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

Proceeding	91184529
Party	Plaintiff Georgia-Pacific Consumer Products LP
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Signature	/Charlene R. Marino/
Date	03/02/2011
Attachments	2011.03.02 [Redacted] Opposer's MTS Witness Dec.pdf ( 54 pages )(1727298 bytes )

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

GEORGIA-PACIFIC CONSUMER  
PRODUCTS LP,

Opposer,

v.

GLOBAL TISSUE GROUP, INC.

Applicant.

Opposition No.: 91184529

Serial No.: 77/364,616

REDACTED

**OPPOSER’S MOTION TO STRIKE WITNESS DECLARATIONS AND BRIEF IN  
SUPPORT**

Georgia-Pacific Consumer Products LP (“Georgia-Pacific”) moves pursuant to Fed. R. Civ. P. 37 and 37 C.F.R. § 2.120(g) to strike the declarations of Philip Shaoul, Freydoun Meir Elnekaveh, and Daniel David, submitted by Applicant Global Tissue Group, Inc. (“GTG”) in support of its Opposition to Georgia-Pacific’s Motion for Summary Judgment (Dkt. 53), showing as follows:

**I. INTRODUCTION**

The Board should strike the declarations of Mr. Shaoul, Mr. Elnekaveh, and Mr. David because they contain new information and documents that GTG repeatedly refused to disclose during the discovery period. Throughout discovery, GTG represented that it had no documents pertaining to its selection and adoption of the QUILTY mark, and that the only individual with knowledge of this decision was Mr. Shaoul. Moreover, GTG initially refused to disclose any alternative marks that it considered other than QUILTY, and even after the Board ordered it to produce this information, GTG insisted that it had no responsive information.

In reliance on GTG’s responses during discovery, Georgia-Pacific filed a Motion for Summary Judgment (Dkt. 50) on the ground that GTG lacked a *bona fide* intent to use the

QUILTY mark at the time it filed its application. In response to the summary judgment motion, GTG submitted three declarations that disclose—for the first time—that [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] Not only did GTG withhold this responsive information (even after the Board’s order compelling it), GTG failed entirely to disclose Mr. David as a witness having relevant knowledge.

Both the Federal Rules of Civil Procedure and the Trademark Rules prohibit GTG from playing “hide the ball” in discovery and then attempting to offer the undisclosed evidence in an effort to avoid summary judgment. Because GTG willfully ignored the Rules and the Board’s Order compelling disclosure of this information, and because it would be unfair and highly prejudicial to Georgia-Pacific to allow GTG to rely on this new information, the Board should strike the Shaoul, Elnekaveh, and David Declarations.

## **II. STATEMENT OF FACTS**

### **A. GTG Refused to Produce Responsive Information and Documents Pertaining to its Selection and Adoption of the QUILTY mark.**

During discovery, Georgia-Pacific requested information and documents regarding GTG’s creation and adoption of the QUILTY mark, including marks considered as possible alternatives. Throughout discovery, GTG represented that it did not have any responsive information. Specifically, in response to Georgia-Pacific’s document requests, GTG stated that it did not have any documents pertaining to its creation and adoption of the mark. Georgia-Pacific’s written document requests included the following categories of documents:

**Request No. 2**

All documents pertaining to the creation, selection, approval, and/or modification of the QUILTY Mark.

**Request No. 4**

All documents pertaining to any marks considered as possible alternatives for the QUILTY mark, and pertaining to any reasons why such possible alternatives were not selected.

**Request No. 5**

All correspondence to and from, and all other documents pertaining to, any person other than Global Tissue who played any role in the creation, selection, approval and/or modification of the QUILTY Mark, including but not limited to lawyers, law firms, naming firms, advertising agencies, marketing firms, vendors, customers, retailers and distributors.

(Declaration of Charlene R. Marino (“Marino Dec.”) ¶ 2 & Ex. A, at 2-3.)

In response to each of these requests, GTG asserted objections based upon attorney-client privilege and confidentiality, but represented that it would produce “non-privileged, responsive documents.” *Id.* But, GTG did not produce any documents in response to these requests during discovery, including the emails attached as Exhibits 7 to 10 of Mr. Shaoul’s declaration.<sup>1</sup>

(Marino Dec. ¶ 3.)

With respect to alternative marks considered other than QUILTY, GTG’s responses have been a constantly moving target. In response to written interrogatories seeking information regarding GTG’s creation and adoption of the QUILTY mark, GTG represented that it had not considered any alternatives names other than QUILTY:

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<sup>1</sup> While GTG did provide a privilege log listing a number of email communications between Mr. Shaoul and GTG’s prior counsel, only the emails attached as Exhibit 10 to Mr. Shaoul’s declaration were listed on the privilege log. (Marino Dec. ¶ 4 & Ex. B.) And, since GTG claimed they were privileged, the documents were not produced to Georgia-Pacific during discovery.

**Interrogatory No. 3**

Identify all words considered as possible alternatives for the QUILTY mark, and describe the reasons why such possible alternatives were not selected.

**Answer to Interrogatory No. 3**

Global Tissue objects to Interrogatory No. 3 on the grounds that it seeks information that is protected by the attorney-client and/or work product privileges and beyond the scope of discovery. Global Tissue also objects on the grounds that this interrogatory calls for information that is confidential, proprietary and/or trade secret in the absence of a protective order. Subject to and without waiving said objections, no other words were considered as possible alternatives for the QUILTY mark.

(Marino Dec. ¶ 5 & Ex. C, at 2-3 (emphasis added).)

[REDACTED]

Because of GTG's refusal to respond to these and other questions, Georgia-Pacific filed a motion to compel GTG to disclose this information. (Dkt. 16, at 9-10.) The Board granted Georgia-Pacific's motion to compel, ordering GTG to respond to questions regarding its selection and adoption of the QUILTY mark. (Dkt. 22, at 9-10.)

[Redacted]

**B. GTG Failed to Disclose Mr. Elnekaveh and Mr. David as Witnesses with Knowledge of the Selection and Adoption of the QUILTY mark.**

GTG never disclosed that Mr. Elnekaveh had any knowledge relevant to its selection and adoption of the QUILTY mark, and never disclosed Mr. David as a potential witness. In its initial disclosures, GTG only listed Mr. Shaoul as a potential witness. (Marino Dec. ¶ 9 & Ex. G, at 2.) Then, in response to Georgia-Pacific’s interrogatories, GTG identified Mr. Shaoul as the only individual it intended to use as a witness. (Marino Dec. Ex. C, at 6.)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

██  
██

### III. ARGUMENT

#### A. Information Not Disclosed in Discovery May Not Be Used as Evidence.

Producing information requested in discovery is an issue “of fundamental fairness in the conduct of litigation.” *Weiner King, Inc. v. Wiener King Corp.*, 615 F.2d 512, 521 (Fed. Cir. 1980). The Federal Rules of Civil Procedure are clear that “[i]f a party fails to provide information or identify a witness as required by Rule 26(a) or (e), the party is not allowed to use that information or witness to supply evidence on a motion. . . .” FED. R. CIV. P. 37(c)(1). The Board’s Manual of Procedure further provides: “A party that responds to a request for discovery by indicating that it does not have the information sought, or by stating objections thereto, may be barred by its own action from later introducing the information sought in the request as part of its evidence on the case.” T.B.M.P. § 527.01(e).

The Federal Circuit has relied on these principles to exclude evidence not previously disclosed by a party in response to discovery requests, stating:

Where a party seeks to discover facts which it expects the other party to introduce into evidence and the other party represents that all of those facts are already of record, the first party has a right to expect reliance by the other party on those facts of record alone. Any attempt, in such circumstances, to introduce further testimony about those other facts bearing on the same issues amounts to the type of surprise that the Federal Rules of Civil Procedure were designed to avoid.

*Weiner King*, 615 F.2d at 521 (holding that Board erred in considering evidence submitted by respondent where respondent refused to produce the evidence during discovery in response to petitioner’s interrogatories). The Court concluded that a party’s refusal to provide discoverable information “give[s] rise to equitable estoppel preventing it from introducing such testimony.”

*Id.*

Similarly, the Board has repeatedly held that a party may not properly introduce documents or testimony in its behalf after having refused to make such information available to an adverse party seeking its discovery. *See, e.g., Honda Motor Co., Ltd. v. Dalton*, Opp. No. 91173105, 2010 WL 3441113, at \*2 (T.T.A.B. Aug. 6, 2010) (citing *Shoe Factory Supplies Co. v. Thermal Eng'g Co.*, 207 U.S.P.Q. 517, 519 n.1 (T.T.A.B. 1980)); *Diamonique Corp. v. Diamonair USA, Inc.*, No. 91163668, 2007 WL 2972234, at \*5 (T.T.A.B. Sept. 11, 2007) (excluding evidence applicant improperly withheld in response to interrogatories); *Quality Candy Shoppes v. Grande Foods*, 90 U.S.P.Q.2d 1389, 1392 (T.T.A.B. 2007) (“Respondent cannot rely on information that was not properly disclosed during discovery.”). Moreover, T.M.B.P. § 408.02 provides:

A party served with a request for discovery has a duty to thoroughly search its records for all information properly sought in the request, and to provide such information to the requesting party within the time allowed for responding to the request. A responding party which, due to an incomplete search of its records, provides an incomplete response to a discovery request, may not thereafter rely at trial on information from its records which was properly sought in the discovery request but was not included in the response thereto.

