: SECTION 8 & 15 - ACCEPTED AND ACKNOWLEDGED
USPTO Status Date: SEP 18, 2002

Chronology:
Filed: AUG 08, 1995 **Serial Number:** 74-712,640
Published For Opposition: MAY 14, 1996
Registered: AUG 06, 1996 **Registration Number:** 1,991,258
Affidavit Section: REGISTERED - SEC. 8 (6-YR) ACCEPTED & SEC. 15 ACK. SEP 18, 2002

Goods/Services:
International Class 30: BAKERY PRODUCTS, NAMELY BREAD, BUNS AND ROLLS
First Used: AUG 19, 1983 (INTL. CL. 30)
In Commerce: AUG 19, 1983

New Registered Owner:
FLOWERS BAKERIES BRANDS, INC.
DELAWARE CORPORATION
1105 NORTH MARKET STREET
SUITE 1300
WILMINGTON, DELAWARE 19899

Assignor: FLOWERS FAMILY BAKERIES, INC.
DELAWARE CORPORATION
Signed: DEC 02, 1996

Brief: CHANGE OF NAME
Recorded: MAY 27, 1997
Reel/Frame: 1595/0985

Search: 110802811 **Analyst: DEBORAH BROMLEY** **USPTO Page: 36**

Exhibit "B" -- Evidence Submitted By Defendant IMA

Correspondent: KILPATRICK STOCKTON LLP
SHARAN B. FLEXNER
1100 PEACHTREE STREET
ATLANTA, GA 30309

Assignee: FLOWERS BAKERIES, INC.
DELAWARE CORPORATION
SUITE 780
1100 NORTH MARKET SQUARE
WILMINGTON, DELAWARE 19801

Assignor: FLOWERS BAKERIES, INC.
DELAWARE CORPORATION
Signed: DEC 16, 1997

Brief: SEE RECORDING ON REEL 1766, FRAME 0568. (RE-RECORDED TO REPLACE A INCORRECT COVER SHEET. REVISED COVER SHEET CHANGES ASSIGNEE'S STATE OF INCORPORATION FROM DELAWARE TO SOUTH CAROLINA.)
Recorded: JUL 27, 1998
Reel/Frame: 1765/0583
Correspondent: KILPATRICK STOCKTON LLP
SHARAN B. FLEXNER
1100 PEACHTREE STREET, SUITE 2800
ATLANTA, GA 30309-4530

Assignee: FLOWERS BAKERIES BRANDS, INC.
DELAWARE CORPORATION
1100 NORTH MARKET SQUARE, SUITE 780
WILMINGTON, DELAWARE 19801

Assignor: FLOWERS BAKERIES, INC.
DELAWARE CORPORATION
Signed: DEC 16, 1997

Brief: INVALID RECORDAL, SEE RECORDING AT REEL 1765, FRAME 0583.
Recorded: JUL 27, 1998
Reel/Frame: 1766/0568
Correspondent: KILPATRICK STOCKTON LLP
SHARAN B. FLEXNER
1100 PEACHTREE STREET, SUITE 2800
ATLANTA, GA 30309-4530

Assignee: FLOWERS BAKERIES BRANDS, INC.
SOUTH CAROLINA CORPORATION
1100 NORTH MARKET SQUARE, SUITE 780
WILMINGTON, DELAWARE 19801

Assignor: FLOWERS BAKERIES BRANDS, INC.
DELAWARE CORPORATION
Signed: MAY 15, 1998

Brief: (INVALID RECORDING), SEE RECORDIMG AT REEL 1775, FRAME 0955.
Recorded: JUL 27, 1998
Reel/Frame: 1768/0162
Correspondent: KILPATRICK STOCKTON LLP
SHARAN B. FLEXNER
1100 PEACHTREE STREET, SUITE 2800
ATLANTA, GA 30309-4530

Assignee: FLOWERS BAKERIES BRANDS, INC.
SOUTH CAROLINA CORPORATION
7101 ASHVILLE HIGHWAY
SPARTANBURG, GEORGIA 29303

Assignor: FLOWERS BAKERIES BRANDS, INC.
DELAWARE CORPORATION
Signed: MAY 15, 1998

Brief: CERTIFCATE OF AGREEMENT OF MERGER
Recorded: JUL 27, 1998
Reel/Frame: 1775/0955
Correspondent: KILPATRICK STOCKTON LLP
SHARAN B. FLEXNER
1100 PEACHTREE STREET, SUITE 2800
ATLANTA, GA 30309-4530

Assignee: FLOWERS BAKERIES BRANDS, INC.
SOUTH CAROLINA CORPORATION
7101 ASHVILLE HIGHWAY
SPARTANBURG, SOUTH CAROLINA 29303

Assignor: FLOWERS BAKERIES BRANDS, INC.
SOUTH CAROLINA CORPORATION
Signed: DEC 27, 2000

Brief: ASSIGNS THE ENTIRE INTEREST AND GOOD WILL
Recorded: MAR 22, 2001
Reel/Frame: 2295/0574
Correspondent: WILLIAM H. BREWSTER, ESQ.
1100 PEACHTREE ST., SUITE 2800
ATLANTA, GA 30309

Assignee: FLOWERS BAKERIES BRANDS, INC.
DELAWARE CORPORATION

Exhibit "B" -- Evidence Submitted By Defendant IMA

1105 NORTH MARKET STREET, SUITE 1300
WILMINGTON, DELAWARE 19899

Assignor: FLOWERS BAKERIES BRANDS, INC.
DELAWARE CORPORATION
Signed: MAR 26, 2001

Brief: SECURITY INTEREST
Recorded: MAY 22, 2001
Reel/Frame: 2317/0954
Correspondent: WHITE & CASE LLP
BRIAN JAENICKE, LEGAL ASSISTANT
1155 AVENUE OF THE AMERICAS
NEW YORK, NY 10036

Assignee: BANKERS TRUST COMPANY
130 LIBERTY STREET
NEW YORK, NEW YORK 10006
Other U.S. Registrations: 1,326,230; 1836321 AND OTHERS
Filing Correspondent:
WILLIAM H. BREWSTER
KILPATRICK STOCKTON LLP
1100 PEACHTREE STREET, SUITE 2800
ATLANTA, GA 30309

Ref: 13
Group Four

QUALITY BREAD COBBLESTONE MILL A FAMILY OF BAKERS SINCE 1919 SAN FRANCISCO SOURDOUGH CLASSIC RECIPE

Status: REGISTERED
USE APPLICATION - CURRENT

USPTO Status: REGISTERED
USPTO Status Date: SEP 09, 2003
Chronology:
Filed: MAY 02, 2000 **Serial Number:** 76-039,444
Published For Opposition: MAY 21, 2002
Registered: SEP 09, 2003 **Registration Number:** 2,762,164
Goods/Services:
International Class 30: BAKERY PRODUCTS
First Used: APR 2000 (INTL. CL. 30)
In Commerce: APR 2000
Registrant:
FLOWERS BAKERIES BRANDS, INC.
SOUTH CAROLINA CORPORATION

Search: 110802811 **Analyst: DEBORAH BROMLEY** **USPTO Page: 39**

Exhibit "B" -- Evidence Submitted By Defendant IMA

1925 FLOWERS CIRCLE
THOMASVILLE, GEORGIA 31757

Assignor: FLOWERS BAKERIES BRANDS, INC.
DELAWARE CORPORATION
Signed: MAR 26, 2001

Brief: SECURITY INTEREST
Recorded: MAY 22, 2001
Reel/Frame: 2317/0954
Correspondent: WHITE & CASE LLP
BRIAN JAENICKE, LEGAL ASSISTANT
1155 AVENUE OF THE AMERICAS
NEW YORK, NY 10036

Assignee: BANKERS TRUST COMPANY
130 LIBERTY STREET
NEW YORK, NEW YORK 10006

Lining Stippling:
THE LINING IS A FEATURE OF THE MARK AND DOES NOT INDICATE COLOR.

Disclaimers:
"QUALITY BREADS, A FAMILY OF BAKERS SINCE 1919, SAN FRANCISCO SOURDOUGH" AND "RECIPE"

Other U.S. Registrations: 1,326,230; 1991258 AND OTHERS

Filing Correspondent:
WILLIAM H. BREWSTER
KILPATRICK & STOCKTON
1100 PEACHTREE ST NE STE 2800
ATLANTA GA 30309-4530

Ref: 14
Group Four

COBBLESTONE BREAD

COBBLESTONE BREAD

Status: PENDING
INTENT TO USE - CURRENT

USPTO Status: NON-FINAL ACTION - MAILED
USPTO Status Date: FEB 03, 2004

Chronology:
Filed: JUL 16, 2003 **Serial Number:** 78-275,262

Goods/Services:
International Class 30: FRESH BAGUETTE BREADS

Applicant:
TORII, THOMAS, LEO

Search: 110802811 **Analyst: DEBORAH BROMLEY** **USPTO Page: 40**

Exhibit "B" -- Evidence Submitted By Defendant IMA

UNITED STATES INDIVIDUAL
748 ROSECRANS AVENUE
MANHATTAN BEACH, CALIFORNIA 90266

Filing Correspondent:

748 ROSECRANS AVE
MANHATTAN BEACH CA 90266-3451

Ref: 15
Group Four

COBBLESTONE PIZZA

COBBLESTONE PIZZA

Status: PENDING
AMENDED TO USE APPLICATION
INTENT-TO-USE - AMENDED

USPTO Status: NEW APPLICATION - RECORD INITIALIZED NOT ASSIGNED TO EXAMINER
USPTO Status Date: JAN 16, 2004

Chronology:

Filed: JAN 07, 2004 **Serial Number:** 78-348,740

Goods/Services:

International Class 42: RESTAURANT SERVICES
First Used: APR 01, 2003 (INTL. CL. 42)
In Commerce: APR 01, 2003

Applicant:

MICHAEL JENNINGS
13405 S. RIDGELAND AVE.
PALOS HEIGHTS, ILLINOIS 60463

Filing Correspondent:

JAMES M. LANCHEROS
WEAVER LAW GROUP, LLC
SUITE 400
549 W. RANDOLPH STREET
CHICAGO, IL 60661

Exhibit "B" -- Evidence Submitted By Defendant IMA

Ref: 16
Group Four

196 COBBLESTONES RESTAURANT & BAR

Status: REGISTERED
USE APPLICATION - CURRENT

USPTO Status: REGISTERED
USPTO Status Date: JUL 29, 2003

Chronology:

Filed: MAR 18, 2002 **Serial Number:** 76-384,394
Published For Opposition: MAY 06, 2003
Registered: JUL 29, 2003 **Registration Number:** 2,741,252

Goods/Services:

International Class 43: RESTAURANT SERVICES; CATERING SERVICES; TAKE-OUT SERVICES; PROVIDING BANQUET AND SOCIAL FUNCTION FACILITIES
First Used: FEB 21, 2002 (INTL. CL. 43)
In Commerce: FEB 21, 2002

Registrant:

CHERRYWOOD RESTAURANT GROUP LLC
NEW YORK LIMITED LIABILITY COMPANY
125 HILLTURN LANE
ROSLYN HEIGHTS, NEW YORK 11566

Disclaimers:

"RESTAURANT & BAR"

Filing Correspondent:

PATRICIA A. WILCZYNSKI
SCULLY, SCOTT, MURPHY & PRESSER
400 GARDEN CITY PLAZA
GARDEN CITY, NEW YORK 11530

Ref: 17
Group Four

CORNER DELI

CORNER DELI

Status: REGISTERED
USE APPLICATION - CURRENT

USPTO Status: SECTION 8 & 15 - ACCEPTED AND ACKNOWLEDGED
USPTO Status Date: SEP 16, 2000

Chronology:

Filed: FEB 18, 1993 **Serial Number:** 74-360,040
Published For Opposition: MAR 08, 1994
Registered: MAY 31, 1994 **Registration Number:** 1,838,013
Affidavit Section: REGISTERED - SEC. 8 (6-YR) ACCEPTED & SEC.

15 ACK. SEP 16, 2000

Goods/Services:

International Class 30: BAKERY PRODUCTS
First Used: JUN 26, 1991 (INTL. CL. 30)
In Commerce: JUN 26, 1991

New Registered Owner:

INTEGRATED BAKERY RESOURCES, INC.
WASHINGTON CORPORATION
6024 JEAN ROAD, SUITE C-150
LAKE OSWEGO, OREGON 97035

Assignor: DCB, INC.
WASHINGTON CORPORATION
Signed: MAR 30, 1994

Brief: CHANGE OF NAME
Recorded: NOV 26, 1996
Reel/Frame: 1535/0233
Correspondent: KLARQUIST SPARKMAN CAMPBELL LEIGH ET.AL
DAVID P. PETERSEN, ESQ
ONE WORLD TRADE CENTER, STE 1600
121 S.W. SALMON STREET, STE 1600
PORTLAND, OR 97204-2988

Assignee: ORIGINAL OATMEAL BAKING COMPANY, THE
WASHINGTON CORPORATION
6024 JEAN ROAD STE. C-150
LAKE OSWEGO, OREGON 97035

Assignor: ORIGINAL OATMEAL BAKING COMPANY, THE
WASHINGTON CORPORATION
Signed: FEB 18, 2000

Brief: CHANGE OF NAME
Recorded: APR 28, 2000
Reel/Frame: 2073/0962
Correspondent: SPARKMAN CAMPBELL LEIGH & WHINSTON, LLP
DAVID P. PETERSEN, ESQ.
121 S.W. SALMON STREET
ONE WORLD TRADE CENTER, SUITE 1600
PORTLAND, OR 97204-2988

Assignee: INTEGRATED BAKERY RESOURCES, INC.
WASHINGTON CORPORATION
SUITE C-150
6024 JEAN ROAD
LAKE OSWEGO, OREGON 97035

Disclaimers:

"DELI"

Filing Correspondent:

DAVID P. PETERSEN
KLARQUIST SPARKMAN CAMPBELL, ETAL
ONE WORLD TRADE CENTER
121 S. W. SALMON ST., SUITE 1600
PORTLAND, OR 97304

Ref: 18
Group Four

FOUR CORNERS

Status: REGISTERED
USE APPLICATION - CURRENT

USPTO Status: REGISTERED
USPTO Status Date: OCT 15, 2002

Chronology:

Filed: MAR 17, 2000 **Serial Number:** 76-002,924
Published For Opposition: MAR 27, 2001
Registered: OCT 15, 2002 **Registration Number:** 2,636,329

Goods/Services:

International Class 30: BAKERY GOODS, PRE-PACKAGED SANDWICHES, GROUND AND WHOLE BEAN COFFEE, COCOA, HERBAL AND NON-HERBAL TEA, COFFEE, ESPRESSO BEVERAGES, BEVERAGES MADE WITH A BASE OF COFFEE, ESPRESSO AND/OR MILK
International Class 35: CONVENIENCE STORE SERVICES
First Used: JUL 10, 2000 (INTL. CL. 30)
In Commerce: JUL 10, 2000
First Used: JUL 10, 2000 (INTL. CL. 35)
In Commerce: JUL 10, 2000

Registrant:

CLARK RETAIL ENTERPRISES, INC.
DELAWARE CORPORATION
800 ROOSEVELT ROAD
GLEN ELLYN, ILLINOIS 60137

Filing Correspondent:

LISA PARKER GATES
JENNER & BLOCK
ONE IBM PLAZA
CHICAGO, ILLINOIS 60611

Exhibit "B" -- Evidence Submitted By Defendant IMA

Ref: 19
Group Four

CORNER DELI

CORNER DELI

Status: REGISTERED

USPTO Status: SECTION 8 - ACCEPTED
USPTO Status Date: NOV 12, 1991

Chronology:

Filed: OCT 03, 1984 **Serial Number:** 73-502,112
Published For Opposition: MAR 26, 1985
Registered: JUN 04, 1985 **Registration Number:** 1,339,708
Affidavit Section: REGISTERED - SEC. 8 (6-YR) ACCEPTED NOV 12, 1991

Goods/Services:

International Class 42: DELICATESSEN DEPARTMENTS IN RETAIL GROCERY STORES
First Used: NOV 1978 (INTL. CL. 42)
In Commerce: FEB 1979

Registrant:

AMERICAN STORES COMPANY
DELAWARE CORPORATION
P.O. BOX 27447
709 E. SOUTH TEMPLE
SALT LAKE CITY, UTAH 84127

Assignor: AMERICAN STORES COMPANY
DELAWARE CORPORATION
Signed: FEB 01, 1996

Brief: ASSIGNS THE ENTIRE INTEREST AND GOOD WILL
Recorded: MAR 25, 1996
Reel/Frame: 1516/0251
Correspondent: MICHAEL J. DALTON
300 LAKESIDE DRIVE
SUITE 1900
OAKLAND, CA 94612

Assignee: JEWEL COMPANIES, INC.
DELAWARE CORPORATION
709 EAST SOUTH TEMPLE
SALT LAKE CITY, UTAH 84102

Assignor: AMERICAN STORES COMPANY
DELAWARE CORPORATION
Signed: FEB 01, 1996

Exhibit "B" -- Evidence Submitted By Defendant IMA

Brief: ASSIGNS THE ENTIRE INTEREST AND GOOD WILL
Recorded: OCT 23, 1996
Reel/Frame: 1521/0395
Correspondent: MICHAEL J. DALTON
300 LAKESIDE DRIVE
SUITE 1900
OAKLAND, CA 94612

Assignee: JEWEL COMPANIES, INC.
DELAWARE CORPORATION
709 EAST SOUTH TEMPLE
SALT LAKE CITY, UTAH 84102

Cancellation Action Number: 92018983
Outcome: TERMINATED SEP 14, 1991
Plaintiff: THE STOP & SHOP SUPERMARKET COMPANY
Mark: CORNER DELI
Serial Number: 74-012,440
Correspondent:
THOMAS V. SMURZYNSKI
LAHIVE & COCKFIELD
60 STATE STREET BOSTON, MA. 02109
Defendant:
Registration Number: 1,339,708
Serial Number: 73-502,112
Trademark Defendant Correspondent:
709 EAST SOUTH TEMPLE
P.O. BOX 27447
SALT LAKE CITY, UT. 84127
TTAB Entry: #11 TERMINATED, SEP 14, 1991
TTAB Entry: #10 PET FOR CANC DISMISSED W/O PREJUDICE, JUL 24, 1991
Disclaimers:
NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "DELI", APART FROM THE MARK AS SHOWN.

Filing Correspondent:
CHARLES M. ALLEN
STANLEY B. KITA
HOWSON & HOWSON
BOX 457
321 NORRISTOWN ROAD
SPRING HOUSE, PA 19477

IMA 000012 Exhibit "B" -- Evidence Submitted By Defendant IMA

Ref: 20
Group Four

CORNER DELI

CORNER DELI

Status: ABANDONED

USPTO Status: ABANDONED-EXPRESS
USPTO Status Date: JUL 29, 1991

Chronology:

Filed: DEC 20, 1989 **Serial Number:** 74-012,440
Abandoned: JUL 29, 1991

Goods/Services:

International Class 29: LUNCHEON MEATS
First Used: 1976 (INTL. CL. 29)
In Commerce: 1976

Applicant:

STOP & SHOP SUPERMARKET COMPANY, THE
DELAWARE CORPORATION
ONE BRADLESS CIRCLE
BRAINTREE, MASSACHUSETTS 02184

Cancellation Action Number: 92018983
Outcome: TERMINATED SEP 14, 1991
Plaintiff: THE STOP & SHOP SUPERMARKET COMPANY
Mark: CORNER DELI
Serial Number: 74-012,440
Correspondent:
THOMAS V. SMURZYNSKI
LAHIVE & COCKFIELD
60 STATE STREET BOSTON, MA. 02109

Defendant:

Registration Number: 1,339,708
Serial Number: 73-502,112
Trademark Defendant Correspondent:
709 EAST SOUTH TEMPLE
P.O. BOX 27447
SALT LAKE CITY, UT. 84127

TTAB Entry: #11 TERMINATED, SEP 14, 1991
TTAB Entry: #10 PET FOR CANC DISMISSED W/O PREJUDICE, JUL 24, 1991

Filing Correspondent:

THOMAS V. SMURZYNSKI
LAHIVE & COCKFIELD
60 STATE STREET
BOSTON, MA 02109

Exhibit "B" -- Evidence Submitted By Defendant IMA

Ref: 21
Group Four

CORNERSTONE CELLARS

CORNERSTONE CELLARS

Status: REGISTERED
USE APPLICATION - CURRENT

USPTO Status: SECTION 8 & 15 - ACCEPTED AND ACKNOWLEDGED
USPTO Status Date: OCT 10, 2001

Chronology:

Filed: APR 22, 1994 **Serial Number:** 74-515,435
Published For Opposition: DEC 20, 1994
Registered: SEP 19, 1995 **Registration Number:** 1,921,128
Affidavit Section: REGISTERED - SEC. 8 (6-YR) ACCEPTED & SEC. 15 ACK. OCT 10, 2001

Goods/Services:

International Class 33: WINE
First Used: JAN 31, 1995 (INTL. CL. 33)
In Commerce: FEB 13, 1995

Registrant:

CORNERSTONE CELLARS, INC.
DBA CORNERSTONE CELLARS
CALIFORNIA CORPORATION
P. O. BOX 10767
NAPA, CALIFORNIA 94581

Disclaimers:

"CELLARS"

Filing Correspondent:

MELVILLE OWEN
OWEN, WICKERSHAM & ERICKSON, PC
455 MARKET STREET, 19TH FLOOR
SAN FRANCISCO, CA 94105

Ref: 22
Group Four

KEBAB KORNER

KEBAB KORNER

Status: REGISTERED
USE APPLICATION - CURRENT

USPTO Status: REGISTERED
USPTO Status Date: JUN 13, 2000

Chronology:

Filed: SEP 08, 1997 **Serial Number:** 75-353,745
Published For Opposition: JUN 02, 1998
Registered: JUN 13, 2000 **Registration Number:** 2,358,088

Exhibit "B" -- Evidence Submitted By Defendant IMA

Goods/Services:

International Class 30: SANDWICHES CONSISTING OF MEAT PRODUCTS, NAMELY, BEEF, PORK, CHICKEN, OR LAMB SERVED IN A PITA TYPE BREAD WITH VEGETABLES, SAUCES, AND SPICES
International Class 42: RESTAURANT SERVICES
First Used: MAY 01, 1999 (INTL. CL. 30)
In Commerce: MAY 01, 1999
First Used: MAY 01, 1999 (INTL. CL. 42)
In Commerce: MAY 01, 1999

Registrant:

DILLMAN ENTERPRISES, INC.
FLORIDA CORPORATION
2402 LINCOLNSHIRE COURT
KISSIMEE, FLORIDA 34744

Disclaimers:

"KEBAB"

Filing Correspondent:

PAUL CAMP LANE
LAVIGNE & LANE PA
5301 CONROY ROAD
SUITE 140
ORLANDO, FL 32811

Ref: 23
Group Four

CORNER BAKERY

CORNER BAKERY

Status: REGISTERED
USE APPLICATION - CURRENT

USPTO Status: REGISTERED
USPTO Status Date: APR 30, 2002

Chronology:

Filed: AUG 18, 2000 **Serial Number:** 76-112,783
Published For Opposition: FEB 05, 2002
Registered: APR 30, 2002 **Registration Number:** 2,565,101

Goods/Services:

International Class 32: BOTTLED MOUNTAIN SPRING WATER
First Used: JUN 1997 (INTL. CL. 32)
In Commerce: JUN 1997

Registrant:

BRINKER RESTAURANT CORPORATION
DELAWARE CORPORATION
6820 LBJ FREEWAY
DALLAS, TEXAS 75240

Claims:

THE DRAWING IS CORRECTED TO APPEAR AS FOLLOWS: CORNER BAKERY

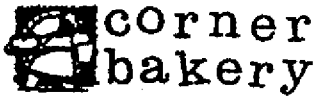
Other U.S. Registrations: 2,078,299; 2,145,582

Filing Correspondent:

ELISABETH A. EVERT
SIDLEY AUSTIN BROWN AND WOOD LLP
717 NORTH HARWOOD
SUITE 3400
DALLAS, TEXAS 75201

Ref: 24
Group Four

CORNER BAKERY



Status: REGISTERED
USE APPLICATION - CURRENT

USPTO Status: REGISTERED
USPTO Status Date: JUL 23, 2002

Chronology:

Filed: AUG 30, 2000 **Serial Number:** 76-119,881
Published For Opposition: APR 30, 2002
Registered: JUL 23, 2002 **Registration Number:** 2,597,079

Goods/Services:

International Class 32: BOTTLED MOUNTAIN SPRING WATER
First Used: JUN 1997 (INTL. CL. 32)
In Commerce: JUN 1997

Registrant:

BRINKER RESTAURANT CORPORATION
DELAWARE CORPORATION
6820 LBJ FREEWAY
DALLAS, TEXAS 75240

Lining Stippling:

THE LINING IS A FEATURE OF THE MARK AND DOES NOT INDICATE COLOR.

Other U.S. Registrations: 2,078,299; 2,145,582

Filing Correspondent:

ELISABETH A. EVERT
SIDLEY & AUSTIN
717 N HARWOOD ST STE 3400
DALLAS TX 75201-6534

Exhibit "B" -- Evidence Submitted By Defendant IMA

Ref: 25
Group Four

CARNIVAL CORNER

CARNIVAL CORNER

Status: PUBLISHED
INTENT TO USE - CURRENT

USPTO Status: FIRST EXTENSION - GRANTED DEC 01, 2003
USPTO Status Date: DEC 01, 2003

Chronology:
Filed: AUG 21, 2002 **Serial Number:** 78-156,379
Published For Opposition: MAR 11, 2003

Goods/Services:
International Class 29: PROCESSED NUTS
International Class 30: CANDY

Applicant:
WESCO, INC.
MICHIGAN CORPORATION
1460 WHITEHALL ROAD
MUSKEGON, MICHIGAN 49445

Filing Correspondent:
R. SCOTT KELLER
WARNER NORCROSS & JUDD LLP
900 FIFTH THIRD CENTER, 111 LYON STREET
GRAND RAPIDS MI 49503-2487

Ref: 26
Group Four

COUNTRY CORNER

COUNTRY CORNER

Status: REGISTERED
USE APPLICATION - CURRENT

USPTO Status: SECTION 8 & 15 - ACCEPTED AND ACKNOWLEDGED
USPTO Status Date: NOV 14, 1991

Chronology:
Filed: FEB 10, 1984 **Serial Number:** 73-465,028
Published For Opposition: APR 23, 1985
Registered: JUL 02, 1985 **Registration Number:** 1,346,518
Affidavit Section: REGISTERED - SEC. 8 (6-YR) ACCEPTED & SEC. 15 ACK. NOV 14, 1991

Goods/Services:
International Class 29: CHICKEN PARTS
First Used: SEP 30, 1983 (INTL. CL. 29)
In Commerce: SEP 30, 1983

Registrant:

PERDUE FARMS INCORPORATED
MARYLAND CORPORATION
P.O. BOX 1491
SALISBURY, MARYLAND 21801

Filing Correspondent:

JAMES L. DOOLEY
ANN K. FORD, ESQ.
PIPER RUDNICK LLP
1200 NINETEENTH STREET, NW
WASHINGTON DC 20036-2412

Ref: 27
Group Four

CRUNCH CORNER

CRUNCH CORNER

Status: REGISTERED
44(E) APPLICATION - CURRENT

USPTO Status: REGISTERED
USPTO Status Date: FEB 18, 2003

Chronology:

Filed: DEC 08, 1999 **Serial Number:** 75-866,532
Published For Opposition: NOV 26, 2002
Registered: FEB 18, 2003 **Registration Number:** 2,687,763

Goods/Services:

International Class 29: YOGURT

Registrant:

MOLKEREI ALOIS MUELLER GMBH & CO.
FED REP OF GERMANY CORPORATION
8935 ARETSRIED, FED REP OF GERMANY

Non-U.S. Application Claimed: 1277964
Non-U.S. Application Date: SEP 08, 1986
Non-U.S. Application Country: UNITED KINGDOM

Non-U.S. Registration Claimed: 1277964
Non-U.S. Registration Date: SEP 08, 1986
Non-U.S. Registration Country: UNITED KINGDOM

Filing Correspondent:

J. SCOTT EVANS
ADAMS SCHWARTZ & EVANS PA
2180 TWO 1ST UNION CENTER
301 S TRYON STREET
CHARLOTTE, NC 28282-1915

Exhibit "B" -- Evidence Submitted By Defendant IMA

Ref: 28
Group Four

COSI CORNERS

COSI CORNERS

Status: REGISTERED
USE APPLICATION - CURRENT

USPTO Status: REGISTERED
USPTO Status Date: DEC 10, 2002

Chronology:

Filed: MAR 12, 2002 **Serial Number:** 76-380,854
Published For Opposition: SEP 17, 2002
Registered: DEC 10, 2002 **Registration Number:** 2,659,348

Goods/Services:

International Class 30: BREAD
First Used: NOV 1999 (INTL. CL. 30)
In Commerce: JAN 2000

Registrant:

COSI, INC.
DELAWARE CORPORATION
242 WEST 36TH STREET
NEW YORK, NEW YORK 10018

Filing Correspondent:

SETH P. MARKOWITZ, ESQ.
MARKOWITZ & ROSHCO, LLP
530 FIFTH AVENUE, 23RD FLOOR
NEW YORK, NEW YORK 10036-5101

Ref: 29
Group Four

KATIE'S KORNER

KATIE'S KORNER

Status: RENEWED
USE APPLICATION - CURRENT

USPTO Status: RENEWED
USPTO Status Date: SEP 21, 2001

Chronology:

Filed: FEB 06, 1990 **Serial Number:** 74-026,173
Published For Opposition: SEP 25, 1990
Registered: DEC 18, 1990 **Registration Number:** 1,628,515
Affidavit Section: REGISTERED - SEC. 8 (6-YR) ACCEPTED & SEC. 15 ACK. JAN 15, 1997
Last Renewed: DEC 18, 2000

Goods/Services:

IMA 1001 "Exhibit 2B" -- Evidence Submitted By Defendant IMA

International Class 30: ICE CREAM FOR CONSUMPTION ON OR OFF THE PREMISES
First Used: OCT 01, 1983 (INTL. CL. 30)
In Commerce: OCT 01, 1983

Registrant:

KATIE'S KORNER, INC.
OHIO CORPORATION
1105 TIBBETTS-WICK ROAD
GIRARD, OHIO 44420

Filing Correspondent:

THOMAS C. NADER
NADER AND NADER
155 SOUTH PARK AVE
WARREN, OHIO 44481

Ref: 30
Group Four

FRUIT CORNER

FRUIT CORNER

Status: REGISTERED
44(E) APPLICATION - CURRENT

USPTO Status: REGISTERED
USPTO Status Date: APR 23, 2002

Chronology:

Filed: DEC 08, 1999 **Serial Number:** 75-866,531
Published For Opposition: JAN 29, 2002
Registered: APR 23, 2002 **Registration Number:** 2,562,890

Goods/Services:

International Class 29: YOGURT

Registrant:

MOLKEREI ALOIS MUELLER
FED REP OF GERMANY CORPORATION
8935 ARETSRIED, FED REP OF GERMANY

Non-U.S. Application Claimed: 1277965
Non-U.S. Application Date: SEP 08, 1986
Non-U.S. Application Country: UNITED KINGDOM

Non-U.S. Registration Claimed: 1277965
Non-U.S. Registration Date: SEP 08, 1986
Non-U.S. Registration Country: UNITED KINGDOM

Claims:

IN THE STATEMENT, COLUMN 1, LINE 1, "MOLKEREI ALOIS MULLER GMBH & CO." SHOULD BE DELETED, AND, "MOLKEREI

"Exhibit "B" -- Evidence Submitted By Defendant IMA

ALOIS MUELLER" SHOULD BE INSERTED.

Disclaimers:

"FRUIT"

Filing Correspondent:

J. SCOTT EVANS
ADAMS, SCHWARTZ & EVANS, P.A.
2180 TWO WACHOVIA CENTER
301 SOUTH TRYON STREET
CHARLOTTE NC 28282

Ref: 31
Group Four

WING CORNER

WING CORNER

Status: PUBLISHED
INTENT TO USE - CURRENT

USPTO Status: FOURTH EXTENSION - GRANTED FEB 26, 2004
USPTO Status Date: FEB 26, 2004

Chronology:

Filed: AUG 31, 2000 **Serial Number:** 76-120,642
Published For Opposition: NOV 20, 2001

Goods/Services:

International Class 29: COOKED CHICKEN FOR CONSUMPTION ON OR OFF THE PREMISES

Applicant:

KFC CORPORATION
DELAWARE CORPORATION
1441 GARDINER LANE
LOUISVILLE, KENTUCKY 40213

Disclaimers:

"WING"

Filing Correspondent:

ROBERT W. MILLEN
TRICON GLOBAL RESTAURANTS, INC.
PIZZA HUT, INC.
14841 DALLAS PKWY FL 3
DALLAS TX 75240-7552

Ref: 32
Group Four

BAKER'S CORNER

BAKER'S CORNER

Status: REGISTERED

Search: 110802811 **Analyst: DEBORAH BROMLEY** **USPTO Page: 55**

Exhibit "B" -- Evidence Submitted By Defendant IMA

USPTO Status: SECTION 8 & 15 - ACCEPTED AND ACKNOWLEDGED
USPTO Status Date: FEB 03, 1994

Chronology:

Filed: OCT 28, 1987 **Serial Number:** 73-692,232
Published For Opposition: APR 12, 1988
Registered: JUL 05, 1988 **Registration Number:** 1,495,279
Affidavit Section: REGISTERED - SEC. 8 (6-YR) ACCEPTED & SEC. 15 ACK. FEB 03, 1994

Goods/Services:

International Class 30: CAKE MIX AND COOKIE MIX
First Used: OCT 07, 1987 (INTL. CL. 30)
In Commerce: OCT 07, 1987

Registrant:

ALDI INC.
ILLINOIS CORPORATION
1200 NORTH KIRK ROAD
BATAVIA, ILLINOIS 60510-1484

Filing Correspondent:

ALLEN L. LANDMEIER
SMITH, LANDMEIER & SKAAR, P.C.
15 NORTH SECOND STREET
P.O. BOX 127
GENEVA, IL 60134-0127

Ref: 33
Group Four

BAKER'S CORNER

BAKER'S CORNER

Status: REGISTERED
USE APPLICATION - CURRENT

USPTO Status: SECTION 8 & 15 - ACCEPTED AND ACKNOWLEDGED
USPTO Status Date: DEC 29, 2000

Chronology:

Filed: OCT 06, 1993 **Serial Number:** 74-444,649
Published For Opposition: JUN 07, 1994
Registered: AUG 30, 1994 **Registration Number:** 1,851,623
Affidavit Section: REGISTERED - SEC. 8 (6-YR) ACCEPTED & SEC. 15 ACK. DEC 29, 2000

Goods/Services:

International Class 30: CORN MUFFIN MIX AND BROWNIE MIX
First Used: NOV 1987 (INTL. CL. 30)
In Commerce: NOV 1987

Registrant:

ALDI INC.
ILLINOIS CORPORATION

Exhibit "B" -- Evidence Submitted By Defendant IMA

1200 NORTH KIRK ROAD
BATAVIA, ILLINOIS 60510-1479

Other U.S. Registrations: 1,495,279

Filing Correspondent:

ALLEN L. LANDMEIER
SMITH, LANDMEIER & SKAAR, P.C.
15 NORTH SECOND STREET
P.O. BOX 127
GENEVA, IL 60134-0127

Ref: 34
Group Four

POP-CORNER

POP-CORNER

Status: REGISTERED

USPTO Status: SECTION 8 & 15 - ACCEPTED AND ACKNOWLEDGED
USPTO Status Date: NOV 26, 1990

Chronology:

Filed: APR 15, 1983 **Serial Number:** 73-421,722
Published For Opposition: APR 02, 1985
Registered: JUN 11, 1985 **Registration Number:** 1,341,198
Affidavit Section: REGISTERED - SEC. 8 (6-YR) ACCEPTED & SEC. 15 ACK. NOV 26, 1990

Goods/Services:

International Class 30: LAYERS OF CARAMEL COATED POPCORN FILLED AND FORMED IN THE SHAPE OF A SANDWICH
First Used: FEB 11, 1983 (INTL. CL. 30)
In Commerce: FEB 11, 1983

Registrant:

SELAURA CORPORATION
CONNECTICUT CORPORATION
17 AUTUMN DR.
DANBURY, CONNECTICUT 06810

Filing Correspondent:

ALFRED E. MILLER
150-152 MASON ST.
GREENWICH, CT 06830

Ref: 35
Group Four

SWEET CORNER

SWEET CORNER

Status: REGISTERED
44(E) APPLICATION - CURRENT

"Exhibit "B" -- Evidence Submitted By Defendant IMA

USPTO Status: REGISTERED
USPTO Status Date: AUG 06, 2002

Chronology:

Filed: JUL 26, 2001 **Serial Number:** 76-291,314
Published For Opposition: MAY 14, 2002
Registered: AUG 06, 2002 **Registration Number:** 2,604,467

Goods/Services:

International Class 30: CONFECTIONERY, NAMELY LIQUORICE AND CANDY; WINE FLAVORED GUM; FRUIT FLAVORED GUM

Registrant:

LIDL STIFTUNG & CO. KG
FED REP OF GERMANY CORPORATION
HEINER-FLEISCHMANN-STR. 2
74172 NECKARSULM, FED REP OF GERMANY

Non-U.S. Registration Claimed: 39966007
Non-U.S. Registration Date: DEC 02, 1999
Non-U.S. Registration Country: FED REP OF GERMANY
Disclaimers:

"SWEET"

Filing Correspondent:

MARIA C.H. LIN
MORGAN AND FINNEGAN
345 PARK AVE FL 22
NEW YORK NY 10154-0053

Domestic Representative: MORGAN & FINNEGAN, L.L.P.

Ref: 36
Group Four

GOODNESS CORNER

GOODNESS CORNER

Status: PENDING
INTENT TO USE - CURRENT

USPTO Status: NEW APPLICATION - RECORD INITIALIZED NOT ASSIGNED TO EXAMINER
USPTO Status Date: MAR 31, 2004

Chronology:

Filed: MAR 09, 2004 **Serial Number:** 78-380,834

Goods/Services:

International Class 30: CEREAL-DERIVED FOOD PRODUCT TO BE USED AS A BREAKFAST CEREAL, SNACK FOOD, OR INGREDIENT FOR MAKING FOOD

Applicant:

"Exhibit "B" -- Evidence Submitted By Defendant IMA

GENERAL MILLS IP HOLDING I, LLC
NUMBER ONE GENERAL MILLS BOULEVARD
MINNEAPOLIS, MINNESOTA 55426

Filing Correspondent:

1 GENERAL MILLS BLVD
MINNEAPOLIS MN 55426-1347

Ref: 37
Group Four

FOUR CORNERS

FOUR CORNERS

Status: PENDING
AMENDED TO USE APPLICATION
INTENT-TO-USE - AMENDED

USPTO Status: NEW APPLICATION - RECORD INITIALIZED NOT ASSIGNED TO EXAMINER
USPTO Status Date: DEC 30, 2003

Chronology:

Filed: DEC 22, 2003 **Serial Number:** 76-566,766

Goods/Services:

International Class 31: FRESH PEPPERS; RAW PEPPERS; UNPROC ESSED PEPPERS
First Used: MAY 10, 1978 (INTL. CL. 31)
In Commerce: MAY 10, 1978

Applicant:

DENICE AND FILICE PACKING CO.
CALIFORNIA CORPORATION
10001 FAIRVIEW ROAD
HOLLISTER, CALIFORNIA 95023

Filing Correspondent:

RICHARD J. GREENSTONE
465 CALIFORNIA STREET
SUITE 300
SAN FRANCISCO, CALIFORNIA 94104

Ref: 38
Group Four

RECIPE CORNER

RECIPE CORNER

Status: PUBLISHED
INTENT-TO-USE - AMENDED

USPTO Status: PUBLISHED FOR OPPOSITION

"Exhibit "B" -- Evidence Submitted By Defendant IMA

USPTO Status Date: FEB 17, 2004

Chronology:

Filed: JAN 16, 2003 Serial Number: 78-203,819

Published For Opposition: FEB 17, 2004

Goods/Services:

International Class 16: PUBLICATIONS, NAMELY, A BOOKLET IN THE FIELD OF SPECIALTY CHEESE PRODUCTS

First Used: JAN 11, 2002 (INTL. CL. 16)

In Commerce: JAN 11, 2002

Applicant:

SCHRATTER FOODS INCORPORATED
DELAWARE CORPORATION
149 NEW DUTCH LANE
FAIRFIELD, NEW JERSEY 70004

Disclaimers:

"RECIPE"

Filing Correspondent:

ROBERT V. VICKERS
FAY, SHARPE, FAGAN, MINNICH & MCKEE, LLP
1100 SUPERIOR AVE 7TH FL
CLEVELAND OH 44114

Ref: 39
Group Four

CHEF'S CORNER

CHEF'S CORNER

Status: REGISTERED

USPTO Status: REGISTERED

USPTO Status Date: JUN 01, 1999

Chronology:

Filed: FEB 03, 1997 Serial Number: 75-234,808

Published For Opposition: JAN 19, 1999

Registered: JUN 01, 1999 Registration Number: 2,248,546

Goods/Services:

International Class 29: FRESH PREPARED ENTREES CONSISTING PRIMARILY OF MEAT, FISH, POULTRY OR VEGETABLES; COOKED VEGETABLES; FRESH PREPARED SIDE DISHES CONSISTING PRIMARILY OF POTATOES

International Class 30: FRESH PREPARED ENTREES CONSISTING PRIMARILY OF RICE OR PASTA; BURRITOS; FRESH PREPARED SIDE DISHES CONSISTING PRIMARILY OF PASTA OR RICE; RAVIOLI; MANICOTTI; LASAGNA; TORTELLINI; STUFFED SHELLS; BREAD-BASED STUFFING SIDE DISHES

International Class 35: RETAIL FOOD SUPERMARKET SERVICES

First Used: NOV 05, 1997 (INTL. CL. 29)

Exhibit "B" -- Evidence Submitted By Defendant IMA

In Commerce: NOV 05, 1997
First Used: NOV 05, 1997 (INTL. CL. 30)
In Commerce: NOV 05, 1997
First Used: NOV 05, 1997 (INTL. CL. 35)
In Commerce: NOV 05, 1997

Registrant:

FOODTOWN
NEW JERSEY CORPORATION
145 TALMADGE ROAD
EDISON, NEW JERSEY 08817

Filing Correspondent:

ROBERT B COHEN
LERNER DAVID LITTENBERG KRUMHOLZ ET AL
600 S AVENUE W
WESTFIELD NJ 07090

Ref: 40
Group Four

CORNER BUTCHER

CORNER BUTCHER

Status: REGISTERED

USPTO Status: SECTION 8 & 15 - ACCEPTED AND ACKNOWLEDGED
USPTO Status Date: JAN 25, 1994

Chronology:

Filed: MAR 24, 1987 **Serial Number:** 73-651,167
Published For Opposition: AUG 04, 1987
Registered: OCT 27, 1987 **Registration Number:** 1,463,023
Affidavit Section: REGISTERED - SEC. 8 (6-YR) ACCEPTED & SEC. 15 ACK. JAN 25, 1994

Goods/Services:

International Class 29: HAM AND LUNCHEON MEATS
First Used: MAR 03, 1986 (INTL. CL. 29)
In Commerce: MAR 03, 1986

New Registered Owner:

SF INVESTMENTS, INC.
DELAWARE CORPORATION
1409 FOULK ROAD, SUITE 102
WILMINGTON, DELAWARE 19803-0108

Assignor: GWALTNEY OF SMITHFIELD, LTD.
DELAWARE CORPORATION
601 NORTH CHURCH STREET
SMITHFIELD, VIRGINIA
Signed: OCT 08, 1990

Exhibit "B" -- Evidence Submitted By Defendant IMA

Brief: ASSIGNS THE ENTIRE INTEREST AND THE GOODWILL AS OF APR. 30, 1990.
Recorded: OCT 18, 1990
Reel/Frame: 0745/0932
Correspondent: MARCIA J. DEARMAN
MCGUIRE WOODS BATTLE & BOOTHE
ONE JAMES CENTER
RICHMOND, VA 23219

Assignee: SF INVESTMENT, INC.
DELAWARE CORPORATION
SUITE 102
1409 FOULK ROAD
WILMINGTON, DELAWARE 19803-0108

Filing Correspondent:
CHARLES P. BOUKUS, JR.
KATHY J. MCKNIGHT
C/O BANNER, BIRCH, MCKIE & BECKETT
ELEVENTH FLOOR
1001 G STREET, N.W.
WASHINGTON, DC 20001-4597

Ref: 41
Group Four

CORNER TAVERN

CORNER TAVERN

Status: PUBLISHED
INTENT TO USE - CURRENT

USPTO Status: FIRST EXTENSION - GRANTED DEC 03, 2003
USPTO Status Date: DEC 03, 2003

Chronology:
Filed: AUG 19, 2002 **Serial Number:** 76-442,722
Published For Opposition: MAR 11, 2003

Goods/Services:
International Class 29: CHEESE

Applicant:
SUGAR BROOK SALES, LLC
WISCONSIN WI
641 BIRCH COURT
VERONA, WISCONSIN 53593

Filing Correspondent:
ERIK W. IBELE
NEIDER & BOUCHER, S.C.
440 SCIENCE DRIVE, SUITE 300

Ref: 42
Group Four

CRUMBLE CORNER

CRUMBLE CORNER

Status: REGISTERED
44(E) APPLICATION - CURRENT

USPTO Status: REGISTERED
USPTO Status Date: FEB 26, 2002

Chronology:

Filed: DEC 07, 1999 **Serial Number:** 75-866,172
Published For Opposition: DEC 04, 2001
Registered: FEB 26, 2002 **Registration Number:** 2,542,210

Goods/Services:

International Class 29: YOGURT; YOGURT-BASED BEVERAGES COMPRISING OF YOGURT AND HONEY; YOGURT ALSO CONTAINING FRUIT, YOGURT ALSO CONTAINING NUTS, YOGURT ALSO CONTAINING BREAKFAST CEREALS, ALL OF THE ABOVE MADE WHOLLY OR PRINCIPALLY OF YOGURT; JELLIES; JAMS; FRUIT SAUCES; FRUIT PUREES; CHEESE, NAMELY, FROMAGE FRAIS, MILK PRODUCTS, NAMELY, CHOCOLATE MILK AND MILK
International Class 30: PREPARATIONS FOR USE AS DESSERTS AND PUDDINGS, NAMELY, MIXES FOR MAKING BAKERY DESSERTS AND PUDDINGS; MILK PRODUCTS, NAMELY, ICE MILK, MILK SHAKES; BAKERY DESSERTS, DESSERT SOUFFLES, FLAVORED, SWEETENED GELATIN DESSERTS AND PUDDINGS

Registrant:

MUELLER DAIRY (UK) LIMITED
UNITED KINGDOM CORPORATION
SHREWSBURY ROAD, MARKET DRAYTON, SHROPSHIRE
TF9 3SQ, UNITED KINGDOM

Non-U.S. Application Claimed: 2166539
Non-U.S. Application Date: MAY 13, 1998
Non-U.S. Application Country: UNITED KINGDOM

Non-U.S. Registration Claimed: 2166539
Non-U.S. Registration Date: MAY 13, 1998
Non-U.S. Registration Country: UNITED KINGDOM

Filing Correspondent:

J. SCOTT EVANS
ADAMS LAW FIRM PA

Search: 110802811 **Analyst: DEBORAH BROMLEY** **USPTO Page: 63**

Exhibit "B" -- Evidence Submitted By Defendant IMA

TWO 1 ST UNION
301 S TRYON ST
CHARLOTTE NC 28282-1915

Domestic Representative: ADAMS LAW FIRM, P.A.

