

ESTTA Tracking number: **ESTTA578621**

Filing date: **12/23/2013**

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

Proceeding	91204124
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Date	12/23/2013
Attachments	PHT Final Response.pdf(1039899 bytes )

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

In the Matter of Trademark Application Serial Number: 85/396,136  
Mark: PLANT HERBAL TREASURES  
Filed: August 12, 2011  
Published: January 31, 2012

THRESHOLD ENTERPRISES, Ltd.,  Opposer  v.  ROBERT CAMPBELL, An Individual,  Applicant.	Opposition No. 91204124
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Commissioner of Trademarks  
PO Box 1451  
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**APPLICANT'S OPPOSITION TO OPPOSER'S MOTION FOR AN EXTENSION OF TIME IN  
WHICH TO RESPOND TO APPLICANT'S MOTION FOR SUMMARY JUDGMENT**

**INTRODUCTION**

Pursuant to 37 CFR § 11.18 and TBMP § 509.01(a), Applicant Robert Campbell ("Applicant") hereby opposes Opposer's motion for an extension of time in which to respond to Applicant's motion for summary judgment. Opposer has (1) not established good cause, and (2) has presented its motion for an improper purpose, namely, to (a) harass Applicant, (b) cause unnecessary delay, and (c) needless increase in the cost of this proceeding before the Trademark Trial and Appeal Board ("TTAB"). Further, Opposer extension of time has been necessitated by Opposer's own lack of diligence or

unreasonable delay in taking the required action during the time previously allotted therefor.

### **BACKGROUND**

Applicant filed its motion for summary judgment (the “Motion”) with the Board on November 27, 2013 and served its motion via U.S. Postal Service. Hatami Decl. ¶ 2. In his Motion, Applicant conceded to Opposer’s priority and to the relatedness of the goods/trade channels, with the sole grounds for its Motion being the dissimilarities of the marks themselves, sophistication of consumers, weight of disclaimed portions of the at issue marks, lack of actual confusion, and the number and nature of similar marks in use on similar goods or services. *See* Applicant Summary Judgment Motion filed with the TTAB on November 27, 2013. As a professional courtesy, and to ensure Opposer has ample time to either respond to the motion or request an extension, Applicant sent Opposer’s Counsel Jeremy McLaughlin a copy of the motion via email on the same day. Hatami Decl. ¶ 3. On December 16, 2013, nineteen (19) days after Applicant filed its motion, Opposer’s counsel contacted Applicant’s counsel and requested an extension of time to respond due to holiday plans. Hatami Decl. ¶ 4. On December 18, 2013, Applicant served Opposer with its responses to Opposer’s second set of interrogatories and requests for production, and informed Opposer that it will not stipulate to an extension of time to respond to the summary judgment motion. *Id.* Subsequently thereafter, Opposer’s counsel, once again, informed Applicant’s counsel that he was traveling for the holidays, and would appreciate a **2 week** extension of time in which to file its Opposition brief. *Id.* At no point, prior to Opposer’s December 20, 2013 motion, did Opposer or Opposer’s counsel inform Applicant or his counsel that Opposer’s primary counsel had other litigation demands and/or

unexpected travel due to a family emergency. *Id.* Further, Opposer's second set of interrogatories and request for production are NOT germane to the summary judgment motion since they are in regards to 2 abandoned trademarks, one of which was resolved subsequent to a cease and desist notice sent by Opposer, and the other was abandoned due to a merely descriptive refusal by the USPTO.

## **ARGUMENT**

### **I. OPPOSER HAS NOT ESTABLISHED GOOD CAUSE**

A party moving to extend time must demonstrate that the requested extension of time is not necessitated by the party's own lack of diligence or unreasonable delay in taking the required action during the time allotted therefore. In general, the board is liberal in granting extensions of time before the period to act has elapsed so long as the moving party has not been guilty of negligence or bad faith and the privilege of extension is not abused and the moving party has the burden of persuading the Board that it was diligent in meeting its responsibilities. *National Football League v. DNG Management LLC*, 85 USPQ2d 1852, 1854 (TTAB 2008). The Board will "scrutinize carefully" any motion to extend time, to determine whether the requisite good cause has been shown. *Luemme, Inc. v. D.B. Plus Inc.*, 53 USPQ2d 1758 1760-61 (TTAB 1999). Although Opposer has laid out reasons for why such an extension is necessary, non are adequate for a finding of good cause for purposes of Opposer's motion.

#### ***i. Press of other litigation***

The allegation that Opposer's Attorney, Jeremy McLaughlin ("Mclaughlin") has other litigation demands that are preventing him from adequately preparing an opposition to the motion is an issue that needs to be resolved between himself and his law firm, Arnold &

Porter LLP. Further, this is the first time that Opposer has made this assertion, which is 23 days after Applicant filed its motion. Surely Opposer was aware of any pending deadlines and pressing matters at the time it requested an extension on December 16, 2013 and again on December 18, 2013. The Board should also note that, Arnold & Porter is a large well established law firm employing hundreds if not thousands of attorneys and support staff with offices worldwide, specifically, Brussels, Denver, London, Los Angeles, New York, San Francisco, Silicon Valley, and Washington D.C. *See Exhibit 1.* Mclaughlin's San Francisco office currently employees 91 attorneys, 24 of which are IP attorneys, and 41 are litigation attorneys. *See Exhibits 2, 3, and 4.* A law firm the size of Arnold & Porter, with its voluminous resources could have provided the necessary personnel to prepare a response to summary judgment on the issue of likelihood of confusion where Applicant conceded to Opposer's priority and relatedness of the goods/trade channels.

This request for delay is not an issue of work-load, but rather an issue of priorities. Counsel for Raj Abhaynker P.C. are also busy, with i) approximately 30 live TTAB proceedings, including several matters in discovery; ii) two proceedings before the United States District Courts, including a trade secret designation and IP infringement; iii) a class action suit; iv) hundreds of new trademark filings per month; v) numerous cease and desist matters; vi) various contract negotiation and draft matters; vii) and the prosecution of patents worldwide. Hatami Decl. ¶ 5. It should be noted that where Opposer's law firm's San Francisco branch has close to 100 attorneys, the law firm of Raj Abhyanker P.C. only has approximately 10 U.S. attorneys at its disposal. *See Exhibit 5* (Exhibit reflects 14 attorneys, four of which are no longer with the firm). However, Raj Abhyanker P.C. attorneys take TTAB deadlines seriously and every effort is made to meet these deadlines.

