

ESTTA Tracking number: **ESTTA629920**

Filing date: **09/29/2014**

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

Proceeding	91213286
Party	Plaintiff Starbuzz Tobacco, Inc.
Correspondence Address	Martin E. Jerisat Jerisat Law Firm 2372 Morse Ave Suite 322 Irvine, CA 92614 UNITED STATES mjerisat@jk-lawfirm.com
Submission	Motion to Compel Discovery
Filer's Name	Martin Jerisat
Filer's e-mail	mjerisat@jk-lawfirm.com
Signature	/Martin Jerisat/
Date	09/29/2014
Attachments	EXH. B_Part2.pdf(3699115 bytes )

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objects to Interrogatory No. 27 on the grounds that it seeks information protected by the attorney-client/work product privileges, including but not limited to mental impressions and legal opinions of counsel. SIS Resources further objects to Interrogatory No. 27 on the grounds that it seeks privileged and confidential information.

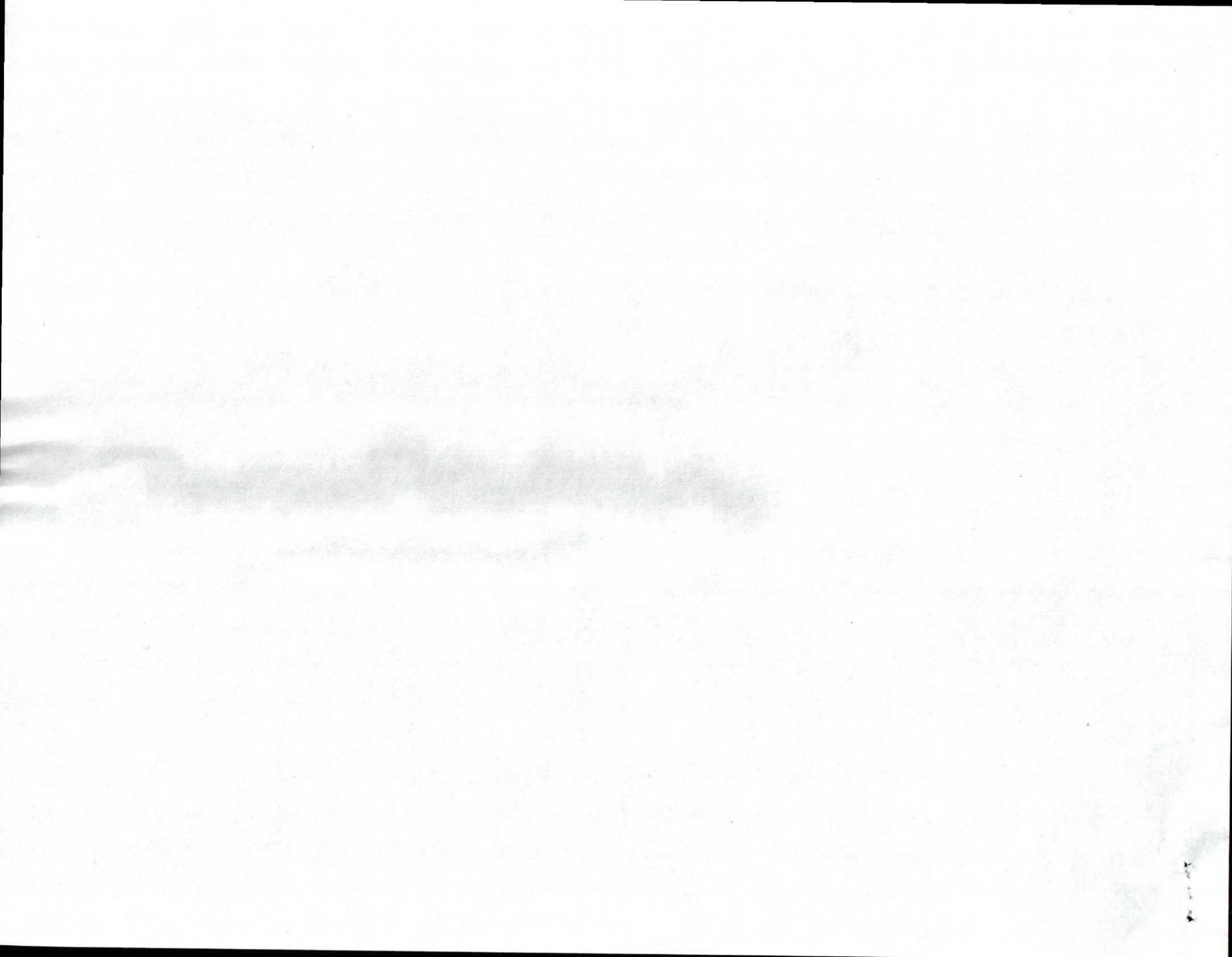
Subject to and without waiving the foregoing objections, SIS Resources will produce a representative sample of non-privileged, responsive documents, if any, pursuant to its Responses and Objections to Opposer's First Requests for Production of Documents at a time and place mutually convenient to the parties.