Ref: 43
Group Four

BAKER'S CORNER

BAKER'S CORNER

Status: PUBLISHED
INTENT TO USE - CURRENT

USPTO Status: PUBLISHED FOR OPPOSITION
USPTO Status Date: FEB 24, 2004

Chronology:

Filed: MAY 24, 2002 **Serial Number:** 76-417,201
Published For Opposition: MAR 04, 2003

Goods/Services:

International Class 30: CHOCOLATE NAMELY CHOCOLATE CHIPS

Applicant:

ALDI INC.
ILLINOIS CORPORATION
1200 NORTH KIRK ROAD
BATAVIA, ILLINOIS 60510-1479

Extension of Time to Oppose Number: 76417201
Extension of Time to Oppose Filed: MAR 20, 2003
Outcome: TERMINATED MAR 20, 2003
Potential Opposer:

KRAFT FOODS HOLDINGS, INC.
Correspondent:
SUSAN H. FROHLING
KRAFT FOODS HOLDINGS, INC.
THREE LAKES DRIVE
NORTHFIELD, IL 60093

Applicant:

Mark: BAKER'S CORNER
Serial Number: 76-417,201
Correspondent:
ALLEN L. LANDMEIER
SMITH, LANDMEIER, SKAAR & ELDERS, P.C.
15 NORTH SECOND STREET P.O. BOX 127
GENEVA, IL 60134-0127

TTAB Entry: #2 1000, MAR 20, 2003
TTAB Entry: #1 1011, MAR 20, 2003

Search: 110802811 **Analyst: DEBORAH BROMLEY** **USPTO Page: 64**

Exhibit "B" -- Evidence Submitted By Defendant IMA

Other U.S. Registrations: 1,495,279; 1,851,623; 2,538,072
Filing Correspondent:
ALLEN L. LANDMEIER
SMITH, LANDMEIER, SKAAR & ELDERS, P.C.
15 NORTH SECOND STREET
P.O. BOX 127
GENEVA, IL 60134-0127

Ref: 44
Group Four

CARVER'S CORNER

CARVER'S CORNER

Status: REGISTERED
USE APPLICATION - CURRENT

USPTO Status: REGISTERED
USPTO Status Date: JUL 02, 2002
Chronology:
Filed: JUN 28, 1999 **Serial Number:** 75-742,958
Published For Opposition: FEB 22, 2000
Opposition/Cancellation Filed: JUN 21, 2000
Registered: JUL 02, 2002 **Registration Number:** 2,588,982
Goods/Services:
International Class 29: SOUPS, GARDENS SALADS, VEGETABLE SALADS, PASTA SALADS AND OMELETS
International Class 30: SANDWICHES, BREAKFAST SANDWICHES, BAKERY DESSERTS, CHEESECAKE, BROWNIES, AND TIRAMISU
International Class 42: RESTAURANT AND CATERING SERVICES
First Used: SEP 01, 1999 (INTL. CL. 29)
In Commerce: SEP 01, 1999
First Used: SEP 01, 1999 (INTL. CL. 30)
In Commerce: SEP 01, 1999
First Used: SEP 01, 1999 (INTL. CL. 42)
In Commerce: SEP 01, 1999
Registrant:
K.S.C.H., INC.
CALIFORNIA CORPORATION
1 ROANWOOD DRIVE
ROLLING HILLS ESTATES, CALIFORNIA 90274

Opposition Number: 91119146
Outcome: TERMINATED, JUN 18, 2001
Plaintiff: SARAMAR LLC
Correspondent:
LISA GREENE
SARA LEE CORPORATION

470 HANES MILL RD WINSTON-SALEM, NC 27105

Defendant:

Registration Number: 2,588,982
Serial Number: 75-742,958
Trademark Defendant Correspondent:
JAMES M. SLOMINSKI
HORNBERGER GHAZARIANS & BREWER
444 S. FLOWER ST 31ST FL LOS ANGELES, CA 90071

TTAB Entry: #7 TERMINATED, JUN 18, 2001
TTAB Entry: #6 BOARD'S DECISION: DISMISSED, JUN 18, 2001

Filing Correspondent:
JAMES M. SLOMINSKI
HORNBERGER GHAZARIANS & BREWER
444 S. FLOWER ST
31ST FL
LOS ANGELES, CA 90071

Ref: 45
Group Four

CROOK'S CORNER

CROOK'S CORNER

Status: REGISTERED

USPTO Status: REGISTERED
USPTO Status Date: OCT 21, 1997

Chronology:

Filed: OCT 28, 1996 **Serial Number:** 75-188,212
Published For Opposition: JUL 29, 1997
Registered: OCT 21, 1997 **Registration Number:** 2,107,171

Goods/Services:

International Class 42: RESTAURANT
First Used: MAR 17, 1982 (INTL. CL. 42)
In Commerce: MAR 17, 1982

Registrant:

SQUID, INC.
NORTH CAROLINA CORPORATION
610 WEST FRANKLIN ST.
CHAPEL HILL, NORTH CAROLINA 27516

Filing Correspondent:

GEORGE NICHOLAS
101 B STREET
CARRBORO NC 27510

Exhibit "B" -- Evidence Submitted By Defendant IMA

Ref: 46
Group Four

HAWKEYE'S CORNER

HAWKEYE'S CORNER

Status: REGISTERED
USE APPLICATION - CURRENT

USPTO Status: SECTION 8 & 15 - ACCEPTED AND ACKNOWLEDGED
USPTO Status Date: MAY 14, 2001

Chronology:

Filed: OCT 21, 1994 **Serial Number:** 74-589,183
Published For Opposition: AUG 22, 1995
Registered: NOV 14, 1995 **Registration Number:** 1,935,266
Affidavit Section: REGISTERED - SEC. 8 (6-YR) ACCEPTED & SEC. 15 ACK. MAY 14, 2001

Goods/Services:

International Class 42: RESTAURANT SERVICES
First Used: 1981 (INTL. CL. 42)
In Commerce: 1981

Registrant:

HAWKEYE'S CORNER, INC.
TENNESSEE CORPORATION
710 TWENTY FIRST STREET
KNOXVILLE, TENNESSEE 37916

Filing Correspondent:

ROBERT O. FOX
LUEDEKA, NEELY & GRAHAM, P.C.
P O BOX 1871
KNOXVILLE, TN 37902

Ref: 47
Group Four

ROUND THE CORNER

ROUND THE CORNER

Status: REGISTERED
USE APPLICATION - CURRENT

USPTO Status: REGISTERED
USPTO Status Date: SEP 03, 2002

Chronology:

Filed: APR 02, 2001 **Serial Number:** 76-233,072
Published For Opposition: JUN 11, 2002
Registered: SEP 03, 2002 **Registration Number:** 2,614,650

Goods/Services:

International Class 42: RESTAURANT SERVICES
First Used: FEB 01, 1999 (INTL. CL. 42)

In Commerce: FEB 01, 1999

Registrant:

RYLAURKEN, INC.
COLORADO CORPORATION
3519 PATTERSON COURT
FORT COLLINS, COLORADO 80526

Filing Correspondent:

ANCEL W LEWIS JR
LEWIS & ROST
425 WEST MULBERRY
SUITE 101
FORT COLLINS COLORADO 80521

Ref: 48
Group Four

THE CHERRY CORNER

Status: REGISTERED
USE APPLICATION - CURRENT

USPTO Status: REGISTERED
USPTO Status Date: JUN 13, 2000

Chronology:

Filed: JUL 13, 1998 **Serial Number:** 75-517,714
Published For Opposition: MAR 21, 2000
Registered: JUN 13, 2000 **Registration Number:** 2,356,655

Goods/Services:

International Class 42: RESTAURANT SERVICES
First Used: FEB 14, 1998 (INTL. CL. 42)
In Commerce: FEB 14, 1999

Registrant:

DAMASTE INVESTMENTS LLC
DBA THE CHERRY CORNER
Composed Of: MARCO DANESE, RITA DANESE, DAVIDE DANESE, MASSIMO DANESE AND STEPHANO DANESE, ALL CITIZENS OF ITALY
GEORGIA PARTNERSHIP
P.O. BOX 1915
MACON, GEORGIA 31202

Filing Correspondent:

PO BOX 1915
MACON GA 31202

Search: 110892811 **Analyst:** DEBORAH BROMLEY **USPTO Page:** 68

Exhibit "B" -- Evidence Submitted By Defendant IMA

Ref: 49
Group Four

THE QUIET CORNER

THE QUIET CORNER

Status: REGISTERED

USPTO Status: SECTION 8 & 15 - ACCEPTED AND ACKNOWLEDGED
USPTO Status Date: OCT 30, 1989

Chronology:

Filed: SEP 23, 1983 **Serial Number:** 73-445,045
Published For Opposition: JUL 03, 1984
Registered: SEP 18, 1984 **Registration Number:** 1,297,182
Affidavit Section: REGISTERED - SEC. 8 (6-YR) ACCEPTED & SEC. 15 ACK. OCT 30, 1989

Goods/Services:

International Class 42: RESTAURANT SERVICES
First Used: AUG 01, 1983 (INTL. CL. 42)
In Commerce: AUG 01, 1983

Registrant:

F. W. WOOLWORTH CO., NEW YORK, N. Y.

Assignor: VENATOR GROUP SPECIALTY, INC.
NEW YORK CORPORATION
Signed: JUN 16, 1999

Brief: SECURITY AGREEMENT
Recorded: SEP 10, 1999
Reel/Frame: 1954/0001
Correspondent: ACCESS INFORMATION SERVICES
JACKIE LEE
1773 WESTERN AVENUE
P.O. BOX 3709
ALBANY, NY 12203

Assignee: BANK OF NEW YORK, THE, AS ADMINSTRATIVEAGENT
ONE WALL STREET
NEW YORK, NEW YORK 10286

Assignor: F.W. WOOLWORTH CO. CORPORATION
Signed: JUN 11, 1998

Brief: CHANGE OF NAME
Recorded: SEP 10, 1999
Reel/Frame: 1956/0289
Correspondent: ACCESS INFORMATION SERVICES
JACKIE LEE
1773 WESTERN AVENUE

P.O. BOX 3709
ALBANY, NY 12203

Assignee: VENATOR GROUP SPECIALTY, INC.
NEW YORK CORPORATION
233 BROADWAY
NEW YORK, NEW YORK 10279

Ref: 50
Group Four

KABAAB KORNER

KABAAB KORNER

Status: PENDING
INTENT TO USE - CURRENT

USPTO Status: NON-FINAL ACTION - MAILED
USPTO Status Date: NOV 26, 2003

Chronology:

Filed: MAY 08, 2003 **Serial Number:** 78-247,354

Goods/Services:

International Class 43: RESTAURANTS

Applicant:

INDIAN ESSEN, INC.
COLORADO CORPORATION
21921 EAST PEAKVIEW DRIVE
AURORA, COLORADO 80016

Filing Correspondent:

21921 EAST PEAKVIEW DRIVE
AURORA, CO 80016

Ref: 51
Group Four

CORNER BAKERY CAFE

CORNER BAKERY CAFE

Status: REGISTERED
PARTIAL SECTION 2(F)
USE APPLICATION - CURRENT

USPTO Status: REGISTERED
USPTO Status Date: JUL 23, 2002

Chronology:

Filed: AUG 18, 2000 **Serial Number:** 76-112,166
Published For Opposition: APR 30, 2002
Registered: JUL 23, 2002 **Registration Number:** 2,597,050

Goods/Services:

Exhibit "B" -- Evidence Submitted By Defendant IMA

International Class 42: RESTAURANT, CATERING, AND BAKERY SERVICES
First Used: APR 1999 (INTL. CL. 42)
In Commerce: APR 1999

Registrant:

BRINKER RESTAURANT CORPORATION
DELAWARE CORPORATION
6820 LBJ FREEWAY
DALLAS, TEXAS 75240

Claims:

AS TO "CORNER"

Disclaimers:

"BAKERY CAFE"

Other U.S. Registrations: 2,078,299; 2,145,582

Filing Correspondent:

ELISABETH A. EVERT
SIDLEY & AUSTIN
717 NORTH HARWOOD STREET, SUITE 3400
DALLAS, TEXAS 75201

Ref: 52
Group Four

CORNERSTONE COFFEE COMPANY

CORNERSTONE COFFEE COMPANY

Status: ABANDONED
INTENT TO USE - CURRENT

USPTO Status: ABANDONED-FAILURE TO RESPOND
USPTO Status Date: FEB 21, 2003

Chronology:

Filed: FEB 20, 2002 **Serial Number:** 78-109,863
Abandoned: FEB 21, 2003

Goods/Services:

International Class 35: RETAILER OF FRESH ROASTED GOURMET COFFEE

Applicant:

HODGE, BURKE A.
UNITED STATES INDIVIDUAL
7220 SUNWOOD WAY
CITRUS HEIGHTS, CALIFORNIA 95621

Filing Correspondent:

BURKE A. HODGE
7220 SUNWOOD WAY
CITRUS HEIGHTS CA 95621

Ref: 53
Group Four

COBBLESTONE MILL BREAKFAST BREADS

COBBLESTONE MILL BREAKFAST BREADS

Status: CANCELLED **Cancellation Section:** 8

USPTO Status: CANCELLED - SECTION 8
USPTO Status Date: DEC 13, 2003

Chronology:

Filed: APR 14, 1995 **Serial Number:** 74-661,524
Published For Opposition: JUN 11, 1996
Registered: MAR 11, 1997 **Registration Number:** 2,044,677
Cancelled: JAN 27, 2004

Goods/Services:

International Class 30: BAKERY PRODUCTS, NAMELY BREAD
First Used: NOV 03, 1995 (INTL. CL. 30)
In Commerce: NOV 03, 1995

Registrant:

FLOWERS FAMILY BAKERIES, INC.
DELAWARE CORPORATION
1100 NORTH MARKET SQUARE, SUITE 780
WILMINGTON TRUST CENTER
WILMINGTON, DELAWARE 19801

Assignor: FLOWERS FAMILY BAKERIES, INC.
DELAWARE CORPORATION
Signed: DEC 02, 1996

Brief: CHANGE OF NAME
Recorded: MAY 27, 1997
Reel/Frame: 1595/0985
Correspondent: KILPATRICK STOCKTON LLP
SHARAN B. FLEXNER
1100 PEACHTREE STREET
ATLANTA, GA 30309

Assignee: FLOWERS BAKERIES, INC.
DELAWARE CORPORATION
SUITE 780
1100 NORTH MARKET SQUARE
WILMINGTON, DELAWARE 19801

Assignor: FLOWERS BAKERIES, INC.
DELAWARE CORPORATION
Signed: DEC 16, 1997

Brief: SEE RECORDING ON REEL 1766, FRAME 0568. (RE-RECORDED

Search: 110802811

Analyst: DEBORAH BROMLEY

USPTO Page: 72

TO REPLACE A INCORRECT COVER SHEET. REVISED COVER SHEET CHANGES ASSIGNEE'S STATE OF INCORPORATION FROM DELAWARE TO SOUTH CAROLINA.)
Recorded: JUL 27, 1998
Reel/Frame: 1765/0583
Correspondent: KILPATRICK STOCKTON LLP
SHARAN B. FLEXNER
1100 PEACHTREE STREET, SUITE 2800
ATLANTA, GA 30309-4530

Assignee: FLOWERS BAKERIES BRANDS, INC.
DELAWARE CORPORATION
1100 NORTH MARKET SQUARE, SUITE 780
WILMINGTON, DELAWARE 19801

Assignor: FLOWERS BAKERIES, INC.
DELAWARE CORPORATION
Signed: DEC 16, 1997

Brief: INVALID RECORDAL, SEE RECORDING AT REEL 1765, FRAME 0583.
Recorded: JUL 27, 1998
Reel/Frame: 1766/0568
Correspondent: KILPATRICK STOCKTON LLP
SHARAN B. FLEXNER
1100 PEACHTREE STREET, SUITE 2800
ATLANTA, GA 30309-4530

Assignee: FLOWERS BAKERIES BRANDS, INC.
SOUTH CAROLINA CORPORATION
1100 NORTH MARKET SQUARE, SUITE 780
WILMINGTON, DELAWARE 19801

Assignor: FLOWERS BAKERIES BRANDS, INC.
DELAWARE CORPORATION
Signed: MAY 15, 1998

Brief: (INVALID RECORDING), SEE RECORDIMG AT REEL 1775, FRAME 0955.
Recorded: JUL 27, 1998
Reel/Frame: 1768/0162
Correspondent: KILPATRICK STOCKTON LLP
SHARAN B. FLEXNER
1100 PEACHTREE STREET, SUITE 2800
ATLANTA, GA 30309-4530

Assignee: FLOWERS BAKERIES BRANDS, INC.
SOUTH CAROLINA CORPORATION

7101 ASHVILLE HIGHWAY
SPARTANBURG, GEORGIA 29303

Assignor: FLOWERS BAKERIES BRANDS, INC.
DELAWARE CORPORATION
Signed: MAY 15, 1998

Brief: CERTIFCATE OF AGREEMENT OF MERGER
Recorded: JUL 27, 1998
Reel/Frame: 1775/0955
Correspondent: KILPATRICK STOCKTON LLP
SHARAN B. FLEXNER
1100 PEACHTREE STREET, SUITE 2800
ATLANTA, GA 30309-4530

Assignee: FLOWERS BAKERIES BRANDS, INC.
SOUTH CAROLINA CORPORATION
7101 ASHVILLE HIGHWAY
SPARTANBURG, SOUTH CAROLINA 29303

Assignor: FLOWERS BAKERIES BRANDS, INC.
SOUTH CAROLINA CORPORATION
Signed: DEC 27, 2000

Brief: ASSIGNS THE ENTIRE INTEREST AND GOOD WILL
Recorded: MAR 22, 2001
Reel/Frame: 2295/0574
Correspondent: WILLIAM H. BREWSTER, ESQ.
1100 PEACHTREE ST., SUITE 2800
ATLANTA, GA 30309

Assignee: FLOWERS BAKERIES BRANDS, INC.
DELAWARE CORPORATION
1105 NORTH MARKET STREET, SUITE 1300
WILMINGTON, DELAWARE 19899

Assignor: FLOWERS BAKERIES BRANDS, INC.
DELAWARE CORPORATION
Signed: MAR 26, 2001

Brief: SECURITY INTEREST
Recorded: MAY 22, 2001
Reel/Frame: 2317/0954
Correspondent: WHITE & CASE LLP
BRIAN JAENICKE, LEGAL ASSISTANT
1155 AVENUE OF THE AMERICAS
NEW YORK, NY 10036

Exhibit "B" -- Evidence Submitted By Defendant IMA

Assignee: BANKERS TRUST COMPANY
130 LIBERTY STREET
NEW YORK, NEW YORK 10006

Disclaimers:
"BREAKFAST BREADS"

Other U.S. Registrations: 1,145,190; 1,326,230; 1836321 AND OTHERS

Filing Correspondent:
MILES J. ALEXANDER
KILPATRICK & CODY
1100 PEACHTREE STREET
ATLANTA, GA 30309-4530

Ref: 54
Group Four

COBBLESTONE FARM

COBBLESTONE FARM

Status: CANCELLED **Cancellation Section:** 8
USE APPLICATION - CURRENT

USPTO Status: CANCELLED - SECTION 8
USPTO Status Date: JAN 05, 2002

Chronology:
Filed: NOV 07, 1978 **Serial Number:** 73-192,439
Published For Opposition: AUG 12, 1980
Registered: DEC 30, 1980 **Registration Number:** 1,145,190
Affidavit Section: REGISTERED - SEC. 8 (6-YR) ACCEPTED & SEC. 15 ACK. MAY 21, 1986
Cancelled: FEB 19, 2002

Goods/Services:
International Class 30: BAKERY PRODUCTS-NAMELY, COOKIES, CRACKERS AND CAKES
First Used: OCT 12, 1978 (INTL. CL. 30)
In Commerce: OCT 12, 1978

Registrant:
FLOWERS INDUSTRIES, INC.
GEORGIA CORPORATION
P. O. BOX 1338
THOMASVILLE, GEORGIA 31792

Assignor: FLOWERS INDUSTRIES, INC.
DELAWARE CORPORATION
U.S. HIGHWAY 19 SOUTH
THOMASVILLE, GEORGIA
Acknowledged: JAN 31, 1986

Brief: ASSIGNS THE ENTIRE INTEREST AND GOOD WILL

Search: 110802811 **Analyst: DEBORAH BROMLEY** **USPTO Page: 75**

Exhibit "B" -- Evidence Submitted By Defendant IMA

Recorded: MAY 01, 1986
Reel/Frame: 0525/0025
Correspondent: HURT RICHARDSON, ET AL.
1100 PEACHTREE CENTER HARRIS TOWER
233 PEACHTREE ST. N.E.
ATLANTA, GA 30043

Assignee: FLOWERS FAMILY BAKERIES, INC.
DELAWARE CORPORATION
WILMINGTON TRUST CENTER, 1100 NORTH MARKET ST.
WILMINGTON, DELAWARE 19801

Assignor: RING AROUND PRODUCTS, INC.
DELAWARE CORPORATION
DALLAS, TEXAS
Acknowledged: APR 12, 1988

Brief: ASSIGNS THE ENTIRE INTEREST AND GOODWILL AS OF NOVEMBER 21, 1984
Recorded: APR 18, 1988
Reel/Frame: 0600/0766
Correspondent: HAMES H. ENDACOTT
BOX 3466
HOUSTON, TX 77253

Assignee: ROHM AND HAAS SEEDS, INC.
DELAWARE CORPORATION
PHILADELPHIA, PENNSYLVANIA

Assignor: FLOWERS FAMILY BAKERIES, INC.
DELAWARE CORPORATION
Signed: DEC 02, 1996

Brief: CHANGE OF NAME
Recorded: MAY 27, 1997
Reel/Frame: 1595/0985
Correspondent: KILPATRICK STOCKTON LLP
SHARAN B. FLEXNER
1100 PEACHTREE STREET
ATLANTA, GA 30309

Assignee: FLOWERS BAKERIES, INC.
DELAWARE CORPORATION
SUITE 780
1100 NORTH MARKET SQUARE
WILMINGTON, DELAWARE 19801

Assignor: FLOWERS BAKERIES, INC.

DELAWARE CORPORATION
Signed: DEC 16, 1997

Brief: SEE RECORDING ON REEL 1766, FRAME 0568. (RE-RECORDED TO REPLACE A INCORRECT COVER SHEET. REVISED COVER SHEET CHANGES ASSIGNEE'S STATE OF INCORPORATION FROM DELAWARE TO SOUTH CAROLINA.)
Recorded: JUL 27, 1998
Reel/Frame: 1765/0583
Correspondent: KILPATRICK STOCKTON LLP
SHARAN B. FLEXNER
1100 PEACHTREE STREET, SUITE 2800
ATLANTA, GA 30309-4530

Assignee: FLOWERS BAKERIES BRANDS, INC.
DELAWARE CORPORATION
1100 NORTH MARKET SQUARE, SUITE 780
WILMINGTON, DELAWARE 19801

Assignor: FLOWERS BAKERIES, INC.
DELAWARE CORPORATION
Signed: DEC 16, 1997

Brief: INVALID RECORDAL, SEE RECORDING AT REEL 1765, FRAME 0583.
Recorded: JUL 27, 1998
Reel/Frame: 1766/0568
Correspondent: KILPATRICK STOCKTON LLP
SHARAN B. FLEXNER
1100 PEACHTREE STREET, SUITE 2800
ATLANTA, GA 30309-4530

Assignee: FLOWERS BAKERIES BRANDS, INC.
SOUTH CAROLINA CORPORATION
1100 NORTH MARKET SQUARE, SUITE 780
WILMINGTON, DELAWARE 19801

Assignor: FLOWERS BAKERIES BRANDS, INC.
DELAWARE CORPORATION
Signed: MAY 15, 1998

Brief: (INVALID RECORDING), SEE RECORDIMG AT REEL 1775, FRAME 0955.
Recorded: JUL 27, 1998
Reel/Frame: 1768/0162
Correspondent: KILPATRICK STOCKTON LLP
SHARAN B. FLEXNER
1100 PEACHTREE STREET, SUITE 2800

ATLANTA, GA 30309-4530

Assignee: FLOWERS BAKERIES BRANDS, INC.
SOUTH CAROLINA CORPORATION
7101 ASHVILLE HIGHWAY
SPARTANBURG, GEORGIA 29303

Assignor: FLOWERS BAKERIES BRANDS, INC.
DELAWARE CORPORATION
Signed: MAY 15, 1998

Brief: CERTIFCATE OF AGREEMENT OF MERGER
Recorded: JUL 27, 1998
Reel/Frame: 1775/0955
Correspondent: KILPATRICK STOCKTON LLP
SHARAN B. FLEXNER
1100 PEACHTREE STREET, SUITE 2800
ATLANTA, GA 30309-4530

Assignee: FLOWERS BAKERIES BRANDS, INC.
SOUTH CAROLINA CORPORATION
7101 ASHVILLE HIGHWAY
SPARTANBURG, SOUTH CAROLINA 29303

Assignor: FLOWERS BAKERIES BRANDS, INC.
SOUTH CAROLINA CORPORATION
Signed: JUL 30, 1998

Brief: ASSIGNS THE ENTIRE INTEREST AND GOOD WILL
Recorded: FEB 03, 1999
Reel/Frame: 1847/0091
Correspondent: KILPATRICK STOCKTON LLP
SHARAN B. FLEXNER
1100 PEACHTREE STREET, SUITE 2800
ATLANTA, GA 30309-4530

Assignee: MRS. SMITH'S BRANDS, INC.
SOUTH CAROLINA CORPORATION
1923 FLOWERS CIRCLE
THOMASVILLE, GEORGIA 31757

Filing Correspondent:
JULIUS R. LUNSFORD, JR.
HURT RICHARDSON GARNER TODD & CADENHEAD
1100 PEACHTREE CENTER HARRIS TOWER
233 PEACHTREE ST., N.E.
ATLANTA, GA 30043

Ref: 55
Group Four

CORNERSTONE MARKETPLACE

CORNERSTONE MARKETPLACE

Status: ABANDONED
INTENT TO USE - CURRENT

USPTO Status: ABANDONED-NO STATEMENT OF USE FILED
USPTO Status Date: JAN 24, 2003

Chronology:

Filed: AUG 21, 2001 **Serial Number:** 76-302,957
Published For Opposition: APR 30, 2002
Abandoned: JAN 24, 2003

Goods/Services:

International Class 29: FROZEN FOOD ITEMS, NAMELY FROZEN POULTRY

Applicant:

GOOD SOURCE SOLUTIONS, INC
DELAWARE CORPORATION
6155 CORNERSTONE COURT EAST SUITE 225
SAN DIEGO, CALIFORNIA 92121

Filing Correspondent:

6155 CORNERSTONE CT E STE 225
SAN DIEGO CA 92121-4738

Ref: 56
Group Four

CORNERSTONE JAVA

CORNERSTONE JAVA

Status: ABANDONED
INTENT TO USE - CURRENT

USPTO Status: ABANDONED-NO STATEMENT OF USE FILED
USPTO Status Date: NOV 12, 1999

Chronology:

Filed: JUL 06, 1998 **Serial Number:** 75-512,012
Published For Opposition: FEB 16, 1999
Abandoned: NOV 12, 1999

Goods/Services:

International Class 30: COFFEE AND COFFEE BEANS

Applicant:

S & D COFFEE, INC.
NORTH CAROLINA CORPORATION
300 U.S. HIGHWAY 29 SOUTH
PO BOX 1628
CONCORD, NORTH CAROLINA 28026-1628

Disclaimers:

"JAVA"

Filing Correspondent:

EVAN KENT AUBERRY
SMITH HELMS MULLISS & MOORE
POST OFFICE BOX 21927
GREENSBORO, NC 27420

Ref: 57
Group Four

CORNERSTONE GRILL

Status: CANCELLED **Cancellation Section:** 8
USE APPLICATION - CURRENT

USPTO Status: CANCELLED - SECTION 8
USPTO Status Date: JUL 13, 2002

Chronology:

Filed: JUN 30, 1994 **Serial Number:** 74-543,755
Published For Opposition: APR 11, 1995
Registered: JUL 04, 1995 **Registration Number:** 1,903,243
Cancelled: AUG 27, 2002

Goods/Services:

International Class 42: RESTAURANT SERVICES
First Used: APR 11, 1994 (INTL. CL. 42)
In Commerce: APR 11, 1994

Registrant:

HOF'S BREA, INC.
CALIFORNIA CORPORATION
4241 LONG BEACH BLVD.
LONG BEACH, CALIFORNIA 90807

Assignor: DECISIS CORPORATION
CALIFORNIA CORPORATION
Signed: NOV 03, 2000

Brief: ASSIGNS THE ENTIRE INTEREST AND GOOD WILL
Recorded: NOV 03, 2000
Reel/Frame: 2174/0126
Correspondent: GRAY CARY WARE & FREIDENRICH
ALLYN TAYLOR, ESQ
400 HAMILTON AVENUE
PALO ALTO, CA 94301-1823

Assignee: KADIRI, INC.
CALIFORNIA CORPORATION

1350 OLD BAYSHORE, SUITE 650
BURLINGAME, CALIFORNIA 94010

Disclaimers:

"GRILL"

Filing Correspondent:

VERN SCHOOLEY
FULWIDER, PATTON, LEE & UTECHT
200 OCEANGATE, SUITE 1550
POST OFFICE BOX 22615
LONG BEACH, CA 90801-5615

Ref: 58
Group Four

CORNERSTONE GRILL

CORNERSTONE GRILL

Status: CANCELLED **Cancellation Section:** 8
USE APPLICATION - CURRENT

USPTO Status: CANCELLED - SECTION 8
USPTO Status Date: JUL 06, 2002

Chronology:

Filed: JUN 10, 1994 **Serial Number:** 74-535,711
Published For Opposition: APR 04, 1995
Registered: JUN 27, 1995 **Registration Number:** 1,902,072
Cancelled: AUG 20, 2002

Goods/Services:

International Class 42: RESTAURANT SERVICES
First Used: APR 11, 1994 (INTL. CL. 42)
In Commerce: APR 11, 1994

Registrant:

HOF'S BREA, INC.
CALIFORNIA CORPORATION
4241 LONG BEACH BLVD.
LONG BEACH, CALIFORNIA 90807

Disclaimers:

"GRILL"

Filing Correspondent:

VERN SCHOOLEY
FULWIDER, PATTON, LEE & UTECHT
200 OCEANGATE, SUITE 1550
POST OFFICE BOX 22615
LONG BEACH, CA 90801-5615

Ref: 59
Group Four

KOSHER CORNER

KOSHER CORNER

Status: CANCELLED **Cancellation Section:** 8
USE APPLICATION - CURRENT

USPTO Status: CANCELLED - SECTION 8
USPTO Status Date: JUL 03, 2000

Chronology:

Filed: MAY 15, 1992 **Serial Number:** 74-275,733
Published For Opposition: APR 06, 1993
Registered: JUN 29, 1993 **Registration Number:** 1,779,077
Cancelled: AUG 15, 2000

Goods/Services:

International Class 29: FOOD PRODUCTS; NAMELY, FILLET OF SOLE VEGETABLE DIJON SALAD; SWEET AND SOUR CHICKEN; PREPARED MEATS; NAMELY, ORANGE-LEMON LOAF; STUFFED CABBAGE WITH CHICKEN; SOUPS; FISH AND MEATS
First Used: APR 14, 1992 (INTL. CL. 29)
In Commerce: APR 14, 1992

Registrant:

KOSHER CORNER
NEW YORK CORPORATION
204 NEW YORK AVENUE
HUNTINGTON, NEW YORK 11743

Disclaimers:

"KOSHER"

Filing Correspondent:

MYRON AMER
MYRON AMER, P.C.
114 OLD COUNTRY ROAD, SUITE 310
MINEOLA, NY 11501

Ref: 60
Group Four

CORNER PUB

Status: ABANDONED
USE APPLICATION - CURRENT

USPTO Status: ABANDONED-FAILURE TO RESPOND
USPTO Status Date: APR 10, 2002

Chronology:

Filed: FEB 28, 2000 **Serial Number:** 75-950,150
Abandoned: APR 10, 2002

Goods/Services:

International Class 39: DELIVERY OF FOOD BY RESTAURANTS
International Class 42: RESTAURANTS; RESTAURANTS FEATURING HOME DELIVERY; CARRY-OUT RESTAURANTS AND BAR SERVICES
First Used: AUG 01, 1987 (INTL. CL. 42)
In Commerce: AUG 01, 1987

Applicant:

ANTIETAM TAVERN INC.
MARYLAND CORPORATION
158 SOUTH MULBERRY ST.
HAGERSTOWN, MARYLAND 21740

Design Phrase:

THE MARK CONSISTS OF A LEPRECHAUN DRESSED IN VEST, PANTS AND HAT. SEATING ON A POT FILLED WITH COINS AND HOLDING A BEER, WITH BUBBLES FLOATING UP, AND A SHAMROCK (4 LEAF CLOVER).THIS DOES NOT EXCLUDE THE PROTECTION OF THIS MARK IN ANY COLORS. THIS DOES NOT EXCLUDE THE PROTECTION OF THIS MARK PRODUCED IN ANY COLORS..

Disclaimers:

"CORNER PUB"

Filing Correspondent:

ANTIETAM TAVERN INC.
158 SOUTH MULBERRY ST.
HAGERSTOWN MD 21740

Ref: 61
Group Four

CORNER DELI CUISINE

CORNER DELI CUISINE

Status: CANCELLED **Cancellation Section:** 8
USE APPLICATION - CURRENT

Search: 110802811 **Analyst:** DEBORAH BROMLEY **USPTO Page:** 83

USPTO Status: CANCELLED - SECTION 8
USPTO Status Date: MAY 24, 2003

Chronology:

Filed: SEP 29, 1994 **Serial Number:** 74-580,286
Published For Opposition: MAY 28, 1996
Registered: AUG 20, 1996 **Registration Number:** 1,994,475
Cancelled: JUL 08, 2003

Goods/Services:

International Class 29: PROCESSED CABBAGE, PROCESSED POTATOES WITH VEGETABLE AND EGG, SALADS EXCEPT MACARONI, RICE AND PASTA SALAD, NAMELY POTATO AND COLE SLAW SALADS AND CHILI
International Class 30: QUICHE, POT PIES, PUDDINGS AND MACARONI AND PASTA SALADS
First Used: JUN 26, 1992 (INTL. CL. 29)
In Commerce: JUN 26, 1992
First Used: JUN 26, 1992 (INTL. CL. 30)
In Commerce: JUN 26, 1992

Registrant:

AMERICAN STORES COMPANY
DELAWARE CORPORATION
709 E. SOUTH TEMPLE
SALT LAKE CITY, UTAH 84102

Assignor: AMERICAN STORES COMPANY
DELAWARE CORPORATION
Signed: FEB 01, 1996

Brief: ASSIGNS THE ENTIRE INTEREST AND GOOD WILL
Recorded: MAR 25, 1996
Reel/Frame: 1516/0251
Correspondent: MICHAEL J. DALTON
300 LAKESIDE DRIVE
SUITE 1900
OAKLAND, CA 94612

Assignee: JEWEL COMPANIES, INC.
DELAWARE CORPORATION
709 EAST SOUTH TEMPLE
SALT LAKE CITY, UTAH 84102

Assignor: AMERICAN STORES COMPANY
DELAWARE CORPORATION
Signed: FEB 01, 1996

Brief: ASSIGNS THE ENTIRE INTEREST AND GOOD WILL
Recorded: OCT 23, 1996
Reel/Frame: 1521/0395

Correspondent: MICHAEL J. DALTON
300 LAKESIDE DRIVE
SUITE 1900
OAKLAND, CA 94612

Assignee: JEWEL COMPANIES, INC.
DELAWARE CORPORATION
709 EAST SOUTH TEMPLE
SALT LAKE CITY, UTAH 84102

Disclaimers:
"DELI CUISINE"

Other U.S. Registrations: 1,339,708

Filing Correspondent:
STANLEY B. KITA
HOWSON AND HOWSON
SPRING HOUSE CORPORATE CENTER
BOX 457
SPRING HOUSE, PA 19477

Ref: 62
Group Five

COBBLESTONE CORNERS

COBBLESTONE CORNERS

Status: REGISTERED

USPTO Status: REGISTERED
USPTO Status Date: APR 25, 2000

Chronology:
Filed: JUL 14, 1997 **Serial Number:** 75-323,904
Published For Opposition: MAY 04, 1999
Registered: APR 25, 2000 **Registration Number:** 2,345,932

Goods/Services:
International Class 21: FIGURES, NAMELY, COLLECTIBLE FIGURINES MADE OF PORCELAIN
First Used: JUL 1998 (INTL. CL. 21)
In Commerce: JUL 1998

Registrant:
FOUR STAR INTERNATIONAL TRADING COMPANY
TAIWAN CORPORATION
3330 E. 79TH STREET
CLEVELAND, OHIO 44127

Filing Correspondent:
SUSAN L MIZER
BENESCH FRIEDLANDER COPLAN & ARONOFF LLP
2300 BP AMERICA BLDG
200 PUBLIC SQ

Search: 110802811 **Analyst: DEBORAH BROMLEY** **USPTO Page: 85**

COBBLESTONE CORNER

CLEVELAND OH 44114-2378

Exhibit "B" -- Evidence Submitted By Defendant IMA

State Summary Page

Citation	Status	Class(es)	Owner	Registration Number	State	Page	Record of Interest
GROUP ONE							
No Group One Matches							
GROUP TWO							
No Group Two Matches							
GROUP THREE							
1. **COBBLESTONE**	Renewed	33	SAUL LEVINE	75662	CA	94	☐
2. **CORNERSTONE**	Not renewed	42	BRUCE TACKE	N/A	WI	95	☐
3. **CORNERSTONE**	Registered	42	BRUCE TACKE	N/A	WI	95	☐
GROUP FOUR							
4. **COBBLESTONE CHRISTMAS BLEND**	Registered	30	JOYCE ANNE HOGAN	55138	MA	96	☐
5. **COBBLESTONE CUSTARD**	Registered	30	JANET STOFFER	N/A	WI	96	☐
6. **COBBLESTONE BREWERY & PUB**	Registered	42	BARCLAY BEATTY BREW I	N/A	VA	97	☐
7. **COBBLESTONE INN**	Registered	42	JEROME J. MULLINS	N/A	WI	97	☐
8. **CORNER DELI**	Expired	30	DCB, INC.	97179	CA	98	☐

Exhibit "B" -- Evidence Submitted By Defendant IMA

Citation	Status	Class(es)	Owner	Registration Number	State	Page	Record of Interest
9. AROUND THE CORNER	Renewed	39, 42	JEAN SKLADANEK	24290	WI	98	☐
10. AROUND THE CORNER	Renewed	39, 42	JEAN SKLADANEK	24289	WI	99	☐
11. THE CORNER BAR	Registered	42	HOUSTON'S RESTUARANT	43448	CA	101	☐
12. JAVA JOE'S GOURMET CORNER	Not renewed	42	DITTER, INC.	1993S3130	MD	101	☐
13. THE CORNER DELI	Expired	30	DCB, INC.	20872	WA	102	☐

GROUP FIVE

No Group Five Matches

Exhibit "B" -- Evidence Submitted By Defendant IMA

ANALYST REVIEW - STATE REPORT

Search Information

Type of Search: **FULL SEARCH**
Mark: **COBBLESTONE CORNER**
Goods/Services: **MEAT, CHEESE, REFRIGERATED SALADS, PICKLES, MUSTARD, POTATO CHIPS, FROZEN SOUPS, FROZEN ENTREES, COOKED DELI ITEMS INCLUDING SAUERKRAUT**

Data Information

This search report covers State Trademark data updated by T&T on **04/12/2004**. While we make diligent efforts to secure timely updates from each state, the currentness of trademark information varies by state. See the chart below for the dates of most recent registration for each state.

STATE NAME	REGISTRATIONS THROUGH	STATE NAME	REGISTRATIONS THROUGH
ALABAMA	+ 12/24/2003	MONTANA	+ 07/23/2003
ALASKA	+ 08/14/2003	NEBRASKA	+ 11/24/2003
AMERICAN SAMOA	09/01/2003	NEVADA	+ 10/30/2003
ARIZONA	+ 10/31/2003	NEW HAMPSHIRE	+ 12/23/2003
ARKANSAS	10/31/2003	NEW JERSEY	+ 12/24/2003
CALIFORNIA	+ 11/25/2003	NEW MEXICO	+ 01/30/2004
COLORADO	+ 10/17/2003	NEW YORK	+ 08/05/2003
CONNECTICUT	+ 12/31/2003	NORTH CAROLINA	10/31/2003
DELAWARE	+ 12/31/2003	NORTH DAKOTA	+ 11/21/2003
FLORIDA	+ 10/31/2003	OHIO	10/27/2003
GEORGIA	+ 11/18/2003	OKLAHOMA	+ 04/29/2003
HAWAII	+ 06/30/2003	OREGON	+ 10/31/2003
IDAHO	01/30/2004	PENNSYLVANIA	02/28/2003
ILLINOIS	10/23/2003	*PUERTO RICO	08/29/2003
INDIANA	+ 10/31/2003	RHODE ISLAND	+ 03/28/2003
IOWA	+ 10/28/2003	SOUTH CAROLINA	+ 09/29/2003
KANSAS	+ 10/30/2003	SOUTH DAKOTA	+ 12/31/2003
KENTUCKY	+ 09/29/2003	TENNESSEE	+ 10/31/2003
LOUISIANA	+ 10/30/2003	TEXAS	+ 06/30/2003
MAINE	+ 09/18/2003	UTAH	+ 12/22/2003
MARYLAND	11/25/2003	VERMONT	+ 12/15/2003
MASSACHUSETTS	+ 10/30/2003	VIRGINIA	+ 09/29/2003
MICHIGAN	10/30/2003	WASHINGTON	+ 11/19/2003
MINNESOTA	+ 11/24/2003	WEST VIRGINIA	+ 08/08/2003
MISSISSIPPI	+ 09/19/2003	WISCONSIN	+ 10/22/2003
MISSOURI	+ 10/31/2003	WYOMING	+ 12/24/2003

+ Indicates that our trademark database for this state contains images, packaging samples and specimens of use filed with trademark applications.

* Because of the manual nature of data collection for Puerto Rico, we are unable to guarantee that all records through the coverage date are included.

Exhibit "B" -- Evidence Submitted By Defendant IMA

In-Use Information

Citations provide information about whether and how potentially conflicting trademarks are being used on the Web. We provide information, when available, on the Citation, Owner and its use in commerce for all Group One citations located across all sources (except Domain Names). The search results included in this section are a selection of the information available at the time of the preparation of this search report, and are not a comprehensive representation of the Web. Any of the Web links included in your search report may become unavailable at any time following the preparations of this report.

Exhibit "B" -- Evidence Submitted By Defendant IMA

Analyst Information

Name: DEBORAH BROMLEY

Comments: I developed the following search strategy to provide a comprehensive, accurate report. These queries, listed below, retrieved 308 potential references from the database. After careful review and analysis I have selected 13 records for your review.

Search Strategy

Type	Query	Classes	#References
1. EXACT MARK GOODS PREFIX	(C,K)O(BB, B)LESTON(E,ES)(C, K)ORNER <and> (MEAT,CHEESE, SALAD,PICKLE, MUSTARD,CHIP,SOUP, ENTREE,DELI, SAUERKRAUT)	ALL CLASSES	0
2. EXACT MARK	(C,K)O(BB, B)LESTON(E,ES)(C, K)ORNER	29,30,31,32	0
3. EXACT MARK	(C,K)O(BB, B)LESTON(E,ES)(C, K)ORNER	ALL CLASSES	0
4. PREFIX GOODS PREFIX	(C,K)O(BB, B)LESTONE(C, K)ORNER <and> (MEAT,CHEESE, SALAD,PICKLE, MUSTARD,CHIP,SOUP, ENTREE,DELI, SAUERKRAUT)	ALL CLASSES	0
5. PREFIX	(C,K)O(BB, B)LESTONE(C, K)ORNER	29,30,31,32	0
6. PREFIX	(C,K)O(BB, B)LESTONE(C, K)ORNER	ALL CLASSES	0
7. PREFIX	(C,K)O(BB, B)LESTONE(C,K)OR	ALL CLASSES	0
8. LETTERSTRING LETTERSTRING LETTERSTRING	CO(B,BB)LE <and> STONE <and> CORNER	ALL CLASSES	0
9. LETTERSTRING LETTERSTRING	(C,K)O(BB,B)LE <and> (C,K)ORNER	ALL CLASSES	0
10. LETTERSTRING	STONE <and>	ALL CLASSES	0

Exhibit "B" -- Evidence Submitted By Defendant IMA

Search Strategy

	Type	Query	Classes	#References
	LETTERSTRING GOODS PREFIX	(C,K)ORNER <and> (MEAT,CHEESE, SALAD,PICKLE, MUSTARD,CHIP,SOUP, ENTREE,DELI, SAUERKRAUT)		
11.	LETTERSTRING LETTERSTRING	STONE <and> (C,K)ORNER	29,30,31,32	1
12.	PREFIX	(C,K)O(BB, B)LESTONE(C,K)	29,30,31,32	2
13.	PREFIX SUFFIX	(C,K)O(BB,B)LEST <and> ER	29,30,31,32	0
14.	EXACT MARK	(C,K)O(BB, B)LESTON(E,ES)	29,30,31,32	0
15.	LETTERSTRING GOODS PREFIX	(C,K)O(BB,B)LESTON <and> (MEAT,CHEESE, SALAD,PICKLE, MUSTARD,CHIP,SOUP, ENTREE,DELI, SAUERKRAUT)	ALL CLASSES	0
16.	PREFIX	(C,K)O(BB,B)LESTON	29,30,31,32	0
17.	LETTERSTRING	(C,K)O(BB,B)LEST	29,30,31,32	0
18.	PREFIX LETTERSTRING	(C,K)OB <and> (C,K)ORNER	29,30,31,32	0
19.	SUFFIX	ON(E,ES)(C,K)ORNER	29,30,31,32	0
20.	SUFFIX	N(E,ES)(C,K)ORNER	29,30,31,32	0
21.	EXACT MARK	(C,K)ORNER	29,30,31,32	0
22.	LETTERSTRING GOODS PREFIX	(C,K)ORNER <and> (MEAT,CHEESE, SALAD,PICKLE, MUSTARD,CHIP,SOUP, ENTREE,DELI, SAUERKRAUT)	ALL CLASSES	5
23.	PREFIX LETTERSTRING	(C,K) <and> (C,K)ORNER	29,30,31,32	14
24.	PREFIX	(C,K)ORNER	29,30,31,32	21
25.	LETTERSTRING	(C,K)ORNER	29,30,31,32	0

Search Strategy

	Type	Query	Classes	#References
26.	LETTERSTRING	(C,K)O(B,BB)LESTON	ALL CLASSES	19
27.	LETTERSTRING LETTERSTRING GOODS PREFIX	STONE <and> CORNER <and> (RESTAURANT,CAFE, DINER)	ALL CLASSES	5
28.	LETTERSTRING LETTERSTRING	STONE <and> CORNER	33,42,43	55
29.	LETTERSTRING GOODS PREFIX	CORNER <and> (RESTAURANT,CAFE, DINER)	ALL CLASSES	25
30.	LETTERSTRING	CORNER	33,42,43	161

Class Identification

29	MEATS AND PROCESSED FOODS
30	STAPLE FOODS
31	NATURAL AGRICULTURAL PRODUCTS
32	LIGHT BEVERAGES
33	WINES AND SPIRITS
42	SCIENTIFIC, TECHNOLOGICAL AND LEGAL SERVICES
43	SERVICES FOR PROVIDING FOOD AND DRINK; TEMPORARY ACCOMMODATION

Exhibit "B" -- Evidence Submitted By Defendant IMA

Ref: 1
Group Three

COBBLESTONE

COBBLESTONE

State: CALIFORNIA
Status: RENEWED

Chronology:

Registered: JAN 03, 1985 **Registration Number:** 75662
Renewed: DEC 05, 1994 **Renewal Registration Number:** 14024

Goods/Services:

INTERNATIONAL CLASS: 33 WINE.
State Class: 47
First Use In State: JAN 01, 1975
First Use Anywhere: JAN 01, 1975

Registrant:

SAUL LEVINE
DBA COBBLESTONE VINEYARDS
GENERAL PARTNERSHIP
2410 WESTRIDGE ROAD
LOS ANGELES, CALIFORNIA 90049

ANITA LEVINE
DBA COBBLESTONE VINEYARDS
GENERAL PARTNERSHIP
2410 WESTRIDGE ROAD
LOS ANGELES, CALIFORNIA 90049

Renewed To:

SAUL LEVINE
DBA COBBLESTONE VINEYARDS
GENERAL PARTNERSHIP
660 FIRTH AVENUE
LOS ANGELES, CALIFORNIA 90049

Renewed To:

ANITA LEVINE
DBA COBBLESTONE VINEYARDS
GENERAL PARTNERSHIP
660 FIRTH AVENUE
LOS ANGELES, CALIFORNIA 90049

Manner Of Display:

USED ON LABELS AND TAGS AFFIXED TO THE GOODS AND CONTAINERS FOR THE GOODS.

