

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

Flab
C

Dr. Gerald Bidawid

Petitioner,

v.

Robert G. Rosenthal

Registrant.

Cancellation No. 32,774

U.S. Patent & TMO/c/TM Mail Rcpt. Dt. #57



11-18-2002

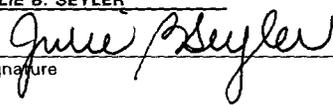
Commissioner for Trademarks
2900 Crystal Drive
Arlington, Va 22202-3513

**MOTION TO COMPEL AND
EXTEND PETITIONER'S TESTIMONY PERIOD**

Petitioner, Dr. Gerald Bidawid, requests that Respondent, Robert G. Rosenthal, be compelled to provide his answers to Petitioner's Discovery which consists of Interrogatory and Production Requests served on August 26, 2002.

It is simultaneously requested that Petitioner's testimony period, now set to close on November 24, 2002, be extended until this Motion is resolved. Petitioner requires Respondent's Discovery Answers to prepare its testimony evidence.

NOV 13 2002 11:50 AM
COMM. FOR TRADEMARKS AND PATENT OFFICE

CERTIFICATE OF MAILING
Date of Deposit : November 13, 2002
I hereby certify that this correspondence is being deposited with the United States Postal service as First Class Mail in an envelope addressed: Commissioner for Trademarks, 2900 Crystal Drive, Arlington, VA 22202-3513.
JULIE B. SEYLER

Signature

It is respectfully requested that this Motion be granted for the reasons set forth below:

(1) Pursuant to Rule 2.120(e), the undersigned has made a good faith effort to resolve this matter in a manner which would avoid the need to file this Motion. Please see attached letter sent to Respondent on October 29, 2002.

(2) Respondent has advised he will not respond to Discovery. Please see letter dated November 8, 2002.

(3) Copies of the Interrogatory and Production requests are attached.

For the foregoing reasons, it is respectfully requested that the Motion to Compel be granted and the Cancellation be suspended until the Motion is decided.

Respectfully submitted,



JULIE B. SEYLER

ABELMAN FRAYNE & SCHWAB
150 East 42nd Street
New York, New York 10017
212-949-9022

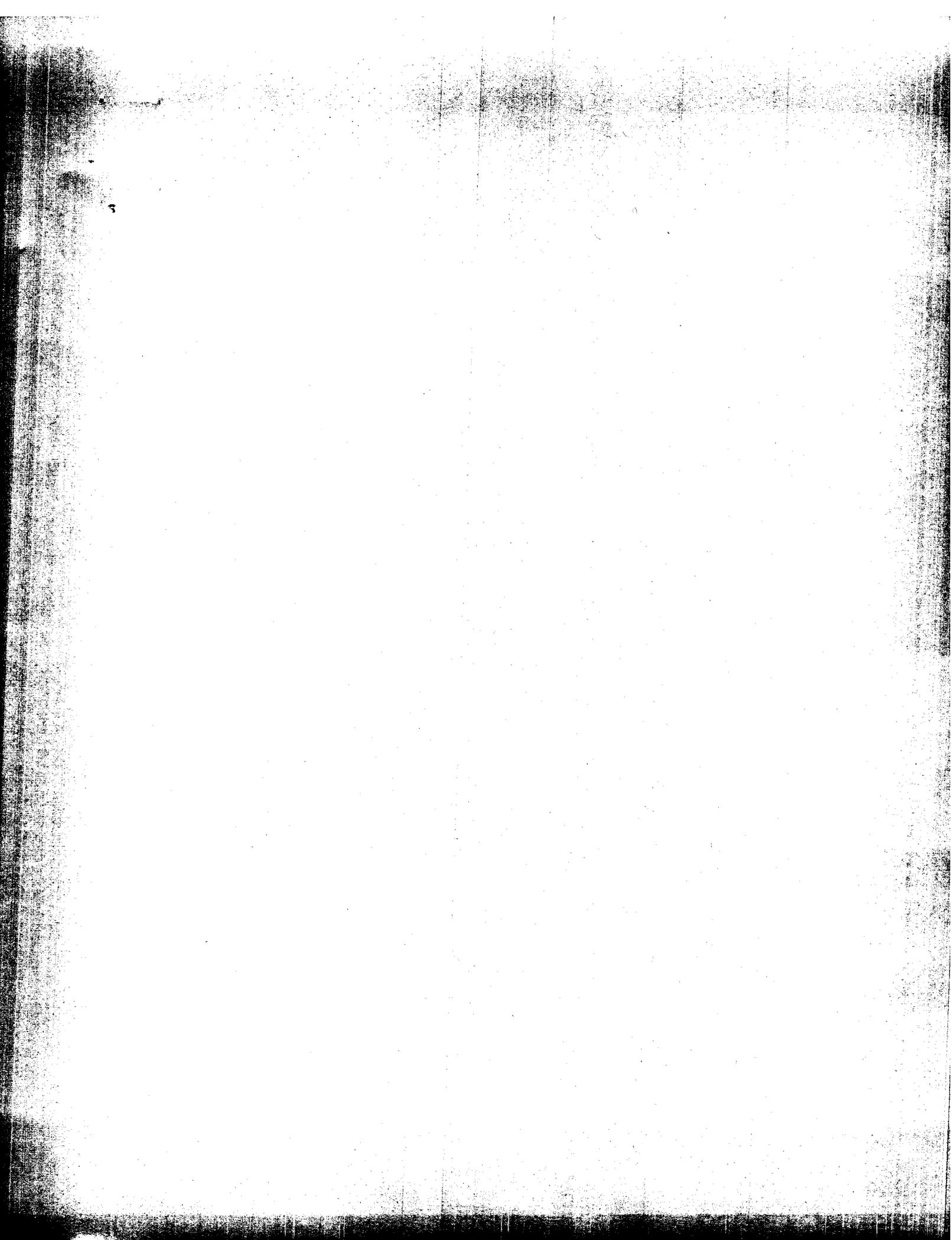
CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing **MOTION TO COMPEL AND EXTEND PETITIONER'S TESTIMONY PERIOD** was served by first class mail, postage prepaid this 13th day of November, 2002 upon the following:

Mr. Robert G. Rosenthal
5856 Faringdon Place
Suite 200
Raleigh, NC 27609



JULIE B. SEYLER



ABELMAN, FRAYNE & SCHWAB

Attorneys at Law

150 East 42nd Street
New York, NY 10017-5612

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Michael J. Schwab
Jennifer R. Waitman
Lori B. Cohen
Natasha J. Finlen
Stephen J. Quigley
Frank Terranella
A.F. Cousins
Donna Furey
Anthony J. Natoli

Lawrence E. Abelman
Jeffrey A. Schwab
Victor M. Taubenbaum
Peter J. Lynfield
Alan J. Harnick
Caridad Piñeiro Scordato
Michael Aschen
Julianne Abelman
Jonathan W. Gumpert
Marsha G. Ajhar
Julie B. Seyler
Marie Anne Mastrovito
Joseph J. Catanzaro

Of Counsel:

Norman S. Beier
Alan D. Gilliland
Thomas E. Spath
Richard L. Crisona

Gabriel M. Frayne (1929 - 2000)

October 29, 2002

VIA TELEFAX
1-919-872-4912

Mr. Robert G. Rosenthal
5856 Faringdon Place
Suite 200
Raleigh, NC 27609

Re: Dr. Gerald Bidawid
Trademark BIOSUISSE and
Cancellation No. 32774
v. Robert G. Rosenthal
Trademark BIOSWISS
in the United States
Our ref.: 210793

Dear Mr. Rosenthal:

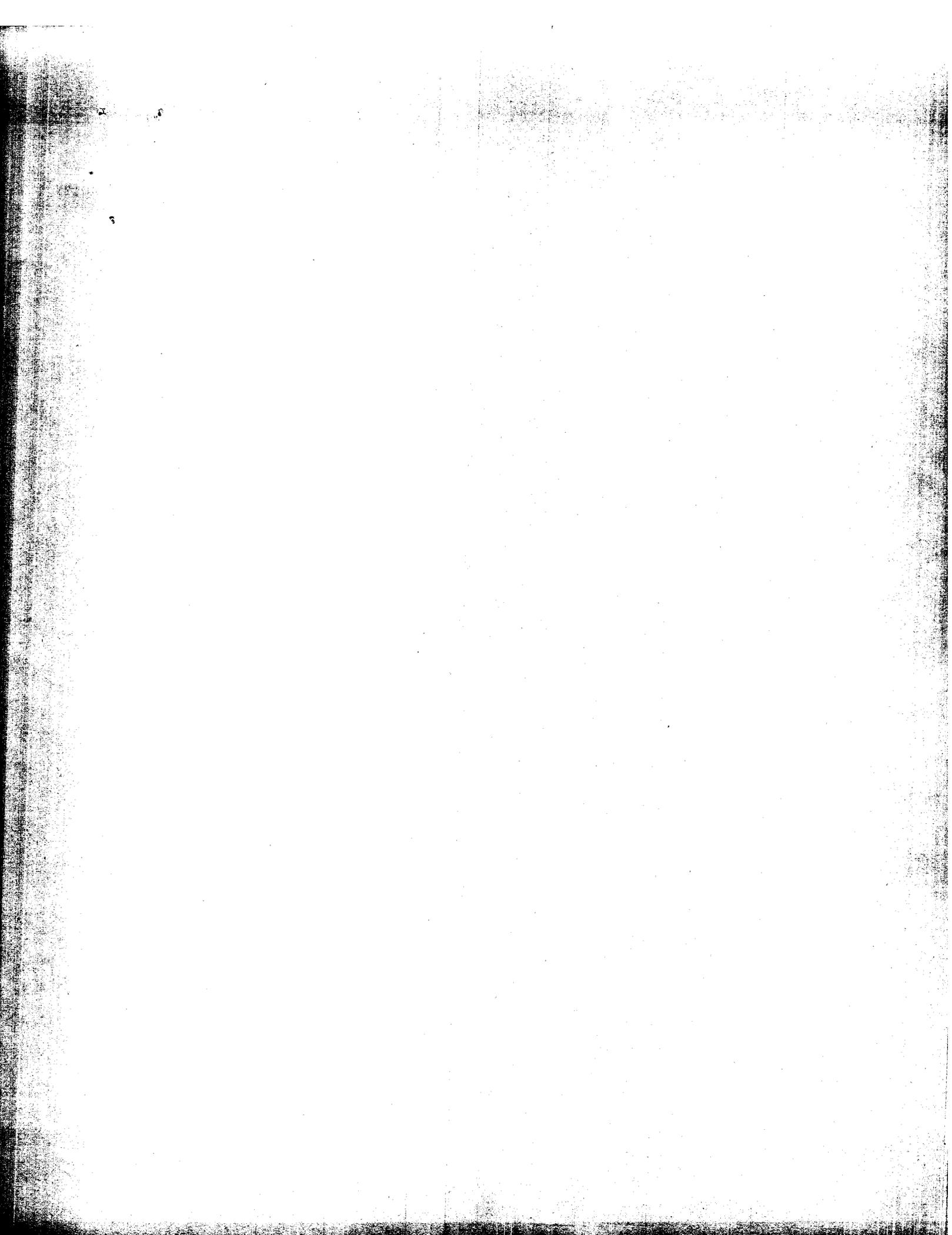
We served you with Discovery Requests on August 26, 2002. Under the Trademark Rules your responses were due no later than September 30, 2002. You have never contacted us for an extension of the term.

Please confirm that you will be providing the responses no later than November 11, 2002.

In this connection, I note that your Answer to the Opposition was due on March 19, 2002 and you filed a one month extension without our consent. As a courtesy, we did not object. Our testimony period will close on November 24, 2002. I trust you will have no objection to a two month extension of all dates in light of your delay in providing the responses. Please confirm.

Sincerely,

JULIE B. SEYLER



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

Dr. Gerald Bidawid

Petitioner,

v.

Robert G. Rosenthal

Respondent.

Cancellation No. 32,774

**PETITIONER'S FIRST SET OF
INTERROGATORIES TO RESPONDENT**

Petitioner, by its attorneys, requests that Respondent answer the following interrogatories pursuant to Rule 2.120 of the Trademark Rules and Rule 33 of the Federal Rules of Civil Procedure. These interrogatories are continuing in nature and any information which may be discovered subsequent to service of the answers should be disclosed through supplemental answers within a reasonable time following its discovery.

In answering these interrogatories, please furnish all information known or available to Respondent, regardless of whether this information is possessed directly by Respondent, or by its agents, employees, representatives, investigators, or by Respondent's attorneys or their agents, employees, representatives or investigators.

DEFINITIONS

The following definitions are incorporated by reference in each interrogatory as set forth hereinafter:

A. "Person" or "persons" means all entities, including, but not limited to, all individuals, single proprietorships, associations, companies, partnerships, joint ventures, and corporations.

B. The term "trademark" refers to trademarks, service marks, certification marks and collective marks.

C. As referred to herein, **Petitioner's MARK**, shall mean the trademark **BIOSUISSE**. As referred to herein, **Respondent's MARK** shall refer to the trademark **BIOSWISS; BIO SWISS; and BIOSWISS Cosmetics and Design** as shown in Respondent's registration, Registration No. 2,276,512 registered September 7, 1999.

D. When a "date" is requested, it shall mean the exact day, month and year if known, or if not, the best approximation thereof.

E. "Document" is synonymous in meaning and equal in scope to the usage of this term in Federal Rule of Civil Procedure 34(a) and includes, but is not limited to, the original and any non-identical copy, regardless of origin or location, of any written, recorded, transcribed, punched, taped, filmed or graphic matter however produced, now or formerly in your possession, custody or control, including, but not limited to, any drawing, photograph, book, pamphlet, periodical, letter, correspondence, agreements, licenses, instruments of assignment or conveyance, documents of title, stock and share certificates, telegram, telex, telefax, invoice,

contract, purchase order, estimate report, memorandum, intra-office communication, working paper, record, ledger, journal, financial statement, study, paper, work sheet, cost sheet, estimating sheet, bid, bill, time card, work record, chart, graph, manual, index, data sheet, data processing card, tape or disc recording, transcriptions thereof, and all other memorials of any conversations, meetings, and conferences by telephone or otherwise.

