

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

In the matter of application Serial No. 78/591,881
Published in the Official Gazette on August 8, 2006

| | |
|--|---|
| <p>Moreland, Bruce</p> <p style="text-align: right;">Opposer,</p> <p>vs.</p> <p>Funsten, Stan</p> <p style="text-align: right;">Applicant.</p> | <p>Opposition No. 91173381</p> <p>APPLICANT'S MOTION TO EXTEND DISCOVERY PERIOD; DECLARATION OF ELISE TENEN-AOKI IN SUPPORT THEREOF; DECLARATION OF EHAB M. SAMUEL IN SUPPORT THEREOF.</p> |
|--|---|

I. PRELIMINARY STATEMENT

Applicant Stan Funsten ("Applicant") hereby moves the Board for an extension of time of thirty days for the discovery and testimony periods to close. This motion is made on the grounds that Applicant has served the same discovery requests to Opposer on January 9, 2007 and again March 7, 2007, but has not received any response. Furthermore, Applicant has attempted to personally serve Opposer with a subpoena and Notice of Deposition, only to find that the address provided by Opposer in this Opposition is a P.O. Box number in Long Beach, California. To date, Applicant has not received any response from Opposer. Applicant makes this motion to protect its right to propound additional discovery requests, if necessary, and accommodate Opposer in the event that the date and time identified in the Notice of Deposition was inconvenient to Opposer.

II. STATEMENT OF FACTS

The discovery period opened on November 4, 2006, and since then Applicant has served Opposer twice. On January 9, 2007, Applicant has served Opposer by first class mail, **APPLICANT'S FIRST SET OF INTERROGATORIES** and **APPLICANT'S FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS AND THINGS**



(Exhibits 1 & 2). Applicant mailed the discovery requests to the address provided by Opposer in this Opposition: 375 Redondo Ave. #259, Long Beach, CA 90814.

The responses to Applicant's discovery requests were due February 13, 2007. Opposer did not contact Applicant to request an extension of time to respond to Applicant's discovery requests. Applicant did not receive any communication from Opposer regarding the discovery requests.

To give Opposer the benefit of the doubt, Applicant re-sent the discovery requests, APPLICANT'S FIRST SET OF INTERROGATORIES and APPLICANT'S FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS AND THINGS, to Opposer on March 6, 2007 via Certified Mail (Exhibits 3 and 4).

The responses to Applicant's re-served discovery requests were due April 10, 2007. Again, Opposer did not contact Applicant to request an extension of time to respond to Applicant's discovery requests. Applicant did not receive any communication from Opposer regarding the re-served discovery requests.

On April 18, 2007, Applicant's process server attempted to serve Opposer with a subpoena and a Notice of Deposition (Exhibit 5). Applicant's process server commuted to Opposer's address, provided in this Opposition, and determined that the address is for a P.O. Box number in Long Beach, California. Accordingly, Applicant's process server was unable to personally serve Opposer. Instead, Applicant's process server served Opposer's agent, authorized to receive Opposer's mail at 375 Redondo Ave. #259, Long Beach, CA 90814 (Exhibit 6). Applicant also served Opposer the Notice of Deposition by Certified Mail (Exhibit 7). Since, Applicant has not received any communication or response from Opposer regarding the discovery requests and the notice of deposition, Applicant seeks an extension of the discovery and testimony periods by thirty days.

III. THE MOTION TO EXTEND SHOULD BE GRANTED

The time for Applicant to complete discovery may be extended pursuant to Fed. R. Civ. P. 6(b) upon a showing of good cause. Trademark Trial and Appeal Board Manual of Procedure §509; 37 C.F.R. §2.121(a). The Board is liberal in granting extensions of the before the period to act has elapsed so long as the moving party is not "guilty of negligence or bad faith and the privilege of extensions is not abused." *Sysco Corp. v. Princess Paper, Inc.*, 2006 WL 752426 at *2 (TTAB March 22, 2006); *American*

Vitamin Products, Inc. v. DowBrands, Inc., 22 U.S.P.Q.2d 1313, 1315 (TTAB 1992).

Applicant seeks this extension before the discovery period has lapsed, and has not been guilty of negligence or bad faith. Further, Applicant has not abused the privilege of extension, as this is Applicant's first request to extend the discovery and testimony periods.

In this Opposition, Applicant has served Opposer twice with discovery requests, but has not received any response. Applicant has also attempted to personally serve Opposer with a subpoena and Notice of Deposition, only to find that the address provided by Opposer in this Opposition is a P.O. Box number in Long Beach, California. To date, Applicant has not received any response from Opposer. Since Opposer did not provide a telephone number in this Opposition, Applicant has no adequate means of contacting the Opposer.

Applicant requests an extension of the discovery and testimony periods to protect its right to propound additional discovery requests, if necessary, and accommodate Opposer in the event that the date and time identified in the Notice of Deposition was inconvenient to Opposer. Since Applicant has not received any response or communication from Opposer, Applicant requests additional time.

Applicant has shown good cause for a request for an extension of time because: (1) Applicant has not received any response or communication from Opposer; (2) Applicant seeks only a thirty day extension of discovery and testimony periods; (3) this is only the first extension of time that Applicant has sought to extend the discovery and testimony periods; (4) Applicant seeks to accommodate Opposer in the event that the date and time identified in the Notice of Deposition was inconvenient to Opposer; and (5) this extension is in the best interest of judicial economy.

///

///

///

///

///

///

///

///

IV. CONCLUSION

For the above-stated reasons, Applicant requests that the Board extend the discovery and testimony periods by thirty days.

Respectfully submitted,

Dated: 4/23/07

Elise Tenen-Aoki

Elise Tenen-Aoki
Peter J. Gluck
Ehab M. Samuel
Greenberg Traurig LLP
650 Town Center Drive, Suite 1700
Costa Mesa, CA 92626
Phone: 714.708.6500
Fax: 714.708.6501

Attorneys for Applicant

**DECLARATION OF ELISE TENEN-AOKI
IN SUPPORT OF MOTION TO EXTEND**

I, Elise Tenen-Aoki, declare as follows:

1. I am an attorney with the firm Greenberg Traurig LLP, attorneys for Applicant, and I am admitted to practice in the State of California. I have personal knowledge of the matters stated herein, and if called upon, I could testify to them under oath.

2. The discovery period opened on November 4, 2006, and since then I served Opposer twice.

3. On January 9, 2007, I served Opposer by first class mail, APPLICANT'S FIRST SET OF INTERROGATORIES and APPLICANT'S FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS AND THINGS (Exhibits 1 & 2).

4. I mailed the discovery requests to the address provided by Opposer in this Opposition: 375 Redondo Ave. #259, Long Beach, CA 90814.

5. Although the responses to Applicant's discovery requests were past due, Opposer did not contact me to request an extension of time to respond. I did not receive any communication from Opposer regarding the discovery requests.

6. To give Opposer the benefit of the doubt, I re-sent the discovery requests, APPLICANT'S FIRST SET OF INTERROGATORIES and APPLICANT'S FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS AND THINGS, to Opposer on March 6, 2007 via Certified Mail (Exhibits 3 and 4).

7. Although the responses to Applicant's re-sent discovery requests were again past due, at no time did Opposer attempt to contact me to request an extension of time to respond. I did not receive any communication from Opposer regarding the re-served discovery requests.

I declare under penalty of perjury that the forgoing is true and correct. Executed this 23rd of April 2007, at Costa Mesa, California.



Elise Tenen-Aoki

**DECLARATION OF EHAB M. SAMUEL
IN SUPPORT OF MOTION TO EXTEND**

I, Ehab M. Samuel, declare as follows:

1. I am an attorney with the firm Greenberg Traurig LLP, attorneys for Applicant, and I am admitted to practice in the State of California. I have personal knowledge of the matters stated herein, and if called upon, I could testify to them under oath.

2. On April 18, 2007, I hired a process server, Time Machine Network, to personally serve with a subpoena and a Notice of Deposition.

3. The process server went to Opposer's address, provided in this Opposition: 375 Redondo Ave. #259, Long Beach, CA 90814.

4. The process server determined that the address is for a P.O. Box number.

5. Although the process server was unable to personally serve Opposer, the process server served Opposer's agent, authorized to receive Opposer's mail at the location identified by Opposer in this Opposition: 375 Redondo Ave. #259, Long Beach, CA 90814.

6. I requested the firm's Research Department to locate the home address and phone number of Opposer.

7. The Research Department was unable to locate Opposer's home address, and the phone number turned out to be a fax number (Exhibit 8).

8. To exhaust all means of serving Opposer, I mailed the Notice of Deposition by Certified Mail to Opposer (Exhibit 7).

I declare under penalty of perjury that the forgoing is true and correct. Executed this 23rd of April 2007, at Costa Mesa, California.



Ehab M. Samuel

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing **APPLICANT'S MOTION TO EXTEND DISCOVERY PERIOD** was served April 23, 2007 by Certified Mail No. 7006 0810 0001 4652 8804 to Opposer:

Bruce Moreland
375 Redondo Ave #259
Long Beach, CA 90814

Dated: April 23, 2007

By: Veronica King

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing **APPLICANT'S MOTION TO EXTEND DISCOVERY PERIOD** was deposited with the United States Postal Service with sufficient postage as **Express mail No. EV 777773014 US** to Opposer at the address and on the date indicated below:

Commissioner for Trademarks
Post Office Box 1451
Alexandria, Virginia 22313-1451

Dated: April 23, 2007 By: V.P. King

EXHIBIT 1

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

| | | |
|-----------------|---|-------------------------|
| Moreland, Bruce |) | Opposition No. 91173381 |
| Opposer, |) | |
| vs. |) | |
| Funsten, Stan |) | |
| Applicant. |) | |

APPLICANT'S FIRST SET OF INTERROGATORIES

General Definitions and Instructions

All interrogatories are to be answered on the basis of Opposer's knowledge or information and belief, including that of its officers, employees, directors, or agents having such knowledge. If any answer is given on information and belief, such fact should be stated in the answer.

If any information called for in any interrogatory is being withheld on the grounds that it is subject to the attorney-client privilege or any other privilege, Opposer is hereby directed to state with respect to such interrogatory that the information is being withheld and state the alleged ground of privilege.

The following definitions are applicable herein:

1. The terms "Opposer" and "you" or "yours" mean and refer to the Opposer, Bruce Moreland; the unincorporated association of "Wall of Voodoo" associates

(including but not limited to Bruce Moreland, Frederique Moreland for the estate of Marc Moreland, Charles T. Gray, Gayle Nanini for the estate of Joseph Nanini, Mrs. Bonnie Hart, party of interest in the estate of her son Marc Moreland and Ned Leukhardt), its subsidiaries and any merged or acquired subsidiaries; its predecessors in-interest, or controlled, controlling related, or affiliated companies; any licensee; and Opposer's past and present officers, directors, employees, agents, representatives, and attorneys, all to the fullest extent the context permits.

2. The term "Applicant" means and refers to the Applicant, Stan Funsten, and any of his officers, directors, agents, employees, associates, and attorneys, both present and past.
3. The term "Trademark Application" and similar terms means and refers to Trademark Application Serial No. 78591881 for the mark WALL OF VOODOO published in the Official Gazette on August 8, 2006.
4. The term "Notice of Opposition" and similar terms means and refers to the Notice of Opposition filed in the United States Patent and Trademark Office Before the Trademark Trial and Appeal Board on October 11, 2006 by Opposer, Bruce Moreland, in regard to the matter of trademark application Serial No. 78591881 for the mark: WALL OF VOODOO.
5. "Applicant's Goods/Services" shall mean any and all goods/services to which Applicant applies the designation WALL OF VOODOO or any variations thereof.