The declarations of Mr. Shaoul, Mr. Elnekaveh, and Mr. David should be excluded because they contain previously undisclosed information regarding GTG’s selection and adoption of the QUILTY mark. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Furthermore, Exhibits 7 through 10 to Mr. Shaoul’s declaration consist of emails between him and GTG’s prior counsel that were never produced by GTG in discovery even though they were directly responsive to Georgia-Pacific’s document requests (*see* Marino Dec. ¶ 2 & Ex. A, at 2-3). Not only were they not produced, they were claimed to be privileged and thus intentionally were withheld from Georgia-Pacific during the discovery period.<sup>2</sup> Having withheld the documents during discovery, GTG cannot now waive the privilege and rely on them. A “party who has refused ... [on the ground of privilege] to produce information sought in a discovery request may not thereafter rely on the information as evidence in its behalf.” *Presto Prods., Inc. v. Nice-Pak Prods., Inc.*, Opp. No. 74797, 1988 WL 252340, at \*4 n. 5 (T.T.A.B. Sept. 14, 1988) (granting motion to strike affidavit).

[REDACTED]

GTG had the information and ability to respond to Georgia-Pacific’s numerous discovery requests and deposition questions regarding its selection and adoption of the QUILTY mark, including alternative marks considered, and yet willfully failed to produce this evidence during discovery. GTG’s failure to comply with its discovery obligations, as well as the Board order, precludes it from now relying upon the information and documents it improperly withheld. “To

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<sup>2</sup> Only the emails in Exhibit 10 of Mr. Shaoul’s declaration were listed on GTG’s privilege log. (Marino Dec. ¶ 4 & Ex. B.) The other documents were neither produced nor listed on the log, but presumably were withheld on similar grounds.

hold otherwise would frustrate the discovery process.” *Diamonique Corp.*, 2007 WL 2972234 at \*5.

**B. The Board Should Exclude Mr. David’s Declaration because GTG Failed to Disclose Him as a Witness.**

While all of GTG’s declarations should be stricken for the reasons set forth above, the declaration of Daniel David should be stricken for the further reason that GTG failed to identify him as a witness with knowledge during discovery. Not only was GTG obligated to identify Mr. David as a witness in its interrogatory responses, but Rule 26(a) also required GTG to disclose, “without awaiting a discovery request. . . the name. . . of each individual likely to have discoverable information. . . that the disclosing party may use to support its claims or defenses, unless the use would be solely for impeachment.” FED. R. CIV. P. 26(a)(1)(A)(i); *see also* 37 C.F.R. § 2.120(a).

The testimony of a witness that is not disclosed in discovery may be stricken if a party cannot provide a “satisfactory explanation as to why it did not comply” with these rules. *See Jules Jurgenson/Rhapsody, Inc. v. Baumberger*, 91 U.S.P.Q.2d 1443, 1444-45 (T.T.A.B. 2003) (granting respondent’s motion to strike testimony of a witness who was not disclosed in petitioner’s initial disclosures). GTG failed to disclose Mr. David as a witnesses in either its initial disclosures or its responses to Georgia-Pacific’s interrogatories. (Marino Dec. Ex. G, at 2; Ex. C, at 6.) [REDACTED]

[REDACTED] Because Mr. David was never disclosed in discovery, GTG is precluded from relying upon his testimony at summary judgment, and the Board should strike his declaration.

**IV. CONCLUSION**

Because GTG failed to disclose during discovery the information contained in the declarations of Philip Shaoul, Freydoun Meir Elnekaveh, and Daniel David, the Board should grant Georgia-Pacific's Motion to Strike and preclude GTG from relying on this evidence in opposition to the pending Motion for Summary Judgment.

Dated: March 2, 2011.

/Charlene R. Marino/  
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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on this date, March 2, 2011, a copy of this Motion to Strike Witness Declarations and Brief in Support has been served upon Applicant, by email and by U.S. mail, to Applicant's current identified counsel, as set forth below:

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Charlene R. Marino

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**DECLARATION OF CHARLENE R. MARINO IN SUPPORT OF GEORGIA-  
PACIFIC'S MOTION TO STRIKE WITNESS DECLARATIONS**

I, Charlene R. Marino, make the following Declaration in support of Georgia-Pacific's Motion to Strike Witness Declarations:

1. My name is Charlene R. Marino. I am an attorney at Kilpatrick Townsend & Stockton LLP, counsel for Opposer Georgia-Pacific Consumer Products, LP ("Georgia-Pacific") in the above-styled Opposition proceeding. I am over the age of twenty-one and have personal knowledge of the facts stated in this declaration, which are true and correct to the best of my knowledge.
2. A true and correct copy of Applicant Global Tissue Group's ("GTG") Responses to Opposer's First Request for Production of Documents and Things, served by GTG on November 18, 2008, is attached as **Exhibit A**.
3. In response to Request Nos. 2, 4, and 5 of Opposer's First Request for Production of Documents, GTG asserted objections based upon attorney-client privilege and confidentiality, but represented that it would produce "non-privileged, responsive documents." (See Ex. A, at 2-3.) However, Global Tissue did not produce any documents in response to these requests during discovery.

4. A true and correct copy of Applicant's privilege log, served by GTG on November 25, 2009, is attached as **Exhibit B**.
5. A true and correct copy of Applicant's Answers to Opposer's Substituted and Amended Interrogatories, served by GTG on June 4, 2009, is attached as **Exhibit C**.
6. A true and correct copy of relevant portions of the deposition of GTG's 30(b)(6) representative, Philip Shaoul, taken on June 24, 2009, is attached as **Exhibit D**.
7. A true and correct copy of relevant portions of the second deposition of GTG's 30(b)(6) representative, taken on October 23, 2009, is attached as **Exhibit E**.
8. A true and correct copy of relevant portions of the deposition of Freydoun Meir Elnekaveh, taken on June 24, 2009, is attached as **Exhibit F**.
9. A true and correct copy of GTG's Initial Disclosures, served by GTG on September 19, 2008, is attached as **Exhibit G**.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

This 2nd day of March, 2011.



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Charlene R. Marino

## **EXHIBIT A**



3. When the term “all documents” is used, Global Tissue objects to producing identical duplicate copies of the same document, it being understood that annotations or other markings on the document which would otherwise not be objectionable will be produced.

4. Global Tissue objects to any and all requests that seek documents and things that relate to matters and/or activities outside of the United States, as such documents and things are beyond the scope of this proceeding and otherwise not discoverable under these proceedings.

### **REPONSES AND SPECIFIC OBJECTIONS**

#### **REQUEST NO. 1**

All documents pertaining to the date(s) on which, and the circumstances under which, Global Tissue first became aware of each mark identified in Georgia-Pacific’s trademark registrations pleaded in the Opposition, including but not limited to Georgia-Pacific’s ACOLCHINADO, IT’S ALL IN THE QUILTING, PLUSH-QUILTS, QUILTED, QUILTED & Design, QUILTED NORTHERN, QUILTED NORTHERN PS, QUILTED NORTHERN ULTRA, and QUILTING marks.

#### **RESPONSE TO REQUEST NO. 1**

Global Tissue objects to this request to the extent that it seeks the production of documents and materials protected by the attorney-client and/or work product privileges. Subject to and without waiving said objection, upon entry of a protective order, Global Tissue will produce non-privileged, responsive documents.

#### **REQUEST NO 2.**

All documents pertaining to the creation, selection, approval, and/or modification of the QUILTY Mark.

#### **RESPONSE TO REQUEST NO. 2**

Global Tissue objects to this request as parts of it are vague and ambiguous . Further, Global Tissue objects to this request to the extent that it seeks the production of documents and materials protected by the attorney-client and/or work product privileges. Global Tissue also objects on the grounds that this request calls for documents that are confidential, proprietary and/or trade secret in the absence of a protective order. Subject to and without waiving said objections, upon entry of a protective order, Global Tissue will produce non-privileged, responsive documents.

**REQUEST NO. 3**

All documents pertaining to the timeline for the creation, selection, approval, and/or modification of the QUILTY Mark.

**RESPONSE TO REQUEST NO. 3**

Global Tissue objects to this request as parts of it are vague and ambiguous and in particular the term “timeline” is ambiguous and undefined. Further, Global Tissue objects to this request to the extent that it seeks the production of documents and materials protected by the attorney-client and/or work product privileges. Global Tissue also objects on the grounds that this request calls for documents that are confidential, proprietary and/or trade secret in the absence of a protective order. Subject to and without waiving said objections, upon entry of a protective order, Global Tissue will produce non-privileged, responsive documents.

