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

Proceeding	91202705
Party	Plaintiff CR License, LLC
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

CR License, LLC,)	Cancellation No. 91202705 (parent)
)	92054034
)	
Petitioner,)	
)	Marks: GRAND CANYON RANCH
v.)	GRAND CANYON RANCH
)	AT SPIRIT MOUNTAIN
)	
Grand Canyon Ranch,)	Reg. No. 3,927,500
)	App. No. 77/905,088
)	
Respondent.)	
_____)	

PETITIONER’S ACR REBUTTAL BRIEF

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I. INTRODUCTION

Pursuant to the parties' Stipulation to Participate in Accelerated Case Resolution under 37 C.F.R. § 2.128, Petitioner CR License LLC dba Canyon Ranch ("Canyon Ranch") submits this Rebuttal Brief in Support of its Petition to Cancel U.S. Trademark Registration Nos. Reg. No. 3,927,500 [Grand Canyon Ranch & Design] and its Oppositions to U.S. Trademark Application Serial No. 77/905,088 [Grand Canyon Ranch at Spirit Mountain & Design] filed and owned by Grand Canyon Ranch, LLC ("GCR"). These marks are referred to collectively as the "Disputed Marks."

The evidence demonstrates that consumers are likely to be confused as to the source, association or sponsorship of GCR's services as a result of GCR's use of the Disputed Marks, which are confusingly similar to Canyon Ranch's famous CANYON RANCH® mark. GCR's attempt to claim that the marks are not confusingly similar, that the services offered under the marks differ, and that the customer base of GCR and Canyon Ranch differ, is based on faulty reasoning and conclusory statements that are unsupported by law or evidence.

In addition, GCR has failed to rebut the decades of unsolicited media attention and other evidence that shows the CANYON RANCH® mark became famous prior to GCR's application to register the Disputed Marks and that GCR's marks are likely to blur the distinctiveness of the famous CANYON RANCH® mark and/or tarnish the CANYON RANCH® mark. The fact that no survey evidence was provided does not diminish the strength of the evidence submitted by Canyon Ranch.

II. ARGUMENT

A. Response to GCR's Evidentiary Objections

1. Objection to Supplemental Affidavit of Jerrold I. Cohen

GCR's objection to the Jerrold I. Cohen's Supplemental Affidavit as being untimely disclosed lacks merit. To the contrary, each statement found in the supplemental affidavit was taken nearly verbatim from Canyon Ranch's interrogatory responses, which were served on June 5, 2012. The supplemental affidavit merely presents this evidence in affidavit form. Specifically:

- Paragraph 2 of Cohen's Supplemental Affidavit was the response Canyon Ranch provided to GCR's Interrogatory No. 6.
- Paragraph 3 of Cohen's Supplemental Affidavit was the response Canyon Ranch provided to GCR's Interrogatory No. 7
- Paragraph 4 of Cohen's Supplemental Affidavit was the response Canyon Ranch provided to GCR's Interrogatory No. 16
- Paragraph 5 of Cohen's Supplemental Affidavit was the response Canyon Ranch provided to GCR's Interrogatory No. 58.

A copy of the discovery responses are attached hereto as Exhibit A.

The attachments to the supplemental affidavit were also disclosed before the January 31, 2014 deadline. The documents bates labeled CR000905 to CR001032 were originally produced to GCR on June 5, 2012 with Canyon Ranch's responses to GCR's document requests and then produced again on January 10, 2014 to show corrected bates numbers. A copy of the Jan. 10, 2014 Cover Letter enclosing the final document disclosure, a copy of the CD covers, and an index of the CDs showing that the documents produced go from CR00001 to CR003821 are attached hereto as Exhibit B. Contrary to GCR's contentions, the documents attached to the Supplemental Affidavit and the factually testimony contained in the Supplemental Affidavit

were previously disclosed by Canyon Ranch to GCR before the close of Canyon Ranch's testimony period on January 31, 2014. GCR's objection to Mr. Cohen's supplemental affidavit should be overruled.

2. *Objection to Documents Bates Nos. CR003745-CR003821*

GCR's objection to the documents attached to the Affidavit of Sean Garrison as Exhibit A should be overruled. The documents bates labeled CR03745-CR003821 were produced in the final document disclosure by Canyon Ranch on January 10, 2014. GCR's counsel was sent 2 CDs with all the documents, which included all bates labeled documents up to CR003821. *See* Exhibit B.¹ Because the documents were timely disclosed by Canyon Ranch, GCR's objection should be overruled.

3. *Objection to Exhibit B to Sean Garrison's Affidavit*

GCR's hearsay objection to the the reviews from TripAdvisor®, Yelp®, and Google® attached collectively to Sean Garrison's affidavit as Exhibit B should also be overruled. These reviews are offered to prove (1) that numerous customers of GCR have publicly expressed their belief regarding their perceived deficiencies in the services provided by GCR and (2) that the public has been exposed to these customer complaints and may be aware of the information contained therein.

First, these specific customer complaints are admissible under the present sense impression exception to the hearsay rule. *See* Fed. R. Evid. 803(1); *Lyons Partnership L.P. v. Morris Costumes Inc.*, 243 F.3d 789, 804 (4th Cir. 2001) (statements contained in articles by persons who perceived events are admissible under the present sense impression exception to the hearsay rule). In *Lyons*, a trademark and copyright case, the plaintiff's evidence included clippings from newspaper articles that "evidenced actual confusion between Duffy and Barney,

¹ Canyon Ranch notes that the cover letter inadvertently omitted identifying CR03745-CR003821, but the documents were clearly contained on the CD.

not only by the children who were the subject of the articles, but by the reporters themselves, who erroneously described Duffy as ‘Barney.’” *Id.* The defendant objected that the articles and statements contained therein were hearsay, but the Fourth Circuit rejected that argument holding that the statements were admissible under Fed. R. Evid. 803(1). *Id.* Likewise, the customer complaints exhibited in the reviews from TripAdvisor®, Yelp®, and Google® represent the impression that these customers had after experiencing GCR’s services. As such, they are properly admissible under this exception to the hearsay rule. Other courts have found such customer statements to be admissible under the “state of mind” exception under Fed. R. Evid. 803(3). *See Lahoti v. Vericheck, Inc.*, 636 F.3d 501, 509 (9th Cir. 2011); *Mary Kay, Inc. v. Weber*, 601 F. Supp.2d 839, 847 (N.D. Tex. 2009); *National Rural Elec. Coop. Ass’n v. Suzlon Wind Energy Corp.*, 78 U.S.P.Q.2d 1881, 2006 WL 1151404, *6 n.4 (T.T.A.B. 2006), *aff’d* 214 Fed. Appx. 987 (Fed. Cir. 2007).

Second, even if the hearsay exceptions did not apply, the reviews are also admissible to show that these statements about GCR’s services have been made, that they are publicly available and that the public may be aware and/or can easily discover them. Specifically, they are admissible for what they show on their face, that they appeared on the sites on the specified dates and that they referred to GCR as “completely rundown,” as providing food that was “barely edible,” and as a “nightmare,” among other descriptions. Whether or not these statements are in fact true is not the issue, nor is this evidence submitted to establish the truth of the statements. The fact that the statements were made and are publicly available is evidence of the potential tarnishment of the Canyon Ranch brand. As such, the documents are not inadmissible hearsay for this independent reason. *See Exxon Corp. v. Fill-R-Up Systems, Inc.*, 182 U.S.P.Q. 443, 445 (T.T.A.B. 1974) (articles from trade publications admissible to show that they appeared in the publication on a certain date and that they contained certain information); *Safer, Inc. v. OMS*

Investments, Inc., 94 U.S.P.Q.2d 1031 (T.T.A.B. 2010) (admitting Internet materials where the document identifies its date of publication or the date it was accessed and printed, and its source URL).

B. The Disputed Marks Are Confusingly Similar to the CANYON RANCH® Mark

GCR does not dispute Canyon Ranch’s standing to pursue this action or Canyon Ranch’s priority over the Disputed Marks. Accordingly, the only issue is whether the Disputed Marks are likely to cause confusion.