6. "Opposer's Goods/Services" shall mean any and all goods/services to which Opposer applies the designation WALL OF VOODOO or any variations thereof.
7. The term "Person" or "Persons" refers to individuals, companies, divisions, corporate or other business entities, partnerships, groups, associations, governmental entities, or other organizations.
8. The term "Date" shall mean the exact day, month, and year, if ascertainable, or if not, the best approximation.
9. The term "Document" or "Documents" as used herein has the full extent of its meaning as provided in Rule 34, Federal Rules of Civil Procedure, and includes all correspondence, books, records, notes, brochures, sell sheets, memoranda, labels, writings, displays, photographs, drawings, sketches, illustrative material, video and audio tapes, computer diskettes and printouts, CD ROMs, microfilms, electronic mail databases and printouts, and all other means by which information is stored for retrieval in fixed form, and all other materials, whether printed, typewritten, handwritten, recorded, fixed or reproduced by any other process now known or developed and deployed during the pendency of this proceeding. The term "document" or "documents" is used herein in its customary broad sense as defined in FRCP 34(a)(1), and includes, without limitation to, the original and all copies (carbon, photocopy, photographic, microfilm, or otherwise) of any advertising or promotional material (including, without limitation, art work, copies of drafts thereof, proofs, tear sheets, scripts, storyboards, etc.), brochures, business cards, travel tickets, lodging confirmations, lists of customers, lists of

customer inquiries, rate schedules, letters, correspondence, customer or other complaints, books, journals, ledgers, working papers, invoices, contracts, purchase orders, estimates, reports, memoranda, interoffice communications, records, studies, appraisals, papers, charts, recordings of or memoranda of any conversation (by telephone or otherwise), meeting or conference, or any other writing however produced or reproduced; all other handwritten, typed, printed, or otherwise visually or aurally reproduced materials, whether copies or originals, including, but not limited to, letters, cables, wires, memoranda, and interoffice communications; reports, notes, minutes, and recordings; drawings, blueprints, sketches, charts, photographs, microfilm records, data compilations, and movies; copyrights, copyright registration applications, trademarks, trademark applications, assignments, contracts, agreements, licenses, and other official documents and legal instruments; published material of any kind; annual reports, reports to shareholders and minutes or reports of meetings of directors or executive boards or committees; advertising or promotional literature and press releases; engineering notebooks and data; and ledgers, bills, orders, books, records, and files that are in the possession, custody or control of Opposer or any of its officers, agents, or employees and/or Opposer's attorneys. The term "document" or "documents" also includes all copies that are not identical with the original.

10. The term "Business Entity" includes, without limitation, individuals, associations, partnerships, corporations, and other business organizations, and governmental

agencies, and “related companies” as the term is used in the Trademark Act , 15 U.S.C. 1051 *et seq.*, whether formal or informal.

11. The term “Third Party” shall include, without limitation, manufacturers, distributors, importers, merchants, retailers, wholesalers, and ultimate purchasers, but shall not include Applicant or Opposer.
12. The term “Identify” as used herein means:
 - (a) in the case of a natural person, to state for each person his or her: (i) full name; (ii) present residence address and telephone number; (iii) present business address and telephone number; (iv) present position, business affiliation, and job description; and (v) if any of the information set forth in (i)-(iv) is unknown, so state and set forth the corresponding last, known such information;
 - (b) in the case of a corporation or other business entity, to state for each corporation or business entity: (i) its full name; (ii) its legal form (i.e., corporation, partnership, etc.) and state of incorporation or legal formation; (iii) its address and principal place of business; (iv) the identity of officers or other persons having knowledge of the matter with respect to which the corporation or entity is named; and (v) the connection to Opposer’s response; and
 - (c) in the case of a document, to state for each document: (i) the identity of the person(s) originating and preparing it and the sender, (ii) its general type (*e.g.*, letter, memo, report, invoice, etc.), title, identifying number and the general nature of its subject matter; (iii) the identity of the addressees and distributees, if any;

(iv) its date of preparation; (v) its date and manner of transmission, distribution and publication, if any; (vi) the location of each copy (including title, index number and location of the file in which it is kept or from which it was removed) and the identity of the present custodian or persons responsible for its filing or other disposition; and (vii) the identity of persons who can authenticate or identify it.

(d) in the case of a thing including but not limited to products or physical things, “identify” means to furnish a complete description of the thing, including its common designation, its composition, its physical description, and any other distinguishing characteristics. If the thing is a label or tags, also describe how it is used on the goods, and its inclusive period of use.

13. As used herein, “and” as well as “or” shall be construed either disjunctively or conjunctively as necessary in order to bring within the scope of the request all documents and things which might otherwise be construed to be outside its scope.

14. As used herein, the singular shall always include the plural and the present tense shall always include the past tense.

15. The term “thing” as used herein refers to any tangible object other than a document, and includes objects of every kind and nature such as, but not limited to, prototypes, models, specimens, computer disks and tapes, videotapes and audiotapes.

16. “Address” means the street address, including the city, state, and zip code.

Interrogatories

Interrogatory No. 1:

State all facts and evidence you rely on to support the contention, in paragraph 1 of the Notice of Opposition, that “[t]he musical business entertainment enterprise ‘Wall of Voodoo’...was commenced in 1978.”

Interrogatory No. 2:

State the date and location of the first public performance by member(s) of the musical business entertainment enterprise “Wall of Voodoo.”

Interrogatory No. 3

State the names of each of the actual member(s) of the musical business entertainment enterprise “Wall of Voodoo” who performed at the band’s first public performance.

Interrogatory No. 4:

Identify each and every contract which you contend establishes membership, participation, and/or ownership of the musical business entertainment enterprise “Wall of Voodoo.”

Interrogatory No. 5:

State all facts and evidence you rely on to support the contention, in paragraph 2 of the Notice of Opposition, that Bruce Moreland was a “founding original member/participant/owner[.]” of the mark WALL OF VOODOO, including but not limited to the specific date of commencement of said ownership.

Interrogatory No. 6:

State all facts and evidence you rely on to support the contention, in paragraph 2 of the Notice of Opposition, that Marc Moreland was a “founding original member/participant owner[]” of the mark WALL OF VOODOO, including but not limited to the specific date of commencement of said ownership.

Interrogatory No. 7:

State all facts and evidence you rely on to support the contention, in paragraph 2 of the Notice of Opposition, that Joseph Nanini was a “founding original member/participant owner[]” of the mark WALL OF VOODOO, including but not limited to the specific date of commencement of said ownership.

Interrogatory No. 8:

State all facts and evidence you rely on to support the contention, in paragraph 2 of the Notice of Opposition, that Chas T. Gray was a “founding original member/participant owner[]” of the mark WALL OF VOODOO, including but not limited to the specific date of commencement of said ownership.

Interrogatory No. 9:

State all facts and evidence you rely on to support the contention, in paragraph 3 of the Notice of Opposition, that “[f]rom 1978 to 1982, the musical business entertainment enterprise ‘Wall of Voodoo’ became established...garnering media attention and critical praise, both in the United States and abroad.”

Interrogatory No. 10:

State all facts and evidence you rely on to support the contention, in paragraph 3 of the Notice of Opposition, that “[f]rom 1978 to 1982, the musical business

entertainment enterprise 'Wall of Voodoo'...enjoy[ed] significant sales of commercial recordings produced by 'Wall of Voodoo.'”

Interrogatory No. 11:

Identify in detail any and all participation by Bruce Moreland in the production of any goods or services (including but not limited to the making of specific commercial recordings, videos, and public performances) commercialized and/or sold under the mark WALL OF VOODOO.

Interrogatory No. 12:

State with specificity all dates that Bruce Moreland commenced participation and terminated participation as an active member of the musical business entertainment enterprise Wall of Voodoo.

Interrogatory No. 13:

State with specificity the circumstances regarding Bruce Moreland's participation and terminated participation as an active member of the musical business entertainment enterprise Wall of Voodoo.

Interrogatory No. 14:

State all facts and evidence you rely on to support the contention, in paragraph 4 of the Notice of Opposition, that “[i]n 1982, Mr. Funsten chose to end his participation and ownership interest in the music business enterprise 'Wall of Voodoo.'”

Interrogatory No. 15:

State all facts and evidence you rely on to support the contention, in paragraph 5 of the Notice of Opposition, that in 1983, Stan Funsten, “departed 'Wall of Voodoo,' foregoing all future interest in the music business enterprise 'Wall of Voodoo.'”

Interrogatory No. 16:

State all facts and evidence you rely on to support the contention, in paragraph 6 of the Notice of Opposition, that in 1983, Stan Funsten, “commenced a career as a ‘solo artist.’”

Interrogatory No. 17:

State all facts and evidence you rely on to support the contention, in paragraph 7 of the Notice of Opposition, that “[t]he remaining participant/owners of the music business enterprise ‘Wall of Voodoo’ continued on without Stan Funsten, adding new participant/owners, making commercial recordings, videos, and public performances to music consumers and audiences in the United States and abroad,” including but not limited to identifying each commercial recording, video and public performance.

Interrogatory No. 18:

State all facts and evidence you rely on to support the contention, in paragraph 8 of the Notice of Opposition, that Stan Funsten “falsely enhanced his role in the band and defamed those who threatened his revisionist and self-serving ‘history.’”

Interrogatory No. 19:

State all facts and evidence you rely on to support the contention, in paragraph 9 of the Notice of Opposition, that “Mr. Funsten is, by the 1983 formal agreement, specifically excluded from using the name ‘Wall of Voodoo’ for any and all purposes.”

Interrogatory No. 20:

State all facts and evidence you rely on to support the contention, in paragraph 11 of the Notice of Opposition, that the Trademark Application would confuse the public.

Interrogatory No. 21:

State all facts and evidence you rely on to support the contention, in paragraph 11 of the Notice of Opposition, that the Trademark Application would harm your rightful interests and future earnings.

Interrogatory No. 22:

Identify and describe all the goods and services for which Opposer has used and is using the mark WALL OF VOODOO, including but not limited to the date of first use of the mark WALL OF VOODOO on the goods or services and whether that use has been continuous; the geographic areas in which the goods or services have been marketed or distributed; the individuals, retail stores, or other purchasers or clients to whom the goods or services were sold or provided; and the last date on which said goods or services were marketed or sold.

Interrogatory No. 23:

Describe the circumstances and method by which Opposer selected and first used the trademark or trade name WALL OF VOODOO for each type of goods or services for which it is used.

Interrogatory No. 24:

State whether any searches or investigations were conducted by Opposer or any person on its behalf (including its attorneys) to determine whether the mark or name WALL OF VOODOO was available and registrable as a trademark or trade name, and if so, identify each such search or investigation.

Interrogatory No. 25:

State Opposer's annual marketing, advertising and promotional expenditures since it first started marketing, advertising and/or promoting the goods and services provided in connection with or under the mark or trade name WALL OF VOODOO.

Interrogatory No. 26:

Identify each different label, hangtag, wrapper, container, advertisement, brochure, and the like, which contains or bears the mark or trade name WALL OF VOODOO.

Interrogatory No. 27:

Identify each person employed by Opposer and each outside agent or agency retained by Opposer who has been or now is responsible for (a) marketing, advertising and promotion, and (b) bookkeeping and accounting with respect to any goods or services offered for sale or sold under the mark or trade name WALL OF VOODOO or any variations thereof.

Interrogatory No. 28:

Identify the media, including but not limited to, all publications, Internet web pages, radio and television stations, through which Opposer has advertised or promoted its goods or services under the mark or trade name WALL OF VOODOO.

Interrogatory No. 29:

For each good or service bearing or sold under the mark WALL OF VOODOO, or any variation thereof, set forth the approximate dollar amount of Opposer's annual sales per calendar year of such goods or services since commencement of use of the mark in commerce.

