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Filing date: **10/25/2010**

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

Proceeding	91192099
Party	Defendant McSweet, LLC
Correspondence Address	KATHERINE HENDRICKS HENDRICKS & LEWIS PLLC 901 5TH AVENUE, SUITE 4100 SEATTLE, WA 98164-2001 UNITED STATES kh@hllaw.com
Submission	Opposition/Response to Motion
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Signature	/Katherine Hendricks/
Date	10/25/2010
Attachments	93454.PDF ( 88 pages )(2655179 bytes )

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

In the Matter of:  
Application Serial No. 77/722,272  
Published in the *Official Gazette*  
September 1, 2009

McDONALD's CORPORATION,                     )  
   )  
          Opposer,                                     )  
   )  
          v.   )                     Opposition No. 91192099  
   )  
McSWEET, LLC,                                     )  
   )  
          Applicant.                                 )

**AFFIDAVIT OF KATHERINE HENDRICKS IN SUPPORT OF**  
**APPLICANT'S OPPOSITION TO OPPOSER'S MOTION FOR AN EXTENSION**  
**OF TIME TO SERVE RESPONSES TO APPLICANT'S FIRST SET OF**  
**REQUESTS FOR ADMISSIONS TO OPPOSER**

STATE OF WASHINGTON     )  
   ) ss.  
COUNTY OF KING         )

I, Katherine Hendricks, being first duly sworn upon oath, depose and say:

1. I am over the age of 18 and am competent to make this affidavit and do so upon personal knowledge and belief. This affidavit is filed in support of Applicant's Opposition to Opposer's Motion for an Extension of Time to Serve Responses to Applicant's First Set of Requests for Admission to Opposer.

2. On Monday, August 30, 2010, I, on behalf of Applicant, served Opposer with Applicant's First Set of Requests for Admission to Opposer. Attached hereto as

Exhibit 1 is a true and complete copy of Applicant's First Set of Requests for Admission to Opposer.

3. On Monday, October 4, 2010, I left the office early because I didn't feel well.

4. On Tuesday, October 5, 2010, I listened to a voicemail message left on October 4 at 2:00 PM PST by Opposer's counsel, Lawrence James, Jr., in which Mr. James sought my stipulation for a one day extension within which to respond to Applicant's First Requests for Admissions. Attached hereto as Exhibit 2 is a transcription of Mr. James' voicemail printed from the Hendricks & Lewis voicemail system.

5. On Tuesday, October 5, 2010, I read an email sent on October 4 at 2:19 PM PST by Opposer's counsel, Lawrence James, Jr., to me and Caitlin Oliphant ("Ms. Oliphant"), in which Mr. James made reference to the voicemail he had left me and sought my or Ms. Oliphant's stipulation for a one day extension within which to respond to Applicant's First Requests for Admission. Mr. Lawrence requested that a response be made by 5:00 PM CST.

6. Attached hereto as Exhibit 3 is a true and complete copy of McDonald's Objections and Responses to Applicant's First Set of Requests for Admission to Opposer.

  
KATHERINE HENDRICKS

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF KING )

SUBSCRIBED AND SWORN TO before me on this 25<sup>th</sup> day of October 2010,  
by Katherine Hendricks.

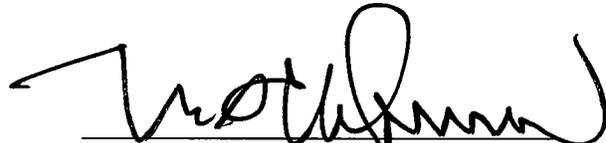


Brenda A Nixdorf  
PRINTED NAME: Brenda Bruce Nixdorf  
NOTARY PUBLIC in and for the  
State of Washington  
Residing at: Brier WA  
My Appointment Expires: 10/21/2012

**CERTIFICATE OF SERVICE**

I hereby certify that a true and complete copy of the foregoing **APPLICANT'S OPPOSITION TO OPPOSER'S MOTION FOR AN EXTENSION OF TIME TO SERVE RESPONSES TO APPLICANT'S FIRST SET OF REQUESTS FOR ADMISSION TO OPPOSER** has been served on opposing counsel by mailing said copy on October 25, 2010, via First Class Mail, postage prepaid, and by email to:

Robert E. Browne, Esq.  
Michael G. Kelber, Esq.  
John A. Cullis, Esq.  
Lawrence E. James, Jr., Esq.  
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MARK WASHBURN

# **EXHIBIT 1**

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

In the Matter of:  
Application Serial No. 77/722,272  
Published in the *Official Gazette*  
September 1, 2009

McDONALD's CORPORATION, )  
 )  
        Opposer, )  
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        v. )  
 )  
McSWEET, LLC, )  
 )  
        Applicant. )

Opposition No. 91192099

**APPLICANT'S FIRST SET OF REQUESTS FOR ADMISSION TO OPPOSER**

Pursuant to Rules 26 and 36 of the Federal Rules of Civil Procedure and Trademark Rules 2.116 and 2.120(h), Applicant hereby propounds the following requests for admission to Opposer to be responded to separately and fully, in writing and under oath, and serve such answers on counsel for Applicant within thirty days of service of these requests for admission.

**INSTRUCTIONS**

1. In responding to these requests for admission, please furnish all information currently known or available to you or your attorneys.
2. Please record a separate response for each request for admission and request for admission subpart. Please set forth and identify the source of each answer separately by identifying each person who you know has personal knowledge of the facts or information forming the basis of the response which you give.

**APPLICANT'S FIRST SET OF REQUESTS FOR ADMISSION TO OPPOSER**  
**Opposition No.: 91192099**

3. If you contend that any information is protected by privilege, identify the privilege relied on, the persons who have the requested information and any document which contains the information, including for each document:

- a) the type of document;
- b) the author;
- c) the recipients;
- d) the date;
- e) the subject matter; and
- f) the basis of the privilege.

4. If you are unable to respond fully to any request for admission herein, you should respond to the extent possible and provide an explanation as to why a full response is not possible.

5. All requests for admission herein are directed to that information or those documents within your possession, custody or control, or within the possession, custody or control of your agents, servants and employees and, unless privileged, your attorney. They are also directed to those firms, corporations, partnerships, or trusts that you control and to documents in the possession, custody or control of the employees, agents, trustees, guardians and/or representatives of such entities.

6. To the extent that you consider any of the following discovery requests objectionable, respond to as much of each request and each part thereof as is not, in your view, objectionable, as required by the Federal Rules of Civil Procedure. Separately state that part of

each request as to which you raise objection and specify, with particularity, the grounds for each such objection.

7. Please take specific and further note of the following provision of Rule 36(a)(4) of the Federal Rules of Civil Procedure, which is specifically incorporated into each and every request for admission propounded herein:

If a matter is not admitted, the answer must specifically deny it or state in detail why the answering party cannot truthfully admit or deny it. A denial must fairly respond to the substance of the matter; and when good faith requires that a party qualify an answer or deny only a part of a matter, the answer must specify the part admitted and qualify or deny the rest. The answering party may assert lack of knowledge or information as a reason for failing to admit or deny only if the party states that it has made reasonable inquiry and that the information it knows or can readily obtain is insufficient to enable it to admit or deny.

7. Please take specific and further note of the following provision of Rule 36(a)(5) of the Federal Rules of Civil Procedure, which is specifically incorporated into each and every request for admission propounded herein:

The grounds for objecting to a request must be stated. A party must not object solely on the ground that the request presents a genuine issue for trial.

8. The pertinent geographic territory with respect to which admissions are requested is the United States of America and its territories.

### **DEFINITIONS**

The following definitions shall apply to these requests for admission and instructions thereto:

1. "Applicant" refers to McSweet, LLC and any affiliates, agents, employees, distributors and representatives.

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2. "Opposer" and "you" refers to McDonald's Corporation, and any of its employees, distributors, franchisees, agents and representatives.

3. "Document" means the original and all non-identical copies of any writing of any kind, which is known by you to exist or to have existed or which at any time has been in your possession, custody, or control, including but not limited to letters, envelopes, forms, affidavits, correspondence, telegraphs, teletypes, telephones, paper communications, signed statements, tabulations, charts, memoranda, checks, appointment books, records, proposals, memoranda or other transcripts by mechanical device, by long hand or short hand recording, tape recorded or by electronic or by any other means, computer generated information, computer software, data stored in a computer, intra-office communications, inter-office communications, all summaries of all communications, telephonic or otherwise, microfiche, microfilm, lists, bulletins, calendars, circulars, desk pads, opinions, ledgers, minutes, agreements, journals, diaries, contracts, invoices, balance sheets, telephone messages or other messages, magazines, pamphlets, articles, notices, newspapers, studies, worksheets, telexes, cables and all other graphic materials, writings and instruments, however produced or reproduced. A document includes all documents appended thereto.

4. "Relating to" or "relate to" means constituting, discussing, mentioning, containing, analyzing, embodying, reflecting, identifying, incorporating, describing, commenting on, referring to, considering, recommending, dealing with or pertaining to in whole or in part.

5. "Person" means any natural person or any business, legal or governmental agency or association.

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6. The connectors “and” and “or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery requests all responses that might otherwise be construed to be outside its scope.

7. “Including” means including without limitation.

8. “Applicant’s Mark” means the mark MCSWEET set forth in Serial No. 77/722,272.

9. “Opposer’s Marks” means those marks identified in Opposer’s Notice of Opposition, filed in this action, Opposition No. 91192099.

10. “Liquor store” means a store that specializes in the sale of alcoholic beverages.

11. “Bar” means a retail establishment that serves alcoholic drinks for consumption on the premises.

12. “Specialty store” means a store which specializes in a specific range of merchandise at a medium to high price range and provides high levels of service and expertise.

13. “Gourmet food store” means a store which specializes in the sale of food with ingredients of high quality, special presentation, and high sophistication, and products sold at a medium to high price range.

14. “Farmers’ markets” means a market, held in a public space, in which a farmer or other purveyor can sell product and other products directly to members of the public.

15. “Grocery stores” means a store primarily for the retailing of food that deals in staple foodstuffs, meats, baked goods, produce, dairy products, and household supplies, and stocks different kinds of food and non-food products to sell to customers.

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16. "Pickled cocktail onion" means an onion that has been preserved and flavored in a solution of brine or vinegar.

17. "Pickled giardiniera" means a mixture of carrots, celery, cucumbers, garlic, green beans and red pepper slices in brine or vinegar.

18. "Pickled garlic" means garlic that has been preserved and flavored in a solution of brine or vinegar.

19. "Pickled dilly beans" means beans that have been preserved and flavored in a solution of brine or vinegar and dill.

20. "Pickled asparagus" means asparagus that has been preserved and flavored in a solution of brine or vinegar.

21. "Distributor" means an independent firm, wholesaler, or other person that purchases good for resale to others, and assists the flow of goods to end-users.

22. "Consumer" means a person who purchases such goods for consumption by eating or drinking.

23. "Cocktail garnish" means a slice of fruit or vegetable used to decorate or dramatize an alcoholic or non-alcoholic drink.

24. "Restaurant" means a business establishment where meals or refreshments may be purchased.

**REQUESTS FOR ADMISSION**

**REQUEST FOR ADMISSION NO. 1.** Admit that Opposer does not promote, offer, and distribute goods under its Marks to liquor stores.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 2.** Admit that Opposer does not promote, offer, and distribute goods under its Marks to bars.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 3.** Admit that Opposer does not sell or offer goods under Opposer's Marks to customers over the Internet.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 4.** Admit that no goods sold under Opposer's Marks are alcoholic beverages.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 5.** Admit that Opposer does not sell or offer goods under Opposer's Marks to customers by mail or mail order.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 6.** Admit that Opposer does not sell alcoholic beverages under Opposer's Marks.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 7.** Admit that Opposer does not promote or sell cocktail garnishes under Opposer's Marks.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 8.** Admit that Opposer does not promote, offer, or sell goods under its Marks for use in alcoholic beverages.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 9.** Admit that Opposer is not aware of any instances of actual confusion as to the source of Opposer's and Applicant's goods.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 10.** Admit that Opposer does not promote, offer, or distribute goods under its Marks to specialty stores.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 11.** Admit that Opposer does not promote, offer, or distribute goods under its Marks to gourmet food stores.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 12.** Admit that Opposer does not sell separately pickled goods.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 13.** Admit that Opposer does not distribute pickled goods for resale by others.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 14.** Admit that Opposer does not sell or distribute goods under its Marks that include asparagus as an ingredient.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 15.** Admit that Opposer does not sell or distribute goods which include "MCSWEET" within the name of the good.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 16.** Admit that no goods sold or distributed under Opposer's Marks include the term "MCSWEET" within the good's description on packaging, menus, or labels.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 17.** Admit that Opposer does not own or license any marks, registered or unregistered, that include the term "MCSWEET."