The record will show that Opposer has a pattern of delaying this proceeding with 1 suspension filed last year, and 4 suspensions filed just this year. *See* Exhibits 6, 7, 8, 9 and 10. Apparently Opposer's counsel does not believe that complying with deadlines before the TTAB is a priority, but rather a nuisance and an issue that can be continually delayed.

***ii. Applicant responses to Opposer's second set for interrogatories and production of documents***

Applicant has previously responded to and served Opposer with documents in response to Opposer's first set of discovery requests. Hatami Decl. ¶ 6. These documents including hundreds of relevant pages in response to Opposer's requests, and a portion of these documents are also responsive to Opposer's second set of request for production. *Id.* It should be noted, that Opposer's second requests for discovery are in regards to two trademarks that applicant either never used and abandoned due to a merely descriptive refusal by the examining attorney, or abandoned upon receipt of a cease and desist notice by Opposer. Hatami Decl. ¶ 7. When a request for discovery under Fed. R. Civ. P. 56(d) is granted by the Board, the discovery allowed is limited to that which the nonmoving party must have in order to respond to the motion for summary judgment. *See* T. Jeffrey Quinn, *TIPS FORM THE TTAB: Discovery Safeguards in Motions for Summary Judgment: No Fishing Allowed*, 80 Trademark, Rep. 413 (1990). *Cf. Fleming Companies v. Thriftway Inc.*, 21 USPQ2d 1451 (TTAB 1991), *aff'd*, 26 USPQ2d 1551 (S.D. Ohio 1992). Since Opposer's response will rest solely on the visual, phonetic, and commercial impressions, effects of disclaimers, sophistication of consumers, and lack of confusion, without having to address priority and relatedness of goods or trade channels, there is no reason for further discovery on two non relevant abandoned trademarks set forth in Opposer's second set for interrogatories and request for production. Specifically, Opposer's second sets are in

regards to the marks PLANT HERBALS, which applicant abandoned due to a merely descriptive refusal, and PLANETARY HERB TREASURES, which Applicant abandoned subsequent to Opposer serving him with a cease and desist notice. Opposer's likelihood of confusion analysis, should be predicated on the at issue marks, and not on marks that were Abandoned by Applicant years ago, and/or claims of infringement previously resolved between Applicant and Opposer. Although Applicant responded that it will produce relevant non-privileged documents, Applicant also objected to the requests based on, amongst other things, relevance, and specifically informed Opposer that it will produce relevant documents "to the extent any exist...". See Exhibit 11. Therefore, Applicant cannot produce documents that do not exist, nor is Applicant required to produce documents in regards unrelated issues. In sum, Opposer's second requests for discovery are not relevant to this proceeding, or to a response to Applicant's motion.

***iii. Absence of key individual necessary for the preparation of a response brief***

The facts presented by Opposer in its motion for extension of time undermine the necessity for granting Opposer's motion to extend the deadline to respond to Applicant's motion. Apparently, the medical emergency necessitating the requested delay occurred shortly after receipt of Applicant's summary judgment motion. By McLaughlin's own admission, he was aware of the deadline to respond to Applicant's motion, which proves that Opposer knew of the potential and alleged scheduling issues well in advance of the TTAB's deadline. However, McLaughlin did not inform Applicant's counsel of record of this supposed medical emergency until Opposer filed its motion. Further, by McLaughlin's own assertion in his motion, he had pre-existing plans to be out of the country for eleven days over the Christmas season. Since these plans were pre-existing, McLaughlin knew well in

advance to his December 16, 2013 request for extension, and/or his December 20, 2013 motion that he would be absent just prior to his response deadline.

Opposer's attorney should have anticipated the fact that there may be an issue and contacted Applicant's attorney early on in the response period. Instead of being proactive, Opposer's attorney waited until less than approximately 12 days prior to the deadline to respond, to make a request for extension based on alleged germane discovery requests predicated on 2 abandoned non relevant marks, a medical emergency that was never asserted, claims of being overloaded with other pressing matters, and pre-existing vacation plans (which were not asserted until weeks after service). The TTAB should not look favorably on this pattern of behavior.

***iv. First and Only request fore extension of time to file a response brief***

In light of the fact that Opposer's counsel has previously filed no less than 5 extensions of time in the guise of settlement, and is now asking for another 30 day extension, less than 2 weeks prior to the deadline to file his response brief, Opposer's request is not reasonable. Opposer's actions have prejudiced Applicant to the extent that Applicant is not able to fully invest in his mark, products, and implement a marketing strategy. Everyday that this proceeding is delayed further, will and has caused Applicant financial hardship relating to his business and legal costs, and amounts to harassment by Opposer. Since at least as early as 2011, Opposer has systematically harassed Applicant even though Applicant has complied with demands asserted by Opposer. Since commencement of this proceeding Opposer has requested no less than 5 suspensions for settlement, but has not made a single attempt to settle this matter. Hatami Decl. 8. Opposer knows that the at issue marks (Opposer's Marks: Planetary Formulas and

Planetary; Applicant's mark: Plant Herbal Treasures) in this opposition bear no similarities in regards to their phonetic, visual, and commercial impressions, nor will they survive a sophistication of consumers, effect of disclaimer, lack of actual confusion, or the number of similar filed marks in connection with related or similar goods. Opposer's motion is a shot in the dark attempt to cause delay in Applicant's business ventures, and force applicant to expend thousands of dollars in legal fees in an attempt to prevail, not on the merits, but on the hopes that Applicant will simply tire of the legal fees, and as a result relent by withdrawing his Application and cease use of his mark.

### **Conclusion**

Because good cause does not exist, and Opposer's actions amount to improper harassment, unnecessary delay, and the needless increase of cost of litigation, Applicant respectfully requests that Opposer's motion be denied and that Opposer be required to respond to Applicant's motion as set forth by the TBMP 528 and the FRCP.

