ESTTA Tracking number: **ESTTA653135**
Filing date: **01/30/2015**

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

Proceeding	91220407
Party	Plaintiff Nasty Pig, Inc.
Correspondence Address	Joel Karni Schmidt Cowan, Liebowitz & Latman, P.C. 1133 Avenue of the Americas New York, NY 10036 UNITED STATES jks@cll.com, spc@cll.com, mxe@cll.com, trademark@cll.com
Submission	Motion to Consolidate
Filer's Name	Joel Karni Schmidt
Filer's e-mail	jks@cll.com, spc@cll.com, mxe@cll.com, trademark@cll.com
Signature	/Joel Karni Schmidt/
Date	01/30/2015
Attachments	Motion to Consolidate (RAUNCHY PIG).pdf(24350 bytes) Ceresia Declaration (RAUNCHY PIG) - with exhibits.pdf(2004784 bytes)

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

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

NASTY PIG, INC., Opposer, v. FITUMI, LLC, Applicant.	Opposition No. 91220407

MOTION TO CONSOLIDATE OPPOSITION PROCEEDINGS

Pursuant to Section 511 of the Trademark Trial and Appeal Board Manual of Procedure ("TBMP") and Fed. R. Civ. P. 42(a), Opposer Nasty Pig, Inc. ("Opposer"), by and through its undersigned counsel, hereby moves for an order consolidating Opposition No. 91217154, involving the application for the mark DIRTY PIG (the "DIRTY PIG Application") filed by Applicant Janoskians LLC ("Janoskians"), with Opposition No. 91220407, involving the application for the mark RAUNCHY PIG (the "RAUNCHY PIG Application") filed by Applicant Fitumi, LLC ("Fitumi").

As set forth below, Opposer's motion to consolidate these opposition proceedings should be granted because they involve common issues of law and fact (including claims of likelihood

of confusion based on substantially similar marks), the two applicants are closely affiliated companies involved in the sale and distribution of the DIRTY PIG goods, and consolidation would result in the substantial savings of time, effort and expense. Moreover, the evidence indicates that the RAUNCHY PIG Application is a sham application that was filed solely to retaliate against Opposer and attempt to gain leverage in the parties' core dispute concerning the DIRTY PIG Application. The factually interrelated nature of the two subject applications thus further warrants consolidation.

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.

A. Pre-Opposition History

Since at least as early as 1995, Opposer has engaged in the marketing, sale and distribution of clothing, jewelry, leather goods, and other goods and accessories bearing the NASTY PIG name and mark ("Opposer's NASTY PIG Mark"), as well as the provision of retail store services and computerized online retail services in these fields. DIRTY PIG Not. Opp. ¶ 1; RAUNCHY PIG Not. Opp. ¶ 1. Opposer is the owner of U.S. Registration No. 2,800,386 and Application Ser. No. 86/114,145 for Opposer's NASTY PIG Mark for various goods and services in Classes 14, 18, 24, 25 and 35. DIRTY PIG Not. Opp. ¶ 2; RAUNCHY PIG Not. Opp. ¶ 2.

On April 21, 2014, Opposer sent a demand letter to the attorneys of record for Application Serial No. 86/085,785 for the standard character word mark DIRTY PIG for various Class 25 goods ("the DIRTY PIG Application"), which had recently been published for

opposition. RAUNCHY PIG Not. Opp. ¶ 12 & Ex. A. Although the record owner of the DIRTY PIG Application is Janoskians, on or about May 13, 2014, Opposer received a written response to its demand letter from Chris Swanson who described himself as the "Managing Member" of Fitumi. *Id.* ¶ 13 & Ex. B. In the May 13, 2014 letter, Mr. Swanson identified Fitumi as "the company responsible for sales and distribution of the Brand Dirty Pig," and stated its refusal to comply with the terms set forth in Opposer's demand letter regarding the DIRTY PIG Application. *Id.* ¶ 14 & Ex. B.

Upon information and belief, on May 13 and 14, 2014 – on or about the time Fitumi sent its May 13, 2014 letter to Opposer – Mr. Swanson filed three Section 1(b) trademark applications on behalf of Fitumi all containing the terms "NASTY" and/or "PIG," including the RAUNCHY PIG Application (collectively, the "Fitumi Applications"). *Id.* ¶ 15.[1] Upon information and belief, the Fitumi Applications, including the RAUNCHY PIG Application, were filed in bad faith in order to retaliate against Opposer and to otherwise gain leverage in the parties' core dispute regarding the DIRTY PIG Application. *Id.* ¶ 16.

B. <u>Procedural History</u>

On July 2, 2014, Opposer instituted an opposition proceeding against the DIRTY PIG Application (Opposition No. 91217154). After it was published for opposition, on January 28, 2015, Opposer instituted an opposition proceeding against the RAUNCHY PIG Application (Opposition No. 91220407).

