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

Proceeding	91213286
Party	Plaintiff Starbuzz Tobacco, Inc.
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Date	09/29/2014
Attachments	EXH. A.pdf(280957 bytes)

EXHIBIT A

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

STARBUZZ TOBACCO, INC.,

Opposer,

v.

SIS RESOURCES, LTD.,

Applicant.

Opposition No. 91213286

Serial No. 85/846,992

Mark: MOCHA MIST

**OPPOSER'S FIRST SET
OF INTERROGATORIES
TO APPLICANT SIS
RESOURCES, LTD.**

TO SIS RESOURCES, LTD. AND ITS ATTORNEY OF RECORD:

PLEASE TAKE NOTICE that Opposer Starbuzz Tobacco, Inc. (“Starbuzz”) submits the following Interrogatories to Applicant SIS RESOURCES, LTD. (“Applicant”) to be responded to fully within thirty (30) days of service thereto.

DEFINITIONS

Unless the context clearly requires otherwise, the following definitions and instructions shall apply to these Interrogatories and all other discovery requests in this action unless otherwise provided:

1. As used herein, the term “AND” includes “OR,” and the term “OR” includes “AND.”

2. “SIS” shall refer to Applicant SIS RESOURCES LTD., including its employees, agents, officers, attorneys, contractors, accountants, consultants, investigators, predecessors and successors-in-interest and all persons acting or purporting to act on its behalf.

3. “OPPOSER” shall refer to Opposer, Starbuzz Tobacco, Inc., a California corporation in the above-captioned matter.

4. “APPLICANT” shall refer to Applicant S&E DISTRIBUTOR, INC. in the above-captioned matter.

5. “BLUE MIST MARK” shall refer to the BLUE MIST Mark (U.S. Reg. No. 3,619,407).

6. “CITRUS MIST MARK” shall refer to the CITRUS MIST Mark (U.S. Reg. No. 3,695,500)

7. “TROPICAL MIST MARK” shall refer to the TROPICAL MIST Mark (U.S. Reg. No. 4,196,957)

8. “HAWAIIAN MIST MARK” shall refer to the HAWAIIAN MIST Mark (U.S. Reg. No. 4,196,953)

9. “PEACH MIST MARK” shall refer to the PEACH MIST Mark (U.S. Reg. No. 4,287,968)

10. “STARBUZZ MARKS” shall refer to the, BLUE MIST, CITRUS MIST, TROPICAL MIST, HAWAIIAN MIST and PEACH MIST marks.

11. “PRODUCT” shall refer to the flavored tobacco products sold under the Starbuzz Family of Marks.

12. “INFRINGEMENT MARK” shall refer to Applicant’s COOL MIST mark.

13. “COOL MIST” shall refer to Applicant’s mark Ser. No. 85/812,071.

14. “EARNINGS” shall refer to any and all profits, income, revenues, dividends, or any other kind of acquisition of value or economic benefit, including but limited to, taxable income under the United States Tax Code.

15. “USPTO” means the United States Patent and Trademark Office.

16. “DOCUMENT(S)” means any writing or recording as defined in Rule 1001 of the Federal Rules of Evidence, including but not limited to, any written, printed, typed, recorded, or other graphic matter of any kind or nature and shall include, without limitation, all writings, drawings, graphs, charts, books, technical materials, photographs, microfilm, magnetic media, computer records, e-mails, text messages, electronically stored information, and other media from which information can be obtained. This will include, without limitation, initials, stamped indicia, comments, or notations not part of the original text or photographic reproduction thereof, is a separate document. “DOCUMENT” shall

also include any data compilations from which information can be obtained or translated if necessary by SIS through detection devices into reasonably useable form.

