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

Proceeding	91201218
Party	Plaintiff Redbox Automated Retail, LLC
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Filer's Name	James P. Muraff
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Signature	/James P. Muraff/
Date	05/22/2012
Attachments	MotiontoCompelDiscovery.pdf (77 pages)(4542910 bytes)

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

REDBOX AUTOMATED RETAIL, LLC Opposer, v. STANLEY LEE BARNES d/b/a RED BOX TICKETS USA, LLC Applicant.	))))))))))	Opposition No. 91201218 Serial No. 85/135,579 Mark: RED BOX TICKETS USA, LLC

MOTION TO COMPEL DISCOVERY

Pursuant to Federal Rule of Civil Procedure 37(a)(3)(b) and 37 C.F.R. §2.120, Opposer, Redbox Automated Retail, LLC, by its attorneys, hereby respectfully requests that the Board enter an order compelling Applicant, Stanley Lee Barnes d/b/a Red Box Tickets USA, LLC, to respond fully and without objection to Opposer's first set of discovery requests within ten (10) days and subsequently grant Opposer a subsequent sixty (60) day period to review the responses, supplement its requests, and conduct follow-up discovery as necessary.

Opposer has been forced to file the instant motion as a result of Applicant's failure to comply with the rules of procedure, to meet its discovery obligations, or otherwise respond to Opposer's attempts to confer with Applicant regarding discovery in these proceedings. More specifically, Applicant, who has chosen to represent himself in this matter, has served deficient written responses to Opposer's First Set of Interrogatories (the "Interrogatories") and First Requests for Production of Documents to Applicant (the "Document Requests"), and has been unresponsive to Opposer's counsel's attempt to contact Applicant regarding Applicant's outstanding discovery obligations.

Opposer served its First Requests for Interrogatories and First Requests for the Production of Documents via First Class U.S. Mail and e-mail on March 12, 2012. *See* Exhibits A and B, respectively. Applicant served its responses to the Interrogatories and Document Requests by email on April 11, 2012. *See* Exhibit C. To date, Applicant has not served its Rule 26(a)(1) disclosures, which were due on or

before March 12, 2012. On April 30, 2012, Applicant and counsel for Opposer held a phone conference, during which Opposer raised its concerns regarding the deficiencies of Applicant's responses and requested that Applicant provide supplemental responses that meet the standards set forth by the Board's rules of procedure as well as Applicant's Rule 26(a)(1) disclosures. However, during the April 30, 2012 phone conference, Applicant informed Opposer that he does not intend to provide any additional responses or information pursuant to Opposer's requests.

On May 9, 2012 Opposer wrote to Applicant attempting again to discuss Applicant's outstanding discovery obligations, and reiterating Opposer's desire to resolve this matter. Opposer also informed Applicant that it would be forced to seek Board intervention if it did not receive a response from Applicant by May 18, 2012. *See* Exhibit D. To date, Opposer still has not received a response to its May 9, 2012 letter, supplemental responses to its Interrogatories and Document Requests, and Applicant's Rule 26(a)(1) disclosures.

Rule 37(a)(3)(B) of the Federal Rules of Civil Procedure entitles a party seeking discovery to move for an order compelling an answer or document production if a party fails to answer an interrogatory under Rule 33 or if a party fails to respond to a request for documents under Rule 34 of the Federal Rules of Civil Procedure. *See also* TBMP § 523 and 37 C.F.R. §2.120(e). Opposer, through its attorneys, has made a good faith effort through correspondence and a phone conference to resolve with Applicant the need for Applicant to respond to the Interrogatories and the Documents Requests without Board involvement, but has been unable to do so due to Applicant's refusal to respond to Opposer's counsel's May 9, 2012 correspondence. Discovery in this proceeding is scheduled to close on August 9, 2012 and to date Applicant has not cured the deficiencies in its discovery responses. Therefore, Opposer has been forced to file this motion to compel.

Applicant's Objections and Deficiencies in its Responses to Opposer's Interrogatories

For nearly all of Applicant's answers to the Interrogatories, instead of providing responsive information, Applicant has included what appear to be sections from the TTAB Manual of Procedure, and

asserted objections that are without merit. In particular, Applicant's responses to the following Interrogatory requests are deficient for the reasons set forth below:

> **INTERROGATORY NO. 2.** Identify each instance in which Applicant has used Applicant's Mark, specifying in what geographic areas, by address, city and state.

Applicant has objected that "Applicant's business is worldwide in scope and complete compliance with this request for discovery is unduly burdensome." This objection is without merit. The interrogatory does not request "worldwide" information. In addition, to the extent Applicant also objects on the basis that customer names are confidential, this objection is also inappropriate because the interrogatory does not ask for customer names. Finally, Applicant's response states that the answer may be found "by reading Interrogatory No. 1." This is also insufficient because Applicant's answer to Interrogatory No. 1 does not contain any cities or states, let alone addresses, identifying where Applicant's Mark has been used. Moreover, even if Applicant considers this information confidential, the Protective Order in place in this Proceeding allows for the discovery of confidential information.

> **INTERROGATORY NO. 3**: Identify each person who has knowledge of (1) the circumstances of Applicant's selection and adoption of Applicant's Mark and (2) how it has been used, is being used, and is intended to be used in the future. To the extent this interrogatory identifies more than ten (10) persons, limit the response to only those persons who possess the most or best knowledge.

This interrogatory asks specifically for the names of individuals who have knowledge surrounding the selection and circumstances of use of Applicant's Mark, and further limits the response to no more than 10 names. Thus, Applicant's objection that "Applicant's business is worldwide in scope and complete compliance with this request for discovery is unduly burdensome" is without merit. In addition, to the extent the response objects on the basis that customer names are confidential, this objection is also inappropriate because the interrogatory does not ask for customer names. In addition, Applicant's response that the answer may be found by reference to the answer to Interrogatories Nos. 1 and 2 is insufficient and not responsive. Finally, to the extent Applicant considers this information confidential, the Protective Order in place again allows for the discovery of confidential information.

INTERROGATORY NO. 4: State whether Applicant's Mark has been used on or in connection with any goods or services in interstate commerce. If it has been so used, identify the use and the date of such use.

Again, Applicant objects that "Applicant's business is worldwide in scope and complete compliance with this request for discovery is unduly burdensome." However, this Interrogatory merely asks for a date and a statement as to whether Applicant's mark is used. Thus, Applicant's objection is not warranted. Also, to the extent this response objects on the basis that customer names are confidential, this objection is also inappropriate because the interrogatory does not ask for customer names. Finally, the statement that the answer may be found by reference to the answers to Interrogatories Nos. 1-3 is insufficient. The answers to Interrogatories 2 and 3 do not contain any facts at all. Applicant's answer to Interrogatory No. 1 may describe generally what Applicant's business does; however, it does not state with any particularity whether or how Applicant's trademark has been used, or any dates of use. To the extent Applicant considers this information confidential, the Protective Order in place allows for the discovery of confidential information, and therefore, Applicant must provide an answer accordingly.

INTERROGATORY NO. 5: Describe in detail all goods and services that are offered by Applicant in conjunction with Applicant's Mark identifying the dates on which Applicant first began such use(s) and the geographic areas in which such use occurred, if applicable.

As with the previous responses, Applicant objected that "Applicant's business is worldwide in scope and complete compliance with this request for discovery is unduly burdensome." This objection is not warranted. In addition, to the extent Applicant objects on the basis that customer names are confidential, this objection is also inappropriate because the interrogatory does not ask for customer names. Applicant's response appears to state that September 15, 2010 is the date of first use and refers back to Interrogatory No. 1. However, as stated above, Applicant's answer to Interrogatory No. 1 may describe generally what Applicant's business does, but does not state with any particularity whether or how Applicant's trademark has been used. To the extent Applicant considers this information confidential, the Protective Order in place allows for the discovery of confidential information.

INTERROGATORY NO. 6: State the annual sales and/or gross revenues in U.S. dollars of Applicant's goods and services offered in connection with Applicant's Mark from the date of first

use of Applicant's Mark, including a breakdown of the geographic areas and specific locations of where such gross revenue was generated from, identifying the amounts from each location.

In response, Applicant stated that it would "strike this line of questioning." However, annual sales figures for a party's goods or services sold under its involved mark, as well as information relating to the areas of distribution for a party's involved goods or services are proper matters for discovery. *See* TBMP § 414. Applicant further responded with a baseless allegation that Opposer's counsel acted in an unethical manner in a phone conversation. This response is neither accurate nor a valid objection to the interrogatory. Similarly, Applicant objected that this request is unduly burdensome because "Opposer has enough public information to meet [its] discovery needs." This objection is also improper; this information is not public, nor has Applicant provided it to Opposer. Finally, as before, Applicant's objection that the information seeks the names of customers does not apply here.

INTERROGATORY NO. 7: Describe in detail the manner in which Applicant's Mark is promoted in the United States including, but not limited to, forms of media, advertising, sponsorships and, further identify the geographic regions in which said efforts are conducted.

Applicant's response fails to provide any of the requested information. Rather, Applicant simply objects that "Red Box Tickets USA, LLC has signed nondisclosures statement with its clients and third party vendors in which each party has refused to give RED BOX TICKETS USA, LLC each party's permission to disclose the data to any third party." This objection does not apply here because this request does not seek confidential information. Moreover, even if the information were considered confidential, the Protective Order in place allows for the disclosure of the requested information. Further, Applicant objects that this request is unduly burdensome because "Opposer has enough public information to meet [its] discovery needs." This objection is also improper; this information is not public, nor has Applicant provided it to Opposer.

INTERROGATORY NO. 8: For each marketing medium identified in the preceding interrogatory, state the annual expenditure for each medium including Applicant's Mark since inception of each said advertisement and/or marketing campaign.

In response, Applicant objects that "the names of customers (including dealers) constitute confidential information, and generally are not discoverable protective order. Compliance with this

request for discovery is unduly burdensome; the Opposer has enough sufficient information to meet the propounding party's discovery needs. Red Box Tickets USA, LLC has signed non disclosures with all of its third party vendors and each vendor refuses to disclose data. Note answer to INTERROGATORY NO. 7." First, advertising figures for goods and services sold in connection with Applicant's mark are proper matters for discovery. *TBMP* § 414. In addition, if Applicant considers this information confidential, the Protective Order in place allows for the discovery of confidential information. Thus, Applicant's objection that Red Box Tickets USA, LLC has signed non-disclosure agreements with its clients and third party vendors does not provide a proper basis to refuse to answer this interrogatory. Moreover, Applicant's objection that this request is unduly burdensome because "Opposer has enough sufficient information to meet [its] discovery needs" is also improper; Applicant has not provided any such information to Opposer. Finally, as before, Applicant's objection based on the names of customers does not apply here.

> **INTERROGATORY NO. 9**: Identify the person or persons who have been responsible for the marketing or promotion of Applicant's goods and services under Applicant's Mark, indicating the period during which each person was so responsible. To the extent this interrogatory identifies more than ten (1) persons, limit the response to only those persons who possess the most knowledge.

This interrogatory asks specifically for the names of individuals who have been responsible for marketing and promotion of goods and services in connection with Applicant's trademark, including the timeframe for when each individual was so responsible. It limits the response to no more than 10 names. Applicant failed to provide any names, either directly or by its reference to its answers to Interrogatories Nos. 7 and 8. Applicant also objected that this request is unduly burdensome because "Opposer has enough sufficient information to meet [its] discovery needs" is improper; Applicant, however, has not provided any such information to Opposer, nor is the provision of 10 names unreasonable. Further, Applicant objected that Red Box Tickets USA, LLC has signed non-disclosure agreements with its third party vendors. Again, this objection does not provide a proper basis to refuse to answer this interrogatory. To the extent Applicant considers this information confidential, the Protective Order in place allows for

the discovery of confidential information. And, once again, Applicant's objection based on the names of customers does not apply here.

> **INTERROGATORY NO. 10**: Identify all advertising agencies or third parties that have participated, cooperated or been involved in creating, producing or designing any advertising, marketing or promotion for the goods/services identified in response to Interrogatory No. 8, and indicate the time period(s) during which each third party was so involved.

Applicant again responded "The Classes of Customers for party's involved goods or services are discoverable. In contrast, the names of customers (including dealers) constitute confidential information, and generally are not discoverable protective order. Compliance with this request for discovery is unduly burdensome; the Opposer has enough sufficient information to meet the propounding party's discovery needs. Red Box Tickets USA, LLC has signed non disclosures with all of its third party vendors and each vendor refuses to disclose data. Note INTERROGATORY 7, 8, 9 answers." However, as an initial matter, the "identity of any advertising agency engaged by a party to advertise and promote the parties involved goods or services under its involved mark is discoverable, as is the identity of the advertising agency employees having the most knowledge of such advertising and promotion." TBMP § 414. Thus, this request is proper and is not precluded by the fact that Applicant may have signed non-disclosure agreements. To the extent Applicant considers this information confidential, the Protective Order in place allows for the discovery of confidential information. Further, Applicant's objection that this request is unduly burdensome because "Opposer has enough sufficient information to meet [its] discovery needs" is improper; Applicant again has not provided any such information to Opposer previously, nor has it included such information in its answers to Interrogatories Nos. 7-9. Finally, as before, Applicant's objection based on the names of customers does not apply here.

> **INTERROGATORY NO. 11**: Describe in detail the channels of distribution by which the goods and/or services offered or intended to be offered in connection with Applicant's Mark reach the ultimate user or consumer.

Applicant's response appears to identify "gas stations," "general stores" and "kiosks" as channels of distribution. It is unclear, however, from the remainder of Applicant's answer if this list is complete, or if there are additional distribution channels. In particular, Applicant states that "Red Box Tickets USA,

LLC offers pre paid membership discounted service and nonprofit organization fund supports. Red Box Tickets USA, LLC provides amnesty programs and we are a referral service, ticket consolidation operation providing fundraiser services. Red Box Tickets USA, LLC services the United States as well as international clients. We have an automatic payment system Kiosk." Accordingly, Opposer respectfully requests that the Board issue an order compelling Applicant to confirm if its answer is limited to "gas stations," "general stores" and "kiosks," and if it is not, supplement the answer accordingly.

