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

Proceeding	92047056
Party	Plaintiff TERRA SUL CORPORATION A/K/A CHURRASCARIA BOI NA BRASA
Correspondence Address	EAMON J. WALL PATTERSON & SHERIDAN, LLP 595 SHREWSBURY AVENUE, SUITE 100 SHREWSBURY, NJ 07702 UNITED STATES ewall@pattersonsheridan.com
Submission	Plaintiff's Notice of Reliance
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Signature	/Eamon J. Wall/
Date	12/15/2008
Attachments	Notice of Reliance.pdf (3 pages)(140678 bytes) Discovery Responses 1.pdf (25 pages)(893706 bytes) Discovery Responses 2.pdf (9 pages)(168171 bytes) Discovery Responses 3.pdf (15 pages)(633978 bytes) Official Records 1.pdf (2 pages)(32095 bytes)

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

Terra Sul Corporation a/k/a Churrascaria Boi Na Brasa	§	
	§	
Petitioner	§	
	§	
v.	§	Cancellation No. 92047056
	§	
Boi Na Braza, Inc.,	§	
	§	
Registrant.	§	

TERRA SUL CORPORATION'S NOTICE OF RELIANCE

Pursuant to Trademark Trial and Appeal Board Manual of Procedure ("TBMP") Sections 704.02 and 704.10, Petitioner Terra Sul Corporation ("Terra Sul") hereby submits and gives notice to the Board and to Registrant Boi Na Braza, Inc. ("Boi Na Braza") of Terra Sul's intention to rely upon the following relevant discovery materials in accordance with the TBMP. True and correct copies of the following are attached hereto and incorporated by reference:

Discovery Responses of Registrant

1. Registrant's Objections and Answers to Petitioner Terra Sul's First Set of Interrogatories (Nos. 1-25);

2. Registrant's Objections and Responses to Petitioner Terra Sul's First Set of Requests for Admissions (Nos. 1-12); and

3. Objections and Answers to Petitioner Terra Sul's Second Set of Interrogatories (Nos. 26-50) and Requests for Admission (Nos. 13-21) to Registrant Boi Na Braza.

Official Records

1. Certificate of Incorporation, Boi Na Braza, Inc., issued June 24, 1999 by the State of Texas Secretary of State, effective June 24, 1999. This document is relevant to the alleged "first use" of the Registrant's mark in commerce.

Date: December 15, 2008

Respectfully submitted,

Eamon J. Wall
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TERRA SUL CORPORATION a/k/a
CHURRASCARIA BOI NA BRASA

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of "TERRA SUL CORPORATION'S NOTICE OF RELIANCE" was served on the parties listed below, via First Class U.S. Mail on the 15th day of December, 2008.

Herbert J. Hammond
Deborah L. Lively
Remy McElroy Davis
THOMPSON & KNIGHT L.L.P.
1700 Pacific Avenue
Suite 3300
Dallas, Texas 75201

Eamon J. Wall

DISCOVERY RESPONSES
1.

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

Terra Sul Corporation a/k/a Churrascaria Boi Na Brasa, Inc.,	)	
Petitioner,	)	
vs.	)	Cancellation No. 92047056
Boi Na Braza, Inc.,	)	
Registrant.	)	

OBJECTIONS AND ANSWERS TO PETITIONER TERRA SUL'S
FIRST SET OF INTERROGATORIES

To: Terra Sul Corporation a/k/a Churrascaria Boi Na Brasa, Inc., by and through its attorney of record, Eamon J. Wall, Patterson & Sheridan, LLP, 595 Shrewsbury Ave., Suite 100, Shrewsbury, New Jersey 07702.

Pursuant to Federal Rule of Civil Procedure 33 and the Trademark Trial and Appeal Board Manual of Procedure ("TBMP") Section 405.04, Registrant Boi Na Braza Holdings, LLC ("Boi Na Braza" or "Registrant"), registrant by assignment from Boi Na Braza, Inc., submits these Objections and Answers to Petitioner Terra Sul's ("Terra Sul's") First Set of Interrogatories.

General Objections

1. Boi Na Braza objects to the Definitions and Instructions and the Interrogatories to the extent that they purport to impose burdens and obligations on Boi Na Braza greater than those imposed by the Federal Rules of Civil Procedure or the TBMP.

2. Boi Na Braza objects to each of Terra Sul's Interrogatories to the extent that they seek information protected by the attorney-client privilege and/or work product doctrine, or any other applicable privilege or protection from discovery.

3. Boi Na Braza further objects to the Interrogatories to the extent that they seek confidential business information. Boi Na Braza will produce confidential information when a suitable protective order is signed by the parties and entered by the Trademark Trial and Appeal Board ("TTAB").

4. All responses and objections contained herein are based only upon information and documents which are presently available to and specifically known to Boi Na Braza after conducting a reasonable and diligent investigation.

5. Each and all of these General Objections are hereinafter incorporated by reference in response to the Interrogatories below.

INTERROGATORIES

INTERROGATORY NO. 1:

Identify all facts, persons with knowledge and all Documents known to You as of the date of service of Terra Sul's First Set of Interrogatories to Registrant Boi Na Braza that support Paragraph 4 of Your Answer, including but not limited to your denial that the term "boi na braza" is not properly translated as "Ox in embers."

ANSWER:

Registrant objects to this interrogatory because it seeks information that is subject to the attorney-client privilege and/or work product doctrine. Subject to the foregoing specific and general objections, and without waiving the same, Registrant responds that Jonas S. Matheus, Julio C. Matheus, and Joseph R. Matheus (the "Matheus brothers") are each founders of Registrant, and each is a native Brazilian and a fluent speaker of the Portuguese language. As fluent speakers of the language, the Matheus brothers understand the phrase "Boi Na Braza" to be properly translated from Portuguese into English as "Ox in embers." Moreover, Maria A. Laporte, a professional certified translator, member of the American Translators Association, has certified that the translation of "Boi Na Braza", from Portuguese to English, is "Ox in ember" or "Ox on hot coal." According to Ms. Laporte, the correct spelling of the word "Braza" in Portuguese is with an "s" and not a "z." Pursuant to Rule 33(d) of the Federal Rules of Civil Procedure, Registrant will produce business records, if any, from which the requested information can be gleaned. Discovery is continuing and Registrant reserves the right to supplement these answers after additional discovery.

INTERROGATORY NO. 2:

Identify all facts, persons with knowledge and all Documents known to You as of the date of service of Terra Sul's First Set of Interrogatories to Registrant Boi Na Braza that support

Paragraph 4 of Your Answer, including but not limited to your denial that the term "braza" is a slang term for things Brazilian.

ANSWER:

Registrant objects to this interrogatory because it seeks information that is subject to the attorney-client privilege and/or work product doctrine. Subject to the foregoing specific and general objections, and without waiving the same, Registrant responds that the Matheus brothers are each founders of Registrant, and each is a native Brazilian and a fluent speaker of the Portuguese language. As fluent speakers of the language, the Matheus brothers do not understand there to be any translation of the word "braza" from Portuguese to English to be "things Brazilian." Moreover, Maria A. Laporte, a professional certified translator, member of the American Translators Association, has certified that the translation of "Boi Na Braza", from Portuguese to English, is "Ox in ember" or "Ox on hot coal." According to Ms. Laporte, the correct spelling of the word "Braza" in Portuguese is with an "s" and not a "z." Pursuant to Rule 33(d) of the Federal Rules of Civil Procedure, Registrant will produce business records, if any, from which the requested information can be gleaned. Discovery is continuing and Registrant reserves the right to supplement these answers after additional discovery.

INTERROGATORY NO. 3:

Identify all facts, persons with knowledge and all Documents known to You as of the date of service of Terra Sul's First Set of Interrogatories to Registrant Boi Na Braza that support Paragraph 4 of Your Answer, including but not limited to your denial that the term "boi na braza" may possibly be translated as "Ox in Brazil" or perhaps "Brazilian Ox."

ANSWER:

Registrant objects to this interrogatory because it seeks information that is subject to the attorney-client privilege and/or work product doctrine. Subject to the foregoing specific and general objections, and without waiving the same, Registrant responds that the Matheus brothers

are each founders of Registrant, and each is a native Brazilian and a fluent speaker of the Portuguese language. As fluent speakers of the language, the Matheus brothers do not understand there to be any translation of the phrase "boi na braza" from Portuguese to English to be "Ox in Brazil" or "Brazilian Ox." Moreover, Maria A. Laporte, a professional certified translator, member of the American Translators Association, has certified that the translation of "Boi Na Braza", from Portuguese to English, is "Ox in ember" or "Ox on hot coal." According to Ms. Laporte, the correct spelling of the word "Braza" in Portuguese is with an "s" and not a "z." Pursuant to Rule 33(d) of the Federal Rules of Civil Procedure, Registrant will produce business records, if any, from which the requested information can be gleaned. Discovery is continuing and Registrant reserves the right to supplement these answers after additional discovery.