17. When referring to a person, “TO IDENTIFY” means to give, to the extent known, the person’s full name, present or last known address, and, when referring to a natural person, the present or last known place of employment. When referring to a company, “TO IDENTIFY” means to give, to the extent known, the company’s full corporate name, a brief description of the general nature of the business, its state of incorporation, the address and principal place of business; and the identity of the officers or other persons having knowledge of the matter with respect to which the company has been identified. Once a person or company has been identified in accordance with this subparagraph, only the name of that person or company need be listed in response to subsequent discovery requesting the identification of that person or company.

18. When referring to documents, “TO IDENTIFY” means to give, to the extent known, the (a) type of document; (b) general subject matter; (c) date of the document; and (d) author(s), addressee(s), and recipient(s).

19. “DESCRIBE,” “REFER,” “RELATE,” “RELATING TO” and “RELATES TO” mean, without limitation, relating to, regarding, constituting, concerning, mentioning, referring to, describing, summarizing, evidencing, listing,

relevant to, demonstrating, or tending to prove, disprove, or explain.

20. “CORRESPONDENCE” means any letter, memorandum, email, fax or other writing.

21. “CONCERNING” means referring to, describing, evidencing.

22. “COMMUNICATION(S)” means any transfer of information of any kind, orally, in writing, or by any other manner, at any time or place, and under any circumstances whatsoever and shall include, but is not limited to, the following: contracts or agreements; drawings or sketches; invoices, orders, or acknowledgements; diaries or reports; forecasts or appraisals; memoranda of telephonic or in person communications by or with any person; other memoranda, letters, telegrams, telexes, or cables prepared, drafted, received or sent; tapes transcripts, or recordings; photographs, pictures, or films; electronic mail, computer programs, computer data, or computer printouts; or graphic, symbolic, recorded, or written materials of any nature whatsoever.

23. “PERSON” includes, without limitation, any natural person, proprietorship, corporation, partnership, trust, joint venture, association, organization, business entity or governmental agency.

24. The use of the singular includes the plural, and vice versa. The use of one gender includes all others, appropriate in context

INTERROGATORIES

INTERROGATORY 1:

Describe in detail all Documents in SIS's possession, custody or control sufficient to identify SIS's relationship with Green Smoke, Inc.

INTERROGATORY 2:

Describe in detail all Documents in SIS's possession, custody or control sufficient to identify SIS's relationship with Sammy Capuano.

INTERROGATORY 3:

Describe in detail all Documents in SIS's possession, custody or control sufficient to identify SIS's relationship with Silicon Innovations, Inc.

INTERROGATORY 4:

Describe in detail all Documents in SIS's possession, custody or control sufficient to identify SIS's relationship with Sorsa Holdings, Inc.

INTERROGATORY 5:

Describe in detail all Documents in SIS's possession, custody or control sufficient to identify SIS's relationship with Ori E. Adivi.

INTERROGATORY 6:

Describe in detail all Documents in SIS's possession, custody or control sufficient to identify SIS's relationship with Robert Levitz.

INTERROGATORY 7:

Describe in detail all Documents in SIS's possession, custody or control sufficient to identify SIS's relationship with Gs Vapors, Inc.

INTERROGATORY 8:

Describe in detail all Documents in SIS's possession, custody or control sufficient to identify SIS's relationship with Reuven Levitz.

INTERROGATORY 9:

Describe in detail all Documents in SIS's possession, custody or control sufficient to identify SIS's relationship with GS Sorsa, Inc.

INTERROGATORY 10:

Describe in detail all Documents in SIS's possession, custody or control sufficient to identify SIS's relationship with Sorsa Holdings, Inc.

INTERROGATORY 11:

Describe in detail all Documents in SIS's possession, custody or control sufficient to identify SIS's relationship with Reuven Ravitz.

INTERROGATORY 12:

Describe in detail all Documents in SIS's possession, custody or control sufficient to identify SIS's relationship with Fine Wine and Flowers, Inc.

INTERROGATORY 13:

Describe in detail all Documents in SIS's possession, custody or control

sufficient to identify SIS's corporate structure including articles of incorporation, identities of corporate officers, shareholders and owners of all stock classes.