F. "Identify", unless otherwise qualified in a particular interrogatory, means (1) when used in reference to a natural individual, to state the individual's full name, present home address, present business address, and present or last known position and business affiliation; (2) when used in reference to a company, to state its full name and the present or last known address of its principal place of business; (3) when used in relation to an officer, director or employee of Respondent , to state the person's full name, title or position and how long such title or position has been held; and (4) when used in reference to a document, to state:

1. its nature (e.g., contract, letter, tape, recording, ledger sheet, memorandum, voucher, lab notebook, etc.);
2. its title, if any;
3. the substance of its contents;
4. the date and place of its preparation;
5. if it is in the nature of a communication:
 - a. the date and place it was sent;
 - b. the date and place it was received;
 - c. the identity (as defined above) of the sender;

d. the identity (as defined above) of the receiver;
e. the identity (as defined above) of each person for whom the sender or receiver acted or purported to act;

6. The identity (as defined above) of all persons signing it, preparing or making it, or participating in or present at its preparation, making or signing.

7. The identity (as defined above) of all persons having custody of the document and if the present location of the document is unknown, the last known location of the document and any available information as to the disposition of the document or its whereabouts.

G. "You" or "Your" (or "you" or "your") and "Petitioner s" means the named Petitioner s, their predecessors in interest, and also their officers, agents, servants, employees, representatives, and attorneys, to the fullest extent the context permits.

H. "Respondent" means the named Respondent , its predecessors in interest, and also their officers, agents, servants, employees, representatives, and attorneys, to the fullest extent the context permits.

I. The singular shall include the plural, and the plural, the singular, and the past tense shall include the present and future, the present shall include the past and future, and the future shall include the past and present.

J. If any act, event, conversation, person, writing or other instance or matter is mentioned or referred to in response to more than one of these interrogatories, you need not completely identify

and describe it, him or her in every such instance, provided you supply a complete identification and description in one such instance in full compliance with the foregoing definitions and in each other such instance make a specific reference to the place in your answer to these interrogatories where such complete identification and description first appears.

K. If an interrogatory calls for information not known to you, such interrogatory shall be deemed a request for your best estimate, understanding and belief as to the matter inquired about and you shall state that you are presenting information about matters which are not known to you but are your best estimate, understanding and belief and you shall state in full detail the basis of your estimate, understanding and belief.

L. A request in an interrogatory for specific information (as where the term "including, but not limited to" is used) shall not, in any case, be deemed a waiver or limitation of the generality of the foregoing definitions.

M. If any information called for by any interrogatory herein is withheld because you claim that such information is contained in a privileged document or communication, (1) identify each such document or communication; (2) state the basis upon which the privilege is claimed; (3) state the number and subsection number of each interrogatory to which each such document or communication is responsive; and (4) identify each person (other than the attorneys representing you in this action) to whom the contents of each such document or communication has heretofore been disclosed, either orally or in writing.

INTERROGATORIES

INTERROGATORY NO. 1

List each product on or in connection with which Respondent uses, intends to use or has ever used **Respondent's MARK** or any other mark comprised in whole or in part of the term **BIOSWISS**.

INTERROGATORY NO. 2

(a) Identify Respondent's date of first use and first use in interstate commerce of **Respondent's Mark** in connection with each of the goods named in answer to Interrogatory No. 1, details of any *bona fide* sales involved, and the customer, if any, which purchased the specific product.

(b) Identify the date Respondent last shipped goods bearing **Respondent's Mark** in commerce and provide the name and address of the company and/or individual who received said goods.

(c) For each matter identified in (a) and (b) above, identify the persons having the most knowledge of such use.

INTERROGATORY NO. 3

(a) Identify all persons who participated in or approved of the selection and design of **Respondent's Mark**.

(b) Describe the circumstances involved for the selection of **Respondent's Mark**.

INTERROGATORY NO. 4

Identify all persons who have final authority for the marketing, advertising and/or promotion of products under **Respondent's Mark**.

INTERROGATORY NO. 5

(a) Describe the geographic area (by state within the United States) of distribution and advertising of the goods sold under **Respondent's Mark**.

(b) Provide the names of three retail outlets or catalogues or other venues where Respondent's goods, as described in response to Interrogatory No. 1 may be purchased.

INTERROGATORY NO. 6

State the sales in dollars and units by Respondent for all goods sold under the **Respondent's Mark** for the past three years.

INTERROGATORY NO. 7

(a) State whether Respondent has engaged or engages in advertising or other promotional activities relative to the goods bearing or connected with the **Respondent's Mark**.