Dated: 12/23/2013

Raj Abhyanker P.C.

dba LegalForce R.A.P.C. Worldwide

By: Kuscha Hatami/  
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Attorneys for Applicant

**CERTIFICATE OF MAILING AND SERVICE**

This is to certify that a copy of the foregoing **APPLICANT'S OPPOSITION TO OPPOSER'S MOTION FOR AN EXTENSION OF TIME IN WHICH TO RESPOND TO APPLICANT'S MOTION FOR SUMMARY JUDGMENT** has been served on counsel for THRESHOLD ENTERPRISES, Ltd., by depositing said copy with the United States Postal Service as First Class Mail, postage prepaid, in an envelope addressed to:

Jeremy McLaughlin  
Arnold & Porter LLP  
Three Embarcadero Center  
10<sup>th</sup> Floor  
San Francisco, CA. 94111

And via email to:

jeremy.mclaughlin@aporter.com

This 23<sup>st</sup> day of December 2013

/Kuscha Hatami/  
Kuscha Hatami



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

In the Matter of Trademark Application Serial Number: 85/396,136  
Mark: PLANT HERBAL TREASURES  
Filed: August 12, 2011  
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THRESHOLD ENTERPRISES, Ltd.,  Opposer  v.  ROBERT CAMPBELL, An Individual,  Applicant.	Opposition No. 91204124
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Commissioner of Trademarks  
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**DECLARATION OF KUSCHA HATAMI IN SUPPORT OF APPLICANT'S OPPOSITION TO  
OPPOSER'S MOTION FOR AN EXTENSION OF TIME IN WHICH TO RESPOND TO  
APPLICANT'S MOTION FOR SUMMARY JUDGMENT**

I, Kuscha Hatami, declare as follows:

1. I am admitted to practice law in the State of California, and am an attorney with the law firm of Raj Abhyanker P.C. dba LegalForce R.A.P.C. Worldwide, counsel to Applicant Robert Campbell ("Applicant") in the above captioned proceeding. I offer this declaration in support of Applicant's Opposition To Opposer's Motion For An Extension Of Time In Which To Respond To Applicant's Motion For Summary

Judgment. This declaration is based upon my own personal knowledge, and I could and would testify competently to the truth of the matters stated herein if called upon to do so.

2. On November 27, 2013, I, as Applicant's counsel, filed Applicant's Motion for Summary Judgment with the Trademark Trial and Appeal board, and served Opposer's counsel on the same day via United States Postal Services.
3. Due to the holiday season, and to ensure that Opposer has ample time to either respond to Applicant's motion, or in the alternative timely request an extension to respond, Applicant's counsel also sent Opposer's counsel a copy of the motion via email on November 27, 2013.
4. On December 16, 2013, nineteen (19) days after Applicant filed its motion, Opposer's counsel contacted Applicant's counsel and requested an extension of time to respond due to holiday plans and pending discovery responses for Opposer's second set of discovery. On December 18, 2013, Applicant served Opposer with its responses to Opposer's second set of interrogatories and requests for production, and informed Opposer that it will not stipulate to an extension of time to respond to summary judgment. Applicant further informed Opposer that its second set of discovery requests are not relevant to Opposer filing an adequate response, nor are they relevant to this proceeding. Subsequently thereafter, Opposer's counsel, once again, informed Applicant's counsel that he was traveling for the holidays, and would appreciate a 2 week extension of time in which to file its Opposition brief. At no point, prior to Opposer's December 20, 2013 motion, did Opposer or Opposer's

counsel inform Applicant or his counsel that Opposer's primary counsel had other litigation demands and/or unexpected travel due to a family emergency.

5. Currently, I am personally handling 11 Opposition proceedings before the board, numerous trademark filings, contract negotiation and drafting on behalf of the firm's clients, assisting other counsel in their respective TTAB proceedings, assisting lead counsel in two trademark infringement matters, and numerous cease and desist matters. In addition, my firm is also handling hundreds of trademark and patent applications on a monthly basis, approximately 30 live TTAB proceedings before the board, a class action suit, and other legal matters pertaining to its clients.
6. On behalf of Applicant, I have responded to Opposer's first of interrogatories and requests for production which included hundreds of documents, some of which were responsive to Opposer's second set for discovery. In addition, I have responded to numerous Meet and Confer notices served by Opposer I regards to Applicant's responses to Opposer's first set of discovery.
7. Although Opposer asserts that it's second requests for discovery are germane as to its likelihood of confusion claim, all of Opposer's second requests pertain to two trademarks that Applicant either abandoned due to a cease and desist notice sent by Opposer, or due to a descriptive refusal issued by the USPTO. Specifically, Applicant previously had used the "PLANETARY HERB TREASURES" mark, which it subsequently abandoned once it was notified by Opposer that it claimed rights in the term PLANETARY, and Applicant abandoned PLANT HERBALS upon a merely descriptive refusal by the USPTO.

8. Opposer has requested no less than 5 previous suspensions for settlement without a single attempt to settle this matter.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge. This declaration was executed this 23<sup>rd</sup> day of December 2013, at Mountain View, California.

/Kuscha Hatami/

Kuscha Hatami

# EXHIBIT 1

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## EXHIBIT 3

## -ARNOLD &amp; PORTER LLP-

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 PRO BONO DIVERSITY ALUMNI CONTACT US



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## Biographies

## Search Results

Below are the 24 professionals that match your search criteria. [Click here](#) to run a new search.

Name	Position ▲	Office	Contact
Berta, Michael A.	Partner	San Francisco	<a href="mailto:Michael.Berta@aporter.com">Michael.Berta@aporter.com</a> +1 415.471.3277
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## EXHIBIT 4

## -ARNOLD &amp; PORTER LLP-

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## Biographies

## Search Results

Below are the 41 professionals that match your search criteria. [Click here](#) to run a new search.

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## EXHIBIT 5

# OUR TEAM

## OUR TEAM

**North America Mountain View,  
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[China Beijing](#)

[India Bengaluru](#)

[India Nagpur](#)

[London](#)

Raj V. Abhyanker

Kuscha Hatami

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Tanya Falleiro

Troy Garrett

Mitesh Patel

Roy Montgomery

Katie O'Neill

John Salcido

Doris Mei

William Plevy

Robert Radigan

Peter Jensen-Haxel

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## EXHIBIT 6

ESTTA Tracking number: **ESTTA513287**

Filing date: **12/27/2012**

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

Proceeding.	91204124
Applicant	Plaintiff Threshold Enterprises, Ltd.
Other Party	Defendant Robert Campbell

### Motion for Suspension for Settlement With Consent

The parties are actively engaged in negotiations for the settlement of this matter. Threshold Enterprises, Ltd. requests that this proceeding be suspended for 30 days to allow the parties to continue their settlement efforts.