> **INTERROGATORY NO. 12**: Identify and describe any and all trademark searches, investigations, polls, studies, evaluations, analysis, tests, ratings, or surveys relating to Applicant's Mark, and any and all legal opinions relating to Opposer and Opposer's "REDBOX" marks.

Applicant's answer states that Applicant "filed and researched the application trademark through the United States Patent and Trademark Office online filing system." However, Opposer has requested that Applicant confirm if its answer is limited to this statement, and if it is not, to please supplement its response with the identification of any additional searches, investigations, studies, etc., as set forth in the interrogatory that pertain to either Applicant's mark or Opposer or Opposer's REDBOX mark. Applicant has failed to do so.

> **INTERROGATORY NO. 14:** Describe in detail Applicant's reason for filing the Application.

Applicant's answer merely contained some general statements about its business. However, to sufficiently respond, Opposer asks that Applicant describe its *reason* for filing the trademark application.

> **INTERROGATORY NO. 15**: Identify the location of each of Applicant's kiosks bearing Applicant's Mark and for each identify the name of the retailer or entity that owns or controls the property at which the kiosk is featured.

Both the "locations of those places of business where a party conducts its involved services, under its involved mark" as well as "information relating to the areas of distribution for a party's involved goods or services sold under its involved mark" are discoverable pursuant to TBMP § 414. Applicant, however, objects that this request is unduly burdensome because "Opposer has enough sufficient information to meet [its] discovery needs." Again this objection is improper; Applicant has not provided any such information to Opposer. Second, Applicant's apparent objection that it cannot disclose the

names of customers does not apply. Even if it did, and Applicant considered such information confidential, the Protective Order in place allows for the discovery of confidential information. Similarly, Applicant's objection based on purported non-disclosure agreements in place with third parties does not preclude Applicant from providing this relevant information. Again, even if it were to apply, the Protective Order allows for the production of this information.

> **INTERROGATORY NO. 16**: Identify the date Applicant's first kiosk was installed and the address where it was installed.

Applicant's response that "Applicant's first kiosk was a mobile kiosk transported from location to location" is insufficient. It does not include a date, nor does it include an address. It does not even include a city and state, at a minimum. Moreover, Applicant raised numerous unfounded objections. Applicant's objection that this request is unduly burdensome because "Opposer has enough sufficient information to meet [its] discovery needs" is improper; Applicant has not provided any such information to Opposer. Applicant's objection that it may not disclose the names of customers and that non-disclosure agreements with vendors are in place again do not apply because the request does not seek customer information or confidential information. To the extent responsive information is confidential, the Protective Order in place allows for the discovery of confidential information.

> **INTERROGATORY NO. 18**: Identify the third party vendor, manufacturer or supplier that Applicant purchased its kiosks from.

Applicant objected that it may not disclose the names of customers. However, this interrogatory is directed toward the manufacture of goods and services sold under the trademark at issue, which is appropriate for discovery, and is not a request for the identity of customers. Thus, Applicant's objection does not apply here. However, even if Applicant considered the information in its answer confidential, the Protective Order in place allows for the production of confidential information.

> **INTERROGATORY NO. 19**: Identify the third party vendor, manufacturer or supplier that Applicant hired to transport and install its kiosks.

This interrogatory is directed toward the manner and areas of distribution of Applicant's goods and services sold under the trademark at issue. Thus, it is appropriate for discovery. Applicant, however,

again objected because it is purportedly unable to disclose the names of customers. This objection does not seek the name of its customers and is therefore, inapplicable. However, even if Applicant considered the information in its response confidential, the Protective Order in place allows for the production of confidential information.

> **INTERROGATORY NO. 21**: Identify all activities evidencing Applicant's alleged use of Applicant's Mark in commerce in connection with the goods identified in the Application at least as early as September 15, 2010.

This interrogatory merely asks for information regarding the use of Applicant's mark in commerce in connection with the goods identified in its application from a specific date less than 2 years ago. Thus, Applicant's objection that this request is unduly burdensome because "Opposer has enough sufficient information to meet [its] discovery needs" is inappropriate. Further, this interrogatory does not ask for customer names; therefore, Applicant's objection on this ground also does not apply.

> **INTERROGATORY NO. 22**: Identify any third parties Applicant has contacted regarding a possible revenue share agreement in connection with or relating to Applicant's business activities.

This interrogatory seeks information relating to the promotion of and sales of goods and services used in connection with Applicant's trademark. Thus, Applicant's objection to "strike this line of questioning" is improper. Moreover, Applicant makes a baseless allegation that Opposer's counsel acted in an unethical manner in a phone conversation. This allegation is neither accurate nor a valid objection to the interrogatory. Similarly, Applicant's objection that this request is unduly burdensome because "Opposer has enough sufficient information to meet [its] discovery needs" is also improper; Applicant has not provided such information to Opposer. And, as before, Applicant's objection based on the names of customers does not apply here. Finally, Applicant's objection based on the existence of non-disclosure agreements does not preclude Applicant from producing confidential information, in light of the Protective Order in place in this proceeding.

> **INTERROGATORY NO. 23**: Identify all third parties that Applicant has contacted regarding the sale or offering of advertising or marketing in connection with Applicant's kiosks.

Applicant responded to this interrogatory by stating that the answer may be found in the answer to interrogatories Nos. 7-10. However, this response is insufficient. These responses contain only

objections and do not have any factual information. Moreover, Applicant's objections to this interrogatory are inappropriate. As before, Applicant has not provided any information to Opposer regarding the distribution of goods or services used in connection with its mark. Thus, the objection that this request is unduly burdensome because "Opposer has enough sufficient information to meet [its] discovery needs" is improper. Further, the fact that Applicant may have signed non-disclosure agreements does not allow Applicant to withhold information. To the extent this information is confidential, the Protective Order in place allows for the discovery of confidential information. Finally, this interrogatory is directed toward the manner and areas of distribution of Applicant's goods and services sold under the trademark at issue. Thus, it is appropriate for discovery and should be answered.

> **INTERROGATORY NO. 24**: Identify all entities that currently advertise on or in connection with Applicant's kiosks and for each identify the revenue arrangement.

Applicant, in response, asserts that it "strikes and objects to" this line of questioning. However, this interrogatory is directed toward the promotion of goods and services used in connection with Applicant's mark, and therefore, is appropriate for discovery. Moreover, Applicant again makes a baseless allegation that Opposer's counsel acted in an unethical manner in a phone conversation. This is neither accurate nor a valid objection to the interrogatory. Further, Applicant's objection that this request is unduly burdensome because "Opposer has enough sufficient information to meet [its] discovery needs" is also improper; Applicant has not provided such information to Opposer. Finally, the fact that Applicant may have signed non-disclosure agreements with third party vendors does not allow it to withhold information. To the extent Applicant considers this information confidential, the Protective Order in place allows for the discovery of confidential information.

Applicant's Objections and Deficiencies in its Responses to Opposer's Document Requests

Additionally, Applicant's Responses to Opposer's First Requests for the Production of Documents and Things ("RFPs") are wholly unresponsive. Instead of providing Opposer with responsive documents, Applicant alleged that "Opposer has enough sufficient information to answer each request from 1-26." This is neither responsive nor adequate. Applicant is obligated to perform the requisite

search and either produce any responsive documents or confirm that no such documents exist with respect to each request. If Applicant has an objection, Applicant must state a legitimate basis for its objection. A blanket statement that all of the requests are "unduly burdensome and the Opposer already has sufficient information" is not accurate nor is it a legitimate basis for its objection.

Applicant also made a general objection regarding privileged documents. However, if Applicant is withholding from production any documents based on the work-product doctrine or attorney/client privilege, it may not simply make a general statement that documents are privileged. Opposer respectfully asks that the Board order Applicant to provide a list of the documents withheld, together with the following information: (i) the date of the document; (ii) the names of the authors and addresses of the document; (iii) the names of each person who received a copy of the document; (iv) a brief description of the document; and (v) a statement of the basis for the claim of privilege. Moreover, the identification of discovery documents, as opposed to their substance, is neither privileged nor confidential. TBMP § 414. Thus, while the substance of requested documents may in some circumstances be privileged or confidential, Applicant should identify the documents themselves that are responsive to the discovery request.

WHEREFORE, for the foregoing reasons, Opposer respectfully requests that the Board enter an Order compelling Applicant to respond in full to Opposer's discovery requests without objection within 10 days of the entry of such Order, granting Opposer 60 days to review Applicant's responses, supplement its requests, and to conduct follow-up discovery, as necessary, and granting such other relief as the Board deems appropriate.

Dated: May 22, 2012

By: /James P. Muraff/
One of Opposer's Attorneys

James P. Muraff
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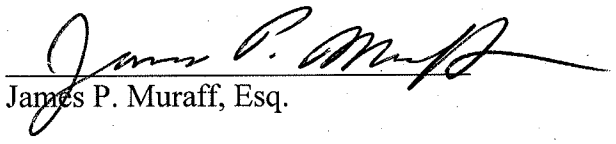
CERTIFICATE OF SERVICE

I, James P. Muraff, state that I served a copy of the foregoing ***Motion to Compel*** upon the following party:

Stanley Lee Barnes
d/b/a Red Box Tickets USA, LLC
3127 St. Vincent
St. Louis, Missouri 63104

via First Class U.S. Mail and email to redboxticketsusa@gmail.com on May 22, 2012.



James P. Muraff, Esq.

NGEDOCS: 1969886.2

EXHIBIT A

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

REDBOX AUTOMATED RETAIL, LLC	)	
	)	
Opposer,	)	Opposition No. 91201218
	)	
v.	)	
	)	Serial No. 85/135,579
STANLEY LEE BARNES	)	
d/b/a RED BOX TICKETS USA, LLC	)	
	)	Mark: RED BOX TICKETS USA, LLC
Applicant.	)	

OPPOSER'S FIRST SET OF INTERROGATORIES TO APPLICANT

Pursuant to 37 C.F.R. §2.120 and Rule 33 of the Federal Rules of Civil Procedure, Opposer, Redbox Automated Retail, LLC, hereby requests that Applicant, Stanley Lee Barnes, d/b/a Red Box Tickets USA, LLC, answer the following interrogatories fully and separately in writing under oath. Answers to these interrogatories must be served within thirty (30) days. The following definitions and instructions are applicable:

DEFINITIONS

A. The term "Applicant" shall mean Stanley Lee Barnes, d/b/a Red Box Tickets USA, LLC and his predecessors, representatives, agents, employees and other persons acting on his behalf or on behalf of his predecessors.

B. The term "Opposer" shall mean Redbox Automated Retail, LLC and its predecessors, agents, employees and other persons acting on its behalf or on behalf of its predecessors.

C. The term "trademark" or "mark" includes trademarks, service marks, collective marks, certification marks and trade names as defined in 15 U.S.C. § 1127.

D. The term "you" shall mean the party or person to whom these interrogatories are propounded, all agents, employees, servants, attorneys, and all other representatives, and persons

over whom the person or party to whom these interrogatories are propounded has the right to or does control or direct.

E. The term "Applicant's Mark" refers the mark RED BOX TICKETS USA, LLC.

F. The term "the Application" refers to U.S. Application Serial No. 85/135,579 for the mark RED BOX TICKETS USA, LLC.

G. "Identify" with respect to:

(i) a person (as defined in Paragraph I of these instructions, below) means to give, to the extent known, the person's full name, present or last known address, organizational structure (*i.e.,* corporation, partnership, etc.) and when referring to a natural person, additionally, the present or last known place of employment, and the association with Applicant;

(ii) a document, means to give, to the extent known, the (i) type of document; (ii) general subject matter; (iii) date of the document; (iv) present or last known location of the document or the identity of the individual who has custody of the document; and (v) author(s), addressee(s) and recipient(s); and

(iii) in the case of an oral or other communication means to identify the circumstances of the communication sufficiently to permit future identification, specification and discovery of the communication.

H. The words "Document" and "Documents" are defined to be synonymous in meaning and equal in scope to the usage of this term in Federal Rule of Civil Procedure 34(a), including, without limitation, written, printed, electronic or computerized data compilations

including emails. A draft of non-identical copy is a separate document within the meaning of this term.

I. "Person" is defined as any natural person or any business, legal or governmental entity or association.

J. The word "thing" or "things" refers to any tangible object, other than a document, and includes objects of every kind and nature, including, but not limited to, prototypes, models, and specimens.

K. The singular shall include the plural and the plural shall include the singular.

L. The word "advertisement" shall mean any printed or promotional materials including, but not limited to, flyers, brochures, story boards, newspaper items, scripts and audiotapes of radio advertising, scripts and videotapes of television advertising and other printed materials, printed, distributed or aired to the public or trade.

INSTRUCTIONS

A. If you cannot answer any interrogatory fully, completely, and in detail, after exercising due diligence to make inquiry and secure the information necessary, so state, and (1) answer such interrogatory to the extent possible; (2) specify the portion of such interrogatory that you are unable to answer fully, completely, and in detail; and (3) state the reason why such portion cannot be so answered. If your response is qualified in any particular respect, set forth the details of such qualification.

B. If you withhold any information under a claim of privilege, state the nature of the privilege claimed and provide sufficient information to permit a full determination of whether the claim is valid. For allegedly privileged documents, include an identification of the sender and the recipients of the document; the date of the document; a description of the contents or

nature of the document; the number of the discovery request or interrogatory to which the document is responsive; and an explanation of the basis for the asserted claim of privilege.

C. If, pursuant to Rule 33(d) of the Federal Rules of Civil Procedure, you opt to produce documents in lieu of a written response to an interrogatory, indicate for each document provided the number of the interrogatory to which it is responsive and the production number(s) of the documents identified for each response.

D. Discovery requests are continuous in nature and, pursuant to Rule 26(e) of the Federal Rules of Civil Procedure, you are under a duty to seasonably amend any prior response to an interrogatory if you learn that the response is in some material respect incomplete or incorrect, or if you are so ordered by the Court.

INTERROGATORIES

INTERROGATORY NO. 1: Describe in detail the nature of each business or business activity conducted by Applicant.