INTERROGATORY 14:

Describe in detail all Documents in SIS's possession, custody or control sufficient to identify Green Smoke, Inc.'s corporate structure including articles of incorporation, identities of corporate officers, shareholders and owners of all stock classes.

INTERROGATORY 15:

Describe in detail all Documents in SIS's possession, custody or control sufficient to identify Sorsa Holdings, Inc.'s corporate structure including articles of incorporation, identities of corporate officers, shareholders and owners of all stock classes.

INTERROGATORY 16:

Describe in detail all Documents in SIS's possession, custody or control sufficient to identify Gs Sorsa, Inc.'s corporate structure including articles of incorporation, identities of corporate officers, shareholders and owners of all stock classes.

INTERROGATORY 17:

Describe in detail all Documents in SIS's possession, custody or control sufficient to identify Gs Vapors, Inc.'s corporate structure including articles of

incorporation, identities of corporate officers, shareholders and owners of all stock classes.

INTERROGATORY 18:

Describe in detail all Documents in SIS's possession, custody or control sufficient to identify Silicon Innovations, Inc.'s corporate structure including articles of incorporation, identities of corporate officers, shareholders and owners of all stock classes.

INTERROGATORY 19:

Describe in detail all Documents in SIS's possession, custody or control sufficient to identify Fine wine and flowers, Inc.'s corporate structure including articles of incorporation, identities of corporate officers, shareholders and owners of all stock classes.

INTERROGATORY 20:

Describe in detail all Documents in SIS's possession, custody or control sufficient to show the first date of use of the mark MOCHA MIST in commerce any where in the world.

INTERROGATORY 21:

Describe in detail all Documents in SIS's possession, custody or control that describe how SIS adopted each mark, including the identity of all alternative marks considered by SIS before selecting the MOCHA MIST Mark and the reason such

alternative marks were rejected.

INTERROGATORY 22:

Describe in detail all Documents in SIS's possession, custody or control that identify any and all domain names registered by or associated with SIS that incorporate or include the MOCHA MIST Mark.

INTERROGATORY 23:

Describe in detail all Documents in SIS's possession, custody or control that identify by address each location in which SIS is in fact doing business.

INTERROGATORY 24:

Describe in detail all Documents in SIS's possession, custody or control that identify by address each location in which SIS has done business in the past

INTERROGATORY 25:

Describe in detail all Documents in SIS's possession, custody or control that identify any and all locations, including geographic areas or territories, in which SIS intends to market any product any product/service under the MOCHA MIST Mark in the future.

INTERROGATORY 26:

Describe in detail all Documents in SIS's possession, custody or control that identify any periods of discontinuance of use of the mark MOCHA MIST.

INTERROGATORY 27:

Describe in detail all Documents in SIS's possession, custody or control that specify the manner and goods/services in which the MOCHA MIST Mark has been used or is used being used.

INTERROGATORY 28:

Describe in detail all Documents in SIS's possession, custody or control that describe in detail the circumstances surrounding SIS's decision to expand or change its selection of products/services offered under or in connection with the MOCHA MIST Mark.

INTERROGATORY 29:

Describe in detail all Documents in SIS's possession, custody or control that identify all person(s) who have or have had any input whatsoever in selecting the MOCHA MIST Mark.

INTERROGATORY 30:

Describe in detail all Documents in SIS's possession, custody or control that identify by name all affiliated companies of SIS, past and present, including without limitation, all subsidiaries, parent companies, franchisees, franchisors, licensors, licensees, retailers, distributors and all otherwise affiliated companies.

INTERROGATORY 31:

Describe in detail all Documents in SIS's possession, custody or control that

identify all agreements entered into by SIS relating to or referring to the MOCHA MIST Mark, including without limitation, all assignments, coexistence agreements, consent agreements, licenses, franchise agreements, distribution agreements, fundraising agreements and other agreements.