Time to Answer :	CLOSED
Deadline for Discovery Conference :	CLOSED
Discovery Opens :	CLOSED
Initial Disclosures Due :	CLOSED
Expert Disclosure Due :	04/07/2013
Discovery Closes :	05/07/2013
Plaintiff's Pretrial Disclosures :	06/21/2013
Plaintiff's 30-day Trial Period Ends :	08/05/2013
Defendant's Pretrial Disclosures :	08/20/2013
Defendant's 30-day Trial Period Ends :	10/04/2013
Plaintiff's Rebuttal Disclosures :	10/19/2013
Plaintiff's 15-day Rebuttal Period Ends :	11/18/2013

Threshold Enterprises, Ltd. has secured the express consent of all other parties to this proceeding for the suspension and resetting of dates requested herein.

Threshold Enterprises, Ltd. has provided an e-mail address herewith for itself and for the opposing party so that any order on this motion may be issued electronically by the Board.

### Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Respectfully submitted,  
/Jeremy M. McLaughlin/  
Jeremy M. McLaughlin  
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jessica.lewis@aporter.com  
12/27/2012

## EXHIBIT 7

ESTTA Tracking number: **ESTTA532767**

Filing date: **04/17/2013**

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

Proceeding.	91204124
Applicant	Plaintiff Threshold Enterprises, Ltd.
Other Party	Defendant Robert Campbell

### **Motion for Suspension for Settlement With Consent**

The parties are actively engaged in negotiations for the settlement of this matter. Threshold Enterprises, Ltd. requests that this proceeding be suspended for 30 days to allow the parties to continue their settlement efforts.

Time to Answer :	CLOSED
Deadline for Discovery Conference :	CLOSED
Discovery Opens :	CLOSED
Initial Disclosures Due :	CLOSED
Expert Disclosure Due :	05/07/2013
Discovery Closes :	06/06/2013
Plaintiff's Pretrial Disclosures :	07/21/2013
Plaintiff's 30-day Trial Period Ends :	09/04/2013
Defendant's Pretrial Disclosures :	09/19/2013
Defendant's 30-day Trial Period Ends :	11/03/2013
Plaintiff's Rebuttal Disclosures :	11/18/2013
Plaintiff's 15-day Rebuttal Period Ends :	12/18/2013

Threshold Enterprises, Ltd. has secured the express consent of all other parties to this proceeding for the suspension and resetting of dates requested herein.

Threshold Enterprises, Ltd. has provided an e-mail address herewith for itself and for the opposing party so that any order on this motion may be issued electronically by the Board.

### **Certificate of Service**

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Respectfully submitted,  
/Jeremy M. McLaughlin/  
Jeremy M. McLaughlin  
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04/17/2013

## EXHIBIT 8

ESTTA Tracking number: **ESTTA542094**

Filing date: **06/06/2013**

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

Proceeding.	91204124
Applicant	Plaintiff Threshold Enterprises, Ltd.
Other Party	Defendant Robert Campbell
Have the parties held their discovery conference as required under Trademark Rules 2.120(a)(1) and (a)(2)?	Yes

### Motion for Suspension for Settlement With Consent

The parties are actively engaged in negotiations for the settlement of this matter. Threshold Enterprises, Ltd. requests that this proceeding be suspended for 60 days to allow the parties to continue their settlement efforts.

Time to Answer :	CLOSED
Deadline for Discovery Conference :	CLOSED
Discovery Opens :	CLOSED
Initial Disclosures Due :	CLOSED
Expert Disclosure Due :	07/06/2013
Discovery Closes :	08/05/2013
Plaintiff's Pretrial Disclosures :	09/19/2013
Plaintiff's 30-day Trial Period Ends :	11/03/2013
Defendant's Pretrial Disclosures :	11/18/2013
Defendant's 30-day Trial Period Ends :	01/02/2014
Plaintiff's Rebuttal Disclosures :	01/17/2014
Plaintiff's 15-day Rebuttal Period Ends :	02/16/2014

Threshold Enterprises, Ltd. has secured the express consent of all other parties to this proceeding for the suspension and resetting of dates requested herein.

Threshold Enterprises, Ltd. has provided an e-mail address herewith for itself and for the opposing party so that any order on this motion may be issued electronically by the Board.

### Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Respectfully submitted,  
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## EXHIBIT 9

ESTTA Tracking number: **ESTTA552205**

Filing date: **08/05/2013**

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

Proceeding.	91204124
Applicant	Plaintiff Threshold Enterprises, Ltd.
Other Party	Defendant Robert Campbell
Have the parties held their discovery conference as required under Trademark Rules 2.120(a)(1) and (a)(2)?	Yes

### Motion for Suspension for Settlement With Consent

The parties are actively engaged in negotiations for the settlement of this matter. Threshold Enterprises, Ltd. requests that this proceeding be suspended for 60 days to allow the parties to continue their settlement efforts.

Time to Answer :	CLOSED
Deadline for Discovery Conference :	CLOSED
Discovery Opens :	CLOSED
Initial Disclosures Due :	CLOSED
Expert Disclosure Due :	09/04/2013
Discovery Closes :	10/04/2013
Plaintiff's Pretrial Disclosures :	11/18/2013
Plaintiff's 30-day Trial Period Ends :	01/02/2014
Defendant's Pretrial Disclosures :	01/17/2014
Defendant's 30-day Trial Period Ends :	03/03/2014
Plaintiff's Rebuttal Disclosures :	03/18/2014
Plaintiff's 15-day Rebuttal Period Ends :	04/17/2014

Threshold Enterprises, Ltd. has secured the express consent of all other parties to this proceeding for the suspension and resetting of dates requested herein.

Threshold Enterprises, Ltd. has provided an e-mail address herewith for itself and for the opposing party so that any order on this motion may be issued electronically by the Board.

### Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by Facsimile or email (by agreement only) on this date.

Respectfully submitted,  
/Jeremy M. McLaughlin/

Jeremy M. McLaughlin

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08/05/2013

## EXHIBIT 10

ESTTA Tracking number: **ESTTA562900**

Filing date: **10/03/2013**

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

Proceeding	91204124
Party	Plaintiff Threshold Enterprises, Ltd.
Correspondence Address	JEREMY M MCLAUGHLIN ARNOLD & PORTER LLP THREE EMBARCADERO CENTER, 7TH FLOOR SAN FRANCISCO, CA 94111 UNITED STATES jeremy.mclaughlin@aporter.com
Submission	Stipulated/Consent Motion to Extend
Filer's Name	Jeremy McLaughlin
Filer's e-mail	trademarkdocketing@aporter.com, jeremy.mclaughlin@aporter.com, elisabeth.richards@aporter.com
Signature	/Jeremy McLaughlin/
Date	10/03/2013
Attachments	Motion for Suspension of Proceedings with Consent - PLANT HERBAL TREASURES.pdf(29413 bytes )

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

**Threshold Enterprises Ltd.**  
Opposer

v.