INTERROGATORY NO. 4:

Identify all facts, persons with knowledge and all Documents known to You as of the date of service of Terra Sul's First Set of Interrogatories to Registrant Boi Na Braza that support Paragraph 4 of Your Answer, including but not limited to your denial that "the Brazilian connotations of the term Braza evidence a geographic commercial impression to the relevant consumer."

ANSWER:

Boi Na Braza objects to this interrogatory as it seeks information that is protected by the attorney-client privilege and/or work product doctrine. Boi Na Braza further objects that the phrase "relevant consumer" is vague and ambiguous. Boi Na Braza further objects to Terra Sul's implication that the relevant consumer is Portuguese-speaking and able to translate "boi na braza" into English. Subject to the foregoing general and specific objections, and without waiving the same, Boi Na Braza does not understand the phrase "boi na braza" to mean "Brazilian Ox" or "Ox in Brazil" (See Registrant's Responses to Interrogatories 1-3). Further,

Registrant does not understand the phrase "braza" to translate into anything that includes the words "Brazil," "Brazilian," or "things Brazilian," therefore the phrase "boi na braza" carries no geographic commercial impression. Pursuant to Rule 33(d) of the Federal Rules of Civil Procedure, Registrant will produce business records, if any, from which the requested information can be gleaned. Discovery is continuing and Registrant reserves the right to supplement these answers after additional discovery.

INTERROGATORY NO. 5:

Identify all facts, persons with knowledge and all Documents known to You as of the date of service of Terra Sul's First Set of Interrogatories to Registrant Boi Na Braza that support Paragraph 6 of Your Answer, including but not limited to your denial that the term "BOI NA BRAZA, when properly translated from Portuguese to English and used in connection with the services set forth in the registration, is merely descriptive or deceptively misdescriptive of them within the meaning of Section 2(e) of the Trademark Act..."

ANSWER:

Boi Na Braza objects to this interrogatory as it seeks information that is protected by the attorney-client privilege and/or work product doctrine. Boi Na Braza further objects to Terra Sul's implication that the relevant consumer is Portuguese-speaking and able to translate "boi na braza" into English. Subject to the foregoing general and specific objections, and without waiving the same, Boi Na Braza responds that it does not understand the term "boi na braza" to mean "Brazilian Ox" or "Ox in Brazil" (See Registrant's Responses to Interrogatories Nos. 1-3). Neither the phrase "boi na braza" nor "Ox in embers" describes a characteristic or quality of the restaurant services provided under the mark. It likewise is not deceptively misdescriptive of such services as either translated or in the native Portuguese, the mark "BOI NA BRAZA" is not misdescriptive of any characteristic or quality of the services; relevant consumers are not likely to believe that the phrase "boi na braza" or even "Ox in embers" actually describes the services

rendered, nor is the name likely to induce consumers to patronize the restaurant based on a belief that the phrase "boi na braza" or "Ox in embers" is descriptive somehow of restaurant services, when in fact it is not.

INTERROGATORY NO. 6:

Identify all facts, persons with knowledge and all Documents known to You as of the date of service of Terra Sul's First Set of Interrogatories to Registrant Boi Na Braza that support Paragraph 6 of Your Answer, including but not limited to your denial that the term "BOI NA BRAZA... [is] primarily geographically descriptive ... within the meaning of Section 2(e) of the Trademark Act..."

ANSWER:

Boi Na Braza objects to this interrogatory as it seeks information that is protected by the attorney-client privilege and/or work product doctrine. Boi Na Braza further objects to Terra Sul's implication that the relevant consumer is Portuguese-speaking and able to translate "boi na braza" into English. Subject to the foregoing general and specific objections, and without waiving the same, Boi Na Braza responds that it understands the phrase "boi na braza" to mean "Ox in embers" or "Ox in ember" and not "Brazilian Ox" or "Ox in Brazil" (See Registrant's Responses to Interrogatories 1-3). The phrase "boi na braza" therefore does not primarily describe the geographic area or region of the source of the services. To Registrant's knowledge, there is no geographic locale known as "boi na braza." Even translated, the phrase "Ox in ember" or "Ox in embers" does not identify any geographic region to Registrant's knowledge.

INTERROGATORY NO. 7:

Identify all facts, persons with knowledge and all Documents known to You as of the date of service of Terra Sul's First Set of Interrogatories to Registrant Boi Na Braza that support Paragraph 6 of Your Answer, including but not limited to your denial that the term "BOI NA BRAZA... [is] geographically deceptively misdescriptive ... within the meaning of Section 2(e)

of the Trademark Act..."

ANSWER:

Boi Na Braza objects to this interrogatory as it seeks information that is protected by the attorney-client privilege and/or work product doctrine. Boi Na Braza further objects to Terra Sul's implication that the relevant consumer is Portuguese-speaking and therefore able to translate the phrase "boi na braza" into English. Subject to the foregoing general and specific objections, and without waiving the same, Boi Na Braza responds that it understands the phrase "boi na braza" to mean "Ox in embers" or "Ox in ember" and not "Brazilian Ox" or "Ox in Brazil" (See Registrant's Responses to Interrogatories 1-3). There is no implication from the phrase "boi na braza" that the services originate from a geographic locale of this name when in fact they do not. As stated in Registrant's Response to Interrogatory No. 6, neither the phrase "boi na braza" or "Ox in embers" are descriptive of any geographic place.

INTERROGATORY NO. 8:

Identify all facts, persons with knowledge and all Documents known to You as of the date of service of Terra Sul's First Set of Interrogatories to Registrant Boi Na Braza that support Paragraph 7 of Your Answer, including but not limited to your contention that Petitioner's claims are barred by the Doctrine of Laches.

ANSWER:

Boi Na Braza objects to this interrogatory as it seeks information that is protected by the attorney-client privilege and/or work product doctrine. Subject the foregoing general and specific objections, and without waiving the same, Boi Na Braza responds that upon reasonable information and belief, Boi Na Braza believes that Terra Sul was aware of its restaurant services long before Boi Na Braza initiated any contact with Mr. Farid Saleh and in fact implied a false association with Boi Na Braza's organization. Pursuant to Rule 33(d) of the Federal Rules of Civil Procedure, Registrant will produce business records, if any, from which the requested

information can be gleaned. Discovery is continuing and Registrant reserves the right to supplement these answers after additional discovery.

INTERROGATORY NO. 9:

Identify all facts, persons with knowledge and all Documents known to You as of the date of service of Terra Sul's First Set of Interrogatories to Registrant Boi Na Braza that support Paragraph 8 of Your Answer, including but not limited to your contention that Petitioner's claims are barred by the Doctrine of Waiver.

ANSWER:

Boi Na Braza objects to this interrogatory as it seeks information that is protected by the attorney-client privilege and/or work product doctrine. Subject the foregoing general and specific objections, and without waiving the same, Boi Na Braza responds that upon reasonable information and belief, Boi Na Braza believes that Terra Sul was aware of its restaurant services long before Boi Na Braza initiated any contact with Mr. Farid Saleh and in fact implied a false association with Boi Na Braza's organization. Pursuant to Rule 33(d) of the Federal Rules of Civil Procedure, Registrant will produce business records, if any, from which the requested information can be gleaned. Discovery is continuing and Registrant reserves the right to supplement these answers after additional discovery.

INTERROGATORY NO. 10:

Identify all facts, persons with knowledge and all Documents known to You as of the date of service of Terra Sul's First Set of Interrogatories to Registrant Boi Na Braza that support Paragraph 9 of Your Answer, including but not limited to your contention that Petitioner's claims are barred by the Doctrine of Acquiescence.

ANSWER:

Boi Na Braza objects to this interrogatory as it seeks information that is protected by the attorney-client privilege and/or work product doctrine. Subject the foregoing general and

specific objections, and without waiving the same, Boi Na Braza responds that upon reasonable information and belief, Boi Na Braza believes that Terra Sul was not only aware of its restaurant services long before Boi Na Braza initiated any contact with Mr. Farid Saleh but in fact implied a false association with Boi Na Braza's organization, therefore evidencing active consent to Boi Na Braza's use of the term "boi na braza." Pursuant to Rule 33(d) of the Federal Rules of Civil Procedure, Registrant will produce business records, if any, from which the requested information can be gleaned. Discovery is continuing and Registrant reserves the right to supplement these answers after additional discovery.

INTERROGATORY NO. 11:

Identify all facts, persons with knowledge and all Documents known to You as of the date of service of Terra Sul's First Set of Interrogatories to Registrant Boi Na Braza that support Paragraph 10 of Your Answer, including but not limited to your contention that Petitioner's claims are barred by the Doctrine of Estoppel and Equitable Estoppel.

