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Filing date: **01/30/2015**

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

Proceeding	91217154
Party	Plaintiff Nasty Pig, Inc.
Correspondence Address	JOEL KARNI SCHMIDT COWAN LIEBOWITZ & LATMAN PC 1133 AVENUE OF THE AMERICAS NEW YORK, NY 10036 UNITED STATES spc@cll.com, jks@cll.com, ejs@cll.com, mx@cll.com, trademark@cll.com
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Signature	/Joel Karni Schmidt/
Date	01/30/2015
Attachments	Motion For Order Regarding Manner of Production.pdf(24951 bytes) Ceresia Declaration (Motion for Order) - with exhibits.pdf(2245551 bytes)

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

In the Matter of Application Serial No. 86/085,785
Filed: October 8, 2013
For Mark: DIRTY PIG
Published in the Official Gazette of March 4, 2014

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		:	
NASTY PIG, INC.,		:	Opposition No. 91217154
	Opposer,	:	
		:	
v.		:	
		:	
JANOSKIANS LLC,		:	
	Applicant.	:	
-----		X	

**OPPOSER’S MOTION FOR ORDER REGARDING MANNER OF APPLICANT’S
DOCUMENT PRODUCTION**

Pursuant to Section 522 of the Trademark Trial and Appeal Board Manual of Procedure (“TBMP”) and Trademark Rule 2.120(d)(2), Opposer Nasty Pig, Inc. (“Opposer”), by and through its undersigned counsel, hereby respectfully requests that the Board issue an order directing Applicant Janoskians LLC (“Applicant”) to copy and mail Applicant’s documents responsive to Opposer’s requests for production to Opposer’s counsel’s offices located in New York, New York. Opposer further requests that the Board schedule a telephone conference in connection with this motion pursuant to TBMP § 413.01 and Trademark Rule 2.120(i)(1).

As set forth more fully below, on September 10, 2014, Applicant served discovery requests on Opposer, who is located in New York, New York, demanding that Opposer produce its documents at the offices of Applicant’s counsel in Raritan, New Jersey. Without any objection to this location, in early December 2014, Opposer timely served its document production (consisting of over 2,300 pages of documents) by mailing a disc containing the production to Applicant’s counsel’s offices, as expressly requested by Applicant. Now,

notwithstanding Applicant's own prior demand, Applicant has refused to reciprocally produce its responsive documents to Opposer's counsel's offices in New York, New York—even rejecting Opposer's generous offer to pay for all necessary copying and shipping expenses. Instead, Applicant is taking the inequitable and hypocritical position that Applicant's documents can be inspected and copied only at Applicant's offices located in Vernon, California – approximately 2,500 miles across the country. Such an undertaking would cause Opposer tremendous burden and expense.

In view of Applicant's prior demand that Opposer undertake the very manner of document production that Applicant now seeks to avoid, Applicant has waived any right to object to Opposer's identical request. The Board should thus exercise its authority under Trademark Rule 2.120(d)(2) and order Applicant to ship its responsive documents to the offices of Opposer's counsel located in New York, New York.

STATEMENT OF FACTS

The facts on which this motion is based are set forth more fully in the accompanying declaration of Scott P. Ceresia, Esq. (“Ceresia Decl.”) and are summarized below for the Board's convenience.

The instant opposition was instituted on July 2, 2014. (Dkt. No. 1). Discovery in this matter closes on March 9, 2015. (Dkt. No. 2).

In the fall of 2014, the parties served respective Requests for Production of Documents and Things. Ceresia Decl. ¶ 2. Applicant's requests for production specifically demanded that Opposer produce its responsive documents at the offices of Applicant's counsel, Baker and Rannells, P.A., located in Raritan, New Jersey. *Id.*, Ex. A. On November 14, 2014, Opposer served its written responses to Applicant's requests for production. *Id.*, Ex. B. On December 4,

2014, pursuant to Applicant's express demand, Opposer served its document, consisting of over 2,300 pages of documents, by placing said documents on a disc and mailing the disc via Federal Express to Applicant's counsel's offices in New Jersey. *Id.*, Ex. C.

On December 9, 2014, Applicant served its written responses to Opposer's requests for production. *Id.*, Ex. D. For each of Opposer's document requests, Applicant responded that it would "produce documents for inspection and copying at a mutually convenient date and time." *See id.* Applicant's response claimed that Applicant's documents are located at Putnam Accessory Group, Inc. in Vernon, California, and required that Opposer, at its own expense, inspect and copy the documents at that location at a mutually convenient date and time. *See id.* at p. 5, ¶ 18.

In an effort to resolve any discovery disputes without the need for Board intervention, Opposer's counsel sent an email to Applicant's counsel on December 17, 2014 seeking to schedule a call to discuss Applicant's written discovery responses. *Id.*, Ex. E. After this email went unanswered, Opposer's counsel left a follow-up voicemail for Applicant's counsel in early January 2015 again requesting a call on the matter. *Id.* ¶ 11. In a telephone conversation between counsel a few days later, Opposer's counsel requested, as matter of professional courtesy, that Applicant reciprocally produce its documents by mailing them to Opposer's counsel as Opposer had previously done with its document production. *Id.* ¶ 12. Applicant's counsel adamantly refused and stated that Opposer could inspect and copy Applicant's documents only at the designated location in Vernon, California. *Id.* ¶ 13. In a follow up telephone conversation between counsel, as a measure of good faith, Opposer offered to pay for Applicant's copying costs and Federal Express costs required for shipping Applicant's documents to Opposer's counsel in New York. *Id.* ¶ 14. Applicant subsequently rejected such offer and persisted in its refusal even to consider sending Applicant's documents to Opposer's

counsel. *Id.* ¶ 15. When Opposer’s counsel explained that requiring Opposer to travel across the country or hire local counsel in California to inspect and copy the documents would be unduly burdensome and unnecessarily costly, Applicant’s counsel stated that this was simply a consequence of Opposer having initiated the opposition proceeding. *Id.* ¶ 16.

Even if Opposer were to accede to Applicant’s demand to travel to California to inspect the documents, Applicant’s counsel has not provided Opposer with the specific information necessary to carry out such a task, including the specific address where the documents are located; who would oversee Opposer’s inspection and copying at Applicant’s offices; and how the documents to be inspected and copied are organized or otherwise maintained. *Id.* ¶ 17. Since there has apparently been no review of the documents by Applicant’s counsel located in New Jersey, such inspection and copying would have the potential to be a logistical nightmare. *Id.* ¶ 18.

Despite Opposer’s good-faith efforts to informally resolve this discovery dispute pursuant to Trademark Rule 2.120(e)(1), such efforts have proven unsuccessful. *Id.* ¶ 19. Accordingly, Opposer is left with no choice but to seek relief from the Board.

ARGUMENT

A. The Board Should Exercise its Discretion Under Trademark Rule 2.120(d)(2) To Direct Applicant to Mail its Responsive Documents to Opposer’s Counsel’s Office

Trademark Rule 2.120(d)(2) provides:

The production of documents and things under the provisions of Rule 34 of the Federal Rules of Civil Procedure will be made at the place where the documents and things are usually kept, or where the parties agree, *or where and in the manner which the Trademark Trial and Appeal Board, upon motion, orders.*

37 C.F.R. § 2.120(d)(2) (emphasis added). “Accordingly, upon motion, the Board, in its discretion, may make any appropriate order concerning the place and/or manner of production of documents and things. For example, the Board may order that the responding party photocopy

the documents designated in a request and mail the photocopies to the requesting party, all at the requesting party's expense." TBMP § 522. Such an order recognizes that a responding party's copying and mailing the documents to the requesting party "is an easy, equitable manner of producing documents when both parties serve requests for production." Gary D. Krugman, Trademark Trial and Appeal Board Practice and Procedure, § 3:75 (2014-15 ed.) ("Generally, the parties will agree to produce documents by having the responding party copy the documents and send them to the propounding party").

Thus, pursuant to its authority under Trademark Rule 2.120(d)(2), the Board has ordered that a responding party copy and mail the responsive documents to the requesting party. See D.K. Jain d/b/a Luxor Pen Co. v. Ramparts, Inc., 49 U.S.P.Q.2d 1429, 1432 (T.T.A.B. 1998) (ordering applicant to copy and mail to opposer the documents responsive to opposer's document requests); Unicut Corp. v. Unicut, Inc., 220 U.S.P.Q. 1013, 1015 (T.T.A.B. 1983) (ordering respondent to produce responsive documents "by making copies thereof and mailing same to petitioner's attorney at petitioner's expense or by hand-delivering them to petitioner's attorney").

Opposer respectfully submits that a similar order directing shipment of Applicant's documents to Opposer's counsel is warranted in this case. Applicant's unyielding demand that Opposer either travel approximately 2,500 miles or hire local counsel in California to inspect and copy Applicant's documents must be rejected on multiple grounds.

First, Applicant has waived any right to object to the shipment of its documents to Opposer's counsel in New York by virtue of its prior reciprocal demand that Opposer produce its documents at the offices of Applicant's counsel in New Jersey. Accord Sentrol, Inc. v. Sentex Sys., 231 U.S.P.Q. 666, 668 (T.T.A.B. 1986) (where parties propounded identical discovery requests, granting the parties' respective motions to compel "[s]ince the parties have, in effect, waived their right to object because identical discovery requests were served on the adverse

party”); Tektronix, Inc. v. Tek Assocs., 183 U.S.P.Q. 623, 623-24 (T.T.A.B. 1974) (where opposer served interrogatories similar to those served by applicant, holding that “opposer is precluded by its own behavior from objecting to applicant’s interrogatories on their merits”). In accordance with Applicant’s express demand – and at significant effort and expense – Opposer timely reviewed, Bates-stamped and mailed over 2,300 pages of responsive documents to Applicant’s counsel in New Jersey. It represents the height of inequity for Applicant to now foist upon Opposer a costly and unduly burdensome manner of production that Applicant took pains to avoid when it came to its own discovery requests.

Moreover, Applicant’s insistence that Opposer must inspect and copy Applicant’s documents in Vernon, California would be incredibly burdensome and prejudicial and would force Opposer to incur significant unnecessary cost and expense. Applicant has offered no independent justification for its refusal to reciprocally mail Applicant’s responsive documents to Opposer’s counsel in New York. The fact that Applicant has even rejected Opposer’s generous offer to pay for the cost of copying and shipping the documents to New York confirms that there is no principled reason for Applicant’s position and suggests that Applicant is seeking to impose hardship on Opposer for hardship’s sake. Further, such a logistically arduous method of production is impractical in light of the imminent close of discovery on March 9, 2015.¹

Trademark Rule 2.120(d)(2) is specifically designed to prevent such inequitable and prejudicial results and to ensure a fair resolution of disputes concerning the manner of production, namely, by granting the Board the authority to order a responding party to copy and mail the responsive documents to the requesting party. Opposer respectfully requests that the Board issue an Order to the same effect in the instant matter so that the parties may proceed with

¹ Also, as noted above, Applicant has not even provided the logistical information necessary for Opposer to carry out such inspection and copying at the offices in Vernon, California.

substantive discovery matters and otherwise focus on the merits of this proceeding. Such an Order would represent an eminently fair resolution of this dispute, as it would protect Opposer from the very undue hardship and expense that Applicant purposely avoided on its own behalf.