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 18.** Admit that no goods sold under Opposer's Marks are promoted, offered or distributed to farmers' markets.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 19.** Admit that Opposer does not sell or distribute goods that are packaged in glass jars at the time of sale.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 20.** Admit that MCCHICKEN goods are sold only in McDonald's restaurants.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 21.** Admit that MCDOUBLE goods are sold only in McDonald's restaurants.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 22.** Admit that MCRIB goods are sold only in McDonald's restaurants.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 23.** Admit that MCMUFFIN goods are sold only in McDonald's restaurants.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 24.** Admit that MCFLURRY goods are sold only in McDonald's restaurants.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 25.** Admit that MCGRIDDLES goods are sold only in McDonald's restaurants.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 26.** Admit that MCCAFE goods are sold only in McDonald's restaurants.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 27.** Admit that MCSKILLET goods are sold only in McDonald's restaurants.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 28.** Admit that Opposer does not sell or distribute pickled cocktail onions.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 29.** Admit that Opposer does not sell or distribute pickled giardiniera.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 30.** Admit that Opposer does not sell or distribute pickled garlic.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 31.** Admit that Opposer does not sell or distribute pickled beans.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 32.** Admit that Opposer does not sell or distribute pickled asparagus.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 33.** Admit that Opposer does not offer for sale pickled cocktail onions in combination with any other product.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 34.** Admit that Opposer does not offer for sale pickled giardiniera in combination with any other product.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 35.** Admit that Opposer does not offer for sale pickled garlic in combination with any other product.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 36.** Admit that Opposer does not offer for sale pickled dilly beans in combination with any other product.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 37.** Admit that Opposer does not offer for sale pickled asparagus in combination with any other product.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 38.** Admit that Opposer does not sell goods under Opposer's Marks to distributors.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 39.** Admit that Opposer does not sell its  
MCCHICKEN products to distributors.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 40.** Admit that Opposer does not sell its  
MCDOUBLE products to distributors.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 41.** Admit that Opposer does not sell its MCRIB  
products to distributors.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 42.** Admit that Opposer does not sell its  
MCMUFFIN products to distributors.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 43.** Admit that Opposer does not sell its  
MCFLURRY products to distributors.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 44.** Admit that Opposer does not sell its  
MCGRIDDLES products to distributors.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 45.** Admit that Opposer does not sell its  
MCCAFE products to distributors.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 46.** Admit that Opposer does not sell its  
MCSKILLET products to distributors.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 47.** Admit that Opposer sells goods under its  
Marks only to consumers.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 48.** Admit that Opposer sells MCCHICKEN  
products only to consumers.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 49.** Admit that Opposer sells MCDOUBLE  
products only to consumers.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 50.** Admit that Opposer sells MCRIB products  
only to consumers.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 51.** Admit that Opposer sells MCMUFFIN products only to consumers.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 52.** Admit that Opposer sells MCFLURRY products only to consumers.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 53.** Admit that Opposer sells MCGRIDDLES products only to consumers.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 54.** Admit that Opposer sells MCCAFE products only to consumers.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 55.** Admit that Opposer sells MCSKILLET products only to consumers.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 56.** Admit that Opposer does not sell MCCHICKEN products to grocery stores for resale to consumers.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 57.** Admit that Opposer does not sell MCCHICKEN products to liquor stores for resale to consumers.

**RESPONSE**

**REQUEST FOR ADMISSION NO. 58.** Admit that Opposer does not sell MCCHICKEN products to bars for resale to consumers.

**RESPONSE**

**REQUEST FOR ADMISSION NO. 59.** Admit that Opposer does not sell  
MCCHICKEN products via the Internet.

**RESPONSE**

**REQUEST FOR ADMISSION NO. 60.** Admit that Opposer does not sell  
MCCHICKEN products to specialty stores.

**RESPONSE**

**REQUEST FOR ADMISSION NO. 61.** Admit that Opposer does not sell  
MCCHICKEN products to gourmet stores.

**RESPONSE**

**REQUEST FOR ADMISSION NO. 62.** Admit that Opposer does not sell  
MCDOUBLE products to grocery stores.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 63.** Admit that Opposer does not sell  
MCDOUBLE products to liquor stores.

**RESPONSE**

**REQUEST FOR ADMISSION NO. 64.** Admit that Opposer does not sell  
MCDOUBLE products to bars.

**RESPONSE**

**REQUEST FOR ADMISSION NO. 65.** Admit that Opposer does not sell  
MCDOUBLE products to distributors via the Internet.

**RESPONSE**

**REQUEST FOR ADMISSION NO. 66.** Admit that Opposer does not sell  
MCDOUBLE products to specialty stores.

**RESPONSE**

**REQUEST FOR ADMISSION NO. 67.** Admit that Opposer does not sell  
MCDOUBLE products to gourmet stores.

**RESPONSE**

**REQUEST FOR ADMISSION NO. 68.** Admit that Opposer does not sell MCRIB  
products to grocery stores.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 69.** Admit that Opposer does not sell MCRIB  
products to liquor stores.

**RESPONSE**

**REQUEST FOR ADMISSION NO. 70.** Admit that Opposer does not sell MCRIB  
products to bars.

**RESPONSE**

**REQUEST FOR ADMISSION NO. 71.** Admit that Opposer does not sell MCRIB products to via the Internet.

**RESPONSE**

**REQUEST FOR ADMISSION NO. 72.** Admit that Opposer does not sell MCRIB products to specialty stores.

**RESPONSE**

**REQUEST FOR ADMISSION NO. 73.** Admit that Opposer does not sell MCRIB products to gourmet food stores.

**RESPONSE**

**REQUEST FOR ADMISSION NO. 74.** Admit that Opposer does not sell MCMUFFIN products to grocery stores.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 75.** Admit that Opposer does not sell  
MCMUFFIN products to liquor stores.

**RESPONSE**

**REQUEST FOR ADMISSION NO. 76.** Admit that Opposer does not sell  
MCMUFFIN products to bars.

**RESPONSE**

**REQUEST FOR ADMISSION NO. 77.** Admit that Opposer does not sell  
MCMUFFIN products via the Internet.

**RESPONSE**

**REQUEST FOR ADMISSION NO. 78.** Admit that Opposer does not sell  
MCMUFFIN products to specialty stores.

**RESPONSE**

**REQUEST FOR ADMISSION NO. 79.** Admit that Opposer does not sell  
MCMUFFIN products to gourmet stores.

**RESPONSE**

**REQUEST FOR ADMISSION NO. 80.** Admit that Opposer does not sell  
MCFLURRY products to grocery stores.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 81.** Admit that Opposer does not sell  
MCFLURRY products to liquor stores.

**RESPONSE**

**REQUEST FOR ADMISSION NO. 82.** Admit that Opposer does not sell  
MCFLURRY products to bars.

**RESPONSE**

**REQUEST FOR ADMISSION NO. 83.** Admit that Opposer does not sell  
MCFLURRY products via the Internet.

**RESPONSE**

**REQUEST FOR ADMISSION NO. 84.** Admit that Opposer does not sell  
MCFLURRY products to specialty stores.

**RESPONSE**

**REQUEST FOR ADMISSION NO. 85.** Admit that Opposer does not sell  
MCFLURRY products to gourmet stores.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 86.** Admit that Opposer does not sell  
MCGRIDDLES products to grocery stores.

**RESPONSE:**

APPLICANT'S FIRST SET OF REQUESTS FOR ADMISSION TO OPPOSER  
Opposition No.: 91192099

**REQUEST FOR ADMISSION NO. 87.** Admit that Opposer does not sell  
MCGRIDDLES products to liquor stores.

**RESPONSE**

**REQUEST FOR ADMISSION NO. 88.** Admit that Opposer does not sell  
MCGRIDDLES products to bars.

**RESPONSE**

**REQUEST FOR ADMISSION NO. 89.** Admit that Opposer does not sell  
MCGRIDDLES products via the Internet.

**RESPONSE**

**REQUEST FOR ADMISSION NO. 90.** Admit that Opposer does not sell  
MCGRIDDLES products to specialty stores.

**RESPONSE**

APPLICANT'S FIRST SET OF REQUESTS FOR ADMISSION TO OPPOSER  
Opposition No.: 91192099

**REQUEST FOR ADMISSION NO. 91.** Admit that Opposer does not sell  
MCGRIDDLES products to gourmet stores.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 92.** Admit that Opposer does not sell MCCAFFE  
products to grocery stores.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 93.** Admit that Opposer does not sell MCCAFFE  
products to liquor stores.

**RESPONSE**

**REQUEST FOR ADMISSION NO. 94.** Admit that Opposer does not sell MCCAFFE  
products to bars.

**RESPONSE**

**REQUEST FOR ADMISSION NO. 95.** Admit that Opposer does not sell MCCAFE products via the Internet.

**RESPONSE**

**REQUEST FOR ADMISSION NO. 96.** Admit that Opposer does not sell MCCAFE products to specialty stores.

**RESPONSE**

**REQUEST FOR ADMISSION NO. 97.** Admit that Opposer does not sell MCCAFE products to gourmet stores.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 98.** Admit that Opposer does not sell MCSKILLET products to grocery stores.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 99.** Admit that Opposer does not sell  
MCSKILLET products to liquor stores.

**RESPONSE**

**REQUEST FOR ADMISSION NO. 100.** Admit that Opposer does not sell  
MCSKILLET products to bars.

**RESPONSE**

**REQUEST FOR ADMISSION NO. 101.** Admit that Opposer does not sell  
MCSKILLET products via the Internet.

**RESPONSE**

**REQUEST FOR ADMISSION NO. 102.** Admit that Opposer does not sell  
MCSKILLET products to specialty stores.

**RESPONSE**

**REQUEST FOR ADMISSION NO. 103.** Admit that Opposer does not sell  
MCSKILLET products to gourmet stores.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 104.** Admit that Opposer is a food service  
retailer.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 105.** Admit that Opposer has not sold or  
distributed goods to grocery stores for the purpose of making the goods available to grocery store  
customers in either the meat, fresh produce, dairy, or baked goods department, or along the shelf  
space reserved for canned, packaged and frozen goods, or among the various non-food items  
such as household cleaners, alcohol, pharmacy products and pet supplies.

**RESPONSE:**

**APPLICANT'S FIRST SET OF REQUESTS FOR ADMISSION TO OPPOSER**  
**Opposition No.: 91192099**

Respectfully submitted,  
HENDRICKS & LEWIS

By: \_\_\_\_\_  
Katherine Hendricks, Esq.  
Caitlin A. Oliphant, Esq.  
901 Fifth Avenue, Suite 4100  
Seattle, Washington 98164  
Telephone: (206) 624-1933  
Attorneys for Applicant McSweet, LLC

Date: August \_\_\_\_\_, 2010



**CERTIFICATE OF SERVICE**

I hereby certify that a true and complete copy of the foregoing Applicant's First Set of Requests for Admission to Opposer has been served on opposing counsel by mailing said copy on August \_\_\_\_, 2010, via U.S. Mail, First Class, postage prepaid to:

Robert E. Browne, Esq.  
Lawrence E. James, Jr.  
John A. Cullis, Esq.  
Neal, Gerber & Eisenberg, LLP  
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LISA SCHAEFER

## **EXHIBIT 2**

93303.wav

Hi Kate, this is Lee James with Neal, Gerber and Eisenberg. I'm calling to see if you would agree to give us a one-day extension of time for the responses to the requests for admission. Our client was in a conference all week last week and wasn't able to review them. We would get them on file next week. Please get back to me by the end of the day if you could, so that we know if you will agree to an extension or if we need to file a motion seeking one. Thanks. My phone number is 312-269-8266. Thanks, bye.

