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Filing date: **12/26/2013**

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

Proceeding	91202984
Party	Plaintiff Hachette Filipacchi Presse
Correspondence Address	SUSAN UPTON DOUGLASS FROSS ZELNICK LEHRMAN & ZISSU PC 866 UNITED NATIONS PLAZA NEW YORK, NY 10017 UNITED STATES mc@fzlz.com
Submission	Plaintiff's Notice of Reliance
Filer's Name	Michael Chiappetta
Filer's e-mail	mc@fzlz.com
Signature	/Michael Chiappetta/
Date	12/26/2013
Attachments	Opposer's Notice of Reliance (F1368030x96B9E).pdf(2162474 bytes)

3. Opposer's Second Set of Requests for Admission and Applicant's Responses thereto, copies of which are annexed hereto as Exhibit C. Opposer includes the discovery requests because they contain reference to exhibits that are not set forth in Applicant's responses.

Dated: New York, New York
December 26, 2013

FROSS ZELNICK LEHRMAN
& ZISSU, P.C.

By: _____


Michael Chiappetta

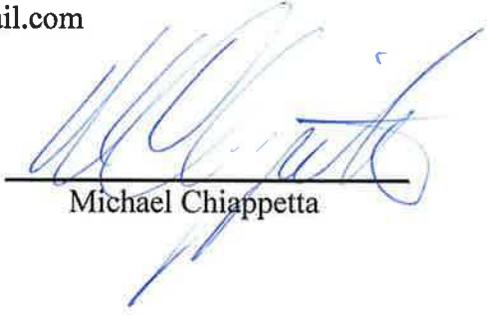
866 United Nations Plaza
New York, New York 10017
(212) 813-5900
Attorneys for Opposer
Hachette Filipacchi Presse

CERTIFICATE OF SERVICE

The undersigned, counsel for Hachette Filipacchi Presse hereby certifies under penalty of perjury that I caused a true and correct copy of the attached NOTICE OF RELIANCE UNDER 2.122(j) to be sent by U.S. Mail on December 26, 2013 to Applicant, Lauren R. Schneider, at the following address of record for Applicant:

Lauren R. Schneider
465 North Summit Avenue
Pasadena, Ca 91103 3719
elle.schneider@gmail.com

By:



Michael Chiappetta

Michael Chiappetta

EXHIBIT A

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

Opposer's Ref: HFIL 1106384

In the matter of Application Serial No. 85/240605
Published in the *Official Gazette* on June 21, 2011
Mark: ELLE SCHNEIDER

-----X	:	
HACHETTE FILIPACCHI PRESSE,	:	
	:	
Opposer,	:	
	:	
- against -	:	Opposition No. 91202984
	:	
LAUREN R. SCHNEIDER,	:	
	:	
Applicant.	:	
	:	
-----X	:	

FIRST SET OF INTERROGATORIES AND DOCUMENT REQUESTS TO APPLICANT

Pursuant to Rule 2.120(d) of the Trademark Rules of Practice and Rules 33 and 34 of the Federal Rules of Civil Procedure, Opposer Hachette Filipacchi Presse requests that Applicant Lauren R. Schneider (“Applicant”) answer under oath and respond to the following interrogatories and requests for production of documents by serving written responses thereto at the offices of Opposer’s attorneys, Fross Zelnick Lehrman & Zissu, P.C., 866 United Nations Plaza, New York, New York 10017 attn: Michael Chiappetta, Esq., within thirty (30) days after service of this request upon Applicant’s counsel. Applicant is further required to produce those documents specified herein within 30 days of service of this request at the offices of Fross Zelnick Lehrman & Zissu, P.C. or at another mutually agreed upon time and/or location.

DEFINITIONS

A. "Agreement" means any written or oral contract, understanding, agreement or agreement in principle, all schedules, exhibits or other documents ancillary thereto or referred to therein, and all drafts of and amendments to the foregoing.

B. "All" and "each" shall each be construed as "all and each."

C. "And" and "or" shall each be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope.

D. "Applicant," "you," or "your" means Lauren R. Schneider or any company owned or controlled by Lauren R. Schneider, or any division, parent, subsidiary, licensee, franchisee, successor, predecessor-in-interest, assign or other related business entity of such company; and every officer, employee, agent, attorney or other person acting or purporting to act on behalf of any of the foregoing.

E. "Applicant's Mark" means the mark ELLE SCHNEIDER as shown in Application Serial No. 85/240605.

F. "Answer" means the Answer to Opposition dated January 18, 2012 filed by Applicant in this proceeding.

G. "Communication" means, without limitation, the transmittal of information (in the form of facts, ideas, inquiries or otherwise), including, but not limited to, meetings, discussions, conversations, telephone calls, recordings, photographs, notes, memoranda, letters, facsimiles, email and the transmittal of information in the form of agreements.

H. "Concerning" means relating to, referring to, describing, evidencing or constituting and any requests for Documents "concerning" any subject calls for all documents or

things that reflect, relate to, compromise, evidence, constitute, describe, explicitly or implicitly refer to, were reviewed in conjunction with, or were generated as a result of the subject matter of the request, including but not limited to all Documents and things that reflect, record, memorialize, discuss, evaluate, consider, review or report on the subject matter of the request.

I. “Describe,” with respect to oral communications, means to state or identify the date, time of day, duration, location, persons involved, witnesses, physical occurrences, and a summary of the substance of any conversations. With respect to documents, “describe” means to identify the type of document, its date, its author, its recipients, and to offer a summary of the substance thereof.

J. “Document” is used in the broadest sense possible consistent with the Federal Rules of Civil Procedure as adopted by the Trademark Rules of Practice and includes, without limitation, non-identical copies (whether different from the original because of underlining, editing marks, notes made on or attached to such copy, or otherwise), and drafts, whether printed or recorded (through a sound, video or other electronic, magnetic or digital recording system) or reproduced by hand, including but not limited to writings, recordings, photographs, letters, correspondence, purchase orders, invoices, facsimiles, telegrams, telexes, memoranda, records, summaries, minutes, records or notes of personal conversations, interviews, meetings and/or conferences, note pads, notebooks, postcards, “Post-It” notes, stenographic or other notes, opinions or reports of consultants, opinions or reports of experts, projections, financial or statistical statements or compilations, checks (front and back), contracts, agreements, appraisals, analyses, confirmations, publications, articles, books, pamphlets, circulars, microfilms, microfiche, reports, studies, logs, surveys, diaries, calendars, appointment books, maps, charts, graphs, bulletins, tape recordings, videotapes, disks, diskettes, compact discs (CDs), data tapes or

readable computer-produced interpretations or transcriptions thereof, electronically-transmitted messages (email), voicemail messages, inter-office communications, advertising, packaging and promotional materials, and any other writings, papers and tangible things of whatever description whatsoever, including but not limited to all information contained in any computer or electronic data processing system, or on any tape, whether or not already printed out or transcribed.

K. “Identify” when used in reference to:

i) a current officer or employee of Applicant means to state the person’s full name and title or position;

ii) a former officer or employee of Applicant means to state, to the extent known, the person’s full name, last title or position with Applicant, and the person’s present business affiliation, and business addresses and telephone number or residential address and telephone number;

iii) any other person means to state, to the extent known, the person’s full name, present or last known address, and the current or last known place of employment and business addresses and telephone number;

iv) an oral communication means to describe the date and time of the communication, the place where the communication occurred, the persons involved in the communication, any other person present, and the substance of the communication;

v) a business entity or institution means to state, to the extent known, its full name, address and telephone number;

vi) a document means to describe the document with specificity, including, where applicable, the subject matter of the document, its date, the name, title and address of each writer or sender and each recipient, its present location and custodian, and, if any such document

is not in Applicant's possession or subject to its control, state what disposition was made of it, by whom, and the date thereof. Applicant may furnish a copy of the document in lieu of identifying it, provided: (a) the document contains the above information or Applicant separately furnishes such information when furnishing the document, (b) Applicant identifies the production number of such document in its response; and (c) Applicant follows the Instructions set forth in Opposer's First Set of Requests for the Production of Document and Things to Applicant.

