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Filing date: **12/20/2012**

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

Proceeding	92055279
Party	Plaintiff Ate My Heart Inc.
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Submission	Motion for Sanctions
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Signature	/Brad D. Rose/
Date	12/20/2012
Attachments	16419-00003(2012-12-20 13-14-53).PDF ( 47 pages )(1518265 bytes )



AMH is a corporation owned by the internationally renowned musical star Stefani Germanotta p/k/a Lady Gaga. Lady Gaga has sold more than twenty-three (23) million albums and sixty-four (64) million singles worldwide. Lady Gaga has also achieved status as an international fashion icon, appearing on the cover of the September 2012 issue of *Vogue* magazine and forming her own creative production team, “Haus of Gaga,” which she personally oversees and which creates many of Lady Gaga’s clothes, stage props and hairdos.

In addition to the common law rights that AMH owns in the mark “LADY GAGA,” it is also the owner of the following federal trademark registrations and pending trademark applications for marks comprising GAGA, among others (collectively, the “LADY GAGA Marks”): LADY GAGA® (Reg. Nos. 3,695,129, 3,695,038, and 3,960,468); LADY GAGA (Ser. No. 85/115,004); LADY GAGA FAME (Ser. No. 85/282,752); HAUS OF GAGA (Ser. No. 85/215,017), among others. AMH has continuously used the LADY GAGA Marks in interstate commerce on or in connection with the goods and services covered by the respective registrations since the date of first used alleged therein. As a result of these efforts, the LADY GAGA marks have become distinctively and exclusively associated with AMH and, as such, identify and distinguish the source and origin of AMH’s goods and services.

On August 24, 2010, AMH filed an application to register the mark LADY GAGA in a variety of classes including cls. 3, 18 and 21 (Ser. No. 85/115,004). On March 31, 2011, AMH filed an application to register the mark LADY GAGA FAME in cl. 3 (Ser. No. 85/282,752) for a variety of goods in cl. 3, including but not limited to cosmetics, hair and body care products, soaps, lotions and nail care products. AMH’s above-referenced applications for marks LADY GAGA and LADY GAGA FAME were refused registration by the U.S. Patent and Trademark office (“USPTO”) based upon the citation of the Respondent’s Registration. In addition, on May

1, 2012, Respondent opposed AMH's application to register the mark HAUS OF GAGA in cl. 3 (Ser. No. 85/215,017 with a claim of foreign priority of July 13, 2010, pursuant to CTM Ser. No. 009244624), on the grounds that it is likely to be confused with its GAGA PURE PLATINUM registration.

**Respondent's Non-Use and Abandonment of Respondent's Mark**

On August 27, 2001, Respondent filed an application to register the mark GAGA PURE PLATINUM covering various items in cl. 3 which proceeded to registration on November 2, 2004. Upon information and belief, at the time AMH filed the instant action, Respondent was not using its Mark in commerce in connection with the goods covered in her registration, namely, "cosmetics; namely, nail polish, lipstick, lip-gloss, eye-liner, lip-liner, eye shadow, face powder, blush, mascara" in cl. 3. Upon information and belief, Respondent has not had valid trademark use of Respondent's Mark on those items for at least the past several years, if ever.

**Respondent's Refusal To Provide Meaningful Discovery**

On June 29, 2012, AMH served its First Set of Interrogatories and Document Requests upon Respondent in this Cancellation Action (the "First Requests"). A true and correct copy of the First Requests are annexed hereto as Exhibit B. Accordingly, Respondent's responses were due by August 3, 2012. No response was received. Respondent was reminded several times of her obligation under the TTAB and Federal Rules to respond to AMH's First Requests. Despite receiving multiple emails and voice messages from AMH, however, Respondent gave no response whatsoever.

**AMH Files Its Motion to Compel**

On September 20, 2012, AMH filed a Motion to Compel Respondent's responses to AMH's First Requests, explaining that Respondent's responses are essential to determining

whether Respondent has actually been using its Mark in commerce without abandonment since the date it averred in Respondent's Registration. On November 6, 2012, that motion was granted. In its Order, the Board directed that Respondent "is allowed until TWENTY DAYS from the mailing date of this order in which to serve her initial disclosures and verified answers to petitioner's first set of interrogatories and first set of document requests, failing which a motion for sanctions will be entertained by the Board." (emphasis in original). Respondent therefore had until November 26, 2012 to comply with the Board's Order.

**Respondent's Meaningless Responses to AMH's Discovery Requests**

On November 26, 2012, Respondent provided what she purported to be Answers to AMH's First Requests (the "November 26 Responses"). A true and correct copy of the November 26 Responses is annexed hereto as Exhibit C. In blatant disregard of the Board's Order, the November 26 Responses, provide no information whatsoever. Respondent responded to all but two of AMH's twenty-one Interrogatories with the language "Claim of privilege by Defendant." Respondent responded with this same perfunctory language *to all but one* of AMH's *seventy* document requests, without producing a single document or providing any information which would "permit Petitioner to evaluate the claim of privilege," as Respondent was instructed to do by the First Requests. These so-called responses are just another attempt by Respondent to obstruct discovery. Respondent should be subject to sanctions as a result.

**ARGUMENT**

Respondent has failed to produce any meaningful discovery in this matter and has ignored the Board's Order to do the same. In accordance with TBMP §527 and 37 CFR §2.120(g)(1), AMH respectfully moves for sanctions against Respondent for his failure to comply with the Board's Order to serve responses to AMH's Discovery Requests. TBMP §527

states that “[i]f a party fails to comply with an order of the Board relating to discovery, including...an order compelling discovery, the Board may enter appropriate sanctions as defined in 37 CFR §2.120(g)(1).” In turn, 37 CFR §2.120(g)(1) provides that if a party fails to comply with a Board Order relating to discovery, the Board may issue any appropriate order, including any order provided in Fed. R. Civ. P. 37(b)(2), except that the Board will not hold any person in contempt and cannot award any expenses to a party. Among the sanctions provided for in Fed. R. Civ. P. 37(b)(2) are:

- (i) directing that the matters embraced in the order or other designated facts be taken as established for purposes of the action, as the prevailing party claims;
- (ii) prohibiting the disobedient party from supporting or opposing designated claims or defenses, or from introducing designated matters in evidence;
- ...
- (vi) rendering a default judgment against the disobedient party.