# **EXHIBIT 3**

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

In the Matter of:	)	
Application Serial No. 77/722,272	)	
Published in the <i>Official Gazette</i>	)	
September 1, 2009	)	
	)	
McDONALD's CORPORATION	)	
	)	
Opposer,	)	
	)	
v.	)	Opposition No. 91192099
	)	
McSWEET, LLC,	)	
	)	
Applicant.	)	

**McDONALD'S OBJECTIONS AND RESPONSES TO APPLICANT'S FIRST SET OF  
REQUESTS FOR ADMISSION TO OPPOSER**

Opposer, McDonald's Corporation ("McDonald's"), by and through its attorneys, and pursuant to Rule 2.120 of the Trademark Rules of Practice and Rules 26 and 36 of the Federal Rules of Civil Procedure, hereby provides its Responses to Applicant's First Set of Requests for Admission.

**BASES UPON WHICH OBJECTIONS AND RESPONSES ARE MADE**

McDonald's ongoing investigation of the underlying facts relating to this case, discovery, and preparation for trial is underway. Therefore, the responses contained herein are based only upon such information and documents that are presently available and specifically known to McDonald's.

Further discovery, independent investigation, legal research and analysis may supply additional facts, add meaning to known facts, and establish entirely new factual conclusions and

legal contentions, which may require additions to, changes in, and variations from these responses. McDonald's reserves the right to withdraw or amend its responses to reflect discovered information or documents which it may later recall, locate, or discover, or as additional facts are ascertained, analyses are completed and contentions are made.

### **General Objections**

Each of these general objections is incorporated by reference in each of McDonald's specific responses and objections to the Requests propounded by Applicant.

1. McDonald's generally objects to these Requests for Admissions, definitions and instructions insofar as they purport to impose discovery obligations broader than and inconsistent with those set forth by the Federal Rules of Civil Procedure.

2. McDonald's generally objects to these Requests for Admissions to the extent they seek information that is not relevant to any disputed issue in this case.

3. McDonald's generally objects to these Requests for Admissions to the extent that any Request for Admission seeks information protected under the attorney work product doctrine or attorney-client privilege.

4. McDonald's generally objects to each Request for Admission as overly broad and unduly burdensome to the extent it seeks information without limits as to time and geography. McDonald's limits its answers to the United States.

5. McDonald's generally objects to Applicant's definition of "Opposer" as set forth in its First Set of Requests to Opposer as it is broader in scope than the definition of a "party" under the Federal Rules of Civil Procedure. In particular, McDonald's objects to the extent that "employees," "distributors," "licensees" and "franchisees" are considered separate entities under the law. Consequently, McDonald's answers only on behalf of McDonald's

Corporation.

6. McDonald's generally objects to Applicant's definition of "Opposer's Marks" to the extent that it fails to include McDonald's judicially recognized and pled family of "Mc" formative marks.

7. McDonald's generally objects to Applicant's definitions of the terms "liquor store," "bar," "specialty store," "gourmet food store," "farmers' markets," "grocery stores," "distributor," "consumer," "cocktail garnish," or "restaurant" on the grounds that the definitions set forth by Applicant are vague and subject to multiple interpretations.

8. McDonald's further generally objects to Applicant's definitions of the terms "liquor store," "bar," "specialty store," "gourmet food store," "farmers' markets," "grocery stores," "distributor," "consumer," "cocktail garnish," or "restaurant" on the ground that the definitions set forth by Applicant are arbitrary and either narrower, broader, or different than the common understanding of these terms and, therefore, the use of those definitions is confusing and potentially deceptive.

Without waiving any of these General Objections, McDonald's responds to Applicant's First Request for Admissions as follows, incorporating each and every one of the foregoing General Objections into each respective Response below.

#### **OBJECTIONS AND RESPONSES TO REQUESTS FOR ADMISSION**

**REQUEST FOR ADMISSION NO. 1.** Admit that Opposer does not promote, offer, and distribute goods under its Marks to liquor stores.

**RESPONSE:** In addition to its general objections, McDonald's objects to this Request as irrelevant because neither McDonald's registrations nor Applicant's application is limited to distribution of products to liquor stores. Subject to and without waiving any of its objections, McDonald's states that it promotes, offers and distribute goods to all classes of consumers

including proprietors, owners, and employees of liquor stores, and therefore denies that it does not promote, offer and distribute goods under its marks to liquor stores.

**REQUEST FOR ADMISSION NO. 2.** Admit that Opposer does not promote, offer, and distribute goods under its Marks to bars.

**RESPONSE:** In addition to its general objections, McDonald's objects to this Request as irrelevant because neither McDonald's registrations nor Applicant's application is limited to distribution of products to bars. Subject to and without waiving any of its objections, McDonald's states that it promotes, offers and distributes goods to all classes of consumers including proprietors, owners, and employees of bars and, therefore, McDonald's denies that it does not promote, offer, and distribute goods under its marks to bars.

**REQUEST FOR ADMISSION NO. 3.** Admit that Opposer does not sell or offer goods under Opposer's Marks to customers over the Internet.

**RESPONSE:** In addition to its general objections, McDonald's objects to this Request as irrelevant because neither McDonald's registrations nor Applicant's application is limited to sales of products via any specific means, such as over the Internet. McDonald's further objects to this Request as vague as to what is meant by "sell or offer goods . . . over the Internet." Subject to and without waiving any of its objections, McDonald's denies that it does not sell or offer goods under its marks to customers over the Internet.

**REQUEST FOR ADMISSION NO. 4.** Admit that no goods sold under Opposer's Marks are alcoholic beverages.

**RESPONSE:** In addition to its general objections, McDonald's objects to this Request as irrelevant because Applicant's goods are not alcoholic beverages. Subject to and without waiving any of its objections, McDonald's admits that no goods sold under its marks are alcoholic beverages.

**REQUEST FOR ADMISSION NO. 5.** Admit that Opposer does not sell or offer goods under Opposer's Marks to customers by mail or mail order.

**RESPONSE:** In addition to its general objections, McDonald's objects to this Request as irrelevant because neither McDonald's registrations nor Applicant's application are limited to sales of goods to customers by mail or mail order. Subject to and without waiving any of its objections, McDonald's denies that it does not sell or offer goods under its marks to customers by mail or mail order.

**REQUEST FOR ADMISSION NO. 6.** Admit that Opposer does not sell alcoholic beverages under Opposer's Marks.

**RESPONSE:** In addition to its general objections, McDonald's objects to this Request as irrelevant because Applicant's goods are not alcoholic beverages. Subject to and without waiving any of its objections, McDonald's admits that it does not sell alcoholic beverages under its marks.

**REQUEST FOR ADMISSION NO. 7.** Admit that Opposer does not promote or sell cocktail garnishes under Opposer's Marks.

**RESPONSE:** In addition to its general objections, McDonald's objects to this Request as irrelevant because the goods identified in Applicant's applications are not limited to cocktail garnishes. McDonald's further objects to the definition of "cocktail garnishes" as used in this Request. Subject to and without waiving any of its objections, McDonald's admits that it does not promote or sell "cocktail garnishes" as individual items.

**REQUEST FOR ADMISSION NO. 8.** Admit that Opposer does not promote, offer, or sell goods under its Marks for use in alcoholic beverages.

**RESPONSE:** In addition to its general objections, McDonald's objects to this Request as irrelevant because the goods identified in Applicant's applications are not limited to uses in alcoholic beverages. Subject to and without waiving any of its objections, McDonald's admits that it does not specifically promote, offer or sell goods under its marks for use in alcoholic beverages.

**REQUEST FOR ADMISSION NO. 9.** Admit that Opposer is not aware of any instances of actual confusion as to the source of Opposer's and Applicant's goods.

**RESPONSE:** In addition to its general objections, McDonald's objects to this Request as overly broad and irrelevant to the extent it includes any instance of actual confusion as to the source of McDonald's and Applicant's goods with respect to any third party's goods. McDonald's further objects to this Request as vague because it is unclear whether it pertains to confusion as to the source of both McDonald's goods and Applicant's goods or whether confusion as to the source of either Applicant's or McDonald's goods would suffice. The relevant issue in this proceeding is whether a likelihood of confusion exists between Applicant's mark and McDonald's marks. Subject to and without waiving its general objections, to the extent McDonald's understands this Request as being limited to instances of actual confusion as to whether Applicant's Mark is somehow affiliated with McDonald's or its marks, this Request is denied.

**REQUEST FOR ADMISSION NO. 10.** Admit that Opposer does not promote, offer, or distribute goods under its Marks to specialty stores.

**RESPONSE:** In addition to its general objections, McDonald's objects to this Request as irrelevant because the goods identified in Applicant's applications are not limited to distribution via specialty stores. Subject to and without waiving any of its objections, McDonald's denies that it does not promote, offer, and distribute goods under its marks to specialty stores as "specialty stores" is defined by Applicant. McDonald's further answers that it promotes, offers and distributes goods to all classes of consumers including proprietors, owners, and employees of specialty stores.

**REQUEST FOR ADMISSION NO. 11.** Admit that Opposer does not promote, offer, or distribute goods under its Marks to gourmet food stores.

**RESPONSE:** In addition to its general objections, McDonald's objects to this Request as irrelevant because the goods identified in Applicant's applications are not limited to distribution

via gourmet food stores. Subject to and without waiving any of its objections, McDonald's denies that it does not promote, offer, and distribute goods under its marks to gourmet food stores as "gourmet food stores" is defined by Applicant. McDonald's further answers that it promotes, offers and distributes goods to all classes of consumers including proprietors, owners, and employees of gourmet food stores.

**REQUEST FOR ADMISSION NO. 12.** Admit that Opposer does not sell separately pickled goods.

**RESPONSE:** In addition to its general objections, McDonald's objects to this Request as vague as to the phrase "sell separately pickled goods." Subject to and without waiving any of its objections, McDonald's admits that it does not sell pickled goods apart from its sandwiches, some of which contain pickles.

**REQUEST FOR ADMISSION NO. 13.** Admit that Opposer does not distribute pickled goods for resale by others.

**RESPONSE:** Subject to and without waiving any of its general objections, McDonald's admits that it does not distribute pickled goods for resale by others.

**REQUEST FOR ADMISSION NO. 14.** Admit that Opposer does not sell or distribute goods under its Marks that include asparagus as an ingredient.

**RESPONSE:** Subject to and without waiving any of its general objections, McDonald's admits that it does not presently sell or distribute goods under its marks that include asparagus as an ingredient.

**REQUEST FOR ADMISSION NO. 15.** Admit that Opposer does not sell or distribute goods which include "MCSWEET" within the name of the good.

**RESPONSE:** In addition to its general objections, McDonald's objects to this request as irrelevant. Subject to and without waiving any of its objections, McDonald's admits that it does not presently sell or distribute goods that include the entire term MCSWEET as a whole within the name of the good. Any remaining portion of this Request is denied.

**REQUEST FOR ADMISSION NO. 16.** Admit that no goods sold or distributed under Opposer's Marks include the term "MCSWEET" within the good's description on packaging, menus, or labels.

**RESPONSE:** Subject to and without waiving any of its general objections, McDonald's admits that it does not presently sell or distribute under its marks goods having a description that includes the term MCSWEET as a whole within the description of that product on packaging, menus and labels. Any remaining portion of this Request is denied.

**REQUEST FOR ADMISSION NO. 17.** Admit that Opposer does not own or license any marks, registered or unregistered, that include the term "MCSWEET."

**RESPONSE:** In addition to its general objections, McDonald's objects to this Request as irrelevant and overbroad. Subject to and without waiving any of its objections, McDonald's admits that it does not presently license any marks, registered or unregistered, that include the specific term McSWEET as a whole. However, the term McSWEET, when used in connection with food or beverage products falls within McDonald's famous family of "Mc" prefix marks, and therefore McDonald's denies that it does not own any marks, registered or unregistered, that include the term McSWEET.

**REQUEST FOR ADMISSION NO. 18.** Admit that no goods sold under Opposer's Marks are promoted, offered or distributed to farmers' markets.