Opposition No. 91204124  
Application No. 85/396,136

**Robert Campbell (individual)**  
Applicant.

---

United States Patent and Trademark Office  
Trademark Trial and Appeal Board  
P.O. Box 1451  
Alexandria, VA 22313-1451

MOTION FOR SUSPENSION OF PROCEEDINGS WITH CONSENT

The Discovery deadline is currently set to close on October 4, 2013. Threshold Enterprises Ltd. requests that such date be extended for 60 days, or until December 3, 2013, and that all other dates be reset accordingly and as listed below.

Time to Answer: CLOSED

Deadline for Discovery Conference: CLOSED

Discovery Opens: CLOSED

Initial Disclosures Due: CLOSED

Expert Disclosures Due: 11/03/2013

Discovery Closes: 12/03/2013

Plaintiff's Pretrial Disclosures: 01/17/2014

Plaintiff's 30-day Trial Period Ends: 03/03/2014

Defendant's Pretrial Disclosures: 03/18/2014

Defendant's 30-day Trial Period Ends: 05/02/2014

Plaintiff's Rebuttal Disclosures: 05/17/2014

Plaintiff's 15-day Rebuttal Period Ends: 06/16/2014



**PROOF OF SERVICE**

I am over eighteen years of age and not a party to this action. I am employed in Washington, D.C. My business address is 555 Twelfth Street, NW, Washington, D.C. 20004-1206. I am readily familiar with the practice of this office for collection and processing of correspondence for mail delivery, and they are deposited that same day in the ordinary course of business.

On October 3, 2013, I served the following document(s):

**MOTION FOR SUSPENSION OF PROCEEDINGS  
WITH CONSENT**

I served the document(s) on the following person(s):

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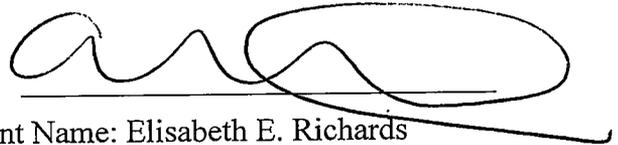
- (BY MAIL) by causing a true and correct copy of the above to be placed in the United States Mail at Washington, D.C. in sealed envelope(s) with postage prepaid, addressed listed above.

I declare under penalty of perjury under the laws of Washington, D.C. that the foregoing is true and correct.

Dated: October 3, 2013

Signature: \_\_\_\_\_

Type or Print Name: Elisabeth E. Richards



# EXHIBIT 11

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

In the Matter of Trademark Application Serial Number: 85/396,136

Mark: PLANT HERBAL TREASURES

Filed: August 12, 2011

Published: January 31, 2012

THRESHOLD ENTERPRISES, Ltd.,  Opposer  v.  ROBERT CAMPBELL, An Individual,  Applicant.	Opposition No. 91204124
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Commissioner of Trademarks  
PO Box 1451  
Alexandria, VA. 22313-1451

**APPLICANT’S OBJECTIONS AND RESPONSES TO OPPOSER’S SECOND SET OF  
DOCUMENT REQUESTS TO APPLICANT NOS. 27-37**

Pursuant to the Federal Rules of Civil Procedure Rule 34, 37 C.F.R. section 2.210, and Section 406.04 of the Trademark Trial and Appeal Board Manual of Procedure, Applicant Robert Campbell (“Applicant”) responds and objects as follows to OPPOSER’S SECOND SET OF DOCUMENT REQUESTS TO APPLICANT NOS. 27 – 37.

**GENERAL STATEMENT**

Applicant has not completed its investigation of the facts relating to this opposition proceeding, has not completed preparation for trial, and discovery is ongoing. Accordingly,

because discovery is ongoing the responses contained herein are based only upon the information and documents presently available and known to Applicant. Further discovery, independent investigation, legal research, and analysis may supply additional facts or lend new meaning or clarification to known facts and may also establish new factual conclusions or legal contentions, all of which may lead to substantial changes, additions to, or modifications of the matters set forth herein. Applicant specifically reserves the right without acknowledging any obligation to do so, except as required by law, to supplement or amend these responses or to introduce at or prior to the time of trial information that is subsequently discovered, inadvertently admitted or mistakenly stated.

### **GENERAL OBJECTIONS**

1. By responding to these requests, Applicant has not waived any of Applicant's General and Specific objections asserted in response to Applicant's response to Opposer's First Set of Document Requests.
2. The General Objections shall be deemed to be incorporated in full into each and every response to each request set forth below.
3. Applicant objects to Opposer's instruction regarding the place, time, and manner of production of documents on the ground that it seeks to require Applicant to produced documents at a place, time, and manner in violation of Federal Rule of Civil Procedure Rule 34 and 37 C.F.R. section 2.120(d)(2) and, therefore, is unduly burdensome and unreasonable.
4. Applicant objects to Opposer's incorporation by reference of definitions and instructions from a separate set of discovery requests.

5. Applicant objects to each definition and instruction, and to each request, to the extent that it purports to impose upon Applicant duties greater than those imposed by the Federal Rules of Civil Procedure or the rules of the Trademark Trial and Appeal Board.
6. Applicant objects to Opposer's definitions on the ground that they are overbroad, burdensome, vague, and ambiguous. Applicant objects to Opposer's definitions to the extent that they are inconsistent with the ordinary dictionary definitions for the words purportedly defined.
7. Applicant objects to Opposer's definition of "Applicant's Products/Services" on the ground that they are overbroad, burdensome, vague, and ambiguous.
8. Applicant objects to each request to the extent that it seeks information subject to the attorney-client privilege, the attorney work product doctrine, or any other applicable privilege or limitation on discovery, and objects to instructions regarding a log on the grounds that they are burdensome, unclear, and exceed the requirements of the Federal Rules of Civil Procedure and the rules of the Trademark Trial and Appeal Board. In responding to each request, Applicant will not provide any documents or things protected from disclosure by the attorney-client privilege or the attorney work product doctrine. This objection is incorporated by reference into each and every response to each request intended by Opposer to solicit documents and things covered by the attorney-client privilege or the attorney work product doctrine.

