

ESTTA Tracking number: **ESTTA630295**

Filing date: **10/01/2014**

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

Proceeding	91209028
Party	Plaintiff Perfect Memorials LLC
Correspondence Address	PETER G NIKOLAI NIKOLAI & MERSEREAU PA 900 2ND AVE S , SUITE 1550 MINNEAPOLIS, MN 55402 UNITED STATES peter.nikolai@nm-iplaw.com, april.nelson@nm-iplaw.com
Submission	Testimony For Plaintiff
Filer's Name	Peter G. Nikolai
Filer's e-mail	peter.nikolai@nm-iplaw.com, mary.nikolai@nm-iplaw.com
Signature	/s/Peter G. Nikolai
Date	10/01/2014
Attachments	DeTorre Mark (Full Size).pdf(194465 bytes ) DeTorre Exhibit_01.pdf(1316652 bytes ) DeTorre Exhibit_02.pdf(697886 bytes ) DeTorre Exhibit_03.1.pdf(4008146 bytes ) DeTorre Exhibit_03.2.pdf(3562340 bytes ) DeTorre Exhibit_04.pdf(4976392 bytes ) DeTorre Exhibit_05.pdf(498218 bytes ) DeTorre Exhibit_06.1.pdf(4697610 bytes ) DeTorre Exhibit_06.2.pdf(4504026 bytes ) DeTorre Exhibit_07.pdf(1049918 bytes ) DeTorre Exhibit_08.pdf(1033232 bytes )

In the matter of Trademark Serial No. 85/772,100  
For the Mark: WEEPING ANGEL  
Filed: September 6, 2012  
Published: January 1, 2013

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

- - - - -

Perfect Memorials, LLC

Opposer,

Opposition No. 91209028

v.

United Priority Distributors,

Applicant.

- - - - -

Deposition of  
MARK DETORRE  
Thursday, September 18, 2014  
9:12 a.m.

Rhonda Olynyk  
Court Reporter



1 APPEARANCES:

2

ATTORNEY FOR OPPOSER PERFECT MEMORIALS, LLC:

3

Peter G. Nikolai

4 Attorney at Law

Nikolai & Mersereau, P.A.

5 900 Second Avenue South

Suite 1550

6 Minneapolis, MN 55402

peternikolai@nm-iplaw.com

7

8

9

10

11

\* \* \* \* \*

12

(THE ORIGINAL TRANSCRIPT IS IN THE  
POSSESSION OF NIKOLAI & MERSEREAU, P.A.)

13

\* \* \* \* \*

14

15

16

17

18

19

20

21

22

23

24

25

## 1 I N D E X

## 2 EXAMINATION:

3 By Mr. Nikolai - Page 4

4

## EXHIBITS:

5

Number	Description	Marked
6		
1	Opposer Perfect Memorials, LLC's Notice of Testimony Deposition of Mark DeTorre (2 pages)	5
7		
8		
2	Certificate of Service (1 page)	5
9		
10	Market Research Report of Mark DeTorre for Perfect Memorials, LLC v. United Priority Distributors (10 pages)	17
11		
12		
4	"Weeping Angel" Recognition survey (7 pages)	20
13		
14	"Weeping Angel Urn" picture (1 page)	29
15		
6	DeTorre Report, Exhibit C (19 pages)	34
16		
17	DeTorre Report, Exhibit D (2 pages)	36
18		
8	DeTorre Report, Exhibit E (2 pages)	36
19		
20		
21		
22		
23		
24		
25		

1           Deposition of MARK DETORRE, taken pursuant to  
2 Notice of Taking Deposition and taken before Rhonda  
3 Olynyk, a Notary Public in and for the County of  
4 Scott, State of Minnesota, at the law offices of  
5 Nikolai & Mersereau, P.A., 900 Second Avenue South,  
6 Suite 1550, Minneapolis, Minnesota.

7           WHEREUPON, the following proceedings were duly  
8 had:

9           (The court reporter administers the oath.)

10                   WITNESS RESPONSE: I do.

11                   MR. NIKOLAI: Before we begin, there's a  
12 procedural matter that I'd like to put on the record.  
13 This is the testimony deposition of Mark DeTorre in  
14 the Trademark Trial and Appeal Board -- before the  
15 Trademark Trial and Appeal Board for Perfect  
16 Memorials, LLC, versus United Priority Distributors,  
17 Opposition Number 91209028, and this deposition is  
18 being taken pursuant to Trademark Trial and Appeal  
19 Board Manual of Procedure (TBMP) 701.01 and Rule 2.123  
20 of the Trademark Rules of Practice. This deposition  
21 was noticed to opposing counsel, Paul Godfread, on  
22 August 27th, 2014.

23                   I'm going to make of record as Exhibit 1 the  
24 Notice of Deposition, and Exhibit 2 is going to be the  
25 Certificate of Service that was served on Mr. Godfread

1 by email and first class mail on August 27th, 2014.  
2 There's a typo in here that says '13. It should say  
3 '14. I called Mr. Godfread this morning, and he  
4 informed me that he was not going to be attending  
5 today's deposition.

6 Now we've got the preliminaries out of the way,  
7 let's begin the deposition.

8 (DeTorre Deposition Exhibits 1 and 2  
9 were marked for identification.)

10

11

MARK DETORRE,

12

A witness in the above-entitled proceedings,

13

after having been first duly sworn,

14

deposed under oath as follows:

15

EXAMINATION

16

BY MR. NIKOLAI:

17

Q. Mr. DeTorre, can you state your name for the record?

18

A. Mark DeTorre.

19

Q. And where do you live?

20

A. 1580 Ashbury Place in Eagan, Minnesota.

21

Q. And how old are you?

22

A. 54.

23

Q. All right. I'm going to ask you some background

24

questions about your job and your education now. What

25

is your occupation?

1 A. I am COO of MSG Minnesota, Inc.

2 Q. And what does MSG Minnesota, Inc., do?

3 A. Three divisions. The first division is marketing  
4 research, the second is customer support, and the  
5 third is Website design and build.

6 Q. Tell me about the marketing research division at MSG.

7 A. We are a custom marketing research firm where we do  
8 both quantitative and qualitative research for a wide  
9 range of firms.

10 Q. Explain for me what qualitative research is.

11 A. Qualitative is small numbers of people, like  
12 one-on-one discussions or small groups, focus groups,  
13 where you get people's opinions that are not  
14 statistical or representative of any population.

15 Q. And what are -- what's quantitative research then?

16 A. Quantitative research is completely the opposite.  
17 It's large numbers of interviews that are normally  
18 done in a survey-based tool that can be projectable to  
19 the population.

20 Q. And how long has MSG been in business?

21 A. MSG officially has been in business since 2008, and  
22 prior to that it was The Market Solutions Group, which  
23 had been in business since 1998.

24 Q. So you've been in business about 27 --

25 A. Yeah. 26, 27 years, something like that.

1 Q. 27 years of doing quantitative research?

2 A. Yes.

3 Q. Okay. And how long have you been the CEO -- the COO  
4 at MSG?

5 A. For -- since 2008.

6 Q. Okay. Have you held any other positions there?

7 A. No.

8 Q. And where is MSG headquartered?

9 A. In Eagan.

10 Q. What are your duties at MSG?

11 A. My duties range from direct relationship with the  
12 clients, client management, and also design of  
13 processes in terms of surveys for the client. So I'm  
14 actively involved in the actual design of the surveys.

15 Q. And you've been involved in the design of surveys for  
16 27 years?

17 A. Yes, plus my time at 3M.

18 Q. Can you give me some examples of the kinds of projects  
19 that MSG does?

20 A. We do customer satisfaction where we'll work with a  
21 client who wants to measure the satisfaction of their  
22 existing customers. We do brand work where people are  
23 interested in understanding what consumers think of  
24 the brand and what key attributes make up that brand  
25 as well as competitive brands. We do new products

1           research where we help define and structure the  
2           definition of new products for clients. So those are  
3           probably the three primary areas that we work.

4    Q.    I'm going to ask you some questions about your  
5           background now. Where did you go to high school?

6    A.    Homestead High School in Milwaukee, Wisconsin.

7    Q.    And what year did you graduate from there?

8    A.    1978.

9    Q.    And did you go to college right after graduation?

10   A.    I did.

11   Q.    And where did you end up going?

12   A.    University of Wisconsin in Madison.

13   Q.    And what did you study there?

14   A.    Marketing.

15   Q.    What kind of classes did you take in marketing at --

16   A.    In the undergraduate program it was marketing,  
17           marketing research, accounting, finance, the whole  
18           gamut, but emphasis in marketing the last two years.

19   Q.    Okay. Including marketing research?

20   A.    Yes.

21   Q.    What kind of projects did you do in undergrad for  
22           marketing research?

23   A.    I actually can't think of any projects in  
24           undergraduate school, but I can think of projects in  
25           graduate school.

1 Q. Well, what year -- let's get there. What year did  
2 you graduate from Madison?

3 A. 1982.

4 Q. And when did you start graduate school?

5 A. Let's see. I worked for three years. '85. So I was  
6 in graduate school in '86 and '87, graduated graduate  
7 school in '87.

8 Q. And where did you go to graduate school?

9 A. University of Wisconsin in Madison.

10 Q. And what was the -- what did you study there?

11 A. I got my master's in business with an emphasis in  
12 marketing research.

13 Q. And what courses did you take at Madison in graduate  
14 school?

15 A. Oh, my lord, there's probably six upper-level  
16 marketing research classes.

17 Q. Can you just generally tell me about those classes?

18 A. Survey design, statistics, new products.

19 Q. So you took a marketing research class in undergrad,  
20 and then you took a survey design class in graduate  
21 school?

22 A. Graduate school, yes.

23 Q. What kind of projects did you work on?

24 A. Well, that's where -- graduate school is more  
25 application where we worked with companies in town to

1           develop surveys and implement the surveys and do the  
2           analysis and write the reports. I remember one  
3           specific, Rocky Rococo's Pizza.

4    Q.    Okay. Tell me about that.

5    A.    They were actually looking to expand, so we did a  
6           research project in Madison of a certain part of town  
7           to see if the consumers in that area would be  
8           interested in the pizza.

9    Q.    Okay.

10   A.    Yeah.

11   Q.    I'm going to change the subject now to your work  
12           history.

13   A.    Yes.

14   Q.    So I think it might be best to go in reverse  
15           chronological order. So for the past 20 -- you just  
16           testified, I believe, that for the past 27 years  
17           you've been working at MSG and MSG's predecessor.  
18           Before then where did you work?