B. Opposer Respectfully Requests that the Board Resolve the Instant Motion By Telephone Conference

Pursuant to Trademark Rule 2.120(i)(1), “[w]henver it appears to the Trademark Trial and Appeal Board that a stipulation or motion filed in an inter partes proceeding is of such nature that its approval or resolution by correspondence is not practical, the Board may, upon its own initiative or upon request made by one or both of the parties, address the stipulation or resolve the motion by telephone conference.” 37 C.F.R. § 2.120(i)(1). See also TBMP § 413.01.

Opposer submits that the instant dispute is of such nature that its resolution may properly be made by way of a telephone conference. Opposer thus respectfully requests that the Board schedule a telephone conference with the parties as a means of deciding the instant motion.

CONCLUSION

For the foregoing reasons, Opposer respectfully requests that the Board issue an Order pursuant to Trademark Rule 2.120(d)(2) directing Applicant to copy and mail Applicant’s documents responsive to Opposer’s requests for production to Opposer’s counsel’s offices located in New York, New York. Opposer further requests that the Board resolve the instant motion by way of a telephone conference pursuant to Trademark Rule 2.120(i)(1).

Dated: New York, New York
January 30, 2015

Respectfully submitted,

COWAN, LIEBOWITZ & LATMAN, P.C.
Attorneys for Opposer

By: /Joel Karni Schmit/
Joel Karni Schmidt
Eric J. Shimanoff
Scott P. Ceresia
1133 Avenue of the Americas
New York, New York 10036
(212) 790-9200

CERTIFICATE OF SERVICE

I hereby certify that I caused a copy of the foregoing OPPOSER'S MOTION FOR ORDER REGARDING MANNER OF APPLICANT'S DOCUMENT PRODUCTION to be sent via first class, postage paid mail to Applicant Janoskians LLC's Attorney and Correspondent of Record, Stephen L. Baker, Esq., Baker and Rannells, P.A., 575 Route 28, Raritan, New Jersey 08869-1354.

Dated: New York, New York
January 30, 2015

/Scott P. Ceresia/
Scott P. Ceresia

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

In the Matter of Application Serial No. 86/085,785
Filed: October 8, 2013
For Mark: DIRTY PIG
Published in the Official Gazette of March 4, 2014

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NASTY PIG, INC.,		:	
	Opposer,	:	Opposition No. 91217154
		:	
v.		:	
JANOSKIANS LLC,		:	
	Applicant.	:	
-----		X	

**DECLARATION OF SCOTT P. CERESIA IN SUPPORT OF OPPOSER’S MOTION
FOR ORDER REGARDING MANNER OF APPLICANT’S DOCUMENT
PRODUCTION**

SCOTT P. CERESIA, pursuant to 28 U.S.C. § 1746, declares as follows:

1. I am an associate at the law firm of Cowan, Liebowitz & Latman, P.C., attorneys for Opposer Nasty Pig, Inc. (“Opposer”) in this matter. I submit this declaration in support of Opposer’s motion for an order regarding the manner of Applicant Janoskians LLC’s (“Applicant”) document production pursuant to Trademark Rule 2.120(d)(2).

2. In the fall of 2014, the parties served respective Requests for Production of Documents and Things.

3. A true and correct copy of Applicant’s requests for production served on Opposer, dated September 10, 2014, is attached hereto as **Exhibit A**.

4. Applicant’s requests for production specifically demanded that Opposer produce its responsive documents at the offices of Applicant’s counsel, Baker and Rannells, P.A., located in Raritan, New Jersey. See **Exhibit A** at p. 1.

5. On November 14, 2014, Opposer served its written responses to Applicant's requests for production. A true and correct copy of Opposer's written responses to Applicant's requests for production, dated November 14, 2014, is attached hereto as **Exhibit B**.

6. On December 4, 2014, pursuant to Applicant's express demand, Opposer served its document production, consisting of over 2,300 pages of documents, by placing said documents on a disc and mailing the disc via Federal Express to Applicant's counsel's offices located in New Jersey. A true and correct copy of the cover letter accompanying Opposer's document production, dated December 4, 2014, is attached hereto as **Exhibit C**.

7. On December 9, 2014, Applicant served its written responses to Opposer's requests for production. A true and correct copy of Applicant's written responses to Opposer's requests for production, dated December 9, 2014, is attached hereto as **Exhibit D**.

8. For each of Opposer's document requests, Applicant responded that it would "produce documents for inspection and copying at a mutually convenient date and time." *See Exhibit D* hereto.

9. Applicant's response claimed that Applicant's documents are located at Putnam Accessory Group, Inc. in Vernon, California, and required that Opposer, at its own expense, inspect and copy the documents at that location at a mutually convenient date and time. *See id.* at p. 5, ¶ 18.

10. In an effort to resolve any discovery disputes without the need for Board intervention, on December 17, 2014, I sent an email to Applicant's counsel, Jason DeFrancesco, Esq., seeking to schedule a call to discuss Applicant's written discovery responses. A true and correct copy of the email I sent to Mr. DeFrancesco, dated December 17, 2014, is attached hereto as **Exhibit E**.

11. After this email went unanswered, I left a follow-up voicemail for Mr. DeFrancesco in early January 2015 again requesting a call on the matter.

12. On January 8, 2014, in a telephone conversation between myself and Mr. DeFrancesco, I requested, as matter of professional courtesy, that Applicant reciprocally produce its documents by mailing them to Opposer's counsel as Opposer had previously done with its document production.

13. Mr. DeFrancesco adamantly refused and stated that Opposer could inspect and copy Applicant's documents only at the designated location in Vernon, California.

14. In a follow up telephone conversation with Mr. DeFrancesco on January 20, 2015, as a measure of good faith, I communicated Opposer's offer to pay for Applicant's copying costs and Federal Express costs required for shipping Applicant's documents to our offices in New York.

15. In a subsequent telephone conversation with Mr. DeFrancesco on January 23, 2015, Applicant rejected Opposer's offer and persisted in its refusal even to consider sending Applicant's documents to our offices in New York.

16. When I explained that requiring Opposer to travel across the country or to hire local counsel in California to inspect and copy the documents would be unduly burdensome and unnecessarily costly, Mr. DeFrancesco stated that this was simply a consequence of Opposer having initiated the opposition proceeding.

17. As of the date of this motion, Applicant's counsel has not provided Opposer with the specific information necessary to carry out such a task of inspection and copying at the offices in Vernon, California, including the specific address where the documents are located;

who would oversee Opposer's inspection and copying at Applicant's offices; and how the documents to be inspected and copied are organized or otherwise maintained.

18. Since there has apparently been no review of the documents by Applicant's counsel located in New Jersey, such inspection and copying would have the potential to be a logistical nightmare.

19. Despite our good-faith efforts to informally resolve this discovery dispute pursuant to Trademark Rule 2.120(e)(1), such efforts have proven unsuccessful, thus leaving Opposer no choice but to seek relief from the Board.

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT. EXECUTED ON JANUARY 30, 2015 AT NEW YORK, NEW YORK.



Scott P. Ceresia

EXHIBIT A

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

In re: Serial No. 86/085,785
Filing Date: October 8, 2013
Mark: DIRTY PIG

NASTY PIG, INC.)	
)	
Opposer,)	
)	
v.)	Opposition No. 91217154
)	
JANOSKIANS LLC,)	
)	
Applicant.)	

**APPLICANT’S FIRST REQUEST
FOR PRODUCTION OF DOCUMENTS**

Applicant, JANOSKIANS LLC (“Applicant”), pursuant to Rule 2.120 of the Trademark Rules of Practice, and Rule 34 of the Federal Rules of Civil Procedure, hereby requests NASTY PIG, INC. (“Opposer”) to produce and permit Applicant to inspect and copy the following documents and things, at the offices of Baker and Rannells, PA, 575 Route 28, Suite 102, Raritan, NJ 08869, or at some other location mutually agreed upon, within (30) thirty days after receipt hereof, as identified according to following definitions and instructions.

DEFINITIONS AND INSTRUCTIONS

1. As used herein, the term “Opposer” means and refers to Opposer herein, each of its predecessors, subsidiaries, licensees, divisions, affiliates, directors, officers, employees, agents and attorneys and each person acting on its behalf or under its control.

2. As used herein, the term “Applicant” means and shall refer to Applicant herein, each of its predecessors, subsidiaries, licensees, divisions, affiliates, directors, officers, employees, agents and attorneys and each person acting on its behalf or under its control.

3. As used herein, the term “Person” as well as pronouns referring thereto shall include any business, legal or governmental entity or association, as well as natural persons.

4. As used herein, the term “Document” includes any tangible thing from or on which information can be stored, recorded, processed, transmitted, inscribed, or memorialized in any way by any means, regardless of technology or form.

5. With respect to each Document to which an objection as to production is made, state:

- a. The nature of the Document;
- b. The date of the Document;
- c. The name of the person(s) to whom the Document was addressed;
- d. The name of the person(s) who received such Document;
- e. The name of the person(s) who prepared or sent the Document;
- f. The general subject matter of the Document; and
- g. The specific grounds upon which the objection is made.

6. As used herein, the term “date” means the exact date, if known, and, if not known, the approximate date.

7. Any word written in the singular shall be construed as plural or vice-versa when necessary to facilitate a response to a request for production of a document or thing.

8. As used herein, the term “all” and “each” shall be construed as all and each to bring within the scope of the discovery request all documents and things that might otherwise be construed to be outside of its scope.

9. As used herein, the connectives “and” and “or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery requests all documents and things that might otherwise be construed to be outside of its scope.

10. “Refer,” “relate” or “relating,” “regarding,” “concerning,” “reflecting” or “containing” shall mean directly or indirectly, in whole or in part, referring to, relating to, connected with, commenting on, discussing, impacting upon, affecting, responding to, explaining, showing, indicating, describing, analyzing, reflecting, evidencing or constituting.

11. As used herein, the term “Applicant’s Mark” means and shall refer to the Applicant’s mark DIRTY PIG, Application Serial No. 86085785.

12. As used herein, “Applicant’s Goods” shall mean the goods identified in application Ser. No. 86085785

13. As used herein, the term “Opposer’s Mark” means and shall refer to NASTY PIG, the mark which is the subject of Registration No. 2800386 and pending application Ser. No.: 86114145.

14. As used herein, “Opposer’s Goods” shall mean the goods set forth in Registration No. 2800386 and pending application Ser. No.: 86114145.

15. As used herein, Variations of Opposer’s Mark shall mean any third party mark comprised in whole or in part of “NASTY” or “PIG” or any of the following:

SOW

SWINE

BOAR

RAUNCHY

PIG PEN

BAD

ANGRY

PHILTHY

TRAIFF

CHEATING

STINKY

STY

SLOPPY

WILD

REQUESTED DOCUMENTS AND THINGS

1. All documents identified in response to Applicant's First Set of Interrogatories.
2. All documents concerning Opposer's investigation, selection, adoption, creation and development of Opposer's Mark.
3. All documents concerning the prosecution, maintenance and assignment of Opposer's Mark, the subject of Registration No. 2800386, and any goodwill associated therewith.

4. All documents tending to demonstrate Opposer's bona fide intent to use Opposer's Mark on the goods which are identified pending application Ser. No.: 86114145.