Here, Respondent evaded discovery for months, forcing AMH to file a Motion to Compel, which the Board granted. Then, in response to the Board’s Order compelling Respondent to provide discovery in this matter, Respondent again stonewalled – this time by improperly responding “claim of privilege” to virtually all of AMH’s interrogatory and document request responses.

According to Federal Rule of Evidence 502, the two applicable privileges to discovery issues are attorney-client privilege and work product protection. These two privileges are defined in FRE 502(g) as:

- (1) “attorney-client privilege” means the protection that applicable law provides for confidential attorney-client communications; and

(2) “work-product protection” means the protection that applicable law provides for tangible material (or its intangible equivalent) prepared in anticipation of litigation or for trial.

The information and documents requested by AMH do not fall under either of these privileges. As set forth in AMH’s First Requests attached hereto as Exhibit B, AMH requested that Respondent produce information and documents to prove that Respondent has actually been using its mark on each of the items identified in its registration since the date of first use claimed in Respondent’s registration. The items responsive to AMH’s First Requests include but are not limited to invoices, the quantity of items sold under the mark each year, annual revenues received from items sold under the mark, advertising examples, annual advertising expenditures, customer lists, contracts or licenses relating to the use of the mark and packaging for the goods.

Of course, the information requested by AMH does not fall under one of the available privilege exceptions. Respondent is not answering AMH’s First Requests because she does not want to reveal that Respondent’s Mark was not in use in commerce prior to AMH filing this Cancellation Action. However, if Respondent is not going to produce discovery to AMH, then she should not be permitted to rely on otherwise responsive documents and information in her defense later in the proceedings. Accordingly, AMH respectfully requests that an order be entered (i) directing that the designated facts in the Petition for Cancellation be taken as established for purposes of the action as AMH claims; (ii) prohibiting Respondent from supporting or opposing its designated claims or defenses; and (iii) prohibiting Respondent from introducing designated matters in evidence as a result of her disobedience.

AMH further requests that judgment be entered against Respondent for her willful disregard of the Board’s Order and her repeated failure to produce any meaningful discovery responses – let alone “full and complete responses” to AMH’s Discovery Requests. Where a

party continually avoids discovery, the Board will enter a default judgment against the disobedient party. See, e.g., Unicut Corporation v. Unicut, Inc., 220 USPQ 1013 (TTAB 1983); Wahl v. Fusco, 39 U.S.P.Q.2d 1223 (TTAB 1996) (judgment of cancellation granted for registrant's failure to respond to discovery; registrant was non-responsive and ignored the Board's instructions). Judgment against Respondent is appropriate and necessary as a result of Respondent's willful evasion of its obligations under the Federal Rules and TBMP as well as its blatant disregard of the Board's Order.<sup>1</sup>

WHEREFORE, for the reasons set forth herein, AMH's motion for sanctions should be granted in its entirety and judgment entered against Respondent and in favor of AMH.

Dated: New York, New York  
December 19, 2012

Respectfully submitted,

PRYOR CASHMAN LLP

By: 

Brad D. Rose

Nicole E. Kaplan

Stephanie R. Kline

Attorneys for Petitioner, Ate My Heart, Inc.  
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(212) 421-4100

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<sup>1</sup> As of December 12, 2012, this proceeding was consolidated with Respondent's Opposition Proceeding, No. 91205046. As such, AMH respectfully requests that judgment against Respondent be effected as to both this Cancellation Proceeding as well as Respondent's Opposition Proceeding.

**CERTIFICATE OF SERVICE**

I certify that on December 20, 2012, a true and correct copy of the foregoing **MOTION FOR SANCTIONS FOR FAILURE TO COMPLY WITH THE BOARD'S DISCOVERY ORDER AND REQUEST FOR JUDGMENT** was mailed by first class mail, postage prepaid to:

Christina Sukljan  
13 Manor Street  
Albany, NY 12207

  
Name: Janice Romeo Keller

# **EXHIBIT A**

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

DUNN

Mailed: November 6, 2012

Cancellation No. 92055279

Ate My Heart Inc.

v.

Christina Sukljian

**Elizabeth A. Dunn, Attorney (571-272-4267):**

This case now comes up on petitioner's motion, filed September 20, 2012, to compel respondent to serve her initial disclosures and verified answers to petitioner's first set of interrogatories and first set of document requests.<sup>1</sup> Respondent has failed to file a brief in response to petitioner's motion. See Trademark Rule 2.127(a).<sup>2</sup>

In view of the circumstances set forth in petitioner's motion to compel, and because respondent has not responded to

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<sup>1</sup> Proceedings are considered to have been suspended retroactive to the filing of the motion to compel.

Petitioner's October 4, 2012 withdrawal of its September 20, 2012 motion to suspend, inadvertently filed in the wrong proceeding, and is noted. No further consideration will be given to the September 20, 2012 motion.

<sup>2</sup> Trademark Rule 2.127(a) reads, in relevant part, as follows: "When a party fails to file a brief in response to a motion, the Board may treat the motion as conceded."

Opposition No. 92055279

the motion, petitioner's motion to compel discovery is granted.  
See Trademark Rule 2.120(e).

Respondent is allowed until TWENTY DAYS from the mailing date of this order in which to serve her initial disclosures and verified answers to petitioner's first set of interrogatories and first set of document requests, failing which a motion for sanctions will be entertained by the Board. See Trademark Rule 2.120(g)(1).

The Board notes that on April 18, 2012, the Board granted respondent's motion to extend dates filed April 13, 2012, which did not allege that petitioner had consented to the motion. This grant was made in error, inasmuch as it cut off petitioner's fifteen day response period as provided by Trademark Rule 2.127. However, in the present circumstances, the Board will continue to consider the answer as timely filed.

