



# BULKY DOCUMENTS

(Exceeds 100 pages)

Filed: 3/23/2012

**Title: BRIEF IN SUPPORT OF OPPOSER'S MOTION FOR AN ORDER TO COMPEL RESPONSES TO ITS INTERROGATORIES AND REQUESTS FOR PRODUCTION, TO COMPEL PRODUCTION OF DOCUMENTS, AND REQUEST FOR AN EXPEDITED TELEPHONIC HEARING.**

Part 1 of 1

91199529

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

*In re* Application No. 76/702,199  
Filed: March 23, 2010  
Published: December 21, 2010 in the Official Gazette  
For: **GIRL HUNTER**

HUNTER BOOT LIMITED,

Opposer,

vs.

GEORGIA PELLEGRINI MEDIA GROUP, LLC,

Applicant.

Opposition No. 91199529

**BRIEF IN SUPPORT OF OPPOSER'S MOTION FOR AN ORDER TO COMPEL  
RESPONSES TO ITS INTERROGATORIES AND REQUESTS FOR PRODUCTION, TO  
COMPEL PRODUCTION OF DOCUMENTS, AND REQUEST FOR AN EXPEDITED  
TELEPHONIC HEARING**

Pursuant to Rules 26, 33, 34, 36, and 37 of the Federal Rules of Civil Procedure, Trademark Rule of Practice 2.120(e) and TBMP §§ 411.01, 411.02, and 413, Opposer Hunter Boot Limited ("Opposer") respectfully moves the Board:

- (1) For an order compelling Applicant to answer completely, promptly and without objection, Opposer's First Request for Production of Documents and to amend its answers to Opposer's First Set of Interrogatories;
- (2) For an order compelling Applicant to promptly produce documents responsive to Opposer's First Request for Production of Documents; and

- (3) Ruling that Opposer's time to respond to Applicant's written discovery is tolled pending Applicant's full compliance with its obligations under the discovery rules and the Board's order.

Because discovery is due to close in early June, 2012, Opposer requests a telephonic hearing pursuant to TBMP § 413.01, in order to expeditiously resolve this dispute and allow Opposer properly to prepare for trial.

## **I. INTRODUCTION**

For over four months, Opposer has been attempting to obtain from Applicant the discovery responses to which it is entitled. Opposer has, in good faith, granted Applicant several extensions, based on the express representations of counsel for Applicant that Applicant would use that time to prepare full and complete responses to the discovery, and his explicit request that, because his client was supplementing its discovery, Opposer refrain from filing a motion to compel. Now, with less than two months prior to the close of discovery, Opposer finds itself with yet another set of materially inadequate interrogatory responses, no responses to its requests for production, and few documents. Instead of using the extensions granted to it for the purposes they were granted, Applicant has instead used that time to prepare and propound its own set of discovery on Opposer. Opposer is reluctant to burden the Board with a discovery motion, but at this time, it is left with no choice but to seek the Board's intervention so that it can obtain the clearly discoverable information it has requested and prepare for trial.

## **II. FACTUAL BACKGROUND**

Opposer is the owner of several HUNTER marks for use in connection with a variety of goods and services, including but not limited to footwear, apparel and related items. Applicant filed its intent-to-use application to register the mark GIRL HUNTER (Serial No. 76/702,199) on

March 23, 2010, in connection with “Clothing, namely, t-shirts, sweat shirts, jackets, shirts, pants, shoes, shorts and gloves; Hunting apparel, namely, pants, shirts, jackets, hats, gloves and shoes” in Class 25.<sup>1</sup> After several failed attempts to resolve Opposer’s concerns over Applicant’s attempt to register and use the GIRL HUNTER mark, Opposer commenced this proceeding by filing a Notice of Opposition against Application Serial No. 76/702,199 on April 20, 2011. *See* Docket No. 1.<sup>2</sup> On December 5, 2011, Opposer served its written discovery, including document requests, requests for admission, and interrogatories, on counsel for Applicant. *See* Declaration of Tali L. Alban (“Alban Dec.”) ¶ 2.

On December 13, 2011, counsel for Applicant requested an extension of the time to respond to Opposer’s discovery requests due to personal reasons, citing the upcoming holidays and a need for time to prepare for litigation (in an unrelated case). *See* Alban Dec. ¶ 3. On December 15, 2011, counsel for Opposer granted Applicant a 30-day extension to respond to its written discovery. Counsel for Opposer expressly represented that the extension of time was premised on the assumption that Applicant would need the additional time in order to provide *substantive responses* and not make wholesale objections to its written discovery. *See id.* ¶ 4 & Ex. C. That same day, counsel for Applicant confirmed that the extension of time was for the purpose of providing substantive responses. *See id.* ¶ 5 & Ex. D.

On February 3, 2012, Applicant provided Opposer with its responses to Opposer’s written discovery, which were indisputably materially deficient. Notwithstanding the additional time it had been granted to provide complete, substantive responses, Applicant failed to provide any responses to Opposer’s First Set of Requests for Production (instead provided a short list of documents it had enclosed) and produced only a few documents concerning Applicant’s book

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<sup>1</sup> Applicant’s Class 35 services are not materially disputed.

<sup>2</sup> Opposer subsequently filed an amended Notice of Opposition on June 28, 2011. *See* Docket No. 7.

sold on Amazon.com. *See id.* ¶ 6. Only one document pertained to use of Applicant's mark on Class 25 goods. *See id.* Moreover, Applicant's responses to Opposer's First Set of Interrogatories were utterly vague and ambiguous. *See id.* & Ex. E.

On March 12, 2012, Opposer sent a detailed letter to Applicant explaining the deficiencies in its discovery responses and requesting that Applicant provide amended responses and responsive documents before March 31, 2012. *See Alban Dec.* ¶ 7 & Ex. F. On March 22, 2012, counsel for Applicant represented to Opposer that Applicant intended to amend its responses, but requested an extension of time until April 2, 2012 to do so – and asked that Opposer “hold off on filing a motion to compel”. *See id.* ¶ 8 & Ex. G. Based on these representations, and on the condition that the responses and documents provided would be “full and complete”, Opposer granted Applicant's request for an extension of time to provide its amended responses no later than April 2, 2012, *See id.* ¶ 9 & Ex. H. Counsel for Applicant represented to Opposer that he would provide “full and complete” amended responses on April 2, 2012. *See id.* ¶ 10 & Ex. I.

Opposer did not receive Applicant's amended responses and responsive documents on the agreed upon date of April 2, 2012. *See Alban Dec.* ¶ 11. The next day, Opposer contacted Applicant informing Applicant that its amended responses and responsive documents were past due and inquiring whether Applicant intended to provide them to Opposer. *See id.* Ex. J. On April 4, 2012, counsel for Applicant responded that he thought the amended responses and responsive documents were due that day and that he would be providing the documents by certified mail. *See id.* ¶ 12 & Ex. K. Opposer finally received Applicant's amended responses to Opposer's interrogatories on April 10, 2012. Not only were the responses received 8 days later, but, contrary to Applicant's representations and the parties' agreement, the responses lacked any

meaningful amendments. *See id.* ¶ 13 & Ex. L. For example, Applicant’s amended response to Interrogatory No. 9 reads: “Applicant’s goods will flow to purchasers much more sophisticated than opposer’s.” Ex. L. Applicant also failed to produce any responsive documents or provide any responses to Opposer’s document requests. *See Alban Dec.* ¶ 13-14. Applicant instead served written discovery, largely copied from Opposer’s written discovery almost verbatim, on Opposer. *See id.* ¶ 13.

Despite Opposer’s good-faith efforts to resolve the present discovery dispute, it has been unable to obtain meaningful discovery from Applicant because of Applicant’s purposeful delay and avoidance of its discovery obligations. *See Alban Dec.* ¶¶ 7-15. Opposer granted several extensions of time for Applicant to respond to its written discovery and Applicant represented on numerous occasions that it intended to provide “full and complete” responses and produce responsive documents. Rather than using the many extensions of time granted by Opposer to prepare meaningful responses to Opposer’s discovery requests and gather responsive documents for production, Applicant acted in bad faith by using that extra time to propound discovery requests on Opposer.

**Over four and a half months** have passed since Opposer first served its written discovery and Opposer has still not received responsive documents for a number of critical issues in this proceeding, nor a single response to these requests. *See Alban Dec.* ¶ 14. Moreover, nearly all of Applicant’s amended responses to Opposer’s interrogatories were not in fact “amended” in any meaningful way and continue to be materially deficient. Despite Opposer’s efforts and the patience and flexibility it has demonstrated, Applicant has done little more than delay and evade its discovery obligations. Opposer can no longer tolerate Applicant’s repeated, flagrant disregard for the rules of discovery and, consequently, has no choice but to file this

Motion to Compel. Moreover, due to the impending close of discovery and the approach of the trial period, Opposer requests an expedited hearing concerning this matter so that it may obtain its needed and overdue discovery in time for preparing any necessary follow-up discovery and notice depositions as needed.

### **III. Argument and Citation of Authority**

#### **A. Applicant Should Be Compelled To Respond Without Objection To Opposer's First Request for Production Of Documents And To Amend Its Responses To Opposer's First Set Of Interrogatories**

Applicant has, intentionally and in bad faith, failed to provide meaningful responses to Opposer's interrogatories and has failed to respond entirely to Opposer's document requests. Federal Rule of Civil Procedure 37(a)(1) and Trademark Rule of Practice 2.120(e) provide that a discovering party may move for an order compelling responses to discovery requests when a party refuses to respond. Therefore, the Board should compel Applicant to amend its interrogatory responses and to provide Opposer with complete, written responses to Opposer's requests for production. *See, e.g.*, TBMP § 523.01; *Miss Am. Pageant v. Petite Prods. Inc.*, 17 U.S.P.Q.2d 1067, 1070 (T.T.A.B. 1990) (granting motion to compel responses to interrogatories); *Am. Soc'y of Oral Surgeons v. Am. Coll. of Oral and Maxillofacial Surgeons*, 201 U.S.P.Q. 531, 534 (T.T.A.B. 1979) (granting motion to compel responses to discovery requests relating to third-party uses of Opposer's mark); *Miller & Fink Corp. v. Servicemaster Hosp. Corp.*, 184 U.S.P.Q. 495, 496 (T.T.A.B. 1975) (granting motion to compel responses to interrogatories regarding Opposer's claims of distinctiveness).

Furthermore, when a party fails to respond timely to a request for discovery, any objections a party may have on the merits of any discovery request are waived. *See* TBMP § 527.01(c); *MacMillan Bloedal Ltd. v. Arrow-M Corp.*, 203 U.S.P.Q. 952, 953 (T.T.A.B. 1979) (“[A] party who fails to respond to a request for discovery during the time allowed therefore is

deemed by the Board to have forfeited his right to object to the request on its merits . . . .”); *Crane Co v. Shimano Indus. Co.*, 184 U.S.P.Q. 691, 691 (T.T.A.B. 1975) (“Inasmuch as applicant failed to respond to the interrogatories on or before [the deadline], or to request an extension of its time to do so prior to the aforesaid date, applicant has waived its right to object to the interrogatories on their merits and must reply to them as put.”). Because Applicant failed to respond to Opposer’s document requests in a timely manner, Applicant is deemed to have waived its right to object to any request.

**1. Applicant Failed to Provide Any Information on Important and Discoverable Categories**

The material requested is of critical importance to Opposer’s case, and Opposer is entitled to the information it requests. For example, Opposer has requested documents and information with respect to Applicant’s first use of the mark,<sup>3</sup> actual or intended manner of distribution and channels of trade of Applicant’s goods bearing the GIRL HUNTER mark (*Id.*),<sup>4</sup> information or documents about actual or intended use of the GIRL HUNTER mark, particularly in Class 25 (*Id.*),<sup>5</sup> information or documents concerning actual or potential customers (*Id.*),<sup>6</sup> circumstances surrounding Applicant’s selection and adoption of Applicant’s mark (*Id.*),<sup>7</sup> consumer recognition of Applicant’s mark (*Id.*),<sup>8</sup> and representative samples of use of Applicant’s Mark on Class 25 goods (*Id.*).<sup>9</sup> Each of these topics is relevant to Opposer’s likelihood of confusion allegations and is likely to lead to the discovery of admissible evidence, and Opposer is thus entitled to discover the information. Fed. R. Civ. P. 26(b)(1); TBMP § 414.

And yet, Applicant has provided no meaningful responses to the interrogatories on these

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<sup>3</sup> Alban Dec. Ex. A at Request for Production No. 5-6 and Interrogatory No. 2.

<sup>4</sup> Alban Dec. Ex. A at Request for Production No. 7-9 and Interrogatory No. 9.

<sup>5</sup> Alban Dec. Ex. A at Request for Production No. 4 and Interrogatory No. 1.

<sup>6</sup> Alban Dec. Ex. A at Request for Production No. 17 and 19 and Interrogatory No. 18.

<sup>7</sup> Alban Dec. Ex. A at Request for Production No. 2-3 and Interrogatory No. 20-21.

<sup>8</sup> Alban Dec. Ex. A at Request for Production No. 13-16 and Interrogatory No. 6.

<sup>9</sup> Alban Dec. Ex. A at Request for Production No. 12.

subjects, no documents at all, and no reasonable explanation, or rather, no explanation at all, for its failure to produce the requested documents and information. Accordingly, the Board should order that this information be produced.

## 2. Specific Deficient Responses to Interrogatories

Applicant's "Amended" responses to Opposer's Interrogatories are materially deficient and Applicant should therefore be compelled to revise them to provide meaningful responses. For example, Interrogatory No. 1 sought the identity of each good or service offered, or intended to be offered, by Applicant, under Applicant's Mark. Applicant's full and only response to this request was: "May 2009 Café Press clothing sales." Alban Decl. Ex. L. This answer is obviously, unclear at best, and provides absolutely no meaningful information. Opposer can only *assume* the Applicant was attempting to point to one of the documents it had produced to Opposer, though there are no document production numbers on the documents or in the interrogatory responses, from which it can ascertain whether the assumption is correct. This response thus fails to satisfy any provision of Rule 33, including Rule 33(d) permitting the production of documents instead of written responses, of the Federal Rules of Civil Procedure.

A review of the one document to which Opposer believes Applicant was referring, attached to the Alban Declaration as Exhibit M, shows minimal clothing sales (tank tops, hat and sweatshirts) to three (3) individuals, at least one of whom is clearly related to Applicant, Georgia Pellegrini. It does not show actual or intended use of the mark with any of the other items listed in the Application. Applicant has filed an intent-to-use application for use of the mark in connection with "Clothing, namely, t-shirts, sweat shirts, jackets, shirts, pants, shoes, shorts and gloves; Hunting apparel, namely, pants, shirts, jackets, hats, gloves and shoes." Opposer is

plainly entitled to discover information pertaining to Applicant's actual intended uses for the GIRL HUNTER mark. *See generally* TBMP § 414.

Applicant's response to Interrogatory No. 2 is similarly deficient and also is inconsistent with Applicant's response to Interrogatory No. 1. Interrogatory No. 2 requested that Applicant identify the date of first use of Applicant's Mark, and any variation thereof, on each good or service offered or intended to be offered under the GIRL HUNTER mark. Applicant objected to this interrogatory on the grounds that the information is publicly available to both parties and cited Application Serial No. 76/702,199. *See* Alban Decl. Ex. L. Yet, Applicant's Application Serial No. 76/702,199 was filed as an intent-to-use application and there is no first use date listed in the application.<sup>10</sup> This information is not publicly available and Opposer is plainly entitled to discover this information. TBMP § 414(5) ("Information concerning a party's first use of its involved mark is discoverable.")