ANSWER:

Boi Na Braza objects to this interrogatory as it seeks information that is protected by the attorney-client privilege and/or work product doctrine. Subject the foregoing general and specific objections, and without waiving the same, Boi Na Braza responds that upon reasonable information and belief, Boi Na Braza believes that Terra Sul was not only aware of its restaurant services long before Boi Na Braza initiated any contact with Mr. Farid Saleh but in fact implied a false association with Boi Na Braza's organization. Pursuant to Rule 33(d) of the Federal Rules of Civil Procedure, Registrant will produce business records, if any, from which the requested information can be gleaned. Discovery is continuing and Registrant reserves the right to supplement these answers after additional discovery.

INTERROGATORY NO. 12:

Identify all facts, persons with knowledge and all Documents known to You as of the date of service of Terra Sul's First Set of Interrogatories to Registrant Boi Na Braza that support Paragraph 11 of Your Answer, including but not limited to your contention that Petitioner's claims are barred by the Doctrine of Unclean Hands.

ANSWER:

Boi Na Braza objects to this interrogatory as it seeks information that is protected by the attorney-client privilege and/or work product doctrine. Subject the foregoing general and specific objections, and without waiving the same, Boi Na Braza responds that upon reasonable information and belief, Boi Na Braza believes that Terra Sul was not only aware of its restaurant services long before Boi Na Braza initiated any contact with Farid Saleh, but in fact implied a false association with Boi Na Braza's organization. Furthermore, upon reasonable belief after diligent investigation, Boi Na Braza believes that Terra Sul has provided certain documentation to Boi Na Braza representing that Churrasascaria Boi Na Braza is incorporated under the laws of the State of New Jersey, when in fact it is not. Pursuant to Rule 33(d) of the Federal Rules of Civil Procedure, Registrant will produce business records, if any, from which the requested information can be gleaned. Discovery is continuing and Registrant reserves the right to supplement these answers after additional discovery.

INTERROGATORY NO. 13:

Identify each and every instance known by Boi Na Braza of the use of the term "boi na braza," with or without a "™" designation and with or without a direct association to Boi Na Braza's name, including uses by Boi Na Braza and uses by other entities (whether authorized or not), and including the dates of each instance of use and the product or service associated with each such use and the geographic regions of use.

ANSWER:

Boi Na Braza objects to this interrogatory as it is overly broad and unduly burdensome. Boi Na Braza further objects to this interrogatory as it seeks information that is protected by the attorney-client privilege and/or work product doctrine. Boi Na Braza further objects to this interrogatory because it seeks information that is not within Boi Na Braza's possession, control or custody. Subject to the foregoing specific and general objections, and without waiving the same, Boi Na Braza responds that it has used the "Boi Na Braza" mark continuously in the marketing and advertising of its restaurant services since at least as early as July 1, 1999. Boi Na Braza has used, advertised and promoted the "Boi Na Braza" mark in numerous magazines and publications that are circulated throughout the entire United States and internationally, as well as on its website, located at www.boinabraza.com. Apart from Terra Sul's use of the names "Churrasearia Boi Na Brasa" and "Boi Na Brasa Bar & Grill," Boi Na Braza is only aware of one other instance of use of the phrase "boi na brasa," by a company named Ravia Investments, for a restaurant in Pampano Beach, Florida. The restaurant is believed to have begun using the name around November of 2006, but as presently advised, is no longer in business. Pursuant to Rule 33(d) of the Federal Rules of Civil Procedure, Registrant will produce business records, if any, from which the requested information can be gleaned. Discovery is continuing and Registrant reserves the right to supplement these answers after additional discovery.

INTERROGATORY NO. 14:

Identify all facts, persons with knowledge and all Documents known to You as of the date of service of Terra Sul's First Set of Interrogatories to Registrant Boi Na Braza relating to any customer surveys or polls with regard to uses of the term "boi na braza" by Boi Na Braza or others.

ANSWER:

Boi Na Braza objects to this interrogatory as it is overly broad and unduly burdensome. Further, Boi Na Braza objects to this interrogatory because it seeks information that is not within

Boi Na Braza's possession, control or custody. Subject to the foregoing specific and general objections, and without waiving the same, Boi Na Braza is not aware of any customer surveys or polls with regard to uses of the term "boi na braza."

INTERROGATORY NO. 15:

Identify all sources, publications and/or Documents known to You as of the date of service of Terra Sul's First Set of Interrogatories to Registrant Boi Na Braza relating to or evidencing how the term "boi na braza" is distinctive to the relevant public.

ANSWER:

Boi Na Braza objects to this interrogatory as it is overly broad and unduly burdensome. Further, Boi Na Braza objects to this interrogatory because it seeks information that is not within Boi Na Braza's possession, control or custody. Subject to the foregoing specific and general objections, and without waiving the same, Boi Na Braza responds that it is the owner of U.S. Reg. No. 2,534,608 for the mark BOI NA BRAZA. Pursuant to Rule 33(d) of the Federal Rules of Civil Procedure, Registrant will produce business records, if any, from which the requested information can be gleaned. Discovery is continuing and Registrant reserves the right to supplement these answers after additional discovery. Registrant also directs Terra Sul's attention to Registrant's Response to Request for Production No. 15.

INTERROGATORY NO. 16:

Identify all facts, persons with knowledge and all Documents known to You as of the date of service of Terra Sul's First Set of Interrogatories to Registrant Boi Na Braza relating to the creation or origination of the term "boi na braza" by Registrant.

ANSWER:

Boi Na Braza objects to this interrogatory as it seeks information that is protected by the attorney-client privilege and/or work product doctrine. Subject to the foregoing specific and general objections, and without waiving the same, Boi Na Braza responds that the name "boi na

brasa" is a well known name that is often used in Brazil. Based on their knowledge of the name from its use in Brazil, the Matheus brothers chose this name for their restaurant business and began marketing the business as such at least as early as July 1, 1999. The Matheus brothers changed the "s" to a "z" to give the name more distinctiveness. Pursuant to Rule 33(d) of the Federal Rules of Civil Procedure, Registrant will produce business records, if any, from which the requested information can be gleaned. Discovery is continuing and Registrant reserves the right to supplement these answers after additional discovery.

INTERROGATORY NO. 17:

Identify all facts, persons with knowledge and all Documents known to You as of the date of service of Terra Sul's First Set of Interrogatories to Registrant Boi Na Braza relating to the marketing, promotion, sale or use of the term "boi na braza" by Registrant.

ANSWER:

Boi Na Braza objects to this interrogatory as it is overly broad and unduly burdensome. Subject to the foregoing specific and general objections, and without waiving the same, Boi Na Braza responds that it has used, advertised and promoted the "BOI NA BRAZA" name for its restaurant services since at least as early as July 1, 1999. It has marketed and advertised in numerous magazines and publications that are circulated throughout the entire United States and internationally, as well as on its website, located at www.boinabraza.com. Boi Na Braza has long engaged the services of Wellspring & Associates to handle the majority of such marketing and advertising on its behalf. Pursuant to Rule 33(d) of the Federal Rules of Civil Procedure, Registrant will produce business records, if any, from which the requested information can be gleaned. Discovery is continuing and Registrant reserves the right to supplement these answers after additional discovery.

INTERROGATORY NO. 18:

Identify all facts, persons with knowledge and all Documents known to You as of the date of service of Terra Sul's First Set of Interrogatories to Registrant Boi Na Braza relating to the date of first use of the term "boi na braza" by Registrant.

ANSWER:

Boi Na Braza objects to this interrogatory as it seeks information that is protected by the attorney-client privilege and/or work product doctrine. Subject to the foregoing specific and general objections, and without waiving the same, Boi Na Braza responds that the name "boi na brasa" is a well known name that is often used in Brazil. Based on their knowledge of the name from its use in Brazil, the Matheus brothers chose this name for their restaurant business and began marketing the business as such at least as early as July 1, 1999. The Matheus brothers changed the "s" to a "z" to give the name more distinctiveness. Pursuant to Rule 33(d) of the Federal Rules of Civil Procedure, Registrant will produce business records, if any, from which the requested information can be gleaned. Discovery is continuing and Registrant reserves the right to supplement these answers after additional discovery.

INTERROGATORY NO. 19:

Identify all facts, persons with knowledge and all Documents known to You as of the date of service of Terra Sul's First Set of Interrogatories to Registrant Boi Na Braza relating to Registrant's knowledge or awareness of Terra Sul's use of the terms "boi na brasa" and/or "churrascaria boi na brasa."