**RESPONSE:** In addition to its general objections, McDonald's objects to this Request as irrelevant because the goods identified in Applicant's applications are not limited to distribution via farmers markets. Subject to and without waiving any of its objections, McDonald's answers that it promotes, offers and distributes goods to all classes of consumers including proprietors, owners, and employees of gourmet farmer's markets and therefore denies that no goods sold under its marks are promoted, offered or distributed to farmers' markets. Answering further, McDonald's states that many of the types of goods as those sold under McDonald's marks are promoted, offered or distributed to farmer's markets.

**REQUEST FOR ADMISSION NO. 19.** Admit that Opposer does not sell or distribute goods that are packaged in glass jars at the time of sale.

**RESPONSE:** In addition to its general objections, McDonald's objects to this Request as irrelevant because the goods identified in Applicant's applications are not limited to goods packed in glass jars at the time of sale. Subject to and without waiving any of its objections, McDonald's admits that it does not sell or distribute goods that are packaged in glass jars at the time of sale to consumers; however, McDonald's company-owned and franchised restaurants do sell souvenir glassware.

**REQUEST FOR ADMISSION NO. 20.** Admit that MCCHICKEN goods are sold only in McDonald's restaurants.

**RESPONSE:** In addition to its general objections, McDonald's objects to this Request as irrelevant because neither McDonald's registrations nor Applicant's application are limited to goods sold via a particular distribution channel. Subject to and without waiving any of its objections, McDonald's denies that its McCHICKEN branded goods are sold only in McDonald's restaurants. Answering further, McDonald's states that its McCHICKEN branded sandwiches are sold not only in free-standing McDonald's branded restaurants, but also in McDonald's branded outlets or other locations operated by McDonald's subsidiaries or franchisees that are located in airports, shopping malls, highway rest stops, Wal-Mart stores, hospitals, museums, casino-hotels, stadiums and train stations among other buildings and venues.

**REQUEST FOR ADMISSION NO. 21.** Admit that MCDOUBLE goods are sold only in McDonald's restaurants.

**RESPONSE:** In addition to its general objections, McDonald's objects to this Request as irrelevant because neither McDonald's registrations nor Applicant's application are limited to goods sold via a particular distribution channel. Subject to and without waiving any of its objections, McDonald's denies that its MCDOUBLE branded goods are sold only in McDonald's

restaurants. Answering further, McDonald's states that its McDOUBLE branded sandwiches are sold not only in free-standing McDonald's branded restaurants, but also in McDonald's branded outlets or other locations operated by McDonald's subsidiaries or franchisees that are located in airports, shopping malls, highway rest stops, Wal-Mart stores, hospitals, museums, casino-hotels, stadiums and train stations among other buildings and venues.

**REQUEST FOR ADMISSION NO. 22.** Admit that MCRIB goods are sold only in McDonald's restaurants.

**RESPONSE:** In addition to its general objections, McDonald's objects to this Request as irrelevant because neither McDonald's registrations nor Applicant's application are limited to goods sold via a particular distribution channel. Subject to and without waiving any of its objections, McDonald's denies that its McRIB branded goods are sold only in McDonald's restaurants. Answering further, McDonald's states that its McRIB branded sandwiches are sold not only in free-standing McDonald's branded restaurants, but also in McDonald's branded outlets or other locations operated by McDonald's subsidiaries or franchisees that are located in airports, shopping malls, highway rest stops, Wal-Mart stores, hospitals, museums, casino-hotels, stadiums and train stations among other buildings and venues.

**REQUEST FOR ADMISSION NO. 23.** Admit that MCMUFFIN goods are sold only in McDonald's restaurants.

**RESPONSE:** In addition to its general objections, McDonald's objects to this Request as irrelevant because neither McDonald's registrations nor Applicant's application are limited to goods sold via a particular distribution channel. Subject to and without waiving any of its objections, McDonald's denies that its McMUFFIN branded goods are sold only in McDonald's restaurants. Answering further, McDonald's states that its McMUFFIN branded sandwiches are sold not only in free-standing McDonald's branded restaurants, but also in McDonald's branded outlets or other locations operated by McDonald's subsidiaries or franchisees that are located in

airports, shopping malls, highway rest stops, Wal-Mart stores, hospitals, museums, casino-hotels, stadiums and train stations among other buildings and venues.

**REQUEST FOR ADMISSION NO. 24.** Admit that MCFLURRY goods are sold only in McDonald's restaurants.

**RESPONSE:** In addition to its general objections, McDonald's objects to this Request as irrelevant because neither McDonald's registrations nor Applicant's application are limited to goods sold via a particular distribution channel. Subject to and without waiving any of its objections, McDonald's denies that its McFLURRY branded goods are sold only in McDonald's restaurants. Answering further, McDonald's states that its McFLURRY branded goods are sold not only in free-standing McDonald's branded restaurants, but also in McDonald's branded outlets or other locations operated by McDonald's subsidiaries or franchisees that are located in airports, shopping malls, highway rest stops, Wal-Mart stores, hospitals, museums, casino-hotels, stadiums and train stations among other buildings and venues.

**REQUEST FOR ADMISSION NO. 25.** Admit that MCGRIDDLES goods are sold only in McDonald's restaurants.

**RESPONSE:** In addition to its general objections, McDonald's objects to this Request as irrelevant because neither McDonald's registrations nor Applicant's application are limited to goods sold via a particular distribution channel. Subject to and without waiving any of its objections, McDonald's denies that its McGRIDDLES branded goods are sold only in McDonald's restaurants. Answering further, McDonald's states that its McGRIDDLES branded goods are sold not only in free-standing McDonald's branded restaurants, but also in McDonald's branded outlets or other locations operated by McDonald's subsidiaries or franchisees that are located in airports, shopping malls, highway rest stops, Wal-Mart stores, hospitals, museums, casino-hotels, stadiums and train stations among other buildings and venues.

**REQUEST FOR ADMISSION NO. 26.** Admit that MCCAFAE goods are sold only in McDonald's restaurants.

**RESPONSE:** In addition to its general objections, McDonald's objects to this Request as irrelevant because neither McDonald's registrations nor Applicant's application are limited to goods sold via a particular distribution channel. Subject to and without waiving any of its objections, McDonald's denies that its McCAFE branded goods are sold only in McDonald's restaurants. Answering further, states that its McCAFE branded goods are sold not only in free-standing McDonald's branded restaurants, but also in McDonald's branded outlets or other locations operated by McDonald's subsidiaries or franchisees that are located in airports, shopping malls, highway rest stops, Wal-Mart stores, hospitals, museums, casino-hotels, stadiums and train stations among other buildings and venues.

**REQUEST FOR ADMISSION NO. 27.** Admit that MCSKILLET goods are sold only in McDonald's restaurants.

**RESPONSE:** In addition to its general objections, McDonald's objects to this Request as irrelevant because neither McDonald's registrations nor Applicant's application are limited to goods sold via a particular distribution channel. Subject to and without waiving any of its objections, McDonald's denies that its McSKILLET branded goods are sold only in McDonald's restaurants. Answering further, McDonald's states that its McSKILLET branded goods are sold not only in free-standing McDonald's branded restaurants, but also in McDonald's branded outlets or other locations operated by McDonald's subsidiaries or franchisees that are located in airports, shopping malls, highway rest stops, Wal-Mart stores, hospitals, museums, casino-hotels, stadiums and train stations among other buildings and venues.

**REQUEST FOR ADMISSION NO. 28.** Admit that Opposer does not sell or distribute pickled cocktail onions.

**RESPONSE:** Subject to and without waiving any of its general objections, McDonald's admits that McDonald's does not presently sell or distribute pickled cocktail onions.

**REQUEST FOR ADMISSION NO. 29.** Admit that Opposer does not sell or distribute pickled giardiniera.

**RESPONSE:** Subject to and without waiving any of its general objections, McDonald's admits that McDonald's does not presently sell or distribute pickled giardiniera.

**REQUEST FOR ADMISSION NO. 30.** Admit that Opposer does not sell or distribute pickled garlic.

**RESPONSE:** Subject to and without waiving any of its general objections, McDonald's admits that it does not presently sell or distribute pickled garlic.

**REQUEST FOR ADMISSION NO. 31.** Admit that Opposer does not sell or distribute pickled beans.

**RESPONSE:** Subject to and without waiving any of its general objections, McDonald's admits that it does not presently sell or distribute pickled beans.

**REQUEST FOR ADMISSION NO. 32.** Admit that Opposer does not sell or distribute pickled asparagus.

**RESPONSE:** Subject to and without waiving any of its general objections, McDonald's admits that it does not presently sell or distribute pickled asparagus.

**REQUEST FOR ADMISSION NO. 33.** Admit that Opposer does not offer for sale pickled cocktail onions in combination with any other product.

**RESPONSE:** Subject to and without waiving any of its general objections, McDonald's admits that it presently does not offer for sale pickled cocktail onions in combination with any other product.

**REQUEST FOR ADMISSION NO. 34.** Admit that Opposer does not offer for sale pickled giardiniera in combination with any other product.

**RESPONSE:** Subject to and without waiving any of its general objections, McDonald's admits that it presently does not offer for sale pickled giardiniera in combination with any other product.

**REQUEST FOR ADMISSION NO. 35.** Admit that Opposer does not offer for sale pickled garlic in combination with any other product.

**RESPONSE:** Subject to and without waiving any of its general objections, McDonald's admits that it presently does not offer for sale pickled garlic in combination with any other product.

**REQUEST FOR ADMISSION NO. 36.** Admit that Opposer does not offer for sale pickled dilly beans in combination with any other product.

**RESPONSE:** Subject to and without waiving any of its general objections, McDonald's admits that it presently does not offer for sale pickled dilly beans in combination with any other product.

**REQUEST FOR ADMISSION NO. 37.** Admit that Opposer does not offer for sale pickled asparagus in combination with any other product.

**RESPONSE:** Subject to and without waiving any of its general objections, McDonald's admits that it presently does not offer for sale pickled asparagus in combination with any other product.

**REQUEST FOR ADMISSION NO. 38.** Admit that Opposer does not sell goods under Opposer's Marks to distributors.

**RESPONSE:** In addition to its general objections, McDonald's objects to this Request as irrelevant because neither McDonald's registrations nor Applicant's application is limited to goods sold to distributors. Subject to and without waiving any of its objections, McDonald's admits that it does not sell goods under its marks to distributors.

**REQUEST FOR ADMISSION NO. 39.** Admit that Opposer does not sell its MCCHICKEN products to distributors.

**RESPONSE:** In addition to its general objections, McDonald's objects to this Request as irrelevant because neither McDonald's registrations nor Applicant's application is limited to goods sold to distributors. Subject to and without waiving any of its objections, McDonald's admits that it does not sell its McCHICKEN branded products to distributors.

**REQUEST FOR ADMISSION NO. 40.** Admit that Opposer does not sell its MCDOUBLE products to distributors.

**RESPONSE:** In addition to its general objections, McDonald's objects to this Request as irrelevant because neither McDonald's registrations nor Applicant's application are limited to goods sold to distributors. Subject to and without waiving any of its objections, McDonald's admits that it does not sell McDOUBLE branded products to distributors.

**REQUEST FOR ADMISSION NO. 41.** Admit that Opposer does not sell its MCRIB products to distributors.

**RESPONSE:** In addition to its general objections, McDonald's objects to this Request as irrelevant because neither McDonald's registrations nor Applicant's application is limited to goods sold to distributors. Subject to and without waiving any of its objections, McDonald's admits that it does not sell McRIB branded products to distributors.

**REQUEST FOR ADMISSION NO. 42.** Admit that Opposer does not sell its MCMUFFIN products to distributors.

**RESPONSE:** In addition to its general objections, McDonald's objects to this Request as irrelevant because neither McDonald's registrations nor Applicant's application is limited to goods sold to distributors. Subject to and without waiving any of its objections, McDonald's admits that it does not sell McMUFFIN branded products to distributors.

**REQUEST FOR ADMISSION NO. 43.** Admit that Opposer does not sell its MCFLURRY products to distributors.

**RESPONSE:** In addition to its general objections, McDonald's objects to this Request as irrelevant because neither McDonald's registrations nor Applicant's application is limited to goods sold to distributors. Subject to and without waiving any of its objections, McDonald's admits that it does not sell McFLURRY branded products to distributors.