5. All documents that supports the claims made by Opposer in the Notice of Opposition.

6. All documents which evidence Opposer's continued use of Opposer's Mark on Opposer's Goods in the United States from Opposer's first use date through the present in the United States.

7. All documents evidencing Opposer's date of first actual use of Opposer's Mark on Opposer's Goods.

8. A specimen or photograph of each of Opposer's Goods, including the packaging for the same, that has been, is being, or will be sold or offered using Opposer Mark from Opposer's first use date through the present in the United States.

9. All United States Patent and Trademark Office trademark search citations and common law search citations discovered during Opposer's investigations into the availability of Opposer's Mark.

10. All invoices, contracts, agreements, purchase orders, and/or purchase receipts which reflect or evidence Opposer's offering of Opposer's Goods featuring Opposer's Mark in the United States from Opposer's first use date through the present in the United States.

11. All sales reports which record, refer to, or relate to, Opposer's sales of Opposer's Goods under Opposer's Mark in the United States from Opposer's first use date through the present in the United States.

12. All documents which record, refer to, or relate to Opposer's advertising and/or promotional expenditures for Opposer's Goods under Opposer's Mark from Opposer's first use date through the present in the United States. including, without limitation, the advertising medium, the dates of any such advertisements or promotions, and the cost associated with such advertisements and/or promotions.

13. All promotional materials, media plans, marketing plans and advertisements evidencing Opposer's use of Opposer's Mark on or in association with Opposer's Goods from Opposer's first use date through the present in the United States.

14. All documents concerning business plans for Opposer's Goods associated with Opposer's Mark in the United States from Opposer's first use date through the present in the United States.

15. All documents which refer to, or relate to, Opposer's knowledge and/or awareness of the use by Applicant of Applicant's Mark on or in connection with Applicant's Goods.

16. All documents which record, refer to, or relate to Opposer's knowledge and/or awareness of the use and/or registration of third party Variations of Opposer's Mark for any goods or services in the United States.

17. All documents which record, refer to, or relate to Opposer's knowledge and/or awareness of the use and/or registration of third party Variations of Opposer's Mark for any goods or services which have priority over Opposer's Mark in the United States.

18. All documents concerning any survey, test survey, informal survey, consumer questionnaire, consumer study questionnaire, market analysis, market research, investigation or other inquiry conducted by or on behalf of Opposer or of which Opposer

has become aware that refers or relates to Opposer, Opposer's Marks, Applicant or Applicant's Mark.

19. All documents concerning the geographic areas in which Opposer's Goods featuring Opposer's Marks are offered for sale or sold, or intended to be offered for sale or sold in the United States.

20. All agreements, licenses, contracts, consents to use, correspondence or other documents concerning or authorizing use of Opposer's Marks or Variations of Opposer's Marks by a third party.

21. All documents concerning or identifying the customers to whom Opposer's Goods are promoted or to whom Opposer intends to promote Opposer's Services.

22. All documents concerning purchasers or intended purchasers or users of Opposer's Goods offered in association with Opposer's Marks.

23. All documents concerning Opposer's total sales on an annual basis since 2010 of Opposer's Goods featuring Opposer's Marks in the United States.

24. All documents concerning Opposer's gross income derived on an annual basis since 2010 from the sale of Opposer's Goods featuring Opposer's Mark in the United States.

25. Copies of all newspaper, magazine, newsletters, trade journal and other articles concerning Opposer's Goods.

26. Copies of all advertisements, press releases, brochures, catalogs, newspapers, magazine and trade articles, and other promotional materials or drafts thereof containing or bearing Opposer's Marks or used or intended to be used to promote Opposer's Goods in the United States.

27. All documents referring to any trade shows in which Opposer's Goods featuring Opposer's Marks were advertised and promoted.

28. All documents concerning any demand letters, administrative proceeding, or civil actions in the U.S. involving Opposer's Marks and/or Variations of Opposer's Mark.

29. All documents in Opposer's possession or control that refer or relate to Applicant or Applicant's Mark.

30. Each document which concerns any experts who has been retained or specially employed by Opposer and any facts known or opinions held by any such experts regarding any aspect of this proceeding.

31. All statements, opinions and/or reports of any expert obtained by Opposer or any person acting for or on behalf of Opposer regarding any of the issues in this opposition proceeding.

32. For each expert whose opinion may be relied upon in this proceeding, produce each document which concerns: (i) any opinions that may be presented at trial; (ii) the reasons for any such opinions; (iii) any data or information considered by the witness in forming the opinions; (iv) any exhibits used in support of or summarizing the opinions; (v) the compensation being paid to the witness, and (vi) any cases which the witness has testified at trial or by deposition.

33. All documents concerning each instance in which any person has been in any way confused, mistaken or deceived as to the origin or sponsorship of any product or service which is sold or offered for sale by or on behalf of Opposer using Opposer's Marks.

34. All documents concerning any communications between Opposer, on the one hand, and any individual or entity, on the other hand, concerning Applicant, Applicant's Mark, and/or Opposer's Marks.

35. All documents that refer or relate to correspondence between Opposer and Applicant without limitation.

36. All documents that refer or relate to the management and protection of the Opposer's Marks, including watch notices received by Opposer.

37. All documents that refer or relate to efforts and investment in the growth of consumer recognition of the Opposer's Marks.

38. All documents that refer or relate to the typical consumers of goods offered under the Opposer's Mark.

39. All documents that refer or relate to the meaning of NASTY.

40. All documents that refer or relate to the meaning of DIRTY.

41. All documents, other than those produced to any of the foregoing requests, upon which Opposer intends to rely in connection with this opposition proceeding.

Dated: September 10, 2014

BAKER AND RANNELLS, PA

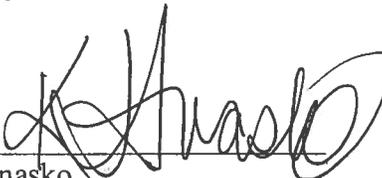
By:


Stephen L. Baker
John M. Rannells
Attorneys for Applicant
575 Route 28, Suite 102
Raritan, New Jersey 08869
(908) 722-5640

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing was served on Opposer by first class mail this 10th day of September 2014:

Joel Kami Schmidt
Cowan, Liebowitz & Latman, P.C.
1133 Avenue of the Americas
New York, NY 10036



Kelly Hnasko

EXHIBIT B

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

In the Matter of Application Serial No. 86/085,785
Filed: October 8, 2013
For Mark: DIRTY PIG
Published in the Official Gazette of March 4, 2014

-----		X	
NASTY PIG, INC.,		:	Opposition No. 91217154
	Opposer,	:	
		:	
v.		:	
JANOSKIANS LLC,		:	
	Applicant.	:	
-----		X	

**OPPOSER’S OBJECTIONS AND RESPONSES TO APPLICANT’S
FIRST REQUEST FOR PRODUCTION OF DOCUMENTS**

Pursuant to Rule 34 of the Federal Rules of Civil Procedure and 37 C.F.R. §2.120,
Opposer Nasty Pig, Inc. (“Opposer”) hereby responds to Applicant Janoskians, LLC’s
 (“Applicant”) First Request for Production of Documents as follows:

GENERAL OBJECTIONS TO ALL REQUESTS

- A. Opposer objects to the definition of “Opposer” on the ground that it improperly encompasses Opposer’s attorneys.
- B. Opposer objects to all requests to the extent they purport to require the production of documents that are subject to the attorney-client privilege, the attorney’s work product privilege or any other applicable privilege or immunity on the ground that such discovery is impermissible under Rule 26(b) of the Federal Rules of Civil Procedure. None of Opposer’s specific responses shall be construed to mean that Opposer intends to produce privileged

documents in the absence of an intentional waiver. Any inadvertent production of privileged documents shall not constitute a waiver of an otherwise valid claim of privilege, and any failure to assert a privilege as to certain documents shall not be deemed to constitute a waiver of the privilege as to any other documents so protected.

C. Opposer objects to all requests to the extent they seek disclosure of confidential or proprietary technical, commercial, financial/economic or business information or trade secrets. Such information or documents containing or comprising such information will only be provided in accordance with the terms of the Board's standard protective order applicable to this case.

D. Opposer objects to all requests insofar as they purport to require the production of documents outside its possession, custody or control.

E. Where Opposer's responses indicate that it will produce documents responsive to a particular request, such documents will only be produced to the extent there are in fact responsive documents in Opposer's possession, custody or control. Nothing in any of Opposer's responses to specific document requests shall be construed to make any representation or statement as to the existence of any documents responsive to any particular request.

F. Opposer states that it has made a good faith effort to respond to the requests, but reserves the right to produce any additional documents that might be located at any future time.

G. Without waiving these general objections and the additional objections set forth below in response to specific requests, Opposer responds, subject to these objections, as set forth below.

RESPONSES TO REQUESTS

REQUEST FOR PRODUCTION NO. 1:

All documents identified in response to Applicant's First Set of Interrogatories.

RESPONSE TO REQUEST NO. 1:

Opposer will produce non-privileged documents responsive to this request as reasonably construed.

REQUEST FOR PRODUCTION NO. 2:

All documents concerning Opposer's investigation, selection, adoption, creation and development of Opposer's Mark.

RESPONSE TO REQUEST NO. 2:

Opposer objects to this request on the grounds that it is vague and ambiguous, overbroad and unduly burdensome and seeks documents which are irrelevant and not reasonably calculated to lead to the discovery of admissible evidence, particularly inasmuch as Opposer first adopted its NASTY PIG mark nearly twenty years ago. Subject to and without waiving the foregoing objections, Opposer will produce documents responsive to this request as reasonably construed, to the extent such documents are available.

REQUEST FOR PRODUCTION NO. 3:

All documents concerning the prosecution, maintenance and assignment of Opposer's Mark, the subject of Registration No. 2800386, and any goodwill associated therewith.

RESPONSE TO REQUEST NO. 3:

Opposer objects to this request on the grounds that it is overbroad and unduly burdensome and seeks documents which are irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Opposer further objects to this request to the extent it seeks documents which are publicly available. Opposer also objects to this request to the extent it seeks documents protected from discovery by the attorney-client privilege, work-product doctrine, the common interest and joint defense privileges, and/or any other applicable privilege

or immunity. Subject to and without waiving the foregoing objections, Opposer will produce non-privileged documents responsive to this request as reasonably construed.

REQUEST FOR PRODUCTION NO. 4:

All documents tending to demonstrate Opposer's bona fide intent to use Opposer's Mark on the goods which are identified [in?] pending application Ser. No.: 86114145.

RESPONSE TO REQUEST NO. 4:

Opposer objects to this request on the grounds that it is vague and ambiguous, overbroad and unduly burdensome and seeks documents which are irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Opposer further objects to this request on the ground that only the Class 18 goods subject to Opposer's Application Ser. No. 86/114,145 were filed on an intent-to-use basis. Subject to and without waiving the foregoing objections, Opposer will produce documents responsive to this request as reasonably construed.

REQUEST FOR PRODUCTION NO. 5:

All documents that supports the claims made by Opposer in the Notice of Opposition.