Interrogatory No. 8 sought the actual or intended manner of distribution for Applicant's goods offered under the GIRL HUNTER mark. Applicant's vague response, that "[t]he goods will be distributed to consumers in exchange for valuable consideration. These transactions will occur at retail and over the internet" is clearly inadequate. *See id.* Opposer is entitled to discovery as to whether the parties' respective goods will be offered by the same or similar distribution methods, to similar consumers, in similar channels of trade. *See, e.g., Miss Universe L.P., v. Community Marketing, Inc.*, 82 USPQ2d 1562 (TTAB 2007) (citing *du Pont* factors, including trade channels, classes of purchasers and conditions of purchase). Applicant's response to Interrogatory No. 9 (requesting the identity of Applicant's actual or intended

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<sup>10</sup> This response is also inconsistent with Applicant's response to Interrogatory No. 1, which identified 2009 as the date of first use of the mark with at least *some* goods.

channels of trade), is likewise deficient, as Applicant ambiguously states only that “Applicant’s goods will flow to purchasers much more sophisticated than opposer’s.” Alban Decl. Ex. L.

As is clear from the above examples, Applicant’s responses are intentionally vague and flout the letter and the spirit of the discovery rules. The combination of the deficient responses and bad faith requests for extensions in order to run the time for discovery and prejudice Opposer violate the requirements of Federal Rule of Civil Procedure 26, and constitute sanctionable conduct under Rule 37. At a minimum, Applicant should be compelled to fully respond to the Interrogatories identified above, as well as the following similarly deficient Interrogatories:

- No. 14 (sales information) – Applicant’s response that “sales information is not yet determined” is inconsistent with Applicant’s representation that its mark is famous and that it has been selling its goods and services bearing the GIRL HUNTER mark since 2009;
- No. 15 (advertising budgets);
- No. 18 (categories of purchasers);
- Nos. 28, 29, 30 & 31 (basis for Applicant’s claims in its Answer to the Notice of Opposition);
- No. 32 (similarity between the parties’ respective goods).

In addition, pursuant to Federal Rule of Civil Procedure 33(d), if Applicant relies on documents instead of providing full and complete interrogatory responses, it must identify, by Bates number, the documents which are responsive to the interrogatories. Accordingly, Applicant must amend its responses to Interrogatory Nos. 16, 17 and 18. Alban Decl. Ex. L.

Applicant’s refusal to provide Opposer with complete answers to Opposer’s interrogatories or to respond at all to Opposer’s document requests apparently is the result of

Applicant's purposeful avoidance of its discovery obligations. Applicant's production of a few documents concerning Applicant's book is hardly compliant with its obligation to provide complete written responses. Accordingly, the Board should compel Applicant to respond completely, and without delay or objection, to Opposer's First Request for Production of Documents and to amend its responses to Opposer's First Set of Interrogatories.

**B. Applicant Should Be Compelled To Produce Responsive Documents**

Federal Rule of Civil Procedure 37(a)(3)(B) and Trademark Rule of Practice 2.120(e) provide that a discovering party may move for an order compelling production of responsive documents when a party refuses to respond to discovery requests. Applicant has failed to provide responsive documents to nearly all of Opposer's document requests and has deprived Opposer of the ability to take meaningful discovery on several critical issues in this proceeding. *See* Section (II)(A).

Furthermore, the minimal documents produced by Applicant relate only to Applicant's book. Only one document appears related to use of Applicant's Mark on Class 25 goods. Opposer is unable to ascertain from this one document information that is highly relevant to this proceeding; for example, Opposer's use or intended use of Applicant's mark on Class 25 goods, representative examples of how Applicant's mark is used on Class 25 goods, and sales of Class 25 goods bearing Applicant's Mark from 2009 to present. Because Applicant has failed to produce documents responsive to Opposer's document requests, particularly those that concern use of Applicant's Mark on Class 25 goods and other critical issues in this proceeding, the Board should compel Applicant to immediately produce all responsive documents or state if the requested documents do not exist within Applicant's possession, custody or control. *See, e.g.,* TBMP § 523.01; *Miss Am. Pageant*, 17 U.S.P.Q.2d at 1070 (granting motion to compel

production of documents); *Am. Soc'y of Oral Surgeons*, 201 U.S.P.Q. at 534 (granting motion to compel production of documents relating to third-party uses of Opposer's mark); *Johnson & Johnson v. Diamond Med., Inc.*, 183 U.S.P.Q. 615, 617 (T.T.A.B. 1974) (granting motion to compel production of documents relating to search reports, advertising, and advertising expenditures).

**C. Opposer Requests The Board Suspend Its Obligation To Respond To Applicant's Discovery Until After Applicant Fully Complies With The Board's Order**

Applicant's flagrant disregard for its discovery obligations and improper procurement of extensions of time to propound discovery on Opposer indicate that Applicant has been acting in bad faith during this discovery process. Applicant on numerous occasions represented that the extensions of time were for the purpose of preparing meaningful, substantive responses to Opposer's written discovery. Opposer granted these extensions of time conditionally, relying on Applicant's representations that complete responses were forthcoming. However, it is now evident that Applicant misrepresented its intentions and procured these extensions in order to stall, run the time for the discovery phase, and to prepare its own set of written discovery (largely copied from Opposer's written discovery). In fact, Applicant's Amended Responses to Opposer's First Set of Interrogatories show this blatant disregard for the discovery rules and process.

These tactics were intended to, and have, prejudiced Opposer. Discovery is set to close on June 6, 2012. Opposer's pretrial disclosures are due by July 21, 2012. Opposer's ability properly to prepare for trial has thus been severely hampered by Applicant's bad faith delays. At a minimum, Applicant should be ordered to immediately and fully comply with its discovery

obligations and Opposer's time to respond to Applicant's discovery requests should be tolled, pending the Board's Order and Applicant's complete compliance.

### III. CONCLUSION

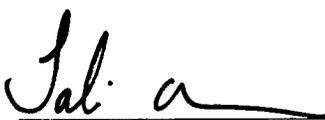
For the foregoing reasons, Opposer respectfully requests that the Board compel Applicant to respond immediately, completely, and without objection, to Opposer's First Request for Production of Documents, to amend its responses to Opposer's First Set of Interrogatories, and to compel Applicant to produce documents responsive to all of Opposer's document requests or to state where none exist. Furthermore, in light of Applicant's bad faith, Opposer respectfully requests that the Board order that the time for Opposer to respond to Applicant's written discovery is tolled pending Applicant's full compliance with its discovery obligations and with the Board's order.

Pursuant to TBMP § 413, Opposer respectfully requests an expedited hearing through telephone conference to resolve this Motion to Compel.

Respectfully submitted,

KILPATRICK TOWNSEND AND STOCKTON LLP

Dated: April 20 2012

By:  \_\_\_\_\_

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Tali L. Alban  
Rosaleen H. Chou  
*Attorneys for Opposer*

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**CERTIFICATE OF SERVICE**

On April 20, 2012, I served the foregoing BRIEF IN SUPPORT OF OPPOSER'S MOTION FOR AN ORDER TO COMPEL RESPONSES TO ITS INTERROGATORIES AND REQUESTS FOR PRODUCTION, TO COMPEL PRODUCTION OF DOCUMENTS, AND TO REQUEST AN EXPEDITED HEARING THROUGH TELEPHONE CONFERENCE on the party in said action via electronic-mail and by depositing a true copy thereof with the United States Postal Service as first class mail, postage prepaid, at San Francisco, California, enclosed in a sealed envelope addressed as follows:

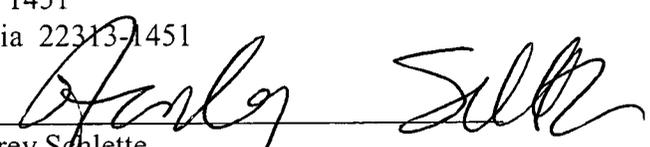
Robert B. Kleinman, Esq.  
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Austin, TX 78701  
Robert@kleinmanlawfirm.com

  
\_\_\_\_\_  
Audrey Schlette

**CERTIFICATE OF MAILING**

I hereby certify that a true and complete copy of the foregoing BRIEF IN SUPPORT OF OPPOSER'S MOTION FOR AN ORDER TO COMPEL RESPONSES TO ITS INTERROGATORIES AND REQUESTS FOR PRODUCTION, TO COMPEL PRODUCTION OF DOCUMENTS, AND REQUEST FOR AN EXPEDITED TELEPHONIC HEARING is being deposited with the United States Postal Service as First Class Mail, postage prepaid, on April 20, 2012 in an envelope addressed to:

Trademark Trial and Appeal Board  
U.S. Patent and Trademark Office  
P.O. Box 1451  
Alexandria, Virginia 22313-1451

  
\_\_\_\_\_  
Audrey Schlette

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

*In re* Application No. 76/702,199  
Filed: March 23, 2010  
Published: December 21, 2010 in the Official Gazette  
For: **GIRL HUNTER**

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Opposer,

vs.

GEORGIA PELLEGRINI MEDIA GROUP, LLC,

Applicant.

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Pursuant to Rules 26, 33, 34, 36, and 37 of the Federal Rules of Civil Procedure, Trademark Rule of Practice 2.120(e) and TBMP §§ 411.01, 411.02, and 413, Opposer Hunter Boot Limited ("Opposer") respectfully moves the Board:

- (1) For an order compelling Applicant to answer completely, promptly, and without objection, Opposer's First Request for Production of Documents and to amend its answers to Opposer's First Set of Interrogatories;
- (2) For an order compelling Applicant to promptly produce documents responsive to Opposer's First Request for Production of Documents; and

- (3) For an order ruling that Opposer's time to respond to Applicant's written discovery is tolled pending Applicant's full compliance with its obligations under the discovery rules and the Board's order.

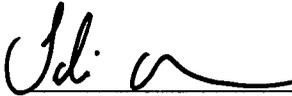
On December 5, 2011, Opposer served written discovery, including document requests, requests for admission, and interrogatories on Applicant. Opposer granted several extensions of time for Applicant to respond to its written discovery and Applicant represented on numerous occasions that it intended to provide "full and complete" responses and produce responsive documents. Despite Opposer's good faith efforts to obtain responses to its First Set of Interrogatories and First Request for Production of Documents, to date Applicant has failed to respond to Opposer's First Request for Production of Documents, to provide responsive documents on a number of critical issues in this Opposition, and to provide full and complete responses to Opposer's First Set of Interrogatories.

Therefore, for the reasons set forth in its accompanying Brief, Opposer respectfully moves the Board for an order compelling Applicant to respond completely, and without objection, to its First Request for Production, to amend Applicant's responses to its First Set of Interrogatories, and to compel Applicant to produce responsive documents. Opposer respectfully requests expedited resolution of this Motion to Compel through a telephone conference with the Interlocutory Attorney, pursuant to TBMP Rule 413. Furthermore, in light of Applicant's bad faith in improperly procuring extensions of time to respond to Opposer's discovery and intentional misrepresentations to Opposer, Opposer respectfully requests that the Board suspend Opposer's obligation to respond to Applicant's written discovery, and rule that Opposer's time to respond to the discovery is tolled, until after Applicant complies with the Board's order.

Respectfully submitted,

KILPATRICK TOWNSEND AND STOCKTON LLP

Dated: April 20, 2012

By:  \_\_\_\_\_  
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**CERTIFICATE OF SERVICE**

On April 20, 2012, I served the foregoing OPPOSER'S MOTION FOR AN ORDER TO COMPEL RESPONSES TO ITS INTERROGATORIES AND REQUESTS FOR PRODUCTION, TO COMPEL PRODUCTION OF DOCUMENTS, AND REQUEST FOR AN EXPEDITED TELEPHONIC HEARING on the party in said action via electronic-mail and by depositing a true copy thereof with the United States Postal Service as first class mail, postage prepaid, at San Francisco, California, enclosed in a sealed envelope addressed as follows:

Robert B. Kleinman, Esq.  
Kleinman Law Firm PLLC  
404 W. 7<sup>th</sup> Street  
Austin, TX 78701  
Robert@kleinmanlawfirm.com

  
\_\_\_\_\_  
Audrey Schlette

**CERTIFICATE OF MAILING**

I hereby certify that a true and complete copy of the foregoing OPPOSER'S MOTION FOR AN ORDER TO COMPEL RESPONSES TO ITS INTERROGATORIES AND REQUESTS FOR PRODUCTION, TO COMPEL PRODUCTION OF DOCUMENTS, AND REQUEST FOR AN EXPEDITED TELEPHONIC HEARING is being deposited with the United States Postal Service as First Class Mail, postage prepaid, on April 20, 2012 in an envelope addressed to:

Trademark Trial and Appeal Board  
U.S. Patent and Trademark Office  
P.O. Box 1451  
Alexandria, Virginia 22313-1451

  
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
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**DECLARATION OF TALI L. ALBAN IN SUPPORT OF OPPOSER'S MOTION FOR  
AN ORDER TO COMPEL RESPONSES TO ITS INTERROGATORIES AND  
REQUESTS FOR PRODUCTION, TO COMPEL PRODUCTION OF DOCUMENTS,  
AND REQUEST FOR AN EXPEDITED TELEPHONIC HEARING**

I, Tali L. Alban, declare as follows:

1. I am an attorney at the law firm of Kilpatrick Townsend & Stockton LLP, and am one of the attorneys representing Opposer Hunter Boot Limited ("Opposer") in this action against Applicant Georgia Pellegrini Media Group, LLC ("Applicant"). I am over the age of twenty-one, I am competent to make this Declaration, and the facts set forth in this Declaration are based on my personal knowledge.

2. On December 5, 2011, Opposer served its written discovery, including document requests and interrogatories, on counsel for Applicant. True and correct copies of Opposer's First Set of Interrogatories and First Request for Production of Documents are attached as **Exhibit A.**

3. On December 13, 2011, counsel for Applicant requested an extension of the time to respond to Opposer's discovery requests due to personal reasons, citing the upcoming holidays and needing time to prepare for litigation (in an unrelated case). A true and correct copy of counsel for Applicant's December 13, 2011 email correspondence to Opposer is attached as **Exhibit B**.

4. On December 15, 2011, counsel for Opposer granted Applicant a 30-day extension to respond to its written discovery. Counsel for Opposer expressly represented that the extension of time was premised on the assumption that Applicant would need the additional time in order to provide *substantive responses* and not make wholesale objections to its written discovery. A true and correct copy of counsel for Opposer's December 15, 2011 email correspondence to Applicant is attached as **Exhibit C**.

5. That same day, counsel for Applicant confirmed that the extension of time was for the purpose of providing substantive responses. A true and correct copy of counsel for Applicant's December 15, 2011 email correspondence to Opposer is attached as **Exhibit D**.

6. On February 3, 2012, Applicant provided Opposer with its responses to Opposer's written discovery, which were materially deficient. Applicant failed to provide any responses to Opposer's First Set of Requests for Production, and instead produced a short list of documents it was providing and only a few documents responsive to one document request. Many of Applicant's responses to Opposer's First Set of Interrogatories were also vague and ambiguous. A true and correct copy of Applicant's Responses to Opposer's First Set of Requests for Production and First Set of Interrogatories is attached as **Exhibit E**.

7. On March 12, 2012, Opposer sent a letter to Applicant explaining the deficiencies in its discovery responses and requesting that Applicant provide amended responses and

responsive documents before March 31, 2012. A true and correct copy of counsel for Opposer's March 12, 2012 letter to Applicant is attached as **Exhibit F**.

8. On March 22, 2012, counsel for Applicant represented to Opposer that Applicant intended to amend its responses, but requested an extension of time until April 2, 2012 to do so. A true and correct copy of counsel for Applicant's March 22, 2012 email correspondence to Opposer is attached as **Exhibit G**.

9. On March 23, 2012, Opposer granted Applicant's request for an extension of time to provide its amended responses on April 2, 2012 on the condition that the responses and documents provided would be "full and complete." A true and correct copy of counsel for Opposer's March 23, 2012 email correspondence to Applicant is attached as **Exhibit H**.