L. "Market Research" includes all surveys, polls, focus groups, trademark and/or any other searches, market research studies and other investigations, whether or not such investigations were completed, discontinued or fully carried out, and whether or not they were performed in connection with this Opposition.

M. "Opposer," means Hachette Filipacchi Presse.

N. "Opposition" means the Notice of Opposition filed in this proceeding.

O. "Opposer's Marks" means the ELLE, ELLE DÉCOR and ELLE TV marks used or owned by Opposer including but not limited to those set forth in paragraphs 4 and 6 of the Notice of Opposition.

P. "Person" means any natural person or any business, legal or governmental entity or association.

Q. "Set Forth the Basis" with respect to an allegation or denial of an allegation means to state all facts, evidence and bases on which Applicant is relying in support of such allegation or denial and to identify all documents concerning such allegation or denial (including both those supporting and those tending to negate the allegation or denial).

R. When not capitalized, "mark," "trademark" and "trade name" each incorporate trademarks, service marks, trade names and service names.

- S. "Thing" means any tangible object.
- T. The use of the singular form of any word includes the plural and vice versa.
- U. References to the masculine gender shall apply equally to the feminine gender.

INSTRUCTIONS

1. Unless otherwise stated, all interrogatories and document requests apply to activities in or in connection with the United States.
2. The use of the singular form of any word includes the plural and vice versa. References to the masculine gender shall apply equally to the feminine gender.
3. In answering these requests, even though the questions may be directed to "you," furnish all information which is available to you, including information in the possession of your attorneys or investigators prepared on your behalf. If you cannot answer any of the following interrogatories in full after exercising due diligence to secure the information, state an answer to the extent possible, specifying your inability to answer the remainder and stating whatever information or knowledge you have concerning the unanswered portions.
4. Applicant is required to produce any and all Documents in its possession, custody or control that are known or available to it, regardless of whether those Documents are possessed by it or are in the custody or possession of any agent, representative, attorney or other third party. Applicant must make a diligent search of its records (including but not limited to paper records, computerized records, electronic mail records and voicemail records) and of other papers and materials in its possession, custody or control including but not limited to those Documents available to it or its agents, representatives, attorneys or other third parties.
5. All Documents produced for inspection must be organized and labeled to correspond with the categories in the request or must be produced in the manner in which they

are kept in the ordinary course of business. *See* Fed. R. Civ. P. 34(b).

6. Where any copy of any Document is not identical to any other copy thereof by reason of any alteration, addition, attachment, redaction, marginal notes, underlining, comments or other material contained therein, Applicant must produce all such non-identical copies separately.

7. If there are no Documents or things responsive to any particular request or part thereof Applicant should so state in writing.

8. If any Document is known by Applicant to have been in existence but is no longer either in existence or in Applicant's possession, custody or control, Applicant should state:

(a) whether the Document is missing or lost, and if so, the name and current address and phone number of the person(s) who have knowledge of it; (b) whether the Document has been destroyed and, if so, the circumstances of such destruction and the name and current address and phone number of the person(s) who destroyed it or who has knowledge of its destruction and the date of destruction; (c) whether the Document has been transferred voluntarily or involuntarily and in each instance explain the date of transfer and the circumstances surrounding the transfer; and (d) to the extent known the identity of the person(s) who has possession, custody or control of the Document.

9. If any Document covered by a request is withheld or not produced on the basis of a claim of privilege or any other objection, Applicant shall provide Opposer with a list containing the following information for each of the Documents:

(i) The reasons for withholding production of the Document and any supporting facts. The claim of privilege or any other objection must be made in sufficient detail so as to permit the Board to adjudicate the validity of the claim or objection;

- (ii) The subject matter of the Document;
- (iii) The names and job titles of all people to whom copies were distributed or to whom the information contained in the Document was disclosed;
- (iv) The date the Document was prepared and the date it was sent;
- (v) The name, employment position and address of the author(s), preparer(s), and senders of the document;
- (vi) A brief description of the nature of Document;
- (vii) The number of the request under which each Document would otherwise be produced; and
- (viii) The statute, rule or decision which is claimed to give rise to the privilege.

10. Should Applicant be unable to answer any interrogatory in full, Applicant should answer the interrogatory to the fullest extent possible, specify the reasons for the inability to answer the remainder, and state whatever information Applicant has concerning the unanswered portion.

11. If a claim of privilege is asserted in objecting to any interrogatory or any aspect or portion thereof, and a full answer is not or will not be provided on the basis of such assertion, Applicant shall set forth as to each such interrogatory or aspect or portion thereof the nature of the privilege (including work product) being claimed. Applicant shall answer each interrogatory and each part thereof not requesting privileged information.

12. Any objection to any request for which a basis has not been specifically stated within the time provided by the Federal Rules of Civil Procedure shall be waived.

13. For the convenience of the Board and the parties, Applicant should quote each request in full immediately preceding the response.

14. These requests shall be deemed continuing. Should Applicant at any time after preparing and furnishing the requested information ascertain or acquire additional responsive information, Applicant should produce such supplemental information to Opposer within thirty (30) days but in no event later than the day before Opposer's trial period opens.

INTERROGATORIES

Interrogatory No. 1:

Describe in detail the business of Applicant.

Interrogatory No. 2:

Describe with specificity the origin of Applicant's Mark, including by identifying (i) the derivation of Applicant's Mark, (ii) the meaning of Applicant's mark and (iii) all reasons you selected Applicant's Mark.

Interrogatory No. 3:

Describe in detail how Applicant uses Applicant's Mark in connection with the business of Applicant.

Interrogatory No. 4:

(a) Identify and describe in detail each service that has been provided by Applicant or any other person authorized by Applicant under Applicant's Mark.

(b) For each service required to be identified in your response to Interrogatory No. 4(a), describe in detail how Applicant's Mark was used in connection with the service, including but not limited to each way the mark was displayed to or viewed by consumers in connection with the service.

(c) For each service required to be identified in your response to Interrogatory No. 4(a), set forth the inclusive dates of actual use of Applicant's Mark in connection with the service.

Interrogatory No. 5:

For each service required to be identified in your response to Interrogatory No. 4(a), describe precisely where you have provided the service under Applicant's Mark, including by identifying the city and state where you provided the service.

Interrogatory No. 6:

For each service required to be identified in your response to Interrogatory No. 4(a), set for your total revenues received in connection with the provision of such service in the United States for each of the last five (5) years.

Interrogatory No. 7:

State the amount Applicant has spent, by year, for the last five (5) years, in connection with the advertisement and promotion of her services under Applicant's Mark in the United States.

Interrogatory No. 8:

Describe all means by which Applicant has advertised or intends to advertise the services identified in the Application to be provided under Applicant's Mark, including by identifying all magazines, websites and other publications in which Applicant advertises or intends to advertise services offered under Applicant's Mark.

Interrogatory No. 9:

Describe all trade channels used or intended to be used by Applicant to provide services under Applicant's Mark, including by identifying all stores and business locations where Applicant advertises and/or provides her services under Applicant's Mark.

Interrogatory No. 10:

(a) Identify all persons that have been hired or otherwise retained by you for the purpose of assisting you in connection with the provision of services under Applicant's Mark.

(b) For each person required to be identified in response to Interrogatory No. 10(a), describe in detail the role such person had in connection with the provision of services under Applicant's Mark.

Interrogatory No. 11:

(a) Have services ever been provided under Applicant's Mark by anyone other than Applicant?