INTERROGATORY NO 2. Identify each instance in which Applicant has used Applicant's Mark, specifying in what geographic areas, by address, city and state.

INTERROGATORY NO. 3: Identify each person who has knowledge of (1) the circumstances of Applicant's selection and adoption of Applicant's Mark and (2) how it has been used, is being used, and is intended to be used in the future. To the extent this interrogatory identifies more than ten (10) persons, limit the response to only those persons who possess the most or best knowledge.

INTERROGATORY NO. 4: State whether Applicant's Mark has been used on or in connection with any goods or services in interstate commerce. If it has been so used, identify the use and the date of such use.

INTERROGATORY NO. 5: Describe in detail all goods and services that are offered by Applicant in conjunction with Applicant's Mark identifying the dates on which Applicant first began such use(s) and the geographic areas in which such use occurred, if applicable.

INTERROGATORY NO. 6: State the annual sales and/or gross revenues in U.S. dollars of Applicant's goods and services offered in connection with Applicant's Mark from the date of first use of Applicant's Mark, including a breakdown of the geographic areas and specific locations of where such gross revenue was generated from, identifying the amounts from each location.

INTERROGATORY NO. 7: Describe in detail the manner in which Applicant's Mark is promoted in the United States including, but not limited to, forms of media, advertising, sponsorships and, further identify the geographic regions in which said efforts are conducted.

INTERROGATORY NO. 8: For each marketing medium identified in the preceding interrogatory, state the annual expenditure for each medium including Applicant's Mark since inception of each said advertisement and/or marketing campaign.

INTERROGATORY NO. 9: Identify the person or persons who have been responsible for the marketing or promotion of Applicant's goods and services under Applicant's Mark indicating the period during which each person was so responsible. To the extent this interrogatory identifies more than ten (10) persons, limit the response to only those persons who possess the most knowledge.

INTERROGATORY NO. 10: Identify all advertising agencies or third parties that have participated, cooperated or been involved in creating, producing or designing any advertising, marketing or promotion for the goods/services identified in response to Interrogatory No. 8, and indicate the time period(s) during which each third party was so involved.

INTERROGATORY NO. 11: Describe in detail the channels of distribution by which the goods and/or services offered or intended to be offered in connection with Applicant's Mark reach the ultimate user or consumer.

INTERROGATORY NO. 12: Identify and describe any and all trademark searches, investigations, polls, studies, evaluations, analysis, tests, ratings, or surveys relating to Applicant's Mark, and any and all legal opinions relating to Opposer and Opposer's "REDBOX" marks.

INTERROGATORY NO. 13: State whether Applicant was aware of and had knowledge of Opposer, Opposer's business activities, and Opposer's "REDBOX" marks, prior to Applicant's selection or adoption of Applicant's Mark.

INTERROGATORY NO. 14: Describe in detail Applicant's reason for filing the Application.

INTERROGATORY NO. 15: Identify the location of each of Applicant's kiosks bearing Applicant's Mark and for each identify the name of the retailer or entity that owns or controls the property at which the kiosk is featured.

INTERROGATORY NO. 16: Identify the date Applicant's first kiosk was installed and the address where it was installed.

INTERROGATORY NO. 17: Identify any actual consumers of Applicant's products and services offered or sold in connection with Applicant's Mark.

INTERROGATORY NO. 18: Identify the third party vendor, manufacturer or supplier that Applicant purchased its kiosks from.

INTERROGATORY NO. 19: Identify the third party vendor, manufacturer or supplier that Applicant hired to transport and install its kiosks.

INTERROGATORY NO. 20: Identify all terms other than "RED BOX TICKETS USA, LLC" that were proposed or considered for use by Applicant at anytime in connection with the same goods or services identified in the Application.

INTERROGATORY NO. 21: Identify all activities evidencing Applicant's alleged use of Applicant's Mark in commerce in connection the goods identified in the Application at least as early as September 15, 2010.

INTERROGATORY NO. 22: Identify any third parties Applicant has contacted regarding a possible revenue share agreement in connection with or relating to Applicant's business activities.

INTERROGATORY NO. 23: Identify all third parties that Applicant has contacted regarding the sale or offering of advertising or marketing in connection with Applicant's kiosks.

INTERROGATORY NO. 24: Identify all entities that currently advertise on or in connection with Applicant's kiosks and for each identify the revenue arrangement.

Dated: March 12, 2012

By: _____
One of the Attorneys for Opposer,
Redbox Automated Retail, LLC

James P. Muraff
Kathleen E. Blouin
NEAL, GERBER & EISENBERG LLP
Two North LaSalle Street
Suite 2200
Chicago, IL 60602-3801
(312) 269-8000

CERTIFICATE OF SERVICE

I, James P. Muraff, state that I served a copy of the foregoing ***Opposer's First Set of Interrogatories to Applicant*** upon the following party:

Stanley Lee Barnes
d/b/a Red Box Tickets USA, LLC
3127 St. Vincent
St. Louis, Missouri 63104

via First Class U.S. Mail and email to redboxticketsusa@gmail.com on March 12, 2012.

James P. Muraff, Esq.

NGEDOCS: 1877156.2

EXHIBIT B

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

REDBOX AUTOMATED RETAIL, LLC Opposer, v. STANLEY LEE BARNES d/b/a RED BOX TICKETS USA, LLC Applicant.	))))))))))	Opposition No. 91201218 Serial No. 85/135,579 Mark: RED BOX TICKETS USA, LLC

OPPOSER'S FIRST REQUESTS FOR
PRODUCTION OF DOCUMENTS AND THINGS TO APPLICANT

Opposer, Redbox Automated Retail, LLC, by and through its attorneys, and pursuant to 37 CFR §2.120 and Federal Rule of Civil Procedure 34, hereby requests that Applicant, Stanley Lee Barnes d/b/a Red Box Tickets USA, LLC, produce the documents and things described below at the offices of Neal, Gerber & Eisenberg, LLP, Two North LaSalle Street, Suite 2200, Chicago, Illinois 60602, or at such other place mutually-agreed upon by the parties, within the applicable time permitted by TBMP § 406 and Federal Rule of Civil Procedure 34.

DEFINITIONS

A. The term "Applicant" shall mean Stanley Lee Barnes d/b/a Red Box Tickets USA, LLC, and his predecessors, agents, employees, representatives and other persons acting on his behalf or on behalf of his predecessors.

B. The term "Opposer" shall mean Redbox Automated Retail, LLC and its predecessors, agents, employees and other persons acting on its behalf or on behalf of its predecessors.

C. The words "document" and "documents" are defined to be synonymous in meaning and equal in scope to the usage of this term in Federal Rule of Civil Procedure 34(a),

including, without limitation, written, printed, electronic or computerized data compilations, including emails. A draft of non-identical copy is a separate document within the meaning of this term.

D. The term "Person" is defined as any natural person or any business, legal or governmental entity or association.

E. The term "concerning" means relating to, referring to, describing, evidencing or constituting.

F. The term "trademark" or "mark" includes trademarks, service marks, collective marks, certification marks and trade names as defined in 15 U.S.C. § 1127.

G. To "Identify" with respect to a Person (as defined in Paragraph D of these instructions, above) means to show, to the extent known, the person's full name, present or last known address, organizational structure (*i.e.,* corporation, partnership, etc.) and when referring to a natural person, additionally, the present or last known place of employment, and the association with Applicant;

H. The term "Applicant's Mark" refers to the mark RED BOX TICKETS USA, LLC.

I. The term "the Application" refers to U.S. Application Serial No. 85/135,579 for the mark RED BOX TICKETS USA, LLC.

J. The term "you" shall mean the party or Person to whom the request is propounded, all agents, employees, servants, attorneys, and all other representatives, and Persons over whom the person or party to whom the request is propounded has the right to or does control or direct and activities.

K. The word "thing" or "things" refers to any tangible object, other than a document, and includes objects of every kind and nature, including, but not limited to, prototypes, models, and specimens.

INSTRUCTIONS

A. In the event that you withhold from production any documents based on the work-product doctrine or attorney/client privilege, you must provide a list of the documents withheld, together with the following information:

(i) the date of the document;

(ii) the names of the authors and addresses of the document;

(iii) the names of each person who received a copy of the document;

(iv) a brief description of the document; and

(v) a statement of the basis for the claim of privilege.

B. In answering these requests, you are required to furnish all documents that are available to you, including documents and things in the possession, custody or control of any of your representatives, including, without limitation, your attorneys, accountants, advisers, agents, and other persons, directly or indirectly, employed by, or connected with you or anyone else otherwise subject to your control.

C. In responding to these requests, you must make a diligent search of your records and of other papers and materials in your possession or available to you or your representatives, in accordance with the requirements of Rule 34 of the Federal Rules of Civil Procedure.

D. In interpreting these discovery requests, definitions, and instructions, any masculine or feminine or neutral term includes all other genders; the singular includes the plural

and vice versa "or," "and," "and/or," and "including" shall be read to bring within the scope of the request the broadest amount of information.

E. Each request calls for production of each document and thing in its entirety, without abbreviation, redaction, expurgation or modification.

F. Each request seeks production of all documents and things described, along with any addenda, attachments, drafts, and non-identical copies as found or located either in Applicant's business or personal files, together with a copy of the descriptive file folders or database category in its entirety.

H. If there are no documents or things responsive to a particular request, you must state so in writing.

I. These requests for production of documents and things shall be deemed to be continuing, and supplemental responses should be provided as additional information becomes available, in accordance with the provisions with Rule 26(e) of the Federal Rules of Civil Procedure.

REQUESTS FOR PRODUCTION OF DOCUMENTS AND THINGS

1. All Documents evidencing, referring, or relating to the selection or adoption by Applicant of Applicant's Mark.

2. Documents sufficient to identify each Person who participated or was involved in the selection or adoption of Applicant's Mark, and with respect to each Person so identified, the nature and scope of his or her involvement.

3. All Documents evidencing, referring, or relating to measures taken by Applicant at any time to determine the availability for use of Applicant's Mark, including any investigative or background materials on marks or entities reflected in any trademark search.

4. All Documents evidencing, referring, or relating to any names, phrases, logos, designs or words considered by Applicant, whether or not adopted, in connection with the process that resulted in the adoption of Applicant's Mark.

5. Documents sufficient to identify all goods or services offered by Applicant or intended to be offered by Applicant under or in connection with Applicant's Mark.

6. If Applicant has sold products or services in connection with Applicant's Mark, Documents sufficient to show the annual gross sales of products and services offered in connection with Applicant's Mark from the dates of first use in interstate commerce thereof, with a breakdown of the geographic areas and specific locations at which such gross revenue was generated from, with the total amount from each location.

7. All Documents evidencing, referring, or relating to proposed or existing agreements or licenses between Applicant and third-parties, which relate or refer to the use of Applicant's Mark or the goods or services to be offered under Applicant's mark.

8. Examples of each different advertisement, promotional material, packaging, labeling, data sheets, instructional materials, media documents, or any other printed materials evidencing, relating to, or referring to the use of Applicant's Mark or promoting any products or services under Applicant's Mark.

9. Examples of each brochure, prospectus, proposal, advertisement, flyer, business card or promotional material or thing Applicant uses or intends to use in connection with any products or services offered under Applicant's Mark.

10. Documents sufficient to show Applicant's total expenses to date incurred in the creation, promotion, and attempt to register Applicant's Mark.

11. Documents sufficient to show the total annual expenditures incurred by Applicant for all advertising and marketing using Applicant's Mark since the first use of Applicant's Mark.

12. Documents sufficient to show the channels of trade through which Applicant distributes or intends to distribute products or offers or intends to offer services under Applicant's Mark including, without limitation, documents sufficient to show the customers, sales agents, dealerships, distributors or other outlets through which its products or services are sold, have been sold or are intended to be sold.

13. Documents sufficient to show all sales of any products or services under Applicant's Mark.

14. Documents sufficient to show the geographic areas in which Applicant's products or services bearing Applicant's Mark are, or at any time have been, distributed or offered for sale.

15. Documents sufficient to identify the Persons that have purchased products or services bearing Applicant's Mark, if any.

16. All Documents evidencing, referring, or relating to any sales or marketing plans for products or services sold or intended to be sold under Applicant's Mark.

17. All Documents evidencing, referring, or relating to the types of purchasers or users of any products or services sold or intended to be sold under Applicant's Mark, including, but not limited to, any research or studies related to such purchasers or users.

18. All Documents evidencing, referring, or relating to any and all trademark searches, investigations, polls, studies, evaluations, analysis, tests, ratings or surveys relating to Applicant's Mark and/or Opposer and its trademarks, including any and all legal opinions relating to Opposer or any of Opposer's "REDBOX" marks.

19. All documents relating to the Application.

20. All Documents evidencing, referring, or relating to Applicant's contention that he used Applicant's Mark in commerce in connection with the goods specified in the Application at least as early as September 15, 2010.

21. Each and every document that supports Applicant's contention that there is no likelihood of confusion between Opposer's "REDBOX" marks and Applicant's Mark.

22. All documents referring or relating to any confusion or mistake between Opposer and Applicant arising from Applicant's use of Applicant's Mark.

23. All Documents, including all correspondence, between Applicant, on one hand, and any other individual or entity, on the other hand, relating to the purchase, sale, lease, transport, use, placement or servicing of kiosks.

24. All documents, including all correspondence, relating to any actual or proposed business plan of Applicant or a related entity.

25. All documents referring or relating to any relationships Applicant has with retailers, including all contracts and agreements referring or relating to the presence of Applicant's kiosks on the retailer's premises and including any revenue share agreements.

26. All documents with any third parties that reference or otherwise relate to Opposer or this Opposition.

26. All documents referring or relating to any advertising arrangements or marketing affiliate relationships that Applicant has with any third parties.

Dated: March 12, 2012

By: _____
One of the Attorneys for Opposer,
Redbox Automated Retail, LLC

James P. Muraff
Kathleen E. Blouin
NEAL, GERBER & EISENBERG LLP
Two North LaSalle Street
Suite 2200
Chicago, IL 60602-3801
(312) 269-8000

CERTIFICATE OF SERVICE

I, James P. Muraff, state that I served a copy of the foregoing ***Opposer's First Requests for Production of Documents and Things to Applicant*** upon the following party:

Stanley Lee Barnes
d/b/a Red Box Tickets USA, LLC
3127 St. Vincent
St. Louis, Missouri 63104

via First Class U.S. Mail and email to redboxticketsusa@gmail.com on March 12, 2012.

