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

Proceeding	92045648
Party	Plaintiff Fremantle Media North America, Inc.
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Submission	Motion to Compel Discovery
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Date	08/21/2008
Attachments	Motion to Compel - IDOL WRITER.pdf (9 pages)(248000 bytes) Dec in support of Motion to Compel - IDOL WRITER.pdf (52 pages)(1119673 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the matter of Trademark Registration No. 3,049,295
For the mark IDOL WRITER
Registered on January 24, 2006

FREMANTLE MEDIA NORTH AMERICA,)
INC.)

Petitioner,)

CANCELLATION NO. 92045648

vs.

IDOL WRITER, LLC)

Registrant.)

MOTION TO COMPEL RESPONSES TO DISCOVERY

REQUESTS AND REQUEST FOR SANCTIONS FOR FAILURE TO RESPOND

I. INTRODUCTION

Petitioner FREMANTLE MEDIA NORTH AMERICA, INC. (“Petitioner” or “Fremantle”), by and through its undersigned counsel, hereby moves pursuant to 37 C.F.R. § 2.120(e) for an order compelling Registrant, Idol Writer LLC (“Registrant” or “Idol Writer”), to respond to Petitioner’s First Set of Interrogatories, and First Set of Requests for Production of Documents (collectively, “Discovery Requests”) *without objection*. Petitioner first served the Discovery Requests on Registrant on April 9, 2008, has since granted Registrant several extensions of time to respond, and has attempted to meet and confer

without success. It has now been *over four months* and Registrant still has not furnished *any responses* to Petitioner's Discovery Requests. Petitioner has also failed to respond to Petitioner's attempt pursuant to 37 C.F.R. § 2.120(e) to meet and confer about the Discovery Requests. Pursuant to Section 527.01(c) of the Trademark Trial and Appeal Board's Manual of Procedure ("TBMP"), an order compelling Registrant to respond to the Discovery Requests without objection is appropriate.

Petitioner further hereby moves, pursuant to 37 C.F.R. § 2.120(h) and Federal Rule of Civil Procedure ("FRCP") 36 for an order deeming all of Petitioner's First Set of Requests for Admission admitted. Registrant has failed to respond to any of Petitioner's Requests for Admission, despite several extensions of time within which to do so. Pursuant to Section 527.01(d) of the TBMP, "[i]f a party upon which requests for admission have been served fails to file a timely response thereto, the requests will stand admitted (automatically)." Accordingly, Petitioner's request should be granted.

Finally, Petitioner moves for and requests that the board impose sanctions pursuant to 37 C.F.R. § 2.120(g) and Federal Rule of Civil Procedure 37(b)(2) in the form of a default judgment against the Registrant. Registrant has failed to provide *any* responses to Petitioner's Discovery Requests. Further, despite several attempts by Petitioner's counsel, Registrant has failed to correspond with Petitioner and has given every indication that it has no intention of responding to any discovery in this action. Accordingly, the requested sanctions are appropriate. *See* TBMP § 527.01(b); 37 C.F.R. § 2.120(g)(2).

Pursuant to 37 C.F.R. § 2.120(e), Petitioner has made a good faith effort, by correspondence attached to this motion, to resolve with the other party the issues presented in

this motion, but Respondent has failed to respond. *See* Declaration of Wendy M. Mantell in Support of Petitioner's Motion to Compel ("Mantell Decl."), Ex. E.

For these reasons and as set forth more fully below, Petitioner's motion should be granted in its entirety.

II. FACTUAL BACKGROUND

Fremantle served its Discovery Requests and Requests for Admission on Idol Writer on April 9, 2008. *See* Mantell Decl., Ex. A. On May 5, 2008, just days before Idol Writer's responses to the Discovery Requests and Requests for Admission were due, Mr. Phillip Elden, Registrant's principal, called counsel for Petitioner to request an extension of time to respond. That same day, counsel for Petitioner sent Mr. Elden an e-mail proposing that both parties be allowed until June 13, 2008 to respond to the other party's discovery requests. *See* Mantell Decl., Ex. B. Mr. Elden wrote back on May 6, 2008 agreeing to the mutual extension. *See id.* On June 25, 2008, when Registrant still had not responded to Fremantle's Discovery Requests or Requests for Admission, or contacted Petitioner to explain its failure to respond by the June 13, 2008 deadline, counsel for Petitioner sent Registrant a letter attempting to meet and confer. *See* Mantell Decl., Ex. C. Mr. Elden contacted counsel for Petitioner on July 2, 2008, said that he mistakenly thought the deadline to respond to Petitioner's requests was July 13, 2008 and asked for a further extension of time. Mr. Elden also said that he would be hiring an attorney. Counsel for Petitioner asked that Mr. Elden have Registrant's attorney contact counsel for Petitioner that same day.

Mr. Robert Steinberger contacted counsel for Petitioner that same day, July 2, 2008, and explained that he would be assisting Registrant in responding to Fremantle's Discovery Requests and Requests for Admission. Due to his upcoming trial schedule, Mr. Steinberger

asked for a further extension of time for Registrant to respond to July 28, 2008. Rather than moving to compel at that time, Petitioner agreed to the extension, but made it clear that Fremantle would not grant any further extensions of time for Idol Writer to respond to the outstanding requests. Mr. Steinberger sent counsel for Petitioner a letter on July 2, 2008, confirming the July 28, 2008 deadline. *See* Mantell Decl., Ex. D.

Despite the fact that it has been *over four months* since Fremantle first served Idol Writer with its Discovery Requests and Requests for Admission, and despite Fremantle granting Idol Writer two separate extensions of time to respond, *Idol Writer has failed to provide a single response to Fremantle's Discovery Requests*. In addition, neither Registrant nor its supposed attorney,¹ Mr. Steinberger, has contacted Petitioner to explain Idol Writer's failure to respond by the July 28, 2008 deadline. *See* Mantell Decl., ¶ 6. Indeed, counsel for Petitioner left several phone messages for and wrote to Mr. Elden and Mr. Steinberger on several occasions, yet neither he nor Registrant has responded to any recent correspondence. *See* Mantell Decl., ¶ 6 & Ex. E.

III. LEGAL ARGUMENT

A. Petitioner Is Entitled To An Order Compelling Registrant to Respond to Its Discovery Requests Without Objection

Fremantle is entitled to an order compelling Idol Writer's responses to its First Set of Interrogatories and Requests for Production without objection. Section 527.01(c) of the TBMP states:

¹ Mr. Steinberger has not entered an appearance as Registrant's counsel in this proceeding. As the Board pointed out in its July 9, 2008 Order, "Respondent is proceeding pro se. Should the situation change, the Board must be informed."

A party which fails to respond to a request for discovery . . . during the time allowed therefor, and which is unable to show that its failure was the result of excusable neglect, may be found, upon motion to compel filed by the propounding party, to have forfeited its right to object to the discovery request on its merits.

TBMP § 527.01(c) &n.346; *see also* FRCP 33(b)(4) (“Any grounds not stated in a timely objection is waived unless the court, for good cause, excuses the failure.”); *Richmark Corp. v. Timber Falling Consultants*, 959 F.2d 1468, 1473 (9th Cir. 1992) (“It is well established that a failure to object to discovery requests within the time required constitutes a waiver of any objection.”).

There is no excuse for Registrant’s failure to respond to Petitioner’s Discovery Requests by the mutually agreed upon July 28, 2008 deadline. The deadline was more than four months after service of the requests, and Registrant confirmed in writing that it agreed to the deadline. Moreover, Petitioner only granted the extension as a courtesy because Registrant apparently mistakenly believed that Petitioner had originally granted a two month extension (to July 13, 2008), even though Registrant had confirmed the original June 13, 2008 deadline in writing. *See* Mantell Decl., Ex. B. Petitioner has given Registrant more than enough chances to correct its blatant disregard for the discovery process, and Registrant has not offered any excuse for its latest failure to act. Hence, Petitioner’s motion to compel production of all responsive documents and responses to interrogatories without objection should be granted.

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B. Petitioner’s Requests For Admission Are Deemed Admitted

Pursuant to Section 527.01(d) of the TBMP, because Idol Writer failed to respond to Fremantle’s Requests for Admission, the Requests for Admission are automatically deemed admitted. TBMP § 527.01(d) (“If a party upon which requests for admission have been served fails to file a timely response thereto, the requests will stand admitted (automatically), and may be relied upon by the propounding party pursuant to 37 C.F.R. § 2.120(j)(3)(i), unless the party upon which the requests were served is able to show that its failure to timely respond was the result of excusable neglect.”); *see also* FRCP 36(a)(3) (“A matter is admitted unless, within 30 days after being served, the party to whom the request is directed serves on the requesting party a written answer or objection addressed to the matter”); *Federal Trade Comm. v. Medicor LLC*, 217 F. Supp. 2d 1048, 1053 (C.D. Cal. 2002) (“Failure to timely respond to requests for admissions results in automatic admission of the matters requested.”).