Proceedings herein are resumed, and dates are reset below:

Expert Disclosures Due	1/12/2013
Discovery Closes	2/11/2013
Plaintiff's Pretrial Disclosures	3/28/2013
Plaintiff's 30-day Trial Period Ends	5/12/2013
Defendant's Pretrial Disclosures	5/27/2013
Defendant's 30-day Trial Period Ends	7/11/2013
Plaintiff's Rebuttal Disclosures	7/26/2013
Plaintiff's 15-day Rebuttal Period Ends	8/25/2013

Opposition No. 92055279

In each instance, a copy of the transcript of testimony together with copies of documentary exhibits, must be served on the adverse party within thirty days after completion of the taking of testimony. Trademark Rule 2.125.

Briefs shall be filed in accordance with Trademark Rules 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.

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# **EXHIBIT B**

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

In the Matter of U.S. Registration No. 2,898,544 for  
GAGA PURE PLATINUM

-----X	:	
Ate My Heart Inc.	:	
	:	
Petitioner,	:	
	:	Cancellation No. 92055279
-against-	:	
	:	
Christina Sukljian,	:	
	:	
Respondent	:	
-----X	:	

**PETITIONER'S FIRST REQUEST FOR THE  
PRODUCTION OF DOCUMENTS**

Pursuant to Trademark Rule of Practice 2.120 and Federal Rules of Civil Procedure 26 and 34, Petitioner Ate My Heart Inc., by its attorneys, Pryor Cashman LLP, hereby requests that Respondent Christina Sukljian produce the documents specified therein that are in its possession, custody or control for inspection and copying at the offices of Pryor Cashman LLP, 7 Times Square, New York, New York, within thirty (30) days of the date of service hereof.

**DEFINITIONS AND INSTRUCTIONS**

A. The term "Respondent" refers to Christina Sukljian and any and all companies, employees, partners, affiliates, agents, assigns, representatives, attorneys or other persons or entities acting on her behalf or under her control, whether in the past or the present.

B. The term "Petitioner" refers to Ate My Heart Inc. and any and all related entities, subsidiaries, parent companies, officers, employees, partners, affiliates, agents, assigns, representatives, attorneys or other persons or entities acting on its behalf or under its control,

whether in the past or the present.

C. The term “Respondent’s Goods” refers to each of the items set forth in Respondent’s Registration No. 2,898,544 for the mark GAGA PURE PLATINUM.

D. The term “Respondent’s Mark” refers to the mark GAGA PURE PLATINUM as set forth in Respondent’s Registration No. 2,898,544.

E. The term “Registration” refers to Respondent’s Registration No. 2,898,544.

F. The term “Action” refers to the instant cancellation proceeding brought by Petitioner against Respondent’s Registration before the Trademark Trial and Appeal Board (Action No. 92055279).

G. The term “Petitioner’s Marks” refers to the marks LADY GAGA and LADY GAGA FAME.

H. The term “Answer” refers to the Answer filed by Respondent on May 14, 2012 to the Petition for Cancellation instituted by Petitioner.

I. “Person” means both natural persons or any business, legal or governmental entity or association. The acts and knowledge of a person are defined to include the acts and knowledge of that person’s officers, agents, directors, employees, consultants, attorneys, representatives and any other person acting on its behalf.

J. “Communication” means the transmittal of information in the form of facts, ideas, inquiries or otherwise.

K. “Document” is defined to be synonymous in meaning and equal in scope to the usage of this term “documents or electronically stored information” in Fed. R. Civ. P. 34(a), including, without limitation, electronic or computerized data compilations. A draft or non-identical copy is a separate document within the meaning of this term.

L. “Identify” with respect to persons means to give, to the extent known, the person’s full name, present or last known address, and when referring to a natural person, additionally, the present or last known place of employment.

M. “Identify” with respect to documents means to give, to the extent known, the type

of document, general subject matter, date of document and author(s), addressee(s) and recipient(s).

N. "Concerning" means relating to, referring to, describing, evidencing or constituting.

O. The terms "any", "all" and "each" shall be construed as encompassing any and all.

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

Q. The use of the singular form of any word includes the plural and vice versa.

R. These requests shall be deemed to be continuing so as to require supplemental responses in accordance with Fed. R. Civ. P. 26(e).

S. Unless otherwise specified herewith, the time frame for each request is 2001 to present and the territory for each request in the United States.

T. If any Document that would be responsive to a discovery request has been lost, discarded or destroyed, identify the Document as completely as possible, providing as much of the following information as possible: (a) the type of Document; (b) a description of the Document; (c) the approximate date it was lost, discarded or destroyed; (d) the circumstances and manner in which it was lost, discarded or destroyed; (e) the reason(s) for disposing of or discarding the Document; (f) the identity of the person who lost, discarded or destroyed the Document; (g) the identity of any person authorizing or having knowledge of the circumstances surrounding losing, discarding or destroying the Document; and (h) the identity of any person having knowledge of its contents. In addition, identify any Document reflecting any of the information sought above.

U. If Respondent withholds any document, in whole or in part, on the basis of privilege, provide in sufficient detail information which will permit Petitioner to evaluate the claim of privilege. If the privilege is being asserted in connection with a claim or defense governed by state law, please indicate the state privilege rule being invoked.

### DOCUMENT REQUESTS

1. All documents sufficient to show the gross annual revenues received by Respondent from the sales of Respondent's Goods in the United States sold under Respondent's Mark each year since Respondent's first use of Respondent's Mark in 2001.

2. All documents sufficient to identify the quantity of each of the Respondent's Goods sold under Respondent's Mark for each year in the United States since Respondent's first use of Respondent's Mark in 2001.

3. All documents and things sufficient to show the use of Respondent's Mark in connection with each of Respondent's Goods each year since Respondent's date of first use in 2001.

4. All documents concerning packaging for Respondent's Goods bearing Respondent's Mark.

5. All documents concerning any logos, color schemes or other distinctive identifiers for Respondent's Goods.

6. All documents concerning use of Respondent's Mark in 2001 on (a) nail polish; (b) lipstick; (c) lip-gloss; (d) eye-liner; (e) lip-liner; (f) eye shadow; (g) face powder; (h) blush; (i) mascara sold under Respondent's Mark, including but not limited to purchase orders placed by Respondent, confirmations, manufacturing, shipping and customs records, orders for product from customers, Respondent's invoices, cancelled checks or other proof of payment and all internal accounting documents and records.