(b) If the answer to (a) above is in the affirmative:

(i) Identify the types of advertising or promotional activities, including but not limited to catalogs, brochures or other media or advertising means in which Respondent has used the **Respondent's Mark**;

(ii) Identify the amount of money in dollars expended for advertising and promotion of goods bearing the **Respondent's Mark** since its inception, by month or other relevant period for the past three years.

INTERROGATORY NO. 8

State whether any other party (other than Respondent) has ownership rights in or permission to use **Respondent's Mark** for any goods or services, and if so, identify the party or parties, how these rights were acquired, and the goods or services involved.

INTERROGATORY NO. 9

(a) State the relationship between Bioswiss Cosmetics GmbH and Respondent.

(b) Provide the business address of Bioswiss Cosmetics GmbH.

(c) Has Bioswiss Cosmetics GmbH given Respondent a license to use **Respondent's Mark**?

(d) If the answer to (b) above is anything but an unqualified negative, list and describe each product and service on or in connection with which Applicant has obtained a license to use **Respondent's Mark**.

(e) If the answer to (b) above is anything but an unqualified negative, provide those portions of the License Agreement which pertain to how quality control is maintained on the goods sold under **Respondent's Mark**.

(f) If the answer to (b) above is anything but an unqualified negative and Applicant's licensing arrangement is maintained through an oral License Agreement, describe the circumstances as to how quality control is maintained on the goods sold under **Respondent's Mark**.

(g) State Respondent's relationship to how the goods are sold or distributed.

INTERROGATORY NO. 10

(a) Provide the name and address of the company that manufactures the perfumes sold under **Respondent's Mark**.

(b) Provide the name and address of the company that manufactures the essential oils for personal use sold under **Respondent's Mark**.

(c) Provide the name and address of the company that manufactures the skin care products, namely moisturizing, cleansing, firming and anti-wrinkle creams and lotions sold under **Respondent's Mark**.

(d) Provide the name and address of the company that manufactures the hair lotions sold under **Respondent's Mark**.

(e) Provide the name and address of the company that manufactures the dentrifices sold under **Respondent's Mark**.

INTERROGATORY NO. 11

Identify all trademark searches and investigations, including:

- (a) all marks searched and investigated;
- (b) the dates of such searches and investigations;
- (c) by whom such searches and investigations were authorized;
- (d) by whom such searches and investigations were conducted;
- (e) whether a written report was rendered pursuant to these searches and investigations; and
- (f) the person(s) to whom the results of such searches and investigations were reported.

INTERROGATORY NO. 12

Identify all persons who are going to conduct, are conducting or who have conducted for or on behalf of Respondent any survey, public opinion poll, market research or other research or investigation relating in any manner to any mark of Respondent comprised in whole or in part of the term **BIOSWISS**.

INTERROGATORY NO. 13

Identify all proceedings (including but not limited to the Federal Courts, State Courts and the Patent and Trademark Office) in which Respondent has been or is involved which refer or relate to products or services to be sold in connection with the term **BIOSWISS** or which relate to a trademark comprised in whole or in part of the word **BIOSWISS**.

INTERROGATORY NO. 14

(a) How long has Respondent been aware of **Petitioner's Mark** for any goods or services?

(b) Identify each person connected or associated with Respondent who first learned of **Petitioner's Mark**, and state the circumstances surrounding his or her knowledge of **Petitioner's Mark**.

INTERROGATORY NO. 15

(a) Provide Respondent's understanding of the word **SWISS**.

(b) Provide Respondent's understanding of the significance of the word **SWISS** when used in relation to skin care products.

(c) Describe what is meant by "Swiss Skin Care Programme."

(d) Describe how Respondent ensures that the goods sold under Respondent's mark qualifies as a "Swiss Skin Care Programme."

INTERROGATORY NO. 16

Provide the name and address of the company in Switzerland which manufactures the goods.

INTERROGATORY NO. 17

(a) Describe the market that Respondent has targeted as the most likely segment of the population to be interested in purchasing Respondent's goods under **Respondent's MARK**.

(b) Describe in detail the typical person most likely to purchase Respondent's goods by sex, by average income, age, and profession.

INTERROGATORY NO. 18

Identify the witnesses Respondent intends to call to testify on its behalf and identify the documents upon which Respondent intends to rely in connection with this cancellation proceeding.

INTERROGATORY NO. 19

(a) Identify each person who participated in the preparation of Respondent's responses to the foregoing interrogatories.