Again, because there is no excusable neglect to explain Idol Writer’s failure to respond to Fremantle’s Requests for Admission, nor has Idol Writer even offered an explanation for this failure, the Requests are deemed admitted and Petitioner may rely upon these admissions during its testimony period pursuant to 37 C.F.R. § 2.120(j)(3)(i). TBMP § 527.01(d); 37 C.F.R. § 2.120(j)(3)(i).

C. Petitioner Is Entitled To Sanctions In The Form of A Default Judgment Against Registrant

Trademark Rule 2.120(g) provides that if a party “fails to provide any response to a set of interrogatories or to a set of requests for production of documents and things, and such party or the party’s attorney or other authorized representative informs the party seeking

discovery that no response will be made thereto, the Board may make any appropriate order [for sanctions].” 37 C.F.R. § 2.120(g)(2). Appropriate sanctions include “entering judgment against the disobedient party.” TBMP § 527.01(b); *see also* FRCP 37(b)(2) (listing “rendering a default judgment against the disobedient party” as an appropriate sanction). A default judgment is particularly appropriate where a party purposely avoids its discovery responsibilities. *See, e.g., Baron Philippe De Rothschild, S.A. v. Styl-Rite Optical Mfg. Co.*, 55 U.S.P.Q.2d 1848 (T.T.A.B. 2000) (granting request for sanctions in form of default judgment where applicant “purposely avoided [its] discovery responsibilities”); *Unicut Corp. v. Unicut, Inc.*, 222 U.S.P.Q. 341 (T.T.A.B. 1984) (finding that willful evasion of discovery warranted sanction of default judgment against respondent in a cancellation action).

Idol Writer has failed provide any responses to any of Fremantle’s Discovery Requests. In addition, it is clear that Idol Writer does not intend to provide its discovery responses. Indeed, in its August 13, 2008 meet and confer letter to Idol Writer, counsel for Fremantle stated that if Idol Writer failed to respond to the letter or to provide responses to the Discovery Requests by August 19, 2008, Fremantle would “assume that Idol Writer does not intend to provide its discovery responses.” Mantell Decl., Ex. E. Not only did Idol Writer fail to provide its discovery responses by the date specified, but it failed to provide any response to Fremantle’s letter at all. After *four months and several extensions*, Fremantle has given Registrant every chance to engage in this proceeding; yet, Registrant has failed to do so. Accordingly, the requested default judgment against Registrant is an appropriate sanction.

IV. CONCLUSION AND RELIEF REQUESTED

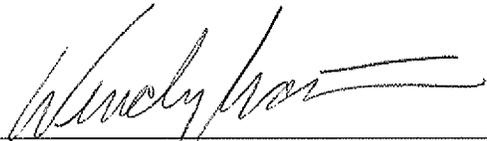
For the foregoing reasons, Petitioner Fremantle’s motion to compel and request for sanctions should be granted in its entirety. If the Board declines to award sanctions in the

form of a default judgment, Registrant Idol Writer should be compelled to respond without objection to Fremantle's Discovery Requests within 15 days from the date of the Order so that Fremantle has adequate time to conduct follow up discovery including depositions prior to the October 16, 2008 discovery cut off date. Additionally, Fremantle's Requests for Admission should be deemed admitted and should be admissible as testimony during the testimony period for this Cancellation proceeding.

Respectfully submitted,

Dated: August 21, 2008

FREMANTLEMEDIA NORTH AMERICA, INC.

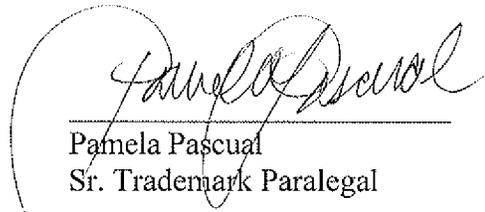
By: 

Susan L. Heller
Gregory A. Nylén
Wendy M. Mantell
Christina M. Liu
Greenberg Traurig, LLP
2450 Colorado Avenue, Suite 400E
Santa Monica, CA 90404

CERTIFICATE OF SERVICE

I hereby certify that I served a copy of the foregoing **MOTION TO COMPEL RESPONSES TO DISCOVERY REQUESTS AND REQUEST FOR SANCTIONS FOR FAILURE TO RESPOND** upon Registrant by depositing one copy thereof in the United States Mail, first-class postage prepaid, on August 21, 2008, addressed as follows:

Phillip Elden
Idol Writer, LLC
P. O. Box 551
Bonsall, CA 92003



Pamela Pascual
Sr. Trademark Paralegal

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

In the matter of Trademark Registration No. 3,049,295
For the mark IDOL WRITER
Registered on January 24, 2006

FREMANTLE MEDIA NORTH AMERICA, INC.	}	Petitioner,	} CANCELLATION NO. 92045648
vs. IDOL WRITER, LLC	}	Registrant.	

DECLARATION OF WENDY M. MANTELL
IN SUPPORT OF PETITIONER'S MOTION TO COMPEL

I, Wendy M. Mantell, do declare,

1. I am an associate in the law firm of Greenberg Traurig, LLP, counsel of record for FremantleMedia North America, Inc. ("Fremantle" or "Petitioner") in the above-captioned action. I am licensed to practice law in the States of California and New York. I have personal knowledge of the following facts, and would competently testify as to their truth if called upon to do so.

2. Attached hereto as Exhibit A is a true and correct copy of Petitioner's First Set of Interrogatories, First Set of Requests for Production of Documents, and First Set of Requests for Admission to Registrant, Idol Writer, LLC.

3. Attached hereto as Exhibit B is a true and correct copy of an email dated May 5, 2008 from Christina Liu at Greenberg Traurig to Mr. Phillip Elden of Idol Writer LLC and Mr. Elden's reply dated May 6, 2008.

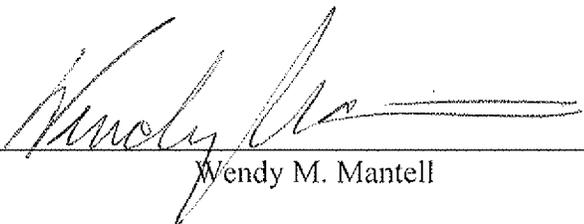
4. Attached hereto as Exhibit C is a true and correct copy of a June 25, 2008 letter from Christina Liu of Greenberg Traurig to Mr. Phillip Elden at Idol Writer LLC.

5. Attached hereto as Exhibit D is a true and correct copy of a July 2, 2008 letter from Robert Steinberger at Soden & Steinberger, LLP to Christina Liu of Greenberg Traurig.

6. As of the date of this Motion, Fremantle has not received responses to its outstanding discovery requests. Neither Registrant nor anyone acting on his behalf, has contacted anyone in this office to explain Idol Writer's failure to respond to Fremantle's discovery requests.

7. Attached hereto as Exhibit E is a true and correct copy of an August 13, 2008 letter I sent to Mr. Elden attempting to confer about his failure to respond to Fremantle's discovery requests. Mr. Steinberger was also copied on the letter. Neither Mr. Elden nor Mr. Steinberger responded to my letter.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that this Declaration was executed this 21st day of August, 2008 at Santa Monica, California.

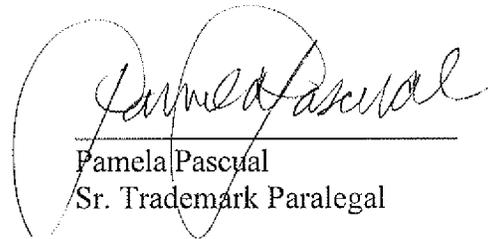


Wendy M. Mantell

CERTIFICATE OF SERVICE

I hereby certify that I served a copy of the foregoing **DECLARATION OF WENDY M. MANTELL IN SUPPORT OF PETITIONER'S MOTION TO COMPEL** upon Registrant by depositing one copy thereof in the United States Mail, first-class postage prepaid, on August 21, 2008, addressed as follows:

Phillip Elden
Idol Writer, LLC
P. O. Box 551
Bonsall, CA 92003



Pamela Pascual
Sr. Trademark Paralegal

EXHIBIT A

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the matter of Trademark Registration No. 3,049,295
For the mark IDOL WRITER
Registered on January 24, 2006

FremantleMedia North America, Inc.

Petitioner,

v.

Idol Writer, LLC,

Registrant.