RESPONSE TO REQUEST NO. 5:

Opposer objects to this request to the extent it calls for a legal conclusion. Opposer further objects to this request to the extent it seeks documents protected from discovery by the attorney-client privilege, work-product doctrine, the common interest and joint defense privileges, and/or any other applicable privilege or immunity. Opposer also objects to this request as premature since this proceeding is in its infancy and discovery is ongoing. Opposer further objects to this request to the extent it seeks production of documents that are publicly available and/or equally accessible to Applicant. Subject to and without waiving the foregoing

objections, Opposer will produce non-privileged documents responsive to this request as reasonably construed.

REQUEST FOR PRODUCTION NO. 6:

All documents which evidence Opposer's continued use of Opposer's Mark on Opposer's Goods in the United States from Opposer's first use date through the present in the United States.

RESPONSE TO REQUEST NO. 6:

Opposer objects to this request on the grounds that it is vague and ambiguous, overbroad and unduly burdensome and seeks documents which are irrelevant and not reasonably calculated to lead to the discovery of admissible evidence, particularly inasmuch as Opposer first adopted its NASTY PIG mark nearly twenty years ago. Subject to and without waiving the foregoing objections, Opposer will produce documents responsive to this request as reasonably construed, to the extent such documents are available.

REQUEST FOR PRODUCTION NO. 7:

All documents evidencing Opposer's date of first actual use of Opposer's Mark on Opposer's Goods.

RESPONSE TO REQUEST NO. 7:

Opposer objects to this request on the grounds that it is vague and ambiguous, overbroad and unduly burdensome and seeks documents which are irrelevant and not reasonably calculated to lead to the discovery of admissible evidence, particularly inasmuch as Opposer first adopted its NASTY PIG mark nearly twenty years ago. Subject to and without waiving the foregoing objections, Opposer will produce documents responsive to this request as reasonably construed, to the extent such documents are available.

REQUEST FOR PRODUCTION NO. 8:

A specimen or photograph of each of Opposer's Goods, including the packaging for the same, that has been, is being, or will be sold or offered using Opposer Mark from Opposer's first use date through the present in the United States.

RESPONSE TO REQUEST NO. 8:

Opposer objects to this request on the grounds that it is vague and ambiguous, overbroad and unduly burdensome and seeks documents which are irrelevant and not reasonably calculated to lead to the discovery of admissible evidence, particularly inasmuch as Opposer first adopted its NASTY PIG mark nearly twenty years ago. Subject to and without waiving the foregoing objections, Opposer will produce documents responsive to this request as reasonably construed.

REQUEST FOR PRODUCTION NO. 9:

All United States Patent and Trademark Office trademark search citations and common law search citations discovered during Opposer's investigations into the availability of Opposer's Mark.

RESPONSE TO REQUEST NO. 9:

Opposer objects to this request on the grounds that it is vague and ambiguous, overbroad and unduly burdensome and seeks documents which are irrelevant and not reasonably calculated to lead to the discovery of admissible evidence, particularly inasmuch as Opposer first adopted its NASTY PIG mark nearly twenty years ago. Opposer further objects to this request to the extent it seeks documents which are protected by the attorney-client privilege and/or attorney work product privilege. Subject to and without waiving the foregoing objections, Opposer states that there are no documents responsive to this request as reasonably construed.

REQUEST FOR PRODUCTION NO. 10:

All invoices, contracts, agreements, purchase orders, and/or purchase receipts which reflect or evidence Opposer's offering of Opposer's Goods featuring Opposer's Mark in the United States from Opposer's first use date through the present in the United States.

RESPONSE TO REQUEST NO. 10:

Opposer objects to this request on the grounds that it is vague and ambiguous, overbroad and unduly burdensome and seeks documents which are irrelevant and not reasonably calculated to lead to the discovery of admissible evidence, particularly inasmuch as Opposer first adopted its NASTY PIG mark nearly twenty years ago.

REQUEST FOR PRODUCTION NO. 11:

All sales reports which record, refer to, or relate to, Opposer's sales of Opposer's Goods under Opposer's Mark in the United States from Opposer's first use date through the present in the United States.

RESPONSE TO REQUEST NO. 11:

Opposer objects to this request on the grounds that it is vague and ambiguous, overbroad and unduly burdensome and seeks documents which are irrelevant and not reasonably calculated to lead to the discovery of admissible evidence, particularly inasmuch as Opposer first adopted its NASTY PIG mark nearly twenty years ago. Subject to and without waiving the foregoing objections, Opposer will produce documents sufficient to show Opposer's annual sales of its goods bearing the NASTY PIG mark from 2010 through the present.

REQUEST FOR PRODUCTION NO. 12:

All documents which record, refer to, or relate to Opposer's advertising and/or promotional expenditures for Opposer's Goods under Opposer's Mark from Opposer's first use date through the present in the United States, including, without limitation, the advertising medium, the dates of any such advertisements or promotions, and the cost associated with such advertisements and/or promotions.

RESPONSE TO REQUEST NO. 12:

Opposer objects to this request on the grounds that it is vague and ambiguous, overbroad and unduly burdensome and seeks documents which are irrelevant and not reasonably calculated to lead to the discovery of admissible evidence, particularly inasmuch as Opposer first adopted its NASTY PIG mark nearly twenty years ago. Subject to and without waiving the foregoing objections, Opposer will produce documents sufficient to show Opposer's annual advertising and/or promotional expenditures incurred in connection with the sale of Opposer's goods bearing the NASTY PIG mark from 2010 through the present.

REQUEST FOR PRODUCTION NO. 13:

All promotional materials, media plans, marketing plans and advertisements evidencing Opposer's use of Opposer's Mark on or in association with Opposer's Goods from Opposer's first use date through the present in the United States.

RESPONSE TO REQUEST NO. 13:

Opposer objects to this request on the grounds that it is vague and ambiguous, overbroad and unduly burdensome and seeks documents which are irrelevant and not reasonably calculated to lead to the discovery of admissible evidence, particularly inasmuch as Opposer first adopted its NASTY PIG mark nearly twenty years ago. Opposer further objects to this request to the extent it seeks production of documents that are publicly available and/or equally accessible to Applicant. Subject to and without waiving the foregoing objections, Opposer will produce representative documents responsive to this request as reasonably construed.

REQUEST FOR PRODUCTION NO. 14:

All documents concerning business plans for Opposer's Goods associated with Opposer's Mark in the United States from Opposer's first use date through the present in the United States.

RESPONSE TO REQUEST NO. 14:

Opposer objects to this request on the grounds that it is vague and ambiguous, overbroad and unduly burdensome and seeks documents which are irrelevant and not reasonably calculated to lead to the discovery of admissible evidence, particularly inasmuch as Opposer first adopted its NASTY PIG mark nearly twenty years ago. Subject to and without waiving the foregoing objections, Opposer will produce documents responsive to this request as reasonably construed.

REQUEST FOR PRODUCTION NO. 15:

All documents which refer to, or relate to, Opposer's knowledge and/or awareness of the use by Applicant of Applicant's Mark on or in connection with Applicant's Goods.

RESPONSE TO REQUEST NO. 15:

Opposer objects to this request to the extent it seeks documents which are protected by the attorney-client privilege and/or attorney work product privilege. Subject to and without waiving the foregoing objections, Opposer will produce non-privileged documents responsive to this request as reasonably construed.

REQUEST FOR PRODUCTION NO. 16:

All documents which record, refer to, or relate to Opposer's knowledge and/or awareness of the use and/or registration of third party Variations of Opposer's Mark for any goods or services in the United States.

RESPONSE TO REQUEST NO. 16:

Opposer objects to this request on the grounds that it seeks documents which are irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Opposer also objects to this request to the extent it seeks documents that are not within Opposer's possession, custody or control. Opposer further objects to this request to the extent it

seeks production of documents that are publicly available and/or equally accessible to Applicant. Opposer also objects to this request to the extent it seeks documents which are protected by the attorney-client privilege and/or attorney work product privilege. Subject to and without waiving the foregoing objections, Opposer will produce non-privileged documents responsive to this request as reasonably construed.

REQUEST FOR PRODUCTION NO. 17:

All documents which record, refer to, or relate to Opposer's knowledge and/or awareness of the use and/or registration of third party Variations of Opposer's Mark for any goods or services which have priority over Opposer's Mark in the United States.

RESPONSE TO REQUEST NO. 17:

Opposer objects to this request on the grounds that it seeks documents which are irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Opposer also objects to this request to the extent it seeks documents that are not within Opposer's possession, custody or control. Opposer further objects to this request to the extent it seeks production of documents that are publicly available and/or equally accessible to Applicant. Opposer also objects to this request as duplicative of Request No. 16. Opposer further objects to this request to the extent it seeks documents which are protected by the attorney-client privilege and/or attorney work product privilege. Subject to and without waiving the foregoing objections, Opposer states that it has no documents responsive to this request as reasonably construed.

REQUEST FOR PRODUCTION NO. 18:

All documents concerning any survey, test survey, informal survey, consumer questionnaire, consumer study questionnaire, market analysis, market research, investigation or other inquiry conducted by or on behalf of Opposer or of which Opposer has become aware that refers or relates to Opposer, Opposer's Marks, Applicant or Applicant's Mark.

RESPONSE TO REQUEST NO. 18:

Opposer objects to this request on the grounds that it is vague and ambiguous, overbroad and unduly burdensome and seeks documents which are irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Opposer further objects to this request on the ground that it improperly seeks documents that are the subject of expert disclosures. Subject to and without waiving the foregoing objections, Opposer states that it has no documents responsive to this request as reasonably construed.

REQUEST FOR PRODUCTION NO. 19:

All documents concerning the geographic areas in which Opposer's Goods featuring Opposer's Marks are offered for sale or sold, or intended to be offered for sale or sold in the United States.

RESPONSE TO REQUEST NO. 19:

Opposer objects to this request on the grounds that it is vague and ambiguous, overbroad and unduly burdensome and seeks documents which are irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing objections, Opposer will produce documents responsive to this request as reasonably construed.

REQUEST FOR PRODUCTION NO. 20:

All agreements, licenses, contracts, consents to use, correspondence or other documents concerning or authorizing use of Opposer's Marks or Variations of Opposer's Marks by a third party.

RESPONSE TO REQUEST NO. 20:

Opposer objects to this request as overly broad and unduly burdensome. Opposer further objects to this request to the extent it seeks documents protected from discovery by the attorney-client privilege, work-product doctrine, the common interest and joint defense privileges, and/or

any other applicable privilege or immunity. Subject to and without waiving the foregoing objections, Opposer will produce non-privileged documents responsive to this request as reasonably construed.

REQUEST FOR PRODUCTION NO. 21:

All documents concerning or identifying the customers to whom Opposer's Goods are promoted or to whom Opposer intends to promote Opposer's Services.

RESPONSE TO REQUEST NO. 21:

Opposer objects to this request on the grounds that it is vague and ambiguous, overbroad and unduly burdensome and seeks documents which are irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing objections, Opposer will produce documents responsive to this request as reasonably construed.

REQUEST FOR PRODUCTION NO. 22:

All documents concerning purchasers or intended purchasers or users of Opposer's Goods offered in association with Opposer's Marks.

RESPONSE TO REQUEST NO. 22:

Opposer objects to this request on the grounds that it is vague and ambiguous, overbroad and unduly burdensome and seeks documents which are irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Opposer further objects to this request as duplicative of Request No. 21. Subject to and without waiving the foregoing objections, Opposer will produce documents responsive to this request as reasonably construed.