**INTERROGATORY NO. 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.

**RESPONSE TO INTERROGATORY NO. 28:**

SIS Resources objects to Interrogatory No. 28 on the grounds that it is overly broad and unduly burdensome with its request to "[d]escribe in detail all Documents," irrelevant, and therefore not reasonably calculated to lead to the discovery of admissible evidence. SIS Resources also objects to Interrogatory No. 28 on the grounds that it is vague and ambiguous with its reference to "decision to expand or change its selection of products/services." SIS Resources further objects to Interrogatory No. 28 on the grounds that it seeks information protected by the attorney-client/work product privileges, including but not limited to mental impressions and legal opinions of counsel. Additionally, SIS Resources objects to Interrogatory No. 28 on the grounds that it seeks privileged and confidential information.



Subject to and without waiving the foregoing objections, SIS Resources states that it is unaware of responsive documents.

**INTERROGATORY NO. 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.

**RESPONSE TO INTERROGATORY NO. 29:**

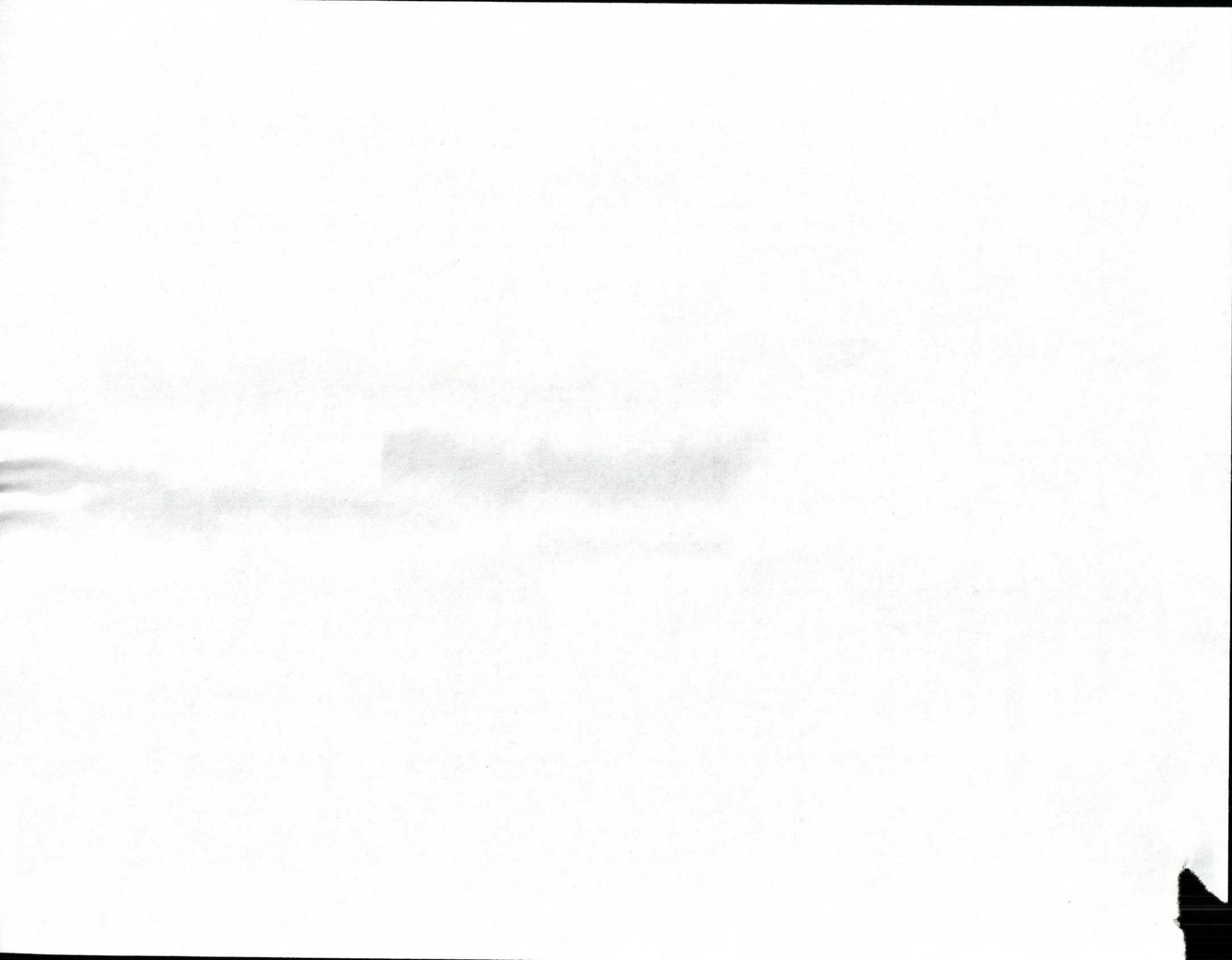
SIS Resources objects to Interrogatory No. 29 on the grounds that it is overly broad and unduly burdensome with its request to "[d]escribe in detail all Documents," and therefore not reasonably calculated to lead to the discovery of admissible evidence. SIS Resources also objects to Interrogatory No. 29 on the grounds that it is vague and ambiguous and calls for speculation with its reference to "all person(s) who have or have had any input whatsoever." SIS Resources further objects to Interrogatory No. 29 on the grounds that it seeks information protected by the attorney-client/work product privileges, including but not limited to mental impressions and legal opinions of counsel. Additionally, SIS Resources objects to Interrogatory No. 29 on the grounds that it seeks privileged and confidential information.