10. Counsel for Applicant represented to Opposer that he would provide "full and complete" amended responses on April 2, 2012. A true and correct copy of counsel for Applicant's March 23, 2012 email correspondence to Opposer is attached as **Exhibit I**.

11. Opposer did not receive Applicant's amended responses and responsive documents on the agreed upon date of April 2, 2012. On April 3, 2012, Opposer contacted Applicant informing Applicant that its amended responses and responsive documents were past due and inquiring whether Applicant intended to provide them to Opposer. A true and correct copy of counsel for Opposer's April 3, 2012 email correspondence to Applicant is attached as **Exhibit J**.

12. On April 4, 2012, counsel for Applicant responded that he thought the amended responses and responsive documents were due that day and that he would be providing the documents by certified mail - despite that the fact that the parties had an electronic service

agreement in place. A true and correct copy of counsel for Applicant's April 4, 2012 email correspondence to Opposer is attached as **Exhibit K**.

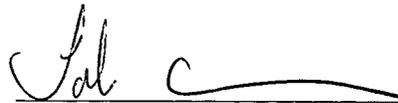
13. On April 10, 2012, Opposer received Applicant's amended responses to Opposer's interrogatories which were then 8 days overdue and lacked any meaningful amendments. Applicant failed to produce any responsive documents or provide any responses to Opposer's document requests. Applicant instead served written discovery, largely copied from Opposer's written discovery almost verbatim, on Opposer. A true and correct copy of Applicant's Amended Responses to Opposer's First Set of Interrogatories is attached as **Exhibit L**.

14. Over four and a half months have passed since Opposer first served its written discovery and Opposer has still not received responsive documents for a number of critical issues in this proceeding nor received a single response to these requests.

15. Attached as **Exhibit M** is a true and correct copy of the Café Pres Sales record produced by Applicant.

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

Dated: April 20, 2012



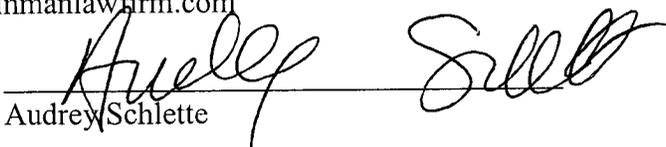
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Tali L. Alban

**CERTIFICATE OF SERVICE**

On April 20, 2012, I served the foregoing DECLARATION OF TALI L. ALBAN IN SUPPORT OF OPPOSER'S MOTION FOR AN ORDER TO COMPEL RESPONSES TO ITS INTERROGATORIES AND REQUESTS FOR PRODUCTION, TO COMPEL PRODUCTION OF DOCUMENTS, AND TO REQUEST AN EXPEDITED HEARING THROUGH TELEPHONE CONFERENCE on the party in said action via electronic-mail and by depositing a true copy thereof with the United States Postal Service as first class mail, postage prepaid, at San Francisco, California, enclosed in a sealed envelope addressed as follows:

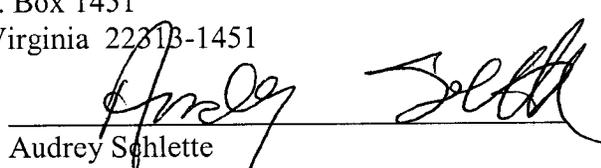
Robert B. Kleinman, Esq.  
Kleinman Law Firm PLLC  
404 W. 7<sup>th</sup> Street  
Austin, TX 78701  
Robert@kleinmanlawfirm.com

  
\_\_\_\_\_  
Audrey Schlette

**CERTIFICATE OF MAILING**

I hereby certify that a true and complete copy of the foregoing DECLARATION OF TALI L. ALBAN IN SUPPORT OF OPPOSER'S MOTION FOR AN ORDER TO COMPEL RESPONSES TO ITS INTERROGATORIES AND REQUESTS FOR PRODUCTION, TO COMPEL PRODUCTION OF DOCUMENTS, AND REQUEST FOR AN EXPEDITED TELEPHONIC HEARING is being deposited with the United States Postal Service as First Class Mail, postage prepaid, on April 20, 2012 in an envelope addressed to:

Trademark Trial and Appeal Board  
U.S. Patent and Trademark Office  
P.O. Box 1451  
Alexandria, Virginia 22313-1451

  
\_\_\_\_\_  
Audrey Schlette

**EXHIBIT A**

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

*In re* Application No.76/702,199  
Filed: March 23, 2010  
Published: December 21, 2010 in the Official Gazette  
For: GIRL HUNTER mark

HUNTER BOOT LIMITED,

Opposer,

vs.

GEORGIA PELLEGRINI MEDIA GROUP,  
LLC

Applicant.

Opposition No. 91199529

**HUNTER BOOT LIMITED'S FIRST  
SET OF INTERROGATORIES TO  
GEORGIA PELLEGRINI MEDIA  
GROUP, LLC**

Pursuant to Rule 33 of the Federal Rules of Civil Procedure and Rule 2.120 of the Trademark Rules of Practice, Opposer Hunter Boot Limited. ("HBL"), by its attorneys, requests that Applicant Georgia Pellegrini Media Group, LLC ("Pellegrini") answer the following interrogatories under oath within thirty (30) days from the date hereof.

**DEFINITIONS AND INSTRUCTIONS**

1. "HBL" refers to Hunter Boot Limited, LLC, its officers, directors, employees, agents, predecessors-in-interest, or any other Person acting on its behalf or with its authority.
2. "You," or "Your" or "Pellegrini" refers to Georgia Pellegrini Media Group, LLC, its officers, directors, employees, agents, predecessors-in-interest, owners, or any other Person acting on its behalf or with their authority.

3. "Person" when used in these interrogatories includes any natural person, corporation, association, partnership, business, government agency and any other entity.

Whenever You are asked to identify a Person, give the full name, address, phone number, and employment of the Person.

4. "Document(s)" when used in these interrogatories means all items subject to discovery within the scope of Rule 34 of the Federal Rules of Civil Procedure, including but not limited to any written or recorded material, correspondence, memoranda, reports, ledgers, books, brochures, advertisements, invoices, bills of materials, purchase orders, proposals, working papers, drawings, notes of telephone conversations or other communications, electronic mail, voice mail, video tapes, audio tapes, photographs (prints as well as negatives), electronically stored data, computerized databases, backup tapes or diskettes of such information, and all other data compilations from which information can be obtained, including the originals and all non-identical copies of such materials.

5. "Pellegrini's Mark" refers to the mark GIRL HUNTER, whether or not stylized.

6. "HBL's Marks" refers to the marks that are the subject of U.S. Registrations Nos. 1,550,244, 2,740,877 and 3,876,340.

7. "HBL's Registrations" refers to U.S. Registrations Nos. 1,550,244, 2,740,877 and 3,876,340, separately and collectively.

8. "Pellegrini's Application" and "Application" mean Application Serial No. 76/702,199, separately and collectively.

9. "Identify" when used in these interrogatories with respect to:

a. A Document means a description in terms sufficient that the document can be readily and unambiguously sought in a request for production of documents under

Rule 34 of the Federal Rules of Civil Procedure and shall include a statement of the general nature and contents of the document (e.g., whether it is a letter, memorandum, notebook, pamphlet, report, e-mail, etc.), the date, the author, all addressees and copy recipients, and the Person who has custody of the document. In lieu of such identification, HBL will accept a clear and legible copy of the document at the time Pellegrini answers this set of interrogatories with a correlation of the produced document to the interrogatory number; and

b. A Person requires Applicant to state (a) in the case of a natural Person, that Person's: (i) full name; (ii) last known home and business address; (iii) responsibilities with respect to the subject matter of the interrogatory and the periods of time that Person had such responsibilities; and (iv) relevant knowledge or participation; or (b) in the case of corporations, partnerships, proprietorships, unincorporated associations and the like, the (i) full name, including any additional name it does business under; (ii) form and place of organization or incorporation; and (iii) principal place of business.

10. "Date" means the exact day, month, and year, if ascertainable and, if not, Your best approximation thereof.

11. The use of male, female or neutral gender in these interrogatories incorporates all genders and should not be construed to limit the information requested in any way. The use of the singular form of any word includes the plural and vice-versa. "And," or "or" or "and/or" shall be construed conjunctively or disjunctively as necessary to make the request inclusive rather than exclusive.

12. "Referring or relating to" means comprising, relating to, pertaining to, referring to

or in any way relevant within the meaning of Rule 26 of the Federal Rules of Civil Procedure.

13. When answering these interrogatories, please set forth each interrogatory prior to Your answer.

14. If any information is withheld from the answer due to an objection or privilege, state the nature of the information withheld and the basis for the objection or privilege as required by Rule 26 of the Federal Rules of Civil Procedure.

15. These interrogatories are to be regarded as continuing and You are requested to provide promptly, by way of supplementary answers thereto, such additional information as You may hereafter obtain or by any Person or entity acting on Your behalf, which will augment or otherwise modify any answers given to the following interrogatories.

### INTERROGATORIES

#### **INTERROGATORY NO. 1:**

Identify and describe each good or service offered, or intended to be offered, by Pellegrini under Pellegrini's Mark.

#### **INTERROGATORY NO. 2:**

Identify and describe with specificity, including dates, Pellegrini's first use of Pellegrini's Mark, and any variation thereof, including but not limited to the mark shown below, on each good or service identified in Your response to Interrogatory No. 1.

*Girl* **HUNTER**

**INTERROGATORY NO. 3:**

Identify and describe with specificity, including dates, Pellegrini's first use in commerce of Pellegrini's Mark, and any variation thereof, including but not limited to the mark shown above, on each good or service identified in Your response to Interrogatory No. 1.

**INTERROGATORY NO. 4:**

Identify all Persons with knowledge of Pellegrini's first use of Pellegrini's Mark, and any variation thereof, on each good or service identified in Your response to Interrogatory No. 1.

**INTERROGATORY NO. 5:**

Identify the person most knowledgeable about Pellegrini's present use or plans to use Pellegrini's Mark, and any variation thereof.

**INTERROGATORY NO. 6:**

Identify all facts and circumstances that support the claim, in Paragraph 10 of Pellegrini's Answer to Notice of Opposition and Counterclaim, that "the GIRL HUNTER mark/brand has received ample media coverage of a favorable nature." Please include in Your response the identity of any Persons with knowledge concerning the facts underlying this claim.

**INTERROGATORY NO. 7:**

Identify all trademark applications filed by Pellegrini or on Pellegrini's behalf for any mark consisting in whole or in part of the mark GIRL HUNTER.

**INTERROGATORY NO. 8:**

State the manner of distribution of each good offered under Pellegrini's Mark since the date of first use of Pellegrini's Mark. For goods or services not yet used or offered in commerce, state Pellegrini's intended manner of distribution of each good or service it intends to offer under Pellegrini's Mark.

**INTERROGATORY NO. 9:**

Identify the channels of trade in which the goods or services offered or intended to be offered by Pellegrini in connection with Pellegrini's Mark travel or are intended to travel.

**INTERROGATORY NO. 10:**

Describe in detail the pricing structure, or intended pricing structure, for each good used in commerce in connection with Pellegrini's Mark.

**INTERROGATORY NO. 11:**

Identify all geographical areas in the United States, its territories and possessions (by city and/or state) in which Pellegrini has advertised, sold, distributed and/or provided goods or services under Pellegrini's Mark since the Date of first use of Pellegrini's Mark or, if Pellegrini has not yet used Pellegrini's Mark in commerce, all geographical areas in the United States, its territories and possessions (by city and/or state) in which Pellegrini intends to advertise, sell, distribute and/or provide goods or services under Pellegrini's Mark.

**INTERROGATORY NO. 12:**

Identify the organizational structure of Pellegrini's business, including, but not limited to, the identity of Pellegrini's officers, directors, or managers.

**INTERROGATORY NO. 13:**

Identify any and all licenses, assignments, or other agreements regarding the use or registration of Pellegrini's Mark, including, but not limited to, the identity of all parties to the agreement and the terms of such agreement.

**INTERROGATORY NO. 14:**

State the monthly sales of each good offered under Pellegrini's Mark in unit and dollar revenue quantities for each month from the Date of first use of Pellegrini's Mark to the present.

**INTERROGATORY NO. 15:**

State by month from the date of first use of Pellegrini's Mark to the present the annual amount of dollars spent on advertising or other promotion, if any, by Pellegrini for each good sold under Pellegrini's Mark or, if Pellegrini's Mark has not yet been used in commerce, the annual amount of dollars expected to be spent on advertising or other promotion, if any, by Pellegrini for each good intended to be offered under Pellegrini's Mark.

**INTERROGATORY NO. 16:**

Describe all manner of advertising and intended advertising of Pellegrini's goods or services that are offered under Pellegrini's Mark in any medium, including, but not limited to, each newspaper, periodical, trade journal, radio station, television station, advertising circular, advertising sign, poster, other publications, or any other medium, including all trade shows and Internet media such as Web, email and social networking media, in which Pellegrini has advertised or intends to advertise Pellegrini's goods or services under Pellegrini's Mark, including, if applicable, the periods of time in which each piece of advertising was used.

**INTERROGATORY NO. 17:**

Identify all labeling, packaging, displays, or other written and printed materials that have been used to display, market, and/or label each good offered under Pellegrini's Mark since the Date of first use of Pellegrini's Mark. If Pellegrini has not yet used Pellegrini's Mark in commerce, identify all labeling, packaging, displays, or other written and printed materials that Pellegrini intends to use to display, market, and/or label each good Pellegrini intends to offer under Pellegrini's Mark.

**INTERROGATORY NO. 18:**

Identify all categories of purchasers (e.g., retailers, general public, wholesalers,

individual consumers) of each category of good advertised, distributed, provided or sold or intended to be advertised, distributed, provided or sold by Pellegrini under Pellegrini's Mark.

**INTERROGATORY NO. 19:**

Identify all studies, market research, or analyses that assess or show likely or actual customers or consumers of Pellegrini's goods or services.

**INTERROGATORY NO. 20:**

State Pellegrini's reasons for, and circumstances surrounding, Pellegrini's creation, selection, adoption and use of Pellegrini's Mark.

**INTERROGATORY NO. 21:**

Identify all Persons involved in the creation, selection, adoption and use of Pellegrini's Mark.

**INTERROGATORY NO. 21:**

Identify any meaning that You intended to be conveyed by Pellegrini's Mark.

**INTERROGATORY NO. 22:**

Identify all Persons, excluding counsel, with knowledge of the facts and circumstances surrounding the Application.

**INTERROGATORY NO. 22:**

State the reasons why You believe Pellegrini's Mark is entitled to registration as a trademark.

**INTERROGATORY NO. 23:**

Identify and describe any searches, surveys, investigations, analyses, or studies by or on behalf of Pellegrini referring or relating to Pellegrini's Mark.

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**INTERROGATORY NO. 24:**

Identify any searches, surveys, investigations, analyses, or studies conducted by Pellegrini or on Pellegrini's behalf in the United States to determine the familiarity of the public or trade, or any segment thereof, with Pellegrini's Mark and/or the likelihood of confusion between the use of Pellegrini's Mark and the use of HBL's Marks, and all Persons with knowledge thereof, including, but not limited to, the Person who conducted such survey.

**INTERROGATORY NO. 25:**

Identify and describe the date and manner in which Pellegrini first became aware of the goods that HBL offers under HBL's Marks.

**INTERROGATORY NO. 26:**

Identify any searches, surveys, investigations, analyses or studies conducted by Pellegrini or on Pellegrini's behalf of HBL, HBL's operations, or HBL's Marks, including but not limited to searches, surveys, investigations, analyses, or studies regarding the fame of HBL's Marks.