Filing Correspondent:

SPENSLEY, HORN, JUBAS & LUBITZ
1880 CENTURY PARK EAST, 5TH FLOOR
LOS ANGELES, CALIFORNIA 90067

Search: 110802811

Analyst: DEBORAH BROMLEY

State Page: 94

Exhibit "B" -- Evidence Submitted By Defendant IMA

Ref: 2
Group Three

CORNERSTONE

CORNERSTONE

State: WISCONSIN
Status: NOT RENEWED

Chronology:

Registered: JAN 31, 1979

Goods/Services:

INTERNATIONAL CLASS: 42 RESTAURANT AND BAR
First Use In State: SEP 11, 1978
First Use Anywhere: SEP 11, 1978

Design Phrase:

THE WORD "CORNERSTONE" PRINTED IN "ADVERTISERS GOTHIC" TYPE (AS MANUFACTURED BY GRAPHIC PRODUCTS CORP., ROLLING MEADOWS, IL) ON A STONE WALL BACKGROUND. THE "CORNER" PORTION OF THE WORD "CORNERSTONE" IS PRINTED AT A 45 DEGREE ANGLE, COMMENCING AT THE LOWE R LEFT CORNER OF THE LOGO AND FINISHING IN THE UPPER MIDDLE OF THE LOGO. THE "STONE" PORTION OF THE WORD "CORNERSTONE" IS PRINTED AT A 45 DEGREE ANGLE ALSO, COMMENCING AT THE UPPER MIDDLE OF THE LOGO AND ENDING AT THE LOWER RIGHT OF THE LOGO. THE ABOVE DE SCRIBED PORTIONS OF THE WORD "CORNERSTONE" MEET IN THE UPPER MIDDLE OF THE LOGO AND FORM A RIGHT ANGLE

Registrant:

BRUCE TACKE
SOLE PROPRIETOR
2601 MORSE STREET
JANESVILLE, (ROCK CO.) WISCONSIN 53545

Ref: 3
Group Three

CORNERSTONE

CORNERSTONE

State: WISCONSIN
Status: REGISTERED
Mark Type: TRADE NAME

Chronology:

Registered: FEB 06, 1979

Goods/Services:

INTERNATIONAL CLASS: 42 RESTAURANT AND BAR
First Use In State: SEP 11, 1978
First Use Anywhere: SEP 11, 1978

Registrant:

BRUCE TACKE
SOLE PROPRIETOR
2601 MORSE STREET
JANESVILLE, (ROCK CO.) WISCONSIN 53545

Ref: 4
Group Four

COBBLESTONE CHRISTMAS BLEND

COBBLESTONE CHRISTMAS BLEND

State: MASSACHUSETTS
Status: REGISTERED

Chronology:

Registered: NOV 28, 1997 **Registration Number:** 55138

Goods/Services:

INTERNATIONAL CLASS: 30 COFFEE
State Class: 30
First Use In State: JUN, 1995
First Use Anywhere: JUN, 1995

Registrant:

JOYCE ANNE HOGAN
DBA NANTUCKET JAVA
SOLE PROPRIETOR
P.O. BOX 1315
NANTUCKET, (NANTUCKET CO.) MASSACHUSETTS 02554

Manner Of Display:

DIRECTLY ONTO THE CONTAINERS FOR THE GOODS; TO TAGS OR LABELS AFFIXED TO THE CONTAINERS FOR THE GOODS; TAGS OR LABELS AFFIXED DIRECTLY TO THE GOODS; BY DISPLAYING IT IN PHYSICAL ASSOCIATION WITH THE GOODS IN THE SALE OR DISTRIBUTION THEREOF

Ref: 5
Group Four

COBBLESTONE CUSTARD

COBBLESTONE CUSTARD

State: WISCONSIN
Status: REGISTERED

Chronology:

Registered: MAY 15, 2002

Goods/Services:

INTERNATIONAL CLASS: 30 FROZEN CUSTARD, ICE CREAM MIXED WITH TOPPINGS CON COLD STONE SLAB
First Use Anywhere: MAR, 2002

Exhibit "B" -- Evidence Submitted By Defendant IMA

Registrant:

JANET STOFFER
DBA WHOLLY COW FROZEN CUSTARD
637 MAIN ST.
DELAFIELD, WISCONSIN 53018
TEL: 262-646-2555

Ref: 6
Group Four

COBBLESTONE BREWERY & PUB

COBBLESTONE BREWERY & PUB

State: VIRGINIA
Status: REGISTERED

Chronology:

Registered: JUL 16, 1997

Goods/Services:

INTERNATIONAL CLASS: 42 BREW PUB AND BREWERY
State Class: 100
First Use In State: JUL 30, 1995
First Use Anywhere: JUL 30, 1995

Registrant:

BARCLAY BEATTY BREWING, INC.
VIRGINIA CORPORATION
13801 ROCK HARVEST COURT
CHESTER, VIRGINIA 23831

Disclaims:

BREWERY PUB

Ref: 7
Group Four

COBBLESTONE INN

COBBLESTONE INN

State: WISCONSIN
Status: REGISTERED
Mark Type: TRADE NAME

Chronology:

Registered: OCT 15, 1976

Goods/Services:

INTERNATIONAL CLASS: 42 RESTAURANT, BAR, COCKTAIL LOUNGE
First Use In State: OCT 15, 1975
First Use Anywhere: OCT 15, 1975

Registrant:

JEROME J. MULLINS

SOLE TRADER
401 N. CARROLL ST.
MADISON, WISCONSIN 53703

Ref: 8
Group Four

CORNER DELI

CORNER DELI

State: CALIFORNIA
Status: EXPIRED

Chronology:

Registered: FEB 18, 1993 **Registration Number:** 97179
Expiration Date: FEB 18, 2003

Goods/Services:

INTERNATIONAL CLASS: 30 BREAD PRODUCTS
State Class: 46
First Use In State: JUN 26, 1991
First Use Anywhere: JUL 19, 1992

Design Phrase:

THE MARK CONSISTS OF A DESIGN OF A SQUARE WITH A CHECKERED BORDER. ON THE INSIDE TOP PART OF THE SQUARE IS A BANNER WITH THE WORDS CORNER DELI. COMING OUT OF THE BANNER AND EXTENDING TWO INCHES FROM THE TOP OF THE SQUARE IS A CIRCLE. IN THE CIRCLE THERE A RE TWO LAMPPOSTS

Registrant:

DCB, INC.
WASHINGTON CORPORATION
C/O MICHELE LAGESON 1200 NW FRONT AVENUE #650
PORTLAND, OREGON 97209

Ref: 9
Group Four

AROUND THE CORNER

AROUND THE CORNER

State: WISCONSIN
Status: RENEWED

Chronology:

Registered: JUL 13, 1977 **Registration Number:** 24290
Renewed: JUL 23, 1997

Goods/Services:

INTERNATIONAL CLASS: 42, 39 PREPARATION AND DELIVERY OF HORS D'OUVRES, BUFFETS ABND DESSERTS
First Use In State: JUL 15, 1977

Design Phrase:

A SMALL HOUSE, SUGGESTING IT'S AT A CORNER. LOW FENCE ON EITHER SIDE OF HOUSE. A TREE ON RIGHT AND IN BACK OF HOUSE. A LAMPOST ON THE LEFT AND TO THE FOREGROUND. THE NAME "AROUND THE CORNER" PRINTED AT A NINETY DEGREE ANGLE AT THE LEFT OF THE HOUSE.

Registrant:

JEAN SKLADANEK
4240 NORTH 160TH STREET
BROOKFIELD, WISCONSIN 53005

Renewed To:

TESSA L. WAHLEN
PARTNERSHIP
4240 N. 160TH ST.
BROOKFIELD, WISCONSIN 530051424

Assignment Date: JUL 23, 1997

Assignor:

JEAN SKLADANEK
4240 N. 160TH ST.
BROOKFIELD,, WISCONSIN 53005

Assignee:

MARY N. SKLADANEK
PARTNERSHIP
4240 N. 160TH ST.
BROOKFIELD, (BROOKFIELD CO.) WISCONSIN 530051424

TESSA L. WAHLEN
4240 N. 160TH ST.
BROOKFIELD, (BROOKFIELD CO.) WISCONSIN 53005

Ref: 10
Group Four

AROUND THE CORNER

AROUND THE CORNER

State: WISCONSIN
Status: RENEWED
Mark Type: TRADE NAME

Chronology:

Registered: JUL 01, 1977 **Registration Number:** 24289
Renewed: JUL 23, 1997

Goods/Services:

INTERNATIONAL CLASS: 42, 39 PREPARATION AND DELIVERY OF HORS D'OEUVES AND DESSERTS
First Use In State: JUL 15, 1977
First Use Anywhere: JUL 15, 1977

Search: 110802811

Analyst: DEBORAH BROMLEY

State Page: 99

Exhibit "B" -- Evidence Submitted By Defendant IMA

Registrant:

JEAN SKLADANEK
SOLE TRADER
4240 NORTH 160TH STREET
BROOKFIELD, (WAUKESHA CO.) WISCONSIN 53005

Renewed To:

MARY N. SKLADANEK
PARTNERSHIP
4240 NORTH 160TH STREET
BROOKFIELD,(WAUKESHA.) WISCONSIN 53005-1424
TEL: 414-781-5068

Renewed To:

TESSA L. WAHLEN
PARTNERSHIP
4240 NORTH 160TH STREET
BROOKFIELD,(WAUKESHA.) WISCONSIN 53005-1424
TEL: 414-781-5068

Assignment Date: JUL 23, 1997

Assignor:

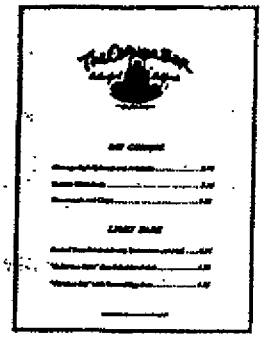
MARY N. SKLADANEK FOR JEAN N. SKLADANEK (DECEASED)
SOLE TRADER
4240 NORTH 160TH STREET
BROOKFIELD,, WISCONSIN 53005-1424

Assignee:

MARY N. SKLADANEK
PARTNERSHIP
4240 NORTH 160TH STREET
BROOKFIELD, (BROOKFIELD CO.) WISCONSIN 53005-1424
TEL: 414-781-5068

TESSA L. WAHLEN
4240 NORTH 160TH STREET
BROOKFIELD, (BROOKFIELD CO.) WISCONSIN 53005-1424
TEL: 414-781-5068

Ref: 11
Group Four



THE CORNER BAR

State: CALIFORNIA
Status: REGISTERED

Chronology:

Registered: JUN 27, 1994 **Registration Number:** 43448

Goods/Services:

INTERNATIONAL CLASS: 42 RESTAURANT SERVICES
State Class: 100
First Use In State: 1947

Registrant:

HOUSTON'S RESTUARANTS, INC.
DBA THE CORNER BAR
DELAWARE CORPORATION
3 RUTHERFORD SQUARE
RUTHERFORD, CALIFORNIA 94573

Disclaims:

BAR

Manner Of Display:

BUSINESS SIGNS, ADVERTISING BROCHURES, LETTERHEADS, MENUS

Ref: 12
Group Four

JAVA JOE'S GOURMET CORNER

JAVA JOE'S GOURMET CORNER

State: MARYLAND
Status: NOT RENEWED

Chronology:

Registered: JUL 09, 1993 **Registration Number:** 1993S3130

Goods/Services:

INTERNATIONAL CLASS: 42 CATERING COFFEE SERVICE, GOURMET DELI-COFFEE SHOP
State Class: 53
First Use In State: OCT 06, 1992
First Use Anywhere: OCT 06, 1992

Design Phrase:

THE MARK CONSISTS OF THE WORDS JAVA JOE'S GOURMET CORNER WITH A COFFEE CUP HANGING FROM THE J IN JAVA AND THE O IN JOE'S IS IN THE SHAPE OF THE EARTH

Registrant:

DITTER, INC.

MARYLAND CORPORATION
22 PARKIN STREET
BALTIMORE, MARYLAND 21201

Ref: 13
Group Four

THE CORNER DELI

State: WASHINGTON
Status: EXPIRED

Chronology:

Registered: SEP 23, 1991 **Registration Number:** 20872
Expiration Date: SEP 23, 2001

Goods/Services:

INTERNATIONAL CLASS: 30 BREAD PRODUCTS
State Class: 30
First Use In State: JUN 26, 1991
First Use Anywhere: JUN 26, 1991

Design Phrase:

THE WORDS "THE CORNER DELI" WITH A DESIGN CONSISTING OF A BANNER IN THE FRONT AND A CHECKERED BORDER. INSIDE THE BORDER IS A CIRCLE & 2 LAMP POSTS. INSIDE THE CIRCLE ARE THE WORDS "THE CORNER DELI" AND UNDER THE WORDS IS A PICTURE OF A DELI WITH BREAD IN THE WINDOW

Registrant:

DCB, INC.
1200 N.W. FRONT AVENUE, SUITE 650
PORTLAND, OREGON 97209

Manner Of Display:

APPLIED TO THE CONTAINERS FOR THE GOODS.

ANALYST REVIEW - WEB COMMON LAW

Search Information

Type of Search: **FULL SEARCH**
Mark: **COBBLESTONE CORNER**
Goods/Services: **MEAT, CHEESE, REFRIGERATED SALADS, PICKLES, MUSTARD, POTATO CHIPS, FROZEN SOUPS, FROZEN ENTREES, COOKED DELI ITEMS INCLUDING SAUERKRAUT**

Thomson & Thomson understands the importance of providing broad coverage of common law trademark sources. With the emergence of the Web as an important common law source, our analysts search the web and include potentially conflicting marks in this Web Common Law section.

Data Information

The Web Common Law section of this report features Web sites containing potentially conflicting trademarks, as selected by our expert Search Analysts.

Our Search Analysts search the Web and select marks to include in your report based on the mark's similarity to the mark searched and to the goods and services specified. Citations included in this report provide examples of potentially conflicting instances and links to the Web page on which the mark was found.

Important Notices

Due to the dynamic nature of the Web, citations may become available or unavailable at any time. The search results included in this section are a sampling of the information available at the time of the preparation of this search report, and are not a comprehensive representation of all Web sites. Any of the citations included in your search report may become unavailable at any time following the preparation of this report. Additionally, please be aware that we do not filter Web content, which makes it possible that your Web Common Law citation may include objectionable material.

Comments:

Exhibit "B" -- Evidence Submitted By Defendant IMA

No pertinent references found.

Exhibit "B" -- Evidence Submitted By Defendant IMA

Common Law Database Summary Page

Citation	Class(es)	Owner	Source	Page	Record of Interest
GROUP ONE					
No Group One Matches					
GROUP TWO					
No Group Two Matches					
GROUP THREE					
1. COBBLESTONE	31	BRIGHT OF AMERICA	BRANDS AND THEIR COMPANIES 25TH EDITION	110	☐
2. COBBLESTONES	20	SUMMITVILLE TILES, I	THOMAS REGISTER OF AMERICAN MANUFACTURERS	110	☐
3. CORNERSTONE	29,30,31,32	N/A	THOMAS FOOD AND BEVERAGE MARKETPLACE DIRECTORY	110	☐
4. CORNERSTONE	29,30,31,32	MAIN STREET INGREDIE	THOMAS FOOD AND BEVERAGE MARKETPLACE DIRECTORY	110	☐
5. CORNERSTONE	29,30,31,32	N/A	THOMAS FOOD AND BEVERAGE MARKETPLACE DIRECTORY	113	☐
GROUP FOUR					
6. COBBLESTONE MILL	29,30,31,32	FLOWERS BAKERIES	JUDGE'S PEERLESS FOOD PROCESSORS OF NORTH AMERICA	113	☐
7. COBBLESTONE MILLS	29,30,31,32	N/A	THOMAS FOOD AND BEVERAGE MARKETPLACE DIRECTORY	113	☐
8. COBBLESTONE STREAM LAGER	32	MORGAN STREET BREWER	BREWERS DIGEST BUYERS GUIDE	113	☐

Exhibit "B" -- Evidence Submitted By Defendant IMA

Citation	Class(es)	Owner	Source	Page	Record of Interest
9. BOSTON COBBLESTONE					
	29	SWISSROSE INTE RNATIO	BRANDS AND THEIR COMPANIES 25TH EDITION	114	☐
10. COBBLESTONE PILSENER					
	32	REDFISH NEW ORLEANS	CONTACTDIRECT.COM	114	☐
11. BAKER'S CORNER					
	29,30	GOODHUE'S INC.	BRANDS AND THEIR COMPANIES 25TH EDITION	115	☐
12. COUNTRY CORNER					
	29,30,31,32	GOLDEN BOY FOODS INC	JUDGE'S PEERLESS FOOD PROCES SORS OF NORTH AMERICA	115	☐

GROUP FIVE

No Group Five Matches

Exhibit "B" -- Evidence Submitted By Defendant IMA

ANALYST REVIEW - COMMON LAW DATABASE REPORT

Search Information

Type of Search: **FULL SEARCH**
Mark: **COBBLESTONE CORNER**
Goods/Services: **MEAT, CHEESE, REFRIGERATED SALADS, PICKLES, MUSTARD, POTATO CHIPS, FROZEN SOUPS, FROZEN ENTREES, COOKED DELI ITEMS INCLUDING SAUERKRAUT**

Data Information

Please see COMMON LAW SOURCE LIST for complete listing of our print and computerized common law sources.

In-Use Information

Citations provide information about whether and how potentially conflicting trademarks are being used on the Web. We provide information, when available, on the Citation, Owner and its use in commerce for all Group One citations located across all sources (except Domain Names). The search results included in this section are a selection of the information available at the time of the preparation of this search report, and are not a comprehensive representation of the Web. Any of the Web links included in your search report may become unavailable at any time following the preparations of this report.

Analyst Information

Name: **DEBORAH BROMLEY**
Comments: **I developed the following search strategy to provide a comprehensive, accurate report. These queries, listed below, retrieved 74 potential references from the database. After careful review and analysis I have selected 12 records for your review.**

Search Strategy

Type	Query	Classes	#References
1. EXACT MARK GOODS PREFIX	(C,K)O(BB, B)LESTON(E,ES)(C, K)ORNER <and> (MEAT,CHEESE, SALAD,PICKLE, MUSTARD,CHIP,SOUP, ENTREE,DELI, SAUERKRAUT)	ALL CLASSES	0
2. EXACT MARK	(C,K)O(BB, B)LESTON(E,ES)(C, K)ORNER	29,30,31,32	0
3. EXACT MARK	(C,K)O(BB, B)LESTON(E,ES)(C, K)ORNER	ALL CLASSES	0

Search Strategy

Type	Query	Classes	#References
4. PREFIX GOODS PREFIX	(C,K)O(BB, B)LESTONE(C, K)ORNER <and> (MEAT,CHEESE, SALAD,PICKLE, MUSTARD,CHIP,SOUP, ENTREE,DELI, SAUERKRAUT)	ALL CLASSES	0
5. PREFIX	(C,K)O(BB, B)LESTONE(C, K)ORNER	29,30,31,32	0
6. PREFIX	(C,K)O(BB, B)LESTONE(C, K)ORNER	ALL CLASSES	0
7. PREFIX	(C,K)O(BB, B)LESTONE(C,K)OR	ALL CLASSES	0
8. LETTERSTRING LETTERSTRING LETTERSTRING	CO(B,BB)LE <and> STONE <and> CORNER	ALL CLASSES	0
9. LETTERSTRING LETTERSTRING	(C,K)O(BB,B)LE <and> (C,K)ORNER	ALL CLASSES	0
10. LETTERSTRING LETTERSTRING GOODS PREFIX	STONE <and> (C,K)ORNER <and> (MEAT,CHEESE, SALAD,PICKLE, MUSTARD,CHIP,SOUP, ENTREE,DELI, SAUERKRAUT)	ALL CLASSES	0
11. LETTERSTRING LETTERSTRING	STONE <and> (C,K)ORNER	29,30,31,32	3
12. PREFIX	(C,K)O(BB, B)LESTONE(C,K)	29,30,31,32	0
13. PREFIX SUFFIX	(C,K)O(BB,B)LEST <and> ER	29,30,31,32	1
14. EXACT MARK	(C,K)O(BB, B)LESTON(E,ES)	29,30,31,32	1
15. LETTERSTRING GOODS PREFIX	(C,K)O(BB,B)LESTON <and> (MEAT,CHEESE, SALAD,PICKLE, MUSTARD,CHIP,SOUP, ENTREE,DELI, SAUERKRAUT)	ALL CLASSES	1
16. PREFIX	(C,K)O(BB,B)LESTON	29,30,31,32	10

Exhibit "B" -- Evidence Submitted By Defendant IMA

Search Strategy

	Type	Query	Classes	#References
17.	LETTERSTRING	(C,K)O(BB,B)LEST	29,30,31,32	0
18.	PREFIX LETTERSTRING	(C,K)OB <and> (C,K)ORNER	29,30,31,32	0
19.	SUFFIX	ON(E,ES)(C,K)ORNER	29,30,31,32	0
20.	SUFFIX	N(E,ES)(C,K)ORNER	29,30,31,32	0
21.	EXACT MARK	(C,K)ORNER	29,30,31,32	0
22.	LETTERSTRING GOODS PREFIX	(C,K)ORNER <and> (MEAT,CHEESE, SALAD,PICKLE, MUSTARD,CHIP,SOUP, ENTREE,DELI, SAUERKRAUT)	ALL CLASSES	0
23.	PREFIX LETTERSTRING	(C,K) <and> (C,K)ORNER	29,30,31,32	4
24.	PREFIX	(C,K)ORNER	29,30,31,32	11
25.	LETTERSTRING	(C,K)ORNER	29,30,31,32	2
26.	LETTERSTRING	(C,K)O(B,BB)LESTON	ALL CLASSES	30
27.	LETTERSTRING LETTERSTRING GOODS PREFIX	STONE <and> CORNER <and> (RESTAURANT,CAFE, DINER)	ALL CLASSES	0
28.	LETTERSTRING LETTERSTRING	STONE <and> CORNER	33,42,43	2
29.	LETTERSTRING GOODS PREFIX	CORNER <and> (RESTAURANT,CAFE, DINER)	ALL CLASSES	3
30.	LETTERSTRING	CORNER	33,42,43	6

Class Identification

29	MEATS AND PROCESSED FOODS
30	STAPLE FOODS
31	NATURAL AGRICULTURAL PRODUCTS
32	LIGHT BEVERAGES
33	WINES AND SPIRITS
42	SCIENTIFIC, TECHNOLOGICAL AND LEGAL SERVICES
43	SERVICES FOR PROVIDING FOOD AND DRINK; TEMPORARY ACCOMMODATION

IMAL DOC 2 Exhibit "B" -- Evidence Submitted By Defendant IMA

Ref: 1
Group Three

COBBLESTONE

Goods/Services: SPICES AND EXTRACTS
SIC Code/Description: 2099 - "FOOD PREPARATIONS, NEC"
T&T Assigned Class(es): 31
Owner:
BRIGHT OF AMERICA 4545 W AUGUSTA BLVD. CHICAGO IL 60651 312-278-0700
Owner Fax: (312)278-8833
Source:
BRANDS AND THEIR COMPANIES 25TH EDITION
Publication Date: 2003

Ref: 2
Group Three

COBBLESTONES

Goods/Services: NOT AVAILABLE
T&T Assigned Class(es): 20
Owner:
SUMMITVILLE TILES, INC. P.O. BOX 73 SUMMITVILLE OH 43962 330-223-1511
Source:
THOMAS REGISTER OF AMERICAN MANUFACTURERS
Publication Date: 2004

Ref: 3
Group Three

CORNERSTONE

Goods/Services: FOOD OR BEVERAGE PRODUCT
T&T Assigned Class(es): 29,30,31,32
Owner:
(NOT AVAILABLE)
Source:
THOMAS FOOD AND BEVERAGE MARKETPLACE DIRECTORY
Publication Date: 2004

Ref: 4
Group Three

CORNERSTONE

Goods/Services: FOOD OR BEVERAGE PRODUCT
T&T Assigned Class(es): 29,30,31,32
Owner:
MAIN STREET INGREDIENTS 2340 ENTERPRISE AVE LA CROSSE WI 54603-1713
608-781-2345
Owner Fax: 608-781-4667
✓ **URL:** http://www.mainstreetingredients.com
Source:
THOMAS FOOD AND BEVERAGE MARKETPLACE DIRECTORY

Publication Date: 2004

Web Page Information (✓ = Web Page Look-Up)

HTML Title: Main Street Ingredients

Status: Accessible

About Us

At Main Street Ingredients, we're the leader in providing high quality food ingredients to the dairy, nutritional and food processing industries. Since 1989, we've developed and perfected innovative products such as Keystone™ Stabilizer Systems, Cornerstone™ Proteins, functional dairy ingredients and private-label nutritional systems.

With manufacturing plants in La Crosse, Wisconsin and strategically located distribution facilities across North America, we're able to produce and deliver a full line of food ingredients – globally or locally. And with our broad product line and innovative food scientists, we can meet a diverse range of applications. More>

CORNERSTONE

Ref: 5
Group Three

Goods/Services: FOOD OR BEVERAGE PRODUCT
T&T Assigned Class(es): 29,30,31,32
Owner:
(NOT AVAILABLE)
Source:
THOMAS FOOD AND BEVERAGE MARKETPLACE DIRECTORY
Publication Date: 2004

COBBLESTONE MILL

Ref: 6
Group Four

Goods/Services: CANNED, FROZEN & PRESERVED FOODS
T&T Assigned Class(es): 29,30,31,32
Owner:
FLOWERS BAKERIES 1919 FLOWERS CIRCLE THOMASVILLE GA 31757
229-226-9110
Owner Fax: (229)225-3816
Source:
JUDGE'S PEERLESS FOOD PROCESSORS OF NORTH AMERICA
Publication Date: 2003

COBBLESTONE MILLS

Ref: 7
Group Four

Goods/Services: FOOD OR BEVERAGE PRODUCT
T&T Assigned Class(es): 29,30,31,32
Owner:
(NOT AVAILABLE)
Source:
THOMAS FOOD AND BEVERAGE MARKETPLACE DIRECTORY
Publication Date: 2004

COBBLESTONE STREAM LAGER

Ref: 8
Group Four

Goods/Services: FERMENTED MALT BEVERAGES
T&T Assigned Class(es): 32
Owner:
MORGAN STREET BREWERY 721 N 2ND ST. ST. LOUIS MO 63102 314-231-9970
Owner Fax: (314)231-2469
E-Mail: BREWMASTER@MORGANSTREETBREWERY.COM
✓ **URL:** http://www.morganstreetbrewery.com
Source:
BREWERS DIGEST BUYERS GUIDE

Exhibit "B" -- Evidence Submitted By Defendant IMA

Publication Date: 2002

Web Page Information (✓ = Web Page Look-Up)

Status: Image not retrieved: There appears to be a live Web site associated with this domain name but the image cannot be displayed within this report. To review the site content, please visit the address displayed above, either by clicking the link provided in your SAEGIS Inbox report or by entering the domain name in a Web browser.

Ref: 9
Group Four

BOSTON COBBLESTONE

Goods/Services: CHEESE
SIC Code/Description: 2022 - CHEESE; NATURAL AND PROCESSED
T&T Assigned Class(es): 29
Owner:
SWISSROSE INTERNATIONAL, INC. 14 EMPIRE BLVD. MOONACHIE NJ 07074
201-330-0005
Owner Fax: (201)330-1588
Source:
BRANDS AND THEIR COMPANIES 25TH EDITION
Publication Date: 2003

Ref: 10
Group Four

COBBLESTONE PILSENER

Goods/Services: BEER
T&T Assigned Class(es): 32
Contact:
REDFISH NEW ORLEANS BREWHOUSE 2027 13TH STREET BOULDER CO 80302
1-303-440-5858
✓ **URL:** http://www.redfishbrewhouse.com
Source:
CONTACTDIRECT.COM
Publication Date: 2003

Web Page Information (✓ = Web Page Look-Up)

HTML Title: New Orleans Redfish Brewhouse - Boulder

Keywords: catering, wedding, reception, banquet, colorado, boulder, restaurant, pearl street, redfish, new orleans, brewhouse, oysters, live music, brew, food

Description: New Orleans isn't a city, but rather a vibe. It's a city that loves the essence of life, that appreciates individuality and above all, has fun. These are all the virtues that we have tried to capture here at RedFish New Orleans Brewhouse. We are a quirky, funky, fun-loving group that creates passion everyday in delivering a dining experience you'll never forget.

Status: Image not retrieved: There appears to be a live Web site associated with this domain name but the image cannot be displayed within this report. To review the site content, please visit the address displayed above, either by clicking the link provided in your SAEGIS Inbox report or by entering the domain name in a Web browser.

Exhibit "B" -- Evidence Submitted By Defendant IMA

Ref: 11
Group Four

BAKER'S CORNER

Goods/Services: FOOD PRODUCTS
SIC Code/Description: 2038 - "FROZEN SPECIALTIES, NEC"
T&T Assigned Class(es): 29,30
Owner:
GOODHUE'S INC. 11 WASHINGTON ST. GLOUCESTER MA 01930-5744 978-283-6034
Owner Fax: (978)283-6034
E-Mail: OAKTREE@SHORE.NET
Source:
BRANDS AND THEIR COMPANIES 25TH EDITION
Publication Date: 2003

Ref: 12
Group Four

COUNTRY CORNER

Goods/Services: CANNED, FROZEN & PRESERVED FOODS
T&T Assigned Class(es): 29,30,31,32
Owner:
GOLDEN BOY FOODS INC. 8820 NORTHBROOK CT. BURNABY BC V5J 5J1
CANADA 604-433-2200
Owner Fax: (604)433-0051
Source:
JUDGE'S PEERLESS FOOD PROCESSORS OF NORTH AMERICA
Publication Date: 2003

Exhibit "B" -- Evidence Submitted By Defendant IMA

ANALYST REVIEW - COMMON LAW/BUSINESS NAME REPORT

Search Information

Type of Search: **FULL SEARCH**
Mark: **COBBLESTONE CORNER**
Goods/Services: **MEAT, CHEESE, REFRIGERATED SALADS, PICKLES, MUSTARD, POTATO CHIPS, FROZEN SOUPS, FROZEN ENTREES, COOKED DELI ITEMS INCLUDING SAUERKRAUT**

Data Information

DUN and BRADSTREET® records, compiled from their marketing, credit and business investigation lists contains:

-name of the business
-secondary or "DBA" name, if applicable
-city, state, zip code, and telephone number
-DUN's number
-up to six SIC codes & corresponding description of goods/services.
-sales volume

LAST D&B UPDATE **03/10/2004**

AMERICAN BUSINESS INFORMATION records, compiled from 5000 Yellow Page Telephone Directories, 500 Business White Page Telephone Directories, Annual Reports, 10Ks, Press Releases, City Directories, and the NASDAQ® Fact Book, contain:

-name of business
-street address, city, state, zip code, telephone number
-ABI's number
-up to six SIC codes & corresponding description of goods/services
-year entered into ABI database

LAST ABI UPDATE **04/13/2004**

In-Use Information

Citations provide information about whether and how potentially conflicting trademarks are being used on the Web. We provide information, when available, on the Citation, Owner and its use in commerce for all Group One citations located across all sources (except Domain Names). The search results included in this section are a selection of the information available at the time of the preparation of this search report, and are not a comprehensive representation of the Web. Any of the Web links included in your search report may become unavailable at any time following the preparations of this report.

Analyst Information

Name: **DEBORAH BROMLEY**
Comments: **This report is the result of a computerized search of approximately twenty one million business names. The databases used are licensed from Dun & Bradstreet, Inc.®(D&B®) and American Business Information, Inc.(ABI). While D&B and ABI consider their databases reliable, the accuracy, currentness and completeness cannot be guaranteed.**

I developed the following search strategy to provide a comprehensive, accurate report. These queries, listed below, retrieved the records that follow.

Exhibit "B" -- Evidence Submitted By Defendant IMA

Search Strategy

Type	Query	Classes	#References
1. EXACT MARK	(C,K)O(BB, B)LESTON(E,ES)(C, K)ORNER	29,30,31,32	2
2. EXACT MARK	(C,K)O(BB, B)LESTON(E,ES)(C, K)ORNER	ALL CLASSES	17
3. EXACT MARK	(C,K)O(BB, B)LESTON(E,ES)(C, K)ORNER(0 - 255 CHARACTERS) <and>	29,30,31,32	0
WORD	(C,K)O(BB, B)LESTON(E,ES)(C, K)ORNER		
4. WORD	(C,K)O(BB, B)LESTON(E,ES)(C, K)ORNER	29,30,31,32	0
5. WORD	(C,K)O(BB, B)LESTON(E,ES)(C, K)ORNER	ALL CLASSES	3
6. PREFIX	(C,K)O(BB, B)LESTONE(C, K)ORNER	29,30,31,32	0
7. PREFIX	(C,K)O(BB, B)LESTONE(C, K)ORNER	ALL CLASSES	0
8. EXACT MARK	(C,K)O(BB, B)LESTON(E,ES)(0 - 255 CHARACTERS) <and>	29,30,31,32	0
WORD	(C,K)O(BB, B)LESTON(E,ES) <and>		
WORD	(C,K)ORNER		
9. EXACT MARK	(C,K)ORNER(C,K)O(BB, B)LESTON(E,ES)(0 - 255 CHARACTERS) <and>	29,30,31,32	0
WORD	(C,K)ORNER(C,K)O(BB, B)LESTON(E,ES)		
10. WORD	(C,K)O(BB, B)LESTON(E,ES) <and>	29,30,31,32	0
WORD	(C,K)ORNER		
11. EXACT MARK	(C,K)O(BB, B)LESTON(E,ES)(0 - 255 CHARACTERS) <and>	29,30,31,32	0
PREFIX	(C,K)ORNER		

IMA DOC 2 Trademark Search File
Exhibit "B" -- Evidence Submitted By Defendant IMA

Search Strategy

Type	Query	Classes	#References
12. EXACT MARK	(C,K)O(BB, B)LESTON(E,ES)(C, K)ORNE(0 - 255 CHARACTERS)	29,30,31,32	0
13. EXACT MARK	(C,K)O(BB, B)LESTON(E,ES)(C, K)ORN(0 - 255 CHARACTERS)	29,30,31,32	0
14. PREFIX PREFIX PREFIX	COBBLE <and> STONE <and> CORNER	ALL CLASSES	0
15. PREFIX PREFIX	COBBLE <and> CORNER	ALL CLASSES	55
16. PREFIX PREFIX	STONE <and> CORNER	29,30,31,32	20

Class Identification

29	MEATS AND PROCESSED FOODS
30	STAPLE FOODS
31	NATURAL AGRICULTURAL PRODUCTS
32	LIGHT BEVERAGES

IMA1 DOC 2 Exhibit "B" -- Evidence Submitted By Defendant IMA

COMPANY NAME SECONDARY NAME	RECORD# SOURCE	SIC CODE/DESCRIPTION		REF # BUSINESS NAME
GROUP TWO				
MRS BS AT COBBLESTONE CORNER 101 N MAIN ST PLEASANT HILL, OH 45359 937-676-2883 SALES VOL:$220,000 ESTIMATE	139140706-D&B	58129903	CATERERS	Ref: 1
GROUP THREE				
COBBLER CORNER 1534 N 8TH ST PEKIN, IL 61554-2105 309-347-2666 YEAR ENTERED: 1984	152253530-ABI	581208	RESTAURANTS	Ref: 2
COBBLER CORNER 1534 N 8TH ST PEKIN, IL 61554-2105 309-347-2666 SALES VOL:$340,000 ESTIMATE	164301871-D&B	58120000	EATING PLACES	Ref: 3
MIKE & SHANNON MILTON CORNER STONE 808 CAVU RD GEORGETOWN, TX 78628-1605 512-863-2380 SALES VOL:$45,000 ESTIMATE	807559562-D&B	54990100	HEALTH AND DIETETIC FOOD STORES	Ref: 4
GROUP FOUR				
CORNER STONE BAKERY 1770 RED CLIFFS DR ST GEORGE, UT 84790-8144 435-628-0313 SALES VOL:$69,000 ESTIMATE	121024835-D&B	54610000	RETAIL BAKERIES	Ref: 5
CORNER STONE RESTAURANT & BKY 1713 G A R HWY SWANSEA, MA 02777-3901 508-676-1220 SALES VOL:$630,000 ESTIMATE	173585134-D&B	58120000 54610000	EATING PLACES RETAIL BAKERIES	Ref: 6
CORNER STONE FOOD BROKERS 128 PUEBLO EDMOND, OK 73013-2023 405-823-4164 YEAR ENTERED: 1999	515729549-ABI	514102	FOOD BROKERS	Ref: 7
CORNER STONE BAKERY 1770 RED CLIFFS DR ST GEORGE, UT 84790-8144 435-628-0313 YEAR ENTERED: 2002	597491398-ABI	546102	BAKERS-RETAIL	Ref: 8
CORNER STONE COFFEE CO 1 BICKLETON HWY GOLDENDALE, WA 98620-2918 509-773-9115 YEAR ENTERED: 1999	521168294-ABI	549915	COFFEE & TEA	Ref: 9
CORNER STONE FARMS 14375 W CALLA RD SALEM, OH 44460-9648 330-337-1634 SALES VOL:$50,000 ACTUAL	139938963-D&B	01150000 01110000	CORN WHEAT	Ref: 10

Exhibit "B" -- Evidence Submitted By Defendant IMA

J RALPH INC
CORNER STONE LEQUAR
1401 GRAND CENTRAL AVE
LAVALLETTE, NJ 08735-2307
732-793-7545
SALES VOL:$400,000 ACTUAL
136659414-D&B 59210000 LIQUOR STORES Ref: 11

GARY STONE INC
CORNER STONE MKT AT BELLE FAIR
20 BELLEFAIR BLVD
PORT CHESTER, NY 10573-1049
914-933-0177
SALES VOL:$100,000 ESTIMATE
032997236-D&B 54999904 GOURMET FOOD STORES Ref: 12

GROUP FIVE

COBBLESTONE CORNERS
9996 RIDGE RD W
BROCKPORT, NY 14420-9421
585-638-1672
SALES VOL:$50,000 ACTUAL
043942841-D&B 51930000 FLOWERS AND FLORISTS SUPPLIES Ref: 13

COBBLESTONE CORNERS
501 BEN ALLEN RD # 290
NASHVILLE, TN 37216-1576
615-226-0090
YEAR ENTERED: 2000
546114562-ABI 651303 APARTMENTS Ref: 14

COBBLESTONE CORNERS
3440 N LIMA CENTER RD
DEXTER, MI 48130-8516
734-475-1895
YEAR ENTERED: 1998
993146950-ABI 799957 RIDING ACADEMIES Ref: 15

COBBLESTONE CORNER
698 W DENVER ST
GREENWOOD, AR 72936-4012
479-996-0606
YEAR ENTERED: 2000
560112518-ABI 594712 GIFT SHOPS Ref: 16

COBBLESTONE CORNER
PO BOX 152
DEL NORTE, CO 81132-0152
719-657-2322
YEAR ENTERED: 2002
599984812-ABI 594712 GIFT SHOPS Ref: 17

COBBLESTONE CORNER
101 W 3RD AVE
MOSES LAKE, WA 98837-1930
509-766-9886
YEAR ENTERED: 1993
481555795-ABI 594712 GIFT SHOPS Ref: 18

COBBLESTONE CORNER
6234 MARKET ST
YOUNGSTOWN, OH 44512-3329
330-758-2428
YEAR ENTERED: 2003
220697619-ABI 503208 CONCRETE PRODUCTS (WHOLESALE) Ref: 19

COBBLESTONE CORNER
40 E CENTER ST # 1
FALLON, NV 89406-3469
775-423-0444
YEAR ENTERED: 1990
856281068-ABI 594712 GIFT SHOPS
599926 PICTURES Ref: 20

COBBLESTONE CORNERS
501 BEN ALLEN RD
NASHVILLE, TN 37216-2008
615-226-0090
SALES VOL:$140,000 ESTIMATE
001149652-D&B 65130000 APARTMENT BUILDING OPERATORS Ref: 21

Exhibit "B" -- Evidence Submitted By Defendant IMA

COBBLESTONE CORNER 698 W DENVER ST GREENWOOD, AR 72936-4012 479-996-0606 SALES VOL:$33,000 ESTIMATE	009930202-D&B	59470104	GIFT SHOP	Ref: 22
COBBLESTONE CORNERS 3440 N LIMA CENTER RD DEXTER, MI 48130-8516 734-475-1895 SALES VOL:$42,000 ACTUAL	016935491-D&B	79991202	RIDING STABLE	Ref: 23
COBBLESTONE CORNER 620 GRAND AVE DEL NORTE, CO 81132-2206 719-657-2322 SALES VOL:$32,000 ESTIMATE	118697700-D&B	59470104	GIFT SHOP	Ref: 24
COBBLESTONE CORNER 109 S CHARLOTTE ST DICKSON, TN 37055-1915 615-740-8463 SALES VOL:$26,000 ESTIMATE	150917792-D&B	72990503	"WEDDING CHAPEL, PRIVATELY OPERATED"	Ref: 25
COBBLESTONE CORNER 40 E CENTER ST STE 1 FALLON, NV 89406-3469 775-423-0444 SALES VOL:$280,000 ESTIMATE	796292068-D&B	59470104	GIFT SHOP	Ref: 26
COBBLESTONE CORNERS 3580 HOWELL RD NAYLOR, GA 31641 229-245-0988 SALES VOL:$50,000 ACTUAL	868488446-D&B	59470104	GIFT SHOP	Ref: 27
COBBLESTONE CORNER 101 W 3RD AVE MOSES LAKE, WA 98837-1930 509-766-9886 SALES VOL:$78,000 ESTIMATE	940699846-D&B	59470104	GIFT SHOP	Ref: 28
COBBLESTONE CORNER 6234 MARKET ST YOUNGSTOWN, OH 44512-3329 330-758-2428 SALES VOL: N/A	143612104-D&B	52110503	CONCRETE AND CINDER BLOCK	Ref: 29
COBBLESTONE CORNERS PO BOX 207 VALDOSTA, GA 31603-0207 229-245-0988 YEAR ENTERED: 1994	496052994-ABI	594712	GIFT SHOPS	Ref: 30
COBBLESTONE CORNER 109 S CHARLOTTE ST DICKSON, TN 37055-1915 615-740-8463 YEAR ENTERED: 2000	547155747-ABI	729935	WEDDING CHAPELS	Ref: 31
COBBLESTONE CORNERS APTS PROFESSIONAL MANAGEMENT CO 6916 OLD KINGS RD S JACKSONVILLE, FL 32217-2866 904-733-6388 SALES VOL:$110,000 ESTIMATE	838968683-D&B	65130000	APARTMENT BUILDING OPERATORS	Ref: 32
COBBLESTONE CORNERS APARTMENTS 6916 OLD KINGS RD S JACKSONVILLE, FL 32217-2866 904-733-6388 YEAR ENTERED: 1984	129686259-ABI	651303	APARTMENTS	Ref: 33

Exhibit "B" -- Evidence Submitted By Defendant IMA
IMAL DOC 2 Trademark Search File

Gale Group Database Summary Page

Citation	Class(es)	Page	Record of Interest
	GROUP ONE		
	No Group One Matches		
	GROUP TWO		
	No Group Two Matches		
	GROUP THREE		
	No Group Three Matches		
	GROUP FOUR		
	No Group Four Matches		
	GROUP FIVE		
	No Group Five Matches		

Exhibit "B" -- Evidence Submitted By Defendant IMA

GALE GROUP DATABASES

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ANALYST REVIEW - GALE GROUP DATABASE REPORT

Search Information

Type of Search: **FULL SEARCH**
Mark: **COBBLESTONE CORNER**
Goods/Services: **MEAT, CHEESE, REFRIGERATED SALADS, PICKLES, MUSTARD, POTATO CHIPS, FROZEN SOUPS, FROZEN ENTREES, COOKED DELI ITEMS INCLUDING SAUERKRAUT**

Data Information

This search section includes references to product and company names found in more than 5,000 sources contained in the following Gale databases: Newsearch™, Business A.R.T.S.SM, Computer Database™, Health & Wellness DatabaseSM, Legal Resource Index™, MagazineDatabase™, Management Contents®, National Newspaper Index™, Newswire ASAP™, Trade and Industry Database™, Aerospace/Defense Markets & Technology®(A/DM&T), Company Profile®, Marketing & Advertising Reference Service® (MARS), New Product Announcements/Plus® (NPA/Plus) and PROMT®.