Opposer's Notices of Opposition in both proceedings are based on the same principal claim that the applied-for marks – DIRTY PIG and RAUNCHY PIG – are likely to cause

[1] The other two applications filed by Fitumi on those dates were Application Serial No. 86/280,431 for the mark SEXY NASTY PIG and Application Serial No. 86/280,435 for the mark SEXY GAY NASTY. The USPTO has since issued an Office Action refusing to register the application for the mark SEXY NASTY PIG due to Opposer's U.S. Registration No. 2,800,386 for Opposer's NASTY PIG Mark.

confusion with the goods sold and services rendered in connection with Opposer's NASTY PIG Mark, including, without limitation, on the grounds that (1) the Class 25 goods subject to the two applications are closely related and/or identical to Opposer's goods and services rendered in connection with Opposer's NASTY PIG Mark; and (2) the applied-for marks are two-word marks both comprised of the identical term "PIG" and a first term – "DIRTY" or "RAUNCHY" - which carries a connotation that is extremely similar to the term "NASTY" prominently featured in Opposer's NASTY PIG Mark such that the overall commercial impression of the applied-for marks is strikingly similar to Opposer's NASTY PIG Mark. *See* DIRTY PIG Not. Opp. ¶¶ 1-11; RAUNCHY PIG Not. Opp. ¶¶ 1-11.

Opposer's Notice of Opposition against the RAUNCHY PIG Application also asserts a claim for lack of bona fide intent, since applicant Fitumi, the company responsible for the sale and distribution of the DIRTY PIG goods, filed the Section 1(b) RAUNCHY PIG Application only after it had received Opposer's demand letter regarding the DIRTY PIG Application as a means to retaliate and attempt to gain leverage against Opposer in the parties' existing dispute concerning the DIRTY PIG mark. *See* RAUNCHY PIG Not. Opp. ¶¶ 12-17.

Information disclosed in Opposition No. 91217154 involving the DIRTY PIG Application confirms that applicants Janoskians and Fitumi are closely related or affiliated companies. Janoskians' Initial Disclosures state that Chris Swanson is the person with knowledge concerning the "[c]reation, selection and adoption" of the DIRTY PIG mark (Ceresia Decl., Ex. A), while the RAUNCHY PIG Application states that Chris Swanson is also a "Principal" of Fitumi. (*Id.*, Ex. B). Further, in its written discovery responses, Janoskians states that its documents are maintained at Putnam Accessory Group, Inc. located in Vernon, California, the same city where Fitumi is based according to the RAUNCHY PIG Application. (*See id.*, Exs. B & C). Additionally, John Putnam, the President of Putnam Accessory Group,

Inc. where Janoskians' documents are located, is also listed as the "Managing Member" of Fitumi on other trademark applications filed by Fitumi in the USPTO. (*See id.*, Exs. D & E).

ARGUMENT

A. The Oppositions Should Be Consolidated Because They Involve Common Issues of Law and Fact

Section 511 of the TBMP provides that, "[w]hen cases involving common questions of law or fact are pending before the Board, the Board may order the consolidation of the cases." See also Fed. R. Civ. P. 42(a). In determining whether to consolidate, the Board should consider the savings in time, effort, and expense to be gained from consolidation as well as whether any actual prejudice will result from consolidation. See TBMP § 511; see also World Hockey Ass'n v. Tudor Metal Prods. Corp., 185 U.S.P.Q. 246, 248 (T.T.A.B. 1975) (ordering consolidation of two opposition proceedings because it was "equally advantageous to both parties in the avoidance of the duplication of effort, loss of time, and extra expense involved in conducting the proceedings alternately").

Consolidation is strongly warranted here, since the two opposition proceedings involve substantially similar marks, closely affiliated parties and common questions of fact and law for the Board to resolve, namely, the alleged likelihood of confusion between Opposer's NASTY PIG Mark and the two applied-for PIGS-formative marks each of which contains a first term having a connotation that is extremely similar (if not identical) to the term "NASTY" prominently featured in Opposer's NASTY PIG Mark. Moreover, Opposer's claim for lack of bona fide intent asserted against the RAUNCHY PIG Application – which was filed by Fitumi in direct response to Opposer's demand letter concerning the DIRTY PIG Application – is necessarily intertwined with the facts surrounding the parties' core dispute regarding the DIRTY PIG mark.