19   A.    I worked at 3M.

20   Q.    And what did you do for 3M?

21   A.    I was first -- for the first two years, two and a half  
22           years, I was in the corporate marketing research  
23           group. It was a corporate group that was the  
24           marketing research specialist that did research for  
25           all the individual divisions. The divisions didn't

1           have their own research. They came to the corporate  
2           group, and we did research for the different  
3           divisions.

4    Q.    And what kinds of research did you do for them?

5    A.    We did a lot of new products research. We did a lot  
6           of brand research, market assessment, to look at new  
7           markets to determine if it was an opportunity for 3M.

8    Q.    Tell me a little bit about new product research. What  
9           goes into new product research?

10   A.    It's -- it's a pretty long process. Most of the time  
11           companies come up with ideas, concepts for products,  
12           and so you go through a process of gaining customer  
13           input over the course of the development process to  
14           help modify and optimize the design of the products,  
15           and it is both qualitative and quantitative.

16   Q.    And tell me about customer satisfaction -- you did  
17           customer satisfaction research for 3M?

18   A.    Yes.

19   Q.    Tell me about that. What goes into customer  
20           satisfaction?

21   A.    Customer satisfaction research is historically and  
22           predominantly quantitative research, and so you're  
23           surveying large -- large numbers of customers. You're  
24           making sure that you survey them properly in terms of  
25           the different types of customers, and then you analyze

1 the data and provide the data back to the client.

2 Q. What are you looking for in the data?

3 A. Predominantly, you're looking for trends in terms of  
4 is their satisfaction going up or down over time and  
5 what factors influence that satisfaction.

6 Q. While you were at 3M, did you win any awards for your  
7 work there?

8 A. We did. In the dental division, the division won the  
9 Malcolm Baldrige Award, it's a quality award, which I  
10 was involved with the work on that award.

11 Q. Besides -- strike that.

12 So where did you work before 3M?

13 A. A company called PPG Industries.

14 Q. And what did you do for PPG?

15 A. I was an industrial sales rep.

16 Q. Okay.

17 A. And that was prior to graduate school.

18 Q. Right. Have you ever taught any courses on marketing  
19 research?

20 A. I have guest lectured at the University of St. Thomas  
21 graduate program, and I've guest lectured at the  
22 University of Minnesota.

23 Q. And what were those lectures on?

24 A. Marketing research and statistics.

25 Q. Were they for a statistics class or a marketing

1 research class?

2 A. A marketing research, but the application of  
3 statistics in marketing research.

4 Q. Okay. How many -- and this is your best guess. How  
5 many quantitative survey research projects have you  
6 worked on?

7 A. Oh, my gosh. We probably do 120 projects a year. So  
8 100 times 25 years.

9 Q. Okay.

10 A. 2500.

11 Q. Okay. How do you develop a survey?

12 A. It's -- it's a process. The first thing we do is  
13 assess the objectives of the client, we gain input in  
14 terms of their objectives, and then we go back and as  
15 a team sit down and draft a survey document that we  
16 think is appropriate to accomplish the objectives.

17 The client approves the survey, and then we -- if  
18 it -- depending on how it's being fielded, if it's an  
19 online survey, then we program it and test it to make  
20 sure that it works properly, and then we field it. If  
21 it's a consumer study, we'll field it through a known  
22 panel. If it's a customer client where they have the  
23 email addresses, they'll provide us the email  
24 addresses. Then we invite participants to come and do  
25 the survey, and then we create the results through

1 pulling the data down and putting it into data tables  
2 and producing a report.

3 Q. Okay. How do you design your samples?

4 A. It depends on the project. We are -- we pick the most  
5 appropriate method based on what the objectives are.  
6 So if it's a customer sat, we'll get a sample from the  
7 client. If it's a random population of consumers,  
8 then we'll choose the methodology in terms of the  
9 sample that's most appropriate to the application.

10 Q. And how do you analyze your surveys?

11 A. We have a data-processing package called Mentor that  
12 we put the data into and create what are called banner  
13 tables, and then we also use the statistical package  
14 called SPSS.

15 Q. And you also said that at the end you issue a report  
16 to your client.

17 A. Correct.

18 Q. How do you report your surveys?

19 A. The surveys are reported either in PowerPoint or a  
20 Word document.

21 Q. Now, you've said that you've probably done in the past  
22 ten years about 2500 surveys. Could you give us a  
23 breakdown of percentage of that 2500 what are customer  
24 satisfaction, what are new product?

25 A. I'd probably say that 40 percent are customer sat,

1           30 percent are new product, 20 percent are brand,  
2           some type of brand-related, and then the rest are  
3           miscellaneous that kind of run the gamut.

4    Q.    Okay. In connection with this matter, have you  
5           designed or caused to be conducted a survey regarding  
6           the "Weeping Angel" trademark?

7    A.    I didn't -- say that again. I didn't --

8    Q.    It was probably not the best way I could ask it. In  
9           connection with this matter, did you design a survey  
10          regarding the term "Weeping Angel"?

11   A.    Oh, yes, yes.

12   Q.    And did you cause that survey to be conducted?

13   A.    Did we field it and --

14   Q.    Did you field it?

15   A.    Yes, yes. We managed the process to field the survey,  
16          yes.

17   Q.    When did you -- approximately when did you design and  
18          conduct the survey?

19   A.    Around June of this year.

20   Q.    How did it come to be that you designed and conducted  
21          the survey?

22   A.    Peter, you contacted us and asked if we would conduct  
23          a survey for you, and we agreed and went through the  
24          process.

25   Q.    And what did you understand to be the purpose of this

1 survey?

2 A. To the best of my recollection, there was a case  
3 involved where we needed to determine what consumers  
4 thought about "Weeping Angel" and what their  
5 perception was, whether it was a generic or  
6 descriptive kind of product.

7 Q. And you mentioned the terms "generic" and  
8 "descriptive." What is your understanding of what  
9 those terms mean?

10 A. It's basically in terms of how a consumer perceives a  
11 particular product or a brand.

12 Q. Do they understand that it's a brand or do they  
13 understand that it's a name of a product?

14 A. A product. Yes.

15 Q. Yeah.

16 A. Or a generic item.

17 Q. Right.

18 A. Yeah.

19 Q. And how did you come to understand those meanings?

20 A. To be honest with you, as part of the process of  
21 designing the survey, many times we learn new topics  
22 as we get involved, and this is one that we learned  
23 some new topics.

24 MR. NIKOLAI: All right. Let's mark this  
25 as Exhibit 3.

1 (DeTorre Deposition Exhibit 3  
2 was marked for identification.)

3 BY MR. NIKOLAI:

4 Q. I'm handing you what has been marked as Exhibit 3.  
5 Can you identify this for me?

6 A. Yes. This is our report.

7 Q. And does it appear to be a true and accurate copy of  
8 your report?

9 A. It does indeed.

10 Q. And can you summarize for me, please, what you did in  
11 connection with this study or survey?

12 A. We -- after understanding the basic objectives, we  
13 identified a couple of surveys and one particular that  
14 had been used previously, a format or a structure of a  
15 survey that had previously been used in a case similar  
16 to this, and that was the framework from which we used  
17 to design the survey. We designed the survey, we  
18 programmed the survey, and then we fielded the survey  
19 to consumers, and then we got the results back and  
20 published this report.

21 Q. If you would turn to page 4 of the report, paragraph  
22 12.

23 A. Yes.

24 Q. Do you see the mention of the online panel?

25 A. Yes.

1 Q. Explain for me what an online panel is.

2 A. In quantitative research there are primarily three  
3 ways to collect data from consumers. One is mail  
4 surveys, the second is telephone surveys, and the  
5 third is by doing online surveys with consumers.

6 There are two companies that have created very  
7 large consumer panels that research firms can access  
8 to conduct quantitative surveys online. One is  
9 Research Now, and one is Survey Sampling, Inc., and  
10 both companies have well over 4 million consumers that  
11 are part of their panels, and so research firms like  
12 ourselves buy access to their panels to conduct online  
13 surveys.

14 Q. So you're familiar with Research Now?

15 A. Yes.

16 Q. And you're familiar with how Research Now operates?

17 A. Yes.

18 Q. How are the panel members invited to participate in  
19 the surveys by Research Now?

20 A. Research Now has their panel members that have agreed,  
21 and basically when we field a study with Research Now,  
22 all they do is send emails out that say, please  
23 participate in this survey, and they provide a link  
24 that links over to our survey tool, and then they  
25 participate in our survey.

1 Q. Does Research Now do any prescreening of their  
2 panelists?

3 A. No.

4 Q. But they have demographic information about them?

5 A. Oh, when they become members of the panel --

6 Q. Yeah.

7 A. -- yes, they have -- they prescreen to look at the  
8 demographics of each of the consumers to make sure  
9 that their panel represents the general population.  
10 So, yes, they have demographic information on each of  
11 the panel members in order to approve them as panel  
12 members.

13 Q. Do you have an ownership interest in Research Now?

14 A. No.

15 Q. How do we know that the person responding to the email  
16 is an actual person?

17 A. Well, first we have an IP address, that each of the  
18 people that do the survey when they hit our site we  
19 see an actual IP address, so we know they're  
20 individually unique locations in the country where a  
21 computer has connected to the Internet.

22 Q. Okay. Did Research Now know what the purpose of the  
23 survey was?

24 A. No.

25 Q. I don't remember if I asked this or not. As far as



1           allowed to participate in the survey.

2    Q.    And how many people did you screen out using Question  
3           Number 1?

4    A.    Hang on a second.  1,063 people came into Question 1,  
5           and 268 people disqualified for the Question Number 1.

6    Q.    Okay.  And then Question Number 2, what is the purpose  
7           of Question Number 2 on page 1 of Exhibit 4?

8    A.    Question Number 2, in order to properly represent the  
9           population of the United States, you need to sample  
10          proportionately to the size of the population, and so  
11          what this table represents is the number of targeted  
12          surveys per state so that we would equally balance the  
13          survey across the country.

14   Q.    Okay.  So Question Number 2 functions as a screener as  
15          well?

16   A.    Exactly.

17   Q.    And do you know -- do you recall how many you screened  
18          out via Question Number 2?

19   A.    795 people got past Question Number 1.  When they got  
20          to Question Number 2, 363 people got screened out  
21          because we had filled enough of the areas that they no  
22          longer qualified because we didn't want to over-sample  
23          in a particular area.