Cancellation No.: 92045648

**PETITIONER'S FIRST SET OF
REQUESTS FOR PRODUCTION OF
DOCUMENTS TO REGISTRANT**

Petitioner FremantleMedia North America, Inc. hereby requests, pursuant to Sections 403.02 and 406 of the Trademark Rules of Practice, 37 C.F.R. § 2.120, and Federal Rules Of Civil Procedure 26 and 34, that Registrant Idol Writer, LLC answer the following Requests for Production of Documents under oath within thirty (30) days.

INSTRUCTIONS

1. If you object to any part of a request and refuse to answer that part, state your objection and answer the remaining portion of that request. If you object to the scope or time period of a request and refuse to answer for that scope or time period, state your objection and answer the request for the scope or time period you believe is appropriate (including in your answer a specific statement as to why you believe the scope or time period is inappropriate).

2. If any of the following requests cannot be answered in full after exercising due diligence to secure the information, please so state and answer to the extent possible, specifying

your inability to answer the remainder and stating whatever information you have concerning the unanswered portions. If your answer is qualified in any particular, set forth the details of such qualification.

3. You must produce all documents responsive to these requests which are in your actual or constructive possession, custody or control, including all documents within the actual or constructive possession, custody or control of any representative, agent, employee, attorney, accountant, investigator or any person acting for you or on your behalf.

4. All documents are to be produced as they are kept in the usual course of business, in the files in which such documents have been maintained, and in the order within each file in which such documents have been maintained; or all documents shall be organized and labeled to correspond with the requests below. All documents are to be produced along with copies of the file folders in which they are kept.

5. If you withhold any document(s) from production on the basis of a claim of attorney-client or any other privilege, or on the basis of the attorney work-product doctrine, you must set forth with specificity the privilege or work product claim and furnish a list identifying each document for which the privilege or work product doctrine is claimed, together with:

- a. A brief description of the nature and subject matter, including the title and type of the document;
- b. The date of preparation;
- c. The name and title of the author(s);
- d. The name and title of the addressee(s);
- e. The name and title of all persons to whom the document was sent, including blind carbon copies;
- f. The number of pages;

- g. The document request(s) to which the withheld information or document is otherwise responsive; and
- h. The complete basis upon which you contend you are entitled to withhold the information or document from production.

6. If you know of the existence, past or present, of any document requested herein, but are unable to produce such document because it is not presently in your possession, custody or control, or in the possession, custody or control of your agents, representatives, employees, or attorneys, you shall so state in your response and shall identify (by title, if any, nature of document and subject matter) such document and shall identify (by name, address and telephone number) the person in whose possession, custody or control the document was last known to reside.

7. If, in responding to the requests, you claim that there is any ambiguity in either a particular request or in a definition or an instruction applicable thereto, such claim shall not be used by you as a basis for refusing to respond, but you shall set forth as part of the response the language deemed to be ambiguous and the interpretation chosen or used in responding to the particular request.

8. For purposes of interpreting or construing the following requests, the terms used are to be given their most expansive and inclusive interpretation unless otherwise specifically limited in the document request itself. This includes, without limitation, the following:

- i. Construing the words "and" and "or" used in any document request in the disjunctive or conjunctive as necessary, to make the document request more inclusive;

- j. Construing the words “any” and “all” used in any document request to mean “any and all” as necessary to make the document request more inclusive;
- k. Construing the singular form of any word to include the plural and the plural form to include the singular; and
- l. Construing the masculine form to include the feminine and/or the gender neutral form.

9. Electronic records and computerized information are to be produced in an intelligible format together with a description of the system from which it is derived sufficient to permit rendering the material intelligible.

10. The requests are to be regarded as continuing, and you are requested to provide any additional information or documents by way of supplemental responses as specified in Federal Rule of Civil Procedure 26(e).

DEFINITIONS

The following definitions shall apply to the Requests for Production that follow:

1. The term “DOCUMENTS” shall be defined to the broadest extent permitted by Federal Rule of Civil Procedure 34, and include, wherever applicable and without limitation, any recordation of any intelligence or information or communication, whether handwritten, typed, printed, or otherwise reproduced, whether in “hard-copy” form or digital form, further including without limitation, photographs, letters, correspondence, memoranda, routing slips, telegrams, notes, statements, publications, brochures, reports, compilations, data, notebooks, laboratory notebooks, work papers, graphs, charts, specifications, bills of material, blueprints, books, pamphlets, circulars, manuals, instructions, ledgers, journals, invoices, shipping papers, purchase orders, drawings (including engineering, assembly, and detail drawings), sketches, diaries, sales

literature, advertising literature, press releases, paste ups, agreements, minutes of meetings, magnetic tape, disk or wire, other machine reproducible records including read only memories (ROMS), films, videotapes and sound reproductions, printout sheets, summaries, transcripts or records of telephone conversations, personal conversations or interviews, and any and all other writings, typings, printings, drafts, revisions, translations to or from foreign languages, copies and/or mechanical or photographic reproductions or recordings thereof or any other form of “writing” as defined in Federal Rule of Evidence 1001. The term “DOCUMENTS” also includes all non-identical copies, such as those bearing marginal comments, postscripts, changes, amendments, addenda or other notations not present on the original document as initially written, typed or otherwise prepared.

2. The term “PERSON” as used in these Requests means all natural persons, corporations, partnerships, trusts, or other associations, and all other entities.

3. The terms “YOU,” “YOUR” and “REGISTRANT” refer to Registrant Idol Writer, LLC and each of its employees, agents, representatives, attorneys, affiliates, predecessors, successors, assigns, or licensees, and any other person or entity acting on their behalf, including but not limited to Philip Elden.

4. The term “PETITIONER” refers to Petitioner FremantleMedia North America, Inc., and each of its employees, agents, representatives, attorneys, affiliates, successors, assigns, or licensees, and any other person or entity acting on its behalf.

5. The term “RELATING TO” means referring to, relating to and/or constituting.

6. The term “IDOL WRITER” refers to the mark in Registration No. 3,049,295 for use in connection with “Entertainment in the nature of song writing contests” in International Class 41.

7. The term "AMERICAN IDOL" refers to the mark in Registration No. 2,751,431 for use in connection with "Entertainment services in the nature of a continuing television talent show" in International Class 41.

8. The term "THIRD PARTY" refers to any individual, corporation, partnership, joint venture, firm, association, or any other organization or entity that is not a party to this action.

9. The term "ANSWER" refers to the Answer filed with the Trademark Trial and Appeal Board in response to the Petition for Cancellation filed on March 24, 2006 in this proceeding, Cancellation No. 92045648.

REQUESTS FOR PRODUCTION OF DOCUMENTS

REQUEST NO. 1:

All DOCUMENTS RELATING TO the selection and adoption of the IDOL WRITER mark, including, but not limited to, communications, invoices, advertisements, brochures, labels, tags, points of display, advertising, trademark searches, surveys or studies.

REQUEST NO. 2:

All DOCUMENTS identifying the PERSONS who participated in the selection and adoption of the IDOL WRITER mark.

REQUEST NO. 3:

All DOCUMENTS identifying the reasons why the IDOL WRITER mark was adopted by REGISTRANT.

REQUEST NO. 4:

All DOCUMENTS RELATING TO the first use in commerce, including use on the Internet, of the IDOL WRITER mark.

REQUEST NO. 5:

All DOCUMENTS evidencing the date on which the IDOL WRITER mark was first used in commerce, including any use on the Internet.

REQUEST NO. 6:

All DOCUMENTS that identify all goods and/or services that YOU have offered in commerce that were identified by the IDOL WRITER mark, including but not limited to invoices, advertisements, promotional materials, websites, brochures, tags, labels, packaging, containers or point of sale displays.

REQUEST NO. 7:

All DOCUMENTS that identify all goods and/or services that YOU intend to offer in commerce and that will be identified by the IDOL WRITER mark, including but not limited to invoices, advertisements, promotional materials, websites, brochures, tags, labels, packaging, containers or point of sale displays.

REQUEST NO. 8:

All DOCUMENTS RELATING TO any references to PETITIONER made by REGISTRANT in connection with the services offered under the IDOL WRITER mark.

REQUEST NO. 9:

All DOCUMENTS RELATING TO any references to the AMERICAN IDOL mark made by REGISTRANT in connection with the services offered under the IDOL WRITER mark

REQUEST NO. 10:

All DOCUMENTS RELATING TO the reasons why the words "American Idol Writer" appear on the specimen of use submitted to the U.S. Patent & Trademark Office on July 13, 2004 in connection with the IDOL WRITER mark.