The Board routinely orders consolidation under such circumstances. See Dating DNA, LLC v. Imagini Holdings, Ltd., 94 U.S.P.Q.2d 1889, 1893 (T.T.A.B. 2010) (ordering consolidation of two opposition proceedings that involved "similar marks and related or identical issues"); Ritchie v. Simpson, 41 U.S.P.Q.2d 1859, 1860 (T.T.A.B. 1996), rev'd on other grounds, 170 F.3d 1092 (Fed. Cir. 1999) ("Inasmuch as the notices of opposition are virtually identical and present common questions of law and fact, despite the variations in the marks and goods involved, the Board has found it appropriate to consolidate the cases"); WorldHockey Ass'n, supra, 185 U.S.P.Q. at 248 (ordering consolidation where applied-for marks were substantially similar, opposer challenged both applications on the basis of its ownership of the same mark and consolidation would avoid duplication of effort and unnecessary expense).[2]

To the extent applicants contest consolidation on the ground that they are nominally different parties, this argument is unavailing. The identity of the parties, while a relevant consideration, is not necessary for consolidation. See TBMP § 511. Moreover, the two applicants at issue – the record owner of the DIRTY PIG Application and the company responsible for the sale and distribution of the DIRTY PIG goods – are closely related or affiliated companies with shared principals. *See* Ceresia Decl. ¶¶ 2-12 & Exs. A-E. Nor can applicants point to any possible prejudice that would outweigh the obvious savings and efficiencies that would be gained by consolidation. In the proceeding involving the DIRTY PIG Application, written discovery is still ongoing, no expert witnesses have been disclosed and no

[2] The fact that an Answer has not yet been filed in Opposition No. 91220407 involving the RAUNCHY PIG Application poses no issue since "the Board may, in its discretion, order cases consolidated prior to joinder of issue." See TBMP § 511. See also Checkpoint Sys., Inc. v. Check Point Software Techs., Ltd., 2002 TTAB LEXIS 333, at *4 & n.6 (T.T.A.B. May 31, 2002) (consolidating proceedings prior to joinder of issue where, inter alia, "the marks are highly similar, and the proceedings involve common questions of law and fact").

discovery depositions have been taken. Ceresia Decl. ¶ 13.[3] Thus, no conceivable prejudice or delay is presented by consolidating the two proceedings.[4]

In sum, due to the oppositions' interrelated legal and factual issues, substantially similar marks and closely affiliated parties, consolidation would lead to the savings of significant time, effort and expense and would otherwise serve the interests of judicial economy.

CONCLUSION

For the foregoing reasons, Opposer respectfully requests that the Board grant Opposer's motion to consolidate Opposition No. 91217154 with Opposition No. 91220407.

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

[3] In fact, due to a pending discovery dispute between the parties concerning Janoskians' method of document production, Opposer has yet to receive any documents from Janoskians. Ceresia Decl. ¶ 14.

[4] Moreover, because evidence indicates that the RAUNCHY PIG Application is a sham application filed solely to gain leverage against Opposer in the parties' dispute regarding the DIRTY PIG Application, documentary evidence pertaining to the purported RAUNCHY PIG mark is likely to be minimal (if not nonexistent). Thus, consolidation should have little, if any, impact on written discovery in this matter.

CERTIFICATE OF SERVICE

I hereby certify that I caused a copy of the foregoing MOTION TO CONSOLIDATE OPPOSITION PROCEEDINGS to be sent via first class, postage paid mail to Applicant Fitumi, LLC, 2133 East 38th Street, Vernon, California 90058-1616.

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

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

NASTY PIG, INC., Opposer, v. FITUMI, LLC, Applicant.	Opposition No. 91220407

DECLARATION OF SCOTT P. CERESIA IN SUPPORT OF MOTION TO CONSOLIDATE OPPOSITION PROCEEDINGS

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 to consolidate Opposition No. 91217154 with Opposition No. 91220407 pursuant to TBMP § 511 and Fed. R. Civ. P. 42(a).

2. A true and correct copy of Applicant Janoskians LLC's ("Janoskians") Initial Disclosures in Opposition No. 91217154, dated September 10, 2014, is attached hereto as **Exhibit A**.

3. In its Initial Disclosures, Janoskians stated that Chris Swanson is the person with knowledge concerning the "[c]reation, selection and adoption" of the DIRTY PIG mark. *See* **Exhibit A** at p. 2.

4. A true and correct copy of Applicant Fitumi, LLC's ("Fitumi") Application Serial No. 86/280,433 for the mark RAUNCHY PIG (the "RAUNCHY PIG Application"), which is the subject of Opposition No. 91220407, is attached hereto as **Exhibit B**.

5. The RAUNCHY PIG Application states that Chris Swanson is also a "Principal" of Fitumi. *See* **Exhibit B**.

6. A true and correct copy of Janoskians' written responses to Opposer's requests for production in Opposition No. 91217154, dated December 9, 2014, is attached hereto as **Exhibit C**.