James P. Muraff, Esq.

NGEDOCS: 1877179.2

EXHIBIT C

Stanley Barnes, CEO

3127 St. Vincent

St. Louis, Missouri 63104

March 10, 2012

Subject: Opposition No. 91201218

INTERROGATORIES ANSWERS:

INTERROGATORY NO.1

Describe in detail the nature of each business or business activity conducted by Applicant:

These are the Facts of the case:

A) Red Box Tickets USA, LLC is owned **and operated by Stanley Barnes Public Record.**

B) Red Box Tickets USA, LLC has followed every State of Missouri rule and regulations regard operating a business in the State of Missouri.

The LLC Article provides a public record which clearly states Red Box Tickets USA, LLC Company's purpose: To provide marketing, consulting services, and discounted services to network organizations.

Fact:

Stanley Barnes Declaration Signature and Response Signature is a Public Record

Proposed:

Tracked Text Description:

Red Box Tickets USA, LLC operates discount ticket citation sites such as gas stations, and general stores. Red Box Tickets USA, LLC offers pre paid membership discounted service and nonprofit organization fund supports. Red Box Tickets USA, LLC provides amnesty programs and we are a referral service, ticket consolidation operation providing fundraiser services. Red Box Tickets USA, LLC services the United States as well as international clients. We have an automatic payment system Kiosk.

A party need not provide discovery with respect to those of its marks and goods and/or services that

Are not involved in the proceedings and have no relevance thereto. The Business regarding the matter is Traffic Citations.

INTERROGATORY NO. 2

Identify each instance in which Applicant has used Applicant's Mark, specifying in what geographic areas, by address, city and state.

The Classes of Customers for party's involved goods or services are discoverable. In contrast, the names of customers (including dealers) constitute confidential information, and generally are not discoverable, even under the protective order abandonment, the names of a minimal number of customers for a period, may be discoverable under the protective order. Applicants business is worldwide in scope and complete compliance with this request for discovery is unduly burdensome. The Opposer INTERROGATORY NO. 2 are answered by reading INTERROGATORY NO.1.

INTERROGATORY NO. 3

Identify each person who has knowledge of (1) CIRCUMSTANCE OF APPLICANT'S selection and adoption of Applicant's Mark and (2) how it is being used, and is intended to be used in the future.

To the extent this interrogatory identifies more than ten (10) persons, limited the response to only those persons who possess the most or best knowledge.

The Classes of Customers for party's involved goods or services are discoverable. In contrast, the names of customers (including dealers) constitute confidential information, and generally are not discoverable, even under the protective order. (Note 3) However, the names of first customer for a party's involved goods or services sold under its involved mark, and , if there is a question of abandonment, the names of a minimal number of customers for a period, may be discoverable under the protective order. Applicants business is worldwide in scope and complete compliance with this request for discovery is unduly burdensome. Opposer INTERROGATORY NO. 2 are answered by reading INTERROGATORY NO.1. Also answer INTERROGATORY NO.3. The requested data is public information and is on the World Wide Web.

INTERROGATORY NO. 4

State whether Applicant's Mark has been used on or in connection with any goods or services in interstate commerce. If it has been used, identify the use and the date of such use.

The Classes of Customers for party's involved goods or services are discoverable. In contrast, the names of customers (including dealers) constitute confidential information, and generally are not

discoverable, even under the protective order. (Note 3) However, the names of first customer for a party's involved goods or services sold under its involved mark, and , if there is a question of abandonment, the names of a minimal number of customers for a period, may be discoverable under the protective order. Applicants business is worldwide in scope and complete compliance with this request for discovery is unduly burdensome. The Opposer INTERROGATORY NO. 2 are answered by reading INTERROGATORY NO.1. Also answer INTERROGATORY NO.3.

INTERROGATORY NO. 5

Describe in detail all the goods and services that are offered by the Applicant in conjunction with Applicant's Mark identifying the dates on which Applicants first began such use(s) and the geographic areas in which such use occurred, if applicable.

The Classes of Customers for party's involved goods or services are discoverable. In contrast, the names of customers (including dealers) constitute confidential information, and generally are not discoverable, even under the protective order. (Note 3) However, the names of first customer for a party's involved goods or services sold under its involved mark, and , if there is a question of abandonment, the names of a minimal number of customers for a period, may be discoverable under the protective order. Applicants business is worldwide in scope and complete compliance with this request for discovery is unduly burdensome. The Opposer INTERROGATORY NO. 2 are answered by reading INTERROGATORY NO.1. Also answer INTERROGATORY NO.3 and INTERROGATORY NO. 5

The answer is noted in Interrogatory No.21 September 15, 2010 for the date.

INTERROGATORY NO. 6

State the annual Sales and or gross revenues in U. S. Dollars of Applicant's goods and services offered in connection with the Applicant's Mark from the date of first use of Applicant's Mark,

Including a breakdown of geographic areas and specific locations of where such gross revenue was generated from, identifying the amounts from each location.

Complete compliance with this request for discovery is unduly burdensome; the Opposer has enough public information to meet the propounding party's discovery needs. The Classes of Customers for party's involved goods or services are discoverable. In contrast, the names of customers (including dealers) constitute confidential information, and generally are not discoverable, even under the protective order. Search reports are discoverable, but the comments or opinions of the attorneys relating thereto are privileged and not discoverable. Red Box Tickets USA, LLC further strikes this line of questioning and objects due to the fact That Mr. James Muraff one of the Attorneys for the Opposor actions displayed in a settlement phone conversation we found to be unethical.

INTERROGATORY NO. 7

Describe in detail the manner in which Applicant's Mark is promoted in the United States Including,

But not limited to, forms of media, advertising, sponsorships and further identify the graphic regions in which said efforts are conducted.

Red Box Tickets USA, LLC. Has signed non disclosures statement with its clients and third party vendors in which each party has refused to give RED BOX TICKETS USA, LLC each party s permission to disclose the data to any third party. Compliance with this request for discovery is unduly burdensome; the Opposer has enough sufficient information to meet the propounding party's discovery needs.

INTERROGATORY NO.8

For each marketing medium including Applicant's Mark since inception of each said advertisement and / or marketing campaign.

The Classes of Customers for party's involved goods or services are discoverable. In contrast, the names of customers (including dealers) constitute confidential information, and generally are not discoverable protective order. Compliance with this request for discovery is unduly burdensome; the Opposer has enough sufficient information to meet the propounding party's discovery needs.

Red Box Tickets USA, LLC has signed non disclosures with all of its third party vendors and each vendor refuses to disclose data. Note answer to INTERROGAORY NO.7

INTERROGATORY NO.9

Identify the person or persons who have been responsible for marketing or promotion of Applicant's goods and services under the Applicant's Mark indicating the period during which each person was so responsible. To the extent interrogatory identifies more than ten (10) persons; limit the response to only those persons who possess the most knowledge.

The Classes of Customers for party's involved goods or services are discoverable. In contrast, the names of customers (including dealers) constitute confidential information, and generally are not discoverable protective order. Compliance with this request for discovery is unduly burdensome; the Opposer has enough sufficient information to meet the propounding party's discovery needs.

Red Box Tickets USA, LLC has signed non disclosures with all of its third party vendors and each vendor refuses to disclose data. Note INTERROGATORY 7, 8 answers.

INTERROGATORY NO.10

Identify all advertisement agencies or third parties that have participated, cooperated or been involved in creating, producing or designing any advertising, marketing or promotion for the goods/services identified in response to Interrogatory No. 8, and indicate the time period(s) during which each third party was so involved.

The Classes of Customers for party's involved goods or services are discoverable. In contrast, the names of customers (including dealers) constitute confidential information, and generally are not discoverable protective order. Compliance with this request for discovery is unduly burdensome; the Opposer has enough sufficient information to meet the propounding party's discovery needs.

Red Box Tickets USA, LLC has signed non disclosures with all of its third party vendors and each vendor refuses to disclose data. . Note INTERROGATORY 7, 8, 9 answers.

INTERROGATORY NO.11

Describe in detail the channels of distribution by which the goods and / or services offered or intended to be offered in connection with the Applicant's Mark reach the ultimate user or consumer.

Stanley Barnes Declaration Signature and Response Signature is a Public Record

Proposed:

Tracked Text Description:

Red Box Tickets USA, LLC Operates discounted ticket citation site such as gas stations, general stores. Red Box Tickets USA, LLC offers pre paid membership discounted service and nonprofit organization fund supports. Red Box Tickets USA, LLC provides amnesty programs and we are a referral service, ticket consolidation operation providing fundraiser services. Red Box Tickets USA, LLC services the United States as well as international clients. We have an automatic payment system Kiosk.

INTERROGATORY NO.12

Identify and describe any and all trademark searches, Investigations, Polls, Studies, Evaluations, Analysis, Test, Rating, or surveys relating to Applicant's Mark, and any and all legal opinions relating to Opposer and Opposer's "Red BOX" marks.

Red Box Tickets USA, LLC filed and researched the application trade mark through the United States Patent and Trademark Office online filing system. The TMEP provides trademark examining attorneys in the USPTO, trademark applicants, and attorneys and representatives for trademark applicants with a reference work on the current law, practices, and procedures relative to the federal trademark application and registration process. The TMEP contains information and guidelines designed to assist USPTO examining attorneys in reviewing trademark application.

INTERROGATORY NO.13

State weather Applicant was aware of and had knowledge of Opposer, Opposer's business activities, and

Opposer's Red Box Marks, prior to Applicant's selection adoption of Applicant's Mark.

Applicant was not aware of Opposer prior to being opposed. Applicant was only aware that Opposer's is sole business activities were DVD movies after being Opposed . Applicant now know Traffic Citation Business is not the same line of business as Opposer.

INTERROGATORY NO.14

Describe in detail Applicant's reason for filing the Application.

Fact:

Stanley Barnes Declaration Signature and Response Signature is a Public Record

Proposed:

Tracked Text Description:

Red Box Tickets USA, LLC operates discounted ticket citation site such as gas stations, general stores. Red Box Tickets USA, LLC offers pre paid membership discounted service and nonprofit organization fund supports. Red Box Tickets USA, LLC provides amnesty programs and we are a referral service,

ticket consolidation operation providing fundraiser services. Red Box Tickets USA, LLC services the United States as well as international clients. We have an automatic payment system Kiosk.

INTERROGATORY NO.15

Identify the location of each of the Applicant's kiosks bearing Applicant's Mark and for each identify

The name of the retailer or entity that owns or control the property at which the kiosk is featured.

The Classes of Customers for party's involved goods or services are discoverable. In contrast, the names of customers (including dealers) constitute confidential information, and generally are not discoverable protective order. Compliance with this request for discovery is unduly burdensome; the Opposer has enough sufficient information to meet the propounding party's discovery needs.

Red Box Tickets USA, LLC has signed non disclosures with all of its third party vendors and each vendor refuses to disclose data.

INTERROGATORY NO.16

Identify the date Applicant's first kiosk was installed and address where it was installed.

The Applicant's first kiosk was a mobile kiosk transported from location to location.

The Classes of Customers for party's involved goods or services are discoverable. In contrast, the names of customers (including dealers) constitute confidential information, and generally are not discoverable protective order. Compliance with this request for discovery is unduly burdensome; the Opposer has enough sufficient information to meet the propounding party's discovery needs.

Red Box Tickets USA, LLC has signed non disclosures with all of its third party vendors and each vendor refuses to disclose data.

INTERROGATORY NO.17

Identify any actual consumers of Applicant's products and services offered or sold in connection with Applicant's Mark.

Red Box Tickets USA, LLC can not disclosed consumer personal information with any third party

This required report would be illegal to provide consumers personal data and their rights to privacy.

INTERROGATORY NO.18

Identify the third party vendor, manufacturer or supplier that the applicant purchased its kiosks from.

The Classes of Customers for party's involved goods or services are discoverable. In contrast, the names of customers (including dealers) constitute confidential information, and generally are not discoverable, even under the protective order.

INTERROGATORY NO.19

Identify the third party vendor, manufacturer or supplier that the Applicant hired to transport and install its kiosks.

The Classes of Customers for party's involved goods or services are discoverable. In contrast, the names of customers (including dealers) constitute confidential information, and generally are not discoverable, even under the protective order.

INTERROGATORY NO.20

Identify all terms and other than "Red Box Tickets USA, LLC" that were proposed or considered for the use by Applicant at anytime in connection with the same goods or service identified in the Application.

The only time another name was considered was in settlement talks with the Opposer.

Ticket Citation Box was the only name and prior to this time never was another name considered in connection with the same goods or services identified in the Application.

INTERROGATORY NO.21

Identify all activities evidencing Applicant's alleged use of Applicant's Mark in commerce in connection the goods identified in the Application at least as Septrmber 15, 2010.

The Classes of Customers for party's involved goods or services are discoverable. In contrast, the names of customers (including dealers) constitute confidential information, and generally are not discoverable, even under the protective order.

Complete Compliance with this request for discovery is unduly burdensome; the Opposer has enough sufficient, information to meet the propounding party's discovery needs.

INTERROGATORY NO.22

Identify any third parties Applicant has contacted regarding a possible revenue share agreement

In connection with or relating to Applicant's business activities.

The Classes of Customers for party's involved goods or services are discoverable. In contrast, the names of customers (including dealers) constitute confidential information, and generally are not discoverable, even under the protective order.

Complete Compliance with this request for discovery is unduly burdensome, the Opposer has enough

Sufficient, information to meet the propounding party's discovery needs. Red Box Tickets further strikes this line of questioning and Red Box Tickets USA, LLC further objects to this line of questioning due to the fact That Mr. James Muraff one of the Attorneys for the Opposor actions displayed in a settlement phone conversation we found to be unethical. Red Box Tickets USA, LLC

Has third sign Non Discloser agreements and clients refused to sign waivers to disclose.

INTERROGATORY NO.23

Identify all third parties that Applicant has contacted regarding the sale or offering of advertising or marketing in connection with Applicant's kiosks.