**REQUEST NO. 4**

All documents pertaining to any marks considered as possible alternatives for the QUILTY mark, and pertaining to any reasons why such possible alternatives were not selected.

**RESPONSE TO REQUEST NO. 4**

Global Tissue objects to this request to the extent that it seeks the production of documents and materials that are protected by the attorney-client and/or work product privileges and beyond the scope of discovery. Global Tissue also objects on the grounds that this request calls for documents that are confidential, proprietary and/or trade secret in the absence of a protective order. Subject to and without waiving said objections, upon entry of a protective order, Global Tissue will produce non-privileged, responsive documents.

**REQUEST NO. 5**

All correspondence to and from, and all other documents pertaining to, any person other than Global Tissue who played any role in the creation, selection, approval, and/or modification of the QUILTY Mark, including but not limited to lawyers, law firms, naming firms, advertising agencies, marketing firms, vendors, customers, retailers, and distributors.

**RESPONSE TO REQUEST NO. 5**

Global Tissue objects to this request to the extent that it seeks the production of documents and materials protected by the attorney-client and/or work product privileges. Global Tissue also objects on the grounds that this request calls for documents that are confidential, proprietary and/or trade secret in the absence of a protective order. Further, Global Tissue objects

to this request as overly broad and unduly burdensome as the subject of such correspondence is undefined and therefore overly broad. Subject to and without waiving said objections, upon entry of a protective order, Global Tissue will produce non-privileged, responsive documents that pertain to the creation, selection, approval, and/or modification of Applicant's QUILTY Mark,

**REQUEST NO. 6**

All documents pertaining to any trademark searches, search reports, availability reports, investigations, clearance letters or opinions that Global Tissue conducted, developed, generated, ordered, commissioned, reviewed, read, or considered (either before or after the selection of the QUILTY Mark) pertaining to the selection of the QUILTY Mark.

**RESPONSE TO REQUEST NO. 6**

Global Tissue objects to this request to the extent that it seeks the production of documents and materials protected by the attorney-client and/or work product privileges. Global Tissue also objects on the grounds that this request calls for documents that are confidential, proprietary and/or trade secret in the absence of a protective order. Subject to and without waiving said objections, upon entry of a protective order, Global Tissue will produce non-privileged, responsive documents.

**REQUEST NO. 7**

All documents pertaining to any applications that Global Tissue has filed, or any registrations that Global Tissue has obtained, with respect to the QUILTY Mark, including Application Serial No. 77/364,616 and any other applications or registrations in the United States or in any other country, state or jurisdiction.

**RESPONSE TO REQUEST NO. 7**

Global Tissue objects to this request to the extent that it seeks the production of documents and materials that are protected by the attorney-client and/or work product privileges and that are beyond the scope of discovery. Global Tissue also objects on the grounds that this request calls for documents that are confidential, proprietary and/or trade secret in the absence of a protective order. Global Tissue also objects to this request on the grounds that it is overly broad and unduly burdensome in that it seeks materials related to matters that have occurred outside of the United States, which have are beyond the scope of this proceeding. Subject to and without waiving said objections, upon entry of a protective order, Global Tissue will produce non-privileged, responsive documents related to Global Tissue's U.S. application.

**REQUEST NO. 8**

All documents, pertaining to any third party marks that Global Tissue is aware of which use any form of the word QUILT in connection with any bath tissue products.

**RESPONSE TO REQUEST NO. 8**

Global Tissue objects to this request to the extent that it seeks the production of documents and materials protected by the attorney-client and/or work product privileges. Global Tissue also objects on the grounds that this request calls for documents that are confidential, proprietary and/or trade secret in the absence of a protective order. Global Tissue further objects to this request on the grounds that it is overly broad and unduly burdensome. Subject to and without waiving said objections, upon entry of a protective order, Global Tissue will produce non-privileged, representative documents that reflect use of the word QUILT in connection with bath tissue products.

**REQUEST NO. 9**

All documents pertaining to any purportedly descriptive uses of any form of the word QUILT by Global Tissue.

**RESPONSE TO REQUEST NO. 9**

Global Tissue objects to this request as ambiguous and vague in that the terms “purportedly descriptive” and “any form of the word” are undefined. Global Tissue further objects to this request to the extent that it seeks the production of documents and materials protected by the attorney-client and/or work product privileges. Global Tissue also objects on the grounds that this request calls for documents that are confidential, proprietary and/or trade secret in the absence of a protective order. Subject to and without waiving said objections, upon entry of a protective order, and to the extent this request is understood, Global Tissue will produce non-privileged, responsive documents.

**REQUEST NO. 10**

All documents pertaining to any purportedly descriptive uses by any third party of any form of the word QUILT.

**RESPONSE TO REQUEST NO. 10**

Global Tissue objects to this request as ambiguous and vague in that the terms “purportedly descriptive” and “any form of the word” are undefined. Further, Global Tissue objects to this request as overly broad to the extent that the term “all” includes duplicates of the same document. Global Tissue further objects to this request to the extent that it seeks the

production of documents and materials protected by the attorney-client and/or work product privileges. Global Tissue also objects on the grounds that this request calls for documents that are confidential, proprietary and/or trade secret in the absence of a protective order. Subject to and without waiving said objections, upon entry of a protective order, and to the extent this request is understood, Global Tissue will produce non-privileged, responsive documents.

**REQUEST NO. 11**

All documents, including correspondence and memoranda, pertaining to the factual basis that Andrew B. Katz had for making the statement, in support of Global Tissue's Application Serial No. 77/364,616 for the QUILTY Mark, that: "The applicant [i.e., Global Tissue] has a bona fide intention to use or use through the applicant's [i.e., Global Tissue's] related company or licensee the mark [i.e., the QUILTY mark] on or in connection with the identified goods or services [i.e. consumer and industrial paper products, namely facial tissues, napkins, towels and bathroom tissues]."

**RESPONSE TO REQUEST NO. 11**

Global Tissue objects to this request to the extent that it seeks the production of documents and materials protected by the attorney-client privilege. Global Tissue also objects on the grounds that this request calls for documents that are confidential, proprietary and/or trade secret in the absence of a protective order. Subject to and without waiving said objections, upon entry of a protective order, Global Tissue will produce non-privileged, responsive documents.

**REQUEST NO. 12**

All documents pertaining to any use by Global Tissue of the QUILTY Mark anywhere, including documents pertaining to the date(s) of first use, the form and manner of use, the goods or services with which such use had been made, any advertising or marketing materials announcing, promoting or otherwise pertaining to such use, the geographic area(s) of such use, whether any such use has been discontinued and the sales from such use.

**RESPONSE TO REQUEST NO. 12**

Global Tissue objects to this request as set forth in General Objections 3 and 4. The non-objectionable portion of this request is wholly redundant with Request No. 13 and Global Tissue's response to that request is incorporated herein by reference.

**REQUEST NO. 13**

All documents pertaining to any use by Global Tissue of the QUILTY Mark in United States commerce, including documents pertaining to the date of first use, the form and manner of

use, the goods or services with which such use had been made, any advertising or marketing materials announcing, promoting or otherwise pertaining to such use, the geographic area(s) of such use, whether any such use has been discontinued (and, if so, when), and the sales from such use.

**RESPONSE TO REQUEST NO. 13**

Global Tissue objects to this request to the extent that it seeks the production of documents and materials protected by the attorney-client and/or work product privileges. Global Tissue also objects on the grounds that this request calls for documents that are confidential, proprietary and/or trade secret in the absence of a protective order. Subject to and without waiving said objections, upon entry of a protective order, Global Tissue will produce non-privileged, responsive documents.

**REQUEST NO. 14**

All documents pertaining to any and all plans that Global Tissue has had, or currently has, to use the QUILTY Mark anywhere, including but not limited to the date(s) of planned use, the form and manner of planned use, the goods or services with which use is planned, any planned advertising or marketing materials announcing, promoting or otherwise pertaining to such use, the geographic area(s) of planned use, whether any such plans for use have been modified or discontinued (and, if so, when).

**RESPONSE TO REQUEST NO. 14**

Global Tissue objects to this request as set forth in General Objections 3 and 4. The non-objectionable portion of this request is wholly redundant with Request No. 15 and Global Tissue's response to that request is incorporated herein by reference.

**REQUEST NO. 15**

All documents pertaining to any and all plans that Global Tissue has had, or currently has, to use the QUILTY mark in United States commerce, including but not limited to the date(s) of planned use, the form and manner of planned use, the goods or services with which use is planned, any planned advertising or marketing materials announcing, promoting or otherwise pertaining to such use, the geographic area(s) of planned use, whether any such plans for use have been modified or discontinued (and, if so, when).