REQUEST NO. 11:

All DOCUMENTS RELATING TO the reasons why the words "American Idol Winner" appear on the specimen of use submitted to the U.S. Patent & Trademark Office on July 13, 2004 in connection with the IDOL WRITER mark

REQUEST NO. 12:

All DOCUMENTS RELATING TO the reasons why the words "19 Productions" appear on the specimen of use submitted to the U.S. Patent & Trademark Office on July 13, 2004 in connection with the IDOL WRITER mark

REQUEST NO. 13:

All DOCUMENTS RELATING TO annual sales, in dollars, of REGISTRANT's services in connection with which the mark IDOL WRITER or any variation thereof has been used from inception.

REQUEST NO. 14:

All DOCUMENTS RELATING TO any discontinuation of the IDOL WRITER mark since its initial adoption.

REQUEST NO. 15:

All DOCUMENTS RELATING TO how IDOL WRITER was used, advertised or promoted in the U.S. since the day of its initial adoption, including brochures, websites, newspaper articles, advertisements, magazine or trade journal articles, and radio, Internet or television advertisements.

REQUEST NO. 16:

All DOCUMENTS that evidence or identify all distributors or outlets in which products or services identified by the IDOL WRITER mark are currently sold or offered for sale.

REQUEST NO. 17:

All DOCUMENTS that evidence or identify all distributors or outlets in which products or services identified by the IDOL WRITER mark are or have been sold or offered for sale.

REQUEST NO. 18:

Specimens or exemplars of all goods or services that are now identified by the IDOL WRITER mark.

REQUEST NO. 19:

Specimens or exemplars of all goods or services that have been identified by the IDOL WRITER mark.

REQUEST NO. 20:

All DOCUMENTS RELATING TO advertising expenditures incurred by REGISTRANT in connection with the IDOL WRITER mark since inception.

REQUEST NO. 21:

All DOCUMENTS RELATING TO authorizations or agreements with THIRD PARTIES involving Registrant's IDOL WRITER mark, including, but not limited to, all licenses, assignments, franchise agreements, or manufacturing agreements.

REQUEST NO. 22:

All DOCUMENTS RELATING TO advertising conducted by authorized users of the IDOL WRITER mark or any variation thereof.

REQUEST NO. 23:

All DOCUMENTS RELATING TO the amount of money spent by any authorized users on advertisements for the IDOL WRITER mark or any variation thereof.

REQUEST NO. 24:

All DOCUMENTS RELATING TO the channels of trade through which the goods or services identified by the IDOL WRITER mark have been distributed, sold or offered for sale.

REQUEST NO. 25:

All DOCUMENTS RELATING TO the channels of trade through which the goods or services identified by the IDOL WRITER mark will be distributed, sold or offered for sale.

REQUEST NO. 26:

All DOCUMENTS RELATING TO the target customers for all goods and services identified by the IDOL WRITER mark, including the types, characteristics, geographic markets, classes or identities of such target customers.

REQUEST NO. 27:

All DOCUMENTS RELATING TO any plans for expansion by REGISTRANT of the number of products and services that are offered under the IDOL WRITER mark.

REQUEST NO. 28:

All DOCUMENTS RELATING TO any plans by REGISTRANT to alter the present channels of distribution of the products and services that are offered under the IDOL WRITER mark.

REQUEST NO. 29:

All DOCUMENTS RELATING TO any plans by REGISTRANT to offer products and services identified by the IDOL WRITER mark to persons other than REGISTRANT's present purchasers.

REQUEST NO. 30:

All DOCUMENTS RELATING TO all previous transfers in title of the IDOL WRITER mark and/or registration.

REQUEST NO. 31:

All DOCUMENTS identifying any litigation brought by YOU against THIRD PARTIES regarding the IDOL WRITER mark.

REQUEST NO. 32:

All DOCUMENTS identifying any litigation brought by THIRD PARTIES against YOU regarding the IDOL WRITER mark.

REQUEST NO. 33:

All DOCUMENTS RELATING TO REGISTRANT'S first knowledge of PETITIONER'S AMERICAN IDOL mark.

REQUEST NO. 34:

All DOCUMENTS RELATING TO REGISTRANT'S first knowledge of PETITIONER'S use of the AMERICAN IDOL mark.

REQUEST NO. 35:

All DOCUMENTS RELATING TO any likelihood of confusion between REGISTRANT'S IDOL WRITER mark and PETITIONER'S AMERICAN IDOL mark, including any communications received by REGISTRANT from customers or potential customers.

REQUEST NO. 36:

All DOCUMENTS RELATING TO any instance of actual consumer confusion between REGISTRANT'S IDOL WRITER mark and PETITIONER'S AMERICAN IDOL mark, including any communications received by REGISTRANT from customers or potential customers.

REQUEST NO. 37:

All DOCUMENTS RELATING TO any likelihood of confusion between REGISTRANT's services under the IDOL WRITER mark and PETITIONER's services under the AMERICAN IDOL mark, including any communications received by REGISTRANT from customers or potential customers.

REQUEST NO. 38:

All DOCUMENTS RELATING TO any instances of actual confusion between REGISTRANT's services under the IDOL WRITER mark and PETITIONER's services under the AMERICAN IDOL mark, including any communications received by REGISTRANT from customers or potential customers.

REQUEST NO. 39:

All DOCUMENTS RELATING TO any communication received by REGISTRANT that was intended for PETITIONER.

REQUEST NO. 40:

All DOCUMENTS RELATING TO the commercial impression REGISTRANT intends its IDOL WRITER mark to have on consumers.

REQUEST NO. 41:

All DOCUMENTS, including magazine, newspaper, trade journal articles and other publications in any medium, RELATING TO REGISTRANT's song writing contests identified by its IDOL WRITER mark.

REQUEST NO. 42:

All DOCUMENTS that identify or evidence the number of units and dollar value of REGISTRANT's song writing contests identified by its IDOL WRITER mark that REGISTRANT has sold for each month and year since the date that the IDOL WRITER mark

was first used in commerce, including when the IDOL WRITER mark was first used on the Internet.

REQUEST NO. 43:

All DOCUMENTS RELATING TO any surveys conducted by REGISTRANT or on REGISTRANT'S behalf in connection with consumer recognition of the IDOL WRITER mark.

REQUEST NO. 44:

All DOCUMENTS RELATING TO business plans, including but not limited to, marketing plans, advertising plans and business forecasts, for REGISTRANT's song writing contests identified by its IDOL WRITER mark.

REQUEST NO. 45:

All DOCUMENTS RELATING TO any survey conducted by REGISTRANT or on REGISTRANT's behalf regarding any likelihood of confusion between the IDOL WRITER mark and PETITIONER's AMERICAN IDOL mark.

REQUEST NO. 46:

All DOCUMENTS RELATING TO any survey conducted by REGISTRANT or on REGISTRANT's behalf regarding any likelihood of confusion between the IDOL WRITER mark and any other mark owned by a THIRD PARTY.

REQUEST NO. 47:

All DOCUMENTS RELATING TO YOUR allegation in paragraph 3 of the ANSWER that "Registrant denies that his first use of the IDOL WRITER trademark in commerce was January 1, 2004."

REQUEST NO. 48:

All DOCUMENTS RELATING TO YOUR allegation in paragraph 11 of the ANSWER that "Registrant is currently working with individuals or entities other than the Petitioner [sic] the

sponsor associated with the Petitioner to promote and market his business method concept and desire [sic] to have his Registered Trademark available for use in connection with this business method concept.”

REQUEST NO. 49:

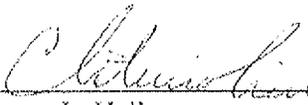
ALL DOCUMENTS RELATING TO YOUR allegation in paragraph 12 of the ANSWER that “...there is no likelihood of confusion in the minds of the purchasing public as between services (writing contest) of the Registrant and services (singing contest) of the Petitioner.”

REQUEST NO. 50:

All DOCUMENTS identified in response to Petitioner’s First Set of Interrogatories.

GREENBERG TRAURIG, LLP

Dated: April 9, 2008

By: 

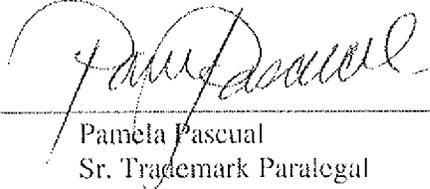
Susan L. Heller
Gregory A. Nylén
Christina M. Liu
2450 Colorado Avenue, Suite 400E
Santa Monica, CA 90404
Tel: (310) 586-6568
Fax: (310) 586-0564
hellers@gtlaw.com

Attorneys for FremantleMedia North
America, Inc.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing **PETITIONER'S FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS TO REGISTRANT** was served on Registrant via first class mail, with pre-paid postage thereon, on April 9, 2008, at the following address:

Phillip Elden
Idol Writer, LLC
P. O. Box 551
Bonsall, California 92003



Pamela Pascual
Sr. Trademark Paralegal

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

In the matter of Trademark Registration No. 3,049,295
For the mark IDOL WRITER
Registered on January 24, 2006

FremantleMedia North America, Inc.