**INTERROGATORY NO. 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.

**RESPONSE TO INTERROGATORY NO. 30:**

SIS Resources objects to Interrogatory No. 30 on the grounds that it is overly broad and unduly burdensome with its request to "[d]escribe in detail all Documents," irrelevant, and



therefore not reasonably calculated to lead to the discovery of admissible evidence. SIS Resources also objects to Interrogatory No. 30 on the grounds that it seeks information protected by the attorney-client/work product privileges, including but not limited to mental impressions and legal opinions of counsel. SIS Resources further objects to Interrogatory No. 30 on the grounds that it seeks privileged and confidential information.

**INTERROGATORY NO. 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.

**RESPONSE TO INTERROGATORY NO. 31:**

SIS Resources objects to Interrogatory No. 31 on the grounds that it is overly broad and unduly burdensome with its request to "[d]escribe in detail all Documents," irrelevant, and therefore not reasonably calculated to lead to the discovery of admissible evidence. SIS Resources also objects to Interrogatory No. 31 on the grounds that it seeks information protected by the attorney-client/work product privileges, including but not limited to mental impressions and legal opinions of counsel. SIS Resources further objects to Interrogatory No. 31 on the grounds that it seeks privileged and confidential information.

Subject to and without waiving the foregoing objections, SIS Resources states that it is unaware of responsive documents.

**INTERROGATORY NO. 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.

**RESPONSE TO INTERROGATORY NO. 32:**

SIS Resources objects to Interrogatory No. 32 on the grounds that it is overly broad and unduly burdensome with its request to "[d]escribe in detail all Documents," and therefore not reasonably calculated to lead to the discovery of admissible evidence. SIS Resources also objects to Interrogatory No. 32 on the grounds that it seeks information protected by the attorney-client/work product privileges, including but not limited to mental impressions and legal opinions of counsel. SIS Resources further objects to Interrogatory No. 32 on the grounds that it seeks privileged and confidential information.

