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

Proceeding	91178593
Party	Plaintiff CKX, Inc.
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Submission	Motion to Compel Discovery
Filer's Name	Seth A. Rose
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Signature	/Seth A. Rose/
Date	11/14/2007
Attachments	Motion to Compel and Memorandum in Support -- Edward Kolos proceedings.pdf (22 pages)(665267 bytes)

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

CKX, INC.,	)	
	)	
Opposer/Petitioner	)	
	)	
v.	)	Opposition No. 91178593
	)	Cancellation No. 92047863
EDWARD KOLOS,	)	
	)	
Applicant/Registrant.	)	

OPPOSER/PETITIONER'S MOTION TO COMPEL AND MEMORANDUM IN SUPPORT

In accordance with Rule 37 of the Federal Rules of Civil Procedure and Rule 2.120(e) of the Trademark Rules of Practice, Opposer/Petitioner, CKX, Inc. ("CKX" or "Opposer/Petitioner"), moves for an order directing Applicant/Registrant, Edward Kolos ("Kolos" or "Applicant/Registrant"), to answer Opposer/Petitioner's First Set of Interrogatories and First Set of Request for Production of Documents as described below. In support of its motion, CKX states as follows:

1. On June 20, 2007, CKX filed a Combined Notice of Opposition and Petition to Cancel Kolos' applications to register VET AID, U.S. Serial No. 77/040,837, FIRST IN FIRST AID, U.S. Serial No. 77/083,166, LEMON ICE, U.S. Serial No. 77/011,937, and E.N.R.G., U.S. Serial No. 77/092,008, and Kolos' registrations for H2OCEAN, U.S. Registration No. 3,167,267, and H2OCEAN and Design, U.S. Registration No. 2,880,750. Kolos timely answered the Comined Notice of Opposition and Petition to Cancel and the discovery period opened on August 15, 2007. CKX served its First Set of Interrogatories and First Requests for Production of Documents ("Discovery Requests") on Kolos on September 10, 2007. (Masters Decl., ¶ 2 at Exh. A). The discovery responses were due on October 15, 2007.

2. On September 20, 2007, CKX's counsel spoke with Kolos regarding Kolos' discovery responses, to which Kolos indicated he needed more time to respond. CKX's counsel agreed to extend the deadline to respond to the outstanding discovery requests to October 31, 2007. (Masters Decl., ¶ 3). This conversation was confirmed in the letter attached as Exhibit B.

3. On November 5, 2007, CKX's counsel sent Kolos an email inquiring as to the status of Kolos' outstanding discovery responses. (Masters Decl., ¶ 4). Kolos has not responded to this email.

4. As of November 14, 2007, despite having recognized his obligation to respond to CKX's Discovery Requests by his request for an extension of time to respond, Kolos has not responded to CKX's counsel's follow up email regarding the Discovery Requests, and has not contacted CKX's counsel to request a further extension of time in which to respond to the Discovery Requests. Moreover, Kolos has not proffered any objections to the Discovery Requests. (Masters Decl., ¶ 5)

5. Kolos has failed to meet his discovery obligations. Kolos has failed to provide any information or to produce for inspection and copying any documents related to the allegations contained in the Combined Notice of Opposition and Petition to Cancel.

6. The information and documents and things sought in the Discovery Requests are necessary for CKX to prosecute this proceeding.

7. By failing to timely respond to CKX's Discovery Requests, Kolos has forfeited his right to object to the Discovery Requests. *See No Fear Inc. v. Rule*, 54 U.S.P.Q.2d 1551, 1554 (T.T.A.B. 2000) (when the Board grants a motion to compel, "the Board generally will order discovery responses to be provided without objection."); *see also* TBMP § 403.03, 2d Edition 2003 (a party that fails to timely respond to a discovery request and that is unable to

show that its failure is the result of excusable neglect "may be found, upon motion to compel filed by the propounding party, to have forfeited its right to object to the discovery request on its merits"). Here, Kolos has failed any explanation for his failure to respond to CKX's Discovery Requests.

8. In compliance with Rule 2.120(e) of the Trademark Rules of Practice and as set forth in the Declaration of Douglas N. Masters, CKX's counsel has attempted in good faith to resolve this discovery dispute but was unable to reach an accommodation with Kolos, who has not responded to CKX's counsel's recent attempt at contact.