24   Q.    Turning now to page 2 of Exhibit 4, at the top there  
25          seems to be some explanation of the difference between

1 a common name and a trademark.

2 A. Yes.

3 Q. Did you prepare that?

4 A. Yes.

5 Q. Did you prepare Question Number 1 as well?

6 A. Yes.

7 Q. And did you prepare Question Number 2?

8 A. Yes.

9 Q. Okay. Now, underneath the language of the top two  
10 paragraphs, there's something in bold that says,  
11 "Rotate Q3/4." What does that mean?

12 A. This entire section, it's very common in marketing  
13 research to determine if people understand the topic  
14 that you're working on so that you can make sure that  
15 the study is a valid study. Question 3 and 4 are used  
16 to determine if people understand the concepts. The  
17 rotation is that you -- there's an order bias  
18 associated with questions, and you rotate questions  
19 back and forth to ensure that there is no bias.

20 Q. And how does that do that?

21 A. It randomly rotates them.

22 Q. Oh, I'm sorry. How does it account for the bias?

23 A. Oh, because you're not allowing either question to be  
24 in the first position every time. It's either in the  
25 first position or second position.

1 Q. Okay. So looking at Question 3, some people saw  
2 Question 3 first, some people saw Question 4 first?

3 A. Correct.

4 Q. Okay. And Question 3, "Given this explanation, would  
5 you say Kodak is a trademark or a common name," if  
6 they picked "common name," that would filter them out?

7 A. It would disqualify them from participating in the  
8 survey, yes.

9 Q. And if 4 came first and they said that blender was a  
10 trademark, that would filter them out?

11 A. Correct.

12 Q. Okay. So they have to get both of these questions  
13 right to stay in?

14 A. Correct.

15 Q. Do you recall how many people you filtered out?

16 A. Yes. Only 30 people were filtered out. So basically  
17 those that qualify, 93 percent of the population  
18 understood the difference between these two terms.

19 Q. Okay. And so what did that leave you with your sample  
20 size of?

21 A. It left a sample size of 402.

22 Q. And is that a good sample size for a study like this?

23 A. It's a very good sample size.

24 Q. And why is it a good sample size?

25 A. Because given the size of the United States, to

1 project to the population you want a statistically  
2 significant sample size, and everything over 385 is a  
3 significant sample.

4 Q. I should mention that if you ever need a break let me  
5 know --

6 A. Oh, okay.

7 Q. -- and we can take it. You're not going to be  
8 cross-examined today, so I think we can just power  
9 through.

10 All right. So turning now to page 3, this is the  
11 section of the questionnaire referred to as the "Main  
12 Survey," and then there's some language at the very  
13 top that explains the survey and, you know, gives a  
14 description of a generic trademark. What is the  
15 purpose of this language?

16 A. The purpose of the language is to determine whether  
17 people understand or to prepare them for understanding  
18 the process they're going to go through. It's very  
19 common in new products research and research of this  
20 nature to explain the basics of what they're going to  
21 go through so they understand the process, so that  
22 it's a valid understanding of their responses. This  
23 goes through the exercise of explaining the process  
24 that they're going to go through.

25 Q. Okay. So first there is a first aid kit and

1 refrigerator?

2 A. Yes.

3 Q. Now, what did the -- what did the respondents see on  
4 the screen with this part here?

5 A. The respondents saw the explanation. Do you want  
6 me --

7 Q. Yeah.

8 A. -- to read this?

9 Q. You don't need to read it.

10 A. Okay.

11 Q. Just there's an explanation they saw?

12 A. They saw the explanation, and then they saw the two  
13 pictures of a first aid kit and a refrigerator.

14 Q. And it looks like those two pictures rotated?

15 A. Yes.

16 Q. Did that rotate what was first?

17 A. Exactly. It rotated whether they saw -- in this  
18 particular picture there's a left and a right. It  
19 rotated the pictures so the refrigerator either was on  
20 the left or the right.

21 Q. Okay. And for the record he's referring to page 3 of  
22 Exhibit 4.

23 Then there's some language that explains  
24 descriptive trademarks.

25 A. Yes.

1 Q. And you used 88 Cent Store and oatnut bread for that.

2 A. Correct.

3 Q. And why did you pick those pictures?

4 A. Those pictures properly describe, and they were used  
5 in previous studies.

6 Q. Okay. And then turning to page 4 of Exhibit 4, there  
7 is a discussion of a suggestive trademark, and there's  
8 a Greyhound bus and Chicken of the Sea tuna?

9 A. Correct.

10 Q. And where did you get those images from?

11 A. From a previous study.

12 Q. Okay. And then at the bottom of page 4, there is some  
13 more discussion of keeping these definitions in mind.  
14 What's the purpose of this language here?

15 A. Again, the purpose is to prep the consumer, to make  
16 sure they're fully understanding the process as they  
17 go into the next exercise of the survey.

18 Q. Okay. So then they're going to go into the next  
19 exercise, which is Question 6 --

20 A. Correct.

21 Q. -- and its subpoints?

22 Turning to page 5, you have an image of a Roach  
23 Motel?

24 A. Correct.

25 Q. And where did you get that image from?

1 A. From a previous survey.

2 Q. And it says on the picture here that this is a trap  
3 for roaches and waterbugs and palmetto bugs, etcetera,  
4 correct?

5 A. Correct.

6 Q. And based on that, did you believe that respondents  
7 would know what they were looking at here?

8 A. Yes.

9 Q. And it gives them the opportunity to label it either  
10 as "Generic," "Descriptive," "Suggestive," or "Don't  
11 know"?

12 A. Correct.

13 Q. Why is it important to have a "Don't know"?

14 A. "Don't know" is important because you don't want to  
15 force consumers into a choice, and if they truly don't  
16 know, it allows them an out to choose.

17 Q. Okay. And underneath that, Question 6A2 says, "Why do  
18 you believe that? Not Required." What's going on  
19 there?

20 A. Well, the "Not Required" the consumers don't see.

21 Q. Yeah.

22 A. That's in bold. That's for the survey purpose. The  
23 "Why do you believe that?" is what we refer to as an  
24 open-ended question. It allows the consumer to type  
25 in whatever response they feel as to why they thought

1           it was generic, descriptive, or suggestive.

2    Q.    And why do you want them to give that feedback?

3    A.    Just so at the end if we want to look at the open-ends  
4           to see why people happened to choose generic or  
5           descriptive or suggestive.

6    Q.    Okay. On page 6 there is 6B1, and there's a picture  
7           of Super Glue, correct?

8    A.    Correct.

9    Q.    And people basically know what glue is, right?

10   A.    Correct.

11   Q.    And so the assumption was -- so -- okay. Scratch  
12          that.

13                 And, again, they get the option of "Generic,"  
14                 "Descriptive," "Suggestive," "Don't know," and to give  
15                 a reason why?

16   A.    Yes.

17   Q.    And these all rotate as well to solve for order bias?

18   A.    Correct. They rotate so that consumers saw these  
19          three pictures in different orders.

20   Q.    Okay. So sometimes they saw Super Glue first;  
21          sometimes they saw Roach Motel first?

22   A.    Correct.

23   Q.    And at the bottom of page 6 is Question 6C1?

24   A.    Yes.

25   Q.    What do we have here?

1 A. It's a picture of the "Weeping Angel" urn.

2 MR. NIKOLAI: This is 5.

3 (DeTorre Deposition Exhibit 5

4 was marked for identification.)

5 BY MR. NIKOLAI:

6 Q. I've just been -- or you've just been handed  
7 Deposition Exhibit 5. Can you tell me what Deposition  
8 Exhibit 5 is, please?

9 A. It's a picture of the -- it's a picture and a display  
10 of what we show the consumer on the survey, which is  
11 the "Weeping Angel" urn.

12 Q. And where did you get this image from?

13 A. From the Website.

14 Q. Okay. Whose Website?

15 A. I believe it was the "Weeping Angel" urn Website, the  
16 company that sells the --

17 Q. The applicant's Website?

18 A. Yes.

19 Q. And at the bottom there on both page 6 of Exhibit 4  
20 and at the bottom of page -- the only page of Exhibit  
21 5, it says "Weeping Angel Urn"?

22 A. Yes.

23 Q. Why did you include the word "Urn"?

24 A. It's very important when you do studies like this to  
25 make sure that people understand what the visual is,

1           and so in order for them to understand that it was  
2           an urn, we wanted to make sure we said it's a "Weeping  
3           Angel" urn to help describe and depict what the  
4           product is.

5    Q.    Do you believe that that resulted in a biasing of the  
6           survey?

7    A.    No.  In fact, we believe it was essential so that they  
8           could properly give us an answer to this question,  
9           which is what do you believe this particular item is,  
10          in terms of whether it's generic, descriptive, or  
11          suggestive.

12   Q.    Turning now to page 7, there are two questions asking  
13          about age and gender.  Why do you ask these questions?

14   A.    Because at the end of the survey, even though we  
15          surveyed across the country to balance, to represent  
16          the population, it's very common to also weight the  
17          data at the very end against age and gender, and so  
18          those two questions help us weight the data at the  
19          end.

20   Q.    And what does weighting the data do for you?

21   A.    It just makes it more representative of the general  
22          population.

23   Q.    I'm not sure that this question would make sense to a  
24          person like yourself, but was this properly -- was  
25          this survey properly weighted or were the results

1 properly weighted?

2 A. Oh, absolutely, yes.

3 Q. Who decided what to screen for?

4 A. In terms of the beginning?

5 Q. Yeah.

6 A. We made the recommendation because our job was to make  
7 sure that it closely represented the purchasers of the  
8 product and represented the population. So we  
9 recommended all the screening questions.

10 Q. Were there any categories of people that would be  
11 excluded from the study?

12 A. I have to think about that. The only category of  
13 people that would be excluded are consumers that do  
14 not have access to the Internet.

15 Q. Was there a desired number of respondents that you  
16 would have -- when you started the survey that you  
17 wanted to get completed interviews from?

18 A. We wanted to get over 383.

19 Q. And you got 400 and some?

20 A. 402.

21 Q. Yeah. How was that number arrived at, the 380 number?

22 A. Just because of an infinite size population in order  
23 to make sure that we were statistically significant at  
24 the confidence levels we wanted, that's the  
25 appropriate statistical number to sample.