Subject to and without waiving the foregoing objections, SIS Resources states that it is unaware of responsive documents.

**INTERROGATORY NO. 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.

**RESPONSE TO INTERROGATORY NO. 33:**

SIS Resources objects to Interrogatory No. 33 on the grounds that it is overly broad and unduly burdensome with its request to "[d]escribe in detail all Documents," and therefore not reasonably calculated to lead to the discovery of admissible evidence. SIS Resources also objects to Interrogatory No. 33 on the grounds that it seeks information protected by the attorney-client/work product privileges, including but not limited to mental impressions and legal

opinions of counsel. SIS Resources further objects to Interrogatory No. 33 on the grounds that it seeks privileged and confidential information.

**INTERROGATORY NO. 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.

**RESPONSE TO INTERROGATORY NO. 34:**

SIS Resources objects to Interrogatory No. 34 on the grounds that it is overly broad and unduly burdensome with its request to "[d]escribe in detail all Documents," and therefore not reasonably calculated to lead to the discovery of admissible evidence. SIS Resources also objects to Interrogatory No. 34 on the grounds that it is vague and ambiguous with its reference to "Petitioner." SIS Resources further objects to Interrogatory No. 34 on the grounds that it seeks information protected by the attorney-client/work product privileges, including but not limited to mental impressions and legal opinions of counsel. Additionally, SIS Resources objects to Interrogatory No. 34 on the grounds that it seeks privileged and confidential information.

Subject to and without waiving the foregoing objections, SIS Resources states that it is unaware of responsive documents.