Database content includes indexed information from articles, from trade and business journals and newsletters, local newspapers, national and international business publications, research studies, investment reports and press releases. Gale updates these databases on a daily basis.
Publication Dates from: 01/01/1994

In-Use Information

Citations provide information about whether and how potentially conflicting trademarks are being used on the Web. We provide information, when available, on the Citation, Owner and its use in commerce for all Group One citations located across all sources (except Domain Names). The search results included in this section are a selection of the information available at the time of the preparation of this search report, and are not a comprehensive representation of the Web. Any of the Web links included in your search report may become unavailable at any time following the preparations of this report.

Analyst Information

Name: **DEBORAH BROMLEY**
Comments: **I developed the following search strategy to provide a comprehensive, accurate report. The queries listed below retrieved the records that follow.**

Search Strategy

Type	Query	Classes	#References
1. EXACT MARK	(C,K)O(BB, B)LESTON(E,ES)(C, K)ORNER <and>	ALL CLASSES	0
GOODS PREFIX WORD	(MEAT,CHEESE, SALAD,PICKLE, MUSTARD,CHIP,SOUP, ENTREE,DELI, SAUERKRAUT)		
2. EXACT MARK	(C,K)O(BB, B)LESTON(E,ES)(C, K)ORNER	29,30,31,32	0

Exhibit "B" -- Evidence Submitted By Defendant IMA
IMAL DOC 2 Trademark Search File 124

Search Strategy

Type	Query	Classes	#References
3. EXACT MARK	(C,K)O(BB, B)LESTON(E,ES)(C, K)ORNER	ALL CLASSES	0
4. EXACT MARK	THE(C,K)O(BB, B)LESTON(E,ES)(C, K)ORNER	ALL CLASSES	0
5. EXACT MARK WORD	(C,K)O(BB, B)LESTON(E,ES)(C, K)ORNER(0 - 255 CHARACTERS) <and> (C,K)O(BB, B)LESTON(E,ES)(C, K)ORNER	ALL CLASSES	0
6. EXACT MARK	(C,K)O(BB, B)LESTON(E,ES)(C, K)ORNER(0 - 255 CHARACTERS)	ALL CLASSES	0
7. EXACT MARK GOODS PREFIX WORD	(C,K)ORNER(C,K)O(BB, B)LESTON(E,ES) <and> (MEAT,CHEESE, SALAD,PICKLE, MUSTARD,CHIP,SOUP, ENTREE,DELI, SAUERKRAUT)	ALL CLASSES	0
8. EXACT MARK	(C,K)ORNER(C,K)O(BB, B)LESTON(E,ES)	29,30,31,32	0
9. EXACT MARK	(C,K)ORNER(C,K)O(BB, B)LESTON(E,ES)	ALL CLASSES	0
10. EXACT MARK GOODS PREFIX WORD	(C,K)O(BB, B)LESTON(E,ES)(C, K)ORNE(0 - 255 CHARACTERS) <and> (MEAT,CHEESE, SALAD,PICKLE, MUSTARD,CHIP,SOUP, ENTREE,DELI, SAUERKRAUT)	ALL CLASSES	0
11. EXACT MARK	(C,K)O(BB, B)LESTON(E,ES)(C, K)ORNE(0 - 255 CHARACTERS)	29,30,31,32	0
12. EXACT MARK GOODS PREFIX WORD	(C,K)O(BB, B)LESTON(E,ES)(C, K)ORN(0 - 255 CHARACTERS) <and> (MEAT,CHEESE, SALAD,PICKLE, MUSTARD,CHIP,SOUP, ENTREE,DELI, SAUERKRAUT)	ALL CLASSES	0

Exhibit "B" -- Evidence Submitted By Defendant IMA
IMAL DOC 2 Trademark Search File

Search Strategy

Type	Query	Classes	#References
13. EXACT MARK	(C,K)O(BB, B)LESTON(E,ES)(C, K)ORN(0 - 255 CHARACTERS)	29,30,31,32	0
14. WORD GOODS PREFIX WORD	(C,K)O(BB, B)LESTON(E,ES)(C, K)ORNER <and> (MEAT,CHEESE, SALAD,PICKLE, MUSTARD,CHIP,SOUP, ENTREE,DELI, SAUERKRAUT)	29,30,31,32	0
15. WORD	(C,K)O(BB, B)LESTON(E,ES)(C, K)ORNER	29,30,31,32	0
16. WORD	(C,K)O(BB, B)LESTON(E,ES)(C, K)ORNER	ALL CLASSES	0
17. WORD GOODS PREFIX WORD	(C,K)O(BB, B)LESTON(E,ES)(C, K)ORNER(0 - 255 CHARACTERS) <and> (MEAT,CHEESE, SALAD,PICKLE, MUSTARD,CHIP,SOUP, ENTREE,DELI, SAUERKRAUT)	ALL CLASSES	0
18. WORD	(C,K)O(BB, B)LESTON(E,ES)(C, K)ORNER(0 - 255 CHARACTERS)	29,30,31,32	0
19. WORD	(C,K)O(BB, B)LESTON(E,ES)(C, K)ORNER(0 - 255 CHARACTERS)	ALL CLASSES	0
20. WORD GOODS PREFIX WORD	(C,K)ORNER(C,K)O(BB, B)LESTON(E,ES) <and> (MEAT,CHEESE, SALAD,PICKLE, MUSTARD,CHIP,SOUP, ENTREE,DELI, SAUERKRAUT)	ALL CLASSES	0
21. WORD	(C,K)ORNER(C,K)O(BB, B)LESTON(E,ES)	29,30,31,32	0
22. WORD WORD	COBBLE(0 - 255 CHARACTERS) <and> STONE(0 - 255 CHARACTERS) <and>	ALL CLASSES	0

Exhibit "B" -- Evidence Submitted By Defendant IMA
IMAL DOC 2 Trademark Search File 126

Search Strategy

	Type	Query	Classes	#References
	WORD	CORNER(0 - 255 CHARACTERS)		
23.	WORD	COBBLE(0 - 255 CHARACTERS) <and>	ALL CLASSES	0
	WORD	CORNER(0 - 255 CHARACTERS)		
24.	WORD	STONE(0 - 255 CHARACTERS) <and>	ALL CLASSES	1
	WORD	CORNER(0 - 255 CHARACTERS)		

Class Identification

29	MEATS AND PROCESSED FOODS
30	STAPLE FOODS
31	NATURAL AGRICULTURAL PRODUCTS
32	LIGHT BEVERAGES

Exhibit "B" -- Evidence Submitted By Defendant IMA

No pertinent references found.

Exhibit "B" -- Evidence Submitted By Defendant IMA
IMAL DOC 2 Trademark Search File 128

Domain Name Summary Page

Citation	Owner	Page	Record of Interest
GROUP ONE			
1. **COBBLESTONECORNER.COM**	Domains by Proxy, Inc. 15111 N Hayden Rd., Suite 160 PMB353 Scottsdale, Arizona 85260 United States	133	☐
2. **COBBLESTONE-CORNER.COM**	N/A	135	☐
3. **COBBLESTONESCORNER.BIZ**	563423-R Caroline Guagliano 6115 W. Tropicana Ave Las Vegas NV 89103 United States US Phone: +1.7022517550 Email: cobblestones2003@hotmail.com	137	☐
GROUP TWO			
No Group Two Matches			
GROUP THREE			
4. **COBBLERSCORNER.COM**	Cobblers Corner (COBBLERSCORNER6-DOM) 6028 Bacon Ave. Inver Grove Heights, MN 55077 US	139	☐
5. **COBBLERSCORNER.NET**	didgenet 941 Starkweather Apt. 6 Plymouth 48170 MI UNITED STATES	141	☐
6. **STONECORNER.COM**	Cornerstone Investment Consultants inc (STONECORNER-DOM) 21 Feldarelli Square New Kensington, PA 15068 US	143	☐
7. **STONECORNER.NET**	Bjoern Steinecke 1: Franekerweg 46 26721 Emden DE Phone: +49.49214509454 email: bjoern@stonecorner.net	145	☐
GROUP FOUR			
No Group Four Matches			
GROUP FIVE			
No Group Five Matches			

ANALYST REVIEW - INTERNET DOMAIN NAME REPORT

Search Information

Type of Search: **FULL SEARCH**
Mark: **COBBLESTONE CORNER**
Goods/Services: **MEAT, CHEESE, REFRIGERATED SALADS, PICKLES, MUSTARD, POTATO CHIPS, FROZEN SOUPS, FROZEN ENTREES, COOKED DELI ITEMS INCLUDING SAUERKRAUT**

Important Notices

Due to the constantly changing nature of the Internet, and the reasons detailed below, it is possible that the status of domain names may change between the time this report is generated and the time you receive this report. Therefore, we strongly recommend that you conduct additional domain name searching before attempting to register a domain name or forming a final opinion on the availability of a trademark or domain name.

* The dynamic nature of the Web allows for the registration of new domain names virtually continuously, 24 hours a day.
* All steps are taken to ensure the completeness and accuracy of our database. However, due to registrar/registry administrative procedures during domain name registration, some domain names may not be present in our database.
* Domain name registrars do not report domain names which are not currently registered, nor do they report domain names which may be "on hold" with the registrar.
* All domain names cited in this report should be considered to be REGISTERED as of the time this report was generated.

Due to the nature of the Web, and because we do not filter Web content, it is possible that the Web Page Lookups included in this report may contain objectionable material. If you wish to avoid the possibility of receiving such material, please contact us to "opt out" of Web Page Lookups.

Data Information

This report is the result of a computerized search of our database of top-level domain names. Our database is updated daily with domain name data from all ICANN-accredited registrars and covers the following suffixes:

.com - commercial (unrestricted use)
.org - non-profit organization (unrestricted use)
.net - network (unrestricted use)
.edu - educational institution
.gov - U.S. Government agency
.info - information (unrestricted use)
.biz - business

This report covers domain names updated to our database as of the following date: **APR 14, 2004**

Please Note: Our last update to .ca (Canadian country code) domain name file was on December 11, 2000, when authority for .ca domains was transferred from the University of British Columbia to the Canadian Internet Registration Authority (CIRA) and file updates became unavailable. Further updates are not expected to become available unless CIRA develops a policy to allow the distribution of domain name information.

Analyst Information

Name: DEBORAH BROMLEY
Comments:

Search Strategy

	Type	Query	#References
1.	EXACT MARK	(C,K)O(BB, B)LESTON(E,ES)(C, K)ORNER	3
2.	WORD	(C,K)O(BB, B)LESTON(E,ES)(C, K)ORNER	0
3.	EXACT MARK	(C,K)ORNER(C,K)O(BB, B)LESTON(E,ES)	0
4.	PREFIX	(C,K)O(BB, B)LESTONE(C, K)ORNER	0
5.	PREFIX	(THE,WWW)(C,K)O(BB, B)LESTONE(C, K)ORNER	0
6.	WORD WORD	(C,K)O(BB, B)LESTON(E,ES) <and> (C,K)ORNER	0
7.	PREFIX LETTERSTRING	(C,K)O(BB,B)LESTONE <and> (C,K)ORNER	0
8.	LETTERSTRING	(C,K)O(BB, B)LESTONE(C, K)ORNER	0
9.	LETTERSTRING LETTERSTRING	(C,K)O(BB,B)LESTONE <and> (C,K)ORNER	0
10.	PREFIX LETTERSTRING	(C,K)ORNER <and> (C,K)O(BB,B)LESTONE	0
11.	LETTERSTRING LETTERSTRING	(C,K)ORNER <and> (C,K)O(BB,B)LESTONE	0
12.	PREFIX	(C,K)O(BB, B)LESTONE(C,K)ORNE	0
13.	PREFIX	(C,K)O(BB, B)LESTONE(C,K)ORN	0
14.	LETTERSTRING LETTERSTRING LETTERSTRING	COBBLE <and> STONE <and> CORNER	0

Search Strategy

	Type	Query	#References
15.	LETTERSTRING LETTERSTRING	COBBLE <and> CORNER	4
16.	PREFIX	STONECORNER	3

Exhibit "B" -- Evidence Submitted By Defendant IMA
IMAL DOC 2

Ref: 1
Group One

COBBLESTONECORNER.COM

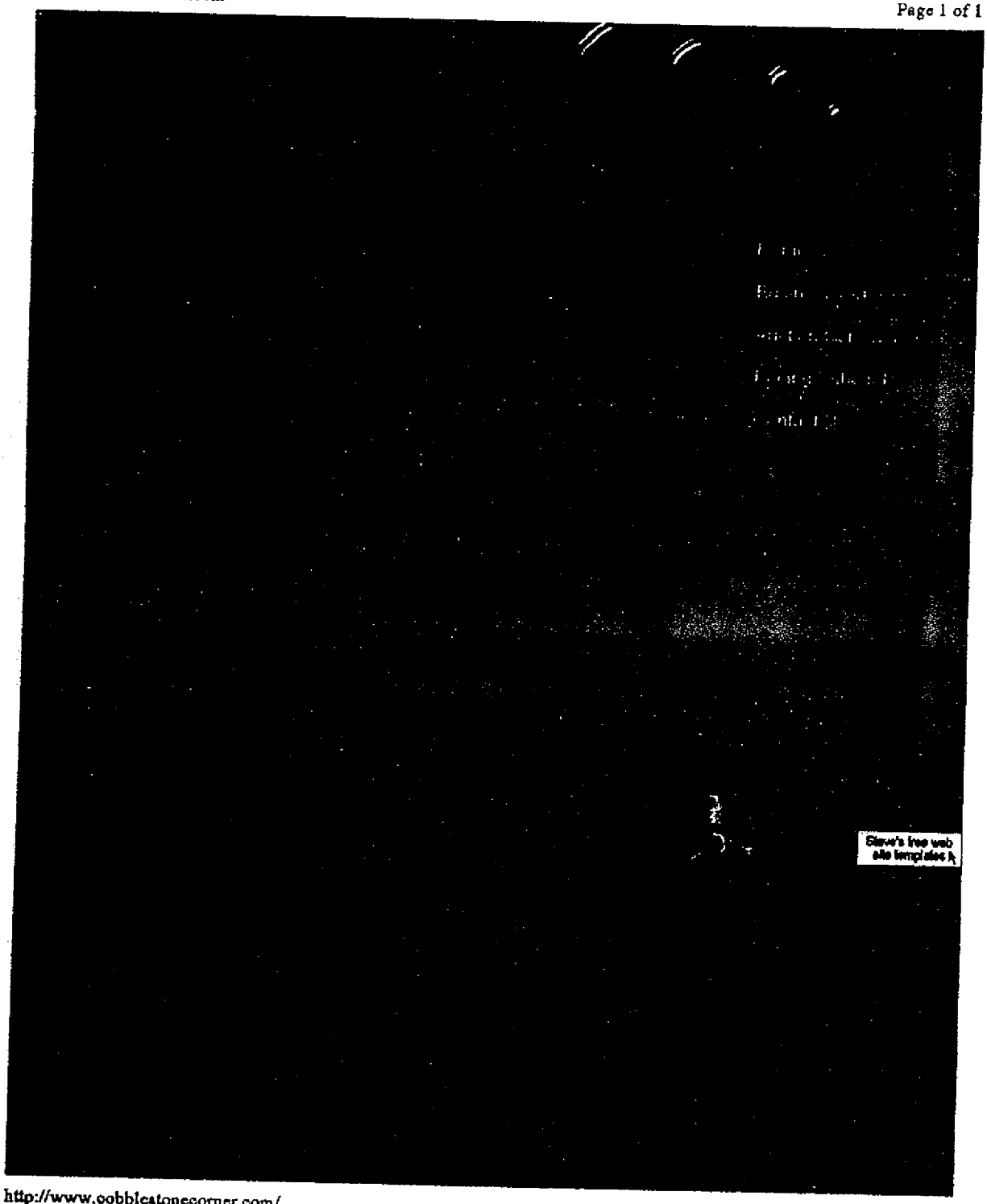
Registered by:	GO DADDY SOFTWARE, INC.
Registrant:	Domains by Proxy, Inc. 15111 N Hayden Rd., Suite 160 PMB353 Scottsdale, Arizona 85260 United States
Administrative Contact:	Private, Registration COBBLESTONECORNER.COM@domainsbyproxy.com Domains by Proxy, Inc. 15111 N Hayden Rd., Suite 160 PMB353 Scottsdale, Arizona 85260 United States (480) 624-2599 Fax --
Technical Contact:	Private, Registration COBBLESTONECORNER.COM@domainsbyproxy.com Domains by Proxy, Inc. 15111 N Hayden Rd., Suite 160 PMB353 Scottsdale, Arizona 85260 United States (480) 624-2599 Fax --
Record History:	**Record created on** 17-Apr-99 **Record last updated on** 23-Mar-04 **Record expires on** 17-Apr-05
Domain Servers in Listed Order:	NS3.POWWEB.COM NS2.POWWEB.COM

Real-Time whois Data

Web Page Information

HTML Title:	CobbleStoneCorner.com
Status:	Accessible

CobbleStoneCorner.com



http://www.cobblestonecorner.com/

4/16/2004 4:05:55 PM

Search: 110802811 Analyst: DEBORAH BROMLEY Domain Name Page: 134

Ref: 2
Group One

COBBLESTONE-CORNER.COM

Registered by: INNERWISE, INC. D/B/A ITSYOURDOMAIN.COM

Domain: cobblestone-corner.com

Registrant
Heather Stitt
CobbleStone-Corner
Pebble97@aol.com
6234
Youngstown, OH 44512 US
+1.3307582327

Administrative
Heather Stitt
Heather Stitt
peeble97@aol.com
6234 Market St.
Youngstown, OH 44512 US
+1.3307582327

Billing
CJs Creations
CJs Creations
dns@cjscreations.com
P.O. Box 12023
Green Bay, WI 54307 US
+1.9204342813
+1.2402084484 (FAX)

Technical
CJs Creations
CJs Creations
dns@cjscreations.com
P.O. Box 12023
Green Bay, WI 54307 US
+1.9204342813
+1.2402084484 (FAX)

Record created on November 21, 2001
Record last updated on March 31, 2004
Record expires on November 21, 2004

Domain Name Servers:
NS1.SECURE.NET
NS2.SECURE.NET

Real-Time whois Data

Web Page Information

HTML Title: CobbleStone Corner Lawn Ornaments

Keywords: statues, figures, statuary, lawn ornaments, landscape decoration, architectural stone, hand painted, cast stone, outdoor decorations, concrete, ornaments, decorations, concrete, landscape figures, molds, moulds, cement statues, cement, cement molds, garden statues, castings, lions, cats, fountins, fountains, bird baths, dogs, puppies, elephant, Fithian Cement Products, CobbleStone-Corner

Status: Accessible

Search: 110802811 **Analyst: DEBORAH BROMLEY** **Domain Name Page: 135**

CobbleStone Corner Lawn Ornaments

Our collection of attractive concrete lawn ornaments are affordable for your home or garden!

Cobblestone Corner manufactures most of the ornamental concrete that we sell so we can keep our prices low.

Now offering over 400 items: from Angels to Alligators, Dogs to Frogs along with Lions, Tigers & Bears!

We have many assortments of Fountains, Benches, Planters and Stepping Stones.
If your looking for religious statues, Oriental or Nautical, we got it all!

"Prices are low - in some cases, just half what other stores are asking"
Clipped from The Vindicator May 28, 2000

To view our ornamental concrete creations visit our Statues page.

Since Cobblestone Corner is not actually selling anything on this site yet, we feel it is more
informational right now. We would like to see if there is a statue or piece of ornamental concrete that you are looking for. Either email us or drop us a note to:

Cobblestone Corner
6234 Market St.
Youngstown, Ohio 445129

Site Design & Hosting by: CJsCreations.com

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No portion of this web site may be reproduced using any media without the express, written consent of the Fithian Cement Products.
All rights reserved.

http://www.cobblestone-corner.com/

4/16/2004 4:05:55 PM

Search: 110802811

Analyst: DEBORAH BROMLEY

Domain Name Page: 136

Exhibit "B" -- Evidence Submitted By Defendant IMA

Ref: 3
Group One

COBBLESTONESCORNER.BIZ

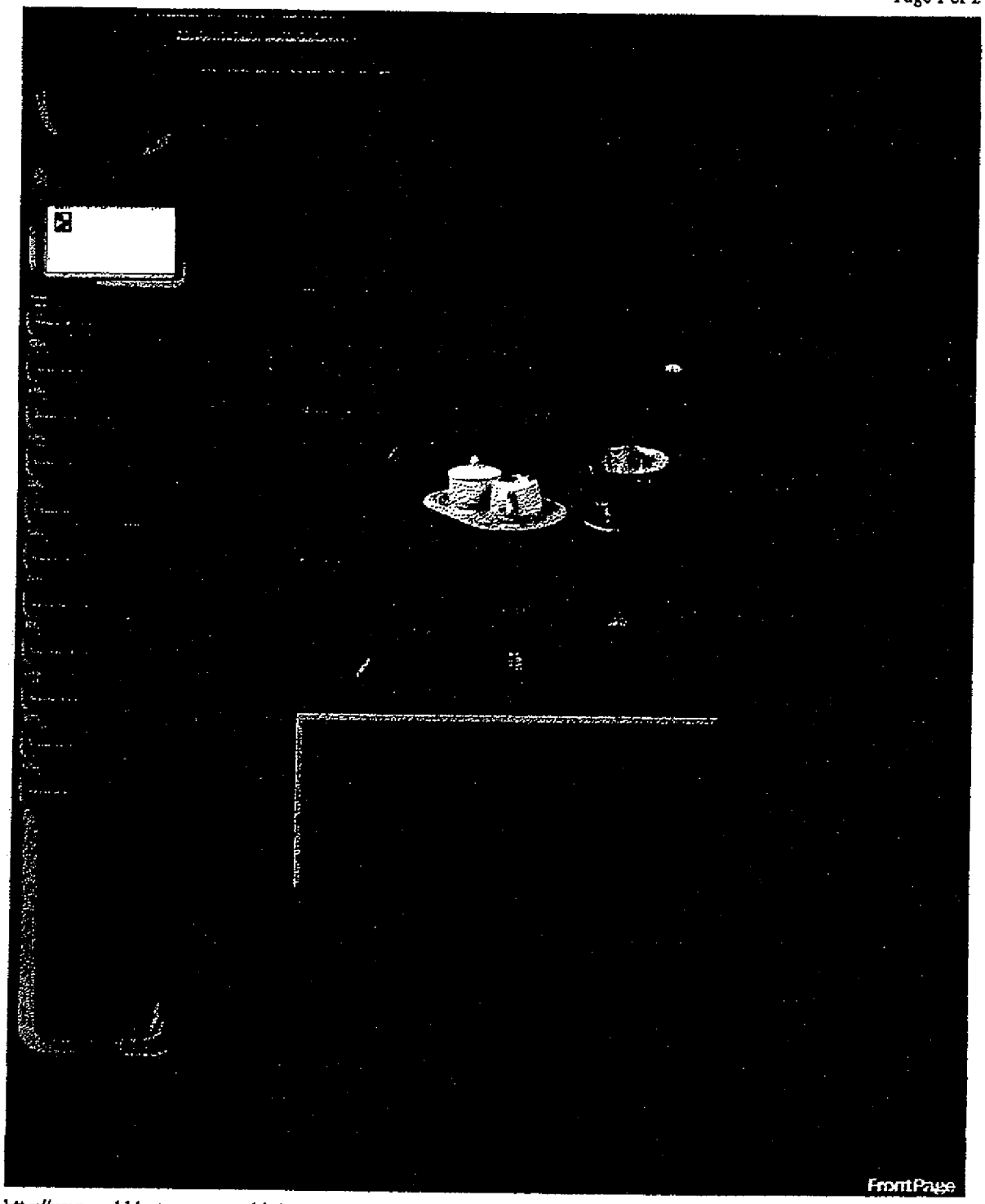
Registered by:	NeuLevel, Inc. Domain ID: D5279734-BIZ
Registrant:	563423-R Caroline Guagliano 6115 W. Tropicana Ave Las Vegas NV 89103 United States US Phone: +1.7022517550 Email: cobblestones2003@hotmail.com
Administrative Contact:	563423-A Richard Brown Address1: 5900 W. Tropicana Ave #316 Las Vegas NV 8910 3 United States US Phone: +1.7022517550 Email: customerservice@rdb-works.biz
Technical Contact:	563423-T Technical Support LowestHostin 2373 NW 185th Avenue #199 Hillsboro OR 97124 United States US Fax: +1.5032100379 Email: support-p@Lowesthosting.com
Billing Contact:	563423-B Richard Brown 5900 W. Tropicana Ave #316 Las Vegas NV 89103 United States US Phone: +1.7022517550 Email: customerservice@rdb-works.biz
Record History:	**Record created on** Sun Sep 07 05:33:33 GMT+00:00 2003 **Record expires on** Mon Sep 06 23:59:59 GMT+00:00 2004
Domain Servers in Listed Order:	NS1.LOWESTHOSTING.COM NS2.LOWESTHOSTING.COM

Real-Time whois Data

Web Page Information

HTML Title:	Cobblestones
Status:	Accessible

Exhibit "B" -- Evidence Submitted By Defendant IMA



http://www.cobblestonescorner.biz/

4/16/2004 4:05:55 PM

Ref: 4
Group Three

COBBLERSCORNER.COM

Registered by:	NETWORK SOLUTIONS, INC.
Registrant:	Cobblers Corner (COBBLERSCORNER6-DOM) 6028 Bacon Ave. Inver Grove Heights, MN 55077 US
Administrative Contact:	Torrini, Megan (TKVIXYGCNI) postmaster@COBBLERSCORNER.COM Cobblers Corner 6028 Bacon Ave. Inver Grove Heights, MN 55077 US (651) 603-6438 fax: 999 999 9999
Technical Contact:	VISI.com (DH-ORG) hostmaster@VISI.COM VISI.com 12 S 6th St Suite M115 Minneapolis, MN 55402 US 612-288-0880 fax: 612-288-0889
Record History:	**Record created on** 12-Aug-2002. **Record last updated on** 25-Oct-2003. **Record expires on** 12-Aug-2004.
Domain Servers in Listed Order:	NS.VISI.COM 209.98.98.1 NS2.VISI.COM 38.144.126.68

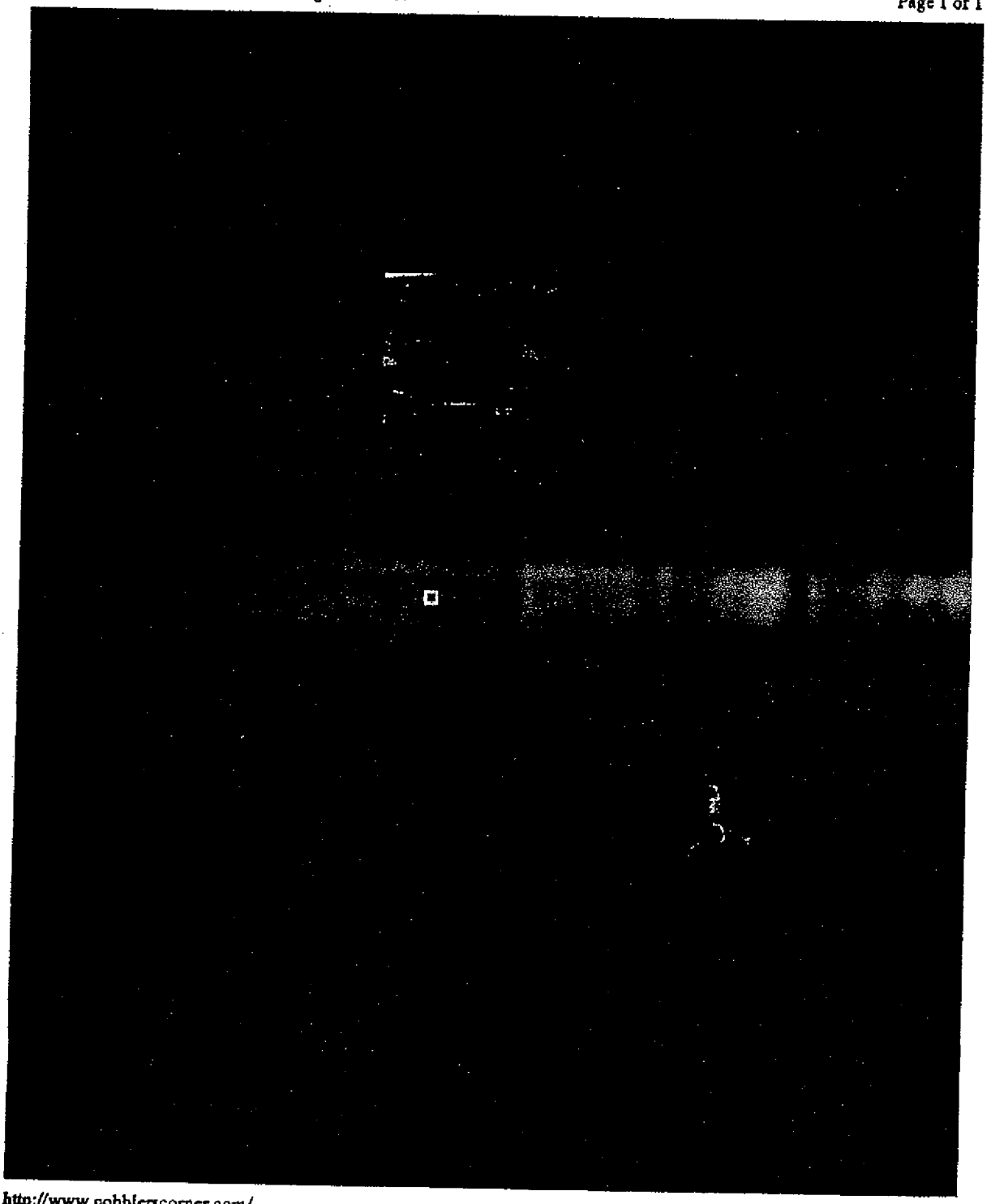
Real-Time whois Data

Web Page Information

HTML Title:	Main Heading Goes Here Subheading Goes Here
Status:	Accessible

Exhibit "B" -- Evidence Submitted By Defendant IMA

Main Heading Goes Here Subheading Goes Here



http://www.cobblerscorner.com/

4/16/2004 4:05:55 PM

Search: 110802811 Analyst: DEBORAH BROMLEY Domain Name Page. 140

Ref: 5
Group Three

COBBLERSCORNER.NET

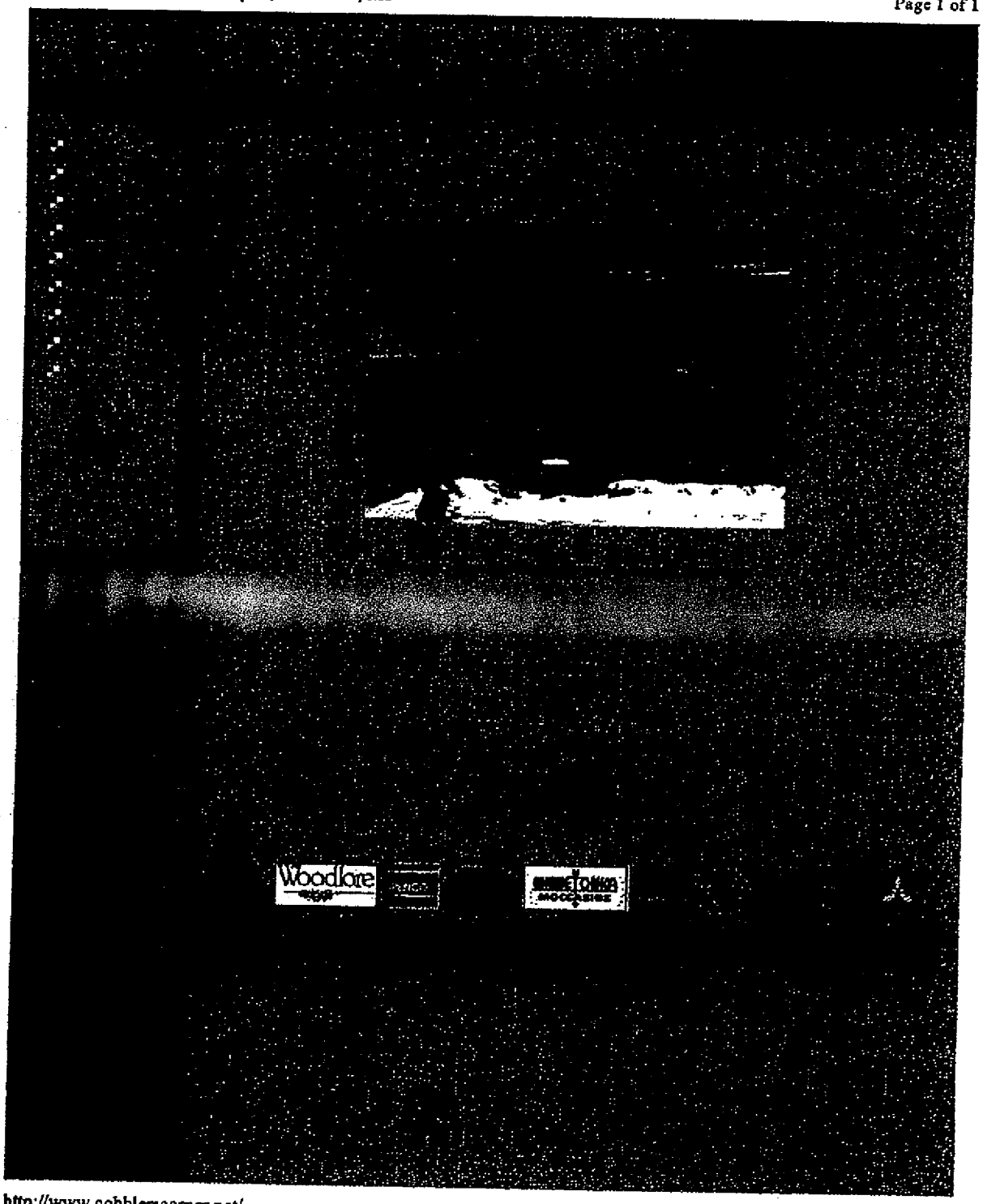
Registered by:	MELBOURNE IT, LTD. D/B/A INTERNET NAMES WORLDWIDE
Registrant:	didgenet 941 Starkweather Apt. 6 Plymouth 48170 MI UNITED STATES
Administrative Contact:	John Wolmar 941 Starkweather Apt. 6 Plymouth 48170 MI UNITED STATES Email: johnwolmar@hotmail.com Phone: 7344595159
Technical Contact:	John Wolmar 941 Starkweather Apt. 6 Plymouth 48170 MI UNITED STATES Email: johnwolmar@hotmail.com Phone: 7344595159
Record History:	**Record created on** 2003-10-19 2003-10-19 **Record expires on** 2004-10-19
Domain Servers in Listed Order:	dns1.thisismyserver.net dns2.thisismyserver.net

Real-Time whois Data

Web Page Information

HTML Title:	Cobbler's Corner - Shoe Repair, Northville, MI
Status:	Accessible

Cobbler's Corner - Shoe Repair, Northville, MI



http://www.cobblerscorner.net/

4/16/2004 4:06:07 PM

Search: 110802811 Analyst: DEBORAH BROMLEY Domain Name Page: 142

STONECORNER.COM

Registered by: NETWORK SOLUTIONS, INC.

Registrant: Cornerstone Investment Consultants inc (STONECORNER-DOM) 21 Feldarelli Square New Kensington, PA 15068 US

Administrative Contact: Cornerstone Investment Consultants inc (284369070) sfisher@stonecorner.com 21 Feldarelli Square New Kensington, PA 15068 US (724) 339-1799 fax: (724) 337-7553

Technical Contact: Support, BitShop (SR456) support@BITSHOP.COM 4716 Pontiac Street Suite 310-A College Park, MD 20740 US 301-345-6789 fax: 301-345-6745

Record History: **Record created on** 26-Jan-1998.
Record last updated on 26-Oct-2003.
Record expires on 25-Jan-2006.

Domain Servers in Listed Order: NS.BITSHOP.COM 206.161.239.53
NS2.BITSHOP.COM 206.161.239.56

Real-Time whois Data

Web Page Information

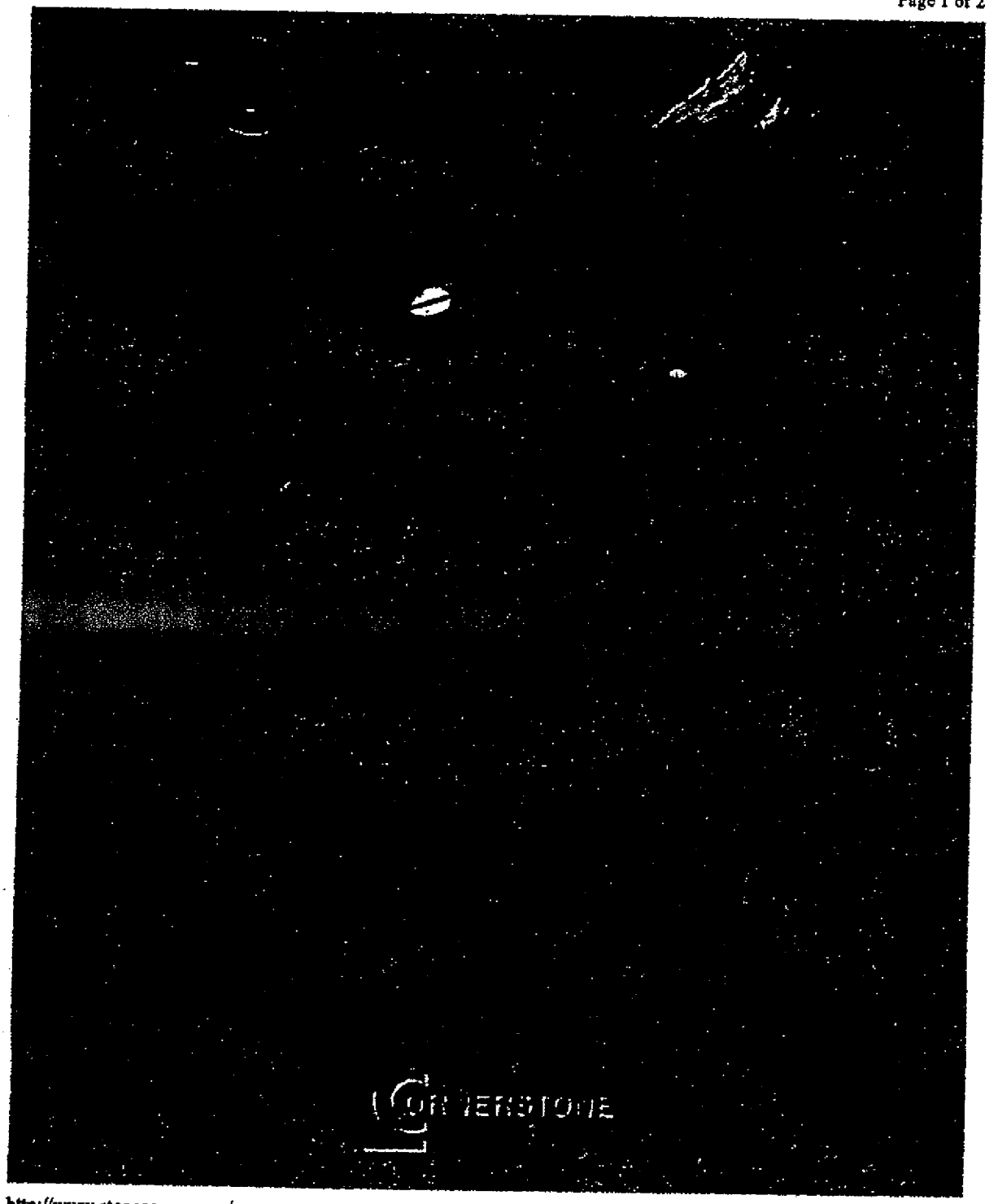
HTML Title: Cornerstone Investment Consultants, Inc.

Keywords: swf, scott fisher, fisher, mutual funds, stocks, investing, zero-coupon bonds, bonds, money, retirement, 401K, investment, financial, stocks, mutual funds, mutual funds, brokers, stocks, bonds, investing, money

Description: SWF Enterprises. Financail expeditions for navigating the 21st century.

Status: Accessible

Cornerstone Investment Consultants, Inc.



http://www.stonecorner.com/

4/16/2004 4:06:08 PM

Search: 110802811 Analyst: DEBORAH BROMLEY Domain Name Page: 144

STONECORNER.NET

Registered by:	Schlund+Partner AG domain: STONECORNER.NET
Registrant:	Bjoern Steinecke 1: Franekerweg 46 26721 Emden DE Phone: +49.49214509454 email: bjoern@stonecorner.net
Administrative Contact:	Bjoern Steinecke Organization: MD Hardware & Service GmbH 1: Stedinger Str. 24 26723 Emden DE Phone: +49.4921960632 Fax: +49.4921960666 email: bs@md-hardware.de
Technical Contact:	Bjoern Steinecke Organization: MD Hardware & Service GmbH 1: Stedinger Str. 24 26723 Emden DE Phone: +49.4921960632 Fax: +49.4921960666 email: bs@md-hardware.de
Billing Contact:	Ansgar Ljucovic Organization: Schlund + Partner AG 1: Brauerstr. 48 76135 Karlsruhe DE Phone: +49.721913740 Fax: +49.72191374217 email: billing@schlund.de % See http://registrar.schlund.info for information about Schlund+Partner AG
Record History:	**Record created on** 12-Dec-2002 **Record last updated on** 08-Apr-2004 **Record expires on** 12-Dec-2005
Domain Servers in Listed Order:	ns.schlund.de ns2.schlund.de

Real-Time whois Data

Web Page Information

HTML Title:	Welcome to my WebSite © bjoern@stonecorner.net
HTML Title:	Stonecorner WebSite
Status:	Accessible

Exhibit "B" -- Evidence Submitted By Defendant IMA

Welcome to my WebSite © bjocrn@stonecorner.net

STONECORNER.NET
STONECORNER.NET

SEND MAIL

.webmail

http://www.stonecorner.net/

4/16/2004 4:06:11 PM

Search: 110802811

Analyst: DEBORAH BROMLEY

Domain Name Page: 146

Exhibit "B" -- Evidence Submitted By Defendant IMA

ANALYST REVIEW – COMMON LAW LIBRARY REPORT / Summary Page

Analyst Information

Name: DEBORAH BROMLEY
Comments: In addition to our Common Law Database sources, we have also searched industry specific sources relevant to the mark and goods requested.

Trademark/Source	Page

No pertinent references found.

Exhibit "B" -- Evidence Submitted By Defendant IMA

SHEPARD'S UNITED STATES CITATIONS

The following references have been selected from our computerized database, organized from information supplied by Shepard's. Shepard's considers the data to be reliable, but accuracy, currentness and completeness cannot be guaranteed. Please consult the indicated material by volume and page for further information. OFFICIAL GAZETTE status information (OGT) has been excluded so that the file contains litigation information only.

No pertinent references found.

REPORTED OWNER INDEX

The following is an alphabetical listing of names reported in the OWNER field of records cited in this search report, with all marks owned by a single entity carried under that entity. (Due to inconsistent spellings, corporate designations, and other discrepancies in data collected by T&T from diverse sources, multiple listings of what are in fact the same owner may occur.) The Business Name, Domain Name and Gale Database sections of the report are not included in this index.

This tool is designed to facilitate your review of the search report and to help you identify trends in data. There has been no analysis made to determine if the company name listed is the actual owner of the trademark. In the case of USPTO listings, only officially reported owners are included; assignees are not considered owners for the purpose of this index.