(b) If your response to Interrogatory No. 11(a) is in the affirmative, identify what persons have provided services under Applicant's Mark other than Applicant and services each such person provided under Applicant's Mark.

Interrogatory No. 12:

Describe in detail all Market Research (including the results thereof) requested, conducted or received by or on behalf of Applicant whether conducted for marketing purposes, litigation or other reasons concerning or referring to (a) Applicant's Mark; (b) Opposer; (c) Opposer's Marks; (d) any likelihood or actual confusion between the Parties' respective marks when used on or in connection with their respective goods and services.

Interrogatory No. 13:

Describe in detail how and when Applicant first became aware of (a) Opposer, (b) Opposer's use of Opposer's Marks and (c) Opposer's registration of Opposer's Marks.

Interrogatory No. 14:

Describe in detail any instances in which a customer, potential customer or any other third party has (a) been confused to think you are or Applicant's Mark is associated with or endorsed or approved by Opposer or Opposer's ELLE magazine or (b) inquired concerning whether you are or Applicant's Mark is associated with or endorsed or approved by Opposer or Opposer's ELLE magazine.

Interrogatory No. 15:

Identify all third party marks of which Applicant is aware that consists of or includes the term ELLE, and for all such marks: (a) identify each mark; (b) identify the goods and services on which each such mark is used; (c) identify all sales and advertising of goods under such mark; (d) provide all facts and evidence you have that each such mark is currently in use; and (e) provide all facts and evidence that consumers are aware of each such mark.

Interrogatory No. 16:

To the extent that you claim that Opposer's Marks are weak or otherwise not entitled to a broad scope of protection, identify all facts and evidence to support such claim.

Interrogatory No. 17:

To the extent that you contend that Opposer's Marks are not broadly connected generally with the fashion industry, set forth all facts and evidence to support your contention.

Interrogatory No. 18:

To the extent that you contend that the Opposer's Marks are not famous within the fashion industry generally, set forth all facts and evidence to support that contention.

Interrogatory No. 19:

To the extent you contend that classes of consumers for Opposer's goods and services under Opposer's Marks and for Applicant's services under Applicant's Mark would not overlap, set forth all facts and evidence to support such contention.

REQUESTS FOR PRODUCTION OF DOCUMENTS AND THINGS

Request No. 1:

All documents identified in Applicant's responses to Opposer's Interrogatories.

Request No. 2:

All documents identified in Applicant's Initial Disclosures.

Request No. 3:

All documents concerning the meaning or derivation of Applicant's Mark.

Request No. 4:

All documents concerning your selection or adoption of Applicant's Mark and your decision to use the mark in connection with the services identified in the Application.

Request No. 5:

Documents sufficient to show your first use of Applicant's Mark in connection with each of the services identified in the Application.

Request No. 6:

Documents sufficient to show all ways in which Applicant's Mark is displayed to consumers in connection with the advertisement and provision of the services identified in the Application.

Request No. 7:

Documents sufficient to show Applicant's total revenues (in dollars) received by Applicant in connection with the provision of services under Applicant's Mark for each year since Applicant first used its mark.

Request No. 8:

Documents sufficient to show all planned advertising and marketing strategies for the services identified in the Application to be offered under Applicant's Mark in the United States.

Request No. 9:

Documents sufficient to show all channels of trade used by Applicant to advertise, offer and provide services under Applicant's Mark including documents sufficient to identify all stores, business locations, magazines, websites or other publications where Applicant has advertised, offered or provided services under Applicant's Mark.

Request No. 10:

Documents sufficient to show all advertisements, press releases, Internet website pages, brochures, price lists, newspaper, magazine and trade articles and other promotional materials used by Applicant to advertise or promote Applicant's services under Applicant's Mark.
Mark.

Request No. 11:

Samples of all advertising or promotional materials in which you use the ELLE SCHNEIDER name.

Request No. 12:

All third party reviews, articles or other materials referencing ELLE SCHNEIDER.

Request No. 13:

Documents sufficient to show all amounts spent by Applicant for each year since 2007 for advertising, marketing and promoting services offered under Applicant's Mark.

Request No. 14:

Copies of all presentations referring to Applicant's Mark made or intended to be made by Applicant to potential investors, customers, advertisers, packagers, marketers or any other third party, regardless of whether such presentations were actually given.

Request No. 15:

All Documents concerning any contracts, licenses, agreements, assignments or consents, whether or not currently in force, to use Applicant's Mark.

Request No. 16:

All Documents concerning all Market Research, including the results thereof, conducted or caused to be conducted by or on behalf of Applicant, whether conducted for marketing purposes, litigation purposes or other purposes, which relate or refer to Applicant's Mark, and all documents concerning plans to conduct such Market Research.

Request No. 17:

All Documents and things concerning any actual confusion or the likelihood or possibility of confusion on the part of any person or entity as to the source, sponsorship,

affiliation or approval of Applicant's services under Applicant's Mark, including but not limited to misdirected mail, deliveries, telephone calls, bills, payments, invoices or any other materials referring to or inquiring about Opposer or its products.

Request No. 18:

All Documents in Applicant's possession, custody or control prior to Applicant's filing of the Application concerning, referring or relating to (a) Opposer, (b) any of Opposer's Marks or (c) any of Opposer's products or services under any of Opposer's Marks.

Request No. 19:

Documents sufficient to show the use of any marks or names by third parties in connection with goods or services that include the term ELLE.

Request No. 20:

Documents sufficient to show consumer recognition of any third party marks identified by you in response to Interrogatory No. 19.

Request No. 21:

All trademark search reports conducted or caused to be conducted by or on behalf of Applicant concerning Applicant's Mark and/or the selection of Applicant's Mark and all documents concerning such trademark searches.

Dated: New York, New York
August 1, 2012

FROSS ZELNICK LEHRMAN & ZISSU, P.C.

By: _____

Michael Chiappetta

866 United Nations Plaza
New York, New York 10017
Tel: (212) 813-5900
Email: mc@fzlj.com

Attorneys for Opposer Hachette Filipacchi Presse

CERTIFICATE OF SERVICE

I hereby certify that on this 1st day of August, 2012, a true and correct copy of the foregoing
FIRST SET OF INTERROGATORIES AND DOCUMENT REQUESTS TO APPLICANT
was served on the Applicant, Lauren R. Schneider by U.S. mail to the following address of
record for Applicant:

Lauren R. Schneider
465 North Summit Avenue
Pasadena, Ca 91103 3719

By:


Michael Chiappetta

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

In the Matter of Application Serial No. 85,240,605
Published in the *Official Gazette* on June 21, 2011
Mark: ELLE SCHNEIDER

----- X		
Hachette Filipacchi Presse,	:	
	:	
	Opposer,	:
	:	
v.	:	Opposition No. 91,202,984
	:	
Lauren R. Schneider,	:	
	:	
	Respondent.	:
----- X		

RESPONSE TO FIRST SET OF INTERROGATORIES

Respondent, Lauren R. Schneider (hereinafter the "Applicant") hereby answers the First Set of Interrogatories of Hachette Filipacchi Presse (hereinafter the "Opposer") to the best of her knowledge and ability to respond.

1. Applicant is a freelance filmmaker and screenwriter, and performs jobs related to the production of film and development of film technology, including photography and editing services.
2. Applicant's Mark represents the first name of Applicant, derived from the phonetic spelling of the initial "L" plus last name "Schneider". Use of the spelled out initial was preferred to the legal personal name for reasons of social use and as a more distinct, uncommon name than "Lauren Schneider" of whom there are many in the United States.
3. Applicant uses Applicant's mark as service brand in identifying goods such as screenplays created by Applicant, typically appearing in credits and for promotion of Applicant's goods, such as film posters, and on communicative items such as business cards and social media websites.
4. (a) Services that have been provided by Applicant under Applicant's Mark include Screenplay writing, Editing of motion pictures, and Direction and

Production of motion pictures. Specific titles and services may be found on Applicant's IMDb page: <http://www.imdb.com/name/nm1741056/>

(b) Applicant's Mark was used in crediting authorship of work and sometimes on promotional items such as Posters.

