

ESTTA Tracking number: **ESTTA523639**

Filing date: **02/26/2013**

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

Proceeding	91205046
Party	Plaintiff Christina Sukljian
Correspondence Address	CHRISTINA SUKLJIAN 13 MANOR STREET ALBANY, NY 12207 UNITED STATES info@zela.com
Submission	Reply in Support of Motion
Filer's Name	Christina Sukljian
Filer's e-mail	info@zela.com
Signature	/Christina Sukljian/
Date	02/26/2013
Attachments	Opposer's Reply In Support Of Motion in Opposition91205046.pdf (118 pages) (6713455 bytes)

powder, perfumed powders, face wash, skin cleansers, skin highlighting cream, body scrubs, body fragrances, fragrances for personal use, body and hand lotions, body gels, body oils, body powders, body exfoliants, body masks, body mask creams and lotions, shaving preparations, after shave lotions, shaving balm, shaving cream, shaving gel, skin abrasive preparations, non-medicated skin creams and skin lotions for relieving razor burns, non-medicated lip care preparations, lip cream, non-medicated sunscreen preparations, suntanning preparations and after-sun lotions; fragrances; bath salts; cosmetic preparations for baths; body and shower products, namely, bath beads, bath crystals, bath foam, bath gels, bath oils, bath powders, shower gels, cosmetic soaps, perfumed soaps, liquid soaps, hand, facial and bath soaps, deodorant soaps, shaving soaps, soap powder, toilet soaps, soaps for body care, soaps for personal use, shampoos, conditioners, hair mousse, hair frosts, hair rinses, hair sprays, hair color, hair waving lotion, permanent wave preparations, hair lighteners, hair dyes, hair emollients, hair mascara, hair pomades, hair color removers, hair relaxing preparations, hair styling preparations, hair removing cream, and hair care preparations; body, face, skin and foot lotions and creams; non-medicated toiletries; colognes; eau de toilettes; body firming gels and lotions; nail varnishes; lipsticks; makeup; sun block. deodorants for personal use; perfumed paper in the nature of pot pourri and pomanders containing perfumed preparations and mixtures; eau de parfum; toilet water; talcum powder; hair care preparations; non-medicated preparations for the care and conditioning of the body, skin, and scalp; bubble bath, bath gel, bath oil and shower gel. Applicant has not produced any meaningful responses or documents in response to Opposer's Discovery requests. Opposer's Discovery requests are essential to determine how Applicant intends on using or in fact ever intends on using its applied for intent-to-use mark HAUS OF GAGA. The items responsive to Opposer's Discovery requests include but are not limited to information and documents relating to logos, packaging designs, product designs, intended customers and retailers, intended manufacturers and distributors, product development, product samples, name selection, color schemes, contracts or licenses relating to the intended use of the applied mark. None of these items were provided and in fact Applicant did not provide any evidence relating to any intention of using the applied for mark, HAUS OF GAGA, as filed under oath under applicant's

application No. 85215017. In Applicant's Discovery Responses, Applicant answered '*Defendant responds that there are no documents responsive to this request in its possession, custody or control*' to all of Opposer's above mentioned document requests and no information to prove they have any intention to use the mark to Opposer's interrogatory requests. Annexed hereto is Exhibit A. Opposer's Motion to Compel is necessary.

Opposer Christina Sukljian's Notice of Opposition Proceeding is solely about Applicant's likelihood of confusion and trademark infringement that exists with Opposer's Registered Trademark GAGA PURE PLATINUM®. Ate My Heart's intent-to-use applied for mark HAUS OF GAGA is confusingly similar to the continuously used federally registered trademark GAGA PURE PLATINUM®. Applicant's attempts to infringe on Opposer's trademark were twice denied registration for the applied for marks, LADY GAGA Serial No. 85115004 filed under 1A on August 24, 2010, and LADY GAGA FAME Serial No. 85282752 filed under 1B on March 21, 2011. Both applications were refused and denied registration by the USPTO under Section 2(d) of the Trademark Act due to likelihood of confusion with GAGA PURE PLATINUM®. GAGA PURE PLATINUM® was cited by the USPTO in its refusal to grant trademark registration to Ate My Heart, Inc. for LADY GAGA on December 7, 2010 and for LADY GAGA FAME on September 6, 2011. Annexed hereto is Exhibit B. Opposer's Opposition No. 91205046 is now Applicant's third attempt and Applicant Ate My Heart Inc. filed its ill intended Petition to Cancel on March 5, 2012 after Opposer Christina Sukljian filed an extension of time to file its Notice of Opposition just 5 days prior on February 29, 2012. Annexed hereto is Exhibit C.

Applicant Ate My Heart, Inc. does not deny or dispute the fact that GAGA PURE PLATINUM® was not abandoned, and admits that GAGA PURE PLATINUM® was in use in commerce prior to its Petition to Cancel over and over again in both proceedings. Annexed hereto is exhibit D. Despite the fog of unsupported assertions and self serving and adulatory statements, Applicant Ate My Heart, Inc. continues to ignore the clear fact that GAGA PURE PLATINUM® has always been readily and easily available to the public on the parent website www.Zela.com, registered December 9, 1999 and

www.GagaPurePlatinum.com, registered February 11, 2011 all with a simple search that any reasonable fact finder, the public at large and Applicant itself indeed had and has access to. Prior to Applicant's bad faith cancellation action, Applicant did in fact have vast knowledge to the use of Opposer's Trademark in commerce and Applicant did visit both www.Zela.com and www.GagaPurePlatinum.com yet deliberately decided to ignore the clear facts and chose to proceed with its ill intended cancellation action Annexed hereto is Exhibit E.

During discovery conferences Applicant did in fact state to Opposer on the telephone that they had prior knowledge to the material facts and that Opposer's trademark was continuously used in commerce. Applicant stated to Opposer's that Ate My Heart would withdraw its Petition To Cancel only if Opposer assigned its Trademark and all its rights, including websites associated with GAGA PURE PLATINUM over to Ate My Heart, Inc. Furthermore, Applicant's attorneys went on to state to Opposer on the telephone that they 'sent someone' to Opposer's office. When Ms. Sukljian inquired as to the meaning of its statement, Applicant would not elaborate with any further particulars. Opposer believed that their silence on this matter was an attempt to further intimidate Opposer to hand over all its rights and intellectual property to Ate My Heart, Inc. Applicant admitted to Opposer on the telephone that its Petition to Cancel was in fact ill intended due to Opposer's filing an extension of time to oppose Applicant's application just 5 days prior and further threatened Opposer with the enormous undue burden, financial burden, harassment and vexation of a costly and lengthy trial if Opposer would not immediately assign its trademark and all rights over to the Ate My Heart, Inc. at once. Opposer did not give in to Applicant's harassing threats and intimidations and Applicant Ate My Heart, Inc. proceeded with its actions.

Applicant's February 12, 2013 responses are riddled with falsities, inconsistencies, and deceit. In Applicant's opposition response dated February 12, 2012 Ate My Heart, Inc. is attempting to confuse and deceive Ms. Sukljian and The Board by attributing its responses from Respondent's Motion to Compel in the Cancellation Proceeding No. 92055279 to its responses in Opposer's Motion to Compel in the

Opposition Proceeding No. 91205046. Applicant states that its Discovery answers were served without a 2 week extension in the Opposition Action. However, Opposer never claimed that Applicant's Discovery answers were never received in the Opposition Action. Opposer factually stated in its Motion to Compel in the Cancellation Action that Ate My Heart failed to answer Discovery in the Cancellation Action despite Opposer waiting an additional 2 weeks to receive a response. Applicant is using Opposer's facts from its Motion to Compel in the Cancellation proceeding and applying it to Applicant's opposition responses in the Motion to Compel in the Opposition proceeding. One has nothing to do with the other. Applicant is again demonstrating its own practice of manipulation by inventing claims as they see fit.

ARGUMENT

Opposer's Motion To Compel Should Be Granted

Opposer's Opposition No. 91205046 is about the likelihood of confusion that exists between Opposer's Registered Trademark in class 3 GAGA PURE PLATINUM and Applicant's attempt to infringe on Opposer's intellectual property and rights by attempting to register the confusingly similar mark HAUS OF GAGA in the same class 3 for the same goods. This is a claim of trademark priority and confusing similarity and any discoverable information from Ate My Heart, Inc. is relevant to this proceeding. Applicant Ate My Heart has not produced any meaningful responses or documents in response to Opposer's Discovery requests. Opposer's Discovery requests are essential to determine how Applicant intends on using or in fact ever intends on using its applied for intent-to-use mark HAUS OF GAGA for its broad list of similar goods. The items responsive to Opposer's Discovery requests include but are not limited to very simple information and documents relating to logos, packaging designs, product designs, intended customers and retailers, intended manufacturers and distributors, product development, product samples, name selection, color schemes, contracts or licenses relating to the intended use of the applied mark. None of these items were provided and in fact Applicant did not provide any evidence relating to any intention of using the applied for mark, Haus of Gaga, as filed under oath under applicant's application no. 85215017. In Applicant's Discovery Responses, Applicant

answered '*Defendant responds that there are no documents responsive to this request in its possession, custody or control*' to all of Opposer's above mentioned document requests and no information to prove they have any intention to use the mark in response to Opposer's interrogatory requests. Applicant falsely asserts in its response that all of these documents and information are available for inspection and copying yet in its Discovery Answers Ate My Heart, Inc. states that no such documents exist in response to Opposer's above mentioned requests. Applicant is stating to The Board that Opposer can inspect and copy documents that do not exist. Opposer cannot inspect and copy documents relating to logos, packaging designs, product designs, intended customers and retailers, intended manufacturers and distributors, product development, product samples, name selection, color schemes, contracts or licenses because Applicant states that none of these documents exist as Applicant responded in its Discovery answers to Opposer. Please refer to attached Exhibit A. Opposer's Motion to Compel Applicant is necessary and should be granted.

Applicant's Motion To Compel Should Be Denied

A. Ate My Heart's Intentional Mix Up Of Facts And Deliberate Confusion To Spin As They See Fit

Applicant Ate My Heart, Inc. is intentionally mixing up facts from Christina Sukljian's Motion To Compel in the Cancellation Action with Sukljian's Motion To Compel in the Opposition Action. On January 23, 2013 Respondent Sukljian filed a Motion To Compel Petitioner Ate My Heart, Inc. in Cancellation No. 92055279 for ignoring and failing to answer discovery despite Respondent waiting an additional 2 weeks to receive a response from Petitioner before filing the motion. Respondent served its Discovery requests to Petitioner on December 5, 2012 via USPS with signature confirmation and was delivered and signed by Petitioner on December 10, 2012 with USPS proof of delivery no. 9410803699300037838425. Petitioner untimely responded to Respondent's Motion To Compel on February 12, 2013. On January 25, 2013 Opposer Christina Sukljian filed a Motion To Compel Applicant Ate My Heart, Inc. to provide verified meaningful answers and documents in response to its Discovery requests were served on November 24, 2012 by USPS with signature confirmation and was delivered and

signed by Applicant on November 26, 2012 with USPS proof of delivery no. 9410803699300037407027.

Opposer Sukljian received Applicant's Discovery responses on January 3, 2013.

In Ate My Heart's opposition responses dated February 12, 2013 Applicant is overlapping facts from Sukljian's Motion to Compel in the Cancellation and applying them in its responses to Sukljian's Motion to Compel in the Opposition. Ate My Heart is using Sukljian's factual information that Ate My Heart never served Sukljian with Discovery responses in the Cancellation Motion To Compel in order to answer Sukljian's Opposition Motion to Compel. They falsely claiming, with the false declarations of Nicole E. Kaplan and Philippe Zylberg, that Opposer claimed that Applicant's Discovery responses were never served despite waiting 2 additional weeks and go on to show the FedEx proof of delivery to its discovery responses. However, Opposer never claimed that Applicant's Discovery responses were not received in the opposition proceeding nor did Opposer claim that Opposer allocated an additional 2 weeks to receive Applicant's Discovery responses in the Opposition proceeding. Ms. Kaplan goes on to falsely state, under the penalty of perjury, that Christina Sukljian advised Ms. Kaplan that gagapureplatinum.com did not go live until after Ate My Heart's petition to cancel was filed. This is patently false. No such statements were ever made by Christina Sukljian to Ms. Kaplan or to any of Applicant's counsel. www.gagapureplatinum.com was registered February 11, 2011 and was live prior to its cancellation action. More importantly, GAGA PURE PLATINUM product information, contact information, etc, has always been available to the public at large on the parent website www.Zela.com and was registered December 9, 1999. Applicant's opposition to Opposer's Motion to Compel should be denied in its entirety and Opposer's Motion to Compel should be granted in its entirety.

B. The Likelihood Of Confusion Between GAGA PURE PLATINUM And HAUS OF GAGA

The only issue present in Opposer's Opposition Proceeding is the severe likelihood of confusion that exists in the name, sound, appearance and goods between the continuously used in commerce trademark GAGA PURE PLATINUM and the applied-for mark HAUS of GAGA. In its opposition responses dated February 12, 2013 Applicant Ate My Heart, Inc. does not deny or dispute the fact that

GAGA PURE PLATINUM® is not abandoned, and admits to the fact that GAGA PURE PLATINUM® was in use in commerce and not abandoned prior to its Petition to Cancel. Annexed hereto is Exhibit D. Opposer Christina Sukljian timely responded to Applicant's Discovery requests and respectfully and fully complied to answer discovery on time and has answered every one of Applicant's Discovery Requests on time and did not evade discovery. Applicant's unreasonable, bad faith, harassing and unwarranted discovery demands only exist with the sole objective to place unnecessary undue burden, overwhelming financial burden, intimidation and vexation on Opposer with unnecessary demands for unbridled access to Opposer's private information that contain trade secrets, confidential customer lists and invoices, etc. Applicant's demands for this information is unnecessary and further adds to the harassment, undue burden, and intimidation Applicant seeks to impose on Opposer.

C. Ate My Heart's Claim Of Abandonment And Petition To Cancel Is Moot

Applicant states in its responses *"Sukljian registered a trademark, which she never used and never had any intention to use. Once Lady Gaga rose to international fame and began receiving virtually unparalleled publicity, Ms. Sukljian decided to capitalize on Lady Gaga's fame and goodwill by commencing use of the mark in commerce."* Applicant's first statement 'never used and never had any intention to use' is egregiously false. Applicant goes on to admit, as the Board can clearly see in Applicant's next statement, that Opposer's mark was in use and not abandoned. Applicant has concocted a preposterous story that Opposer is a clairvoyant and invented GAGA PURE PLATINUM® with the sole intent to one day capitalize on 'Lady Gaga.' Applicant admits the fact that Opposer's mark was in use in commerce and not abandoned. Applicant's statements illustrate that Applicant knew all along that Opposer's mark was in use in commerce and not abandoned and in fact cannot deny these facts and as such admitted these facts in its statement. Applicant conjured ludicrous claims in its attempt to gain unnecessary, unbridled access to Opposer's confidential and proprietary information, trade secrets, etc. Applicant's claims are so fantastical it is clearly grasping at straws, nevertheless Applicant cannot deny the fact that the mark was in use in commerce and not abandoned, and further proves its demands for

Opposer's confidential customer lists and invoices, etc are unreasonable, unwarranted, harassing and unnecessary.

Applicant wrongly accuses Opposer of bad faith, while Applicant plays fast and loose with its statements regarding discovery. Opposer directed Applicant to the website GagaPurePlatinum.com to obtain 'samples of goods' in response to Applicant's discovery request for samples of goods. Applicant's harassing demands for claimed presumption of abandonment are ill intended and unnecessary. Instead, Ate My Heart, Inc. decided to deliberately ignore the material facts and pursue an unwarranted and meritless Petition to Cancel action solely to inflict harm, intimidation, harassment and overwhelming undue burden on Christina Sukljian. Ate My Heart, Inc. goes on to claim, under the penalty of perjury by attorney Nicole E. Kaplan, that Opposer sent an email to the Village Voice. This claim is patently false and a pure fabrication. It is a fact that Opposer did not send an email to the Village Voice nor did the author of the article Michael Musto state, attribute or claim that the email he received was from the Opposer. Petitioner is again demonstrating its own practice of deceit before The Board. A copy is annexed hereto as Exhibit F. Ate My Heart's claim of abandonment and Petition to Cancel is moot.

These consolidated proceedings are about the likelihood of confusion between GAGA PURE PLATINUM® and HAUS OF GAGA. This is a claim of trademark priority and confusing similarities between Opposer's trademark and Applicant's applied-for-mark. Ate My Heart filed a harassing Petition to Cancel in retaliation solely to inflict harm, intimidation, and undue burden on Opposer Christina Sukljian. The only issue present in the instant Opposition Proceeding is the likelihood of confusion between the marks. Opposer's Motion To Compel Applicant is necessary and relevant. Applicant's motion to compel is unnecessary, without merit and is wasting valuable time, energy, resources and money of both the Opposer and the Board. Opposer's Motion to Compel should be granted in its entirety and judgment entered in favor of Opposer Christina Sukljian.

WHEREFORE, for the reasons set forth herein, Opposer respectfully requests Opposer's Motion To Compel be granted in its entirety in favor of Christina Sukljian, and Applicant's Motion to Compel be

denied in its entirety and judgment entered against Ate My Heart, Inc. and in favor of Christina Sukljan.

Dated: Albany, New York

February 26, 2013

Respectfully Submitted,

By A handwritten signature in black ink, appearing to read 'Christina Sukljan', written over a horizontal line.

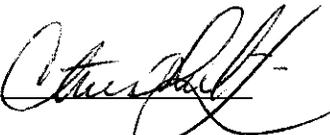
Christina Sukljan

GAGA PURE PLATINUM

13 Manor Street, Albany NY 12207

CERTIFICATE OF PROOF OF SERVICE

I hereby certify that a true and correct copy of the foregoing **OPPOSER'S REPLY TO APPLICANT'S OPPOSITION TO OPPOSER'S MOTION TO COMPEL** has been served on Ate My Heart, Inc. by mailing said copy on February 26, 2013 via The United States Postal Service Priority Mail with Signature Confirmation in a USPS Priority Mail Envelope postage prepaid to: Ate My Heart, Inc. c/o Pryor Cashman LLP, 7 Times Square, New York, NY 10036.

By: 

/Christina Sukljan/

Christina Sukljan

13 Manor Street

Albany, NY 12207

Date of Deposit: February 26, 2013
USPS Priority Mail

CERTIFICATE OF MAILING THROUGH ESTTA

I, Christina Sukljan, hereby certify that this **OPPOSER'S REPLY TO APPLICANT'S
OPPOSITION TO OPPOSER'S MOTION TO COMPEL** is being filed electronically through
ESTTA with The Trademark Trial And Appeal Board, United States Patent And Trademark Office,
Alexandria, VA 22313-1451 on the date indicated below.

Date of Deposit: February 26, 2013

Signed: /Christina Sukljan/

A handwritten signature in black ink, appearing to read "Christina Sukljan", with a stylized flourish at the end.

EXHIBIT A

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

In the Matter of Trademark Application No. 85/215,017
Mark: HAUS OF GAGA

-----X		
CHRISTINA SUKLJIAN,	:	
	:	Opposition No. 91205046
Plaintiff,	:	
	:	
v.	:	
	:	
ATE MY HEART INC.,	:	
	:	
Defendant.	:	
-----X		

**DEFENDANT'S RESPONSES AND OBJECTIONS TO PLAINTIFF'S
FIRST REQUEST FOR PRODUCTION OF DOCUMENTS**

Pursuant to Rule 26 and 34 of the Federal Rules of Civil Procedure, Defendant, Ate My Heart Inc. (hereinafter "Defendant"), by its undersigned attorneys, hereby responds and objects to the First Request for Production of Documents served by Christina Sukljian (hereinafter "Plaintiff"), as follows:

GENERAL OBJECTIONS

1. Defendant objects to each request to the extent that it seeks to impose discovery obligations on Defendant that are inconsistent with, are not found in or which are beyond the scope of the Federal Rules of Civil Procedure.
2. Defendant objects to each request to the extent it seeks information that is not relevant to the claims or defenses of either party.
3. Defendant objects to each request to the extent it is overly broad, unduly burdensome, and/or is vague and ambiguous.