7. All documents concerning use of Respondent's Mark in 2002 on (a) nail polish; (b) lipstick; (c) lip-gloss; (d) eye-liner; (e) lip-liner; (f) eye shadow; (g) face powder; (h) blush; (i)

mascara sold under Respondent's Mark, including but not limited to purchase orders placed by Respondent, confirmations, manufacturing, shipping and customs records, orders for product from customers, Respondent's invoices, cancelled checks or other proof of payment and all internal accounting documents and records.

8. All documents concerning use of Respondent's Mark in 2003 on (a) nail polish; (b) lipstick; (c) lip-gloss; (d) eye-liner; (e) lip-liner; (f) eye shadow; (g) face powder; (h) blush; (i) mascara sold under Respondent's Mark, including but not limited to purchase orders placed by Respondent, confirmations, manufacturing, shipping and customs records, orders for product from customers, Respondent's invoices, cancelled checks or other proof of payment and all internal accounting documents and records.

9. All documents concerning use of Respondent's Mark in 2004 on (a) nail polish; (b) lipstick; (c) lip-gloss; (d) eye-liner; (e) lip-liner; (f) eye shadow; (g) face powder; (h) blush; (i) mascara sold under Respondent's Mark, including but not limited to purchase orders placed by Respondent, confirmations, manufacturing, shipping and customs records, orders for product from customers, Respondent's invoices, cancelled checks or other proof of payment and all internal accounting documents and records.

10. All documents concerning use of Respondent's Mark in 2005 on (a) nail polish; (b) lipstick; (c) lip-gloss; (d) eye-liner; (e) lip-liner; (f) eye shadow; (g) face powder; (h) blush; (i) mascara sold under Respondent's Mark, including but not limited to purchase orders placed by Respondent, confirmations, manufacturing, shipping and customs records, orders for product from customers, Respondent's invoices, cancelled checks or other proof of payment and all internal accounting documents and records.

11. All documents concerning use of Respondent's Mark in 2006 on (a) nail polish;

(b) lipstick; (c) lip-gloss; (d) eye-liner; (e) lip-liner; (f) eye shadow; (g) face powder; (h) blush; (i) mascara sold under Respondent's Mark, including but not limited to purchase orders placed by Respondent, confirmations, manufacturing, shipping and customs records, orders for product from customers, Respondent's invoices, cancelled checks or other proof of payment and all internal accounting documents and records.

12. All documents concerning use of Respondent's Mark in 2007 on (a) nail polish; (b) lipstick; (c) lip-gloss; (d) eye-liner; (e) lip-liner; (f) eye shadow; (g) face powder; (h) blush; (i) mascara sold under Respondent's Mark, including but not limited to purchase orders placed by Respondent, confirmations, manufacturing, shipping and customs records, orders for product from customers, Respondent's invoices, cancelled checks or other proof of payment and all internal accounting documents and records.

13. All documents concerning use of Respondent's Mark in 2008 on (a) nail polish; (b) lipstick; (c) lip-gloss; (d) eye-liner; (e) lip-liner; (f) eye shadow; (g) face powder; (h) blush; (i) mascara sold under Respondent's Mark, including but not limited to purchase orders placed by Respondent, confirmations, manufacturing, shipping and customs records, orders for product from customers, Respondent's invoices, cancelled checks or other proof of payment and all internal accounting documents and records.

14. All documents concerning use of Respondent's Mark in 2009 on (a) nail polish; (b) lipstick; (c) lip-gloss; (d) eye-liner; (e) lip-liner; (f) eye shadow; (g) face powder; (h) blush; (i) mascara sold under Respondent's Mark, including but not limited to purchase orders placed by Respondent, confirmations, manufacturing, shipping and customs records, orders for product from customers, Respondent's invoices, cancelled checks or other proof of payment and all internal accounting documents and records.

15. All documents concerning use of Respondent's Mark in 2010 on (a) nail polish; (b) lipstick; (c) lip-gloss; (d) eye-liner; (e) lip-liner; (f) eye shadow; (g) face powder; (h) blush; (i) mascara sold under Respondent's Mark, including but not limited to purchase orders placed by Respondent, confirmations, manufacturing, shipping and customs records, orders for product from customers, Respondent's invoices, cancelled checks or other proof of payment and all internal accounting documents and records.

16. All documents concerning use of Respondent's Mark in 2011 on (a) nail polish; (b) lipstick; (c) lip-gloss; (d) eye-liner; (e) lip-liner; (f) eye shadow; (g) face powder; (h) blush; (i) mascara sold under Respondent's Mark, including but not limited to purchase orders placed by Respondent, confirmations, manufacturing, shipping and customs records, orders for product from customers, Respondent's invoices, cancelled checks or other proof of payment and all internal accounting documents and records.

17. All documents concerning use of Respondent's Mark in 2012 on (a) nail polish; (b) lipstick; (c) lip-gloss; (d) eye-liner; (e) lip-liner; (f) eye shadow; (g) face powder; (h) blush; (i) mascara sold under Respondent's Mark, including but not limited to purchase orders placed by Respondent, confirmations, manufacturing, shipping and customs records, orders for product from customers, Respondent's invoices, cancelled checks or other proof of payment and all internal accounting documents and records.

18. All invoices and purchase orders showing sales of each of the goods bearing Respondent's Mark each year since 2001 broken down by year.

19. All shipping documents for each of Respondent's Goods bearing Respondent's Mark each year since 2001 broken down by year.

20. All documents sufficient to identify all former, current or prospective direct

customers of Respondent's Goods bearing Respondent's Mark from the first sale of said products, and all documents sent to or received from such direct customers.

21. All documents concerning the current inventory of Respondent's Goods in Respondent's possession bearing Respondent's Mark in units and dollars, separated by type of good (e.g., nail polish, lipstick, lip-gloss, eye-liner, lip-liner, eye shadow, face powder, blush, mascara, etc.).