**INTERROGATORY NO. 27:**

If Pellegrini contends that HBL's Marks are not famous within the meaning of section 43(c) of the Lanham Act (15 U.S.C. § 1125(c)), identify and describe in detail the basis for such contention, including each and every fact upon which Pellegrini relies in support of the contention.

**INTERROGATORY NO. 28:**

State the basis for Pellegrini's claim in the Second Affirmative Defense in Pellegrini's Answer to Notice of Opposition and Counterclaim that "Opposer has constructively abandoned its claim to the word 'HUNTER' . . ." Please include in Your response the identity of any Persons with knowledge concerning the facts underlying this claim.

**INTERROGATORY NO. 29:**

State the basis for Pellegrini's claim in the Second Affirmative Defense in Pellegrini's Answer to Notice of Opposition and Counterclaim that "Opposer has so diluted its own mark through its conduct, or lack of conduct, that it is now unable to seek broad protection for the word "HUNTER." Please include in Your response the identity of any Persons with knowledge concerning the facts underlying this claim.

**INTERROGATORY NO. 30:**

State the basis for Pellegrini's claim in the Third Affirmative Defense in Pellegrini's Answer to Notice of Opposition and Counterclaim that Opposer is liable for "Unclean hands and/or fraud." Please include in Your response the identity of any Persons with knowledge concerning the facts underlying this claim.

**INTERROGATORY NO. 31:**

State the basis for Pellegrini's claim in the Counterclaim in Pellegrini's Answer to Notice of Opposition and Counterclaim that HBL's Registration No. 3,876,340 "should be canceled." Please include in Your response the identity of any Persons with knowledge concerning the facts underlying this claim.

**INTERROGATORY NO. 32:**

If You deny that the goods and services identified in the Application are related to the goods identified in HBL's Registrations, state the grounds and all facts known to You in support of such denial.

**INTERROGATORY NO. 32:**

If You deny any of HBL's Requests for Admission in HBL's First Set of Requests for Admission to Pellegrini, state the grounds and all facts known to You in support of such denials.

**INTERROGATORY NO. 32:**

Identify and describe all specimens submitted to the United States Patent and Trademark Office in connection with the Application. Include in your response the date of first use of each such specimen.

**INTERROGATORY NO. 33:**

Identify all Persons whom Pellegrini has contacted regarding this opposition proceeding for expert opinions, advice, reports, studies, facts, information, or the like, including but not limited to the general nature of his or her expertise, if any, and the result of such contact.

**INTERROGATORY NO. 35:**

Identify each person whom Pellegrini expects to call as a witness in this proceeding, whether as an expert witness or otherwise, and state for each person his/her background and qualifications (if applicable), the subject matter upon which he/she is expected to testify, the substance of the facts and opinions to which he/she is expected to testify, and the grounds for each opinion that he/she is expected to give.

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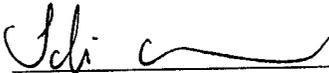
**INTERROGATORY NO. 36:**

Identify each and every Person, other than counsel, who was consulted or who furnished information in connection with the response to each interrogatory.

Respectfully submitted,

KILPATRICK TOWNSEND & STOCKTON LLP

Dated: December 5, 2011

By:   
Margaret C. McHugh  
Tali L. Alban  
*Attorneys for Opposer*

Two Embarcadero Center, 8th Floor  
San Francisco, CA 94111-3834  
Telephone: (415) 576-0200  
Facsimile: (415) 576-0300  
Email: mmchugh@kilpatricktownsend.com; tlaban@kilpatricktownsend.com

**CERTIFICATE OF SERVICE**

On December 5, 2011, I served the foregoing **HUNTER BOOT LIMITED'S FIRST SET OF INTERROGATORIES TO GEORGIA PELLEGRINI MEDIA GROUP, LLC** on the party(ies) in said action by transmitting a copy via electronic mail to the addresses listed below as follows:

Robert Kleinman  
KLEINMAN LAW FIRM PLLC  
404 West 7<sup>th</sup> Street  
Austin, TX 78701  
Tel: 512-299-5329  
Fax: 512-628-3390  
robert@kleinmanlawfirm.com

  
\_\_\_\_\_  
Esther Casillas

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

*In re* Application No. 76/702,199  
Filed: March 23, 2010  
Published: December 21, 2010 in the Official Gazette  
For: GIRL HUNTER mark

HUNTER BOOT LIMITED,

Opposer,

vs.

GEORGIA PELLEGRINI MEDIA GROUP,  
LLC

Applicant.

Opposition No. 91199529

**HUNTER BOOT LIMITED'S FIRST  
SET OF REQUESTS FOR  
PRODUCTION TO GEORGIA  
PELLEGRINI MEDIA GROUP, LLC**

Pursuant to Rule 34 of the Federal Rules of Civil Procedure and Rule 2.120 of the Trademark Rules of Practice, Opposer Hunter Boot Limited, (“HBL”), by its attorneys, requests that Applicant Georgia Pellegrini Media Group LLC (“Pellegrini”) produce the requested documents and things at the offices of Kilpatrick Townsend & Stockton LLP, Two Embarcadero Center, 8<sup>th</sup> Floor, San Francisco, California 94111-3834, within thirty (30) days from the date hereof.

**DEFINITIONS AND INSTRUCTIONS**

1. “HBL” refers to Hunter Boot Limited, LLC, its officers, directors, employees, agents, predecessors-in-interest, or any other Person acting on its behalf or with its authority.

2. "You," or "Your" or "Pellegrini" refers to Georgia Pellegrini Media Group, LLC, its officers, directors, employees, agents, predecessors-in-interest, owners, or any other Person acting on its behalf or with their authority.

3. "Person" when used in these requests includes any natural person, corporation, association, partnership, business, government agency and any other entity. Whenever You are asked to identify a Person, give the full name, address, phone number, and employment of the Person.

4. "Document(s)" when used in these requests means all items subject to discovery within the scope of Rule 34 of the Federal Rules of Civil Procedure, including but not limited to any written or recorded material, correspondence, memoranda, reports, ledgers, books, brochures, advertisements, invoices, bills of materials, purchase orders, proposals, working papers, drawings, notes of telephone conversations or other communications, electronic mail, voice mail, video tapes, audio tapes, photographs (prints as well as negatives), electronically stored data, computerized databases, backup tapes or diskettes of such information, and all other data compilations from which information can be obtained, including the originals and all non-identical copies of such materials.

5. "Pellegrini's Mark" refers to the mark GIRL HUNTER, whether or not stylized.

6. "HBL's Marks" refers to the marks that are the subject of U.S. Registrations Nos. 1,550,244, 2,740,877 and 3,876,340, separately and collectively.

7. "HBL's Registrations" refers to U.S. Registrations Nos. 1,550,244, 2,740,877 and 3,876,340, separately and collectively.

8. "Pellegrini's Application" and "Application" mean Application Serial No. 76/702,199.

9. "Date" means the exact day, month, and year, if ascertainable and, if not, Your best approximation thereof.

10. The use of male, female or neutral gender in these requests incorporates all genders and should not be construed to limit the information requested in any way. The use of the singular form of any word includes the plural and vice-versa. "And," or "or" or "and/or" shall be construed conjunctively or disjunctively as necessary to make the request inclusive rather than exclusive.

11. "Referring or relating to" means comprising, relating to, pertaining to, referring to or in any way relevant within the meaning of Rule 26 of the Federal Rules of Civil Procedure.

12. When answering these requests, please set forth each request prior to Your answer.

13. All Documents shall be produced in the booklet, binder, file, folder, envelope, or other container in which Pellegrini keeps or maintain the Documents. If for any reason the container cannot be produced, please produce copies of all labels or other identifying markings. Documents attached to each other should not be separated.

14. If any Document or thing is withheld from the production due to an objection or privilege, state the nature of the Document or thing withheld and the basis for the objection or privilege.

15. These requests are to be regarded as continuing and You are requested to provide promptly, by way of supplementary answers thereto, such additional documents as You may hereafter obtain or by any Person or entity acting on Your behalf, which will augment or otherwise modify any or production responsive to the following requests.

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**REQUESTS FOR DOCUMENTS**

**REQUEST NO. 1:**

All Documents or things referring or relating to the information used, identified, referenced or otherwise incorporated into any of Pellegrini's responses to HBL's First Set of Interrogatories to Pellegrini.

**REQUEST NO. 2:**

All Documents or things referring or relating to Pellegrini's selection, clearance, adoption and use of Pellegrini's Mark.

**REQUEST NO. 3:**

All Documents or things referring or relating to any alternative logos or designs considered by Pellegrini, whether or not adopted, in connection with the process that resulted in adoption of Pellegrini's Mark.

**REQUEST NO. 4:**

All Documents or things referring or relating to all goods and services that Pellegrini offers or intends to offer under Pellegrini's Mark, and any variation thereof, including but not limited to the mark shown below.

 **HUNTER**

**REQUEST NO. 5:**

All Documents or things referring or relating to Pellegrini's first use of Pellegrini's Mark,

and any variation thereof, in connection with each of the goods and services identified in the Application.

**REQUEST NO. 6:**

All Documents or things referring or relating to Pellegrini's first use in commerce of Pellegrini's Mark, and any variation thereof, in connection with each of the goods and services identified in the Application.

**REQUEST NO. 7:**

All Documents or things referring or relating to the actual or intended manner of distribution of Pellegrini's goods and services offered under Pellegrini's Mark since the Date of first use in commerce of Pellegrini's Mark. If Pellegrini contends that Pellegrini's Mark is not yet in use in commerce, produce all Documents or things referring or relating to intended manner of distribution of Pellegrini's goods and services to be offered under Pellegrini's Mark.

**REQUEST NO. 8:**

All Documents or things referring or relating to Pellegrini's actual or intended channels of trade identified in Pellegrini's answers to HBL's First Set of Interrogatories to Pellegrini.

**REQUEST NO. 9:**

All Documents or things referring or relating to the geographical areas in the United States, its territories and possessions (by city and/or state) in which Pellegrini has advertised, sold, distributed and/or provided goods and/or services under Pellegrini's Mark since the Date of first use in commerce of Pellegrini's Mark. If Pellegrini contends that Pellegrini's Mark is not yet in use in commerce, produce all Documents or things referring or relating to the geographical areas in the United States, in which Pellegrini intends to advertise, sell, distribute and/or provide goods and/or services under Pellegrini's Mark.

**REQUEST NO. 10:**

All Documents or things referring or relating to Pellegrini's organizational structure and the identity of Pellegrini's officers, directors, or managers.

**REQUEST NO. 11:**

All licenses, assignments, or other agreements regarding the use in commerce or registration of Pellegrini's Mark.

**REQUEST NO. 12:**

Representative samples of each category of goods listed in the Application, with which Pellegrini uses or intends to use Pellegrini's Mark.

**REQUEST NO. 13:**

All Documents or things referring or relating to monthly sales of Pellegrini's goods or services offered under Pellegrini's Mark in unit and dollar revenue quantities for each month from the Date of first use in commerce of Pellegrini's Mark to the present.

**REQUEST NO. 14:**

All Documents or things referring or relating to the monthly amount of dollars Pellegrini has spent for advertising or other promotion for the goods and services Pellegrini offers under Pellegrini's Mark. If Pellegrini does not yet use Pellegrini's Mark, provide all Documents or things referring or relating to the amount of dollars Pellegrini intends to spend for advertising for those goods and services.

**REQUEST NO. 15:**

All Documents or things referring or relating to the manner of advertising and the advertising media through which Pellegrini or any Person on Pellegrini's behalf has advertised, is advertising, or intends to advertise goods or services under Pellegrini's Mark. Please include

in Your production any Documents relating or referring to advertising at or through trade shows and on the Internet.

**REQUEST NO. 16:**

Representative samples of Pellegrini's advertising of Pellegrini's goods and services that it sells, offers for sale, intends to sale, offers or intends to offer, under Pellegrini's Mark in any medium, including but not limited to each newspaper, periodical, trade journal, radio station, television station, advertising circular, advertising sign, poster, other publications, or any other medium, including trade show fliers or posters, and copies of each ad placed on Internet media such as Web, email and social networking media.

**REQUEST NO. 17:**

Documents sufficient to identify all categories of purchasers, or intended categories of purchasers (e.g., retailers, general public, wholesalers, individual consumers) of each category of good and/or service advertised, distributed, provided or sold or intended to be advertised, distributed, provided or sold by Pellegrini or on Pellegrini's behalf under Pellegrini's Mark.

**REQUEST NO. 18:**

Documents sufficient to identify the pricing structure for each good or service offered or intended to be offered under Pellegrini's Mark.

**REQUEST NO. 19:**

All Documents or things referring or relating to studies, market research, or analyses that assess or show likely or actual customers or consumers of Pellegrini's goods or services.

**REQUEST NO. 20:**

All Documents or things referring or relating to applications filed by or on behalf of Pellegrini relating to Pellegrini's Mark, or any trademark, service mark, trade name, name, word, design, term or phrase that includes Pellegrini's Mark.

**REQUEST NO. 21:**

All searches, surveys, investigations, analyses, or studies by or on behalf of Pellegrini referring or relating to Pellegrini's Mark, or any trademark, service mark, trade name, name, word, design, term or phrase that includes Pellegrini's Mark, including, but not limited to, all Documents that refer or relate thereto.

**REQUEST NO. 22:**

All Documents or things referring or relating to searches, surveys, investigations, analyses, or studies conducted by Pellegrini or on Pellegrini's behalf in the United States to determine the likelihood of confusion between Pellegrini's Mark and HBL's Marks, as used by each, including, but not limited to, the results of any such searches, surveys, investigations, analyses or studies.

**REQUEST NO. 23:**

All Documents or things referring or relating to the circumstances by which Pellegrini first became aware of HBL's Marks and the goods offered by HBL under HBL's Marks.

**REQUEST NO. 24:**

All Documents and things referring, relating, or discussing HBL, including, but not limited to references to HBL's Marks and the products HBL offers under HBL's Marks.

**REQUEST NO. 25:**

All Documents that refer or relate to searches, surveys, investigations, analyses, or studies conducted by Pellegrini or on Pellegrini's behalf of HBL, HBL's Marks, or HBL's operations, including, but not limited to, the results of any such searches.

**REQUEST NO. 26:**

All Documents that refer or relate to searches, surveys, investigations, analyses or studies conducted by Pellegrini or on Pellegrini's behalf regarding the fame of HBL's Marks, including, but not limited to, the results of such searches, surveys, investigations, analyses or studies.

**REQUEST NO. 27:**

To the extent Pellegrini denies that the goods and services identified in Pellegrini's Application are related to the goods identified in HBL's Registrations, please produce all Documents or things in support of such denial.

**REQUEST NO. 28:**

To the extent Pellegrini denies any of HBL's Requests for Admission in HBL's First Set of Requests for Admission to Pellegrini, please produce all Documents or things in support of such denials.

**REQUEST NO. 29:**

To the extent Pellegrini denies that HBL's Marks are famous within the meaning of Section 42(c) of the Lanham Act, please produce all Documents or things in support of such denial.

**REQUEST NO. 30:**

All Documents or things referring or relating to any specimens of use that Pellegrini filed with the United States Patent and Trademark Office.

**REQUEST NO. 31:**

All Documents or things in support of Your claim, in Paragraph 10 of Pellegrini's Answer to Notice of Opposition and Counterclaim, that "the GIRL HUNTER mark/brand has received ample media coverage of a favorable nature."

**REQUEST NO. 32:**

All Documents or things in support of Your claim in the Second Affirmative Defense in Pellegrini's Answer to Notice of Opposition and Counterclaim that "Opposer has constructively abandoned its claim to the word 'HUNTER' . . ."

**REQUEST NO. 33:**

All Documents or things in support of Your claim in the Second Affirmative Defense in Pellegrini's Answer to Notice of Opposition and Counterclaim that "Opposer has so diluted its own mark through its conduct, or lack of conduct, that it is now unable to seek broad protection for the word "HUNTER."