Petitioner,

v.

Idol Writer, LLC,

Registrant.

Cancellation No.: 92045648

**PETITIONER'S FIRST SET OF
INTERROGATORIES TO
REGISTRANT (1-31)**

Petitioner FremantleMedia North America, Inc. hereby requests, pursuant to Sections 403.02 and 405 of the Trademark Rules of Practice, 37 C.F.R. § 2.120, and Federal Rules of Civil Procedure 26 and 33, that Registrant Idol Writer, LLC answer the following interrogatories under oath within thirty (30) days.

INSTRUCTIONS

1. These interrogatories shall be deemed to seek answers as of the date hereof and to the full extent of the Federal Rules of Civil Procedure. Furthermore, these interrogatories are of a continuing nature. You are required to file and serve supplemental responses if you or any of your attorneys, agents, or representatives obtain further or different information after the date of your initial answer, pursuant to Rule 26(e) of the Federal Rules of Civil Procedure.

2. If you object to any interrogatory on the grounds of privilege or work product, your response shall state the existence of the information or communication; identify the specific

grounds on which you base your objection; identify the information objected to by providing the relevant date(s), speaker(s), writer(s), and recipient(s); and a general description of the nature of the allegedly privileged information. If the objectionable information contains relevant non-objectionable matter, you shall disclose such non-objectionable matter.

3. If you cannot provide exact information, such as dates, periods or amounts, you shall provide good faith estimates to the extent possible and indicate that the information is estimated.

4. If you object to any part of an interrogatory and refuse to answer that part, state your objection and answer the remaining portion of that interrogatory. If you object to the scope or time period of an interrogatory and refuse to answer for that scope or time period, state your objection and answer the interrogatory for the scope or time period you believe is appropriate (including in your answer a specific statement as to why you believe the scope or time period is inappropriate).

5. If any of the following interrogatories cannot be answered in full after exercising due diligence to secure the information, please so state and answer to the extent possible, specifying your inability to answer the remainder and stating whatever information you have concerning the unanswered portions. If your answer is qualified in any particular, set forth the details of such qualification.

6. For purposes of interpreting or construing the following interrogatories, the terms used are to be given their most expansive and inclusive interpretation unless otherwise specifically limited in the interrogatory itself. This includes, without limitation, the following:

a. Construing the words "and" and "or" used in any interrogatory in the disjunctive or conjunctive as necessary to make the interrogatory more inclusive;

- b. Construing the words “any” and “all” used in any interrogatory to mean “any and all ” as necessary to make the interrogatory more inclusive;
 - c. Construing the singular form of any word to include the plural and the plural to include the singular; and
 - d. Construing the masculine to include the feminine and/or the gender neutral form.
7. If, in responding to these interrogatories, you claim that there is any ambiguity in either a particular interrogatory or in a definition or an instruction applicable thereto, such claim shall not be used by you as a basis for refusing to respond, but you shall set forth as part of the response the language deemed to be ambiguous and the interpretation chosen or used in responding to the particular interrogatory.

DEFINITIONS

1. The term “DOCUMENTS” shall be defined to the broadest extent permitted by Federal Rule of Civil Procedure 34, and include, wherever applicable and without limitation, any recordation of any intelligence or information or communication, whether handwritten, typed, printed, or otherwise reproduced, whether in “hard-copy” form or digital form, further including without limitation, photographs, letters, correspondence, memoranda, routing slips, telegrams, notes, statements, publications, brochures, reports, compilations, data, notebooks, laboratory notebooks, work papers, graphs, charts, specifications, bills of material, blueprints, books, pamphlets, circulars, manuals, instructions, ledgers, journals, invoices, shipping papers, purchase orders, drawings (including engineering, assembly, and detail drawings), sketches, diaries, sales literature, advertising literature, press releases, paste ups, agreements, minutes of meetings, magnetic tape, disk or wire, other machine reproducible records including read only memories (ROMS), films, videotapes and sound reproductions, printout sheets, summaries, transcripts or

records of telephone conversations, personal conversations or interviews, and any and all other writings, typings, printings, drafts, revisions, translations to or from foreign languages, copies and/or mechanical or photographic reproductions or recordations thereof or any other form of "writing" as defined in Federal Rule of Evidence 1001. The term "DOCUMENTS" also includes all non-identical copies, such as those bearing marginal comments, postscripts, changes, amendments, addenda or other notations not present on the original document as initially written, typed or otherwise prepared

2. The term "PERSON" as used in these Interrogatories means all natural persons, corporations, partnerships, trusts, or other associations, and all other entities.

3. The terms "YOU," "YOUR," or "REGISTRANT" refer to Registrant Idol Writer, LLC, and each of its employees, agents, representatives, attorneys, affiliates, predecessors, successors, assigns, or licensees, and any other person or entity acting on his or its behalf.

4. The term "PETITIONER" refers to Petitioner FremantleMedia North America, Inc., and each of its employees, agents, representatives, attorneys, affiliates, successors, assigns, or licensees, and any other person or entity acting on its behalf.

5. The term "RELATING TO" means referring to, relating to and/or constituting.

6. The term "IDOL WRITER" refers to the mark in Registration No. 3,049,295 for use in connection with "Entertainment in the nature of song writing contests" in International Class 41.

7. The term "AMERICAN IDOL" refers to the mark in Petitioner's Registration No. 2,751,431 for use in connection with "Entertainment services in the nature of a continuing television talent show" in International Class 41.

8. The term "THIRD PARTY" refers to any individual, corporation, partnership, joint venture, firm, association, or any other organization or entity that is not a party to this action.

9. The term IDENTIFY with respect to facts or occurrences means to describe fully and completely by date, location, nature thereof and parties involved, and when used in reference to a THIRD PARTY who is an individual means to state a full name, present or last known address and phone number, and present or last known position or business affiliation.

10. The term IDENTIFY when used in reference to a THIRD PARTY who is a partnership, joint venture, corporation, proprietorship, firm, association, group, club, institute, governmental body, or any other organization or entity, means to state its full name, the legal form of the organization, its present or last known address and phone number, and the identity of its chief officers, directors, or PERSONS in equivalent positions.

11. The term IDENTIFY when referring to tangible things requires that you state the nature of the thing, the person in whose possession, custody or control the thing is located, and if the thing is a document, the date of the document, and the addresser and addressee of the document, if applicable.

12. The term ANSWER refers to the Answer filed with the Trademark Trial and Appeal Board in response to the Petition for Cancellation filed on March 24, 2006 in this proceeding, Cancellation No. 92045648.

13. The term "INTERROGATORIES" refers to FremantleMedia North America, Inc.'s First Set of Interrogatories to Idol Writer LLC propounded on April 9, 2008 in this proceeding, Cancellation No. 92045648.

14. The term REQUESTS FOR ADMISSION refers to FremantleMedia North America, Inc.'s First Set of Requests For Admission to Idol Writer LLC propounded on April 9, 2008 in this proceeding, Cancellation No. 92045648.

INTERROGATORIES

INTERROGATORY NO. 1:

IDENTIFY the reasons why YOU decided to select and adopt the IDOL WRITER mark.

INTERROGATORY NO. 2:

IDENTIFY the PERSONS who participated in the selection and adoption of the IDOL WRITER mark

INTERROGATORY NO. 3:

IDENTIFY all services offered for sale or sold in commerce in association with the IDOL WRITER mark.

INTERROGATORY NO. 4:

For each service offered for sale or sold in commerce in association with the IDOL WRITER mark, describe the manner in which REGISTRANT uses the IDOL WRITER mark in connection with each service.

INTERROGATORY NO. 5:

For each service offered for sale or sold in association with the IDOL WRITER mark, IDENTIFY the class or type of customer to which REGISTRANT offers for sale or sells its services.

INTERROGATORY NO. 6:

For each service offered for sale or sold in association with the IDOL WRITER mark, IDENTIFY the channels of trade in which these services have been sold or offered for sale.

INTERROGATORY NO. 7:

For each service offered for sale or sold in association with the IDOL WRITER mark, IDENTIFY the manner in which these services have been marketed or advertised.

INTERROGATORY NO. 8:

For each service offered for sale or sold in association with the IDOL WRITER mark, IDENTIFY the specific geographic area in which REGISTRANT has offered for sale or sold those services.