INTERROGATORY 32:

Describe in detail all Documents in SIS's possession, custody or control that identify all searches, investigations or any opinions conducted concerning availability and possible conflicts arising out of SIS's usage, adoption or registerability of the MOCHA MIST Mark or other mark incorporating the term "MIST" in connection with any goods or services.

INTERROGATORY 33:

For each search, investigation or opinion identified in Interrogatory No. 32, specify the date on which each search, investigation, or opinion was performed or rendered and the person(s) conducting such search or investigation or rendering such opinion.

INTERROGATORY 34:

Describe in detail all Documents in SIS's possession, custody or control that identify any survey, poll or study conducted or caused to be conducted, on a formal or informal basis, relating to SIS's usage of the MOCHA MIST Mark or other mark incorporating the term "MIST" in connection with the marketing,

advertising, promotion, identification, sale, or distribution of any goods or services, including, but not limited to, any survey, poll or study involving possible confusion with any marks used by Petitioner.

INTERROGATORY 35:

For each survey, poll or study identified in Interrogatory No. 34, Describe in detail all Documents in SIS's possession, custody or control that identify the date of each survey, poll or study and the names and addresses of each person involved in conducting the survey, poll or study.

INTERROGATORY 36:

Describe in detail all circumstances surrounding SIS's first knowledge of Opposer, including officers' directors' first knowledge, including the names, addresses, relationship to SIS, and dates of employment, if applicable, of all persons known to SIS having such knowledge, the earliest date that each such person gained such knowledge, and the means by which each such person gained such knowledge, including identification of all documents or conversations relevant to the manner in which each such person gained such knowledge and communication (sic) such knowledge to SIS.

INTERROGATORY 37:

Describe in detail all Documents in SIS's possession, custody or control that identify all advertising media used by SIS in connection with any goods or services

in association with the MOCHA MIST Mark, including without limitation, the Internet, newspapers, magazines, flyers and other print media, billboards, television and radio.

INTERROGATORY 38:

Describe in detail all Documents in SIS's possession, custody or control for each media identified in response to Interrogatory No. 37, that identify specifically the advertising channels or outlets within such medium, (e.g., website address, title, magazine or newspaper, station and/or call number or letters) to promote each good and/or service under the MOCHA MIST Mark.

INTERROGATORY 39:

Describe in detail all Documents in SIS's possession, custody or control that identify any trademark dispute(s), including, without limitation, litigation, opposition proceedings, cancellation proceedings, administrative domain name proceedings, and/or cease and desist requests relating to the MOCHA MIST Mark," in which SIS has ever been involved as a challenged or challenging party.

INTERROGATORY 40:

For each instance identified in response to Interrogatory No. 39, Describe in detail all Documents in SIS's possession, custody or control that summarize the substance of and response to each dispute.

INTERROGATORY 41:

Describe in detail all Documents in SIS's possession, custody or control that identify each person expected to be called during this proceeding as a witness, including all fact and expert witnesses.

INTERROGATORY 42:

Describe in detail all Documents in SIS's possession, custody or control that support SIS' denial of any allegations in the notice of opposition filed by Opposer Starbuzz.

INTERROGATORY 43:

Describe in detail all Documents in SIS's possession, custody or control concerning SIS's factual and legal contentions in this opposition.

DATED: February 13, 2014

/s/Martin Jerisat
Martin E. Jerisat
Starbuzz Tobacco, Inc.
10871 Forbes Ave.,
Garden Grove, CA 92843

CERTIFICATE OF SERVICE

I certify that a copy of these Interrogatories is being served via United States

Mail on this the 13th day of February 2014, to the following:

Rachel D Brandeis Danielov
GREEN SMOKE INC
20533 Biscayne Blvd Suite 784
Miami, FL 33180-1529

/Martin Jerisat/