REQUEST FOR PRODUCTION NO. 23:

All documents concerning Opposer's total sales on an annual basis since 2010 of Opposer's Goods featuring Opposer's Marks in the United States.

RESPONSE TO REQUEST NO. 23:

Opposer objects to this request on the grounds that it is vague and ambiguous, overbroad and unduly burdensome and seeks documents which are irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Opposer further objects to this request as duplicative of Request No. 11. Subject to and without waiving the foregoing objections, Opposer will produce documents sufficient to show Opposer's annual sales of its goods bearing the NASTY PIG mark from 2010 through the present.

REQUEST FOR PRODUCTION NO. 24:

All documents concerning Opposer's gross income derived on an annual basis since 2010 from the sale of Opposer's Goods featuring Opposer's Mark in the United States.

RESPONSE TO REQUEST NO. 24:

Opposer objects to this request on the grounds that it is vague and ambiguous, overbroad and unduly burdensome and seeks documents which are irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Opposer further objects to this request as duplicative of Request Nos. 11 and 23. Subject to and without waiving the foregoing objections, Opposer will produce documents sufficient to show Opposer's annual sales of its goods bearing the NASTY PIG mark from 2010 through the present.

REQUEST FOR PRODUCTION NO. 25:

Copies of all newspaper, magazine, newsletters, trade journal and other articles concerning Opposer's Goods.

RESPONSE TO REQUEST NO. 25:

Opposer objects to this request on the grounds that it is vague and ambiguous, overbroad and unduly burdensome and seeks documents which are irrelevant and not reasonably calculated to lead to the discovery of admissible evidence, particularly inasmuch as Opposer first adopted its NASTY PIG mark nearly twenty years ago. Subject to and without waiving the foregoing objections, Opposer will produce representative documents responsive to this request as reasonably construed.

REQUEST FOR PRODUCTION NO. 26:

Copies of all advertisements, press releases, brochures, catalogs, newspapers, magazine and trade articles, and other promotional materials or drafts thereof containing or bearing Opposer's Marks or used or intended to be used to promote Opposer's Goods in the United States.

RESPONSE TO REQUEST NO. 26:

Opposer objects to this request on the grounds that it is vague and ambiguous, overbroad and unduly burdensome and seeks documents which are irrelevant and not reasonably calculated to lead to the discovery of admissible evidence, particularly inasmuch as Opposer first adopted its NASTY PIG mark nearly twenty years ago. Opposer further objects to this request as duplicative of Request No. 25. Subject to and without waiving the foregoing objections, Opposer will produce representative documents responsive to this request as reasonably construed.

REQUEST FOR PRODUCTION NO. 27:

All documents referring to any trade shows in which Opposer's Goods featuring Opposer's Marks were advertised and promoted.

RESPONSE TO REQUEST NO. 27:

Opposer objects to this request on the grounds that it is vague and ambiguous, overbroad and unduly burdensome and seeks documents which are irrelevant and not reasonably calculated to lead to the discovery of admissible evidence, particularly inasmuch as Opposer first adopted its NASTY PIG mark nearly twenty years ago. Subject to and without waiving the foregoing objections, Opposer states that it has no documents responsive to this request as reasonably construed.

REQUEST FOR PRODUCTION NO. 28:

All documents concerning any demand letters, administrative proceeding, or civil actions in the U.S. involving Opposer's Marks and/or Variations of Opposer's Mark.

RESPONSE TO REQUEST NO. 28:

Opposer objects to this request as overly broad and unduly burdensome and seeks documents which are irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Opposer further objects to this request to the extent it seeks documents protected from discovery by the attorney-client privilege, work-product doctrine, the common interest and joint defense privileges, and/or any other applicable privilege or immunity. Subject to and without waiving the foregoing objections, Opposer will produce non-privileged documents responsive to this request as reasonably construed.

REQUEST FOR PRODUCTION NO. 29:

All documents in Opposer's possession or control that refer or relate to Applicant or Applicant's Mark.

RESPONSE TO REQUEST NO. 29:

Opposer objects to this request to the extent it seeks documents protected from discovery by the attorney-client privilege, work-product doctrine, the common interest and joint defense

privileges, and/or any other applicable privilege or immunity. Subject to and without waiving the foregoing objections, Opposer will produce non-privileged documents responsive to this request as reasonably construed.

REQUEST FOR PRODUCTION NO. 30:

Each document which concerns any experts who has been retained or specially employed by Opposer and any facts known or opinions held by any such experts regarding any aspect of this proceeding.

RESPONSE TO REQUEST NO. 30:

Opposer objects to this request on the ground that it is premature and improper under the Board's rules. *See, e.g.*, TBMP § 401.03; *General Council of the Assemblies of God v. Heritage Music Foundation*, 97 U.S.P.Q.2d 1890, 1893 (T.T.A.B. 2011). Subject to and without waiving the foregoing objections, Opposer states that it has not made any determination as of this time as to the expert witnesses, if any, from whom it will elicit expert testimony. Opposer will provide disclosures regarding potential expert witnesses in accordance with Federal Rule 26 and the Board's rules governing expert disclosures.

REQUEST FOR PRODUCTION NO. 31:

All statements, opinions and/or reports of any expert obtained by Opposer or any person acting for or on behalf of Opposer regarding any of the issues in this opposition proceeding.

RESPONSE TO REQUEST NO. 31:

Opposer objects to this request on the ground that it is premature and improper under the Board's rules. *See, e.g.*, TBMP § 401.03; *General Council of the Assemblies of God v. Heritage Music Foundation*, 97 U.S.P.Q.2d 1890, 1893 (T.T.A.B. 2011). Opposer further objects to this request to the extent it seeks documents and/or information protected from discovery under

Federal Rule 26. Subject to and without waiving the foregoing objections, Opposer states that it has not made any determination as of this time as to the expert witnesses, if any, from whom it will elicit expert testimony. Opposer will provide disclosures regarding potential expert witnesses in accordance with Federal Rule 26 and the Board's rules governing expert disclosures.

REQUEST FOR PRODUCTION NO. 32:

For each expert whose opinion may be relied upon in this proceeding, produce each document which concerns: (i) any opinions that may be presented at trial; (ii) the reasons for any such opinions; (iii) any data or information considered by the witness in forming the opinions; (iv) any exhibits used in support of or summarizing the opinions; (v) the compensation being paid to the witness, and (vi) any cases which the witness has testified at trial or by deposition.

RESPONSE TO REQUEST NO. 32:

Opposer objects to this request on the ground that it is premature and improper under the Board's rules. *See, e.g.,* TBMP § 401.03; *General Council of the Assemblies of God v. Heritage Music Foundation*, 97 U.S.P.Q.2d 1890, 1893 (T.T.A.B. 2011). Subject to and without waiving the foregoing objections, Opposer states that it has not made any determination as of this time as to the expert witnesses, if any, from whom it will elicit expert testimony. Opposer will provide disclosures regarding potential expert witnesses in accordance with Federal Rule 26 and the Board's rules governing expert disclosures.

REQUEST FOR PRODUCTION NO. 33:

All documents concerning each instance in which any person has been in any way confused, mistaken or deceived as to the origin or sponsorship of any product or service which is sold or offered for sale by or on behalf of Opposer using Opposer's Marks.

RESPONSE TO REQUEST NO. 33:

Opposer objects to this request to the extent it calls for a legal conclusion. Opposer further objects to this request to the extent it seeks documents protected from discovery by the attorney-client privilege, work-product doctrine, the common interest and joint defense privileges, and/or any other applicable privilege or immunity. Subject to and without waiving the foregoing objections, Opposer will produce non-privileged documents responsive to this request as reasonably construed.

REQUEST FOR PRODUCTION NO. 34:

All documents concerning any communications between Opposer, on the one hand, and any individual or entity, on the other hand, concerning Applicant, Applicant's Mark, and/or Opposer's Marks.

RESPONSE TO REQUEST NO. 34:

Opposer objects to this request to the extent it seeks documents protected from discovery by the attorney-client privilege, work-product doctrine, the common interest and joint defense privileges, and/or any other applicable privilege or immunity. Subject to and without waiving the foregoing objections, Opposer states that it has no non-privileged documents responsive to this request as reasonably construed.

REQUEST FOR PRODUCTION NO. 35:

All documents that refer or relate to correspondence between Opposer and Applicant without limitation.

RESPONSE TO REQUEST NO. 35:

Opposer objects to this request on the grounds that it is vague and ambiguous. Opposer further objects to this request to the extent it seeks documents protected from discovery by the attorney-client privilege, work-product doctrine, the common interest and joint defense

privileges, and/or any other applicable privilege or immunity. Subject to and without waiving the foregoing objections, Opposer will produce non-privileged documents responsive to this request as reasonably construed.

REQUEST FOR PRODUCTION NO. 36:

All documents that refer or relate to the management and protection of the Opposer's Marks, including watch notices received by Opposer.

RESPONSE TO REQUEST NO. 36:

Opposer objects to this request as overly broad and unduly burdensome and seeks documents which are irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Opposer further objects to this request to the extent it seeks documents protected from discovery by the attorney-client privilege, work-product doctrine, the common interest and joint defense privileges, and/or any other applicable privilege or immunity. Subject to and without waiving the foregoing objections, Opposer will produce non-privileged documents responsive to this request as reasonably construed.

REQUEST FOR PRODUCTION NO. 37:

All documents that refer or relate to efforts and investment in the growth of consumer recognition of the Opposer's Marks.

RESPONSE TO REQUEST NO. 37:

Opposer objects to this request as overly broad and unduly burdensome and seeks documents which are irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Opposer further objects to this request as vague and ambiguous. Subject to and without waiving the foregoing objections, Opposer will produce documents responsive to this request as reasonably construed.

REQUEST FOR PRODUCTION NO. 38:

All documents that refer or relate to the typical consumers of goods offered under the Opposer's Mark.

RESPONSE TO REQUEST NO. 38:

Opposer objects to this request on the grounds that it is vague and ambiguous, overbroad and unduly burdensome and seeks documents which are irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Opposer further objects to this request as duplicative of Request Nos. 21 and 22. Subject to and without waiving the foregoing objections, Opposer will produce documents responsive to this request as reasonably construed.

REQUEST FOR PRODUCTION NO. 39:

All documents that refer or relate to the meaning of NASTY.

RESPONSE TO REQUEST NO. 39:

Opposer objects to this request to the extent it seeks documents that are not within Opposer's possession, custody or control. Opposer also objects to this request as vague and ambiguous. Opposer further objects to this request to the extent it seeks production of documents that are publicly available and/or equally accessible to Applicant. Subject to and without waiving the foregoing objections, Opposer will produce documents responsive to this request as reasonably construed.

REQUEST FOR PRODUCTION NO. 40:

All documents that refer or relate to the meaning of DIRTY.

RESPONSE TO REQUEST NO. 40:

Opposer objects to this request to the extent it seeks documents that are not within Opposer's possession, custody or control. Opposer also objects to this request as vague and ambiguous. Opposer further objects to this request to the extent it seeks production of documents that are publicly available and/or equally accessible to Applicant. Subject to and without waiving the foregoing objections, Opposer will produce documents responsive to this request as reasonably construed.