INTERROGATORY NO. 9:

IDENTIFY REGISTRANT's annual expenditures relating to advertising and promotion associated with the IDOL WRITER mark.

INTERROGATORY NO. 10:

IDENTIFY annual sales of services, both in dollars and in units, made in connection with the IDOL WRITER mark.

INTERROGATORY NO. 11:

Describe the manner in which REGISTRANT first became aware of PETITIONER's AMERICAN IDOL mark

INTERROGATORY NO. 12:

Describe the extent of that REGISTRANT was aware of PETITIONER's use of the AMERICAN IDOL mark.

INTERROGATORY NO. 13:

IDENTIFY the reasons why the words "American Idol" appear on the specimen of use submitted to the U.S. Patent & Trademark Office on July 13, 2004 in connection with the IDOL WRITER mark.

INTERROGATORY NO. 14:

IDENTIFY the reasons why the words “19 Productions” appear on the specimen of use submitted to the U.S. Patent & Trademark Office on July 13, 2004 in connection with the IDOL WRITER mark.

INTERROGATORY NO. 15:

IDENTIFY all instances of actual confusion relating to the IDOL WRITER mark, known to REGISTRANT, including identification of the marks involved, the parties involved and the services involved.

INTERROGATORY NO. 16:

IDENTIFY all facts RELATING TO YOUR allegation in paragraph 3 of the ANSWER that “Registrant denies that his first use of the IDOL WRITER trademark in commerce was January 1, 2004.”

INTERROGATORY NO. 17:

If January 1, 2004 is not the date that the IDOL WRITER mark was first used in commerce, IDENTIFY the correct date that the IDOL WRITER mark was first used in commerce.

INTERROGATORY NO. 18:

If January 1, 2004 is not the date that the IDOL WRITER mark was first used in commerce, IDENTIFY all facts that explain why the IDOL WRITER registration identifies January 1, 2004 as the date of first use in commerce.

INTERROGATORY NO. 19:

IDENTIFY all facts RELATING TO YOUR allegation in paragraph 11 of the ANSWER that “Registrant is currently working with individuals or entities other than the Petitioner [sic] the sponsor associated with the Petitioner to promote and market his business method concept and

desire [sic] to have his Registered Trademark available for use in connection with this business method concept.”

INTERROGATORY NO. 20:

IDENTIFY all facts RELATING TO YOUR allegation in paragraph 12 of the ANSWER that “...there is no likelihood of confusion in the minds of the purchasing public as between services (writing contest) of the Registrant and services (singing contest) of the Petitioner.”

INTERROGATORY NO. 21:

IDENTIFY each search of any type conducted by or for REGISTRANT relating to the trademark “IDOL WRITER.”

INTERROGATORY NO. 22:

IDENTIFY each search of any type conducted by or for REGISTRANT relating to the term “IDOL.”

INTERROGATORY NO. 23:

IDENTIFY all witnesses whose testimony REGISTRANT intends to introduce in its proceeding.

INTERROGATORY NO. 24:

With respect to each person identified in response to Interrogatory No. 23, state the subject matter on which the witness is expected to provide testimony.

INTERROGATORY NO. 25:

IDENTIFY all experts REGISTRANT has retained for this proceeding.

INTERROGATORY NO. 26:

With respect to each person identified in response to Interrogatory No. 25, state the subject matter on which such person is expected to give testimony, the substance of the facts and

opinions to which each expert is expected to give testimony, and the grounds for each such opinion of each expert.

INTERROGATORY NO. 27:

IDENTIFY all agreements entered into regarding REGISTRANT's mark, whether oral or written, including but not limited to all licenses, assignments, franchise agreements, or manufacturing agreements.

INTERROGATORY NO. 28:

IDENTIFY the PERSON by name and title who furnished information respecting each of REGISTRANT'S responses to these INTERROGATORIES.

INTERROGATORY NO. 29:

IDENTIFY all DOCUMENTS used in preparing REGISTRANT'S responses to these INTERROGATORIES.

INTERROGATORY NO. 30:

For each of YOUR responses to PETITIONER's REQUESTS FOR ADMISSION, other than any unqualified admission, IDENTIFY all facts that form the basis of YOUR response.

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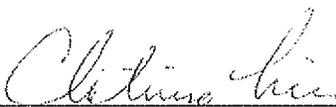
///

INTERROGATORY NO. 31:

For each of YOUR responses to PETITIONER's REQUESTS FOR ADMISSION, other than any unqualified admission, IDENTIFY all DOCUMENTS that support YOUR response.

GREENBERG TRAURIG, LLP

Dated: April 7, 2008

By: 

Susan L. Heller
Gregory A. Nylén
Christina M. Liu
2450 Colorado Avenue, Suite 400E
Santa Monica, CA 90404
Tel: (310) 586-6568
Fax: (310) 586-0564
hellers@gtlaw.com

Attorneys for FremantleMedia North
America, Inc.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing **PETITIONER'S FIRST SET OF INTERROGATORIES TO REGISTRANT (1-31)** was served on Registrant via first class mail, with pre-paid postage thereon, on April 9, 2008, at the following address:

Phillip Elden
Idol Writer, LLC
P. O. Box 551
Bonsall, California 92003



Pamela Pascual
Sr. Trademark Paralegal

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the matter of Trademark Registration No. 3,049,295
For the mark IDOL WRITER
Registered on January 24, 2006

FremantleMedia North America, Inc.

Petitioner,

v.

Idol Writer LLC,

Registrant.

Cancellation No.: 92045648

**PETITIONER'S FIRST SET OF
REQUESTS FOR ADMISSION TO
REGISTRANT**

Petitioner FremantleMedia North America, Inc. hereby requests, pursuant to Sections 403.02 and 407 of the Trademark Rules of Practice, 37 C.F.R. § 2.120, and Federal Rules Of Civil Procedure 26 and 36, that Registrant Idol Writer, LLC answer the following Requests for Admission under oath within thirty (30) days.

DEFINITIONS

The following definitions shall apply to the Requests for Admission that follow:

1. The terms "YOU," "YOUR" or "REGISTRANT" refer to Registrant Idol Writer, LLC and each of its employees, agents, representatives, attorneys, affiliates, predecessors, successors, assigns, or licensees, and any other person or entity acting on its behalf, including but not limited to Philip Elden.

2. The term "PETITIONER" refers to Petitioner FremantleMedia North America, Inc., and each of its employees, agents, representatives, attorneys, affiliates, successors, assigns, or licensees, and any other person or entity acting on its behalf.

3. The term "IDOL WRITER" refers to the mark in Registration No. 3,049,295 for use in connection with "Entertainment in the nature of song writing contests" in International Class 41.

4. The term "AMERICAN IDOL" refers to the mark in Registration No. 2,751,431 for use in connection with "Entertainment services in the nature of a continuing television talent show" in International Class 41.

REQUESTS FOR ADMISSION

REQUEST FOR ADMISSION NO. 1:

Admit that YOU have disclaimed the term "WRITER" apart from the IDOL WRITER mark.

REQUEST FOR ADMISSION NO. 2:

Admit that YOU were aware of the AMERICAN IDOL mark prior to adopting the IDOL WRITER mark in connection with entertainment in the nature of song writing contests.

REQUEST FOR ADMISSION NO. 3:

Admit that, prior to adopting the IDOL WRITER mark in connection with entertainment in the nature of song writing contests, YOU were aware of PETITIONER's use of the AMERICAN IDOL mark.

REQUEST FOR ADMISSION NO. 4:

Admit that REGISTRANT's services under the IDOL WRITER mark and PETITIONER's services under the AMERICAN IDOL mark both involve a type of musical contest.

REQUEST FOR ADMISSION NO. 5:

Admit that YOU adopted the term “IDOL” in the IDOL WRITER mark because the term “IDOL,” when used in connection with musical contests, has an association with the AMERICAN IDOL mark.

REQUEST FOR ADMISSION NO. 6:

Admit that YOU adopted the term “IDOL” in the IDOL WRITER mark because the term “IDOL,” when used in connection with musical contests, has an association with PETITIONER’s services under the AMERICAN IDOL mark.

REQUEST FOR ADMISSION NO. 7:

Admit that YOU have marketed or advertised YOUR services under the IDOL WRITER mark by making references to PETITIONER.

REQUEST FOR ADMISSION NO. 8:

Admit that YOU have marketed or advertised YOUR services under the IDOL WRITER mark by making references to the AMERICAN IDOL mark.

REQUEST FOR ADMISSION NO. 9:

Admit that YOU have marketed or advertised YOUR services under the IDOL WRITER mark by making references to the services that PETITIONER offers under the AMERICAN IDOL mark.