WHEREFORE, Opposer/Petitioner respectfully requests that the Board order Applicant/Registrant to answer Opposer/Petitioner's First Set of Interrogatories and First Requests for Production of Documents without objection.

Date: November 14, 2007

LOEB & LOEB LLP

By: Seth A. Rose

Douglas N. Masters
Seth A. Rose
321 North Clark Street, Suite 2300
Chicago, IL 60610
Telephone: (312) 464-3100
Fax: (312) 464-3111

Attorneys for Opposer/Petitioner
CKX, Inc.

CERTIFICATE OF SERVICE

I, Seth A. Rose , hereby certify that a copy of the **OPPOSER/PETITIONER'S MOTION TO COMPEL AND MEMORANDUM IN SUPPORT** has been served upon:

Edward Kolos
6151 Shadow Tree Lane
Lake Worth, FL 33463

via first class mail, postage prepaid, this 14th day of November, 2007.

Seth A. Rose

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

CKX, INC.,	)	
	)	
Opposer/Petitioner	)	
	)	
v.	)	Opposition No. 91178593
	)	Cancellation No. 92047863
EDWARD KOLOS,	)	
	)	
Applicant/Registrant.	)	

DECLARATION OF DOUGLAS N. MASTERS

1. I am an attorney with Loeb & Loeb LLP, 321 North Clark Street, Suite 2300, Chicago, Illinois 60610, counsel for Opposer/Petitioner, CKX, Inc. ("CKX" or "Opposer/Petitioner"). I am one of the lawyers responsible for the above captioned matter on CKX's behalf. In such capacity, I submit this declaration in support of CKX's Motion to Compel. I have personal knowledge of the facts set forth herein and can testify competently hereto.

2. On September 10, 2007, CKX served via first-class mail Opposer/Petitioner's First Set of Interrogatories and First Requests for Production of Documents (collectively, "Discovery Requests") on Applicant/Registrant, Edward Kolos ("Kolos" or "Applicant/Registrant"). True and correct copies of the Discovery Requests are attached to this declaration as Exhibit A. Applicant's responses were due on October 15, 2007.

3. On September 20, 2007, I spoke with Kolos regarding Kolos' discovery responses, to which Kolos indicated he needed more time to respond. I agreed to extend the deadline to respond to the outstanding Discovery Requests to October 31, 2007. I confirmed our discussion in the September 25, 2007, letter attached as Exhibit B.

4. On November 5, 2007, I sent Kolos an email regarding the outstanding discovery. Kolos has not responded to this email.

5. As of November 12, 2007, despite having recognized his obligation to respond to CKX's Discovery Requests by his request for an extension of time to respond thereto, Kolos has not responded to my follow up email regarding the Discovery Requests, and has not contacted me to request a further extension of time in which to respond to the Discovery Requests. Moreover, Kolos has not proffered any objections to the Discovery Requests.

6. CKX's counsel has attempted in good faith to resolve these discovery disputes but, because Kolos has not responded to CKX's follow up attempt at contact, was unable to reach an accommodation.

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

Executed in Chicago, Illinois, on November 13, 2007.

Douglas N. Masters

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

CKX, INC.,	)	
	)	
Opposer/Petitioner	)	
	)	
v.	)	Opposition No. 91178593
	)	Cancellation No. 92047863
EDWARD KOLOS,	)	
	)	
Applicant/Registrant.	)	

OPPOSER/PETITIONER'S FIRST SET OF INTERROGATORIES TO APPLICANT/REGISTRANT

In accordance with Rule 33 of the Federal Rules of Civil Procedure, and Rules 2.116 and 2.120 of the Trademark Rules of Practice, Opposer/Petitioner, CKX, Inc., requests that Applicant/Registrant, Edward Kolos, within thirty (30) days, answer each of the interrogatories set forth below, subject to the following definitions and instructions:

Definitions And Instructions

A. As used herein, the term "Opposer", "Petitioner", or "Opposer/Petitioner" means CKX, Inc., its predecessors in interest, and the officers, directors, employees, agents and representatives thereof.

