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

Proceeding	91176791
Party	Defendant MATTEL, INC.
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Submission	Other Motions/Papers
Filer's Name	Chad R. Fitzgerald
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Signature	/crf/
Date	02/11/2010
Attachments	Objections to Atkinson Decl.pdf (6 pages)(30546 bytes)

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

In the matter of Application Serial No. 78/751,105
Published for Opposition in the OFFICIAL GAZETTE on December 12, 2006

UMG RECORDINGS, INC.

Opposition No.: 91176791

Opposer

v.

MATTEL, INC.

Applicant

APPLICANT MATTEL, INC.'S EVIDENTIARY OBJECTIONS TO AND REQUESTS
TO STRIKE PORTIONS OF DECLARATION OF GARY ATKINSON

Applicant Mattel, Inc. hereby objects to and moves to strike portions of the Declaration of Gary Atkinson dated March 18, 2009.

The following format is used below:

- (1) the Declaration is copied verbatim;
- (2) where Applicant objects to all or a portion of a paragraph, the objected-to portion is shown as stricken (e.g., ~~The person told me that~~ ...) followed by a highlighted "objection number" (e.g., [Obj. 2]); and

DECLARATION OF GARY ATKINSON DATED MARCH 18, 2009
WITH OBJECTIONABLE PORTIONS STRICKEN

DECLARATION OF GARY ATKINSON

GARY ATKINSON declares under penalty of perjury as follows:

1. I am General Counsel for The Singing Machine Company, Inc., a Delaware corporation with offices at 6601 Lyons Road, Bldg. A-7, Coconut Creek, FL 33073 (“The Singing Machine”). I first joined The Singing Machine in 2008. I submit this declaration as testimony in connection with the above-captioned proceeding.

2. I have access to the books and records of The Singing Machine relevant to the matters covered herein. As a result of my job responsibilities I am generally familiar with the business of The Singing Machine and The Singing Machine’s license to use the MOTOWN and MOTOWN-formative trademarks (the “MOTOWN Marks”) in connection with a Karaoke Machine and Karaoke CDGs (collectively, the “Karaoke Products”). I confirm that the facts and matters set out herein are based on my own knowledge and from the records and documents of The Singing Machine to which I have access.

3. ~~Attached hereto as Exhibit 1 is a printout of The Singing Machine’s business records, which are kept in the ordinary course of The Singing Machine’s business, depicting its annual sales of the Karaoke Products bearing the MOTOWN Marks from as follows:~~

<u>Year</u>	<u>Units Sold</u>	<u>Net Sales</u>
2004	_____	_____
2005	_____	_____
2006	_____	_____
2007	_____	_____

~~The Singing Machine pays UMG royalties based on its gross revenues as set forth in the license and distribution agreements between the parties. As reflected in Exhibit 1, The Singing~~

Machine's total net sales of the Karaoke Products for the period 2004 though 2007 were in excess of _____ units and \$ _____. [Obj. 1]

OBJECTION NO.	REFERENCE	GROUNDS	BOARD'S RULING
1	¶ 3	(a) Exhibit speaks for itself (Fed. R. Evid. 1002).	<input type="checkbox"/> Sustained/Stricken <input type="checkbox"/> Overruled

Declared under penalty of perjury of the laws of the United States of America this 18th day of March, 2009 at Coconut Creek, FL.

/S/
GARY ATKINSON

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing Evidentiary Objections and Request to Strike has been personally served on counsel for Opposer UMG Recordings, Inc., both personally and through ESTTA, on February 11, 2010.

/crf/

Chad R. Fitzgerald