7. In its written discovery responses, Janoskians stated that its documents are maintained at Putnam Accessory Group, Inc. located in Vernon, California. *See* **Exhibit C** at p. 5, ¶ 18.

8. The RAUNCHY PIG Application states that Fitumi is also based in Vernon, California. *See* **Exhibit B**.

9. A true and correct copy of John Putnam's LinkedIn profile is attached hereto as **Exhibit D**.

10. The President of Putnam Accessory Group, Inc., the company whose offices store Janoskians' documents, is an individual by the name of John Putnam. *See* **Exhibit D**. John Putman's LinkedIn Profile also lists the DIRTY PIG brand under the heading of "Projects." *See id.*

11. A true and correct copy of Fitumi's trademark application for the mark C and Design, Application Serial No. 85/59,2074, filed with the USPTO, is attached hereto as **Exhibit E**.

12. This same individual, John Putnam, is also listed as the "Managing Member" of Fitumi on Fitumi's trademark application for the mark C and Design. *See* **Exhibit E**.

13. In Opposition No. 91217154 involving the DIRTY PIG Application, written discovery is still ongoing, no expert witnesses have been disclosed and no discovery depositions have been taken.

14. Due to a pending discovery dispute between the parties concerning Janoskians' method of document production, Opposer has yet to receive any documents from Janoskians.

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 INITIAL DISCLOSURES

Applicant, JANOSKIANS LLC, ("Applicant"), by and through its attorneys Baker and Rannells, PA, hereby makes its Initial Disclosures as required by Federal Rule of Civil Procedure 26(a)(1):

GENERAL

By making representations of fact or law or by identifying certain individuals and categories of documents, Applicant does not waive or intend to waive, but on the contrary preserves and intends to preserve, all information and documents that are subject to the attorney-client privilege, the work product doctrine and any other privilege available under federal or state statutory, constitutional or common law.

These disclosures are made subject to Applicant's continuing investigation of facts underlying the claims and defenses in this proceeding and, therefore, Applicant expressly reserves its right to supplement, amend, correct, or modify these Initial

Disclosures as its ongoing investigatory or discovery efforts reveal further information or documents.

INITIAL DISCLOSURES

A. The name and, if known, the address and telephone number of each individual likely to have discoverable information that the disclosing party may use to support its claims or defenses, unless solely for impeachment, identifying the subjects of the information:

The following individuals are likely to have discoverable information that Applicant may use to support the claims and defenses alleged in the proceeding. Applicant's response is based on information presently available to it, and it reserves the right to supplement this list as discovery progresses.

Subject to these qualifications, Applicant discloses the following:

Chris Swanson
May be contacted through counsel.

Subjects of information:

- Creation, selection and adoption of Applicant's Mark

Jeremy Skaller
May be contacted through counsel.

Subjects of information:

- The marketing and sale of products bearing Applicant's Mark.
- Sales volume and advertising/promotional expenditures associated with Applicant's Mark.
- Trademark policing.
- Trademark application and maintenance concerning Applicant's Mark.

Dated: September 10, 2014

BAKER AND RANNELLS, PA

By: _____

Stephen L. Baker
Attorney 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 APPLICANT'S INITIAL DISCLOSURES has been served on Opposer by first class mail this 10th day of September 2014:

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

Kelly F. Hnasko

EXHIBIT B

PTO Form 1478 (Rev 9/2006)
OMB No. 0651-0009 (Exp 12/31/2014)

Trademark/Service Mark Application, Principal Register

TEAS Plus Application

Serial Number: 86280433
Filing Date: 05/14/2014

NOTE: Data fields with the * are mandatory under TEAS Plus. The wording "(if applicable)" appears where the field is only mandatory under the facts of the particular application.

The table below presents the data as entered.

Input Field	Entered
TEAS Plus	**YES**
MARK INFORMATION	
***MARK**	Raunchy Pig
***STANDARD CHARACTERS**	YES
USPTO-GENERATED IMAGE	YES
LITERAL ELEMENT	Raunchy Pig
***MARK STATEMENT**	The mark consists of standard characters, without claim to any particular font, style, size, or color.
REGISTER	Principal
APPLICANT INFORMATION	
***OWNER OF MARK**	Fitumi, LLC
***STREET**	2133 East 38th Street
***CITY**	Vernon
***STATE** **(Required for U.S. applicants)**	California
***COUNTRY**	United States
***ZIP/POSTAL CODE** **(Required for U.S. applicants only)**	90058
PHONE	3233061330
FAX	3233061329