1 Q. I'm going back to Exhibit 5 briefly. Was this picture  
2 bigger in your survey than it is in Exhibit 5?

3 A. I believe the answer is yes for all of the pictures.  
4 It all depends on the size monitor that the consumer  
5 looked at the picture, but given a normal size  
6 monitor, it was at least this large probably, if not  
7 larger, all the pictures, because they basically fill  
8 up the screen except for the question at the bottom.

9 MR. NIKOLAI: Okay. Could we go off the  
10 record for a second?

11 (Discussion off the record.)

12 MR. NIKOLAI: We can go back on the  
13 record.

14 BY MR. NIKOLAI:

15 Q. Were respondents allowed to take this survey on an  
16 iPhone?

17 A. They were not, because we have to specifically program  
18 it to work on the iPhone, and this study we did not  
19 program it.

20 Q. So they would have to have at least a decent size  
21 monitor?

22 A. Some type of laptop computer or monitor, yes.

23 Q. So you couldn't take it on an iPhone or an Android?

24 A. No, or an iPad, actually. It's all the same  
25 programming.

1 Q. Looking back at Exhibit 4, does this exhibit reflect  
2 the exact questions that were asked to the individual  
3 respondents?

4 A. Oh, Exhibit -- oh, yes.

5 Q. Yeah. I'll start the question over again, just so  
6 we're on the same page.

7 If you look at Exhibit 4, which is the main  
8 questionnaire --

9 A. Yes.

10 Q. -- does the exhibit reflect the exact questions that  
11 were asked of the individual respondents once they  
12 have been qualified through the screening?

13 A. Yes.

14 Q. And who drafted the questions as they appear in  
15 Exhibit 4?

16 A. Myself and my VP of operations.

17 Q. And who's that?

18 A. Laura Newman.

19 Q. And did you supervise Laura Newman in her drafting?

20 A. Yes.

21 Q. So you approved all the --

22 A. Yes.

23 Q. You either drafted or approved all of these questions?

24 A. Correct, correct.

25 Q. What materials did you use in connection with the

1 preparation of the drafting of the questions in  
2 Exhibit 4?

3 A. Materials in terms of sources of information or --

4 Q. Yeah, yeah.

5 A. The primary source of information that we used was a  
6 previous study that had been done and accepted in  
7 terms of being used. So it was a Mr. Berger case that  
8 was done for General Dentistry of Kids.

9 Q. And how did you collect the data from the field?

10 A. An online survey.

11 Q. Okay. The online survey.

12 A. Yeah.

13 Q. And so they went to your Website?

14 A. Correct, correct.

15 (DeTorre Deposition Exhibit 6  
16 was marked for identification.)

17 Q. You've been handed what has been marked as Exhibit 6,  
18 and on the cover it says "DeTorre Report, Exhibit C."  
19 Can you tell me what this document is?

20 A. These are called the banner tables or the topline  
21 tables. It's basically all of the answers to the  
22 questions in the study.

23 Q. And is this a true and correct copy of the topline --  
24 or the banner tables or the topline data?

25 A. Yes.

1 Q. And you used this topline data when preparing your  
2 report?

3 A. Correct.

4 Q. What were the results of the survey?

5 A. The results of the survey were that 60 percent of the  
6 consumers who participated in this study saw the  
7 "Weeping Angel" urn as a descriptive trademark or  
8 descriptive item and 10 percent saw it as generic and  
9 25 percent saw it as suggestive. As a result, we see  
10 that consumers see the "Weeping Angel" urn as  
11 descriptive.

12 Q. And where in your report, which I think is Exhibit  
13 4 -- is it Exhibit 4? Exhibit 3. I'm sorry.

14 A. Exhibit 3.

15 Q. Exhibit 3.

16 A. Yes.

17 Q. Where in your report, Exhibit 3, are the results of  
18 the survey shown in table form?

19 A. On page -- page 8.

20 Q. Okay. And on page 8 or at least somewhere in your  
21 report, there's a discussion in your report of  
22 determining significance. Can you explain  
23 significance for me in this context?

24 A. Yes. Significance of -- first of all, in paragraph 30  
25 and in the table on page 8, we asterisk the 60 percent

1 as significantly different than 25 percent and  
2 10 percent. Significant testing is to determine what  
3 is random chance or randomness in a survey versus what  
4 goes outside of random chance, and if it's  
5 significant, it's outside of random chance.

6 Q. So in this case it is not random chance that the  
7 respondents were -- that 60 percent of the respondents  
8 thought that the mark was descriptive?

9 A. Correct.

10 (DeTorre Deposition Exhibits 7 and 8  
11 were marked for identification.)

12 Q. I'm handing you what has been marked as Exhibit 7 to  
13 your deposition.

14 A. Yes.

15 Q. Can you identify this document for me, please?

16 A. Yes. This is the output of running statistical  
17 significant differences between paired groups.

18 Q. And is this a true and accurate copy of the output  
19 that you prepared?

20 A. It is.

21 Q. Did you personally prepare this?

22 A. I did not personally prepare this. We have a staff  
23 member on our team that's responsible for running the  
24 significant test, but I'm responsible for the  
25 protocols and the process by which they run the test.

1 Q. And so he's running it per your instructions?

2 A. Correct.

3 Q. And what's his name?

4 A. Phil Winkelman.

5 Q. And I'm handing you now what has been previously  
6 marked as Exhibit 8. Can you identify this for me?

7 A. It's a layman's explanation of significant difference.

8 Q. And is it a true and accurate copy of the explanation  
9 of significance that was included as an appendix to  
10 your report?

11 A. Yes, it is.

12 Q. The person that you had run the significance  
13 formulation, they regularly do this for you?

14 A. Yes, on all of our studies.

15 Q. Okay. Based on the results of the survey that you  
16 designed and conducted in June of 2014, what  
17 conclusions do you draw about whether or not the term  
18 "Weeping Angel" is descriptive of the applicant's  
19 funeral urn?

20 A. I'm not sure I understand the question.

21 Q. Okay. Based on the survey --

22 A. Yes.

23 Q. -- do you have any conclusions about whether --

24 A. Yes. We conclude that the general population views  
25 "Weeping Angel" urn as a descriptive trademark.

1 Q. And how have you been compensated in this case?

2 A. We are compensated based on our time, and so the time  
3 associated with designing and implementing the survey  
4 is how we get compensated. So it's by time.

5 Q. And how much have you been compensated?

6 A. \$8,000.

7 Q. And you're being compensated to appear here today,  
8 correct?

9 A. Correct.

10 Q. Were you compensated based on the outcome of this  
11 case?

12 A. No, and in fact we received the 8,000-dollar  
13 compensation before we even produced the results.

14 Q. And there's no further compensation for you based on  
15 the outcome of this case?

16 A. No.

17 Q. And there was no further compensation for you based on  
18 the outcome of the survey?

19 A. No.

20 MR. NIKOLAI: Thank you, Mr. DeTorre. I  
21 have no further questions, and there is no  
22 cross-examination. So I think we'll read and sign.

23 (The foregoing proceedings were concluded at  
24 approximately 10:01 a.m.)

25 \* \* \*

CERTIFICATE OF REPORTER

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

STATE OF MINNESOTA)

) ss.

COUNTY OF SCOTT )

I hereby certify that I reported the deposition of MARK DETORRE, and that the witness was by me first duly sworn to tell the whole truth;

That the testimony was transcribed under my direction and is a true record of the testimony of the witness;

That the cost of the original has been charged to the party who noticed the deposition, and that all parties who ordered copies have been charged at the same rate for such copies;

That I am not a relative or employee or attorney or counsel of any of the parties, or a relative or employee of such attorney or counsel;

That I am not financially interested in the action and have no contract with the parties, attorneys, or persons with an interest in the action that affects or has a substantial tendency to affect my impartiality;

That the right to read and sign the deposition by the witness was not waived.

WITNESS MY HAND AND SEAL this 24th day of September, 2014.

\_\_\_\_\_  
Rhonda Olynyk  
Court Reporter

In the matter of Trademark Serial No. 85/772,100  
For the Mark: WEEPING ANGEL  
Filed : September 6, 2012  
Published : January 1, 2013

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

---

Perfect Memorials, LLC  
Opposer,

Opposition No. 91209028

v.

United Priority Distributors  
Applicant.

---

**OPPOSER PERFECT MEMORIALS, LLC'S NOTICE OF TESTIMONY DEPOSITION  
OF MARK DETORRE**

PLEASE TAKE NOTICE that pursuant to Trademark Trial and Appeal Board Manual of Procedure ("TBMP") 701.01 and Rule 2.123 of the Trademark Rules of Practice (37 C.F.R. 2.123), Opposer, Perfect Memorials, LLC, ("Opposer") will take the testimony deposition of:

Mark DeTorre  
MSG Research & Consulting  
3356 Sherman Court Suite 103  
Eagan, MN 55121

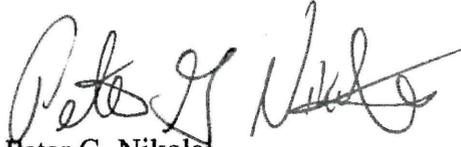
This deposition will take place at the law offices of NIKOLAI & MERSEREAU, P.A., 900 Second Avenue South, Suite 1550, Minneapolis, Minnesota 55402, commencing on **September 18, 2014 at 9:00 a.m.**, unless the parties mutually agree to hold the deposition on a different date or time and/or at a different location.

This deposition will be taken by stenographic means before an officer authorized to administer oaths and will continue from day to day until completed. The deposition will be taken



for the purpose of use at trial in this matter, and for any other purpose permitted under the Federal Rules of Civil Procedure, the Trademark Rules of Practice and the TBMP.

Respectfully submitted,



Peter G. Nikolai  
NIKOLAI & MERSEREAU, P.A.  
900 Second Avenue South  
Suite 1550  
Minneapolis, MN 55402  
Phone: (612) 339-7461

Attorney for Perfect Memorials, LLC

Date: August 27, 2014

In the matter of Trademark Serial No. 85/772,100  
For the Mark: WEEPING ANGEL  
Filed : September 6, 2012  
Published : January 1, 2013

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

Perfect Memorials, LLC  
Opposer,

Opposition No. 91209028

v.

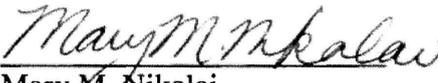
United Priority Distributors  
Applicant.