**REQUEST FOR ADMISSION NO. 44.** Admit that Opposer does not sell its MCGRIDDLES products to distributors.

**RESPONSE:** In addition to its general objections, McDonald's objects to this Request as irrelevant because neither McDonald's registrations nor Applicant's application is limited to

goods sold to distributors. Subject to and without waiving any of its objections, McDonald's admits that it does not sell McGRIDDLES branded products to distributors.

**REQUEST FOR ADMISSION NO. 45.** Admit that Opposer does not sell its MCCAFE products to distributors.

**RESPONSE:** In addition to its general objections, McDonald's objects to this Request as irrelevant because neither McDonald's registrations nor Applicant's application is limited to goods sold to distributors. Subject to and without waiving any of its objections, McDonald's admits that it does not sell McCAFE branded products to distributors.

**REQUEST FOR ADMISSION NO. 46.** Admit that Opposer does not sell its MCSKILLET products to distributors.

**RESPONSE:** In addition to its general objections, McDonald's objects to this Request as irrelevant because neither McDonald's registrations nor Applicant's application is limited to goods sold to distributors. Subject to and without waiving any of its objections, McDonald's admits that it does not sell McSKILLET branded products to distributors.

**REQUEST FOR ADMISSION NO. 47.** Admit that Opposer sells goods under its Marks only to consumers.

**RESPONSE:** In addition to its general objections, McDonald's objects to this Request as irrelevant because neither McDonald's registrations nor Applicant's application is limited to goods sold to consumers. Subject to and without waiving any of its objections and based on Applicant's definition of "consumers," McDonald's denies that it sells goods under its marks only to consumers.

**REQUEST FOR ADMISSION NO. 48.** Admit that Opposer sells MCCHICKEN products only to consumers.

**RESPONSE:** In addition to its general objections, McDonald's objects to this Request as irrelevant because neither McDonald's registrations nor Applicant's application is limited to

goods sold to consumers. Subject to and without waiving any of its objections, McDonald's admits that it sells MCCHICKEN branded products only to consumers.

**REQUEST FOR ADMISSION NO. 49.** Admit that Opposer sells MCDOUBLE products only to consumers.

**RESPONSE:** In addition to its general objections, McDonald's objects to this Request as irrelevant because neither McDonald's registrations nor Applicant's application is limited to goods sold to consumers. Subject to and without waiving any of its objections, McDonald's admits that it sells McDOUBLE branded products only to consumers.

**REQUEST FOR ADMISSION NO. 50.** Admit that Opposer sells MCRIB products only to consumers.

**RESPONSE:** In addition to its general objections, McDonald's objects to this Request as irrelevant because neither McDonald's registrations nor Applicant's application is limited to goods sold to consumers. Subject to and without waiving any of its objections, McDonald's admits that it sells McRIB branded products only to consumers.

**REQUEST FOR ADMISSION NO. 51.** Admit that Opposer sells MCMUFFIN products only to consumers.

**RESPONSE:** In addition to its general objections, McDonald's objects to this Request as irrelevant because neither McDonald's registrations nor Applicant's application is limited to goods sold to consumers. Subject to and without waiving any of its objections, McDonald's admits that it sells McMUFFIN branded products only to consumers.

**REQUEST FOR ADMISSION NO. 52.** Admit that Opposer sells MCFLURRY products only to consumers.

**RESPONSE:** In addition to its general objections, McDonald's objects to this Request as irrelevant because neither McDonald's registrations nor Applicant's application is limited to goods sold to consumers. Subject to and without waiving any of its objections, McDonald's admits that it sells McFLURRY branded products only to consumers.

**REQUEST FOR ADMISSION NO. 53.** Admit that Opposer sells MCGRIDDLES products only to consumers.

**RESPONSE:** In addition to its general objections, McDonald's objects to this Request as irrelevant because neither McDonald's registrations nor Applicant's application is limited to goods sold to consumers. Subject to and without waiving any of its objections, McDonald's admits that it sells McGRIDDLES branded products only to consumers.

**REQUEST FOR ADMISSION NO. 54.** Admit that Opposer sells MCCAFFEE products only to consumers.

**RESPONSE:** In addition to its general objections, McDonald's objects to this Request as irrelevant because neither McDonald's registrations nor Applicant's application is limited to goods sold to consumers. Subject to and without waiving any of its objections, McDonald's admits that it sells McCAFFEE branded products only to consumers.

**REQUEST FOR ADMISSION NO. 55.** Admit that Opposer sells MCSKILLET products only to consumers.

**RESPONSE:** In addition to its general objections, McDonald's objects to this Request as irrelevant because neither McDonald's registrations nor Applicant's application is limited to goods sold to consumers. Subject to and without waiving any of its objections, McDonald's admits that it sells McSKILLET branded products only to consumers.

**REQUEST FOR ADMISSION NO. 56.** Admit that Opposer does not sell MCCHICKEN products to grocery stores for resale to consumers.

**RESPONSE:** In addition to its general objections, McDonald's objects to this Request as irrelevant because neither McDonald's registrations nor Applicant's application is limited to goods sold to grocery stores for resale to consumers. Subject to and without waiving its objections, McDonald's admits that it does not presently sell products under the McCHICKEN mark to grocery stores for resale to consumers. Answering further, McDonald's states that its McCHICKEN branded products are sold not only to consumers in free-standing McDonald's

branded restaurants, but also in McDonald's branded outlets or other locations operated by McDonald's subsidiaries or franchisees that are located in airports, shopping malls, highway rest stops, Wal-Mart stores, hospitals, museums, casino-hotels, stadiums and train stations among other buildings and venues. McDonald's further answers that it promotes, offers and distributes its McCHICKEN branded products to all classes of consumers including proprietors, owners, and employees of grocery stores.

**REQUEST FOR ADMISSION NO. 57.** Admit that Opposer does not sell MCCHICKEN products to liquor stores for resale to consumers.

**RESPONSE:** In addition to its general objections, McDonald's objects to this Request as irrelevant because neither McDonald's registrations nor Applicant's application is limited to goods sold to liquor stores for resale to consumers. Subject to and without waiving its objections, McDonald's admits that it does not sell McCHICKEN branded products to liquor stores for resale to consumers. Answering further, McDonald's states that its McCHICKEN branded products are sold not only to consumers in free-standing McDonald's branded restaurants, but also in McDonald's branded outlets or other locations operated by McDonald's subsidiaries or franchisees that are located in airports, shopping malls, highway rest stops, Wal-Mart stores, hospitals, museums, casino-hotels, stadiums and train stations among other buildings and venues. McDonald's further answers that it sells its McCHICKEN branded products to all classes of consumers including proprietors, owners, and employees of liquor stores.

**REQUEST FOR ADMISSION NO. 58.** Admit that Opposer does not sell MCCHICKEN products to bars for resale to consumers.

**RESPONSE:** In addition to its general objections, McDonald's objects to this Request as irrelevant because neither McDonald's registrations nor Applicant's application is limited to goods sold to bars for resale to consumers. Subject to and without waiving its objections,

McDonald's admits that it does not sell its McCHICKEN branded products to bars for resale to consumers. Answering further, McDonald's states that its McCHICKEN branded products are sold not only to consumers in free-standing McDonald's branded restaurants, but also in McDonald's branded outlets or other locations operated by McDonald's subsidiaries or franchisees that are located in airports, shopping malls, highway rest stops, Wal-Mart stores, hospitals, museums, casino-hotels, stadiums and train stations among other buildings and venues. McDonald's further answers that it sells its McCHICKEN branded products to all classes of consumers including proprietors, owners, and employees of bars.

**REQUEST FOR ADMISSION NO. 59.** Admit that Opposer does not sell MCCHICKEN products via the Internet.

**RESPONSE:** In addition to its general objections, McDonald's objects to this Request as irrelevant because neither McDonald's registrations nor Applicant's application is limited to goods sold via the Internet. Subject to and without waiving its objections, McDonald's denies that it does not sell McCHICKEN branded products via the Internet.

**REQUEST FOR ADMISSION NO. 60.** Admit that Opposer does not sell MCCHICKEN products to specialty stores.

**RESPONSE:** In addition to its general objections, McDonald's objects to this Request as irrelevant because neither McDonald's registrations nor Applicant's application is limited to goods sold to specialty stores. Subject to and without waiving its objections, McDonald's admits that it does not sell products under its McCHICKEN mark in specialty stores. McDonald's further answers that it sells its McCHICKEN branded products to all classes of consumers including proprietors, owners, and employees of specialty stores, and therefore denies that it does not sell its McCHICKEN branded products to specialty stores. Answering further, McDonald's states that its McCHICKEN branded products are sold not only to consumers in free-standing McDonald's branded restaurants, but also in McDonald's branded outlets or other locations

operated by McDonald's subsidiaries or franchisees that are located in airports, shopping malls, highway rest stops, Wal-Mart stores, hospitals, museums, casino-hotels, stadiums and train stations among other buildings and venues.

**REQUEST FOR ADMISSION NO. 61.** Admit that Opposer does not sell MCCHICKEN products to gourmet stores.

**RESPONSE:** In addition to its general objections, McDonald's objects to this Request as irrelevant because neither McDonald's registrations nor Applicant's application is limited to goods sold to gourmet stores. McDonald's further objects to this Request as vague as to the meaning of "gourmet stores." Subject to and without waiving its objections, based on Applicant's definition of "gourmet food stores" and to the extent that "gourmet stores" is ascribed a meaning similar to Applicant's definition of "gourmet food stores," McDonald's admits that it does not sell products under its McCHICKEN mark in gourmet stores. McDonald's further answers that it sells its McCHICKEN branded products to all classes of consumers including proprietors, owners, and employees of gourmet stores, and therefore denies that it does not sell its McCHICKEN branded products to gourmet stores. Answering further, McDonald's states that its McCHICKEN branded products are sold not only to consumers in free-standing McDonald's branded restaurants, but also in McDonald's branded outlets or other locations operated by McDonald's subsidiaries or franchisees that are located in airports, shopping malls, highway rest stops, Wal-Mart stores, hospitals, museums, casino-hotels, stadiums and train stations among other buildings and venues.

**REQUEST FOR ADMISSION NO. 62.** Admit that Opposer does not sell MCDOUBLE products to grocery stores.

**RESPONSE:** In addition to its general objections, McDonald's objects to this Request as irrelevant because neither McDonald's registrations nor Applicant's application is limited to goods sold to grocery stores. Subject to and without waiving its objections, McDonald's admits

that it does not sell products under the McDOUBLE mark in grocery stores. McDonald's further answers that it sells its McDOUBLE branded products to all classes of consumers including proprietors, owners, and employees of grocery stores, and therefore denies that it does not sell its McDOUBLE branded products to grocery stores. Answering further, McDonald's states that its McDOUBLE branded products are sold not only to consumers in free-standing McDonald's branded restaurants, but also in McDonald's branded outlets or other locations operated by McDonald's subsidiaries or franchisees that are located in airports, shopping malls, highway rest stops, Wal-Mart stores, hospitals, museums, casino-hotels, stadiums and train stations among other buildings and venues.

**REQUEST FOR ADMISSION NO. 63.** Admit that Opposer does not sell MCDOUBLE products to liquor stores.

**RESPONSE:** In addition to its general objections, McDonald's objects to this Request as irrelevant because neither McDonald's registrations nor Applicant's application is limited to goods sold to liquor stores. Subject to and without waiving any of its objections, McDonald's admits that it does not sell products under its McDOUBLE mark in liquor stores. McDonald's further answers that it sells its McDOUBLE branded products to all classes of consumers including proprietors, owners, and employees of liquor stores, and therefore denies that it does not sell McDOUBLE branded products to liquor stores. Answering further, McDonald's states that its McDOUBLE branded products are sold not only to consumers in free-standing McDonald's branded restaurants, but also in McDonald's branded outlets or other locations operated by McDonald's subsidiaries or franchisees that are located in airports, shopping malls, highway rest stops, Wal-Mart stores, hospitals, museums, casino-hotels, stadiums and train stations among other buildings and venues.