9. Applicant objects to each request to the extent that it is vague, ambiguous, overly broad, unduly burdensome, or calculated to impose an unreasonable and needless expense.
10. Applicant objects to each request to the extent that it seeks information that is not relevant to the subject matter of this opposition proceeding or is not reasonably calculated to lead to the discovery of admissible evidence and therefore, is beyond the scope of permissible discovery.
11. Applicant objects to each request to the extent that it seeks confidential business and financial information. Any such information or documents, if it exists, is hereby designated “confidential” and shall only be provided to Opposer, if at all, pursuant to the terms of an appropriate protective order.
12. Applicant objects to each request to the extent that it seeks information equally available to Opposer.
13. Applicant objects to Opposer’s attempt to impose unilaterally a date, time, and place for producing and/or making available documents, if any, responsive to the Requests.

**SPECIFIC OBJECTIONS AND RESPONSES**  
**DOCUMENT REQUESTS NOS. 27 - 37**

**REQUEST NO. 27:**

Each and every document and thing that was or should have been produced by applicant in response to Opposer’s First Set of Document Requests To Applicant.

**RESPONSE TO REQUEST NO. 27:**

Applicant objects to this request as being vague and ambiguous, and indefinite, in that Opposer uses the term(s) “each”, “every”, “thing” and the phrase(s) “was or should have been produced” which are undefined and have no clear meaning in the context of this request. Applicant objects to this request on the basis that it calls for documents that are confidential, proprietary, and/or trade secret, and documents that are protected by the attorney-client privilege and work product doctrine. Applicant objects to this Request as overbroad to the extent that it seeks “all” documents; a sample set is sufficient. *See* TBMP § 414(2). Applicant objects to this request on the grounds that it seeks expert information before the time required for such disclosures. Applicant objects to this request on the grounds that it is harassing and an attempt by Opposer to intentionally delay these proceedings. Applicant objects to this request on the grounds that it is duplicative. Applicant will not produce the confidential documents or information sought in this document request without a protective order.

Subject to and without waiving the General Objections and foregoing specific objections, upon entry of suitable protective order, Applicant will produce relevant, non-privileged documents, to the extent any exist, in its possession, custody, or control at the appropriate time that are responsive to this request. Applicant further responds that all documents, to the extent any exist, in applicant’s possession responsive to this request have been provided to Opposer when Applicant served Opposer with documents responsive to Opposer’s First Set of Document Requests to Applicant.

**REQUEST NO. 28:**

All documents and things displaying, relating or referring to selection of the PLANT HERBALS mark identified in response to Interrogatory No. 7 (*see* Oct. 22, 2013 letter from K. Hatami to J. McLaughlin).

**RESPONSE TO REQUEST NO. 28:**

Applicant objects to this request as being vague and ambiguous, and indefinite, in that Opposer uses the term(s) “all”, “things”, “displaying”, “relating”, “or”, “referring” which are undefined and have no clear meaning in the context of this request. Applicant objects to this request on the grounds that it is overbroad, unduly burdensome, and calls for documents that are not relevant and not reasonably calculated to lead to the discovery of admissible evidence.

Applicant objects to this request on the basis that it calls for documents that are confidential, proprietary, and/or trade secret, and documents that are protected by the attorney-client privilege and work product doctrine, or any other applicable privilege. Applicant objects to this Request as overbroad to the extent that it seeks “all” documents; a sample set is sufficient. *See* TBMP § 414(2). Applicant objects to this request on the grounds that it is harassing and an effort on the part of Opposer to intentionally delay these proceedings. Applicant will not produce the confidential documents or information sought in this document request without a protective order.

Subject to and without waiving the General Objections and foregoing specific objections, upon entry of suitable protective order, Applicant will produce relevant, non-privileged documents, to the extent any exist, in its possession, custody, or control that are responsive to this request. Applicant directs Opposer to U.S. Application Serial No. 85396138, which speaks for itself. Applicant directs Opposer to Applicant response to Interrogatory No. 22.

**REQUEST NO. 29:**

All documents relating or referring to actual or intended uses of the products/services offered in connection with the PLANT HERBALS mark identified in response to Interrogatory No. 7 (*see* Oct. 22, 2013 letter from K. Hatami to J. McLaughlin).

**RESPONSE TO REQUEST NO. 29:**

Applicant objects to this request as being vague and ambiguous, and indefinite, in that Opposer uses the term(s) “all”, “relating”, and “referring”, and the phrase(s) “actual or intended uses” which are undefined and have no clear meaning in the context of this request. Applicant objects to this request on the grounds that it is overbroad, unduly burdensome, and calls for documents that are not relevant and not reasonably calculated to lead to the discovery of admissible evidence. Applicant objects to this request on the basis that it calls for documents that are confidential, proprietary, and/or trade secret, and documents that are protected by the attorney-client privilege and work product doctrine, or any other applicable privilege. Applicant objects to this Request as overbroad to the extent that it seeks “all” documents; a sample set is sufficient. *See* TBMP § 414(2). Applicant objects to this request on the grounds that it is harassing and an effort on the part of Opposer to intentionally delay these proceedings. Applicant will not produce the confidential documents or information sought in this document request without a protective order.

Subject to and without waiving the General Objections and foregoing specific objections, upon entry of suitable protective order, Applicant will produce relevant, non-privileged documents, to the extent any exist, in its possession, custody, or control that are responsive to this request. Applicant responds that it filed U.S. Application Serial No. 85396138, on August 12, 2011, which speaks for itself. Applicant directs Opposer to Applicant response to Interrogatory Nos. 22, 23, and 24.

**REQUEST NO. 30:**

All documents relating or referring to actual or intended benefits of the products/services offered in connection with the PLANT HERBALS mark identified in response to Interrogatory No. 7 (*see* Oct. 22, 2013 letter from K. Hatami to J. McLaughlin).

**RESPONSE TO REQUEST NO. 30:**

Applicant objects to this request as being vague and ambiguous, and indefinite, in that Opposer uses the term(s) “all”, “relating”, and “referring”, and the phrase(s) “actual or intended benefits” which are undefined and have no clear meaning in the context of this request.

Applicant objects to this request on the grounds that it is overbroad, unduly burdensome, and calls for documents that are not relevant and not reasonably calculated to lead to the discovery of admissible evidence. Applicant objects to this request on the basis that it calls for documents that are confidential, proprietary, and/or trade secret, and documents that are protected by the attorney-client privilege and work product doctrine, or any other applicable privilege. Applicant objects to this Request as overbroad to the extent that it seeks “all” documents; a sample set is sufficient. *See* TBMP § 414(2). Applicant objects to this request on the grounds that it is harassing and an effort on the part of Opposer to intentionally delay these proceedings. Applicant will not produce the confidential documents or information sought in this document request without a protective order.