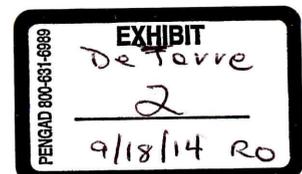
**CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the following documents:

1. Opposer Perfect Memorials, LLC's Notice of Testimony Deposition of Mark DeTorre;
2. Opposer Perfect Memorails, LLC's Notice of Testimony Deposition of Michael West; and
3. Certificate of Service

were served upon Paul Godfread, Godfread Law Firm, P.C., 6043 Hudson Road, Suite 305, Woodbury, MN 55125, paul@godfreadlaw.com (Attorney for Applicant) by E-mail and First Class Mail this 27th day of August, 201<sup>4</sup>~~3~~..

  
Mary M. Nikolai





MARKET RESEARCH REPORT OF MARK DETORRE FOR

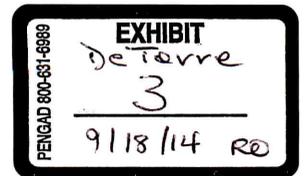
Perfect Memorials, LLC v. United Priority Distributors

“Weeping Angel”

Table of Contents

Expert Opinion ..... 2
Opinion ..... 2
Experience and Qualifications ..... 2
Study Overview ..... 4
Background & Objectives ..... 4
Methodology ..... 4
Detailed Findings ..... 7
Interpretations of Findings ..... 10

- APPENDIX: EXHIBIT A: Questionnaire
APPENDIX: EXHIBIT B: Berger Report
APPENDIX: EXHIBIT C: Topline Data
APPENDIX: EXHIBIT D: Significance Testing
APPENDIX: EXHIBIT E: Note on statistical significance



## Expert Opinion

---

### Opinion

1. Based on a national survey, where 60% of respondents believed that the term “Weeping Angel” is a “descriptive” trademark — as opposed to “generic” or “suggestive” — it is my opinion that the term “Weeping Angel” should be considered a descriptive name, **not** a suggestive name.

### Experience and Qualifications

Mark DeTorre, COO MSG Minnesota Inc.

2. **Personal Background:** As COO and owner of MSG Minnesota Inc, I have over 25 years of experience in the marketing research industry. My portfolio of global market research experience spans the whole gamut of consumer and business-to-business categories as well as political polling. My specialization centers on studies that are projectable to large populations such as market share, political polling, and new product projections. As a firm, we have created proprietary approaches to providing market share data within the telecom business projectable to the county level.

3. I have developed and managed research studies for the following clients: 3M, Best Buy, Thomson Reuters, Anderson Windows, Marvin Windows, Bright House Networks, US Bank, Thrivent Financial, Select Comfort, Time Warner, Education Management Corporation, Consumers Energy, and UnitedHealthcare, to name a few.

4. **Education:** I received my Masters Degree in Marketing from the University of Wisconsin-Madison in 1987 with a BBA in Marketing from the University of Wisconsin-Madison in 1982.

5. I have been a guest lecturer on market research in the MBA programs at the University of St. Thomas and the University of Minnesota.

6. **Prior Experience:** I previously worked for 3M in the Dental Products Division. During my 11 years at 3M I was responsible for the Global Dental business as well as all marketing research and customer satisfaction measurement for the Division. I was instrumental in developing the internal systems and measurement standards for the Malcolm Baldrige National Quality Award. 3M Dental won the National Quality Award at the end of my tenure.

7. **Marketing Research/Trade Market Experience:** I have extensive experience in both qualitative and quantitative research. From a qualitative perspective, I have over 15 years of moderating experience in which I have conducted studies regarding

consumer, business-to-business, and health care concerns. I have extensive experience in brand and market share studies that require extensive sampling and market projections. I have extensive experience in quantitative survey research that includes survey development, sampling design, analysis, reporting, and presentations. I have presented major corporations with results of research that was strategically important to the short- and long-term success of their business. I have developed a major telecom industry market share study that provides MSO's with projectable share at individual county/region levels.

8. **Trademark/Testifying Experience:** This is my first time that I have ever testified as an expert in a lawsuit or trademark proceeding.

9. **Compensation:** MSG Research & Consulting received \$8,000 for designing, managing, and providing the analysis on this report.

## Study Overview

---

### Background & Objectives

10. Nikolai & Mersereau represents Perfect Memorials in a trademark opposition against United Priority Distributors. The key issue is to determine if the term “Weeping Angel” is descriptive of an urn which depicts an angel expressing grief.

11. One method of determining the strength of a trademark in cases such as this is to ask a sample population of consumers how they view the subject — and the survey results are often entered into evidence at IP trials. Nikolai & Mersereau hired me and my firm, MSG Research & Consulting, to design a methodology for capturing consumer feedback on this topic, launch the survey instrument, report the findings, and provide my opinion. The source data that was used to prepare this report is an accumulation of survey responses and can be found in Exhibit C – Topline Data.

### Methodology

12. MSG utilized an online panel, Research Now, for the sampling of this study. Research Now has over 4 million active panel members from 38 countries. Panel members are invited to participate in surveys via e-mail. Participants click on a link in the e-mail to be directed to the survey. Only panel members get access to the online survey, and panel members are only allowed to participate once. For this study, Research Now generated a census representative sample file of elected eligible panel members and sent the e-mail invitations. Research Now pays a small gratuity of \$0.25 in e-Rewards Currency to those who were disqualified from the survey and \$1.50 in e-Rewards Currency for those who complete the survey. Eligible panel members for this study were adults (18+) and living in the US.

13. The primary goal of this survey was to determine if potential customers of funeral urns interpreted the term “Weeping Angel” as a generic, descriptive, or suggestive trademark for the funeral urns sold by United Priority Distributors. The survey used is found at Exhibit A.

14. To accomplish this, MSG defined “generic”, “descriptive”, and “suggestive” for the respondent and provided 2 example images to correspond to each definition. The language for the definitions used for “generic”, “descriptive”, and “suggestive” were copied from the expert report of James T. Berger provided in *General Dentistry of Kids, LLC v. Cool Smiles, PC*, civil #07-CV-1727-MHM(D.Ariz., Filed 2008). Attached as Exhibit B is a copy of Mr. Berger’s report.

15. Then MSG provided an image and title of 3 products — one of which was the “Weeping Angel” urn sold by United Priority Distributors — and asked respondents to indicate if each product was generic, descriptive, or suggestive. Respondents always had the option to indicate “don’t know” as well.

16. Respondents were also asked why they felt that the item was generic, descriptive, or suggestive, and allowed to input any text they desired to respond — but they were also allowed to leave the follow-up question blank.

17. Also key to this survey process was ensuring that the respondents accurately reflected the relevant class of purchasers in keeping with Gilson, TRADEMARKS PRACTICE AND PROCEDURE section 8.03 {3} {b} {iii} (Matthew Bender 2012) and that this would be presented in an unbiased manner, so MSG employed the following methodological techniques on this project.

#### **Obtain, and weight to improve, representative distribution.**

18. Two main steps are required to ensure that survey results reflect the real opinion of the population as well as possible: **sampling** and **weighting**.

19. In our **sampling** (the process in which we select who is invited to participate in the survey) we were primarily concerned to obtain surveys that correctly reflected the geographic distribution of people in the US. To this end the proportion of *surveys* conducted in each of the 4 US Census regions reflects the actual proportion of *adult population* in each region. (For further accuracy, we ensured that each individual state plus the District of Columbia contributed very close to its expected proportion of surveys.)

20. The sample size in this study produces a margin of error of  $\pm 2.9\%$  at a 95% confidence level. If this study were reproduced 100 times, then 95 out of 100 times the responses would be within 2.9%.

21. Once the surveys were completed, they were **weighted** to reflect the actual population even more closely. We weighted our data by age and gender — and by US Census region, to ensure that our geographical proportions would be maintained throughout.

#### **Only Include Relevant Class of Purchasers.**

22. The intent is to determine how potential customers would view these items — and thus, it is important that people who would never be a customer are not also providing feedback that could alter the total results of the impressions of actual customers. To that end, MSG developed one question to screen out non-customers. Respondents had to indicate that were they in charge of funeral

arrangements for a loved one, they would consider cremation or cremation and burial — those who considered burial only would never be “in the market” for a cremation urn and therefore, not potential customers.

**Obtain results from people who could distinguish between trademark and common name.**

23. Although trademark and common name terminology can be confusing for consumers in specific situations, it is important to ensure that in general the respondents answering what they think about a particular topic can distinguish between the *concept* of trademark vs. the *concept* of common name.

24. In this survey, all respondents were tested for concept understanding before they evaluated the weeping angel questions. First, a definition of trademark and common name were provided, and then respondents were asked to determine if KODAK was a trademark or common name, and if BLENDER was a trademark or common name. The use of testing respondent concept understanding and the language used for the definitions of trademark and common name were adapted from the TEFLON survey (Gilson, *supra*).

25. If respondents answered *both* items correctly, they continued to the survey evaluation — if they were not able to correctly identify KODAK as a trademark or BLENDER as a common name, they did not participate in the study and are not included in the results.

26. Note: All names were presented in UPPERCASE formatting so that visual clues like capitalization (i.e. Kodak vs. blender) would not be present. The order in which items to be considered were presented was rotated to prevent order bias. Thus, the questions pertaining to KODAK and BLENDER were rotated, the order of the images used as examples in the definitions of Generic, Descriptive, and Suggestive was rotated, and the order of the questions pertaining to ROACH MOTEL, SUPER GLUE, and WEEPING ANGEL URN was rotated at random.

## Detailed Findings

---

27. This sample suggests that in the real world marketplace, most customers *are* able to determine the difference between a trademark and a common name — which should be an easier distinction than a *generic, descriptive, or suggestive* determination. Survey respondents fell out as follows:

<b>QUALIFYING QUESTION</b>	<b>RESPONDING</b>	<b>DISQUALIFIED/ OVER QUOTA</b>	<b>% DQ/OQ</b>
1. Burial only, or Cremation/ Cremation & Burial	1063	268	25%
2. State (all states + DC qualify, but once a given state has been proportionally represented, further surveys from that state are not allowed, as being Over Quota.)	795	363	46%
3/4. Trademark versus common name test	432	30	7%*
<b>COMPLETED SURVEY</b>	<b>402</b>	<b>-</b>	<b>-</b>

28. \*This indicates that 93% of the overall potential customer population can successfully conceptualize the difference between a trademark and common name.