Noted t he answers in INTERROGATORY NO. 7, 8,9,10

Red Box Tickets USA, LLC. Has signed non disclosures statement with its clients and third party vendors in which each party has refused to give RED BOX TICKETS USA, LLC each party s permission to disclose the data to any third party. Compliance with this request for discovery is unduly burdensome; the Opposer has enough sufficient information to meet the propounding party's discovery needs.

INTERROGATORY NO.24

Identify all entities that currently advertise on or in connection with Applicant's kiosks and for each identify the revenue arrangement.

Red Box Tickets USA, LLC. Has signed non disclosures statement with its clients and third party vendors in which each party has refused to give RED BOX TICKETS USA, LLC each party s permission to disclose the data to any third party. Compliance with this request for discovery is unduly burdensome; the Opposer has enough sufficient information to meet the propounding party's discovery needs.

Red Box Tickets USA, LLC further strikes and objects to this line of due to the fact that Mr. James Muraff one of the Attorneys for the Opposor actions displayed in a settlement phone conversation we found to be unethical and misleading.

Dated: March 10, 2012

By: Stanley Barnes, CEO

Red Box Tickets USA, LLC

I, Stanley Barnes, state that I served a reply to the foregoing Opposer's First Set of Interrogatories upon the following party:

Neal, Gerber & Eisenberg LLP.

Two North LaSalle Street Suite

Chicago, IL 60602

312-269-8000

Stanley Barnes, CEO

3127 St. Vincent

St. Louis, Missouri 63104

March 10, 2012

Subject: Opposition No. 91201218

Response to Request for Production O Documents and Things

All documents evidencing, referring, or relating to the selection or adoption by Applicant of Applicant's Mark.

These documents are filed electronically USPTO.GOV. Red Box Tickets USA, LLC filed and researched the application trade mark through the United States Patent and Trademark Office online filing system. The TMEP provides trademark examining attorneys in the USPTO, trademark applicants, and attorneys and representatives for trademark applicants with a reference work on the current law, practices, and procedures relative to the federal trademark application and registration process. The TMEP contains information and guidelines designed to assist USPTO examining attorneys in reviewing trademark application.

See Attached Exhited A

Regarding each selected 2 requests for documents and things the following is the answer for each questions is as follows:

Complete compliance with this request for Response for production of documents and things is unduly burdensome and the Opposer already has sufficient information.

Have no relations to a simple agreement to change our companies name and a settlement offer for the cost to changed said items. The cost to change said item has been already provided to you via email invoice.

The Opposer has enough sufficient information to answer each request from 1-26

And including the additional item marked 26. For prior settlement talks and answering the Interrogatories.

Search reports are discoverable, but the comments or opinions of attorneys relating thereto are privileged and not discoverable.

Regardless of when proceedings commenced a party is not required, in advance of trail, to disclose each document or exhibit it plans to introduce.

We also, note that a party need not provide discovery with respect to those of its marks and goods and/ or services that are not involved in the proceedings and have no relevance thereto.

Dated: March 10, 2012

By: Stanley Barnes, CEO

Red Box Tickets USA, LLC

I, Stanley Barnes, state that I served a reply to the foregoing Opposer's First request for production of Documents and things upon the following party:

Neal, Gerber & Eisenberg LLP.

Two North LaSalle Street Suite

Chicago, IL 60602

312-269-8000

Trademark Snap Shot Publication & Issue Review Stylesheet

(Table presents the data on Publication & Issue Review Complete)

OVERVIEW

SERIAL NUMBER	85135579	FILING DATE	09/22/2010
REG NUMBER	0000000	REG DATE	N/A
REGISTER	PRINCIPAL	MARK TYPE	SERVICE MARK
INTL REG #	N/A	INTL REG DATE	N/A
TM ATTORNEY	CHARLON, BARNEY LAWREN	L.O. ASSIGNED	104

PUB INFORMATION

RUN DATE	03/17/2011
PUB DATE	04/19/2011
STATUS	681-PUBLICATION/ISSUE REVIEW COMPLETE
STATUS DATE	03/16/2011
LITERAL MARK ELEMENT	RED BOX TICKETS USA, LLC

DATE ABANDONED	N/A	DATE CANCELLED	N/A
SECTION 2F	NO	SECTION 2F IN PART	NO
SECTION 8	NO	SECTION 8 IN PART	NO
SECTION 15	NO	REPUB 12C	N/A
RENEWAL FILED	NO	RENEWAL DATE	N/A
DATE AMEND REG	N/A		

FILING BASIS

FILED BASIS		CURRENT BASIS		AMENDED BASIS	
1 (a)	YES	1 (a)	YES	1 (a)	NO
1 (b)	YES	1 (b)	YES	1 (b)	NO
44D	NO	44D	NO	44D	NO
44E	NO	44E	NO	44E	NO
66A	NO	66A	NO		
NO BASIS	NO	NO BASIS	NO		

MARK DATA

STANDARD CHARACTER MARK	YES
LITERAL MARK ELEMENT	RED BOX TICKETS USA, LLC
MARK DRAWING CODE	4-STANDARD CHARACTER MARK
COLOR DRAWING FLAG	NO

CURRENT OWNER INFORMATION

PARTY TYPE	10-ORIGINAL APPLICANT
NAME	Barnes, Stanley Lee
ADDRESS	3127 St. Vincent St. Louis, MO 63104
ENTITY	01-INDIVIDUAL
CITIZENSHIP	United States of America
DBA/AKA	DBA Red Box Tickets USA, LLC

GOODS AND SERVICES

INTERNATIONAL CLASS	036
DESCRIPTION TEXT	Providing kiosks at retailers for the payment of traffic citations

GOODS AND SERVICES CLASSIFICATION

INTERNATIONAL CLASS	036	FIRST USE DATE	09/15/2010	FIRST USE IN COMMERCE DATE	09/15/2010	CLASS STATUS	6-ACTIVE

MISCELLANEOUS INFORMATION/STATEMENTS

CHANGE IN REGISTRATION	NO
DISCLAIMER W/PREDETER TXT	"TICKETS USA, LLC"

PROSECUTION HISTORY

DATE	ENT CD	ENT TYPE	DESCRIPTION	ENT NUM
03/16/2011	PREV	O	LAW OFFICE PUBLICATION REVIEW COMPLETED	020
03/16/2011	ALIE	A	ASSIGNED TO LIE	019
02/26/2011	CNSA	P	APPROVED FOR PUB - PRINCIPAL REGISTER	018
02/26/2011	XAEC	I	EXAMINER'S AMENDMENT ENTERED	017
02/26/2011	XAEC	I	EXAMINER'S AMENDMENT ENTERED	016

02/26/2011	GNEN	O	NOTIFICATION OF EXAMINERS AMENDMENT E-MAILED	015
02/26/2011	GNEA	O	EXAMINERS AMENDMENT E-MAILED	014
02/26/2011	CNEA	R	EXAMINERS AMENDMENT -WRITTEN	013
02/17/2011	XAEC	I	EXAMINER'S AMENDMENT ENTERED	012
02/17/2011	GNEN	O	NOTIFICATION OF EXAMINERS AMENDMENT E-MAILED	011
02/17/2011	GNEA	O	EXAMINERS AMENDMENT E-MAILED	010
02/17/2011	CNEA	R	EXAMINERS AMENDMENT -WRITTEN	009
01/27/2011	TEME	I	TEAS/EMAIL CORRESPONDENCE ENTERED	008
01/27/2011	CRFA	I	CORRESPONDENCE RECEIVED IN LAW OFFICE	007
01/27/2011	TROA	I	TEAS RESPONSE TO OFFICE ACTION RECEIVED	006
01/05/2011	GNRN	O	NOTIFICATION OF NON-FINAL ACTION E-MAILED	005
01/05/2011	GNRT	F	NON-FINAL ACTION E-MAILED	004
01/05/2011	CNRT	R	NON-FINAL ACTION WRITTEN	003
12/29/2010	DOCK	D	ASSIGNED TO EXAMINER	002
09/27/2010	NWOS	I	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	001

CURRENT CORRESPONDENCE INFORMATION

ATTORNEY	NONE
CORRESPONDENCE ADDRESS	BARNES, STANLEY LEE BARNES, STANLEY LEE 3127 SAINT VINCENT AVE SAINT LOUIS, MO 63104
DOMESTIC REPRESENTATIVE	NONE

Red Box Tickets USA, LLC

To:	Barnes,Stanley,Lee (reachyou2007@yahoo.com)
Subject:	U.S. TRADEMARK APPLICATION NO. 85135579 - RED BOX TICKETS USA, LLC - N/A
Sent:	2/17/2011 6:57:27 PM
Sent As:	ECOM104@USPTO.GOV
Attachments:	

UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)
OFFICE ACTION (OFFICIAL LETTER) ABOUT APPLICANT'S TRADEMARK APPLICATION

APPLICATION SERIAL NO. 85135579

MARK: RED BOX TICKETS USA, LLC

85135579

CORRESPONDENT ADDRESS:
BARNES,STANLEY,LEE
BARNES,STANLEY,LEE
3127 SAINT VINCENT AVE
SAINT LOUIS, MO 63104-1417

GENERAL TRADEMARK INFORMATION:
http://www.uspto.gov/main/trademarks.htm

APPLICANT: Barnes,Stanley,Lee

CORRESPONDENT'S REFERENCE/DOCKET NO: N/A

CORRESPONDENT E-MAIL ADDRESS:
reachyou2007@yahoo.com

EXAMINER'S AMENDMENT

ISSUE/MAILING DATE: 2/17/2011

APPLICATION HAS BEEN AMENDED: In accordance with the authorization granted by Stanley Lee Barnes on February 17, 2011, the trademark examining attorney has amended the application as indicated below. Please advise the undersigned immediately of any objections. Otherwise, no response is necessary. TMEP §707. Any amendments to the identification of goods and/or services may clarify or limit the goods and/or services, but may not add to or broaden the scope of the goods and/or services. 37 C.F.R. §2.71(a); *see* TMEP §§1402.06 *et seq.* Applicant's substitute specimens and declaration are accepted.

Applicant Stanley Lee Barnes is an individual U.S. citizen.

The identification of services is amended to read as follows: "Providing kiosks at retailers for the payment of traffic citations, in International Class 36." *See* TMEP §§1402.01, 1402.01(e).

The following disclaimer statement is added to the record:

No claim is made to the exclusive right to use "TICKETS USA, LLC" apart from the mark as shown.

See 15 U.S.C. §1056(a); TMEP §§1213, 1213.08(a)(i).

/Barney L. Charlon/
Trademark Examining Attorney
Law Office 104
(571) 272-9141
(571) 273-9104 (fax)

PERIODICALLY CHECK THE STATUS OF THE APPLICATION: To ensure that applicant does not miss crucial deadlines or official notices, check the status of the application every three to four months using Trademark Applications and Registrations Retrieval (TARR) at http://tarr.uspto.gov/. Please keep a copy of the complete TARR screen. If TARR shows no change for more than six months, call 1-800-786-9199. For more information on checking status, see http://www.uspto.gov/trademarks/process/status/.

TO UPDATE CORRESPONDENCE/E-MAIL ADDRESS: Use the TEAS form at http://www.uspto.gov/teas/eTEASpageE.htm.

To:	Barnes,Stanley,Lee (reachyou2007@yahoo.com)
Subject:	U.S. TRADEMARK APPLICATION NO. 85135579 - RED BOX TICKETS USA, LLC - N/A
Sent:	2/17/2011 6:57:28 PM
Sent As:	ECOM104@USPTO.GOV
Attachments:	

IMPORTANT NOTICE REGARDING YOUR U.S. TRADEMARK APPLICATION

USPTO LETTER (AN OFFICE ACTION) HAS ISSUED ON 2/17/2011 FOR SERIAL NO. 85135579

Please follow the instructions below:

TO READ OFFICE LETTER: Click on this **link** **or** go to **http://portal.uspto.gov/external/portal/tow** and enter the application serial number to **access** the Office letter

PLEASE NOTE: The Office letter may not be immediately available but will be viewable within 24 hours of this e-mail notification.

HELP: For *technical* assistance in accessing the Office correspondence, please e-mail **TDR@uspto.gov** . Please contact the assigned examining attorney with questions about the Office letter.

EXHIBIT D

NEAL ▪ GERBER ▪ EISENBERG

James P. Muraff
Attorney at Law

Tel 312.269.8034
Fax 312.750.6556
jmuraff@ngelaw.com

May 9, 2012

VIA U.S. MAIL AND EMAIL
<REDBOXTICKETSUSA@GMAIL.COM>
<REACHYOU2007@YAHOO.COM>

Mr. Stanley Lee Barnes
Red Box Tickets USA, LLC
3127 St. Vincent
St. Louis, Missouri 63104

Re: **Redbox Automated Retail, LLC v. Stanley Lee Barnes d/b/a Red Box Tickets USA, LLC**

Dear Mr. Barnes:

As you know, we are continuing with our obligations to move this matter forward. We are writing to address several discovery issues.

First, we have received your e-mails of April 26, 2012, asking for a response to Red Box Tickets USA's First Set of Interrogatories, which were sent on April 16, 2012. Under the rules of procedure, and as advised in the January 11, 2012 discovery conference and in the Board's January 13, 2012 Order, parties cannot serve formal discovery – including interrogatories – until after they serve initial disclosures. (*See* Order, p. 7); 37 CFR §2.120(a)(3) ("a party must make initial disclosures prior to seeking discovery"). Further, the parties were ordered to serve initial disclosures by March 12, 2012. We have not received your initial disclosures. Accordingly, Redbox objects to the service of this set of interrogatories and will not respond to them because you have not served initial disclosures, as required by 37 CFR §2.120(a)(3).

In addition, we have received and reviewed your responses to Opposer's First Set of Interrogatories and Requests for the Production of Documents and Things, which were served upon you on March 12, 2012. While we appreciate your attention, as set forth more specifically below, these responses are seriously deficient. As I requested in our phone conference of April 30, 2012, please provide supplemental responses that meet the standards forth by the Board's rules of procedure, as well as your initial disclosures. It is my understanding from that phone conference that you do not intend to provide any more information in regard to discovery. If that is, in fact, your position, and we do not receive the supplemental information as indicated below by May 18, 2012, we will be forced to file an appropriate motion with the Board.