B. As used herein, the term "Applicant", "Registrant", or "Applicant/Registrant" includes Edward Kolos, any fictitious or assumed name under which he has done business, including any predecessor in interest, subsidiary or related organization of any of them, and the partners, officers, directors, employees, agents and representatives of each.

C. If a privilege is relied upon in declining to provide any information or document in response to an interrogatory or a part thereof, identify the nature of the privilege and:

Exhibit A

1. For documents, provide the following: (a) the type of document; (b) the general subject matter of the document; (c) the date of the document; and (d) such other information as is sufficient to identify each document for a subpoena duces tecum, including, where appropriate, the author of the document, the addressee of the document, and, where not apparent, the relationship of the author and addressee to each other; and

2. For oral communications, provide the following: (a) the name of the person making the communication and the names of persons present while the communication was made and, where not apparent, the relationship of the persons present to the person making the communication; (b) the date and place of communication; and (c) the general subject matter of the communication.

D. As used herein, the term "person" includes any corporation, division, agency or other entity, as well as an individual.

E. Whenever an interrogatory inquires about the name or identity of a person and that person is an individual, the information requested includes:

1. The person's full name;

2. The person's employer;

3. The person's position or title; and

4. The person's last known address and telephone number.

F. Whenever an interrogatory inquires about the name or identity of a person and the person is a corporation, division, agency or other entity, the information requested includes the full name and current address of said corporation, division, agency or other entity.

G. As used herein, "and" as well as "or" shall be construed disjunctively or conjunctively as necessary in order to bring within the scope of the interrogatory all responses which might otherwise be construed to be outside its scope.

H. As used herein, the singular shall always include the plural and the present tense shall always include the past tense, and vice versa.

INTERROGATORIES

1. Describe in detail the facts that tend to support or refute Applicant's contention that its VET AID mark has acquired distinctiveness.

2. Describe in detail the facts that tend to support or refute Applicant's contention that its FIRST IN FIRST AID mark has acquired distinctiveness.

3. Describe in detail the facts that tend to support or refute Applicant's *bona fide* intent to use its VET AID mark.

4. Describe in detail the facts that tend to support or refute Applicant's *bona fide* intent to use its FIRST IN FIRST AID mark.

5. Describe in detail the facts that tend to support or refute Applicant's *bona fide* intent to use its LEMON ICE mark.

6. Describe in detail the facts that tend to support or refute Applicant's *bona fide* intent to use its E.N.R.G. mark.

7. Describe in detail Applicant's reasons and basis for the creation, design, development, selection, and adoption of its VET AID, FIRST IN FIRST AID, LEMON ICE, E.N.R.G., H2OCEAN and H2OCEAN and Design marks.

8. (a.) Describe separately the manner of use and identify the date of Applicant's first use of VET AID in commerce in the United States.

(b.) Identify the persons most knowledgeable concerning Applicant's present use of or plans to use VET AID.

(c.) Identify the person most knowledgeable concerning Applicant's marketing or planned marketing of products in connection with VET AID.

(d.) Describe each manner in which Applicant uses, has used, or plans to use VET AID.

(e.) State separately the amount of money Applicant has spent or plans to spend separately for each type of advertising or promotion Applicant has made or intends to make for the products sold under its VET AID mark.

9. (a.) Describe separately the manner of use and identify the date of Applicant's first use of FIRST IN FIRST AID in commerce in the United States.

(b.) Identify the persons most knowledgeable concerning Applicant's present use of or plans to use FIRST IN FIRST AID.

(c.) Identify the person most knowledgeable concerning Applicant's marketing or planned marketing of products in connection with FIRST IN FIRST AID.

(d.) Describe each manner in which Applicant uses, has used, or plans to use FIRST IN FIRST AID.

(e.) State separately the amount of money Applicant has spent or plans to spend separately for each type of advertising or promotion Applicant has made or intends to make for the products sold under its FIRST IN FIRST AID mark.

10. (a.) Describe separately the manner of use and identify the date of Applicant's first use of LEMON ICE in commerce in the United States.

(b.) Identify the persons most knowledgeable concerning Applicant's present use of or plans to use LEMON ICE.

(c.) Identify the person most knowledgeable concerning Applicant's marketing or planned marketing of products in connection with LEMON ICE.

(d.) Describe each manner in which Applicant uses, has used, or plans to use LEMON ICE.