**REQUEST FOR ADMISSION NO. 64.** Admit that Opposer does not sell MCDOUBLE products to bars.

**RESPONSE:** In addition to its general objections, McDonald's objects to this Request as irrelevant because neither McDonald's registrations nor Applicant's application is limited to goods sold to bars. Subject to and without waiving any of its objections, McDonald's admits that it does not sell products under its McDOUBLE mark in bars. McDonald's further answers that it sells its McDOUBLE branded products to all classes of consumers including proprietors, owners, and employees of bars, and therefore denies that it does not sell McDOUBLE branded products to bars. Answering further, McDonald's states that its McDOUBLE branded products are sold not only to consumers in free-standing McDonald's branded restaurants, but also in McDonald's branded outlets or other locations operated by McDonald's subsidiaries or franchisees that are located in airports, shopping malls, highway rest stops, Wal-Mart stores, hospitals, museums, casino-hotels, stadiums and train stations among other buildings and venues.

**REQUEST FOR ADMISSION NO. 65.** Admit that Opposer does not sell MCDDOUBLE products to distributors via the Internet.

**RESPONSE:** In addition to its general objections, McDonald's objects to this Request as irrelevant because neither McDonald's registrations nor Applicant's application is limited to goods sold to distributors via the Internet. Subject to and without waiving its objections, McDonald's admits that it does not sell McDOUBLE branded products to distributors via the Internet.

**REQUEST FOR ADMISSION NO. 66.** Admit that Opposer does not sell MCDDOUBLE products to specialty stores.

**RESPONSE:** In addition to its general objections, McDonald's objects to this Request as irrelevant because neither McDonald's registrations nor Applicant's application is limited to goods sold to specialty stores. Subject to and without waiving any of its objections, McDonald's admits that it does not sell products under its McDOUBLE mark in specialty stores. McDonald's further answers that it sells McDOUBLE branded products to all classes of consumers including

proprietors, owners and employees of specialty stores, and therefore denies that it does not sell McDOUBLE branded products to specialty stores. Answering further, McDonald's states that its McDOUBLE branded products are sold not only to consumers in free-standing McDonald's branded restaurants, but also in McDonald's branded outlets or other locations operated by McDonald's subsidiaries or franchisees that are located in airports, shopping malls, highway rest stops, Wal-Mart stores, hospitals, museums, casino-hotels, stadiums and train stations among other buildings and venues.

**REQUEST FOR ADMISSION NO. 67.** Admit that Opposer does not sell McDOUBLE products to gourmet stores.

**RESPONSE:** In addition to its general objections, McDonald's objects to this Request as irrelevant because neither McDonald's registrations nor Applicant's application is limited to goods sold to gourmet stores. McDonald's further objects to this Request as vague based on the term "gourmet stores." Subject to and without waiving its objections, based on Applicant's definition of "gourmet food stores" and to the extent that "gourmet stores" is ascribed a meaning similar to Applicant's definition of "gourmet food stores," McDonald's admits that it does not sell products under its McDOUBLE mark in gourmet stores. McDonald's further answers that it sells McDOUBLE branded products to all classes of consumers, including proprietors, owners and employees of gourmet food stores, and therefore, denies that it does not sell McDOUBLE banded products to gourmet food stores. Answering further, McDonald's states that its McDOUBLE branded products are sold not only to consumers in free-standing McDonald's branded restaurants, but also in McDonald's branded outlets or other locations operated by McDonald's subsidiaries or franchisees that are located in airports, shopping malls, highway rest stops, Wal-Mart stores, hospitals, museums, casino-hotels, stadiums and train stations among other buildings and venues.

**REQUEST FOR ADMISSION NO. 68.** Admit that Opposer does not sell MCRIB products to grocery stores.

**RESPONSE:** In addition to its general objections, McDonald's objects to this Request as irrelevant because neither McDonald's registrations nor Applicant's application is limited to goods sold to grocery stores. Subject to and without waiving its objections, McDonald's admits that it does not presently sell products under its McRIB mark in grocery stores. McDonald's further answers that it sells McRIB branded products to all classes of consumers including proprietors, owners, and employees of grocery stores and therefore denies that it does not sell McRIB branded products to grocery stores. Answering further, McDonald's states that its McRIB branded products are sold not only to consumers in free-standing McDonald's branded restaurants, but also in McDonald's branded outlets or other locations operated by McDonald's subsidiaries or franchisees that are located in airports, shopping malls, highway rest stops, Wal-Mart stores, hospitals, museums, casino-hotels, stadiums and train stations among other buildings and venues.

**REQUEST FOR ADMISSION NO. 69.** Admit that Opposer does not sell McRIB products to liquor stores.

**RESPONSE:** In addition to its general objections, McDonald's objects to this Request as irrelevant because neither McDonald's registrations nor Applicant's application is limited to goods sold to liquor stores. Subject to and without waiving its objections, McDonald's admits that it does not sell products under its McRIB mark in liquor stores. McDonald's further answers that it sells McRIB branded products to all classes of consumers including proprietors, owners, and employees of liquor stores, and therefore denies that it does not sell McRIB branded products to liquor stores. Answering further, McDonald's states that its McRIB branded products are sold not only to consumers in free-standing McDonald's branded restaurants, but also in McDonald's branded outlets or other locations operated by McDonald's subsidiaries or

franchisees that are located in airports, shopping malls, highway rest stops, Wal-Mart stores, hospitals, museums, casino-hotels, stadiums and train stations among other buildings and venues.

**REQUEST FOR ADMISSION NO. 70.** Admit that Opposer does not sell MCRIB products to bars.

**RESPONSE:** In addition to its general objections, McDonald's objects to this Request as irrelevant because neither McDonald's registrations nor Applicant's application is limited to goods sold to bars. Subject to and without waiving its objections, McDonald's admits that it does not sell products under its McRIB mark in bars. McDonald's further answers that it sells its McRIB branded products to all classes of consumers including proprietors, owners, and employees of bars and therefore denies that it does not sell McRIB branded products to bars. Answering further, McDonald's states that its McRIB branded products are sold not only to consumers in free-standing McDonald's branded restaurants, but also in McDonald's branded outlets or other locations operated by McDonald's subsidiaries or franchisees that are located in airports, shopping malls, highway rest stops, Wal-Mart stores, hospitals, museums, casino-hotels, stadiums and train stations among other buildings and venues.

**REQUEST FOR ADMISSION NO. 71.** Admit that Opposer does not sell MCRIB products to via the Internet.

**RESPONSE:** In addition to its general objections, McDonald's objects to this Request as irrelevant because neither McDonald's registrations nor Applicant's application is limited to goods sold via the Internet. McDonald's further objects to this Request as vague as incomprehensible as to the phrase "to via the Internet" and therefore, subject to and without waiving any of its objections, this is denied.

**REQUEST FOR ADMISSION NO. 72.** Admit that Opposer does not sell McRIB products to specialty stores.

**RESPONSE:** In addition to its general objections, McDonald's objects to this Request as irrelevant because neither McDonald's registrations nor Applicant's application is limited to goods sold to specialty stores. Subject to and without waiving its objections, McDonald's admits that it does not sell products under its McRIB mark in specialty stores. McDonald's further answers that it sells its McRIB branded products to all classes of consumers including proprietors, owners, and employees of specialty stores and therefore denies that it does not sell McRIB branded products to specialty stores. Answering further, McDonald's states that its McRIB branded products are sold not only to consumers in free-standing McDonald's branded restaurants, but also in McDonald's branded outlets or other locations operated by McDonald's subsidiaries or franchisees that are located in airports, shopping malls, highway rest stops, Wal-Mart stores, hospitals, museums, casino-hotels, stadiums and train stations among other buildings and venues.

**REQUEST FOR ADMISSION NO. 73.** Admit that Opposer does not sell MCRIB products to gourmet food stores.

**RESPONSE:** In addition to its general objections, McDonald's objects to this Request as irrelevant because neither McDonald's registrations nor Applicant's application is limited to goods sold to gourmet food stores. Subject to and without waiving its objections, McDonald's admits that it does not sell products under its McRIB mark in gourmet food stores. McDonald's further answers that it sells its McRIB branded products to all classes of consumers including proprietors, owners, and employees of gourmet food stores and therefore denies that it does not sell McRIB branded products to gourmet food stores. Answering further, McDonald's states that its McRIB branded products are sold not only to consumers in free-standing McDonald's branded restaurants, but also in McDonald's branded outlets or other locations operated by McDonald's subsidiaries or franchisees that are located in airports, shopping malls, highway rest

stops, Wal-Mart stores, hospitals, museums, casino-hotels, stadiums and train stations among other buildings and venues.

**REQUEST FOR ADMISSION NO. 74.** Admit that Opposer does not sell MCMUFFIN products to grocery stores.

**RESPONSE:** In addition to its general objections, McDonald's objects to this Request as irrelevant because neither McDonald's registrations nor Applicant's application is limited to goods sold to grocery stores. Subject to and without waiving its objections, McDonald's admits that it does not presently sell products under its McMUFFIN mark in grocery stores. McDonald's further answers that it sells McMUFFIN branded products to all classes of consumers including proprietors, owners, and employees of grocery stores, and therefore denies that it does not sell McMUFFIN branded products to grocery stores. Answering further McDonald's states that its McMUFFIN branded products are sold not only to consumers in free-standing McDonald's branded restaurants, but also in McDonald's branded outlets or other locations operated by McDonald's subsidiaries or franchisees that are located in airports, shopping malls, highway rest stops, Wal-Mart stores, hospitals, museums, casino-hotels, stadiums and train stations among other buildings and venues.

**REQUEST FOR ADMISSION NO. 75.** Admit that Opposer does not sell MCMUFFIN products to liquor stores.

**RESPONSE:** In addition to its general objections, McDonald's objects to this Request as irrelevant because neither McDonald's registrations nor Applicant's application is limited to goods sold to liquor stores. Subject to and without waiving its objections, McDonald's admits that it does not sell products under its McMUFFIN mark in liquor stores. McDonald's further answers that it sells McMUFFIN branded products to all classes of consumers including proprietors, owners, and employees of liquor stores, and therefore denies that it does not sell McMUFFIN branded products to liquor stores. Answering further, McDonald's states that its

McMUFFIN branded products are sold not only to consumers in free-standing McDonald's branded restaurants, but also in McDonald's branded outlets or other locations operated by McDonald's subsidiaries or franchisees that are located in airports, shopping malls, highway rest stops, Wal-Mart stores, hospitals, museums, casino-hotels, stadiums and train stations among other buildings and venues.

**REQUEST FOR ADMISSION NO. 76.** Admit that Opposer does not sell MCMUFFIN products to bars.

**RESPONSE:** In addition to its general objections, McDonald's objects to this Request as irrelevant because neither McDonald's registrations nor Applicant's application is limited to goods sold to bars. Subject to and without waiving its objections, McDonald's admits that it does not sell products under its McMUFFIN mark in bars. McDonald's further answers that it sells its McMUFFIN branded products to all classes of consumers including proprietors, owners, and employees of bars and therefore denies that it does not sell its McMUFFIN branded products to bars. Answering further, McDonald's states that its McMUFFIN branded products are sold not only to consumers in free-standing McDonald's branded restaurants, but also in McDonald's branded outlets or other locations operated by McDonald's subsidiaries or franchisees that are located in airports, shopping malls, highway rest stops, Wal-Mart stores, hospitals, museums, casino-hotels, stadiums and train stations among other buildings and venues.

**REQUEST FOR ADMISSION NO. 77.** Admit that Opposer does not sell MCMUFFIN products via the Internet.

**RESPONSE:** In addition to its general objections, McDonald's objects to this Request as irrelevant because neither McDonald's registrations nor Applicant's application is limited to goods sold via the Internet. Subject to and without waiving any of its objections, McDonald's denies that it does not sell McMUFFIN branded products via the Internet.

**REQUEST FOR ADMISSION NO. 78.** Admit that Opposer does not sell McMUFFIN products to specialty stores.

**RESPONSE:** In addition to its general objections, McDonald's objects to this Request as irrelevant because neither McDonald's registrations nor Applicant's application is limited to goods sold to specialty stores. Subject to and without waiving any of its objections, McDonald's admits that it does not sell products under its McMUFFIN mark in specialty stores. McDonald's further answers that it sells McMUFFIN branded products to all classes of consumers including proprietors, owners, and employees of specialty stores and therefore denies that it does not sell its McMUFFIN branded products to specialty stores. Answering further, McDonald's states that its McMUFFIN branded products are sold not only to consumers in free-standing McDonald's branded restaurants, but also in McDonald's branded outlets or other locations operated by McDonald's subsidiaries or franchisees that are located in airports, shopping malls, highway rest stops, Wal-Mart stores, hospitals, museums, casino-hotels, stadiums and train stations among other buildings and venues.