Responses to Interrogatories

Under the Trademark Rules, you are obligated to answer each interrogatory fully, completely, and in detail, after exercising due diligence and securing the information necessary. In the event you are unable to answer each interrogatory fully, completely, and in detail, after exercising due diligence, you must so state, and (1) answer such interrogatory to the extent possible; (2) specify the portion of such interrogatory that you are unable to answer fully, completely, and in detail; and (3) state the reason why such portion cannot be so answered.

For nearly all of your answers to the interrogatories, instead of providing responsive information, you have included what appear to be sections from the TTAB Manual of Procedure, and asserted objections that are without merit. For example, your assertion that "Opposer has enough sufficient information to meet the propounding party's discovery needs" does not relieve you of your obligations to comply with the rules of procedure. The standard for a discovery request is whether the requested information or document is "reasonably calculated to lead to the discovery of admissible evidence." Fed. R. Civ. P. 26(b). The requests are necessary and reasonably calculated to lead to the discovery of admissible evidence. Thus, the relevant information should be produced.

In particular, many of these interrogatories relate to the adoption and use of your mark, including but not limited to how goods and services under the mark are advertised, promoted, manufactured, sold or distributed. Because these are central issues to the proceeding, they are proper matters for discovery. For instance, as set forth in the TTAB Manual of Procedure, Section 414, and the cases cited therein:

(4) Information concerning a party's selection and adoption of its involved mark is generally discoverable (particularly of a defendant).

(5) Information concerning a party's first use of its involved mark is discoverable.

(15) The locations of those places of business where a party manufactures its involved goods, or conducts its involved services, under its involved mark, are discoverable.

(16) Information relating to the areas of distribution for a party's involved goods or services sold under its involved mark is discoverable.

(17) The identity of any advertising agency engaged by a party to advertise and promote the party's involved goods or services under its involved mark is discoverable, as is the identity of the advertising agency employees having the most knowledge of such advertising and promotion.

(18) Annual sales and advertising figures, stated in round numbers, for a party's involved goods or services sold under its involved mark are proper matters for discovery; if a responding

party considers such information to be confidential, disclosure may be made under protective order.

Thus, as set forth below, your many blanket objections are improper, and your answer to the following interrogatories should be supplemented:

- **INTERROGATORY NO. 2.** *Identify each instance in which Applicant has used Applicant's Mark, specifying in what geographic areas, by address, city and state.*

  The objection that "Applicant's business is worldwide in scope and complete compliance with this request for discovery is unduly burdensome" is without merit. The interrogatory does not request "worldwide" information. In addition, to the extent the response objects on the basis that customer names are confidential, this objection is also inappropriate because the interrogatory does not ask for customer names. Finally, the reference that the answer may be found "by reading Interrogatory No. 1" is insufficient because the answer to Interrogatory No. 1 does not contain any cities or states, let alone addresses, identifying where Applicant's Mark has been used. To the extent you consider this information confidential, the Protective Order in place allows for the discovery of confidential information, and therefore, you must provide an answer accordingly.

- **INTERROGATORY NO. 3**: *Identify each person who has knowledge of (1) the circumstances of Applicant's selection and adoption of Applicant's Mark and (2) how it has been used, is being used, and is intended to be used in the future. To the extent this interrogatory identifies more than ten (10) persons, limit the response to only those persons who possess the most or best knowledge.*

  This interrogatory asks specifically for the names of individuals who have knowledge surrounding the selection and circumstances of use of Applicant's Mark, and further limits the response to no more than 10 names. Thus, your objection that "Applicant's business is worldwide in scope and complete compliance with this request for discovery is unduly burdensome" is without merit. In addition, to the extent the response objects on the basis that customer names are confidential, this objection is also inappropriate because the interrogatory does not ask for customer names. Finally, the statement that the answer may be found by reference to the answer to Interrogatories Nos. 1 and 2 is insufficient. To the extent you consider this information confidential, the Protective Order in place allows for the discovery of confidential information, and therefore, you must provide an answer accordingly. If the answer to Interrogatory No. 3 is limited to Stanley Barnes, please state so; if not, please supplement your response with the appropriate names.

- **INTERROGATORY NO. 4:** *State whether Applicant's Mark has been used on or in connection with any goods or services in interstate commerce. If it has been so used, identify the use and the date of such use.*

  This interrogatory asks (1) whether the mark "RED BOX TICKETS USA, LLC" has been used with any good or services in interstate commerce, meaning within the United States, and (2) if so, when and how the mark was used. Again, your objection that "Applicant's business is worldwide in scope and complete compliance with this request for discovery is unduly burdensome" is not warranted. Also, to the extent this response objects on the basis that customer names are confidential, this objection is also inappropriate because the interrogatory does not ask for customer names. Finally, the statement that the answer may be found by reference to the answers to Interrogatories Nos. 1-3 is insufficient. The answers to Interrogatories 2 and 3 do not contain any facts at all. The answer to Interrogatory No. 1 may describe generally what your business does; however, it does not state with any particularity whether or how your trademark has been used, or any dates of use. To the extent you consider this information confidential, the Protective Order in place allows for the discovery of confidential information, and therefore, you must provide an answer accordingly. Please supplement your response.

- **INTERROGATORY NO. 5:** *Describe in detail all goods and services that are offered by Applicant in conjunction with Applicant's Mark identifying the dates on which Applicant first began such use(s) and the geographic areas in which such use occurred, if applicable.*

  This interrogatory asks for: (1) a detailed description of the goods and services used with your Mark; (2) the dates of first use of the Mark as it relates to each good or service; and (3) the where the Mark has been used. As with the previous responses, your objection that "Applicant's business is worldwide in scope and complete compliance with this request for discovery is unduly burdensome" is not warranted. Also, to the extent this response objects on the basis that customer names are confidential, this objection is also inappropriate because the interrogatory does not ask for customer names. Your response appears to state that September 15, 2010 is the date of first use and refers back to Interrogatory No. 1. However, as stated above, the answer to Interrogatory No. 1 may describe generally what your business does, but does not state with any particularity whether or how your trademark has been used. To the extent you consider this information confidential, the Protective Order in place allows for the discovery of confidential information, and therefore, you must provide an answer accordingly. Please supplement your response.

- **INTERROGATORY NO. 6**: *State the annual sales and/or gross revenues in U.S. dollars of Applicant's goods and services offered in connection with Applicant's Mark from the date of first use of Applicant's Mark, including a breakdown of the geographic areas and specific locations of where such gross revenue was generated from, identifying the amounts from each location.*

  As noted above, annual sales figures for a party's goods or services sold under its involved mark, as well as information relating to the areas of distribution for a party's involved goods or services are proper matters for discovery. Thus, your objection to "strike this line of questioning" is improper. Moreover, your baseless allegation that Opposer's counsel acted in an unethical manner in a phone conversation is neither accurate nor a valid objection to the interrogatory. Similarly, your objection that this request is unduly burdensome because "Opposer has enough public information to meet [its] discovery needs" is also improper; this information is not public, nor have you provided it to Opposer. Finally, as before, your objection based on the names of customers does not apply here. Please supplement your response with the appropriate information.

- **INTERROGATORY NO. 7**: *Describe in detail the manner in which Applicant's Mark is promoted in the United States including, but not limited to, forms of media, advertising, sponsorships and, further identify the geographic regions in which said efforts are conducted.*

  This interrogatory asks for a detailed description about the way your trademark is promoted and where these promotional activities occur. You have failed to provide any of this information. Your objection that "Red Box Tickets USA, LLC has signed nondisclosures statement with its clients and third party vendors in which each party has refused to give RED BOX TICKETS USA, LLC each party's permission to disclose the data to any third party," does not apply here because this request does not seek confidential information. Moreover, even if the information were considered confidential, the Protective Order in place allows for the disclosure of the requested information. Further, your objection that this request is unduly burdensome because "Opposer has enough public information to meet [its] discovery needs" is also improper; this information is not public, nor have you provided it to Opposer. Please supplement your response with the appropriate information.

- **INTERROGATORY NO. 8**: *For each marketing medium identified in the preceding interrogatory, state the annual expenditure for each medium including Applicant's Mark since inception of each said advertisement and/or marketing campaign.*

As noted above, advertising figures for goods and services sold in connection with your mark are proper matters for discovery. If you consider this information confidential, the Protective Order in place allows for the discovery of confidential information. Thus, your objection that Red Box Tickets USA, LLC has signed non-disclosure agreements with its clients and third party vendors does not provide a proper basis to refuse to answer this interrogatory. Moreover, your objection that this request is unduly burdensome because "Opposer has enough sufficient information to meet [its] discovery needs" is also improper; you have not provided any such information to Opposer. Finally, as before, your objection based on the names of customers does not apply here. Please supplement your response with the appropriate information.

- **INTERROGATORY NO. 9**: *Identify the person or persons who have been responsible for the marketing or promotion of Applicant's goods and services under Applicant's Mark, indicating the period during which each person was so responsible. To the extent this interrogatory identifies more than ten (1) persons, limit the response to only those persons who possess the most knowledge.*

  This interrogatory asks specifically for the names of individuals who have been responsible for marketing and promotion of goods and services in connection with your trademark, including the timeframe for when each individual was so responsible. It limits the response to no more than 10 names. You have failed to provide any names, either directly or by in your reference to your answers to Interrogatories Nos. 7 and 8. Your objection that this request is unduly burdensome because "Opposer has enough sufficient information to meet [its] discovery needs" is improper; you have not provided any such information to Opposer, nor is the provision of 10 names unreasonable. Further, your objection that Red Box Tickets USA, LLC has signed non-disclosure agreements with its third party vendors does not provide a proper basis to refuse to answer this interrogatory. To the extent you consider this information confidential, the Protective Order in place allows for the discovery of confidential information, and therefore, you must provide an answer accordingly. And, once again, your objection based on the names of customers does not apply here. Please supplement your response with the appropriate information.

- **INTERROGATORY NO. 10**: *Identify all advertising agencies or third parties that have participated, cooperated or been involved in creating, producing or designing any advertising, marketing or promotion for the goods/services identified in response to Interrogatory No. 8, and indicate the time period(s) during which each third party was so involved.*

  As set forth above, the "identity of any advertising agency engaged by a party to advertise and promote the party's involved goods or services under its involved

mark is discoverable, as is the identity of the advertising agency employees having the most knowledge of such advertising and promotion." Thus, this request is proper and must be answered, and is not precluded by the fact that you may have signed non-disclosure agreements. To the extent you consider this information confidential, the Protective Order in place allows for the discovery of confidential information, and therefore, you must provide an answer accordingly. Further, your objection that this request is unduly burdensome because "Opposer has enough sufficient information to meet [its] discovery needs" is improper; you have not provided any such information to Opposer previously, nor is it in included in your answers to Interrogatories Nos. 7-9. Finally, as before, your objection based on the names of customers does not apply here. Please supplement your response with the appropriate information.

- **INTERROGATORY NO. 11**: *Describe in detail the channels of distribution by which the goods and/or services offered or intended to be offered in connection with Applicant's Mark reach the ultimate user or consumer.*

  Your answer appears to identify "gas stations," "general stores" and "kiosks" as channels of distribution. It is unclear from the remainder of your answer if this list is complete, or if there are additional distribution channels. Please confirm if your answer is limited to "gas stations," "general stores" and "kiosks." If it is not, please supplement the answer accordingly.

- **INTERROGATORY NO. 12**: *Identify and describe any and all trademark searches, investigations, polls, studies, evaluations, analysis, tests, ratings, or surveys relating to Applicant's Mark, and any and all legal opinions relating to Opposer and Opposer's "REDBOX" marks.*

  Your answer states that you "filed and researched the application trademark through the United States Patent and Trademark Office online filing system." Please confirm if your answer is limited to this statement; otherwise please supplement your response with the identification of any additional searches, investigations, studies, etc., as set forth in the interrogatory that pertain to either your mark or Opposer or Opposer's "REDBOX" marks.

- **INTERROGATORY NO. 14:** *Describe in detail Applicant's reason for filing the Application.*

  This interrogatory instructed you to describe in detail your reason for filing your trademark application at issue in this proceeding. Instead, your answer contains some general statements about your business, which is insufficient. You must provide a responsive answer to the request, and accordingly must describe your *reason* for filing the trademark application.

- **INTERROGATORY NO. 15**: *Identify the location of each of Applicant's kiosks bearing Applicant's Mark and for each identify the name of the retailer or entity that owns or controls the property at which the kiosk is featured.*

  As set forth above, both the "locations of those places of business where a party conducts its involved services, under its involved mark" as well as "information relating to the areas of distribution for a party's involved goods or services sold under its involved mark" are discoverable. Thus, you must provide the requested information. Your objections do not provide a basis for withholding the information. First, your objection that this request is unduly burdensome because "Opposer has enough sufficient information to meet [its] discovery needs" is improper; you have not provided any such information to Opposer. Second, your apparent objection based on the names of customers does not apply. Even if it did, and you considered such information confidential, the Protective Order in place allows for the discovery of confidential information. Similarly, your objection based on non-disclosure agreements does not preclude you from providing this relevant information. Even if it were to apply, the Protective Order allows for the production of this information. Therefore, please supplement your response with the appropriate information.

- **INTERROGATORY NO. 16**: *Identify the date Applicant's first kiosk was installed and the address where it was installed.*

  This interrogatory clearly asks for the date when your first kiosk was installed, as well as an address. Your response that "Applicant's first kiosk was a mobile kiosk transported from location to location" is insufficient. This response does not include a date, nor does it include an address. It does not even include a city and state, at a minimum. Moreover, your objections are all unfounded. Your objection that this request is unduly burdensome because "Opposer has enough sufficient information to meet [its] discovery needs" is improper; you have not provided any such information to Opposer. Also, your objection based on the names of customers does not apply here. Finally, your objection based on non-disclosure agreements also does not apply because the request does not seek confidential information. To the extent you consider this information confidential, the Protective Order in place allows for the discovery of confidential information, and therefore, you must provide an answer accordingly. Please supplement your response with the specific date and address as requested.