**RESPONSE TO REQUEST NO. 15**

Global Tissue objects to this request to the extent that it seeks the production of documents and materials protected by the attorney-client and/or work product privileges. Global

Tissue also objects on the grounds that this request calls for documents that are confidential, proprietary and/or trade secret in the absence of a protective order. Subject to and without waiving said objections, upon entry of a protective order, Global Tissue will produce non-privileged, responsive documents.

**REQUEST NO. 16**

All documents (including correspondence and agreements) pertaining to any related company, licensee, or other entity through which Global Tissue has, or had, a bona fide intention to use the QUILTY Mark.

**RESPONSE TO REQUEST NO. 16**

Global Tissue objects to this request as unduly broad and overly burdensome, particularly because the subject matter of the documents requested is undefined. Global Tissue further objects to this request to the extent that it seeks the production of documents and materials protected by the attorney-client privilege. Global Tissue also objects on the grounds that this request calls for documents that are confidential, proprietary and/or trade secret in the absence of a protective order. Global Tissue also incorporates General Objection No. 4. Subject to and without waiving said objections, upon entry of a protective order, Global Tissue will produce non-privileged, responsive documents.

**REQUEST NO. 17**

All documents (including correspondence and agreements) pertaining to any related company, licensee, or other entity through which Global Tissue has used or is using the QUITLY Mark.

**RESPONSE TO REQUEST NO. 17**

Global Tissue objects to this request as unduly broad and overly burdensome, particularly because the subject matter of the documents requested is undefined. Global Tissue further objects to this request to the extent that it seeks the production of documents and materials protected by the attorney-client privilege. Global Tissue also objects on the grounds that this request calls for documents that are confidential, proprietary and/or trade secret in the absence of a protective order. Global Tissue also incorporates General Objection No. 4. . Subject to and without waiving said objections, upon entry of a protective order, Global Tissue will produce non-privileged, responsive documents.

**REQUEST NO. 18**

All documents (including correspondence and agreements) pertaining to any private label agreement or relationship, license agreement or relationship, or other agreement or relationship that Global Tissue has, had, or is considering pertaining to the QUILTY Mark or to any products or services sold under or in connection with the QUILTY Mark.

**RESPONSE TO REQUEST NO. 18**

Global Tissue objects to this request as unduly broad and overly burdensome, particularly because the subject matter of the documents requested is undefined. Global Tissue further objects to this request to the extent that it seeks the production of documents and materials protected by the attorney-client privilege. Global Tissue also objects on the grounds that this request calls for documents that are confidential, proprietary and/or trade secret in the absence of a protective order. Global Tissue also incorporates General Objection No. 4. Subject to and without waiving said objections, upon entry of a protective order, Global Tissue will produce non-privileged, responsive documents.

**REQUEST NO. 19**

All documents pertaining to the actual, planned, potential, or possible classes of customers for products or services offered or sold, or planned to be offered or sold, under or in connection with the QUILTY Mark.

**RESPONSE TO REQUEST NO. 19**

Global Tissue objects to this request as vague, speculative and ambiguous, particularly with respect to the undefined term “potential or possible classes of customers”. Global Tissue further objects to this request as unduly broad and overly burdensome, particularly because the subject matter of the documents requested is undefined. Global Tissue further objects to this request to the extent that it seeks the production of documents and materials protected by the attorney-client privilege. Global Tissue also objects on the grounds that this request calls for documents that are confidential, proprietary and/or trade secret in the absence of a protective order. Global Tissue also incorporates General Objection No. 4. Subject to and without waiving said objections, upon entry of a protective order, Global Tissue will produce non-privileged, responsive documents.

**REQUEST NO. 20**

All documents pertaining to the actual, planned, potential or possible channels of trade for products or services offered or sold, or planned to be offered or sold, under or in connection with the QUILTY Mark.

**RESPONSE TO REQUEST NO. 20**

Global Tissue objects to this request as vague, speculative and ambiguous, particularly with respect to the undefined term “potential or possible channels of trade”. Global Tissue further objects to this request as unduly broad and overly burdensome, particularly because the subject matter of the documents requested is undefined. Global Tissue further objects to this request to the extent that it seeks the production of documents and materials protected by the attorney-client privilege. Global Tissue also objects on the grounds that this request calls for documents that are confidential, proprietary and/or trade secret in the absence of a protective order. Global Tissue also incorporates General Objection No. 4. Subject to and without waiving said objections, upon entry of a protective order, Global Tissue will produce non-privileged, responsive documents.

**REQUEST NO. 21**

All documents pertaining to the actual, planned, potential or possible retail outlets for products or services offered or sold, or planned to be offered or sold, under or in connection with the QUILTY Mark.

**RESPONSE TO REQUEST NO. 21**

Global Tissue objects to this request as vague, speculative and ambiguous, particularly with respect to the undefined term “potential or possible retail outlets”. Global Tissue further objects to this request as unduly broad and overly burdensome, particularly because the subject matter of the documents requested is undefined. Global Tissue further objects to this request to the extent that it seeks the production of documents and materials protected by the attorney-client privilege. Global Tissue also objects on the grounds that this request calls for documents that are confidential, proprietary and/or trade secret in the absence of a protective order. Global Tissue also incorporates General Objection No. 4. Subject to and without waiving said objections, upon entry of a protective order, Global Tissue will produce non-privileged, responsive documents.

**REQUEST NO. 22**

All documents pertaining to the actual, planned, potential or possible methods for advertising and promoting the QUILTY Mark, and for advertising and promoting any products or

services offered or sold, or planned to be offered or sold, under or in connection with the QUILTY Mark.

**RESPONSE TO REQUEST NO. 22**

Global Tissue objects to this request as vague, speculative and ambiguous, particularly with respect to the undefined term “potential or possible methods for advertising and promoting”. Global Tissue further objects to this request as unduly broad and overly burdensome, particularly because the subject matter of the documents requested is undefined. Global Tissue further objects to this request to the extent that it seeks the production of documents and materials protected by the attorney-client privilege. Global Tissue also objects on the grounds that this request calls for documents that are confidential, proprietary and/or trade secret in the absence of a protective order. Global Tissue also incorporates General Objection No. 4. Subject to and without waiving said objections, upon entry of a protective order, Global Tissue will produce non-privileged, responsive documents.

**REQUEST NO. 23**

Documents sufficient to identify all actual, planned, potential or possible media, including but not limited to all newspapers, journals, magazines, periodicals, radio stations, television stations, and Internet websites, in which Global Tissue advertises and promotes, or may advertise and promote, the QUILTY Mark, and any products or services offered, sold, or planned to be offered or sold, under or in connection with the QUILTY Mark.

**RESPONSE TO REQUEST NO. 23**

Global Tissue objects to this request as vague, speculative and ambiguous, particularly with respect to the undefined term “potential or possible media”. Global Tissue further objects to this request as unduly broad and overly burdensome, particularly because the subject matter of the documents requested is undefined. Global Tissue further objects to this request to the extent that it seeks the production of documents and materials protected by the attorney-client privilege. Global Tissue also objects on the grounds that this request calls for documents that are confidential, proprietary and/or trade secret in the absence of a protective order. Global Tissue also incorporates General Objection No. 4. Subject to and without waiving said objections, upon entry of a protective order, Global Tissue will produce non-privileged, responsive documents.

**REQUEST NO. 24**

All documents pertaining to any actual or planned research or investigations that Global Tissue conducted, developed, generated, ordered, commissioned, reviewed, read, or considered

pertaining to the QUILTY Mark or any products or services offered, sold, or planned to be offered or sold, under or in connection with the QUILTY Mark, including but not limited to any surveys, focus groups, or market studies.

**RESPONSE TO REQUEST NO. 24**

Global Tissue objects to this request to the extent that it seeks the production of documents and materials protected by the attorney-client and/or work product privileges. Global Tissue also objects on the grounds that this request calls for documents that are confidential, proprietary and/or trade secret in the absence of a protective order. Global Tissue also incorporates General Objection No. 4. Subject to and without waiving said objections, upon entry of a protective order, Global Tissue will produce non-privileged, responsive documents.

**REQUEST NO. 25**

All documents (including correspondence and agreements ) pertaining to any demand letters or cease and desist letters that Global Tissue has received, has transmitted, or is planning to transmit, pertaining to the QUILTY Mark.

**RESPONSE TO REQUEST NO.25**

Global Tissue objects to this request to the extent that it seeks the production of documents and materials protected by the attorney-client and/or work product privileges. Global Tissue objects on the grounds that this request calls for documents that are confidential, proprietary and/or trade secret in the absence of a protective order. Global Tissue also incorporates General Objection No. 4. Global Tissue objects to the extent this request seeks documents pertaining to this matter which are as available to Georgia-Pacific as to Global Tissue. Subject to and without waiving said objections, upon entry of a protective order, Global Tissue will produce non-privileged, responsive documents.

**REQUEST NO. 26**

All documents (including correspondence and agreements) pertaining to any formal or informal disputes, controversies, proceedings, opposition, arbitrations, cases, controversies, or litigation pertaining to the QUILTY Mark.