(c) Applicant's Mark was used on materials starting in 2006 until present day.

5. Services, paid and unpaid, have been performed in Los Angeles, CA, Pasadena, CA, Albuquerque, NM, and New York City, NY. Dates may be found on the previously cited IMDb page.
6. Applicant has tax records beginning in 2009, and previously was not earning enough income from any profession to file taxes. According to available tax documents for subsequent years, Applicant made \$788 in 2009, \$377 in 2010, \$4,756 in 2011 from film-related services. 2012 is still in progress, but Applicant estimates an income of \$3,000 for services rendered in 4 (a). Since February 2012, Applicant has held a film-related part-time job, but Applicant's film services, which make up a fraction of her duties, have not been specifically compensated, but rather included in a monthly salary. Due to Applicant's tendency towards creating personal motion pictures rather than promoting herself for freelance work during the duration of this case, Applicant's revenues have been minimal.
7. Applicant has not kept documentation as far as exact amount spent on promotion of service, but promotion has been limited to social media (free) and business card expenditures of less than \$500. Further promotional spending will likely occur if Applicant's Mark is registered.
8. Applicant has of this date not advertised services beyond social media and production company website www.attentionsoldier.com due to inability to claim squatted domain www.elleschneider.com, which may only be reclaimed with registration of Applicant's Mark. If Applicant's Mark is registered, Applicant does not intend to advertise personal services via magazine or print publication, only on production company and personal website, however advertisement of goods created by or under supervision of Applicant such as motion pictures may be advertised in print publication in the future by Applicant or owner or a licensee of goods created by Applicant, and could bear Applicant's Mark.
9. Applicant currently produces services via personal interaction and not via standard trade channels, stores or business locations, and does not currently advertise or provide services in such channels. Applicant does not currently intend, but may in the future wish, to provide services such as seminars, workshops or creative partnerships in connection with stores or business locations which may use Applicant's Mark for advertising or

branding of services or products. Applicant intends for future goods and products created by or under supervision of Applicant to be available in stores or business locations, both physical and on the Internet.

10. As of this date, Applicant has been sole producer of Applicant's goods and services. Independent contractors such as sound recordists, sound designers, cinematographers, assistant camerapeople, colorists, production assistants, carpenters, composers, and other standard members of a motion picture production or post-production crew may have been hired by Applicant or companies collaborating with Applicant to aid in creation of Applicant's goods or services but are credited as individuals and not under Applicant's Mark.
11. No.
12. No thorough or formal Market Research has been conducted or received by or on behalf of Applicant referring to Applicant's Mark, Opposer, or Opposer's Marks. Applicant has never encountered likelihood of confusion or actual confusion between the Parties' respective Marks. Informal "other searches" have been performed via Google search and similar internet search engines.

In searching for terms "Elle Schneider" (used WITHOUT using quotation marks that would indicate within search results that "elle" and "schneider" must appear together in that word order) on Google, the pre-eminent online search engine that uses an internationally-recognized algorithm to identify relevant results for a given search term, returns more than "About 5,910,000 results", ranked in order of relevancy from most (#1) to least (#5,910,000), on pages that contain 10 results per page.

Opposer's mark "ELLE" does not appear in the first 11 pages of search results. Opposer's mark "ELLE" first appears on page 12, the 113th result, in the context of a line of ELLE jewelry available via webstore "Schneider's Jewelers" and not in connection with Applicant's Mark. Opposer's Mark appears again on page 40 as the 400th result in connection with a 1980 magazine cover featuring actress Romy Schneider, not in connection with Applicant's Mark. After 50 pages of results (500 results), at no time do Opposer's Mark and Applicant's Mark appear together in any way, nor are they confused by results or Google as being one and the same.

Furthermore, Google's "searches related to elle schneider" does not recommend any of Opposer's Marks as related searches.

At least 200 of the 500 results (40%) for "elle schneider" referenced Applicant or Applicant's work specifically; 60% referenced other

individuals using the name of Elle Schneider or search terms that contained both "elle" and "schneider", all but two of which include word "elle" but DO NOT reference Opposer's Mark. A few of the 60% miscellaneous results likely reference Applicant but their abstracts contain no specifics to denote to what or whom their result of "elle schneider" refers. The 40% of search results for "elle schneider" correctly identifying Applicant shows an established notability of Applicant and Applicant's Mark.

A search of Opposer's Mark "ELLE" shows over 800 million results, appropriately large for a long-established brand as well as a popular first name and common French pronoun. However, of the first 500 results for the search "elle", only 322 (64%) refer to Opposer's Mark, despite its long brand history and legal protection. (Zero of these 500 results reference Applicant's Mark.)

A more specific search of "elle schneider" and "ELLE magazine" contains only "About 688" results. Which means that only "about 688" of "about 5,910,000" or .012% of results for elle schneider on the Internet mention Opposer's Mark. Given this infinitesimal percentage, likelihood of confusion between Applicant's Mark and Opposer's Mark is slim.

Of the 688 results, only 332 results on 34 pages are visible due to redundancy or because the remainder have been deemed of too little value for Google to report. Of these 332 results, the majority were incomprehensible spam. 8 of these results mention Applicant (as opposed to other individuals using the name Elle Schneider) and Opposer's "ELLE Magazine" indirectly as part of aggregates of results including hundreds of search terms. There is no result that directly connects Applicant and Opposer's "ELLE Magazine".

A more specific search of "elle schneider" and "ELLE Décor" returns "about 412 results". Of these 172 are viewable on 18 pages of results. Zero results mention Applicant and Opposer's Mark "ELLE Décor". There is no result that directly connects Applicant and Opposer's "ELLE Décor".

A more specific search of "Elle Schneider" and "ELLE tv" returns only "about 38 results." Of these, 13 are viewable. 2 of these results mention Applicant (as opposed to other individuals using the name Elle Schneider) and Opposer's "ELLE Magazine" indirectly as part of aggregates of results including hundreds of search terms. There is no result that directly connects Applicant and Opposer's "Elle TV".

13. Applicant became aware of (a) Opposer, Hachette Filipacci Press, when a Notice of Opposition was served against Applicant's Mark in 2011; (b)

Opposer's Use of Opposer's Mark when Opposer identified themselves as owners of ELLE Magazine in the Notice of Opposition, and (c) Opposer's registration of Opposer's Mark "Elle". Because Applicant had no intention of registering Mark "ELLE" or using any Mark other than "Elle Schneider", Applicant did not search trademark registration for term "ELLE" prior to registration. Search of TESS shows Applicant's Mark as first and only result for "Elle Schneider." Further, as a speaker of the French language, Applicant was under the erroneous assumption that an internationally used pronoun would not be considered distinctive enough for trademark registration.

14. Never in any instance has a customer or any third party been confused as to whether Applicant is associated with, endorsed, or approved by Opposer, nor have any inquiries ever been made. "Elle", separate from its French language meaning, is a commonly used first name in the United States, and is associated with a number of well known persons and fictional characters in no way connected with Opposer's Mark.
15. Applicant, as a party uninterested in the Opposer's Mark "ELLE" and with little research into its uses aside from those discovered in relation to this case, has only limited knowledge of third parties using the term "elle" and the advertising methods of those third parties. However, from a cursory Google search, those third parties include spas, fitness studios, photography companies, musical albums, French-language feature films and songs, and products created by model Elle MacPherson, who owns the registered Mark "Elle MacPherson" that contains Opposer's Mark "ELLE".

