

**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	)	
	)	
Opposer,	)	
	)	
vs.	)	Opposition No. 91173381
	)	
Funsten, Stan	)	
	)	
Applicant.	)	

**APPLICANT'S MOTION TO COMPEL**

Applicant, Stan Funsten, moves to compel Opposer to respond to Applicant's discovery requests. Opposer has failed to file any response to Applicant's discovery requests.

Pursuant to 37 CFR 2.120(e) and Trademark Trial And Appeal Board Manual of Procedure §523, Applicant has served discovery requests to Opposer on January 9, 2007 and March 7, 2007, has not received any response, and has no alternative but to file this motion to compel Opposer to respond to the discovery requests.

Applicant encloses, as Exhibit 1, a copy of APPLICANT'S FIRST SET OF INTERROGATORIES, served on January 9, 2007 to Opposer by first class mail, making response due on February 13, 2007.

Applicant encloses, as Exhibit 2, a copy of APPLICANT'S FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS AND THINGS, served on January 9, 2007 to Opposer by first class mail, making response due on February 13, 2007.

Applicant encloses, as Exhibit 3, a copy of APPLICANT'S FIRST SET OF INTERROGATORIES, re-served on March 6, 2007 by Certified Mail, making response due on April 10, 2007.



Applicant encloses, as Exhibit 4, a copy of APPLICANT'S FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS AND THINGS, re-served on March 6, 2007 by Certified Mail, making response due on April 10, 2007.

Applicant has not heard from Opposer and has not received responses to Applicant's discovery requests. Inasmuch as Opposer failed to produce documents or respond to the interrogatories on time, Opposer has forfeited the right to object to the discovery requests on their merits. Opposer's failure to respond constitutes sufficient grounds for this Board to issue an order compelling Opposer to fully and completely respond to Applicant's discover requests.

In view of Opposer's failure to respond to Applicant's discovery requests, Applicant requests that the Board:

(1) order that Opposer be compelled to respond, without objection, to APPLICANT'S FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS AND THINGS and APPLICANT'S FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS AND THINGS.

(2) suspend proceedings until this motion is decided by the Board.

Respectfully submitted,

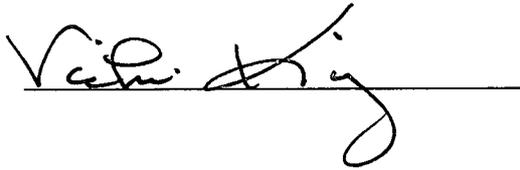


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Peter J. Gluck  
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650 Town Center Drive, Suite 1700  
Costa Mesa, CA 92626  
Phone: 714.708.6500  
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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing **APPLICANT'S MOTION TO COMPEL** was served April 19, 2007 by Certified Mail No. 7006 0810 0001 4652 8750 to Opposer:

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

A handwritten signature in black ink, appearing to read "Victor King", is written over a horizontal line.

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing **APPLICANT'S MOTION TO COMPEL** was deposited with the United States Postal Service with sufficient postage as **Express mail No. EV 777 773 005 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 19, 2002 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.

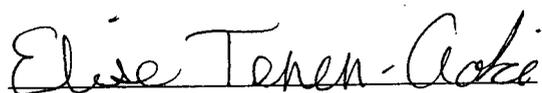
Interrogatory No. 40:

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,

A handwritten signature in cursive script that reads "Elise Tenen-Aoki".

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

# EXHIBIT 2

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.

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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.

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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.

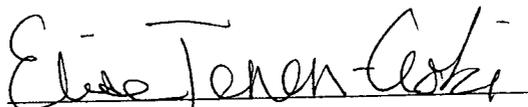
31) Copies of all documents and things evidencing, relating or referring to any consultant or expert opinion regarding ownership of the mark or trade name WALL OF VOODOO.

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,

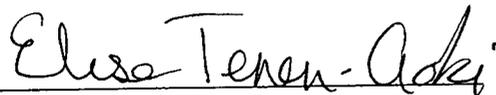


Elise Tenen-Aoki  
Peter Gluck  
Greenberg Traurig LLP  
650 Town Center Drive  
Suite 1700  
Costa Mesa, CA 92626  
Phone: 714.708.6500 Fax: 714.708.6501

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)

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

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540



UNITED STATES POSTAGE  
  
 PITNEY BOWES  
 02 1A \$ 00.00<sup>00</sup>  
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**OFFICIAL USE**

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

Postmark  
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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  
Elise Tenen-Aoki

# EXHIBIT 4

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> <li>Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</li> <li>Print your name and address on the reverse so that we can return the card to you.</li> <li>Attach this card to the back of the mailpiece, or on the front if space permits.</li> </ul>	<p>A. Signature <input type="checkbox"/> Agent <input checked="" type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) <input type="checkbox"/> Agent <input checked="" type="checkbox"/> Addressee</p> <p>C. Date of Delivery</p>
<p>1. Article Addressed to:</p> <p><b>BRUCE MORELAND</b>  <b>375 REDONDO AVE #259</b>  <b>LONG BEACH, CA 90814</b></p>	<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes  If YES, enter delivery address below: <input type="checkbox"/> No</p> <p>3. Service Type</p> <p><input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail  <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise  <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>
<p>2. Article Number (Transfer from service label) <b>7004 2510 0003 5653 9514</b></p>	

PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540



**U.S. Postal Service™**  
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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.

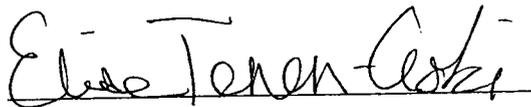
31) Copies of all documents and things evidencing, relating or referring to any consultant or expert opinion regarding ownership of the mark or trade name WALL OF VOODOO.

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,



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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