**RESPONSE TO REQUEST NO. 26**

Global Tissue objects to this request to the extent that it seeks the production of documents and materials protected by the attorney-client and/or work product privileges. Global Tissue also objects on the grounds that this request calls for documents that are confidential, proprietary and/or trade secret in the absence of a protective order. Global Tissue also

incorporates General Objection No. 4. Global Tissue objects to the extent that this request seeks documents pertaining to this matter which are as available to Georgia-Pacific as to Global Tissue. Subject to and without waiving said objections, upon entry of a protective order, Global Tissue will produce non-privileged, responsive documents.

**REQUEST NO. 27**

All documents pertaining to the quality of any goods or services offered, sold, or planned to be offered or sold under or in connection with the QUILTY Mark.

**RESPONSE TO REQUEST NO. 27**

Global Tissue objects to this request as vague and ambiguous, particularly with respect to the undefined term "quality". Global Tissue further objects to the request to the extent that it is speculative. Global Tissue also objects on the grounds that this request calls for documents that are confidential, proprietary and/or trade secret in the absence of a protective order. Global Tissue also incorporates General Objection No. 4. Subject to and without waiving said objections, upon entry of a protective order, Global Tissue will produce non-privileged, responsive documents.

**REQUEST NO. 28**

All documents (including correspondence) pertaining to any inquiries, communications, or purchase orders that Global Tissue has received, from actual or potential consumers, retailers, distributors, or others, pertaining to the QUILTY Mark or any products or services offered, sold, or to be offered or sold under or in connection with the QUILTY Mark.

**RESPONSE TO REQUEST NO.28**

Global Tissue objects to this request to the extent that it seeks "all documents" from "others", as those documents could include documents and things protected by the attorney-client and/or work product privileges. Global Tissue objects on the grounds that this request calls for documents that are confidential, proprietary and/or trade secret in the absence of a protective order. Global Tissue also incorporates General Objection No. 4. Subject to and without waiving said objections, upon entry of a protective order, Global Tissue will produce non-privileged, responsive documents.

**REQUEST NO. 29**

All documents (including correspondence) pertaining to any incidents of confusion, actual confusion, possible confusion, mistake or deception pertaining to the QUILTY Mark and/or pertaining to Global Tissue and Georgia-Pacific.

**RESPONSE TO REQUEST NO. 29**

Global Tissue objects to this request to the extent that it seeks the production of documents and materials protected by the attorney-client and/or work product privileges. Global Tissue objects on the grounds that this request calls for documents that are confidential, proprietary and/or trade secret in the absence of a protective order. Global Tissue also incorporates General Objection No. 4. Subject to and without waiving said objections, upon entry of a protective order, Global Tissue will produce non-privileged, responsive documents.

**REQUEST NO. 30**

Examples of each different item of advertising or promotion, including but not limited to print ads, Internet materials, website materials, television ads, radio ads, point-of-purchase material, displays, signs, direct mail materials, coupons, and samples, used, considered, or planned for use in connection with the QUILTY Mark or any products or services offered, sold or to be offered or sold under or in connection with QUILTY marks.

**RESPONSE TO REQUEST NO. 30**

Global Tissue objects to this request to the extent that it calls for documents that are confidential, proprietary and/or trade secret in the absence of a protective order. Global Tissue also incorporates General Objection No. 4. Subject to and without waiving said objections, upon entry of a protective order, Global Tissue will produce non-privileged, responsive documents.

**REQUEST NO. 31**

All documents pertaining to marketing plans, promotional plans, budgets, and projected sales pertaining to the QUILTY Mark or any products or services offered, sold, or to be offered or sold under or in connection with the QUILTY Mark.

**RESPONSE TO REQUEST NO. 31**

Global Tissue objects to this request to the extent that it calls for documents that are confidential, proprietary and/or trade secret in the absence of a protective order. Global Tissue also incorporates General Objection No. 4. Subject to and without waiving said objections, upon entry of a protective order, Global Tissue will produce non-privileged, responsive documents.

**REQUEST NO. 32**

Documents sufficient to show all sales of, and revenue from, or any products or services sold under or in connection with the QUILTY Mark.

**RESPONSE TO REQUEST NO. 32**

Global Tissue objects to this request as it is overly broad and unduly burdensome. Global Tissue also objects to this request to the extent that it calls for documents that are confidential, proprietary and/or trade secret in the absence of a protective order. Global Tissue also incorporates General Objection No. 4. Subject to and without waiving said objections, upon entry of a protective order, Global Tissue will produce non-privileged, responsive documents.

**REQUEST NO. 33**

Examples of each different item of packaging, labeling, and/or trade dress used, considered, or planned for use in connection with the QUILTY Mark or any products or services offered, sold, or to be offered or sold under or in connection with the QUILTY Mark.

**RESPONSE TO REQUEST NO. 33**

Global Tissue objects to this request as vague, speculative and ambiguous. Global Tissue further objects to this request to the extent that it calls for documents that are confidential, proprietary and/or trade secret in the absence of a protective order. Global Tissue also incorporates General Objection No. 4. Subject to and without waiving said objections, upon entry of a protective order, Global Tissue will produce non-privileged, responsive documents.

**REQUEST NO. 34**

Examples of each different item of bath tissue or other product sold, considered, offered, or planned for use in connection with QUILTY Mark, including any embosses used, considered, or planned for use with any such bath tissue.

**RESPONSE TO REQUEST NO. 34**

Global Tissue objects to this request as vague, speculative and ambiguous. Global Tissue also objects to the production of embosses which are overly broad, unduly burdensome, and outside the scope of this proceeding. Global Tissue objects to this request on the grounds that it seeks documents that are irrelevant and not reasonably calculated to lead to the discovery of admissible evidence related to the claims or defenses of the parties to this proceeding. Global Tissue further objects to this request to the extent that it calls for documents and things that are confidential, proprietary and/or trade secret in the absence of a protective order and incorporates General Objection No. 4. Subject to and without waiving said objections, upon entry of a protective order, Global Tissue will produce non-privileged, responsive documents and things.

**REQUEST NO. 35**

All documents pertaining to Georgia-Pacific, including but not limited to Georgia-Pacific's reputation, quality, customers, retailers, distributor, market share, products, sales, advertising, promotions, trademarks, trade dress, packaging, designs, embosses, or indicia or origin.

**RESPONSE TO REQUEST NO. 35**

Global Tissue objects to this request as overly broad and unduly burdensome. Global Tissue further objects that many of these terms are not defined and Global Tissue has no knowledge as to the identity of Georgia-Pacific's customers, distributors and the like. Global Tissue also objects to this request to the extent that it seeks the production of documents and materials protected by the attorney-client and/or work product privileges. Global Tissue objects on the grounds that this request calls for documents that are confidential, proprietary and/or trade secret in the absence of a protective order. Global Tissue also incorporates General Objection No. 4. Subject to and without waiving said objections, upon entry of a protective order, all documents in Global Tissue's possession that Global Tissue reasonably believes to be responsive will be produced.

**REQUEST NO. 36**

All documents pertaining to any communications between Global Tissue and any retailers, distributors, wholesales, advertisers, marketers, consultants, naming firms, public relations firms, artists, designers, or design firms that pertain to Georgia-Pacific, including but not limited to Georgia-Pacific's reputation, quality, customers, retailers, distributor, market share, products, sales, advertising, promotions, trademarks, trade dress, packaging, designs, embosses, or indicia or origin.

**RESPONSE TO REQUEST NO. 36**

Global Tissue objects to this request as overly broad and unduly burdensome. Global Tissue further objects that many of these terms are not defined and Global Tissue has no knowledge as to the identity of Georgia-Pacific's customers, distributors and the like. Global Tissue objects to this request to the extent that it seeks the production of documents and materials protected by the attorney-client and/or work product privileges. Global Tissue objects on the grounds that this request calls for documents that are confidential, proprietary and/or trade secret in the absence of a protective order. Global Tissue also incorporates General Objection No. 4. Subject to and without waiving said objections, upon entry of a protective order, all documents in

Global Tissue's possession that Global Tissue reasonably believes to be responsive will be produced.

**REQUEST NO. 37**

All documents that pertain to, will be relied upon, or were prepared by or considered in connection with the testimony of any witness (fact or expert) that Global Tissue expects to call in the Opposition.

**RESPONSE TO REQUEST NO. 37**

Global Tissue objects to this request to the extent that it seeks the production of documents and materials protected by the attorney-client and/or work product privileges. Further, Global Tissue objects to the extent that it has not prepared any witness list and is not yet required to do so.

**REQUEST NO. 38**

All documents pertaining to the QUILTY Mark.

**RESPONSE TO REQUEST NO. 38**

Global Tissue objects to this request as vague and unduly burdensome. Global Tissue objects to this request as redundant with nearly every other document request propounded in this case, and to that extent, incorporates the specific objections raised to each request.