**INTERROGATORY NO. 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.

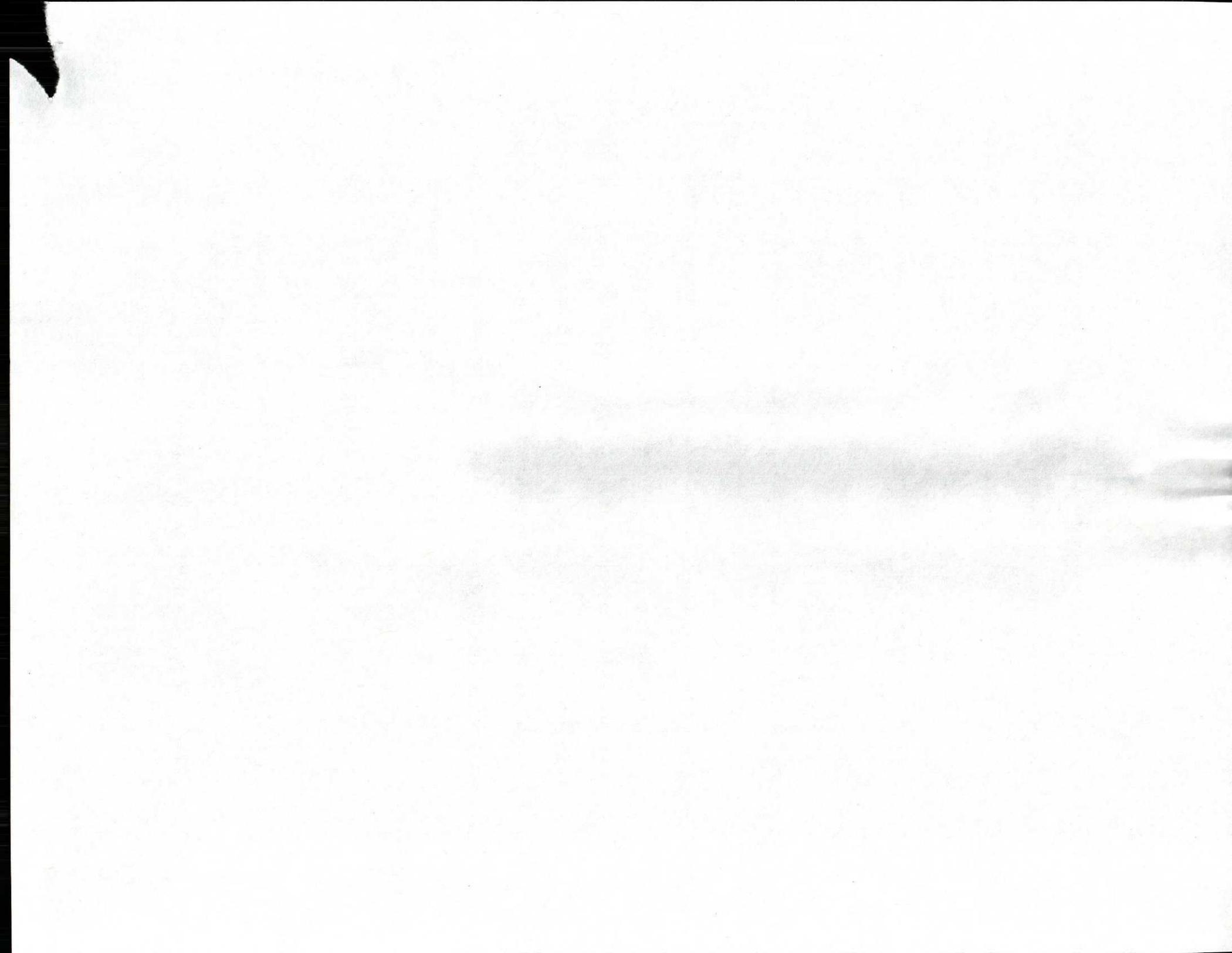
**RESPONSE TO INTERROGATORY NO. 35:**

SIS Resources objects to Interrogatory No. 35 on the grounds that it is overly broad and unduly burdensome with its request to "[d]escribe in detail all Documents," and therefore not reasonably calculated to lead to the discovery of admissible evidence. SIS Resources also objects to Interrogatory No. 35 on the grounds that it is vague and ambiguous with its reference to "Petitioner." SIS Resources further objects to Interrogatory No. 35 on the grounds that it seeks information protected by the attorney-client/work product privileges, including but not limited to mental impressions and legal opinions of counsel. Additionally, SIS Resources objects to Interrogatory No. 35 on the grounds that it seeks privileged and confidential information.

Subject to and without waiving the foregoing objections, SIS Resources states that it is unaware of responsive documents.

**INTERROGATORY NO. 36:**

Describe in detail all circumstances surrounding SIS's first knowledge of Opposer, including officers' directors' [sic] 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.

**RESPONSE TO INTERROGATORY NO. 36:**

SIS Resources objects to Interrogatory No. 36 on the grounds that it is overly broad and unduly burdensome with its request to “[d]escribe in detail all Documents,” and therefore not reasonably calculated to lead to the discovery of admissible evidence. SIS Resources also objects to Interrogatory No. 36 on the grounds that it is vague and ambiguous with its reference to “first knowledge of Opposer.” SIS Resources further objects to Interrogatory No. 36 on the grounds that it seeks information protected by the attorney-client/work product privileges, including but not limited to mental impressions and legal opinions of counsel. Additionally, SIS Resources objects to Interrogatory No. 36 on the grounds that it seeks privileged and confidential information.

**INTERROGATORY NO. 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.

**RESPONSE TO INTERROGATORY NO. 37:**

SIS Resources objects to Interrogatory No. 37 on the grounds that it is overly broad and unduly burdensome with its request to “[d]escribe in detail all Documents,” and therefore not reasonably calculated to lead to the discovery of admissible evidence. SIS Resources also objects to Interrogatory No. 37 on the grounds that it seeks information protected by the attorney-client/work product privileges, including but not limited to mental impressions and legal

opinions of counsel. SIS Resources further objects to Interrogatory No. 37 on the grounds that it seeks privileged and confidential information.

Subject to and without waiving the foregoing objections, SIS Resources will produce a representative sample of non-privileged, responsive documents, if any, pursuant to its Responses and Objections to Opposer's First Requests for Production of Documents at a time and place mutually convenient to the parties.