Additionally, Applicant is aware of popular singers Elle Varner and Elle King, who use "Elle" as part of their brands and on promotional materials internationally, popular fictional characters Elle Woods and Elle Driver whose names are used on promotional materials and products for their respective films, as well as recognized teen fashion guru Elle Fowler.

That 36% of Google results for Opposer's Mark "ELLE" that are unrelated to Opposer's Mark demonstrates that other uses of "elle" are numerous, too numerous for Applicant to list adequately or accurately.

16. Applicant does not make any determination of whether or not Opposer is entitled to broad scope of protection. Applicant has no interest in the strength or weakness or Opposer's Mark "ELLE" which is unrelated to Applicant's Mark.
17. Applicant contends that Opposer's Marks used in connection with Opposer's goods and services are broadly connected generally with the fashion industry.

18. Applicant contends that Opposer's Marks used in connection with Opposer's goods and services are famous generally within the fashion industry.
19. Applicant specifically provides services in the creation of motion pictures and creates motion pictures themselves, as submitted in the following goods and services:

Film and video production; Film and video production consulting services; Film editing; Media production services, namely, video and film production; Multimedia entertainment services in the nature of development, production and post-production services in the fields of video and films; Multimedia entertainment services in the nature of recording, production and post-production services in the fields of music, video, and films; Photography; Photography services; Post-production editing services in the field of music, videos and film; Production and distribution of videos in the field of fashion; Production of films; Script writing services; Writing of articles for periodicals other than for advertising or publicity; Writing of texts other than publicity texts.

Opposer's Marks are numerous and used broadly in numerous ways, including promotional video content for their websites *elle.com* and *Elle TV*. This video content is news-gathering or promotional in nature and is created specifically as content for Opposer's *ELLE Magazine* and related brand endeavors. While Opposer's Mark is used in association with its own video content, Opposer does not, and has never advertised or promoted its Mark "ELLE" as a provider of services relating to the creation of motion pictures, of services of editing motion pictures, writing motion pictures, or recording motion pictures, but only as a provider of video content relating to its newsworthy fashion coverage. For example, *ELLE* is not a photography studio offering photography services to other publications, *Elle* hires professional freelance photographers (like the Applicant) to provide services, and then licenses and prints their photographs in its Magazines and on websites. To Applicant's knowledge, in the field of motion pictures, Opposer has not created or nor has been hired to create motion pictures for an audience of theatergoers, film festival attendees, VOD platform, or other brand, work that traditionally represents the goods and services of film production. While Opposer's Mark is famous in relation to the fashion industry, Opposer is not famous in relation to the motion picture industry.

Consumers of film products bearing Opposer's Marks (Applicant is unfamiliar with any services actually provided or advertised) are those interested in news and promotional videos relating to a popular fashion magazine which covers news within the fashion industry; they are likely to

be traditional consumers purchasing goods at bookstores, news kiosks, or browsing the ELLE websites. Consumers are likely to be women interested in fashion.

Consumers of products bearing Applicant's Marks are more likely to be clients retaining production services than traditional consumers. Traditional consumers of products bearing Applicant's Mark would likely be purchasers of non news-related, non-promotional videos. In retail locations this would likely mean a video or electronics store, or by VOD download. Consumers are not likely to be any specific gender or with specific interests other than those of a movie-watching person.

Consumers of both Applicant and Opposer's goods will be likely to encounter video content related to each Party's goods online, but not likely in any similar web space.

In regards to specific details of the potentially overlapping goods & services, only 3 of 6 cited registered Marks in Opposition include Class 41 goods & services:

A. "ELLE" Registration 2242315 includes services related to education in film and theater, entertainment services namely an on-line variety show, television production, cable television production, and video tape film production.

None of these services overlap with Applicant's services, which do not include television, education, variety show production, or video tape production.

B. Registration 1767100 includes: [RADIO AND TELEVISION ENTERTAINMENT SERVICES; NAMELY, PRODUCTION OF RADIO AND TELEVISION PROGRAMS AND FILM PRODUCTION, INCLUDING] PRODUCTION [OF VIDEO TAPES FOR HOME VIEWING AND] OF SOUND RECORDING FEATURING MUSIC.

These claims overlap with Applicant's services only in the broadest sense of non-specified "film production". Applicant, however, does not specify services related to sound recording, video tapes for home viewing or otherwise, or radio services.

C. Registration 1668272 includes services related to education, seminars, correspondence courses, "production of radio and television programs"; "film, videotape and audio tape production services; film videotape rental services; audio tape recording studio services, and record master production services"

None of these services overlap with Applicant's services, which do not include television, education, video tapes production, rental, or audio or record master services.

At the time of the Response to Opposition in February 2012, Applicant noted that the live TARR database did not reflect some of the conflicting goods and services cited in Opposer's Notice of Opposition, many of which were film and video related.

In Class 41 for U.S. Registration No. 2242315, namely "production of television programs; entertainment services in the nature of a cable television variety show featuring fashion and beauty; video tape film production" DID NOT APPEAR on TARR record and were noted as permanently deleted from Opposer's registration for non-use on 11/3/2009 as shown by documents in TSDR. This deletion for non-use occurred after Respondent's first-use date of 2006 for similar goods and services.

At the time of the Response to Opposition, U.S. Registrations No. 1668272 and No. 1767100 also had all similar goods and services deleted, though dates of deletion of any goods and services for these marks were unavailable in TSDR.

It is unclear to Applicant when and why these goods & services were restored to the live registrations, as now viewable October 2012. For Registration No. 2242315, the permanent deletion of the cited goods & services should prohibit those goods & services from appearing on the live registration.

Regardless of what caused the aforementioned discrepancies, Applicant feels that overlap of the currently live and vague "film production" service is not grounds for conflict.

RESPONSE TO DOCUMENT REQUEST

Request No. 1:

All documents barring tax documents identified in Applicant's response to Opposer's Interrogatories are freely available online:

IMDb page: <http://www.imdb.com/name/nm1741056/> (see Exhibit i)

Google: <http://www.google.com> (see Exhibit j)

Mentioned tax documents are withheld on a claim of confidentiality, as tax documents contain sensitive private information unrelated to this case. Copies of these documents are owned solely by Applicant and IRS, and include only personal information regarding Applicant.

Request No. 2:

These documents will be attached via email. Most are also available online.

- a. Elle Media Kit 2012
- b. Elle.tv
- c. Elle.com
- d. Current HFP-owned "ELLE" trademark registrations cited in Opposition
- e. Trademark registrations for mark "Elle MacPherson"
- f. Statement of Fabienne Sultan, filed 2/21/12 in matter of HFP vs. ELLEBODYCARE
- g. Combined Declaration of Use and/or Excusable Nonuse/Application for Renewal of Registration of a Mark under Sections 8 & 9 - For mark "Elle", registration #2242315
- h. Vogue Italia website post listing Elle Schneider's photography in Vogue's Fashion's Night Out exhibition in Milan, September 2011
- i. IMDB profile of Elle Schneider
- j. Google search results for "Elle Schneider" and "Elle Schneider" (without quotation marks)
- k. Google image search results for Elle Schneider

Previously cited document "Elle USA 2010 Media guide" PDF is no longer available online. As it was published by Opposer, perhaps they retained a copy and can provide it. Otherwise Applicant can provide at a later date after a more thorough search of records.

Request No. 3:

No such documents exist.

Request No 4:

No such documents exist.

Request No 5:

See: "Exhibit i" IMDb profile of Elle Schneider

Request No. 6:

Attached documents:

- l. Example of business card
- m. Production company website www.attentionsoldier.com

Request No. 7:

Tax documents are withheld on a claim of confidentiality, as tax documents contain sensitive private information unrelated to this case. Copies of these documents are owned solely by Applicant and IRS, and include only personal information regarding Applicant. Relevant information is answered in the Interrogatories and comes from tax documents. According to available tax documents for subsequent years, Applicant made \$788 in 2009, \$377 in 2010, \$4,756 in 2011 from film-related services. 2012 is still in progression, but Applicant estimates an income of \$3,000 for services rendered in 4 (a).