EMAIL ADDRESS	chris@putnamag.com
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
LEGAL ENTITY INFORMATION	
***TYPE**	LIMITED LIABILITY COMPANY
*** STATE/COUNTRY WHERE LEGALLY ORGANIZED**	California
GOODS AND/OR SERVICES AND BASIS INFORMATION	
***INTERNATIONAL CLASS**	025
***IDENTIFICATION**	Apparel for dancers, namely, tee shirts, sweatshirts, pants, leggings, shorts and jackets; Athletic apparel, namely, shirts, pants, jackets, footwear, hats and caps, athletic uniforms; Children's and infant's apparel, namely, jumpers, overall sleepwear, pajamas, rompers and one-piece garments; Thong beachwear; Thong footwear; Thong underwear; Thongs
***FILING BASIS**	SECTION 1(b)
ADDITIONAL STATEMENTS INFORMATION	
*TRANSLATION (if applicable)	
*TRANSLITERATION (if applicable)	
*CLAIMED PRIOR REGISTRATION (if applicable)	
*CONSENT (NAME/LIKENESS) (if applicable)	
*CONCURRENT USE CLAIM (if applicable)	
CORRESPONDENCE INFORMATION	
***NAME**	Fitumi, LLC
FIRM NAME	Fitumi, LLC
***STREET**	2133 East 38th Street
***CITY**	Vernon
***STATE (Required for U.S. applicants)**	California
***COUNTRY**	United States

*ZIP/POSTAL CODE	90058
PHONE	3233061330
FAX	3233061329
*EMAIL ADDRESS	chris@putnamag.com
*AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
FEE INFORMATION	
NUMBER OF CLASSES	1
FEE PER CLASS	275
*TOTAL FEE PAID	275
SIGNATURE INFORMATION	
* SIGNATURE	/chris swanson/
* SIGNATORY'S NAME	chris swanson
* SIGNATORY'S POSITION	Principal
SIGNATORY'S PHONE NUMBER	3233061330
* DATE SIGNED	05/13/2014

PTO Form 1478 (Rev 9/2006)
OMB No. 0651-0009 (Exp 12/31/2014)

Trademark/Service Mark Application, Principal Register

TEAS Plus Application

Serial Number: 86280433
Filing Date: 05/14/2014

To the Commissioner for Trademarks:

MARK: Raunchy Pig (Standard Characters, see mark)
The literal element of the mark consists of Raunchy Pig.
The mark consists of standard characters, without claim to any particular font, style, size, or color.

The applicant, Fitumi, LLC, a limited liability company legally organized under the laws of California, having an address of
2133 East 38th Street
Vernon, California 90058
United States

requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended, for the following:

For specific filing basis information for each item, you must view the display within the Input Table.
International Class 025: Apparel for dancers, namely, tee shirts, sweatshirts, pants, leggings, shorts and jackets; Athletic apparel, namely, shirts, pants, jackets, footwear, hats and caps, athletic uniforms; Children's and infant's apparel, namely, jumpers, overall sleepwear, pajamas, rompers and one-piece garments; Thong beachwear; Thong footwear; Thong underwear; Thongs
Intent to Use: The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services. (15 U.S.C. Section 1051(b)).

The applicant's current Correspondence Information:
Fitumi, LLC
Fitumi, LLC
2133 East 38th Street
Vernon, California 90058
3233061330(phone)
3233061329(fax)
chris@putnamag.com (authorized)

A fee payment in the amount of $275 has been submitted with the application, representing payment for 1 class(es).

Declaration

The signatory believes that: if the applicant is filing the application under 15 U.S.C. Section 1051(a), the applicant is the owner of the trademark/service mark sought to be registered; the applicant or the applicant's related company or licensee is using the mark in commerce on or in connection with the goods/services in the application, and such use by the applicant's related company or licensee inures to the benefit of the applicant; the specimen(s) shows the mark as used on or in connection with the goods/services in the application; and/or if the applicant filed an application under 15 U.S.C. Section 1051(b), Section 1126(d), and/or Section 1126(e), the applicant is entitled to use the mark in commerce; the applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the goods/services in the application. The signatory believes that to the best of the signatory's knowledge and belief, no other person has the right to use the mark in commerce, either in the identical form or in such near resemblance as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion or mistake, or to deceive. The signatory being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements and the like may jeopardize the validity of the application or any registration resulting therefrom, declares that all statements made of his/her own knowledge are true and all statements made on information and belief are believed to be true.

Signature: /chris swanson/ Date Signed: 05/13/2014
Signatory's Name: chris swanson
Signatory's Position: Principal

RAM Sale Number: 86280433
RAM Accounting Date: 05/14/2014

Serial Number: 86280433
Internet Transmission Date: Wed May 14 00:04:02 EDT 2014
TEAS Stamp: USPTO/FTK-24.205.175.110-201405140004020
64751-86280433-5001969114c1c7df2790f7c54
b70a04f5b90834adb6222128cd3c5884e85e94c5
-CC-6098-20140513235543994203

Raunchy Pig

EXHIBIT C

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 D

What is LinkedIn? Join Today Sign In

John Putnam

President at Putnam Brands & Putnam Accessory Group

Greater Los Angeles Area | Apparel & Fashion

405 connections

Current	Putnam Brands, Putnam Accessory Group, Inc., PB Endeavors
Recommendations	**1** person has recommended **John**

Join LinkedIn & access John's full profile. It's free!