**REQUEST NO. 39**

All documents pertaining to any comparisons, formal or informal and authorized or unauthorized, between any of Georgia-Pacific's products or services and any of Global Tissue's products or services.

**RESPONSE TO REQUEST NO. 39**

Global Tissue objects to this request on the ground that it is overly broad. Global Tissue objects to this request on the grounds that it seeks documents that are irrelevant and not reasonably calculated to lead to the discovery of admissible evidence related to the claims or defenses of the parties to this proceeding. Global Tissue further objects to this request on the grounds that this request calls for documents that are confidential, proprietary and/or trade secret in the absence of a protective order. Global Tissue also incorporates General Objection No. 4. Finally, Global Tissue objects to this request to the extent it calls for documents protected by the attorney-client and/or work product privileges.

**REQUEST NO. 40**

All documents pertaining to any survey of any of Global Tissue's competitors in the consumer paper products segment or the industrial paper products segment.

**RESPONSE TO REQUEST NO. 40**

Global Tissue objects to this request on the ground that it is overly broad. Global Tissue objects to this request on the grounds that it seeks documents that are irrelevant and not reasonably calculated to lead to the discovery of admissible evidence related to the claims or defenses of the parties to this proceeding. Global Tissue further objects to this request on the grounds that this request calls for documents that are confidential, proprietary and/or trade secret in the absence of a protective order, and to the extent that it calls for documents protected by the attorney-client and/or work product privileges. Finally, Global Tissue incorporates General Objection No. 4.

**REQUEST NO. 41**

All documents pertaining to analyses, surveys, searches, or investigations performed by Global Tissue or by any market research professionals, investigators, watch services, or similar such parties that pertain to any of Global Tissue's competitors in the consumer paper products segment or the industrial paper products segment, including searches of the United States Patent and Trademark Office database, other trademark or name databases, and the marketplace.

**RESPONSE TO REQUEST NO. 41**

Global Tissue objects to this request on the ground that it is overly broad and unduly burdensome and otherwise outside the scope of this proceeding. Global Tissue further objects to this request to the extent that it seeks the production of documents and materials protected by the attorney-client and/or work product privileges. Global Tissue also objects on the grounds that this request calls for documents that are confidential, proprietary and/or trade secret in the absence of a protective order. Global Tissue incorporates General Objection No. 4. Subject to and without waiving said objections, upon entry of a protective order, Global Tissue will produce non-privileged, responsive documents that relate to the mark QUILTY.

**REQUEST NO. 42**

All documents pertaining to Global Tissue's actual or planned strategy for displaying the QUILTY Mark in any advertising materials, promotional materials, or other communications.

**RESPONSE TO REQUEST NO. 42**

Global Tissue objects to this request to the extent it seeks the production of documents and materials protected by the attorney-client and/or work product privileges. Global Tissue also objects on the grounds that this request calls for documents that are confidential, proprietary and/or trade secret in the absence of a protective order. Global Tissue also incorporates General Objection No. 4. Subject to and without waiving said objections, upon entry of a protective order, Global Tissue will produce non-privileged, responsive documents.

**REQUEST NO. 43**

All documents pertaining to any use of any form of the word QUILT in connection with consumer or industrial bath tissue products.

**RESPONSE TO REQUEST NO. 43**

Global Tissue objects to this request as indefinite, ambiguous and vague. To the extent that the request includes all third party uses of any form of the word QUILT, Global Tissue further objects that the request is overly broad and unduly burdensome. Global Tissue further objects to this request as redundant with request 10. Global Tissue also objects to this request to the extent it seeks the production of documents and materials protected by the attorney-client and/or work product privileges. Global Tissue incorporates General Objection No. 4. Subject to and without waiving said objections, upon entry of a protective order, Global Tissue will produce non-privileged, responsive documents.

**REQUEST NO. 44**

Documents sufficient to identify all of Global Tissue's present and former parents, subsidiaries, affiliates, predecessors, successors, and assigns.

**RESPONSE TO REQUEST NO. 44**

Global Tissue objects to this request on the grounds that it seeks documents that are irrelevant and not reasonably calculated to lead to the discovery of admissible evidence related to the claims or defenses of the parties to this proceeding.

**REQUEST NO. 45**

All documents pertaining to any present or past relationship between Global Tissue and Global Tissue LLC, any other Global Tissue entity, Kruger, Inc., any other Kruger entity, American Tissue, Inc., American Tissue Mills of Tennessee LLC, or any other American Tissue entity.

**RESPONSE TO REQUEST NO. 45**

Global Tissue objects to this request on the grounds that it seeks documents that are irrelevant and not reasonably calculated to lead to the discovery of admissible evidence related to the claims or defenses of the parties to this proceeding.

**REQUEST NO. 46**

Documents sufficient to identify all of Global Tissue's present and former officers, directors, principal owners, and principal shareholders.

**RESPONSE TO REQUEST NO. 46**

Global Tissue objects to this request on the grounds that it seeks documents that are irrelevant and not reasonably calculated to lead to the discovery of admissible evidence related to the claims or defenses of the parties to this proceeding. Global Tissue further objects to this request as unduly burdensome to the extent that it seeks the identity of all former officers, directors, principal owners, and principal shareholders. Global Tissue also objects to this request as vague, as the terms "principal owners" and "principal shareholders" are not defined.

**REQUEST NO. 47**

All documents pertaining to the employment histories of Philip Shaoul, Meir Elnekaveh, Freydoun Elnekaveh, and Marc Jackere.

**RESPONSE TO REQUEST NO. 47**

Global Tissue objects to this request on the grounds that it seeks documents that are irrelevant and not reasonably calculated to lead to the discovery of admissible evidence related to the claims or defenses of the parties to this proceeding. Global Tissue further objects to this request as overly broad, unduly burdensome and designed to harass Applicant.

**REQUEST NO. 48**

Documents sufficient to identify Global Tissue's custodians of documents and things pertaining to the QUILTY Mark, pertaining to trademark matters generally, pertaining to goods or services offered, sold, or planned to be offered or sold under or in connection with the QUILTY mark, and pertaining to the Opposition.

**RESPONSE TO REQUEST NO. 48**

Global Tissue objects to this request as vague and ambiguous. Subject to and without waiving said objections, upon entry of a protective order, Global Tissue will produce non-privileged, responsive documents.

**REQUEST NO. 49**

All documents pertaining to Global Tissue's document retention and/or document management policy, including but not limited to its policy for retaining and managing electronic documents and data, and identify the persons most knowledgeable about the foregoing.

**RESPONSE TO REQUEST NO. 49**

Global Tissue objects to this request to the extent that it calls for a response that is other than a request for documents and things. Global Tissue further objects to this request on the grounds that it seeks documents that are irrelevant and not reasonably calculated to lead to the discovery of admissible evidence related to the claims or defenses of the parties to this proceeding. Global Tissue also objects on the grounds that this request calls for documents that are confidential, proprietary and/or trade secret, in the absence of a protective order. Subject to and without waiving said objections, upon entry of a protective order, Global Tissue will produce its document management policy(ies).

**REQUEST NO. 50**

All documents pertaining to, referred to, or relied upon in responding to any interrogatories or requests for admissions propounded by Georgia-Pacific in the Opposition.

**RESPONSE TO REQUEST NO. 50**

Global Tissue objects to this request to the extent that it seeks the production of documents and materials protected by the attorney-client and/or work product privileges. Global Tissue also objects on the grounds that this request calls for documents that are confidential, proprietary and/or trade secret, in the absence of a protective order. Subject to and without waiving said objections, upon entry of a protective order, Global Tissue will produce non-privileged, responsive documents at such time as unobjectionable and proper interrogatories or requests for admissions have been served on Global Tissue.

**REQUEST NO. 51**

All documents pertaining to, referred to, or relied upon in any pleading filed by Global Tissue in the Opposition.

**RESPONSE TO REQUEST NO. 51**

Global Tissue objects to this request to the extent that it seeks the production of documents and materials protected by the attorney-client and/or work product privileges. Global Tissue also objects on the grounds that this request calls for documents that are confidential, proprietary and/or trade secret in the absence of a protective order. Subject to and without

waiving said objections, upon entry of a protective order, Global Tissue will produce non-privileged, responsive documents.