1. The Disputed Marks and the CANYON RANCH® Mark Are Similar

As the Board is aware, the test for determining the similarity of marks is not whether the marks can be distinguished in a side-by-side comparison, but whether the average consumer, “who normally retains a general rather than a specific impression of trademarks,” would likely be confused. *Sealed Air Corp. v. Scott Paper Co.*, 190 U.S.P.Q. 106, 108 (T.T.A.B. 1975). Applicant ignores this rule and instead relies on conclusory statements and inapposite case law to argue that the marks are dissimilar. Nothing GCR argues diminishes the likelihood that a consumer would reasonably believe the famous CANYON RANCH had opened a new location at the Grand Canyon using a playful combination of its famous mark with the geographic location or had simply tacked the laudatory word “Grand” onto its mark.

First, GCR claims that the marks are not similar because the Disputed Marks contain a highly stylized, fanciful design, and the words “GRAND CANYON RANCH” are also stylized. However, the law is well settled that where a mark is comprised of a word and a design, the word is normally accorded greater weight. *See M.C.I. Foods, Inc. v. Brady Bunte*, 96 U.S.P.Q.2d 1544, 1551 (T.T.A.B. 2010) (In a word-design combination mark, the word is “normally accorded greater weight because it would be used by purchasers to request the goods or services”). Here, the words “GRAND CANYON RANCH” found in the Disputed Marks are the

dominant portion of the marks and are confusingly similar to “CANYON RANCH,” regardless of the inclusion of a design. See *In re Cont'l Graphics Corp.*, 52 U.S.P.Q.2d 1374, 1376 (T.T.A.B. 1999) (finding that the standard character mark CONTINENTAL GRAPHICS was similar to the registered mark CONTINENTAL containing a globe design within a large letter “C” at the beginning of the mark). GCR’s conclusory statement that this case is different because “no one would confuse a very stylized wording of GRAND CANYON RANCH with just the words CANYON RANCH” (GCR Brief, 10) is not supported by any case law or evidence. In fact, the Board has consistently held that a standard character mark – such as the numerous CANYON RANCH® registrations of record – is not limited to any particular font, size, style, or color. See *In re Viterro Inc.*, 671 F.3d 1358, 1363 (Fed. Cir. 2012). As such, the stylization in the Disputed Marks is irrelevant because the CANYON RANCH® mark is not limited in font and, as such, could be used in the same stylized font as the Disputed Marks.

In addition, the cases cited by GCR to support its argument that the inclusion of a design and stylized wording is sufficient to convey a different commercial impression are inapposite. The cases of *In Re Lytle Eng'g & Mfg. Co.*, 125 U.S.P.Q. 308 (T.T.A.B. 1960) and *In re Univar Corp.*, 20 U.S.P.Q.2d 1865 (T.T.A.B. 1991) both examine whether an examiner properly refused registration of a mark on the grounds that the applied-for-mark was merely being used as part of an applicant’s trade name rather than as a trademark. In both cases the Board found that the applied-for-mark was being used as a trademark based on the fact that stylized lettering was used by the applicant that was different from the other portion of the trade name. Similarly, the case of *Book Craft, Inc. v. BookCrafters USA, Inc.*, 222 U.S.P.Q. 724 (T.T.A.B. 1984) has nothing to do with whether stylization typesetting of a mark gives a distinct commercial impression from a standard character mark. In *Book Craft*, the applicant conceded that its mark, which contained a design element, was likely to cause confusion with a standard character mark. However, the

applicant claimed priority of use, which was the only issue in dispute. As such, none of the cases cited by GCR support its argument that inclusion of stylized lettering and a design are sufficient to convey different commercial impressions.

Second, GCR argues that the design is the dominant feature of the Disputed Mark and should be afforded greater weight because it disclaimed the terms “GRAND CANYON” and “SPIRIT MOUNTAIN.”² However, this statement is not supported by case law. Instead, the Board has previously found that the dominant portion of a composite word and design mark is the literal portion, even where the literal portion has been disclaimed. *Giant Food, Inc. v. Nation's Foodservice, Inc.*, 710 F.2d 1565, 1570–71 (Fed. Cir. 1983) (finding that the term “GIANT” was the dominant portion of a mark consisting of the words GIANT HAMBURGERS with a large background design, even though the applicant disclaimed “GIANT HAMBURGERS.”); *see also In re Viterra Inc.*, 671 F.3d at 1366. Moreover, by GCR’s own admission, it disclaimed the term “SPIRIT MOUNTAIN” because it was geographically descriptive of the location of GCR’s facility. (GCR Br., 12). Therefore, the image of Spirit Mountain found in the Disputed Marks is equally descriptive, as it merely depicts the location of GCR’s facility.

Lastly, GCR’s inclusion of the desert mountain design in the Disputed Marks only increases the likelihood of confusion between the marks because desert mountain landscapes are associated with the CANYON RANCH® mark. GCR has no rebuttal to the evidence from third-party publications and Canyon Ranch advertisements that show the CANYON RANCH® mark displayed with desert mountain landscapes similar to the design depicted in the Disputed Marks. This level of association supports the similarity of the marks, especially given that the average consumer “normally retains a general rather than a specific impression of trademarks.”

² In fact, GCR disclaimed the term “Grand Canyon Ranch” not “Grand Canyon.”

In light of the foregoing, there can be no meaningful dispute that the Disputed Marks are confusingly similar to the CANYON RANCH® mark.

2. *The Parties' Services Are Closely Related.*

The evidence shows that both parties offer temporary accommodation and restaurant services and excursions for tourists. GCR attempts to distract the Board from this fact by misreading the services provided under the Disputed Marks and the CANYON RANCH® mark and applying an overly burdensome standard for finding that the parties' services are related.

GCR's brief also ignores the rule that goods or services need not be identical or even competitive to support a finding of likelihood of confusion. *See, e.g., In re Shell Oil Co.*, 992 F.2d 1204, 1207, 26 U.S.P.Q.2d 1687, 1689 (Fed. Cir. 1993). Rather, it is enough that the services are "related in some manner" and/or that the conditions and activities surrounding the marketing of the services are such that they would or could be encountered by the same persons under circumstances that could, because of the similarity of the marks, give rise to the mistaken belief that they originate from the same source. *See In re Martin's Famous Pastry Shoppe, Inc.*, 748 F.2d 1565, 1567, 223 U.S.P.Q. 1289, 1290 (Fed. Cir. 1984).

The evidence demonstrates that the services provided under the Disputed Marks are at the very least commercially related to the services provided under the CANYON RANCH® mark. The Disputed Marks and the CANYON RANCH® mark are both used with lodging accommodations and restaurant services. In addition, the Disputed Marks are used with "excursion arrangements for tourists" and "recreational and entertainment services," services commercially related to the hiking and horse-back riding services provided by Canyon Ranch. As such, consumers could easily believe that Canyon Ranch, which offers lodging, restaurant services, and excursions such as hiking and horse-back riding, could be operating another resort called "Grand Canyon Ranch."

In response to this evidence, GCR merely makes conclusory statements that the services are different because Canyon Ranch offers “high end” services and Canyon Ranch has never offered services at the Grand Canyon, but instead only in Tucson, Arizona; Lenox, Massachusetts; Las Vegas, Nevada; and Miami, Florida. (GCR Br., 13-16). These statements, though, do not rebut the evidence submitted by Canyon Ranch showing that the services provided by the parties are similar, especially given that the marks are used in connection with the same types of services – lodging, restaurant services, and excursions such as hiking and mountain biking – and in the same geographic area. In fact, several of GCR’s brochures are targeted at Las Vegas tourists and advertise packages that include transportation from Las Vegas hotels. (GCR Br., Turner Aff.,Exh. 3, 5). Moreover, GCR’s own description of services in its GRAND CANYON RANCH registration expressly includes “resort lodging accommodations.” The parties’ services are clearly related.