**REQUEST FOR ADMISSION NO. 79.** Admit that Opposer does not sell McMUFFIN products to gourmet stores.

**RESPONSE:** In addition to its general objections, McDonald's objects to this Request as irrelevant because neither McDonald's registrations nor Applicant's application is limited to goods sold to gourmet stores. McDonald's further objects to this Request as vague as to the term "gourmet stores." Subject to and without waiving any of its objections, based on Applicant's definition of "gourmet food stores" and to the extent that "gourmet stores" is ascribed a meaning similar to Applicant's definition of "gourmet food stores," McDonald's admits that it does not sell products under its McMUFFIN mark in gourmet stores. McDonald's further answers that it sells McMUFFIN branded products to all classes of consumers including proprietors, owners, and employees of gourmet stores and therefore denies that it does not sell its McMUFFIN

branded products to gourmet stores. Answering further, McDonald's states that its McMUFFIN branded products are sold not only to consumers in free-standing McDonald's branded restaurants, but also in McDonald's branded outlets or other locations operated by McDonald's subsidiaries or franchisees that are located in airports, shopping malls, highway rest stops, Wal-Mart stores, hospitals, museums, casino-hotels, stadiums and train stations among other buildings and venues.

**REQUEST FOR ADMISSION NO. 80.** Admit that Opposer does not sell MCFLURRY products to grocery stores.

**RESPONSE:** In addition to its general objections, McDonald's objects to this Request as irrelevant because neither McDonald's registrations nor Applicant's application is limited to goods sold to grocery stores. Subject to and without waiving its objections, McDonald's admits that it does not sell products under its McFLURRY mark in grocery stores. McDonald's further answers that it sells McFLURRY branded products to all classes of consumers including proprietors, owners, and employees of grocery stores, and therefore denies that it does not sell McFLURRY branded products to grocery stores. Answering further, McDonald's states that its McFLURRY branded products are sold not only to consumers in free-standing McDonald's branded restaurants, but also in McDonald's branded outlets or other locations operated by McDonald's subsidiaries or franchisees that are located in airports, shopping malls, highway rest stops, Wal-Mart stores, hospitals, museums, casino-hotels, stadiums and train stations among other buildings and venues.

**REQUEST FOR ADMISSION NO. 81.** Admit that Opposer does not sell MCFLURRY products to liquor stores.

**RESPONSE:** In addition to its general objections, McDonald's objects to this Request as irrelevant because neither McDonald's registrations nor Applicant's application is limited to goods sold to liquor stores. Subject to and without waiving its objections, McDonald's admits

that it does not sell products under its McFLURRY mark in liquor stores. McDonald's further answers that it sells McFLURRY branded products to all classes of consumers including proprietors, owners, and employees of liquor stores, and therefore denies that it does not sell McFLURRY branded products to liquor stores. Answering further, McDonald's states that its McFLURRY branded products are sold not only to consumers in free-standing McDonald's branded restaurants, but also in McDonald's branded outlets or other locations operated by McDonald's subsidiaries or franchisees that are located in airports, shopping malls, highway rest stops, Wal-Mart stores, hospitals, museums, casino-hotels, stadiums and train stations among other buildings and venues.

**REQUEST FOR ADMISSION NO. 82.** Admit that Opposer does not sell McFLURRY products to bars.

**RESPONSE:** In addition to its general objections, McDonald's objects to this Request as irrelevant because neither McDonald's registrations nor Applicant's application is limited to goods sold to bars. Subject to and without waiving its objections, McDonald's admits that it does not sell products under its McFLURRY mark in bars. McDonald's further answers that it sells McFLURRY branded products to all classes of consumers including proprietors, owners, and employees of liquor stores, and therefore denies that it does not sell McFLURRY branded products to liquor stores. Answering further, McDonald's states that its McFLURRY branded products are sold not only to consumers in free-standing McDonald's branded restaurants, but also in McDonald's branded outlets or other locations operated by McDonald's subsidiaries or franchisees that are located in airports, shopping malls, highway rest stops, Wal-Mart stores, hospitals, museums, casino-hotels, stadiums and train stations among other buildings and venues.

**REQUEST FOR ADMISSION NO. 83.** Admit that Opposer does not sell McFLURRY products via the Internet.

**RESPONSE:** In addition to its general objections, McDonald's objects to this Request as irrelevant because neither McDonald's registrations nor Applicant's application is limited to goods sold via the Internet. Subject to and without waiving any of its objections, McDonald's denies that it does not sell McFLURRY products via the Internet.

**REQUEST FOR ADMISSION NO. 84.** Admit that Opposer does not sell McFLURRY products to specialty stores.

**RESPONSE:** In addition to its general objections, McDonald's objects to this Request as irrelevant because neither McDonald's registrations nor Applicant's application is limited to goods sold to specialty stores. Subject to and without waiving any of its objections, McDonald's admits that it does not sell products under its McFLURRY mark in specialty stores. McDonald's further answers that it sells McFLURRY branded products to all classes of consumers including proprietors, owners, and employees of specialty stores, and therefore denies that it does not sell McFLURRY branded products to specialty stores. Answering further, McDonald's states that its McFLURRY branded products are sold not only to consumers in free-standing McDonald's branded restaurants, but also in McDonald's branded outlets or other locations operated by McDonald's subsidiaries or franchisees that are located in airports, shopping malls, highway rest stops, Wal-Mart stores, hospitals, museums, casino-hotels, stadiums and train stations among other buildings and venues.

**REQUEST FOR ADMISSION NO. 85.** Admit that Opposer does not sell McFLURRY products to gourmet stores.

**RESPONSE:** In addition to its general objections, McDonald's objects to this Request as irrelevant because neither McDonald's registrations nor Applicant's application is limited to goods sold to gourmet stores. McDonald's further objects to this Request as vague as to the meaning of "gourmet stores." Subject to and without waiving any of its objections, based on Applicant's definition of "gourmet food stores" and to the extent that "gourmet stores" is

ascribed a meaning similar to Applicant's definition of "gourmet food stores," McDonald's admits that it does not sell products under its McFLURRY mark in gourmet stores. McDonald's further answers that it sells McFLURRY branded products to all classes of consumers including proprietors, owners, and employees of gourmet stores, and therefore denies that it does not sell McFLURRY branded products to gourmet stores. Answering further, McDonald's states that its McFLURRY branded products are sold not only to consumers in free-standing McDonald's branded restaurants, but also in McDonald's branded outlets or other locations operated by McDonald's subsidiaries or franchisees that are located in airports, shopping malls, highway rest stops, Wal-Mart stores, hospitals, museums, casino-hotels, stadiums and train stations among other buildings and venues.

**REQUEST FOR ADMISSION NO. 86.** Admit that Opposer does not sell MCGRIDDLES products to grocery stores.

**RESPONSE:** In addition to its general objections, McDonald's objects to this Request as irrelevant because neither McDonald's registrations nor Applicant's application is limited to goods sold to grocery stores. Subject to and without waiving its objections, McDonald's admits that it does not sell products under its McGRIDDLES marks in grocery stores. McDonald's further answers that it sells McGRIDDLES branded products to all classes of consumers including proprietors, owners, and employees of grocery stores, and therefore denies that it does not sell McGRIDDLES branded products to grocery stores. Answering further, McDonald's states that its McGRIDDLES branded products are sold not only to consumers in free-standing McDonald's branded restaurants, but also in McDonald's branded outlets or other locations operated by McDonald's subsidiaries or franchisees that are located in airports, shopping malls, highway rest stops, Wal-Mart stores, hospitals, museums, casino-hotels, stadiums and train stations among other buildings and venues.

**REQUEST FOR ADMISSION NO. 87.** Admit that Opposer does not sell McGRIDDLES products to liquor stores.

**RESPONSE:** In addition to its general objections, McDonald's objects to this Request as irrelevant because neither McDonald's registrations nor Applicant's application is limited to goods sold to liquor stores. Subject to and without waiving its objections, McDonald's admits that it does not sell its products under its McGRIDDLES mark in liquor stores. McDonald's further answers that it sells McGRIDDLES branded products to all classes of consumers including proprietors, owners, and employees of liquor stores, and therefore denies that it does not sell McGRIDDLES branded products to liquor stores. Answering further, McDonald's states that its McGRIDDLES branded products are sold not only to consumers in free-standing McDonald's branded restaurants, but also in McDonald's branded outlets or other locations operated by McDonald's subsidiaries or franchisees that are located in airports, shopping malls, highway rest stops, Wal-Mart stores, hospitals, museums, casino-hotels, stadiums and train stations among other buildings and venues.

**REQUEST FOR ADMISSION NO. 88.** Admit that Opposer does not sell McGRIDDLES products to bars.

**RESPONSE:** In addition to its general objections, McDonald's objects to this Request as irrelevant because neither McDonald's registrations nor Applicant's application is limited to goods sold to bars. Subject to and without waiving its objections, McDonald's admits that it does not sell products under its McGRIDDLES marks in bars. McDonald's further answers that it sells McGRIDDLES branded products to all classes of consumers including proprietors, owners, and employees of bars, and therefore denies that it does not sell McGRIDDLES branded products to bars. Answering further, McDonald's states that its McGRIDDLES branded products are sold not only to consumers in free-standing McDonald's branded restaurants, but also in McDonald's branded outlets or other locations operated by McDonald's subsidiaries or

franchisees that are located in airports, shopping malls, highway rest stops, Wal-Mart stores, hospitals, museums, casino-hotels, stadiums and train stations among other buildings and venues.

**REQUEST FOR ADMISSION NO. 89.** Admit that Opposer does not sell MCGRIDDLES products via the Internet.

**RESPONSE:** In addition to its general objections, McDonald's objects to this Request as irrelevant because neither McDonald's registrations nor Applicant's application is limited to goods sold via the Internet. Subject to and without waiving any of its objections, McDonald's denies that it does not sell McGRIDDLES products via the Internet.

**REQUEST FOR ADMISSION NO. 90.** Admit that Opposer does not sell MCGRIDDLES products to specialty stores.

**RESPONSE:** In addition to its general objections, McDonald's objects to this Request as irrelevant because neither McDonald's registrations nor Applicant's application is limited to goods sold to specialty stores. Subject to and without waiving any of its objections, McDonald's admits that it does not sell products under its McGRIDDLES mark in specialty stores. McDonald's further answers that it sells McGRIDDLES branded products to all classes of consumers including proprietors, owners, and employees of specialty stores, and therefore denies that it does not sell McGRIDDLES branded products to specialty stores. Answering further, McDonald's states that its McGRIDDLES branded products are sold not only to consumers in free-standing McDonald's branded restaurants, but also in McDonald's branded outlets or other locations operated by McDonald's subsidiaries or franchisees that are located in airports, shopping malls, highway rest stops, Wal-Mart stores, hospitals, museums, casino-hotels, stadiums and train stations among other buildings and venues.

**REQUEST FOR ADMISSION NO. 91.** Admit that Opposer does not sell MCGRIDDLES products to gourmet stores.

**RESPONSE:** In addition to its general objections, McDonald's objects to this Request as irrelevant because neither McDonald's registrations nor Applicant's application is limited to goods sold to gourmet stores. McDonald's further objects to this Request as vague as to the term "gourmet stores." Subject to and without waiving any of its objections, to the extent that "gourmet stores" is ascribed a meaning similar to Applicant's definition of "gourmet food stores," McDonald's admits that it does not sell products under its McGRIDDLES marks in gourmet stores. McDonald's further answers that it sells McGRIDDLES branded products to all classes of consumers including proprietors, owners, and employees of gourmet stores, and therefore denies that it does not sell McGRIDDLES branded products to gourmet stores. Answering further, McDonald's states that its McGRIDDLES branded products are sold not only to consumers in free-standing McDonald's branded restaurants, but also in McDonald's branded outlets or other locations operated by McDonald's subsidiaries or franchisees that are located in airports, shopping malls, highway rest stops, Wal-Mart stores, hospitals, museums, casino-hotels, stadiums and train stations among other buildings and venues.