REQUEST FOR PRODUCTION NO. 41:

All documents, other than those produced to any of the foregoing requests, upon which Opposer intends to rely in connection with this opposition proceeding.

RESPONSE TO REQUEST NO. 41:

Opposer objects to this request on the grounds that it is vague and ambiguous, overly broad and unduly burdensome and seeks documents which are irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Opposer further objects to this request as duplicative of Request No. 5. Opposer also objects to this request on the ground that this proceeding is in its infancy and discovery is ongoing. Opposer further objects to this request to the extent it seeks documents protected from discovery by the attorney-client privilege, work-product doctrine, the common interest and joint defense privileges, and/or any other applicable privilege or immunity. Opposer also objects to this request to the extent it seeks production of documents that are publicly available and/or equally accessible to Applicant. Subject to and without waiving the foregoing objections, Opposer will produce documents responsive to this request as reasonably construed.

Dated: New York, New York
November 14, 2014

Respectfully submitted,

COWAN, LIEBOWITZ & LATMAN, P.C.
Attorneys for Opposer

By: Scott P. Ceresia

Joel Karni Schmidt
Eric J. Shimanoff
Scott P. Ceresia
1133 Avenue of the Americas
New York, NY 10036-6799
(212) 790-9200

CERTIFICATE OF SERVICE

I hereby certify that I caused a copy of the foregoing OPPOSER'S OBJECTIONS AND RESPONSES TO APPLICANT'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS to be sent via first class, postage paid mail to Applicant's Attorney and Correspondent of Record, Stephen L. Baker, Esq., Baker and Rannells, P.A., 575 Route 28, Raritan, New Jersey 08869-1354.

Dated: New York, New York
November 14, 2014



Scott P. Ceresia

EXHIBIT C

December 4, 2014

By Federal Express and Email (s.baker@br-tmlaw.com)

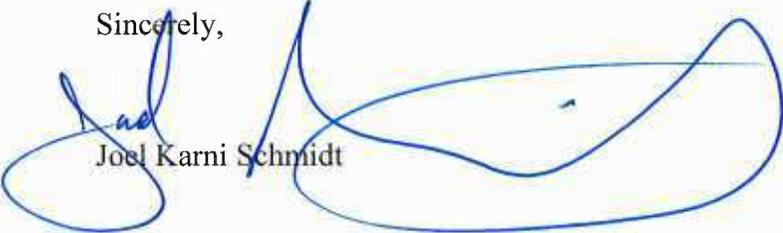
Stephen L. Baker, Esq.
Baker and Rannells, P.A.
575 Route 28
Raritan, New Jersey 08869-1354

Re: DIRTY PIG (Opp. No. 91217154)

Dear Mr. Baker:

Please find enclosed for production a disc bearing documents Bates-stamped NASTYPIG 000001 – NASTYPIG 002335.

Sincerely,


Joel Karni Schmidt

Enclosures

EXHIBIT D

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

In the matter of trademark application Serial Nos. 86/085,785
For the respective mark: DIRTY PIG
Published in the Official Gazette March 4, 2014

_____)	
NASTY PIG, INC.,)	
)	
Opposer,)	Opposition No. 91217154
)	
vs.)	
)	
JANOSKIANS, LLC.,)	
)	
Applicant.)	
_____)	

**APPLICANT'S OBJECTIONS AND RESPONSES TO OPPOSER'S
FIRST REQUEST FOR PRODUCTION OF DOCUMENTS**

Pursuant to Rule 34 of the Federal Rules of Civil Procedure and 37 C.F.R. §2.120,
Applicant Janoskians, LLC's hereby responds to Nasty Pig, Inc. ("Opposer") First Request for
Production of Documents as follows:

PRELIMINARY STATEMENT

Each of the responses that follow, and every part thereof, are based upon and reflect the
knowledge, information or belief of Applicant at the present state of this proceeding.
Accordingly, Applicant reserves the right, without assuming the obligation, to supplement or
amend these responses to reflect such other knowledge, information or belief which it may
hereafter acquire or discover.

GENERAL OBJECTIONS AND OBJECTIONS TO INSTRUCTIONS AND DEFINITIONS

1. The following general objections are incorporated by reference in Applicant's response to each and every Document Request below.
2. The specific responses set forth below are for the purposes of discovery only, and Applicant neither waives nor intends to waive, but expressly reserves, any and all objections it may have to the relevance, competence, materiality, admission, admissibility or use at trial of any information, documents or writing produced, identified or referred to herein, or to the introduction of any evidence at trial relating to the subjects covered by such response.
3. Applicant expressly reserves its right to rely, at any time including trial, upon subsequently discovered information, documents or things, or information, documents or things omitted from the specific response set forth below as a result of mistake, oversight or inadvertence.
4. The specific responses set forth below are based upon Applicant's interpretation of the language used in the Document Requests, and Applicant reserves its right to amend or to supplement its responses in the event Opposer asserts an interpretation that differs from Applicant's interpretation.
5. By making these responses, Applicant does not concede it is in possession of any information, document or thing responsive to any particular Document Request or that any response given or document or thing produced is relevant to this action.
6. Subject to and without waiving the general and specific responses and objections set forth herein, Applicant will provide herewith information that Applicant has located and reviewed to date. Applicant will continue to provide responsive information as such is

discovered. Applicant's failure to object to a particular Interrogatory or Document Request or willingness to provide responsive information pursuant to an Interrogatory or Document Request is not, and shall not be construed as, an admission of the relevance, or admissibility into evidence, of any such information, nor does it constitute a representation that any such information in fact exists.

7. Because Applicant may not have discovered all the information that is possibly within the scope of the Document Requests, Applicant expressly reserves its right to amend or to supplement these Responses and Objections with any additional information that emerges through discovery or otherwise.

8. Applicant objects to the Document Requests to the extent that they require the disclosure of information or the production of documents protected from disclosure by the attorney-client privilege, the attorney work product doctrine, the joint defense privilege or any other applicable privilege or immunities. Applicant responds to the Document Requests on the condition that the inadvertent response regarding information covered by such privilege, rule or doctrine does not waive any of Applicant's right to assert such privilege, rule or doctrine and the Applicant may withdraw and request the return of any such response, document or thing inadvertently made as soon as identified.

9. Applicant objects to the Document Requests to the extent that they seek information, documents or things that is/are not relevant to the subject matter of this action or reasonably calculated to lead to the discovery of admissible evidence.

10. Applicant objects to the Document Requests to the extent that they are vague, ambiguous, or overbroad and therefore not susceptible to a response as propounded.

11. To the extent that any interrogatory requests information concerning, or a request for documents that purports to require Applicant to identify or produce a sample of each different document used for any particular category, or to identify or produce all documents or persons, or to “describe in detail”, Applicant objects to the same as being overly broad, overly burdensome, and beyond what is required of Applicant under the applicable rules. Accordingly, to the extent that Applicant agrees to produce documents or identify documents or persons in response to any such requests, such response shall be limited to representative documents and/or information.

12. Applicant objects to the definition of “Applicant” on the ground that it improperly encompasses Applicant’s attorneys.

13. Applicant objects to the Document Requests to the extent that they exceed the requirements of the Federal Rules of Civil Procedure of the Trademark Rules of Practice.

14. Applicant objects to the Document Requests to the extent that they require Applicant to undertake any investigation to ascertain information, documents or things not presently within its possession, custody or control on the grounds of undue burden and because information from other sources is equally available to Opposer.

15. Applicant objects to the Document Requests to the extent that they require Applicant to undertake such an extensive review that such Document Requests are unduly burdensome and harassing.

16. Applicant objects to the Document Requests to the extent that Opposer seeks the residential addresses of individuals, on the grounds that disclosure of such information impinges on the privacy interest of such individuals.

17. Applicant objects to the definition of “Applicant” on the grounds that it a) is vague and ambiguous as to the meaning of “affiliated”; and b) calls for conjecture and speculation. A

meaningful response cannot be framed. Applicant also objects to the definition to the extent it includes each of Applicant's "parent, subsidiary, affiliated, related, predecessor and/or successor entities, and divisions, and all officers, directors, members, employees, partners, agents and/or representatives thereof" as being overly broad and unduly burdensome to comply with. Applicant is under no obligation provide information or documents not within Applicant's custody or control or to inquire into or investigate the knowledge of or to interview every officer, director, employee, consultant, member, manager, representative, partner, corporate parent, subsidiary, division, successors in interest, associate, affiliate, attorney, accountant and agent in responding to these document requests. Nor can counsel be deemed the equivalent of Applicant as suggested by the definition.

18. Applicant's only obligation pursuant to Rule 2.120(d) of the Trademark Rules of Practice and Rule 34(b) of the Federal Rules of Civil Procedure is to produce documents and things where they are normally kept during the normal course of business. For the most part, those documents and things are kept and located at Putnam Accessory Group, Inc. in Vernon, CA, and may be inspected and copied there, at Opposer's expense, and upon proper notice at a mutually convenient date and time.

Request No. 1:

All documents concerning Applicant's conception, creation, design, clearance, selection, and/or adoption of Applicant's Mark.

Response: Applicant objects to this request on the grounds that it is vague and ambiguous, overbroad and unduly burdensome and seeks documents which are irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Applicant further objects to this request to the extent it seeks documents which are protected by the attorney-client privilege and/or attorney work product privilege. Subject to and without waiving the foregoing objections (and to the extent documents responsive to this request as reasonably construed exist and are available) Applicant will produce documents for inspection and copying at a mutually convenient date and time.

Request No.2:

All documents concerning the intended meaning or connotation of Applicant's Mark.

Response: Applicant objects to this request to the extent it seeks documents that are not within Applicant's possession, custody or control. Applicant also objects to this request as vague and ambiguous. Applicant further objects to this request to the extent it seeks production of documents that are publicly available and/or equally accessible to Opposer. Subject to and without waiving the foregoing objections (and to the extent documents responsive to this request as reasonably construed exist and are available) Applicant will produce documents for inspection and copying at a mutually convenient date and time.

Request No.3:

Specimens of each of Applicant's Products/Services bearing or displaying Applicant's Mark.

Response: Applicant objects to this request on the grounds that it is vague and ambiguous, overbroad and unduly burdensome and seeks documents which are irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing objections (and to the extent documents responsive to this request as reasonably construed exist and are available) Applicant will produce documents for inspection and copying a mutually convenient date and time.

Request No.4:

Representative samples of labels, hangtags, tags, product packages, package inserts or other devices which bear Applicant's Mark, and which have been used or are intended to be used by Applicant and/or its licensees.

Response: Applicant objects to this request on the grounds that it is vague and ambiguous, overbroad and unduly burdensome and seeks documents which are irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing objections (and to the extent documents responsive to this request as reasonably construed exist and are available) Applicant will produce documents for inspection and copying at a mutually convenient date and time.

Request No.5:

Representative samples of point-of-sale materials, circulars, flyers, posters, stickers, sales sheets, leaflets, brochures, catalogs, signs, price lists, on-line or email advertisements, print advertisements, radio or television advertisements, or other advertising materials or promotional items which bear Applicant's Mark, and which have been used or are intended to be used by Applicant and/or its licensees.