ANSWER:

Boi Na Braza objects to this interrogatory as it seeks information that is protected by the attorney-client privilege and/or work product doctrine. Subject to the foregoing specific and general objections, and without waiving the same, Boi Na Braza responds that it had no knowledge of Terra Sul's use of the terms "boi na brasa" and/or "churrascaria boi na brasa" until

it was informed by Terra Sul's counsel, on or about January 19, 2007. Pursuant to Rule 33(d) of the Federal Rules of Civil Procedure, Registrant will produce business records, if any, from which the requested information can be gleaned. Discovery is continuing and Registrant reserves the right to supplement these answers after additional discovery.

INTERROGATORY NO. 20:

Identify all facts, persons with knowledge and all Documents known to You as of the date of service of Terra Sul's First Set of Interrogatories to Registrant Boi Na Braza relating to the geographic scope or area (by city, state and country) of Registrant's use of the term "boi na braza" in connection with its restaurant business.

ANSWER:

Boi Na Braza objects to this interrogatory as it is overly broad and unduly burdensome. Subject to the foregoing specific and general objections, and without waiving the same, Boi Na Braza responds that it operates restaurants in Dallas, Texas and Cincinnati, Ohio, formerly in Atlanta Georgia, and currently is the licensor of the "BOI NA BRAZA" name in Atlanta, Georgia. Boi Na Braza advertises the "BOI NA BRAZA" mark nationally and internationally through the services of Wellspring & Associates. Specifically, its advertisements are placed in American Way magazine and Delta Sky magazine, which have a circulation that covers the entire United States, as well as numerous countries internationally. Its website, located at www.boinabraza.com, may viewed around the world. Boi Na Braza also advertises in publications that are local to its various restaurants, located in Dallas, Texas and Cincinnati, Ohio. There is also advertising local to a restaurant in Atlanta, Georgia, which is a licensee of the "BOI NA BRAZA" trademark. Pursuant to Rule 33(d) of the Federal Rules of Civil Procedure, Registrant will produce business records, if any, from which the requested information can be gleaned. Discovery is continuing and Registrant reserves the right to supplement these answers after additional discovery.

INTERROGATORY NO. 21:

Identify any and all expert witnesses who may testify at trial through deposition, declaration and/or affidavit, and consulting expert witnesses whose mental impressions or opinions have been reviewed by a testifying expert, and in your answer include the following:

(a) The expert's name, business name, employer, address, and telephone number;

(b) The facts known by the expert that relate to or form the basis of the expert's mental impressions and opinions formed or made in connection with the case and in which discovery is sought, regardless of when and how the factual information was acquired;

(c) The expert's mental impressions and opinions formed or made in connection with the case and in which discovery is sought, and any methods used to derive;

(d) Any bias of the witness;

(e) A description of all documents, tangible things, reports, models, or data compilations that have been provided to, reviewed by, or prepared by, or for the expert in anticipation of a testifying expert's testimony; and

(f) Attach the expert's current resume and bibliography.

ANSWER:

Boi Na Braza objects to this interrogatory as it seeks information that is protected by the attorney-client privilege and/or work product doctrine. Subject to the foregoing specific and general objections, and without waiving the same, Boi Na Braza responds that it has yet to determine the need for any expert witnesses and thus has not, as yet, identified any such expert witnesses to testify at trial. Registrant will duly supplement its response if necessary.

INTERROGATORY NO. 22:

Identify the name, address, employer, and telephone number of persons having knowledge of relevant facts supporting or refuting each and every allegation in Your Answer to Terra Sul's Petition to Cancel, the relevant facts believed by You to be known by each such

person and whether that person is expected to be called to testify at trial through deposition, declaration and/or affidavit.

ANSWER:

Boi Na Braza objects to this interrogatory as it seeks information that is protected by the attorney-client privilege and/or work product doctrine. Subject to the foregoing general and specific objections, and without waiving the same, Boi Na Braza responds that it believes the following people to have relevant facts supporting our Answer to Terra Sul's Petition to Cancel. Boi Na Braza has not made any decisions as to whether it expects to call any of the following people to testify through deposition, declaration and/or affidavit.

Mr. Jonas Matheus
Boi Na Braza Holdings, LLC
1452 Hughes Road, Suite 330
Grapevine, Texas 76051
817-652-0526

Mr. Matheus is the Secretary of Boi Na Braza Holdings, LLC He is believed to be familiar with information regarding the general business operations of Boi Na Braza and its conception, development and marketing of the "BOI NA BRAZA" name for its restaurants.

Mr. Julio Matheus
Boi Na Braza Holdings, LLC
1452 Hughes Road, Suite 330
Grapevine, Texas 76051
817-652-0526

Mr. Matheus is Vice President of Boi Na Braza Holdings, LLC He is believed to be familiar with information regarding the general business operations of Boi Na Braza and its conception, development and marketing of the "BOI NA BRAZA" name for its restaurants.

Mr. Joseph Matheus
Boi Na Braza Holdings, LLC
1452 Hughes Road, Suite 330
Grapevine, Texas 76051
817-652-0526

Mr. Matheus is President of Boi Na Braza Holdings, LLC He is believed to be familiar with information regarding the general business operations of Boi Na Braza and its conception, development and marketing of the "BOI NA BRAZA" name for its restaurants.

Neimar Hensel
Boi Na Braza Cincinatti, LLC

1452 Hughes Road, Suite 330
Grapevine, Texas 76051
817-652-0526

Mr. Hensel is a manager at the Cincinatti location of Boi Na Braza. He is believed to have knowledge regarding Terra Sul's knowledge of and statements regarding Boi Na Braza.

Haroldo F. De Mello
Formerly of Boi Na Braza Atlanta, LLC
Rua Frei Mansueto #1520, Apt. 420
Fortaleza, Ceara
Brazil

Mr. De Mello is a former manager of the Atlanta location of Boi Na Braza. He is believed to have knowledge regarding Terra Sul's knowledge of and statements regarding Boi Na Braza.

INTERROGATORY NO. 23:

Identify all of the channels of trade in or through which Registrant markets and/or sells or intends to market and/or sell any product or service of Registrant under the mark "boi na braza," and for each such product or service of Registrant state the annual dollar volume of such sales in or to the United States in that channel for each year (or for each month for periods less than a year) from the date of the first such sale in each channel to the present.

ANSWER:

Boi Na Braza objects to this interrogatory as it is overly broad and unduly burdensome. Boi Na Braza further objects to this interrogatory as it seeks information that is protected by the attorney-client privilege and/or work product doctrine. Boi Na Braza further objects to this interrogatory as it seeks confidential business information. Subject to the foregoing specific and general objections, and without waiving the same, Boi Na Braza responds that it operates restaurants in Dallas, Texas and Cincinnati, Ohio, formerly in Atlanta, Georgia, and currently is the licensor of the "BOI NA BRAZA" name in Atlanta, Georgia. Boi Na Braza advertises the "BOI NA BRAZA" mark nationally and internationally through the services of Wellspring & Associates. Specifically, its advertisements are placed in American Way magazine and Delta Sky magazine, which have a circulation that covers the entire United States, as well as numerous

countries internationally. It also advertises its services through its website, located at www.boinabraza.com. Boi Na Braza also advertises in publications that are local to its various restaurants, located in Dallas, Texas and Cincinnati, Ohio. There is also advertising local to a restaurant in Atlanta, Georgia, which is a licensee under the "BOI NA BRAZA" trademark. Pursuant to Rule 33(d) of the Federal Rules of Civil Procedure, Registrant will produce business records, if any, from which the requested information can be gleaned. Discovery is continuing and Registrant reserves the right to supplement these answers after additional discovery.

INTERROGATORY NO. 24:

For all answers and responses to Terra Sul's First Requests for Admission (No. 1-xx) not unequivocally admitted, state the basis for, and identify all facts, persons with knowledge and Documents supporting Registrant's denial or partial admission of each individual Request for Admission by Terra Sul.

ANSWER:

Boi Na Braza objects to this interrogatory as it seeks information that is protected by the attorney-client privilege and/or work product doctrine. Boi Na Braza further objects to the extent that this interrogatory seeks information relating to an admission request that was objected to and, as to any such request, objects to providing such information for the same reason the request was objected to. Subject to the foregoing general and specific objections, and without waiving the same, Boi Na Braza responds as follows:

Answering to Admission Requests No. 1-9, 11-12:

Request No. 1: Denied because Boi Na Braza used the term "boi na braza" in connection with its business prior to July 1, 1999.

Request No. 2: Admitted to the extent that Boi Na Braza has never owned or operated a restaurant by the names "Boi Na Braza," "Boi Na Brasa," or "Churrascaria Boi Na Brasa" in New Jersey.