29. Among those who were able to determine the difference between a trademark and a common name, respondents were shown the following 3 stimuli, and asked whether each was an example of a “generic”, “descriptive”, or “suggestive” trademark. Respondents could also indicate that they didn’t know for all items.

30. 60% of respondents stated that the WEEPING ANGEL URN was a descriptive trademark, while only 25% consider it a suggestive trademark.\* The highest rating in each row is shaded.

ITEM	PICTURE	[G] GENERIC %	[D] DESCRIPTIVE %	[S] SUGGESTIVE %	DON'T KNOW %
ROACH MOTEL		8	33	58	1
SUPER GLUE		39	37	22	2
WEEPING ANGEL URN		10	60*	25	5

31. \*Significantly more consumers consider WEEPING ANGEL URN to be descriptive. See Exhibit D for the formulations for determining significance and see Exhibit E for more information about the purpose of statistical significance.

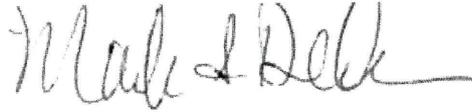
32. Respondents were asked why they selected the type for the item that they did (generic, descriptive, or suggestive). This was an open-ended response — they typed their answers out independently. These responses were evaluated and sorted based on their content. The most common reason mentioned as to “why” Weeping Angel Urn is descriptive is that it “describes the item”.

33. QUESTION: Why do you believe that? [After choice of trademark type for WEEPING ANGEL URN]

<b>REASON (Verbatim responses may be coded in multiple categories)</b>	<b>GENERIC %</b>	<b>DESCRIPTIVE %</b>	<b>SUGGESTIVE %</b>	<b>DON'T KNOW %</b>
<b>Net: Describes Characteristics/qualities</b>	<b>23</b>	<b>75</b>	<b>17</b>	<b>4</b>
Describes the item	14	39	7	
Specific mention of urn	8	18	7	4
Specific mention of angel/statue/what angel is doing		18	2	
Describes characteristics/qualities		4	<1	
Describes appearance		3	1	
Describes function of item		<1	4	
<b>Net: Suggestive</b>		<b>1</b>	<b>31</b>	
Requires imagination/thought/creative			13	
Suggests passing of loved one/mourning			10	
Suggests use/function of item		1	8	
Name is suggestive of the item			2	
<b>Net: Generic</b>	<b>41</b>	<b>3</b>	<b>1</b>	
No specific trademark/brand	16	3	1	
Could be any brand	15	1		
Common name – description	11			
<b>Net: Unique Item/Brand name</b>		<b>3</b>	<b>5</b>	<b>6</b>
Unique/specific item		3	5	6
Brand name/trademarked item		1		
<b>Net: Purpose not clear</b>		<b>&lt;1</b>	<b>14</b>	
Purpose not stated/could be used for different purposes			11	
Wouldn't know what it was without name		<1	4	
<b>Other comment</b>	<b>8</b>	<b>6</b>	<b>20</b>	
<b>Don't know/guess</b>	<b>4</b>	<b>3</b>	<b>3</b>	<b>20</b>
<b>NOT ANSWERED</b>	<b>30</b>	<b>13</b>	<b>17</b>	<b>74</b>
	<b>BASE</b>	<b>40</b>	<b>241</b>	<b>101</b>
				<b>20</b>

## Interpretations of Findings

34. From the choices given, the target market-people who would consider cremation – the majority believed that “Weeping Angel” was a descriptive name, not a suggestive name.



Mark DeTorre

June 11, 2014

# “Weeping Angel” Recognition

## SCREENER

1. If a family member died and you were personally in charge of the funeral arrangements, which of the following would you consider?

- |                           |   |                       |
|---------------------------|---|-----------------------|
| Cremation only.....       | 1 | <b>CONTINUE</b>       |
| Burial only .....         | 2 | <b>THANK AND TERM</b> |
| Cremation and burial..... | 3 | <b>CONTINUE</b>       |

**TERM TEXT:** Our quota for that category is full. Thank you for your time.

**FROM “GILSON”, PAGE 31:** First, some courts have found customer lists to be relevant. One court reasoned that it is common in trademark infringement cases for parties to conduct **surveys of relevant consumers or potential consumers** to discover any instances of actual confusion, and the “requirement that **surveys** be directed to the relevant group makes lists of actual or potential customers relevant.” Another court found the defendants’ customer list relevant to the issue of damages: “To determine the amount of damages, it is crucial that plaintiff know to whom the infringing materials were sold, and what the markup was to these different customers.”

**Included this question to limit survey to potential customers – the theory being that those who would never consider cremation services aren’t potential customers.**

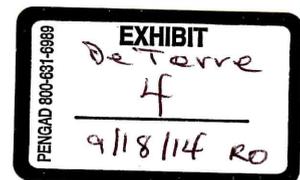
2. What state do you live in? **POPULATION-PROPORTIONAL QUOTAS ARE GIVEN BELOW (“Q”). STUDYWIDE QUOTA IS 400.**

STATE	#	Q
Alabama	1	6
Alaska	2	1
Arizona	3	8
Arkansas	4	4
California	5	48
Colorado	6	7
Connecticut	7	5
Delaware	8	1
District of Columbia	9	1
Florida	10	24
Georgia	11	13
Hawaii	12	2
Idaho	13	2
Illinois	14	17
Indiana	15	8
Iowa	16	4
Kansas	17	4
Kentucky	18	6

STATE	#	Q
Louisiana	19	6
Maine	20	2
Maryland	21	7
Massachusetts	22	8
Michigan	23	13
Minnesota	24	7
Mississippi	25	4
Missouri	26	8
Montana	27	1
Nebraska	28	2
Nevada	29	3
New Hampshire	30	2
New Jersey	31	11
New Mexico	32	3
New York	33	25
North Carolina	34	12
North Dakota	35	1
Ohio	36	15

STATE	#	Q
Oklahoma	37	5
Oregon	38	5
Pennsylvania	39	16
Rhode Island	40	1
South Carolina	41	6
South Dakota	42	1
Tennessee	43	8
Texas	44	33
Utah	45	4
Vermont	46	1
Virginia	47	10
Washington	48	9
West Virginia	49	2
Wisconsin	50	7
Wyoming	51	1
Other	52	<b>TERM</b>

**TERM TEXT:** Our quota for that category is full. Thank you for your time.



## “TEFLON SURVEY” DISCUSSION

---

Next we'd like you to indicate which of the following terms are indications of a trademark or a common name. A common name is one that can be applied to a range of products that are in the same or similar category. A trademark is the name of a specific product.

For example, CHEVROLET is a trademark for a specific line of cars, but AUTOMOBILE is a common name for any car.

### ROTATE Q3/4.

3. Given this explanation, would you say that KODAK is a trademark or a common name?

Trademark ..... 1    **CONTINUE**  
Common name ..... 2    **THANK AND TERM**

4. Given this explanation, would you say that BLENDER is a trademark or a common name?

Trademark ..... 1    **THANK AND TERM**  
Common name ..... 2    **CONTINUE**

**TERM TEXT:** Those are all the questions we have today. Thank you for your time.

**FROM “GILSON”, PAGE 47:** In Teflon surveys, the respondents should be tested to determine if they understand the difference between a trademark and a generic term.

Per Gilson, the above is a “test”.

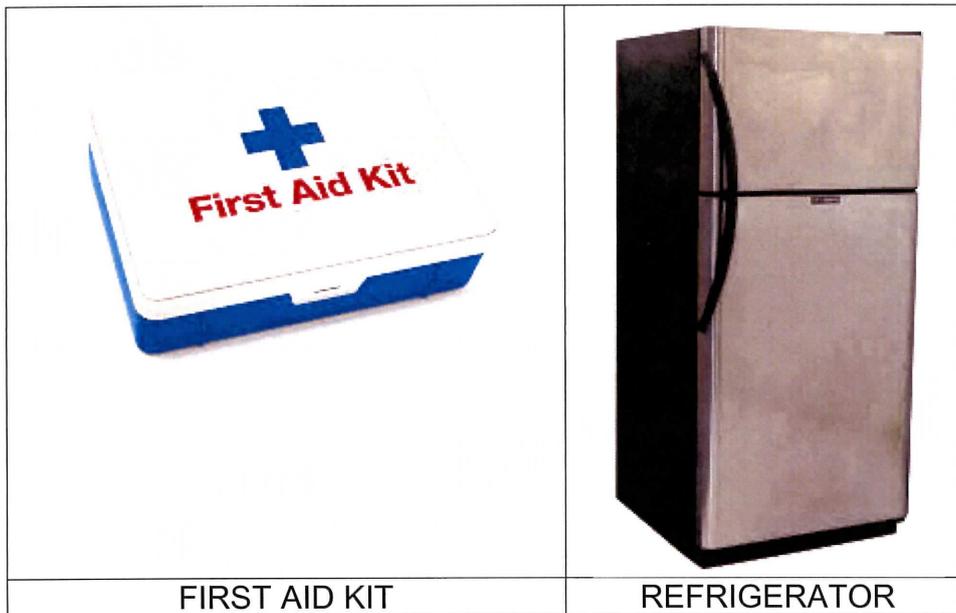
## MAIN SURVEY

### DISCUSSION OF NAMING

Today, we are conducting a survey of generic, descriptive, and suggestive brand names. There are a number of ways trademarks can be distinguished from one another.