Subject to and without waiving the General Objections and foregoing specific objections, upon entry of suitable protective order, Applicant will produce relevant, non-privileged documents, to the extent any exist, in its possession, custody, or control that are responsive to this request. Applicant responds that it filed U.S. Application Serial No. 85396138, on August

12, 2011, which speaks for itself. Applicant directs Opposer to Applicant website at <http://plantherbaltreasures.com/> which speaks for itself.

**REQUEST NO. 31:**

All documents relating or referring to instances of actual confusion between the PLANT HERBALS mark identified in response to Interrogatory No. 7 (*see* Oct. 22, 2013 letter from K. Hatami to J. McLaughlin) and Opposer's use of Opposer's marks.

**RESPONSE TO REQUEST NO. 31:**

Applicant objects to this request as being vague and ambiguous, and indefinite, in that Opposer uses the term(s) "all", "relating", and "referring", and the phrase(s) "actual or intended uses) which are undefined and have no clear meaning in the context of this request. Applicant objects to this request on the grounds that it is overbroad, unduly burdensome, and calls for documents that are not relevant and not reasonably calculated to lead to the discovery of admissible evidence. Applicant objects to this request on the basis that it calls for documents that are confidential, proprietary, and/or trade secret, and documents that are protected by the attorney-client privilege and work product doctrine, or any other applicable privilege. Applicant objects to this Request as overbroad to the extent that it seeks "all" documents; a sample set is sufficient. *See* TBMP § 414(2). Applicant objects to this request on the grounds that it is harassing and an effort, on the part of Opposer, to intentionally delay these proceedings. Applicant objects to this request to the extent that it improperly seeks the disclosure of trial evidence, such as consumer surveys, before trial and is premature. Applicant objects to this request on the grounds that it seeks information equally available to Opposer. Applicant will not

produce the confidential documents or information sought in this document request without a protective order.

Subject to and without waiving the General Objections and foregoing specific objections, upon entry of suitable protective order, Applicant will produce relevant, non-privileged documents, to the extent any exist, in its possession, custody, or control that are responsive to this request. Applicant further response that he is not aware of any instances of confusion, mistake, deception, or association with Opposer's marks, nor is he in possession of any documents responsive to this request.

**REQUEST NO. 32:**

All communications regarding the PLANT HERBALS mark identified in response to Interrogatory No. 7 (*see* Oct. 22, 2013 letter from K. Hatami to J. McLaughlin) and Opposer's PLANETARY FORMULAS mark.

**RESPONSE TO REQUEST NO. 32:**

Applicant objects to this request as being vague and ambiguous, and indefinite, in that Opposer uses the term(s) "all" and "communications" which are undefined and have no clear meaning in the context of this request. Applicant objects to this request on the grounds that it is overbroad, unduly burdensome, and calls for documents that are not relevant and not reasonably calculated to lead to the discovery of admissible evidence. Applicant objects to this request on the basis that it calls for documents that are confidential, proprietary, and/or trade secret, and documents that are protected by the attorney-client privilege and work product doctrine, or any other applicable privilege. Applicant objects to this Request as overbroad to the extent that it seeks "all" documents; a sample set is sufficient. *See* TBMP § 414(2). Applicant objects to this

request on the grounds that it is harassing and an effort, on the part of Opposer, to intentionally delay these proceedings. Applicant objects to this request to the extent that it improperly seeks the disclosure of trial evidence before trial and is premature. Applicant objects to this request on the grounds that it seeks information equally available to Opposer. Applicant will not produce the confidential documents or information sought in this document request without a protective order.

Subject to and without waiving the General Objections and foregoing specific objections, upon entry of suitable protective order, Applicant will produce relevant, non-privileged documents, to the extent any exist, in its possession, custody, or control that are responsive to this request. Applicant further responds that he is not aware of any communications regarding his abandoned PLANT HERBAL mark and Opposer's PLANETARY FORMULAS mark.

**REQUEST NO. 33:**

All documents and things displaying, relating or referring to selection of the PLANETARY HERB TREASURES mark identified in response to Interrogatory No. 7 (*see* Oct. 22, 2013 letter from K. Hatami to J. McLaughlin).

**RESPONSE TO REQUEST NO. 33:**

Applicant objects to this request as being vague and ambiguous, and indefinite, in that Opposer uses the term(s) "all", "things", "displaying", "relating", "or", "referring" which are undefined and have no clear meaning in the context of this request. Applicant objects to this request on the grounds that it is overbroad, unduly burdensome, and calls for documents that are not relevant and not reasonably calculated to lead to the discovery of admissible evidence. Applicant objects to this request on the basis that it calls for documents that are confidential,

proprietary, and/or trade secret, and documents that are protected by the attorney-client privilege and work product doctrine, or any other applicable privilege. Applicant objects to this Request as overbroad to the extent that it seeks “all” documents; a sample set is sufficient. *See* TBMP § 414(2). Applicant objects to this request on the grounds that it is harassing and an effort on the part of Opposer to intentionally delay these proceedings. Applicant will not produce the confidential documents or information sought in this document request without a protective order.

Subject to and without waiving the General Objections and foregoing specific objections, upon entry of suitable protective order, Applicant will produce relevant, non-privileged documents, to the extent any exist, in its possession, custody, or control that are responsive to this request. Applicant further directs Opposer to Applicant response to Interrogatory No. 25.

**REQUEST NO. 34:**

All documents relating or referring to actual or intended uses of the products/services offered in connection with the PLANETARY HERB TREASURES mark identified in response to Interrogatory No. 7 (*see* Oct. 22. 2013 letter from K. Hatami to J. McLaughlin).

**RESPONSE TO REQUEST NO. 34:**

Applicant objects to this request as being vague and ambiguous, and indefinite, in that Opposer uses the term(s) “all”, “relating”, and “referring”, and the phrase(s) “actual or intended uses) which are undefined and have no clear meaning in the context of this request. Applicant objects to this request on the grounds that it is overbroad, unduly burdensome, and calls for documents that are not relevant and not reasonably calculated to lead to the discovery of admissible evidence. Applicant objects to this request on the basis that it calls for documents

that are confidential, proprietary, and/or trade secret, and documents that are protected by the attorney-client privilege and work product doctrine, or any other applicable privilege. Applicant objects to this Request as overbroad to the extent that it seeks “all” documents; a sample set is sufficient. *See* TBMP § 414(2). Applicant objects to this request on the grounds that it is harassing and an effort on the part of Opposer to intentionally delay these proceedings. Applicant will not produce the confidential documents or information sought in this document request without a protective order.