- **INTERROGATORY NO. 18**: *Identify the third party vendor, manufacturer or supplier that Applicant purchased its kiosks from.*

  This interrogatory is directed toward the manufacture of goods and services sold under the trademark at issue, which is appropriate for discovery. Thus, you must provide an answer. Your objection based on the names of customers does not apply here. However, even if you were to consider the information in your answer confidential, the Protective Order in place allows for the production of confidential information. Please supplement your response with the appropriate information.

- **INTERROGATORY NO. 19**: *Identify the third party vendor, manufacturer or supplier that Applicant hired to transport and install its kiosks.*

  This interrogatory is directed toward the manner and areas of distribution of your goods and services sold under the trademark at issue. Thus, it is appropriate for discovery and must be answered. Your objection based on the names of customers does not apply here. However, even if you were to consider the information in your answer confidential, the Protective Order in place allows for the production of confidential information. Therefore, please supplement your response with the appropriate information.

- **INTERROGATORY NO. 21**: *Identify all activities evidencing Applicant's alleged use of Applicant's Mark in commerce in connection the goods identified in the Application at least as early as September 15, 2010.*

  This interrogatory asks for information regarding the use of your mark in commerce in connection with the goods identified in your application from a specific date less than 2 years ago. Thus, your objection that this request is unduly burdensome because "Opposer has enough sufficient information to meet [its] discovery needs" is inappropriate. Further, this interrogatory does not ask for customer names; therefore, your objection on this ground also does not apply. Please provide the requested information.

- **INTERROGATORY NO. 22**: *Identify any third parties Applicant has contacted regarding a possible revenue share agreement in connection with or relating to Applicant's business activities.*

  This interrogatory seeks information relating to the promotion of and sales of goods and services used in connection with your trademark. Thus your objection to "strike this line of questioning" is improper. Moreover, your baseless allegation that Opposer's counsel acted in an unethical manner in a phone conversation is neither accurate nor a valid objection to the interrogatory.

Similarly, your objection that this request is unduly burdensome because "Opposer has enough sufficient information to meet [its] discovery needs" is also improper; you have not provided such information to Opposer. And, as before, your objection based on the names of customers does not apply here. Finally, your objection based on non-disclosure agreements does not preclude you from producing confidential information, in light of the Protective Order in place in this proceeding. Please supplement your response with the appropriate information.

- **INTERROGATORY NO. 23**: *Identify all third parties that Applicant has contacted regarding the sale or offering of advertising or marketing in connection with Applicant's kiosks.*

  This interrogatory is directed toward the manner and areas of distribution of your goods and services sold under the trademark at issue. Thus, it is appropriate for discovery and must be answered. Your statement that the answer may be found in the answer to interrogatories Nos. 7-10 is insufficient. These responses contain only objections and do not have any factual information. Moreover, your objections to this interrogatory are inappropriate. As before, you have not provided any information to Opposer regarding the distribution of goods or services used in objection with your mark. Thus, the objection that this request is unduly burdensome because "Opposer has enough sufficient information to meet [its] discovery needs" is improper. Further, the fact that you may have signed non-disclosure agreements does not allow you to withhold information. To the extent you consider this information confidential, the Protective Order in place allows for the discovery of confidential information, and therefore, you must provide an answer accordingly.

- **INTERROGATORY NO. 24**: *Identify all entities that currently advertise on or in connection with Applicant's kiosks and for each identify the revenue arrangement.*

  This interrogatory is directed toward the promotion of goods and services used in connection with your, and there for is appropriate for discovery. Thus, your objection to "strike this line of questioning" is improper. Moreover, your baseless allegation that Opposer's counsel acted in an unethical manner in a phone conversation is neither accurate nor a valid objection to the interrogatory. Your objection that this request is unduly burdensome because "Opposer has enough sufficient information to meet [its] discovery needs" is also improper; you have not provided such information to Opposer. Finally, the fact that you may have signed non-disclosure agreements does not allow you to withhold information. To the extent you consider this information confidential, the Protective Order in place allows for the discovery of confidential information. Please supplement your answer with the appropriate information.

Responses to Document Requests

Additionally, Applicant's Responses to Opposer's First Requests for the Production of Documents and Things ("RFPs") are deficient and wholly unresponsive.

First, in answering these requests, you are required to furnish all documents that are available to you, including documents and things in the possession, custody or control of any of your representatives, including, without limitation, your attorneys, accountants, advisers, agents, and other persons, directly or indirectly, employed by, or connected with you or anyone else otherwise subject to your control. In responding to these requests, you are also required to make a diligent search of your records and of other papers and materials in your possession or available to you or your representatives, in accordance with the requirements of TBMP § 408 and Rule 34 of the Federal Rules of Civil Procedure.

Your statement that "Opposer has enough sufficient information to answer each request from 1-26" is neither responsive nor adequate. You are obligated to perform the requisite search and either produce any responsive documents or confirm that no such documents exist with respect to each request. If you have an objection, you must state a legitimate basis for objection. A blanket statement that all of the requests are "unduly burdensome and the Opposer already has sufficient information" is not accurate nor is it a legitimate basis for your objection. If you have already produced responsive documents, please identify the specific documents that you believe to be responsive to each request, and when such documents were produced.

You have also made a general objection regarding privileged documents. If you are withholding from production any documents based on the work-product doctrine or attorney/client privilege, you may not simply make a general statement that documents are privileged. Rather, you must provide a list of the documents withheld, together with the following information:

(i) the date of the document;

(ii) the names of the authors and addresses of the document;

(iii) the names of each person who received a copy of the document;

(iv) a brief description of the document; and

(v) a statement of the basis for the claim of privilege.

Finally, the identification of discovery documents, as opposed to their substance, is neither privileged nor confidential. TBMP § 414. Thus, while the substance of requested documents may in some circumstances be privileged or confidential, you are nevertheless obligated to identify documents themselves that are responsive to the discovery requests.

As noted earlier, you have informed us that you do not intend to provide any more information in regard to discovery. Please either confirm that is your position, or provide us with the requested information. If we do not receive the information from you by May 18, 2012, we will assume that you will not be producing the information and will move forward accordingly.

Sincerely,

James P. Muraff

JPM:keb
NGEDOCS: 1895916.2

NEAL ▪ GERBER ▪ EISENBERG

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May 9, 2012

VIA U.S. MAIL AND EMAIL
<REDBOXTICKETSUSA@GMAIL.COM>
<REACHYOU2007@YAHOO.COM>

Mr. Stanley Lee Barnes
Red Box Tickets USA, LLC
3127 St. Vincent
St. Louis, Missouri 63104

Re: **Redbox Automated Retail, LLC v. Stanley Lee Barnes**
d/b/a Red Box Tickets USA, LLC

Dear Mr. Barnes:

As you know, we are continuing with our obligations to move this matter forward. We are writing to address several discovery issues.

First, we have received your e-mails of April 26, 2012, asking for a response to Red Box Tickets USA's First Set of Interrogatories, which were sent on April 16, 2012. Under the rules of procedure, and as advised in the January 11, 2012 discovery conference and in the Board's January 13, 2012 Order, parties cannot serve formal discovery – including interrogatories – until after they serve initial disclosures. (*See* Order, p. 7); 37 CFR §2.120(a)(3) ("a party must make initial disclosures prior to seeking discovery"). Further, the parties were ordered to serve initial disclosures by March 12, 2012. We have not received your initial disclosures. Accordingly, Redbox objects to the service of this set of interrogatories and will not respond to them because you have not served initial disclosures, as required by 37 CFR §2.120(a)(3).

In addition, we have received and reviewed your responses to Opposer's First Set of Interrogatories and Requests for the Production of Documents and Things, which were served upon you on March 12, 2012. While we appreciate your attention, as set forth more specifically below, these responses are seriously deficient. As I requested in our phone conference of April 30, 2012, please provide supplemental responses that meet the standards forth by the Board's rules of procedure, as well as your initial disclosures. It is my understanding from that phone conference that you do not intend to provide any more information in regard to discovery. If that is, in fact, your position, and we do not receive the supplemental information as indicated below by May 18, 2012, we will be forced to file an appropriate motion with the Board.

Responses to Interrogatories

Under the Trademark Rules, you are obligated to answer each interrogatory fully, completely, and in detail, after exercising due diligence and securing the information necessary. In the event you are unable to answer each interrogatory fully, completely, and in detail, after exercising due diligence, you must so state, and (1) answer such interrogatory to the extent possible; (2) specify the portion of such interrogatory that you are unable to answer fully, completely, and in detail; and (3) state the reason why such portion cannot be so answered.

For nearly all of your answers to the interrogatories, instead of providing responsive information, you have included what appear to be sections from the TTAB Manual of Procedure, and asserted objections that are without merit. For example, your assertion that "Opposer has enough sufficient information to meet the propounding party's discovery needs" does not relieve you of your obligations to comply with the rules of procedure. The standard for a discovery request is whether the requested information or document is "reasonably calculated to lead to the discovery of admissible evidence." Fed. R. Civ. P. 26(b). The requests are necessary and reasonably calculated to lead to the discovery of admissible evidence. Thus, the relevant information should be produced.

In particular, many of these interrogatories relate to the adoption and use of your mark, including but not limited to how goods and services under the mark are advertised, promoted, manufactured, sold or distributed. Because these are central issues to the proceeding, they are proper matters for discovery. For instance, as set forth in the TTAB Manual of Procedure, Section 414, and the cases cited therein:

(4) Information concerning a party's selection and adoption of its involved mark is generally discoverable (particularly of a defendant).

(5) Information concerning a party's first use of its involved mark is discoverable.

(15) The locations of those places of business where a party manufactures its involved goods, or conducts its involved services, under its involved mark, are discoverable.

(16) Information relating to the areas of distribution for a party's involved goods or services sold under its involved mark is discoverable.

(17) The identity of any advertising agency engaged by a party to advertise and promote the party's involved goods or services under its involved mark is discoverable, as is the identity of the advertising agency employees having the most knowledge of such advertising and promotion.

(18) Annual sales and advertising figures, stated in round numbers, for a party's involved goods or services sold under its involved mark are proper matters for discovery; if a responding

party considers such information to be confidential, disclosure may be made under protective order.

Thus, as set forth below, your many blanket objections are improper, and your answer to the following interrogatories should be supplemented:

- **INTERROGATORY NO. 2.** *Identify each instance in which Applicant has used Applicant's Mark, specifying in what geographic areas, by address, city and state.*

  The objection that "Applicant's business is worldwide in scope and complete compliance with this request for discovery is unduly burdensome" is without merit. The interrogatory does not request "worldwide" information. In addition, to the extent the response objects on the basis that customer names are confidential, this objection is also inappropriate because the interrogatory does not ask for customer names. Finally, the reference that the answer may be found "by reading Interrogatory No. 1" is insufficient because the answer to Interrogatory No. 1 does not contain any cities or states, let alone addresses, identifying where Applicant's Mark has been used. To the extent you consider this information confidential, the Protective Order in place allows for the discovery of confidential information, and therefore, you must provide an answer accordingly.

- **INTERROGATORY NO. 3**: *Identify each person who has knowledge of (1) the circumstances of Applicant's selection and adoption of Applicant's Mark and (2) how it has been used, is being used, and is intended to be used in the future. To the extent this interrogatory identifies more than ten (10) persons, limit the response to only those persons who possess the most or best knowledge.*

  This interrogatory asks specifically for the names of individuals who have knowledge surrounding the selection and circumstances of use of Applicant's Mark, and further limits the response to no more than 10 names. Thus, your objection that "Applicant's business is worldwide in scope and complete compliance with this request for discovery is unduly burdensome" is without merit. In addition, to the extent the response objects on the basis that customer names are confidential, this objection is also inappropriate because the interrogatory does not ask for customer names. Finally, the statement that the answer may be found by reference to the answer to Interrogatories Nos. 1 and 2 is insufficient. To the extent you consider this information confidential, the Protective Order in place allows for the discovery of confidential information, and therefore, you must provide an answer accordingly. If the answer to Interrogatory No. 3 is limited to Stanley Barnes, please state so; if not, please supplement your response with the appropriate names.

- **INTERROGATORY NO. 4:** *State whether Applicant's Mark has been used on or in connection with any goods or services in interstate commerce. If it has been so used, identify the use and the date of such use.*

  This interrogatory asks (1) whether the mark "RED BOX TICKETS USA, LLC" has been used with any good or services in interstate commerce, meaning within the United States, and (2) if so, when and how the mark was used. Again, your objection that "Applicant's business is worldwide in scope and complete compliance with this request for discovery is unduly burdensome" is not warranted. Also, to the extent this response objects on the basis that customer names are confidential, this objection is also inappropriate because the interrogatory does not ask for customer names. Finally, the statement that the answer may be found by reference to the answers to Interrogatories Nos. 1-3 is insufficient. The answers to Interrogatories 2 and 3 do not contain any facts at all. The answer to Interrogatory No. 1 may describe generally what your business does; however, it does not state with any particularity whether or how your trademark has been used, or any dates of use. To the extent you consider this information confidential, the Protective Order in place allows for the discovery of confidential information, and therefore, you must provide an answer accordingly. Please supplement your response.

- **INTERROGATORY NO. 5**: *Describe in detail all goods and services that are offered by Applicant in conjunction with Applicant's Mark identifying the dates on which Applicant first began such use(s) and the geographic areas in which such use occurred, if applicable.*

  This interrogatory asks for: (1) a detailed description of the goods and services used with your Mark; (2) the dates of first use of the Mark as it relates to each good or service; and (3) the where the Mark has been used. As with the previous responses, your objection that "Applicant's business is worldwide in scope and complete compliance with this request for discovery is unduly burdensome" is not warranted. Also, to the extent this response objects on the basis that customer names are confidential, this objection is also inappropriate because the interrogatory does not ask for customer names. Your response appears to state that September 15, 2010 is the date of first use and refers back to Interrogatory No. 1. However, as stated above, the answer to Interrogatory No. 1 may describe generally what your business does, but does not state with any particularity whether or how your trademark has been used. To the extent you consider this information confidential, the Protective Order in place allows for the discovery of confidential information, and therefore, you must provide an answer accordingly. Please supplement your response.