Generic trademarks are common names of goods and/or services or a category of goods and/or services. Examples of trademarks that are considered to be generic are:

#### ROTATE LIST.



#### [NEXT]

On the other hand, descriptive trademarks describe the qualities or characteristics of the goods and/or services for which the trademark is used. Examples of trademarks that are considered to be descriptive are:

#### ROTATE LIST.



[NEXT]

Finally, suggestive trademarks suggest a quality or characteristic of the goods or services. In doing so, suggestive trademarks require some imagination, thought, or perception to reach a conclusion as to the nature of the goods. The following trademarks can be considered suggestive:

**ROTATE LIST.**

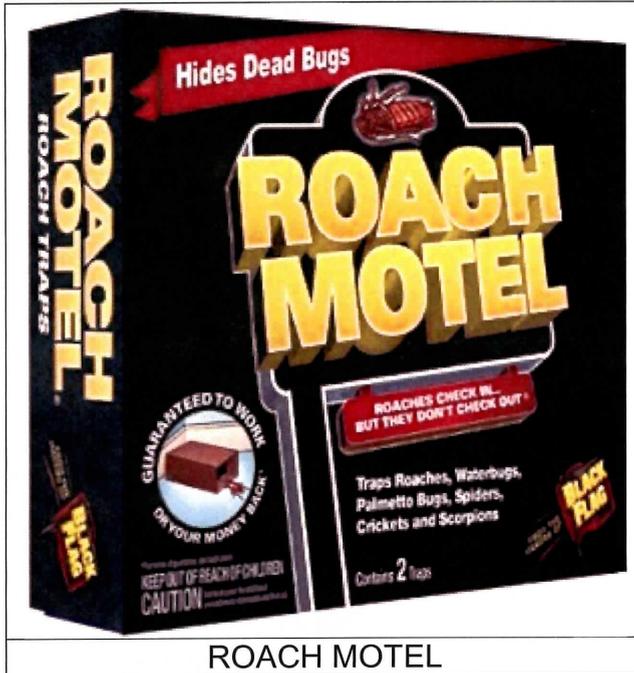
	
GREYHOUND BUS	CHICKEN OF THE SEA TUNA

[NEXT]

With these definitions and examples in mind, next you will be shown another set of names. For each, please indicate whether you believe the name to be a generic, descriptive, or suggestive name. **DISPLAY DEFINITIONS OF GENERIC, DESCRIPTIVE, AND SUGGESTIVE ON SCREEN FOR EACH Q6 EVALUATION FOR REFERENCE.**

**ROTATE BRANDS A/B/C.**

6A1. Please indicate whether you believe the name shown below to be a generic, descriptive, or suggestive name.



- Generic ..... 1  
Descriptive ..... 2  
Suggestive ..... 3  
Don't know ..... 4

6A2. Why do you believe that? **NOT REQUIRED.**

---

6B1. Please indicate whether you believe the name shown below to be a generic, descriptive, or suggestive name.



- Generic ..... 1
- Descriptive ..... 2
- Suggestive ..... 3
- Don't know ..... 4

6B2. Why do you believe that? **NOT REQUIRED.**

---

6C1. Please indicate whether you believe the name shown below to be a generic, descriptive, or suggestive name.



- Generic ..... 1
- Descriptive ..... 2
- Suggestive ..... 3
- Don't know ..... 4

6C2. Why do you believe that? **NOT REQUIRED.**

---

7. What is your age?

- Under 18 ..... 1
- 18 to 20 ..... 2
- 21 to 30 ..... 3
- 31 to 40 ..... 4
- 41 to 50 ..... 5
- 51 to 60 ..... 6
- 61 or over ..... 7
- Prefer not to answer ..... 8

8. What is your gender?

- Male ..... 1
- Female ..... 2
- Prefer not to answer ..... 3

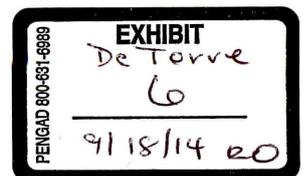
Those are all our questions. Thank you very much for completing this survey. **END.**



WEeping ANGEL URN

PENGAD 800-581-6999  
EXHIBIT  
De Torre  
5  
9/18/14 20

DETORRE REPORT  
EXHIBIT C



MSG RESEARCH & CONSULTING  
WEEPING ANGEL RECOGNITION  
PROJECT #1224  
11 JUN 2014 2:49 PM  
TOPLINE DATA - SUBJECT TO CHANGE

TABLE 001

1. If a family member died and you were personally in charge of the funeral arrangements, which of the following would you consider?

	TOTAL ***** (A)
WEIGHTED NO ANSWER	-
WEIGHTED TOTAL	402
Cremation only	140 35%
Cremation and burial	262 65%

MSG RESEARCH & CONSULTING  
 WEEPING ANGEL RECOGNITION  
 PROJECT #1224  
 11 JUN 2014 2:49 PM  
 TOPLINE DATA - SUBJECT TO CHANGE

TABLE 002

2. What state do you live in?

	TOTAL ***** (A)
WEIGHTED NO ANSWER	-
WEIGHTED TOTAL	402
Alabama	4 1%
Alaska	1 *
Arizona	6 1%
Arkansas	4 1%
California	51 13%
Colorado	9 2%
Connecticut	8 2%
Delaware	1 *
District of Columbia	2 *
Florida	29 7%
Georgia	12 3%
Hawaii	2 1%
Idaho	3 1%
Illinois	14 3%
Indiana	8 2%
Iowa	4 1%
Kansas	4 1%
Kentucky	5 1%
Louisiana	9 2%
Maine	3 1%

Note: Percentage less than 0.5 printed as \*.

MSG RESEARCH & CONSULTING  
 WEEPING ANGEL RECOGNITION  
 PROJECT #1224  
 11 JUN 2014 2:49 PM  
 TOPLINE DATA - SUBJECT TO CHANGE

TABLE 002 (continued)  
 2. What state do you live in?

	TOTAL ***** (A)
Maryland	6 1%
Massachusetts	7 2%
Michigan	11 3%
Minnesota	9 2%
Mississippi	4 1%
Missouri	4 1%
Montana	1 *
Nebraska	4 1%
Nevada	2 1%
New Hampshire	5 1%
New Jersey	11 3%
New Mexico	2 1%
New York	21 5%
North Carolina	10 3%
North Dakota	0 *
Ohio	19 5%
Oklahoma	5 1%
Oregon	5 1%
Pennsylvania	17 4%
Rhode Island	1 *
South Carolina	7 2%

Note: Percentage less than 0.5 printed as \*.  
 PAGE 3

MSG RESEARCH & CONSULTING  
WEEPING ANGEL RECOGNITION  
PROJECT #1224  
11 JUN 2014 2:49 PM  
TOPLINE DATA - SUBJECT TO CHANGE

TABLE 002 (continued)

2. What state do you live in?

	TOTAL
	*****
	(A)
South Dakota	6 1%
Tennessee	9 2%
Texas	32 8%
Utah	3 1%
Vermont	1 *
Virginia	9 2%
Washington	8 2%
West Virginia	2 *
Wisconsin	4 1%

Note: Percentage less than 0.5 printed as \*.  
PAGE 4

MSG RESEARCH & CONSULTING  
WEEPING ANGEL RECOGNITION  
PROJECT #1224  
11 JUN 2014 2:49 PM  
TOPLINE DATA - SUBJECT TO CHANGE

TABLE 003  
Region

	TOTAL ***** (A)
WEIGHTED NO ANSWER	-
WEIGHTED TOTAL	402
North East	73 18%
Midwest	86 21%
South	150 37%
West	93 23%

MSG RESEARCH & CONSULTING  
WEEPING ANGEL RECOGNITION  
PROJECT #1224  
11 JUN 2014 2:49 PM  
TOPLINE DATA - SUBJECT TO CHANGE

TABLE 004

3. Given this explanation, would you say that KODAK is a trademark or a  
common name?

	TOTAL ***** (A)
WEIGHTED NO ANSWER	-
WEIGHTED TOTAL	402
Trademark	402 100%

MSG RESEARCH & CONSULTING  
WEEPING ANGEL RECOGNITION  
PROJECT #1224  
11 JUN 2014 2:49 PM  
TOPLINE DATA - SUBJECT TO CHANGE

TABLE 005

4. Given this explanation, would you say that BLENDER is a trademark or a common name?

	TOTAL
	*****
	(A)
WEIGHTED NO ANSWER	-
WEIGHTED TOTAL	402
Common name	402
	100%

MSG RESEARCH & CONSULTING  
WEEPING ANGEL RECOGNITION  
PROJECT #1224  
11 JUN 2014 2:49 PM  
TOPLINE DATA - SUBJECT TO CHANGE

TABLE 006

6A1. Please indicate whether you believe the name shown below to be a generic, descriptive, or suggestive name.

ROACH MOTEL

	TOTAL ***** (A)
WEIGHTED NO ANSWER	-
WEIGHTED TOTAL	402
Generic	33 8%
Descriptive	133 33%
Suggestive	232 58%
Don't know	4 1%

MSG RESEARCH & CONSULTING  
 WEEPING ANGEL RECOGNITION  
 PROJECT #1224  
 11 JUN 2014 2:49 PM  
 TOPLINE DATA - SUBJECT TO CHANGE

TABLE 007  
 6A2. Why do you believe that? ROACH MOTEL

	Q6A1 ROACH MOTEL				
	TOTAL ***** (A)	Generic ***** (B)	Descrip- tive ***** (C)	Sugges- tive ***** (D)	Don't Know ***** (E)
WEIGHTED NO ANSWER	-	-	-	-	-
WEIGHTED TOTAL	402	33	133	232	4
NET: Suggestive -----	115 29%	-	-	115 50%	-
311 Suggests use/ function of item	79 20%	-	-	79 34%	-
334 Requires imagination/thought/ creative	30 7%	-	-	30 13%	-
310 Name is suggestive of the item	4 1%	-	-	4 2%	-
301 Name suggest characteristics/ qualities	3 1%	-	-	3 1%	-
341 Suggests that it is strong/works/ stronger/better than others	2 *	-	-	2 1%	-
NET: Describes characteristics/ qualities -----	87 22%	3 9%	66 49%	19 8%	-
211 Describes function of item	51 13%	3 9%	40 30%	8 3%	-
210 Describes the item	31 8%	-	21 16%	10 4%	-
221 Describes characteristics/ qualities	6 1%	-	5 4%	1 *	-
NET: Unique Item/Brand name -----	57 14%	1 3%	22 17%	34 14%	-
203 Brand name/ trademarked item	46 12%	1 3%	20 15%	25 11%	-
212 Unique/specific item	11 3%	-	2 2%	9 4%	-
NET: Purpose not clear -----	56 14%	-	0 *	56 24%	-
336 Name is not a literal description	52 13%	-	-	52 23%	-
331 Purpose not stated/could be used for different purposes	4 1%	-	-	4 2%	-

Note: Percentage less than 0.5 printed as \*.  
 PAGE 9

MSG RESEARCH & CONSULTING  
 WEEPING ANGEL RECOGNITION  
 PROJECT #1224  
 11 JUN 2014 2:49 PM  
 TOPLINE DATA - SUBJECT TO CHANGE

TABLE 007 (continued)  
 6A2. Why do you believe that? ROACH MOTEL

	Q6A1 ROACH MOTEL				
	<----->				
	TOTAL ***** (A)	Generic ***** (B)	Descrip- tive ***** (C)	Sugges- tive ***** (D)	Don't Know ***** (E)
333 Wouldn't know what it was without name	0 *	-	0 *	-	-
NET: Generic -----	21 5%	15 46%	4 3%	1 1%	-
102 Common name - description	9 2%	7 21%	2 2%	-	-
101 Could be any brand	9 2%	8 25%	-	1 *	-
103 No specific trademark/brand	2 1%	-	2 1%	1 *	-
998 Other comment	14 4%	1 3%	7 5%	7 3%	-
190 Don't know/guess	11 3%	3 9%	3 3%	5 2%	-
NOT ANSWERED	88 22%	11 33%	36 27%	37 16%	4 100%

Note: Percentage less than 0.5 printed as \*.  
 PAGE 10

MSG RESEARCH & CONSULTING  
WEEPING ANGEL RECOGNITION  
PROJECT #1224  
11 JUN 2014 2:49 PM  
TOPLINE DATA - SUBJECT TO CHANGE

TABLE 008

6Bl. Please indicate whether you believe the name shown below to be a generic, descriptive, or suggestive name.