Request No. 8:

No such documents exist. No advertising has been planned. Advertising may be planned if Applicant's Mark is registered.

Request No. 9:

Currently all advertising related to Applicant's Mark exists solely on www.attentionsoldier.com, Applicant's production company website. Applicant has not advertised in stores, business locations, or publications.

Request No. 10:

Currently all advertising related to Applicant's Mark exists solely on www.attentionsoldier.com, Applicant's production company website. Applicant has not advertised with price lists, brochures, newspapers, magazines, or trade articles.

Request No 11:

Attached documents:

- n. *CONFESSIO*N DVD Box Art
- o. *CONFESSIO*N DVD Disc Art
- p. *CONFESSIO*N Poster examples
- q. ONE SMALL STEP Cannes promotional card
- r. ONE SMALL STEP Blu-Ray Box Art
- s. Promotional card for Photography gallery show

Request No. 12:

In as such that Opposer has not been specific as to definition of "review", Applicant have made a best effort to provide sufficient documentation by attaching the following known media articles mentioning Elle Schneider or featuring video of Elle Schneider. There are likely other but no exhaustive search has been performed.

- t. Mashable video & article
- u. Digital Video Magazine Article
- v. Zacuto Article

- w. Turnstyle News Article
- x. The Creator's Project Article
- y. Il Secolo XIX newspaper article (Italian Language)
- z. Zoom Magazine article (German Language)
- aa. Gear Jones Article
- bb. Online: Video interview of Elle Schneider
http://www.youtube.com/watch?v=C_k1MS80SKk
- cc. Online: Video interview of Elle Schneider
http://www.youtube.com/watch?v=Ubgz-A3_rKM
- dd. Online: Video interview of Elle Schneider
<https://vimeo.com/46639643>
- ee. Online: Teradek video interview of Elle Schneider
<http://new.livestream.com/teradek/day2/videos/494775>

Request No. 13:

No such documents exist. An estimate would be less than \$500 over a 5 year period, and includes website hosting and two iterations of business cards.

Request No. 14:

No presentations exist.

Request No. 15:

No contracts, licenses, agreements, assignments, or consents exist to use Applicant's Mark.

Request No. 16:

No Market Research was conducted or is planned to be conducted. Informal search engine research is detailed in the Interrogatories.

Request No. 17:

No such documents exist. Applicant considers possibility of confusion between an individual providing film services with a fashion magazine highly unlikely.

Request No. 18:

Applicant is not a reader of or subscriber to fashion magazines. It is possible that at one point a copy of ELLE magazine was in possession of Applicant prior to Applicant's filing, but date is impossible to know or provide. Applicant is unaware of any specific previous possession of documents referring or relating to Opposer or Opposer's Marks.

Request No. 19:

Applicant's Mark "Elle Schneider" is unrelated to Opposer's Mark "ELLE" and thus Applicant is not well educated on third party companies that do or do not use the term "elle" or their consumer recognition.

Applicant is aware of popular singers Elle Varner and Elle King, who use "Elle" as part of their brands and on promotional materials internationally, popular fictional characters Elle Woods and Elle Driver whose names are used on promotional materials and products for their respective films, as well as recognized teen fashion guru Elle Fowler. Of course, Elle MacPherson owns a registered Mark in her name.

Documents relating to these women are all attached:

- ff. Elle Fowler's twitter page, which shows over 200,000 followers, her website www.elleandblair.com, which contains Opposer's Mark, and her association with fashion.
- gg. Elle Driver action figure
- hh. Online Media: Elle King performs on the David Letterman Show: http://www.cbs.com/shows/late_show/video/?pid=kNpW9bUjtIqx&play=true&vs=Default
- ii. Elle MacPherson's registered Marks (see Request No 2.)
- jj. Elle Varner's twitter page, which shows over 95,000 followers, her website www.ellevarner.com which contains Opposer's Mark, and her album cover which uses Opposer's Mark in its cover art and all associated promotional materials.
- kk. Elle Varner's official Facebook page.
- ll. Elle Fowler's official Facebook page.

Request No. 20:

Third party marks are not mentioned in Interrogatory No. 19. Applicant is unsure of what Opposer is referring to.

Request No. 21:

A trademark search request was conducted via TESS for term "Elle Schneider" previous to filing. There were no results for this search. Post Application, there is no way to retrieve this search. Currently Applicant's application is the only result for term "Elle Schneider".

Submitted,

Lauren R. Schneider

/lrs/

Dated: Los Angeles, California
October 5, 2012

465 N Summit Avenue,
Pasadena, CA, 91103

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served by email upon Michael Chiappetta of FROSS ZELNICK LEHRMAN & ZISSU, P.C., Attorneys for Opposer, this 5th of October 2012.

Lauren R. Schneider, Applicant

/lrs/

EXHIBIT B

ANSWER: Respondent admits that when Respondent provides the services identified in the Application, she identifies herself as ELLE SCHNEIDER to customers of her services.

5. Admit that your customers refer to you as ELLE SCHNEIDER.

ANSWER: Respondent admits that her customers refer to her as ELLE SCHNEIDER.

6. Admit that persons other than your customers refer to you as ELLE SCHNEIDER.

ANSWER: Respondent admits that some persons other than her customers sometimes refer to her as ELLE SCHNEIDER.

7. Admit that your customers refer to you as ELLE.

ANSWER: Respondent admits that customers refer to her personally as "Elle" in situations where a first name only basis is appropriate or during personal correspondence or social interaction. Respondent denies that customers refer to goods or services bearing Respondent's Mark as "ELLE."

8. Admit that persons other than your customers refer to you as ELLE.

ANSWER: Respondent admits that some persons other than her customers sometimes refer to her as ELLE in situations where a first name only basis is appropriate or during personal correspondence or social interaction. Respondent denies that persons other than her customers refer to goods or services bearing Respondent's Mark as "ELLE."

9. Admit that you have not authorized any other person to use the mark ELLE SCHNEIDER in connection with the services identified in the Application.

ANSWER: Respondent admits that she has not authorized any other person to use the mark ELLE SCHNEIDER in connection with the services identified in the Application.

10. Admit that when a customer wants to retain your services, they contact you directly.

ANSWER: Respondent admits that when a customer wants to retain her services, they may attempt to contact her directly or indirectly, but Respondent denies knowledge of how a specific customer may attempt to contact Respondent.

11. Admit that services identified in the Application are services that you provide individually.

ANSWER: Respondent admits that services identified in the Application are services that Respondent provides individually OR supervises personally.

12. Admit that services identified in the Application are your personal services.

ANSWER: Respondent admits that services identified in the Application are her personal services AND services Respondent supervises personally.

13. Admit that only you can provide the services identified in the Application under the ELLE SCHNEIDER mark.

ANSWER: Respondent admits that only she can provide OR supervise the provision of the services identified in the Application under the ELLE SCHNEIDER mark.

14. Admit that the ELLE SCHNEIDER mark is used solely to identify you.

ANSWER: Respondent denies that the ELLE SCHNEIDER mark is used solely to identify Respondent. The ELLE SCHNEIDER mark also identifies products or services provided by Respondent or provided under personal supervision of Respondent.

15. Admit that ELLE SCHNEIDER identifies only you as the person providing the services identified in the Application.

ANSWER: Respondent admits that ELLE SCHNEIDER identifies only Respondent as the person providing or supervising the provision of the services identified in the Application.