4. Defendant objects to each request to the extent it seeks information protected by the attorney-client privilege, work product immunity doctrine or is otherwise immune from discovery. Defendant will provide the information called for by Fed. R. Civ. P. 26(b)(5), if any, in the form of a privileged document list to be exchanged with Plaintiff on a date to be agreed upon by the parties.

5. Any disclosure of information protected by any privilege or immunity is inadvertent and does not constitute a waiver of any privilege or right of Defendant.

6. Defendant objects to each request as improper and unduly burdensome to the extent it seeks information that is not in the possession, custody or control of Defendant.

7. Defendant objects to each request that seeks the identity of "any", "each" or "all" persons or documents and things as such requests are overly broad and unduly burdensome.

8. Defendant objects to each request to the extent that it seeks information that is already in Plaintiff's possession, custody or control.

9. Defendant objects to each request to the extent that it seeks information that is publicly available, is a matter of public record, and/or is information generated by other entities.

10. Defendant objects to each interrogatory to the extent that it is indefinite as to time.

11. Defendant reserves the right to supplement its responses in accordance with the Federal Rules of Civil Procedure.

SPECIFIC RESPONSES

DOCUMENT REQUEST NO. 1:

All documents sufficient to show the gross annual revenues received by Defendant from the sales of Defendant's Goods in the United States sold under Defendant's Marks each year since Defendant's alleged first use of Defendant's Mark in 2010 and the same for all of Defendant's applied for intent-to-use marks.

RESPONSE TO DOCUMENT REQUEST NO. 1:

Defendant objects to this Request for the reasons set forth in the General Objections and specifically to the extent that it is overly broad and unduly burdensome. Defendant further objects to this Request on the ground that it seeks documents and information relating to marks and/or matters that are neither at issue in this proceeding nor relevant to the claims or defenses of either party. Subject to and without waiving the foregoing objections, Defendant responds that there are no documents responsive to this Request in its possession, custody or control.

DOCUMENT REQUEST NO. 2:

All documents sufficient to identify the quantity of each of the Defendant's Goods sold under Defendant's Marks for each year in the United States since Defendant's alleged first use of Defendant's Mark in 2010 and the same for all of Defendant's applied for intent-to-use marks.

RESPONSE TO DOCUMENT REQUEST NO. 2:

Defendant objects to this Request for the reasons set forth in the General Objections and specifically to the extent that it is overly broad and unduly burdensome. Defendant further objects to this Request on the ground that it seeks documents and information relating to marks and/or matters that are neither at issue in this proceeding nor relevant to the claims or defenses

of either party. Subject to and without waiving the foregoing objections, Defendant responds that there are no documents responsive to this Request in its possession, custody or control.

DOCUMENT REQUEST NO. 3:

All documents and things sufficient to show the use of Defendant's Marks in connection with each of Defendant's Goods each year since Defendant's alleged date of first use in 2010 and the same for all of Defendant's applied for intent-to-use marks.

RESPONSE TO DOCUMENT REQUEST NO. 3:

Defendant objects to this Request for the reasons set forth in the General Objections and specifically to the extent that it is overly broad and unduly burdensome. Defendant further objects to this Request on the ground that it seeks documents and information relating to marks and/or matters that are neither at issue in this proceeding nor relevant to the claims or defenses of either party. Subject to and without waiving the foregoing objections, Defendant responds that there are no documents responsive to this Request in its possession, custody or control.

DOCUMENT REQUEST NO. 4:

All documents concerning packaging for Defendant's Goods bearing Defendant's Marks and the same for all of Defendant's applied for intent-to-use marks.

RESPONSE TO DOCUMENT REQUEST NO. 4:

Defendant objects to this Request for the reasons set forth in the General Objections and specifically to the extent that it is overly broad and unduly burdensome. Defendant further objects to this Request on the ground that it seeks documents and information relating to marks and/or matters that are neither at issue in this proceeding nor relevant to the claims or defenses of either party. Subject to and without waiving the foregoing objections, Defendant responds that there are no documents responsive to this Request in its possession, custody or control.

DOCUMENT REQUEST NO. 5:

All documents concerning any logos, color schemes or other distinctive identifiers for all Defendant's Goods and the same for all of Defendant's applied for intent-to-use goods.

RESPONSE TO DOCUMENT REQUEST NO. 5:

Defendant objects to this Request for the reasons set forth in the General Objections and specifically to the extent that it is overly broad and unduly burdensome. Defendant further objects to this Request on the ground that it seeks documents and information relating to marks and/or matters that are neither at issue in this proceeding nor relevant to the claims or defenses of either party. Subject to and without waiving the foregoing objections, Defendant responds that there are no documents responsive to this Request in its possession, custody or control.

DOCUMENT REQUEST NO. 6:

All documents concerning use, intent-to-use, and actual use in commerce of all Defendant's Applied for Marks in 2010 on fragrances and perfumery; personal care products; fragrance products; perfumes; colognes; eau de toilette; body wash; body spray; body scrubs; body powder; fragrance and body oils and mists; body moisturizers; body creams; soaps; body butter; bath gels; skin care products; body and foot care products; body and shower products; preparations for the care and conditioning of the body, skin, scalp, and hair; toilet soap; body lotions; deodorants; hair preparations; shampoo; bubble bath, bath oil and shower gel; nail polish, nail polish remover; false eyelashes; decorative transfers for cosmetic purposes; cosmetics, cosmetic preparations; make-up; lipsticks, Soaps; perfumery, essential oils, cosmetics, hair lotions; dentifrices; color cosmetics; facial cosmetics; decorative transfers for cosmetic purposes; non-mediated skin care preparations; body and foot care products, namely, beauty milks; skin moisturizers and skin moisturizer masks; skin conditioners; hand creams; massage oils; essential

oils for personal use; talcum powder; perfumed powders; face wash; skin cleansers; skin highlighting cream; body scrubs; body fragrances; fragrances for personal use; body and hand lotions; body gels; body oils; body powders; body exfoliants; body masks; body mask creams and lotions; shaving preparations; after shave lotions; shaving balm; shaving cream; shaving gel; skin abrasive preparations; non-medicated skin creams and skin lotions for relieving razor burns; non-medicated lip care preparations; lip cream; non-medicated sunscreen preparations; suntanning preparations and after-sun lotions; fragrances; bath salts; cosmetic preparations for baths; body and shower products; namely bath beads; bath crystals; bath foam; bath gels; bath oils; bath powders; shower gels; cosmetic soaps; perfumed soaps; liquid soaps; hand, facial and bath soaps; deodorant soaps; shaving soaps; soap powder; toilet soaps; soaps for body care; soaps for personal use; shampoos; conditioners; hair mousse; hair frosts; hair rinses; hair sprays; hair color; hair waving lotion; permanent wave preparations; hair lighteners; hair dyes; hair emollients; hair mascara; hair pomades; hair color removers; hair relaxing preparations; hair styling preparations; hair removing cream; and hair care preparations; body, face, skin and foot lotions and creams; non-medicated toiletries; colognes; eau de toilettes; body firming gels and lotions; nail varnishes; lipsticks; makeup; sun block; deodorants for personal use; perfumed paper in the nature of pot pourri and pomanders containing perfumed preparations and mixtures; eau de parfum; toilet water; talcum powder; hair care preparations; non-medicated preparations for the care and conditioning of the body, skin, and scalp; bubble bath; bath gel; bath oil and shower gel; Cosmetics; cosmetic preparations; make-up and make-up removers; lipstick; lip gloss; lip pomades; lipstick holders; non-medicated lip care preparations; lip cream; fragrances; perfumes; perfume oils; perfumery; colognes; eau de toilette; eau de parfum; eau de perfume; eau de cologne; face and body glitter; facial lotions; creams; moisturizers; cleansers; washes;

scrubs; exfoliants and toners; beauty milks; non-medicated facial treatments in the nature of facial emulsions and facial masks; skin lotions; skin creams; skin conditioners; skin moisturizers; skin moisturizer masks; and skin highlighters; hand moisturizers; creams and lotions; non-medicated foot lotions and creams; wrinkle removing skin care preparations; false eyelashes; non-medicated toiletries; body wash; body gels; body butter; body spray; body oils and mists; body scrubs; body powder; body moisturizers; body lotions; body creams; body scrubs; body exfoliants; body fragrances; body butter; body firming gels and lotions; body masks; bath gels; bath oils; bath powders; bath crystals; bath foam; bath beads; bath salts; shower gels; cosmetic preparations for baths; perfumed powders; soaps; perfumed soaps; liquid soaps; soap powder; toilet soap; toilet water; shaving preparations; shaving balm; shaving cream; shaving gel; after shave lotions; skin abrasive preparations; non-medicated skin creams and skin lotions for relieving razor burns; sunscreen preparations; suntanning preparations; sun tan oils; after-sun lotions; self-tanning preparations; and cosmetic sun-protecting preparations; sun block; non-medicated ointments for the treatment of sunburns; aromatherapy creams; aromatherapy creams; lotions and aromatherapy oils; decorative transfers for cosmetic purposes; preparations for the care and conditioning of the body, skin, scalp, and hair; essential oils for personal use; astringents for cosmetic purposes; massage oils; talcum powder; bubble bath; deodorants for personal use and body care; dentifrices; toothpaste; perfumed paper; makeup applicators in the nature of cotton swabs for cosmetic purposes; all purpose cotton swabs for personal use and cosmetic purposes; cosmetic pads; pre-moistened cosmetic wipes; pre-moistened cosmetic tissues and towelettes; baby wipes; nail care preparations; nail polishes; nail polish base coat; nail polish top coat; nail strengtheners; nail hardeners; nail varnishes; nail polish removers; nail creams; cuticle removing preparations; nail tips; and nail buffing preparations; hair care

preparations; hair care products in the nature of shampoos, conditioners, rinses, mousse, gels, creams, lotions and sprays; hair color; hair waving lotion; permanent wave preparations; hair lighteners; hair dyes; hair emollients; hair mascara; hair pomades; hair color removers; hair relaxing preparations; and hair styling preparations; potpourri; aromatherapy pillows comprising potpourri in fabric containers; pomanders containing perfumed preparations, and mixtures; sachets; sachet-like eye pillows containing fragrances; scented ceramic stones; scented linen sprays and scented room sprays; scented oils used to produce aromas when heated; scented pine cones; incense; room fragrances; fragrance emitting wicks for room fragrances sold under Defendant's Marks, including but not limited to purchase orders placed by Defendant, confirmations, manufacturing, shipping and customs records, bill of lading and delivery receipts, orders for product from customers, Defendant's invoices, cancelled checks or other proof of payment and all internal accounting documents and records.

RESPONSE TO DOCUMENT REQUEST NO. 6:

Defendant objects to this Request for the reasons set forth in the General Objections and specifically to the extent that it is overly broad and unduly burdensome. Defendant further objects to this Request on the ground that it seeks documents and information relating to marks and/or matters that are neither at issue in this proceeding nor relevant to the claims or defenses of either party.

DOCUMENT REQUEST NO. 7:

All documents concerning use, intent-to-use, and actual use in commerce of all Defendant's Applied for Marks in 2011 on fragrances and perfumery; personal care products; fragrance products; perfumes; colognes; eau de toilette; body wash; body spray; body scrubs; body powder; fragrance and body oils and mists; body moisturizers; body creams; soaps; body

butter; bath gels; skin care products; body and foot care products; body and shower products; preparations for the care and conditioning of the body, skin, scalp, and hair; toilet soap; body lotions; deodorants; hair preparations; shampoo; bubble bath, bath oil and shower gel; nail polish, nail polish remover; false eyelashes; decorative transfers for cosmetic purposes; cosmetics, cosmetic preparations; make-up; lipsticks, Soaps; perfumery, essential oils, cosmetics; hair lotions; dentifrices; color cosmetics; facial cosmetics; decorative transfers for cosmetic purposes; non-mediated skin care preparations; body and foot care products, namely, beauty milks; skin moisturizers and skin moisturizer masks; skin conditioners; hand creams; massage oils; essential oils for personal use; talcum powder; perfumed powders; face wash; skin cleansers; skin highlighting cream; body scrubs; body fragrances; fragrances for personal use; body and hand lotions; body gels; body oils; body powders; body exfoliants; body masks; body mask creams and lotions; shaving preparations; after shave lotions; shaving balm; shaving cream; shaving gel; skin abrasive preparations; non-medicated skin creams and skin lotions for relieving razor burns; non-medicated lip care preparations; lip cream; non-medicated sunscreen preparations; suntanning preparations and after-sun lotions; fragrances; bath salts; cosmetic preparations for baths; body and shower products; namely bath beads; bath crystals; bath foam; bath gels; bath oils; bath powders; shower gels; cosmetic soaps; perfumed soaps; liquid soaps; hand, facial and bath soaps; deodorant soaps; shaving soaps; soap powder; toilet soaps; soaps for body care; soaps for personal use; shampoos; conditioners; hair mousse; hair frosts; hair rinses; hair sprays; hair color; hair waving lotion; permanent wave preparations; hair lighteners; hair dyes; hair emollients; hair mascara; hair pomades; hair color removers; hair relaxing preparations; hair styling preparations; hair removing cream; and hair care preparations; body, face, skin and foot lotions and creams; non-medicated toiletries; colognes; eau de toilettes; body firming gels and

lotions; nail varnishes; lipsticks; makeup; sun block; deodorants for personal use; perfumed paper in the nature of pot pourri and pomanders containing perfumed preparations and mixtures; eau de parfum; toilet water; talcum powder; hair care preparations; non-medicated preparations for the care and conditioning of the body, skin, and scalp; bubble bath; bath gel; bath oil and shower gel; Cosmetics; cosmetic preparations; make-up and make-up removers; lipstick; lip gloss; lip pomades; lipstick holders; non-medicated lip care preparations; lip cream; fragrances; perfumes; perfume oils; perfumery; colognes; eau de toilette; eau de parfum; eau de perfume; eau de cologne; face and body glitter; facial lotions; creams; moisturizers; cleansers; washes; scrubs; exfoliants and toners; beauty milks; non-medicated facial treatments in the nature of facial emulsions and facial masks; skin lotions; skin creams; skin conditioners; skin moisturizers; skin moisturizer masks; and skin highlighters; hand moisturizers; creams and lotions; non-medicated foot lotions and creams; wrinkle removing skin care preparations; false eyelashes; non-medicated toiletries; body wash; body gels; body butter; body spray; body oils and mists; body scrubs; body powder; body moisturizers; body lotions; body creams; body scrubs; body exfoliants; body fragrances; body butter; body firming gels and lotions; body masks; bath gels; bath oils; bath powders; bath crystals; bath foam; bath beads; bath salts; shower gels; cosmetic preparations for baths; perfumed powders; soaps; perfumed soaps; liquid soaps; soap powder; toilet soap; toilet water; shaving preparations; shaving balm; shaving cream; shaving gel; after shave lotions; skin abrasive preparations; non-medicated skin creams and skin lotions for relieving razor burns; sunscreen preparations; suntanning preparations; sun tan oils; after-sun lotions; self-tanning preparations; and cosmetic sun-protecting preparations; sun block; non-medicated ointments for the treatment of sunburns; aromatherapy creams; aromatherapy creams; lotions and aromatherapy oils; decorative transfers for cosmetic purposes; preparations for the

care and conditioning of the body, skin, scalp, and hair; essential oils for personal use; astringents for cosmetic purposes; massage oils; talcum powder; bubble bath; deodorants for personal use and body care; dentifrices; toothpaste; perfumed paper; makeup applicators in the nature of cotton swabs for cosmetic purposes; all purpose cotton swabs for personal use and cosmetic purposes; cosmetic pads; pre-moistened cosmetic wipes; pre-moistened cosmetic tissues and towelettes; baby wipes; nail care preparations; nail polishes; nail polish base coat; nail polish top coat; nail strengtheners; nail hardeners; nail varnishes; nail polish removers; nail creams; cuticle removing preparations; nail tips; and nail buffing preparations; hair care preparations; hair care products in the nature of shampoos, conditioners, rinses, mousse, gels, creams, lotions and sprays; hair color; hair waving lotion; permanent wave preparations; hair lighteners; hair dyes; hair emollients; hair mascara; hair pomades; hair color removers; hair relaxing preparations; and hair styling preparations; potpourri; aromatherapy pillows comprising potpourri in fabric containers; pomanders containing perfumed preparations, and mixtures; sachets; sachet-like eye pillows containing fragrances; scented ceramic stones; scented linen sprays and scented room sprays; scented oils used to produce aromas when heated; scented pine cones; incense; room fragrances; fragrance emitting wicks for room fragrances sold under Defendant's Marks, including but not limited to purchase orders placed by Defendant, confirmations, manufacturing, shipping and customs records, bill of lading and delivery receipts, orders for product from customers, Defendant's invoices, cancelled checks or other proof of payment and all internal accounting documents and records.

RESPONSE TO DOCUMENT REQUEST NO. 7:

Defendant objects to this Request for the reasons set forth in the General Objections and specifically to the extent that it is overly broad and unduly burdensome. Defendant further

objects to this Request on the ground that it seeks documents and information relating to marks and/or matters that are neither at issue in this proceeding nor relevant to the claims or defenses of either party. Subject to and without waiving the foregoing objections, Defendant responds that there are no documents responsive to this Request in its possession, custody or control.