Subject to and without waiving the General Objections and foregoing specific objections, upon entry of suitable protective order, Applicant will produce relevant, non-privileged documents, to the extent any exist, in its possession, custody, or control that are responsive to this request. Applicant further response that Applicant ceased the use of this mark upon receipt of cease and desist correspondences with Opposer, these correspondences are in possession of Opposer.

**REQUEST NO. 35:**

All documents relating or referring to actual or intended benefits of the products/services offered in connection with the PLANETARY HERB TREASURES mark identified in response to Interrogatory No. 7 (*see* Oct. 22. 2013 letter from K. Hatami to J. McLaughlin).

**RESPONSE TO REQUEST NO. 35:**

Applicant objects to this request as being vague and ambiguous, and indefinite, in that Opposer uses the term(s) “all”, “relating”, and “referring”, and the phrase(s) “actual or intended benefits” which are undefined and have no clear meaning in the context of this request.

Applicant objects to this request on the grounds that it is overbroad, unduly burdensome, and calls for documents that are not relevant and not reasonably calculated to lead to the discovery of

admissible evidence. Applicant objects to this request on the basis that it calls for documents that are confidential, proprietary, and/or trade secret, and documents that are protected by the attorney-client privilege and work product doctrine, or any other applicable privilege. Applicant objects to this Request as overbroad to the extent that it seeks “all” documents; a sample set is sufficient. *See* TBMP § 414(2). Applicant objects to this request on the grounds that it is harassing and an effort on the part of Opposer to intentionally delay these proceedings. Applicant will not produce the confidential documents or information sought in this document request without a protective order.

Subject to and without waiving the General Objections and foregoing specific objections, upon entry of suitable protective order, Applicant will produce relevant, non-privileged documents, to the extent any exist, in its possession, custody, or control that are responsive to this request. Applicant further directs Opposer to Applicant website at <http://plantherbaltreasures.com/> which speaks for itself.

**REQUEST NO. 36:**

All documents relating or referring to instances of actual confusion between the PLANETARY HERB TREASURES mark identified in response to Interrogatory No. 7 (*see* Oct. 22, 2013 letter from K. Hatami to J. McLaughlin) and Opposer’s use of Opposer’s marks.

**RESPONSE TO REQUEST NO. 36:**

Applicant objects to this request as being vague and ambiguous, and indefinite, in that Opposer uses the term(s) “all”, “relating”, and “referring”, and the phrase(s) “instances of actual confusion” which are undefined and have no clear meaning in the context of this request. Applicant objects to this request on the grounds that it is overbroad, unduly burdensome, and

calls for documents that are not relevant and not reasonably calculated to lead to the discovery of admissible evidence. Applicant objects to this request on the basis that it calls for documents that are confidential, proprietary, and/or trade secret, and documents that are protected by the attorney-client privilege and work product doctrine, or any other applicable privilege. Applicant objects to this Request as overbroad to the extent that it seeks “all” documents; a sample set is sufficient. *See* TBMP § 414(2). Applicant objects to this request on the grounds that it is harassing and an effort, on the part of Opposer, to intentionally delay these proceedings. Applicant objects to this request to the extent that it improperly seeks the disclosure of trial evidence, such as consumer surveys, before trial and is premature. Applicant objects to this request on the grounds that it seeks information equally available to Opposer. Applicant will not produce the confidential documents or information sought in this document request without a protective order.

Subject to and without waiving the General Objections and foregoing specific objections, upon entry of suitable protective order, Applicant will produce relevant, non-privileged documents, to the extent any exist, in its possession, custody, or control that are responsive to this request. Applicant further response that he is not aware of any instances of confusion, mistake, deception, or association with Opposer’s marks, nor is he in possession of any documents responsive to this request.

**REQUEST NO. 37:**

All communications regarding the PLANETARY HERB TREASURES mark identified in response to Interrogatory No. 7 (*see* Oct. 22, 2013 letter from K. Hatami to J. McLaughlin) and Opposer’s PLANETARY FORMULAS mark.

**RESPONSE TO REQUEST NO. 37:**

Applicant objects to this request as being vague and ambiguous, and indefinite, in that Opposer uses the term(s) “all” and “communications” which are undefined and have no clear meaning in the context of this request. Applicant objects to this request on the grounds that it is overbroad, unduly burdensome, and calls for documents that are not relevant and not reasonably calculated to lead to the discovery of admissible evidence. Applicant objects to this request on the basis that it calls for documents that are confidential, proprietary, and/or trade secret, and documents that are protected by the attorney-client privilege and work product doctrine, or any other applicable privilege. Applicant objects to this Request as overbroad to the extent that it seeks “all” documents; a sample set is sufficient. *See* TBMP § 414(2). Applicant objects to this request on the grounds that it is harassing and an effort, on the part of Opposer, to intentionally delay these proceedings. Applicant objects to this request to the extent that it improperly seeks the disclosure of trial evidence before trial and is premature. Applicant objects to this request on the grounds that it seeks information equally available to Opposer. Applicant will not produce the confidential documents or information sought in this document request without a protective order.

Subject to and without waiving the General Objections and foregoing specific objections, upon entry of suitable protective order, Applicant will produce relevant, non-privileged documents, to the extent any exist, in its possession, custody, or control that are responsive to this request. Applicant further response that he has previously provided Opposer with the requested information when responding to Opposer’s First Set of Production of Documents to Applicant.

Dated: December 18, 2013

Respectfully submitted,

/Kuscha Hatami/  
Kuscha Hatami  
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Attorneys for Applicant  
Robert Campbell

**CERTIFICATE OF MAILING AND SERVICE**

This is to certify that a copy of the foregoing APPLICANT'S OBJECTIONS AND RESPONSES TO OPPOSER'S SECOND SET OF DOCUMENT REQUESTS TO APPLICANT NOS. 27 - 37 have been served on counsel for THRESHOLD ENTERPRISES, Ltd., by depositing said copy with United Parcel Service courier, postage prepaid, in an envelope addressed to:

Jeremy McLaughlin  
Arnold & Porter LLP  
Three Embarcadero Center  
10<sup>th</sup> Floor  
San Francisco, CA. 94111

This 18th day of December 2013

/Kuscha Hatami/  
Kuscha Hatami