22. All documents concerning Respondent's knowledge of the existence and/or activities of Petitioner.

23. All documents sufficient to illustrate the date when the website associated with the domain name gagapureplatinum.com was launched.

24. All documents, including but not limited to all contracts, licenses, agreements, with web developers for the website associated with the domain name gagapureplatinum.com.

25. All documents concerning the design and layout of the website associated with the domain name gagapureplatinum.com.

26. All documents concerning the website gagapureplatinum.com.

27. All documents concerning the sale of products on zela.com.

28. All documents sufficient to show the relationship between Respondent and Zela International.

29. All documents concerning the sale of Respondent's Goods by Zela.com or Zela International.

30. All documents sufficient to show the registration date of the Facebook account for GAGA PURE PLATINUM.

31. All documents concerning any application Respondent filed with the USPTO in

connection with Respondent's Mark.

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

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

34. All documents concerning Respondent's first use of Respondent's Mark in commerce including the date of first sale.

35. Samples of each of Respondent's Goods sold or offered for sale under Respondent's Mark.

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

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

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

39. 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 Respondent's Goods sold under Respondent's Mark.

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

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

42. 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 Respondent's Goods bearing Respondent's Mark.

43. All documents concerning publicity for Respondent's Mark 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.

44. All documents concerning publicity for Respondent'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.

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

46. All documents concerning consumer recognition of Respondent's Mark in the United States.

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

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

49. All documents concerning communications with any outside consultants concerning Respondent'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.

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

51. All documents concerning unsolicited media attention in the United States received by Respondent in connection with Respondent's Mark, including, but not limited to, magazine and newspaper articles, broadcast media and electronic publications in the past year.

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

53. All documents concerning the intended purchaser(s) of Respondent's Goods, bearing Respondent's Mark.

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

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

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

57. 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.

58. All documents concerning Respondent's efforts to enforce Respondent's Mark.

59. All documents concerning any allegations of infringement of Respondent's Mark or lawsuits filed which allege infringement of Respondent's Mark, against any individual or entity.

60. All documents concerning Respondent's denials in the Answer.

61. All documents concerning any coexistence agreements concerning Respondent's Mark to which Respondent is a party.

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

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

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

65. All documents concerning registration of the domain name gagapureplatinum.com.

66. All documents concerning any press releases concerning this Action or concerning

the dispute between Petitioner and Respondent in general.

67. All documents concerning the decision to issue a press release concerning this Action or concerning the dispute between Petitioner and Respondent in general.

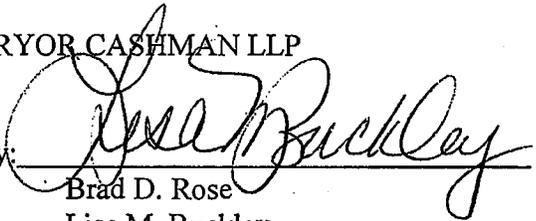
68. All documents sufficient to show use in the United States of Respondent's Mark on each item listed in Respondent's Registration, including invoices and the identifies of each and every purchase of Respondent's Goods.

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

70. For each expert witness Respondent intends to call, a copy of such witness's resume, all documents concerning communications between such witness and Petitioner, all documents evidencing any opinion formed by such witness, and all documents relied upon by such witness in forming an opinion as to the substance of such witness' testimony.

Dated: New York, New York  
June 28, 2012

PRYOR CASHMAN LLP

By: 

Brad D. Rose

Lisa M. Buckley

Nicole E. Kaplan

Attorneys for Petitioner

7 Times Square

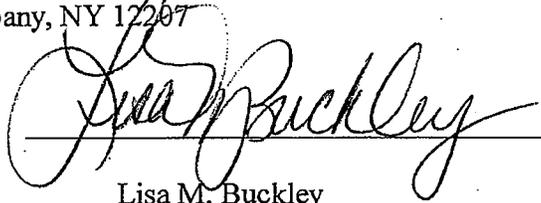
New York, New York 10036-6569

(212) 421-4100

CERTIFICATE OF SERVICE

I certify that on June 28, 2012, a true and correct copy of the foregoing PETITIONER'S FIRST REQUEST FOR THE PRODUCTION OF DOCUMENTS is being mailed by first class mail, postage prepaid to Respondent at the following address:

Christina Sukljan  
13 Manor Street  
Albany, NY 12207

A handwritten signature in black ink, appearing to read "Lisa M. Buckley", is written over a horizontal line. The signature is cursive and stylized.

Lisa M. Buckley

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

In the Matter of U.S. Registration No. 2,898,544 for  
GAGA PURE PLATINUM

-----X		
Ate My Heart Inc.	:	
	:	
Petitioner,	:	
	:	
-against-	:	Cancellation No. 92055279
	:	
Christina Sukljian,	:	
	:	
Respondent	:	
-----X		

**PETITIONER'S FIRST SET OF  
INTERROGATORIES TO RESPONDENT**

Pursuant to Trademark Rule of Practice 2.120 and Federal Rules of Civil Procedure 26 and 33, Petitioner Ate My Heart Inc., by its attorneys, Pryor Cashman LLP, hereby requests that Respondent, Christina Sukljian, answer the following interrogatories fully and under oath and produce the documents specified therein that are in its possession, custody or control for inspection and copying at the offices of Pryor Cashman LLP, 7 Times Square, New York, New York 10036, within thirty (30) days of the date of service hereof.

**DEFINITIONS**

- A. The term "Respondent" refers to Christina Sukljian and any and all companies, employees, partners, affiliates, agents, assigns, representatives, attorneys or other persons or entities acting on her behalf or under her control, whether in the past or the present.
- B. The term "Petitioner" refers to Ate My Heart Inc. and any and all related entities, subsidiaries, parent companies, officers, employees, partners, affiliates, agents, assigns, representatives, attorneys or other persons or entities acting on its behalf or under its control,

whether in the past or the present.

C. The term "Respondent's Goods" refers to each of the items set forth in Respondent's Registration No. 2,898,544 for the mark GAGA PURE PLATINUM.