Interrogatory No. 30:

Identify and describe all prices and fees of Opposer for each product or service provided under the mark WALL OF VOODOO.

Interrogatory No. 31:

Identify each person Opposer has licensed or authorized to sell, distribute, or otherwise provide products or services to under the mark WALL OF VOODOO.

Interrogatory No. 32:

Identify the witnesses Opposer intends to call to testify on its behalf in connection with this proceeding and state the facts or subject matter concerning which each are expected to testify.

Interrogatory No. 33:

Identify any instance or occurrence in which any person was actually confused between Opposer and Applicant and/or their respective services or goods due to the use of the mark or trade name WALL OF VOODOO, and describe with specificity each such instance or occurrence.

Interrogatory No. 34:

Identify the trade channels through which Opposer has sold or offered and now is offering or selling goods or services under the mark or trade name WALL OF VOODOO.

Interrogatory No. 35:

State whether Opposer, or any person acting for or on its behalf, has conducted any type of inquiry or investigation of Applicant or his adoption, use, or registration of the mark or trade name WALL OF VOODOO, and if so, state the date the inquiry or

investigation was conducted; identify each person who conducted and reviewed it; and state with specificity the findings that were made.

Interrogatory No. 36:

State whether Opposer or any person acting for or on behalf of Opposer has consulted with or retained the services of any expert with respect to any of the issues involved in this proceeding, and if so, identify such expert, identify all documents upon which the expert will base his/her expert opinion, and describe the subject matter concerning which he/she was consulted or retained.

Interrogatory No. 37:

Identify all documents and evidence of Opposer's efforts to police and protect the mark or trade name WALL OF VOODOO.

Interrogatory No. 38:

Identify all persons, including third parties, who are most knowledgeable about the adoption and use of the mark or trade name WALL OF VOODOO, and summarize the extent of that knowledge, including first dates of use.

Interrogatory No. 39:

Identify each person who participated in the preparation of Opposer's responses to the foregoing interrogatories or furnished any information in response thereto, and for each specify the interrogatory for which each such person provided information or participated in the preparation of.

Interrogatory No. 40:

Identify all documents relating to the subject matter of the foregoing interrogatories and those used in the preparation of Opposer's responses to these interrogatories.

Interrogatory No. 41:

Identify all documents which you refer or relate to in your responses to Interrogatories No. 1 through 40.

Respectfully submitted,

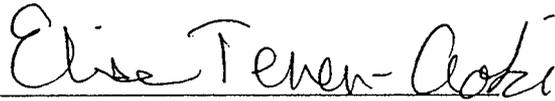


Elise Tenen-Aoki
Peter Gluck
Greenberg Traurig LLP
650 Town Center Drive
Suite 1700
Costa Mesa, CA 92626
Phone: 714.708.6500 Fax: 714.708.6501

Certificate of Service

The undersigned hereby certifies that a true and correct copy of the foregoing APPLICANT'S FIRST SET OF INTERROGATORIES was served by first class mail, postage prepaid on January 9, 2007 on counsel for Opposer:

Bruce Moreland
375 Redondo Ave #259
Long Beach, CA 90814

A handwritten signature in cursive script that reads "Elise Tenen-Aoki". The signature is written in black ink and is positioned above a horizontal line.

Elise Tenen-Aoki

EXHIBIT 2

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

Moreland, Bruce)
)
 Opposer,) Opposition No. 91173381
)
 vs.)
)
 Funsten, Stan)
)
 Applicant.)

APPLICANT'S FIRST SET OF REQUESTS FOR
PRODUCTION OF DOCUMENTS AND THINGS

The Applicant, Stan Funsten, by and through his attorney, propounds to Opposer, Bruce Moreland, pursuant to F.R.Civ.P. 34, the following requests for documents to be answered fully and separately in writing and under oath.

General Definitions and Instructions

All interrogatories are to be answered on the basis of Opposer's knowledge or information and belief, including that of its officers, employees, directors, or agents having such knowledge. If any answer is given on information and belief, such fact should be stated in the answer.

If any information called for in any interrogatory is being withheld on the grounds that it is subject to the attorney-client privilege or any other privilege, Opposer is hereby directed to state with respect to such interrogatory that the information is being withheld and state the alleged ground of privilege.

The following definitions are applicable herein:

1. The terms “Opposer” and “you” or “yours” mean and refer to the Opposer, Bruce Moreland; the unincorporated association of “Wall of Voodoo” associates, (including but not limited to Bruce Moreland, Frederique Moreland for the estate of Marc Moreland, Charles T. Gray, Gayle Nanini for the estate of Joseph Nanini, Mrs. Bonnie Hart, party of interest in the estate of her son Marc Moreland and Ned Leukhardt)its subsidiaries and any merged or acquired subsidiaries; its predecessors in-interest, or controlled, controlling related, or affiliated companies; any licensee; and Opposer’s past and present officers, directors, employees, agents, representatives, and attorneys, all to the fullest extent the context permits.
2. The term “Applicant” means and refers to the Applicant, Stan Funsten, and any of his officers, directors, agents, employees, associates, and attorneys, both present and past.
3. The term “Trademark Application” and similar terms means and refers to Trademark Application Serial No. 78591881 for the mark WALL OF VOODOO published in the Official Gazette on August 8, 2006.
4. The term “Notice of Opposition” and similar terms means and refers to the Notice of Opposition filed in the United States Patent and Trademark Office Before the Trademark Trial and Appeal Board on October 11, 2006 by Opposer, Bruce Moreland, in regard to the matter of trademark application Serial No. 78591881 for the mark: WALL OF VOODOO.

5. "Applicant's Goods/Services" shall mean all goods/services to which Applicant applies the designation WALL OF VOODOO or variation thereof.
6. "Opposer's Goods/Services" shall mean all goods/services to which Opposer applies the designation WALL OF VOODOO or variation thereof.
7. The term "Person" or "Persons" refers to individuals, companies, divisions, corporate or other business entities, partnerships, groups, associations, governmental entities, or other organizations.
8. The term "Date" shall mean the exact day, month, and year, if ascertainable, or if not, the best approximation.
9. The term "Document" or "Documents" as used herein has the full extent of its meaning as provided in Rule 34, Federal Rules of Civil Procedure, and includes all correspondence, books, records, notes, brochures, sell sheets, memoranda, labels, writings, displays, photographs, drawings, sketches, illustrative material, video and audio tapes, computer diskettes and printouts, CD ROMs, microfilms, electronic mail databases and printouts, and all other means by which information is stored for retrieval in fixed form, and all other materials, whether printed, typewritten, handwritten, recorded, fixed or reproduced by any other process now known or developed and deployed during the pendency of this proceeding. The term "document" or "documents" is used herein in its customary broad sense as defined in FRCP 34(a)(1), and includes, without limitation to, the original and all copies (carbon, photocopy, photographic, microfilm, or otherwise) of any advertising or promotional material (including, without limitation, art work,

copies of drafts thereof, proofs, tear sheets, scripts, storyboards, etc.), brochures, business cards, travel tickets, lodging confirmations, lists of customers, lists of customer inquiries, rate schedules, letters, correspondence, customer or other complaints, books, journals, ledgers, working papers, invoices, contracts, purchase orders, estimates, reports, memoranda, interoffice communications, records, studies, appraisals, papers, charts, recordings of or memoranda of any conversation (by telephone or otherwise), meeting or conference, or any other writing however produced or reproduced; all other handwritten, typed, printed, or otherwise visually or aurally reproduced materials, whether copies or originals, including, but not limited to, letters, cables, wires, memoranda, and interoffice communications; reports, notes, minutes, and recordings; drawings, blueprints, sketches, charts, photographs, microfilm records, data compilations, and movies; copyrights, copyright registration applications, trademarks, trademark applications, assignments, contracts, agreements, licenses, and other official documents and legal instruments; published material of any kind; annual reports, reports to shareholders and minutes or reports of meetings of directors or executive boards or committees; advertising or promotional literature and press releases; engineering notebooks and data; and ledgers, bills, orders, books, records, and files that are in the possession, custody or control of Opposer or any of its officers, agents, or employees and/or Opposer's attorneys. The term "document" or "documents" also includes all copies that are not identical with the original.

10. The term "Business Entity" includes, without limitation, individuals, associations, partnerships, corporations, and other business organizations, and governmental agencies, and "related companies" as the term is used in the Trademark Act , 15 U.S.C. 1051 *et seq.*, whether formal or informal.
11. The term "Third Party" shall include, without limitation, manufacturers, distributors, importers, merchants, retailers, wholesalers, and ultimate purchasers, but shall not include Applicant or Opposer.
12. The term "Identify" as used herein means:
 - (a) in the case of a natural person, to state for each person his or her: (i) full name; (ii) present residence address and telephone number; (iii) present business address and telephone number; (iv) present position, business affiliation, and job description; and (v) if any of the information set forth in (i)-(iv) is unknown, so state and set forth the corresponding last, known such information;
 - (b) in the case of a corporation or other business entity, to state for each corporation or business entity: (i) its full name; (ii) its legal form (i.e., corporation, partnership, etc.) and state of incorporation or legal formation; (iii) its address and principal place of business; (iv) the identity of officers or other persons having knowledge of the matter with respect to which the corporation or entity is named; and (v) the connection to Opposer's response; and
 - (c) in the case of a document, to state for each document: (i) the identity of the person(s) originating and preparing it and the sender, (ii) its general type (*e.g.*,

letter, memo, report, invoice, etc.), title, identifying number and the general nature of its subject matter; (iii) the identity of the addressees and distributees, if any; (iv) its date of preparation; (v) its date and manner of transmission, distribution and publication, if any; (vi) the location of each copy (including title, index number and location of the file in which it is kept or from which it was removed) and the identity of the present custodian or persons responsible for its filing or other disposition; and (vii) the identity of persons who can authenticate or identify it.

- (d) in the case of a thing including but not limited to products or physical things, “identify” means to furnish a complete description of the thing, including its common designation, its composition, its physical description, and any other distinguishing characteristics. If the thing is a label or tags, also describe how it is used on the goods, and its inclusive period of use.
13. As used herein, “and” as well as “or” shall be construed either disjunctively or conjunctively as necessary in order to bring within the scope of the request all documents and things which might otherwise be construed to be outside its scope.
14. As used herein, the singular shall always include the plural and the present tense shall always include the past tense.
15. The term “thing” as used herein refers to any tangible object other than a document, and includes objects of every kind and nature such as, but not limited to, prototypes, models, specimens, computer disks and tapes, videotapes and audiotapes.

16. "Address" means the street address, including the city, state, and zip code.
17. These requests shall be deemed continuing in accordance with Rule 26(e) of the Federal Rules of Civil Procedure.

REQUEST FOR DOCUMENTS

Pursuant to F.R.Civ.P. Rule 34, please produce the following:

- 1) Copies of all documents and things evidencing, relating or referring to the date of commencement of the musical business entertainment enterprise "Wall of Voodoo," including but not limited to documents evidencing the date and location of the first public performance of "Wall of Voodoo."
- 2) Copies of all documents and things evidencing, relating or referring to the founding original members, participants, and/or owners of the musical business entertainment enterprise "Wall of Voodoo."
- 3) Copies of all documents and things evidencing, constituting, relating or referring to a contract involving the musical business entertainment enterprise "Wall of Voodoo" and/or the use of any mark or trade name associated therewith.
- 4) Copies of all documents and things evidencing, relating or referring to the involvement and/or participation of Marc Moreland in the musical business entertainment enterprise "Wall of Voodoo," including but not limited to any documents regarding termination of such participation.
- 5) Copies of all documents and things evidencing, relating or referring to the involvement and/or participation of Bruce Moreland in the musical business

entertainment enterprise "Wall of Voodoo," including but not limited to any documents regarding termination of such participation.