**INTERROGATORY NO. 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.

**RESPONSE TO INTERROGATORY NO. 38:**

SIS Resources objects to Interrogatory No. 38 on the grounds that it is overly broad and unduly burdensome with its request to "[d]escribe in detail all Documents," and therefore not reasonably calculated to lead to the discovery of admissible evidence. SIS Resources also objects to Interrogatory No. 38 on the grounds that it seeks information protected by the attorney-client/work product privileges, including but not limited to mental impressions and legal opinions of counsel. SIS Resources further objects to Interrogatory No. 38 on the grounds that it seeks privileged and confidential information.

Subject to and without waiving the foregoing objections, SIS Resources will produce a representative sample of non-privileged, responsive documents, if any, pursuant to its Responses

and Objections to Opposer's First Requests for Production of Documents at a time and place mutually convenient to the parties.

**INTERROGATORY NO. 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.

**RESPONSE TO INTERROGATORY NO. 39:**

SIS Resources objects to Interrogatory No. 39 on the grounds that it is overly broad and unduly burdensome with its request to "[d]escribe in detail all Documents," irrelevant, and therefore not reasonably calculated to lead to the discovery of admissible evidence. SIS Resources also objects to Interrogatory No. 39 on the grounds that it seeks information protected by the attorney-client/work product privileges, including but not limited to mental impressions and legal opinions of counsel. SIS Resources further objects to Interrogatory No. 39 on the grounds that it seeks privileged and confidential information. Additionally, SIS Resources objects to Interrogatory No. 39 on the grounds that it calls for information which is readily available to Opposer from publicly available sources.

**INTERROGATORY NO. 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.



**RESPONSE TO INTERROGATORY NO. 40:**

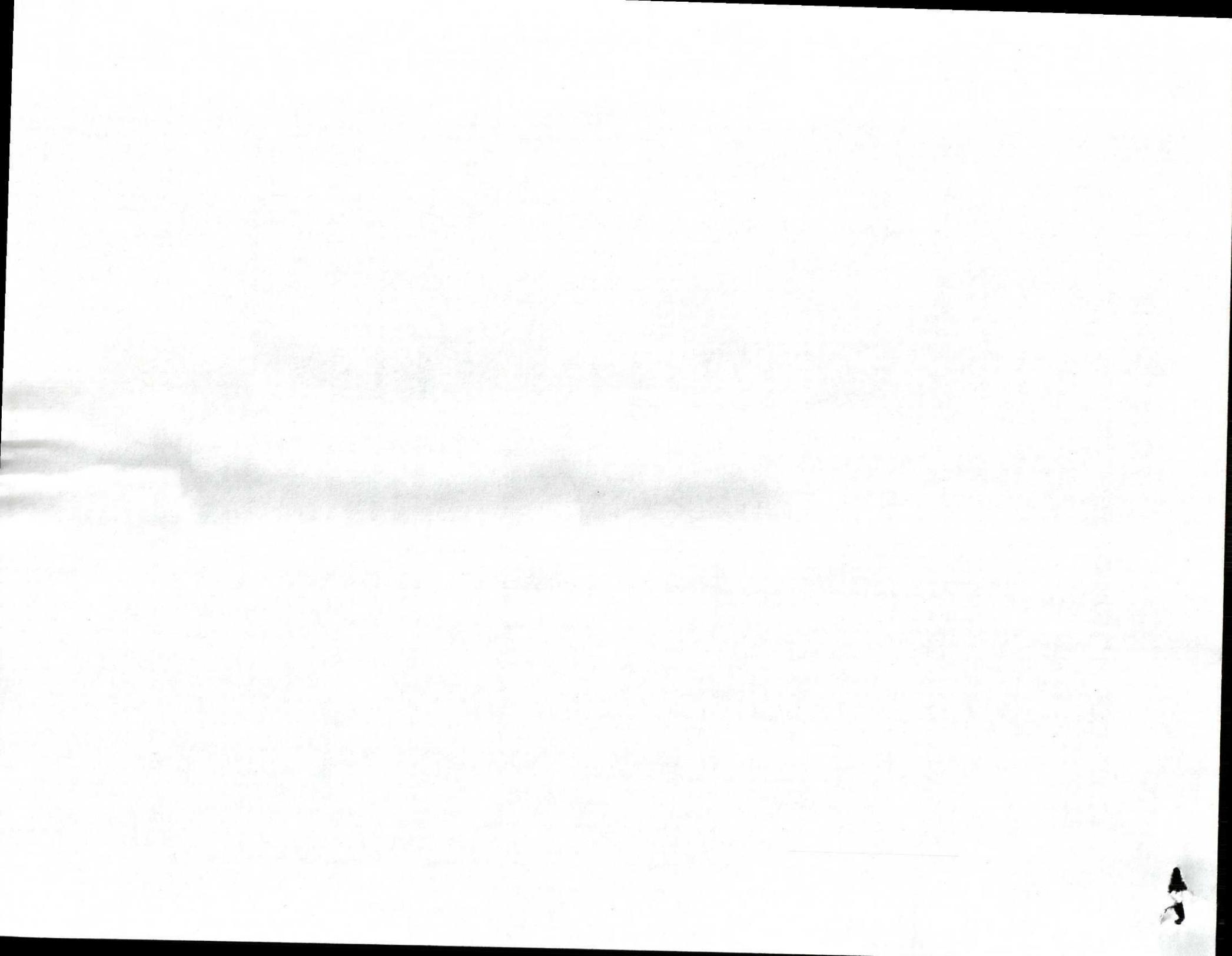
SIS Resources objects to Interrogatory No. 40 on the grounds that it is overly broad and unduly burdensome with its request to “[d]escribe in detail all Documents,” irrelevant, and therefore not reasonably calculated to lead to the discovery of admissible evidence. SIS Resources also objects to Interrogatory No. 40 on the grounds that it seeks information protected by the attorney-client/work product privileges, including but not limited to mental impressions and legal opinions of counsel. SIS Resources further objects to Interrogatory No. 40 on the grounds that it seeks privileged and confidential information. Additionally, SIS Resources objects to Interrogatory No. 40 on the grounds that it calls for information which is readily available to Opposer from publicly available sources.