**REQUEST NO. 34:**

All Documents or things in support of Your claim in the Third Affirmative Defense in Pellegrini's Answer to Notice of Opposition and Counterclaim that Opposer is liable for "Unclean hands and/or fraud."

**REQUEST NO. 35:**

All Documents or things in support of Your claim in the Counterclaim in Pellegrini's Answer to Notice of Opposition and Counterclaim that HBL's Registration No. 3,876,340

“should be canceled.”

**REQUEST NO. 36:**

All Documents and things referring or relating to communications with HBL concerning Pellegrini’s use of Pellegrini’s Mark or Pellegrini’s use of HBL’s Marks.

**REQUEST NO. 37:**

All Documents and things referring to HBL or HBL’s Marks.

**REQUEST NO. 38:**

All correspondence with HBL.

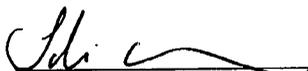
**REQUEST NO. 39:**

All expert opinions, advice, reports, studies, facts, information, or the like Pellegrini has received regarding this opposition proceeding, including all Documents that relate thereto.

Respectfully submitted,

KILPATRICK TOWNSEND & STOCKTON LLP

Dated: December 5, 2011

By:   
Margaret C. McHugh  
Tali L. Alban  
*Attorneys for Opposer*

Two Embarcadero Center, 8th Floor  
San Francisco, CA 94111-3834  
Telephone: (415) 576-0200  
Facsimile: (415) 576-0300  
Email: mmchugh@kilpatricktownsend.com; tlaban@kilpatricktownsend.com

**CERTIFICATE OF SERVICE**

On December 5, 2011, I served the foregoing **HUNTER BOOT LIMITED'S FIRST SET OF REQUESTS FOR PRODUCTION TO GEORGIA PELLEGRINI MEDIA GROUP, LLC** on the party(ies) in said action by transmitting a copy via electronic mail to the addresses listed below as follows:

Robert Kleinman  
KLEINMAN LAW FIRM PLLC  
404 West 7<sup>th</sup> Street  
Austin, TX 78701  
Tel: 512-299-5329  
Fax: 512-628-3390  
robert@kleinmanlawfirm.com



---

Esther Casillas

**EXHIBIT B**

**Chou, Rosaleen**

**From:** McHugh, Margaret  
**Sent:** Tuesday, December 13, 2011 11:10 AM  
**To:** 'Robert Kleinman'  
**Cc:** Alban, Tali  
**Subject:** RE: Girl Hunter / Hunter Boot Opp. No: 91199529 (our file 76027-797067)  
Robert,

I will discuss this with my client contact and get back to you as soon as I can.

Regards,  
Margaret

**Margaret McHugh**  
Kilpatrick Townsend & Stockton LLP  
Eighth Floor | Two Embarcadero Center | San Francisco, CA 94111  
office 415 273 7509 | fax 415 723 7139  
[mmchugh@kilpatricktownsend.com](mailto:mmchugh@kilpatricktownsend.com) | [My Profile](#) | [VCard](#)

**From:** Robert Kleinman [<mailto:robert@kleinmanlawfirm.com>]  
**Sent:** Tuesday, December 13, 2011 10:54 AM  
**To:** McHugh, Margaret  
**Subject:** Girl Hunter / Hunter Boot Opp. No: 91199529

Dear Margaret,

I hope this email finds you well. We are in receipt of Hunter's combined discovery requests.

Due an ongoing litigation matter I have that it going to take up much of January, I am requesting that you allow Applicant until February 15, 2012, to file its responses to your outstanding discovery requests.

Thank you for your consideration. Please let me know. If you have any questions or concerns don't hesitate to contact me.

--

#####  
Robert B. Kleinman  
Kleinman Law Firm PLLC  
404 W. 7th Street  
Austin, Texas 78701  
Ph: 512.299.5329  
F: 512.628.3390

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---

\*\*\*DISCLAIMER\*\*\* Per Treasury Department Circular 230: Any U.S. federal tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any transaction or matter addressed herein.

**EXHIBIT C**

**Chou, Rosaleen**

---

**From:** McHugh, Margaret  
**Sent:** Thursday, December 15, 2011 8:49 AM  
**To:** 'Robert Kleinman'  
**Cc:** Alban, Tali; Schlette, Audrey  
**Subject:** RE: Girl Hunter / Hunter Boot Opp. No: 91199529 Our file 76027-797607

Hi, Robert,

The client agrees to a 30 day extension (which would mean until Feb. 3, 2012), on the condition that your client will agree to reciprocate the courtesy on any discovery you may propound. Also, we are so agreeing with the assumption that you need the time to investigate and provide substantive responses to our requests, and not to make wholesale objections. If our assumption is incorrect, please let me know.

Please let me know if you have any questions.

Thanks,  
Margaret

**Margaret McHugh**  
**Kilpatrick Townsend & Stockton LLP**  
Eighth Floor | Two Embarcadero Center | San Francisco, CA 94111  
office 415 273 7509 | fax 415 723 7139  
[mmchugh@kilpatricktownsend.com](mailto:mmchugh@kilpatricktownsend.com) | [My Profile](#) | [VCard](#)

---

**From:** Robert Kleinman [mailto:robert@kleinmanlawfirm.com]  
**Sent:** Tuesday, December 13, 2011 10:54 AM  
**To:** McHugh, Margaret  
**Subject:** Girl Hunter / Hunter Boot Opp. No: 91199529

Dear Margaret,

I hope this email finds you well. We are in receipt of Hunter's combined discovery requests.

Due an ongoing litigation matter I have that it going to take up much of January, I am requesting that you allow Applicant until February 15, 2012, to file its responses to your outstanding discovery requests.

Thank you for your consideration. Please let me know. If you have any questions or concerns don't hesitate to contact me.

--

#####

Robert B. Kleinman  
Kleinman Law Firm PLLC  
404 W. 7th Street  
Austin, Texas 78701

4/19/2012

Ph: 512.299.5329  
F: 512.628.3390

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---

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**EXHIBIT D**

**Chou, Rosaleen**

---

**From:** Robert Kleinman [mailto:robert@kleinmanlawfirm.com]  
**Sent:** Thursday, December 15, 2011 8:55 AM  
**To:** McHugh, Margaret  
**Subject:** Re: Girl Hunter / Hunter Boot Opp. No: 91199529 Our file 76027-797607

Thanks Margaret. Agreed.

Have a lovely holiday and new year.

I'll be in touch. In the meantime if you have any questions or concerns don't heistate to let me know.

Also, it just occurred to me, I've had a lot of success with mediation in general. If your client is open to that I would strongly encourage my client to participate. Thoughts?

--Rob K.

On Thu, Dec 15, 2011 at 10:48 AM, McHugh, Margaret <[mmchugh@kilpatricktownsend.com](mailto:mmchugh@kilpatricktownsend.com)> wrote:

Hi, Robert,

The client agrees to a 30 day extension (which would mean until Feb. 3, 2012), on the condition that your client will agree to reciprocate the courtesy on any discovery you may propound. Also, we are so agreeing with the assumption that you need the time to investigate and provide substantive responses to our requests, and not to make wholesale objections. If our assumption is incorrect, please let me know.

Please let me know if you have any questions.

Thanks,  
Margaret

**Margaret McHugh**  
Kilpatrick Townsend & Stockton LLP  
Eighth Floor | Two Embarcadero Center | San Francisco, CA 94111  
office [415 273 7509](tel:4152737509) | fax [415 723 7139](tel:4157237139)  
[mmchugh@kilpatricktownsend.com](mailto:mmchugh@kilpatricktownsend.com) | [My Profile](#) | [VCard](#)

---

**From:** Robert Kleinman [mailto:robert@kleinmanlawfirm.com]  
**Sent:** Tuesday, December 13, 2011 10:54 AM  
**To:** McHugh, Margaret  
**Subject:** Girl Hunter / Hunter Boot Opp. No: 91199529

Dear Margaret,

I hope this email finds you well. We are in receipt of Hunter's combined discovery requests.

Due an ongoing litigation matter I have that it going to take up much of January, I am requesting that you allow Applicant until February 15, 2012, to file its responses to your outstanding discovery requests.

Thank you for your consideration. Please let me know. If you have any questions or concerns don't hesitate to contact me.

--

#####

Robert B. Kleinman  
Kleinman Law Firm PLLC  
404 W. 7th Street  
Austin, Texas 78701  
Ph: 512.299.5329  
F: 512.628.3390

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---

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--

#####

Robert B. Kleinman  
Kleinman Law Firm PLLC  
404 W. 7th Street  
Austin, Texas 78701  
Ph: 512.299.5329  
F: 512.628.3390

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**EXHIBIT E**

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

In the matter of Application Serial Nos. 76/702,199  
Mark: GIRL HUNTER

HUNTER BOOT LIMITED

*Opposer,*

vs.

GEORGIA PELLEGRINI  
MEDIA GROUP, LLC

*Applicant.*

Opposition Nos.: 91199529

APPLICANT'S RESPONSES TO  
REQUESTS FOR PRODUCTION

**APPLICANT'S RESPONSES TO REQUESTS FOR PRODUCTION**

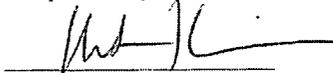
Pursuant to Rule 34 of Federal Rules of Civil Procedure and Rule 2.120 of the Trademark Rules of Practice, Applicant files its responses to Hunter Boot Limited's First Set of Requests for Production.

RESPONSIVE MATERIALS INCLUDING THE FOLLOWING ATTACHED:

1. From the website of Georgia Pellegrini:
  - a) Front page
  - b) Book announcement: Girl Hunter
2. From Amazon.com
  - a) Biography page
  - b) Book reviews: Food Heroes
  - c) Book reviews: Girl Hunter
3. New York Post Article "Lady Killer" by Stefanie Cohen / Dec. 12, 2011
4. StarTribune Nonfiction Review: "Girl Hunter"; Article by Kim Hedges / Jan 14, 2012
5. The Huffington Post
  - a) Georgia Pellegrini
  - b) Why I Hunt: 'I Found Myself Thinking, This Can't Be All There is'.
6. From AmericanHunter.org: Book Review Girl Hunter by Georgia Pellegrini / Article by Lia Dangelico / Dec 15, 2011
7. From Serious Eats: "Serious Reads: Girl Hunter, by Georgia Pellegrini" / Posted by Leah Douglas / December 4, 2011
8. FoodRepublic.com Article " Meet Georgia Pellegrini, Girl Hunter / by Chantal Martineau / Dec 13, 2011
9. From [Daily.mail.co.uk](http://Daily.mail.co.uk) – Article by Daisy Dumas / Updated on Dec 13, 2011
10. The Naptime Chef: Blog Post about Georgia Pellegrini / Jan 25, 2012

Dated this 3<sup>rd</sup> Day of February, 2012

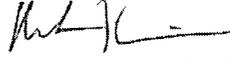
Respectfully submitted,

  
\_\_\_\_\_  
Robert Kleinman  
KLEINMAN LAW FIRM PLLC  
404 West 7<sup>th</sup> Street  
Austin, TX 78701  
Tel: 512-299-5329  
Fax: 512-628-3390

Attorney for Applicant

**CERTIFICATE OF SERVICE**

I certify that I have today caused the foregoing to be served upon Attorney of Record for  
Opposer.



Robert Kleinman

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

In the matter of Application Serial Nos. 76/702,199  
Mark: GIRL HUNTER

HUNTER BOOT LIMITED

*Opposer,*

vs.

GEORGIA PELLEGRINI  
MEDIA GROUP, LLC

*Applicant.*

Opposition Nos.: 91199529

APPLICANT'S RESPONSES TO  
INTERROGATORIES

## **APPLICANT'S RESPONSES TO INTERROGATORIES**

Pursuant to Rule 33 of Federal Rules of Civil Procedure and Rule 2.120 of the Trademark Rules of Practice, Applicant files its responses to Hunter Boot Limited's First Set of Interrogatories.

### **INTERROGATORY NO. 1:**

Identify and describe each good or service offered, or intended to be offered, by Pellegrini under Pellegrini's Mark.

Applicant objects as this information is publicly available and equally available to both parties. Subject to the foregoing, *see* USPTO Serial No. 76702199, application of March 23, 2010.

### **INTERROGATORY NO. 2:**

Identify and describe with specificity, including dates, Pellegrini's first use of Pellegrini's Mark, and any variation thereof, including but not limited to the mark shown below, on each good or service identified in Your response to Interrogatory No. 1.

Applicant objects as this information is publicly available and equally available to both parties. Subject to the foregoing, *see* USPTO Serial No. 76702199, application of March 23, 2010.

### **INTERROGATORY NO. 3:**

Identify and describe with specificity, including dates, Pellegrini's first use in commerce of Pellegrini's Mark, and any variation thereof, including but not limited to the mark shown above, on each good or service identified in Your response to Interrogatory No. 1.

May 2009, *see* GIRL.HUNTER.000001.

**INTERROGATORY NO. 4:**

Identify all Persons with knowledge of Pellegrini's first use of Pellegrini's Mark, and any variation thereof, on each good or service identified in Your response to Interrogatory No. 1.

Applicant and Applicant's customers.

**INTERROGATORY NO. 5:**

Identify the person most knowledgeable about Pellegrini's present use or plans to use Pellegrini's Mark, and any variation thereof.

Applicant.

**INTERROGATORY NO. 6:**

Identify all facts and circumstances that support the claim, in Paragraph 10 of Pellegrini's Answer to Notice of Opposition and Counterclaim, that "the GIRL HUNTER mark/brand has received ample media coverage of a favorable nature." Please include in Your response the identity of any Persons with knowledge concerning the facts underlying this claim.

See Applicant's RFP materials.

**INTERROGATORY NO. 7:**

Identify all trademark applications filed by Pellegrini or on Pellegrini's behalf for any mark consisting in whole or in part of the mark GIRL HUNTER.

USPTO Serial No. 76702199, application of March 23, 2010.

**INTERROGATORY NO. 8:**

State the manner of distribution of each good offered under Pellegrini's Mark since the date of first use of Pellegrini's Mark. For goods or services not yet used or offered in commerce, state Pellegrini's intended manner of distribution of each good or service it intends to offer under Pellegrini's Mark.

The goods will be distributed to consumers in exchange for valuable consideration.

**INTERROGATORY NO. 9:**

Identify the channels of trade in which the goods or services offered or intended to be offered by Pellegrini in connection with Pellegrini's Mark travel or are intended to travel.

All legal and recognized channels.

**INTERROGATORY NO. 10:**

Describe in detail the pricing structure, or intended pricing structure, for each good used in commerce in connection with Pellegrini's Mark.

The term "pricing structure" in this context renders the question too vague to answer as is.

**INTERROGATORY NO. 11:**

Identify all geographical areas in the United States, its territories and possessions (by city and/or state) in which Pellegrini has advertised, sold, distributed and/or provided goods or services under Pellegrini's Mark since the Date of first use of Pellegrini's Mark or, if Pellegrini has not yet used Pellegrini's Mark in commerce, all geographical areas in the United States, its territories and possessions (by city and/or state) in which Pellegrini intends to advertise, sell, distribute and/or provide goods or services under Pellegrini's Mark.

All areas wherein the internet is accessible .

**INTERROGATORY NO. 12:**

Identify the organizational structure of Pellegrini's business, including, but not limited to, the identity of Pellegrini's officers, directors, or managers.

Applicant is the managing member of the business.

**INTERROGATORY NO. 13:**

Identify any and all licenses, assignments, or other agreements regarding the use or registration of Pellegrini's Mark, including, but not limited to, the identity of all parties to the agreement and the terms of such agreement.

None that Applicant is aware of.