As a LinkedIn member, you'll join 300 million other professionals who are sharing connections, ideas, and opportunities.

- See who you know in common
- Get introduced
- Contact John directly

View John's Full Profile

Summary

Talented entrepreneur, trendsetter and industry pioneer, John Putnam has evolved his company, Putnam Accessory Group to new levels of success for close to 20 years. Today Putnam Accessory Group is the industry leader in accessory design, product development, merchandising, marketing, production and logistics for private label brands and worldwide licensing. Having seen the enormous success of his private label products in the marketplace, Putnam was inspired to create his own brand, Original Chuck. Influenced by originality and independence, and driven by non-stop innovation, flawless execution and timeless style, Original Chuck head-wear is the new industry classic.

With more than three decades of experience and over 500 million dollars in sales, well-known moguls and celebrities look to Putnam for his expertise as well as his position on the cutting-edge of the accessory industry, particularly in the field of head-wear.

Putnam's creative vision and strong knowledge of the marketplace has allowed him to steer the direction of the head-wear industry. Putnam can be credited with single-handedly beginning the massive bucket hat trend in the late 90's, after convincing Disney to manufacture and retail the hats in all of their parks. Putnam also created and patented the head-wear technology Tek Flex, which he eventually sold to New Era, the world's largest head-wear company.

Over the years, Putnam has produced accessories for some of the largest and best-known private label brands and retailers in the streetwear, urban, lifestyle, women's and junior categories. Putnam has the pulse on the emerging brand market working with Obey,Publish, Diamond Supply, Neff and Young & Reckless. His retail customers include Zumies, Karmaloop, Pac Sun, Kohls, Target, Walmart, BCBG, Urban Outfitters, Forever 21, Lids and Tilly's. Putnam continues to work with global known brands including Hurley, Reef, Guess, LRG, Disney, Pearl Izumi, and Baker Boys Distribution.

Experience

President

Putnam Brands

Find a different John Putnam

First Name | Last Name

Example: John Putnam

John Putnam
Greater New York City Area

John Putnam
Sr. Director, Global Indirect Strategic Sourcing at AmerisourceBergen Corporation
Greater Philadelphia Area

John Putnam
Consultant at Putnam Assurance & Risk Services, LLC
Colorado Springs, Colorado Area

John Putnam
President at National Christian Foundation Piedmont
Charlotte, North Carolina Area

John Putnam Jr
2012 MBA Candidate - Mobile Market Strategist & Evangelist
Greater Denver Area

More professionals named John Putnam

People Also Viewed

Pearl Reyes
Product Development & Design at Putnam Accessory Group, Inc.

Kathryn Sanchez
Director of Marketing at Putnam Accessory Group

Diana Costello
Director of Product Development & Sales at Putnam Accessory Group

Spencer Coates
VP Business Development at Putnam Accessory Group | MBA Candidate at University of Chicago Booth School of Business

Sam Hafif
CEO at Concept One Accessories

Brad Eisman
Sales Representative for Putnam Accessory Group and Spectra USA Apparel

Jessica Snyder
Division Manager Aquarius Ltd.

Ida Fung
Product Development

Tiffany Ly
Product Developer at Putnam Accessory Group

Shaun Neff
CEO at Neff headwear

January 2013 – Present (2 years 1 month)

-Putnam Brands builds partnerships with social visionaries and influencers that aspire to create lifestyle concepts into personalized brands.
-We have the global resources and distribution relationships to take a concept from the ground floor to final execution with the highest quality craftsmanship and innovative designs.
-We work with you to create, manage, and produce branded content supported by inventive marketing and social media strategies.
-Our team specializes in creative product launches and seamless market distribution.

President

Putnam Accessory Group, Inc.

January 1997 – Present (18 years 1 month) | Greater Los Angeles Area

- Evolved company to become the industry leader in accessory design, product development, merchandising, marketing, production and logistics for private label brands and worldwide licensing.
- Created and launched own personal brand, Original Chuck.
- Had a large hand in the bucket hat trend of the 90s, with business negotiations and product development.
-Inventor of the Hat Rack (patent)
-Owner of Snap Strap (patent): accessory item for the snap back hat. Style detail for comfort and branding

Co Founder

PB Endeavors

2013 – Present (2 years)

PB Endeavors are entrepreneurs combining the best of both worlds in business acceleration and private equity. Our specialty is hand-holding entrepreneurs and helping them develop their dreams from launch to successful exit. We start with great ideas, apply our vision, our process, and our capital, and then monetize those great ideas into dollars. Our focus is fashion/beauty and hospitality.