6) Copies of all documents and things evidencing, relating or referring to the involvement and/or participation of Stan Funsten in the musical business entertainment enterprise "Wall of Voodoo," including but not limited to any documents regarding termination of such participation.

7) Copies of all documents and things evidencing, relating or referring to the involvement and/or participation of Joseph Nanini in the musical business entertainment enterprise "Wall of Voodoo," including but not limited to any documents regarding termination of such participation.

8) Copies of all documents and things evidencing, relating or referring to the involvement and/or participation of Chas T. Gray in the musical business entertainment enterprise "Wall of Voodoo," including but not limited to any documents regarding termination of such participation.

9) Copies of all documents and things evidencing, relating or referring to your contention, in paragraph 3 of the Notice of Opposition, that "[f]rom 1978 to 1982, the musical business entertainment enterprise 'Wall of Voodoo' became established...garnering media attention and critical praise, both in the United States and abroad."

10) Copies of all documents and things evidencing, relating or referring to the annual sales of commercial recordings produced by "Wall of Voodoo" from 1977 to the present.

11) Copies of all documents and things evidencing, relating or referring to the production of any goods or services (including but not limited to the making of specific commercial recordings, videos, and public performances) commercialized and/or sold under the mark WALL OF VOODOO.

12) Copies of all documents and things evidencing, relating or referring to your contention, in paragraph 5 of the Notice of Opposition, that in 1983, Stan Funsten, “departed ‘Wall of Voodoo,’ foregoing all future interest in the music business enterprise ‘Wall of Voodoo.’”

13) Copies of all documents and things evidencing, relating or referring to your contention, in paragraph 6 of the Notice of Opposition, that in 1983, Stan Funsten, “commenced a career as a ‘solo artist.’”

14) Copies of all documents and things evidencing, relating or referring to your contention, in paragraph 7 of the Notice of Opposition, that “[t]he remaining participant/owners of the music business enterprise ‘Wall of Voodoo’ continued on without Stan Funsten, adding new participant/owners, making commercial recordings, videos, and public performances to music consumers and audiences in the United States and abroad.”

15) Copies of all documents and things evidencing, relating or referring to your contention, in paragraph 8 of the Notice of Opposition, that Stan Funsten “falsely enhanced his role in the band and defamed those who threatened his revisionist and self-serving ‘history.’”

16) Copies of all documents and things evidencing, relating or referring to your contention, in paragraph 9 of the Notice of Opposition, that “Mr. Funsten is, by the

1983 formal agreement, specifically excluded from using the name 'Wall of Voodoo' for any and all purposes.”

17) Copies of all documents and things evidencing, relating or referring to your contention, in paragraph 11 of the Notice of Opposition, that the Trademark Application would confuse the public.

18) Copies of all documents and things evidencing, relating or referring to your contention, in paragraph 11 of the Notice of Opposition, that the Trademark Application would harm your rightful interests and future earnings.

19) Copies of all documents and things evidencing, relating or referring to the goods and services for which Opposer has used and is using the mark WALL OF VOODOO.

20) Copies of all documents and things evidencing, relating or referring to the circumstances and method by which Opposer selected and first used the mark or trade name WALL OF VOODOO for each type of goods or services for which it is used.

21) Copies of all documents and things evidencing, relating or referring to any searches or investigations conducted by Opposer or any person on its behalf (including its attorneys) to determine whether the mark or name WALL OF VOODOO was available and registrable as a trademark or trade name.

22) Copies of all documents and things evidencing, relating or referring to Opposer's annual marketing, advertising and promotional expenditures since it first started marketing, advertising and/or promoting the goods and services provided in connection with or under the mark or trade name WALL OF VOODOO on an annual basis from 1977 to the present.

23) Copies of all documents and things, including but not limited to labels, hangtags, wrappers, containers, advertisements, brochures, and the like, which contain or bear the mark or trade name WALL OF VOODOO.

24) Copies of all media, including but not limited to all publications, Internet web pages, radio and television station ads and/or interviews, through which Opposer has advertised or promoted its goods and services under the mark or trade name WALL OF VOODOO from 1977 to the present.

25) Copies of documents and things evidencing, relating or referring to the prices and fees charged by Opposer for each product or service provided under the mark WALL OF VOODOO.

26) Copies of documents and things evidencing, relating or referring to any agreements involving licensing or authorizing to sell, distribute, or otherwise provide products or services under the mark WALL OF VOODOO.

27) Copies of all correspondence between Bruce Moreland and any other person regarding or relating to the mark or trade name WALL OF VOODOO.

28) Copies of all documents and things evidencing, relating or referring to any instance or occurrence in which any person was actually confused between Opposer and Applicant and/or their respective services or goods due to the use of the mark or trade name WALL OF VOODOO, and describe with specificity each such instance and occurrence.

29) Copies of all documents and things evidencing, relating or referring to the trade channels through which Opposer has sold or offered under the mark or trade name WALL OF VOODOO.

30) Copies of all documents and things evidencing, relating or referring to any type of inquiry or investigation of Applicant or his adoption, use, or registration of the mark or trade name WALL OF VOODOO.

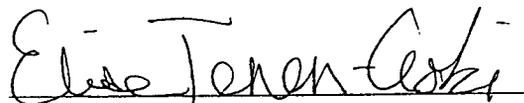
31) Copies of all documents and things evidencing, relating or referring to any consultant or expert opinion regarding ownership of the mark or trade name WALL OF VOODOO.

32) Copies of all documents and things evidencing, relating or referring to Opposer's efforts to police and protect the mark or trade name WALL OF VOODOO.

33) Copies of all documents and things evidencing, relating or referring to any media or press releases, interviews, articles or other writings regarding the musical business entertainment enterprise "Wall of Voodoo."

34) Copies of all documents and things evidencing, relating or referring to the designation of Bruce Moreland as the formal representative of the unincorporated association of "Wall of Voodoo" associates: Bruce Moreland; Frederique Moreland for the estate of Marc Moreland; Charles T. Gray; Gayle Nanini for the estate of Joseph Nanini; Mrs. Bonnie Hart, party of interest in the estate of her son Marc Moreland and Ned Leukhardt.

Respectfully submitted,



Elise Tenen-Aoki
Peter Gluck
Greenberg Traurig LLP
650 Town Center Drive
Suite 1700
Costa Mesa, CA 92626
Phone: 714.708.6500 Fax: 714.708.6501

Certificate of Service

The undersigned hereby certifies that a true and correct copy of the foregoing APPLICANT'S FIRST SET OF INTERROGATORIES was served by first class mail, postage prepaid on January 9, 2007 on counsel for Opposer:

Bruce Moreland
375 Redondo Ave #259
Long Beach, CA 90814

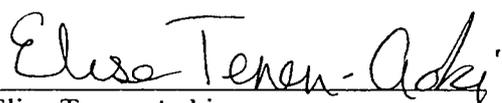

Elise Tenen-Aoki
Elise Tenen-Aoki

EXHIBIT 3

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:
BRUCE MORELAND
375 REDONDO AVE #259
LONG BEACH, CA 90814

2. Article Number:
 (Transfer from service label) **7004 2510 0003 5653 9514**

COMPLETE THIS SECTION ON DELIVERY

A. Signature *[Handwritten Signature]* Agent
 Addressee

B. Received by (Printed Name) *[Handwritten Name]* C. Date of Delivery *[Handwritten Date]*

D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No

3. Service Type
 Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540



U.S. Postal Service™
CERTIFIED MAIL™ RECEIPT
 (Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

OFFICIAL USE

| | |
|---|----|
| Postage | \$ |
| Certified Fee | |
| Return Receipt Fee (Endorsement Required) | |
| Restricted Delivery Fee (Endorsement Required) | |
| Total Postage & Fees | \$ |

Postmark
Here

Sent To **BRUCE MORELAND**
 Street, Apt. No.,
 or PO Box No. **375 REDONDO AVE. #259**
 City, State, ZIP+4 **LONG BEACH, CA 90814**

PS Form 3800, June 2002

See Reverse for Instructions

7004 2510 0003 5653 9514

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

| | | |
|-----------------|---|-------------------------|
| Moreland, Bruce |) | |
| |) | Opposition No. 91173381 |
| Opposer, |) | |
| |) | |
| vs. |) | |
| |) | |
| Funsten, Stan |) | |
| |) | |
| Applicant. |) | |

APPLICANT'S FIRST SET OF INTERROGATORIES

General Definitions and Instructions

All interrogatories are to be answered on the basis of Opposer's knowledge or information and belief, including that of its officers, employees, directors, or agents having such knowledge. If any answer is given on information and belief, such fact should be stated in the answer.

If any information called for in any interrogatory is being withheld on the grounds that it is subject to the attorney-client privilege or any other privilege, Opposer is hereby directed to state with respect to such interrogatory that the information is being withheld and state the alleged ground of privilege.

The following definitions are applicable herein:

1. The terms "Opposer" and "you" or "yours" mean and refer to the Opposer, Bruce Moreland; the unincorporated association of "Wall of Voodoo" associates

(including but not limited to Bruce Moreland, Frederique Moreland for the estate of Marc Moreland, Charles T. Gray, Gayle Nanini for the estate of Joseph Nanini, Mrs. Bonnie Hart, party of interest in the estate of her son Marc Moreland and Ned Leukhardt), its subsidiaries and any merged or acquired subsidiaries; its predecessors in-interest, or controlled, controlling related, or affiliated companies; any licensee; and Opposer's past and present officers, directors, employees, agents, representatives, and attorneys, all to the fullest extent the context permits.

2. The term "Applicant" means and refers to the Applicant, Stan Funsten, and any of his officers, directors, agents, employees, associates, and attorneys, both present and past.
3. The term "Trademark Application" and similar terms means and refers to Trademark Application Serial No. 78591881 for the mark WALL OF VOODOO published in the Official Gazette on August 8, 2006.
4. The term "Notice of Opposition" and similar terms means and refers to the Notice of Opposition filed in the United States Patent and Trademark Office Before the Trademark Trial and Appeal Board on October 11, 2006 by Opposer, Bruce Moreland, in regard to the matter of trademark application Serial No. 78591881 for the mark: WALL OF VOODOO.
5. "Applicant's Goods/Services" shall mean any and all goods/services to which Applicant applies the designation WALL OF VOODOO or any variations thereof.

6. "Opposer's Goods/Services" shall mean any and all goods/services to which Opposer applies the designation WALL OF VOODOO or any variations thereof.
7. The term "Person" or "Persons" refers to individuals, companies, divisions, corporate or other business entities, partnerships, groups, associations, governmental entities, or other organizations.
8. The term "Date" shall mean the exact day, month, and year, if ascertainable, or if not, the best approximation.
9. The term "Document" or "Documents" as used herein has the full extent of its meaning as provided in Rule 34, Federal Rules of Civil Procedure, and includes all correspondence, books, records, notes, brochures, sell sheets, memoranda, labels, writings, displays, photographs, drawings, sketches, illustrative material, video and audio tapes, computer diskettes and printouts, CD ROMs, microfilms, electronic mail databases and printouts, and all other means by which information is stored for retrieval in fixed form, and all other materials, whether printed, typewritten, handwritten, recorded, fixed or reproduced by any other process now known or developed and deployed during the pendency of this proceeding. The term "document" or "documents" is used herein in its customary broad sense as defined in FRCP 34(a)(1), and includes, without limitation to, the original and all copies (carbon, photocopy, photographic, microfilm, or otherwise) of any advertising or promotional material (including, without limitation, art work, copies of drafts thereof, proofs, tear sheets, scripts, storyboards, etc.), brochures, business cards, travel tickets, lodging confirmations, lists of customers, lists of

customer inquiries, rate schedules, letters, correspondence, customer or other complaints, books, journals, ledgers, working papers, invoices, contracts, purchase orders, estimates, reports, memoranda, interoffice communications, records, studies, appraisals, papers, charts, recordings of or memoranda of any conversation (by telephone or otherwise), meeting or conference, or any other writing however produced or reproduced; all other handwritten, typed, printed, or otherwise visually or aurally reproduced materials, whether copies or originals, including, but not limited to, letters, cables, wires, memoranda, and interoffice communications; reports, notes, minutes, and recordings; drawings, blueprints, sketches, charts, photographs, microfilm records, data compilations, and movies; copyrights, copyright registration applications, trademarks, trademark applications, assignments, contracts, agreements, licenses, and other official documents and legal instruments; published material of any kind; annual reports, reports to shareholders and minutes or reports of meetings of directors or executive boards or committees; advertising or promotional literature and press releases; engineering notebooks and data; and ledgers, bills, orders, books, records, and files that are in the possession, custody or control of Opposer or any of its officers, agents, or employees and/or Opposer's attorneys. The term "document" or "documents" also includes all copies that are not identical with the original.