REQUEST FOR ADMISSION NO. 10:

Admit that the specimen of use submitted to the U.S. Patent & Trademark Office on July 13, 2004 in connection with the IDOL WRITER mark contains the words “American Idol.”

REQUEST FOR ADMISSION NO. 11:

Admit that the specimen of use submitted to the U.S. Patent & Trademark Office on July 13, 2004 in connection with the IDOL WRITER mark contains the words “19 Productions.”

REQUEST FOR ADMISSION NO. 12:

Admit that YOU adopted the IDOL WRITER mark with the intention of selling the IDOL WRITER mark to PETITIONER.

REQUEST FOR ADMISSION NO. 13:

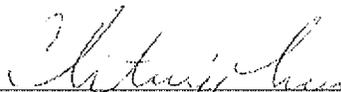
Admit that YOU adopted the IDOL WRITER mark with the intention of licensing the IDOL WRITER mark to PETITIONER.

REQUEST FOR ADMISSION NO. 14:

Admit that PETITIONER'S AMERICAN IDOL mark is famous in the United States.

GREENBERG TRAURIG, LLP

Dated: April 9, 2008

By: 

Susan L. Heller
Gregory A. Nylén
Christina M. Liu
2450 Colorado Avenue, Suite 400E
Santa Monica, CA 90404
Tel: (310) 586-6568
Fax: (310) 586-0564
hellers@gtlaw.com

Attorneys for FremantleMedia North
America, Inc.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing **PETITIONER'S FIRST SET OF REQUESTS FOR ADMISSION TO REGISTRANT** was served on Registrant via first class mail, with pre-paid postage thereon, on April 9, 2008, at the following address:

Phillip Elden
Idol Writer, LLC
P. O. Box 551
Bonsall, California 92003



Pamela Pascual
Sr. Trademark Paralegal

EXHIBIT B

Liu, Christina (Assoc-LA-IP/Tech)

From: info@idolwriter.com
Sent: Tuesday, May 06, 2008 3:04 PM
To: Liu, Christina (Assoc-LA-IP/Tech)
Subject: Re: IDOL WRITER - TTAB Cancellation Action - Extension

I would like a copy of the discovery request served by Britt Ventures. Please email me this asap.

I do agree to a mutual extension.

Thank you.

Phillip 951 795 5503

On Mon 05/ 5/08 5:59 PM , LiuC@gtlaw.com sent:

Dear Mr. Elden,

Per our conversation today, we will agree to a 30 day extension of time for Idol Writer, LLC to respond to FremantleMedia's discovery requests if you will agree not to object to our filing the responses to Britt Ventures' prior discovery within the same time period. For your reference, we do not believe Britt Ventures' prior discovery requests are valid given that they are no longer a defendant; however, we will be filing a response in order to confirm that FremantleMedia has not waived any objections to the requests.

Please confirm your agreement with this extension. Upon your confirmation, both parties' deadlines will be reset to **June 13, 2008**.

If you have any questions, please don't hesitate to contact me.

Kind regards,

Christina Liu
Intellectual Property Associate
Greenberg Traurig, LLP
2450 Colorado Avenue, Suite 400E
Santa Monica, CA 90404
Direct tel: (310) 586-3869
Direct fax: (310) 586-0569
e-mail: liuc@gtlaw.com

Tax Advice Disclosure: To ensure compliance with requirements imposed by the IRS under Circular 230, we inform you that any U.S. federal tax advice contained in this communication (including any attachments), unless otherwise specifically stated, was not intended or written to be used, and cannot be used, for the purpose of (1) avoiding penalties under the Internal Revenue Code or (2) promoting, marketing or recommending to another party any matters addressed herein.

The information contained in this transmission may contain privileged and confidential information. It is intended only for the use of the person(s) named above. If you are not the intended recipient, you are hereby

6/25/2008

notified that any review, dissemination, distribution or duplication of this communication is strictly prohibited. If you are not the intended recipient, please contact the sender by reply email and destroy all copies of the original message. To reply to our email administrator directly, please send an email to postmaster@gtlaw.com.

EXHIBIT C

Philip Elden
June 25, 2008
Page 2

Comm. v. Medicor LLC, 217 F.Supp.2d 1048, 1053 (C.D. Cal. 2002). Accordingly, Fremantle is entitled to rely on these admissions during its testimony period.

As required by the TTAB, this letter serves as confirmation of our attempt to meet and confer with you before filing a motion to compel Idol Writer's responses to Fremantle's Requests for Production of Documents and Interrogatories. Please respond to this letter and provide us with Idol Writer's responses by no later than July 2, 2008. This should be more than sufficient time to compensate for any unintentional delay on your part.

If you would like to meet and confer by phone to discuss these issues, we will make ourselves available for the call anytime between 10:00am-3:00pm on June 27, 2008, June 30, 2008, or July 1, 2008. Please let us know what time and date you will be available, and whether we should reach you at this number: (951) 795-5503.

If we do not hear back from you, we will assume that Idol Writer has no interest in meeting and conferring and does not intend to provide its discovery responses. If that is the case, we will have no choice but to proceed to compel Idol Writer's responses with the TTAB and seek appropriate sanctions. See TBMP § 527.01(b); 37 C.F.R. § 2.120(g)(2).

We recommend that you seek the advice of counsel if you have any questions about the issues raised in this letter. If you will be represented by counsel in this proceeding, please let us know immediately so we can direct all future correspondence to the appropriate representative.

You may reach me directly at (310) 586-3869. I look forward to hearing from you.

Sincerely,



Christina Liu

Attachment

cc: Susan L. Heller, Esq.
Gregory A. Nysten, Esq.

Liu, Christina (Assoc-LA-IP/Tech)

From: info@idolwriter.com
Sent: Tuesday, May 06, 2008 3:04 PM
To: Liu, Christina (Assoc-LA-IP/Tech)
Subject: Re: IDOL WRITER - TTAB Cancellation Action - Extension

I would like a copy of the discovery request served by Britt Ventures. Please email me this asap.

I do agree to a mutual extension.

Thank you.

Phillip 951 795 5503

On Mon 05/ 5/08 5:59 PM , LiuC@gtlaw.com sent:

Dear Mr. Elden,

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Please confirm your agreement with this extension. Upon your confirmation, both parties' deadlines will be reset to **June 13, 2008**.

If you have any questions, please don't hesitate to contact me.

Kind regards,

Christina Liu
Intellectual Property Associate
Greenberg Traurig, LLP
2450 Colorado Avenue, Suite 400E
Santa Monica, CA 90404
Direct tel: (310) 586-3869
Direct fax: (310) 586-0569
e-mail: liuc@gtlaw.com

Tax Advice Disclosure: To ensure compliance with requirements imposed by the IRS under Circular 230, we inform you that any U.S. federal tax advice contained in this communication (including any attachments), unless otherwise specifically stated, was not intended or written to be used, and cannot be used, for the purpose of (1) avoiding penalties under the Internal Revenue Code or (2) promoting, marketing or recommending to another party any matters addressed herein.

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6/25/2008

EXHIBIT D

SODEN & STEINBERGER, LLP

ATTORNEYS AT LAW

550 WEST C STREET
SUITE 1710
SAN DIEGO, CA 92101
(619) 239-3200
FAX (619) 238-4581
WEB: www.legalmattersllp.com

July 2, 2008

SENDERS EMAIL: BOB@LEGALMATTERSLLP.COM

Christina Liu
Greenberg Traurig, LLP
2450 Colorado Avenue
Suite 400E
Santa Monica, CA 900404

SENT VIA FACSIMILE & U.S. Mail
(310) 686-0569

Re: TTAB Cancellation No. 9204548

Dear Ms. Liu:

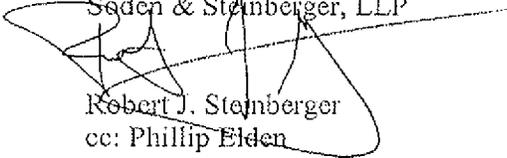
This will confirm our telephone conversation earlier today regarding the above entitled matter and your June 25, 2008 letter to Idol Writer, LLC regarding outstanding discovery responses.

You have graciously agreed to provide Idol Writer, LLC until July 28, 2008 to provide responses to Request for Admissions, Request for Production of Documents and Interrogatories. I also requested that you provide this office with a copy of the propounded discovery to my email address and you agreed to provide the same.

Additionally, Idol Writer, LLC has agreed to stipulate to an extension of the discovery period for an additional 90 day period to complete the remaining discovery. I will confirm with Mr. Elden regarding his schedule of available dates and location for his deposition. You also agreed to do the same for the PMK for FreemantleMedia North America.

Thank you again for your professionalism regarding this matter.