DOCUMENT REQUEST NO. 8:

All documents concerning use, intent-to-use, and actual use in commerce of all Defendant's Applied for Marks in 2012 on fragrances and perfumery; personal care products; fragrance products; perfumes; colognes; eau de toilette; body wash; body spray; body scrubs; body powder; fragrance and body oils and mists; body moisturizers; body creams; soaps; body butter; bath gels; skin care products; body and foot care products; body and shower products; preparations for the care and conditioning of the body, skin, scalp, and hair; toilet soap; body lotions; deodorants; hair preparations; shampoo; bubble bath, bath oil and shower gel; nail polish, nail polish remover; false eyelashes; decorative transfers for cosmetic purposes; cosmetics, cosmetic preparations; make-up; lipsticks, Soaps; perfumery, essential oils, cosmetics, hair lotions; dentifrices; color cosmetics; facial cosmetics; decorative transfers for cosmetic purposes; non-mediated skin care preparations; body and foot care products, namely, beauty milks; skin moisturizers and skin moisturizer masks; skin conditioners; hand creams; massage oils; essential oils for personal use; talcum powder; perfumed powders; face wash; skin cleansers; skin highlighting cream; body scrubs; body fragrances; fragrances for personal use; body and hand lotions; body gels; body oils; body powders; body exfoliants; body masks; body mask creams and lotions; shaving preparations; after shave lotions; shaving balm; shaving cream; shaving gel; skin abrasive preparations; non-medicated skin creams and skin lotions for relieving razor burns; non-medicated lip care preparations; lip cream; non-medicated sunscreen preparations;

suntanning preparations and after-sun lotions; fragrances; bath salts; cosmetic preparations for baths; body and shower products; namely bath beads; bath crystals; bath foam; bath gels; bath oils; bath powders; shower gels; cosmetic soaps; perfumed soaps; liquid soaps; hand, facial and bath soaps; deodorant soaps; shaving soaps; soap powder; toilet soaps; soaps for body care; soaps for personal use; shampoos; conditioners; hair mousse; hair frosts; hair rinses; hair sprays; hair color; hair waving lotion; permanent wave preparations; hair lighteners; hair dyes; hair emollients; hair mascara; hair pomades; hair color removers; hair relaxing preparations; hair styling preparations; hair removing cream; and hair care preparations; body, face, skin and foot lotions and creams; non-medicated toiletries; colognes; eau de toilettes; body firming gels and lotions; nail varnishes; lipsticks; makeup; sun block; deodorants for personal use; perfumed paper in the nature of pot pourri and pomanders containing perfumed preparations and mixtures; eau de parfum; toilet water; talcum powder; hair care preparations; non-medicated preparations for the care and conditioning of the body, skin, and scalp; bubble bath; bath gel; bath oil and shower gel; Cosmetics; cosmetic preparations; make-up and make-up removers; lipstick; lip gloss; lip pomades; lipstick holders; non-medicated lip care preparations; lip cream; fragrances; perfumes; perfume oils; perfumery; colognes; eau de toilette; eau de parfum; eau de perfume; eau de cologne; face and body glitter; facial lotions; creams; moisturizers; cleansers; washes; scrubs; exfoliants and toners; beauty milks; non-medicated facial treatments in the nature of facial emulsions and facial masks; skin lotions; skin creams; skin conditioners; skin moisturizers; skin moisturizer masks; and skin highlighters; hand moisturizers; creams and lotions; non-medicated foot lotions and creams; wrinkle removing skin care preparations; false eyelashes; non-medicated toiletries; body wash; body gels; body butter; body spray; body oils and mists; body scrubs; body powder; body moisturizers; body lotions; body creams; body scrubs; body

exfoliants; body fragrances; body butter; body firming gels and lotions; body masks; bath gels; bath oils; bath powders; bath crystals; bath foam; bath beads; bath salts; shower gels; cosmetic preparations for baths; perfumed powders; soaps; perfumed soaps; liquid soaps; soap powder; toilet soap; toilet water; shaving preparations; shaving balm; shaving cream; shaving gel; after shave lotions; skin abrasive preparations; non-medicated skin creams and skin lotions for relieving razor burns; sunscreen preparations; suntanning preparations; sun tan oils; after-sun lotions; self-tanning preparations; and cosmetic sun-protecting preparations; sun block; non-medicated ointments for the treatment of sunburns; aromatherapy creams; aromatherapy creams; lotions and aromatherapy oils; decorative transfers for cosmetic purposes; preparations for the care and conditioning of the body, skin, scalp, and hair; essential oils for personal use; astringents for cosmetic purposes; massage oils; talcum powder; bubble bath; deodorants for personal use and body care; dentifrices; toothpaste; perfumed paper; makeup applicators in the nature of cotton swabs for cosmetic purposes; all purpose cotton swabs for personal use and cosmetic purposes; cosmetic pads; pre-moistened cosmetic wipes; pre-moistened cosmetic tissues and towelettes; baby wipes; nail care preparations; nail polishes; nail polish base coat; nail polish top coat; nail strengtheners; nail hardeners; nail varnishes; nail polish removers; nail creams; cuticle removing preparations; nail tips; and nail buffing preparations; hair care preparations; hair care products in the nature of shampoos, conditioners, rinses, mousse, gels, creams, lotions and sprays; hair color; hair waving lotion; permanent wave preparations; hair lighteners; hair dyes; hair emollients; hair mascara; hair pomades; hair color removers; hair relaxing preparations; and hair styling preparations; potpourri; aromatherapy pillows comprising potpourri in fabric containers; pomanders containing perfumed preparations, and mixtures; sachets; sachet-like eye pillows containing fragrances; scented ceramic stones; scented linen

sprays and scented room sprays; scented oils used to produce aromas when heated; scented pine cones; incense; room fragrances; fragrance emitting wicks for room fragrances sold under Defendant's Marks, including but not limited to purchase orders placed by Defendant, confirmations, manufacturing, shipping and customs records, bill of lading and delivery receipts, orders for product from customers, Defendant's invoices, cancelled checks or other proof of payment and all internal accounting documents and records.

RESPONSE TO DOCUMENT REQUEST NO. 8:

Defendant objects to this Request for the reasons set forth in the General Objections and specifically to the extent that it is overly broad and unduly burdensome. Defendant further objects to this Request on the ground that it seeks documents and information relating to marks and/or matters that are neither at issue in this proceeding nor relevant to the claims or defenses of either party.

DOCUMENT REQUEST NO. 9:

All invoices and purchase orders showing sales of each of the goods bearing Defendant's Marks each year since 2010 broken down by year.

RESPONSE TO DOCUMENT REQUEST NO. 9:

Defendant objects to this Request for the reasons set forth in the General Objections and specifically to the extent that it is overly broad and unduly burdensome. Defendant further objects to this Request on the ground that it seeks documents and information relating to marks and/or matters that are neither at issue in this proceeding nor relevant to the claims or defenses of either party. Subject to and without waiving the foregoing objections, Defendant responds that there are no documents responsive to this Request in its possession, custody or control.

DOCUMENT REQUEST NO. 10:

All shipping documents for each of Defendant's Goods bearing Defendant's Marks each year since 2010 broken down by year.

RESPONSE TO DOCUMENT REQUEST NO. 10:

Defendant objects to this Request for the reasons set forth in the General Objections and specifically to the extent that it is overly broad and unduly burdensome. Defendant further objects to this Request on the ground that it seeks documents and information relating to marks and/or matters that are neither at issue in this proceeding nor relevant to the claims or defenses of either party. Subject to and without waiving the foregoing objections, Defendant responds that there are no documents responsive to this Request in its possession, custody or control.

DOCUMENT REQUEST NO. 11:

All documents sufficient to identify all former, current or prospective direct customers of Defendant's Goods bearing Defendant's Marks from the first sale of said products, and all documents sent to or received from such direct customers.

RESPONSE TO DOCUMENT REQUEST NO. 11:

Defendant objects to this Request for the reasons set forth in the General Objections and specifically to the extent that it is overly broad and unduly burdensome. Defendant further objects to this Request on the ground that it seeks documents and information relating to marks and/or matters that are neither at issue in this proceeding nor relevant to the claims or defenses of either party. Subject to and without waiving the foregoing objections, Defendant responds that there are no documents responsive to this Request in its possession, custody or control.

DOCUMENT REQUEST NO. 12:

All documents concerning the current inventory of all Defendant's Goods in Defendant's possession bearing Defendant's Marks in units and dollars, separated by type of good (e.g., fragrances and perfumery; personal care products; fragrance products; perfumes; colognes; eau de toilette; body wash; body spray; body scrubs; body powder; fragrance and body oils and mists; body moisturizers; body creams; soaps; body butter; bath gels; skin care products; body and foot care products; body and shower products; preparations for the care and conditioning of the body, skin, scalp, and hair; toilet soap; body lotions; deodorants; hair preparations; shampoo; bubble bath, bath oil and shower gel; nail polish, nail polish remover; false eyelashes; decorative transfers for cosmetic purposes; cosmetics, cosmetic preparations; make-up; lipsticks, Soaps; perfumery, essential oils, cosmetics, hair lotions; dentifrices; color cosmetics; facial cosmetics; decorative transfers for cosmetic purposes; non-mediated skin care preparations; body and foot care products, namely, beauty milks; skin moisturizers and skin moisturizer masks; skin conditioners; hand creams; massage oils; essential oils for personal use; talcum powder; perfumed powders; face wash; skin cleansers; skin highlighting cream; body scrubs; body fragrances; fragrances for personal use; body and hand lotions; body gels; body oils; body powders; body exfoliants; body masks; body mask creams and lotions; shaving preparations; after shave lotions; shaving balm; shaving cream; shaving gel; skin abrasive preparations; non-medicated skin creams and skin lotions for relieving razor burns; nonmedicated lip care preparations; lip cream; non-medicated sunscreen preparations; suntanning preparations and after-sun lotions; fragrances; bath salts; cosmetic preparations for baths; body and shower products; namely bath beads; bath crystals; bath foam; bath gels; bath oils; bath powders; shower gels; cosmetic soaps; perfumed soaps; liquid soaps; hand, facial and bath soaps; deodorant soaps; shaving soaps; soap powder; toilet soaps; soaps for body care; soaps for personal use; shampoos;

conditioners; hair mousse; hair frosts; hair rinses; hair sprays; hair color; hair waving lotion; permanent wave preparations; hair lighteners; hair dyes; hair emollients; hair mascara; hair pomades; hair color removers; hair relaxing preparations; hair styling preparations; hair removing cream; and hair care preparations; body, face, skin and foot lotions and creams; non-medicated toiletries; colognes; eau de toilettes; body firming gels and lotions; nail varnishes; lipsticks; makeup; sun block; deodorants for personal use; perfumed paper in the nature of pot pourri and pomanders containing perfumed preparations and mixtures; eau de parfum; toilet water; talcum powder; hair care preparations; non-medicated preparations for the care and conditioning of the body, skin, and scalp; bubble bath; bath gel; bath oil and shower gel; Cosmetics; cosmetic preparations; make-up and make-up removers; lipstick; lip gloss; lip pomades; lipstick holders; non-medicated lip care preparations; lip cream; fragrances; perfumes; perfume oils; perfumery; colognes; eau de toilette; eau de parfum; eau de perfume; eau de cologne; face and body glitter; facial lotions; creams; moisturizers; cleansers; washes; scrubs; exfoliants and toners; beauty milks; non-medicated facial treatments in the nature of facial emulsions and facial masks; skin lotions; skin creams; skin conditioners; skin moisturizers; skin moisturizer masks; and skin highlighters; hand moisturizers; creams and lotions; non-medicated foot lotions and creams; wrinkle removing skin care preparations; false eyelashes; non-medicated toiletries; body wash; body gels; body butter; body spray; body oils and mists; body scrubs; body powder; body moisturizers; body lotions; body creams; body scrubs; body exfoliants; body fragrances; body butter; body firming gels and lotions; body masks; bath gels; bath oils; bath powders; bath crystals; bath foam; bath beads; bath salts; shower gels; cosmetic preparations for baths; perfumed powders; soaps; perfumed soaps; liquid soaps; soap powder; toilet soap; toilet water; shaving preparations; shaving balm; shaving cream; shaving gel; after

shave lotions; skin abrasive preparations; non-medicated skin creams and skin lotions for relieving razor burns; sunscreen preparations; suntanning preparations; sun tan oils; after-sun lotions; self-tanning preparations; and cosmetic sun-protecting preparations; sun block; non-medicated ointments for the treatment of sunburns; aromatherapy creams; aromatherapy creams; lotions and aromatherapy oils; decorative transfers for cosmetic purposes; preparations for the care and conditioning of the body, skin, scalp, and hair; essential oils for personal use; astringents for cosmetic purposes; massage oils; talcum powder; bubble bath; deodorants for personal use and body care; dentifrices; toothpaste; perfumed paper; makeup applicators in the nature of cotton swabs for cosmetic purposes; all purpose cotton swabs for personal use and cosmetic purposes; cosmetic pads; pre-moistened cosmetic wipes; pre-moistened cosmetic tissues and towelettes; baby wipes; nail care preparations; nail polishes; nail polish base coat; nail polish top coat; nail strengtheners; nail hardeners; nail varnishes; nail polish removers; nail creams; cuticle removing preparations; nail tips; and nail buffing preparations; hair care preparations; hair care products in the nature of shampoos, conditioners, rinses, mousse, gels, creams, lotions and sprays; hair color; hair waving lotion; permanent wave preparations; hair lighteners; hair dyes; hair emollients; hair mascara; hair pomades; hair color removers; hair relaxing preparations; and hair styling preparations; potpourri; aromatherapy pillows comprising potpourri in fabric containers; pomanders containing perfumed preparations, and mixtures; sachets; sachet-like eye pillows containing fragrances; scented ceramic stones; scented linen sprays and scented room sprays; scented oils used to produce aromas when heated; scented pine cones; incense; room fragrances; fragrance emitting wicks for room fragrances, etc.).

RESPONSE TO DOCUMENT REQUEST NO. 12:

Defendant objects to this Request for the reasons set forth in the General Objections and specifically to the extent that it is overly broad and unduly burdensome. Defendant further objects to this Request on the ground that it seeks documents and information relating to marks and/or matters that are neither at issue in this proceeding nor relevant to the claims or defenses of either party. Subject to and without waiving the foregoing objections, Defendant responds that there are no documents responsive to this Request in its possession, custody or control.

DOCUMENT REQUEST NO. 13:

All documents concerning Defendant's knowledge of the existence and/or activities of Plaintiff.

RESPONSE TO DOCUMENT REQUEST NO. 13:

Defendant objects to this Request for the reasons set forth in the General Objections and specifically to the extent that it violates the work-product immunity doctrine and/or attorney client privilege. Subject to and without waiving the foregoing objections, Defendant responds that there are no non-privileged documents responsive to this Request in its possession, custody or control.

DOCUMENT REQUEST NO. 14:

All documents sufficient to illustrate the date when the website associated with the domain names ladygaga.com, hausofgaga.com and ladygagafame.com were launched.

RESPONSE TO DOCUMENT REQUEST NO. 14:

Defendant objects to this Request for the reasons set forth in the General Objections and specifically to the extent that it is overly broad and unduly burdensome. Defendant further objects to this Request on the ground that it seeks documents and information relating to marks

and/or matters that are neither at issue in this proceeding nor relevant to the claims or defenses of either party. Subject to and without waiving the foregoing objections, Defendant responds that there are no documents responsive to this Request in its possession, custody or control.

DOCUMENT REQUEST NO. 15:

All documents, including but not limited to all contracts, licenses, agreements, with web developers for the website associated with the domain names ladygaga.com, hausofgaga.com and ladygagafame.com.

RESPONSE TO DOCUMENT REQUEST NO. 15:

Defendant objects to this Request for the reasons set forth in the General Objections and specifically to the extent that it is overly broad and unduly burdensome and are not reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects to this Request on the ground that it seeks documents and information relating to marks and/or matters that are neither at issue in this proceeding nor relevant to the claims or defenses of either party.

DOCUMENT REQUEST NO. 16:

All documents concerning the design and layout of the website associated with the domain names ladygaga.com, hausofgaga.com and ladygagafame.com.

RESPONSE TO DOCUMENT REQUEST NO. 16:

Defendant objects to this Request for the reasons set forth in the General Objections and specifically to the extent that it is overly broad and unduly burdensome and are not reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects to this Request on the ground that it seeks documents and information relating to marks and/or matters that are neither at issue in this proceeding nor relevant to the claims or defenses of either party.

DOCUMENT REQUEST NO. 17:

All documents concerning the websites ladygaga.com, hausofgaga.com and ladygagafame.com

RESPONSE TO DOCUMENT REQUEST NO. 17:

Defendant objects to this Request for the reasons set forth in the General Objections and specifically to the extent that it is overly broad and unduly burdensome. Defendant further objects to this Request on the ground that it seeks documents and information relating to marks and/or matters that are neither at issue in this proceeding nor relevant to the claims or defenses of either party. Subject to and without waiving the foregoing objections, Defendant responds that there are no documents responsive to this Request in its possession, custody or control.

DOCUMENT REQUEST NO. 18:

All documents concerning the sale of products on ladygaga.com, hausofgaga.com and ladygagafame.com

RESPONSE TO DOCUMENT REQUEST NO. 18:

Defendant objects to this Request for the reasons set forth in the General Objections and specifically to the extent that it is overly broad and unduly burdensome. Defendant further objects to this Request on the ground that it seeks documents and information relating to marks and/or matters that are neither at issue in this proceeding nor relevant to the claims or defenses of either party. Subject to and without waiving the foregoing objections, Defendant responds that there are no documents responsive to this Request in its possession, custody or control.

DOCUMENT REQUEST NO. 19:

All documents sufficient to show the relationship between Defendant and Stefani Germanotta and the phrase 'lady gaga' and past and present managers, and past and present

licensors, and past and present licensees, and past and present agents, and past and present representatives, and past and present affiliates, and past and present subsidiaries, and past and present partners, and past and present employees, and past and present advisors, and past and present attorneys, and past and present manufacturers, and past and present distributors, and past and present wholesalers, and past and present retailers, and past and present resellers, and past and present customers, and past and present promoters, and past and present publicists.

RESPONSE TO DOCUMENT REQUEST NO. 19:

Defendant objects to this Request for the reasons set forth in the General Objections and specifically to the extent that it is overly broad and unduly burdensome and are not reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects to this Request on the ground that it seeks documents and information relating to marks and/or matters that are neither at issue in this proceeding nor relevant to the claims or defenses of either party.

DOCUMENT REQUEST NO. 20:

All documents concerning the sale of Defendant's Goods by but not limited to ladygaga.com, hausofgaga.com, ladygagafame.com, Stefani Germanotta, past and present managers, past and present licensors, past and present licensees, past and present agents, past and present representatives, past and present affiliates, past and present subsidiaries, past and present partners, past and present employees, past and present advisors, past and present attorneys, past and present manufacturers, past and present distributors, past and present wholesalers, past and present retailers, past and present resellers, past and present customers, past and present promoters, past and present publicists.

RESPONSE TO DOCUMENT REQUEST NO. 20:

Defendant objects to this Request for the reasons set forth in the General Objections and specifically to the extent that it is confusing, unintelligible, overly broad and unduly burdensome. Defendant further objects to this Request on the ground that it seeks documents and information relating to marks and/or matters that are neither at issue in this proceeding nor relevant to the claims or defenses of either party. Subject to and without waiving the foregoing objections, Defendant responds that there are no documents responsive to this Request in its possession, custody or control.

DOCUMENT REQUEST NO. 21:

All documents sufficient to show the registration date of the Facebook account for lady gaga, haus of gaga and lady gaga fame.

RESPONSE TO DOCUMENT REQUEST NO. 21:

Defendant objects to this Request for the reasons set forth in the General Objections and specifically to the extent that it is overly broad and unduly burdensome and are not reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects to this Request on the ground that it seeks documents and information relating to marks and/or matters that are neither at issue in this proceeding nor relevant to the claims or defenses of either party.

DOCUMENT REQUEST NO. 22:

All documents concerning any application Defendant filed with the USPTO in connection with Defendant's Marks.

RESPONSE TO DOCUMENT REQUEST NO. 22:

Defendant objects to this Request for the reasons set forth in the General Objections and specifically to the extent that it is overly broad, unduly burdensome, harassing and to the extent it

violates the work-product immunity doctrine and/or attorney client privilege and that the information is publically available and/or equally available to Plaintiff. Defendant further objects to this Request on the ground that it seeks documents and information relating to marks and/or matters that are neither at issue in this proceeding nor relevant to the claims or defenses of either party.

DOCUMENT REQUEST NO. 23:

All documents concerning Defendant's creation, selection or adoption of its Marks, including but not limited to any marketing studies, search reports, opinions, trademark or copyright registration searches, investigations or advice created for or rendered to Defendant.

RESPONSE TO DOCUMENT REQUEST NO. 23:

Defendant objects to this Request for the reasons set forth in the General Objections and specifically to the extent that it violates the work-product immunity doctrine and/or attorney client privilege. Defendant further objects to this Request on the ground that it seeks documents and information relating to marks and/or matters that are neither at issue in this proceeding nor relevant to the claims or defenses of either party. Subject to and without waiving the foregoing objections, Defendant responds that there are no non-privileged documents responsive to this Request in its possession, custody or control.

DOCUMENT REQUEST NO. 24:

All documents concerning Defendant's uses and/or intended uses for Defendant's Mark in the United States.

RESPONSE TO DOCUMENT REQUEST NO. 24:

Defendant objects to this Request for the reasons set forth in the General Objections and specifically to the extent that it is overly broad and unduly burdensome. Defendant further

objects to this Request on the ground that it seeks documents and information relating to marks and/or matters that are neither at issue in this proceeding nor relevant to the claims or defenses of either party. Subject to and without waiving the foregoing objections, Defendant responds that there are no documents responsive to this Request in its possession, custody or control.

DOCUMENT REQUEST NO. 25:

All documents concerning Defendant's first use of Defendant's Marks in commerce including the date of first sale.

RESPONSE TO DOCUMENT REQUEST NO. 25:

Defendant objects to this Request for the reasons set forth in the General Objections and specifically to the extent that it is overly broad and unduly burdensome. Defendant further objects to this Request on the ground that it seeks documents and information relating to marks and/or matters that are neither at issue in this proceeding nor relevant to the claims or defenses of either party. Subject to and without waiving the foregoing objections, Defendant responds that there are no documents responsive to this Request in its possession, custody or control.

DOCUMENT REQUEST NO. 26:

Samples of each of Defendant's Goods sold and offered for sale and alleged to be used in commerce and alleged intent-to-use under Defendant's Marks

RESPONSE TO DOCUMENT REQUEST NO. 26:

Defendant objects to this Request for the reasons set forth in the General Objections and specifically to the extent that it is overly broad and unduly burdensome. Defendant further objects to this Request on the ground that it seeks documents and information relating to marks and/or matters that are neither at issue in this proceeding nor relevant to the claims or defenses of

either party. Subject to and without waiving the foregoing objections, Defendant responds that there are no documents responsive to this Request in its possession, custody or control.