10. The term "Business Entity" includes, without limitation, individuals, associations, partnerships, corporations, and other business organizations, and governmental

agencies, and "related companies" as the term is used in the Trademark Act , 15 U.S.C. 1051 *et seq.*, whether formal or informal.

11. The term "Third Party" shall include, without limitation, manufacturers, distributors, importers, merchants, retailers, wholesalers, and ultimate purchasers, but shall not include Applicant or Opposer.
12. The term "Identify" as used herein means:
 - (a) in the case of a natural person, to state for each person his or her: (i) full name; (ii) present residence address and telephone number; (iii) present business address and telephone number; (iv) present position, business affiliation, and job description; and (v) if any of the information set forth in (i)-(iv) is unknown, so state and set forth the corresponding last, known such information;
 - (b) in the case of a corporation or other business entity, to state for each corporation or business entity: (i) its full name; (ii) its legal form (i.e., corporation, partnership, etc.) and state of incorporation or legal formation; (iii) its address and principal place of business; (iv) the identity of officers or other persons having knowledge of the matter with respect to which the corporation or entity is named; and (v) the connection to Opposer's response; and
 - (c) in the case of a document, to state for each document: (i) the identity of the person(s) originating and preparing it and the sender, (ii) its general type (*e.g.*, letter, memo, report, invoice, etc.), title, identifying number and the general nature of its subject matter; (iii) the identity of the addressees and distributees, if any;

(iv) its date of preparation; (v) its date and manner of transmission, distribution and publication, if any; (vi) the location of each copy (including title, index number and location of the file in which it is kept or from which it was removed) and the identity of the present custodian or persons responsible for its filing or other disposition; and (vii) the identity of persons who can authenticate or identify it.

(d) in the case of a thing including but not limited to products or physical things, "identify" means to furnish a complete description of the thing, including its common designation, its composition, its physical description, and any other distinguishing characteristics. If the thing is a label or tags, also describe how it is used on the goods, and its inclusive period of use.

13. As used herein, "and" as well as "or" shall be construed either disjunctively or conjunctively as necessary in order to bring within the scope of the request all documents and things which might otherwise be construed to be outside its scope.

14. As used herein, the singular shall always include the plural and the present tense shall always include the past tense.

15. The term "thing" as used herein refers to any tangible object other than a document, and includes objects of every kind and nature such as, but not limited to, prototypes, models, specimens, computer disks and tapes, videotapes and audiotapes.

16. "Address" means the street address, including the city, state, and zip code.

Interrogatories

Interrogatory No. 1:

State all facts and evidence you rely on to support the contention, in paragraph 1 of the Notice of Opposition, that “[t]he musical business entertainment enterprise ‘Wall of Voodoo’...was commenced in 1978.”

Interrogatory No. 2:

State the date and location of the first public performance by member(s) of the musical business entertainment enterprise “Wall of Voodoo.”

Interrogatory No. 3

State the names of each of the actual member(s) of the musical business entertainment enterprise “Wall of Voodoo” who performed at the band’s first public performance.

Interrogatory No. 4:

Identify each and every contract which you contend establishes membership, participation, and/or ownership of the musical business entertainment enterprise “Wall of Voodoo.”

Interrogatory No. 5:

State all facts and evidence you rely on to support the contention, in paragraph 2 of the Notice of Opposition, that Bruce Moreland was a “founding original member/participant/owner[]” of the mark WALL OF VOODOO, including but not limited to the specific date of commencement of said ownership.

Interrogatory No. 6:

State all facts and evidence you rely on to support the contention, in paragraph 2 of the Notice of Opposition, that Marc Moreland was a “founding original member/participant owner[]” of the mark WALL OF VOODOO, including but not limited to the specific date of commencement of said ownership.

Interrogatory No. 7:

State all facts and evidence you rely on to support the contention, in paragraph 2 of the Notice of Opposition, that Joseph Nanini was a “founding original member/participant owner[]” of the mark WALL OF VOODOO, including but not limited to the specific date of commencement of said ownership.

Interrogatory No. 8:

State all facts and evidence you rely on to support the contention, in paragraph 2 of the Notice of Opposition, that Chas T. Gray was a “founding original member/participant owner[]” of the mark WALL OF VOODOO, including but not limited to the specific date of commencement of said ownership.

Interrogatory No. 9:

State all facts and evidence you rely on to support the contention, in paragraph 3 of the Notice of Opposition, that “[f]rom 1978 to 1982, the musical business entertainment enterprise ‘Wall of Voodoo’ became established...garnering media attention and critical praise, both in the United States and abroad.”

Interrogatory No. 10:

State all facts and evidence you rely on to support the contention, in paragraph 3 of the Notice of Opposition, that “[f]rom 1978 to 1982, the musical business

entertainment enterprise 'Wall of Voodoo'...enjoy[ed] significant sales of commercial recordings produced by 'Wall of Voodoo.'”

Interrogatory No. 11:

Identify in detail any and all participation by Bruce Moreland in the production of any goods or services (including but not limited to the making of specific commercial recordings, videos, and public performances) commercialized and/or sold-under the mark WALL OF VOODOO.

Interrogatory No. 12:

State with specificity all dates that Bruce Moreland commenced participation and terminated participation as an active member of the musical business entertainment enterprise Wall of Voodoo.

Interrogatory No. 13:

State with specificity the circumstances regarding Bruce Moreland's participation and terminated participation as an active member of the musical business entertainment enterprise Wall of Voodoo.

Interrogatory No. 14:

State all facts and evidence you rely on to support the contention, in paragraph 4 of the Notice of Opposition, that “[i]n 1982, Mr. Funsten chose to end his participation and ownership interest in the music business enterprise 'Wall of Voodoo.'”

Interrogatory No. 15:

State all facts and evidence you rely on to support the contention, in paragraph 5 of the Notice of Opposition, that in 1983, Stan Funsten, “departed 'Wall of Voodoo,' foregoing all future interest in the music business enterprise 'Wall of Voodoo.'”

Interrogatory No. 16:

State all facts and evidence you rely on to support the contention, in paragraph 6 of the Notice of Opposition, that in 1983, Stan Funsten, “commenced a career as a ‘solo artist.’”

Interrogatory No. 17:

State all facts and evidence you rely on to support the contention, in paragraph 7 of the Notice of Opposition, that “[t]he remaining participant/owners of the music business enterprise ‘Wall of Voodoo’ continued on without Stan Funsten, adding new participant/owners, making commercial recordings, videos, and public performances to music consumers and audiences in the United States and abroad,” including but not limited to identifying each commercial recording, video and public performance.

Interrogatory No. 18:

State all facts and evidence you rely on to support the contention, in paragraph 8 of the Notice of Opposition, that Stan Funsten “falsely enhanced his role in the band and defamed those who threatened his revisionist and self-serving ‘history.’”

Interrogatory No. 19:

State all facts and evidence you rely on to support the contention, in paragraph 9 of the Notice of Opposition, that “Mr. Funsten is, by the 1983 formal agreement, specifically excluded from using the name ‘Wall of Voodoo’ for any and all purposes.”

Interrogatory No. 20:

State all facts and evidence you rely on to support the contention, in paragraph 11 of the Notice of Opposition, that the Trademark Application would confuse the public.

Interrogatory No. 21:

State all facts and evidence you rely on to support the contention, in paragraph 11 of the Notice of Opposition, that the Trademark Application would harm your rightful interests and future earnings.

Interrogatory No. 22:

Identify and describe all the goods and services for which Opposer has used and is using the mark WALL OF VOODOO, including but not limited to the date of first use of the mark WALL OF VOODOO on the goods or services and whether that use has been continuous; the geographic areas in which the goods or services have been marketed or distributed; the individuals, retail stores, or other purchasers or clients to whom the goods or services were sold or provided; and the last date on which said goods or services were marketed or sold.

Interrogatory No. 23:

Describe the circumstances and method by which Opposer selected and first used the trademark or trade name WALL OF VOODOO for each type of goods or services for which it is used.

Interrogatory No. 24:

State whether any searches or investigations were conducted by Opposer or any person on its behalf (including its attorneys) to determine whether the mark or name WALL OF VOODOO was available and registrable as a trademark or trade name, and if so, identify each such search or investigation.

Interrogatory No. 25:

State Opposer's annual marketing, advertising and promotional expenditures since it first started marketing, advertising and/or promoting the goods and services provided in connection with or under the mark or trade name WALL OF VOODOO.

Interrogatory No. 26:

Identify each different label, hangtag, wrapper, container, advertisement, brochure, and the like, which contains or bears the mark or trade name WALL OF VOODOO.

Interrogatory No. 27:

Identify each person employed by Opposer and each outside agent or agency retained by Opposer who has been or now is responsible for (a) marketing, advertising and promotion, and (b) bookkeeping and accounting with respect to any goods or services offered for sale or sold under the mark or trade name WALL OF VOODOO or any variations thereof.

Interrogatory No. 28:

Identify the media, including but not limited to, all publications, Internet web pages, radio and television stations, through which Opposer has advertised or promoted its goods or services under the mark or trade name WALL OF VOODOO.

Interrogatory No. 29:

For each good or service bearing or sold under the mark WALL OF VOODOO, or any variation thereof, set forth the approximate dollar amount of Opposer's annual sales per calendar year of such goods or services since commencement of use of the mark in commerce.

Interrogatory No. 30:

Identify and describe all prices and fees of Opposer for each product or service provided under the mark WALL OF VOODOO.

Interrogatory No. 31:

Identify each person Opposer has licensed or authorized to sell, distribute, or otherwise provide products or services to under the mark WALL OF VOODOO.

Interrogatory No. 32:

Identify the witnesses Opposer intends to call to testify on its behalf in connection with this proceeding and state the facts or subject matter concerning which each are expected to testify.

Interrogatory No. 33:

Identify any instance or occurrence in which any person was actually confused between Opposer and Applicant and/or their respective services or goods due to the use of the mark or trade name WALL OF VOODOO, and describe with specificity each such instance or occurrence.

Interrogatory No. 34:

Identify the trade channels through which Opposer has sold or offered and now is offering or selling goods or services under the mark or trade name WALL OF VOODOO.

Interrogatory No. 35:

State whether Opposer, or any person acting for or on its behalf, has conducted any type of inquiry or investigation of Applicant or his adoption, use, or registration of the mark or trade name WALL OF VOODOO, and if so, state the date the inquiry or

investigation was conducted; identify each person who conducted and reviewed it; and state with specificity the findings that were made.

Interrogatory No. 36:

State whether Opposer or any person acting for or on behalf of Opposer has consulted with or retained the services of any expert with respect to any of the issues involved in this proceeding, and if so, identify such expert, identify all documents upon which the expert will base his/her expert opinion, and describe the subject matter concerning which he/she was consulted or retained.