Submitted,

Lauren R. Schneider, Respondent

/lrs/

Dated: Los Angeles, California
October 5th, 2012

465 N Summit Avenue,
Pasadena, CA, 91103

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served by email upon Michael Chiappetta of FROSS ZELNICK LEHRMAN & ZISSU, P.C., Attorneys for Opposer, this 5th of October 2012.

Lauren R. Schneider, Respondent

/s/

EXHIBIT C

17. Admit that the document annexed hereto as Exhibit B is a true and correct printout of a page from the www.attentionsoldier.com website referenced in your response to Interrogatory No. 8 and produced by you in response to Opposer's First Set of Document Requests.

18. Admit that the documents annexed hereto as Exhibit C are documents showing use of your alleged ELLE SCHNEIDER mark "in crediting authorship of work and sometimes on promotional items such as posters," as referenced in your response to Interrogatory No. 4(b).

19. Admit that you claim that the documents annexed hereto as Exhibit C show use of the alleged ELLE SCHNEIDER mark in connection with "film and video production" as set forth in your Application Serial No. 85/240605.

21. Admit that, other than as a credit to identify you, you have never used the phrase ELLE SCHNEIDER as a service mark in connection with any services.

Dated: New York, New York
March 21, 2013

FROSS ZELNICK LEHRMAN & ZISSU, P.C.

By: 

Michael Chiappetta

866 United Nations Plaza
New York, New York 10017

Tel: (212) 813-5900

Email: mc@fzlj.com

Attorneys for Opposer Hachette Filipacchi Presse

CERTIFICATE OF SERVICE

I hereby certify that on this 21st day of March, 2013, a true and correct copy of the foregoing
SECOND SET OF REQUESTS FOR ADMISSION TO APPLICANT was served on the
Applicant, Lauren R. Schneider by U.S. mail to the following address of record for Applicant:

Lauren R. Schneider
465 North Summit Avenue
Pasadena, Ca 91103 3719

By:



Michael Chiappetta

EXHIBIT A



ELLE SCHNEIDER

MADE IN GERMANY
100% COTTON

EXHIBIT B

NEWS

[6/12 VidCon Panel](#)

[5/12 'ONE SMALL STEP' at Cannes](#)

[9/11 VI VE European premiere in Sarajevo](#)

[9/11 Vogue's 'Watch Me' Milano](#)

[6/11 'CLASSIC' at The Happening Gallery](#)

SUBSCRIBE

// [flickr](#) // [twitter](#) // [vimeo](#)
 // [imdb](#) // [youtube](#) // [rss](#)

CONTACT

by email
 info at attentionsoldier.com

We do not accept unsolicited materials under any circumstances, and any unsolicited materials received will be deleted unread and the author blocked from future email & social media contact. Thank you for your understanding.

// ABOUT US

Since 2006, Attention Soldier has produced fashion, short narrative, and documentary film projects including the award-winning drama *Confession* (2006) and experimental fashion film *Vêtements Electroniques* (2011).

In 2011, AS became the in-house production company for Digital Bolex, who launched the D16, the first digital cinema camera by renowned camera manufacturer Bolex, at the 2012 SXSW Film Festival. Learn more at www.digitalbolex.com.

Elle Schneider Director, Producer

is a filmmaker, photographer, and new media designer from New York City now based in Los Angeles. Elle's films and photographs have been exhibited internationally, including a 2011 show in Milan by *Vogue Italia* as part of Fashion's Night Out, and her work in game design has been mentioned in the *Los Angeles Times*. Her latest short film, *One Small Step*, is the first film shot on the new Digital Bolex D16 and had its world premiere at the 2012 Cannes Film Festival.

PRESS

DIGITAL BOLEX

The Creators Project The Digital Bolex Camera is A Crowdfunded Filmmaking Revolution

Mashable The Digital Bolex Reinvents a Classic Camera for the 21st Century

Mashable Retro Digital Cinema Camera is a Hit on Kickstarter

Engadget Bolex Camera project raises nearly \$250,000 in a single day

PBS POV Introducing the Digital Bolex

CNET Australia Digital Bolex camera brings 2K recording to everyone

Turnstyle News Digital Bolex: Back to the Future of Film

UV Magazine What Exactly is a Digital Bolex? Fusing Past and Present, D16 Records 2K for Under \$3K

Zacuto.com Digital Bolex -- Viva la Revolution!

Philphloom.net The Digital Bolex D16 Raw 2K for less than a cost of a 5Dmk3?

Livestream Digital Bolex: Live from NAB

SlashGear Digital Bolex D16 camera looks like the 70s

Beast.com Digital Bolex Cinema Camera

ALIOMI

// BlindSpecs (6/10)
 Vintage Lives

// J+J blog (7/10)
 Not just a brand, but a lifestyle too

// John Simon Dally (7/10)
 ALIOMI Launch Party at The Gates

// Scene E Seen (7/10)
 ALIOMI Launch Party at The Gates

// Seventeen (7/10)
 ALIOMI Website Launch Event

CONFESSION

// New West (6/06)
 DCS Taps Albuquerque Screenwriters

// MovieBytes (6/06)
 DCS Announces Winning Scripts

[vimeo](#) [youtube](#) [tom graeff](#)

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EXHIBIT C

CONFESSION

Produced as one of the seven short films of the 2006 *Duke City Shootout* film festival in Albuquerque, New Mexico, *Confession* is the story of two men's redemption, found in the worst of times under the most unlikely of circumstances.

Miguel Martinez and Rob deBuck star as two criminals who find themselves at odds on either side of a church confessional. Hidden deep beneath countless lies and false impressions, a few real confessions surface about life, death, and accepting one's fate.

Confession had its world premiere on July 29th, 2006, in downtown Albuquerque with an estimated 1,400 people in attendance. Along with the other six entries, *Confession* was made legally available for download on the Bittorrent website, and remained in its top ten most downloaded films for over two months.

ENGLISH Stereo * Approx. Run Time: 10 Minutes * Color * 2006 * Unrated

DFI PRESENTS

IN ASSOCIATION WITH THE DUKE CITY SHOOTOUT AN ATTENTION SOLDIER! PRODUCTION AN ELLE SCHNEIDER FILM
MIGUEL MARTINEZ ROB DEBUCK "CONFESSION" WITH JEFF CAUDLE MUSIC BY CHRIS DOBBS EDITED BY REUBEN FINKELSTEIN
EXECUTIVE PRODUCER JIM GRAEBER AND TONY DELLAFLORA PRODUCED BY MARIE GARDNER AND CHAD TRAVIS



WRITTEN AND DIRECTED BY ELLE SCHNEIDER



AN ATTENTION SOLDIER!
PRODUCTION 2006

CONFESSION © 2006 Attention Soldier Productions and the Digital Film and Video Institute. All Rights Reserved. Paragon Design © 2006 Elle Schneider. All Rights Reserved. Licensed for distribution only in the United States and Canada. Distributed by Attention Soldier Productions and the Digital Film and Video Institute. WARNING: Federal law prohibits severe civil and criminal penalties for the unauthorized reproduction, distribution, or sale of copyrighted motion picture recordings, laser discs and DVDs. Criminal copyright infringement is investigated by the FBI and may constitute a felony with a maximum penalty of up to five years in prison and/or a \$250,000 fine. This copy licensed for film festival and personal exhibition only. Any other public performance, copying or other use is strictly prohibited. All Rights Reserved. PRINTED IN USA



CONFESSION



rob debuck

miguel martinez



CONFESSION
a film by elle schneider

rob debrick

miguel martinez

DVD
VIDEO
DVD-R



CONFESSIO

a film by elle schneider

CONFSESSION
a film by elle schreier

BTI presents
IN ASSOCIATION WITH THE BLUE CITY SHOOTOUT AN ATTENTION COLLECTOR PRODUCTION AN ELLE SCHREIER FILM
WRITTEN AND DIRECTED BY ELLE SCHREIER WITH JEFF CALLEE MUSIC BY CHRIS COBBS EDITED BY ROBERT FINE LUTEN
EXECUTIVE PRODUCERS JIM GARDNER AND TONY COLLAPUTO PRODUCED BY WAFÉ GARDNER AND DAVID TRAVIS