Exhibit "B" -- Evidence Submitted By Defendant IMA

Reported Owner Index

Reported Owner Citation	Status	Class(es)	Section	Page
1. (NOT AVAILABLE)				
COBBLESTONE MILLS	N/A	N/A	Com	113
CORNERSTONE	N/A	N/A	Com	110
CORNERSTONE	N/A	N/A	Com	113
2. ALDI INC.				
BAKER'S CORNER	REGISTERED	30	USPTO	55
BAKER'S CORNER	REGISTERED	30	USPTO	56
BAKER'S CORNER	PUBLISHED	30	USPTO	64
3. AMERICAN STORES COMPANY				
CORNER DELI	REGISTERED	42	USPTO	45
CORNER DELI CUISINE	CANCELLED	29, 30	USPTO	83
4. ANITA LEVINE				
COBBLESTONE	RENEWED	33	Sta	94
5. ANTIETAM TAVERN INC.				
CORNER PUB	ABANDONED	39, 42	USPTO	83
6. BARCLAY BEATTY BREWING, INC.				
COBBLESTONE BREWERY & PUB	REGISTERED	42	Sta	97
7. BEATRICE CHEESE, INC.				
BOSTON COBBLESTONE	RENEWED	29	USPTO	27
8. BRIGHT OF AMERICA				
COBBLESTONE	N/A	N/A	Com	110
9. BRINKER RESTAURANT CORPORATION				
CORNER BAKERY	REGISTERED	32	USPTO	49
CORNER BAKERY	REGISTERED	32	USPTO	50
CORNER BAKERY CAFE	REGISTERED	42	USPTO	70
10. BRUCE TACKE				
CORNERSTONE	NOT RENEWED	42	Sta	95
CORNERSTONE	REGISTERED	42	Sta	95
11. CHERRYWOOD RESTAURANT GROUP LLC				
196 COBBLESTONES RESTAURANT & BAR	REGISTERED	43	USPTO	42
12. CLARK RETAIL ENTERPRISES, INC.				
FOUR CORNERS	REGISTERED	30, 35	USPTO	44
13. COBBLESTONE KITCHENS INC.				
COBBLESTONE KITCHENS	REGISTERED	29, 30	USPTO	26
14. COMEBACK BREWING, INC.				
CORNERSTONE ALE	PENDING	32	USPTO	25
15. CORNERSTONE CELLARS, INC.				
CORNERSTONE CELLARS	REGISTERED	33	USPTO	48
16. CORNERSTONE HOSPITALITY GROUP, INC.				
CORNERSTONE	REGISTERED	35	USPTO	24

IMA Exhibit "B" -- Evidence Submitted By Defendant IMA

Reported Owner Citation	Status	Class(es)	Section	Page
17. COSI, INC.				
COSI CORNERS	REGISTERED	30	USPTO	53
18. DAMASTE INVESTMENTS LLC				
THE CHERRY CORNER	REGISTERED	42	USPTO	68
19. DCB, INC.				
CORNER DELI	EXPIRED	30	Sta	98
THE CORNER DELI	EXPIRED	30	Sta	102
20. DENICE AND FILICE PACKING CO.				
FOUR CORNERS	PENDING	31	USPTO	59
21. DILLMAN ENTERPRISES, INC.				
KEBAB KORNER	REGISTERED	30, 42	USPTO	48
22. DITTER, INC.				
JAVA JOE'S GOURMET CORNER	NOT RENEWED	42	Sta	101
23. F. W. WOOLWORTH CO., NEW YORK, N. Y.				
THE QUIET CORNER	REGISTERED	42	USPTO	69
24. FLOWERS BAKERIES BRANDS, INC.				
COBBLESTONE MILL	REGISTERED	30	USPTO	36
COBBLESTONE MILL HEALTHY 'N HEARTY	REGISTERED	30	USPTO	33
QUALITY BREAD COBBLESTONE MILL A FAMILY OF BAKERS SINCE 1919 SAN FRANCISCO SOURDOUGH CLASSIC RECIPE	REGISTERED	30	USPTO	39
25. FLOWERS BAKERIES				
COBBLESTONE MILL	N/A	N/A	Com	113
26. FLOWERS FAMILY BAKERIES, INC.				
COBBLESTONE MILL	REGISTERED	30	USPTO	29
COBBLESTONE MILL BREAKFAST BREADS	CANCELLED	30	USPTO	72
27. FLOWERS INDUSTRIES, INC.				
COBBLESTONE CORNER	CANCELLED	30	USPTO	16
COBBLESTONE FARM	CANCELLED	30	USPTO	75
28. FOODTOWN				
CHEF'S CORNER	REGISTERED	29, 30, 35	USPTO	60
29. FOUR STAR INTERNATIONAL TRADING COMPANY				
COBBLESTONE CORNERS	REGISTERED	21	USPTO	85
30. GENERAL MILLS IP HOLDING I, LLC				
GOODNESS CORNER	PENDING	30	USPTO	58
31. GOLDEN BOY FOODS INC.				
COUNTRY CORNER	N/A	N/A	Com	115
32. GOOD SOURCE SOLUTIONS, INC				
CORNERSTONE MARKETPLACE	ABANDONED	29	USPTO	79
33. GOODHUE'S INC.				
BAKER'S CORNER	N/A	N/A	Com	115
34. HAWKEYE'S CORNER, INC.				
HAWKEYE'S CORNER	REGISTERED	42	USPTO	67

IMA Exhibit "B" -- Evidence Submitted By Defendant IMA

Reported Owner Citation	Status	Class(es)	Section	Page
35. HODGE, BURKE A.				
CORNERSTONE COFFEE COMPANY	ABANDONED	35	USPTO	71
36. HOF'S BREA, INC.				
CORNERSTONE GRILL	CANCELLED	42	USPTO	80
CORNERSTONE GRILL	CANCELLED	42	USPTO	81
37. HOUSTON'S RESTUARANTS, INC.				
THE CORNER BAR	REGISTERED	42	Sta	101
38. INDIAN ESSEN, INC.				
KABAAB KORNER	PENDING	43	USPTO	70
39. INTEGRATED BAKERY RESOURCES, INC.				
CORNER DELI	REGISTERED	30	USPTO	42
40. INTERNATIONAL MULTIFOODS CORPORATION				
CORNERSTONE	RENEWED	30	USPTO	19
41. JANET STOFFER				
COBBLESTONE CUSTARD	REGISTERED	30	Sta	96
42. JEROME J. MULLINS				
COBBLESTONE INN	REGISTERED	42	Sta	97
43. JOYCE ANNE HOGAN				
COBBLESTONE CHRISTMAS BLEND	REGISTERED	30	Sta	96
44. K.S.C.H., INC.				
CARVER'S CORNER	REGISTERED	29, 30, 42	USPTO	65
45. KATIE'S KORNER, INC.				
KATIE'S KORNER	RENEWED	30	USPTO	53
46. KFC CORPORATION				
WING CORNER	PUBLISHED	29	USPTO	55
47. KOSHER CORNER				
KOSHER CORNER	CANCELLED	29	USPTO	82
48. LIDL STIFTUNG & CO. KG				
SWEET CORNER	REGISTERED	30	USPTO	57
49. MAIN STREET FOODS LLC				
CORNERSTONE	ABANDONED	29	USPTO	25
50. MAIN STREET INGREDIENTS				
CORNERSTONE	N/A	N/A	Com	110
51. MARY N. SKLADANEK				
AROUND THE CORNER	RENEWED	42, 39	Sta	99
52. MICHAEL JENNINGS				
COBBLESTONE PIZZA	PENDING	42	USPTO	41
53. MOLKEREI ALOIS MUELLER GMBH & CO.				
CRUNCH CORNER	REGISTERED	29	USPTO	52
54. MOLKEREI ALOIS MUELLER				
FRUIT CORNER	REGISTERED	29	USPTO	54
55. MOLKEREI ALOIS MULLER GMBH & CO.				
CORNER	REGISTERED	29, 30	USPTO	23
56. MORGAN STREET BREWERY				
COBBLESTONE STREAM LAGER	N/A	N/A	Com	113

Search: 110802811

Reported Owner Page: 152

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Reported Owner / Citation	Status	Class(es)	Section	Page
57. MUELLER DAIRY (UK) LIMITED				
CRUMBLE CORNER	REGISTERED	29, 30	USPTO	63
58. PERDUE FARMS INCORPORATED				
COUNTRY CORNER	REGISTERED	29	USPTO	51
59. PURINA MILLS, INC.				
CORNERSTONE	REGISTERED	31	USPTO	21
60. REDFISH NEW ORLEANS BREWHOUSE				
COBBLESTONE PILSENER	N/A	N/A	Com	114
61. RYLAURKEN, INC.				
ROUND THE CORNER	REGISTERED	42	USPTO	67
62. S & D COFFEE, INC.				
CORNERSTONE JAVA	ABANDONED	30	USPTO	79
63. SAUL LEVINE				
COBBLESTONE	RENEWED	33	Sta	94
64. SCHRATTER FOODS INCORPORATED				
RECIPE CORNER	PUBLISHED	16	USPTO	59
65. SELAURA CORPORATION				
POP-CORNER	REGISTERED	30	USPTO	57
66. SF INVESTMENTS, INC.				
CORNER BUTCHER	REGISTERED	29	USPTO	61
67. SQUID, INC.				
CROOK'S CORNER	REGISTERED	42	USPTO	66
68. STOP & SHOP SUPERMARKET COMPANY, THE				
CORNER DELI	ABANDONED	29	USPTO	47
69. SUGAR BROOK SALES, LLC				
CORNER TAVERN	PUBLISHED	29	USPTO	62
70. SUMMITVILLE TILES, INC.				
COBBLESTONES	N/A	N/A	Com	110
71. SWISSROSE INTERNATIONAL, INC.				
BOSTON COBBLESTONE	N/A	N/A	Com	114
72. TESSA L. WAHLEN				
AROUND THE CORNER	RENEWED	42, 39	Sta	98
AROUND THE CORNER	RENEWED	42, 39	Sta	99
73. TORII, THOMAS, LEO				
COBBLESTONE BREAD	PENDING	30	USPTO	40
74. WESCO, INC.				
CARNIVAL CORNER	PUBLISHED	29, 30	USPTO	51

Madrid Protocol

The Madrid Protocol section provides coverage of Madrid Protocol applications and registrations that have requested extension of protection to the United States.

The information in the Madrid Protocol section is drawn from the International Register maintained by the World Intellectual Property Organization (WIPO) in Geneva, Switzerland. The records included in the report are full text citations from Thomson & Thomson's International Register database.

The following is a sample of the fields that may be contained in these records:

- Trademark
- Registration Number
- Status
- Goods/Services
- Refusals/Invalidation
- Last Reported Owner
- Original Registration Information
- Protection Claimed
- Historical Information

IMA DOC 2 Exhibit "B" -- Evidence Submitted By Defendant IMA

There are no citations for this report.

File Dates

International Register

Date Last Updated: April 10, 2004

Gazette of International Marks no. 03/2004, dated March 18, 2004
Unpublished Applications made available by the WIPO as of April 6, 2004

Exhibit "B" -- Evidence Submitted By Defendant IMA

Exhibit 7

I Think OK BMT

MEMORANDUM

To: Bob Planck
From: Bartt Thompson
Date: April 21, 2004
Re: Cobblestone Corner

Any disclaimer re to "cobblestone"

IMA is considering adopting the use of the trademark "Cobblestone Corner" for deli items such as cooked deli items, cheese, refrigerated salads, refrigerated pickles, deli mustard, bagged potato chips and frozen soups and entrees. These items come under two of the classes for trademark registrations as follows:

Class 29 – Meats and Processed Foods
- Cooked deli items
- Cheese
- Refrigerated salads
- Refrigerated pickles
- Bagged potato chips
- Frozen soups and entrees

Class 30 – Staple foods
- Deli mustard

The Mark "Cobble Stone" or "Cobblestone"
A search for the mark "cobble stone" reveals that there are a few uses of the mark, in each case combined with another word, for products under Class 30:

Mark	Status	Class	Description
Cobblestone Bread	Pending	30	Fresh baguette breads
Cobblestone Mill	Registered	30	Bakery products, namely bread, buns and rolls
Cobblestone Mill Healthy & Hearty	Registered	30	Bakery products, namely Bread
Cobblestone Kitchens	Registered	30	Staple Goods, namely Hot Chocolate and Coffee

There are a few of uses of the mark, in each case combined with another word, for products under Class 29:

Boston Cobblestone	Registered	29	Cheese
Cobblestone Kitchens	Registered	29	Dairy-Based Food Beverages

EXHIBIT
Planck 7

Exhibit "B" -- Evidence Submitted By Defendant IMA

The search also revealed that "cobble stone" is in use for several other products or services outside of Classes 29 and 30. Some examples of these:

Cobblestone Pizza	Pending	42	Restaurant services
Cobblestone Creek	Pending	3	Cosmetic and cleaning (soaps)
Cobblestone Bridge	Registered	16	Paper goods and Printed Matter
" "	"	35	Advertising and Business
" "	"	28	Toys and Sporting goods

(plus several other registrations for Cobblestone Bridge)

Cobblestone Small Group Tours	Registered	39	Transportation and Storage
Cobblestones	Registered	25	Clothing
Cobblestone	Registered	33	Wines and Spirits
Cobblestones	Registered	19	Non-metallic Building Materials
Cobblestone	Registered	42	Golf course services

The use of the mark Cobblestone has established several meanings through the registrations and pending registrations listed above.

The Mark "Cobblestone Corner"

The mark "Cobblestone Corners" was previously registered in 1975 under class 42 and cancelled in April 1982 (registrant was a third party).
The mark "Cobblestone Corner" was subsequently registered in October 1984 by Flowers Industries, Inc., which may be the owner of the mark "Cobblestone Mill" and "Cobblestone Mill Healthy & Hearty" under class 30 for bakery products-namely, breads, buns and rolls. The "Cobblestone Corner" mark was cancelled in February 1991. Finally, in April 2000 the Four Star International Trading Company registered the mark "Cobblestone Corners" under class 21 for collectible figures made of porcelain. This mark is live.

Analysis

As we have previously noted in various searches for IMA the trademark rules emphasize the impression that is left with the viewer. When a mark is comprised of a word or words the dominant sounds that the viewer observes is the feature of the mark to be analyzed for purposes of determining likelihood of confusion.

When a word has been used in multiple classes it is said to be diluted since no single owner has sole ownership of the mark. With "cobble stone" or "cobblestone" the word has some dilution since there are at least 10 different owners of variations of marks containing the word cobblestone.

With the variations of cobblestone and the fact that the existing "cobblestone corners" is for a different product in a different class means that we should expect the trademark office to raise the existence of the "corner" mark in their investigation. We will have to

Exhibit "B" -- Evidence Submitted By Defendant IMA

be prepared to respond that the goods are in different channels, involve different buyers that are not only not identical, but are not even related.

While we believe that IMA has a good chance at getting the mark "Cobblestone Corner" published for opposition under classes 29 and 30 for various deli items, the success of the registration process often depends on the individual examiner that is assigned the application.

Once published for opposition we would anticipate that the owner of the "Cobblestone Mill" mark for bakery products, and possibly the owner of the "Cobblestone Bread" mark for fresh baguette breads might oppose registration on the grounds of likelihood of confusion – note that the owner of the "Cobblestone Mill" mark is Flowers Bakeries Brands, Inc. We note that the trademark office has sent some sort of letter to the applicant for "Cobblestone Bread"; the examiner may have found there to be a conflict with "Cobblestone Mill" due to both marks dealing with bread. IMA's ability to successfully defeat any such opposition will be based on showing that the products (deli items) are not related to the bread or bakery products of either or both of these preexisting marks. The owner of the "Boston Cobblestone" mark might oppose registration as well; IMA's ability to successfully defeat this opposition will be based upon showing that the marks are dissimilar.

Exhibit "B" -- Evidence Submitted By Defendant IMA

Exhibit 8

as you know

prepared to respond that the goods are in different channels, and involve different buyers that are not only not identical, but are not even related.

The examiner will look for the similarity or dissimilarity of the marks as to appearance, sound, connotation and commercial impression and will compare the goods to see if they are related. While we believe that IMA has a good chance at getting the mark "Cobblestone Corner" published for opposition under classes 29 and 30 for various deli items, the success of the registration process often depends on the individual examiner that is assigned the application.

could try to

Assuming publication for opposition ~~IMA should anticipate that~~ the owner of the "Cobblestone Mill" mark for bakery products, and possibly the owner of the "Cobblestone Bread" mark for fresh baguette breads ~~might~~ oppose registration ~~on the grounds of likelihood of confusion~~ – note that the owner of the "Cobblestone Mill" mark is Flowers Bakeries Brands, Inc. We note that the trademark office has sent some sort of letter to the applicant for "Cobblestone Bread"; the examiner may have found there to be a conflict with "Cobblestone Mill" due to both marks dealing with bread. ~~IMA's ability to successfully defeat any such opposition~~ will be based on showing that the products ~~(deli items) are not related to the bread or bakery products of either or both of these preexisting marks~~. The owner of the "Boston Cobblestone" mark might oppose registration as well; ~~IMA's ability to successfully defeat this opposition will be based upon showing that the marks are dissimilar.~~

try to

We are curious as to why the trademark office did not require a disclaimer of the use of "cobblestone" without the use of the other words in connection with these registrations.

Should an opposition be filed IMA would show the dissimilarities of the marks and the lack of confusion. Surely IMA would not be trading on the good will of any of these marks.

EXHIBIT
Planck 8

Exhibit 9

From: Bob Planck
<rdplanck@independentmarketingalliance.com>
To: Bartt G. Thompson <bgt@pdhlaw.com>
Date: Thursday, May 26, 2005 4:41:38 PM
Subject: Kiosks
Folder: Inbox - Known/MBH

The San Pablo mark for Reinhart is the mark we are operating under. If we get the St, Paul grill to give us a release, are we OK. It is important that we be able to get on with expanding the application of the Brands "San Pablo", Villa Frizzoni", and "Cobbelstone Market"...the later being the most critical.

Ed, is the St. Paul Grill a customer?

Robert D. Planck
President

Independent Marketing Alliance
16000 Memorial Drive, Ste 200
Houston, TX 77079
Tel: 281-531-0007 Extn. 316
Fax: 281-531-0022
www.independentmarketingalliance.com
email: rdplanck@independentmarketingalliance.com

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From: Bartt G. Thompson [mailto:bgt@pdhlaw.com]
Sent: Thursday, May 26, 2005 3:51 PM
To: Bob Planck
Subject: Kiosks

EXHIBIT
Planck 9

Exhibit "B" -- Evidence Submitted By Defendant IMA

Bob:

We asked the attorney who searched the Brickfire Bakery to look at the marks you thought about for kiosks. Attached is his initial letter and follow-up to my inquiry. There is a "The St Paul Grill" mark that is registered. This attorney seems to think that since San Pablo is translated to be St Paul, that the trademark office would reject the mark.

I have not heard back on the other two names yet, but there is a "Cobblestones Restaurant & Bar" which he may find to cause a concern as well.

Bartt

Exhibit 10

PTO Form 1478 (Rev 4/98)
OMB Control #0651-0009 (Exp. 08/31/2004)

713 951 0552

Trademark/Service Mark Application, Principal Register

To the Commissioner for Trademarks:

MARK: (Standard Characters, see mark)

The mark is presented in standard characters without claim to any particular font style, size or color.

The literal element of the mark consists of COBBLESTONE MARKET.

The applicant, Independent Marketing Alliance L.P, a limited partnership organized under the laws of Delaware, comprising of Distribution Marketing Services L.L.C, a Delaware limited liability company, residing at 16000 Memorial Drive, Suite 200, Houston, TX USA 77079, requests registration of the trademark/service mark shown on the drawing page in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended.

Intent to Use: The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services. (15 U.S.C. Section 1051(b)).

International Class 029: Deli meats, cooked deli items, cheese, refrigerated salads, pickles, bagged potato chips, frozen soups and entrees
International Class 030: Deli mustard

The applicant, hereby appoints Bartt G. Thompson and Martyn B. Hill of Pagel, Davis & Hill, P.C., 1415 Louisiana, 22nd Floor, Houston, TX USA 77002 to submit this application on behalf of the applicant.

A fee payment in the amount of $670 will be submitted with the application, representing payment for 2 class(es).

EXHIBIT
Planck 10

APPLICANT NAME: Independent Marketing Alliance LP
MARK: (standard characters)

Declaration

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

Signature: _____ Date: 6/8/04
Signatory's Name: Robert D. Planck
Signatory's Position: President of Distribution Marketing Services LLC, General Partner

Go Back

Exhibit 11

United States Patent and Trademark Office

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COBBLESTONE MARKET

Word Mark	**COBBLESTONE MARKET**
Goods and Services	IC 029. US 046. G & S: Deli meats; cooked deli items, namely, soups, and vegetables; cheese; refrigerated salads except macaroni, rice, and pasta salad; pickles; bagged potato chips, frozen soups; frozen entrees, namely, entrees consisting primarily of meat, fish, poultry or vegetables IC 030. US 046. G & S: Deli mustard; cooked deli items, namely, sandwiches
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Design Search Code	
Serial Number	78432642
Filing Date	June 9, 2004
Current Filing Basis	1B
Original Filing Basis	1B
Published for Opposition	September 20, 2005
Owner	(APPLICANT) Independent Marketing Alliance LP Distribution Marketing Services LLC, a Delaware limited liability company LIMITED PARTNERSHIP DELAWARE 16000 Memorial Drive, Suite 200 Houston TEXAS 77079
Attorney of Record	Bartt G. Thompson
Disclaimer	NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "MARKET" APART FROM THE MARK AS SHOWN
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE

EXHIBIT Planck 11

Exhibit "B" -- Evidence Submitted By Defendant IMA

Exhibit "B" -- Evidence Submitted By Defendant IMA

Exhibit 12

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: INDEPENDENT MARKETING ALLIANCE LP

SERIAL NO.: 78/432,642 CLASSES: 29, 30

FILED: June 9, 2004 EXAMINER: Dall, M.

MARK: COBBLESTONE MARKET LAW OFFICE: 110

AMENDMENT "A"

Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

Sir:

In response to the Official Action of January 10, 2005, a response being due by July 10, 2005, please amend the above-identified application as follows:

IN THE APPLICATION

In the identification of the Applicant, please insert the following names of the general partners -- having Distribution Marketing Services GP, L.L.C., a limited liability company of Delaware, as its general partner.--.

In the identification of goods in International Class 29, please delete the previous recitations and insert therefor -- Deli meats; cooked deli items, namely, sandwiches, soups, and vegetables; cheese; salads except macaroni, rice, and pasta salad; pickles; bagged potato chips, frozen soups; frozen entrees, namely, entrees consisting primarily of meat, fish, poultry or vegetables, in International Class 29.--.

Please insert the following disclaimer -- No claim is made to the exclusive right to use "MARKET" apart from the mark as shown.--.

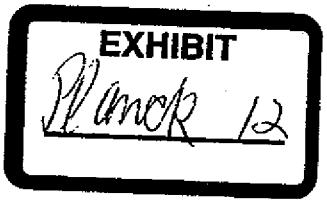

Exhibit "B" -- Evidence Submitted By Defendant IMA

INFORMALITIES

In reply to the Official Action, Applicant has amended the present application so as to comply with the Examiner's requirements. In particular, Applicant has amended the identification of goods in order to comply with the Examiner's suggestions. Applicant has also amended the application to include the name and citizenship of the general partner. Applicant has further included a disclaimer of the descriptive term "MARKET".

REMARKS

In the Official Action, the Examiner has initially refused registration on the Principal Register because of the "likelihood of confusion" of the mark with three prior registered marks. As to each mark, Applicant's attorney disagrees, and believes that the Examiner has failed to make a *prima facie* showing of likelihood of confusion.

I. No likelihood of confusion between Applicant's mark and U.S. Reg. No. 1,037,938

A. The marks are dissimilar in appearance

In making the argument for the rejection as to confusing similarity, the Examiner points to only a portion of the mark, specifically the term "COBBLESTONE". However, Applicant's mark is "COBBLESTONE MARKET" and the cited registrant's mark is "BOSTON COBBLESTONE", as such the mark must be reviewed for likelihood of confusion as a whole and should not be broken into component parts to reach a conclusion of confusing similarity. *In re Hearst Corp.*, 25 U.S.P.Q.2d 1238, 1239 (Fed. Cir. 1992) ("marks tend to be perceived in their entireties, and all components thereof must be given appropriate weight.". . . ."When GIRL is given fair weight, along with VARGA, confusion with VARGAS becomes less likely.). It is well established that there is nothing improper, under certain circumstances, to give more or less

weight to a particular portion of a mark. See *In re National Data Corp.*, 753 F.2d 1056, 224 USPQ 749 (Fed.Cir. 1985). The cited registrant's mark is the word mark "BOSTON COBBLESTONE". Applicant's mark is for the word mark "COBBLESTONE MARKET". Accordingly, the marks are obviously not similar in appearance, connotation, or sound. As such, the Applicant feels that the above arguments show that the marks are not similar enough for a finding of a likelihood of confusion.

B. Applicant's mark and the reference mark differ in commercial impression

It is conceded that Applicant's mark and the reference mark share the common term "COBBLESTONE". It is submitted, however, that Applicant's mark and the reference mark differ in commercial impression because an addition, subtraction or substitution of letters or words, may or may not be sufficient to make the marks dissimilar in appearance, depending on the overall commercial impression given to the relevant public. T.M.E.P. § 1207.01(b)(ii). It is also well established that there is nothing improper, under certain circumstances, to give more or less weight to a particular portion of a mark. See *In re National Data Corp.*, 753 F.2d 1056, 224 USPQ 749 (Fed.Cir. 1985).

The cited registrant's mark is a word mark consisting of the term "BOSTON COBBLESTONE" for use in association with cheese. The commercial impression of the cited registrant's mark is the mental image of a northeastern area handmade cheese. The term "COBBLESTONE" is often used to suggest a handcrafted good similar to old cobblestone roads, and the use of the term "BOSTON" is often used as a positive suggestive term for association with the northeastern United States area products. More importantly, since Boston is not particularly known for producing cheese (notice the registrant is a Wisconsin company),

consumers would retain and recognize the "BOSTON" portion of the mark over the laudatory "COBBLESTONE" portion of the mark.

The Applicant's mark is for the term "COBBLESTONE MARKET" in association with deli meats, cooked deli items, cheese, salads pickles, potato chips, soups, entrees, and mustard, in International Classes 29 and 30. The commercial impression is different because the mark "COBBLESTONE MARKET" is a suggestive term used to associate the goods of the Applicant with the impression of handcrafted goods being offered for sale in a market or delicatessen.

The marks "COBBLESTONE MARKET" and "BOSTON COBBLESTONE" are not similar in either appearance, spelling, pronunciation, or commercial impression to the degree to cause confusion between the two. The marks also have distinct meanings that are separate and independent of each other. As can be seen from the above arguments, there is no likelihood of confusion.

C. Third party usage evidence shows that "COBBLESTONE" is a weak mark

The cited registration is for the common term "BOSTON" in conjunction with another common term "COBBLESTONE". The connection between the Applicant's mark and the cited registration which forms the basis of the Examiner's refusal is the same term "COBBLESTONE". The term "COBBLESTONE" in relation to trademarks has a varied and widespread use. The TTAB has given weight to credible and probative evidence of widespread, significant, and unrestrained use by third parties of marks containing elements in common to demonstrate that confusion is not, in fact, likely. *Miles Labs. Inc. v. Naturally Vitamin Supplements Inc.*, 1 U.S.P.Q.2d 1445, 1462 (TTAB 1986). Applicant contends that the mark "COBBLESTONE" is a weak mark which is used to describe numerous goods and services outside of the scope of the

Registrant's goods. The accompanying sample of a *TESS* list of registrations and applications (80 Records) is probative to demonstrate that the term "COBBLESTONE" has been adopted by a number of other users as a good or service designation. *Attached hereto as Attachment "A".* In the case of weak marks, even slight differences between the marks may be deemed sufficient to avoid a finding that confusion is likely. *See In re Dayco Products -Eaglemotive Inc.*, 9 U.S.P.Q.2d 1910, 1912 (TTAB 1988) ("As such, we find the term to be a relatively weak mark and we agree with applicant that the scope of protection afforded such a mark is considerably narrower than that afforded a more arbitrary designation."); *see also In re Copytele Inc.*, 31 U.S.P.Q.2d 1540, 1542 (TTAB 1994). The Applicant's mark includes the additional term "MARKET" to make the mark "COBBLESTONE MARKET". Due to the dilute nature of the mark "COBBLESTONE" the scope of protection afforded such a mark is considerably narrower than that afforded a more arbitrary designation. As such, the additions and deletions in the Applicant's mark are as such that the purchasing consumer would not be confused as to the source of the respective goods. The term "COBBLESTONE" is a very dilute mark similar to such a degree that the public is inundated with this term in day to day life on an assortment of goods and services, and therefore it should be granted very narrow protection on this basis. As can be seen from the above arguments, there is no likelihood of confusion.

II. No likelihood of confusion between Applicant's mark and U.S. Reg. No. 1,920,539

A. The marks are dissimilar in appearance

In making the argument for the rejection as to confusing similarity, the Examiner points to only a portion of the mark, specifically the term "COBBLESTONE". However, Applicant's mark is "COBBLESTONE MARKET" and the cited registrant's mark is "COBBLESTONE

KITCHENS", as such the mark must be reviewed for likelihood of confusion as a whole and should not be broken into component parts to reach a conclusion of confusing similarity. *In re Hearst Corp.*, 25 U.S.P.Q.2d 1238, 1239 (Fed. Cir. 1992) ("marks tend to be perceived in their entireties, and all components thereof must be given appropriate weight.". . . ."When GIRL is given fair weight, along with VARGA, confusion with VARGAS becomes less likely.). It is well established that there is nothing improper, under certain circumstances, to give more or less weight to a particular portion of a mark. See *In re National Data Corp.*, 753 F.2d 1056, 224 USPQ 749 (Fed.Cir. 1985). The cited registrant's mark is the word mark "COBBLESTONE KITCHENS". Applicant's mark is for the word mark "COBBLESTONE MARKET". Accordingly, the marks are obviously not similar in appearance, connotation, or sound. As such, the Applicant feels that the above arguments show that the marks are not similar enough for a finding of a likelihood of confusion.

B. Applicant's mark and the reference mark differ in commercial impression

It is conceded that Applicant's mark and the reference mark share the common term "COBBLESTONE ". It is submitted, however, that Applicant's mark and the reference mark differ in commercial impression because an addition, subtraction or substitution of letters or words, may or may not be sufficient to make the marks dissimilar in appearance, depending on the overall commercial impression given to the relevant public. T.M.E.P. § 1207.01(b)(ii). It is also well established that there is nothing improper, under certain circumstances, to give more or less weight to a particular portion of a mark. See *In re National Data Corp.*, 753 F.2d 1056, 224 USPQ 749 (Fed.Cir. 1985).

The cited registrant's mark is a word mark consisting of the term "COBBLESTONE

KITCHENS" used in association with hot chocolate, coffee, and dairy based beverages. The commercial impression of the cited registrant's mark is the idea of a handmade kitchen or restaurant. The term "COBBLESTONE" is often used to suggest a handcrafted good similar to old cobblestone roads, and the use of the term "KITCHENS" is often used to describe restaurants.

The Applicant's mark is for the term "COBBLESTONE MARKET" in association with deli meats, cooked deli items, cheese, salads pickles, potato chips, soups, entrees, and mustard, in International Classes 29 and 30. The commercial impression is different because the mark "COBBLESTONE MARKET" is a suggestive term used to associate the goods of the Applicant with the impression of handcrafted goods being offered for sale in a market or delicatessen.

The marks "COBBLESTONE MARKET" and "COBBLESTONE KITCHENS" are not similar in either appearance, spelling, pronunciation, or commercial impression to the degree to cause confusion between the two. The marks also have distinct meanings that are separate and independent of each other. As can be seen from the above arguments, there is no likelihood of confusion.

C. Different channels of trade

Relatedness, or channels of trade, means, in this context, that the goods or services of applicant and the registrant are related in some manner or some circumstance surrounding the marketing such that they are likely to be encountered by the relevant public under circumstances that will give rise to the mistaken belief that they originate from or in some way are associated with or sponsored by the same producer. The nature of the respective party's goods or services, and thus their relatedness, is determined on the basis of the goods or services set forth in the

application or registration. *In re Dixie Restaurants Inc.*, 41 U.S.P.Q.2d 1531, 1534 (Fed. Cir. 1997)("Indeed, the second *DuPont* factor expressly mandates consideration of the similarity or dissimilarity of the services as described in an application or registration."). Applicant's channels of trade are limited to deli meats, cooked deli items, cheese, salads pickles, potato chips, soups, entrees, and mustard. The cited registrant's channels of trade are for restricted to hot chocolate, coffee, and dairy based beverages. These goods are not related in function and would never be purchased at the same time, nor would they be encountered by the relevant public under circumstances that will give rise to the mistaken belief that they originate from or in some way are associated with or sponsored by the same producer.

The Examiner is correct in stating that the goods need not be identical or directly competitive to find confusion, as they need only be related in some matter that they could be encountered by the same purchasers under circumstances that could give rise to the mistaken belief that the goods come from a common source. The Applicant respectfully asserts that the Examiner is incorrect in stating "The goods of the applicant and of the registrants' are similar if not identical in that all of the marks in question are for health consumable related items...The goods of the applicant and of the registrant are likely to travel in the same channels of trade, namely, health food stores, grocery stores, et al.". *See Examiner's Official Action at Page 2.* The Applicant respectfully disagrees with this reasoning. By using this same rationale, it could be said that a purchaser at a large store could come into contact with goods as different as a bottle of aspirin and a package of ground beef. Is a consumer going to be confused between a company that makes aspirin and a company that packages ground beef as to believe they come from the same source? The answer is no. This same rationale would support a finding of a likelihood of

confusion between the cited registrant's goods and such varied goods as bread, beer and salad dressing,...etc. Just because the Applicant's goods and the cited registrant's goods may be orally consumed by humans does not mean these goods travel in the same channels of trade. Nor does the fact that a modern supermarket with goods as various as makeup and dog food support that the goods travel in the same channels of trade. It is well settled that the fundamental inquiry mandated by §2(d) goes to the cumulative effect of differences in the essential characteristics of the goods and differences in the marks." *See Federated Foods, Inc. v. Fort Howard Paper Co.*, 544 F.2d 1098, 192 USPQ 24, 29 (CCPA 1976). A wide variety of products, not only from different manufacturers within an industry, but also from diverse industries, have been brought together in the modern supermarket for the convenience of the consumer. The mere existence of such an environment should not foreclose further inquiry into the likelihood of confusion arising from the use of similar marks on any goods so displayed. *See Id.* As such, as can be seen from the above arguments, there is no likelihood of confusion.

D. Third party usage evidence shows that "COBBLESTONE" is a weak mark

The cited registration is for the common word "COBBLESTONE" in conjunction with another common term "KITCHENS". The connection between the Applicant's mark and the cited registration which forms the basis of the Examiners refusal is the same term "COBBLESTONE". The term "COBBLESTONE" in relation to trademarks has a varied and widespread use. The TTAB has given weight to credible and probative evidence of widespread, significant, and unrestrained use by third parties of marks containing elements in common to demonstrate that confusion is not, in fact, likely. *Miles Labs. Inc. v. Naturally Vitamin Supplements Inc.*, 1 U.S.P.Q.2d 1445, 1462 (TTAB 1986). Applicant contends that the mark

"COBBLESTONE" is a weak mark which is used to describe numerous goods and services outside of the scope of the Registrant's goods. The accompanying sample of a *TESS* list of registrations and applications (80 Records) is probative to demonstrate that the term "COBBLESTONE" has been adopted by a number of other users as a good or service designation. *Attached hereto as Attachment "A".* In the case of weak marks, even slight differences between the marks may be deemed sufficient to avoid a finding that confusion is likely. *See In re Dayco Products -Eaglemotive Inc.*, 9 U.S.P.Q.2d 1910, 1912 (TTAB 1988) ("As such, we find the term to be a relatively weak mark and we agree with applicant that the scope of protection afforded such a mark is considerably narrower than that afforded a more arbitrary designation."); *see also In re Copytele Inc.*, 31 U.S.P.Q.2d 1540, 1542 (TTAB 1994). The Applicant's mark includes the additional term "MARKET" to make the mark "COBBLESTONE MARKET". Due to the dilute nature of the mark "COBBLESTONE", the scope of protection afforded such a mark is considerably narrower than that afforded a more arbitrary designation. As such, the additions and deletions in the Applicant's mark are as such that the purchasing consumer would not be confused as to the source of the respective goods. The term "COBBLESTONE" is a very dilute mark similar to such a degree that the public is inundated with this term in day to day life on an assortment of goods and services, and therefore it should be granted very narrow protection on this basis. As can be seen from the above arguments, there is no likelihood of confusion.

III. No likelihood of confusion between Applicant's mark and U.S. Reg. No. 2,741,252

A. The marks are dissimilar in appearance

In making the argument for the rejection as to confusing similarity, the Examiner points

to only a portion of the mark, specifically the term "COBBLESTONE". However, Applicant's mark is "COBBLESTONE MARKET" and the cited registrant's mark is "COBBLESTONE RESTAURANT & BAR", as such the mark must be reviewed for likelihood of confusion as a whole and should not be broken into component parts to reach a conclusion of confusing similarity. *In re Hearst Corp.*, 25 U.S.P.Q.2d 1238, 1239 (Fed. Cir. 1992) ("marks tend to be perceived in their entireties, and all components thereof must be given appropriate weight.". . . ."When GIRL is given fair weight, along with VARGA, confusion with VARGAS becomes less likely.). It is well established that there is nothing improper, under certain circumstances, to give more or less weight to a particular portion of a mark. See *In re National Data Corp.*, 753 F.2d 1056, 224 USPQ 749 (Fed.Cir. 1985). The cited registrant's mark is the word mark "COBBLESTONE RESTAURANT & BAR". Applicant's mark is for the word mark "COBBLESTONE MARKET". Accordingly, the marks are obviously not similar in appearance, connotation, or sound. As such, the Applicant feels that the above arguments show that the marks are not similar enough for a finding of a likelihood of confusion.

B. Applicant's mark and the reference mark differ in commercial impression

It is conceded that Applicant's mark and the reference marks share the common term "COBBLESTONE ". It is submitted, however, that Applicant's mark and the reference mark differ in commercial impression because an addition, subtraction or substitution of letters or words, may or may not be sufficient to make the marks dissimilar in appearance, depending on the overall commercial impression given to the relevant public. T.M.E.P. § 1207.01(b)(ii). It is also well established that there is nothing improper, under certain circumstances, to give more or less weight to a particular portion of a mark. See *In re National Data Corp.*, 753 F.2d 1056, 224

USPQ 749 (Fed.Cir. 1985).

The cited registrant's mark is a word mark consisting of the term "COBBLESTONE RESTAURANT & BAR" used in association with restaurant services. The commercial impression of the cited registrant's mark is the idea of an old eatery and bar. The term "COBBLESTONE" is often used to suggest a handcrafted good similar to old cobblestone roads, and the use of the term "RESTAURANT & BAR" is obviously used to describe restaurant and bar services.

The Applicant's mark is for the term "COBBLESTONE MARKET" in association with deli meats, cooked deli items, cheese, salads pickles, potato chips, soups, entrees, and mustard, in International Classes 29 and 30. The commercial impression is different because the mark "COBBLESTONE MARKET" is a suggestive term used to associate the goods of the Applicant with the impression of handcrafted goods being offered for sale in a market or delicatessen.

The marks "COBBLESTONE MARKET" and "COBBLESTONE RESTAURANT & BAR" are not similar in either appearance, spelling, pronunciation, or commercial impression to the degree to cause confusion between the two. The marks also have distinct meanings that are separate and independent of each other. As can be seen from the above arguments, there is no likelihood of confusion.

C. Different channels of trade

Relatedness, or channels of trade, means, in this context, that the goods or services of applicant and the registrant are related in some manner or some circumstance surrounding the marketing such that they are likely to be encountered by the relevant public under circumstances that will give rise to the mistaken belief that they originate from or in some way are associated

with or sponsored by the same producer. The nature of the respective party's goods or services, and thus their relatedness, is determined on the basis of the goods or services set forth in the application or registration. *In re Dixie Restaurants Inc.*, 41 U.S.P.Q.2d 1531, 1534 (Fed. Cir. 1997)("Indeed, the second *DuPont* factor expressly mandates consideration of the similarity or dissimilarity of the services as described in an application or registration."). Applicant's channels of trade are limited to deli meats, cooked deli items, cheese, salads pickles, potato chips, soups, entrees, and mustard. The cited registrant's channels of trade are for restricted to restaurant services. There is no *per se* rule which mandates a finding that confusion is likely whenever foods and restaurant services are sold under similar marks. *See, e.g.: Jacobs v. International Multifoods Corp.*, 668 F.2d 1234, 212 USPQ 641 (CCPA 1982) [no likelihood of confusion between BOSTON TEA PARTY for tea and BOSTON SEA PARTY for restaurant services; "a party must show something more than that similar or even identical marks are used for food products and for restaurant services"]; and *In re Central Soya Company, Inc.*, 220 USPQ 914 (TTAB 1984) [no likelihood of confusion between POSADA (stylized) for Mexican style prepared frozen enchiladas and LA POSADA for lodging and restaurant services]. The Examiner has not shown the requisite "something more" other than the alleged similar marks used for food products and restaurant services. These goods and services are not related in function and would never be purchased at the same time, nor would they be encountered by the relevant public under circumstances that will give rise to the mistaken belief that they originate from or in some way are associated with or sponsored by the same producer. It is well settled that the fundamental inquiry mandated by §2(d) goes to the cumulative effect of differences in the essential characteristics of the goods and differences in the marks." *See Federated Foods,*

Inc. v. Fort Howard Paper Co., 544 F.2d 1098, 192 USPQ 24, 29 (CCPA 1976). As such, as can be seen from the above arguments, there is no likelihood of confusion.

D. Third party usage evidence shows that "COBBLESTONE" is a weak mark

The cited registration is for the common word "COBBLESTONE" in conjunction with another common term "RESTAURANT & BAR". The connection between the Applicant's mark and the cited registration which forms the basis of the Examiners refusal is the same term "COBBLESTONE". The term "COBBLESTONE" in relation to trademarks has a varied and widespread use. The TTAB has given weight to credible and probative evidence of widespread, significant, and unrestrained use by third parties of marks containing elements in common to demonstrate that confusion is not, in fact, likely. *Miles Labs. Inc. v. Naturally Vitamin Supplements Inc.*, 1 U.S.P.Q.2d 1445, 1462 (TTAB 1986). Applicant contends that the mark "COBBLESTONE" is a weak mark which is used to describe numerous goods and services outside of the scope of the Registrant's goods. The accompanying sample of a *TESS* list of registrations and applications (80 Records) is probative to demonstrate that the term "COBBLESTONE" has been adopted by a number of other users as a good or service designation. *Attached hereto as Attachment "A"*. In the case of weak marks, even slight differences between the marks may be deemed sufficient to avoid a finding that confusion is likely. *See In re Dayco Products -Eaglemotive Inc.*, 9 U.S.P.Q.2d 1910, 1912 (TTAB 1988) ("As such, we find the term to be a relatively weak mark and we agree with applicant that the scope of protection afforded such a mark is considerably narrower than that afforded a more arbitrary designation."); *see also In re Copytele Inc.*, 31 U.S.P.Q.2d 1540, 1542 (TTAB 1994). The Applicant's mark includes the additional term "MARKET" to make the mark "COBBLESTONE

MARKET". Due to the dilute nature of the mark "COBBLESTONE" the scope of protection afforded such a mark is considerably narrower than that afforded a more arbitrary designation. As such, the additions and deletions in the Applicant's mark are as such that the purchasing consumer would not be confused as to the source of the respective goods. The term "COBBLESTONE" is a very dilute mark similar to such a degree that the public is inundated with this term in day to day life on an assortment of goods and services, and therefore it should be granted very narrow protection on this basis. As can be seen from the above arguments, there is no likelihood of confusion.

IV. Conclusion

Based on the foregoing analysis, Applicant requests that the Examiner reconsider the original rejection of this application. As such, Applicant believes there will be no buyer confusion as to the source of the goods and services and respectfully requests that the present mark be passed to publication at an early date.

Respectfully submitted,

_____
Date

_____
Bartt G. Thompson
Attorney for Applicant

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Houston, Texas 77002
(713)951-0160
(713)951-0662 (Fax)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: INDEPENDENT MARKETING ALLIANCE LP

SERIAL NO.: 78/432,642 CLASSES: 29, 30

FILED: June 9, 2004 EXAMINER: Dall, M.

MARK: COBBLESTONE MARKET LAW OFFICE: 110

CERTIFICATE OF MAILING UNDER 37 CFR 1.8(a)

Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

Sir:

I hereby certify that the attached correspondence comprising:

AMENDMENT "A"

is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

Respectfully submitted,

Date

Bartt G. Thompson
Attorney for Applicant

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22nd Floor
Houston, Texas 77002
(713)951-0160
(713)951-0662 (Fax)

ATTACHMENT "A"

Exhibit "B" -- Evidence Submitted By Defendant IMA

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Current Search: S2: (cobblestone)[COMB] docs: 80 occ: 170

	Serial Number	Reg. Number	Word Mark	Check Status	Live/Dead
1	78360946		COBBLESTONE WALKING MATS	TARR	DEAD
2	78584315		CAROLINA COBBLESTONE	TARR	LIVE
3	78583747		COBBLESTONE CHILDREN'S CENTER	TARR	LIVE
4	78459494		COBBLESTONE	TARR	LIVE
5	78570274		COBBLESTONE PARK	TARR	LIVE
6	78348740		COBBLESTONE PIZZA	TARR	LIVE
7	78305944		MALIBU COBBLESTONE/MALIBU STONE	TARR	DEAD
8	78317071	2888028	HISTORIC EUROPEAN COBBLESTONE	TARR	LIVE
9	78276262		COBBLESTONE BREAD	TARR	DEAD
10	78459489		COBBLESTONE	TARR	LIVE
11	78459483		COBBLESTONE	TARR	LIVE
12	78459497		COBBLESTONE	TARR	LIVE
13	78432642		COBBLESTONE MARKET	TARR	LIVE
14	76507702	2888462	COBBLESTONE CREEK	TARR	LIVE
15	76039444	2762164	QUALITY BREAD COBBLESTONE MILL A FAMILY OF BAKERS SINCE 1919 SAN FRANCISCO SOURDOUGH CLASSIC RECIPE	TARR	LIVE
16	76589400		COBBLESTONE COFFEE ROASTERY	TARR	LIVE
17	76384394	2741252	196 COBBLESTONES RESTAURANT & BAR	TARR	LIVE
18	76253518		CIALOTTO BREAD	TARR	DEAD
19	76251468		CHRISTMAS IN COBBLESTONE VILLAGE	TARR	DEAD
20	76228086		THE LIGHTS OF COBBLESTONE VILLAGE	TARR	DEAD
21	76191141	2617089	COBBLESTONE BRIDGE	TARR	LIVE
22	76191140	2606988	COBBLESTONE BRIDGE	TARR	LIVE

Exhibit "B" -- Evidence Submitted By Defendant IMA

23	76191139	2606987	COBBLESTONE BRIDGE	TARR	LIVE
24	76191138	2609061	COBBLESTONE BRIDGE	TARR	LIVE
25	76191137	2617088	COBBLESTONE BRIDGE	TARR	LIVE
26	76191136	2609050	COBBLESTONE BRIDGE	TARR	LIVE
27	76191134	2648357	COBBLESTONE BRIDGE	TARR	LIVE
28	76191133	2706067	COBBLESTONE BRIDGE	TARR	LIVE
29	76009872	2457130	COBBLESTONE SMALL GROUP TOURS	TARR	LIVE
30	76009809	2457129	COBBLESTONE TOURS	TARR	LIVE
31	76009808	2457128	COBBLESTONE SMALL GROUP TOURS	TARR	LIVE
32	75463721	2292240	COBBLESTONE	TARR	LIVE
33	75072652	2086553	COBBLESTONES	TARR	LIVE
34	75323904	2345932	COBBLESTONE CORNERS	TARR	DEAD
35	75977375		COBBLESTONE GOLF GROUP	TARR	LIVE
36	75866254		COBBLESTONE SUITES	TARR	DEAD
37	75635109	2427924	COBBLESTONES	TARR	DEAD
38	75595745		COBBLESTONE CLASSIC	TARR	LIVE
39	75534815	2285216	DOOR COUNTY COBBLESTONE	TARR	DEAD
40	75460443	2293598	COBBLESTONE TOURS	TARR	LIVE
41	75309165	2371928	COBBLESTONES	TARR	LIVE
42	75231447		COBBLESTONE GOLF GROUP	TARR	LIVE
43	75204042		COBBLESTONE AUTO SPA & MARKET	TARR	DEAD
44	75055567		COBBLESTONE	TARR	DEAD
45	74348138	1836321	COBBLESTONE MILL HEALTHY 'N HEARTY	TARR	DEAD
46	74712640	1991258	COBBLESTONE MILL	TARR	DEAD
47	74661524	2044677	COBBLESTONE MILL BREAKFAST BREADS	TARR	LIVE
48	74053891	1637681	COBBLESTONE WAY	TARR	DEAD
49	74684633	2053390	COBBLESTONE GLOVES	TARR	LIVE
50	74689789	2049796	COBBLESTONE	TARR	DEAD
				TARR	LIVE

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] NEXT LIST [illegible] HELP

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Exhibit "B" -- Evidence Submitted By Defendant IMA

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Current Search: S2: (cobblestone)[COMB] docs: 80 occ: 170

	Serial Number	Reg. Number	Word Mark	Check Status	Live/Dead
51	74564394	1949707	COBBLESTONE CROSSING	TARR	DEAD
52	74408848		COBBLESTONE CREATIONS	TARR	DEAD
53	74346999	1840002	COBBLESTONES	TARR	DEAD
54	74293139	1772989	SAN FRANCISCO COBBLESTONE	TARR	LIVE
55	74231108	1801363	COBBLESTONE	TARR	DEAD
56	74200844	1920639	COBBLESTONE KITCHENS	TARR	LIVE
57	74053888	1863007	COBBLESTONE WAY	TARR	DEAD
58	73442931	1326230	COBBLESTONE MILL	TARR	LIVE
59	73834269	1615981	COBBLESTONE VINEYARD	TARR	DEAD
60	73786359	1567550	COBBLESTONE	TARR	DEAD
61	73603004	1446326	COBBLESTONE PRINTS	TARR	DEAD
62	73532330	1415333	COBBLESTONES	TARR	DEAD
63	73517670	1350843	GOBBLESTONE	TARR	DEAD
64	73481540		COBBLESTONE VINEYARDS	TARR	DEAD
65	73481539		COBBLESTONE	TARR	DEAD
66	73449628		COBBLESTONES	TARR	DEAD
67	73416278	1301983	COBBLESTONE CORNER	TARR	DEAD
68	73406753	1362006	COBBLESTONE CLASSIC	TARR	DEAD
69	73364292	1251894	COBBLESTONE MILLS	TARR	DEAD
70	73295932	1181241	COBBLETONE	TARR	DEAD
71	73286799		ROMAN COBBLESTONE	TARR	DEAD
72	73285522		CALIFORNIA DRIFT COBBLESTONE	TARR	DEAD
73	73260976	1191719	COBBLESTONE KIDS	TARR	DEAD
74	73242533	1163722	COBBLESTONE	TARR	LIVE

Exhibit "B" -- Evidence Submitted By Defendant IMA

75	73192439	1145190	COBBLESTONE FARM	TARR	DEAD
76	73185220	1138357	COBBLESTONE	TARR	DEAD
77	73058958	1037938	BOSTON COBBLESTONE	TARR	LIVE
78	73013974	1009060	COBBLESTONE	TARR	DEAD
79	81025929	1025929	COBBLESTONE CORNERS	TARR	DEAD
80	72373703	0927746	COBBLESTONE	TARR	DEAD

Exhibit "B" -- Evidence Submitted By Defendant IMA

Exhibit 13

Bartt G. Thompson

From: Bartt G. Thompson [bgt@pdhlaw.com]
Sent: Wednesday, November 03, 2004 10:53 AM
To: 'Bob Planck'
Cc: 'bfontana@independentmarketingalliance.com'
Subject: RE: Cobblestone Pictures

THIS MESSAGE IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL TO WHOM IT IS ADDRESSED AND CONTAINS INFORMATION THAT IS PRIVILEGED, CONFIDENTIAL AND EXEMPT FROM DISCLOSURE UNDER APPLICABLE LAW. IF YOU ARE NOT THE INTENDED RECIPIENT, OR THE EMPLOYEE OR AGENT RESPONSIBLE FOR DELIVERING THIS MESSAGE TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY UNAUTHORIZED DISCLOSURE, DISSEMINATION, DISTRIBUTION OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, OR ARE NOT SURE WHETHER IT IS PRIVILEGED, PLEASE IMMEDIATELY NOTIFY US BY REPLY E-MAIL OR BY TELEPHONE, COLLECT, AT (713) 951-0160 AND DESTROY THE ORIGINAL MESSAGE. TO REPLY BY E-MAIL SEND TO ADMINISTRATOR@PDHLAW.COM. THANK YOU.