Respectfully submitted,

Dr. Gerald Bidawid

Date: August 26, 2002
New York, New York

By _____
Lawrence E. Abelman
Julie b. Seyler
Abelman, Frayne & Schwab
150 East 42nd Street
New York, New York 10017
(212) 949-9022

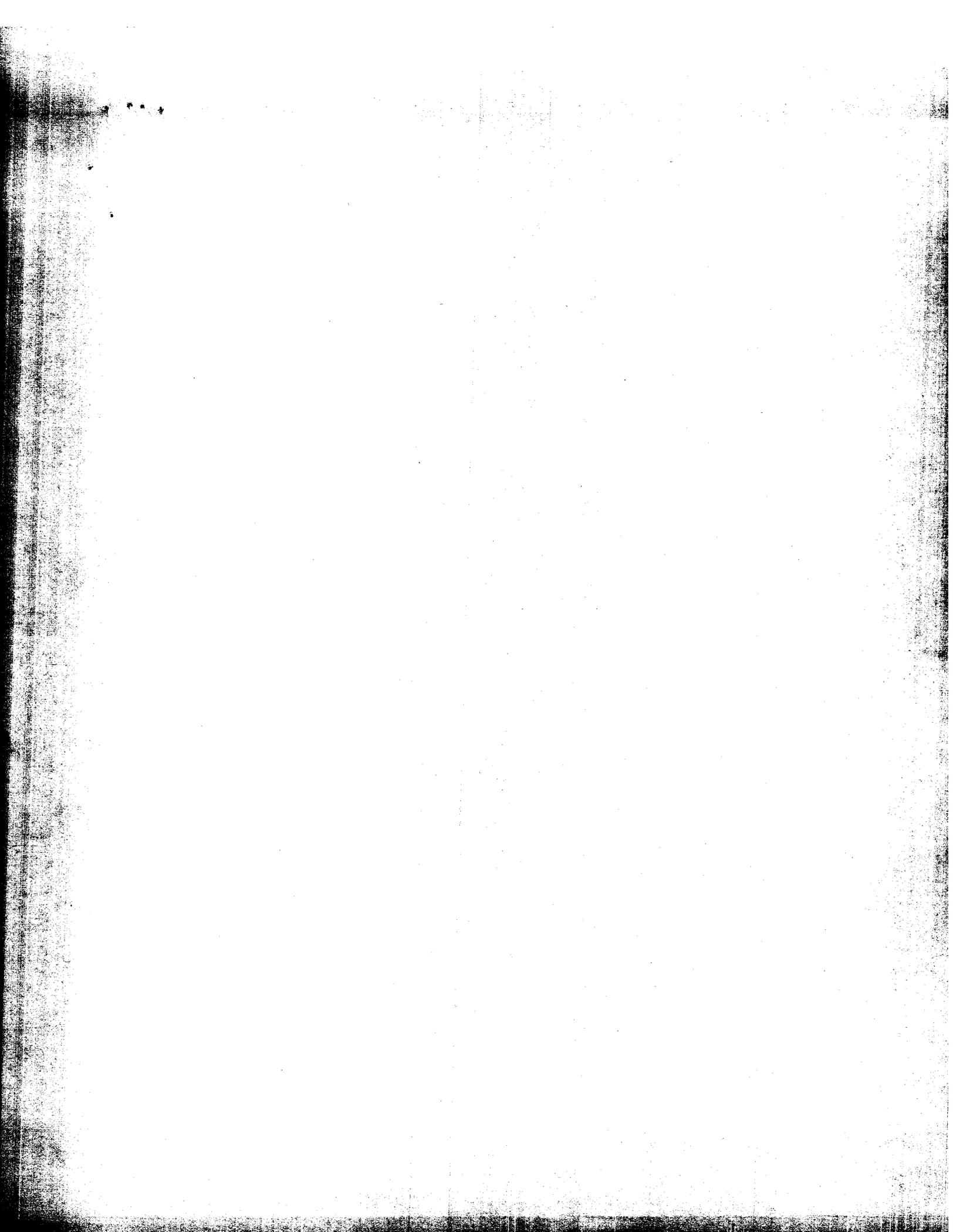
Attorneys for Petitioner

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing
Petitioner's Interrogatories to Respondent was served by first
class mail, postage prepaid, this 26th day of August 2002 upon
the following:

Mr. Robert G. Rosenthal
5856 Faringdon Place, Suite 200
Raleigh, NC 27609

Julie B. Seyler



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

Dr. Gerald Bidawid

Petitioner,

v.

Robert G. Rosenthal

Respondent.

Cancellation No. 32,774

**PETITIONER'S FIRST SET OF
PRODUCTION REQUESTS TO
RESPONDENT**

Pursuant to Fed. R. Civ. P. 34, Petitioner requests that Respondent produce for inspection and copying at the offices of Petitioner's attorneys, the below listed documents and things within the time provided by said rule or in such other manner as may be mutually agreed upon between counsel for the parties.