3. The Parties’ Customers Overlap

When required to address the similarity of the parties’ channels of trade and customers, GCR again attempts to misdirect the Board’s attention by focusing on the parties’ “target audience,” rather than looking at whether the registration and application contain any limitations on the classes of consumers. Case law provides a simple rule: when the opposed application or registration do not contain any limitations on the channels of trade or classes of consumers, the good or services are assumed to travel in all normal channels of trade and to all prospective purchasers for the relevant goods or services. *See Victoria’s Secret Stores Brand Mgmt., Inc. v. Sexy Hair Concepts, LLC*, 91 U.S.P.Q.2d 1671, 1672-73 n.1 (S.D.N.Y. 2009). Nonetheless, GCR argues that the customers for the Disputed Marks differ from the CANYON RANCH® mark because GCR targets only customers that are seeking an “old west experience” while Canyon Ranch targets “high end, wealthy individuals” (GCR Br., 16). No such distinction can

be drawn from the registration and application themselves. Instead, the application and registration for the Disputed Marks do not contain any limitation as to classes of purchasers and as such are presumed to be offered to all potential customers for lodging, restaurant and bar services, and excursions, regardless of income. *See Valentino U.S.A., Inc. v. Florence Fashions (Jersey) Limited*, 2010 WL 2783891 (T.T.A.B. 2010) (finding that because defendant's applications and registrations did not contain a limitation as to trade channels and customers, "defendant's trade channels include all types of stores, from high-end fashion boutiques and department stores to discount retailers, and defendant's classes of purchaser range from the more discriminating purchaser to the general consumer").

Moreover, GCR's conclusory argument that the parties' customers differ is not supported by the very evidence it has submitted. GCR admitted that its visitors include people from "throughout the United States and from numerous foreign countries." (GCR Br., Exh. A, Turner Aff., ¶ 10). Similarly, the visitors to the CANYON RANCH properties come from across the United States and from foreign countries. (CR Br., Exh.1, Cohen Aff., ¶¶ 12, 14, 31-32). In addition, the advertisements submitted by GCR describe the ranch as being "exclusive" and "premier" and shows that GCR offers VIP packages, spa treatments, and "high-end exclusive wedding" packages that include hair and makeup stylist, under the Disputed Marks. (GCR Br., Turner Aff., Exh. 3). Therefore, GCR's evidence supports the conclusion that the parties' customers overlap.

4. Evidence of Actual Confusion

GCR argues that the factor regarding evidence of actual confusion weighs against a finding of likelihood of confusion because GCR has allegedly used the Disputed Marks since as early as 2003 and Canyon Ranch has provided no evidence that consumers have been confused by the marks. However, GCR has presented no evidence that proves that it started to use the

Disputed Marks in 2003 and, as such, the earliest date that can be used by GCR is the date the application was filed. *See Levi Strauss & Co. v. R. Josephs Sportswear Inc.*, 28 U.S.P.Q.2d 1464, 1467 (T.T.A.B. 1993) (in the absence of proof, the filing date of the application and not the dates of use alleged in the application is treated as the earliest use date on which an applicant may rely). In fact, the evidence presented by GCR shows that it continued to use the mark “Grand Canyon West Ranch” from the time it bought the facility in 2002 until at least 2009/2010, as shown by the Heli USA Airways brochures attached to Mr. Turner’s Affidavit. (GCR Br., Turner Aff., Exhibits 2, 3). The earliest use of the Disputed Marks is November 2010, as this is the date noted on an article by Mr. Turner in a booklet titled “Grand Canyon Ranch.” (*Id.* at Exhibit 7, GCR000034). Moreover, by Mr. Turner’s own admission, GCR only changed the name of the facility to “Grand Canyon Ranch” after there was a dispute with the Hualapai Indian tribe regarding use of the name “Grand Canyon West Ranch.” (*Id.* at ¶ 4). This dispute was not resolved until 2008. *See Grand Canyon West Ranch, LLC v. Hualapai Tribe*, 88 U.S.P.Q.2d 1501 (T.T.A.B. 2008). As such, GCR cannot claim that there have been no incidents of actual confusion since 2003, as it did not start to use the Disputed Marks until sometime in 2009/2010.

In addition, the lack of any instances of actual confusion is not dispositive as to whether there is a likelihood of confusion between the Disputed Marks and the CANYON RANCH® mark, as actual confusion is notoriously hard to obtain. *See Am. Coll. Pers. Ass’n v. The Ass’n for the Promotion of Campus Activities, Inc.*, 2013 WL 3188907 (T.T.A.B. 2013). Therefore, at most this factor is neutral as absence of actual confusion for such a short period of concurrent use is not dispositive.

5. *There Is No Evidence of Third Party Use of Similar Marks on Similar Services*

GCR failed to address Canyon Ranch's argument that its use of the mark CANYON RANCH® has been entirely exclusive in the marketplace, demonstrating the strong distinctiveness of the CANYON RANCH® mark. As such, this factor is conceded and weighs in favor of a likelihood of confusion finding.

6. *The CANYON RANCH® Mark Is Famous for Purposes of Likelihood of Confusion*

As set out in Canyon Ranch's ACR Trial Brief, the question of the fame of a mark for purposes of the "likelihood of confusion" analysis is crucial because a finding that a mark is famous will tip the analysis for many of the other confusion factors. *See Bose Corp. v. QSC Audio Prods., Inc.*, 293 F.3d 1367, 1371, 63 U.S.P.Q.2d 1303 (Fed. Cir. 2002). In light of the centrality of the fame issues, it is not surprising that GCR has not meaningfully responded to Canyon Ranch's overwhelming evidence of strong consumer recognition, other than to subsume the fame discussion within the dilution argument, which applies a different fame standard, and state in a conclusory fashion that the evidence is not sufficient to show fame.

Mainly, GCR argues that the evidence is not sufficient to show fame because the extensive unsolicited media mentions submitted by Canyon Ranch are not corroborated by a third party and the printed publications can only be made of record for what they show on their face, and not for the truth of the matter asserted. Essentially, GCR claims that the publications are inadmissible hearsay. However, third-party publications discussing the mark are one of the main forms of evidence submitted to show the fame of a mark. *See Bose Corp.*, 293 F.3d at 1372, 63 U.S.P.Q.2d at 1306 (noting that extensive media coverage can be used to show public renown); *Umgi Recordings, Inc. v. Mattel, Inc.*, 100 U.S.P.Q.2d 1868 (T.T.A.B. 2011) (noting that evidence of the fame of the MOTOWN mark includes excerpts from numerous publications, as well as media coverage and articles, from the 1960's to the present, that discuss the Motown

recording history and the unique Motown sound). Moreover, Canyon Ranch did not submit the publications to show the truth of the matter asserted in the articles, but instead to show that the CANYON RANCH® mark has been discussed and in fact featured in national publications like THE NEW YORK TIMES, USA TODAY, and TIME since the early 1980s and that some of these articles have referred to CANYON RANCH as “world renowned,” “legendary” and “famous.” *See Exxon Corp.*, 182 U.S.P.Q. at 445 (articles from trade publications admissible to show that they appeared in the publication on a certain date and that they contained certain information). As such, the articles are not hearsay, need not be supported by corroborating testimony, and are strong evidence that the CANYON RANCH® mark is famous.

In addition, contrary to GCR’s claim, the testimony of Mr. Cohen, through his affidavit, is sufficient to support Canyon Ranch’s claim that it spent millions of dollars on advertising and promoting its products and services under the CANYON RANCH mark. *See Bose Corp.*, 293 F.3d at 1372, 63 U.S.P.Q.2d at 1306 (noting that “we have consistently accepted statistics of sales and advertising as indicia of fame”). Canyon Ranch is not required to submit spreadsheets or other evidence to substantiate these claims. Furthermore, GCR’s argument that Canyon Ranch’s failure to submit a survey means there is insufficient evidence to show fame is incorrect. Survey evidence is not mandatory to establish fame where other evidence exists. In fact, direct evidence in the form of surveys of the “fame” of the mark is not necessary as circumstantial evidence regarding the fame of the mark suffices. *See 6 MCCARTHY ON TRADEMARKS AND UNFAIR COMPETITION* § 32:195 (4th ed. 2014); *Bose Corp.*, 293 F.3d at 1374 (“As to the absence of any consumer surveys, we note that a footnote to the Board’s own statement recognizes that direct evidence, such as surveys, is not ‘required in order to determine whether a mark is famous.’ Indeed, as noted above, virtually all of our precedent attributing fame to a mark has

done so through indirect evidence of the extent to which a mark has earned fame in the consumer marketplace.”)