Request No. 3: Admitted to the extent that Boi Na Braza has never owned or operated a restaurant by the names "Boi Na Braza," "Boi Na Brasa," or "Churrascaria Boi Na Brasa" in New York.

Request No. 4: Admitted to the extent that Boi Na Braza has never operated a Brazilian-style churrascarian restaurant in New Jersey.

Request No. 5: Admitted to the extent that Boi Na Braza has never operated a Brazilian-style churrascarian restaurant in New York.

Request No. 6: Denied because Boi Na Braza does not have enough information regarding this request to offer a response at this time.

Request No. 7: Denied because Boi Na Braza does not have enough information regarding this request to offer a response, and therefore it denies the same.

Request No. 8: Denied because the term "braza" does not translate from Portuguese to English as "things Brazilian."

Request No. 9: Denied because Registrant does serve food from Brazil that it is imported through a third party.

Request No. 11: Denied because Boi Na Braza owns U.S. Reg. No. 2,534,608 for the phrase BOI NA BRAZA. This information is of public record.

Request No. 12: Denied because Boi Na Braza owns U.S. Reg. No. 2,534,608 for the phrase BOI NA BRAZA. This information is of public record.

INTERROGATORY NO. 25:

Identify separately for each individual Interrogatory 1-24, all persons involved in any way in the submission of information for or the preparation of answers, objections or responses to these interrogatories.

ANSWER:

Boi Na Braza objects to this interrogatory because it is overly broad, unduly burdensome and duplicative. Subject to the foregoing specific and general objections, Boi Na Braza responds that the following people were involved in the preparation of answers, objections or responses to these interrogatories:

Jonas Matheus

Julio Matheus

Joseph Matheus

Dated: 8-7-2007

Respectfully submitted,

BOI NA BRAZA HOLDINGS, LLC

By: Remy M. Davis

Herbert J. Hammond
Deborah L. Lively
Remy M. Davis
THOMPSON & KNIGHT LLP
1700 Pacific Avenue
Suite 3300
Dallas, Texas 75201
(214) 969-1781
(214) 969-1751 (Fax)

Attorneys for Registrant
Boi Na Braza Holdings, LLC

2213854.1

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing First Set of Interrogatories is being served upon Petitioner's attorney of record, Eamon J. Wall, by certified mail, return receipt requested, on this 7th day of August, 2007, in an envelope addressed to:

Eamon J. Wall
Patterson & Sheridan, LLP
595 Shrewsbury Avenue, Suite 100
Shrewsbury, New Jersey 07702

Remy M. Davis

Remy M. Davis

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

Terra Sul Corporation a/k/a Churrascaria Boi Na Brasa	§	
	§	
Petitioner,	§	
	§	
v.	§	Cancellation No. 92047056
	§	
Boi Na Braza, Inc.,	§	
	§	
Respondent.	§	

VERIFICATION

I am over the age of eighteen years. I am Secretary of Boi Na Braza Holdings, LLC ("Boi Na Braza"), registrant by assignment from Boi Na Braza, Inc., and I am competent to make this affidavit. The information set forth in the foregoing answers to Petitioner's interrogatories (1) is true and correct based on my own personal knowledge, or (2) is true and correct to the best of my knowledge, information, and belief, because it has been collected under my direction and made available to me by agents of Boi Na Braza, whom I believe to be reliable and whom I know to have personal knowledge of the facts collected. On this basis, I am authorized to make this affidavit for and on behalf of Boi Na Braza in this proceeding.

Jonas Matheus
Secretary
Boi Na Braza Holdings, LLC

2226532.1

DISCOVERY RESPONSES
2.

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

Terra Sul Corporation a/k/a Churrascaria Boi Na Brasa, Inc.,	)	
Petitioner,	)	
vs.	)	Cancellation No. 92047056
Boi Na Braza, Inc.,	)	
Registrant.	)	

OBJECTIONS AND RESPONSES TO PETITIONER TERRA SUL'S
FIRST SET OF REQUESTS FOR ADMISSIONS

To: Terra Sul Corporation a/k/a Churrascaria Boi Na Brasa, Inc., by and through its attorney of record, Eamon J. Wall, Patterson & Sheridan, LLP, 595 Shrewsbury Ave., Suite 100, Shrewsbury, New Jersey 07702.

Pursuant to Fed. R. Civ. P. 36 and the Trademark Trial and Appeal Board Manual of Procedure ("TBMP") Section 407.03, Registrant Boi Na Braza Holdings, LLC ("Boi Na Braza" or "Registrant"), registrant by assignment from Boi Na Braza, Inc., hereby submits these Objections and Responses to Petitioner Terra Sul's ("Terra Sul") First Set of Requests for Admission (No. 1-12) as follows:

General Objections

1. Boi Na Braza objects to Petitioner's Definitions and Instructions to the extent that they purport to impose a greater obligation on Boi Na Braza than is required by the Federal Rules of Civil Procedure or the TBMP.

2. Boi Na Braza objects to Petitioner's Definitions and Instructions and requests to the extent that they are vague and ambiguous.

3. Boi Na Braza objects to Petitioner's requests to the extent that they seek information protected by the attorney-client privilege and/or work product doctrine or any other applicable privilege or protection from discovery.

4. Boi Na Braza objects to Petitioner's requests to the extent that they seek information that is not within Boi Na Braza's possession, custody or control.

REQUEST FOR ADMISSIONS

REQUEST NO. 1:

Admit that Registrant's first use of the term "boi na braza" was on or after July 1, 1999.

RESPONSE:

Denied.

REQUEST NO. 2:

Admit that Registrant has never owned or operated a restaurant in the New Jersey area under the names "Boi Na Braza," "Boi Na Brasa" or "Churrascaria Boi Na Brasa."

RESPONSE:

Boi Na Braza objects that the phrase "New Jersey area" is vague. Subject to the foregoing specific and general objections, and without waiving the same, Boi Na Braza admits that it has never owned or operated a restaurant under the names "Boi Na Braza," "Boi Na Brasa," or "Churrascaria Boi Na Brasa" in New Jersey.

REQUEST NO. 3:

Admit that Registrant has never owned or operated a restaurant in the New York area under the names "Boi Na Braza," "Boi Na Brasa" or "Churrascaria Boi Na Brasa."

RESPONSE:

Boi Na Braza objects that the phrase "New York area" is vague. Subject to the foregoing specific and general objections, and without waiving the same, Boi Na Braza admits that it has never owned or operated a restaurant under the names "Boi Na Braza," "Boi Na Brasa," or "Churrascaria Boi Na Brasa" in New York.

REQUEST NO. 4:

Admit that Registrant has never operated a Brazilian-style churrascarian restaurant in the New Jersey area.

RESPONSE:

Boi Na Braza objects that the phrase "New Jersey area" is vague. Subject to the foregoing specific and general objections, and without waiving the same, Boi Na Braza admits that it has never operated a Brazilian-style churrascarian restaurant in New Jersey.

REQUEST NO. 5:

Admit that Registrant has never operated a Brazilian-style churrascarian restaurant in the New York area.

RESPONSE:

Boi Na Braza objects that the phrase "New York area" is vague. Subject to the foregoing specific and general objections, and without waiving the same, Boi Na Braza admits that it has never operated a Brazilian-style churrascarian restaurant in New York.

REQUEST NO. 6:

Admit that Petitioner used the terms "Churrascaria Boi Na Brasa" and "Boi Na Brasa" prior to Registrant's first use of the term "Boi Na Braza."

RESPONSE:

After reasonable inquiry, Boi Na Braza is unable to either admit or deny and therefore it denies this request.

REQUEST NO. 7:

Admit that Petitioner used the terms "Churrascaria Boi Na Brasa" and "Boi Na Brasa" in New Jersey prior to Boi Na Braza's registration of the term "Boi Na Braza" as a trademark.

RESPONSE:

After a reasonable inquiry, Boi Na Braza is unable to either admit or deny and therefore it denies this request.

REQUEST NO. 8:

Admit that the term "Braza" is a slang term for "things Brazilian" when translated from Portuguese to English.

RESPONSE:

Denied.

REQUEST NO. 9:

Admit that Registrant's "Boi Na Braza" restaurant(s) do not serve food or food-related products imported directly from Brazil.

RESPONSE:

Denied, except that Registrant admits that it serves food products imported from Brazil through third parties.

REQUEST NO. 10:

Admit that Registrant's "Boi Na Braza" restaurant(s) do not serve Ox or Ox-based beef directly imported from Brazil.

RESPONSE:

Admitted.

REQUEST NO. 11:

Admit that Registrant does not own any trademark or proprietary rights in the terms "churrascaria boi na brasa" and/or "boi na brasa."

RESPONSE:

Denied.

REQUEST NO. 12:

Admit that Registrant does not seek to own any trademark or proprietary rights in the terms "churrascaria boi na brasa" and/or "boi na brasa."

