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

Proceeding	91189418
Party	Plaintiff Speed Channel, Inc.
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Submission	Motion to Compel Discovery
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Date	09/28/2009
Attachments	2DZ8718.pdf (8 pages)(335197 bytes)

EXHIBIT F

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

Application Serial Nos.:	77476098 77497086 77476107 77478035
Filed:	May 15, 2008 June 12, 2008 May 15, 2008 May 19, 2008
Marks:	SPEEDVISION SPEEDVISION SPEEDVISION HD SPEEDVISION (and Design)
Publication Date:	November 25, 2008 (for all opposed applications)

Speed Channel, Inc.

Opposer,

v.

Phoenix 2008 LLC,

Applicant.

Opposition No. 91189418

**APPLICANT'S RESPONSE TO OPPOSER'S
FIRST SET OF REQUEST FOR ADMISSIONS**

Applicant Phoenix 2008 LLC ("Applicant") hereby responds to Opposer Speed Channel, Inc.'s ("Opposer") First Set of Requests for Admissions ("Admissions") served on June 4, 2009.

GENERAL OBJECTIONS

Applicant objects to Opposer's Admissions to the extent that such Admissions are not relevant to the claims asserted in this proceeding, or not calculated to lead to the discovery of admissible evidence.

Applicant objects to Opposer's Admissions to the extent that such Admissions relate to matters that are protected by the attorney-client privilege, the attorney work product privilege, or any other applicable privilege.

Applicant objects to Opposer's Admissions to the extent that such Admissions, including their definitions and instructions, seek to impose any obligation on Applicant beyond that required by the Federal Rules of Civil Procedure or the United States Patent and Trademark Office.

To the extent that any Admission is not specifically and explicitly admitted, it is denied.

In responding to these Admissions, Applicant does not waive any of the foregoing objections, or the specific objections set forth in the responses to particular Admissions. By making these responses, Applicant does not concede that its responses are relevant to this action or calculated to lead to the discovery of admissible evidence. Applicant expressly reserves the right to object to further discovery into the subject matter of these Admissions, to the introduction into evidence of any response or portion thereof, and to supplement its response should further investigation disclose responsive information.

Applicant incorporates by reference the foregoing general objections into each of the responses below.

SPECIFIC OBJECTIONS AND RESPONSES

Subject to, and without waiving, the foregoing objections, Applicant responds to the individually numbered First Set of Requests for Admissions as follows:

REQUEST NO. 1:

Each of the documents and things that Applicant has produced to Opposer is a true, accurate, authentic and complete copy of such document or thing.

RESPONSE:

It is admitted that any documents and things that Applicant has produced to Opposer as of the time of these responses is a true, accurate, authentic and complete copy of such document or thing. Applicant otherwise denies Request No. 1.

REQUEST NO. 1*:¹

Each of the documents and things that Applicant has produced to Opposer is admissible in this proceeding.

RESPONSE:

By providing documents and things to Opposer, Applicant does not concede that such documents and things are relevant to or admissible in this action or that they are calculated to lead to the discovery of admissible evidence, and therefore, Applicant denies Request No. 1*. Applicant otherwise denies Request No. 1*.

REQUEST NO. 2:

All of Applicant's answers to any interrogatory from Opposer are true, accurate and complete.

RESPONSE:

All of Applicant's answers to Opposer's interrogatories are true, accurate and complete to the best of Applicant's knowledge, information and belief as of the time that Applicant's responses are provided to Opposer. Applicant otherwise denies Request No. 2.

REQUEST NO. 3:

Applicant has produced all documents and things that are responsive to any request for production of documents and things, or any interrogatory, from Opposer.

RESPONSE:

Applicant has to the best of its knowledge, information and belief produced all non-privileged documents and things in its possession or within its control that are responsive to any request for production of documents and things, or any interrogatory, from

¹ Opposer's First Set of Requests for Admissions includes two requests entitled "Request No. 1." To the extent that Applicant makes any reference to one of these requests, Applicant will refer to the second request as Request No. 1*, as indicated above.

Opposer, as of the time that Applicant responds to such interrogatory or request for production of documents and things. Applicant otherwise denies Request No. 3.

REQUEST NO. 4:

As of the date that Applicant responds to these requests for admissions, Applicant has not used the marks identified in the Opposed Applications in commerce within the United States.

RESPONSE:

Admitted.

REQUEST NO. 5:

Consumers associate the Speedvision Mark with Speed.

RESPONSE:

Applicant objects to Request No. 5 on the ground that it is vague and ambiguous. Applicant otherwise denies Request No. 5.

REQUEST NO. 6:

Consumers associate the Speedvision Mark with Speed.

RESPONSE:

Applicant objects to Request No. 6 on the ground that it is vague and ambiguous. Applicant otherwise denies Request No. 6.

REQUEST NO. 7:

Applicant has no evidence that contravenes Speed's contention that consumers associate the Speedvision Mark with Speed.

RESPONSE:

Applicant objects to Request No. 7 on the ground that it is vague and ambiguous. Applicant otherwise denies Request No. 7.

REQUEST NO. 8:

Consumers associate the Speed Marks with Speed.

RESPONSE:

Applicant objects to Request No. 8 on the ground that it is vague and ambiguous. Applicant further objects on the ground that the request is not relevant to the issues in this proceeding or reasonably calculated to lead to the discovery of admissible evidence, as the issue of likelihood of confusion in this case does not concern the relationship between Opposer and its Speed Marks. Subject to, and without waiver of these objections, Applicant is presently without sufficient knowledge or information to admit or deny this request and therefore denies Request No. 8.

REQUEST NO. 9:

Applicant has no evidence that contravenes Speed's contention that consumers associate the Speed Marks with Speed.

RESPONSE:

Applicant objects to Request No. 9 on the ground that it is vague and ambiguous. Applicant further objects on the ground that the request is not relevant to the issues in this proceeding or reasonably calculated to lead to the discovery of admissible evidence, as the issue of likelihood of confusion in this case does not concern the relationship between Opposer and its Speed Marks. Subject to, and without waiver of these objections, Applicant is presently without sufficient knowledge or information to admit or deny this request and therefore denies Request No. 9.

REQUEST NO. 10:

Applicant's use of Applicant's Mark is likely to cause confusion with the Speed Marks.

RESPONSE

Applicant objects to Request No. 10 on the ground that it is vague and ambiguous, as it is unclear which of Applicant's Marks is being referred to by the phrase "Applicant's Mark," given that each of Applicant's Marks is different and/or represents a different good or service. Applicant further objects on the ground that the request seeks a legal conclusion regarding the "likelihood of confusion" between any of Applicant's Marks and the Speed Marks. Applicant otherwise denies Request No. 10.

Respectfully Submitted,

PHOENIX 2008 LLC

By:



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Its Attorneys

July 13, 2009

CERTIFICATE OF SERVICE

I do hereby certify that a copy of the foregoing "Response to Opposer's First Request for Admissions" was sent via first class mail, postage prepaid, this 13th day of July, 2009 to the following:

Daniel E. Bruso, Esq.
Cantor Colburn LLP
20 Church Street, 22nd Floor
Hartford, CT 06103-3207

A handwritten signature in cursive script, appearing to read "Daniel E. Bruso", is written over a horizontal line.