**INTERROGATORY NO. 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.

**RESPONSE TO INTERROGATORY NO. 41:**

SIS Resources objects to Interrogatory No. 41 on the grounds that it is overly broad and unduly burdensome with its request to “[d]escribe in detail all Documents,” and therefore not reasonably calculated to lead to the discovery of admissible evidence. SIS Resources also objects to Interrogatory No. 41 on the grounds that it exceeds the scope of permissible discovery pursuant to the Federal Rules of Civil Procedure. SIS Resources further objects to Interrogatory No. 41 on the grounds that it seeks information protected by attorney-client/work product privileges, including but not limited to the mental impressions and legal opinions of counsel. Additionally, SIS Resources objects to Interrogatory No. 41 on the grounds that it seeks



privileged and confidential information. Moreover, SIS Resources objects to Interrogatory No. 41 under TBMP § 414(7) as it requests the identification of fact witnesses and a description of evidence SIS Resources may rely upon.

Subject to and without waiving the foregoing objections, SIS Resources will produce non-privileged, responsive documents, if applicable, at the appropriate time as required under Fed. R. Civ. P. 26(a)(2)(B) and by the deadline for expert disclosures set out in the Trademark Trial and Appeal Board's Scheduling Order.

**INTERROGATORY NO. 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.

**RESPONSE TO INTERROGATORY NO. 42:**

SIS Resources objects to Interrogatory No. 42 on the grounds that it is overly broad and unduly burdensome with its request to "[d]escribe in detail all Documents," and therefore not reasonably calculated to lead to the discovery of admissible evidence. SIS Resources also objects to Interrogatory No. 41 on the grounds that it is vague and ambiguous with its reference to "the notice of opposition filed by Opposer Starbuzz." SIS Resources further objects to Interrogatory No. 42 on the grounds that it seeks information protected by the attorney-client/work product privileges, including but not limited to mental impressions and legal opinions of counsel. Additionally, SIS Resources objects to Interrogatory No. 42 on the grounds that it seeks privileged and confidential information. Moreover, SIS Resources objects to Interrogatory No. 42 under TBMP § 414(7) as it requests a description of evidence SIS Resources intends to rely upon.