**INTERROGATORY NO. 14:**

State the monthly sales of each good offered under Pellegrini's Mark in unit and dollar revenue quantities for each month from the Date of first use of Pellegrini's Mark to the present.

Such information will not be made available in the absence of a suitable protective order.

**INTERROGATORY NO. 15:**

State by month from the date of first use of Pellegrini's Mark to the present the annual amount of dollars spent on advertising or other promotion, if any, by Pellegrini for each good sold under Pellegrini's Mark or, if Pellegrini's Mark has not yet been used in commerce, the annual amount of dollars expected to be spent on advertising or other promotion, if any, by Pellegrini for each good intended to be offered under Pellegrini's Mark.

Such information will not be made available in the absence of a suitable protective order.

**INTERROGATORY NO. 16:**

Describe all manner of advertising and intended advertising of Pellegrini's goods or services that are offered under Pellegrini's Mark in any medium, including, but not limited to, each newspaper, periodical, trade journal, radio station, television station, advertising circular, advertising sign, poster, other publications, or any other medium, including all trade shows and Internet media such as Web, email and social networking media, in which Pellegrini has advertised or intends to advertise Pellegrini's goods or services under Pellegrini's Mark, including, if applicable, the periods of time in which each piece of advertising was used.

See Applicant's RFP materials.

**INTERROGATORY NO. 17:**

Identify all labeling, packaging, displays, or other written and printed materials that have been used to display, market, and/or label each good offered under Pellegrini's Mark since the Date of first use of Pellegrini's Mark. If Pellegrini has not yet used Pellegrini's Mark in commerce, identify all labeling, packaging, displays, or other written and printed materials that Pellegrini intends to use to display, market, and/or label each good Pellegrini intends to offer under Pellegrini's Mark.

See Applicant's RFP materials.

**INTERROGATORY NO. 18:**

Identify all categories of purchasers (e.g., retailers, general public, wholesalers, individual consumers) of each category of good advertised, distributed, provided or sold or intended to be advertised, distributed, provided or sold by Pellegrini under Pellegrini's Mark.

See Applicant's RFP materials.

**INTERROGATORY NO. 19:**

Identify all studies, market research, or analyses that assess or show likely or actual customers or consumers of Pellegrini's goods or services.

None that applicant is aware of.

**INTERROGATORY NO. 20:**

State Pellegrini's reasons for, and circumstances surrounding, Pellegrini's creation, selection, adoption and use of Pellegrini's Mark.

Applicant has many good reasons for adopting the mark and she is uniquely associated with it.

**INTERROGATORY NO. 21:**

Identify any meaning that You intended to be conveyed by Pellegrini's Mark.

Applicant has many good reasons for adopting the mark and she is uniquely associated with it.

The mark is suggestive of applicant and her goods and services.

**INTERROGATORY NO. 21:**

Identify any meaning that You intended to be conveyed by Pellegrini's Mark.

Applicant has many good reasons for adopting the mark and she is uniquely associated with it.

**INTERROGATORY NO. 22:**

State the reasons why You believe Pellegrini's Mark is entitled to registration as a trademark.

Applicant's mark is entitled to registration for the reasons already identified by USPTO Attorney Examiner, Amy. C. Kean, Law Office 112, U.S. Patent & Trademark Office.

**INTERROGATORY NO. 23:**

Identify and describe any searches, surveys, investigations, analyses, or studies by or on behalf of Pellegrini referring or relating to Pellegrini's Mark.

Reasonable searches were performed.

**INTERROGATORY NO. 24:**

Identify any searches, surveys, investigations, analyses, or studies conducted by Pellegrini or on Pellegrini's behalf in the United States to determine the familiarity of the public or trade, or any segment thereof, with Pellegrini's Mark and/or the likelihood of confusion between the use of Pellegrini's Mark and the use of HBL's Marks, and all Persons with knowledge thereof, including, but not limited to, the Person who conducted such survey.

See Interrogatory No. 23.

**INTERROGATORY NO. 25:**

Identify and describe the date and manner in which Pellegrini first became aware of the goods that HBL offers under HBL's Marks.

Applicant is unaware that HBL in fact offers goods for sale under HBL's marks.

**INTERROGATORY NO. 26:**

Identify any searches, surveys, investigations, analyses or studies conducted by Pellegrini or on Pellegrini's behalf of HBL, HBL's operations, or HBL's Marks, including but not limited to searches, surveys, investigations, analyses, or studies regarding the fame of HBL's Marks.

None that Applicant is aware of.

**INTERROGATORY NO. 27:**

If Pellegrini contends that HBL's Marks are not famous within the meaning of section 43(c) of the Lanham Act (15 U.S.C. § 1125(c)), identify and describe in detail the basis for such contention, including each and every fact upon which Pellegrini relies in support of the contention.

The mark(s) are not famous because, absent HBL employees and their attorneys, individuals are not familiar with them.

**INTERROGATORY NO. 28:**

State the basis for Pellegrini's claim in the Second Affirmative Defense in Pellegrini's Answer to Notice of Opposition and Counterclaim that "Opposer has constructively abandoned its claim to the word 'HUNTER' . . ." Please include in Your response the identity of any Persons with knowledge concerning the facts underlying this claim.

The referenced pleading speaks for itself.

**INTERROGATORY NO. 29:**

State the basis for Pellegrini's claim in the Second Affirmative Defense in Pellegrini's Answer to Notice of Opposition and Counterclaim that "Opposer has so diluted its own mark through its conduct, or lack of conduct, that it is now unable to seek broad protection for the word "HUNTER." Please include in Your response the identity of any Persons with knowledge concerning the facts underlying this claim.

The referenced pleading speaks for itself.

**INTERROGATORY NO. 30:**

State the basis for Pellegrini's claim in the Third Affirmative Defense in Pellegrini's Answer to Notice of Opposition and Counterclaim that Opposer is liable for "Unclean hands and/or fraud." Please include in Your response the identity of any Persons with knowledge concerning the facts underlying this claim.

The referenced pleading speaks for itself.

**INTERROGATORY NO. 31:**

State the basis for Pellegrini's claim in the Counterclaim in Pellegrini's Answer to Notice of Opposition and Counterclaim that HBL's Registration No. 3,876,340 "should be canceled." Please include in Your response the identity of any Persons with knowledge concerning the facts underlying this claim.

The referenced pleading speaks for itself.

**INTERROGATORY NO. 32:**

If You deny that the goods and services identified in the Application are related to the goods identified in HBL's Registrations, state the grounds and all facts known to You in support of such denial.

Applicant's goods are not identified with HBL goods because they are wholly distinctive.

**INTERROGATORY NO. 33:**

Identify all Persons whom Pellegrini has contacted regarding this opposition proceeding for expert opinions, advice, reports, studies, facts, information, or the like, including but not limited to the general nature of his or her expertise, if any, and the result of such contact.

None that Applicant is aware of.

(Opposer omitted Interrogatory No. 34)

**INTERROGATORY NO. 35:**

Identify each person whom Pellegrini expects to call as a witness in this proceeding, whether as an expert witness or otherwise, and state for each person his/her background and qualifications (if applicable), the subject matter upon which he/she is expected to testify, the substance of the facts and opinions to which he/she is expected to testify, and the grounds for each opinion that he/she is expected to give.

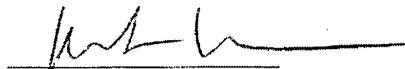
**INTERROGATORY NO. 36:**

Identify each and every Person, other than counsel, who was consulted or who furnished information in connection with the response to each interrogatory.

Applicant and her attorney.

Dated this 3<sup>rd</sup> Day of February, 2012

Respectfully submitted,



Robert Kleinman  
KLEINMAN LAW FIRM PLLC  
404 West 7<sup>th</sup> Street  
Austin, TX 78701  
Tel: 512-299-5329  
Fax: 512-628-3390

Attorney for Applicant

**CERTIFICATE OF SERVICE**

I certify that I have today caused the foregoing to be served upon Attorney of Record for Opposer.

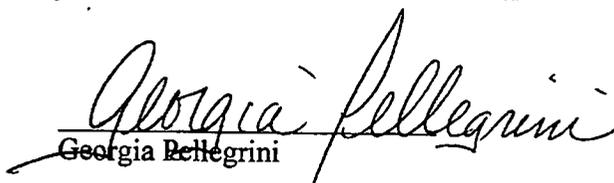


Robert Kleinman

VERIFICATION

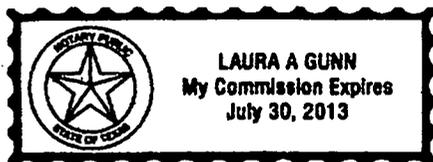
STATE OF TEXAS       §  
                                  §  
TRAVIS COUNTY       §

**BEFORE ME**, the undersigned Notary Public, on this day personally appeared **Georgia Pellegrini**, who being duly sworn on his oath, deposed and said that she has read the attached Interrogatories and that they are true and correct to the best of her knowledge.

  
Georgia Pellegrini

**SUBSCRIBED AND SWORN TO BEFORE ME** by Brandon Darby on this the 3rd day of February, 2012.

  
Notary Public, State of Texas



**EXHIBIT F**



KILPATRICK TOWNSEND & STOCKTON LLP  
www.kilpatricktownsend.com

Eighth Floor  
Two Embarcadero Center  
San Francisco CA 94111  
t 415 576 0200 f 415 576 0300

direct dial 415 273 8317  
direct fax 415 723 7287  
tlalban@kilpatricktownsend.com

March 12, 2012

**VIA EMAIL AND FIRST CLASS MAIL**

Robert Kleinman, Esq.  
KLEINMAN LAW FIRM PLLC  
404 West 7th Street  
Austin, TX 78701

Re: *Hunter Boot Limited v. Georgia Pellegrini Media Group, LLC*  
Opposition No. 91199529  
KT Ref. No. 76027-797607

Dear Mr. Kleinman:

We are writing regarding the deficiency of Georgia Pellegrini Media Group, LLC's ("Pellegrini") discovery responses, including materially incomplete answers to Hunter Boot Limited's ("HBL") First Set of Interrogatories, First Set of Requests for Admissions, and First Requests for the Production of Documents, as well as Pellegrini's lacking document production.

**I. PELLEGRINI'S DEFICIENT INTERROGATORY RESPONSES**

**Interrogatory No. 2**

Interrogatory No. 2 calls for Pellegrini to identify and describe with specificity, including dates, Pellegrini's first use of Pellegrini's Mark, and any variation thereof, on each good or service offered or intended to be offered under Pellegrini's Mark. Pellegrini objects to this interrogatory on the ground that the information is publicly available to both parties and then cites Serial No. 76/702,199. This response is deficient and improper. Serial No. 76/702,199 was filed as an intent-to-use application and there is no first use date listed in the application. Moreover, Pellegrini has not described "with specificity" its first use of Pellegrini's Mark. Pellegrini should amend its response to identify and describe "with specificity" its first use of Pellegrini's Mark.

March 12, 2012

Page 2

**Interrogatory No. 6**

This Interrogatory seeks the facts and circumstances supporting Pellegrini's claim that "the GIRL HUNTER mark/brand has received ample media coverage of a favorable nature," including the identity of the persons with knowledge of such facts. While Pellegrini referenced the documents it has produced, Pellegrini did not identify any persons with knowledge of the underlying facts. Please amend this response to provide the requested information.

**Interrogatory No. 8**

Interrogatory No. 8 calls for Pellegrini to state the actual or intended manner of distribution of each good offered under Pellegrini's Mark. Pellegrini's response, that "The goods will be distributed to consumers in exchange for valuable consideration," is both vague and unresponsive. As Pellegrini has presented no objections to this Interrogatory, please immediately state the "manner" of distribution of each good offered or to be offered under Pellegrini's Mark, including whether the goods will be distributed through a distributor or by other means, including at retail stores, or sold only through the Internet.

**Interrogatory No. 9**

Interrogatory No. 9 calls for Pellegrini to identify the channels of trade in which the goods or services offered or intended to be offered by Pellegrini in connection with Pellegrini's Mark travel or are intended to travel. Pellegrini's response of "All legal and recognized channels" is utterly vague and fails to provide any specifics. Nevertheless, because Pellegrini's Application does not specify the channels of trade in which its goods travel or are intended to travel, we understand Pellegrini to have conceded that its goods travel or will travel through the same channels of trade to the same class of purchasers as those of HBL. *See In re Viterra, Inc.*, Case No. 2011-1354, --USPQ2d-- (Fed. Cir. March 6, 2012) ("absent restrictions in the application and registration, goods and services are presumed to travel in the same channels of trade to the same class of purchasers.")

If Pellegrini disputes this conclusion, please amend this response properly to specify the channels of trade it uses or intends to use.

**Interrogatory No. 10**

Interrogatory No. 10 calls for Pellegrini to describe in detail the pricing structure, or intended pricing structure, for each good used in commerce in connection with Pellegrini's Mark. Pellegrini responds that the term "pricing structure" is too vague. For purposes of this interrogatory, "pricing structure" is defined as "the price that the goods are or will be offered for sale." Please amend this response to comport with the provided definition.

March 12, 2012

Page 3

**Interrogatory No. 11**

Interrogatory No. 11 seeks the identity of the geographical areas in which Pellegrini intends to or has advertised, sold, distributed and/or provided goods or services under Pellegrini's Mark. Pellegrini response of "All areas wherein the internet is accessible" is vague and ambiguous. Having waived any objection to this Interrogatory, Pellegrini is obligated to fully respond to this, and each, Interrogatory, in the manner contemplated by the Board Rules and the Federal Rules of Civil Procedure. Pellegrini's response runs afoul of both the letter and the spirit of these Rules. Accordingly, Pellegrini should amend its response to specify all geographical areas, including identification of the city and/or state, in which Pellegrini has advertised, sold, or distributed its goods or services.

**Interrogatory No. 12**

Interrogatory No. 12 calls for Pellegrini to identify the organizational structure of Pellegrini's business, including, but not limited to, the identity of Pellegrini's officers, directors, or managers. Pellegrini's response of "Applicant is the managing member of the business" is incomplete. Pellegrini fails to identify any of Pellegrini's officers, directors, or managers, including the name, title, and contact information for these individuals. This information is relevant as Pellegrini's partners, officers, directors, or managers may have facts and information relevant to the likelihood of confusion factors. Please immediately amend your response to identify Pellegrini's partners, officers, directors, or managers.

**Interrogatory Nos. 14 and 15**

Interrogatory Nos. 14 and 15 call for Pellegrini's sales information. Pellegrini objects to these interrogatories on the ground that there is no suitable protective order in place.

As you should know, the Trademark Trial and Appeal Board Standard Protective Order governs all proceedings before the Board, from the moment the proceeding is instituted. TBMP § 412.01. Thus, there is a Protective Order governing this proceeding and Pellegrini may not withhold any information on the basis of confidentiality, though it may designate these responses as "confidential" pursuant to the Protective Order. Please immediately amend your responses to provide the monthly sales revenue and monthly advertising expenditures from the date of first use to the present.

**Interrogatory Nos. 16, 17, and 18**

In response to Interrogatory Nos. 16, 17, and 18, Pellegrini states "See Applicant's RFP materials." TBMP § 405.04(b) provides that if "the responding party elects to answer an interrogatory by specifying and producing business records, the specification must be in sufficient detail to permit the propounding party to locate and identify, as readily as can the responding party, the records from which the answer may be ascertained." *See also* Fed. R. Civ.

March 12, 2012

Page 4

P. 33(d). Pellegrini has not provided any specifics (*i.e.*, the BATES numbers) to allow HBL to locate and identify the records that Pellegrini claims are responsive to these interrogatories. Pellegrini should amend its response to provide these BATES numbers.