DOCUMENT REQUEST NO. 27:

All documents sufficient to identify the target consumers for Defendant's Goods sold under Defendant's Marks, including but not limited to marketing studies, research reports, consumer correspondence, consumer surveys, opinions and investigations.

RESPONSE TO DOCUMENT REQUEST NO. 27:

Defendant objects to this Request for the reasons set forth in the General Objections and specifically to the extent that it is overly broad and unduly burdensome. Defendant further objects to this Request on the ground that it seeks documents and information relating to marks and/or matters that are neither at issue in this proceeding nor relevant to the claims or defenses of either party. Subject to and without waiving the foregoing objections, Defendant responds that there are no documents responsive to this Request in its possession, custody or control.

DOCUMENT REQUEST NO. 28:

All documents concerning the creation, selection, manufacture and/or development of any of Defendant's Goods made under Defendant's Marks.

RESPONSE TO DOCUMENT REQUEST NO. 28:

Defendant objects to this Request for the reasons set forth in the General Objections and specifically to the extent that it is overly broad and unduly burdensome. Defendant further objects to this Request on the ground that it seeks documents and information relating to marks and/or matters that are neither at issue in this proceeding nor relevant to the claims or defenses of either party. Subject to and without waiving the foregoing objections, Defendant responds that there are no documents responsive to this Request in its possession, custody or control.

DOCUMENT REQUEST NO. 29:

All documents sufficient to identify the goods that are sold, will be sold or are in development to be sold under Defendant's Mark, whether or not currently in use in commerce.

RESPONSE TO DOCUMENT REQUEST NO. 29:

Defendant objects to this Request for the reasons set forth in the General Objections and specifically to the extent that it is overly broad and unduly burdensome. Defendant further objects to this Request on the ground that it seeks documents and information relating to marks and/or matters that are neither at issue in this proceeding nor relevant to the claims or defenses of either party. Subject to and without waiving the foregoing objections, Defendant responds that there are no documents responsive to this Request in its possession, custody or control.

DOCUMENT REQUEST NO. 30:

All documents sufficient to identify any and all former, current or prospective retailers, wholesalers or other sellers and/or distributors and sellers of any of Defendant's Goods sold under Defendant's Marks.

RESPONSE TO DOCUMENT REQUEST NO. 30:

Defendant objects to this Request for the reasons set forth in the General Objections and specifically to the extent that it is overly broad and unduly burdensome. Defendant further objects to this Request on the ground that it seeks documents and information relating to marks and/or matters that are neither at issue in this proceeding nor relevant to the claims or defenses of either party. Subject to and without waiving the foregoing objections, Defendant responds that there are no documents responsive to this Request in its possession, custody or control.

DOCUMENT REQUEST NO. 31:

All documents sufficient to identify the geographic regions of the United States in which any of Defendant's Goods sold under Defendant's Marks are currently offered for sale or will be offered for sale.

RESPONSE TO DOCUMENT REQUEST NO. 31:

Defendant objects to this Request for the reasons set forth in the General Objections and specifically to the extent that it is overly broad and unduly burdensome. Defendant further objects to this Request on the ground that it seeks documents and information relating to marks and/or matters that are neither at issue in this proceeding nor relevant to the claims or defenses of either party. Subject to and without waiving the foregoing objections, Defendant responds that there are no documents responsive to this Request in its possession, custody or control.

DOCUMENT REQUEST NO. 32:

All documents sufficient to identify any and all domain names registered by or on behalf of Defendant incorporating Defendant's Marks, including but not limited to applications, registrations, agreements, correspondence and e-mails.

RESPONSE TO DOCUMENT REQUEST NO. 32:

Defendant objects to this Request for the reasons set forth in the General Objections and specifically to the extent that it is overly broad and unduly burdensome. Defendant further objects to this Request on the ground that it seeks documents and information relating to marks and/or matters that are neither at issue in this proceeding nor relevant to the claims or defenses of either party. Subject to and without waiving the foregoing objections, Defendant responds that there are no documents responsive to this Request in its possession, custody or control.

DOCUMENT REQUEST NO. 33:

Copies of all advertising and promotional materials including, but not limited to, pamphlets, promotional materials, labels, signage, business cards, letterhead or invoices, used in the United States or proposed to be used in the United States, in connection with the sale of Defendant's Goods bearing Defendant's Marks.

RESPONSE TO DOCUMENT REQUEST NO. 33:

Defendant objects to this Request for the reasons set forth in the General Objections and specifically to the extent that it is overly broad and unduly burdensome. Defendant further objects to this Request on the ground that it seeks documents and information relating to marks and/or matters that are neither at issue in this proceeding nor relevant to the claims or defenses of either party. Subject to and without waiving the foregoing objections, Defendant responds that there are no documents responsive to this Request in its possession, custody or control.

DOCUMENT REQUEST NO. 34:

All documents concerning publicity for Defendant's Marks in the United States, including, but not limited to, press releases, brochures, flyers, advertisements and promotional literature, whether published in print, broadcast or electronic form.

RESPONSE TO DOCUMENT REQUEST NO. 34:

Defendant objects to this Request for the reasons set forth in the General Objections and specifically to the extent that it is overly broad and unduly burdensome. Defendant further objects to this Request on the ground that it seeks documents and information relating to marks and/or matters that are neither at issue in this proceeding nor relevant to the claims or defenses of either party. Subject to and without waiving the foregoing objections, Defendant responds that there are no documents responsive to this Request in its possession, custody or control.

DOCUMENT REQUEST NO. 35:

All documents concerning publicity for Defendant's Goods in the United States, including but not limited to press releases, brochures, flyers, advertisements and promotional literatures, whether published in print, broadcast or electronic form.

RESPONSE TO DOCUMENT REQUEST NO. 35:

Defendant objects to this Request for the reasons set forth in the General Objections and specifically to the extent that it is overly broad and unduly burdensome. Defendant further objects to this Request on the ground that it seeks documents and information relating to marks and/or matters that are neither at issue in this proceeding nor relevant to the claims or defenses of either party. Subject to and without waiving the foregoing objections, Defendant responds that there are no documents responsive to this Request in its possession, custody or control.

DOCUMENT REQUEST NO. 36:

All documents concerning promotional events in the United States sponsored by Defendant involving Defendant's Marks, including but not limited to press and/or launch parties, promotions and social events.

RESPONSE TO DOCUMENT REQUEST NO. 36:

Defendant objects to this Request for the reasons set forth in the General Objections and specifically to the extent that it is overly broad and unduly burdensome. Defendant further objects to this Request on the ground that it seeks documents and information relating to marks and/or matters that are neither at issue in this proceeding nor relevant to the claims or defenses of either party. Subject to and without waiving the foregoing objections, Defendant responds that there are no documents responsive to this Request in its possession, custody or control.

DOCUMENT REQUEST NO. 37:

All documents concerning consumer recognition of Defendant's Marks in the United States.

RESPONSE TO DOCUMENT REQUEST NO. 37:

Defendant objects to this Request for the reasons set forth in the General Objections and specifically to the extent that it is overly broad and unduly burdensome. Defendant further objects to this Request on the ground that it seeks documents and information relating to marks and/or matters that are neither at issue in this proceeding nor relevant to the claims or defenses of either party. Subject to and without waiving the foregoing objections, Defendant responds that there are no documents responsive to this Request in its possession, custody or control.

DOCUMENT REQUEST NO. 38:

All documents concerning Defendant's business, marketing, and advertising plans and strategies for Defendant's Goods sold under Defendant's Marks, including, but not limited to, and plans to advertise Defendant's Goods sold under Defendant's Mark on television stations, radio stations, Internet web sites, cable television stations, national television networks, newspapers, magazines, circulars or other media outlets.

RESPONSE TO DOCUMENT REQUEST NO. 38:

Defendant objects to this Request for the reasons set forth in the General Objections and specifically to the extent that it is overly broad and unduly burdensome. Defendant further objects to this Request on the ground that it seeks documents and information relating to marks and/or matters that are neither at issue in this proceeding nor relevant to the claims or defenses of either party. Subject to and without waiving the foregoing objections, Defendant responds that there are no documents responsive to this Request in its possession, custody or control.

DOCUMENT REQUEST NO. 39:

All documents sufficient to identify Defendant's annual expenses in the United States for its business, marketing, advertising and promotional plans, publicity and strategies concerning Defendant's Marks from the date of inception to the present.

RESPONSE TO DOCUMENT REQUEST NO. 39:

Defendant objects to this Request for the reasons set forth in the General Objections and specifically to the extent that it is overly broad and unduly burdensome. Defendant further objects to this Request on the ground that it seeks documents and information relating to marks and/or matters that are neither at issue in this proceeding nor relevant to the claims or defenses of either party. Subject to and without waiving the foregoing objections, Defendant responds that there are no documents responsive to this Request in its possession, custody or control.

DOCUMENT REQUEST NO. 40:

All documents concerning communications with any outside consultants concerning Defendant's Mark including but not limited to correspondence to or from publicity firms, public relations agents, advertising agencies, sales agencies, marketing firms and other consulting firms.

RESPONSE TO DOCUMENT REQUEST NO. 40:

Defendant objects to this Request for the reasons set forth in the General Objections and specifically to the extent that it is overly broad and unduly burdensome. Defendant further objects to this Request on the ground that it seeks documents and information relating to marks and/or matters that are neither at issue in this proceeding nor relevant to the claims or defenses of either party. Subject to and without waiving the foregoing objections, Defendant responds that there are no documents responsive to this Request in its possession, custody or control.

DOCUMENT REQUEST NO. 41:

Representative samples of each piece of advertising or promotional material or proposed advertising or promotional material showing use of Defendant's Marks in connection with Defendant's Goods, including a page (if applicable) that identifies the medium and date of publication of such advertisement or promotion.

RESPONSE TO DOCUMENT REQUEST NO. 41:

Defendant objects to this Request for the reasons set forth in the General Objections and specifically to the extent that it is overly broad and unduly burdensome. Defendant further objects to this Request on the ground that it seeks documents and information relating to marks and/or matters that are neither at issue in this proceeding nor relevant to the claims or defenses of either party. Subject to and without waiving the foregoing objections, Defendant responds that there are no documents responsive to this Request in its possession, custody or control.

DOCUMENT REQUEST NO. 42:

All documents concerning unsolicited media attention in the United States received by Defendant in connection with Defendant's Marks, including, but not limited to, magazine and newspaper articles, broadcast media and electronic publications in the past 12 years.

RESPONSE TO DOCUMENT REQUEST NO. 42:

Defendant objects to this Request for the reasons set forth in the General Objections and specifically to the extent that it is overly broad and unduly burdensome. Defendant further objects to this Request on the ground that it seeks documents and information relating to marks and/or matters that are neither at issue in this proceeding nor relevant to the claims or defenses of either party. Subject to and without waiving the foregoing objections, Defendant responds that there are no documents responsive to this Request in its possession, custody or control.

DOCUMENT REQUEST NO. 43:

All documents showing, discussing, concerning and/or comparing Defendant's Goods to the goods of any competitor or any other person or entity offering goods comparable to Defendant's Goods.

RESPONSE TO DOCUMENT REQUEST NO. 43:

Defendant objects to this Request for the reasons set forth in the General Objections and specifically to the extent that it is overly broad and unduly burdensome. Defendant further objects to this Request on the ground that it seeks documents and information relating to marks and/or matters that are neither at issue in this proceeding nor relevant to the claims or defenses of either party. Subject to and without waiving the foregoing objections, Defendant responds that there are no documents responsive to this Request in its possession, custody or control.

DOCUMENT REQUEST NO. 44:

All documents concerning the intended purchaser(s) of Defendant's Goods, bearing Defendant's Marks.

RESPONSE TO DOCUMENT REQUEST NO. 44:

Defendant objects to this Request for the reasons set forth in the General Objections and specifically to the extent that it is overly broad and unduly burdensome. Defendant further objects to this Request on the ground that it seeks documents and information relating to marks and/or matters that are neither at issue in this proceeding nor relevant to the claims or defenses of either party. Subject to and without waiving the foregoing objections, Defendant responds that there are no documents responsive to this Request in its possession, custody or control.

DOCUMENT REQUEST NO. 45:

All documents concerning the licensing or assignment of any trademark, copyright, domain name or contractual rights in Defendant's Marks or prospective licensing or assignment of any trademark, copyright or contractual rights for Defendant's Marks to any third party.

RESPONSE TO DOCUMENT REQUEST NO. 45:

Defendant objects to this Request for the reasons set forth in the General Objections and specifically to the extent that it is overly broad and unduly burdensome. Defendant further objects to this Request on the ground that it seeks documents and information relating to marks and/or matters that are neither at issue in this proceeding nor relevant to the claims or defenses of either party. Subject to and without waiving the foregoing objections, Defendant responds that there are no documents responsive to this Request in its possession, custody or control.

DOCUMENT REQUEST NO. 46:

All documents reflecting past, present and potential agents, licensees, joint venture partners, sponsors or promoters, hired by or on behalf of Defendant in connection with Defendant's Goods offered under Defendant's Marks.

RESPONSE TO DOCUMENT REQUEST NO. 46:

Defendant objects to this Request for the reasons set forth in the General Objections and specifically to the extent that it is overly broad and unduly burdensome. Defendant further objects to this Request on the ground that it seeks documents and information relating to marks and/or matters that are neither at issue in this proceeding nor relevant to the claims or defenses of either party. Subject to and without waiving the foregoing objections, Defendant responds that there are no documents responsive to this Request in its possession, custody or control.

DOCUMENT REQUEST NO. 47:

All documents, including, but not limited to, any studies, reports, analysis, and/or communications prepared by or for Defendant, concerning Defendant's Goods.

RESPONSE TO DOCUMENT REQUEST NO. 47:

Defendant objects to this Request for the reasons set forth in the General Objections and specifically to the extent that it violates the work-product immunity doctrine and/or attorney client privilege. Defendant further objects to this Request on the ground that it seeks documents and information relating to marks and/or matters that are neither at issue in this proceeding nor relevant to the claims or defenses of either party. Subject to and without waiving the foregoing objections, Defendant responds that there are no non-privileged documents responsive to this Request in its possession, custody or control.

DOCUMENT REQUEST NO. 48:

All documents concerning any goods in International Class 3 that are offered for sale or sold by any third party and which use the term GAGA or any term substantially similar thereto including, but not limited to, in the name of the product and/or, packaging of the product.

RESPONSE TO DOCUMENT REQUEST NO. 48:

Defendant objects to this Request for the reasons set forth in the General Objections and specifically to the extent that it violates the work-product immunity doctrine and/or attorney client privilege. Subject to and without waiving the foregoing objections, Defendant responds that there are no non-privileged documents responsive to this Request in its possession, custody or control.

DOCUMENT REQUEST NO. 49:

All documents concerning Defendant's efforts to enforce Defendant's Marks.

RESPONSE TO DOCUMENT REQUEST NO. 49:

Defendant objects to this Request for the reasons set forth in the General Objections and specifically to the extent that it is overly broad and unduly burdensome. Defendant further objects to this Request on the ground that it seeks documents and information relating to marks and/or matters that are neither at issue in this proceeding nor relevant to the claims or defenses of either party. Subject to and without waiving the foregoing objections, Defendant responds that there are no documents responsive to this Request in its possession, custody or control.

DOCUMENT REQUEST NO. 50:

All documents concerning any allegations of infringement of Defendant's Marks or lawsuits filed which allege infringement of Defendant's Marks, against any individual or entity.

RESPONSE TO DOCUMENT REQUEST NO. 50:

Defendant objects to this Request for the reasons set forth in the General Objections and specifically to the extent that it violates the work-product immunity doctrine and/or attorney client privilege. Defendant further objects to this Request on the ground that it seeks documents and information relating to marks and/or matters that are neither at issue in this proceeding nor relevant to the claims or defenses of either party. Subject to and without waiving the foregoing objections, Defendant responds that there are no non-privileged documents responsive to this Request in its possession, custody or control.

DOCUMENT REQUEST NO. 51:

All documents concerning Defendant's denials in the Answer.

RESPONSE TO DOCUMENT REQUEST NO. 51:

Defendant objects to this Request for the reasons set forth in the General Objections and specifically to the extent that it is overly broad, unduly burdensome, harassing and to the extent

it violates the work-product immunity doctrine and/or attorney client privilege. Defendant also objects to this Request on the ground that it is premature at this stage of the proceeding. Subject to and without waiving the foregoing objections, Defendant responds that it will produce responsive, non-privileged documents in its possession, custody or control, if any.

DOCUMENT REQUEST NO. 52:

All documents concerning any coexistence agreements concerning Defendant's Marks to which Defendant is a party.

RESPONSE TO DOCUMENT REQUEST NO. 52:

Defendant objects to this Request for the reasons set forth in the General Objections and specifically to the extent that it is overly broad and unduly burdensome. Defendant further objects to this Request on the ground that it seeks documents and information relating to marks and/or matters that are neither at issue in this proceeding nor relevant to the claims or defenses of either party. Subject to and without waiving the foregoing objections, Defendant responds that there are no documents responsive to this Request in its possession, custody or control.

DOCUMENT REQUEST NO. 53:

All documents reviewed and/or relied upon in drafting the Answer.

RESPONSE TO DOCUMENT REQUEST NO. 53:

Defendant objects to this Request for the reasons set forth in the General Objections and specifically to the extent that it violates the work-product immunity doctrine and/or attorney client privilege. Subject to and without waiving the foregoing objections, Defendant responds that there are no documents responsive to this Request in its possession, custody or control.

DOCUMENT REQUEST NO. 54:

All documents sufficient to identify all persons with knowledge or information concerning the subject matter of this Action.

RESPONSE TO DOCUMENT REQUEST NO. 54:

Defendant objects to this Request for the reasons set forth in the General Objections and specifically to the extent that it violates the work-product immunity doctrine and/or attorney client privilege. Subject to and without waiving the foregoing objections, Defendant responds that it will produce responsive, non-privileged documents in its possession, custody or control, if any.

DOCUMENT REQUEST NO. 55:

All documents sufficient to show Defendant's revenue of sale of each of Defendant's Goods in Class 3 in the United States each year from the date of first use.

RESPONSE TO DOCUMENT REQUEST NO. 55:

Defendant objects to this Request for the reasons set forth in the General Objections and specifically to the extent that it is overly broad and unduly burdensome. Defendant further objects to this Request on the ground that it seeks documents and information relating to marks and/or matters that are neither at issue in this proceeding nor relevant to the claims or defenses of either party. Subject to and without waiving the foregoing objections, Defendant responds that there are no documents responsive to this Request in its possession, custody or control.

DOCUMENT REQUEST NO. 56:

All documents concerning registration of the domain names ladygaga.com, hausofgaga.com, ladygagafame.com, and any other domain name affiliated, associated with and or owned by Defendant.

RESPONSE TO DOCUMENT REQUEST NO. 56:

Defendant objects to this Request for the reasons set forth in the General Objections and specifically to the extent that it is overly broad and unduly burdensome. Defendant further objects to this Request on the ground that it seeks documents and information relating to marks and/or matters that are neither at issue in this proceeding nor relevant to the claims or defenses of either party. Subject to and without waiving the foregoing objections, Defendant responds that there are no documents responsive to this Request in its possession, custody or control.

DOCUMENT REQUEST NO. 57:

All documents concerning any press releases concerning this Action or concerning the dispute between Plaintiff and Defendant in general.

RESPONSE TO DOCUMENT REQUEST NO. 57:

Defendant objects to this Request for the reasons set forth in the General Objections and specifically to the extent that it violates the work-product immunity doctrine and/or attorney client privilege and that the information is publically available and/or equally available to Plaintiff. Subject to and without waiving the foregoing objections, Defendant responds that it will produce responsive, non-privileged documents in its possession, custody or control, if any.