D. The term "Respondent's Mark" refers to the mark GAGA PURE PLATINUM as set forth in Respondent's Registration No. 2,898,544.

E. The term "Registration" refers to Respondent's Registration No. 2,898,544.

F. The term "Action" refers to the instant cancellation proceeding brought by Petitioner against Respondent's Registration before the Trademark Trial and Appeal Board (Action No. 92055279).

G. The term "Petitioner's Marks" refers to the marks LADY GAGA and LADY GAGA FAME.

H. The term "Answer" refers to the Answer filed by Respondent on May 14, 2012 to the Petition for Cancellation instituted by Petitioner.

I. The term "Identify" when used in reference to: (a) a natural person, means to provide that person's name, address, telephone number, place of employment and/or occupation, job title, and business address and telephone number; and (b) a corporation, means to list the state of incorporation, address, telephone number, and the names of all officers and directors with whom you have dealt in connection with the matters raised by the Complaint and Answer.

J. Unless specifically stated otherwise, the term "document" has the broadest meaning accorded to it and includes all written, typewritten, printed or recorded matter (however produced or reproduced or stored) of every kind and description in the actual or constructive possession, custody, care or control of any party or agent of the party called upon to produce documents pursuant to these requests, including, but not limited to, the following: notes; communications; electronic mail communications; e-mails, facsimile transmissions; memoranda; reports; letters; sound recordings; albums; compact discs; tapes (audio, video, computer and/or other); bank statements and checks; agreements; contracts; transcripts or notes of conversations

or meetings; minutes of meetings (with any attachments referenced therein); statements; resolutions; directives; reports; employment, payroll and/or salary records; deposition and trial transcripts; papers filed in court and/or arbitral forums; and legal instruments. The term "document" shall include both drafts and final versions, whether executed or not. Each copy of a document which contains any separate notations or writings thereon shall be deemed to be a separate document for purposes of these requests.

K. The term "concerning" means referring to, alluding to, relating to, connected with, supporting, commenting on, in respect of, about, regarding, discussing, showing, describing, mentioning, analyzing, reflecting and/or constituting.

L. The term "communication" means the transmittal of information in the form of facts, items, inquiries, opinions or otherwise.

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

N. The term "all" shall include "each" and "any," and the terms "each" and "any" shall include "all."

O. Reference in the singular shall include the plural, and reference to the plural shall include the singular

### **INSTRUCTIONS**

1. In responding to these interrogatories, you are required to furnish all information available to you and any of your representatives, employees, agents, investigators or attorneys and to obtain and furnish all information that is in your possession, custody or control or in the possession, custody or control of any of your representatives, employees, agents, investigators or attorneys. If your response is that the requested information is not within your possession or custody, please: (a) describe in detail the unsuccessful efforts you made to obtain such information; and (b) identify who has control and the location of the information.

2. If any of these interrogatories cannot be answered in full, answer to the extent possible, specifying the reasons for the inability to answer the remainder and stating whatever information, knowledge or belief you have concerning the unanswered portion.

3. If any interrogatory is not fully answered on the grounds of a claim of privilege, support for the claim of privilege must be provided, including identification of the persons present each time the information responsive to the interrogatory was discussed, a description of the information sufficient to allow the claim of privilege to be evaluated, and the basis for the claimed privilege.

4. These interrogatories shall be deemed continuing, so as to require additional responses if further information responsive to these interrogatories is obtained after the time the responses are served. Such additional responses shall be served from time to time, but not later than twenty (20) days after such information is received.

5. Each objection to these interrogatories shall state with specificity the grounds for such objection, and the failure to specify the grounds for each objection within the time provided by the Federal Rules of Civil Procedure shall render the objection waived.

6. If any Document that would be responsive to a discovery request has been lost, discarded or destroyed, identify the Document as completely as possible, providing as much of the following information as possible: (a) the type of Document; (b) a description of the Document; (c) the approximate date it was lost, discarded or destroyed; (d) the circumstances and manner in which it was lost, discarded or destroyed; (e) the reason(s) for disposing of or discarding the Document; (f) the identity of the person who lost, discarded or destroyed the Document; (g) the identity of any person authorizing or having knowledge of the circumstances surrounding losing, discarding or destroying the Document; and (h) the identity of any person having knowledge of its contents. In addition, identify any Document reflecting any of the information sought above.

7. If Respondent has no information about the subject of a particular interrogatory, or if for some reason Respondent is unable to answer the interrogatory, the response to that interrogatory should specifically so state, and no interrogatory should be without some response. If Respondent has some information now available that would be responsive, it should provide the information it now has and should specifically state when the balance of the information will be provided. The fact that a full answer cannot be given is not a basis for Respondent to fail to provide such information as is available at the time of the response to these interrogatories.

8. Pursuant to Federal Rule of Civil Procedure 33(d), in lieu of describing or identifying a document, Respondent may produce a copy of that document and identify the interrogatory to which it is furnished in response.

#### **INTERROGATORIES**

1. Identify all customers of Respondent's Goods sold in connection with Respondent's Mark each year from 2001 to present broken out by year and Goods.

2. Identify persons having knowledge or information concerning any of the facts Respondent 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.

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

4. Describe in detail the actual use of Respondent's Mark on Respondent's Goods by identifying each type of item that bears Respondent's Mark and identifying the manner in which Respondent's Mark is affixed to or used in connection with each such item.

5. Identify the date of first use in the United States of Respondent's Mark on each item identified in the Registration.

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

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

7. For each type of item identified in response to Interrogatory No. 7 above, state Respondent'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 Respondent's response.

8. Identify any and all persons Respondent has authorized, licensed or otherwise granted the right to use Respondent's Mark in commerce in connection with Respondent'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 Respondent's Mark.

9. Identify all cease and desist demand letters and responses thereto, litigations, trademark actions or proceedings, ICANN proceedings and/or other challenges concerning Respondent's Mark 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.

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

11. Identify the total number of sales of Respondent's Goods bearing Respondent's Mark each year from 2001 to the present.