Bob:

Although the convenience store/car wash/auto service company just recently filed its trademark applications (see attached), the applications state that the Cobblestone mark has been used since 1997. The company that filed the applications appears to have been around since 1996 - the members of that company appear to be Sagebrush Enterprises, LLC out of Scottsdale and Sobey Land Company Inc. out of California. Based on the 1997 date of use, IMA is not in a position to fight these applications.

Note that the attorney that filed the applications is Anne Kleindienst who also acts as Shamrock's counsel.

Bartt Thompson
Pagel, Davis & Hill, P.C.
1415 Louisiana, 22nd Floor
Houston, Texas 77002

(713) 951-0160 ext. 109
(713) 951-0662 -- FAX
(509) 695-5325 -- Personal Fax

-----Original Message-----
From: Bob Planck [mailto:rdplanck@independentmarketingalliance.com]
Sent: Tuesday, November 02, 2004 12:32 PM
To: 'Bartt G. Thompson'
Cc: Rob_Ahrensdorf@shamrockfoods.com; bfontana@independentmarketingalliance.com
Subject: FW: Cobblestone Pictures

Bartt...please take a look at http://www.shamrockfoods.com/cobblestone/ and give Rob and me your opinion on how to go forward on this potential infringement.

Bob

From: Rob_Ahrensdorf@shamrockfoods.com [mailto:Rob_Ahrensdorf@shamrockfoods.com]
Sent: Tuesday, November 02, 2004 10:01 AM
To: rdplanck@independentmarketingalliance.com
Cc: bfontana@independentmarketingalliance.com; Michelle_Daley@shamrockfoods.com; Rob_Goluba@shamrockfoods.com
Subject: Fw: Cobblestone Pictures

EXHIBIT
Planck 13

Bob,

Please go to the URL below and you should be able to view the pictures of the local Cobblestone Gas Station/Car Wash in Phoenix and you can advise Bartt to view them also. Let me know what is decided after he views them. Thanks!

Rob Ahrensdorf
Director Corporate Marketing
Shamrock Foods Corp.
5080 N. 40th Street, Suite 400
Phoenix AZ. 85018
ph: 602-477-2515
fx: 602-477-2535

---- Forwarded by Rob Ahrensdorf/EMKT/ShamrockPhx/US on 11/02/2004 08:59 AM ----

HelpDesk
Sent by: Matt Alexander

11/01/2004 04:30 PM

To Michelle Daley/EMKT/ShamrockPhx/US@SHAMROCKPHXDO
cc TechSupport, Bryan West/AMIS/ShamrockPhx/US@SHAMROCKPHX Chuck Duncan/AMIS/ShamrockPhx/US@ShamrockPhxDO, Rob Ahrensdorf/EMKT/ShamrockPhx/US@SHAMROCKPHXDO
Subject Re: Fw: Cobblestone PicturesLink

The following URL contains the Cobblestone images from the S: Drive:

http://www.shamrockfoods.com/cobblestone/

It's using the default listing provided by the webserver for the image links. If needed, I can improve the presentation and create thumbnails, etc.
Also, please note that this is not a dynamic process so new images put into the Cobblestone Images directory on the S: Drive will not show up on the webserver until an admin manually copies the new images over.
Thanks,
~Matt

	Accepted by:	Frank Romero	Accepted Date:	11/01/2004 02:48 PM
	Completed by:		Completed Date:	
	Action Taken:	IR Createed		

Michelle Daley

11/01/2004 02:03 PM

To: TechSupport
cc:
Subject: Fw: Cobblestone Pictures

S:\Cobblestone Images

Can you please make the link above available to users outside of the company via the web? I need to

have this folder accessible to multiple people within the IMA group.

Thanks,
Mich

Michelle Daley
Corporate Marketing Communications Manager
Shamrock Foods Corp.
5080 N. 40th Street, Suite 400
Phoenix AZ. 85018
ph: 602-477-2518
fx: 602-477-2535

---- Forwarded by Michelle Daley/EMKT/ShamrockPhx/US on 11/01/2004 02:02 PM ----

Rob Ahrensdorf/EMKT/ShamrockPhx/US

11/01/2004 01:48 PM

To Michelle Daley/EMKT/ShamrockPhx/US@SHAMROCKPHXDO
cc
Subject Fw: Cobblestone Pictures

Can you see if you can follow the instructions below and ask TechSupport for the URL link to the S drive for your pictures? Let me know when done so I can tell the IMA group to access that URL. Thx.

Rob

Rob Ahrensdorf
Director Corporate Marketing
Shamrock Foods Corp.
5080 N. 40th Street, Suite 400
Phoenix AZ. 85018
ph: 602-477-2515
fx: 602-477-2535

---- Forwarded by Rob Ahrensdorf/EMKT/ShamrockPhx/US on 11/01/2004 01:47 PM ----

Chuck Duncan/AMIS/ShamrockPhx/US

11/01/2004 01:35 PM

To Rob Ahrensdorf/EMKT/ShamrockPhx/US@SHAMROCKPHXDO
cc Michelle Daley/EMKT/ShamrockPhx/US@SHAMROCKPHXDO
Subject Fw: Cobblestone Pictures

Rob,

Send a "link" to the file that is currently on your "shared drive" to email user TechSupport and request that the file be made available to "everyone" in the world on the Internet. You'll get a url link back which you would email to others.

Chuck Duncan
Shamrock Foods Company
(602) 477-6003

---- Forwarded by Chuck Duncan/AMIS/ShamrockPhx/US on 11/01/2004 01:32 PM ----

Bryan West/AMIS/ShamrockPhx/US

11/01/2004 01:30 PM

To Chuck Duncan/AMIS/ShamrockPhx/US@ShamrockPhxDO
cc
Subject Re: Fw: Cobblestone PicturesLink

Various ways.....least amount of work:

The webserver, and the content storage behind it are controlled by the server admins...
The file would need to get to the admins via some method....
They could then put it on the webserver and send out a link that anybody could use...

J. Bryan West
602-477-6156

Chuck Duncan/AMIS/ShamrockPhx/US

11/01/2004 01:27 PM

To Bryan West/AMIS/ShamrockPhx/US@SHAMROCKPHXDO
cc
Subject Fw: Cobblestone Pictures

We need to make files, pictures, etc. available on the Internet instead of sending in emails.

How can they be posted somewhere that our user just sends a link?

Chuck Duncan
Shamrock Foods Company
(602) 477-6003

---- Forwarded by Chuck Duncan/AMIS/ShamrockPhx/US on 11/01/2004 01:26 PM ----

Rob Ahrensdorf/EMKT/ShamrockPhx/US

11/01/2004 12:29 PM

To Chuck Duncan/AMIS/ShamrockPhx/US@ShamrockPhxDO
cc Michelle Daley/EMKT/ShamrockPhx/US@SHAMROCKPHXDO
Subject Fw: Cobblestone Pictures

Chuck,

As you may know, we have just launched a deli brand named Cobblestone Market, and there is a local gas station/car wash that has the name Cobblestone also in the PHX area. We have (IMA) aparently registered the name for use before they have, and there is some question as to whether or not it would be a conflict or not anyway...

However, Michelle Daley has posted the recently taken pictures of the car wash on our shared drive for us to view...

My question is how to get these pictures to another outside of our company, such as the President of IMA--Bob Planck, who needs to send them to his outside attorney...

Is there a way I can do that, without having Michelle send me the graphic heavy/large files to my address and me resending them on??

Rob

Rob Ahrensdorf
Director Corporate Marketing
Shamrock Foods Corp.
5080 N. 40th Street, Suite 400
Phoenix AZ. 85018
ph: 602-477-2515
fx: 602-477-2535

---- Forwarded by Rob Ahrensdorf/EMKT/ShamrockPhx/US on 11/01/2004 12:25 PM ----

Michelle Daley/EMKT/ShamrockPhx/US

11/01/2004 12:04 PM

To Rob Ahrensdorf/EMKT/ShamrockPhx/US@SHAMROCKPHXDO

cc

Subject Cobblestone Pics

The Cobblestone Convenience Stores photos are on the "S" drive in a folder named "Cobblestone Images"

Thanks,
Mich

UNITED STATES PATENT AND TRADEMARK OFFICE

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Trademark Electronic Search System(Tess)

TESS was last updated on Wed Nov 3 04:25:39 EST 2004

PTO HOME | TRADEMARK | TESS HOME | NEW USER | STRUCTURED | FREE FORM | BROWSE DICT | BOTTOM | HELP

CURR LIST | NEXT LIST | FIRST DOC | PREV DOC | NEXT DOC | LAST DOC

Logout Please logout when you are done to release system resources allocated for you.

Start List At: OR Jump to record: **Record 3 out of 77**

Check Status *(TARR contains current status, correspondence address and attorney of record for this mark. Use the "Back" button of the Internet Browser to return to TESS)*

Word Mark	**COBBLESTONE**
Goods and Services	IC 037. US 100 103 106. G & S: Automobile cleaning and car wash services; automobile service station services; automobile repair and maintenance services; automobile detail and window tinting services. FIRST USE: 19970730. FIRST USE IN COMMERCE: 19970730
Mark Drawing Code	(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS
Design Search Code	240901 261121 261125 261707 261709
Serial Number	78459489
Filing Date	July 30, 2004
Current Filing Basis	1A
Original Filing Basis	1A
Owner	(APPLICANT) Cobblestone Auto Spa & Market I, L.L.C. Michael Cahill, Member LTD LIAB CO ARIZONA 15816 North Pima Road Scottsdale ARIZONA 85260

Exhibit "B" -- Evidence Submitted By Defendant IMA

Attorney of Record	Anne L. Kleindienst
Type of Mark	SERVICE MARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2004-11-03 11:08:37 ET

Serial Number: 78459489

Registration Number: (NOT AVAILABLE)

Mark

(words only): COBBLESTONE

Standard Character claim: No

Current Status: Newly filed application, not yet assigned to an examining attorney.

Date of Status: 2004-08-11

Filing Date: 2004-07-30

Transformed into a National Application: No

Registration Date: (DATE NOT AVAILABLE)

Register: Principal

Law Office Assigned: (NOT AVAILABLE)

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 042 -New Application Processing

Date In Location: 2004-08-11

LAST APPLICANT(S)/OWNER(S) OF RECORD

---

1. Cobblestone Auto Spa & Market I, L.L.C.

Composed Of:
Michael Cahill, Member
Address:

Cobblestone Auto Spa & Market I, L.L.C.
15816 North Pima Road
Scottsdale, AZ 85260
United States
Legal Entity Type: Ltd Liab Co
State or Country Where Organized: Arizona

GOODS AND/OR SERVICES

International Class: 037
Automobile cleaning and car wash services; automobile service station services; automobile repair and maintenance services; automobile detail and window tinting services
First Use Date: 1997-07-30
First Use in Commerce Date: 1997-07-30

Basis: 1(a)

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

2004-08-10 - New Application Entered In Tram

CORRESPONDENCE INFORMATION

Correspondent
Anne L. Kleindienst (Attorney of record)

ANNE L. KLEINDIENST
FENNEMORE CRAIG
3003 NORTH CENTRAL AVENUE, SUITE 2600
PHOENIX, AZ 85012

P

Exhibit "B" -- Evidence Submitted By Defendant IMA

UNITED STATES PATENT AND TRADEMARK OFFICE

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TESS was last updated on Wed Nov 3 04:25:39 EST 2004

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CURR LIST | NEXT LIST | FIRST DOC | PREV DOC | NEXT DOC | LAST DOC

Logout Please logout when you are done to release system resources allocated for you.

Start List At: OR Jump to record: **Record 4 out of 77**

Check Status *(TARR contains current status, correspondence address and attorney of record for this mark. Use the "Back" button of the Internet Browser to return to TESS)*

Word Mark	**COBBLESTONE**
Goods and Services	IC 035. US 100 101 102. G & S: retail convenience stores featuring gasoline and food and beverage products. FIRST USE: 19970730. FIRST USE IN COMMERCE: 19970730
Mark Drawing Code	(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS
Design Search Code	240901 261121 261125 261707 261709
Serial Number	78459483
Filing Date	July 30, 2004
Current Filing Basis	1A
Original Filing Basis	1A
Owner	(APPLICANT) Cobblestone Auto Spa & Market I, L.L.C. Michael Cahill, Member LTD LIAB CO ARIZONA 15816 N. Pima Road Scottsdale ARIZONA 85260
Attorney of Record	Anne L. Kleindienst
Type of Mark	SERVICE MARK

Exhibit "B" -- Evidence Submitted By Defendant IMA

Register	PRINCIPAL
Live/Dead Indicator	LIVE

Exhibit "B" -- Evidence Submitted By Defendant IMA

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2004-11-03 11:06:13 ET

Serial Number: 78459483

Registration Number: (NOT AVAILABLE)

Mark

(words only): COBBLESTONE

Standard Character claim: No

Current Status: Newly filed application, not yet assigned to an examining attorney.

Date of Status: 2004-08-11

Filing Date: 2004-07-30

Transformed into a National Application: No

Registration Date: (DATE NOT AVAILABLE)

Register: Principal

Law Office Assigned: (NOT AVAILABLE)

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 042 -New Application Processing

Date In Location: 2004-08-11

LAST APPLICANT(S)/OWNER(S) OF RECORD

---

1. Cobblestone Auto Spa & Market I, L.L.C.

Composed Of:
Michael Cahill, Member
Address:

Cobblestone Auto Spa & Market I, L.L.C.
15816 N. Pima Road
Scottsdale, AZ 85260
United States
Legal Entity Type: Ltd Liab Co
State or Country Where Organized: Arizona

GOODS AND/OR SERVICES

International Class: 035
retail convenience stores featuring gasoline and food and beverage products
First Use Date: 1997-07-30
First Use in Commerce Date: 1997-07-30

Basis: 1(a)

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

2004-08-10 - New Application Entered In Tram

CORRESPONDENCE INFORMATION

Correspondent
Anne L. Kleindienst (Attorney of record)

ANNE L. KLEINDIENST
FENNEMORE CRAIG
3003 NORTH CENTRAL AVENUE, SUITE 2600
PHOENIX, AZ 85012

Phone Number: 602-916-5392
Fax Number: 602-916-5592

UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Electronic Search System(Tess)

TESS was last updated on Wed Nov 3 04:25:39 EST 2004

Logout Please logout when you are done to release system resources allocated for you.

Start List At: [ ] OR Jump to record: [ ] **Record 8 out of 77**

Check Status *(TARR contains current status, correspondence address and attorney of record for this mark. Use the "Back" button of the Internet Browser to return to TESS)*

COBBLESTONE MARKET

Word Mark	**COBBLESTONE** MARKET
Goods and Services	IC 029. US 046. G & S: Deli meats, cooked deli items, cheese, refrigerated salads, pickles, bagged potato chips, frozen soups and entrees IC 030. US 046. G & S: Deli mustard
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	78432642
Filing Date	June 9, 2004
Current Filing Basis	1B
Original Filing Basis	1B
Owner	(APPLICANT) Independent Marketing Alliance LP Distribution Marketing Services LLC, a Delaware limited liability company LIMITED PARTNERSHIP DELAWARE 16000 Memorial Drive, Suite 200 Houston TEXAS 77079

Attorney of Record	Bartt G. Thompson
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2004-11-03 11:10:45 ET

Serial Number: 78432642

Registration Number: (NOT AVAILABLE)

Mark

COBBLESTONE MARKET

(words only): COBBLESTONE MARKET

Standard Character claim: Yes

Current Status: Newly filed application, not yet assigned to an examining attorney.

Date of Status: 2004-06-21

Filing Date: 2004-06-09

Transformed into a National Application: No

Registration Date: (DATE NOT AVAILABLE)

Register: Principal

Law Office Assigned: LAW OFFICE 111

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: DOC -Centralized Docket

Date In Location: 2004-06-22

LAST APPLICANT(S)/OWNER(S) OF RECORD

---

1. Independent Marketing Alliance LP

Composed Of:
Distribution Marketing Services LLC, a Delaware limited liability company
Address:

Exhibit "B" -- Evidence Submitted By Defendant IMA

Independent Marketing Alliance LP
16000 Memorial Drive, Suite 200
Houston, TX 77079
United States
Legal Entity Type: Limited Partnership
State or Country Where Organized: Delaware
Phone Number: 281-531-0007
Fax Number: 281-531-0022

GOODS AND/OR SERVICES

International Class: 029
Deli meats, cooked deli items, cheese, refrigerated salads, pickles, bagged potato chips, frozen soups and entrees
First Use Date: (DATE NOT AVAILABLE)
First Use in Commerce Date: (DATE NOT AVAILABLE)

Basis: 1(b)

International Class: 030
Deli mustard
First Use Date: (DATE NOT AVAILABLE)
First Use in Commerce Date: (DATE NOT AVAILABLE)

Basis: 1(b)

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

2004-06-17 - New Application Entered In Tram

CORRESPONDENCE INFORMATION

Correspondent
Bartt G. Thompson (Attorney of record)

Bartt G. Thompson
Pagel, Davis & Hill, P.C.
1415 Louisiana, 22nd Floor
Houston, TX 77002

Exhibit "B" -- Evidence Submitted By Defendant IMA

Phone Number: 713-951-0160
Fax Number: 713-951-0662

Exhibit "B" -- Evidence Submitted By Defendant IMA

11/03/2004

Arizona Corporation Commission
State of Arizona Public Access System

9:16 AM

Corporate Inquiry
File Number: L-0784631-2 LATEST DATE TO DISSOLVE 12/31/2015
Corp. Name: COBBLESTONE AUTO SPA & MARKET I, L.L.C.

Domestic Address

15816 N PIMA RD
SCOTTSDALE, AZ 85260

Statutory Agent Information

Agent Name: DONALD L MEYERS
Agent Mailing/Physical Address:
2415 E CAMELBACK RD #900
PHOENIX, AZ 85016
Agent Status: APPOINTED 11/05/1998
Agent Last Updated:

Officer and Director Information

Name:	SAGEBRUSH ENTERPRISES LLC
Title:	MEMBER
Address:	15816 N PIMA RD
	SCOTTSDALE, AZ 85260
Date Assigned: 11/05/1998	**Last Updated:** 11/09/1998
Name:	SOBEY LAND CAOMPANY INC
Title:	MEMBER
Address:	6870 LEIBINGER LN
	GRANITE BAY, CA 95746
Date Assigned: 11/05/1998	**Last Updated:** 11/09/1998

Additional Corporate Information

	Corporation Type: DOMESTIC L.L.C.
Incorporation Date: 08/09/1996	**Corporate Life Period:**
Domicile: ARIZONA	**County:** MARICOPA
Approval Date: 08/09/1996	**Original Publish Date:** 08/26/1996
Dissolution/Withdrawl: LATEST DATE TO DISSOLVE	**Dissolution/Withdrawl Date:** 12/31/2015

Annual Reports

No Annual Reports on File

Scanned Documents

(Click on gray button to view document)

Document Number	Description	Date Received

Amendments

Amendment Date	Amendment Type	Publish Date	Publish Exception
11/05/1998	AMENDMENT	12/07/1998	

Microfilm

Location	Date Received	Description
1-1046-028-011	08/09/1996	ARTICLES OF ORGANIZATION
2-0191-019-049	08/26/1996	PUBLICATION OF ARTICLES OF ORGANIZATION
1-1287-032-028	11/05/1998	AMENDMENT
2-0235-011-051	12/07/1998	PUB OF AMENDED ARTICLES OF ORGANIZATION

- **Corporate Name Search Instructions**
- **General Web Site Usage Instructions**
- **Return to STARPAS Main Menu**

SECRETARY OF STATE
Jan BREWER
STATE OF ARIZONA
TRADE NAMES & SERVICE MARKS

HOME ELECTION SERVICES BUSINESS SERVICES PUBLIC SERVICES

Registered Name
Information Search
Generated by TnT Names Search Version 3.05

Instructions

General Information

FILE ID	256325
DESCRIPTION	Trade Name
STATUS	Active
NAME	COBBLESTONE AUTO SPA & MARKET
ADDRESS 1	15816 N PIMA RD
CITY	SCOTTSDALE
STATE	AZ
ZIP	85260-
BUSINESS TYPE	AUTOMOBILE DETAILING
DOMESTIC BEGIN DATE	8/12/1996
REGISTERED DATE	10/2/2001

Agent/Owner Information

AGENT ID	TYPE	FULLNAME	ADDRESS	CITY	STATE	ZIP	PHONE
526217	Owner	COBBLESTONE AUTO SPA & MARKET I, L.L.C.	15816 N PIMA RD	SCOTTSDALE	AZ	85260-	

Registration Information

RECEIVED	AMENDED	ASSIGNED	EXPIRATION	CANCELLED	REVOKED
10/2/2001		8/3/2004	10/2/2006		

Correspondence History

DESCRIPTION	DATE	PRINTED	FILMED	LOC. NO.	PAGE NO.	PAGES
Application	10/2/2001	10/12/2001 8:37:21 AM				3
Assignment	8/3/2004	8/4/2004 12:23:27 PM				1

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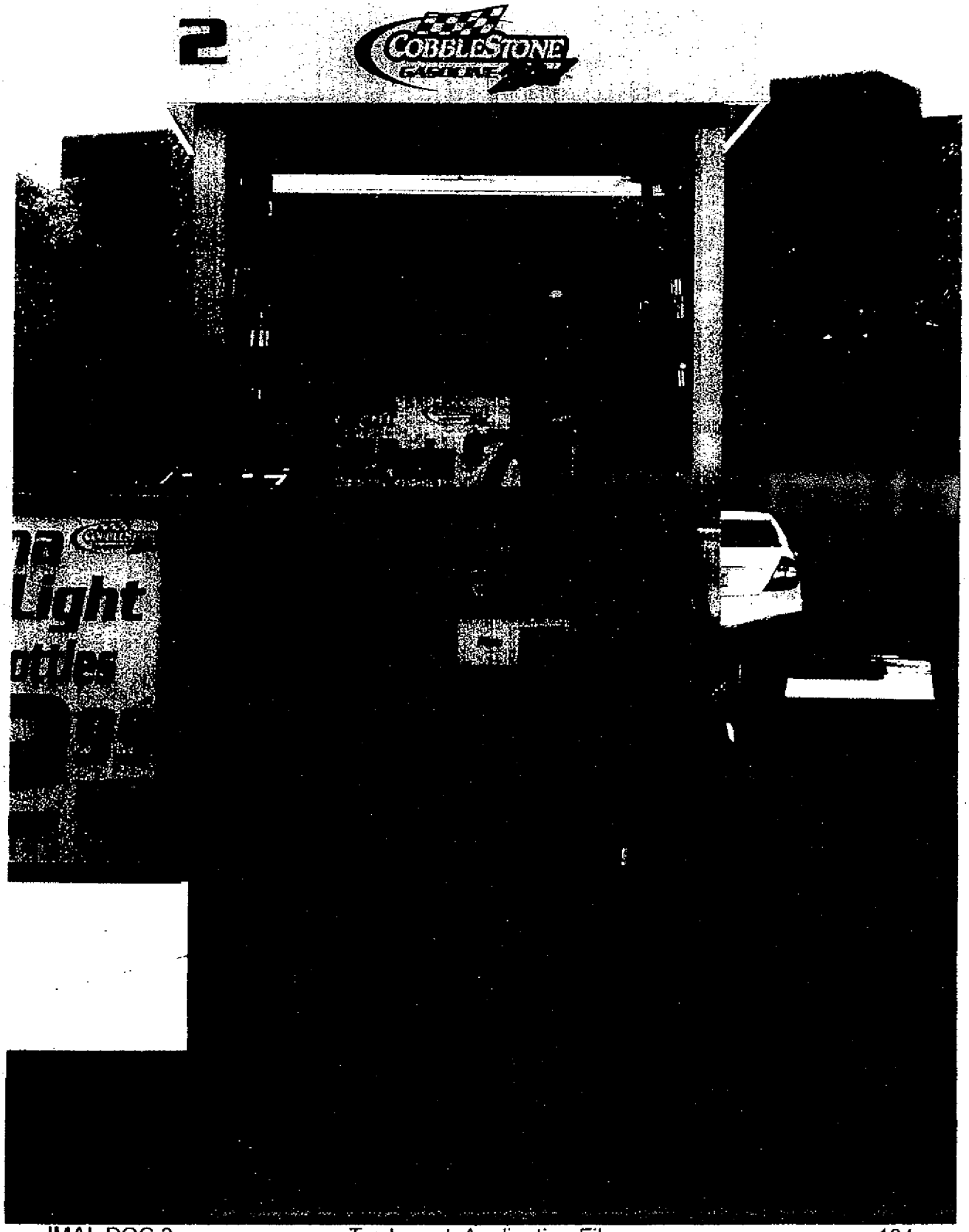

Exhibit "B" -- Evidence Submitted By Defendant IMA

Exhibit "B" -- Evidence Submitted By Defendant IMA

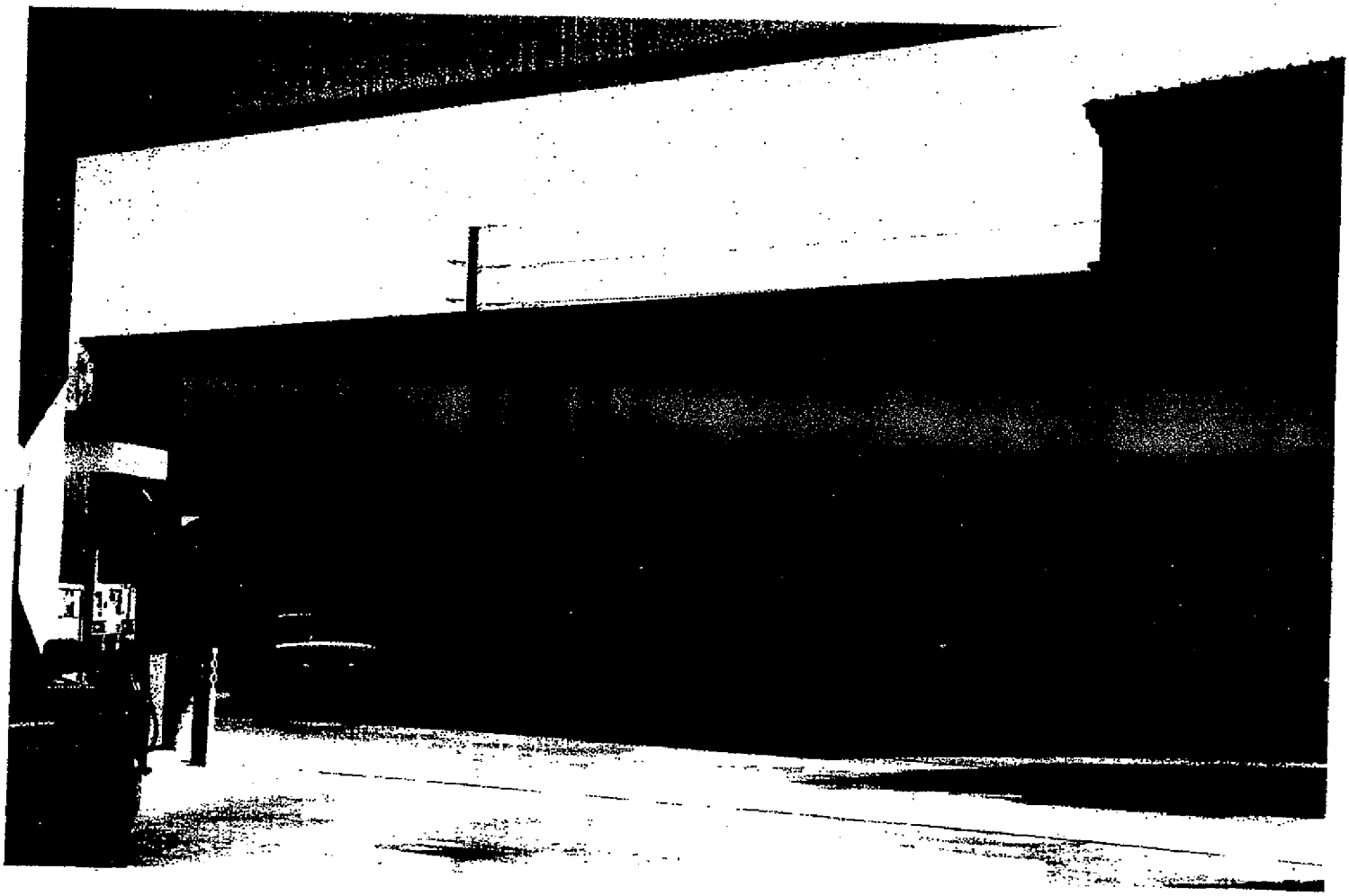

Exhibit "B" -- Evidence Submitted By Defendant IMA

Exhibit "B" -- Evidence Submitted By Defendant IMA

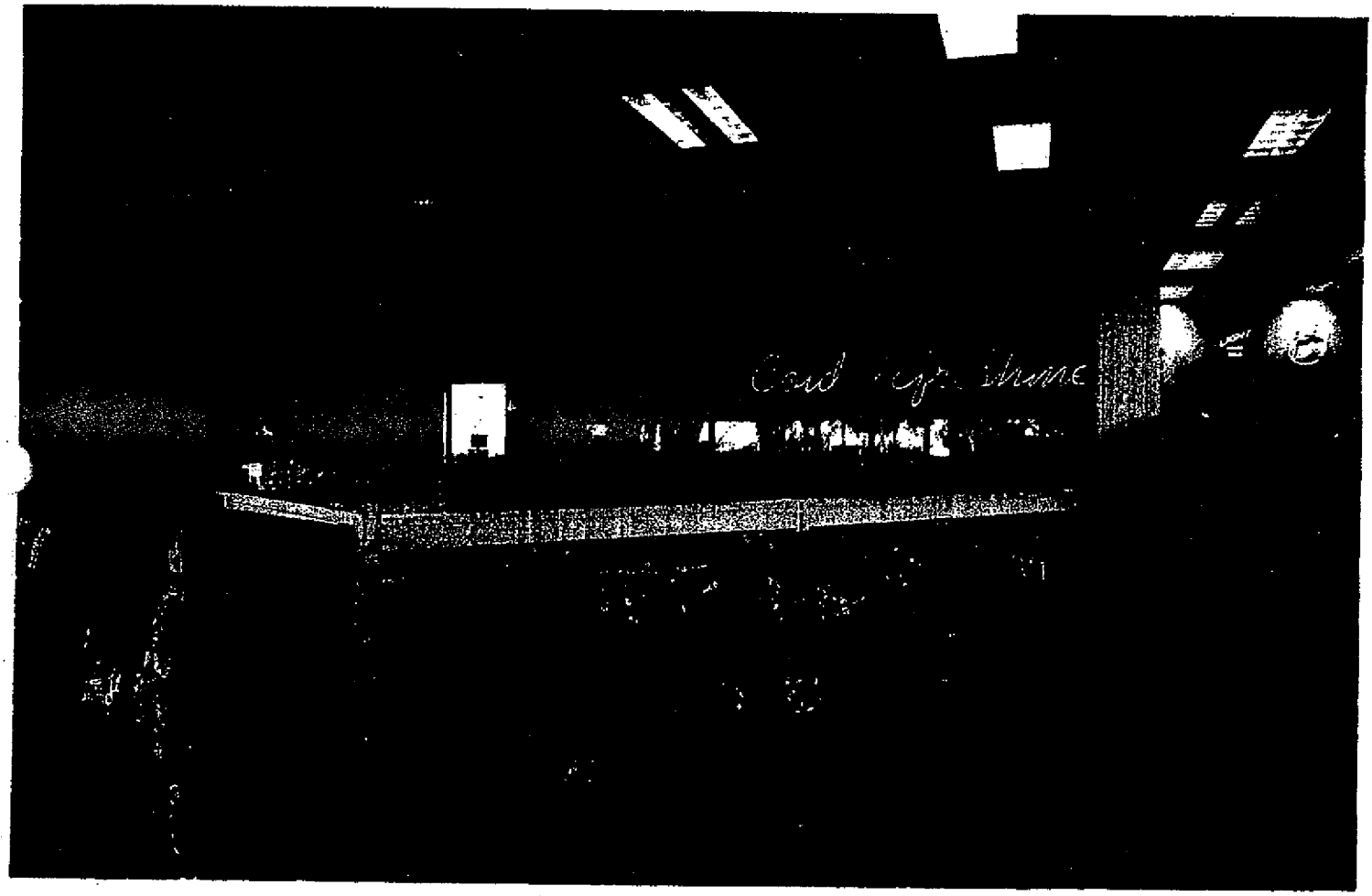

Exhibit "B" -- Evidence Submitted By Defendant IMA

Exhibit "B" -- Evidence Submitted By Defendant IMA

Exhibit "B" -- Evidence Submitted By Defendant IMA

Exhibit "B" -- Evidence Submitted By Defendant IMA

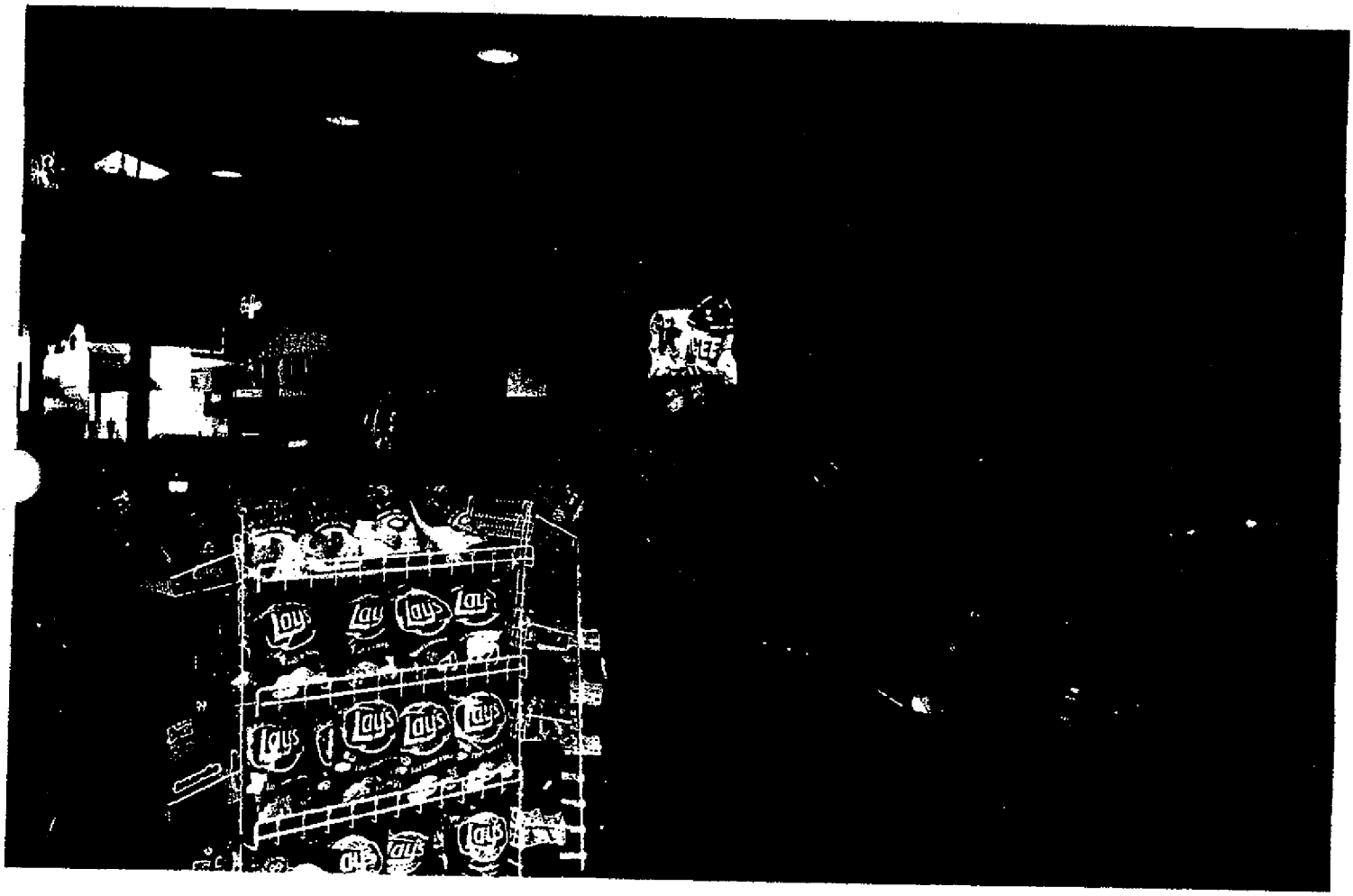

Exhibit "B" -- Evidence Submitted By Defendant IMA

Exhibit "B" -- Evidence Submitted By Defendant IMA

Exhibit 14

Please read bellow and call me ASAP. We need to undertake the action as recommended by Marta.

From my knowledge of SYSCO, they will not likely "lay down".

I propose that our first goal be that we protect our on going right to use of Hidden Bay BRAND. Is there any scenario under which we could risk our position on that BRAND?

Our second goal is to seek cancellation of Sysco's registration of HIDDEN COVE with the U.S. Patent and Trademark Office. See Marta's comments below.

Our third goal, if successful in #1 and #2, is to seek damages from Sysco.

Along with your considerations on this matter, please let me know of your estimate of likely legal costs.

2). **SmartSource** -

Additionally, are we having any progress relative to the opposition to our SmartSource BRAND?

3). **Trefoglio BRAND** -

Do we have the Trefoglio agreements for MAINES, Nicholas? Shamrock will need a copy of all agreements sent to the attention of Rob Ahrensdorf.

4). **Bylaws approval and Amendment Approval** -

I believe that you sent a complete set of pages for signature and related paperwork to Mark Drazkowski a week or two ago. Have you received the organizational documents from RFS?

Also, is there now a complete set of votes on the three amendments on file in your office?

Once the approvals for our bylaws and bylaw changes are done, we need to send each Board member (and I need one) a copy of the complete document.

5). **Highland Roast BRAND** -

We will be licensing the Highland Roast BRAND from MAINES for coffee. Please send a copy of one of the RFS BRAND agreements to the attention of Phil Morgan at MAINES.

6). **Input on Budget** -

I am beginning to build a budget for 2005 (our fiscal year is a calendar year). I'd be interested in discussing possible sceneries and associated costs as well as discussing ways in which we can become more efficient.

EXHIBIT
Planck 14

7) **Master File IMA Board Minutes** –

Know that you have maintained a Master file on IMA Board minutes. Please have your assistant send a full set to Doris Bosse as well. We wish to maintain a duplicate set here.

8). **Master File - IMA Agreements** –

Please confirm that you are maintaining a master file of all contracts for IMA and also have your staff send a duplicate of each to Doris Bosse so that we can assure that copies are available here and there.

Are there other matters hanging out there that we need to deal with?

I will be easier to reach tomorrow than today as we have a group here for a meeting.

-----Original Message-----
From: Mark Drazkowski [mailto:MarkD@ReinhartFoodservice.com]
Sent: Thursday, October 28, 2004 8:57 AM
To: BOB PLANCK
Cc: Ed Sanford; Tom Gilbert; Boyd Jordan
Subject: FW: Re: Sysco's HIDDEN COVE Mark
Importance: High

Bob.....Marta is one of Gerry Connolly's associates. Based upon what she has written below, IMA should be the pursuer of this issue.

-----Original Message-----
From: Sanders, Susan E. [mailto:SES@quarles.com] On Behalf Of Connolly, Gerald E.
Sent: Wednesday, October 27, 2004 2:52 PM
To: Mark Drazkowski; Boyd Jordan; Ed Hengel
Subject: FW: Re: Sysco's HIDDEN COVE Mark
Importance: High

> -----Original Message-----
> From: Levine, Marta S.
> Sent: Wednesday, October 27, 2004 2:06 PM
> To: Connolly, Gerald E.
> Subject: Re: Sysco's HIDDEN COVE Mark
> Importance: High
>
> Dear Gerry:
>
> Reinhart FoodService, Inc., as the owner of the HIDDEN BAY mark, has the

exclusive right under the IMA agreement to bring an infringement action. However, if RFS fails or refuses to act within 90 days after IMA notifies RFS of the infringement, IMA may pursue the infringement. Typically I am hesitant to allow a licensee to pursue an infringement claim, because the owner of the mark usually has more of a stake in the matter. However the RFS/IMA license is somewhat unusual, so if RFS wants IMA to handle it, it can certainly grant that right to IMA for this particular matter.

>

> With respect to the infringement itself, as I mentioned before, I think that RFS/IMA should challenge Sysco's HIDDEN COVE mark on infringement grounds. I suggest that RFS/IMA seek cancellation of Sysco's registration of HIDDEN COVE with the U.S. Patent and Trademark Office. If that proceeding is successful, RFS/IMA would then sue for infringement in federal court. (While the Patent and Trademark Office's findings of confusing similarity are not binding on federal courts, they are very persuasive.)

>

> Infringement is evaluated under the following factors: (1) The similarity of the marks (evaluated under a sight, sound and meaning analysis); (2) the similarity of the goods and services; (3) the nature and extent of any actual confusion; (4) the extent to which the respective goods and services are marketed through the same channels of trade; (5) the degree of attention usually given by customers to trade symbols in the purchase of the respective goods and services; (6) the strength of the senior user's mark; (7) the length of time that both parties have used their marks; and (8) the intent of the junior user in adopting and using its mark. Depending upon the facts, all or some of these factors will be relevant.

>

> Reinhart's HIDDEN BAY mark was registered in 2002 for seafood, with a federal priority date of November 14, 2000. Sysco's HIDDEN COVE mark was registered on May 11, 2004 for "fresh, frozen and canned seafood", with a federal priority date of September 19, 2002. Based on these dates, Reinhart clearly has priority over Sysco's mark. Also in Reinhart's favor, the marks have the same meaning (cove is defined as a "small inlet or bay"), the goods are identical, and the products are marketed in the same channels of trade.

>

> In Sysco's favor, there are other HIDDEN-marks in use for food products, including two with marine references -- namely, HIDDEN HARBOR SALADS for a variety of salads and, less on point, HIDDEN LAKE FARMS for meats.

>

> On balance, I think that RFS/IMA has a good case against Sysco. If we have any evidence of actual confusion or if, in the course of discovery, we find that Sysco intended to come close to RFS's mark, then our case will be strengthened considerably.

>

> Please call me so that we can discuss how to proceed from here.