The Board cannot ignore the wealth of evidence in the record demonstrating the fame of the CANYON RANCH® mark, ranging from the mark’s appearances in nationally syndicated television shows, from *The Oprah Winfrey Show* to *Monday Night Football*. (CR Br., Cohen Affidavit, ¶ 21), to its appearance in numerous national publications, including THE NEW YORK TIMES, USA TODAY, THE WALL STREET JOURNAL, FORTUNE magazine, and TIME magazine (*Id.*, Exh. A, CR1799, CR1797; CR2028, CR 1860, CR1962-65, CR2120-2122), to its reference in TV dramas like the *Real Housewives of New York* and *Gossip Girl* (*Id.*, ¶¶ 21, 23, 27). These and other cultural references to the mark CANYON RANCH set out in the record are important because such context-free third-party references to the CANYON RANCH mark would be meaningless without wide-scale preexisting awareness of the mark in the audience. It is the mere fact that these references are repeatedly made that evidences the fame of the CANYON RANCH mark.

Moreover, the affidavits and evidence in this case have established that Canyon Ranch and its business partners have expended large amounts of resources in advertising the CANYON RANCH® mark in various media channels, such as print, direct mail, email, promotional contests, and social networking. (*Id.*, ¶ 31; CR Br., Exh. 2, Supp. Cohen Aff., ¶ 3). And the uncontradicted record also establishes that the CANYON RANCH® mark has benefited from extensive third-party promotion as a result of numerous international awards received by the CANYON RANCH® properties— such as being named best spa in the world repeatedly by various sources. This evidence all support the extensive public recognition and renown of the CANYON RANCH® mark.

Therefore, in the face of GCR's silence as to the extensive evidence of the fame of the CANYON RANCH® mark, the Board should conclude that this factor favors Canyon Ranch and strongly affects the rest of the confusion factors.

7. Conclusion

The foregoing discussion of the relevant confusion factors must be weighed along with the settled propositions that a well-known mark will be strongly protected, and any doubts as to whether there is a likelihood of confusion stemming from a junior user's mark must be resolved in favor of the senior mark. *See, e.g., Kenner Parker Toys v. Rose Art Indus., Inc.*, 963 F.2d 350, 354, 22 USPQ2d 1453, 1457 (Fed. Cir. 1992) (“In consonance with the purposes and origins of trademark protection, the Lanham Act provides a broader range of protection as a mark's fame grows.”). Therefore, the balance of the likelihood of confusion analysis in this case tips strongly in favor of Canyon Ranch.

C. Canyon Ranch Has Established the Elements of Dilution by Blurring

The evidence in this case demonstrates that CANYON RANCH® is a truly famous mark that has become a household name and that GCR's adoption of the Disputed Marks would likely dilute the distinctiveness of the CANYON RANCH® mark, and thus, that the opposition and cancellation should be sustained pursuant to Section 43(c). (CR Br., 35-41). GCR's response with respect to Canyon Ranch's claim of a likelihood of dilution by blurring focuses almost exclusively on its mistaken belief that dilution by blurring requires survey evidence and evidence that media outlets have associated Canyon Ranch with GCR in order to prove fame.

GCR incorrectly asserts that the party alleging dilution “must provide evidence of (1) recognition by the other party, (2) intense media attention and (3) surveys” (GCR Br., 18). However, these factors are “examples of evidence” that show that a term is truly famous and are not required types of evidence. *See Toro Co. v. ToroHead Inc.*, 61 U.S.P.Q.2d 1164, 1180-1181

(T.T.A.B. 2001). Therefore, the fact that Canyon Ranch did not submit survey evidence and that media outlets have not associated GCR and Canyon Ranch is not dispositive. In addition, GCR seems to conflate the dilution factors with a likelihood of confusion analysis by arguing that dilution by blurring does not exist because (1) there is no evidence of actual confusion between the Disputed Marks and the CANYON RANCH® mark during their time of coexistence, (2) the customers differ, and (3) there is no evidence of counterfeiting or improper use. (GCR Br., 20). The likelihood of confusion factors and whether Canyon Ranch and GCR compete for the same customers is irrelevant to a dilution argument. *See Eli Lilly & Co. v. Natural Answers, Inc.*, 233 F.3d 456, 466 (7th Cir. 2000) (noting that the likelihood of confusion and whether the products compete are irrelevant for dilution purposes).

In addition, GCR appears to claim that the CANYON RANCH® mark is not famous for dilution purposes because “Canyon Ranch has not provided any evidence of its expenditures for advertising.” (GCR Br., 20). As previously noted, Canyon Ranch provided such evidence through the Affidavit of Jerry Cohen. (*See* CR Br., Cohen Aff., ¶ 31). And, more importantly, Canyon Ranch has provided overwhelming evidence of the fame of the CANYON RANCH® mark in terms of the duration of its use for more than thirty-five years; in terms of the extent of unsolicited media attention in national newspapers, national-distribution magazines ranging from pop culture magazines such as *People* to financial magazines such as *Forbes*, to television dramas and daytime talk shows in markets all across the country; in terms of a geographic scope that stretches throughout the entire country and, in fact, the world; in terms of expenditures that are in the millions for over thirty five years; and in terms of a level of marketing that includes numerous third parties who all want to capture some of the limelight of the mark’s renown. *See* 15 U.S.C. § 1125 (c)(2)(A)(i). In addition, the kind of cultural references to the mark

demonstrate a pervasiveness that is very much the kind of market recognition that is the epitome of a famous mark.

With respect to the other elements of a dilution claim, GCR has not offered a single argument, or indeed any evidence, to contest that the CANYON RANCH® mark became famous before the Disputed Marks were filed or that the mark's distinctiveness is likely to be blurred by the Disputed Marks. Given GCR's silence on these points, the Board is left to conclude that GCR is effectively conceding that its Disputed Marks will indeed whittle away at the distinctiveness of the senior CANYON RANCH® mark.

The erosion of the market power of the famous CANYON RANCH® mark is precisely what Congress sought to prevent with the anti-dilution provisions of 15 U.S.C. § 1125(c)(1). Accordingly, Canyon Ranch respectfully submits that the Board must also sustain the opposition and cancellation on the basis of Canyon Ranch's dilution claim pursuant to Section 43(c).

D. Canyon Ranch Has Established the Elements of Dilution by Tarnishment

In response to Canyon Ranch's argument that the CANYON RANCH® mark will be diluted by tarnishment, GCR relies on its belief that the documents produced by Canyon Ranch showing the facility operated under the Disputed Marks has received extensive bad reviews are inadmissible hearsay. However, as noted above, the documents are not being produced to prove the truth of the matter asserted, but instead, submitted merely for what they show on their face, that they appeared on the sites on the specified dates and that they referred to GCR as "completely rundown," as providing food that was "barely edible," and as a "nightmare," among other descriptions. As such, the documents are not inadmissible hearsay. *See Exxon Corp.*, 182 U.S.P.Q. at 445 (articles from trade publications admissible to show that they appeared in the publication on a certain date and that they contained certain information). In addition, GCR claims that dilution by tarnishment cannot be shown because Canyon Ranch failed to submit

survey evidence. Again, there is no requirement that survey evidence be submitted. *See Visa Int'l Serv. Ass'n v. JSL Corp.*, 610 F.3d 1088, 1091 (9th Cir. 2010)(“a plaintiff seeking to establish a likelihood of dilution is not required to go to the expense of producing expert testimony or market surveys; it may rely entirely on the characteristics of the marks at issue.”)

The evidence supports the conclusion that the CANYON RANCH® mark will be tarnished given that GCR’s services have been reviewed by guests as being of low quality and the public will associate the lack of quality of GCR’s services with Canyon Ranch’s services. *See Deere & Co. v. MTD Products, Inc.*, 41 F.3d 39, 43 (2d Cir. 1994). This is especially true given that the marks are extremely similar and consumers can reasonably believe that Canyon Ranch opened a “grand” version of “Canyon Ranch” or a Canyon Ranch location at the Grand Canyon called “Grand Canyon Ranch,” in a clever play off its existing name and the geographic location.

Therefore, Canyon Ranch respectfully submits that the Board must also sustain the opposition and cancellation on the basis of dilution by tarnishment.

III. CONCLUSION

For the reasons above, Canyon Ranch requests that the Board sustain its Opposition to United States Trademark Serial No. 77/905,088 and grant its Petition to Cancel United States Trademark No. 3,927,500.