12. Identify the first date that Respondent's began selling Respondent's Goods on gagapureplatinum.com.

13. Identify the registration date of Respondent's Facebook account for GAGA PURE PLATINUM.

14. Identify and describe the relationship between Respondent and Gaga Pure Platinum on the one hand and Zela International on the other.

15. Identify each item sold by or on behalf of Respondent since 2004 that bears Respondent's Mark.

16. Identify all web designers and developers and persons affiliated with use and registration of the domain name gagapureplatinum.com.

17. Identify all distributors for Respondent's Mark sold under Respondent's Goods each year from 2001 to the present.

18. Identify all retailers and wholesalers for Respondent's Mark sold under Respondent's Goods each year from 2001 to the present.

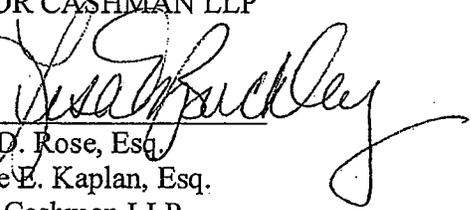
19. If you believe that Petitioner's Marks are confusingly similar to Respondent's Mark, set forth the basis for your belief.

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.

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

Dated: June 28, 2012

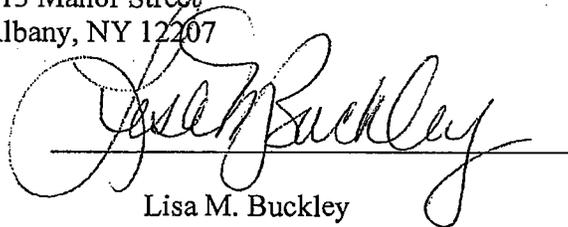
PRYOR CASHMAN LLP

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

CERTIFICATE OF SERVICE

I certify that on June 28, 2012, a true and correct copy of the foregoing PETITIONER'S FIRST SET OF INTERROGATORIES is being mailed by first class mail, postage prepaid to Respondent at the following address:

Christina Sukljan  
13 Manor Street  
Albany, NY 12207



A handwritten signature in cursive script, reading "Lisa M. Buckley", is written over a horizontal line. The signature is fluid and stylized, with the first name "Lisa" and last name "Buckley" clearly legible.

Lisa M. Buckley

# **EXHIBIT C**

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

In the Matter of U.S. Registration No. 2898544  
Mark: GAGA PURE PLATINUM

-----X	
Ate My Heart, Inc.	:
	:
Plaintiff	:
	:
v.	:
	:
Christina Sukljian,	:
	:
Defendant	:
-----X	

Cancellation No. 92055279

**DEFENDANT'S ANSWERS TO PLAINTIFF'S FIRST REQUEST FOR THE PRODUCTION OF  
DOCUMENTS**

Defendant, Christina Sukljian, hereby answers Plaintiff, Ate My Heart, Inc.'s, first request for the production of documents.

**GENERAL OBJECTIONS**

Defendant objects to the instructions and definitions contained in Plaintiff Ate My Heart, Inc.'s, First Request for the Production of Documents because, as applied to specific discovery requests, they cause the requests to be overly broad and global, vague and ambiguous, unduly burdensome, and to seek information, in part, protected from disclosure by the attorney-client, work product, party communications, investigative, and consulting expert privileges. Subject to and without waiving these general objections, Defendant responds to the specific interrogatories as follows:

**ANSWERS**

Response to Document Request No. 1: Claim of privilege by Defendant.

Response to Document Request No. 2: Claim of privilege by Defendant.  
Response to Document Request No. 3: Claim of privilege by Defendant.  
Response to Document Request No. 4: Claim of privilege by Defendant  
Response to Document Request No. 5: Claim of privilege by Defendant  
Response to Document Request No. 6: Claim of privilege by Defendant  
Response to Document Request No. 7: Claim of privilege by Defendant  
Response to Document Request No. 8: Claim of privilege by Defendant  
Response to Document Request No. 9: Claim of privilege by Defendant  
Response to Document Request No.10: Claim of privilege by Defendant  
Response to Document Request No.11: Claim of privilege by Defendant  
Response to Document Request No.12: Claim of privilege by Defendant  
Response to Document Request No.13: Claim of privilege by Defendant  
Response to Document Request No.14: Claim of privilege by Defendant  
Response to Document Request No.15: Claim of privilege by Defendant  
Response to Document Request No.16: Claim of privilege by Defendant  
Response to Document Request No.17: Claim of privilege by Defendant  
Response to Document Request No.18: Claim of privilege by Defendant  
Response to Document Request No.19: Claim of privilege by Defendant  
Response to Document Request No.20: Claim of privilege by Defendant  
Response to Document Request No.21: Claim of privilege by Defendant

Response to Document Request No.22: Claim of privilege by Defendant

Response to Document Request No.23: Claim of privilege by Defendant

Response to Document Request No.24: Claim of privilege by Defendant

Response to Document Request No.25: Claim of privilege by Defendant

Response to Document Request No.26: Claim of privilege by Defendant

Response to Document Request No.27: Claim of privilege by Defendant

Response to Document Request No.28: Claim of privilege by Defendant

Response to Document Request No.29: Claim of privilege by Defendant

Response to Document Request No.30: Claim of privilege by Defendant

Response to Document Request No.31: Claim of privilege by Defendant

Response to Document Request No.32: Claim of privilege by Defendant

Response to Document Request No.33: Claim of privilege by Defendant

Response to Document Request No.34: Claim of privilege by Defendant

Response to Document Request No.35: Samples of Defendant's goods are in use in commerce and available to purchase on [www.gagapureplatinum.com](http://www.gagapureplatinum.com).