>

> Marta

>

> Marta S. Levine
> Quarles & Brady LLP
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1 IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD
2

FLOWERS BAKERIES BRANDS,	)	
3 INC.,	)	
Opposer,	)	In the Matter of Application
4	)	Serial No. 78/432642
vs.	)	Mark: COBBLESTONE MARKET
5	)	
INDEPENDENT MARKETING	)	Opposition No. 91167151
6 ALLIANCE LP,	)	
Applicant.	)	

7
8
9 ORAL 30(B)(6) DEPOSITION
10 BOB FONTANA
11 August 22, 2006
12
13 ORAL 30(b)(6) DEPOSITION OF BOB FONTANA, produced as
14 a witness at the instance of the Opposer and duly sworn,
15 was taken in the above-styled and numbered cause on the
16 22nd day of August, 2006, from 2:10 p.m. to 3:17 p.m.,
17 before Laraine L. Toliver, Certified Shorthand Reporter
18 in and for the State of Texas, reported by computerized
19 stenotype machine at the offices of Pagel, Davis & Hill,
20 PC, 1415 Louisiana, 22nd Floor, Houston, Texas 77002,
21 pursuant to the Federal Rules of Civil Procedure and the
22 Trademark Rules of Practice.
23
24
25

Exhibit "C" -- Evidence Submitted by Defendant IMA

1 APPEARANCES
2
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14 ALSO PRESENT:
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25

Exhibit "C" -- Evidence Submitted by Defendant IMA

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EXHIBIT	DESCRIPTION	PAGE
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2	4/21/04 memo, Bob Planck to Bartt Thompson, Re: Cobblestone Corner	13
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4	E-mail string between Bob Fontana and Bartt G. Thompson, Subject: Cobblestone Market	18
5	E-mail string October 24 & 25, 2005, between Leslie Dye and Bartt G. Thompson, with attached Merchandising Policy	20
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7	5/15/05 e-mail string between Bob Fontana and Bartt G. Thompson	28

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Exhibit "C" -- Evidence Submitted by Defendant IMA

1 BOB FONTANA,
2 having been first duly sworn, testified as follows:
3 EXAMINATION
4 Q. (BY MS. BARATTA) Hi, Mr. Fontana.
5 A. Hello.
6 Q. I hope you're doing well today.
7 I'm going to show you a copy of your
8 amended notice of deposition which you should have
9 received. If you could just look at that and tell me if
10 you have seen it before.
11 A. I think so.
12 Q. Okay. And have you been deposed before?
13 A. Yes.
14 Q. And in connection with what?
15 A. It was an employment situation.
16 Q. Okay. And in what capacity were you called to
17 be deposed?
18 A. You know, the -- the -- it ended in a
19 settlement with a confidentiality agreement, so I
20 hesitate to elaborate.
21 Q. Okay. So you're familiar with the deposition
22 process?
23 A. Yes.
24 Q. Just as a reminder, if you -- it would be more
25 helpful to the court reporter if you could answer yes or

Exhibit "C" -- Evidence Submitted by Defendant IMA

1 no instead of nodding. And, of course, if you have any
2 questions, just let me know, and if you need a break for
3 anything, feel free to ask.
4 A. Okay.
5 Q. I have two more deposition notices to show you.
6 One is a 30(b)(6) deposition, and this is where we had
7 asked counsel to identify the appropriate representative
8 who could address the numbered issues in that
9 deposition. If you could look at that deposition
10 notice, if you could look at that and tell me which
11 areas you may have some familiarity or be able to
12 discuss.
13 A. 1, 4, 5 and 6.
14 Q. Okay. And this is a second 30(b)(6) notice.
15 There are two issues on here. If you could look at that
16 and tell me if you are in a position to speak about
17 either one of those issues.
18 A. 2.
19 Q. 2. Thank you.
20 Could you tell us a little bit about your
21 educational background so we could have it in the
22 record?
23 A. Sure. 1982 graduate of Cornell University,
24 School of Hotel Administration, and then 20 years with
25 Sysco Corporation and four years with IMA.

Exhibit "C" -- Evidence Submitted by Defendant IMA

1 Q. And what is the title of your current position
2 with IMA?
3 A. Director of marketing and general
4 merchandising.
5 Q. And how long have you been in that position?
6 A. Approximately four years.
7 Q. And is that the only position that you have
8 held with IMA?
9 A. Yes.
10 Q. And how would you describe the primary
11 responsibilities that you have in that position?
12 A. There are several. One is to facilitate the
13 marketing advisory council's activity and two is to
14 coordinate and execute our internal marketing programs.
15 Those would be the two major responsibilities.
16 Q. And do you have any responsibilities related to
17 trademarks?
18 A. Yes.
19 Q. And what are those responsibilities?
20 A. They would be to make certain that the research
21 process is conducted throughout the branding process.
22 Q. And that anticipates my next question, which
23 would be whether your responsibilities include anything
24 in connection with branding?
25 A. Yes.

Exhibit "C" -- Evidence Submitted by Defendant IMA

1 Q. And is there anything in addition to the
2 responsibilities you just referenced?
3 A. Yes.
4 Q. And what would those be?
5 A. Again, the facilitation of the marketing
6 advisory coun -- the marketing advisory council oversees
7 the marketing activities of IMA and I make sure that the
8 committee carries these responsibilities out. So, it
9 would also include point of sale reference material.
10 Q. And when you were with Sysco, what position did
11 you hold with them, or positions?
12 A. There were several. Six years in an outside
13 sales position, two years in a brand marketing position,
14 and then for approximately 12 years overseeing
15 purchasing and marketing responsibilities of their
16 frozen food department out of their corporate
17 headquarters.
18 Q. Now, you indicated that one of the areas you
19 would -- you would have knowledge would be IMA's
20 adoption and use of the Cobblestone Market mark; is that
21 correct?
22 A. Correct.
23 Q. What can you tell us about how IMA decided to
24 adopt this mark?
25 A. Okay. We utilize an ad agency called Newhall

Exhibit "C" -- Evidence Submitted by Defendant IMA

1 Klein. Newhall Klein is tasked with providing ideas for
2 brand names, on the direction of the marketing advisory
3 council. So, typically, on any brand that -- that we
4 develop, they'll provide a list of potential names. The
5 marketing advisory council reviews those names, picks
6 several names that they're comfortable with, and then
7 the -- the search begins to make sure those marks are
8 clear.
9 Q. And did Newhall Klein propose the Cobblestone
10 Market mark?
11 A. Yes.
12 Q. In that version, Cobblestone Market?
13 A. Yes.
14 Q. Were there any other versions that Newhall
15 Klein proposed?
16 A. Several.
17 Q. And do you recall what those were?
18 A. I don't.
19 Q. If we left a blank in the deposition
20 transcript, do you think you would be able to provide us
21 with that information --
22 A. I think it's --
23 Q. -- the different alternatives?
24 A. -- it's a matter of record that -- of what the
25 names on the initial list were, so we could find that.

Exhibit "C" -- Evidence Submitted by Defendant IMA

1 Q. Okay. Do you recall whether one of those marks
2 was Cobblestone Corner?
3 A. I believe that was one initially.
4 Q. And do you recall the -- do you recall whether
5 those two marks were proposed at the same time?
6 A. I don't.
7 Q. Okay. Do you recall how the choice was made or
8 how the search process progressed to result in selection
9 of the Cobblestone Market mark?
10 A. Not specifically, no.
11 Q. Do you recall why the Cobblestone Corner mark
12 wasn't pursued?
13 A. No.
14 MR. HILL: You need a stapler?
15 MS. BARATTA: Stapler, yes.
16 MR. HILL: There's probably one back there
17 in one of those drawers.
18 MS. BARATTA: I thought there was.
19 MR. HILL: Open either one of them. See
20 it there?
21 MS. BARATTA: Okay, thanks.
22 Would you please mark this as Fontana
23 Exhibit 1?
24 (Exhibit 1 marked)
25 Q. (BY MS. BARATTA) If you could take a look at

Exhibit "C" -- Evidence Submitted by Defendant IMA

1 this document, please. This might be the first time
2 you've seen that document.
3 And could you describe what that is?
4 A. I have seen it and I -- I am starting to recall
5 exactly what it was. I thought it had to do with an end
6 user, some kind of conflict with an end user in one of
7 our marks, but that's all I can recall.
8 Q. Okay. This looks like a May 26th e-mail, that
9 the most recent correspondence was from Bob Planck to
10 Bartt Thompson, and in that e-mail there is a reference
11 that Cobblestone Market is the most critical. Could you
12 tell us why Mr. Planck has indicated that that mark
13 would be the most critical?
14 A. I couldn't.
15 Q. Going back to the search process, you mentioned
16 that Newhall Klein would propose a list of potential
17 names and then the MAC would review that list of
18 potential names. Do you recall any of the -- any of the
19 results of the review by the MAC of the Cobblestone
20 Market or Cobblestone Corner name?
21 A. Not specifically, no. They -- they generally
22 pick a name based on really subjectively how they like
23 it and their marketing folks, and then -- and then, you
24 know, the search, the technical search process begins,
25 so...

Exhibit "C" -- Evidence Submitted by Defendant IMA

1 Q. And do you remember what technical search
2 process was carried out for the Cobblestone Market mark?
3 A. Yes. Newhall Klein has a third party that does
4 a search. If that search clears, we'll go to our firm
5 and they will do a thorough search, and -- and then
6 we'll take the recommendation of those two searches as
7 to whether we proceed or not.
8 Q. Do you know what the name of that third party
9 is that's retained by Newhall Klein?
10 A. I don't.
11 Q. Do you know what type of search it is that they
12 do?
13 A. I don't.
14 Q. And when you say that you then would go to your
15 firm, do you mean Pagel, Davis & Hill?
16 A. Yes.
17 Q. And do you know what type of search it is that
18 they do to determine --
19 A. Not specifically, no.
20 Q. And what is your understanding about why the
21 Cobblestone Market mark was selected?
22 A. Again, by a consensus vote of the marketing
23 advisory council, they felt that that was the strongest
24 brand name that was presented to them.
25 Q. And do you have any idea why they felt that was

Exhibit "C" -- Evidence Submitted by Defendant IMA

1 the strongest brand name?
2 A. I don't.
3 Q. Do you think that the Cobblestone Market mark
4 conveys any particular type of impression or
5 connotation?
6 A. Yes.
7 Q. And what would that be?
8 A. That of an old fashioned marketplace, where you
9 can get quality deli items.
10 Q. And what do you consider the predominant
11 component of that mark?
12 A. It would first and foremost be "market."
13 Q. Do you know whether there was any search
14 obtained to determine the availability of any mark that
15 included the term "market"?
16 A. Not off the top of my head.
17 Q. Do you know whether there were any focus groups
18 or other branding or advertising studies done in
19 connection with the term "market"?
20 A. Not to my recollection.
21 Q. In the search process, do you remember whether
22 the search revealed any marks owned or used by Flowers?
23 A. No.
24 Q. You don't recall or you recall that there
25 weren't any cited?

1 A. Again, my -- my job is to make certain that the
2 process goes forward and I take at face value the
3 recommendations of our ad agency and our attorneys and
4 do not drill down into the -- the how's and why's, only
5 the final recommendation and effort to get to resolution
6 on the project.
7 Q. Okay.
8 MS. BARATTA: Would you please mark this
9 as Fontana Exhibit 2?
10 (Exhibit 2 marked)
11 Q. (BY MS. BARATTA) Okay. If you could take a
12 look at this document and describe what it is, please.
13 A. It looks like correspondence to -- to Bartt
14 Thompson on one of the initial considerations for the
15 deli brand name and the different categories that we
16 would use, along with a top line search of any potential
17 complex.
18 Q. A top line search?
19 A. Yeah, it looks like that. Bob got a clearance
20 from the ad agency and now they were coming to Bartt to
21 do the second search.
22 Q. And if you could look at the third page of this
23 document, the last paragraph, first sentence, which
24 reads, "Assuming publication for opposition, the owner
25 of the 'Cobblestone Mill' mark for bakery products, and

Exhibit "C" -- Evidence Submitted by Defendant IMA

1 possibly the owner of 'Cobblestone Bread' mark for fresh
2 baguette breads, could try to oppose registration --
3 note that the owner of 'Cobblestone Mill" mark is
4 Flowers Bakeries Brands, Inc." Were you aware --
5 A. No.
6 Q. Thank you.
7 A. No.
8 Q. Sorry. I was going to ask whether you had seen
9 this. I can't recall if you had said you did or you
10 hadn't.
11 A. No.
12 Q. And do you know why Flowers Bakeries Brands,
13 Inc., would have been noted in this memorandum?
14 A. I don't.
15 Q. In your role in connection with facilitating
16 the adoption and selection and registration of these
17 marks, would you have pursued the, in this case,
18 Cobblestone Corner mark, in light of the fact that this
19 memorandum suggests that Flowers could try to oppose
20 registration?
21 A. I can take -- I take completely at face value,
22 you know, what the recommendations are.
23 MS. BARATTA: Would you please mark this
24 as Fontana Exhibit 3?
25 (Exhibit 3 marked)

1 MS. BARATTA: Thank you.
2 Q. (BY MS. BARATTA) If you could take a look at
3 this and describe that, please. And if you could, read
4 that first sentence of the last paragraph as it
5 originally was drafted.
6 A. With the X-outs that are written through?
7 Q. No, just the first paragraph, with the last --
8 I'm sorry, first sentence of the last paragraph.
9 A. Okay.
10 Q. If you could go ahead and read that out loud.
11 A. "Assuming publication for opposition" -- read
12 the part that's crossed out, too?
13 Q. As it originally was drafted.
14 A. Okay. "Assuming publication for opposition,
15 IMA should anticipate that the owner of the 'Cobblestone
16 Mill' mark for bakery products, and possibly the owner
17 of the 'Cobblestone Bread' mark," that's enough? How
18 much do you want me to read?
19 Q. If you could finish that sentence, please.
20 A. -- "possibly the owner of the 'Cobblestone
21 Bread' mark for fresh baguette breads might oppose
22 registration on the grounds of likelihood of confusion."
23 Q. Okay.
24 A. "Note that the owner" -- that's okay?
25 Q. That's fine. Thank you.

Exhibit "C" -- Evidence Submitted by Defendant IMA

1 A. Okay.
2 Q. Now, if you were reading that, would you --
3 would that be any cause for concern to you regarding the
4 adoption and selection of the Cobblestone Corner mark?
5 A. No, only because they're different items.
6 Q. Different items?
7 A. Right.
8 Q. Could you explain that?
9 A. Well, Cobblestone Market doesn't have bread
10 items in it.
11 Q. Do you -- tell me what items or goods are
12 covered by the Cobblestone Market mark.
13 A. Okay. To the best of my knowledge, meats,
14 cheeses, pickles, salads, deli salads. I'm sure there's
15 more, but I'm drawing a blank.
16 Q. And do you know whether, of those deli items --
17 well, do you know -- do you know where those items would
18 be offered?
19 A. Yeah.
20 Q. And where would that be?
21 A. In an institutional food service environment.
22 Q. Okay.
23 A. A restaurant, a hotel, a college, institutional
24 feeder type setting.
25 Q. Would they be offered in delis or in a deli

1 setting as well?
2 A. Yes.
3 Q. Would breads be offered in a deli or deli
4 setting?
5 A. Yes.
6 Q. So, would breads and any other products offered
7 in a deli setting be related?
8 A. Say that again.
9 Q. Would breads and any other products offered in
10 a deli setting possibly be related?
11 A. I'm not sure I follow your question.
12 Q. If the deli is offering breads and also
13 offering other goods, such as deli meats and pickles and
14 salads, would you consider those products related?
15 A. Not really, because you're coming into --
16 you're selling in a retail channel. You're selling
17 packaged goods in a retail channel and this is a bulk
18 institution, foods that are generally broken down and
19 made into a product.
20 Q. So IMA is offering those components, those
21 individual items?
22 A. Those are generally component items. Back of
23 the house items, very seldom will a customer see a lot
24 of those products.
25 Q. Would breads be considered another component

Exhibit "C" -- Evidence Submitted by Defendant IMA

1 item?
2 A. Yes.
3 Q. Okay.
4 A. Without identification of the brand.
5 MS. BARATTA: If you could mark this as
6 Fontana Exhibit 4, please.
7 (Exhibit 4 marked)
8 MS. BARATTA: Thank you.
9 Q. (BY MS. BARATTA) If you could take a look at
10 this document, please, and if you could explain that
11 second paragraph.
12 A. It just looks like Bartt was asking whether we
13 wanted sandwiches in the -- included in the categories
14 of -- of items we wanted to brand under the mark.
15 Q. And your response on August 1st, 2005, was, "We
16 still want sandwiches listed as an item;" is that
17 correct?
18 A. No, that's his response. I don't know if I
19 responded.
20 Q. Actually, your response shows -- if you look at
21 the first page, "See response below"?
22 A. Right.
23 Q. And then there are answers to each of Bartt's
24 questions.
25 A. These are Bartt's. Where did I respond?

1 Q. On the first page you said, "See response
2 below."
3 A. Where is my response?
4 Q. On the first para --
5 A. No, this is --
6 Q. And in the first paragraph --
7 A. This is from -- this looks like it's from
8 Bartt.
9 Q. And the first paragraph reads, "The trademark
10 office called to say they are withdrawing their
11 objection based upon the response that was filed. They
12 asked that we give them permission to reinsert the word
13 'refrigerated' before the description of salads as there
14 was previously. I presume this is fine." And then in
15 response to this is typed in, "Yes, this is fine."
16 And then in the second paragraph it reads,
17 "They asked that we move the reference of sandwiches to
18 another class. Would you please confirm you still wish
19 sandwiches listed as an item and I will call that office
20 back to give them approval for this and get the process
21 moving again on this mark?" And in response it's typed
22 in, "We still want sandwiches listed as an item."
23 A. Oh, boy, I can't verify for certain if I did
24 make that response or not. Honest answer.
25 Q. And looking at the subject line of the most

Exhibit "C" -- Evidence Submitted by Defendant IMA

1 recent e-mail in this correspondence, that shows that it
2 is from you, correct?
3 A. It looks like it is, yes.
4 Q. And the only text in that message says "See
5 response below;" is that correct?
6 A. Right.
7 Q. Thank you.
8 If you could take a look at Fontana
9 Exhibit 1 again, please, in that first section, it
10 references expanding the application of the brand and it
11 specifically lists Cobblestone Market. Can you describe
12 what's meant by expansion of the brand, expanding the
13 application of the brand?
14 A. No, you'd -- you'd have to ask Bob that.
15 MS. BARATTA: Would you please mark this
16 as Exhibit 5, please?
17 (Exhibit 5 marked)
18 MS. BARATTA: Thank you.
19 Q. (BY MS. BARATTA) If you could, take a look over
20 this e-mail exchange that references the merchandising
21 policy. Are you familiar with the attached
22 merchandising policy?
23 A. Let me just spend a few minutes on it.
24 The only thing this pertains to is the
25 fact that we like to control how and when one of our

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1 marks is used, but we were attempting to give the
2 company some flexibility locally to use a mark when they
3 want to promote locally or do merchandising material
4 that includes that mark.
5 Q. And the merchandising policy indicates that the
6 Cobblestone Market name and logo may be used on point of
7 sale materials, napkins, food wraps and containers; is
8 that correct? It should be on the last page.
9 A. Yes.
10 Q. And do you know if it is, in fact, right now,
11 being used on those items?
12 A. It is being used on some merchandising
13 material. Specifically, I do not know what all those
14 items are.
15 Q. And what would be the purpose of using the
16 Cobblestone Market, the name and logo, on these types of
17 items?
18 A. To merchandise your -- your concept.
19 Q. To merchandise the concept. In what way?
20 Could you explain that just a little bit more?
21 A. Just to bring brand awareness to the end user
22 on your -- on your concept.
23 Q. To the end user?
24 A. Right.
25 Q. And who would that end user be?

Exhibit "C" -- Evidence Submitted by Defendant IMA

1 A. The -- the customer.
2 Q. The customer?
3 A. Yeah.
4 Q. So these Cobblestone Market products would be
5 used to bring brand awareness to the end user or the
6 customer?
7 A. Yes.
8 Q. Okay. Do you know about how much has been
9 invested or -- or incurred in connection with
10 advertising and marketing expenditures in connection
11 with the Cobblestone Market mark?
12 A. Define advertising and marketing expenditures.
13 Q. Anything you do to promote brand awareness.
14 A. It would be a guess.
15 Q. Okay.
16 A. Probably $40,000.
17 Q. And is that a total number or is that just this
18 year?
19 A. That's an approximate project total, total
20 number.
21 Q. And when is the beginning date for that
22 project?
23 A. Probably since the inception of the brand.
24 Q. And when would that have been?
25 A. Ooh, I'm not sure of the exact date, but I'm

Exhibit "C" -- Evidence Submitted by Defendant IMA

1 sure it's in the documents someplace.
2 Q. Do you have any guess?
3 A. Couple years ago.
4 Q. Couple of years.
5 MS. BARATTA: Could we go ahead and take a
6 five-minute break?
7 MR. HILL: Sure.
8 (Recess from 2:44 p.m. to 3:00 p.m.)
9 Q. (BY MS. BARATTA) A couple more questions about
10 the merchandising policy that I showed to you. The
11 merchandising policy lists different items, different
12 approved merchandising items. Who are these items
13 distributed to?
14 A. They could be distributed to the -- the
15 operator, the owner of the establishment, or the school
16 mom or the manager of the college feeding or the
17 restaurant patron.
18 Q. And particularly with the napkins and food
19 wraps, containers, anything like that, that's something
20 that would ultimately be used by the restaurant patrons?
21 A. Yes.
22 Q. Be it the customers?
23 A. It would be used by both the -- our customer,
24 the operator, and the restaurant patron.
25 Q. Okay. And who is it that distributes these? I

Exhibit "C" -- Evidence Submitted by Defendant IMA

1 understand to whom they're distributed, but who is it
2 that actually does the distribution?
3 A. They could be distributed along with an order
4 or it could be brought by the salesperson. Probably
5 those two avenues would be the most likely.
6 MS. BARATTA: If you could mark this as
7 Fontana Exhibit 6.
8 (Exhibit 6 marked)
9 Q. (BY MS. BARATTA) If you could please take a
10 look at these.
11 A. Okay.
12 Q. To me, these look like proposed materials,
13 advertising materials. Is that correct?
14 A. Advertising materials, yeah, you could say
15 that. It's probably --
16 Q. What would be a better description?
17 A. Merchandising materials.
18 Q. Merchandising materials?
19 A. Yeah.
20 Q. And are they proposed or are those actually in
21 use right now?
22 A. These are in use right now.
23 Q. Exactly as they are depicted on those pages?
24 A. I'm not going to say exactly, but similar.
25 Q. Okay. So, all of those items depicted in those

Exhibit "C" -- Evidence Submitted by Defendant IMA

1 merchandising materials are being distributed right now?
2 A. Well, some of them. I can't say all; okay?
3 Q. Uh-huh.
4 A. Some of them may have not come into fruition.
5 Q. Could you take a look at them and tell me which
6 items are being distributed right now?
7 A. I couldn't. But, again, just brushing on the
8 top of some projects, there's -- you know, I know that
9 some of these are in use, some of them are in the
10 process of being created, and some of them probably will
11 not be created because of some difficulties in
12 production.
13 Q. And is there any item in there that you know
14 for certain whether it's in production or not?
15 A. Not for certain.
16 Q. You mentioned that, in connection with your job
17 responsibilities, one of those job responsibilities is
18 in connection with point of sale materials. Would --
19 what type of point of sale materials would those be?
20 A. Again, from a 20,000-foot view, the overall
21 project management of the point of sale piece as it
22 pertains to a project, is the point of sale piece being
23 produced, has the project started, where is it, is it
24 completed, what is the cost of the project, are we
25 within budget on the project. The actual production of

Exhibit "C" -- Evidence Submitted by Defendant IMA

1 the point of sale piece really falls in the hands of our
2 ad agency.
3 Q. Are you involved in the design or creation of
4 those point of sale materials?
5 A. No.
6 Q. Are you involved in the distribution of those
7 point of sale materials?
8 A. No.
9 Q. Going back to the items that we discussed
10 earlier being offered in connection with the Cobblestone
11 Market mark, can you give me some examples of the
12 typical price points that those products are being
13 offered at?
14 A. Price points on a -- on a per pound, per case?
15 What's the basis for your price point?
16 Q. Well, it would depend on the item. For
17 example --
18 A. Because they're all different.
19 Q. Right. Deli meats, for example, on a per pound
20 basis?
21 A. On a per pound basis, probably within the
22 three-, four-, five-dollar-a-pound range, and the 20- or
23 30-pound case you could have 100-, 120-dollar-a-case
24 product.
25 Q. And what about deli mustard, for example?

Exhibit "C" -- Evidence Submitted by Defendant IMA

1 A. Well, we don't have it, so...
2 Q. Are you planning on offering that?
3 A. You know, I don't know if we are or not.
4 Q. What about cheeses?
5 A. Cheeses, again, probably in that three-, four-,
6 or five-dollar-a-pound range. So, typically, a food
7 service pack, 20-pound case, 30-pound case, $60, $70,
8 $80 a case.
9 Q. And could one of your customers purchase these
10 products by the pound?
11 A. Typically, we sell the operator in bulk and
12 they use it as a component, to make something with it.
13 Q. Okay. And then the operator then would sell it
14 to the consumers or end users on an item-by-item basis?
15 A. On an item-by-item, generic basis, unwrapped
16 basis, a turkey sandwich.
17 Q. An unwrapped turkey sandwich?
18 A. Yeah, it's on a plate, like if you're in a
19 restaurant.
20 Q. Would the napkins or food wraps or containers
21 offered in connection with the merchandising policy
22 showing the Cobblestone Market mark be used on any of
23 those sandwiches?
24 A. Not to my knowledge. The napkin may
25 accompany --

Exhibit "C" -- Evidence Submitted by Defendant IMA

1 Q. What would the napkin --
2 A. The napkin would accompany the plate.
3 Q. The napkin would accompany the plate?
4 A. Right.
5 Q. And that plate might have a sandwich on it?
6 A. Right.
7 Q. And that sandwich could come in a food wrap or
8 container as well?
9 A. Right.
10 MS. BARATTA: Could you please mark this
11 as Fontana Exhibit 7?
12 (Exhibit 7 marked)
13 MS. BARATTA: Thanks.
14 Q. (BY MS. BARATTA) If you could take a look at
15 this, please.
16 A. Okay.
17 Q. This appears to be an e-mail from you to Bartt
18 Thompson dated May 25th, 2005. Does that look right?
19 A. Uh-huh, yes.
20 Q. And in that e-mail, you are advising
21 Mr. Thompson the revised descriptions look okay; is that
22 correct?
23 A. Correct.
24 Q. And on page 2 of that document, it states that
25 the Cobblestone Market added a description of cooked

Exhibit "C" -- Evidence Submitted by Defendant IMA

1 deli items, and then in quotation marks, sandwiches,
2 soups and vegetables, end quotation marks; excluded
3 macaroni, rice and pasta salads from the salad
4 description; added additional description for frozen
5 entrees. Is that correct?
6 A. That's correct. To the best of my
7 recollection, initially, early on, sandwiches may have
8 been conceptually part of the brand, but I don't -- we
9 didn't go forward with it.
10 Q. Is there any intention to offer sandwiches in
11 connection with the brand?
12 A. No.
13 Q. Going back to the first 30(b)(6) deposition
14 notice that we looked at at the beginning --
15 A. Okay. Let me get back to it.
16 Q. You can look at this. It's actually part of
17 the record, so it wouldn't be one of the exhibits.
18 A. Okay.
19 Q. But one of the items that you mentioned as
20 having some knowledge or familiarity with would be
21 applicant's adoption and use of the mark Cobblestone
22 Market?
23 A. Okay.
24 Q. What would be the extent of your recollection
25 regarding adoption of that mark?

Exhibit "C" -- Evidence Submitted by Defendant IMA

1 A. The general process of ideation of the
2 Cobblestone Market name from Newhall Klein, their
3 initial search, the subsequent search by Pagel Davis and
4 the approval of the -- of the brand, just again
5 overseeing the -- the process in which the brand was
6 created and adopted by the group.
7 Q. And were you involved in the decision making of
8 that process or just overseeing the process itself?
9 A. I oversee the process. In conjunction with Bob
10 Planck, we do review the findings of Newhall Klein and
11 Pagel Davis and determine, as an organization, IMA, if
12 we feel that we should go forward with the mark and make
13 a recommendation to the group.
14 Q. And do you recall the Cobblestone Mill marks
15 being cited during that search process?
16 A. I don't specifically, no.
17 Q. And I believe you may have answered this
18 already, but do you recall why the Cobblestone Market
19 mark was selected as opposed to the Cobblestone Corner
20 mark?
21 A. I don't.
22 Q. Do you recall whether there was ever a search
23 done for Cobblestone Market?
24 A. There had to have been a search for Cobblestone
25 Market.

Exhibit "C" -- Evidence Submitted by Defendant IMA

1 Q. There had to have been?
2 A. Yeah.
3 Q. Do you know who would have done that search?
4 A. Newhall Klein and/or Pagel Davis.
5 Q. Would you have filed an application for the
6 mark without doing a search for it?
7 A. No.
8 Q. Why wouldn't you have filed an application
9 without doing a search for it?
10 A. We would want to make sure that the mark was
11 usable.
12 Q. And without obtaining a search for that mark,
13 you might not know whether it was usable or available?
14 A. Yes, exactly.
15 Q. And I think we went over this as well before,
16 but just to confirm that I have everything right, what
17 products are being offered right now under the
18 Cobblestone Market mark?
19 A. Deli meats, cheeses, pickles, refrigerated
20 salads, and I believe that's what I recalled.
21 Q. Okay. And then are there any other products
22 that IMA intends to offer -- I'm sorry, any other
23 products that IMA intends to offer under that mark?
24 A. There probably is, but I'm drawing a blank on
25 what they are right now.

Exhibit "C" -- Evidence Submitted by Defendant IMA

1 Q. Okay. And going back to this list again, the
2 fifth item in here is the target or typical customers of
3 products offered or intended to be offered in connection
4 with applicant's mark Cobblestone Market. Who would
5 those target or typical customers be?
6 A. Institutional food service operators,
7 specifically, again, colleges, institutional feeders,
8 restaurants, hotels, schools.
9 Q. And who would the end consumers be who actually
10 would purchase the products from the food service
11 operations, colleges, restaurants, hotels, and schools?
12 A. In a school setting, students; in an operator
13 restaurant setting, the -- the patron.
14 Q. And in a hotel, it would be the guests?
15 A. Exactly.
16 Q. Okay. Another issue you indicated was No. 6,
17 applicant's advertising promotion, marketing, sales and
18 distribution of products sold in connection with its
19 mark Cobblestone Market. We talked a little bit about
20 the advertising. We talked about the merchandising
21 materials that you have in front of you.
22 A. Right.
23 Q. What are some other ways in which IMA is
24 advertising or promoting or marketing its Cobblestone
25 Market products?

Exhibit "C" -- Evidence Submitted by Defendant IMA

1 A. This covers it.
2 Q. That covers it?
3 A. This is pretty much the encompassing point of
4 sale and merchandising materials.
5 Q. And, also, in addition to any of the products
6 covered under the merchandising agreement, correct?
7 A. Yes.
8 Q. And what about online or on the Internet.
9 A. There's a Web site that explains the brand and
10 the -- the brand description in a paragraph. That's the
11 extent of that.
12 Q. And is that Web site accessible to anyone?
13 A. The -- there is an unsecured section that's
14 accessible to anyone. There's a secured section that's
15 only accessible to certain people.
16 Q. Okay. And the information regarding the
17 Cobblestone Market brand, that's on the unsecured
18 section?
19 A. There is -- it's in both.
20 Q. It's in both.
21 MS. BARATTA: I think that's all we have.
22 Your witness.
23 MR. HILL: We'll pass.
24 (Proceedings concluded at 3:17 p.m.)
25

Exhibit "C" -- Evidence Submitted by Defendant IMA

1
2
3
4
5
6
7
8 I declare under penalty of perjury that the
9 foregoing is true and correct.
10
11 _____
12 BOB FONTANA
13
14
15 SUBSCRIBED AND SWORN TO BEFORE ME, the undersigned
16 authority, by the witness, BOB FONTANA, on this the
17 _____ day of _____, _____.
18
19 _____
20 NOTARY PUBLIC IN AND FOR
21 THE STATE OF _____
22
23 My Commission Expires: _____
24
25

Exhibit "C" -- Evidence Submitted by Defendant IMA

1 STATE OF TEXAS
2 COUNTY OF HARRIS
3
4 REPORTER'S CERTIFICATE
5 ORAL 30(B)(6) DEPOSITION OF BOB FONTANA
6 August 22, 2006
7
8 I, the undersigned Certified Shorthand Reporter in
9 and for the State of Texas, certify that the facts
10 stated in the foregoing pages are true and correct.
11 I further certify that I am neither attorney or
12 counsel for, related to, nor employed by any parties to
13 the action in which this testimony is taken and,
14 further, that I am not a relative or employee of any
15 counsel employed by the parties hereto or financially
16 interested in the action.
17 SUBSCRIBED AND SWORN TO under my hand and seal of
18 office on this the _____ day of _____,
19 _____.
20
21 _____
22 Laraine L. Toliver, CSR 433
Expiration: 12/31/2006
23 Esquire Deposition Services (#03)
3401 Louisiana, Suite 300
24 Houston, Texas 77002
713.524.4600; 713.524.4951 fax
25

Exhibit "C" -- Evidence Submitted by Defendant IMA

Exhibit 1

Exhibit "C" -- Evidence Submitted by Defendant IMA

From: Bob Planck
<rdplanck@independentmarketingalliance.com>
To: Bartt G. Thompson <bgt@pdhlaw.com>
Date: Thursday, May 26, 2005 4:41:38 PM
Subject: Kiosks
Folder: Inbox - Known/MBH

The San Pablo mark for Reinhart is the mark we are operating under. If we get the St, Paul grill to give us a release, are we OK. It is important that we be able to get on with expanding the application of the Brands "San Pablo", Villa Frizzoni", and "Cobbelstone Market"...the later being the most critical.

Ed, is the St. Paul Grill a customer?

Robert D. Planck
President

Independent Marketing Alliance
16000 Memorial Drive, Ste 200
Houston, TX 77079
Tel: 281-531-0007 Extn. 316
Fax: 281-531-0022
www.independentmarketingalliance.com
email: rdplanck@independentmarketingalliance.com

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From: Bartt G. Thompson [mailto:bgt@pdhlaw.com]
Sent: Thursday, May 26, 2005 3:51 PM
To: Bob Planck
Subject: Kiosks

EXHIBIT
Intana 1

Exhibit "C" -- Evidence Submitted by Defendant IMA

Bob:

We asked the attorney who searched the Brickfire Bakery to look at the marks you thought about for kiosks. Attached is his initial letter and follow-up to my inquiry. There is a "The St Paul Grill" mark that is registered. This attorney seems to think that since San Pablo is translated to be St Paul, that the trademark office would reject the mark.

I have not heard back on the other two names yet, but there is a "Cobblestones Restaurant & Bar" which he may find to cause a concern as well.

Bartt

Exhibit "C" -- Evidence Submitted by Defendant IMA

Exhibit 2

Exhibit "C" -- Evidence Submitted by Defendant IMA

MEMORANDUM

To: Bob Planck
From: Bartt Thompson
Date: April 21, 2004
Re: Cobblestone Corner

IMA is considering adopting the use of the trademark "Cobblestone Corner" for deli items such as cooked deli items, cheese, refrigerated salads, refrigerated pickles, deli mustard, bagged potato chips and frozen soups and entrees. These items come under two of the classes for trademark registrations as follows:

Class 29 – Meats and Processed Foods
- Cooked deli items
- Cheese
- Refrigerated salads
- Refrigerated pickles
- Bagged potato chips
- Frozen soups and entrees

Class 30 – Staple foods
- Deli mustard

The Mark "Cobble Stone" or "Cobblestone"
A search for the mark "cobble stone" reveals that there are a few uses of the mark, in each case combined with another word, for products under Class 30:

Mark	Status	Class	Description
Cobblestone Bread	Pending	30	Fresh baguette breads
Cobblestone Mill	Registered	30	Bakery products, namely bread, buns and rolls
Cobblestone Mill Healthy & Hearty	Registered	30	Bakery products, namely Bread
Cobblestone Kitchens	Registered	30	Staple Goods, namely Hot Chocolate and Coffee

There are a couple of uses of the mark, in each case combined with another word, for products under Class 29:

Boston Cobblestone	Registered	29	Cheese
Cobblestone Kitchens	Registered	29	Dairy-Based Food Beverages

EXHIBIT
Fontana 2

Exhibit "C" -- Evidence Submitted by Defendant IMA

The search also revealed that "cobble stone" is in use for several other products or services outside of Classes 29 and 30. Some examples of these:

Cobblestone Pizza	Pending	42	Restaurant services
Cobblestone Creek	Pending	3	Cosmetic and cleaning (soaps)
Cobblestone Bridge	Registered	16	Paper goods and Printed Matter
" "	"	35	Advertising and Business
" "	"	28	Toys and Sporting goods
(plus several other registrations for Cobblestone Bridge)			
Cobblestone Small Group Tours			
	Registered	39	Transportation and Storage
Cobblestones	Registered	25	Clothing
Cobblestone	Registered	33	Wines and Spirits
Cobblestones	Registered	19	Non-metallic Building Materials
Cobblestone	Registered	42	Golf course services

The use of the mark Cobblestone has established several meanings through the registrations and pending registrations listed above.

The Mark "Cobblestone Corner"
The mark "Cobblestone Corners" was previously registered in 1975 under class 42 and cancelled in April 1982 (registrant was a third party).
The mark "Cobblestone Corner" was subsequently registered in October 1984 by Flowers Industries, Inc., which may be the owner of the mark "Cobblestone Mill" and "Cobblestone Mill Healthy & Hearty" under class 30 for bakery products-namely, breads, buns and rolls. The "Cobblestone Corner" mark was cancelled in February 1991. Finally, in April 2000 the Four Star International Trading Company registered the mark "Cobblestone Corners" under class 21 for collectible figures made of porcelain. This mark is live.

Analysis
As we have previously noted, the trademark rules emphasize the impression that is left with the viewer. When a mark is comprised of a word or words the dominant sounds that the viewer observes is the feature of the mark to be analyzed for purposes of determining likelihood of confusion.

When a word has been used in multiple classes it is said to be diluted since no single owner has sole ownership of the mark. With "cobble stone" or "cobblestone" the word has some dilution since there are several different owners of variations of marks containing the word cobblestone.

With the variations of cobblestone and the fact that the existing "cobblestone corners" is for a different product in a different class IMA should expect the trademark office to raise the existence of the "corner" mark in their investigation. IMA will have to be

prepared to respond that the goods are in different channels, and involve different buyers that are not only not identical, but are not even related.

The examiner will look for the similarity or dissimilarity of the marks as to appearance, sound, connotation and commercial impression and will compare the goods to see if they are related. We believe that IMA has a good chance at getting the mark "Cobblestone Corner" published for opposition under classes 29 and 30 for various deli items, but as you know the success of the registration process often depends on the individual examiner that is assigned the application.

Assuming publication for opposition, the owner of the "Cobblestone Mill" mark for bakery products, and possibly the owner of "Cobblestone Bread" mark for fresh baguette breads could try to oppose registration – note that the owner of "Cobblestone Mill" mark is Flowers Bakeries Brands, Inc. The owner of the "Boston Cobblestone" mark might try to oppose registration as well. We are curious as to why the trademark office did not require a disclaimer of the use of "Cobblestone" without the use of the other words in connection with these registrations. Should an opposition be filed, IMA would show the dissimilarities of the marks and the lack of confusion. We do not think IMA would be accused of trading upon the goodwill of any of these marks.

S:\PDH Files\Active\IMA01\Trademarks\Cobblestone Corner\MEM0.20040421.Cobblestone.doc

Exhibit 3

as you know

prepared to respond that the goods are in different channels, and involve different buyers that are not only not identical, but are not even related.

The examiner will look for the similarity or dissimilarity of the marks as to appearance, sound, connotation and commercial impression and will compare the goods to see if they are related. While we believe that IMA has a good chance at getting the mark "Cobblestone Corner" published for opposition under classes 29 and 30 for various deli items, the success of the registration process often depends on the individual examiner that is assigned the application.

could try to

Assuming publication for opposition ~~IMA should anticipate that~~ the owner of the "Cobblestone Mill" mark for bakery products, and possibly the owner of the "Cobblestone Bread" mark for fresh baguette breads ~~might~~ oppose registration ~~on the grounds of likelihood of confusion~~ – note that the owner of the "Cobblestone Mill" mark is Flowers Bakeries Brands, Inc. We note that the trademark office has sent some sort of letter to the applicant for "Cobblestone Bread"; the examiner may have found there to be a conflict with "Cobblestone Mill" due to both marks dealing with bread. ~~IMA's ability to successfully defeat any such opposition will be based on showing that the products (deli items) are not related to the bread or bakery products of either or both of these preexisting marks~~. The owner of the "Boston Cobblestone" mark might oppose registration as well; ~~IMA's ability to successfully defeat this opposition will be based upon showing that the marks are dissimilar.~~

try to

We are curious as to why the trademark office did not require a disclaimer of the use of "cobblestone" without the use of the other words in connection with these registrations.

Should an opposition be filed IMA would show the dissimilarities of the marks and the lack of confusion. Surely IMA would not be trading on the goodwill of any of these marks.

EXHIBIT
Fontana 3

Exhibit "C" -- Evidence Submitted by Defendant IMA

Exhibit 4

From: Bob Fontana
<bfontana@independentmarketingalliance.com>
To: Bartt G. Thompson <bgt@pdhlaw.com>
Date: Monday, August 1, 2005 1:33:25 PM
Subject: Cobblestone Market
Folder: Inbox - Known/MBH

See response below

Bob Fontana
Director Marketing & General Merchandising
Independent Marketing Alliance
16000 Memorial Drive, Ste 200
Houston, TX 77079
Tel: 281-531-0007 Extn. 320
Fax: 281-531-0022
email: bfontana@independentmarketingalliance.com
www.independentmarketingalliance.com

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From: Bartt G. Thompson [mailto:bgt@pdhlaw.com]
Sent: Monday, August 01, 2005 2:30 PM
To: Bob Fontana
Subject: Cobblestone Market

Exhibit "C" -- Evidence Submitted by Defendant IMA

Bob:

The trademark office called to say they are withdrawing their objection based upon the response that was filed. They asked that we give them permission to re-insert the word "refrigerated" before the description of salads as was there previously – I presume this is fine. Yes this is fine

They asked that we move the reference of sandwiches to another class. Would you please confirm you still wish sandwiches listed as an item and I will call that office back to give them approval for this and get the process moving again on this mark? We still want sandwiches listedas an item

Thanks.

Bartt

Exhibit "C" -- Evidence Submitted by Defendant IMA

Exhibit 5

From: Leslie Dye <lrd@pdhlaw.com>
To: bgt@pdhlaw.com <bgt@pdhlaw.com>
Date: Tuesday, October 25, 2005 10:35:09 AM
Subject: Use of IMA Brand Logo's locally
Folder: Inbox - Known/MBH

Attached is a draft of the Merchandising Policy in which I have utilized the list provided by Mr. Fontana below. Please advise of any necessary changes.

Thanks,
Leslie

----- Original Message -----
From: Bartt G. Thompson
To: 'Leslie Dye'
Sent: Tuesday, October 25, 2005 9:28 AM
Subject: FW: Use of IMA Brand Logo's locally

I'm thinking about a paragraph or two or three. Just title it Merchandising Policy.

-----Original Message-----
From: Leslie Dye [mailto:lrd@pdhlaw.com]
Sent: Tuesday, October 25, 2005 8:49 AM
To: bgt@pdhlaw.com
Subject: Re: Use of IMA Brand Logo's locally

Are there any other emails that may be helpful to look at?

Mr. Fontana has indicated that the policy is to fit into the body of a letter. What is your suggestion of how long the policy should be?

----- Original Message -----
From: Bartt G. Thompson
To: 'Leslie Dye'
Sent: Monday, October 24, 2005 4:24 PM
Subject: FW: Use of IMA Brand Logo's locally

IMA wants us to come up with an short document to approve use of a trademark on merchandising items. The mark is Cobblestone Market. IMA has filed for a trademark registration for items such as deli foods. Below is our instruction to proceed. I will follow this e-mail up with some prior e-mails to bring you up to speed. Please start a draft of a document.

-----Original Message-----
From: Bob Fontana [mailto:bfontana@independentmarketingalliance.com]
Sent: Monday, October 24, 2005 9:42 AM
To: bgt@pdhlaw.com
Cc: rdplanck@independentmarketingalliance.com; Sameer Bhasin (Sameer Bhasin); Brent Cady;

EXHIBIT
Fontana 5

bsimnitt@nicholasandco.com; Cecelia E. Enault LDN, Rd; Cheryl.Ashton@Maines.Net; Ed Sanford FCP; gfossitt@ijcompany.com; jjeppesen@nicholasandco.com; Michelle Daley; Phil Morgan; Rob Ahrensdorf
Subject: Use of IMA Brand Logo's locally

Bartt, The MAC has submitted the following categories and items to be included on the list of approved items an IMA member can utilize the IMA brand logo's locally. Please incorporate into the body of a letter that will serve as IMA's policy on this matter:
Wearing apparel, smallwares, cups , mugs, sports equipment, golf balls, novelties, point of sale material, coupons, banners calendars, signage.
Service items (Napkins, food wraps, containers)
Business Items (briefcases, folio's)
Recognition items / awards

MAC , If there are items you would like to add please chime in ASAP.

Bob Fontana

Director Marketing & General Merchandising
Independent Marketing Alliance
16000 Memorial Drive, Ste 200
Houston, TX 77079
Tel: 281-531-0007 Extn. 320
Fax: 281-531-0022
email: bfontana@independentmarketingalliance.com
www.independentmarketingalliance.com

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Exhibit "C" -- Evidence Submitted by Defendant IMA

MERCHANDISING POLICY

Independent Marketing Alliance ("IMA") has adopted the following Merchandising Policy to maintain the integrity of IMA's brand names, logos, slogans and other trademarks and to set forth the authorized methods for use of the Cobblestone Market trademark and logo.

IMA owns all rights in and to the Cobblestone Market name and logo. The Cobblestone Market name and logo may be used, locally, by members of IMA on the following approved merchandising items: wearing apparel, smallwares, cups, mugs, sports equipment, golf balls, novelties, point of sale material, coupons, banners calendars, signage; service items including napkins, food wraps, and containers; business items including briefcases, and folios; and recognition items and awards.

Reproduction or use of the Cobblestone Market name and logo in any manner other than as expressly authorized by IMA is strictly prohibited. Members of IMA shall not use the Cobblestone Market logo to defame IMA in any way, in connection with objectionable material, as determined by IMA, or in any way that is otherwise injurious to IMA.

S:\PDH Files\Active\IMA01\Trademarks\Cobblestone Market\Work-In-Process\DRA0.20051025.Merchandising Policy.doc

Exhibit 6

THE COBBLESTONE MARKET

Natural texture and homestyle taste

Already roasted or ready to cook

Skinless or skin on

Roast and breast sizes

Customer favorite

Cobblestone Market™ whole turkey products feature what you like best. Whether already roasted or ready to cook, count on us to make turkey convenient for you and appealing to patrons. Breasts and roasts can be sliced thick or thin, diced or julienne cut; they're great for everything from traditional sandwiches and wraps to party trays, entrées, salads and soups. Serve Cobblestone Market turkey with confidence in its flavor, quality and profit potential.

TURKEY

THE COBBLESTONE MARKET

Old-fashioned goodness for your latest applications

A real crowd pleaser

Many whole-product choices, plus diced and chopped

Slow-smoked, tender and juicy

The slow-cured, savory flavor of Cobblestone Market™ ham. Our hams get the old-fashioned treatment with natural hardwood smoking for delicious taste and tender texture. Our complete line of superior-quality, fully cooked products makes it simple to offer great gourmet sandwiches, delightful salads and excellent entrées. Cobblestone Market is your choice for great tasting, versatile ham and satisfied customers.