Projects

Dirty Pig

Born and bred Aussies, the Janoskians represent what being a Dirty Pig is about. Be yourself and don't let anyone tell you otherwise. Dirty Pig is the intersection of freedom, style, and individuality.

As ambassadors for the anti-bullying campaign in Melbourne, Australia, the Janoskians created Dirty Pig to represent their belief that everyone should be themselves. Individuality is what makes this world such an amazing place, and we are here to reinforce this belief.

Be yourself and be a Dirty Pig!

Original Chuck

Created and launched own personal brand, Original Chuck. "American-crafted and relentlessly perfected, Original Chuck is the supreme standard in headwear and accessories. Los Angeles-bred, with the desire to perfect and simplify the concepts of headwear, Original Chuck delivers the finest in custom accessories. Driven by constant innovation, and rooted in classic design, the Original Chuck philosophy is simple- Chuck For All, and All For Chuck. We believe in a timelessness and in bridging generation gaps. We believe in one people, indivisible. We are the new industry classic." https://www.OriginalChuck.com

Snap strap

Worked with a group to develop this product. The product itself is an accessory item for snap back

Find career opportunities

Add a position to get relevant job recommendations.

Update your profile

hats. I worked specifically on the style detail, comfort and branding of the product and am currently the owner of Snap Strap.

Publications

Interview with KTLA
KTLA - Los Angeles
August 2013

Chuck Originals: Retro Style Gets New Look
California Apparel News
September 2013
Article written by and published in California Apparel News.

Skills

Screen Printing | Styling | Lifestyle Brands | Trend Forecasting | Retail
Product Development | Apparel | Merchandising | Fashion Design
Product Design | Manufacturing | Textiles | Apparel Sourcing
Production Development | Private Label | See 14+

Groups

Hiring with LinkedIn ...

View John's full profile to...

- See who you know in common
- Get introduced
- Contact **John** directly

View John's Full Profile

Not the John Putnam you're looking for? View more

LinkedIn member directory: a b c d e f g h i j k l m n o p q r s t u v w x y z more | Browse members by country

© 2015 | User Agreement | Privacy Policy | Community Guidelines | Cookie Policy | Copyright Policy | Unsubscribe

EXHIBIT E

PTO Form 1480 (Rev 9/2006)
OMB No. 0651-0009 (Exp. 12/31/2014)

Certification Mark Form, Principal Register

Serial Number: 85592074
Filing Date: 04/09/2012

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	85592074
MARK INFORMATION	
***MARK**	\\TICRS\EXPORT11\IMAGEOUT 11\855\920\85592074\xml1\ APP0002.JPG
SPECIAL FORM	YES
USPTO-GENERATED IMAGE	NO
LITERAL ELEMENT	A stylized letter C hollow with a black center and a hollow curved underline
COLOR MARK	NO
***DESCRIPTION OF THE MARK (and Color Location, if applicable)**	The mark consists of A stylized hollowed letter c with the center of the c filled with black resting on a stylized hollowed and curved underline.
PIXEL COUNT ACCEPTABLE	YES
PIXEL COUNT	521 x 539
REGISTER	Principal
APPLICANT INFORMATION	
***OWNER OF MARK**	Fitumi, LLC
***STREET**	2133 East 38th Street
***CITY**	Vernon
***STATE (Required for U.S. applicants)**	California
***COUNTRY**	United States
***ZIP/POSTAL CODE (Required for U.S. applicants only)**	90058
PHONE	323-306-1330

FAX	323-306-1329
EMAIL ADDRESS	john@putnamag.com
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
LEGAL ENTITY INFORMATION	
TYPE	limited liability company
STATE/COUNTRY WHERE LEGALLY ORGANIZED	California
GOODS AND/OR SERVICES AND BASIS INFORMATION	
INTERNATIONAL CLASS	A
***IDENTIFICATION**	Clothing, footwear, headgear
FILING BASIS	SECTION 1(a)
FIRST USE ANYWHERE DATE	At least as early as 01/30/2011
FIRST USE IN COMMERCE DATE	At least as early as 06/30/2011
SPECIMEN FILE NAME(S)	\\TICRS\EXPORT11\IMAGEOUT 11\855\920\85592074\xml1\ APP0003.JPG
SPECIMEN DESCRIPTION	A photo of a baseball cap showing the requested c mark in embroidery
COPY OF STANDARDS FILE NAME(S)	\\TICRS\EXPORT11\IMAGEOUT 11\855\920\85592074\xml1\ APP0004.JPG
COPY OF STANDARDS DESCRIPTION	Copy of Standards
CERTIFICATION	
***CERTIFICATION STATEMENT**	The certification mark, as used by authorized persons, certifies no claim is made to the exclusive right to the letter c apart from the mark as shown.
CORRESPONDENCE INFORMATION	
NAME	Fitumi, LLC
FIRM NAME	Fitumi, LLC
STREET	2133 East 38th Street
CITY	Vernon
STATE	California
COUNTRY	United States
ZIP/POSTAL CODE	90058