(e.) State separately the amount of money Applicant has spent or plans to spend separately for each type of advertising or promotion Applicant has made or intends to make for the products sold under its LEMON ICE mark.

11. (a.) Describe separately the manner of use and identify the date of Applicant's first use of E.N.R.G. in commerce in the United States.

(b.) Identify the persons most knowledgeable concerning Applicant's present use of or plans to use E.N.R.G.

(c.) Identify the person most knowledgeable concerning Applicant's marketing or planned marketing of services in connection with E.N.R.G.

(d.) Describe each manner in which Applicant uses, has used, or plans to use E.N.R.G.

(e.) State separately the amount of money Applicant has spent or plans to spend separately for each type of advertising or promotion Applicant has made or intends to make for the products sold under its E.N.R.G. mark.

12. Identify and describe each use, former use, or claim of use by Registrant or any related party of H2OCEAN and H2OCEAN and Design, and the persons with knowledge of such use, former use, or claim of use.

13. Identify any rights in the marks H2OCEAN and H2OCEAN and Design, in which Registrant has granted to any third party or acquired from any third party, and the persons knowledgeable concerning each grant or acquisition.

14. Identify each person participating in the preparation or approval of advertisements or promotions of services marketed in connection with the marks H2OCEAN and H2OCEAN and Design.

15. State all facts that that tend to support or refute any claim that Registrant has an intent to continue use of the marks H2OCEAN and H2OCEAN and Design for each of the goods identified in each registration.

16. Identify any period during which Registrant ceased use of the mark H2OCEAN for any of the goods identified in the registration, and for each such period, describe the reasons why use ceased, the date on which use resumed, and the persons most knowledgeable regarding such period of non-use.

17. Identify any period during which Registrant ceased use of the mark H2OCEAN and Design for any of the goods identified in the registration, and for each such period, describe the reasons why use ceased, the date on which use resumed, and the persons most knowledgeable regarding such period of non-use.

18. Describe Applicant's policy with respect to the retention, storage and destruction of documents and business records.

19. Identify the persons most knowledgeable concerning the facts which support Applicant's denial of any allegation in the Combined Notice of Opposition and Petition to Cancel and Applicant's Affirmative Defenses, as well as the facts as to which each has knowledge.

20. If Applicant intends to rely upon the opinion of an expert in connection with the defense of this proceeding, provide the information set forth in Rule 26(a)(2), Fed.R.Civ.P., for each expert.

Date: September 10, 2007

LOEB & LOEB LLP

By: Seth A. Rose

Douglas N. Masters
Seth A. Rose
321 North Clark Street, Suite 2300
Chicago, IL 60610
Telephone: (312) 464-3100
Fax: (312) 464-3111

Attorneys for Opposer

CERTIFICATE OF SERVICE

I, Seth A. Rose, hereby certify that a copy of the **OPPOSER/PETITIONER'S FIRST SET OF INTERROGATORIES TO APPLICANT/REGISTRANT** has been served upon:

Edward Kolos
6151 Shadow Tree Lane
Lake Worth, Florida 33463

via first class mail, postage prepaid, this 10th day of September, 2007.

Seth A. Rose

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

CKX, INC.,	)	
	)	
Opposer/Petitioner	)	
	)	
v.	)	Opposition No. 91178593
	)	Cancellation No. 92047863
EDWARD KOLOS,	)	
	)	
Applicant/Registrant.	)	

OPPOSER/PETITIONER'S FIRST
REQUESTS FOR PRODUCTION OF DOCUMENTS

In accordance with Rule 34 of the Federal Rules of Civil Procedure, and Rules 2.116 and 2.120 of the Trademark Rules of Practice, Opposer/Petitioner, CKX, Inc., requests that Applicant/Registrant, Edward Kolos, within thirty (30) days after the service of these requests, produce to Applicant's attorney, Douglas N. Masters, c/o Loeb & Loeb LLP, located at 321 N. Clark St., Suite 2300, Chicago, IL 60610, copies of the documents described herein, subject to the following definitions:

Definitions And Instructions

A. As used herein, the term "Opposer", "Petitioner", or "Opposer/Petitioner" means CKX, Inc., its predecessors in interest, and the officers, directors, employees, agents and representatives thereof.