**INTERROGATORY NO. 43:**

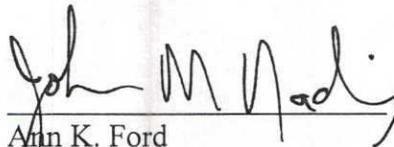
Describe in detail all Documents in SIS's possession, custody or control concerning SIS's factual and legal contentions in this opposition.

**RESPONSE TO INTERROGATORY NO. 43:**

SIS Resources objects to Interrogatory No. 43 on the grounds that it is overly broad and unduly burdensome with its request to "[d]escribe in detail all Documents," and therefore not reasonably calculated to lead to the discovery of admissible evidence. SIS Resources also objects to Interrogatory No. 43 on the grounds that it seeks information protected by the attorney-client/work product privileges, including but not limited to mental impressions and legal opinions of counsel. SIS Resources further objects to Interrogatory No. 43 on the grounds that it seeks privileged and confidential information. Additionally, SIS Resources objects to Interrogatory No. 43 under TBMP § 414(7) as it requests a description of evidence SIS Resources intends to rely upon.

Dated: July 28, 2014

By:



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Thomas E. Zutic  
John M. Nading  
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*Attorneys for Applicant SIS Resources Ltd.*

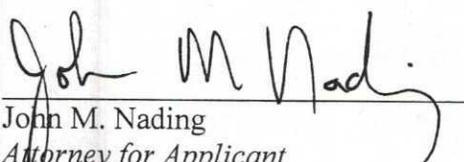


**CERTIFICATE OF SERVICE**

This is to certify that a copy of the foregoing **APPLICANT'S ANSWERS AND OBJECTIONS TO OPPOSER'S FIRST SET OF INTERROGATORIES** was served via First Class U.S. Mail, postage prepaid, and properly addressed to Opposer's counsel of record:

Martin E. Jurisat  
Starbuzz Tobacco, Inc.  
10871 Forbes Avenue  
Garden Grove, California 92843

this 28th day of July, 2014.

  
\_\_\_\_\_  
John M. Nading  
*Attorney for Applicant*





AUTHENTICATION OF SIGNATURE

אימות חתימה

מס. 2433 No.

I, the undersigned,

David Drutman

Notary at Beit-Shemesh, 29B/13 Nachal Dolev St., declare that on 24 July 2014, there appeared before me Robert Levitz, whose identity was proven to me by New York Driver's License No. issued on 25/11/2012, and who signed of his own free will the attached document marked "A" on behalf/in the name of SIS RESOURCES LIMITED and I certify that, with a view to establishing the right of the above to sign on behalf of/in the name of SIS RESOURCES LIMITED there has been produced to me a certificate of the Company's Lawyers, a copy of which is attached hereto as "B".

In witness thereof I hereby authenticate the signature of the above named, by my own signature and seal today

This 24 July 2014.

Fees: NIS 232 plus 18% VAT



חתימת הנוטריון  
Notary's Seal

אני הח"מ,

דוד דרוטמן

נוטריון בבית שמש, מרח' נחל דולב 29/ב13, מאשר כי ביום 24 יולי 2014, ולויץ רוברט, שזהותו הוכחה לי על פי רשיון נהיגה ניו יורק מס' שניתן ביום 25/11/2012, וחתם מרצונו החופשי על המסמך המצורף והמסומן באות "A" בשם אס איי אס משאבים בע"מ ואני מאשר כי להוכחת רשותו הנייל לחתום בשם אס איי אס משאבים בע"מ הוצג בפני אישור עוה"ד של החברה, עותק ממנו מצ"ב ומסומן באות "B".

ולראיה הנני מאמת את חתימתו של החותם הנייל, בחתימת ידי ובחותמי.

היום, 24 יולי 2014.

שכר בסך 232 ₪ ובתוספת 18% מע"מ.

חתימה  
Signature