DATED: June 6, 2014

Respectfully submitted,

/Sean D. Garrison/
Sean D. Garrison
Jennifer A. Van Kirk
Cindy A. Villanueva
LEWIS ROCA ROTHGERBER LLP

Attorneys for Opposer/Petitioner, CR License, LLC

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Petitioner's ACR Rebuttal Brief was served by U.S. Mail upon the following:

Thomas I. Rozsa
Rozsa Law Group LLC
18757 Burbank Blvd, Suite 220
Tarzana, CA 91356

Copy sent this 6th day of June, 2014.

By: Julie Bolliger
Julie Bolliger, a Lewis Roca Rothgerber Employee

EXHIBIT A

EXHIBIT A

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

CR License, LLC,)	Cancellation No. 92054034
)	
)	Mark: GRAND CANYON RANCH
Petitioner,)	
)	Reg. No. 3,927,500
v.)	
)	Registration Date: March 8, 2011
Grand Canyon Ranch,)	
)	
)	
Respondent.)	
_____)	

**PETITIONER’S RESPONSE TO
RESPONDENT’S FIRST SET OF INTERROGATORIES**

Pursuant to Rule 2.120 of the Trademark Rules of Practice and Rule 33 of the Federal Rules of Civil Procedure, petitioner CR License, LLC (“Petitioner”) timely answers in writing and under oath the First Set of Interrogatories of respondent Grand Canyon Ranch (“Respondent”).

PRELIMINARY STATEMENT

Petitioner’s response is made without waiving or intending to waive but, on the contrary, intending to preserve and preserving:

1. Petitioner’s right to raise all questions of authenticity, relevancy, materiality, privilege and admissibility concerning the documents produced and/or information provided for any purpose that may arise in any subsequent proceeding in this action or any other action or matter;

2. Petitioner’s right to object to the use of the produced documents, the information provided, and/or the responses or the subject matter thereof, on any ground in any further proceeding in this action (including trial) and any other action or matter;

INTERROGATORY NO. 5:

Please IDENTIFY any and all DOCUMENTS that evidence the DATE on which or about when PETITIONER first used the phrase “canyon ranch” as its trademark in commerce in the United States.

RESPONSE:

Petitioner objects to this Interrogatory as overbroad and unduly burdensome to the extent it seeks any and all evidence of first use dating back more than thirty years (to 1979). To comply with this Request would be an undue burden and expense on Petitioner. Petitioner also objects to this Interrogatory on the basis of relevance, as priority is not in issue in this dispute, since Petitioner filed now-registered applications for the CANYON RANCH mark at least as early as 1984 which precedes Petitioner’s claimed first use date of 2003, and information regarding these registrations is already within Respondent’s knowledge or control, or equally or more easily available to Respondent.

INTERROGATORY NO. 6:

Please IDENTIFY for each year from the DATE YOU first used the phrase “canyon ranch” as a trademark in commerce in the United States, to the date of answering this Interrogatory, each and every one of YOUR PRODUCTS that YOU have advertised, promoted, marketed, MANUFACTURED, IMPORTED, DISTRIBUTED, offered for sale, and/or sold under or in connection with YOUR TRADEMARKS, including, without limitation, the PRODUCT names, brand names, sub-brand names, and the quality of each and every one of YOUR PRODUCTS sold.

RESPONSE:

Petitioner objects to this Interrogatory as overbroad and unduly burdensome to the extent it seeks information dating back more than thirty-years (to 1979), regardless of its relevance to the present dispute, appears unlimited with respect to geographic region, and further demands Petitioner state the quantity of the PRODUCTS sold over the same over-broad period. The Request is calculated to annoy and harass Petitioner. Subject to and without waiving its general and specific objections, Petitioner responds that it has offered

the following goods and services under the CANYON RANCH mark:

- Excursion arrangements for tourists including horse-back riding;
- Recreational and entertainment services in the nature of tours, hiking and mountain biking;
- Providing temporary accommodations and resort lodging accommodations;
- Restaurants;
- Health resort and spa services;
- Providing a database in the field of recipes and cooking information;
- Skin care products including facial cleansers; facial creams; skin nourishing sprays; eye serum; body lotions; bath and shower gels; body bars; facial scrubs; moisturizers; anti-aging creams; sun damage prevention and treatment creams;
- Clothing;
- Luggage and bags;
- Hair-styling and cutting services and products, including shampoos and conditioners;
- Multi-vitamins and dietary supplements including, anti-oxidant formulas, bone nutrients, blood sugar support, and Omega 3-6;
- Sports and fitness services, including golf, tennis, Pilates, yoga, group fitness classes and dance;
- Wedding facility and rental services;
- DVD programs relating to fitness;
- Books, including *Canyon Ranch Cooks*, by Barry Correia and Scott Uehlein, 2003; *The Canyon Ranch Guide to Living Younger Longer*, by Len Sherman, Canyon Ranch, and Andrew Weil, 2001; *Canyon Ranch Cooks: More Great Tastes by The Staff of Canyon Ranch*, 2001; *Canyon Ranch Cooking: Bringing the Spa Home*, by Jeanne Jones, 1998; *Great Tastes: Healthy Cooking from Canyon Ranch*, by Canyon Ranch, 1997; and The LPGA (Ladies Professional Golf Association) Cooks with Canyon Ranch;
- Transportation of guests by means of automobile;

- Educational services;
- Condominium services;
- Retail services;
- Medical services;
- Nutrition counseling services;
- Counseling services;
- Computer applications in the fields of health, wellness and the prevention of disease.

Hundreds of thousands of guests have visited the various CANYON RANCH locations in the past 32 years, and in excess of a million CANYON RANCH services have been enjoyed through the CANYON RANCH SpaClub day spa available at the Venetian resort in Las Vegas and on cruise ships, including Cunard's *Queen Mary 2* and the many ships of Oceania Cruises and Regent Seven Seas Cruises. Tens of thousands of products bearing the CANYON RANCH brand have been sold since their introduction.

INTERROGATORY NO. 7:

Please IDENTIFY the MARKET, channel of trade, venue and/or geographical area where YOU have been and/or are actually advertising, promoting, marketing, DISTRIBUTING, offering for sale or selling YOUR PRODUCTS under or in connection with YOUR TRADEMARKS.

RESPONSE:

Petitioner objects to this Interrogatory as overbroad and unduly burdensome to the extent it seeks information dating back more than three decades, regardless of its relevance to the present dispute, and appears unlimited with respect to geographic region. The Request is calculated to annoy and harass Petitioner. Subject to and without waiving its general and specific objections, Petitioner responds that it has advertised, promoted and marketed its mark in every geographic area in the world since at least as early as 1998 on

the world wide web at its website www.canyonranch.com. Moreover, Petitioner has advertised its services in numerous print and electronic media channels, including regular direct mailing campaigns to tens of thousands of people, promotional contests with OK! Magazine, Lucky Magazine, Shape Magazine, and best selling author Jonathan H. Ellerby, Saks Fifth Avenue, and Jockey International, Inc., in addition to social networking media, such as Facebook - where it is 'liked' by over 12,000 members, YouTube - where its official videos alone have drawn over 8,600 video viewers, in addition to regularly run print ads in media channels such as the New York Times and Wall Street Journal. Finally, through CANYON RANCH SpaClub aboard Oceania Cruises' *Marina, Nautica, Regatta, and Riviera* cruise ships, CANYON RANCH branded services are offered to travellers visiting Asia, Africa, South America, Canada, the Caribbean, Panama Canal, Europe, the Mediterranean, and the Greek Isles, Australia, New Zealand, Scandinavia, Russia and India. Similarly, through CANYON RANCH SpaClub aboard the *Queen Mary 2*, CANYON RANCH branded services are offered to travellers visiting Europe, the Caribbean, Norway, Iceland, the Canary Islands, the British Isles and the Baltic. Finally, guests upon the cruise ships of Regent Seven Sea Cruise's are offered CANYON RANCH Spa Club services and dining while visiting South America, Africa, India, the Mediterranean, Asia-Pacific, and the tropics.

INTERROGATORY NO. 8:

Please IDENTIFY by stating the uniform resource locator (hereinafter "url") of each and every internet-based, online venue through which YOU have been or are advertising, promoting, marketing, DISTRIBUTING, offering for sale or selling YOUR PRODUCTS under YOUR TRADEMARKS.