- **INTERROGATORY NO. 6**: *State the annual sales and/or gross revenues in U.S. dollars of Applicant's goods and services offered in connection with Applicant's Mark from the date of first use of Applicant's Mark, including a breakdown of the geographic areas and specific locations of where such gross revenue was generated from, identifying the amounts from each location.*

  As noted above, annual sales figures for a party's goods or services sold under its involved mark, as well as information relating to the areas of distribution for a party's involved goods or services are proper matters for discovery. Thus, your objection to "strike this line of questioning" is improper. Moreover, your baseless allegation that Opposer's counsel acted in an unethical manner in a phone conversation is neither accurate nor a valid objection to the interrogatory. Similarly, your objection that this request is unduly burdensome because "Opposer has enough public information to meet [its] discovery needs" is also improper; this information is not public, nor have you provided it to Opposer. Finally, as before, your objection based on the names of customers does not apply here. Please supplement your response with the appropriate information.

- **INTERROGATORY NO. 7**: *Describe in detail the manner in which Applicant's Mark is promoted in the United States including, but not limited to, forms of media, advertising, sponsorships and, further identify the geographic regions in which said efforts are conducted.*

  This interrogatory asks for a detailed description about the way your trademark is promoted and where these promotional activities occur. You have failed to provide any of this information. Your objection that "Red Box Tickets USA, LLC has signed nondisclosures statement with its clients and third party vendors in which each party has refused to give RED BOX TICKETS USA, LLC each party's permission to disclose the data to any third party," does not apply here because this request does not seek confidential information. Moreover, even if the information were considered confidential, the Protective Order in place allows for the disclosure of the requested information. Further, your objection that this request is unduly burdensome because "Opposer has enough public information to meet [its] discovery needs" is also improper; this information is not public, nor have you provided it to Opposer. Please supplement your response with the appropriate information.

- **INTERROGATORY NO. 8**: *For each marketing medium identified in the preceding interrogatory, state the annual expenditure for each medium including Applicant's Mark since inception of each said advertisement and/or marketing campaign.*

As noted above, advertising figures for goods and services sold in connection with your mark are proper matters for discovery. If you consider this information confidential, the Protective Order in place allows for the discovery of confidential information. Thus, your objection that Red Box Tickets USA, LLC has signed non-disclosure agreements with its clients and third party vendors does not provide a proper basis to refuse to answer this interrogatory. Moreover, your objection that this request is unduly burdensome because "Opposer has enough sufficient information to meet [its] discovery needs" is also improper; you have not provided any such information to Opposer. Finally, as before, your objection based on the names of customers does not apply here. Please supplement your response with the appropriate information.

- **INTERROGATORY NO. 9**: *Identify the person or persons who have been responsible for the marketing or promotion of Applicant's goods and services under Applicant's Mark, indicating the period during which each person was so responsible. To the extent this interrogatory identifies more than ten (1) persons, limit the response to only those persons who possess the most knowledge.*

  This interrogatory asks specifically for the names of individuals who have been responsible for marketing and promotion of goods and services in connection with your trademark, including the timeframe for when each individual was so responsible. It limits the response to no more than 10 names. You have failed to provide any names, either directly or by in your reference to your answers to Interrogatories Nos. 7 and 8. Your objection that this request is unduly burdensome because "Opposer has enough sufficient information to meet [its] discovery needs" is improper; you have not provided any such information to Opposer, nor is the provision of 10 names unreasonable. Further, your objection that Red Box Tickets USA, LLC has signed non-disclosure agreements with its third party vendors does not provide a proper basis to refuse to answer this interrogatory. To the extent you consider this information confidential, the Protective Order in place allows for the discovery of confidential information, and therefore, you must provide an answer accordingly. And, once again, your objection based on the names of customers does not apply here. Please supplement your response with the appropriate information.

- **INTERROGATORY NO. 10**: *Identify all advertising agencies or third parties that have participated, cooperated or been involved in creating, producing or designing any advertising, marketing or promotion for the goods/services identified in response to Interrogatory No. 8, and indicate the time period(s) during which each third party was so involved.*

  As set forth above, the "identity of any advertising agency engaged by a party to advertise and promote the party's involved goods or services under its involved

mark is discoverable, as is the identity of the advertising agency employees having the most knowledge of such advertising and promotion." Thus, this request is proper and must be answered, and is not precluded by the fact that you may have signed non-disclosure agreements. To the extent you consider this information confidential, the Protective Order in place allows for the discovery of confidential information, and therefore, you must provide an answer accordingly. Further, your objection that this request is unduly burdensome because "Opposer has enough sufficient information to meet [its] discovery needs" is improper; you have not provided any such information to Opposer previously, nor is it in included in your answers to Interrogatories Nos. 7-9. Finally, as before, your objection based on the names of customers does not apply here. Please supplement your response with the appropriate information.

- **INTERROGATORY NO. 11**: *Describe in detail the channels of distribution by which the goods and/or services offered or intended to be offered in connection with Applicant's Mark reach the ultimate user or consumer.*

  Your answer appears to identify "gas stations," "general stores" and "kiosks" as channels of distribution. It is unclear from the remainder of your answer if this list is complete, or if there are additional distribution channels. Please confirm if your answer is limited to "gas stations," "general stores" and "kiosks." If it is not, please supplement the answer accordingly.

- **INTERROGATORY NO. 12**: *Identify and describe any and all trademark searches, investigations, polls, studies, evaluations, analysis, tests, ratings, or surveys relating to Applicant's Mark, and any and all legal opinions relating to Opposer and Opposer's "REDBOX" marks.*

  Your answer states that you "filed and researched the application trademark through the United States Patent and Trademark Office online filing system." Please confirm if your answer is limited to this statement; otherwise please supplement your response with the identification of any additional searches, investigations, studies, etc., as set forth in the interrogatory that pertain to either your mark or Opposer or Opposer's "REDBOX" marks.

- **INTERROGATORY NO. 14:** *Describe in detail Applicant's reason for filing the Application.*

  This interrogatory instructed you to describe in detail your reason for filing your trademark application at issue in this proceeding. Instead, your answer contains some general statements about your business, which is insufficient. You must provide a responsive answer to the request, and accordingly must describe your *reason* for filing the trademark application.

- **INTERROGATORY NO. 15**: *Identify the location of each of Applicant's kiosks bearing Applicant's Mark and for each identify the name of the retailer or entity that owns or controls the property at which the kiosk is featured.*

  As set forth above, both the "locations of those places of business where a party conducts its involved services, under its involved mark" as well as "information relating to the areas of distribution for a party's involved goods or services sold under its involved mark" are discoverable. Thus, you must provide the requested information. Your objections do not provide a basis for withholding the information. First, your objection that this request is unduly burdensome because "Opposer has enough sufficient information to meet [its] discovery needs" is improper; you have not provided any such information to Opposer. Second, your apparent objection based on the names of customers does not apply. Even if it did, and you considered such information confidential, the Protective Order in place allows for the discovery of confidential information. Similarly, your objection based on non-disclosure agreements does not preclude you from providing this relevant information. Even if it were to apply, the Protective Order allows for the production of this information. Therefore, please supplement your response with the appropriate information.

- **INTERROGATORY NO. 16**: *Identify the date Applicant's first kiosk was installed and the address where it was installed.*

  This interrogatory clearly asks for the date when your first kiosk was installed, as well as an address. Your response that "Applicant's first kiosk was a mobile kiosk transported from location to location" is insufficient. This response does not include a date, nor does it include an address. It does not even include a city and state, at a minimum. Moreover, your objections are all unfounded. Your objection that this request is unduly burdensome because "Opposer has enough sufficient information to meet [its] discovery needs" is improper; you have not provided any such information to Opposer. Also, your objection based on the names of customers does not apply here. Finally, your objection based on non-disclosure agreements also does not apply because the request does not seek confidential information. To the extent you consider this information confidential, the Protective Order in place allows for the discovery of confidential information, and therefore, you must provide an answer accordingly. Please supplement your response with the specific date and address as requested.

- **INTERROGATORY NO. 18**: *Identify the third party vendor, manufacturer or supplier that Applicant purchased its kiosks from.*

  This interrogatory is directed toward the manufacture of goods and services sold under the trademark at issue, which is appropriate for discovery. Thus, you must provide an answer. Your objection based on the names of customers does not apply here. However, even if you were to consider the information in your answer confidential, the Protective Order in place allows for the production of confidential information. Please supplement your response with the appropriate information.

- **INTERROGATORY NO. 19**: *Identify the third party vendor, manufacturer or supplier that Applicant hired to transport and install its kiosks.*

  This interrogatory is directed toward the manner and areas of distribution of your goods and services sold under the trademark at issue. Thus, it is appropriate for discovery and must be answered. Your objection based on the names of customers does not apply here. However, even if you were to consider the information in your answer confidential, the Protective Order in place allows for the production of confidential information. Therefore, please supplement your response with the appropriate information.

- **INTERROGATORY NO. 21**: *Identify all activities evidencing Applicant's alleged use of Applicant's Mark in commerce in connection the goods identified in the Application at least as early as September 15, 2010.*

  This interrogatory asks for information regarding the use of your mark in commerce in connection with the goods identified in your application from a specific date less than 2 years ago. Thus, your objection that this request is unduly burdensome because "Opposer has enough sufficient information to meet [its] discovery needs" is inappropriate. Further, this interrogatory does not ask for customer names; therefore, your objection on this ground also does not apply. Please provide the requested information.

- **INTERROGATORY NO. 22**: *Identify any third parties Applicant has contacted regarding a possible revenue share agreement in connection with or relating to Applicant's business activities.*

  This interrogatory seeks information relating to the promotion of and sales of goods and services used in connection with your trademark. Thus your objection to "strike this line of questioning" is improper. Moreover, your baseless allegation that Opposer's counsel acted in an unethical manner in a phone conversation is neither accurate nor a valid objection to the interrogatory.

Similarly, your objection that this request is unduly burdensome because "Opposer has enough sufficient information to meet [its] discovery needs" is also improper; you have not provided such information to Opposer. And, as before, your objection based on the names of customers does not apply here. Finally, your objection based on non-disclosure agreements does not preclude you from producing confidential information, in light of the Protective Order in place in this proceeding. Please supplement your response with the appropriate information.

- **INTERROGATORY NO. 23**: *Identify all third parties that Applicant has contacted regarding the sale or offering of advertising or marketing in connection with Applicant's kiosks.*

  This interrogatory is directed toward the manner and areas of distribution of your goods and services sold under the trademark at issue. Thus, it is appropriate for discovery and must be answered. Your statement that the answer may be found in the answer to interrogatories Nos. 7-10 is insufficient. These responses contain only objections and do not have any factual information. Moreover, your objections to this interrogatory are inappropriate. As before, you have not provided any information to Opposer regarding the distribution of goods or services used in objection with your mark. Thus, the objection that this request is unduly burdensome because "Opposer has enough sufficient information to meet [its] discovery needs" is improper. Further, the fact that you may have signed non-disclosure agreements does not allow you to withhold information. To the extent you consider this information confidential, the Protective Order in place allows for the discovery of confidential information, and therefore, you must provide an answer accordingly.

- **INTERROGATORY NO. 24**: *Identify all entities that currently advertise on or in connection with Applicant's kiosks and for each identify the revenue arrangement.*

  This interrogatory is directed toward the promotion of goods and services used in connection with your, and there for is appropriate for discovery. Thus, your objection to "strike this line of questioning" is improper. Moreover, your baseless allegation that Opposer's counsel acted in an unethical manner in a phone conversation is neither accurate nor a valid objection to the interrogatory. Your objection that this request is unduly burdensome because "Opposer has enough sufficient information to meet [its] discovery needs" is also improper; you have not provided such information to Opposer. Finally, the fact that you may have signed non-disclosure agreements does not allow you to withhold information. To the extent you consider this information confidential, the Protective Order in place allows for the discovery of confidential information. Please supplement your answer with the appropriate information.

Responses to Document Requests

Additionally, Applicant's Responses to Opposer's First Requests for the Production of Documents and Things ("RFPs") are deficient and wholly unresponsive.

First, in answering these requests, you are required to furnish all documents that are available to you, including documents and things in the possession, custody or control of any of your representatives, including, without limitation, your attorneys, accountants, advisers, agents, and other persons, directly or indirectly, employed by, or connected with you or anyone else otherwise subject to your control. In responding to these requests, you are also required to make a diligent search of your records and of other papers and materials in your possession or available to you or your representatives, in accordance with the requirements of TBMP § 408 and Rule 34 of the Federal Rules of Civil Procedure.

Your statement that "Opposer has enough sufficient information to answer each request from 1-26" is neither responsive nor adequate. You are obligated to perform the requisite search and either produce any responsive documents or confirm that no such documents exist with respect to each request. If you have an objection, you must state a legitimate basis for objection. A blanket statement that all of the requests are "unduly burdensome and the Opposer already has sufficient information" is not accurate nor is it a legitimate basis for your objection. If you have already produced responsive documents, please identify the specific documents that you believe to be responsive to each request, and when such documents were produced.

You have also made a general objection regarding privileged documents. If you are withholding from production any documents based on the work-product doctrine or attorney/client privilege, you may not simply make a general statement that documents are privileged. Rather, you must provide a list of the documents withheld, together with the following information:

(i) the date of the document;

(ii) the names of the authors and addresses of the document;

(iii) the names of each person who received a copy of the document;

(iv) a brief description of the document; and

(v) a statement of the basis for the claim of privilege.

Finally, the identification of discovery documents, as opposed to their substance, is neither privileged nor confidential. TBMP § 414. Thus, while the substance of requested documents may in some circumstances be privileged or confidential, you are nevertheless obligated to identify documents themselves that are responsive to the discovery requests.

As noted earlier, you have informed us that you do not intend to provide any more information in regard to discovery. Please either confirm that is your position, or provide us with the requested information. If we do not receive the information from you by May 18, 2012, we will assume that you will not be producing the information and will move forward accordingly.

Sincerely,

James P. Muraff

JPM:keb
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