November 18, 2008



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*Counsel for Applicant  
Global Tissue Group, Inc.*

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of Global Tissue Group Inc.'s Responses to Georgia-Pacific Consumer Products LP's First Request for Production of Documents and Things was served by email and First Class Mail, postage prepaid, on this 18th day of November, 2008 on the following:

Stephen P. Demm, Esq.  
John Gary Maynard III, Esq.  
Edward T. White, Esq.  
Janet W. Cho, Esq.  
Hunton & Williams LLP  
Riverfront Plaza, East Tower  
951 East Byrd Street  
Richmond, Virginia 23219-4074



Andrew B. Katz

## **EXHIBIT B**

**Georgia-Pacific v. Global Tissue Group, Inc.**  
**Opposition No. 91184529**  
**Log of Hard Copy Documents Withheld by Global Tissue on Grounds of Privilege**  
**Pursuant to Fed. R. Civ. P. 26(b)(5)**

<b>DATE</b>	<b>TYPE</b>	<b>AUTHOR</b>	<b>RECIPEINT/CCS</b>	<b>DESCRIPTION</b>	<b>PRIVILEGE</b>
10/5/2007	e-mail	Philip Shaoul	Andrew Katz; Daniel David	re: trademarking of "QUILTY"	Attorney/Client
10/5/2007	e-mail	Andrew Katz	Philip Shaoul	re: trademarking of "QUILTY"	Attorney/Client
12/26/2007	e-mail	Philip Shaoul	Andrew Katz	re: change of e-mail address	Attorney/Client
12/27/2007	e-mail	Philip Shaoul	Andrew Katz; Daniel David	re: trademarking of "QUILTY"	Attorney/Client
12/31/2007	e-mail	Philip Shaoul	Andrew Katz	re: trademarking of "QUILTY"	Attorney/Client

## **EXHIBIT C**

**BEFORE THE UNITED STATES  
TRADEMARK TRIAL AND APPEAL BOARD**

**GEORGIA PACIFIC CONSUMER  
PRODUCTS LP,**

**Opposer,**

**Opp No. 911.4.29  
Serial No. 77/364616**

**GLOBAL TISSUE GROUP, INC.,**

**Applicant**

**APPLICANT GLOBAL TISSUE GROUP, INC.'S OBJECTIONS AND ANSWERS TO  
OPPOSER GEORGIA PACIFIC CONSUMER PRODUCTS LP'S SUBSTITUTED  
AND AMENDED INTERROGATORIES**

Applicant Global Tissue Group, Inc. ("Global Tissue") responds to Opposer Georgia Pacific Consumer Products LP's ("Georgia Pacific") Substituted and Amended Interrogatories.

**GENERAL OBJECTIONS**

Global Tissue makes the following General Objections to Georgia Pacific's Substituted and Amended Interrogatories, individually, all of which are expressly preserved and not waived:

1. Global Tissue objects to Georgia Pacific's Substituted and Amended Interrogatories to the extent that the interrogatories seek information subject to the attorney-client privilege and/or work-product doctrine. Production of any privileged or otherwise protected material by Global Tissue in the course of this proceeding is inadvertent and shall not constitute a waiver of any such privilege(s) and/or protection(s) or other grounds for objection to discover, with respect to such information.

2. Global Tissue objects to answering interrogatories calling for information that is confidential, proprietary, and/or trade secret until such time as the parties' attorneys have stipulated to an appropriate protective order, which is entered by the Trademark Trial and Appeal Board. Further, all answers containing information that is confidential, proprietary, and/or trade secret shall be provided separately and must be maintained as provided in the protective order.

3. Global Tissue objects to Georgia Pacific's Substituted and Amended Interrogatories as unduly burdensome insofar as the interrogatories impose on Global Tissue obligations beyond those

required by Rules 26 and 33 of the Federal Rules of Civil Procedure, the TTAB Manual of Procedure ("TBMP") and relevant case law. Further, the interrogatories, including the "Definitions and Instructions" section, attempt to vary the normal and everyday usage of the English Language and expand the burden of Global Tissue in responding beyond the scope of the requirements of Rules 26 and 33 of the Federal Rules of Civil Procedure, the TTAB Manual or Procedure and relevant case law.

## **RESPONSES AND SPECIFIC OBJECTIONS**

### **INTERROGATORY NO. 1**

Identify the person(s) most knowledgeable about the circumstances under which Global Tissue first became aware of each of Georgia Pacific's QUILETED Marks.

#### **ANSWER INTERROGATORY NO. 1**

Global Tissue objects to Interrogatory No. 1 on the grounds that the phrase "most knowledgeable" is unclear, vague, and ambiguous. Subject to and without waiving said objections, Global Tissue identifies the following relevant individual:

Philip Shaoul, President, Global Tissue Group, Inc., 1101 Lakeland Ave, Bohemia, NY 11716

### **INTERROGATORY NO. 2**

Identify the person(s) most knowledgeable about the Global Tissue's selection of the QUILETY Mark.

#### **ANSWER INTERROGATORY NO. 2**

Global Tissue objects to Interrogatory No. 2 on the grounds that the phrase "most knowledgeable" is unclear, vague, and ambiguous. Subject to and without waiving said objections, Global Tissue identifies the following relevant individual:

Philip Shaoul, President, Global Tissue Group, Inc., 1101 Lakeland Ave, Bohemia, NY 11716

### **INTERROGATORY NO. 3**

Identify all words considered as possible alternatives for the QUILETY mark, and describe the reasons why such possible alternatives were not selected.

#### **ANSWER TO INTERROGATORY NO. 3**

Global Tissue objects to Interrogatory No. 3 on the grounds that it seeks information that is protected by the attorney-client and/or work product privileges and beyond the scope of discovery.

Global Tissue also objects on the grounds that this interrogatory calls for information that is confidential, proprietary and/or trade secret in the absence of a protective order. Subject to and without waiving said objections, no other words were considered as possible alternatives for the QUILTY mark.

#### **INTERROGATORY NO. 4**

Identify each Third Party involved in any way in the creation, selection, approval and/or adoption of the QUILTY mark, including but not limited to lawyers, law firms, naming firms, advertising agencies, marketing firms, vendors, customers, retailers and distributors.

#### **ANSWER TO INTERROGATORY NO. 4**

Global Tissue objects to Interrogatory No. 4 on the grounds that it seeks information that is protected by the attorney-client and/or work product privileges and beyond the scope of discovery. Global Tissue also objects on the grounds that this interrogatory calls for information that is confidential, proprietary and/or trade secret in the absence of a protective order. Subject to and without waiving said objections, Global Tissue identifies the following individual:

Andrew [redacted] at [redacted] counsel for Global Tissue Group, Inc., 1 [redacted] Resher Road, Suite 1100  
[redacted] orsham, PA 17044

#### **INTERROGATORY NO. 5**

Identify each mark used by a Third Party in connection with bath tissue that includes any form of the word "quilt."

#### **ANSWER TO INTERROGATORY NO. 5**

Global Tissue objects to Interrogatory No. 5 to the extent that the term "mark" is ambiguous and overbroad. Subject to and without waiving such objection, Global Tissue will answer the interrogatory with the understanding that the term "mark" means only "registered U.S. trademarks" and does not include any marks registered abroad or unregistered marks, which would be covered by the interrogatory number below. At the time of the service of this answer, Global Tissue is not aware of any registered marks in the U.S. that contain any form of the word "quilt" in connection with bath tissue by a Third Party other than the marks at issue in this matter and Third Party marks identified by Georgia Pacific in Georgia Pacific's Answers to Global Tissue's Interrogatories.

#### **INTERROGATORY NO 6**

Identify any purportedly descriptive uses by any Third Party of any form of the word "quilt."

#### **ANSWER TO INTERROGATORY NO 6**

At the time of this service of this answer Global Tissue is aware of the following Third Party descriptive uses of any form of the word "quilt":

Merfin LLC "quilted" toilet tissue;

leenex "quilted" facial tissues;

Marcel Paper Mills "quilted" roll paper towel, two ply "quilted" toilet tissue, "quilted" Sunrise Roll paper towels;

Walgreen's "ultra "quilted" paper towels;

Bounty "thicker quilts"; Big "Quilts" paper towels, "quilted" napkins;

CVS brand "Big "Quilts" paper towels;

Office Depot "quilted" paper towels;

Tesco "Velvet White "Quilted" Toilet Tissue;

Andrex "Quilts" Bathroom Tissue;

"Quill" paper towels;

First Quality "Cuties "Quilted" wash cloths baby wipes; Cuties "Quilted" baby wipes;

Germ "Quilted" Antibacterial Wipes;

Procter & Gamble "Always Thin Ultra Maxi Pads "quilt" super long pads; Always Maxi pads "quilted" protection;

Stayfree Clean "quilt" Ultra Thin Pads;

Pampers "Quilted" Cloths baby wipes;

"Quilt" wave microwavable food packages

#### **INTERROGATORY NO 7**

Identify the person's most knowledgeable about Global Tissue's actual or intended offer for sale or sale of any product under the QUILTY Mark

#### **ANSWER TO INTERROGATORY NO 7**

Global Tissue objects to Interrogatory No. 7 on the grounds that the phrase "most knowledgeable" is unclear, vague, and ambiguous. Subject to and without waiving said objections Global Tissue identifies the following relevant individual:

Philip Shaoul, President, Global Tissue Group, Inc., 11-1 Lakeland Ave, Bohemia, NY 11716

### **INTERROGATORY NO. 8**

Identify the person(s) most knowledgeable about Global Tissue's actual or intended advertising promotion or marketing of any product under the QUILTY Mark.