RESPONSE:

Petitioner objects to this Interrogatory as overbroad and unduly burdensome to the extent it seeks information across the internet, regardless of its relevance to the present dispute. Subject to and without waiving its general and specific objections, Petitioner responds

RESPONSE:

Petitioner objects to this Interrogatory as overbroad and unduly burdensome to the extent that it seeks information dating back a decade, regardless of its relevance to the present dispute, and appears unlimited with respect to geographic region. The Request is calculated to annoy and harass Petitioner. Subject to and without waiving its general and specific objections, Petitioner responds that it has expended millions of dollars in sales and marketing over the past decade to advertise, promote, market, distribute, offer for sale or sell its goods and services offered under its CANYON RANCH marks.

INTERROGATORY NO. 16:

Please IDENTIFY in detail, by calendar quarter for each year for the past ten (10) years, YOUR annual gross revenues, expenses and deductions, net revenues and net profits from the sale of each of YOUR PRODUCTS and the number of units sold of each such product.

RESPONSE:

Petitioner objects to this Interrogatory as overbroad and unduly burdensome to the extent that it seeks information dating back a decade, regardless of its relevance to the present dispute, and appears unlimited with respect to geographic region. The Request is calculated to annoy and harass Petitioner. Subject to and without waiving its general and specific objections, Petitioner responds that it has approximately \$150 Million Dollars in annual revenues.

INTERROGATORY NO. 17:

Please IDENTIFY in detail, by calendar quarter for each year for the past ten (10) years, YOUR profits and losses that YOU incurred in connection with the sales of YOUR PRODUCTS.

Interrogatory seeks to ascertain the identity, writings, and opinions of Petitioner's experts who have been retained or utilized to date solely as an advisor or consultant, it is violative of the work-product privilege. Petitioner is still evaluating and in the process of determining on whom it will rely upon as a fact witness, although the present persons are under consideration:

- Jerrold Cohen, Canyon Ranch CEO
Canyon Ranch Enterprises, Inc.
8600 East Rockcliff Road
Tucson, Arizona 85750

The person(s) identified above should be contacted through Petitioner's counsel as designated below:

Jennifer A. Van Kirk
Lewis and Roca LLP
40 North Central Avenue
Phoenix, Arizona 85004-4429
Phone: (602) 262-5311

INTERROGATORY NO. 57:

Please IDENTIFY each and every DOCUMENT PETITIONER reviewed or consulted when preparing the PETITION and each and every PERSON having personal knowledge of the facts PETITIONER relied on in preparing the PETITION.

RESPONSE:

Petitioner reviewed documents contained on its publicly accessible website, including those pages produced in response to Interrogatory Nos. 7, 8, and 10.

INTERROGATORY NO. 58:

Please IDENTIFY any and all instances, identifying the DATE, NAME of PERSONS involved, the circumstances and outcome of actions YOU have taken in order to protect YOUR TRADEMARKS, including but not limited to, any and all trademark oppositions, cancellations or lawsuits YOU are or were a party to regarding YOUR TRADEMARKS.

RESPONSE:

Petitioner objects to this Interrogatory to the extent that it seeks privileged attorney-client communications or attorney work-product. Petitioner further objects to this Interrogatory as vague to the extent that it does not disclose a timeframe for information sought, and overbroad and unduly burdensome to the extent that it presumably seeks information dating back more than thirty-years, regardless of its relevance to the present dispute. Petitioner further objects to this Interrogatory as it relates to presently pending dispute matters. Subject to and without waiving its general and specific objections, Petitioner responds that it has protected its marks through action against the following marks:

- October 2, 1986 through February 2, 1990: U.S. Opposition to Serial No. 71/590,034 for the mark GRAND CANYON, for men's and boys' shirts for outer wear in Class 25, in the name of Salant Corporation. Outcome: Agreement reached with applicant.
- May 10, 2000 through October 21, 2002: U.S. Opposition to Serial No. 75/747,413 for the mark LOST CANYON RANCH for recreational services, namely providing camps of a Christian and evangelistic nature for young people, in Class 41, in the name of Young Life. Outcome: Opposition sustained by the U.S. Trademark Trial and Appeal Board.
- May 10, 2000 through August 19, 2002: U.S. Opposition to Serial No. 75/747,413 for the mark LOST CANYON RANCH for evangelistic and Christian ministerial services directed toward teenagers, in Class 42, in the name of Young Life. Outcome: Opposition sustained by the U.S. Trademark Trial and Appeal Board.
- May 10, 2000 through April 30, 2002: U.S. Opposition to Serial No. 75/747,413 for the mark LOST CANYON RANCH for men's and women's clothing, namely shirts, T-shirts, sweatshirts, sweatpants, shorts, polo-style shirts, jackets, socks, boxer-type shorts, and baseball-style caps, in Class 25, in the name of Young Life. Outcome: Opposition sustained by the U.S. Trademark Trial and Appeal Board.
- January 2004: Demand to abandon application Serial No. 76527620 for KESSLER CANYON RANCH for Resort hotel and wildlife ranch in Class 43, in the name of Colorado Nature Ranch, L.P. Outcome: Successful abandonment of application.

- March 12, 2004: Demand to cease use of canyonranch-hotelsathome.com. Outcome: Successful cessation of use.
- March 12, 2004: Demand to cease use of rimrockcanyonranch.com. Outcome: Successful cessation of use.
- March 12, 2004: Demand to cease use of redwingcanyonranch.com. Outcome: Successful cessation of use.
- March 16, 2004: Demand to cease use of Camino-canyon-ranch.com. Outcome: Successful cessation of use.
- March 22, 2004: Demand to cease use of Blackhorsecanyonranch.com. Outcome: Successful cessation of use.
- April 9, 2004: Demand to cease use of canyon-ranch-spa-therapy.com. Outcome: Successful cessation of use.
- May 24, 2004: Demand to cease use of canyonranchkorea.com. Outcome: Successful cessation of use.
- August 2, 2004: Demand to cease use of mcelmocanyonranch.com. Outcome: Successful cessation of use.
- August 2, 2004: Demand to cease use of classiccanyonranch.com. Outcome: Successful cessation of use.
- November 16, 2004: Demand to cease use of Blackkeycanyonranch.info. Outcome: Successful cessation of use.
- November 16, 2004: Demand to cease use of Blackcanyonranchrealty.com. Outcome: Successful cessation of use.
- December 17, 2004: Demand to cease use of canyonranchberkshires.com. Outcome: Successful cessation of use.
- December 17, 2004: Demand to cease use of rubycanyonranch.com. Outcome: Successful cessation of use.
- December 17, 2004: Demand to cease use of threecanyonsranch.com. Outcome: Successful cessation of use.
- December 17, 2004: Demand to cease use of comstevenscanyonranch.com. Outcome: Successful cessation of use.
- December 17, 2004: Demand to cease use of horseshoecanyonranchinar.com. Outcome: Successful cessation of use.

- December 29, 2004: Demand to cease use of coppercanyonranchnews.com. Outcome: Successful cessation of use.
- February 14, 2005: Demand to cease use of canyonranch-hotelsathome.com. Outcome: Successful cessation of use.
- March 8, 2005: Demand to cease use of canyonranchchildcare.com. Outcome: Successful cessation of use.
- March 8, 2005: Demand to cease use of canyonranchchildcare.net. Outcome: Successful cessation of use.
- March 8, 2005: Demand to cease use of canyonranchchildcare.biz. Outcome: Successful cessation of use.
- March 8, 2005: Demand to cease use of canyonranchchildcare.org. Outcome: Successful cessation of use.
- March 22, 2005: Demand to cease use of lostcreekcanyonranch.com. Outcome: Successful cessation of use.
- May 17, 2005: Demand to cease use of Blackcanyonranchhomes.com . Outcome: Successful cessation of use.
- May 27, 2005: Demand to surrender Registration No. 2701551 for SNAKE RIVER CANYON for land development services, namely, planning and laying out of residential and/or commercial communities in the name of Snake River Canyon Ranch, Inc. Outcome: Successful surrender of registration.
- June 21, 2005: Demand to cease use of canyonranchproduct.com. Outcome: Successful cessation of use.
- June 21, 2005: Demand to cease use of canyonranchMagazinesuck.com. Outcome: Successful cessation of use.
- September 6, 2005: Demand to abandon application Serial No. 76637861 for RED CANYON RANCH for beef, in the name of Carneco Holding, Inc. Outcome: Successful abandonment of applications.
- December 19, 2005: Demand to cease use of wildhorsecanyonranch.com. Outcome: Successful cessation of use and transfer of domain name.
- June 2, 2007 through April 25, 2011: Demand to cease use of PASO ROBLES CANYON RANCH for housing community. Outcome: Successful cessation of use.