Interrogatory No. 37:

Identify all documents and evidence of Opposer's efforts to police and protect the mark or trade name WALL OF VOODOO.

Interrogatory No. 38:

Identify all persons, including third parties, who are most knowledgeable about the adoption and use of the mark or trade name WALL OF VOODOO, and summarize the extent of that knowledge, including first dates of use.

Interrogatory No. 39:

Identify each person who participated in the preparation of Opposer's responses to the foregoing interrogatories or furnished any information in response thereto, and for each specify the interrogatory for which each such person provided information or participated in the preparation of.

Interrogatory No. 40:

Identify all documents relating to the subject matter of the foregoing interrogatories and those used in the preparation of Opposer's responses to these interrogatories.

Interrogatory No. 41:

Identify all documents which you refer or relate to in your responses to Interrogatories No. 1 through 40.

Respectfully submitted,



Elise Tenen-Aoki
Peter Gluck
Greenberg Traurig LLP
650 Town Center Drive
Suite 1700
Costa Mesa, CA 92626
Phone: 714.708.6500 Fax: 714.708.6501

Certificate of Service

The undersigned hereby certifies that a true and correct copy of the foregoing APPLICANT'S FIRST SET OF INTERROGATORIES was previously served by first class mail, postage prepaid on January 9, 2007 on counsel for Opposer and was served March 6, 2007 via Certified Mail No.7004 2510 0003 5653 9514 on counsel for Opposer:

Bruce Moreland
375 Redondo Ave #259
Long Beach, CA 90814

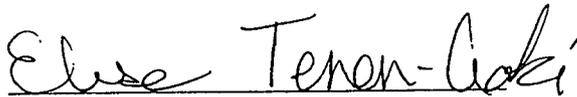

Elise Tenen-Aoki

EXHIBIT 4

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

BRUCE MORELAND
375 REDONDO AVE #259
LONG BEACH, CA 90814

2. Article Number:

(Transfer from service label)

7004 2510 0003 5653 9514

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

COMPLETE THIS SECTION ON DELIVERY

A. Signature

[Handwritten Signature] Agent
 Addressee

B. Received by (Printed Name)

C. Date of Delivery

[Handwritten Name] *[Handwritten Date: 3/7/07]*

D. Is delivery address different from item 1? Yes

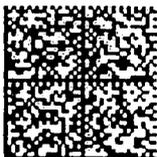
If YES, enter delivery address below: No

3. Service Type

- Certified Mail Express Mail
- Registered Return Receipt for Merchandise
- Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee)

Yes



02 1A \$ 00.00⁹
0004399669 MAR 06 2007
MAILED FROM ZIP CODE 92626

**U.S. Postal Service™
CERTIFIED MAIL™ RECEIPT**
(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

OFFICIAL USE

| | |
|---|----|
| Postage | \$ |
| Certified Fee | |
| Return Receipt Fee (Endorsement Required) | |
| Restricted Delivery Fee (Endorsement Required) | |
| Total Postage & Fees | \$ |

Postmark
Here

Sent To

BRUCE MORELAND

Street, Apt. No.,

or PO Box No.

375 REDONDO AVE. #259

City, State, ZIP+4

LONG BEACH, CA 90814

7004 2510 0003 5653 9514

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

| | | |
|-----------------|---|-------------------------|
| Moreland, Bruce |) | |
| |) | Opposition No. 91173381 |
| Opposer, |) | |
| |) | |
| vs. |) | |
| |) | |
| Funsten, Stan |) | |
| |) | |
| Applicant. |) | |

APPLICANT'S FIRST SET OF REQUESTS FOR
PRODUCTION OF DOCUMENTS AND THINGS

The Applicant, Stan Funsten, by and through his attorney, propounds to Opposer, Bruce Moreland, pursuant to F.R.Civ.P. 34, the following requests for documents to be answered fully and separately in writing and under oath.

General Definitions and Instructions

All interrogatories are to be answered on the basis of Opposer's knowledge or information and belief, including that of its officers, employees, directors, or agents having such knowledge. If any answer is given on information and belief, such fact should be stated in the answer.

If any information called for in any interrogatory is being withheld on the grounds that it is subject to the attorney-client privilege or any other privilege, Opposer is hereby directed to state with respect to such interrogatory that the information is being withheld and state the alleged ground of privilege.

The following definitions are applicable herein:

1. The terms "Opposer" and "you" or "yours" mean and refer to the Opposer, Bruce Moreland; the unincorporated association of "Wall of Voodoo" associates, (including but not limited to Bruce Moreland, Frederique Moreland for the estate of Marc Moreland, Charles T. Gray, Gayle Nanini for the estate of Joseph Nanini, Mrs. Bonnie Hart, party of interest in the estate of her son Marc Moreland and Ned Leukhardt) its subsidiaries and any merged or acquired subsidiaries; its predecessors in-interest, or controlled, controlling related, or affiliated companies; any licensee; and Opposer's past and present officers, directors, employees, agents, representatives, and attorneys, all to the fullest extent the context permits.
2. The term "Applicant" means and refers to the Applicant, Stan Funsten, and any of his officers, directors, agents, employees, associates, and attorneys, both present and past.
3. The term "Trademark Application" and similar terms means and refers to Trademark Application Serial No. 78591881 for the mark WALL OF VOODOO published in the Official Gazette on August 8, 2006.
4. The term "Notice of Opposition" and similar terms means and refers to the Notice of Opposition filed in the United States Patent and Trademark Office Before the Trademark Trial and Appeal Board on October 11, 2006 by Opposer, Bruce Moreland, in regard to the matter of trademark application Serial No. 78591881 for the mark: WALL OF VOODOO.

5. "Applicant's Goods/Services" shall mean all goods/services to which Applicant applies the designation WALL OF VOODOO or variation thereof.
6. "Opposer's Goods/Services" shall mean all goods/services to which Opposer applies the designation WALL OF VOODOO or variation thereof.
7. The term "Person" or "Persons" refers to individuals, companies, divisions, corporate or other business entities, partnerships, groups, associations, governmental entities, or other organizations.
8. The term "Date" shall mean the exact day, month, and year, if ascertainable, or if not, the best approximation.
9. The term "Document" or "Documents" as used herein has the full extent of its meaning as provided in Rule 34, Federal Rules of Civil Procedure, and includes all correspondence, books, records, notes, brochures, sell sheets, memoranda, labels, writings, displays, photographs, drawings, sketches, illustrative material, video and audio tapes, computer diskettes and printouts, CD ROMs, microfilms, electronic mail databases and printouts, and all other means by which information is stored for retrieval in fixed form, and all other materials, whether printed, typewritten, handwritten, recorded, fixed or reproduced by any other process now known or developed and deployed during the pendency of this proceeding. The term "document" or "documents" is used herein in its customary broad sense as defined in FRCP 34(a)(1), and includes, without limitation to, the original and all copies (carbon, photocopy, photographic, microfilm, or otherwise) of any advertising or promotional material (including, without limitation, art work,

copies of drafts thereof, proofs, tear sheets, scripts, storyboards, etc.), brochures, business cards, travel tickets, lodging confirmations, lists of customers, lists of customer inquiries, rate schedules, letters, correspondence, customer or other complaints, books, journals, ledgers, working papers, invoices, contracts, purchase orders, estimates, reports, memoranda, interoffice communications, records, studies, appraisals, papers, charts, recordings of or memoranda of any conversation (by telephone or otherwise), meeting or conference, or any other writing however produced or reproduced; all other handwritten, typed, printed, or otherwise visually or aurally reproduced materials, whether copies or originals, including, but not limited to, letters, cables, wires, memoranda, and interoffice communications; reports, notes, minutes, and recordings; drawings, blueprints, sketches, charts, photographs, microfilm records, data compilations, and movies; copyrights, copyright registration applications, trademarks, trademark applications, assignments, contracts, agreements, licenses, and other official documents and legal instruments; published material of any kind; annual reports, reports to shareholders and minutes or reports of meetings of directors or executive boards or committees; advertising or promotional literature and press releases; engineering notebooks and data; and ledgers, bills, orders, books, records, and files that are in the possession, custody or control of Opposer or any of its officers, agents, or employees and/or Opposer's attorneys. The term "document" or "documents" also includes all copies that are not identical with the original.

10. The term "Business Entity" includes, without limitation, individuals, associations, partnerships, corporations, and other business organizations, and governmental agencies, and "related companies" as the term is used in the Trademark Act , 15 U.S.C. 1051 *et seq.*, whether formal or informal.
11. The term "Third Party" shall include, without limitation, manufacturers, distributors, importers, merchants, retailers, wholesalers, and ultimate purchasers, but shall not include Applicant or Opposer.
12. The term "Identify" as used herein means:
 - (a) in the case of a natural person, to state for each person his or her: (i) full name; (ii) present residence address and telephone number; (iii) present business address and telephone number; (iv) present position, business affiliation, and job description; and (v) if any of the information set forth in (i)-(iv) is unknown, so state and set forth the corresponding last, known such information;
 - (b) in the case of a corporation or other business entity, to state for each corporation or business entity: (i) its full name; (ii) its legal form (i.e., corporation, partnership, etc.) and state of incorporation or legal formation; (iii) its address and principal place of business; (iv) the identity of officers or other persons having knowledge of the matter with respect to which the corporation or entity is named; and (v) the connection to Opposer's response; and
 - (c) in the case of a document, to state for each document: (i) the identity of the person(s) originating and preparing it and the sender, (ii) its general type (e.g.,

letter, memo, report, invoice, etc.), title, identifying number and the general nature of its subject matter; (iii) the identity of the addressees and distributees, if any; (iv) its date of preparation; (v) its date and manner of transmission, distribution and publication, if any; (vi) the location of each copy (including title, index number and location of the file in which it is kept or from which it was removed) and the identity of the present custodian or persons responsible for its filing or other disposition; and (vii) the identity of persons who can authenticate or identify it.

(d) in the case of a thing including but not limited to products or physical things, "identify" means to furnish a complete description of the thing, including its common designation, its composition, its physical description, and any other distinguishing characteristics. If the thing is a label or tags, also describe how it is used on the goods, and its inclusive period of use.

13. As used herein, "and" as well as "or" shall be construed either disjunctively or conjunctively as necessary in order to bring within the scope of the request all documents and things which might otherwise be construed to be outside its scope.

14. As used herein, the singular shall always include the plural and the present tense shall always include the past tense.

15. The term "thing" as used herein refers to any tangible object other than a document, and includes objects of every kind and nature such as, but not limited to, prototypes, models, specimens, computer disks and tapes, videotapes and audiotapes.

16. "Address" means the street address, including the city, state, and zip code.
17. These requests shall be deemed continuing in accordance with Rule 26(e) of the Federal Rules of Civil Procedure.

REQUEST FOR DOCUMENTS

Pursuant to F.R.Civ.P. Rule 34, please produce the following:

- 1) Copies of all documents and things evidencing, relating or referring to the date of commencement of the musical business entertainment enterprise "Wall of Voodoo," including but not limited to documents evidencing the date and location of the first public performance of "Wall of Voodoo."
- 2) Copies of all documents and things evidencing, relating or referring to the founding original members, participants, and/or owners of the musical business entertainment enterprise "Wall of Voodoo."
- 3) Copies of all documents and things evidencing, constituting, relating or referring to a contract involving the musical business entertainment enterprise "Wall of Voodoo" and/or the use of any mark or trade name associated therewith.
- 4) Copies of all documents and things evidencing, relating or referring to the involvement and/or participation of Marc Moreland in the musical business entertainment enterprise "Wall of Voodoo," including but not limited to any documents regarding termination of such participation.
- 5) Copies of all documents and things evidencing, relating or referring to the involvement and/or participation of Bruce Moreland in the musical business

entertainment enterprise "Wall of Voodoo," including but not limited to any documents regarding termination of such participation.