Response: Applicant objects to this request on the grounds that it is vague and ambiguous, overbroad and unduly burdensome and seeks documents which are irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Applicant further objects to this request as duplicative, in-part, of Request 4. Subject to and without waiving the foregoing objections (and to the extent documents responsive to this request as reasonably construed exist and are available) Applicant will produce documents for inspection and copying at a mutually convenient date and time.

Request No. 6:

All documents concerning any trademark searches or other searches, opinions, investigations, analyses or studies conducted or reviewed by or on behalf of Applicant concerning Applicant's Mark.

Response: Applicant objects to this request on the grounds that it is vague and ambiguous, overbroad and unduly burdensome and seeks documents which are irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Applicant further objects to this request to the extent it seeks documents which are protected by the attorney-client privilege and/or attorney work product privilege. Subject to and without waiving the foregoing objections (and to the extent documents responsive to this request as reasonably construed exist

and are available) Applicant will produce documents for inspection and copying at a mutually convenient date and time. Limited however to any citations that may have been disclosed in any search that may have been conducted.

Request No.7:

Documents sufficient to identify: (a) the date of first use of Applicant's Mark; (b) the date of first use of Applicant's Mark in commerce in connection with each of Applicant's Products/Services; (c) the geographic area(s) of use of Applicant's Mark in connection with each of Applicant's Products/Services; (d) the actual or intended channels of trade for goods or services sold or rendered or intended to be sold or rendered in connection with Applicant's Mark; (e) the products or services sold, distributed or rendered under Applicant's Mark; (f) the types or categories of all consumers to whom goods or services have been sold, distributed, offered, or rendered under Applicant's Mark; (g) the annual amount of sales (in dollars and units), if any, made under Applicant's Mark for each year from the date of first use to the present; and (h) the annual amount of revenue, if any, that Applicant has received in connection with Applicant's Products/Services offered in connection with Applicant's Mark, for each year from the date of first use to the present.

Response: Applicant objects to this request on the grounds that it is vague and ambiguous, overbroad and unduly burdensome and seeks documents which are irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing objections (and to the extent documents responsive to this request as reasonably construed exist and are available) Applicant will produce documents for inspection and copying at a mutually convenient date and time.

Request No.8:

Documents sufficient to identify the total annual gross sales, by units and/or dollars, of Applicant's Products/Services in the United States or in commerce with the United States, from the date of first use of Applicant's Mark to the present.

Response: Applicant objects to this request on the grounds that it is vague and ambiguous, overbroad and unduly burdensome and seeks documents which are irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing objections (and to the extent documents responsive to this request as reasonably construed exist and are available) Applicant will produce documents for inspection and copying at a mutually convenient date and time.

Request No. 9:

Representative samples of advertising, marketing and promotional materials used or intended to be used in connection with Applicant's Mark, including but not limited to, any media plans, public relations materials, press kits and correspondence with advertising agencies, public relations firms, media planners, graphic designers, web site designers or any other such entities in the advertising and promotional field.

Response: Applicant objects to this request as overly broad and unduly burdensome. Applicant further objects to this request to the extent it seeks documents protected from discovery by the attorney client privilege, work-product doctrine, the common interest and joint defense privileges, and/or any other applicable privilege or immunity. Subject to and without

waiving the foregoing objections (and to the extent documents responsive to this request as reasonably construed exist and are available) Applicant will produce documents for inspection and copying at a mutually convenient date and time.

Request No. 10:

Documents sufficient to identify the amount of money expended by Applicant in advertising and promoting Applicant's Mark and/or Applicant's Products/Services in the United States or in commerce with the United States for each year from the date of first use to the present.

Response: Applicant objects to this request on the grounds that it is vague and ambiguous, overbroad and unduly burdensome and seeks documents which are irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing objections (and to the extent documents responsive to this request as reasonably construed exist and are available) Applicant will produce documents for inspection and copying at a mutually convenient date and time.

Request No. 11:

Documents sufficient to identify each trade show, convention, exposition or conference at which Applicant's Products/Services bearing Applicant's Mark have been displayed, advertised, promoted, offered for sale or sold.

Response: Applicant objects to this request on the grounds that it is vague and ambiguous, overbroad and unduly burdensome and seeks documents which are irrelevant and not

reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing objections (and to the extent documents responsive to this request as reasonably construed exist and are available) Applicant will produce documents for inspection and copying at a mutually convenient date and time.

Request No. 12:

All documents concerning any authorization, license, assignment, grant, conveyance or other transfer from any third party to Applicant concerning the right to use Applicant's Mark, or to sell Applicant's Products/Services bearing Applicant's Mark.

Response: Applicant objects to this request on the grounds that it is vague and ambiguous, overbroad and unduly burdensome and seeks documents which are irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing objections (and to the extent documents responsive to this request as reasonably construed exist and are available) Applicant will produce documents for inspection and copying at a mutually convenient date and time.

Request No. 13:

All documents concerning Applicant's authorization, license, assignment, grant, conveyance or other transfer (or proposed authorization, license, assignment, grant, conveyance or other transfer) relating to Applicant's Mark from or on behalf of Applicant to any third party, including, but not limited to, all license agreements.

Response: Applicant objects to this request as overly broad and unduly burdensome. Applicant further objects to this request to the extent it seeks documents protected from discovery by the attorney client privilege, work-product doctrine, the common interest and joint defense privileges, and/or any other applicable privilege or immunity. Subject to and without waiving the foregoing objections (and to the extent documents responsive to this request as reasonably construed exist and are available) Applicant will produce documents for inspection and copying at a mutually convenient date and time.

Request No. 14:

All documents concerning the relationship between Applicant and Fitumi, including, but not limited to, (i) all licenses, assignments or other agreements between Applicant and Fitumi with respect to Applicant's Mark or any other marks comprising or consisting of the terms "NASTY" or "PIG"; and (ii) any attempts by Applicant or Fitumi to register any other marks comprising or consisting of the terms "NASTY" or "PIG."

Response: Applicant objects to this request on the grounds that it is vague and ambiguous, overbroad and unduly burdensome and seeks documents which are irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Applicant further objects because the request is improper as it asks Applicant to produce materials customarily in the exclusive custody and possession of another party, not the Applicant. Accordingly, Opposer is attempting to avoid having to subpoena a third party by commanding Applicant to get documents and materials for it, which is improper. Subject to and without waiving the foregoing objections (and to the extent documents responsive to this request as reasonably construed exist and are

available) Applicant will produce documents for inspection and copying at a mutually convenient date and time.

Request No. 15:

All documents concerning the relationship between Applicant and Putnam Accessory Group, including, but not limited to, (i) all licenses, assignments or other agreements between Applicant and Putnam Accessory Group with respect to Applicant's Mark or any other marks comprising or consisting of the terms "NASTY" or "PIG"; and (ii) any attempts by Applicant or Putnam Accessory Group to register any other marks comprising or consisting of the terms "NASTY" or "PIG."

Response: Applicant objects to this request on the grounds that it is vague and ambiguous, overbroad and unduly burdensome and seeks documents which are irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Applicant further objects because the request is improper as it asks Applicant to produce materials customarily in the exclusive custody and possession of another party, not the Applicant. Accordingly, Opposer is attempting to avoid having to subpoena a third party by commanding Applicant to get documents and materials for it, which is improper. Subject to and without waiving the foregoing objections (and to the extent documents responsive to this request as reasonably construed exist and are available) Applicant will produce documents for inspection and copying at a mutually convenient date and time.

Request No. 16:

Documents sufficient to identify each web site, web auction, web hosting, web listing, web posting, or web page (whether owned by Applicant or third parties), including its Internet address, on or through which Applicant's Mark and/or Applicant's Product/Services have been, are currently being or are intended to be promoted, advertised, displayed, offered for sale, sold or otherwise distributed.

Response: Applicant objects to this request on the grounds that it is vague and ambiguous, overbroad and unduly burdensome and seeks documents which are irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing objections (and to the extent documents responsive to this request as reasonably construed exist and are available) Applicant will produce documents for inspection and copying at a mutually convenient date and time.

Request No. 17:

All documents concerning any objections, claims, demands or actions lodged or filed against the use or proposed use of Applicant's Mark, including without limitation, cease and desist letters, complaints, letters of protest and/or Notices of Opposition.

Response: Applicant objects to this request on the grounds that it is vague and ambiguous, overbroad and unduly burdensome and seeks documents which are irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing objections (and to the extent documents responsive to this request as

reasonably construed exist and are available) Applicant will produce documents for inspection and copying at a mutually convenient date and time.

Request No. 18:

All documents concerning Opposer, Opposer's NASTY PIG Mark, or any goods or services marketed, manufactured, distributed, offered for sale, sold, licensed or rendered by Opposer.

Response: Applicant objects to this request on the grounds that it is vague and ambiguous, overbroad and unduly burdensome and seeks documents which are irrelevant and not reasonably calculated to lead to the discovery of admissible evidence and or that which are in the exclusive possession, custody and control of Opposer. Subject to and without waiving the foregoing objections (and to the extent documents responsive to this request as reasonably construed exist and are available) Applicant will produce documents for inspection and copying at a mutually convenient date and time.

Request No. 19:

All documents concerning Applicant's knowledge of Opposer, Opposer's NASTY PIG Mark, and/or any goods or services marketed, manufactured, distributed, offered for sale, sold, licensed or rendered by Opposer or under license from Opposer in connection with Opposer's NASTY PIG Mark prior to:

- a) October 8, 2013, when Applicant filed Application Serial No. 86/085,785.
- b) Any use by Applicant of Applicant's Mark in connection with any goods or services.

Response: Applicant objects to this request on the grounds that it is vague and ambiguous, overbroad and unduly burdensome and seeks documents which are irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Applicant further objects to this request to the extent it seeks documents protected from discovery by the attorney-client privilege, work-product doctrine, the common interest and joint defense privileges, and/or any other applicable privilege or immunity. Subject to and without waiving the foregoing objections (and to the extent documents responsive to this request as reasonably construed exist and are available) Applicant will produce documents for inspection and copying at a mutually convenient date and time.

Request No. 20:

All documents concerning any market research, focus groups, surveys or other investigation made or commissioned by or on behalf of Applicant concerning Applicant's Mark, Applicant's Products/Services, Opposer's NASTY PIG Mark, or any goods or services advertised, promoted, offered for sale, sold, licensed or rendered by Opposer.

Response: Applicant objects to this request on the grounds that it is vague and ambiguous, overbroad and unduly burdensome and seeks documents which are irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Applicant further objects to this request to the extent it seeks documents protected from discovery by the attorney-client privilege, work-product doctrine, the common interest and joint defense privileges, and/or any other applicable privilege or immunity. Subject to and without waiving the foregoing objections (and to the extent documents responsive to this request as reasonably construed exist and are

available) Applicant will produce documents for inspection and copying at a mutually convenient date and time.

Request No. 21:

All documents concerning any instances suggesting or reflecting any confusion on the part of any member of the public between Opposer and Applicant and/or their respective marks and or goods or services, including, without limitation, documents referring to or evidencing misdirected mail, e-mails, telephone calls, orders or inquiries suggesting or reflecting a belief by any person that Applicant is licensed, endorsed or sponsored by, or is a sponsor of, or is associated or related in any way with or to Opposer, or that the products or services sold, offered for sale or otherwise distributed, or intended to be sold, offered for sale or otherwise distributed, by Applicant under Applicant's Mark are licensed, endorsed or sponsored by or associated or related in any way with or to Opposer and/or Opposer's NASTY PIG Mark.