PHONE	323-306-1330
FAX	323-306-1329
EMAIL ADDRESS	john@putnamag.com;chris@putnamag.com
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
FEE INFORMATION	
NUMBER OF CLASSES	1
FEE PER CLASS	325
***TOTAL FEE DUE**	325
***TOTAL FEE PAID**	325
SIGNATURE INFORMATION	
SIGNATURE	/John D. Putnam/
SIGNATORY'S NAME	John D. Putnam
SIGNATORY'S POSITION	Managing Member
SIGNATORY'S PHONE NUMBER	323-306-1330
DATE SIGNED	04/08/2012

PTO Form 1480 (Rev 9/2006)
OMB No. 0651-0009 (Exp. 12/31/2014)

Certification Mark Form, Principal Register

Serial Number: 85592074
Filing Date: 04/09/2012

To the Commissioner for Trademarks:

MARK: A stylized letter C hollow with a black center and a hollow curved underline (stylized and/or with design, see mark)

The literal element of the mark consists of A stylized letter C hollow with a black center and a hollow curved underline.
The applicant is not claiming color as a feature of the mark. The mark consists of A stylized hollowed letter c with the center of the c filled with black resting on a stylized hollowed and curved underline.
The applicant, Fitumi, LLC, a limited liability company legally organized under the laws of California, having an address of

2133 East 38th Street
Vernon, California 90058
United States

requests registration of the Certification Mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended, for the following:

International Class A: Clothing, footwear, headgear
Applicant is exercising legitimate control over the use of the certification mark in commerce on or in connection with the above-identified goods/services. (15 U.S.C. Sections 1051(a) and 1054). Applicant is not engaged in the production or marketing of the goods or services to which the mark is applied. Applicant submits with this form a COPY OF STANDARDS the applicant uses to determine whether goods and/or services will be certified.

In International Class A, the mark was first used by persons authorized by the applicant, at least as early as 01/30/2011, and first used in commerce by persons authorized by the applicant at early as 06/30/2011, and is now in use in such commerce.The applicant is submitting one(or more) specimen(s) showing the mark as used by authorized persons in commerce on or in connection with any item in the class of listed goods and/or services, consisting of a(n) A photo of a baseball cap showing the requested c mark in embroidery .
Specimen File1

Copy of Standards
Attachment-1:
Certification Statement: The certification mark, as used by authorized persons, certifies no claim is made to the exclusive right to the letter c apart from the mark as shown.

The applicant's current Correspondence Information:

Fitumi, LLC
Fitumi, LLC
2133 East 38th Street
Vernon, California 90058
323-306-1330(phone)
323-306-1329(fax)
john@putnamag.com;chris@putnamag.com (authorized)

A fee payment in the amount of $325 has been submitted with the application, representing payment for 1 class(es).

Declaration

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements may jeopardize the validity of the form or any resulting registration, declares that he/she is properly authorized to execute this form on behalf of the applicant; he/she believes the applicant to be the owner of the certification mark sought to be registered, or, if the form is being filed under 15 U.S.C. Section 1051(b), he/she believes applicant to be entitled to exercise legitimate control over use of the mark in commerce; 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 and/or 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.

Declaration Signature

Signature: /John D. Putnam/ Date: 04/08/2012
Signatory's Name: John D. Putnam
Signatory's Position: Managing Member
RAM Sale Number: 5903
RAM Accounting Date: 04/09/2012

Serial Number: 85592074
Internet Transmission Date: Mon Apr 09 00:30:30 EDT 2012
TEAS Stamp: USPTO/CTM-99.67.60.29-20120409003030464089-85592074-4903a48764579af6c8992f44583b2967655-CC-5903-20120408225345464505

Original

CERTIFICATE OF SERVICE

I hereby certify that I caused a copy of the foregoing DECLARATION OF SCOTT P. CERESIA IN SUPPORT OF MOTION TO CONSOLIDATE OPPOSITION PROCEEDINGS to be sent via first class, postage paid mail to Applicant Fitumi, LLC, 2133 East 38th Street, Vernon, California 90058-1616.

Dated: New York, New York
January 30, 2015

/Scott P. Ceresia/
Scott P. Ceresia