B. As used herein, the term "Applicant", "Registrant", or "Applicant/Registrant" includes Edward Kolos, any fictitious or assumed name under which he has done business, including any predecessor in interest, subsidiary or related organization of any of them, and the partners, officers, directors, employees, agents and representatives of each.

C. As used herein, the term "documents" includes but is not limited to all writings, correspondence, books, memoranda, invoices, contracts, purchase orders, receipts, pamphlets, publications, studies, catalogs, periodicals, labels, packaging, displays, pamphlets, slides, videotapes, films, artwork, drawings, sketches, illustrative materials, circulars, price lists, advertisements, layouts, tear sheets, magnetic recording tapes, microfilm and other storage means by which information is retained in retrievable form, and all other materials whether printed, typewritten, handwritten, recorded, or reproduced by any process.

D. If a privilege is relied upon in declining to provide any documents in response to a document request or a part thereof, identify the nature of the privilege, and provide the following:

1. The type of document;
2. The general subject matter of the document;
3. The date of the document; and
4. Such other information as is sufficient to identify each document for a subpoena duces tecum, including, where appropriate, the author of the document, the addressee of the document, and, where not apparent, the relationship of the author and addressee to each other. As used herein, "and" as well as "or" shall be construed disjunctively or conjunctively as necessary in order to bring within the scope of the document request responses which might otherwise be construed to be outside its scope.

E. As used herein, the singular shall always include the plural and the present tense shall always the past tense, and vice versa.

DOCUMENT REQUESTS

1. All documents that tend to support or refute Applicant's contention that its VET AID mark has acquired distinctiveness.

2. All documents that tend to support or refute Applicant's contention that its FIRST IN FIRST AID mark has acquired distinctiveness.

3. All documents that tend to support or refute Applicant's contention that it had a *bona fide* intent to use its VET AID mark at any time.

4. All documents that tend to support or refute Applicant's contention that it had a *bona fide* intent to use its FIRST IN FIRST AID mark at any time.

5. All documents that tend to support or refute Applicant's contention that it had a *bona fide* intent to use its LEMON ICE mark at any time.

6. All documents that tend to support or refute Applicant's contention that it had a *bona fide* intent to use its E.N.R.G. mark at any time.

7. All documents referring or relating to Applicant's reasons and basis for the creation, design, development, selection, and adoption of its VET AID, FIRST IN FIRST AID, LEMON ICE, E.N.R.G., H2OCEAN and H2OCEAN and Design marks.

8. All documents which relate or refer to Applicant's first use of the mark VET AID for each good identified in the VET AID trademark application.

9. All documents which relate or refer to Applicant's first use of the mark FIRST IN FIRST AID for each good identified in the FIRST IN FIRST AID trademark application.

10. All documents which relate or refer to Applicant's first use of the mark LEMON ICE for each good identified in the LEMON ICE trademark application.

11. All documents which relate or refer to Applicant's first use of the mark E.N.R.G. for each good identified in the E.N.R.G. trademark application.

12. All documents which relate or refer to Registrant's first use of the mark H2OCEAN for each good identified in the H2OCEAN trademark registration.

13. All documents which relate or refer to Registrant's first use of the mark H2OCEAN and Design for each good identified in the H2OCEAN and Design trademark registration.

14. A representative specimen of each label, sign, display, trade dress, wrapper, or packaging Applicant has used in connection with each of its VET AID, FIRST IN FIRST AID, LEMON ICE, and E.N.R.G. marks for each good covered by each mark's trademark application, for each year that such mark has been in use.

15. A representative specimen of each label, sign, display, trade dress, wrapper, or packaging Applicant has used in connection with each of its H2OCEAN and H2OCEAN and Design marks for each good covered by each mark's trademark registration, for each year that such mark has been in use.

16. Documents sufficient to identify Applicant's annual dollar and unit volumes of sales separately for each good sold by Applicant in connection with Applicant's VET AID, FIRST IN FIRST AID, LEMON ICE, E.N.R.G., H2OCEAN and H2OCEAN and Design marks.

17. Representative specimens of Applicant's advertisements, promotional materials or other documents Applicant has used in the advertising or promotion or planned advertising or promotion of goods in connection with its VET AID, FIRST IN FIRST AID, LEMON ICE, E.N.R.G., H2OCEAN and H2OCEAN and Design marks.