- August 7, 2007 through October 10, 2008: U.S. Opposition to Serial No. 76671885 for the mark SILVER CANYON RANCH for beef and pork in Class 25, in the name of Sterling Ranch LLC. Outcome: Settlement agreement reached with applicant.
- November 2, 2007: Demand to abandon application Serial No. 77267613 for SANTA RITA CANYON RANCH for Vineyard and winery services, namely, the cultivation of grapes for others, in Class 44, in the name of Logue, Charles G. Outcome: Successful abandonment of application.
- June 11, 2008 through September 2, 2009: Extension of time to Oppose filed against Serial No. 77/334,819 for the mark INDIAN CANYON RANCH for providing facilities for recreation activities, in Class 42 in the name of Hinesley, Gail A. Outcome: Agreement reached with applicant.
- March 7, 2008: Demand to cease use of SANTA FE CANYON RANCH. Outcome: Successful cessation of mark.
- October 9, 2008: UDRP Action filed against canyonranchlistings.com. in the name of Bradley E. Arnowitz, P.A. c/o Re/Max Beach Properties. Outcome: Successful surrender of domain name.
- March 12, 2009: Demand to abandon application Serial Nos. 77664097 and 77694086 for RED CANYON RANCH for beef, in the name of Red Bird Farms Distribution Company. Outcome: Successful abandonment of applications.
- April 2009: Demand to cease use of CANYON RANCH VINEYARDS by Percept Brands for wine. Outcome: Successful cessation of use.
- July, 2009 through October, 2010: Demand to cease use of CANYON RANCH at Sojodesign.com. Outcome: Successful cessation of use.
- July 13, 2009: Demand to cease use of phrase “Perioromatherapy treatment feels like CANYON RANCH for my teeth.” by oraspa.com. Outcome: Successful cessation of use.
- April 2010: Demand to cease use of CANYON RANCH LIVING at zilbert.com. Outcome: Successful cessation of use.
- April 16, 2010 through March 7, 2012: Demand to cease use of CRICKET CANYON RANCH on website at cricketcanyonranch.com. Outcome: Successful cessation of use.
- July, 2010 through January, 2011: Demand to cease use of CANYON RANCH on tents by the Coleman Company. Outcome: Successful cessation of use.

- July 2010 through November 2010: Demand to cease certain use of CANYON RANCH. Outcome: Successful modification of use.
- October, 2010 through November, 2011. Demand to cease use of Application Serial No. 85/012,058 for DEAD CANYON RANCH for wines, in the name of Mercer Wine Estates, LLC. Outcome: Successful cessation of use.
- November 1, 2010 through February 7, 2012: Demand to cease use of canyonranchmiamibeach.us domain. Outcome: Successful cessation of use.
- April 2011: Demand to cease use of CANYON RANCH for tunics at naturallycaron.com. Outcome: Successful cessation of use.
- April 2011: Demand to cease use of CANYON RANCH on website at swingolf.net. Outcome: Successful cessation of use.
- March 12, 2012: Demand to cease use of CANYON RANCH on website at shdweb.com. Outcome: Successful cessation of use.
- February 10, 2012: Demand to cease use of CANYON RANCH SCALLOPS on website at pricecutteronline.com. Outcome: Successful cessation of use.

INTERROGATORY NO. 59:

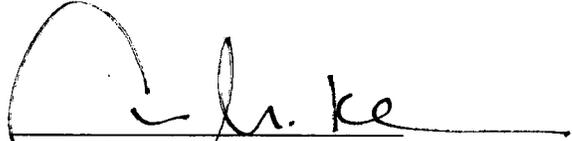
Please IDENTIFY each and every PERSON who supplied information or documents for, or who has participated in responding to these Special Interrogatories, Registrant's Requests for Production of Documents and Things and/or Registrant's Requests for Admissions.

RESPONSE:

The responses to the requests above were furnished by Gary S. Milner, Vice-President of Development.

[Signature block to follow]

DATED this 5th day of June 2012.

By: 

Jennifer A. Van Kirk

Christine Klenk

Lewis and Roca LLP

40 North Central Avenue

Phoenix, Arizona 85004-4429

602-262-5311

Attorneys for Petitioner, CR License, LLC

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Petitioner's Response to Respondent's First Set of Interrogatories was served by Priority Mail upon the following:

Thomas I. Rozsa
Rozsa Law Group LLC
18757 Burbank Blvd, Suite 220
Tarzana, CA 91356

Copy sent this 5th day of June, 2012.

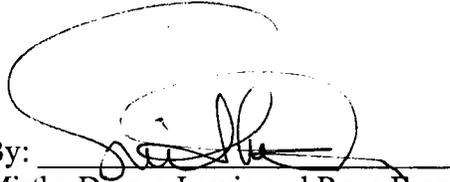
By: 
Mirtha Diaz, a Lewis and Roca Employee

EXHIBIT B

EXHIBIT B

Our File Number: 41008-00058

January 10, 2014

VIA FEDERAL EXPRESS

Thomas I. Rozsa
Rozsa Law Group LC
18757 Burbank Blvd., Suite 220
Tarzana, CA 91356

Re: CR License, LLC v. Grand Canyon Ranch
Opposition/Cancellation Nos. 91202705 and 92054034

Dear Mr. Rozsa:

Please find enclosed a CD labeled "Canyon Ranch Final Disclosure" that contains CR License, LLC's ("Canyon Ranch") final document disclosure (CR001270 – CR003744). We have also enclosed a DVD labeled "Canyon Ranch Staff Guest Appearances on National Television" that contains videos of staff appearances on television. (CR001269).

In addition to the new documents being disclosed, we have reproduced the previously disclosed documents that were produced in response to your Request for Production because the Bates label name "GCR" was used by both parties. These documents have been re-Bates labeled as "CR." The actual numbers are otherwise the same as originally produced.