Response: Opposer objects to this request to the extent it seeks documents which are protected by the attorney-client privilege and/or attorney work product privilege. Subject to and without waiving the foregoing objections (and to the extent documents responsive to this request as reasonably construed exist and are available) Applicant will produce documents for inspection and copying at a mutually convenient date and time.

Request No. 22:

All documents concerning the actual or intended channels of trade for goods or services sold or rendered or intended to be sold or rendered in connection with Applicant's Mark.

Response: Applicant objects to this request on the grounds that it is vague and ambiguous, overbroad and unduly burdensome and seeks documents which are irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Applicant further objects to this request to the extent it seeks documents protected from discovery by the attorney-client privilege, work-product doctrine, the common interest and joint defense privileges, and/or any other applicable privilege or immunity. Subject to and without waiving the foregoing objections (and to the extent documents responsive to this request as reasonably construed exist and are available) Applicant will produce documents for inspection and copying at a mutually convenient date and time.

Request No. 23:

All documents, including communications and correspondence, Applicant has received from or transmitted to the United States Patent and Trademark Office and/or any State Trademark Office concerning or relating to the application to register or registration of Applicant's Mark.

Response: Applicant objects to this request on the grounds that it is vague and ambiguous, overbroad and unduly burdensome and seeks documents which are irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Furthermore, the request is harassing as it calls for documents and materials readily available in the public domain and easily accessible to Opposer. Subject to and without waiving the foregoing objections (and to the extent documents responsive to this request as reasonably construed exist and are available) Applicant will produce documents for inspection and copying at a mutually convenient date and time.

Request No. 24:

All documents, including without limitation, business plans, marketing plans, memos, correspondence or draft proposals of any kind, concerning Applicant's bona fide intent to use Applicant's Mark in connection with each and every good identified in International Class 25 in Application Serial No. 86/085,785 prior to or as of October 8, 2013.

Response: Applicant objects to this request on the grounds that it is vague and ambiguous, overbroad and unduly burdensome and seeks documents which are irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Applicant further objects to this request to the extent it seeks documents protected from discovery by the attorney-client privilege, work-product doctrine, the common interest and joint defense privileges, and/or any other applicable privilege or immunity. Subject to and without waiving the foregoing objections (and to the extent documents responsive to this request as reasonably construed exist and are available) Applicant will produce documents for inspection and copying at a mutually convenient date and time.

Request No. 25:

All documents concerning any steps or actions taken by or on behalf of Applicant to use Applicant's Mark in the United States or in commerce with the United States.

Response: Applicant objects to this request as overly broad and unduly burdensome and seeks documents which are irrelevant and not reasonably calculated to lead to the discovery of

admissible evidence. Applicant further objects to this request to the extent it seeks documents protected from discovery by the attorney-client privilege, work-product doctrine, the common interest and joint defense privileges, and/or any other applicable privilege or immunity. Subject to and without waiving the foregoing objections (and to the extent documents responsive to this request as reasonably construed exist and are available) Applicant will produce documents for inspection and copying at a mutually convenient date and time.

Request No. 26:

All documents concerning any third party uses, registrations or applications for registration of any marks or purported marks containing or comprising the term "PIG" in connection with products or services identical or similar to any of Applicant's Products/Services or Opposer's goods or services in the United States or U.S. commerce.

Response: Applicant objects to this request on the grounds that it is vague and ambiguous, overbroad and unduly burdensome and seeks documents which are irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Applicant further objects to this request to the extent it seeks documents protected from discovery by the attorney-client privilege, work-product doctrine, the common interest and joint defense privileges, and/or any other applicable privilege or immunity. Subject to and without waiving the foregoing objections (and to the extent documents responsive to this request as reasonably construed exist and are available) Applicant will produce documents for inspection and copying at a mutually convenient date and time.

Request No. 27:

All documents concerning or supporting the second affirmative defense asserted by Applicant in its answer in this proceeding that "the Notice of Opposition is barred by the [sic] acquiescence and laches."

Response: Applicant objects to this request as overly broad, unduly burdensome, and that it seeks documents which are either within the public domain and or more easily accessible by Opposer than Applicant. Applicant further objects to this request to the extent it seeks documents protected from discovery by the attorney-client privilege, work-product doctrine, the common interest and joint defense privileges, and/or any other applicable privilege or immunity. Subject to and without waiving the foregoing objections (and to the extent documents responsive to this request as reasonably construed exist and are available) Applicant will produce documents for inspection and copying at a mutually convenient date and time.

Request No. 28:

All documents concerning or supporting the third affirmative defense asserted by Applicant in its answer in this proceeding that "the Notice of Opposition is barred by the doctrine of waiver and estoppel."

Response: Applicant objects to this request as overly broad, unduly burdensome, and that it seeks documents which are either within the public domain and or more easily accessible by Opposer than Applicant. Applicant further objects to this request to the extent it seeks documents protected from discovery by the attorney-client privilege, work-product doctrine, the common interest and joint defense privileges, and/or any other applicable privilege or immunity. Subject

to and without waiving the foregoing objections (and to the extent documents responsive to this request as reasonably construed exist and are available) Applicant will produce documents for inspection and copying at a mutually convenient date and time.

Request No. 29:

All documents concerning or supporting the fourth affirmative defense asserted by Applicant in its answer in this proceeding that "the Notice of Opposition is barred by Opposer's failure to challenge the use of third party marks comprised in whole or in part of the term 'pig' on related goods and services by unrelated third parties."

Response: Applicant objects to this request as overly broad, unduly burdensome, and that it seeks documents which are either within the public domain and or more easily accessible by Opposer than Applicant. Applicant further objects to this request to the extent it seeks documents protected from discovery by the attorney-client privilege, work-product doctrine, the common interest and joint defense privileges, and/or any other applicable privilege or immunity. Subject to and without waiving the foregoing objections (and to the extent documents responsive to this request as reasonably construed exist and are available) Applicant will produce documents for inspection and copying at a mutually convenient date and time.

Request No. 30:

All documents concerning or supporting the fifth affirmative defense asserted by Applicant in its answer in this proceeding that "Applicant's mark DIRTY PIG falls far outside the scope of protection to which Opposer's mark may extend."

Response: Applicant objects to this request as overly broad, unduly burdensome, and that it seeks documents which are either within the public domain and or easily accessible by Opposer by searching TESS. Applicant further objects to this request to the extent it seeks documents protected from discovery by the attorney-client privilege, work-product doctrine, the common interest and joint defense privileges, and/or any other applicable privilege or immunity. Subject to and without waiving the foregoing objections (and to the extent documents responsive to this request as reasonably construed exist and are available) Applicant will produce documents for inspection and copying at a mutually convenient date and time.

Request No. 31:

All documents concerning or supporting the sixth affirmative defense asserted by Applicant in its answer in this proceeding that "there are many 100's of third party 'pig' and 'pig' combination marks of record in the USPTO, thus rendering the 'pig' element of Opposer's mark to be weak."

Response: Applicant objects to this request as overly broad, unduly burdensome, and that it seeks documents which are either within the public domain and or more easily accessible by Opposer than Applicant. Applicant further objects to this request to the extent it seeks documents protected from discovery by the attorney-client privilege, work-product doctrine, the common interest and joint defense privileges, and/or any other applicable privilege or immunity. Subject to and without waiving the foregoing objections (and to the extent documents responsive to this

request as reasonably construed exist and are available) Applicant will produce documents for inspection and copying at a mutually convenient date and time.

Request No. 32:

All documents concerning or supporting the seventh affirmative defense asserted by Applicant in its answer in this proceeding that "there were as many as 185 live third party live [sic] 'pig' and 'pig' combination marks of record in relevant classes in the USPTO at the time Opposer filed the application that resulted in Reg. No. 2800386, which Opposer admitted were not confusingly similar to Opposer's mark when it stated under oath in the application' ... to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of his/her own knowledge are true; and that all statements made on information and belief are believed to be true."

Response: Applicant objects to this request as overly broad, unduly burdensome, and that it seeks documents which are either within the public domain and or more easily accessible by Opposer than Applicant or are in the exclusive custody and control of Opposer. Applicant further objects to this request to the extent it seeks documents protected from discovery by the attorney-client privilege, work-product doctrine, the common interest and joint defense privileges, and/or any other applicable privilege or immunity. Subject to and without waiving the foregoing objections (and to the extent documents responsive to this request as reasonably construed exist

and are available) Applicant will produce documents for inspection and copying at a mutually convenient date and time.

Request No. 33:

All documents concerning or supporting the eighth affirmative defense asserted by Applicant in its answer in this proceeding that "except for the within opposition, Opposer has never challenged a 'pig' or 'pig' combination mark before the TTAB, thus acquiescing in the ongoing and continued weakening of its alleged mark."

Response: Applicant objects to this request as overly broad, unduly burdensome, and that it seeks documents which are either within the public domain and or easily accessible by Opposer by searching TTAB. Applicant further objects to this request to the extent it seeks documents protected from discovery by the attorney-client privilege, work-product doctrine, the common interest and joint defense privileges, and/or any other applicable privilege or immunity. Subject to and without waiving the foregoing objections (and to the extent documents responsive to this request as reasonably construed exist and are available) Applicant will produce documents for inspection and copying at a mutually convenient date and time.

Request No. 34:

All documents identified or otherwise relied on or referred to by Applicant in answering Opposer's First Set of Interrogatories above.

Response: Applicant objects to the Request as ambiguous, moot, impracticable and or not defined as Applicant only responds in objection to the referenced interrogatories. Subject to and without waiving the foregoing objections (and to the extent documents responsive to this request as reasonably construed exist and are available) Applicant will produce documents for inspection and copying at a mutually convenient date and time.

Dated: December 9, 2014

Respectfully submitted,

BAKER AND RANNELLS, P.A.
Attorneys for Opposer

By: Jason DeFrancesco
Jason DeFrancesco
575 Rte. 28, Ste. 102
Raritan, NJ 08869
(908) 722-5640

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the Applicant's Response to Opposer's First Set of Request for Production of Documents and Things has been served on Opposer c/o its counsel, by first class mail on this 9th day of December 2014, to,

Joel Karni Schmidt
COWAN LIEBOWITZ & LATMAN PC
1133 Avenue of The Americas
New York, NY 10036

/Jason DeFrancesco/
Jason DeFrancesco

EXHIBIT E

Ceresia, Scott P.

From: Ceresia, Scott P.
Sent: Wednesday, December 17, 2014 3:24 PM
To: 'jld@br-tmlaw.com'
Cc: 'Steve Baker'; Schmidt, Joel; Shimanoff, Eric J.
Subject: Re: DIRTY PIG - Opposition No. 91217154 - Applicant's discovery responses

Mr. DeFrancesco,

We are in receipt of Applicant's written responses to Opposer's First Set of Interrogatories and First Set of Requests for Production in the above-referenced matter.

We believe it would be helpful to schedule a call regarding Applicant's responses. Are you available this week to discuss?

Regards,
Scott

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