6) Copies of all documents and things evidencing, relating or referring to the involvement and/or participation of Stan Funsten in the musical business entertainment enterprise "Wall of Voodoo," including but not limited to any documents regarding termination of such participation.

7) Copies of all documents and things evidencing, relating or referring to the involvement and/or participation of Joseph Nanini in the musical business entertainment enterprise "Wall of Voodoo," including but not limited to any documents regarding termination of such participation.

8) Copies of all documents and things evidencing, relating or referring to the involvement and/or participation of Chas T. Gray in the musical business entertainment enterprise "Wall of Voodoo," including but not limited to any documents regarding termination of such participation.

9) Copies of all documents and things evidencing, relating or referring to your contention, in paragraph 3 of the Notice of Opposition, that "[f]rom 1978 to 1982, the musical business entertainment enterprise 'Wall of Voodoo' became established...garnering media attention and critical praise, both in the United States and abroad."

10) Copies of all documents and things evidencing, relating or referring to the annual sales of commercial recordings produced by "Wall of Voodoo" from 1977 to the present.

11) Copies of all documents and things evidencing, relating or referring to the production of any goods or services (including but not limited to the making of specific commercial recordings, videos, and public performances) commercialized and/or sold under the mark WALL OF VOODOO.

12) Copies of all documents and things evidencing, relating or referring to your contention, in paragraph 5 of the Notice of Opposition, that in 1983, Stan Funsten, “departed ‘Wall of Voodoo,’ foregoing all future interest in the music business enterprise ‘Wall of Voodoo.’”

13) Copies of all documents and things evidencing, relating or referring to your contention, in paragraph 6 of the Notice of Opposition, that in 1983, Stan Funsten, “commenced a career as a ‘solo artist.’”

14) Copies of all documents and things evidencing, relating or referring to your contention, in paragraph 7 of the Notice of Opposition, that “[t]he remaining participant/owners of the music business enterprise ‘Wall of Voodoo’ continued on without Stan Funsten, adding new participant/owners, making commercial recordings, videos, and public performances to music consumers and audiences in the United States and abroad.”

15) Copies of all documents and things evidencing, relating or referring to your contention, in paragraph 8 of the Notice of Opposition, that Stan Funsten “falsely enhanced his role in the band and defamed those who threatened his revisionist and self-serving ‘history.’”

16) Copies of all documents and things evidencing, relating or referring to your contention, in paragraph 9 of the Notice of Opposition, that “Mr. Funsten is, by the

1983 formal agreement, specifically excluded from using the name 'Wall of Voodoo' for any and all purposes."

17) Copies of all documents and things evidencing, relating or referring to your contention, in paragraph 11 of the Notice of Opposition, that the Trademark Application would confuse the public.

18) Copies of all documents and things evidencing, relating or referring to your contention, in paragraph 11 of the Notice of Opposition, that the Trademark Application would harm your rightful interests and future earnings.

19) Copies of all documents and things evidencing, relating or referring to the goods and services for which Opposer has used and is using the mark WALL OF VOODOO.

20) Copies of all documents and things evidencing, relating or referring to the circumstances and method by which Opposer selected and first used the mark or trade name WALL OF VOODOO for each type of goods or services for which it is used.

21) Copies of all documents and things evidencing, relating or referring to any searches or investigations conducted by Opposer or any person on its behalf (including its attorneys) to determine whether the mark or name WALL OF VOODOO was available and registrable as a trademark or trade name.

22) Copies of all documents and things evidencing, relating or referring to Opposer's annual marketing, advertising and promotional expenditures since it first started marketing, advertising and/or promoting the goods and services provided in connection with or under the mark or trade name WALL OF VOODOO on an annual basis from 1977 to the present.

23) Copies of all documents and things, including but not limited to labels, hangtags, wrappers, containers, advertisements, brochures, and the like, which contain or bear the mark or trade name WALL OF VOODOO.

24) Copies of all media, including but not limited to all publications, Internet web pages, radio and television station ads and/or interviews, through which Opposer has advertised or promoted its goods and services under the mark or trade name WALL OF VOODOO from 1977 to the present.

25) Copies of documents and things evidencing, relating or referring to the prices and fees charged by Opposer for each product or service provided under the mark WALL OF VOODOO.

26) Copies of documents and things evidencing, relating or referring to any agreements involving licensing or authorizing to sell, distribute, or otherwise provide products or services under the mark WALL OF VOODOO.

27) Copies of all correspondence between Bruce Moreland and any other person regarding or relating to the mark or trade name WALL OF VOODOO.

28) Copies of all documents and things evidencing, relating or referring to any instance or occurrence in which any person was actually confused between Opposer and Applicant and/or their respective services or goods due to the use of the mark or trade name WALL OF VOODOO, and describe with specificity each such instance and occurrence.

29) Copies of all documents and things evidencing, relating or referring to the trade channels through which Opposer has sold or offered under the mark or trade name WALL OF VOODOO.

30) Copies of all documents and things evidencing, relating or referring to any type of inquiry or investigation of Applicant or his adoption, use, or registration of the mark or trade name WALL OF VOODOO.

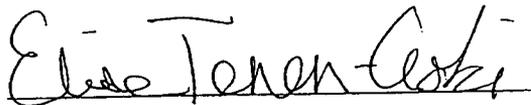
31) Copies of all documents and things evidencing, relating or referring to any consultant or expert opinion regarding ownership of the mark or trade name WALL OF VOODOO.

32) Copies of all documents and things evidencing, relating or referring to Opposer's efforts to police and protect the mark or trade name WALL OF VOODOO.

33) Copies of all documents and things evidencing, relating or referring to any media or press releases, interviews, articles or other writings regarding the musical business entertainment enterprise "Wall of Voodoo."

34) Copies of all documents and things evidencing, relating or referring to the designation of Bruce Moreland as the formal representative of the unincorporated association of "Wall of Voodoo" associates: Bruce Moreland; Frederique Moreland for the estate of Marc Moreland; Charles T. Gray; Gayle Nanini for the estate of Joseph Nanini; Mrs. Bonnie Hart, party of interest in the estate of her son Marc Moreland and Ned Leukhardt.

Respectfully submitted,



Elise Tenen-Aoki
Peter Gluck
Greenberg Traurig LLP
650 Town Center Drive
Suite 1700
Costa Mesa, CA 92626
Phone: 714.708.6500 Fax: 714.708.6501

Certificate of Service

The undersigned hereby certifies that a true and correct copy of the foregoing APPLICANT'S FIRST SET OF REQUEST FOR PRODUCTION OF DOCUMENTS AND THINGS was previously served by first class mail, postage prepaid on January 9, 2007 on counsel for Opposer and was served March 6, 2007 via Certified Mail No.7004 2510 0003 5653 9514 on counsel for Opposer:

Bruce Moreland
375 Redondo Ave #259
Long Beach, CA 90814

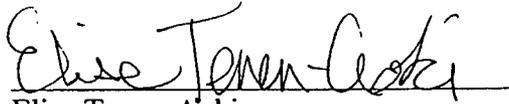

Elise Tenen-Aoki

EXHIBIT 5

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

In the matter of application Serial No. 78/591,881
Published in the Official Gazette on August 8, 2006

| | | |
|-----------------|---|-------------------------|
| Moreland, Bruce |) | |
| |) | Opposition No. 91173381 |
| Opposer, |) | |
| |) | |
| vs. |) | |
| |) | |
| Funsten, Stan |) | |
| |) | |
| Applicant. |) | |

DEPOSITION NOTICE FOR BRUCE MORELAND

PLEASE TAKE NOTICE that, pursuant to the provisions of Fed. R. Civ. P. 30 and 45, and Trademark Trial And Appeal Board Manual of Procedure §404, Applicant, Stan Funsten will proceed to take deposition of **Bruce Moreland**, whose address is 375 Redondo Avenue No. 259, Long Beach, California 90814, to testify to the topics of Schedule A, together with all documents related thereto, on **May 3, 2007**, beginning at 9:00 a.m., at the offices of Greenberg Traurig LLP, 650 Town Center Drive, Suite 1700, Costa Mesa, California 92626, before a duly authorized officer certified to administer oaths and take depositions. Said deposition will be taken stenographically, will be taken for the purpose of discovery and all other purposes authorized by law, and will continue until completed.

Pursuant to Fed. R. Civ. P. 30(b)(5) and 34, Mr. Bruce Moreland is to bring to the deposition the documents identified in Schedule B.

You are invited to attend and cross-examine.

DATED this 18 day of April, 2007.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Elise Tenen-Aoki', written over a horizontal line.

Elise Tenen-Aoki
Peter J. Gluck
Ehab M. Samuel
Greenberg Traurig LLP
650 Town Center Drive, Suite 1700
Costa Mesa, CA 92626
Phone: 714.708.6500
Fax: 714.708.6501

SCHEDULE A
TO APPLICANT'S DEPOSITION NOTICE
FOR BRUCE MORELAND

1. Any and all information regarding your representation of the unincorporated association of "Wall of Voodoo associates": Frederique Moreland for the estate of Marc Moreland, Charles T. Gray, Gayle Nanini for the estate of Joseph Nanini, Boonie Hart party of interest of her son Marc Moreland, and Ned Leukhardt.

2. Any and all information regarding your role with the "Wall of Voodoo" rock and roll group.

3. Any and all information regarding the role of the "Wall of Voodoo associates" with the "Wall of Voodoo" rock and roll group.

4. Any and all information regarding your rights to the name "Wall of Voodoo."

5. Any and all information regarding the rights of the "Wall of Voodoo associates" to the name "Wall of Voodoo."

6. Any and all information regarding the rights of Stan Funsten to the WALL OF VOODOO mark.

SCHEDULE B
TO APPLICANT'S DEPOSITION NOTICE
FOR BRUCE MORELAND

INSTRUCTIONS

A. YOU must produce all DOCUMENTS responsive to these requests which are in your actual or constructive possession, custody or control, including all DOCUMENTS within the actual or constructive possession, custody or control of any representative, agent, employee, attorney, accountant, investigator or any person acting for YOU or on YOUR behalf.

A. All DOCUMENTS are to be produced in the files in which such DOCUMENTS have been maintained and in the order within each file in which such DOCUMENTS have been maintained.

B. If YOU withhold any DOCUMENT(S) from production on the basis of a claim of attorney-client or any other privilege, or on the basis of the attorney work-product doctrine, YOU must set forth with specificity the privilege or work product claim and furnish a list identifying each DOCUMENT for which the privilege or work product doctrine is claimed, together with:

1. a brief description of the nature and subject matter, including the title and type of the document;
2. the date of preparation;
3. the name and title of the author(s);
4. the name and title of the addressee(s);
5. the name and title of all persons to whom the DOCUMENT was sent, including blind carbon copies;
6. the number of pages;
7. the DOCUMENT request(s) to which the withheld information or DOCUMENT is otherwise responsive; and
8. the complete basis upon which YOU contend YOU are entitled to withhold the information or DOCUMENT from production.

C. If YOU know of the existence, past or present, of any DOCUMENT requested herein, but are unable to produce such DOCUMENT because it is not presently

in YOUR possession, custody or control, or in the possession, custody or control of YOUR agents, representatives or attorneys, YOU shall so state in YOUR response and shall identify (by title, if any, nature of DOCUMENT and subject matter) such DOCUMENT and shall identify (by name, address and telephone number) the person in whose possession, custody or control the DOCUMENT was last known to reside.

D. If any DOCUMENT requested herein has been lost, discarded or destroyed, the DOCUMENT so lost, discarded or destroyed shall be identified as completely as possible in your response to the particular request, including, without limitation, the following information: date, content, author(s) and recipient(s) of the document(s); date of disposal; manner of disposal and person disposing of the DOCUMENTS. YOU shall further identify in your response to the request the name, address and telephone number of the person in whose possession, custody or control the DOCUMENT was last known to reside.