← The Blue City
CONFSESSION
AN ATTENTION COLLECTOR
FILMFACTORY 2006

A

rob deluca musical notation

CONFSESSION
a film by elle schreier

BTI presents
IN ASSOCIATION WITH THE BLUE CITY SHOOTOUT AN ATTENTION COLLECTOR PRODUCTION AN ELLE SCHREIER FILM
WRITTEN AND DIRECTED BY ELLE SCHREIER WITH JEFF CALLEE MUSIC BY CHRIS COBBS EDITED BY ROBERT FINE LUTEN
EXECUTIVE PRODUCERS JIM GARDNER AND TONY COLLAPUTO PRODUCED BY WAFÉ GARDNER AND DAVID TRAVIS

← The Blue City
CONFSESSION
AN ATTENTION COLLECTOR
FILMFACTORY 2006

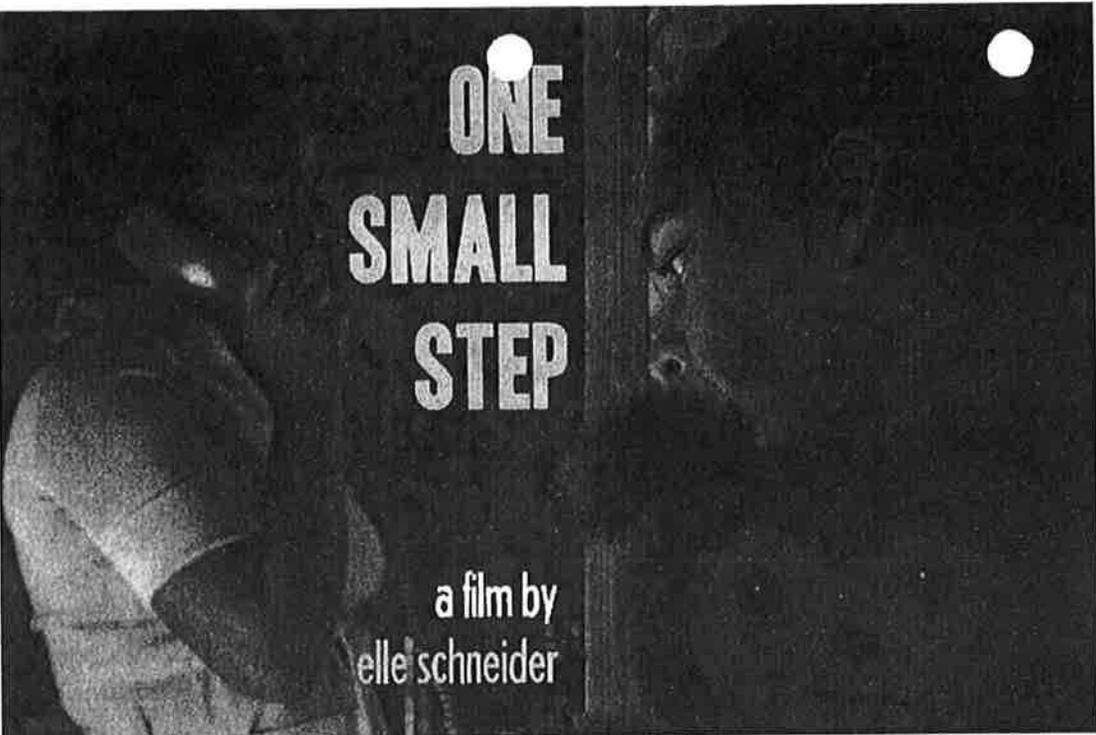
B

CONFSESSION
a film by elle schreier

BTI presents
IN ASSOCIATION WITH THE BLUE CITY SHOOTOUT AN ATTENTION COLLECTOR PRODUCTION AN ELLE SCHREIER FILM
WRITTEN AND DIRECTED BY ELLE SCHREIER WITH JEFF CALLEE MUSIC BY CHRIS COBBS EDITED BY ROBERT FINE LUTEN
EXECUTIVE PRODUCERS JIM GARDNER AND TONY COLLAPUTO PRODUCED BY WAFÉ GARDNER AND DAVID TRAVIS

← The Blue City
CONFSESSION
AN ATTENTION COLLECTOR
FILMFACTORY 2006

C



**ONE
SMALL
STEP**

a film by
elle schneider

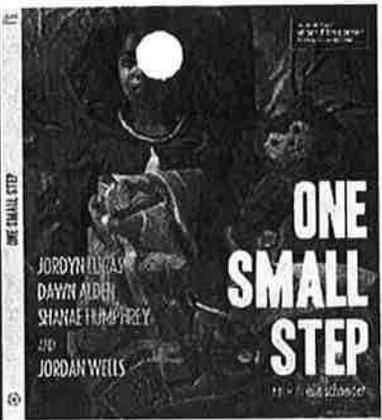
"No one remembers us
when we're gone."



In *One Small Step*, Jordan Wells (and the rest of the cast) explore the
truth behind the Apollo 11 mission and the impact it had on the world.
The film is a tribute to the men who went to the moon and the women
who stayed behind to make it possible. It's a story of courage, sacrifice,
and the power of teamwork. *One Small Step* is a must-see for anyone
who loves history and space exploration.

CAST	CAST	CAST
JORDYN LUKAS	DAVIN ALDEN	SHANAE HUMPHREY
JORDAN WELLS	JORDAN WELLS	JORDAN WELLS

Produced by [unreadable]
Directed by [unreadable]
Screenplay by [unreadable]
Story by [unreadable]
Music by [unreadable]
Casting by [unreadable]
Production Designers [unreadable]
Casting Director [unreadable]
Casting Associate [unreadable]
Casting Assistant [unreadable]
Casting Office [unreadable]



ANSWER: Respondent admits that the documents annexed hereto as Exhibit C are documents showing use of Respondent's ELLE SCHNEIDER mark "In crediting authorship of work and sometimes on promotional items such as posters," as referenced in your response to Interrogatory No. 4(b).

19. Admit that you claim that the documents annexed hereto as Exhibit C show use of the alleged ELLE SCHNEIDER mark in connection with "film and video production" as set forth in your Application Serial No. 85/240605.

ANSWER: Respondent admits that the documents annexed hereto as Exhibit C show use of the ELLE SCHNEIDER mark in connection with "film and video production" as set forth in Respondent's Application, particularly the last document in Exhibit C, the poster of ONE SMALL STEP, which was a work-for-hire film solicited by the client on the strength of previous projects bearing the ELLE SCHNEIDER mark and the services associated with that mark.

20. Admit that, other than as a credit to identify you, you have never used the phrase ELLE SCHNEIDER as a service mark in connection with any services.

ANSWER: Respondent admits that in the entertainment industry (and frequently in the fashion industry, as the Opposer is undoubtedly familiar with) an identifying credit and service mark are often synonymous, and as such, the identifying credit is in itself a use of a service mark in connection with a service.

The service mark that shares the name of an individual denotes a standard of quality associated with the personal participation that individual in the service being provided; in hiring the individual, one is hiring the quality of product denoted by the service mark.

Submitted,

Lauren R. Schneider, Respondent

/lrs/

Dated: Los Angeles, California
August 23rd, 2013

465 N Summit Avenue,
Pasadena, CA, 91103

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served by email upon Michael Chiappetta of FROSS ZELNICK LEHRMAN & ZISSU, P.C., Attorneys for Opposer, this 23rd of August 2013.

Lauren R. Schneider, Respondent

/lrs/