RESPONSE:

Denied.

Dated: 8·7·2007

Respectfully submitted,

BOI NA BRAZA HOLDINGS, LLC

By: Remy M. Davis

Herbert J. Hammond
Deborah L. Lively
Remy M. Davis
THOMPSON & KNIGHT LLP
1700 Pacific Avenue
Suite 3300
Dallas, Texas 75201
(214) 969-1781
(214) 969-1751 (Fax)

Attorneys for Registrant
Boi Na Braza Holdings, LLC

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Request for Admissions is being served upon Petitioner's attorney of record, Eamon J. Wall, by certified mail, return receipt requested, on this 7th day of August, 2007, in an envelope addressed to:

Eamon J. Wall
Patterson & Sheridan, LLP
595 Shrewsbury Avenue, Suite 100
Shrewsbury, New Jersey 07702

Remy M. Davis

Remy M. Davis

DISCOVERY RESPONSES
3.

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

Terra Sul Corporation a/k/a Churrascaria Boi Na Brasa,	)	
Petitioner,	)	
vs.	)	Cancellation No. 92047056
Boi Na Braza, Inc.,	)	
Registrant.	)	

OBJECTIONS AND ANSWERS TO PETITIONER TERRA SUL'S SECOND SET OF INTERROGATORIES (NOS. 26-50) AND REQUESTS FOR ADMISSION (NOS. 13-21) TO REGISTRANT BOI NA BRAZA

To: Terra Sul Corporation a/k/a Churrascaria Boi Na Brasa, by and through its attorney of record, Eamon J. Wall, Patterson & Sheridan, LLP, 595 Shrewsbury Ave., Suite 100, Shrewsbury, New Jersey 07702.

Pursuant to Federal Rules of Civil Procedure 33 and 36 and the Trademark Trial and Appeal Board Manual of Procedure ("TBMP") Sections 405.04 and 407.03, Registrant Boi Na Braza, Inc. ("Registrant" or "Boi Na Braza") submits these Objections and Answers to Petitioner Terra Sul's ("Terra Sul's") Second Set of Interrogatories and Requests for Admission.

General Objections

1. Boi Na Braza objects to the Definitions and Instructions and the Interrogatories and Requests for Admission to the extent that they purport to impose burdens and obligations on Boi Na Braza greater than those imposed by the Federal Rules of Civil Procedure or the TBMP.

2. Boi Na Braza objects to each of Terra Sul's Interrogatories and Requests for Admission to the extent that they seek information protected by the attorney-client privilege and/or work product doctrine, or any other applicable privilege or protection from discovery.

3. All responses and objections contained herein are based only upon information and documents which are presently available to and specifically known to Boi Na Braza after conducting a reasonable and diligent investigation.

4. Each and all of these General Objections are hereinafter incorporated by reference in response to the Interrogatories and Requests for Admission below.

PETITIONER'S SECOND SET OF DISCOVERY REQUESTS

REQUEST FOR ADMISSION NO. 13:

Admit that Registrant's first use of the term "boi na braza" was on or after June 24, 1999.

ANSWER:

Denied.

INTERROGATORY NO. 26:

If your answer to Admission No. 13 is not unequivocally "admitted," identify all evidence supporting any use of the term "boi na braza" by Registrant prior to June 24, 1999.

ANSWER:

Boi Na Braza objects to this interrogatory as it seeks information that is protected by the attorney-client privilege and/or work product doctrine. Subject to the foregoing specific and general objections, and without waiving the same, Boi Na Braza responds that in the second half of 1998, Jonas Matheus, Julio Matheus and Joseph Matheus (the "Matheus Brothers") researched and chose this name for their restaurant business and purchased land to build their first restaurant.

REQUEST FOR ADMISSION NO. 14:

Admit that Registrant's first use of the term "boi na braza" was on or after June 1, 1999.

ANSWER:

Denied.

INTERROGATORY NO. 27:

If your answer to Admission No. 14 is not unequivocally "admitted," identify all evidence supporting any use of the term "boi na braza" by Registrant prior to June 1, 1999.

ANSWER:

Boi Na Braza objects to this interrogatory as it seeks information that is proteted by the attorney-client privilege and/or work product doctrine. Subject to the foregoing specific and general objections, and without waiving the same, Boi Na Braza responds that in the second half of 1998, the Matheus Brothers researched and chose this name for their restaurant business and purchased land to build their first restaurant.

REQUEST FOR ADMISSION NO. 15:

Admit that the term "boi na braza" was first used in connection with Registrant's goods and services on July 19, 1999.

ANSWER:

Denied.

REQUEST FOR ADMISSION NO. 16:

Admit that the term "boi na braza" was first used in interstate commerce in connection with Registrant's goods and services on September 11, 2000.

ANSWER:

Denied.

INTERROGATORY NO. 28:

Identify the relevant and typical consumer of Registrant's goods and services.

ANSWER:

Boi Na Braza objects to this interrogatory as it seeks information that is protected by the attorney-client privilege and/or work product doctrine. Boi Na Braza further objects that the phrase "relevant and typical consumer" is vague and ambiguous. Subject to the foregoing general and specific objections, and without waiving the same, Boi Na Braza responds that members of the United States general public patronize its restaurant.

INTERROGATORY NO. 29:

In conjunction with your response to Interrogatory No. 28, identify and describe what the term "braza" means to the relevant and typical consumer of Registrant's goods and services.

ANSWER:

Boi Na Braza objects to this interrogatory as it implies that the relevant consumer is Portuguese-speaking and able to translate the phrase "boi na braza" into English. Boi Na Braza further objects to this interrogatory as it seeks information which Registrant has no way of knowing. Subject to the foregoing general and specific objections, Boi Na Braza maintains that members of the United States general public patronize its restaurant who, with rare exceptions, are not likely to speak Portuguese. Boi Na Braza therefore responds that the term "braza" likely has no meaning to members of the United States general public who patronize its restaurant.

REQUEST FOR ADMISSION NO. 17:

Admit that the ordinary consumer of Registrant's goods and services may understand the term "braza" to mean "things Brazilian" or relating to Brazil.

ANSWER:

Denied.

INTERROGATORY NO. 30:

If your answer to Admission No. 17 is not unequivocally "admitted," state the basis for Registrant's answer to Admission No. 17 and identify any and all evidence supporting

Registrant's contention that the ordinary consumer would not understand the term "braza" to mean "things Brazilian" or relating to Brazil.

ANSWER:

Boi na Braza objects to this interrogatory as the term "ordinary consumer" is vague and ambiguous. Subject to the foregoing specific and general objections, and without waiving the same, Boi Na Braza responds that the members of the United States general public who patronize Registrant's restaurants are generally not Portuguese-speaking and therefore do not understand the term "braza" to have any meaning, nor do they understand it to mean "things Brazilian" or relating to Brazil. Furthermore, the Matheus Brothers are each founders of Boi Na Braza and each is a native Brazilian and a fluent speaker of the Portuguese language. As fluent speakers of the language, the Matheus Brothers do not understand the translation of the word "braza" from Portuguese to English to be "things Brazilian" or relating to Brazil. Moreover, Maria A. Laporte, a professional certified translator, member of the American Translators Association, has certified that the translation of "Boi Na Braza," from Portuguese to English, is "Ox in ember" or "Ox on hot coal." According to Ms. Laporte, the correct spelling of the word "Braza" in Portuguese is with an "s" and not a "z."

REQUEST FOR ADMISSION NO. 18:

Admit that the domain name <boinabraza.com> was originally registered on June 26, 2000.

ANSWER:

Admitted.

INTERROGATORY NO. 31:

Describe in detail, and identify all evidence supporting your answer, all of the facts and circumstances concerning Registrant's adoption of the term "boi na braza" as a potential trademark and all the reasons for the adoption of "boi na braza" as a trademark for Registrant's goods or services.

ANSWER:

Boi Na Braza objects to this interrogatory as it seeks information that is protected by the attorney-client privilege and/or work doctrine. Further, Boi Na Braza objects to this interrogatory on the basis that it has been sufficiently addressed in Boi Na Braza's Objections and Answers to Petitioner Terra Sul's First Set of Interrogatories. Subject to the foregoing specific and general objections and without waiving the same, Boi Na Braza responds that the term "boi na braza" is a well known term that is used often in Brazil. Based on their knowledge of term from its use in Brazil, the Matheus Brothers chose this name for their restaurant business and began using this name for the business as such at least as early as July 1, 1999. The Matheus Brothers changed the "s" to a "z" to give the name more distinctiveness.

INTERROGATORY NO. 32:

Identify all types and forms of marketing activity or advertising in commerce by Registrant using the mark "boi na braza" in conjunction with Registrant's goods and services from 1999 to the present time.