#### **Interrogatory Nos. 20 and 21**

Interrogatory Nos. 20 and 21 call for Pellegrini to state its reasons for, and circumstances surrounding, its creation, selection, adoption and use of Pellegrini's Mark and to identify any meaning that it intended to be conveyed by Pellegrini's Mark. Pellegrini's response states that "Applicant has many good reasons for adopting the mark and she is uniquely associated with it." Pellegrini's response is vague and ambiguous. HBL is not asking for Pellegrini's subjective opinion as to whether the reasons are "good" or "bad," but is asking Pellegrini to explain its reasons for and circumstances surrounding the creation, selection, adoption, and use of Pellegrini's Mark. Interrogatory 21 further requests the identity of all persons involved in the creation, selection and adoption of the GIRL HUNTER mark. Pellegrini has failed to respond to this request in its entirety.

#### **Interrogatory 22 (misabeled as a second Interrogatory 21)**

This Interrogatory seeks information concerning the meaning that Pellegrini intended to convey in selecting and using the GIRL HUNTER mark. Pellegrini's response to Interrogatory No. 21, that "she is uniquely associated with it" is vague, ambiguous and non-responsive and again runs afoul of the discovery rules. This response should be amended to provide meaningful answers.

#### **Interrogatory Nos. 23 and 24**

Interrogatory Nos. 23 and 24 seek information relating to any searches, surveys, investigations, analyses, or studies conducted by or on behalf of Pellegrini referring or relating to Pellegrini's Mark and to determine the familiarity of the public or trade with Pellegrini's Mark. Pellegrini's response of "Reasonable searches were performed" is vague and requires clarification. Pellegrini fails to explain what constitutes "reasonable searches" and fails to describe any searches done. Moreover, Pellegrini fails to identify all Persons with knowledge of the searches, including the Person who conducted the search. Pellegrini should amend its response to explain the nature of its "reasonable searches" conducted and identify all Persons with knowledge of such searches.

#### **Interrogatory No. 25**

This Interrogatory seeks information concerning the date and manner in which Pellegrini first became aware of the goods that HBL offers under its marks. Pellegrini's response that it "is unaware that HBL in fact offers goods for sale under HBL's marks" is, at best, inconsistent with

Pellegrini's allegations in its Answer to the Notice of Opposition, that "Opposer markets shoes and boots, boot accessories, handbags and socks only." (Answer p. 5).

Pellegrini's denial is also inconsistent with its response to Interrogatory No. 23, confirming that "reasonable searches were performed." Any reasonable search of the term "HUNTER" would have revealed HBL and its products. Clearly, Pellegrini is aware that HBL offers goods for sale under its marks.

Federal Rule of Civil Procedure 33(b) specifies that "Each interrogatory must, to the extent it is not objected to, be answered separately and fully in writing under oath." Fed. R. Civ. P. 33(a)(b)(3). Federal Rule of Civil Procedure 37, further states that "an evasive or incomplete disclosure, answer or response must be treated as a failure to disclose, answer or respond." Fed. R. Civ. P. 37(a)(4). Pellegrini has not objected to this Interrogatory, and its answer is at the very least inconsistent with its prior statements. Accordingly, Pellegrini should amend this response properly to provide the requested information.

#### **Interrogatory No. 27**

This Interrogatory seeks the facts underlying Pellegrini's claim that HBL's marks are not famous within the meaning of section 43(c) of the Lanham Act. Pellegrini's response that "The mark(s) are not famous because... individuals are not familiar with them," is evasive and incomplete. HBL is entitled to discover all the facts underlying Pellegrini's claims, including information concerning any searches or surveys conducted and any other facts that would purportedly support a denial of fame. Pursuant to Rules 33 and 37 of the Federal Rules of Civil Procedure, Pellegrini must amend this response to provide a complete response.

#### **Interrogatory Nos. 28-31**

In response to Interrogatory Nos. 28-31, HBL requests Pellegrini to include in its response the identity of any Persons with knowledge concerning the facts underlying this claim. Pellegrini states "The referenced pleading speaks for itself." Pellegrini's response is deficient since its pleading fails to identify any Persons with knowledge of facts relevant to each of Pellegrini's claims identified in Interrogatory Nos. 28-31. Pellegrini should amend its response to identify all Persons with knowledge concerning the facts underlying each of these claims.

#### **Interrogatory No. 32**

Interrogatory No. 32 requests that if Pellegrini denies that the goods and services identified in the Application are related to the goods identified in HBL's Registrations, state the grounds and all facts known to Pellegrini in support of such denial. Again, Pellegrini's response of "Applicant's goods are not identified with HBL goods because they are wholly distinctive" is devoid of any grounds, reasoning, or facts to support such denial. Pellegrini should elaborate on its reasoning and provide facts to support such denial.

**Interrogatory No. 35**

Pellegrini failed to respond to Interrogatory No. 35. Please immediately provide a response.

**II. PELLEGRINI'S DEFICIENT RESPONSES TO OPPOSER'S REQUESTS FOR ADMISSION**

**Request For Admission No. 23**

Request No. 23 requests that Pellegrini admit that use of the word "GIRL" in Pellegrini's Mark is descriptive. Pellegrini denies this request. The Examining Attorney, during the examination of Pellegrini's Application, required that "Applicant must disclaim the **descriptive wording "GIRL"** apart from the mark as shown, for International Class 025, **because it merely describes** the intended use for the goods. Pellegrini has disclaimed rights in the word "GIRL." June 27, 2010 Office Action. Accordingly, Pellegrini disclaimed use of the term "GIRL." A disclaimer, by its nature, is an admission that the word is descriptive. Again, Pellegrini's response is inconsistent with its prior statements or positions.

Pellegrini should amend its response to Request No. 23 from "deny" to "admit."

**III. PELLEGRINI'S DEFICIENT PRODUCTION OF DOCUMENTS**

As an initial matter, Pellegrini has not provided a substantive response, or objections, to any of HBL's First Set of Requests for Production. Rather, Pellegrini has provided a list of documents for the production which is insufficient. Though Pellegrini has thus waived its objections to HBL's document requests, it must nevertheless respond to the First Set of Requests for Production as well as produce responsive documents. Please provide us with a substantive response for each document request. If Pellegrini does not have responsive documents, then it is required to so state in the response.

We have thoroughly reviewed the documents produced and note that only one document (GIRL.HUNTER00001) concerns Pellegrini's Mark in connection with Class 25 goods. Pellegrini's Application covers a number of Class 25 goods, namely, clothing: namely, t-shirts, sweat shirts, jackets, shirts, pants, shoes, shorts and gloves; hunting apparel, namely, pants, shirts, jackets, hats, gloves and shoes. The document requests concerning "documents or things referring or relating to all goods and services" (or similar language) are intended to cover all of these Class 25 goods since they are relevant to this proceeding. Please supplement your document production to include all responsive documents concerning Pellegrini's Mark in connection with all of the Class 25 goods.

March 12, 2012

Page 7

Moreover, Pellegrini has produced no documents in response to the following Document Requests:

Document Request No. 1  
Document Request No. 2  
Document Request No. 3  
Document Request No. 4  
Document Request No. 5  
Document Request No. 6  
Document Request No. 7  
Document Request No. 8  
Document Request No. 9  
Document Request No. 10  
Document Request No. 11  
Document Request No. 12  
Document Request No. 13  
Document Request No. 14  
Document Request No. 15 (related to Class 25)  
Document Request No. 16  
Document Request No. 17  
Document Request No. 18  
Document Request No. 19  
Document Request No. 20  
Document Request No. 21  
Document Request No. 22  
Document Request No. 23  
Document Request No. 24  
Document Request No. 25  
Document Request No. 26  
Document Request No. 27  
Document Request No. 28  
Document Request No. 29  
Document Request No. 30  
Document Request No. 31  
Document Request No. 32  
Document Request No. 33  
Document Request No. 34  
Document Request No. 35  
Document Request No. 36  
Document Request No. 37  
Document Request No. 38  
Document Request No. 39

March 12, 2012

Page 8

Pellegrini should immediately produce all documents responsive to these requests, or provide a specific response setting out that it has no responsive documents to a particular request.

Please provide a substantive response to this letter, including amended written responses and responsive documents no later than **March 23, 2012**. We would like to avoid having to file a motion to compel, so if you wish to discuss this matter, please feel free to call me at 415-273-8317.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Tali L. Alban', written in black ink.

Tali L. Alban

cc: Margaret C. McHugh, Esq.  
Rosaleen H. Chou, Esq.

**EXHIBIT G**

**Chou, Rosaleen**

---

**From:** Robert Kleinman [robert@kleinmanlawfirm.com]  
**Sent:** Thursday, March 22, 2012 9:29 AM  
**To:** McHugh, Margaret  
**Cc:** Alban, Tali  
**Subject:** Girl Hunter

Dear Margaret and Tali,

My client intends to amend her discovery responses as per your recent letter. However, she will not be able to do until 10 days from today. We request that you hold off on filing a motion to compel accordingly.

Thanks.

--

#####

Robert B. Kleinman  
Kleinman Law Firm PLLC  
404 W. 7th Street  
Austin, Texas 78701  
Ph: 512.299.5329  
F: 512.628.3390

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**EXHIBIT H**

**Chou, Rosaleen**

---

**From:** Alban, Tali  
**Sent:** Friday, March 23, 2012 9:48 AM  
**To:** 'Robert Kleinman'  
**Cc:** McHugh, Margaret; Schlette, Audrey  
**Subject:** RE: Girl Hunter

Robert:

Our client has agreed to the 10 day extension, but on the condition that you assure us that the responses and production your client provides on April 2, will be full and complete. In addition, we would like your consent to push all dates, including close of discovery, out 30 days, to accommodate the delay in our ability to prepare, due to the delay in receiving adequate discovery responses from Ms. Pellegrini.

Please let us know if you consent to both of the above.

Thank you,  
Tali

**Tali Alban**  
**Kilpatrick Townsend & Stockton LLP**  
Eighth Floor | Two Embarcadero Center | San Francisco, CA 94111  
office 415 273 8317 | fax 415 723 7287  
[talban@kilpatricktownsend.com](mailto:talban@kilpatricktownsend.com) | [My Profile](#) | [vCard](#)

---

**From:** Robert Kleinman [<mailto:robert@kleinmanlawfirm.com>]  
**Sent:** Thursday, March 22, 2012 11:05 AM  
**To:** Alban, Tali  
**Cc:** McHugh, Margaret; Schlette, Audrey  
**Subject:** Re: Girl Hunter

Thanks for the email Tali. If I'm not mistaken, Applicant has not opposed any of Opposer's requests for an extension.

On Thu, Mar 22, 2012 at 12:44 PM, Alban, Tali <[talban@kilpatricktownsend.com](mailto:talban@kilpatricktownsend.com)> wrote:  
Dear Robert,

We don't know that our client will grant an extension, but we will discuss with them. Could you please let us know the reason for the request so that we can give some context to our client?

Thanks,  
Tali

**Tali Alban**  
**Kilpatrick Townsend & Stockton LLP**  
Eighth Floor | Two Embarcadero Center | San Francisco, CA 94111  
office [415 273 8317](tel:4152738317) | fax [415 723 7287](tel:4157237287)  
[talban@kilpatricktownsend.com](mailto:talban@kilpatricktownsend.com) | [My Profile](#) | [vCard](#)

**From:** Robert Kleinman [mailto:[robert@kleinmanlawfirm.com](mailto:robert@kleinmanlawfirm.com)]  
**Sent:** Thursday, March 22, 2012 9:29 AM  
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**Cc:** Alban, Tali  
**Subject:** Girl Hunter

Dear Margaret and Tali,

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Thanks.

--

#####  
Robert B. Kleinman  
Kleinman Law Firm PLLC  
404 W. 7th Street  
Austin, Texas 78701  
Ph: [512.299.5329](tel:512.299.5329)  
F: [512.628.3390](tel:512.628.3390)

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---

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--

#####  
Robert B. Kleinman  
Kleinman Law Firm PLLC  
404 W. 7th Street  
Austin, Texas 78701  
Ph: [512.299.5329](tel:512.299.5329)  
F: [512.628.3390](tel:512.628.3390)

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**EXHIBIT I**

**Alban, Tali**

---

**From:** Robert Kleinman [robert@kleinmanlawfirm.com]  
**Sent:** Friday, March 23, 2012 11:21 AM  
**To:** Alban, Tali  
**Cc:** McHugh, Margaret; Schlette, Audrey  
**Subject:** Re: Girl Hunter  
**Filed:** -1  
**NRTID:** Inrtdms:0;!session:SFDMS;!database:Townsend;!document:64056748,1:

Dear Tali,

Thanks for the email. I have no problem with moving the discovery deadline out 30 days. And we believe our discovery responses are always full and complete.

Have a nice weekend,

Rob K.

On Fri, Mar 23, 2012 at 11:48 AM, Alban, Tali <[talban@kilpatricktownsend.com](mailto:talban@kilpatricktownsend.com)> wrote:  
Robert:

Our client has agreed to the 10 day extension, but on the condition that you assure us that the responses and production your client provides on April 2, will be full and complete. In addition, we would like your consent to push all dates, including close of discovery, out 30 days, to accommodate the delay in our ability to prepare, due to the delay in receiving adequate discovery responses from Ms. Pellegrini.

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Thank you,  
Tali

**Tali Alban**  
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---

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**Tali Alban**  
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---

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**To:** McHugh, Margaret  
**Cc:** Alban, Tali  
**Subject:** Girl Hunter

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Thanks.

--

#####

Robert B. Kleinman  
Kleinman Law Firm PLLC  
404 W. 7th Street  
Austin, Texas 78701  
Ph: [512.299.5329](tel:512.299.5329)  
F: [512.628.3390](tel:512.628.3390)

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**EXHIBIT J**

**Chou, Rosaleen**

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**From:** Alban, Tali  
**Sent:** Tuesday, April 03, 2012 9:18 PM  
**To:** 'Robert Kleinman'  
**Cc:** McHugh, Margaret; Schlette, Audrey  
**Subject:** RE: Girl Hunter

Rob,

We have not received your client's discovery responses and documents, which were due yesterday. Please let us know if we can except to receive them tomorrow.

Thanks,  
Tali

**Tali Alban**  
**Kilpatrick Townsend & Stockton LLP**  
Eighth Floor | Two Embarcadero Center | San Francisco, CA 94111  
office 415 273 8317 | fax 415 723 7287  
[talban@kilpatricktownsend.com](mailto:talban@kilpatricktownsend.com) | [My Profile](#) | [vCard](#)

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**From:** Robert Kleinman [mailto:robert@kleinmanlawfirm.com]  
**Sent:** Friday, March 23, 2012 11:21 AM  
**To:** Alban, Tali  
**Cc:** McHugh, Margaret; Schlette, Audrey  
**Subject:** Re: Girl Hunter

Dear Tali,

Thanks for the email. I have no problem with moving the discovery deadline out 30 days. And we believe our discovery responses are always full and complete.

Have a nice weekend,

Rob K.

On Fri, Mar 23, 2012 at 11:48 AM, Alban, Tali <[talban@kilpatricktownsend.com](mailto:talban@kilpatricktownsend.com)> wrote:  
Robert:

Our client has agreed to the 10 day extension, but on the condition that you assure us that the responses and production your client provides on April 2, will be full and complete. In addition, we would like your consent to push all dates, including close of discovery, out 30 days, to accommodate the delay in our ability to prepare, due to the delay in receiving adequate discovery responses from Ms. Pellegrini.

Please let us know if you consent to both of the above.

Thank you,  
Tali

**Tali Alban**  
**Kilpatrick Townsend & Stockton LLP**  
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[talban@kilpatricktownsend.com](mailto:talban@kilpatricktownsend.com) | [My Profile](#) | [vCard](#)

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**From:** Robert Kleinman [<mailto:robert@kleinmanlawfirm.com>]  
**Sent:** Thursday, March 22, 2012 11:05 AM  
**To:** Alban, Tali  
**Cc:** McHugh, Margaret; Schlette, Audrey  
**Subject:** Re: Girl Hunter

Thanks for the email Tali. If I'm not mistaken, Applicant has not opposed any of Opposer's requests for an extension.