Sincerely,

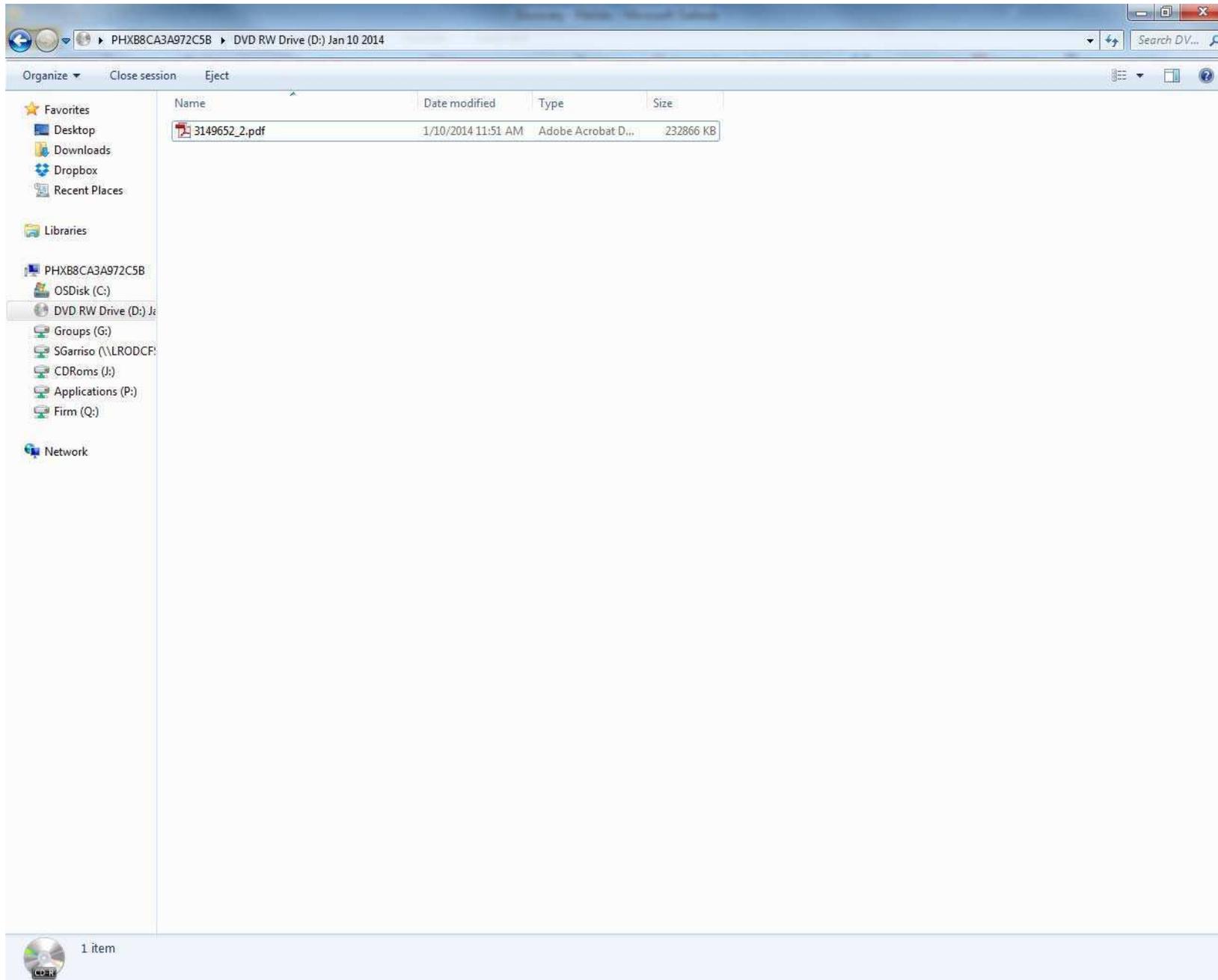


Sean D. Garrison

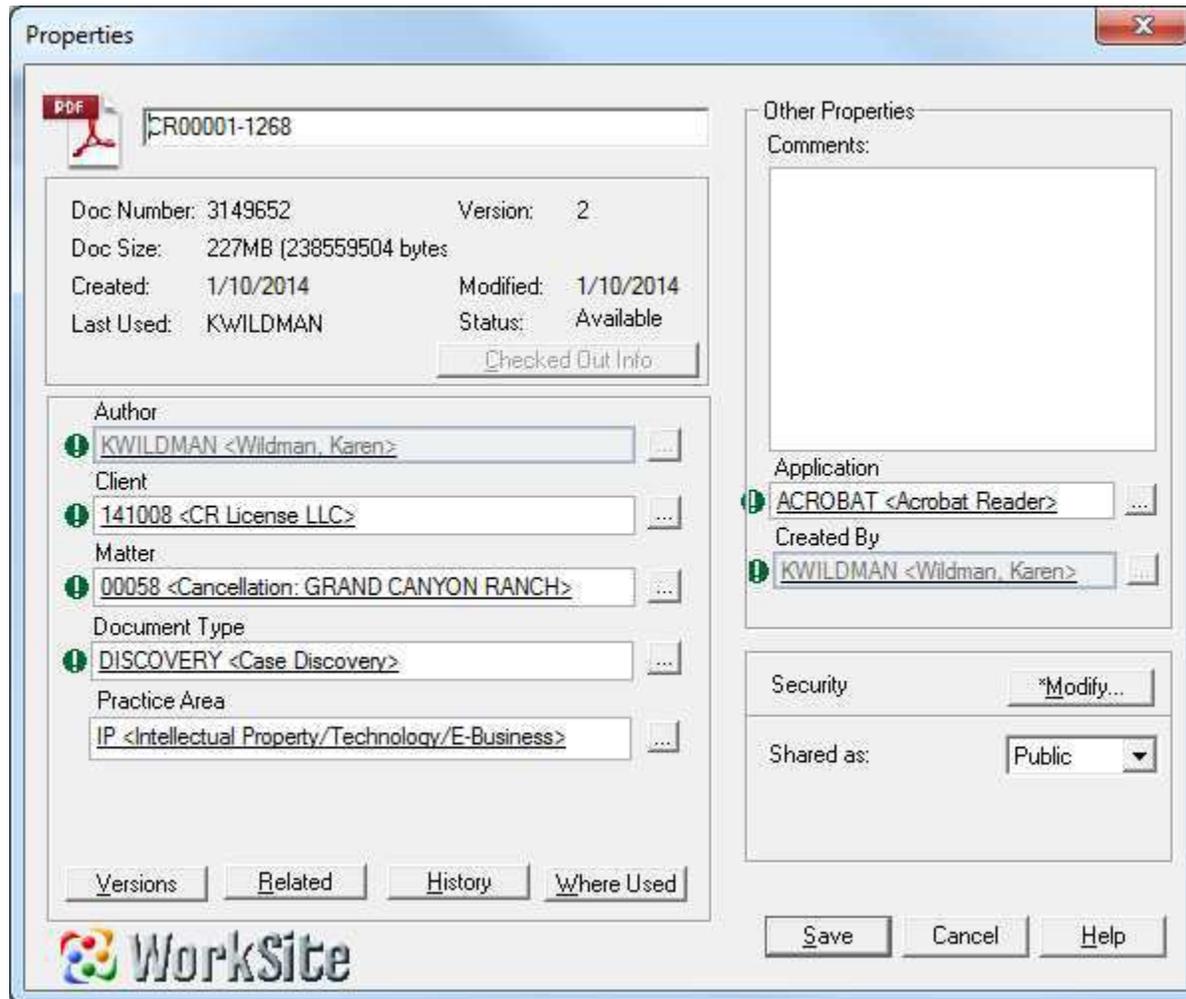
SDG/kat
Enclosures

CR License LLC v. Grand Canyon Ranch
Cancellation No. 92054034
Mark: GRAND CANYON RANCH
Reg. No. 3,927,500

Canyon Ranch Final Disclosure
(Doc. Nos. CR000001-001268)



Screenshot of File Properties Window Showing Doc# 3149652_2 contains Bates Labeled Docs CR00001-1268



CR License LLC v. Grand Canyon Ranch
Cancellation No. 92054034
GRAND CANYON RANCH
Mark: Reg. No. 3,927,500

Canyon Ranch Final Disclosure
(Doc. Nos. CR001270-CR003744)

Windows Explorer window showing the contents of a DVD RW Drive (D:) Disc. The address bar shows the path: PHXB8CA3A972C5B > DVD RW Drive (D:) Disc. The window title is "Computer - PHXB8CA3A972C5B - Microsoft Windows". The interface includes a "Burn to disc" button and a search bar.

The main pane displays a list of files and folders. The left sidebar shows the navigation pane with "DVD RW Drive (D:) D" selected. The status bar at the bottom indicates "9 items".

Name	Date modified	Type	Size
Files Currently on the Disc (8)			
Canyon Ranch 01-10-2014 Document Disclosure - Analytics - CONFIDENTIAL CR003741-3744.pdf	1/10/2014 3:41 PM	Adobe Acrobat D...	1071 KB
Canyon Ranch 01-10-2014 Document Disclosure - CV001270-1796.pdf	1/10/2014 3:33 PM	Adobe Acrobat D...	110103 KB
Canyon Ranch 01-10-2014 Document Disclosure - CV001797-2137.pdf	1/10/2014 3:33 PM	Adobe Acrobat D...	65547 KB
Canyon Ranch 01-10-2014 Document Disclosure - CV002138-2435.pdf	1/10/2014 3:34 PM	Adobe Acrobat D...	49171 KB
Canyon Ranch 01-10-2014 Document Disclosure - CV002436-2869.pdf	1/10/2014 3:36 PM	Adobe Acrobat D...	142793 KB
Canyon Ranch 01-10-2014 Document Disclosure - CV002870-3041.pdf	1/10/2014 3:37 PM	Adobe Acrobat D...	100052 KB
Canyon Ranch 01-10-2014 Document Disclosure - CV003042-3740.pdf	1/10/2014 3:38 PM	Adobe Acrobat D...	205739 KB
Canyon Ranch 01-10-2014 Document Disclosure - CV003745-3821.pdf	1/10/2014 3:42 PM	Adobe Acrobat D...	3603 KB
Files Ready to Be Written to the Disc (1)			
desktop.ini	7/26/2013 11:39 AM	Configuration sett...	1 KB