ANSWER:

Boi Na Braza objects to this interrogatory as it is overly broad and unduly burdensome. Further, Boi Na Braza objects to this interrogatory on the basis that it has been sufficiently addressed in Boi Na Braza's Objections and Answers to Petitioner Terra Sul's First Set of Interrogatories. Subject to the foregoing specific and general objections and without waiving the same, Boi Na Braza responds that it has marketed and advertised in numerous magazines and publications that are circulated throughout the entire United States and internationally, as well as on its website, located at ww.boinabraza.com. Boi Na Braza has long engaged the services of Wellspring & Associates to handle the majority of such marketing and advertising efforts on its behalf. Specifically, its advertisements are placed in American Way magazine and Delta Sky magazine, as well as in publications that are local to Boi Na Braza's Dallas, Texas and Cincinnati, Ohio restaurant locations. There is also advertising local to a restaurant in Atlanta, Georgia, which is a licensee of the "BOI NA BRAZA" trademark.

INTERROGATORY NO. 33:

For each of the types and forms of advertising identified in your answer to Interrogatory No. 32, identify the date, time and place of each marketing activity or advertisement.

ANSWER:

Boi Na Braza objects to this interrogatory as it is overly broad and unduly burdensome. Further, Boi Na Braza objects to this interrogatory on the basis that it has been sufficiently addressed in Boi Na Braza's Objections and Answers to Petitioner Terra Sul's First Set of Interrogatories and Boi Na Braza's Objections and Answer to Petitioner's First Set of Requests for Production. Subject to the foregoing specific and general objections, and without waiving the same, Boi Na Braza responds that these advertisements have been continuous and ongoing since at least as early as July 1, 1999 and have been principally conducted through the services of Wellspring & Associates. Boi Na Braza directs Petitioner's attention to documents already produced pursuant to Petitioner Terra Sul's Request for Production No. 7.

INTERROGATORY NO. 34:

For each of the types and forms of advertising identified in your answer to Interrogatory No. 32, identify the amount of money spent by Registrant on each marketing activity or advertisement.

ANSWER:

Boi Na Braza objects to this interrogatory as it is overly broad and unduly burdensome. Further, Boi Na Braza objects to this interrogatory on the basis that it has been sufficiently addressed in Boi Na Braza's Objections and Answers to Petitioner Terra Sul's First Set of Interrogatories and Boi Na Braza's Objections and Answer to Petitioner's First Set of Requests for Production. Subject to the foregoing specific and general objections, and without waiving the same, Boi Na Braza responds that it has spent in excess of three million U.S. dollars ($3,000,000.00 USD) in advertising its "BOI NA BRAZA" mark through the various means of advertisements. Boi Na Braza directs Petitioner's attention to documents already produced pursuant to Petitioner Terra Sul's Request for Production No. 7.

REQUEST FOR ADMISSION NO. 19:

Admit that there is no evidence of any actual confusion by the relevant public concerning Petitioner's use of the terms "Churrascaria Boi Na Brasa" or "Boi Na Brasa" in relation to Registrant's mark "boi na braza."

ANSWER:

Denied.

INTERROGATORY NO. 35:

If your answer to Admission No. 19 is not unequivocally "admitted," identify all instances of alleged actual confusion by the relevant public and identify all evidence in support thereof.

ANSWER:

Boi Na Braza objects to this interrogatory as it seeks information that is subject to the attorney-client privilege and/or work product doctrine. Subject to the foregoing specific and general objections and without waiving the same, Boi Na Braza responds that on several occasions, members of its staff at the Atlanta, Georgia and Dallas, Texas locations were approached by consumers claiming to have dined at Boi Na Braza's restaurant in New Jersey. When the staff informed the consumers that there was no related restaurant in New Jersey, some consumers claimed that staff from the New Jersey restaurant claimed that there was a relationship between the restaurants.

INTERROGATORY NO. 36:

If your answer to Admission No. 19 is not unequivocally "admitted," identify each of the members of the relevant public that are allegedly confused, when the alleged confusion occurred, and where the alleged confusion occurred.

ANSWER:

Boi Na Braza objects to this interrogatory as it seeks information that is subject to the attorney-client privilege and/or work product doctrine. Subject to the foregoing specific and general objections and without waiving the same, Boi Na Braza responds that the members of the general public that were confused were not regular customers and names were not recorded. The instances of confusion occurred between the years of 2003 and 2006 at the Atlanta, Georgia and Dallas, Texas locations of the Boi Na Braza restaurants.

INTERROGATORY NO. 37:

Identify the physical location of all current and/or previously-existing restaurants or other entities associated with or identified by Registrant's mark.

ANSWER:

Boi Na Braza
4025 William D. Tate
Grapevine, Texas 76051

Boi Na Braza

441 Vine Street
Cincinnati, Ohio 45202

Boi Na Braza
3149 E Shadowlawn Ave NE
Atlanta, Georgia 30305-2405

REQUEST FOR ADMISSION NO. 20:

Admit that Registrant never owned, operated or controlled any restaurant or other entity associated with or identified by Registrant's mark "boi na braza" in the State of New Jersey.

ANSWER:

Admitted.

INTERROGATORY NO. 38:

If your answer to Admission No. 20 is not unequivocally "admitted," identify each restaurant or other entity associated with or identified by Registrant's mark "boi na braza" in the State of New Jersey.

ANSWER:

REQUEST FOR ADMISSION NO. 21:

Admit that Registrant has never owned, operated or controlled any restaurant or other entity associated with or identified by Registrant's mark "boi na braza" in the State of New York.

ANSWER:

Admitted.

INTERROGATORY NO. 39:

If your answer to Admission No. 21 was not unequivocally "admitted," identify each restaurant or other entity associated with or identified by Registrant's mark "boi na braza" in the State of New York.

ANSWER:

INTERROGATORY NO. 40:

Identify any current or previously-existing plans or intentions by Registrant to open or operate a restaurant in New Jersey using the "boi na braza" mark, and identify all evidence supporting any such plans or intentions.

ANSWER:

Subject to the foregoing general objections, and without waiving the same, Boi Na Braza responds that it has no definite plans or intentions to open or operate a restaurant in New Jersey using the "boi na braza" mark.

INTERROGATORY NO. 41:

Identify any current or previously-existing plans or intentions by Registrant to open or operate a restaurant in New York using the "boi na braza" mark, and identify all evidence supporting any such plans or intentions.

ANSWER:

Subject to the foregoing general objections, and without waiving the same, Boi Na Braza responds that it intends to open a restaurant in New York under the "boi na braza" mark in the future.

INTERROGATORY NO. 42:

Identify any and all marketing activity or advertisements directed to the State of New Jersey by Registrant related to Registrant's restaurants or related entities and using the mark "boi na braza" in connection therewith.

ANSWER:

Boi Na Braza objects to this interrogatory as it is overly broad and unduly burdensome. Subject to the foregoing specific and general objections, and without waiving the same, Boi Na Braza responds that its advertising is both national and global in nature. Specifically, its advertisements are placed in American Way magazine and Delta Sky magazine, which have a circulation that covers the entire United States. Its website, located at www.boinabraza.com, may be viewed around the world.

INTERROGATORY NO. 43:

Identify any and all marketing activity or advertisements directed to the State of New York by Registrant relating to Registrant's restaurants or related entities and using the mark "boi na braza" in connection therewith.

ANSWER:

Boi Na Braza objects to this interrogatory as it is overly broad and unduly burdensome. Subject to the foregoing specific and general objections, and without waiving the same, Boi Na Braza responds that is advertising is both national and global in nature. Specifically, its advertisements are placed in American Way magazine and Delta Sky magazine, which have a circulation that covers the entire United States. Its website, located at www.boinabraza.com, may be viewed around the world.

INTERROGATORY NO. 44:

Identify all evidence supporting Registrant's contention that "Boi Na Braza believes that Terra Sul was not only aware of its restaurant services long before Boi Na Braza initiated any contact with Mr. Farid Saleh but in fact implied a false association with Boi Na Braza's organization" as stated in Registrant's Response to Interrogatory Nos. 8-12, dated August 7, 2007.

ANSWER:

Boi Na Braza objects to this interrogatory as it seeks information that is protected by the attorney-client privilege and/or work product doctrines. Subject to the foregoing specific and general objections, and without waiving the same, Boi Na Braza directs Petitioner's attention to its Answer to Interrogatory Nos. 35 and 36 above. Boi Na Braza further responds that based on the comments of consumers that have approached the staff of the Atlanta, Georgia and Dallas, Texas Boi Na Braza restaurant locations as outlined above as early as 2003, Boi Na Braza believes that Terra Sul was aware of its restaurant services long before Boi Na Braza initiated any contact with Mr. Farid Saleh and in fact implied a false association with Boi Na Braza's organization.