The following requests are continuing in character so that if at any time after Respondent makes production in response to these requests Respondent obtains possession, custody or control of documents or things within the scope of these requests, Respondent is requested to make supplemental production of these documents or things for inspection and copying within thirty (30) days thereafter, as though Petitioner had served upon Respondent new requests to supplement prior responses.

Petitioner incorporates by reference the definitions and instructions set forth in "Petitioner's Interrogatories to Respondent" served concurrently herewith. In addition, as referred to herein, "**Respondent's goods**" shall mean all goods and services sold or offered for sale in connection with **Respondent's MARK**.

REQUESTS

DOCUMENT REQUEST NO. 1

All documents and things requested to be identified by "Petitioner's Interrogatories to Respondent" served concurrently herewith.

DOCUMENT REQUEST NO. 2

All documents showing, concerning, evidencing, relating or referring to Respondent's selection, design and adoption, of Respondent's MARK including, without limitation, any documentation of meetings or discussions held concerning the selection, design and adoption of Respondent's MARK, any documentation relating to the reasons for selecting Respondent's MARK, and any documentation concerning the consideration and rejection of using another mark.

DOCUMENT REQUEST NO. 3

Provide documents sufficient to show the names, titles and addresses of each and every person who participated in the Respondent's selection, design and adoption of Respondent's MARK, including, specifically, the name(s) of the person and persons who first suggested that Respondent adopt and use Respondent's MARK for each of Respondent's goods.

DOCUMENT REQUEST NO. 4

All documents showing, concerning, evidencing, relating or referring to any searches, investigations or any other inquiries, whether formal or informal, conducted by Respondent relating to

whether or not **Respondent's MARK** or any mark or name incorporating the words **CREATOR** alone or as part thereof was available for use with respect to any marks, trade names, corporate names, or other users by others.

DOCUMENT REQUEST NO. 5

All documents showing, concerning, evidencing, relating or referring to the production of Respondent's goods, or rendering of Respondent's goods, including, without limitation, documentation identifying every place of business where Respondent's goods are (or will be) produced or rendered and the dates of such production and/or rendering, documentation of the total volume of sales in units and the equivalent dollar value, and any documents describing the process of producing or rendering such goods.

DOCUMENT REQUEST NO. 6

All documents and things ever used by Respondent or used on behalf of Respondent to advertise or promote the goods which bear **Respondent's MARK** for whatever period Respondent seeks to rely upon in support of its Answer to the Cancellation to date, including, without limitation, flyers, periodicals, newspapers, telephone directory listings, video tapes, television scripts, audio discs, displays, promotional brochures, catalogs and outdoor window signs. If advertising activities include periodical magazines, produce a copy of each publication.

DOCUMENT REQUEST NO. 7

For the period Respondent seeks to rely upon in support of its Answer to the Cancellation, to date, all documents showing, concerning, evidencing, relating or referring to the organization and implementation of the Respondent's advertising program, including without limitation, documents identifying: (a) the date, (b) the place, (c) the monetary amount expended, (d) the class of customers to whom the advertising or promotional materials were (or are) directed, (e) the number of copies of such materials and (f) the names and addresses of each person, advertising agency, public relations firm or any other business entity hired or retained in connection with such advertisements.

DOCUMENT REQUEST NO. 8

For the period Respondent seeks to rely upon in support of its Answer to the Cancellation, to date, all documents showing, concerning, evidencing, relating or referring to any trade show or similar function in which Respondent exhibited or showed its goods and/or services.

DOCUMENT REQUEST NO. 9

All documents including invoices, showing, concerning, evidencing, relating or referring to Respondent's first use and last use of Respondent's MARK on each type of goods or services in the United States including without limitation information on the geographical localities of such first use and any third persons involved.

DOCUMENT REQUEST NO. 10

All documents including invoices, showing, concerning, evidencing, relating or referring to Respondent's first use and last use of **Respondent's MARK** on each type of goods or services in interstate commerce, the circumstances under which each such first and last use occurred, the geographical localities of such first and last use and any third persons involved.

DOCUMENT REQUEST NO. 11

Documents sufficient to show any principal agents, distributors and/or retailers of Respondent's goods.

DOCUMENT REQUEST NO. 12

All documents showing, concerning, evidencing, relating, or referring to Respondent's permission to use **Respondent's MARK** or a word including **BIOSWISS** as a part thereof including without limitation all documentation identifying: (a) the name of such company, agent or person; (b) the date of such use; and (c) the goods or services used by such company, agent or person and any such documents which refer to any other company, agent or other person giving Respondent permission to use **Respondent's MARK** or a word including **CREATOR** as a part thereof.