E. If, in responding to this inspection demand, YOU claim that there is any ambiguity in either a particular request or in a definition or an instruction applicable thereto, such claim shall not be used by YOU as a basis for refusing to respond, but YOU shall set forth as part of the response the language deemed to be ambiguous and the interpretation chosen or used in responding to the particular request.

F. For purposes of interpreting or construing the following DOCUMENT requests, the terms used are to be given their most expansive and inclusive interpretation unless otherwise specifically limited in the DOCUMENT request itself. This includes, without limitation, the following:

1. Construing the words "and" and "or" used in any DOCUMENT request in the disjunctive or conjunctive as necessary, to make the DOCUMENT request more inclusive;

2. Construing the words "any" and "all" used in any DOCUMENT request to mean "any and all" as necessary to make the document request more inclusive;

3. Construing the singular form of any word to include the plural and the plural form to include the singular; and

4. Construing the masculine form to include the feminine and/or the gender neutral form.

G. The requests are not duplicative. If a DOCUMENT is produced in response to one request or in response to a prior deposition notice, it need not be produced in response to another request.

DEFINITIONS

1. The term "YOU" means and refer to the Opposer, Bruce Moreland; the unincorporated association of "Wall of Voodoo" associates, (including but not limited to Bruce Moreland, Frederique Moreland for the estate of Marc Moreland, Charles T. Gray, Gayle Nanini for the estate of Joseph Nanini, Mrs. Bonnie Hart, party of interest in the estate of her son Marc Moreland and Ned Leukhardt)its subsidiaries and any merged or acquired subsidiaries; its predecessors in-interest, or controlled, controlling related, or affiliated companies; any licensee; and Opposer's past and present officers, directors, employees, agents, representatives, and attorneys, all to the fullest extent the context permits.

2. The term "APPLICANT" means and refers to the Applicant, Stan Funsten, and any of his officers, directors, agents, employees, associates, and attorneys, both present and past.

3. The term "DOCUMENT" or "DOCUMENTS" as used herein has the full extent of its meaning as provided in Rule 34, Federal Rules of Civil Procedure, and includes all correspondence, books, records, notes, brochures, sell sheets, memoranda, labels, writings, displays, photographs, drawings, sketches, illustrative material, video and audio tapes, computer diskettes and printouts, CD ROMs, microfilms, electronic mail databases and printouts, and all other means by which information is stored for retrieval in fixed form, and all other materials, whether printed, typewritten, handwritten, recorded, fixed or reproduced by any other process now known or developed and deployed during the pendency of this proceeding. The term "document" or "documents" is used herein in its customary broad sense as defined in FRCP 34(a)(1), and includes, without limitation to, the original and all copies (carbon, photocopy, photographic, microfilm, or otherwise) of any advertising or promotional material (including, without limitation, art work, copies of drafts thereof, proofs, tear sheets, scripts, storyboards,

etc.), brochures, business cards, travel tickets, lodging confirmations, lists of customers, lists of customer inquiries, rate schedules, letters, correspondence, customer or other complaints, books, journals, ledgers, working papers, invoices, contracts, purchase orders, estimates, reports, memoranda, interoffice communications, records, studies, appraisals, papers, charts, recordings of or memoranda of any conversation (by telephone or otherwise), meeting or conference, or any other writing however produced or reproduced; all other handwritten, typed, printed, or otherwise visually or aurally reproduced materials, whether copies or originals, including, but not limited to, letters, cables, wires, memoranda, and interoffice communications; reports, notes, minutes, and recordings; drawings, blueprints, sketches, charts, photographs, microfilm records, data compilations, and movies; copyrights, copyright registration applications, trademarks, trademark applications, assignments, contracts, agreements, licenses, and other official documents and legal instruments; published material of any kind; annual reports, reports to shareholders and minutes or reports of meetings of directors or executive boards or committees; advertising or promotional literature and press releases; engineering notebooks and data; and ledgers, bills, orders, books, records, and files that are in the possession, custody or control of Opposer or any of its officers, agents, or employees and/or Opposer's attorneys. The term "document" or "documents" also includes all copies that are not identical with the original.

4. The term "THING" as used herein refers to any tangible object other than a document, and includes objects of every kind and nature such as, but not limited to, prototypes, models, specimens, computer disks and tapes, videotapes and audiotapes.

///
///
///
///
///
///
///
///

REQUEST FOR PRODUCTION OF DOCUMENTS

1. YOU must produce all DOCUMENTS and THINGS evidencing, relating or referring to your contention, in paragraph 5 of the Notice of Opposition, that in 1983, Stan Funsten, “departed ‘Wall of Voodoo,’ foregoing all future interest in the music business enterprise ‘Wall of Voodoo.’”

2. YOU must produce all DOCUMENTS responsive to APPLICANT’S FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS AND THINGS, previously served to YOU by first class mail, postage prepaid on January 9, 2007, and was served again to YOU on March 6, 2007 via Certified Mail No. 7004 2510 0003 5653 9514.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing **DEPOSITION NOTICE FOR BRUCE MORELAND** was served April 18, 2007 by **Personal Service** to Opposer:

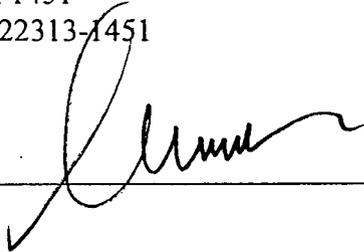
Bruce Moreland
375 Redondo Ave 259
Long Beach, CA 90814

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing **DEPOSITION NOTICE FOR BRUCE MORELAND** was deposited with the United States Postal Service with sufficient postage as **Express mail No. EV 777 772 994 US** to Opposer at the address and on the date indicated below:

Commissioner for Trademarks
Post Office Box 1451
Alexandria, Virginia 22313-1451

Dated: 4/18/09

By:  _____

Issued by the
UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

MORELAND, BRUCE,

Opposer,

SUBPOENA IN A CIVIL CASE

v.

FUNSTEN, STAN,

Applicant.

Case Number: ¹ Opposition No. 91173381
 [In the United States Patent and Trademark Office
 Before the Trademark Trial and Appeal Board]

TO: BRUCE MORELAND, 375 Redondo Avenue, #259, Long Beach, CA 90814

YOU ARE COMMANDED to appear in the United States District Court at the place, date, and time specified below to testify in the above case.

| | |
|--------------------|---------------|
| PLACE OF TESTIMONY | COURTROOM |
| | DATE AND TIME |

YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

| | |
|--|---|
| PLACE OF DEPOSITION Greenberg Traurig, LLP 650 Town Center Drive, Suite 1700, Costa Mesa, CA 92626 | DATE AND TIME Date: May 3, 2007 Time: 9:00 a.m. |
|--|---|

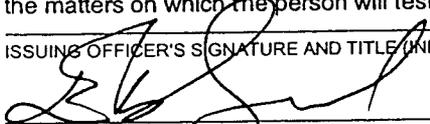
YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):

| | |
|-------|---------------|
| PLACE | DATE AND TIME |
| | |

YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

| | |
|----------|---------------|
| PREMISES | DATE AND TIME |
| | |

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rules of Civil Procedure, 30(b)(6).

| | |
|--|------------------------|
| ISSUING OFFICER'S SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT)  Attorney for Applicant | DATE April 18, 2007 |
|--|------------------------|

| |
|--|
| ISSUING OFFICER'S NAME ADDRESS AND TELEPHONE NUMBER Ehab M. Samuel; Greenberg Traurig, LLP 650 Town Center Drive, Suite 1700, Costa Mesa, CA 92626; Tel: 714-708-6500; Fax: 714-708-6501 |
|--|

(See Rule 45, Federal Rules of Civil Procedure, parts C & D on reverse)

¹ If action is pending in district other than district of issuance, state district under case number.

PROOF OF SERVICE

DATE

PLACE

SERVED

SERVED ON (PRINT NAME)

MANNER OF SERVICE

SERVED BY (PRINT NAME)

TITLE

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on _____
DATE

SIGNATURE OF SERVER

ADDRESS OF SERVER

Rule 45, Federal Rules of Civil Procedure, Parts C & D:

(c) PROTECTION OF PERSONS SUBJECT TO SUBPOENAS.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction which may include, but is not limited to, lost earnings and reasonable attorney's fee.

(2) (A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d) (2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to comply production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3) (A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

(i) fails to allow reasonable time for compliance,

(ii) requires a person who is not a party or an officer of a party to travel to a place more than 100 miles from the place where that person resides, is employed or regularly transacts business in person, except that, subject to

the provisions of clause (c) (3) (B) (iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held, or the demanding party to contest the claim.

(iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or

(iv) subjects a person to undue burden.

(B) If a subpoena

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or

(iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than 100 miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena, or if the party in who behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) DUTIES IN RESPONDING TO SUBPOENA.

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

EXHIBIT 6

| | | | | |
|--|------------------------------|----------------------------------|--------------------|---|
| ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Address): EHAB M. SAMUEL, ESQ. (SBN 228296) GREENBERG TRAUERIG, L.L.P. 650 TOWN CENTER DRIVE, SUITE 1700 COSTA MESA, CA 92626 | | TELEPHONE NO.: (714) 406-6500 | FOR COURT USE ONLY | |
| ATTORNEY FOR (Name): APPLICANT | | Ref. No. or File No. 42121alc | | |
| Insert name of court and name of judicial branch court, if any: U.S. Patent & Trademark Office | | | | |
| SHORT TITLE CASE: MORELAND, BRUCE V. FUNSTEND, STAN | | | | |
| DECLARATION OF DUE DILIGENCE | HEARING DATE: MAY 3, 2007 | TIME: 9:00AM | DEPT./DIV.: | CASE NUMBER: Opposition No. 91173381 |

At the time of service attempt(s), I was at least 18 years old & not a party to the action

I attempted to serve the following documents: **SUBPOENA IN A CIVIL CASE**

Name of party served: **BRUCE MORELAND**

APRIL 18, 2007 AT 6:13PM

(BUSINESS) 375 REDONDO AVENUE, #259, LONG BEACH, CALIFORNIA 90814

I was unable to personally serve the documents listed above. Given address is a mailbox rental place, the business was closed.

APRIL 19, 2007 AT 4:55PM

(BUSINESS) 375 REDONDO AVENUE, #259, LONG BEACH, CALIFORNIA 90814

I effectuated service on Bruce Moreland by leaving the documents with Issac "Doe" (Caucasian, Male, 27 years old, Black Hair, 5'11 Ft., 175lbs.), person in charge.

Process Server: CRLOS CANAS
TIME MACHINE NETWORK
P.O. BOX 861057
LOS ANGELES, CALIFORNIA 90086
(800) 994-5454

Registered California
Process Server
Registration Number: 4571
County: LOS ANGELES
Fee for service: \$123.96

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on: April 20, 2007

Signature: _____



Proof of Service complies with CRC 982(a)(23) as required by CCP 417.10

DECLARATION OF DUE DILIGENCE

EXHIBIT 7

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Bruce Moreland
 375 Redondo
 Ave, No 259
 Long Beach,
 CA 90814

2. Article Number

(Transfer from service label)

7006 0810 0001 4652 8811

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

COMPLETE THIS SECTION ON DELIVERY

A. Signature

Isaac Fisk Agent
 Addressee

B. Received by (Printed Name)

Isaac Fisk

C. Date of Delivery

4/20/07

D. Is delivery address different from item 1? Yes

If YES, enter delivery address below: No

3. Service Type

- Certified Mail Express Mail
- Registered Return Receipt for Merchandise
- Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee)

Yes