Response to Document Request No.36: Claim of privilege by Defendant

Response to Document Request No.37: Claim of privilege by Defendant

Response to Document Request No.38: Claim of privilege by Defendant

Response to Document Request No.39: Claim of privilege by Defendant

Response to Document Request No.40: Claim of privilege by Defendant

Response to Document Request No.41: Claim of privilege by Defendant

Response to Document Request No.42: Claim of privilege by Defendant

Response to Document Request No.43: Claim of privilege by Defendant

Response to Document Request No.44: Claim of privilege by Defendant

Response to Document Request No.45: Claim of privilege by Defendant

Response to Document Request No.46: Claim of privilege by Defendant

Response to Document Request No.47: Claim of privilege by Defendant

Response to Document Request No.48: Claim of privilege by Defendant

Response to Document Request No.49: Claim of privilege by Defendant

Response to Document Request No.50: Claim of privilege by Defendant

Response to Document Request No.51: Claim of privilege by Defendant

Response to Document Request No.52: Claim of privilege by Defendant

Response to Document Request No.53: Claim of privilege by Defendant

Response to Document Request No.54: Claim of privilege by Defendant

Response to Document Request No.55: Claim of privilege by Defendant

Response to Document Request No.56: Claim of privilege by Defendant

Response to Document Request No.57: Claim of privilege by Defendant

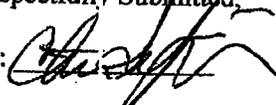
Response to Document Request No.58: Claim of privilege by Defendant

Response to Document Request No.59: Claim of privilege by Defendant

Response to Document Request No.60: Claim of privilege by Defendant  
Response to Document Request No.61: Claim of privilege by Defendant  
Response to Document Request No.62: Claim of privilege by Defendant  
Response to Document Request No.63: Claim of privilege by Defendant  
Response to Document Request No.64: Claim of privilege by Defendant  
Response to Document Request No.65: Claim of privilege by Defendant  
Response to Document Request No.66: Claim of privilege by Defendant  
Response to Document Request No.67: Claim of privilege by Defendant  
Response to Document Request No.68: Claim of privilege by Defendant  
Response to Document Request No.69: Claim of privilege by Defendant  
Response to Document Request No.70: Claim of privilege by Defendant

Dated: Albany, New York  
November 26, 2012

Respectfully Submitted,

By: 

Christina Sulkjian  
Defendant  
GAGA PURE PLATINUM  
13 Manor Street  
Albany, New York 12207

**CERTIFICATE OF PROOF OF SERVICE**

I hereby certify that a true and correct copy of the foregoing DEFENDANT'S ANSWERS TO PLAINTIFF'S FIRST REQUEST FOR THE PRODUCTION OF DOCUMENTS has been served on Ate My Heart, Inc. by mailing said copy on November 26, 2012 via The United States Postal Service Priority Mail with Signature Confirmation in a postage prepaid envelope addressed to: Ate My Heart, Inc. c/o Pryor Cashman LLP, 7 Times Square, New York, NY 10036.



Christina Sukjian

13 Manor Street

Albany, NY 12207

Date of Deposit: November 26, 2012  
USPS Priority Mail

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

In the Matter of U.S. Registration No. 2898544  
Mark: GAGA PURE PLATINUM

-----x	
Ate My Heart, Inc.	:
	:
Plaintiff	:
	:
v.	:
	:
Christina Sukljian,	:
	:
Defendant	:
-----x	

Cancellation No. 92055279

**DEFENDANT'S ANSWERS TO PLAINTIFF'S FIRST SET OF INTERROGATORIES**

Defendant, Christina Sukljian, hereby answers Plaintiff, Ate My Heart, Inc.'s, first set of interrogatories.

**GENERAL OBJECTIONS**

Defendant objects to the instructions and definitions contained in Plaintiff Ate My Heart, Inc.'s, First Set of Interrogatories because, as applied to specific discovery requests, they cause the requests to be overly broad and global, vague and ambiguous, unduly burdensome, and to seek information, in part, protected from disclosure by the attorney-client, work product, party communications, investigative, and consulting expert privileges. Subject to and without waiving these general objections, Defendant responds to the specific interrogatories as follows:

**ANSWERS**

Response to Interrogatory No. 1: Claim of privilege by Defendant.

Response to Interrogatory No. 2: Christina Sukljian

Response to Interrogatory No. 3: Claim of privilege by Defendant.

Response to Interrogatory No. 4: Claim of privilege by Defendant

Response to Interrogatory No. 5: Claim of privilege by Defendant

Response to Interrogatory No. 6: Claim of privilege by Defendant

Response to Interrogatory No. 7: Claim of privilege by Defendant

Response to Interrogatory No. 8: Claim of privilege by Defendant

Response to Interrogatory No. 9: Claim of privilege by Defendant

Response to Interrogatory No.10: Claim of privilege by Defendant

Response to Interrogatory No.11: Claim of privilege by Defendant

Response to Interrogatory No.12: Claim of privilege by Defendant

Response to Interrogatory No.13: Claim of privilege by Defendant

Response to Interrogatory No.14: Claim of privilege by Defendant

Response to Interrogatory No.15: Claim of privilege by Defendant

Response to Interrogatory No.16: Claim of privilege by Defendant

Response to Interrogatory No.17: Claim of privilege by Defendant

Response to Interrogatory No.18: Claim of privilege by Defendant

Response to Interrogatory No.19: Claim of privilege by Defendant

Response to Interrogatory No.20: Christina Sukljian

Response to Interrogatory No.21: Claim of privilege by Defendant

**CERTIFICATE OF PROOF OF SERVICE**

I hereby certify that a true and correct copy of the foregoing DEFENDANT'S ANSWERS TO PLAINTIFF'S FIRST SET OF INTERROGATORIES has been served on Ate My Heart, Inc. by mailing said copy on November 26, 2012 via The United States Postal Service Priority Mail with Signature Confirmation in a postage prepaid envelope addressed to: Ate My Heart, Inc. c/o Pryor Cashman LLP, 7 Times Square, New York, NY 10036.



Christina Sukljan

13 Manor Street

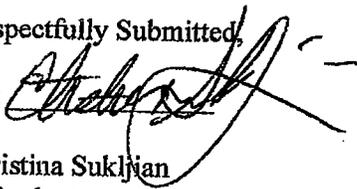
Albany, NY 12207

Date of Deposit: November 26, 2012  
USPS Priority Mail

Dated: Albany, New York  
November 26, 2012

Respectfully Submitted,

By:

  
Christina Sukljan  
Defendant  
GAGA PURE PLATINUM  
13 Manor Street  
Albany, New York 12207