DOCUMENT REQUEST NO. 58:

All documents concerning the decision to issue a press release concerning this Action or concerning the dispute between Plaintiff and Defendant in general.

RESPONSE TO DOCUMENT REQUEST NO. 58:

Defendant objects to this Request for the reasons set forth in the General Objections and specifically to the extent that it violates the work-product immunity doctrine and/or attorney client privilege and that the information is publically available and/or equally available to

Plaintiff. Subject to and without waiving the foregoing objections, Defendant responds that it will produce responsive, non-privileged documents in its possession, custody or control, if any.

DOCUMENT REQUEST NO. 59:

All documents sufficient to show use in the United States of Defendant's Marks on each item listed in Defendant's Applications, including invoices and the identifies of each and every purchase of Defendant's Goods.

RESPONSE TO DOCUMENT REQUEST NO. 59:

Defendant objects to this Request for the reasons set forth in the General Objections and specifically to the extent that it is overly broad and unduly burdensome. Defendant further objects to this Request on the ground that it seeks documents and information relating to marks and/or matters that are neither at issue in this proceeding nor relevant to the claims or defenses of either party. Subject to and without waiving the foregoing objections, Defendant responds that there are no documents responsive to this Request in its possession, custody or control.

DOCUMENT REQUEST NO. 60:

All opinion letters Defendant received and or solicited concerning the right to file Applications for the LADY GAGA, HAUS OF GAGA and LADY GAGA FAME marks in International Class 3 with the United States Patent and Trademark Office.

RESPONSE TO DOCUMENT REQUEST NO. 60:

Defendant objects to this Request for the reasons set forth in the General Objections and specifically to the extent that it violates the work-product immunity doctrine and/or attorney client privilege. Defendant further objects to this Request on the ground that it seeks documents and information relating to marks and/or matters that are neither at issue in this proceeding nor relevant to the claims or defenses of either party. Subject to and without waiving the foregoing

objections, Defendant responds that there are no non-privileged documents responsive to this Request in its possession, custody or control.

DOCUMENT REQUEST NO. 61:

All documents and things sufficient to support the declarations filed in connection with all of Defendant's Goods including but not limited to product samples and retailers of every good declared to be currently in use in commerce under Application Serial No. 85115004.

RESPONSE TO DOCUMENT REQUEST NO. 61:

Defendant objects to this Request for the reasons set forth in the General Objections and specifically to the extent that it seeks documents and information relating to marks and/or matters that are neither at issue in this proceeding nor relevant to the claims or defenses of either party.

DOCUMENT REQUEST NO. 62:

All documents and things sufficient to support the declarations filed in connection with all of Defendant's Goods including but not limited to product samples and retailers of every good declared as intent-to-use in commerce under Application Serial No. 85282152.

RESPONSE TO DOCUMENT REQUEST NO. 62:

Defendant objects to this Request for the reasons set forth in the General Objections and specifically to the extent that it seeks documents and information relating to marks and/or matters that are neither at issue in this proceeding nor relevant to the claims or defenses of either party.

DOCUMENT REQUEST NO. 63:

All documents and things sufficient to support the declarations filed in connection with all of Defendant's Goods including but not limited to product samples and retailers of every

good declared as intent-to-use in commerce under Application Serial No. 85215017.

RESPONSE TO DOCUMENT REQUEST NO. 63:

Defendant objects to this Request for the reasons set forth in the General Objections and specifically to the extent that it is overly broad and unduly burdensome. Subject to and without waiving the foregoing objections, Defendant responds that there are no documents responsive to this Request in its possession, custody or control.

DOCUMENT REQUEST NO. 64:

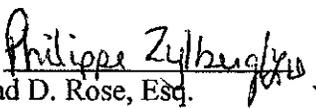
All documents and things that Defendant intends to rely on during the testimony and trial periods in the Action.

RESPONSE TO DOCUMENT REQUEST NO. 64:

Defendant objects to this Request for the reasons set forth in the General Objections and specifically to the extent that it is overly broad and unduly burdensome and to the extent it violates the work-product immunity doctrine and/or attorney client privilege. Defendant also objects to this Request on the ground that it is premature at this stage of the proceeding. Subject to and without waiving the foregoing objections, Defendant responds that it will produce responsive, non-privileged documents in its possession, custody or control, if any.

Dated: December 28, 2012

Respectfully submitted,

By 
Brad D. Rose, Esq.
Nicole E. Kaplan, Esq.
Philippe Zylberg, Esq.
Pryor Cashman LLP
7 Times Square
New York, NY 10036
Attorneys for Defendant

I am an authorized signatory for Ate My Heart Inc and am familiar with the facts and circumstances set forth herein. I have read the foregoing DEFENDANT'S RESPONSES AND OBJECTIONS TO PLAINTIFF'S FIRST SET OF INTERROGATORIES. The contents thereof are true to my own knowledge, except as to those matters therein stated upon information and belief, and, as to those matters, I believe them to be true.

JOE GERMANOTTA

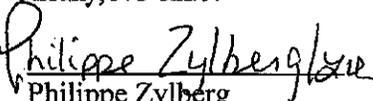
A handwritten signature in cursive script, appearing to read "Joe Germanotta", is written over a solid horizontal line.

Date: December 27, 2012

CERTIFICATE OF SERVICE

I hereby certify that I served a copy of the foregoing RESPONSE TO PLAINTIFF'S
FIRST SET OF REQUEST FOR PRODUCTION OF DOCUMENTS upon Defendant by
mailing a copy thereof via overnight mail, FedEx on December 28, 2012 to:

Christina Sukljan
13 Manor Street
Albany, NY 12207


Philippe Zylberg

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

In the Matter of Trademark Application No. 85/215,017
for the mark HAUS OF GAGA

-----X

CHRISTINA SUKLJIAN,	:	
	:	
Plaintiff,	:	Opposition No. 91205046
	:	
v.	:	
	:	
ATE MY HEART INC.,	:	
	:	
Defendant.	:	

-----X

**DEFENDANT’S RESPONSES AND OBJECTIONS TO PLAINTIFF’S FIRST SET
OF INTERROGATORIES**

Pursuant to Rule 26 and 33 of the Federal Rules of Civil Procedure, Defendant, Ate My Heart Inc. (hereinafter “Defendant”), by its undersigned attorneys, hereby responds and objects to the First Set of Interrogatories of Christina Sukljan (hereinafter “Plaintiff”), as follows:

GENERAL OBJECTIONS

Defendant makes its objections to specific interrogatories by, among other things, incorporating by reference the following objections, as appropriate.

1. Defendant objects to the interrogatories to the extent they purport to impose obligations of disclosure beyond those required by the Federal Rules of Civil Procedure or the Local Rules of this Court, or other applicable statute, regulation, rule, or court order.

2. Defendant objects to the interrogatories to the extent they call for disclosure of information protected by the attorney-client privilege, the work product doctrine, or any other applicable privilege, immunity, statute, regulation or rule. The inadvertent disclosure of any privileged information shall not be deemed to be a waiver of any applicable privilege with respect to such information or any other information provided.

3. Defendant objects to the interrogatories to the extent they call for the disclosure of information that is not relevant to the issues of law and fact in this action or not reasonably calculated to lead to the discovery of admissible evidence.

4. Defendant objects to the interrogatories to the extent it seeks information relating to matters and/or marks that are neither at issue in this proceeding nor relevant to the claims or defenses of either party.

5. To the extent the interrogatories seek disclosure of trade secrets or confidential or proprietary information, Defendant will provide such information only subject to the confidentiality order in effect according to the TTAB rules, and Defendant expressly reserves all rights in connection with such information.

6. Defendant objects to the interrogatories to the extent they are vague, ambiguous, cumulative, confusing, or incomprehensible.

7. Defendant objects to the interrogatories to the extent they are overbroad, unduly burdensome, oppressive, or intended to harass rather than lead to the discovery of evidence related to a bona fide dispute between the parties.

8. Defendant objects to the interrogatories to the extent that they may be construed to seek information in the possession, custody, or control of individuals or entities other than

Defendant, its agents or representatives, and to the extent they may be construed to require any search for information beyond one that is limited to the appropriate subject matter files pertinent to the interrogatories and to the personal knowledge of Defendant or its agents or representatives known or reasonably believed to have personal involvement in, or knowledge of, the subjects included within the interrogatories.

9. By not objecting to any particular interrogatory, Defendant does not concede, imply, or admit that any information responsive to such interrogatory exists.

10. Defendant objects to each interrogatory that seeks the identity of “any”, “each” or “all” persons or documents and things as such requests are overly broad and unduly burdensome.

11. Defendant objects to each interrogatory to the extent that it seeks information that is already in Plaintiff’s possession, custody or control.

12. Defendant objects to each interrogatory to the extent that it seeks information that is publicly available, is a matter of public record, and/or is information generated by other entities.

13. Defendant objects to each interrogatory to the extent that it is not limited to activities in the United States.

14. Defendant objects to each interrogatory to the extent that it is indefinite as to time.

15. By responding to any particular interrogatory, Defendant does not acknowledge or concede that the facts set forth therein, or the predicate underlying such interrogatory, is accurate or truthful in any respect.

16. In responding to the interrogatories, Defendant neither waives, nor intends to waive, but expressly reserves, any and all objections to the relevance, competence, susceptibility

to discovery, materiality, or admissibility of any and all information provided. Inadvertent disclosure of any information which is confidential, proprietary, privileged or objectionable shall not constitute a waiver of any privilege or of any other ground for objection to discovery with respect to such information, or of Defendant's right to object to the use of such information during this proceeding.

17. Defendant reserves the right to amend, modify, and supplement these responses as appropriate. Defendant further reserves the right to introduce into evidence in the above-captioned action materials and information in addition to the information disclosed in response to the interrogatories.

SPECIFIC RESPONSES

INTERROGATORY NO. 1:

Identify all customers of Defendant's Goods sold in connection with Defendant's Applied for Marks, LADY GAGA, LADY GAGA FAME and HAUS OF GAGA each year from alleged first date use in commerce, 2010, broken out by year and Goods stated on each application.

RESPONSE TO INTERROGATORY NO. 1:

Defendant objects to this interrogatory for the reasons set forth in the General Objections and specifically to the extent that it is overly broad and unduly burdensome. Defendant further objects to this Interrogatory to the extent that it seeks information relating to marks and/or matters that are neither at issue in this proceeding nor relevant to the claims or defenses of either party. Subject to and without waiving the foregoing objections, Defendant states that the mark HAUS OF GAGA has not yet been used in commerce in connection with Defendant's Goods.

INTERROGATORY NO. 2:

Identify persons having knowledge or information concerning any of the facts Defendant's relied on in its Answer or otherwise at issue in this Action, and describe, with respect to each such person: (a) the information that each such person possesses; and (b) his/her relationship to the parties to this action.

RESPONSE TO INTERROGATORY NO. 2:

Opposer objects to this interrogatory for the reasons set forth in the General Objections and specifically to the extent that it is vague, confusing, overly broad and unduly burdensome. Subject to and without waiving the foregoing objections, Opposer identifies Troy Carter and Bobby Campbell. Mr. Carter is the Chairman and Chief Executive Officer of Atom Factory (a company totally unrelated to Defendant) and in that capacity acts as manager for Stefani Germanotta (p/k/a Lady Gaga) and handles all of the legal affairs relating to Defendant, among other things. Mr. Carter has information concerning the intended use of the mark HAUS OF GAGA in connection with Defendant's Goods. Mr. Campbell is Chief Marketing Officer at Atom Factory and also has information concerning the intended use of the mark HAUS OF GAGA in connection with Defendant's Goods.

INTERROGATORY NO. 3:

Specify the amount of (a) sales; (b) revenues; (c) profits; and (d) advertising and promotional expenditures for all of Defendant's Goods sold that bear Defendant's Marks that have been by Defendant in the United States each year from the first date alleged in the Applications to present broken out by year and Goods.

RESPONSE TO INTERROGATORY NO. 3:

Defendant objects to this interrogatory for the reasons set forth in the General Objections and specifically to the extent that it is overly broad and unduly burdensome. Defendant further objects to this Interrogatory to the extent that it seeks information relating to marks and/or matters that are neither at issue in this proceeding nor relevant to the claims or defenses of either party. Subject to and without waiving the foregoing objections, Defendant states that the mark HAUS OF GAGA has not yet been used in commerce in connection with Defendant's Goods.

INTERROGATORY NO. 4:

Describe in detail the actual use of Defendant's Marks on Defendant's Goods by identifying each type of item that bears Defendant's Marks and identifying the manner in which Defendant's Marks are affixed to or used in connection with each such item as listed and stated under oath and alleged under goods and services on the applications for LADY GAGA, LADY GAGA FAME and HAUS OF GAGA.

RESPONSE TO INTERROGATORY NO. 4:

Defendant objects to this interrogatory for the reasons set forth in the General Objections and specifically to the extent that it is overly broad and unduly burdensome. Defendant further objects to this Interrogatory to the extent that it seeks information relating to marks and/or matters that are neither at issue in this proceeding nor relevant to the claims or defenses of either party. Subject to and without waiving the foregoing objections, Defendant states that the mark HAUS OF GAGA has not yet been used in commerce in connection with Defendant's Goods.

INTERROGATORY NO. 5:

Identify the date of first use in the United States of Defendant's Marks on each item identified in the Applications.

RESPONSE TO INTERROGATORY NO. 5:

Defendant objects to this interrogatory for the reasons set forth in the General Objections and specifically to the extent that it is overly broad. Defendant further objects to this Interrogatory to the extent that it seeks information relating to marks and/or matters that are neither at issue in this proceeding nor relevant to the claims or defenses of either party. Subject to and without waiving the foregoing objections, Defendant states that the mark HAUS OF GAGA has not yet been used in commerce in connection with Defendant's Goods.

INTERROGATORY NO. 6:

For each of Defendant's Goods bearing or offered in connection with Defendant's Mark in the United States, please state the following:

- (a) Defendant's channels of trade, including all former, current or prospective retail establishments, wholesale establishments and websites;
- (b) Defendant's targeted consumer group and/or targeted demographics;
- (c) The price points at which Defendant's Goods bearing Defendant's Marks are sold to consumers; and
- (d) The amount of money Defendant has earmarked or dedicated to the manufacture and, separately, the promotion of the Respondent's Goods bearing Respondent's Mark for 2012.

RESPONSE TO INTERROGATORY NO. 6:

Defendant objects to this interrogatory for the reasons set forth in the General Objections and specifically to the extent that it is overly broad and unduly burdensome. Defendant further objects to this Interrogatory to the extent that it seeks information relating to marks and/or matters that are neither at issue in this proceeding nor relevant to the claims or defenses of either party. Subject to and without waiving the foregoing objections, Defendant states that the mark HAUS OF GAGA has not yet been used in commerce in connection with Defendant's Goods.

INTERROGATORY NO. 7:

For each type of item identified in response to Interrogatory No. 7 above, state Defendant's annual volume of business in the United States by identifying the annual volume of sales in units and dollars from the date of first sale(s) to the date of Defendant's response.

RESPONSE TO INTERROGATORY NO. 7:

Defendant objects to this interrogatory for the reasons set forth in the General Objections and specifically to the extent that it is confusing and incomprehensible.

INTERROGATORY NO. 8:

Identify any and all persons Defendant has authorized, licensed or otherwise granted the right to use Defendant's Marks in commerce in connection with Defendant's Goods. For each person identified, identify the date of commencement and termination of each such authorization, license or grant, and identify any written license agreements or franchise agreements granting rights to use Defendant's Marks.

RESPONSE TO INTERROGATORY NO. 8:

Defendant objects to this interrogatory for the reasons set forth in the General Objections

and specifically to the extent that it is overly broad and unduly burdensome. Defendant further objects to this Interrogatory to the extent that it seeks information relating to marks and/or matters that are neither at issue in this proceeding nor relevant to the claims or defenses of either party. Subject to and without waiving the foregoing objections, Defendant states that it has not authorized, licensed or otherwise granted the right to use the mark HAUS OF GAGA in connection with Defendant's Goods to any person.

INTERROGATORY NO. 9:

Identify all cease and desist demand letters and responses thereto, litigations, trademark actions or proceedings, ICANN proceedings and/or other challenges concerning Defendant's Marks in any way. When responding to this interrogatory, include: (a) the dates of such challenge; (b) the third-party mark involved; (c) the adversarial party; and (d) the outcome of each challenge.

RESPONSE TO INTERROGATORY NO. 9:

Defendant objects to this interrogatory for the reasons set forth in the General Objections and specifically to the extent that it is overly broad and unduly burdensome. Defendant further objects to this Interrogatory to the extent that it seeks information relating to marks and/or matters that are neither at issue in this proceeding nor relevant to the claims or defenses of either party. Subject to and without waiving the foregoing objections, Defendant states that no cease and desist demand letters or responses thereto, litigations, trademark actions or ICANN proceedings exist concerning the use of the mark HAUS OF GAGA in connection with Defendant's Goods.

INTERROGATORY NO. 10:

Identify all of Defendant's market competitors for Defendant's Goods and state why Defendant believes that each identified entity is a competitor.

RESPONSE TO INTERROGATORY NO. 10:

Defendant objects to this interrogatory for the reasons set forth in the General Objections and specifically to the extent that it is vague, harassing, ambiguous, overly broad, unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence.

INTERROGATORY NO. 11:

Identify the total number of sales of all Defendant's Goods bearing Defendant's Marks each year from alleged first use in commerce to the present and identify projected sales for each and every one of Defendant's alleged intent to use Goods listed as stated on applications.

RESPONSE TO INTERROGATORY NO. 11:

Defendant objects to this interrogatory for the reasons set forth in the General Objections and specifically to the extent that it is overly broad and unduly burdensome. Defendant further objects to this Interrogatory to the extent that it seeks information relating to marks and/or matters that are neither at issue in this proceeding nor relevant to the claims or defenses of either party. Subject to and without waiving the foregoing objections, Defendant states that the mark HAUS OF GAGA has not yet been used in commerce in connection with Defendant's Goods nor is there any information pertaining to projected sales for Defendant's intended use of the mark HAUS OF GAGA in connection with Defendant's Goods.

INTERROGATORY NO. 12:

Identify the first date that Defendant's began selling all of Defendant's alleged Goods on Ladygaga.com, hausofgaga.com, ladygagafame.com, and any other website or retailer.

RESPONSE TO INTERROGATORY NO. 12:

Defendant objects to this interrogatory for the reasons set forth in the General Objections and specifically to the extent that it is overly broad and unduly burdensome. Defendant further objects to this Interrogatory to the extent that it seeks information relating to marks and/or matters that are neither at issue in this proceeding nor relevant to the claims or defenses of either party. Subject to and without waiving the foregoing objections, Defendant states that the mark HAUS OF GAGA has not yet been used in commerce in connection with Defendant's Goods.

INTERROGATORY NO. 13:

Identify the registration date of Defendant's Facebook account for LADY GAGA, HAUS OF GAGA, and LADY GAGA FAME.

RESPONSE TO INTERROGATORY NO. 13:

Defendant objects to this interrogatory for the reasons set forth in the General Objections and specifically to the extent that it is it seeks information relating to marks and/or matters that are neither at issue in this proceeding nor relevant to the claims or defenses of either party and not reasonably calculated to lead to the discovery of admissible evidence.

INTERROGATORY NO. 14:

Identify and describe the relationship between Defendant, and any and all other companies, individuals, partners, affiliates, advisors, consultants, attorneys, entities,

subsidiaries, officers, agents, licensees, parent companies, employees, managers, promoters, manufacturers, distributors, wholesalers, retailers, resellers, franchisees, or other persons or entities acting on Defendant's behalf or under its control associated with the LADY GAGA, HAUS OF GAGA, and LADY GAGA FAME applied for marks.

RESPONSE TO INTERROGATORY NO. 14:

Defendant objects to this interrogatory for the reasons set forth in the General Objections and specifically to the extent that it is vague, overly broad, unduly burdensome, harassing and not reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects to this Interrogatory to the extent that it seeks information relating to marks and/or matters that are neither at issue in this proceeding nor relevant to the claims or defenses of either party.

INTERROGATORY NO. 15:

Identify each item sold by or on behalf of Defendant since alleged first date use, 2010, that bears Defendant's Marks.