18. Documents which reveal Applicant's annual marketing expenses separately for goods marketed under each of Applicant's VET AID, FIRST IN FIRST AID, LEMON ICE, E.N.R.G., H2OCEAN and H2OCEAN and Design marks for each year that each mark has been in use, including but not limited to, expenses for advertising and promotion.

19. Documents which reveal the territorial areas in the United States where Applicant markets or has marketed goods in connection with its VET AID, FIRST IN FIRST AID, LEMON ICE, E.N.R.G., H2OCEAN and H2OCEAN and Design marks.

20. All documents which constitute or relate or refer to any assignment, license, or other transfer of any rights to or from Applicant in any of its VET AID, FIRST IN FIRST AID, LEMON ICE, E.N.R.G., H2OCEAN and H2OCEAN and Design marks.

21. All documents that relate or refer to any period during which Registrant ceased use of the mark H2OCEAN in connection with any of the goods identified in the H2OCEAN trademark registration, including the reasons for any cessation of use.

22. All documents that relate or refer to any period during which Registrant ceased use of the mark H2OCEAN and Design in connection with any of the goods identified in the H2OCEAN and Design trademark registration, including the reasons for any cessation of use.

23. All documents that tend to support or refute that Registrant has an intent to continue use of the mark H2OCEAN in connection with each and every good identified in the H2OCEAN trademark registration.

24. All documents that Registrant contends demonstrate that Registrant has an intent to continue use of the mark H2OCEAN and Design in connection with each and every good identified in the H2OCEAN and Design trademark registration.

25. All documents that relate or refer to Registrant's registration of, or application to register, its VET AID, FIRST IN FIRST AID, LEMON ICE, E.N.R.G., H2OCEAN and H2OCEAN and Design marks in the United States Patent and Trademark Office or elsewhere.

26. All documents that relate or refer to each use, former use, or claim of use by Applicant or any other related party of the marks VET AID, FIRST IN FIRST AID, LEMON ICE, E.N.R.G., H2OCEAN or H2OCEAN and Design.

27. All documents that relate or refer to any court action or administrative proceeding filed by or against Applicant, and all written challenges or objections made by or directed to Applicant, relating or referring to Applicant's use or planned use of, or claimed rights in, any of its VET AID, FIRST IN FIRST AID, LEMON ICE, E.N.R.G., H2OCEAN and H2OCEAN and Design marks.

28. Any document provided to or considered by any testifying expert witness in preparing his or her opinion in this case.

29. Any expert opinions and all other information required by Rule 26 of the Federal Rules of Civil Procedure for each testifying expert witness upon whose opinion Applicant intends to rely in this case.

30. All documents referred to or relied upon to prepare Applicant's answers to Opposer's First Set of Interrogatories or containing information requested by Opposer's First Set of Interrogatories.

Date: September 10, 2007

LOEB & LOEB LLP

By: Seth A. Rose

Douglas N. Masters
Seth A. Rose
321 North Clark Street, Suite 2300
Chicago, IL 60610
Telephone: (312) 464-3100
Fax: (312) 464-3111

Attorneys for Opposer

CERTIFICATE OF SERVICE

I, Seth A. Rose, hereby certify that a copy of the **OPPOSER/PETITIONER'S FIRST REQUESTS FOR PRODUCTION OF DOCUMENT** has been served upon:

Edward Kolos
6151 Shadow Tree Lane
Lake Worth, Florida 33463

via first class mail, postage prepaid, this 10th day of September, 2007.

Seth A. Rose

LOEB & LOEB LLP

DOUGLAS N. MASTERS
Partner

321 North Clark Street
Suite 2300
Chicago, IL 60610

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dmasters@loeb.com

Via First Class Mail

September 25, 2007

Edward Kolos
6151 Shadow Tree Lane
Lake Worth, Florida 33463

Re: CKX, Inc. v. Edward Kolos
Opposition No. 91178593 Cancellation No. 92047863

This confirms out telephone conversation on September 20, 2007, in which we granted you an extension of time until October 31, 2007, to answer CKX's interrogatories and document requests. Thank you for agreeing to provide us the courtesy of a like extension of time in the future if we need one.

Cordially,

Douglas N. Masters
Partner

Exhibit B