**REQUEST FOR ADMISSION NO. 92.** Admit that Opposer does not sell MCCAFFEE products to grocery stores.

**RESPONSE:** In addition to its general objections, McDonald's objects to this Request as irrelevant because neither McDonald's registrations nor Applicant's application is limited to goods sold to grocery stores. Subject to and without waiving its objections, McDonald's admits that it does not sell products under its McCAFFEE mark in grocery stores. McDonald's further answers that it sells McCAFFEE branded products to all classes of consumers including proprietors, owners, and employees of grocery stores, and therefore denies that it does not sell McCAFFEE branded products to grocery stores. Answering further, McDonald's states that its McCAFFEE branded products are sold not only to consumers in free-standing McDonald's branded

restaurants, but also in McDonald's branded outlets or other locations operated by McDonald's subsidiaries or franchisees that are located in airports, shopping malls, highway rest stops, Wal-Mart stores, hospitals, museums, casino-hotels, stadiums and train stations among other buildings and venues.

**REQUEST FOR ADMISSION NO. 93.** Admit that Opposer does not sell MCCAFFE products to liquor stores.

**RESPONSE:** In addition to its general objections, McDonald's objects to this Request as irrelevant because neither McDonald's registrations nor Applicant's application is limited to goods sold to liquor stores. Subject to and without waiving its objections, McDonald's admits that it does not sell products under its McCAFE mark in liquor stores. McDonald's further answers that it sells McCAFE branded products to all classes of consumers including proprietors, owners, and employees of liquor stores, and therefore denies that it does not sell McCAFE branded products to liquor stores. Answering further, McDonald's states that its McCAFE branded products are sold not only to consumers in free-standing McDonald's branded restaurants, but also in McDonald's branded outlets or other locations operated by McDonald's subsidiaries or franchisees that are located in airports, shopping malls, highway rest stops, Wal-Mart stores, hospitals, museums, casino-hotels, stadiums and train stations among other buildings and venues.

**REQUEST FOR ADMISSION NO. 94.** Admit that Opposer does not sell MCCAFFE products to bars.

**RESPONSE:** In addition to its general objections, McDonald's objects to this Request as irrelevant because neither McDonald's registrations nor Applicant's application is limited to goods sold to bars. Subject to and without waiving any of its objections, McDonald's admits that it does not sell products under its McCAFE mark in bars. McDonald's further answers that it sells McCAFE branded products to all classes of consumers including proprietors, owners, and

employees of bars, and therefore denies that it does not sell McCAFE branded products to bars. Answering further, McDonald's states that its McCAFE branded products are sold not only to consumers in free-standing McDonald's branded restaurants, but also in McDonald's branded outlets or other locations operated by McDonald's subsidiaries or franchisees that are located in airports, shopping malls, highway rest stops, Wal-Mart stores, hospitals, museums, casino-hotels, stadiums and train stations among other buildings and venues.

**REQUEST FOR ADMISSION NO. 95.** Admit that Opposer does not sell MCCAFAE products via the Internet.

**RESPONSE:** In addition to its general objections, McDonald's objects to this Request as irrelevant because neither McDonald's registrations nor Applicant's application is limited to goods sold via the Internet. Subject to and without waiving any of its objections, McDonald's denies that it does not sell McCAFE products via the Internet.

**REQUEST FOR ADMISSION NO. 96.** Admit that Opposer does not sell MCCAFAE products to specialty stores.

**RESPONSE:** In addition to its general objections, McDonald's objects to this Request as irrelevant because neither McDonald's registrations nor Applicant's application is limited to goods sold to specialty stores. Subject to and without waiving any of its objections, McDonald's admits that it does not sell products under its McCAFE mark in specialty stores. McDonald's further answers that it sells McCAFE branded products to all classes of consumers including proprietors, owners, and employees of specialty stores, and therefore denies that it does not sell McCAFE branded products to specialty stores. Answering further, McDonald's states that its McCAFE branded products are sold not only to consumers in free-standing McDonald's branded restaurants, but also in McDonald's branded outlets or other locations operated by McDonald's subsidiaries or franchisees that are located in airports, shopping malls, highway rest stops, Wal-

Mart stores, hospitals, museums, casino-hotels, stadiums and train stations among other buildings and venues.

**REQUEST FOR ADMISSION NO. 97.** Admit that Opposer does not sell MCCAFFE products to gourmet stores.

**RESPONSE:** In addition to its general objections, McDonald's objects to this Request as irrelevant because neither McDonald's registrations nor Applicant's application is limited to goods sold to gourmet stores. McDonald's further objects to this Request as vague as to the term "gourmet stores." Subject to and without waiving any of its objections, to the extent that "gourmet stores" is ascribed a meaning similar to Applicant's definition of "gourmet food stores," McDonald's admits that it does not sell products under its McCAFE mark in gourmet stores. McDonald's further answers that it sells McCAFE branded products to all classes of consumers including proprietors, owners, and employees of gourmet stores, and therefore denies that it does not sell McCAFE branded products to gourmet stores. Answering further, McDonald's states that its McCAFE branded products are sold not only to consumers in free-standing McDonald's branded restaurants, but also in McDonald's branded outlets or other locations operated by McDonald's subsidiaries or franchisees that are located in airports, shopping malls, highway rest stops, Wal-Mart stores, hospitals, museums, casino-hotels, stadiums and train stations among other buildings and venues.

**REQUEST FOR ADMISSION NO. 98.** Admit that Opposer does not sell MCSKILLET products to grocery stores.

**RESPONSE:** In addition to its general objections, McDonald's objects to this Request as irrelevant because neither McDonald's registrations nor Applicant's application is limited to goods sold to grocery stores. Subject to and without waiving its objections, McDonald's admits that it does not sell products under its McSKILLET mark in grocery stores. McDonald's further answers that it sells McSKILLET branded products to all classes of consumers including

proprietors, owners, and employees of grocery stores, and therefore denies that it does not sell McSKILLET branded products to grocery stores. Answering further, McDonald's states that its McSKILLET branded products are sold not only to consumers in free-standing McDonald's branded restaurants, but also in McDonald's branded outlets or other locations operated by McDonald's subsidiaries or franchisees that are located in airports, shopping malls, highway rest stops, Wal-Mart stores, hospitals, museums, casino-hotels, stadiums and train stations among other buildings and venues.

**REQUEST FOR ADMISSION NO. 99.** Admit that Opposer does not sell MCKILLET products to liquor stores.

**RESPONSE:** In addition to its general objections, McDonald's objects to this Request as irrelevant because neither McDonald's registrations nor Applicant's application is limited to goods sold to liquor stores. Subject to and without waiving its objections, McDonald's admits that it does not sell products under its McSKILLET mark in liquor stores. McDonald's further answers that it sells McSKILLET branded products to all classes of consumers including proprietors, owners, and employees of liquor stores, and therefore denies that it does not sell McSKILLET branded products to liquor stores. Answering further, McDonald's states that its McSKILLET branded products are sold not only to consumers in free-standing McDonald's branded restaurants, but also in McDonald's branded outlets or other locations operated by McDonald's subsidiaries or franchisees that are located in airports, shopping malls, highway rest stops, Wal-Mart stores, hospitals, museums, casino-hotels, stadiums and train stations among other buildings and venues.

**REQUEST FOR ADMISSION NO. 100.** Admit that Opposer does not sell MCKILLET products to bars.

**RESPONSE:** In addition to its general objections, McDonald's objects to this Request as irrelevant because neither McDonald's registrations nor Applicant's application is limited to

goods sold to bars. Subject to and without waiving its objections, McDonald's admits that it does not sell products under its McSKILLET mark in bars. McDonald's further answers that it sells McSKILLET branded products to all classes of consumers including proprietors, owners, and employees of bars, and therefore denies that it does not sell McSKILLET branded products to bars. Answering further, McDonald's states that its McSKILLET branded products are sold not only to consumers in free-standing McDonald's branded restaurants, but also in McDonald's branded outlets or other locations operated by McDonald's subsidiaries or franchisees that are located in airports, shopping malls, highway rest stops, Wal-Mart stores, hospitals, museums, casino-hotels, stadiums and train stations among other buildings and venues.

**REQUEST FOR ADMISSION NO. 101.** Admit that Opposer does not sell MCKILLET products via the Internet.

**RESPONSE:** In addition to its general objections, McDonald's objects to this Request as irrelevant because neither McDonald's registrations nor Applicant's application is limited to goods sold to distributors via the Internet. Subject to and without waiving any of its objections, McDonald's admits that it does not presently sell McSKILLET branded products via the Internet.

**REQUEST FOR ADMISSION NO. 102.** Admit that Opposer does not sell MCKILLET products to specialty stores.

**RESPONSE:** In addition to its general objections, McDonald's objects to this Request as irrelevant because neither McDonald's registrations nor Applicant's application is limited to goods sold to specialty stores. Subject to and without waiving any of its objections, McDonald's further answers that it sells McSKILLET branded products to all classes of consumers including proprietors, owners, and employees of specialty stores, and therefore denies that it does not sell McSKILLET branded products to specialty stores. Answering further, McDonald's states that its McSKILLET branded products are sold not only to consumers in free-standing McDonald's branded restaurants, but also in McDonald's branded outlets or other locations operated by

McDonald's subsidiaries or franchisees that are located in airports, shopping malls, highway rest stops, Wal-Mart stores, hospitals, museums, casino-hotels, stadiums and train stations among other buildings and venues.

**REQUEST FOR ADMISSION NO. 103.** Admit that Opposer does not sell MCSKILLET products to gourmet stores.

**RESPONSE:** In addition to its general objections, McDonald's objects to this Request as irrelevant because neither McDonald's registrations nor Applicant's application is limited to goods sold to gourmet stores. McDonald's further objects to this Request as vague based on the term "gourmet stores." Subject to and without waiving any of its objections, to the extent that "gourmet stores" is ascribed a meaning similar to Applicant's definition of "gourmet food stores," McDonald's admits that it does not sell products under its McSKILLET mark in gourmet food stores. McDonald's further answers that it sells McSKILLET branded products to all classes of consumers including proprietors, owners, and employees of gourmet stores, and therefore denies that it does not sell McSKILLET branded products to gourmet stores. Answering further, McDonald's states that its McSKILLET branded products are sold not only to consumers in free-standing McDonald's branded restaurants, but also in McDonald's branded outlets or other locations operated by McDonald's subsidiaries or franchisees that are located in airports, shopping malls, highway rest stops, Wal-Mart stores, hospitals, museums, casino-hotels, stadiums and train stations among other buildings and venues.

**REQUEST FOR ADMISSION NO. 104.** Admit that Opposer is a food service retailer.

**RESPONSE:** Subject to and without waiving any of its general objections, McDonald's admits that it is primarily a food service retailer, although there are other facets to McDonald's business.

**REQUEST FOR ADMISSION NO. 105.** Admit that Opposer has not sold or distributed goods to grocery stores for the purpose of making the goods available to grocery store customers in either the meat, fresh produce, dairy, or baked goods department, or along the shelf

space reserved for canned, packaged and frozen goods, or among the various non-food items such as household cleaners, alcohol, pharmacy products and pet supplies.

**RESPONSE**: Subject to and without waiving any of its general objections, McDonald's admits that it does not presently sell or distribute goods to grocery stores for the purpose of making the goods available to grocery store customers in either the meat, fresh produce, dairy, or baked goods department, or along the shelf space reserved for canned, packaged and frozen goods, or among the various non-food items such as household cleaners, alcohol, pharmacy products and pet supplies.

Dated: October 5, 2010

Respectfully submitted,  
McDONALD'S CORPORATION

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**CERTIFICATE OF SERVICE**

I hereby certify that a true and complete copy of the foregoing Opposer's Objections and Responses to Applicant's First Set of Requests for Admission to Opposer, has been served on opposing counsel by mailing said copy on October 5, 2010, via U.S. Mail, First Class, postage prepaid to:

Katherine Hendricks  
HENDRICKS & LEWIS PLLC  
901 Fifth Ave., Ste 4100  
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/Lawrence E. James, Jr./  
Lawrence E. James Jr.

NGEDOCs: 1742339.2