RESPONSE TO INTERROGATORY NO. 15:

Defendant objects to this interrogatory for the reasons set forth in the General Objections and specifically to the extent that it is overly broad and unduly burdensome. Defendant further objects to this Interrogatory to the extent that it seeks information relating to marks and/or matters that are neither at issue in this proceeding nor relevant to the claims or defenses of either party. Subject to and without waiving the foregoing objections, Defendant states that the mark HAUS OF GAGA has not yet been used in commerce in connection with Defendant's Goods.

INTERROGATORY NO. 16:

Identify all web designers and developers and persons affiliated with use and registration of the domain name ladygaga.com, hausofgaga.com and ladygagafame.com or any other domain name affiliated with Defendant.

RESPONSE TO INTERROGATORY NO. 16:

Defendant objects to this interrogatory for the reasons set forth in the General Objections and specifically to the extent that it is overly broad and unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects to this Interrogatory to the extent that it seeks information relating to marks and/or matters that are neither at issue in this proceeding nor relevant to the claims or defenses of either party.

INTERROGATORY NO. 17:

Identify all distributors for Defendant's Marks sold under Defendant's Goods each year from 2010 to the present.

RESPONSE TO INTERROGATORY NO. 17:

Defendant objects to this interrogatory for the reasons set forth in the General Objections and specifically to the extent that it is overly broad and unduly burdensome. Defendant further objects to this Interrogatory to the extent that it seeks information relating to marks and/or matters that are neither at issue in this proceeding nor relevant to the claims or defenses of either party. Subject to and without waiving the foregoing objections, Defendant states that the mark HAUS OF GAGA has not yet been used in commerce in connection with Defendant's Goods.

INTERROGATORY NO. 18:

Identify all retailers and wholesalers for Defendant's Marks sold under Defendant's

Goods each year from 2010 to the present.

RESPONSE TO INTERROGATORY NO. 18:

Defendant objects to this interrogatory for the reasons set forth in the General Objections and specifically to the extent that it is overly broad and unduly burdensome. Defendant further objects to this Interrogatory to the extent that it seeks information relating to marks and/or matters that are neither at issue in this proceeding nor relevant to the claims or defenses of either party. Subject to and without waiving the foregoing objections, Defendant states that the mark HAUS OF GAGA has not yet been used in commerce in connection with Defendant's Goods.

INTERROGATORY NO. 19:

If you believe that the Plaintiff's Marks are confusingly similar to Defendant's Marks, set forth the basis for your belief.

RESPONSE TO INTERROGATORY NO. 19:

Defendant objects to this interrogatory for the reasons set forth in the General Objections and specifically to the extent that it is confusing and incomprehensible. Defendant further objects to this Interrogatory to the extent that it seeks information relating to marks and/or matters that are neither at issue in this proceeding nor relevant to the claims or defenses of either party.

INTERROGATORY NO. 20:

Identify all persons who provided information or otherwise assisted in responding to these Interrogatories and specify the Interrogatories for which each such person provided information or other assistance.

RESPONSE TO INTERROGATORY NO. 20:

Defendant objects to this interrogatory for the reasons set forth in the General Objections

and specifically to the extent that it is not reasonably calculated to lead to the discovery of admissible evidence and to the extent it violates the work-product immunity doctrine and/or attorney client privilege. Subject to and without waiving the forgoing objections, Defendant responds that Bobby Campbell and Philippe Zylberg, Esq. participated in the preparation of Defendant's Responses to Plaintiff's First Set of Interrogatories.

INTERROGATORY NO. 21:

Identify all documents or things that you relied on in responding to these Interrogatories.

RESPONSE TO INTERROGATORY NO. 21:

Defendant objects to this interrogatory for the reasons set forth in the General Objections and specifically to the extent that it is overly broad and unduly burdensome. Subject to and without waiving the foregoing objections, Defendant responds that no documents or things were relied upon in responding to these Interrogatories.

Dated: December 28, 2012

Respectfully submitted,

By Philippe Zylberg
Brad D. Rose, Esq.
Nicole E. Kaplan, Esq.
Philippe Zylberg, Esq.
Pryor Cashman LLP
7 Times Square
New York, NY 10036
Attorneys for Defendant

CERTIFICATE OF SERVICE

I hereby certify that I served a copy of the foregoing DEFENDANT'S RESPONSES AND OBJECTIONS TO PLAINTIFF'S FIRST SET OF INTERROGATORIES upon Plaintiff by mailing a copy thereof by overnight mail, FedEx on December 28, 2012 to the following:

Christina Sukljan
13 Manor Street
Albany, NY 12207

Philippe Zylberg
Philippe Zylberg

EXHIBIT B

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

APPLICATION SERIAL NO. 85115004

MARK: LADY GAGA

85115004

CORRESPONDENT ADDRESS:

Brad D. Rose
Pryor Cashman LLP
7 Times Square
New York NY 10036

CLICK HERE TO RESPOND TO THIS LETTER:
<http://www.uspto.gov/teas/eTEASpageD.htm>

APPLICANT: Ate My Heart Inc.

**CORRESPONDENT'S REFERENCE/DOCKET
NO:**

N/A

CORRESPONDENT E-MAIL ADDRESS:

OFFICE ACTION

STRICT DEADLINE TO RESPOND TO THIS LETTER

TO AVOID ABANDONMENT OF APPLICANT'S TRADEMARK APPLICATION, THE USPTO MUST RECEIVE APPLICANT'S COMPLETE RESPONSE TO THIS LETTER **WITHIN 6 MONTHS** OF THE ISSUE/MAILING DATE BELOW.

ISSUE/MAILING DATE:

In addition to the issues raised in the Office action dated November 29, 2010, which are incorporated by reference herein, applicant must also address the issue(s) below. Applicant must respond to all issues raised in this Office action, as well as in the previous Office action of November 29, 2010, within six (6) months of the date of issuance of this Office action. 37 C.F.R. §2.62(a). If applicant does not respond within this time limit, the application will be abandoned. The examining attorney apologizes for any confusion this may cause the applicant.

SECTION 2(d) REFUSAL – LIKELIHOOD OF CONFUSION

THIS PARTIAL REFUSAL APPLIES TO CLASS(ES) 3 and 35 ONLY

Registration of the applied-for mark is refused because of a likelihood of confusion with the mark in U.S. Registration No. 2898544. Trademark Act Section 2(d), 15 U.S.C. §1052(d); *see* TMEP §§1207.01 *et seq.* See the enclosed registration.

Trademark Act Section 2(d) bars registration of an applied-for mark that so resembles a registered mark that it is likely that a potential consumer would be confused or mistaken or deceived as to the source of the goods and/or services of the applicant and registrant. *See* 15 U.S.C. §1052(d). The court in *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 177 USPQ 563 (C.C.P.A. 1973) listed the principal factors to be considered when determining whether there is a likelihood of confusion under Section 2(d). *See* TMEP §1207.01. However, not all of the factors are necessarily relevant or of equal weight, and any one factor may be dominant in a given case, depending upon the evidence of record. *In re Majestic Distilling Co.*, 315 F.3d 1311, 1315, 65 USPQ2d 1201, 1204 (Fed. Cir. 2003); *see In re E. I. du Pont*, 476 F.2d at 1361-62, 177 USPQ at 567.

In this case, the following factors are the most relevant: similarity of the marks, similarity of the goods and/or services, and similarity of trade channels of the goods and/or services. *See In re Opus One, Inc.*, 60 USPQ2d 1812 (TTAB 2001); *In re Dakin's Miniatures Inc.*, 59 USPQ2d 1593 (TTAB 1999); *In re Azteca Rest. Enters., Inc.*, 50 USPQ2d 1209 (TTAB 1999); TMEP §§1207.01 *et seq.*

In a likelihood of confusion determination, the marks are compared for similarities in their appearance, sound, meaning or connotation and commercial impression. *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 1361, 177 USPQ 563, 567 (C.C.P.A. 1973); TMEP §1207.01(b). Similarity in any one of these elements may be sufficient to find a likelihood of confusion. *In re White Swan Ltd.*, 8 USPQ2d 1534, 1535 (TTAB 1988); *In re Lamson Oil Co.*, 6 USPQ2d 1041, 1043 (TTAB 1987); *see* TMEP §1207.01(b).

The applicant's proposed mark is **LADY GAGA** for "**Fragrances and perfumery; personal care products; fragrance products; perfumes; colognes; eau de toilette; body wash; body spray; body scrubs; body powder; fragrance and body oils and mists; body moisturizers; body creams; soaps; body butter; bath gels; skin care products; body and foot care products; body and shower products; preparations for the care and conditioning of the body, skin, scalp, and hair; toilet soap; body lotions; deodorants; hair preparations; shampoo; bubble bath, bath oil and shower gel; nail polish, nail polish remover; false eyelashes; decorative transfers for cosmetic purposes; Cosmetics, cosmetic preparations; make-up; Lipsticks; Candles, prayer candles; Metal key chains; Cellular phone accessory charms; Protective covers for portable media players; pre-recorded flash drives featuring audio and audiovisual recordings, a digital booklet, photographs and links to the websites of others; Sunglasses; Lighted party-themed decorations, electric light decorative strings; Light wands; Charm bracelets; Necklaces, rings, plastic rings, bracelets; rubber or silicone wristbands in the nature of a bracelet; Jewelry; Gift wrapping paper; Christmas cards, holiday cards; writing instruments, pen sets; Greeting cards; decalcomanias; stickers; folders; notebooks; Temporary tattoos; posters; lenticular posters; Calendars; souvenir programs concerning musical events; Cosmetic cases sold empty; cosmetic carrying cases sold empty; Wallets; cosmetic bags sold empty; textile shopping bags; umbrellas; Tote bags; Cosmetic accessories including cosmetic brushes; Lanyards for holding badges; Sports towels; Santa hats; masquerade costumes; masquerade costumes and masks sold therewith; Halloween costumes; Halloween costumes and masks sold therewith; clothing including undergarments, board shorts, hot pants, crop shirts, wrap around hoods; gloves; Shirts, t-shirts, tank tops, hooded jackets, hooded sweatshirts; headwear, hats, raglans; Wigs; hair accessories; headbands; Novelty buttons; Christmas tree ornaments and decorations; bubbles, namely, bubble making wand and solution sets; Costume masks; **Online retail store services featuring merchandise, fragrances and perfumery, personal care products, fragrance products, perfumes, colognes, eau de toilette, body wash, body spray, body scrubs, body powder, fragrance and body oils and mists, body moisturizers, body creams, soaps, body butter, bath gels, skin care products, body and foot care products, body and shower products, preparations for the care and conditioning of the body, skin, scalp, and hair, cosmetics, cosmetic preparations, make-up, toilet soap, body lotions, deodorants, hair preparations, shampoo, bubble bath, bath oil and shower gel,****

nail polish, nail polish remover, false eyelashes, decorative transfers for cosmetic purposes, cellular phone accessory charms, lighted party-themed decorations, electric light decorative strings, charm bracelets, gift wrapping paper, Christmas cards, holiday cards, greeting cards, decalcomanias, stickers, folders, notebooks, writing instruments, pen sets, wallets, cosmetic cases sold empty, cosmetic carrying cases sold empty, cosmetic bags sold empty, textile shopping bags, umbrellas, Santa hats, masquerade costumes, masquerade costumes and masks sold therewith, Halloween costumes, Halloween costumes and masks sold therewith, clothing including undergarments, board shorts, hot pants, crop shirts, wrap around hoods, gloves, wigs, hair accessories, headbands, Christmas tree ornaments and decorations, bubbles, namely, bubble making wand and solution sets. Online retail store services featuring candles, prayer candles, calendars, key chains, clothing, headphones, musical sound recordings, downloadable musical sound recordings, posters, sunglasses, jewelry, sports towels, costume masks, temporary tattoos, tote bags, light wands, ornamental buttons, songbooks, headwear, souvenir programs concerning musical events, pre-recorded flash drives featuring audio and audiovisual recordings, a digital booklet, photographs and links to the websites of others, and music merchandise.” Relevant class in bold.

The registrant’s mark is **GAGA PURE PLATINUM** for “Cosmetics; namely nail polish, lipstick, lip-gloss, eye-liner, lip-liner, eye shadow, face powder, blush, mascara..”

The marks are highly similar because they both include the word, GAGA.

Marks may be confusingly similar in appearance where there are similar terms or phrases or similar parts of terms or phrases appearing in both applicant’s and registrant’s mark. *See Crocker Nat’l Bank v. Canadian Imperial Bank of Commerce*, 228 USPQ 689 (TTAB 1986), *aff’d sub nom. Canadian Imperial Bank of Commerce v. Wells Fargo Bank, Nat’l Ass’n*, 811 F.2d 1490, 1 USPQ2d 1813 (Fed. Cir. 1987) (COMMCASH and COMMUNICASH); *In re Phillips-Van Heusen Corp.*, 228 USPQ 949 (TTAB 1986) (21 CLUB and “21” CLUB (stylized)); *In re Corning Glass Works*, 229 USPQ 65 (TTAB 1985) (CONFIRM and CONFIRMCELLS); *In re Collegian Sportswear Inc.*, 224 USPQ 174 (TTAB 1984) (COLLEGIAN OF CALIFORNIA and COLLEGIENNE); *In re Pellerin Milnor Corp.*, 221 USPQ 558 (TTAB 1983) (MILTRON and MILLTRONICS); *In re BASF A.G.*, 189 USPQ 424 (TTAB 1975) (LUTEXAL and LUTEX); TMEP §1207.01(b)(ii)-(iii).

The applicant’s goods and retail services and the registrant’s goods include cosmetics and/or personal care products and thus, likely to be encountered by the same purchasers and found in the same channels of trade. The average consumer who encounters the marks LADY GAGA and GAGA PURE PLATINUM for highly related goods/services is likely to believe that such goods/services come from a common source. *In re Shell Oil Co.*, 992 F.2d 1204, 1208, 26 USPQ2d 1687, 1690 (Fed. Cir. 1993), and cases cited therein.

The goods and/or services of the parties need not be identical or directly competitive to find a likelihood of confusion. *See Safety-Kleen Corp. v. Dresser Indus., Inc.*, 518 F.2d 1399, 1404, 186 USPQ 476, 480 (C.C.P.A. 1975); TMEP §1207.01(a)(i). Rather, it is sufficient that the goods and/or services are related in some manner and/or the conditions surrounding their marketing are such that they would be encountered by the same purchasers under circumstances that would give rise to the mistaken belief that the goods and/or services come from a common source. *In re Total Quality Group, Inc.*, 51 USPQ2d 1474, 1476 (TTAB 1999); TMEP §1207.01(a)(i); *see, e.g., On-line Careline Inc. v. Am. Online Inc.*, 229 F.3d 1080, 1086-87, 56 USPQ2d 1471, 1475-76 (Fed. Cir. 2000); *In re Martin’s Famous Pastry Shoppe, Inc.*, 748 F.2d 1565, 1566-68, 223 USPQ 1289, 1290 (Fed. Cir. 1984).

Attached are copies of printouts from the USPTO X-Search database, which show third-party registrations of marks used in connection with the same or similar goods and/or services as those of applicant and registrant in this case. These printouts have probative value to the extent that they serve to suggest that the goods and/or services listed therein, namely nail polish, lipstick, eye liner, eye shadow, blush, mascara, fragrances, perfumes, bath gels, soaps, body lotions, shampoo, and cosmetics, are of a kind that may emanate from a single source. *In re Infinity Broad. Corp. of Dallas*, 60 USPQ2d 1214, 1217-18 (TTAB 2001); *In re Albert Trostel & Sons Co.*, 29 USPQ2d 1783, 1785-86 (TTAB 1993); *In re Mucky Duck Mustard Co.*, 6 USPQ2d 1467, 1470 n.6 (TTAB 1988); TMEP §1207.01(d)(iii).

The overriding concern is not only to prevent buyer confusion as to the source of the goods and/or services, but to protect the registrant from adverse commercial impact due to use of a similar mark by a newcomer. *See In re Shell Oil Co.*, 992 F.2d 1204, 1208, 26 USPQ2d 1687, 1690 (Fed. Cir. 1993). Therefore, any doubt regarding a likelihood of confusion determination is resolved in favor of the registrant. TMEP §1207.01(d)(i); *see Hewlett-Packard Co. v. Packard Press, Inc.*, 281 F.3d 1261, 1265, 62 USPQ2d 1001, 1003 (Fed. Cir. 2002); *In re Hyper Shoppes (Ohio), Inc.*, 837 F.2d 463, 464-65, 6 USPQ2d 1025, 1025 (Fed. Cir. 1988).

Accordingly, applicant's proposed mark for LADY GAGA is refused registration under Section 2(d) of the Trademark Act. Although applicant's mark has been refused registration, applicant may respond to the refusal(s) by submitting evidence and arguments in support of registration.

If the applicant has any questions regarding this Office action, please telephone the assigned examining attorney

Lana H. Pham /lhp/
Trademark Attorney
Law Office 115
United States Patent and Trademark Office
(571) 272-9478
Lana.Pham@uspto.gov (informal)

TO RESPOND TO THIS LETTER: Use the Trademark Electronic Application System (TEAS) response form at <http://teasroa.uspto.gov/roa/>. Please wait 48-72 hours from the issue/ mailing date before using TEAS, to allow for necessary system updates of the application. For *technical* assistance with online forms, e-mail TEAS@uspto.gov.

WHO MUST SIGN THE RESPONSE: It must be personally signed by an individual applicant or someone with legal authority to bind an applicant (i.e., a corporate officer, a general partner, all joint applicants). If an applicant is represented by an attorney, the attorney must sign the response.

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

9199. For more information on checking status, see <http://www.uspto.gov/trademarks/process/status/>.

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

DESIGN MARK

Serial Number

76305015

Status

SECTION 8 & 15-ACCEPTED AND ACKNOWLEDGED

Word Mark

GAGA PURE PLATINUM

Standard Character Mark

No

Registration Number

2898544

Date Registered

2004/11/02

Type of Mark

TRADEMARK

Register

PRINCIPAL

Mark Drawing Code

(1) TYPED DRAWING

Owner

Sukljian, Christina INDIVIDUAL UNITED STATES 13 Manor Street Albany
NEW YORK 12207

Goods/Services

Class Status -- ACTIVE. IC 003. US 001 004 006 050 051 052. G & S:
Cosmetics; namely nail polish, lipstick, lip-gloss, eye-liner,
lip-liner, eye shadow, face powder, blush, mascara. First Use:
2000/07/23. First Use In Commerce: 2001/06/07.

Filing Date

2001/08/27

Examining Attorney

GARDNER, BERYL

GAGA PURE PLATINUM



Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451
www.uspto.gov

LETTER OF PROTEST MEMORANDUM

DATE: August 29, 2011

TO: Theodore M. McBride
Examining Attorney
Law Office 103

FROM: Jennifer D. Chicoski
Office of the Deputy Commissioner for
Trademark Examination Policy

SUBJECT: Letter of protest concerning Application Serial No. 85-282752 for the mark "LADY GAGA FAME" for a wide variety of cosmetics, bath and body products, hair care preparations, perfumery and fragrances, including "nail polishes, nail polish base coat, nail polish top coat, nail strengtheners, nail hardeners, nail varnishes, nail polish removers, nail creams, cuticle removing preparations, nail tips, and nail buffing preparations," and "lipstick; lip gloss; lip pomades; lipstick holders, non-medicated lip care preparations; [and] lip cream."

A letter of protest filed before publication has been accepted because the evidence submitted by the protester is relevant and may support a reasonable ground for refusal appropriate in *ex parte* examination. Therefore, you must consider the following and make an independent determination whether to issue a requirement or refusal based on the objections raised in the letter of protest.

Possible likelihood of confusion with the following:

Registration No. 2,898,544 for the mark "GAGA PURE PLATINUM" for "Cosmetics; namely nail polish, lipstick, lip-gloss, eye-liner, lip-liner, eye shadow, face powder, blush, mascara" in International Class 3.