HAM

PROOF IS NOT AN EXACT REPRESENTATION OF COLOR OR FINAL PRINT QUALITY

NEWHALL KLEIN INC.
6109 WEST KL AVENUE
KALAMAZOO, MI 49009
www.newhallklein.com
EMAIL: info@newhallklein.com
PHONE: 269.544.0844 • FAX: 269.544.0848

DATE: 12/21/05 CLIENT: IMA LOCATION: RC

JOB REFERENCE: 4912 SHAM Merch Prod Catalog

ARTWORK NAME: CM Merchandising Catalog 0-1.ai

SUBSTRATE: Catalog

FONTS: Clearface, Futura, NewBaskerville

DIMENSIONS: L n/a x W 5.5 x H 8.5

QUALITY CONTROL	CREATIVE DIRECTOR	ACCOUNT MANAGER

CLIENT/VENDOR APPROVAL

☐ OK TO RELEASE ARTWORK

☐ OK TO SUBMIT WITH ABOVE CORRECTIONS

☐ PLEASE SUBMIT NEW LAYOUT(S)

DATE

MAGENTA YELLOW BLACK CYAN

*** PLEASE NOTE:**

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EXHIBIT
Fontana 6

Exhibit "C" -- Evidence Submitted by Defendant IMA

COBBLESTONE MARKET

Your one-stop shop for quality cheeses

All the most popular flavors

Sliced, shredded and blocks

Adds perceived value as well as taste benefits

It's Cobblestone Market™ Superior quality, fresh flavor and wholesome ingredients–Cobblestone Market Brand offers nothing less. Plus versatile options such as Provolone, Swiss, Cheddar, American and Blue Cheese. Visit Cobblestone Market to stock up on delicious cheese for any time or any application, from wraps to salads, sandwiches to party trays.

CHEESE

COBBLESTONE MARKET

Add color, convenience and variety to your menu

Incredible selection of favorites

Premium, fresh ingredients

Quality sides increase the value of soups, sandwiches

With Cobblestone Market™ prepared salads, only high-quality, fresh ingredients are used. We ensure the finest flavor and texture in a quick, open-and-serve format for all your business needs. On-trend recipes, whether traditional favorites or bold ethnic flavors, are carefully researched and time tested. You can offer your customers distinctive salad choices–just open and serve Cobblestone Market salads!

PREPARED SALADS

PROOF IS NOT AN EXACT REPRESENTATION OF COLOR OR FINAL PRINT QUALITY

NEWHALL KLEIN INC. 6109 WEST KL AVENUE KALAMAZOO, MI 49009	www.newhallklein.com EMAIL: info@newhallklein.com PHONE: 269.544.0844 • FAX: 269.544.0848	CLIENT/VENDOR APPROVAL
DATE: 12/21/05	CLIENT: IMA LOCATION: RC	☐ OK TO RELEASE ARTWORK
JOB REFERENCE: 4912 SHAM Merch Prod Catalog		☐ OK TO SUBMIT WITH ABOVE CORRECTIONS
ARTWORK NAME: CM Merchandising Catalog 4-5.ai		☐ PLEASE SUBMIT NEW LAYOUT(S)
SUBSTRATE: Catalog		
FONTS: Clearface, Futura, NewBaskerville		
DIMENSIONS: L n/a x W 5.5 x H 8.5		
QUALITY CONTROL	CREATIVE DIRECTOR / ACCOUNT MANAGER	DATE

MAGENTA YELLOW BLACK CYAN

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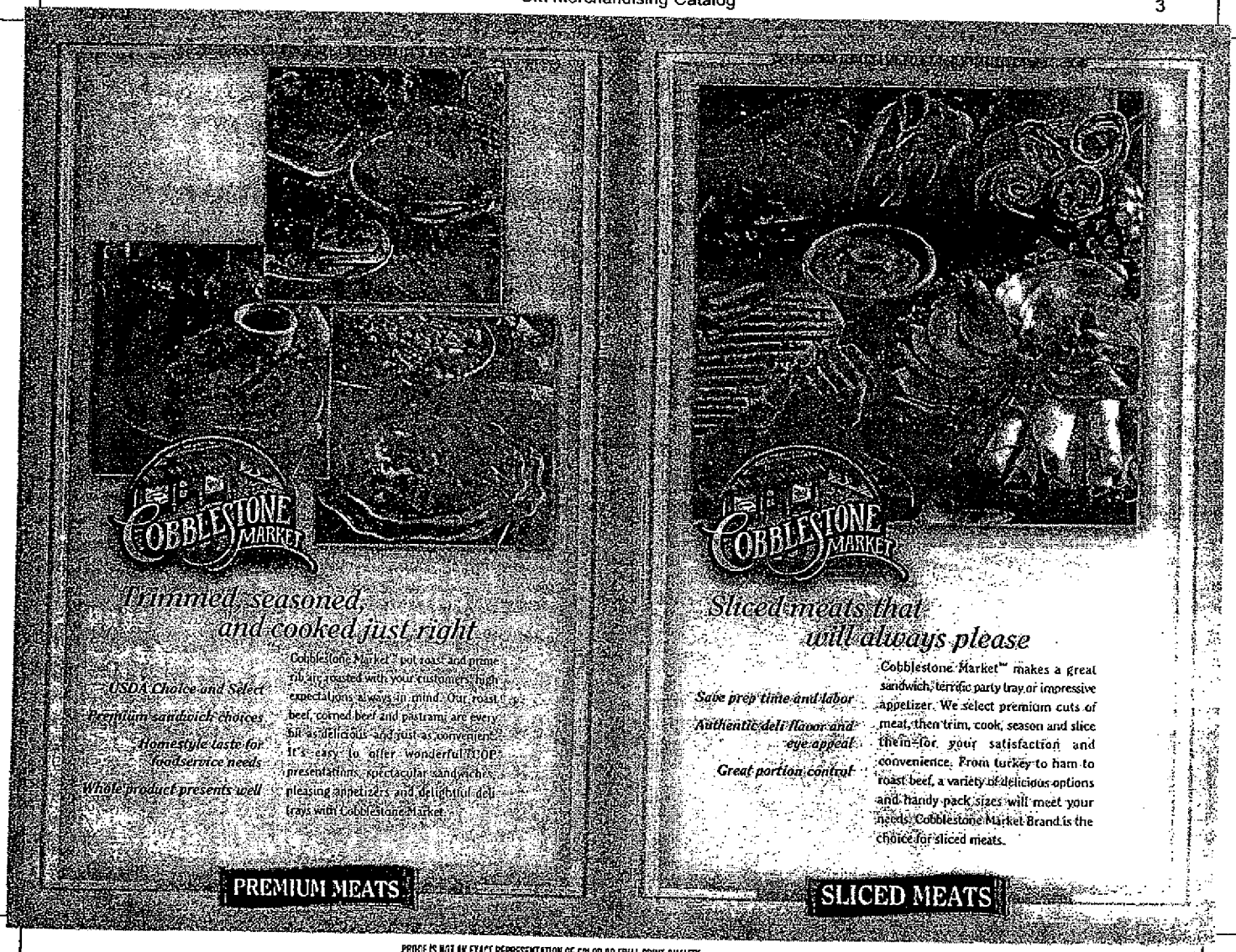
Exhibit "C" -- Evidence Submitted by Defendant IMA



PROOF IS NOT AN EXACT REPRESENTATION OF COLOR OR FINAL PRINT QUALITY

NEWHALL KLEIN INC. 6109 WEST KL AVENUE KALAMAZOO, MI 49009 www.newhallklein.com EMAIL: info@newhallklein.com PHONE: 269.344.0844 • FAX: 269.344.0848			CLIENT/VENDOR APPROVAL
DATE: 12/21/05 CLIENT: IMA LOCATION: RC			☐ OK TO RELEASE ARTWORK
JOB REFERENCE: 4912 SHAM Merch Prod Catalog			☐ OK TO SUBMIT WITH ABOVE CORRECTIONS
ARTWORK NAME: CM Merchandising Catalog 2-3.ai			☐ PLEASE SUBMIT NEW LAYOUT(S)
SUBSTRATE: Catalog			
FONTS: Clearface, Futura, NewBaskerville			
DIMENSIONS: L n/a x W 5.5 x H 8.5			
QUALITY CONTROL	CREATIVE DIRECTOR	ACCOUNT MANAGER	DATE

MAGENTA YELLOW BLACK CYAN

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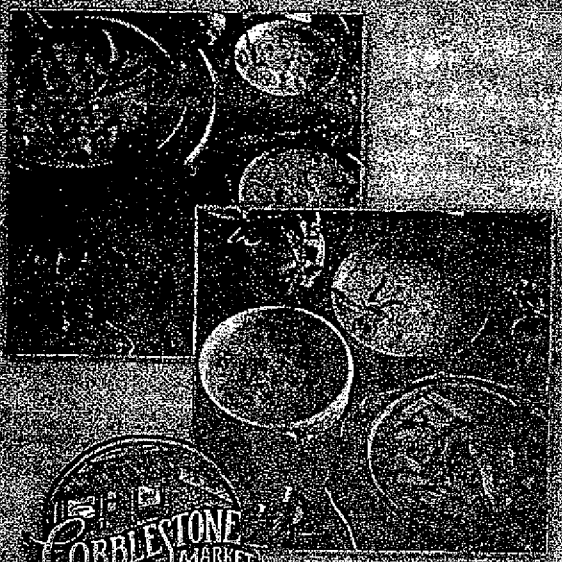

COBBLESTONE MARKET

A warm bowl of satisfying soup is a cinch

Traditional and trendy options

Made from scratch flavor and appearance

No chopping or cooking!

We start with fresh, premium ingredients. Then preserve all that goodness in our state-of-the-art freezing process. Whether you select box-in-bag options or add your own water or milk, you'll find our selection perfect for soup du jour, a soup-and-salad bar, or the regular menu. Cobblestone Market® soups help you save time and labor without compromising quality.

SOUPS

COBBLESTONE MARKET

Pickles are a deli tradition

Whole, spears and chips

Customer-pleasing, fresh taste

Convenient pack sizes!

Crisp and delicious is the best way to describe Cobblestone Market™ pickles. As an accompaniment, ingredient or condiment, our pickles add authentic flavor to deli favorites. Accent sandwiches, appetizers, salads and relish trays with the tasty crunch that we know and love. The best deli items come with Cobblestone Market pickles.

PICKLES

PROOF IS NOT AN EXACT REPRESENTATION OF COLOR OR FINAL PRINT QUALITY

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6109 WEST KL AVENUE
KALAMAZOO, MI 49009
www.newhallklein.com
EMAIL: info@newhallklein.com
PHONE: 269.544.0844 • FAX: 269.544.0848

DATE: 12/21/05 CLIENT: IMA LOCATION: RC

JOB REFERENCE: 4912 SHAM Merch Prod Catalog

ARTWORK NAME: CM Merchandising Catalog 6-7.ai

SUBSTRATE: Catalog

FONTS: Clearface, Futura, NewBaskerville

DIMENSIONS: L n/a x W 5.5 x H 8.5

QUALITY CONTROL	CREATIVE DIRECTOR	ACCOUNT MANAGER

CLIENT/VENDOR APPROVAL

☐ OK TO RELEASE ARTWORK

☐ OK TO SUBMIT WITH ABOVE CORRECTIONS

☐ PLEASE SUBMIT NEW LAYOUT(S)

DATE

MAGENTA YELLOW BLACK CYAN

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Exhibit "C" -- Evidence Submitted by Defendant IMA

KIT #1

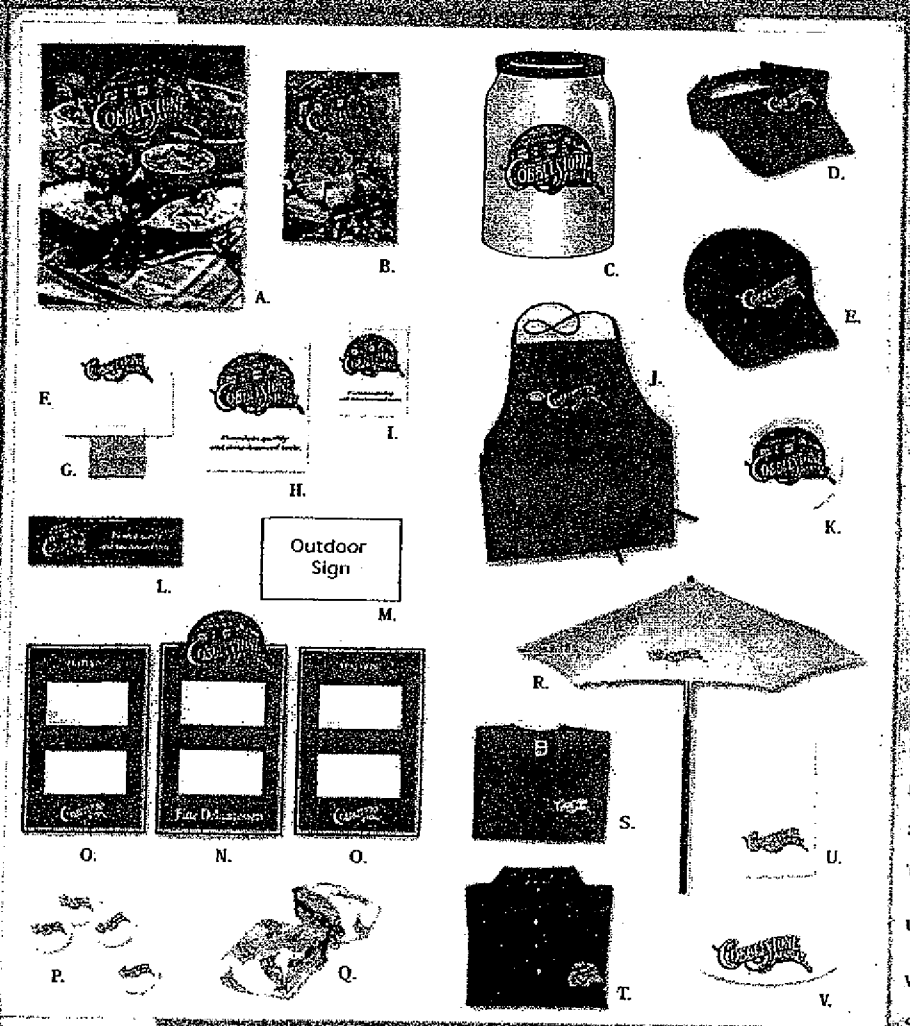
Great Basic Setup

A. 1 Wall Poster (choose from 6)
B. 1 Counter Talker (choose from 6)
C. 1 Pickle Jar
D. 5 Visors
E. 5 Hats
F. 12 Price Tags
G. 12 Price Tag Holders
H. 1 Door Static Cling 11" x 14" Reverse
I. 2 Window Static Clings 4" x 5"
J. 5 Aprons

KIT #2

Impress Customers

A. 3 Wall Posters (choose from 6)
B. 2 Counter Talkers (choose from 6)
C. 1 Pickle Jar
D. 8 Visors
E. 8 Hats
F. 24 Price Tags
G. 24 Price Tag Holders
H. 1 Door Static Cling 11" x 14" Reverse
I. 4 Window Static Clings 4" x 5.5"
J. 8 Aprons
K. 1 Ceiling Dangler 11" circle, 4/C logo
L. 5 Deli Case Static Clings 17" x 5.5"



KIT #3

Everything You Need

A. 4 Wall Posters (choose from 6)
B. 2 Counter Talkers (choose from 6)
C. 1 Pickle Jar
D. 10 Visors
E. 10 Hats
F. 24 Price Tags
G. 24 Price Tag Holders
H. 1 Door Static Cling 11" x 17" Reverse
I. 4 Window Static Clings 4" x 5.5"
J. 10 Aprons
K. 2 Ceiling Danglers 11" circle, 4/C logo
L. 10 Deli Case Static Clings 17" x 5.5"
M. 1 Flexible Outdoor Sign 3' x 5' single sided w/banner grommets
N. 1 Center Menu Board 20" x 37.5", 4/C logo
O. 2 Side Menu Boards 20" x 32", 1/C logo
P. 25 2.25" Server Buttons

a la Carte

Q. Sandwich Wrap 14" x 14", grease resistant
R. Table Umbrella 105" x 56", 1/C logo
S. Navy 50/50 Blend T-shirt 1/C logo
T. Navy 65/35 Pique Knit Polo Shirt 4/C logo
U. Luncheon Napkins 13" x 17", 2 ply, 4/6 fold 1/C logo
V. Sandwich Wrap Stickers 2", 500 roll, 1/C logo

See order form for pricing.

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NEWHALL KLEIN INC.
6109 WEST KL AVENUE
KALAMAZOO, MI 49009
www.newhallklein.com
EMAIL: info@newhallklein.com
PHONE: 269.544.0844 • FAX: 269.544.0848

DATE: 01/06/06 CLIENT: IMA LOCATION: RC
JOB REFERENCE: 4912 SHAM Merch Prod Catalog
ARTWORK NAME: CM Merchandising Catalog 8-9.ai
SUBSTRATE: Catalog
FONTS: Clearface, Futura, NewBaskerville
DIMENSIONS: L n/a x W 5.5 x H 8.5

CLIENT/VENDOR APPROVAL
☐ OK TO RELEASE ARTWORK
☐ OK TO SUBMIT WITH ABOVE CORRECTIONS
☐ PLEASE SUBMIT NEW LAYOUT(S)

MAGENTA YELLOW BLACK CYAN

QUALITY CONTROL	CREATIVE DIRECTOR	ACCOUNT MANAGER	DATE

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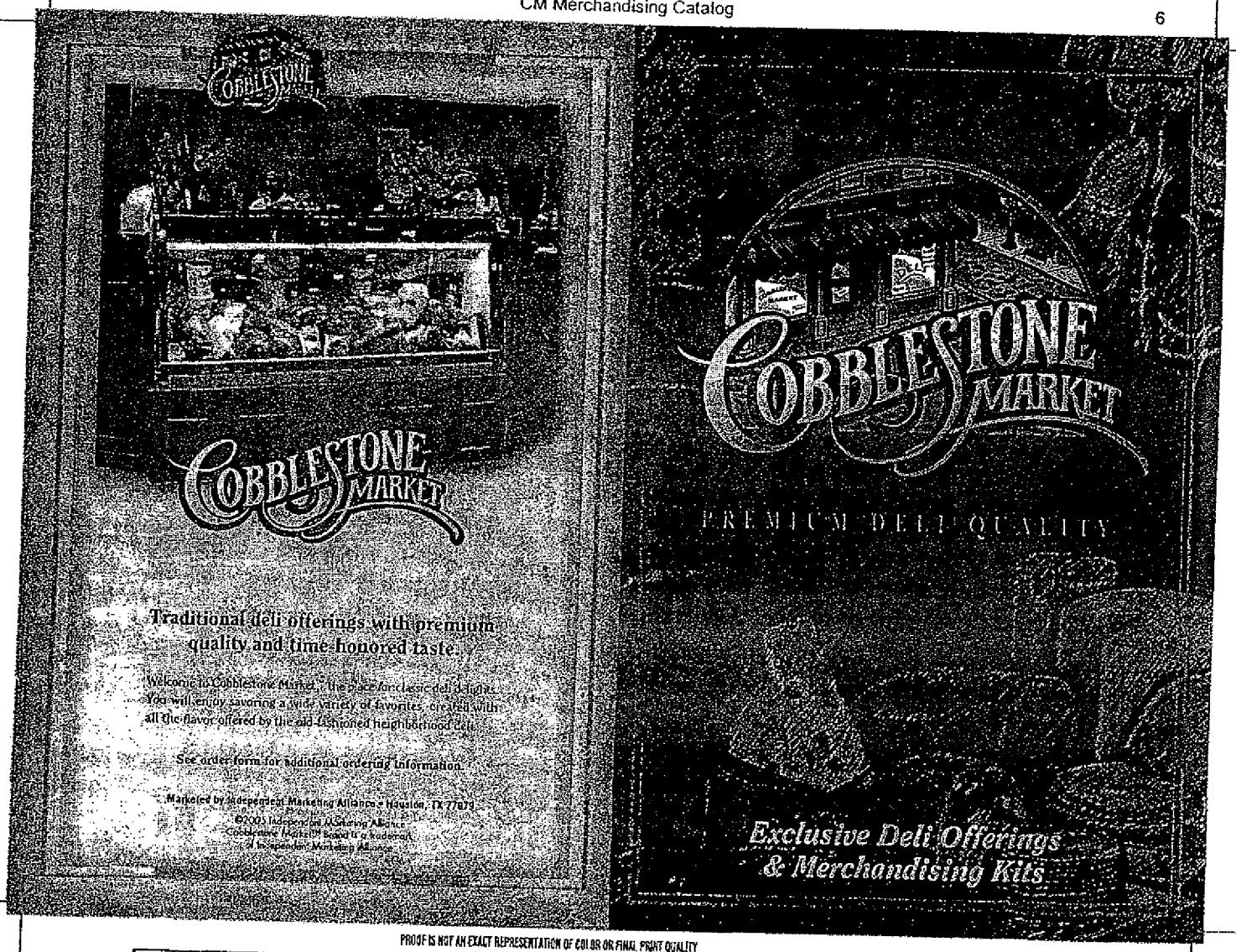
Exhibit "C" -- Evidence Submitted by Defendant IMA



PROOF IS NOT AN EXACT REPRESENTATION OF COLOR OR FINAL PRINT QUALITY

NEWHALL KLEIN INC.
6109 WEST KL AVENUE
KALAMAZOO, MI 49009

www.newhallklein.com
EMAIL: info@newhallklein.com
PHONE: 269.544.0844 • FAX: 269.544.0848

DATE: 12/21/05 CLIENT: IMA LOCATION: RC

JOB REFERENCE: 4912 SHAM Merch Prod Catalog

ARTWORK NAME: CM Merchandising Catalog Cov.ai

SUBSTRATE: Catalog

FONTS: Clearface, Futura, NewBaskerville

DIMENSIONS: L n/a x W 5.5 x H 8.5

QUALITY CONTROL	CREATIVE DIRECTOR	ACCOUNT MANAGER

CLIENT/VENDOR APPROVAL

- ☐ OK TO RELEASE ARTWORK
- ☐ OK TO SUBMIT WITH ABOVE CORRECTIONS
- ☐ PLEASE SUBMIT NEW LAYOUT(S)

DATE

MAGENTA YELLOW BLACK CYAN

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Exhibit "C" -- Evidence Submitted by Defendant IMA

	QUANTITY	PRICE	TOTAL
Kit Replacement Items			
Wall Poster *(choose from 6, enter quantity in the spaces provided)* ___Pickles ___Sliced Meats ___Ham ___Prepared Salads ___Turkey ___Cheese			
Counter Talker *(choose from 6, enter quantity in the spaces provided)* ___Pickles ___Sliced Meats ___Ham ___Prepared Salads ___Turkey ___Cheese			
Pickle Jar			
Visor – Blue, 1/C logo			
Hat – Blue, 1/C logo			
Price Tag			
Price Tag Holder			
Door Static Cling – 11" x 17" reverse			
Window Static Cling – 4" x 5.5"			
Apron – Blue, 1/C logo			
Ceiling Dangler – 11" circle, 4/C logo on both sides & string hole			
Deli Case Static Cling – 17" x 5.5", 4/C logo with blue background			
Flexible Outdoor Sign – 3' x 5' single sided w/ banner grommets			
Center Menu Board – 20" x 37.5", 4/C logo			
Side Menu Board – 20" x 32", 1/C logo			
Server Button – 2.25" round, white, 1/C logo			
a la Carte ***Additional Items Available***			
T-shirt – 50/50 blend, blue, 1/C logo *(indicate size and quantity)* ___Small ___Medium ___Large ___ X-Large			
Polo Shirt – 65/35 pique knit, blue, 4/C logo *(indicate size and quantity)* ___Small ___Medium ___Large ___ X-Large			
Table Umbrella – 105" x 56", 1/C logo			
Luncheon Napkins – 13" x 17", 2-ply, 1/C logo, 1/6 fold			
Sandwich Wrap – 14" x 14", white, grease resistant			
Sandwich Wrap Stickers – 2" oval, 500 roll, 1/C logo			

Shipping & Handling:
Morbi commodo, ipsum sed pharetra gravida, orci magna rhoncus neque, id pulvinar odio lorem non turpis. Morbi commodo, ipsum sed pharetra gravida, orci magna rhoncus neque, id pulvinar odio lorem non turpis.

TOTAL *(this side)*	
TOTAL *(from side 1)*	
SUBTOTAL	
SHIPPING & HANDLING	
TOTAL	

ORDER FORM

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NEWHALL KLEIN INC.
6109 WEST KL AVENUE
KALAMAZOO, MI 49009
www.newhallklein.com
EMAIL: info@newhallklein.com
PHONE: 269.544.0844 • FAX: 269.544.0868

DATE: 01/06/06 CLIENT: IMA LOCATION: RC
JOB REFERENCE: 4912 SHAM Merch Prod Catalog
ARTWORK NAME: CM MerCatalog OrderForm.ai
SUBSTRATE: Paper, front & back
FONTS: Clearface
DIMENSIONS: L x W 8.5" x H 11"

CLIENT/VENDOR APPROVAL
☐ OK TO RELEASE ARTWORK
☐ OK TO SUBMIT WITH ABOVE CORRECTIONS
☐ PLEASE SUBMIT NEW LAYOUT(S)

BLACK

QUALITY CONTROL	CREATIVE DIRECTOR	ACCOUNT MANAGER	DATE

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COBBLESTONE MARKET™

Customer Information

Name _____
Company _____
Street Address _____
City _____ State ____ ZIP _____
Phone ( ) _____
Email _____

Instructions:
Morbi commodo, ipsum sed pharetra gravida, orci magna rhoncus neque, id pulvinar odio lorem non turpis.
Morbi commodo, ipsum sed pharetra gravida, orci magna rhoncus neque, id pulvinar odio lorem non turpis.

KITS	PRICE
KIT 1: Great Basic Setup 1 Wall Poster *(choose 1 from 6)* ☐ Pickles ☐ Sliced Meats ☐ Ham ☐ Prepared Salads ☐ Turkey ☐ Cheese 1 Counter Talker *(choose 1 from 6)* ☐ Pickles ☐ Sliced Meats ☐ Ham ☐ Prepared Salads ☐ Turkey ☐ Cheese 1 Pickle Jar, 5 Visors, 5 Hats, 5 Aprons, 12 Price Tags, 12 Price Tag Holders, 1 Door Static Cling, 2 Window Static Clings	$XXX.XX ☐
KIT 2: Impress Customers 3 Wall Posters *(choose 3 from 6)* ☐ Pickles ☐ Sliced Meats ☐ Ham ☐ Prepared Salads ☐ Turkey ☐ Cheese 2 Counter Talkers *(choose 2 from 6)* ☐ Pickles ☐ Sliced Meats ☐ Ham ☐ Prepared Salads ☐ Turkey ☐ Cheese 1 Pickle Jar, 8 Visors, 8 Hats, 8 Aprons, 24 Price Tags, 24 Price Tag Holders, 1 Door Static Cling, 4 Window Static Clings, 1 Ceiling Dangler, 5 Deli Case Static Clings	$XXX.XX ☐
KIT 3: Everything You Need 4 Wall Posters *(choose 4 from 6)* ☐ Pickles ☐ Sliced Meats ☐ Ham ☐ Prepared Salads ☐ Turkey ☐ Cheese 2 Counter Talkers *(choose 2 from 6)* ☐ Pickles ☐ Sliced Meats ☐ Ham ☐ Prepared Salads ☐ Turkey ☐ Cheese 1 Pickle Jar, 10 Visors, 10 Hats, 10 Aprons, 24 Price Tags, 24 Price Tag Holders, 1 Door Static Cling, 4 Window Static Clings, 2 Ceiling Danglers, 10 Deli Case Static Clings, 1 Flexible Outdoor Sign, 1 Center Menu Board, 2 Side Menu Boards, 25 Server Buttons	$XXX.XX ☐

ORDER FORM

PROOF IS NOT AN EXACT REPRESENTATION OF COLOR OR FINAL PRINT QUALITY

NEWHALL KLEIN INC.
6109 WEST KL AVENUE
KALAMAZOO, MI 49009
www.newhallklein.com
EMAIL: info@newhallklein.com
PHONE: 269.544.0844 • FAX: 269.544.0848

DATE: 01/06/06 CLIENT: IMA LOCATION: RC
JOB REFERENCE: 4912 SHAM Merch Prod Catalog
ARTWORK NAME: CM MerCatalog OrderForm.ai
SUBSTRATE: Paper, front & back
FONTS: Clearface
DIMENSIONS: L x W 8.5" x H 11"

QUALITY CONTROL	CREATIVE DIRECTOR	ACCOUNT MANAGER

CLIENT/VENDOR APPROVAL
☐ OK TO RELEASE ARTWORK
☐ OK TO SUBMIT WITH ABOVE CORRECTIONS
☐ PLEASE SUBMIT NEW LAYOUT(S)

DATE

BLACK

*** PLEASE NOTE:**
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Exhibit "C" Evidence Submitted by Defendant IMA

Exhibit 7

From: Bob Fontana
<bfontana@independentmarketingalliance.com>
To: Bartt G. Thompson <bgt@pdhlaw.com>
Date: Wednesday, May 25, 2005 2:09:38 PM
Subject:
Folder: Inbox - Known/MBH

Bartt revised descriptions look ok. What is your recommendation for the Cobblestone Market Kiosks

Bob Fontana
Director Marketing & General Merchandising
Independent Marketing Alliance
16000 Memorial Drive, Ste 200
Houston, TX 77079
Tel: 281-531-0007 Extn. 320
Fax: 281-531-0022
email: bfontana@independentmarketingalliance.com
www.independentmarketingalliance.com

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From: Bartt G. Thompson [mailto:bgt@pdhlaw.com]
Sent: Wednesday, May 25, 2005 2:51 PM
To: Bob Fontana
Subject:

EXHIBIT
Fontana 7

Bob:

Attached are preliminary draft responses to the trademark office's initial objection letters regarding Cobblestone Market and Rejuve. Note that we revised parts of the descriptions of the goods to satisfy the trademark office's request in the following respects:

Cobblestone Market: added a description of cooked deli items – "sandwiches, soups and vegetables"; excluded macaroni, rice and pasta salads from the "salad" description (since rice, etc. is in another class we can add these salad types with a new application for that category); added additional description for frozen entrees – "entrees consisting primarily of meat, fish, poultry or vegetables".

Rejuve: added "drinking" to water; added "fruit" to punch

Please confirm these revised descriptions are acceptable. Also, let me know if you see anything that needs to be changed or added with regard to the attached responsive arguments.

Bob Planck had asked about using Cobblestone Market for restaurant kiosks. You will note that in the trademark office's letter regarding that mark, they mention a restaurant mark by the name "Cobblestones Restaurant & Bar".

Bartt Thompson

Pagel, Davis & Hill, P.C.
1415 Louisiana, 22nd Floor
Houston, Texas 77002

(713) 951-0160 ext. 109
(713) 951-0662 -- FAX

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

FLOWERS BAKERIES BRANDS, INC.,	)	
Opposer,	)	In the Matter of Application Serial No. 78/432642
v.	)	Mark: COBBLESTONE MARKET
INDEPENDENT MARKETING ALLIANCE LP,	)	Opposition No. 91167151
Applicant.	)	

OPPOSER'S RESPONSES TO APPLICANT'S FIRST INTERROGATORIES

Opposer Flowers Specialty Brands, Inc. ("Opposer" or "Flowers") states the following objections and responses to the first set of interrogatories of Independent Marketing Alliance LP ("Applicant" or "IMA").

GENERAL RESPONSES AND OBJECTIONS

1. Flowers objects to each interrogatory to the extent that the information sought is protected from discovery by the attorney-client privilege or the work product doctrine or would disclose the mental impressions, conclusions, opinions or legal theories of counsel and, as such are protected from discovery.

2. Flowers objects to each interrogatory to the extent that it attempts to impose obligations upon Flowers inconsistent with or greater than the Federal Rules of Civil Procedure.

3. Flowers objects to each definition and instruction preceding the interrogatories to the extent that it attempts to impose obligations upon Flowers inconsistent with or greater than the Federal Rules of Civil Procedure.

Exhibit "D" -- Evidence Submitted by Defendant IMA

4. Flowers objects to each interrogatory to the extent that it seeks information not within Flowers' possession, custody, or control.

5. Flowers objects to each interrogatory to the extent that it seeks the disclosure of information that is irrelevant to the subject matter of this Opposition and not within the categories reasonably calculated to lead to the discovery of admissible evidence.

6. Flowers' objects to each interrogatory to the extent that it seeks disclosure of confidential or proprietary business information or trade secrets of Flowers.

7. The following responses are based on information presently known by Flowers, and Flowers reserves the right to supplement the response to these interrogatories during and upon completion of discovery.

8. The "COBBLESTONE MILL Marks" shall refer collectively to the following registrations:

Mark	Goods	Reg. No.	Reg. Date
COBBLESTONE MILL	Bakery products, namely bread, buns and rolls.	1991258	August 6, 1996
COBBLESTONE MILL	Bakery products-namely, bread, buns and rolls.	1326230	March 19, 1985
Cobblestone Mill CLASSIC RECIPE	Bakery products.	2762164	September 9, 2003

9. "Applicant's Mark" shall refer to Independent Marketing Alliance LP's application to register the mark COBBLESTONE MARKET, Serial No. 78/432643.

Exhibit "D" -- Evidence Submitted by Defendant IMA

SPECIFIC RESPONSES

Interrogatory No. 1:

Identify and describe each product sold by Opposer under the designation "Cobblestone Mill" and/or variants thereof.

Response:

Subject to the General Objections, Flowers states that the COBBLESTONE MILL Marks have been used on the following products:

- Breads
- Bagels
- English muffins
- Rolls
- Bread sticks
- Stuffing
- Waffles
- Buns

Interrogatory No. 2:

For each product identified in answer to Interrogatory 1, state:

(a) The earliest date susceptible of proof when Opposer made such sale;
(b) The city and state in which such product was sold;
(c) The identity of all documents showing or describing such product; and
(d) The identity of all documents related to each such sale.

Response:

In addition to the General Objections, Flowers objects to Interrogatory No. 2 on the basis that it demands retrieval of archived data that is not readily accessible; nonetheless, Flowers in good faith and diligently will supplement its response to this interrogatory as soon as it can retrieve responsive and non-privileged information. Flowers objects to parts (c) and (d) of Interrogatory No. 2 on the basis that they are overly broad and unduly burdensome.

Exhibit "D" -- Evidence Submitted by Defendant IMA

Subject to these objections, and pursuant to Fed. R. Civ. P. 33(d), Flowers will produce non-privileged responsive documents in its possession, custody, or control from which the answer to parts (c) and (d) of this interrogatory may be derived or ascertained. In response to parts (a) and (b) of Interrogatory No. 2, Flowers states that it began using the COBBLESTONE MILL mark on breads at least as early as August 19, 1983.

Interrogatory No. 3:

Identify all persons employed by or connected with Opposer who have knowledge of Applicant's trademark as used on food products.

Response:

Subject to the General Objections, Flowers identifies the following persons:

Janice Anderson
Vice-President of Marketing

Interrogatory No. 4:

Identify all other uses of a mark containing "Cobblestone" used in the food products field by others and known to Opposer.

Response:

Subject to the General Objections, Flowers identifies the following uses that contain the term COBBLESTONE for use in the food products field:

- COBBLESTONE BREAD abandoned intent-to-use application for "fresh baguette bread" owned by Leo Toril Thomas;
- COBBLESTONE KITCHENS registered for "dairy-based food beverages" and "staple goods, namely hot chocolate and coffee" owned by Cobblestone Kitchens Inc.;
- 196 COBBLESTONES RESTAURANT & BAR (stylized/design) registered for "restaurant services; catering services; take-out services; providing banquet and social function facilities" owned by Cherrywood Restaurant Group LLP;

- COBBLESTONES (stylized/design) cancelled registration for "restaurant and lounge services" owned by Tru-Wit, Inc.;

- COBBLESTONES (stylized/design) abandoned application for "restaurant services" owned by Cobblestones, Inc.;

- COBBLESTONE for "spices and extracts" owned by Bright of America;

- COBBLESTONE BAKE SHOP INC. for retail bakeries in Shenandoah, Pennsylvania;

- COBBLESTONE BAKERY for bread and bakery products in Spokane, Washington;

- COBBLESTONES for "candy & confectionery-retail" in Woodstock, Illinois;

- COBBLESTONE COOKERY & IMPORTS for "miscellaneous food stores" in Delavan, Wisconsin;

- COBBLESTONE KITCHEN for "bakers-retail" in Arcadia, Oklahoma;

- COBBLESTONE DINER INC. for "sea food markets" and "seafood restaurants" in Eatonton, New Jersey; and

- COBBLESTONES GIFTS for "health and dietetic foods stores" in Yakima, Washington.

Interrogatory No. 5:

State what action if any has been taken by Opposer in connection with uses by others of a trademark containing "Cobblestone" on food products.

Response:

Subject to the General Objections, Flowers states that shortly after learning of Applicant's application to register the mark COBBLESTONE MARKET, it filed a notice of opposition against the application.

Exhibit "D" -- Evidence Submitted by Defendant IMA

Interrogatory No. 6:

Identify all lawsuits, oppositions, cancellations or the like involving each of Opposer's trademark registrations in any way involving the mark Cobblestone and/or variant thereof.

Response:

Subject to the General Objections, Flowers states that the opposition against Applicant's application to register the mark COBBLESTONE MARKET currently is the only lawsuit, opposition, cancellation, or other like proceeding initiated by Flowers against any mark or use that includes the term COBBLESTONE.

Interrogatory No. 7:

State when Opposer first became aware of Applicant's application for the trademark Cobblestone Market.

Response:

Subject to the General Objections, Flowers first became aware of Applicant's application for the mark COBBLESTONE MARKET in October 2005 upon receiving a copy of a watch notice reporting the publication of the application.

Interrogatory No. 8:

Describe the reasons Opposer believes the use of the mark "Cobblestone Market" causes confusion with the mark "Cobblestone Mill."

Response:

Subject to the General Objections, Flowers states that Applicant's COBBLESTONE MARKET mark is likely to cause confusion with Flowers' COBBLESTONE MILL mark because of the similarity of the marks, the similarity of the goods covered by the marks, the

Exhibit "D" -- Evidence Submitted by Defendant IMA

similarity of the trade channels, the relatively limited amount of consideration by consumers when purchasing the type products covered by Opposer's and Applicant's marks, the fame of Flowers' COBBLESTONE MILL Marks, and the very small number of third party marks in use on similar goods.

Interrogatory No. 9:

Identify all persons who participated in the search for answers to each of the foregoing interrogatories and specify in what aspects of the search each such person participated or was responsible for.

Response:

Subject to the General Objections, Flowers identifies the following persons who participated in the search for answers to each of the foregoing interrogatories:

Janice Anderson
Vice-President of Marketing

Interrogatory No. 10:

Identify, to the extent possible, any and all documents responsive to the foregoing interrogatories which have been destroyed and the date(s) of and reason(s) for such destruction and person(s) most knowledgeable about such destruction.

Response:

Subject to the General Objections, Flowers states that it is not aware of any documents that have been destroyed.

Interrogatory No. 11:

Identify, to the extent possible, any and all documents responsive to the foregoing interrogatories which are lost and identify the date(s) the loss was first discovered, the per-

Exhibit "D" -- Evidence Submitted by Defendant IMA

son(s) who first discovered the loss and the person(s) most knowledgeable about the content of such lost documents.

Response:

Subject to the General Objections, Flowers states that it is not aware of any documents that have been lost.

This 14th day of July, 2006.

Respectfully submitted,

Theodore H. Davis Jr.
Olivia Maria Baratta
KILPATRICK STOCKTON LLP
1100 Peachtree Street
Atlanta, Georgia 30309-4530
Tel: (404) 815-6500
Fax: (404) 815-6555
Attorneys for Applicant

Exhibit "D" -- Evidence Submitted by Defendant IMA

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

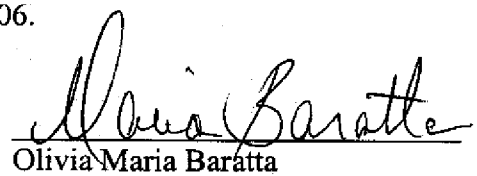
FLOWERS BAKERIES BRANDS, INC.,	)	
Opposer,	)	
v.	)	In the Matter of Application Serial No. 78/432642 Mark: COBBLESTONE MARKET
INDEPENDENT MARKETING ALLIANCE LP,	)	Opposition No. 91167151
Applicant.	)	

CERTIFICATE OF SERVICE

This is to certify that on this date, the foregoing OPPOSER'S RESPONSES TO APPLICANT'S FIRST INTERROGATORIES was served upon Applicant's counsel by electronic mail addressed to mbh@pdhlaw.com and by depositing a copy thereof in the United States mail as first class mail, postage pre-paid, addressed as follows:

Martyn B. Hill, Esq.
Pagel, Davis & Hill, P.C.
1415 Louisiana
22nd Floor
Houston, Texas 77002

This the 14th day of July, 2006.



Olivia Maria Baratta

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Exhibit "D" -- Evidence Submitted by Defendant IMA

KILPATRICK
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Attorneys at Law

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MBaratta@KilpatrickStockton.com

July 14, 2006

Via Electronic Mail and First Class Mail

Martyn B. Hill, Esq.
Pagel, Davis & Hill, P.C.
1415 Louisiana
22nd Floor
Houston, Texas 77002

Re: Opposition No. 91167151
Flowers Bakeries Brands, Inc. v. Independent Marketing Alliance, L.P.
Opposed Application: Serial No. 78/432,642
For the Mark COBBLESTONE MARKET

Dear Marty:

Please find enclosed service copies of Flowers' responses to your client's discovery requests. Further to my July 13, 2006 email to you, Flowers' primary resource for collecting and providing information and documents response to IMA's requests is unavailable until next week. In addition, much of the data is archived and not readily accessible. In the absence of a reply from you in response to our request for an extension, we have proceeded with responding to your client's discovery requests as the deadline is today. However, Flowers will supplement the enclosed responses diligently and in good faith as soon as possible.

Best regards.

Sincerely,

Olivia Maria Baratta

OMB
Enclosures
cc: Holland C. Kirbo, Esq.
Theodore H. Davis Jr., Esq.

US2000 9404155.1

Exhibit "D" -- Evidence Submitted by Defendant IMA

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

FLOWERS BAKERIES BRANDS, INC.,	)	
Opposer,	)	In the Matter of Application Serial No. 78/432642
v.	)	Mark: COBBLESTONE MARKET
INDEPENDENT MARKETING ALLIANCE LP,	)	Opposition No. 91167151
Applicant.	)	

OPPOSER'S RESPONSES TO APPLICANT'S REQUESTS FOR PRODUCTION

Opposer Flowers Specialty Brands, Inc. ("Opposer" or "Flowers") states the following objections and responses to the requests for production of Applicant Independent Marketing Alliance LP ("Applicant" or "IMA").

GENERAL OBJECTIONS

Flowers directs Applicant to the General Objections set forth in response to Flowers' objections and responses to IMA's first set of interrogatories and incorporates them by reference as if fully set forth here.

SPECIFIC RESPONSES

Request No. 1:

Samples of each label, advertising material, stationery, catalog, and/or business cards and all other documents displaying the Cobblestone Mill trademark.

Exhibit "E" -- Evidence Submitted by Defendant IMA

Response:

Subject to the General Objections, Flowers will produce responsive non-privileged and non-work product documents at a mutually convenient time and place upon entry of an appropriate confidentiality order.

Request No. 2:

All documents relating to the nature and extent of how goods which bear the name "Cobblestone Mill" are distributed to the public through marketing or advertising.

Response:

In addition to the General Objections, Flowers objects to Request No. 2 on the basis that it is overly broad and burdensome in that it requests "all documents" relating to the nature and extent of how COBBLESTONE MILL products are distributed to the public through marketing or advertising. Subject to these objections, Flowers will produce responsive non-privileged and non-work product documents at a mutually convenient time and place upon entry of an appropriate confidentiality order.

Request No. 3:

All documents relating to the extent of sales in terms of dollar value and the number of units, which bears the trademark of "Cobblestone Mill," sold for the calendar or fiscal years 2000 through 2005.

Exhibit "E" -- Evidence Submitted by Defendant IMA

Response:

Subject to the General Objections, Flowers will produce responsive non-privileged and non-work product documents at a mutually convenient time and place upon entry of an appropriate confidentiality order.

Request No. 4:

All documents which describe the cost of advertising items or goods bearing the "Cobblestone Mill" trademark for the years beginning in 2000 and ending on December 31, 2005.

Response:

In addition to the General Objections, Flowers objects to Request No. 4 on the basis that it is overly broad and burdensome in that it requests "all documents" which describe the cost of advertising items or goods bearing the COBBLESTONE MILL mark from 2000 to December 31, 2005. Subject to these objections, Flowers will produce responsive non-privileged and non-work product documents at a mutually convenient time and place upon entry of an appropriate confidentiality order.

Request No. 5:

All documents in the possession or control of Opposer which Opposer believes cause direct or indirect confusion by any entity, person or business involving the "Cobblestone Market" mark and the "Cobblestone Mill" mark.

Exhibit "E" -- Evidence Submitted by Defendant IMA

Response:

Subject to the General Objections, Flowers will produce responsive non-privileged and non-work product documents at a mutually convenient time and place upon entry of an appropriate confidentiality order.

Request No. 6:

All documents in the possession or control of Opposer or any of its representatives or agents which show or tend to show the existence of any actual confusion between the "Cobblestone Market" trademark and the "Cobblestone Mill" mark.

Response:

Subject to the General Objections, Flowers will produce responsive non-privileged and non-work product documents at a mutually convenient time and place upon entry of an appropriate confidentiality order.

Request No. 7:

All documents and material which Opposer intends to introduce as evidence in this proceeding.

Response:

Subject to the General Objections, Flowers will produce responsive non-privileged and non-work product documents at a mutually convenient time and place upon entry of an appropriate confidentiality order.

Exhibit "E" -- Evidence Submitted by Defendant IMA

This 14th day of July, 2006.

Respectfully submitted,

Theodore H. Davis Jr.
Olivia Maria Baratta
KILPATRICK STOCKTON LLP
1100 Peachtree Street
Atlanta, Georgia 30309-4530
Tel: (404) 815-6500
Fax: (404) 815-6555
Attorneys for Applicant

Exhibit "E" -- Evidence Submitted by Defendant IMA

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

FLOWERS BAKERIES BRANDS, INC.,	)	
Opposer,	)	
v.	)	In the Matter of Application Serial No. 78/432642 Mark: COBBLESTONE MARKET
INDEPENDENT MARKETING ALLIANCE LP,	)	Opposition No. 91167151
Applicant.	)	

CERTIFICATE OF SERVICE

This is to certify that on this date, the foregoing OPPOSER'S RESPONSES TO APPLICANT'S REQUESTS FOR PRODUCTION was served upon Applicant's counsel by electronic mail addressed to mbh@pdhlaw.com and by depositing a copy thereof in the United States mail as first class mail, postage pre-paid, addressed as follows:

Martyn B. Hill, Esq.
Pagel, Davis & Hill, P.C.
1415 Louisiana
22nd Floor
Houston, Texas 77002

This the 14th day of July, 2006.

Olivia Maria Baratta

US2000 9393827.1

Exhibit "E" -- Evidence Submitted by Defendant IMA