INTERROGATORY NO. 45:

If your answer to any of Admission Nos. 13-21 is not unequivocally "admitted," state the basis for, and identify all facts and evidence, supporting your denial of each individual Request for Admission.

ANSWER:

Boi Na Braza objects to this interrogatory as it seeks information that is protected by that attorney-client privilege and/or work product doctrine. Boi Na Braza further objects to the extent that this interrogatory seeks information relating to an admission request was objected to and, as to any such request, objects to providing such information for the same reason the request was objected to. Subject to the foregoing specific and general objections, and without waiving the same, Boi Na Braza responds as follows:

Answering to Admission Requests No. 13-17, 19:

Request No. 13: Denied because Registrant's first use of the term "boi na braza" was prior to June 24, 1999.

Request No. 14: Denied because Registrant's first use of the term "boi na braza" was prior June 1, 1999.

Request No. 15: Denied because the term "boi na braza" was first used in connection with Boi Na Braza's goods and services at least as early as July 19, 1999.

Request No. 16: Denied because the term "boi na braza" was first used in interstate commerce in connection with Boi Na Braza's goods and services prior to September 11, 2000.

Request No. 17: Denied because the ordinary consumer of Boi Na Braza's goods and services does not understand the term "braza" to mean "things Brazilian" or relating to Brazil.

Request No. 19: Denied because there have been instances of actual consumer confusion.

INTERROGATORY NO. 46:

If you contend that you have any trademark rights or proprietary interests in the terms "churrascaria boi na brasa" and/or "boi na brasa," state the basis for your contention and identify all evidence in support thereof.

ANSWER:

Subject to the foregoing general objections, and without waiving the same, Boi Na Braza responds that it is the owner of U.S. Registration No. 2,534,608 for the mark BOI NA BRAZA in connection with restaurant services. The term "churrascaria" is purely descriptive of the services and the term "boi na brasa" is a phonetic equivalent to the mark BOI NA BRAZA. The registration is prima facie evidence of the validity of the mark, of the registration of the mark, of Boi Na Braza's ownership of the mark and of Boi Na Braza's exclusive right to use the mark in commerce on or in connection with the services specified in the registration.

INTERROGATORY NO. 47:

If you seek to own any trademark rights or proprietary interests in the terms "churrascaria boi na brasa" and/or "boi na brasa," identify all previous or planned attempts to acquire and/or register such rights.

ANSWER:

Boi Na Braza objects to this interrogatory as it seeks information that is subject to the attorney-client privilege and/or work product doctrine. Subject to the foregoing specific and general objections, and without waiving the same, Boi Na Braza responds that through is ownership of Registration No. 2,534,608 for the mark BOI NA BRAZA, it owns trademark rights or proprietary interests in the terms "churrascaria boi na brasa" and/or "boi na brasa" given the purely descriptive nature of the word "churrascaria" and the phonetic equivalence of the term "boi na brasa" and Boi Na Braza's registration for BOI NA BRAZA.

INTERROGATORY NO. 48:

If you contend that Petitioner is improperly using the terms "churrascaria boi na brasa" and/or "boi na brasa" to identify its restaurant business, state the basis of your contention and identify all evidence in support thereof.

ANSWER:

Boi Na Braza objects to this interrogatory as it seeks information that is subject to the attorney-client privilege and/or work product doctrine. Subject to the foregoing specific and general objections, and without waiving the same, Boi Na Braza responds that it is the owner of U.S. Reg. No. 2,534,608 for the mark BOI NA BRAZA. The registration is prima facie evidence of the validity of the mark, of the registration of the mark, of Boi Na Braza's ownership of the mark and of Boi Na Braza's exclusive right to use the mark in commerce on or in connection with the services specified in the registration. Although Petitioner claims rights in a confusingly similar mark, Petitioner has yet to establish ownership of prior rights in such mark. Further, Boi Na Braza is of the belief that Petitioner has claimed an association with Boi Na Braza to members of the general public, when in fact no such association exists.

INTERROGATORY NO. 49:

If you contend that Registrant has priority of use or superior rights over Petitioner to use the terms "churrascaria boi na brasa" and/or "boi na brasa" in the State of New Jersey, state the basis for your contention and identify all evidence in support thereof.

ANSWER:

Boi Na Braza objects to this interrogatory as it seeks information that is subject to the attorney-client privilege and/or work product doctrine. Subject to the foregoing specific and general objections, and without waiving the same, Boi Na Braza responds that it is the owner of U.S. Reg. No. 2,534,608 for the mark BOI NA BRAZA. The registration is prima facie evidence of the validity of the mark, of the registration of the mark, of Boi Na Braza's ownership of the mark and of Boi Na Braza's exclusive right to use the mark in commerce on or in connection with the services specified in the registration. Although Petitioner claims rights in a confusingly similar mark, Petitioner has yet to establish ownership of prior rights in such mark.

INTERROGATORY NO. 50:

If you contend that Registrant has priority of use or superior rights over Petitioner to use the terms "churrascaria boi na brasa" and/or "boi na brasa" in the State of New York, state the basis of your contention and identify all evidence in support thereof.

ANSWER:

Boi Na Braza objects to this interrogatory as it seeks information that is subject to the attorney-client privilege and/or work product doctrine. Subject to the foregoing specific and general objections, and without waiving the same, Boi Na Braza responds that it is the owner of U.S. Reg. No. 2,534,608 for the mark BOI NA BRAZA. The registration is prima facie evidence of the validity of the mark, of the registration of the mark, of Boi Na Braza's ownership of the mark and of Boi Na Braza's exclusive right to use the mark in commerce on or in connection with the services specified in the registration. Although Petitioner claims rights in a confusingly similar mark, Petitioner has yet to establish ownership of prior rights in such mark.

Dated: June 13, 2008

Respectfully submitted,

BOI NA BRAZA INC.

By: Remy M. Davis

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Attorneys for Boi Na Braza
Registrant

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Response to Petitioner Terra Sul's Second Set of Interrogatories and Requests for Admission is being served upon Petitioner's attorney of record, Eamon J. Wall, by certified mail, return receipt requested, on this 13th day of June, 2008, in an envelope addressed to:

Eamon J. Wall
Patterson & Sheridan, LLP
595 Shrewsbury Avenue, Suite 100
Shrewsbury, New Jersey 07702

Remy M. Davis
Remy M. Davis

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

Terra Sul Corporation a/k/a Churrascaria Boi Na Brasa	§	
Petitioner,	§	
v.	§	Cancellation No. 92047056
Boi Na Braza, Inc.,	§	
Respondent.	§	

VERIFICATION

I am over the age of eighteen years. I am Secretary of Registrant Boi Na Braza, Inc. ("Boi Na Braza"), and I am competent to make this affidavit. The information set forth in the foregoing answers to Petitioner's interrogatories (1) is true and correct based on my own personal knowledge, or (2) is true and correct to the best of my knowledge, information, and belief, because it has been collected under my direction and made available to me by agents of Boi Na Braza, whom I believe to be reliable and whom I know to have personal knowledge of the facts collected. On this basis, I am authorized to make this affidavit for and on behalf of Boi Na Braza in this proceeding.

Jonas Matheus
Secretary
Boi Na Braza, Inc.

OFFICIAL RECORDS
1.

RJ-CH

The State of Texas

Secretary of State

CERTIFICATE OF INCORPORATION

OF

BOI NA BRAZA, INC.
CHARTER NUMBER 01540801

THE UNDERSIGNED, AS SECRETARY OF STATE OF THE STATE OF TEXAS, HEREBY CERTIFIES THAT THE ATTACHED ARTICLES OF INCORPORATION FOR THE ABOVE NAMED CORPORATION HAVE BEEN RECEIVED IN THIS OFFICE AND ARE FOUND TO CONFORM TO LAW.

ACCORDINGLY, THE UNDERSIGNED, AS SECRETARY OF STATE, AND BY VIRTUE OF THE AUTHORITY VESTED IN THE SECRETARY BY LAW, HEREBY ISSUES THIS CERTIFICATE OF INCORPORATION.

ISSUANCE OF THIS CERTIFICATE OF INCORPORATION DOES NOT AUTHORIZE THE USE OF A CORPORATE NAME IN THIS STATE IN VIOLATION OF THE RIGHTS OF ANOTHER UNDER THE FEDERAL TRADEMARK ACT OF 1946, THE TEXAS TRADEMARK LAW, THE ASSUMED BUSINESS OR PROFESSIONAL NAME ACT OR THE COMMON LAW.

DATED JUNE 24, 1999

EFFECTIVE JUNE 24, 1999

Elton Bomer, Secretary of State