### **ANSWER TO INTERROGATORY NO. 8**

Global Tissue objects to Interrogatory No. 8 on the grounds that the phrase "most knowledgeable" is unclear, vague, and ambiguous. Subject to and without waiving said objections, Global Tissue identifies the following relevant individual:

Philip Shaoul, President, Global Tissue Group, Inc., 1101 Lakeland Ave., Bohemia, NY 11716

### **INTERROGATORY NO. 9**

Identify the person(s) most knowledgeable about the actual, planned, or potential target customers for products offered under the QUILTY Mark.

### **ANSWER TO INTERROGATORY NO. 9**

Global Tissue objects to Interrogatory No. 9 on the grounds that the phrase "most knowledgeable" is unclear, vague, and ambiguous. Subject to and without waiving said objections, Global Tissue identifies the following relevant individual:

Philip Shaoul, President, Global Tissue Group, Inc., 1101 Lakeland Ave., Bohemia, NY 11716

### **INTERROGATORY NO. 10**

Identify the retail outlets under which Global Tissue has offered or intends to offer products for sale under the QUILTY Mark.

### **ANSWER TO INTERROGATORY NO. 10**

Global Tissue has not offered any products for sale under the QUILTY mark, has no intent to do so until this Opposition is resolved.

### **INTERROGATORY NO. 11 was not pronounced**

### **INTERROGATORY NO. 1**

Identify the person(s) most knowledgeable about research (including but not limited to any surveys, focus groups, or market studies) conducted by or on behalf of Global Tissue pertaining to the QUILTY Mark.

**ANSWER TO INTERROGATORY NO. 12**

Global Tissue objects to Interrogatory No. 12 on the grounds that the phrase "most knowledgeable" is unclear, vague, and ambiguous. Subject to and without waiving said objections, Global Tissue identifies the following relevant individual:

Philip Shaoul, President, Global Tissue Group, Inc. 1101 Lakeland Ave, Bohemia, NY 11716

**INTERROGATORY NO. 13**

Identify any incidents of confusion, mistake, or deception pertaining to (a) the QUILTY Mark or (b) Global Tissue and Georgia Pacific, including any misdirected inquiries, communications, or purchase orders that Global Tissue has received from actual or potential consumers, retailers, distributors, or others.

**ANSWER TO INTERROGATORY NO. 13**

Global Tissue is not aware of any incidents of confusion, mistake or deception pertaining to (a) the QUILTY Mark or (b) Global Tissue and Georgia Pacific.

**INTERROGATORY NO. 14**

Identify the person(s) who are most knowledgeable about each of Global Tissue's Affirmative defenses.

**ANSWER TO INTERROGATORY NO. 14**

Global Tissue objects to Interrogatory No. 14 on the grounds that the phrase "most knowledgeable" is unclear, vague, and ambiguous. Subject to and without waiving said objections, Global Tissue identifies the following relevant individual:

Philip Shaoul, President, Global Tissue Group, Inc. 1101 Lakeland Ave, Bohemia, NY 11716

**INTERROGATORY NO. 15**

Identify: (a) each person Global Tissue intends to call or otherwise use as a witness in this matter, and (b) the subject matter on which he or she is expected to testify.

**ANSWER TO INTERROGATORY NO. 15**

At the time of service of this response, Global Tissue identifies the following witness for all relevant issues:

Philip Shaoul, President, Global Tissue Group, Inc. 1101 Lakeland Ave, Bohemia, NY 11716

any way of further answer. Global Issue reserves the right to supplement this response up to and including at trial.

June 4, 2009

Philadelphia, Pennsylvania 19044  
jacobowitz@jacobowitz.com  
215 659 3600  
215 659 3222 facsimile

*Counsel for Applicant  
Global Issue Group, Inc.*

**V E R I F I C A T I O N**

I state that I am authorized to make this Verification and that the facts set forth in the foregoing are true and correct to the best of my information and belief. I understand that the statements made herein are made subject to the penalties of 18 U.S.C. 1001 relating to false, fictitious or fraudulent statements or representations.

at

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of Global Tissue Group Inc.'s Objections and Answers to Georgia Pacific Consumer Products LP's Substituted and Amended Interrogatories was served by email and First Class Mail, postage prepaid, on this fourth day of June 2009 on the following:

R. Charles Marmorek Jr.  
Charlene R. Marmorek  
KILPATRICK STOCKTON LLP  
1100 Peachtree Street, Suite 2800  
Atlanta, Georgia 30309

Andrew J. Katz

EXHIBITS D – F TO THE DECLARATION OF CHARLENE R. MARINO IN SUPPORT  
OF GEORGIA-PACIFIC’S MOTION TO STRIKE WITNESS DECLARATIONS FILED  
UNDER SEAL

## **EXHIBIT G**

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

In Re Application: 77/354,616  
Filed: January 4, 2008  
Published: May 20, 2008  
For: QUILTY

GEORGIA-PACIFIC CONSUMER PRODUCTS LP	)	
Opposer,	)	Opposition No. 91-184529
v.	)	
GLOBAL TISSUE GROUP, INC.	)	Serial No. 77/364,616
Applicant.	)	

**GLOBAL TISSUE GROUP, INC.'S INITIAL DISCLOSURES**

Pursuant to Trademark Trial and Appeal Board Manual of Procedure (“TBMP”) Rule 2.120(a)(1) (2d ed. rev. 2004), Federal Rule of Civil Procedure 16(a) and the Board’s Order of June 11, 2008, Applicant Global Tissue Group, Inc. (“GTG”) provides these initial disclosures.

These disclosures are based on the information currently available to GTG. GTG has not yet fully completed its investigation for this proceeding and has not yet begun discovery in this action. It is anticipated that further investigation, legal research and analysis will lead to additions to, and potentially changes to, these disclosures.

These disclosures are given without prejudice to the right to produce witnesses, documents, or other evidence which GTG may later discover or believe to be relevant. GTG accordingly reserves its right to change and supplement these disclosures as additional facts are ascertained, additional witnesses are identified, more legal research is completed, and this proceeding develops. These disclosures are made in good faith, and in no way prejudice GTG in relation to further discovery or proceedings.

### Witnesses

The following individuals are likely to have discoverable, non-expert information that GTG may use to support its position in this action:

1. All witnesses named by Opposer Georgia-Pacific Consumer Products LP in its initial disclosure documents.
2. Philip Shaoul, officer, Global Tissue, Group, Inc.
3. GTG is not currently aware of other individuals who have discoverable non-expert information, but GTG reserves the right to amend this disclosure as such individuals become known.
4. GTG does not currently anticipate calling any expert witnesses for this proceeding but GTG reserves the right to amend this disclosure if such need arises.

### Documents

1. The following categories of documents or individual documents may be used by GTG to support its defense in this action:

- a. Trademark registrations wherein Opposer disclaims exclusive rights to the term "Quilted" outright, including U.S. Reg. Nos. 2657013; 2209027; 2059102; and 1877561.
  - b. Documents showing third party usage of "quilt-" and "quilted-" formative marks in interstate commerce for goods in International Class 16.
  - c. Documents evidencing third party trademark registrations of "quilt" and "quilted" formative marks in International Class 16, including but not limited to: Procter & Gamble's registrations for THE STRONG QUILTED PICKER UPPER Reg. No. 3178381 and BOUNTY DOUBLE QUILTED Reg. No. 2533080, and Kruger Products' registration for QUILTED POCKETS Reg. No. 3315444, all for paper towels.
2. GTG may possess additional documents that support the factual assertions in testimony that it will provide in this proceeding. GTG may use those documents to support

its defenses, and it reserves the right to supplement this disclosure in the event that additional categories of documents are located that it may use to support its defenses. Copies of most, if not all, of the documents listed above are already in Opposer's possession or are publicly available. Copies of other items are also publicly available. All of these documents are also in possession of counsel for GTG at 721 Dresher Road, Suite 1100, Horsham, Pennsylvania.

Damages

Not applicable.

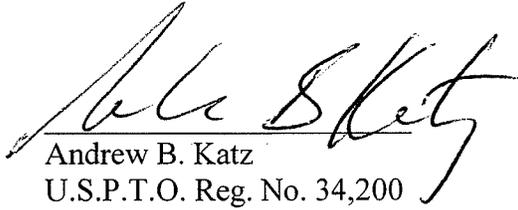
Insurance

Not applicable.

DATED: September 19, 2008

Respectfully submitted,

CHERNOW KATZ LLC



Andrew B. Katz  
U.S.P.T.O. Reg. No. 34,200

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COUNSEL TO GLOBAL TISSUE GROUP, INC.

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of Global Tissue Group Inc.'s Initial Disclosures was served by telecopy and First Class Mail, postage prepaid, on this 19th day of September, 2008 on the following:

Stephen P. Demm, Esq.  
John Gary Maynard III, Esq.  
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and

Christine M. Cason, Esq.  
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133 Peachtree Street  
Atlanta, Georgia 30303  
Fax: (404) 584-1461

  
Andrew B. Katz