DOCUMENT REQUEST NO. 13

All documents showing, concerning, evidencing, relating, or referring to any assignment or license of **Respondent's MARK**, including, without limitation, all documentation identifying: (a)

the date of such assignment or license; (b) the name and address of the assignee and the assignor (or licensee and licensor); (c) any recordal of such assignment or license in the United States Patent and Trademark Office or other public place; and the terms and conditions of the agreement.

DOCUMENT REQUEST NO. 14

A sample, copy, photograph, illustration, sketch or other depiction of each label, tag, container, stencil, package, price list and display which are or will be used in connection with goods bearing Respondent's MARK.

DOCUMENT REQUEST NO. 15

In regard to each item produced in accordance with No. 15 above, provide all documents showing, concerning, evidencing, relating or referring to: (a) the date when use of each item commenced; (b) the type of goods on or in connection with which each item was used; (c) the party who designed each item; (d) the party who produced or printed each item and (e) the date each item was produced.

DOCUMENT REQUEST NO. 16

All documents showing, concerning, evidencing, relating, or referring to Respondent's knowledge of any third party's past or current use or registration of Respondent's MARK or a mark or term which includes the words BIOSWISS or a mark or use which Respondent

considers an alleged imitation of **Respondent's MARK** on any goods or services.

DOCUMENT REQUEST NO. 17

All documents showing, concerning, evidencing, relating, or referring to any infringement action or other proceeding in the United States Patent and Trademark Office (or any court) which has ever been brought by or against the Respondent for the use of **Respondent's MARK** or what it has asserted to be a colorable imitation thereof.

DOCUMENT REQUEST NO. 18

All documents showing, concerning, evidencing, relating, or referring to any discussions, negotiations or settlements entered into by Respondent with any other party in regard to the adoption, use, or registration of **Respondent's MARK** or any other mark which Respondent has asserted to be a colorable imitation thereof.

DOCUMENT REQUEST NO. 19

Provide documents sufficient to show the name and business addresses of each of the officers and directors of Respondent since the inception of **Respondent's MARK**, and as to each state the office or offices held and the period of time during which each office was held (or in lieu thereof a listing of the same).

DOCUMENT REQUEST NO. 20

Provide copies of all registrations and pending or lapsed applications, federal, state, and foreign owned for the benefit or in the name of or filed on behalf of Respondent and all documents related thereto.

DOCUMENT REQUEST NO. 21

Documents sufficient to show all the goods or services which have been sold, advertised, and/or distributed under **Respondent's MARK** and/or predecessors in interest of the Respondent and/or licensees of the Respondent including, where available specimens of such goods and literature describing the services.

DOCUMENT REQUEST NO. 22

All documents showing, concerning, evidencing, relating, or referring to any market research conducted by Respondent on its goods, including, without limitation, all documentation identifying: (a) the location and date of such research; (b) the persons who conducted the research; (c) the persons to whom the results were reported and (d) the results of the research.

DOCUMENT REQUEST NO. 23

(a) All documents showing, concerning, evidencing, relating, or referring to any and all statements and/or opinions of any person, other than any attorney rendering legal advice to applicant, regarding any of the issues involved in this opposition proceeding.

(b) All documents showing, concerning, evidencing, relating, or referring to the statements and/or opinions referred to in (a) above.

DOCUMENT REQUEST NO. 24

All documents showing, concerning, evidencing, relating, or referring to any and all statements and/or opinions of any expert obtained by applicant or any person acting for or on behalf of applicant regarding any of the issues involved in this opposition proceeding.

DOCUMENT REQUEST NO. 25

Copies of all agreements, contracts or other arrangements between Respondent and any third-party which refer or relate to or comment on Respondent's right to **Respondent's MARK** or any mark which incorporates the words **BIOSWISS**.

DOCUMENT REQUEST NO. 26

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

DOCUMENT REQUEST NO. 27

All documents, other than those produced in response to any of the foregoing requests, which were examined, reviewed or inspected by Respondent or any person acting for or on behalf of Respondent

s in connection with the preparation of Respondent's responses to Petitioner's Interrogatories to Respondent.

DOCUMENT REQUEST NO. 28

With respect to each document or thing otherwise responsive to any request to produce which has been lost or destroyed since its preparation or receipt, identify the document or thing, state the request to produce to which it would be responsive, and give the full particulars or circumstances whereby the document or thing was lost or destroyed.

Respectfully submitted,

Dr. Gerald Bidawid

Date: August 26, 2002
New York, New York

By _____
Lawrence E. Abelman
Julie B. Seyler
Abelman, Frayne & Schwab
150 East 42nd Street
New York, New York 10017
(212) 949-9022

Attorneys for Petitioner

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing
Petitioner's First Request for the Production of Documents to
Respondent was served by first class mail, postage prepaid, this
26th day of August 2002 upon the following:

Mr. Robert G. Rosenthal
5856 Faringdon Place, Suite 200
Raleigh, NC 27609

Julie B. Seyler