Sincerely,
Soden & Steinberger, LLP



Robert J. Steinberger
cc: Phillip Elden

EXHIBIT E

Greenberg Traurig

Wendy Mantell
Tel. 310.586.6522
Fax 310.586.0522
MantellW@gftaw.com

August 13, 2008

VIA E-MAIL and OVERNIGHT MAIL

Phillip Elden
Idol Writer, LLC
P. O. Box 551
Bonsall, CA 92003
info@idolwriter.com

Re: TTAB Cancellation No. 92045648
Mark: IDOL WRITER

Dear Mr. Elden:

The purpose of this letter is to meet and confer regarding Idol Writer, LLC's ("Idol Writer's") failure to provide any responses to FremantleMedia North America, Inc.'s ("Fremantle's") Requests for Production of Documents, Interrogatories, and Requests for Admission ("Discovery Requests") in the above-referenced proceeding, despite several extensions granted by Fremantle.

As you may recall, Fremantle served its Discovery Requests on Idol Writer on April 9, 2008. On May 5, 2008, you called my colleague, Christina Liu to request an extension of time to respond to the Discovery Requests. On that same day, Ms. Liu sent you an e-mail proposing that both parties be allowed until June 13, 2008 to respond to the other party's discovery requests. In your e-mail dated May 6, 2008, you agreed to the extension. A copy of your e-mail exchange is attached for your convenience. As of June 24, 2008, you still had not responded to Fremantle's discovery request, nor did you contact our office to explain Idol Writer's failure to respond by the June 13, 2008 deadline.

On June 25, Ms. Liu sent you a letter to meet and confer regarding Idol Writer's failure to provide any responses to Fremantle's Discovery Requests by the agreed-upon June 13, 2008 deadline. On July 2, 2008, after receiving this correspondence, you contacted Ms. Liu to tell her that you thought the deadline to respond was July 13, 2008 and that you needed a further extension of time. You also told Ms. Liu that you would be hiring an attorney and your attorney would be contacting us. Ms. Liu asked you to have your attorney contact us that same day.

LA 127,659,240v1 8-13-08

Accordingly, on July 2, 2008, Mr. Robert Steinberger contacted Ms. Liu, said he had represented you in the past and would be assisting you in responding to Fremantle's Discovery Requests in this matter. Due to his upcoming trial schedule, he asked for a further extension to July 28, 2008. Rather than moving to compel at that time, Ms. Liu agreed to the extension. Ms. Liu made it clear that Fremantle would not grant any further extensions of time for Idol Writer to respond to Fremantle's Discovery Requests. Mr. Steinberger sent Ms. Liu a letter on July 2, 2008, confirming the July 28, 2008 deadline for Idol Writer to respond to Fremantle's discovery requests. A copy of that letter is also attached for your convenience.

Despite the fact that it has been *over four months* since Fremantle first served Idol Writer with its Discovery Requests, and despite Fremantle granting Idol Writer two separate extensions of time to respond, *Idol Writer has failed to provide a single response to Fremantle's Discovery Requests*. In addition, neither you nor your supposed attorney, Mr. Steinberger, has contacted us to explain Idol Writer's failure to respond by the July 28, 2008 deadline. Indeed, I have left several phone messages for and written to Mr. Steinberger on several occasions, yet he has failed to respond to any of my recent correspondence.

Based on Idol Writer's failure to timely respond to Fremantle's Discovery Requests, Fremantle is entitled to move to compel Idol Writer's responses without objections on the merits pursuant to Section 527.01(c) of the Trademark Trial and Appeal Board's Manual of Procedure ("TBMP"). See also FED. R. CIV. PROC., RULE 33(b)(4); Richmark Corp. v. Timber Falling Consultants, 959 F.2d 1468, 1473 (9th Cir. 1992). We therefore intend to move to compel production of all responsive documents and responses to interrogatories without objection. In addition, based on Idol Writer's failure to respond to Fremantle's Requests for Admission, we note that these Requests for Admission are automatically deemed admitted pursuant to 37 C.F.R. 2.120(j)(3)(i). See also FED. R. CIV. PROC., RULE 36(a)(3); Federal Trade Comm. v. Medicor LLC, 217 F. Supp. 2d 1048, 1053 (C.D. Cal. 2002). Accordingly, Fremantle is entitled to rely on these admissions during its testimony period.

As required by the TTAB, this letter serves as confirmation of our attempt to meet and confer with you before filing a motion to compel Idol Writer's responses to Fremantle's Requests for Production of Documents and Interrogatories. Please respond to this letter and provide us with Idol Writer's responses by no later than Tuesday, **August 19, 2008**.

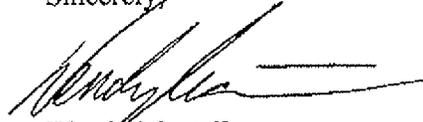
If we do not receive responses from you by August 19, 2008, we will assume that Idol Writer does not intend to provide its discovery responses. If that is the case, we will have no choice but to proceed to compel Idol Writer's responses with the TTAB and seek appropriate sanctions. See TBMP § 527.01(b); 37 C.F.R. § 2.120(g)(2).

We recommend that you seek the advice of counsel if you have any questions about the issues raised in this letter. If Mr. Steinberger or any other attorney will be representing you in this proceeding, please be sure that he or she advises the TTAB as required. As the TTAB made clear in its July 9, 2008 Order, unless the board is advised otherwise, you are considered to be acting *pro se* in this proceeding, meaning you are representing yourself.

Philip Elden
August 13, 2008
Page 3

If you have any questions regarding the foregoing, you may reach me directly at (310) 586-6522 or mantellw@gtlaw.com. I urge you to take this correspondence seriously and look forward to receiving your responses to Fremantle's Discovery Requests by **August 19, 2008**.

Sincerely,



Wendy Mantell

Attachment

cc: Susan L. Heller, Esq.
Gregory A. Nylan, Esq.
Robert Steinberger (via email)

Mantell, Wendy M. (Assoc-LA-LT)

From: info@idolwriter.com
Sent: Tuesday, May 06, 2008 3:04 PM
To: Liu, Christina (Assoc-LA-IP/Tech)
Subject: Re: IDOL WRITER - TTAB Cancellation Action - Extension

I would like a copy of the discovery request served by Britt Ventures. Please email me this asap.

I do agree to a mutual extension.

Thank you.

Phillip 951 795 5503

On Mon 05/ 5/08 5:59 PM , LiuC@gtlaw.com sent:

Dear Mr. Elden,

Per our conversation today, we will agree to a 30 day extension of time for Idol Writer, LLC to respond to FremantleMedia's discovery requests if you will agree not to object to our filing the responses to Britt Ventures' prior discovery within the same time period. For your reference, we do not believe Britt Ventures' prior discovery requests are valid given that they are no longer a defendant; however, we will be filing a response in order to confirm that FremantleMedia has not waived any objections to the requests.

Please confirm your agreement with this extension. Upon your confirmation, both parties' deadlines will be reset to **June 13, 2008**.

If you have any questions, please don't hesitate to contact me.

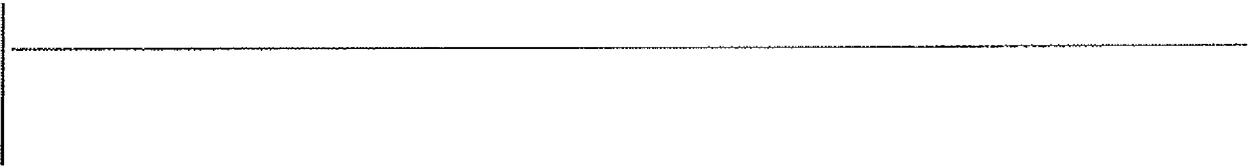
Kind regards,

Christina Liu
Intellectual Property Associate
Greenberg Traurig, LLP
2450 Colorado Avenue, Suite 400E
Santa Monica, CA 90404
Direct tel: (310) 586-3869
Direct fax: (310) 586-0569
e-mail: liuc@gtlaw.com

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8/13/2008



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FAX (619) 238-4581
WEB: www.legalmattersllp.com

July 2, 2008

SENDER'S EMAIL: Bob@LEGALMATTERSLLP.COM

Christina Liu
Greenberg Traurig, LLP
2450 Colorado Avenue
Suite 400E
Santa Monica, CA 900404

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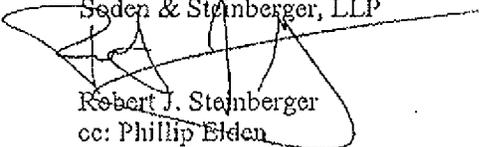
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Sincerely,
Soden & Steinberger, LLP


Robert J. Steinberger
cc: Phillip Elden