On Thu, Mar 22, 2012 at 12:44 PM, Alban, Tali <[talban@kilpatricktownsend.com](mailto:talban@kilpatricktownsend.com)> wrote:  
Dear Robert,

We don't know that our client will grant an extension, but we will discuss with them. Could you please let us know the reason for the request so that we can give some context to our client?

Thanks,  
Tali

**Tali Alban**  
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**From:** Robert Kleinman [<mailto:robert@kleinmanlawfirm.com>]  
**Sent:** Thursday, March 22, 2012 9:29 AM  
**To:** McHugh, Margaret  
**Cc:** Alban, Tali  
**Subject:** Girl Hunter

Dear Margaret and Tali,

My client intends to amend her discovery responses as per your recent letter. However, she will not be able to do until 10 days from today. We request that you hold off on filing a motion to compel accordingly.

Thanks.

--

#####

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**EXHIBIT K**

**Chou, Rosaleen**

**From:** Robert Kleinman [robert@kleinmanlawfirm.com]  
**Sent:** Wednesday, April 04, 2012 6:30 AM  
**To:** Alban, Tali  
**Cc:** McHugh, Margaret; Schlette, Audrey  
**Subject:** Re: Girl Hunter

Tali,

We thought they were due today; not yesterday. In any event they will go out certified mail in today's post.

Thanks.

On Tue, Apr 3, 2012 at 11:17 PM, Alban, Tali <[talban@kilpatricktownsend.com](mailto:talban@kilpatricktownsend.com)> wrote:  
Rob,

We have not received your client's discovery responses and documents, which were due yesterday. Please let us know if we can except to receive them tomorrow.

Thanks,  
Tali

**Tali Alban**  
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**From:** Robert Kleinman [mailto:[robert@kleinmanlawfirm.com](mailto:robert@kleinmanlawfirm.com)]  
**Sent:** Friday, March 23, 2012 11:21 AM

**To:** Alban, Tali  
**Cc:** McHugh, Margaret; Schlette, Audrey  
**Subject:** Re: Girl Hunter

Dear Tali,

Thanks for the email. I have no problem with moving the discovery deadline out 30 days. And we believe our discovery responses are always full and complete.

Have a nice weekend,

Rob K.

On Fri, Mar 23, 2012 at 11:48 AM, Alban, Tali <[talban@kilpatricktownsend.com](mailto:talban@kilpatricktownsend.com)> wrote:  
Robert:

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Tali

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**From:** Robert Kleinman [<mailto:robert@kleinmanlawfirm.com>]  
**Sent:** Thursday, March 22, 2012 11:05 AM  
**To:** Alban, Tali  
**Cc:** McHugh, Margaret; Schlette, Audrey  
**Subject:** Re: Girl Hunter

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**Sent:** Thursday, March 22, 2012 9:29 AM  
**To:** McHugh, Margaret

**Cc:** Alban, Tali  
**Subject:** Girl Hunter

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**EXHIBIT L**

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

In the matter of Application Serial Nos. 76/702,199  
Mark: GIRL HUNTER

HUNTER BOOT LIMITED

*Opposer,*

vs.

GEORGIA PELLEGRINI  
MEDIA GROUP, LLC

*Applicant.*

Opposition Nos.: 91199529

APPLICANT'S FIRST AMENDED  
RESPONSES TO INTERROGATORIES

RECEIVED

SEP 10 10 11 33

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**APPLICANT'S FIRST AMENDED RESPONSES TO INTERROGATORIES**

Pursuant to Rule 33 of Federal Rules of Civil Procedure and Rule 2.120 of the Trademark Rules of Practice, Applicant files its responses to Hunter Boot Limited's First Set of Interrogatories.

**INTERROGATORY NO. 1:**

Identify and describe each good or service offered, or intended to be offered, by Pellegrini under Pellegrini's Mark.

May 2009 Café Press clothing sales.

**INTERROGATORY NO. 2:**

Identify and describe with specificity, including dates, Pellegrini's first use of Pellegrini's Mark, and any variation thereof, including but not limited to the mark shown below, on each good or service identified in Your response to Interrogatory No. 1.

Applicant objects as this information is publicly available and equally available to both parties. Subject to the foregoing, *see* USPTO Serial No. 76702199, application of March 23, 2010.

**INTERROGATORY NO. 3:**

Identify and describe with specificity, including dates, Pellegrini's first use in commerce of Pellegrini's Mark, and any variation thereof, including but not limited to the mark shown above, on each good or service identified in Your response to Interrogatory No. 1.

May 2009, *see* GIRL.HUNTER.000001.

**INTERROGATORY NO. 4:**

Identify all Persons with knowledge of Pellegrini's first use of Pellegrini's Mark, and any variation thereof, on each good or service identified in Your response to Interrogatory No. 1.

Applicant and Applicant's customers.

**INTERROGATORY NO. 5:**

Identify the person most knowledgeable about Pellegrini's present use or plans to use Pellegrini's Mark, and any variation thereof.

Applicant.

**INTERROGATORY NO. 6:**

Identify all facts and circumstances that support the claim, in Paragraph 10 of Pellegrini's Answer to Notice of Opposition and Counterclaim, that "the GIRL HUNTER mark/brand has received ample media coverage of a favorable nature." Please include in Your response the identity of any Persons with knowledge concerning the facts underlying this claim.

See Applicant's RFP materials. People with knowledge concerning the facts underlying the claim are the parties and named authors/journalists of the press coverage pieces. opposer is free to contact them.

**INTERROGATORY NO. 7:**

Identify all trademark applications filed by Pellegrini or on Pellegrini's behalf for any mark consisting in whole or in part of the mark GIRL HUNTER.

USPTO Serial No. 76702199, application of March 23, 2010.

**INTERROGATORY NO. 8:**

State the manner of distribution of each good offered under Pellegrini's Mark since the date of first use of Pellegrini's Mark. For goods or services not yet used or offered in commerce, state Pellegrini's intended manner of distribution of each good or service it intends to offer under Pellegrini's Mark.

The goods will be distributed to consumers in exchange for valuable consideration. These transactions will occur at retail and over the internet.

**INTERROGATORY NO. 9:**

Identify the channels of trade in which the goods or services offered or intended to be offered by Pellegrini in connection with Pellegrini's Mark travel or are intended to travel.

Applicant's goods will flow to purchasers much more sophisticated than opposer's.

**INTERROGATORY NO. 10:**

Describe in detail the pricing structure, or intended pricing structure, for each good used in commerce in connection with Pellegrini's Mark.

This information has not yet been determined.

**INTERROGATORY NO. 11:**

Identify all geographical areas in the United States, its territories and possessions (by city and/or state) in which Pellegrini has advertised, sold, distributed and/or provided goods or services under Pellegrini's Mark since the Date of first use of Pellegrini's Mark or, if Pellegrini has not yet used Pellegrini's Mark in commerce, all geographical areas in the United States, its territories and possessions (by city and/or state) in which Pellegrini intends to advertise, sell, distribute and/or provide goods or services under Pellegrini's Mark.

All areas in the United States wherein the internet is accessible.

**INTERROGATORY NO. 12:**

Identify the organizational structure of Pellegrini's business, including, but not limited to, the identity of Pellegrini's officers, directors, or managers.

Applicant is the managing member of the business; Thomas Kristian Russell is also active in the business.

**INTERROGATORY NO. 13:**

Identify any and all licenses, assignments, or other agreements regarding the use or registration of Pellegrini's Mark, including, but not limited to, the identity of all parties to the agreement and the terms of such agreement.

None that Applicant is aware of.

**INTERROGATORY NO. 14:**

State the monthly sales of each good offered under Pellegrini's Mark in unit and dollar revenue quantities for each month from the Date of first use of Pellegrini's Mark to the present.

This information has not yet been determined.

**INTERROGATORY NO. 15:**

State by month from the date of first use of Pellegrini's Mark to the present the annual amount of dollars spent on advertising or other promotion, if any, by Pellegrini for each good sold under Pellegrini's Mark or, if Pellegrini's Mark has not yet been used in commerce, the annual amount of dollars expected to be spent on advertising or other promotion, if any, by Pellegrini for each good intended to be offered under Pellegrini's Mark.

This information has not yet been determined.

**INTERROGATORY NO. 16:**

Describe all manner of advertising and intended advertising of Pellegrini's goods or services that are offered under Pellegrini's Mark in any medium, including, but not limited to, each newspaper, periodical, trade journal, radio station, television station, advertising circular, advertising sign, poster, other publications, or any other medium, including all trade shows and Internet media such as Web, email and social networking media, in which Pellegrini has advertised or intends to advertise Pellegrini's goods or services under Pellegrini's Mark, including, if applicable, the periods of time in which each piece of advertising was used.

See Applicant's RFP materials.

**INTERROGATORY NO. 17:**

Identify all labeling, packaging, displays, or other written and printed materials that have been used to display, market, and/or label each good offered under Pellegrini's Mark since the Date of first use of Pellegrini's Mark. If Pellegrini has not yet used Pellegrini's Mark in commerce, identify all labeling, packaging, displays, or other written and printed materials that Pellegrini intends to use to display, market, and/or label each good Pellegrini intends to offer under Pellegrini's Mark.

See Applicant's RFP materials.

**INTERROGATORY NO. 18:**

Identify all categories of purchasers (e.g., retailers, general public, wholesalers, individual consumers) of each category of good advertised, distributed, provided or sold or intended to be advertised, distributed, provided or sold by Pellegrini under Pellegrini's Mark.

See Applicant's RFP materials.

**INTERROGATORY NO. 19:**

Identify all studies, market research, or analyses that assess or show likely or actual customers or consumers of Pellegrini's goods or services.

None that applicant is aware of.

**INTERROGATORY NO. 20:**

State Pellegrini's reasons for, and circumstances surrounding, Pellegrini's creation, selection, adoption and use of Pellegrini's Mark.

Applicant is uniquely associated with it and has published a book under the same title.

**INTERROGATORY NO. 21:**

Identify any meaning that You intended to be conveyed by Pellegrini's Mark.

The mark is suggestive of applicant and her goods and services and applicant is an experienced hunter.

**INTERROGATORY NO. 22:**

State the reasons why You believe Pellegrini's Mark is entitled to registration as a trademark.

Applicant's mark is entitled to registration for the reasons already identified by USPTO Attorney Examiner, Amy. C. Kean, Law Office 112, U.S. Patent & Trademark Office.

**INTERROGATORY NO. 23:**

Identify and describe any searches, surveys, investigations, analyses, or studies by or on behalf of Pellegrini referring or relating to Pellegrini's Mark.

Reasonable and customary searches were performed including the USPTO and internet.

**INTERROGATORY NO. 24:**

Identify any searches, surveys, investigations, analyses, or studies conducted by Pellegrini or on Pellegrini's behalf in the United States to determine the familiarity of the public or trade, or any segment thereof, with Pellegrini's Mark and/or the likelihood of confusion between the use of Pellegrini's Mark and the use of HBL's Marks, and all Persons with knowledge thereof, including, but not limited to, the Person who conducted such survey.

See Interrogatory No. 23, and applicant.

**INTERROGATORY NO. 25:**

Identify and describe the date and manner in which Pellegrini first became aware of the goods that HBL offers under HBL's Marks.

At the time of said searches applicant was unaware of any United States presence by opposer.

**INTERROGATORY NO. 26:**

Identify any searches, surveys, investigations, analyses or studies conducted by Pellegrini or on Pellegrini's behalf of HBL, HBL's operations, or HBL's Marks, including but not limited to searches, surveys, investigations, analyses, or studies regarding the fame of HBL's Marks.

None that Applicant is aware of.

**INTERROGATORY NO. 27:**

If Pellegrini contends that HBL's Marks are not famous within the meaning of section 43(c) of the Lanham Act (15 U.S.C. § 1125(c)), identify and describe in detail the basis for such contention, including each and every fact upon which Pellegrini relies in support of the contention.

The mark(s) are not famous because, absent HBL employees and their attorneys, individuals are not familiar with them.

**INTERROGATORY NO. 28:**

State the basis for Pellegrini's claim in the Second Affirmative Defense in Pellegrini's Answer to Notice of Opposition and Counterclaim that "Opposer has constructively abandoned its claim to the word 'HUNTER' . . ." Please include in Your response the identity of any Persons with knowledge concerning the facts underlying this claim.

The referenced pleading speaks for itself.

**INTERROGATORY NO. 29:**

State the basis for Pellegrini's claim in the Second Affirmative Defense in Pellegrini's Answer to Notice of Opposition and Counterclaim that "Opposer has so diluted its own mark through its conduct, or lack of conduct, that it is now unable to seek broad protection for the word "HUNTER." Please include in Your response the identity of any Persons with knowledge concerning the facts underlying this claim.

The referenced pleading speaks for itself.

**INTERROGATORY NO. 30:**

State the basis for Pellegrini's claim in the Third Affirmative Defense in Pellegrini's Answer to Notice of Opposition and Counterclaim that Opposer is liable for "Unclean hands and/or fraud." Please include in Your response the identity of any Persons with knowledge concerning the facts underlying this claim.

The referenced pleading speaks for itself.

**INTERROGATORY NO. 31:**

State the basis for Pellegrini's claim in the Counterclaim in Pellegrini's Answer to Notice of Opposition and Counterclaim that HBL's Registration No. 3,876,340 "should be canceled." Please include in Your response the identity of any Persons with knowledge concerning the facts underlying this claim.

The referenced pleading speaks for itself.

**INTERROGATORY NO. 32:**

If You deny that the goods and services identified in the Application are related to the goods identified in HBL's Registrations, state the grounds and all facts known to You in support of such denial.

Applicant's goods are not identified with HBL goods because they are wholly distinctive and identified solely with applicant. As mentioned earlier, they are also in different channels of trade.

**INTERROGATORY NO. 33:**

Identify all Persons whom Pellegrini has contacted regarding this opposition proceeding for expert opinions, advice, reports, studies, facts, information, or the like, including but not limited to the general nature of his or her expertise, if any, and the result of such contact.

None that Applicant is aware of.

(opposer omitted Interrogatory No. 34)

**INTERROGATORY NO. 35:**

Identify each person whom Pellegrini expects to call as a witness in this proceeding, whether as an expert witness or otherwise, and state for each person his/her background and qualifications (if applicable), the subject matter upon which he/she is expected to testify, the substance of the facts and opinions to which he/she is expected to testify, and the grounds for each opinion that he/she is expected to give.

**INTERROGATORY NO. 36:**

Identify each and every Person, other than counsel, who was consulted or who furnished information in connection with the response to each interrogatory.



**EXHIBIT M**



Custom Design & More Sell T-Shirts Community Blog Your Account Sign Out your help Help Cart 0 items

### Sales Reports

Order Product Quantity Transaction Summary Custom Date Range: 7/1/2009 to 8/1/2009

PLEASE NOTE: CafePress will periodically conduct product pricing tests in the retail marketplace. You may see prices for the same product vary over time. Additionally, the Sell Price column has been added to the Order Report to display Marketplace sales commissions and a % of the Sell Price. NOTE: Sell Price has been added as a new column to the Order Report and the Total is the sum of the new Sell Price column.

Order #	Product	Quantity	Transaction	Summary	Custom Date Range
7628009	7/3/2009	1	CA US	CA US	1
7628009	7/3/2009	1	CA US	CA US	1
5227009	7/22/2009	1	CA US	CA US	1
5155009	5/19/2009	1	CA US	CA US	1
5155009	5/15/2009	1	CA US	CA US	1
<b>Totals:</b>					<b>5</b>

3 Orders \$135.95