NOTE: The acceptance of a letter of protest filed before publication is not a legal determination by the USPTO of registrability, nor is it meant to compromise the integrity of the ex parte examination process. It merely serves to bring the submitted evidence to the attention of the examining attorney, who determines whether a refusal or requirement should be raised or ultimately made final.

To: Ate My Heart Inc. (tlee@pryorcashman.com)
Subject: U.S. TRADEMARK APPLICATION NO. 85282752 - LADY GAGA FAME
- 16419.08
Sent: 9/6/2011 5:02:29 PM
Sent As: ECOM103@USPTO.GOV
Attachments: [Attachment - 1](#)
[Attachment - 2](#)

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

APPLICATION SERIAL NO. 85282752

MARK: LADY GAGA FAME

85282752

CORRESPONDENT ADDRESS:

BRAD D. ROSE
PRYOR CASHMAN LLP
7 TIMES SQ FL 3
NEW YORK, NY 10036-6569

CLICK HERE TO RESPOND TO THIS LETTER:
http://www.uspto.gov/trademarks/teas/response_forms.jsp

APPLICANT: Ate My Heart Inc.

CORRESPONDENT'S REFERENCE/DOCKET

NO:

16419.08

CORRESPONDENT E-MAIL ADDRESS:

tlee@pryorcashman.com

OFFICE ACTION

STRICT DEADLINE TO RESPOND TO THIS LETTER

TO AVOID ABANDONMENT OF APPLICANT'S TRADEMARK APPLICATION, THE USPTO MUST RECEIVE APPLICANT'S COMPLETE RESPONSE TO THIS LETTER **WITHIN 6 MONTHS** OF THE ISSUE/MAILING DATE BELOW.

ISSUE/MAILING DATE: 9/6/2011

Upon further review, the examining attorney has determined the following (please note that the issues/requirements raised in the previous office action are maintained and must be addressed within 6 months of the mailing date of this office action):

Registration Refused: Likelihood of Confusion

Registration of the applied-for mark is refused because of a likelihood of confusion with the mark in U.S. Registration No. 2898544. Trademark Act Section 2(d), 15 U.S.C. §1052(d); *see* TMEP §§1207.01 *et seq.* See the enclosed registration.

Trademark Act Section 2(d) bars registration of an applied-for mark that so resembles a registered mark that it is likely that a potential consumer would be confused or mistaken or deceived as to the source of the goods and/or services of the applicant and registrant. *See* 15 U.S.C. §1052(d). The court in *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 177 USPQ 563 (C.C.P.A. 1973) listed the principal factors to be considered when determining whether there is a likelihood of confusion under Section 2(d). *See* TMEP §1207.01. However, not all of the factors are necessarily relevant or of equal weight, and any one factor may be dominant in a given case, depending upon the evidence of record. *In re Majestic Distilling Co.*, 315 F.3d 1311, 1315, 65 USPQ2d 1201, 1204 (Fed. Cir. 2003); *see In re E. I. du Pont*, 476 F.2d at 1361-62, 177 USPQ at 567.

In this case, the following factors are the most relevant: similarity of the marks, similarity of the goods and/or services, and similarity of trade channels of the goods and/or services. *See In re Opus One, Inc.*, 60 USPQ2d 1812 (TTAB 2001); *In re Dakin's Miniatures Inc.*, 59 USPQ2d 1593 (TTAB 1999); *In re Azteca Rest. Enters., Inc.*, 50 USPQ2d 1209 (TTAB 1999); TMEP §§1207.01 *et seq.*

Regarding the issue of likelihood of confusion, all circumstances surrounding the sale of the goods and/or services are considered. These circumstances include the marketing channels, the identity of the prospective purchasers, and the degree of similarity between the marks and between the goods and/or services. *See Indus. Nucleonics Corp. v. Hinde*, 475 F.2d 1197, 177 USPQ 386 (C.C.P.A. 1973); TMEP §1207.01. In comparing the marks, similarity in any one of the elements of sound, appearance or meaning may be sufficient to find a likelihood of confusion. *In re White Swan Ltd.*, 8 USPQ2d 1534, 1535 (TTAB 1988); *In re Lamson Oil Co.*, 6 USPQ2d 1041, 1043 (TTAB 1987); *see* TMEP §1207.01(b). In comparing the goods and/or services, it is necessary to show that they are related in some manner. *See On-line Careline Inc. v. Am. Online Inc.*, 229 F.3d 1080, 1086, 56 USPQ2d 1471, 1475 (Fed. Cir. 2000); TMEP §1207.01(a)(vi).

The test under Trademark Act Section 2(d) is whether there is a likelihood of confusion. It is unnecessary to show actual confusion in establishing likelihood of confusion. TMEP §1207.01(d)(ii); *e.g.*, *Weiss Assocs. Inc. v. HRL Assocs. Inc.*, 902 F.2d 1546, 1549, 14 USPQ2d 1840, 1842-43 (Fed. Cir. 1990). The Trademark Trial and Appeal Board stated as follows:

[A]pplicant's assertion that it is unaware of any actual confusion occurring as a result of the contemporaneous use of the marks of applicant and registrant is of little probative value in an ex parte proceeding such as this where we have no evidence pertaining to the nature and extent of the use by applicant and registrant (and thus cannot ascertain whether there has been ample opportunity for confusion to arise, if it were going to); and the registrant has no chance to be heard from (at least in the absence of a consent agreement, which applicant has not submitted in this case).

In re Kangaroos U.S.A., 223 USPQ 1025, 1026-27 (TTAB 1984).

COMPARISON OF THE MARKS

In a likelihood of confusion determination, the marks are compared for similarities in their appearance, sound, meaning or connotation and commercial impression. *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 1361, 177 USPQ 563, 567 (C.C.P.A. 1973); TMEP §1207.01(b). Similarity in any one of

these elements may be sufficient to find a likelihood of confusion. *In re White Swan Ltd.*, 8 USPQ2d 1534, 1535 (TTAB 1988); *In re Lamson Oil Co.*, 6 USPQ2d 1041, 1043 (TTAB 1987); see TMEP §1207.01(b). The question is not whether people will confuse the marks, but whether the marks will confuse people into believing that the goods and/or services they identify come from the same source. *In re West Point-Pepperell, Inc.*, 468 F.2d 200, 201, 175 USPQ 558, 558-59 (C.C.P.A. 1972); TMEP §1207.01(b). For that reason, the test of likelihood of confusion is not whether the marks can be distinguished when subjected to a side-by-side comparison. The question is whether the marks create the same overall impression. See *Recot, Inc. v. M.C. Becton*, 214 F.3d 1322, 1329-30, 54 USPQ2d 1894, 1899 (Fed. Cir. 2000); *Visual Info. Inst., Inc. v. Vicon Indus. Inc.*, 209 USPQ 179, 189 (TTAB 1980). The focus is on the recollection of the average purchaser who normally retains a general rather than specific impression of trademarks. *Chemetron Corp. v. Morris Coupling & Clamp Co.*, 203 USPQ 537, 540-41 (TTAB 1979); *Sealed Air Corp. v. Scott Paper Co.*, 190 USPQ 106, 108 (TTAB 1975); TMEP §1207.01(b).

Applicant applied to register the mark: LADY GAGA FAME

Registrant's mark is: GAGA PURE PLATINUM

In this instance, the overall commercial impression of Applicant's mark is very similar to the commercial impression created by Registrant's mark.

COMPARISON OF THE GOODS/SERVICES

The goods and/or services of the parties need not be identical or directly competitive to find a likelihood of confusion. See *Safety-Kleen Corp. v. Dresser Indus., Inc.*, 518 F.2d 1399, 1404, 186 USPQ 476, 480 (C.C.P.A. 1975); TMEP §1207.01(a)(i). Rather, they need only be related in some manner, or the conditions surrounding their marketing are such that they would be encountered by the same purchasers under circumstances that would give rise to the mistaken belief that the goods and/or services come from a common source. *In re Total Quality Group, Inc.*, 51 USPQ2d 1474, 1476 (TTAB 1999); TMEP §1207.01(a)(i); see, e.g., *On-line Careline Inc. v. Am. Online Inc.*, 229 F.3d 1080, 1086-87, 56 USPQ2d 1471, 1475-76 (Fed. Cir. 2000); *In re Martin's Famous Pastry Shoppe, Inc.*, 748 F.2d 1565, 1566-68, 223 USPQ 1289, 1290 (Fed. Cir. 1984).

Applicant's goods/services are: Cosmetics; cosmetic preparations; make-up and make-up removers; lipstick; lip gloss; lip pomades; lipstick holders; non-medicated lip care preparations; lip cream; fragrances; perfumes; perfume oils; perfumery, colognes; eau de toilette; eau de parfum; eau de perfume; eau de cologne; face and body glitter; facial lotions, creams, moisturizers, cleansers, washes, scrubs, exfoliants, and toners; beauty milks; non-medicated facial treatments in the nature of facial emulsions and facial masks; skin lotions, skin creams, skin conditioners, skin moisturizers, skin moisturizer masks, and skin highlighters; hand moisturizers, creams and lotions; non-medicated foot lotions and creams; wrinkle removing skin care preparations; false eyelashes; non-medicated toiletries; body wash; body gels; body butter; body spray; body oils and mists; body scrubs; body powder; body moisturizers; body lotions; body creams; body scrubs; body exfoliants; body fragrances; body butter; body firming gels and lotions; body masks; bath gels; bath oils; bath powders; bath crystals; bath foam, bath beads; bath salts; shower gels; cosmetic preparations for baths; perfumed powders; soaps; perfumed soaps; liquid soaps; soap powder; toilet soap; toilet water; shaving preparations, shaving balm, shaving cream, shaving gel, after shave lotions, skin abrasive preparations, non-medicated skin creams, and skin lotions for relieving razor burns; sunscreen preparations, suntanning preparations, sun tan oils, after-sun lotions, self-tanning preparations, and cosmetic sun-protecting preparations; sun block; non-medicated ointments for the treatment of sunburns; aromatherapy creams, aromatherapy creams, lotions and aromatherapy oils; decorative transfers for cosmetic purposes; preparations for the care and conditioning of the body, skin, scalp, and hair.

essential oils for personal use; astringents for cosmetic purposes; massage oils; talcum powder, bubble bath; deodorants for personal use and body care; dentifrices; toothpaste; perfumed paper; makeup applicators in the nature of cotton swabs for cosmetic purposes; all purpose cotton swabs for personal use and cosmetic purposes; cosmetic pads; pre-moistened cosmetic wipes, pre-moistened cosmetic tissues and towelettes; baby wipes; nail care preparations; nail polishes, nail polish base coat, nail polish top coat, nail strengtheners, nail hardeners, nail varnishes, nail polish removers, nail creams, cuticle removing preparations, nail tips, and nail buffing preparations; hair care preparations; hair care products in the nature of shampoos, conditioners, rinses, mousse, gels, creams, lotions and sprays; hair color, hair waving lotion, permanent wave preparations, hair lighteners, hair dyes, hair emollients, hair mascara, hair pomades, hair color removers, hair relaxing preparations, and hair styling preparations; potpourri; aromatherapy pillows comprising potpourri in fabric containers; pomanders containing perfumed preparations, and mixtures; sachets; sachet-like eye pillows containing fragrances; scented ceramic stones; scented linen sprays and scented room sprays; scented oils used to produce aromas when heated; scented pine cones; incense; room fragrances; fragrance emitting wicks for room fragrances

Registrant's goods/services are: Cosmetics; namely nail polish, lipstick, lip-gloss, eye-liner, lip-liner, eye shadow, face powder, blush, mascara

In this instance, Applicant's goods are closely related to Registrant's goods in that they are found in the same channels of trade, and are used by the same consumer group.

CONCLUSION

The overriding concern is not only to prevent buyer confusion as to the source of the goods and/or services, but to protect the registrant from adverse commercial impact due to use of a similar mark by a newcomer. *See In re Shell Oil Co.*, 992 F.2d 1204, 1208, 26 USPQ2d 1687, 1690 (Fed. Cir. 1993). Therefore, any doubt regarding a likelihood of confusion determination is resolved in favor of the registrant. TMEP §1207.01(d)(i); *see Hewlett-Packard Co. v. Packard Press, Inc.*, 281 F.3d 1261, 1265, 62 USPQ2d 1001, 1003 (Fed. Cir. 2002); *In re Hyper Shoppes (Ohio), Inc.*, 837 F.2d 463, 464-65, 6 USPQ2d 1025, 1025 (Fed. Cir. 1988).

In this instance, because Applicant's mark creates the same commercial impression as Registrant's mark, and the goods/services are in the same channels of trade, a likelihood of confusion exists and registration is denied. Although applicant's mark has been refused registration, applicant may respond to the refusal(s) by submitting evidence and arguments in support of registration.

If the applicant has any questions or needs assistance in responding to this Office action, please email the assigned examining attorney or call the trademark helpline at 571-272-9250.

/tmm/
Theodore McBride Law Office 103
HELP LINE: 571-272-9250
theodore.mcbride1@uspto.gov
phone: 571-272-9281

TO RESPOND TO THIS LETTER: Go to http://www.uspto.gov/trademarks/teas/response_forms.jsp. Please wait 48-72 hours from the issue/ mailing date before using TEAS, to allow for necessary system updates of the application. For *technical* assistance with online forms, e-mail TEAS@uspto.gov. For questions

about the Office action itself, please contact the assigned trademark examining attorney. **E-mail communications will not be accepted as responses to Office actions; therefore, do not respond to this Office action by e-mail.**

All informal e-mail communications relevant to this application will be placed in the official application record.

WHO MUST SIGN THE RESPONSE: It must be personally signed by an individual applicant or someone with legal authority to bind an applicant (i.e., a corporate officer, a general partner, all joint applicants). If an applicant is represented by an attorney, the attorney must sign the response.

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

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

DESIGN MARK

Serial Number

76305015

Status

SECTION 8 & 15-ACCEPTED AND ACKNOWLEDGED

Word Mark

GAGA PURE PLATINUM

Standard Character Mark

No

Registration Number

2898544

Date Registered

2004/11/02

Type of Mark

TRADEMARK

Register

PRINCIPAL

Mark Drawing Code

(1) TYPED DRAWING

Owner

Sukljian, Christina INDIVIDUAL UNITED STATES 13 Manor Street Albany
NEW YORK 12207

Goods/Services

Class Status -- ACTIVE. IC 003. US 001 004 006 050 051 052. G & S:
Cosmetics; namely nail polish, lipstick, lip-gloss, eye-liner,
lip-liner, eye shadow, face powder, blush, mascara. First Use:
2000/07/23. First Use In Commerce: 2001/06/07.

Filing Date

2001/08/27

Examining Attorney

GARDNER, BERYL

GAGA PURE PLATINUM

To: Ate My Heart Inc. (tle@pryorcashman.com)
Subject: U.S. TRADEMARK APPLICATION NO. 85282752 - LADY GAGA FAME - 16419.08
Sent: 9/6/2011 5:02:30 PM
Sent As: ECOM103@USPTO.GOV
Attachments:

**IMPORTANT NOTICE REGARDING YOUR
U.S. TRADEMARK APPLICATION**

**USPTO OFFICE ACTION HAS ISSUED ON 9/6/2011 FOR
SERIAL NO. 85282752**

Please follow the instructions below to continue the prosecution of your application:

TO READ OFFICE ACTION: Click on this [link](#) or go to <http://portal.uspto.gov/external/portal/tow> and enter the application serial number to [access](#) the Office action.

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

RESPONSE IS REQUIRED: You should carefully review the Office action to determine (1) how to respond; and (2) the applicable [response time period](#). Your response deadline will be calculated from **9/6/2011** (or sooner if specified in the office action).

Do NOT hit "Reply" to this e-mail notification, or otherwise attempt to e-mail your response, as the USPTO does NOT accept e-mailed responses. Instead, the USPTO recommends that you respond online using the Trademark Electronic Application System [Response Form](#).

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

WARNING

Failure to file the required response by the applicable deadline will result in the [ABANDONMENT](#) of your application.

Int. Cl.: 3

Prior U.S. Cls.: 1, 4, 6, 50, 51 and 52

Reg. No. 2,898,544

United States Patent and Trademark Office

Registered Nov. 2, 2004

**TRADEMARK
PRINCIPAL REGISTER**

GAGA PURE PLATINUM

SUKLJIAN, CHRISTINA (UNITED STATES INDIVIDUAL)
13 MANOR STREET
ALBANY, NY 12207

FIRST USE 7-23-2000; IN COMMERCE 6-7-2001.

SER. NO. 76-305,015, FILED 8-27-2001.

FOR: COSMETICS; NAMELY NAIL POLISH, LIP-STICK, LIP-GLOSS, EYE-LINER, LIP-LINER, EYE SHADOW, FACE POWDER, BLUSH, MASCARA, IN CLASS 3 (U.S. CLS. 1, 4, 6, 50, 51 AND 52).

BERYL GARDNER, EXAMINING ATTORNEY

Side - 1

**NOTICE OF ACCEPTANCE AND
ACKNOWLEDGEMENT OF §§8 & 15
DECLARATION
MAILING DATE: Jun 5, 2010**

The combined declaration of use and incontestability filed in connection with the registration identified below meets the requirements of Sections 8 and 15 of the Trademark Act, 15 U.S.C. §1058 and 1065. The combined declaration is accepted and acknowledged. The registration remains in force.

For further information about this notice, visit our website at: <http://www.uspto.gov>. To review information regarding the referenced registration, go to <http://tarr.uspto.gov>.

REG NUMBER: 2898544
MARK: GAGA PURE PLATINUM
OWNER: Sukljan, Christina

Side - 2

UNITED STATES PATENT AND TRADEMARK OFFICE
COMMISSIONER FOR TRADEMARKS
P.O. BOX 1451
ALEXANDRIA, VA 22313-1451

FIRST-CLASS
MAIL
U.S POSTAGE
PAID

CHRISTINA SUKLJIAN
13 MNR ST
ALBANY, NY 12207

EXHIBIT C

ESTTA Tracking number: **ESTTA459134**

Filing date: **02/29/2012**

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

Applicant:	Ate My Heart Inc.
Application Serial Number:	85215017
Application Filing Date:	01/11/2011
Mark:	HAUS OF GAGA
Date of Publication	01/03/2012

60 Day Request for Extension of Time to Oppose for Good Cause

Pursuant to 37 C.F.R. Section 2.102, Christina Sukljian, 13 Manor Street, Albany, NY 12207, UNITED STATES respectfully requests that he/she/it be granted an additional 60-day extension of time to file a notice of opposition against the above-identified mark for cause shown .

Potential opposer believes that good cause is established for this request by:

- The potential opposer needs additional time to investigate the claim

The time within which to file a notice of opposition is set to expire on 03/03/2012. Christina Sukljian respectfully requests that the time period within which to file an opposition be extended until 05/02/2012.

Respectfully submitted,
/Christina Sukljian/
02/29/2012

Christina Sukljian
13 Manor Street
Albany, NY 12207
UNITED STATES
info@zela.com

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

Christina Sukljian

13 Manor Street
Albany, NY 12207

Mailed: February 29, 2012

Serial No.: 85215017
ESTTA TRACKING NO: ESTTA459134

The request to extend time to oppose is granted until
5/2/2012 on behalf of potential opposer **ChristinaSukljian**

Please do not hesitate to contact the Trademark Trial and
Appeal Board at (571)272-8500 if you have any questions
relating to this extension.

Note from the Trademark Trial and Appeal Board

TTAB forms for electronic filing of extensions of time to
oppose, notices of opposition, petition for cancellation, notice
of ex parte appeal, and inter partes filings are now available
at <http://estta.uspto.gov>. Images of TTAB proceeding files can
be viewed using TTABVue at <http://ttabvue.uspto.gov>.

EXHIBIT D

Preliminary Statement

Parsing through Ms. Sukljian's irrelevant ramblings, one thing is clear: Ms. Sukljian agrees that the only information produced to AMH in response to its comprehensive discovery requests and *after* the Board issued its Order to Compel, was a link to her website. Nothing else. For all of her boasting about her publicity (none of which she alleges is actually related to her supposed mark) as well as her naked claims of continuous use since 2001, Ms. Sukljian did not produce one invoice, one shipping document, any customer lists or any advertising examples proving that the mark was ever in use in commerce. These items were properly and reasonably requested by AMH and are not subject to any privilege, as she claimed in her tardy responses. In fact, during multiple calls between the parties, counsel for AMH repeatedly implored Ms. Sukljian to provide AMH with evidence of her use – even informally – but Ms. Sukljian refused.