SUPER GLUE

	TOTAL ***** (A)
WEIGHTED NO ANSWER	-
WEIGHTED TOTAL	402
Generic	159 39%
Descriptive	148 37%
Suggestive	90 22%
Don't know	6 2%

MSG RESEARCH & CONSULTING  
 WEEPING ANGEL RECOGNITION  
 PROJECT #1224  
 11 JUN 2014 2:49 PM  
 TOPLINE DATA - SUBJECT TO CHANGE

TABLE 009  
 6B2. Why do you believe that? SUPER GLUE

	Q6B1 SUPER GLUE				
	<----->				
	TOTAL ***** (A)	Generic ***** (B)	Descrip- tive ***** (C)	Sugges- tive ***** (D)	Don't Know ***** (E)
WEIGHTED NO ANSWER	-	-	-	-	-
WEIGHTED TOTAL	402	159	148	90	6
NET: Generic -----	119 30%	111 70%	8 5%	1 1%	-
101 Could be any brand	77 19%	71 45%	5 3%	1 1%	-
102 Common name - description	45 11%	44 28%	1 *	-	-
103 No specific trademark/brand	6 1%	4 3%	2 1%	-	-
NET: Describes characteristics/ qualities -----	118 29%	18 11%	79 54%	21 24%	-
210 Describes the item	37 9%	6 4%	23 16%	7 8%	-
225 Describes as super	30 8%	1 1%	21 14%	8 8%	-
226 Describes as strong/powerful	21 5%	10 6%	11 8%	-	-
211 Describes function of item	16 4%	-	14 9%	2 2%	-
221 Describes characteristics/ qualities	13 3%	-	11 7%	2 3%	-
241 Describes as better/stronger than others	9 2%	1 *	5 4%	3 4%	-
NET: Suggestive -----	45 11%	1 1%	5 3%	40 44%	-
341 Suggests that it is strong/works/ stronger/better than others	21 5%	-	3 2%	18 20%	-
301 Name suggest characteristics/ qualities	16 4%	-	-	16 18%	-
311 Suggests use/ function of item	10 2%	-	1 1%	9 9%	-
310 Name is suggestive of the item	1 *	1 1%	-	-	-

Note: Percentage less than 0.5 printed as \*.  
 PAGE 12

MSG RESEARCH & CONSULTING  
 WEEPING ANGEL RECOGNITION  
 PROJECT #1224  
 11 JUN 2014 2:49 PM  
 TOPLINE DATA - SUBJECT TO CHANGE

TABLE 009 (continued)  
 6B2. Why do you believe that? SUPER GLUE

	Q6B1 SUPER GLUE				
	<----->				
	TOTAL ***** (A)	Generic ***** (B)	Descrip- tive ***** (C)	Sugges- tive ***** (D)	Don't Know ***** (E)
NET: Unique Item/Brand name -----	33 8%	2 1%	21 14%	9 11%	1 9%
203 Brand name/ trademarked item	33 8%	2 1%	21 14%	9 11%	1 9%
NET: Purpose not clear -----	1 *	-	-	1 1%	-
331 Purpose not stated/could be used for different purposes	1 *	-	-	1 1%	-
998 Other comment	23 6%	8 5%	11 8%	4 4%	-
190 Don't know/guess	10 3%	3 2%	3 2%	3 3%	2 34%
NOT ANSWERED	83 21%	28 18%	33 22%	19 21%	4 57%

Note: Percentage less than 0.5 printed as \*.  
 PAGE 13

MSG RESEARCH & CONSULTING  
WEEPING ANGEL RECOGNITION  
PROJECT #1224  
11 JUN 2014 2:49 PM  
TOPLINE DATA - SUBJECT TO CHANGE

TABLE 010

6C1. Please indicate whether you believe the name shown below to be a generic, descriptive, or suggestive name.

WEEPING ANGEL URN

	TOTAL ***** (A)
WEIGHTED NO ANSWER	-
WEIGHTED TOTAL	402
Generic	40 10%
Descriptive	241 60%
Suggestive	101 25%
Don't know	20 5%

MSG RESEARCH & CONSULTING  
 WEEPING ANGEL RECOGNITION  
 PROJECT #1224  
 11 JUN 2014 2:49 PM  
 TOPLINE DATA - SUBJECT TO CHANGE

TABLE 011  
 6C2. Why do you believe that? WEEPING ANGEL URN

	Q6C1 WEEPING ANGEL URN				
	<----->				
	TOTAL ***** (A)	Generic ***** (B)	Descrip- tive ***** (C)	Sugges- tive ***** (D)	Don't Know ***** (E)
WEIGHTED NO ANSWER	-	-	-	-	-
WEIGHTED TOTAL	402	40	241	101	20
NET: Describes characteristics/qualities -----	208 52%	9 23%	181 75%	17 17%	1 4%
210 Describes the item	107 27%	6 14%	94 39%	7 7%	-
222 Specific mention of urn	55 14%	3 8%	44 18%	7 7%	1 4%
223 Specific mention of angel/statue/what angel is doing	45 11%	-	42 18%	2 2%	-
221 Describes characteristics/qualities	10 3%	-	10 4%	0 *	-
224 Describes appearance	8 2%	-	7 3%	1 1%	-
211 Describes function of item	5 1%	-	1 *	4 4%	-
NET: Suggestive -----	33 8%	-	1 1%	31 31%	-
334 Requires imagination/thought/creative	13 3%	-	-	13 13%	-
338 Suggests passing of loved one/mourning	10 2%	-	-	10 10%	-
311 Suggests use/function of item	9 2%	-	1 1%	8 8%	-
310 Name is suggestive of the item	2 *	-	-	2 2%	-
NET: Generic -----	26 6%	16 41%	8 3%	1 1%	-
103 No specific trademark/brand	14 4%	6 16%	7 3%	1 1%	-
101 Could be any brand	7 2%	6 15%	1 1%	-	-
102 Common name - description	4 1%	4 11%	-	-	-
NET: Purpose not clear -----	15 4%	-	1 *	14 14%	-

Note: Percentage less than 0.5 printed as \*.  
 PAGE 15

MSG RESEARCH & CONSULTING  
 WEEPING ANGEL RECOGNITION  
 PROJECT #1224  
 11 JUN 2014 2:49 PM  
 TOPLINE DATA - SUBJECT TO CHANGE

TABLE 011 (continued)  
 6C2. Why do you believe that? WEEPING ANGEL URN

	Q6C1 WEEPING ANGEL URN				
	TOTAL ***** (A)	Generic ***** (B)	Descrip- tive ***** (C)	Sugges- tive ***** (D)	Don't Know ***** (E)
331 Purpose not stated/could be used for different purposes	11 3%	-	-	11 11%	-
333 Wouldn't know what it was without name	4 1%	-	1 *	4 4%	-
NET: Unique Item/Brand name -----	13 3%	-	7 3%	5 5%	1 6%
212 Unique/specific item	12 3%	-	6 3%	5 5%	1 6%
203 Brand name/trademarked item	1 *	-	1 1%	-	-
998 Other comment	38 9%	3 8%	15 6%	20 20%	-
190 Don't know/guess	17 4%	2 4%	8 3%	3 3%	4 20%
NOT ANSWERED	77 19%	12 30%	32 13%	17 17%	15 74%

Note: Percentage less than 0.5 printed as \*.  
 PAGE 16

MSG RESEARCH & CONSULTING  
WEEPING ANGEL RECOGNITION  
PROJECT #1224  
11 JUN 2014 2:49 PM  
TOPLINE DATA - SUBJECT TO CHANGE

TABLE 012

7. What is your age?

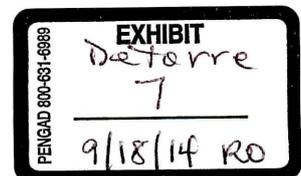
	TOTAL ***** (A)
WEIGHTED NO ANSWER	-
WEIGHTED TOTAL	402
18 to 30	88 22%
31 to 40	68 17%
41 to 50	72 18%
51 to 60	79 20%
61 or over	96 24%

MSG RESEARCH & CONSULTING  
WEEPING ANGEL RECOGNITION  
PROJECT #1224  
11 JUN 2014 2:49 PM  
TOPLINE DATA - SUBJECT TO CHANGE

TABLE 013  
8. What is your gender?

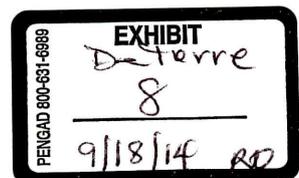
	TOTAL ***** (A)
WEIGHTED NO ANSWER	-
WEIGHTED TOTAL	402
Male	195 49%
Female	207 51%

DETORRE REPORT  
EXHIBIT D





DETORRE REPORT  
EXHIBIT E



**Statistical significance** is the low probability that an observed effect would have occurred due to chance. It is an integral part of statistical hypothesis testing where it helps investigators to decide if a null hypothesis can be rejected. In any experiment or observation that involves drawing a sample from a population, there is always the possibility that an observed effect would have occurred as a result of just chance (or sampling error) alone. But if the probability of such chance effects is less than a pre-determined threshold (e.g. 5% chance), then an investigator can conclude that the observed effect actually reflects the characteristics of the population rather than just sampling error.

The Difference in Proportions Test for Two Proportions Calculator allows you to test for a statistically significant difference between two proportions drawn from independent samples.

For example, if 85% of Americans in the north are online and 77% of Americans in the south are online is that difference real or the result of random chance?