Here is what is really going on: Ms. Sukljian registered a trademark, which she never used and never had any intention to use. Once Lady Gaga rose to international fame and began receiving virtually unparalleled publicity, Ms. Sukljian decided to capitalize on Lady Gaga's fame and good will by commencing use of the mark in commerce. Indeed, her domain name for the gagapureplatinum.com website was registered in 2011 – three years after Lady Gaga achieved worldwide renown. More specifically, the actual website associated with the domain did not go “live” until *after* AMH filed the cancellation action against Ms. Sukljian's registration – something she admitted on the phone during discussions with counsel. Put simply, Ms. Sukljian will not produce responsive documents illustrating that she has been actively using her mark in commerce since 2001 because, in fact, there are none.

Ms. Sukljian cannot use her registration as both a shield and a sword. She cannot continue to rely on the registration to oppose AMH's trademark without proving that the

Preliminary Statement

Notwithstanding Sukljian's ranting about things that are demonstrably false or her blatant fabrication of so-called facts, the issue on this Motion is very simple and what makes it even more simple is that Sukljian admits that the only information she produced to AMH in response to its comprehensive discovery requests was a link to her website. Nothing else. For all of her purported publicity (none of which she alleges is actually related to her supposed mark) as well as her naked claims of continuous use since 2001, Sukljian did not produce one invoice, one shipping document, any customer lists, advertisement examples or anything else proving that the mark was ever used in commerce. These items were properly and reasonably requested by AMH and are not subject to any privilege, as she claimed in her responses. Her failure to produce them - months after AMH served its requests - means one of two things: (1) she does not have any documents reflecting any sales of goods bearing her trademark; or (2) that she simply refuses to abide by the rules for discovery in this action, which require her to respond to the discovery requests and produce documents, or subject herself to sanctions.

The evidence adduced to date shows that Sukljian registered a trademark that she never used and never had any intention to use. Once Lady Gaga rose to international fame and began receiving virtually unparalleled publicity, Sukljian decided to capitalize on Lady Gaga's fame and good will by commencing use of the mark in commerce. Indeed, her domain name for the gagapureplatinum.com website was registered in 2011 - three years after Lady Gaga achieved worldwide renown. More specifically, the actual website associated with the domain did not go "live" until *after* AMH filed the cancellation action against Sukljian's registration - something she admitted on the phone during discussions with counsel. Put simply, Sukljian will not produce responsive documents illustrating that she has been actively using her mark in

EXHIBIT E



ZELA INTERNATIONAL CO.
QUALITY. PERFORMANCE. INTEGRITY.

EXPERTISE SINCE 1968

[our brands](#)

[mission and values](#)

[history](#)

[creation](#)

[contact us](#)

our brands



*Mode
Couleurs*

Christina

Little
Gems

GAGA
PURE PLATINUM®

MODE
NEW YORK



ZELA INTERNATIONAL CO.

QUALITY. PERFORMANCE. INTEGRITY.

EXPERTISE SINCE 1968

[our brands](#)

[mission and values](#)

[history](#)

[creation](#)

[contact us](#)

g a g a

GAGA
PURE PLATINUM®

A unisex line of edgy sophistication, GAGA Pure Platinum offers a wide selection of unconventional products and color palettes. Designed and infused with precious gems in sharp urban packaging. The color selection is more avant-garde than conventional standards, eternally fashion forward.

For a unique sense of individualistic style, GAGA is it.



[click here to visit the official website: www.gagapureplatinum.com](http://www.gagapureplatinum.com)



ZELA INTERNATIONAL CO.
QUALITY. PERFORMANCE. INTEGRITY.

EXPERTISE SINCE 1968

[our brands](#)

[mission and values](#)

[history](#)

[creation](#)

[contact us](#)

contact us

For all inquiries:

email: info@zela.com

phone: 518.436.1833



register.com

Don't just make a website. Make an impact.

Whois Server Version 2.0

Domain names in the .com and .net domains can now be registered with many different competing registrars.

Go to <http://www.internic.net> for detailed information.

% The data in the WHOIS database of 1&1 Internet AG is provided by
% 1&1 for information purposes, and to assist persons in obtaining
% information about or related to a domain name registration record.
% 1&1 does not guarantee its accuracy. By submitting a WHOIS query,
% you agree that you will use this data only for lawful purposes and that,
% under no circumstances, you will use this data to
% (1) allow, enable, or otherwise support the transmission by e-mail,
% telephone, or facsimile of mass, unsolicited, commercial advertising or
% solicitations to entities other than the data recipient's own existing
% customers; or
% (2) enable high volume, automated, electronic processes that send queries or
% data to the systems of any Registry Operator or ICANN-Accredited registrar,
% except as reasonably necessary to register domain names or modify existing
% registrations.
% 1&1 reserves the right to modify these terms at any time.
% By submitting this query, you agree to abide by this policy.

domain: zela.com
created: 09-Dec-1999
last-changed: 08-Sep-2012
registration-expiration: 09-Dec-2013

ns27.1and1.com 217.160.82.147
ns28.1and1.com 217.160.83.147

status: CLIENT-TRANSFER-PROHIBITED

registrant-firstname: John
registrant-lastname: Sukljian
registrant-street1: 13 Manor ST
registrant-pcode: 12207
registrant-state: NY
registrant-city: Albany
registrant-ccode: US
registrant-phone: +1.5184361833
registrant-email: support@zela.com

HOME > SHOP > FACE > POP OFF NEO-POP BLUSH™ CREAM CHEEK COLOUR

Face

FREE SHIPPING over \$50

POP OFF NEO-POP™ CREAM BLUSH CREAM CHEEK COLOUR

\$20.00

ADD TO MY BAG

This superbly smooth cream blush provides a gorgeous pop of healthy color to cheeks that naturally moisturizes delicate skin with a blend of antioxidant rich barbery fig and pomegranate superfruits at the same time. Neo-Pop blends easily to gives cheeks that fresh and long lasting 'pinch me I'm dreaming' flush.

Product Details

- cream dewy finish
- nutrient and vitamin rich superfruits
- skin nourishing barbery fig
- made with love in USA
- .38 oz - 11 g

• [VIEW INGREDIENTS](#)

INGREDIENT SPOTLIGHT



Candy pink



You Will Also Love...



HOME > SHOP > NAILS > MEEP MEEP MOXIE NAIL COSMETIC

Nails

FREE SHIPPING over \$50

MEEP MEEP MOXIE NAIL COSMETIC

\$14.00

ADD TO MY BAG

GAGA Pure Platinum Nail Cosmetic is liquid jewelry for the nails with finely crushed, silky smooth GEMLUST™ powder in every bottle. Nails are lacquered in concentrated fashion-forward color for superior wear and gloss with every beautiful coat. This advanced formula provides chip resistant wear while the 600+hair luxe brush delivers strengthening and streak free results for days on end.

Product Details

- *prismatic satin finish*
- *advanced 3 free formula*
- *luxe 600+ hair brush*
- *made with love in USA*
- *1/2 fl oz - 15 ml*

• [VIEW INGREDIENTS](#)

INGREDIENT SPOTLIGHT



Rollover To View Product Detail



You Will Also Love...



HOME > SHOP > NAILS

Nails

FREE SHIPPING over \$50

Nails are lacquered in this advanced formula with concentrated color for superior wear and gloss with every beautiful coat.



Meep Meep Moxie
NAIL COSMETIC

SHOP NOW



Hullabaloo
NAIL COSMETIC

SHOP NOW



Prim & Awkward
NAIL COSMETIC

SHOP NOW



Old Flame
NAIL COSMETIC

SHOP NOW



Zenith
NAIL COSMETIC

SHOP NOW



Beam Me Up
NAIL COSMETIC

SHOP NOW



Spendthrift Jungle
NAIL COSMETIC

SHOP NOW



Lock Me Up
NAIL COSMETIC

SHOP NOW



Love Addict
NAIL COSMETIC

SHOP NOW



Big Bang Boom
NAIL COSMETIC

SHOP NOW



Yowza
NAIL COSMETIC

SHOP NOW



White Hot Shock
NAIL COSMETIC

SHOP NOW

This universally flattering creamed peach nude coats nails in fortified luxury in our advanced long wear, chip resistant formula.



Avec Moi Nail Cosmetic
PART OF THE ETERNALLY CHIC SET

SHOP NOW

HOME > SHOP > COMPLEXION > STAR CONCEALER FAIR

Face

FAIR STAR CONCEALER

\$18.00

ADD TO MY BAG

This full coverage exceptionally pigment rich concealer is a star performer. With the lasting skin benefits of Moroccan argan and avocado, this creamy lightweight formula brightens while blending to perfection. Conceals dark spots, under eye circles, discolorations, blemishes, and any other flaw you would rather not see.

Product Details

- *super concentrated pigment*
- *skin nourishing superfruit oils*
- *skin protecting vitamin E*
- *made with love in USA*
- *.11 oz - 3 g*

• [VIEW INGREDIENTS](#)

INGREDIENT SPOTLIGHT



FREE SHIPPING over \$50



Rollover To View Product Detail



You Will Also Love...



HOME > SHOP > FACE > LUNAR FLASH PRISM PAVE™ LUMINIZER

Face

FREE SHIPPING over \$50

LUNAR FLASH PRISM PAVE™ LUMINIZER

\$22.00

ADD TO MY BAG

This weightless cream luminizer provides luxurious satin luminosity and superb radiance to your complexion. Prism Pave™ instantly brightens and enhances skin's appearance with natural optical reflectors that bend with the light to provide beautiful radiance to cheeks, brow-bones and face.

Product Details

- *super silky satin luminosity*
- *antioxidant rich pomegranate*
- *skin restoring Moroccan argan*
- *made with love in USA*
- *.38 oz - 11 g*

• [VIEW INGREDIENTS](#)

BENEFICIAL INGREDIENTS



Satin champagne



You Will Also Love...



HOME > SHOP > LIPS > PINK PARIS LIP LUST LUXE COLOR GLOSS

Lips

FREE SHIPPING over \$50

PINK PARIS LIP LUST LUXE COLOR GLOSS

\$12.50

ADD TO MY BAG

The performance of glamorous color and uber shine of a gloss fused with the benefits of a conditioning, protective balm - that's Lip Lust. Nourishing botanicals hydrate lips in a divine buttery-rich formula.

Product Details

- *lasting high gloss finish*
- *moisture and condition with rich shea butter*
- *sooth lips with nourishing sweet almond*
- *made with love in USA*
- *.11 oz - 3 g*

• [VIEW INGREDIENTS](#)

INGREDIENT SPOTLIGHT



Shimmering golden fuchsia



You Will Also Love



HOME > SHOP > LIPS > RIVE GAUCHE ART DÉCORATIF HYDRATING LIPSTICK

Lips

RIVE GAUCHE ART DÉCORATIF HYDRATING LIPSTICK

\$16.00

ADD TO MY BAG

Exceptionally creamy and long-lasting, Art Decoratif Hydrating Lipstick instantly delivers high impact powerful color in just one effortless stroke. Lock in natural moisture with conditioning essential fruit oils for supple, kiss me now lips.

Product Details

- *hydrating long wearing color in one stroke*
- *condition with essential açai fruit oil*
- *enhanced with orchid flower extract*
- *made with love in USA*
- *.13 oz - 3.7 g*

• [VIEW INGREDIENTS](#)

INGREDIENT SPOTLIGHT



FREE SHIPPING over \$50



Real sultry red



You Will Also Love...



HOME > SHOP > SETS > ETERNALLY CHIC SET

Sets

FREE SHIPPING over \$50

ETERNALLY CHIC SET 3 PIECE TRAVEL COMPANION

\$20.00

ADD TO MY BAG

The perfect three-piece set that has everything you need for instant sophistication. Infused with our signature GEMLUST™ Jewels, this set is the ultimate companion for any destination. Polish lips, tips, and lashes in this universally flattering color palette.

Product Details

NAIL COSMETIC IN AVEC MOI

- *creamed peach nude, the go to color for any occasion*
- *advanced 3 free formula*
- *made with love in USA*
- *.34 fl oz - 10 ml*

ETHEREAL FINISH MASCARA

- *provides perfectly groomed and polished lashes*
- *pampers lashes with nourishing Moroccan argan*
- *made with love in USA*
- *.1 fl oz - 3 ml*

58 FACETS BRILLIANT LIP GLOSS

- *highlight lips with sparkling dimension*
- *moisturize with sweet almond*
- *refreshing essential grapefruit aroma*
- *made with love in USA*
- *.1 fl oz - 3 ml*

• [VIEW INGREDIENTS](#)

INGREDIENT SPOTLIGHT



Rollover To View Product Detail



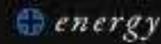
You Will Also Love...





[SHOP](#)

[DISCOVER GEMLUST™ JEWELS](#)



[THE LOOK](#)

[OFFERS](#)

[GO INSIDE GAGA PURE PLATINUM](#)

[SHOPPING BAG](#)

[HOME](#) > [GO INSIDE GAGA PURE PLATINUM](#)

Inside Gaga Pure Platinum

The Story

GAGA Pure Platinum Cosmetics defines avant-garde beauty that is eternally fashion-forward. We believe in positive energy and through the power of color, we believe in drawing out the inner beauty that resides in all of us. Our natural formulations deliver intense color that is infused with GEMLUST™—crushed to a fine silky smooth powder—for the ultimate in luxurious beneficial beauty. The natural beauty, power, and allure of these fine and precious stones treasured for centuries include: ruby, coral, jade, pearl, amethyst, amber, and tourmaline. Each beauty product is presented with our signature velvet pouch, an experience that one can only expect from GAGA Pure Platinum.

The Heritage

Created in 2000 by second generation cosmetics purveyors and sisters, Cristina Samuels and Jennifer Isaac combined their decades of expertise and insight to create Gaga Pure Platinum. Drawing inspiration from art and beauty, coupled with the finest natural ingredients, the sisters fused these elements in their creations to convey the experience of platinum beauty. Today, these beauty mavens continue the family's nearly half-a-century legacy and tradition in creating and innovating American beauty. Designed, created and made with love in NY USA.

The sisters have the distinct recognition of GCI (Global Cosmetic Industry Magazine) as being 2 of '20 To Know' in the global cosmetic industry. "Cristina Samuels and Jennifer Isaac epitomize the strengths of the beauty industry—continuity and tradition propelled by innovation and evolution." – GCI



[CUSTOMER SERVICE](#)

[CONTACT US](#)

[EVENTS](#)

[MADE WITH ❤️ IN NY](#)



[JOIN US](#)



register.com

Don't just make a website. **Make an impact.**

Whois Server Version 2.0

Domain names in the .com and .net domains can now be registered with many different competing registrars.

Go to <http://www.internic.net> for detailed information.

% The data in the WHOIS database of 1&1 Internet AG is provided by
% 1&1 for information purposes, and to assist persons in obtaining
% information about or related to a domain name registration record.
% 1&1 does not guarantee its accuracy. By submitting a WHOIS query,
% you agree that you will use this data only for lawful purposes and that,
% under no circumstances, you will use this data to
% (1) allow, enable, or otherwise support the transmission by e-mail,
% telephone, or facsimile of mass, unsolicited, commercial advertising or
% solicitations to entities other than the data recipient's own existing
% customers; or
% (2) enable high volume, automated, electronic processes that send queries or
% data to the systems of any Registry Operator or ICANN-Accredited registrar,
% except as reasonably necessary to register domain names or modify existing
% registrations.
% 1&1 reserves the right to modify these terms at any time.
% By submitting this query, you agree to abide by this policy.

domain: gagapureplatinum.com
created: 11-Feb-2011
last-changed: 31-Aug-2012
registration-expiration: 11-Feb-2013

nserver: ns51.1and1.com 217.160.80.164
nserver: ns52.1and1.com 217.160.81.164

status: CLIENT-TRANSFER-PROHIBITED

registrant-firstname: John
registrant-lastname: Sukljian
registrant-street1: 13 Manor ST
registrant-pcode: 12207
registrant-state: NY
registrant-city: Albany
registrant-ccode: US
registrant-phone: +1.5184361833
registrant-email: support@zela.com

EXHIBIT F

US Cellular
Switch today and save. **\$129.99**
Samsung GALAXY S III
Pricing Details
WEB ONLY
Hello Better.
Get It Now
Waived activation fee. Free shipping.

BEST OF VOICE PLACES GET THE BEST 24 HOURS A DAY Download the free app at bestof.voiceplaces.com



TOP blog STORIES

- Nightlife** My Chiffon Got Wet Last Night! By Michael Musto
- Film** Daniel Day-Lewis's Third Oscar? By Michael Musto
- Art** The World's Largest Phallus By Michael Musto
- Advice** What To Do About The End of the World Tomorrow! By Michael Musto

Lady Gaga
Lady Gaga Accused Of Bullying! She Defends Herself! Exclusive Story
By Michael Musto Tue., Jun. 26 2012 at 11:29 AM
Categories: Lady Gaga
Write Comment



In came the email:

"**Lady Gaga** (Ate My Heart, Inc /Stefani Germanotta) is a bully and suing the family business that owns the 12-year-old registered trademark brand Gaga Pure Platinum cosmetics because she can't get a federal trademark registration, after being blocked registration twice.

"Gaga Pure Platinum was created and has existed since 2000 and to try to get what she wants, with no regard to who she hurts, she is trying to steal the Gaga registered trademark from Gaga Pure Platinum with a lawsuit. Lady Gaga doesn't own any trademark rights to Gaga in cosmetics because Gaga Pure Platinum cosmetics owns it and trademarked it when Stefani Germanotta was 14 years old, long before Lady Gaga came into existence.

"So much for her anti bullying campaigns because she is bullying a family business and her tactic is to lie by using fraudulent, baseless and groundless claims in federal trademark court so she can bully them with her fame....Looks like she's living up to her self proclaimed title of 'mother monster' and has proven to be a total hypocrite. Once again she has copied yet another artist that came before her, Gaga Pure Platinum.

All the public information is available at [this link](#)."

I reached out to Gaga's people for a response, and I didn't have to bully them for it. Here it is:

"Lady Gaga and her companies respect intellectual property and would never infringe on anyone's rights. But this particular trademark hasn't been used in what appears to be years.

"In fact, Lady Gaga's counsel tried several times to speak to the original owners about their alleged use of their mark in an effort to find a way to amicably coexist. There was never a response."

And now, here's the response to *that* from the trademark owners:

"The Gaga Pure Platinum trademark has been and continues to be in use. Lady Gaga's counsel never contacted Gaga Pure Platinum nor did we ever receive any communication from Lady Gaga nor it's representatives. No effort to communicate was ever made, only a court action."

Judges?

Email to Friend Write to Editor Print Article submit

Related Content

- From Big Brother To Gay Porn (La Daily Musto)
- Here's What Kim And Kanye's Baby Should Be Told - New York - News - La Daily Musto (La Daily Musto)
- Celebs share their 2013 New Years Resolutions! (Lifestyle Mirror)
- Daniel Craig Full Frontal Naked (La Daily Musto)

0 comments

Sign in

Sort: Newest | Oldest

Powered by Livefyre

Now Trending

- Gee, I Wonder Why????
- Pretty Songs That I Hate Myself For Loving
- Haley Joel Osment As A Gay

eNewYearsEve.com
Your #1 source for New Year's Eve events & tickets!
For tickets/info: eNewYearsEve.com :: 212.724.3900

DRIVERS OVER 50
COULD SAVE \$375* ON AUTO INSURANCE

Request Free Quote

AARP Auto Insurance Program from THE HARTFORD

Village Voice on Facebook
Like

28,606 people like Village Voice.

Anderson Bronni David Javier Matt Tavy

Facebook social plugin

Slideshows

- All Aboard the S.S. Coachella, You Crazy Kids
- POGO Bounces into Hotel Chantelle
- Film Critics' Poll: Top 10 Films of 2012

More Slideshows >>