

ESTTA Tracking number: **ESTTA214743**

Filing date: **05/30/2008**

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

Proceeding	92048480
Party	Plaintiff Sinbad Grand Cafe, LLC
Correspondence Address	Natu J. Patel The Patel Law Firm, P.C. 2532 Dupont Drive Irvine, CA 92612 UNITED STATES NPatel@thePatelLawFirm.com
Submission	Motion to Compel Discovery
Filer's Name	Natu Patel
Filer's e-mail	NPatel@thePatelLawFirm.com
Signature	/natupatel/
Date	05/30/2008
Attachments	Motion To Compel RFD Responses.pdf ( 34 pages )(5673916 bytes ) NPatel Decl.pdf ( 74 pages )(4159935 bytes )



The Board issued an order on May 29, 2008 suspending the proceedings pending the Board's disposition of the Petitioner's Motion to Compel Supplemental Responses from Registrant to: Petitioner's Special Interrogatories – Set One ("Motion to Compel SI"), filed on May 20, 2008. Petitioner Sinbad respectfully requests the Board to accept the instant Motion to Compel RFD since it is germane to the Motion to Compel SI for the following reasons:

- 1) Several of the documents requested through the RFD are based upon Registrant's responses to the special interrogatories;
- 2) The issues raised in the Motion to Compel RFD are also germane to the issue of Registrant's continued failure to adequately comply with or respond to discovery requests propounded by Petitioner before the filing of the Motion to Compel SI, and relies upon the same correspondence to establish such failure to comply or respond;
- 3) Any decision by the Board as to the Motion to Compel SI will also dispose of issues related to Motion to Compel RFD since issues in both motions are similar or identical; and
- 4) Any decision in favor of Petitioner in the Motion to Compel SI will necessitate the production of documents which Respondent has failed to address and produce so far.

The Motion to Compel RFD is based upon this Notice, the attached Memorandum of Points and Authorities, the Statement of Disputed Items, the Declaration of Natu J. Patel, the pleadings, records and files in this action, and upon such other and further oral and documentary evidence as requested by the Trademark Trial and Appeal Board ("Board" or "TTAB").

Dated: May 30, 2008

Respectfully Submitted,  
THE PATEL LAW FIRM, P.C.

By:   
\_\_\_\_\_  
Natu J. Patel  
Attorney for Petitioner,  
Sinbad Grand Cafe, LLC

## **POINTS AND AUTHORITIES**

### **BRIEF STATEMENT OF SALIENT FACTS**

Petitioner Sinbad is a Michigan Limited Liability Company which believes it will be harmed by the continued registration of the Trademark “AL-FAKHER” (Reg. No. 2,782,619) (the “Trademark”). On November 21, 2007, Petitioner Sinbad initiated a Petition for Cancellation (“Petition”) against Registrant, which is currently before the Board. On January 9, 2008, Registrant filed its belated answer to the Petition. (“Answer”). Parties began discovery soon thereafter pursuant to the Board’s order. To that extent, Sinbad propounded Petitioner’s First Set of Requests for Production of Documents and Things and Petitioner’s Special Interrogatories – Set One, which were not adequately responded to by Registrant. Despite the Parties’ numerous meet and confer attempts, Registrant has failed to provide supplemental responses and document production, thus necessitating filing of the Motion to Compel SI and the current Motion to Compel RFD.

### **DISCOVERY DISPUTE**

Sinbad propounded its First Set of Requests for Production of Documents and Things (“RFD”) to Registrant on February 5, 2008. See ¶1 to Declaration of Natu J. Patel (“Patel Decl.”). On March 14, 2008, more than 35 days after the RFD was propounded and at which point any response was tardy, Registrant sent a response to the RFD (the “Response”) containing many deficiencies. (Patel Decl. ¶2) On April 3, 2008, Petitioner sent Registrant a detailed and thorough meet and confer letter to illustrate the Responses’ deficiencies so that they could work together to resolve the issues. Petitioner clarified the requests and even apprised Registrant of the relevant case law. (Patel Decl.

¶3) On April 16, 2008, Petitioner reminded Registrant that the response to the RFD was due on April 15, 2008 and was thus late. (Patel Decl. ¶4) In response, on April 18, 2008 Registrant promised to supplement the document production by May 2, 2008. (Patel Decl. ¶5) On May 6, 2008, having received no supplemental documents, Petitioner sent yet another letter to Registrant requesting document production by May 9, 2008. (Patel Decl. ¶6) On May 8, 2008, Registrant responded by requesting an additional extension of time until May 12, 2008, to which Petitioner agreed in the spirit of cooperation. (Patel Decl. ¶7) On May 13, 2008, having received no supplemental documents, Petitioner once again notified Registrant that Registrant's conduct was very disappointing and that Petitioner was going to proceed with a motion to compel responses. (Patel Decl. ¶8) Later that day, Registrant indicated that they would be able to send unverified documents on that same day and verified documents by May 16, 2008. Petitioner agreed to the May 16, 2008 extension for the verified documents as requested by the Registration. (Patel Decl. ¶9) However, to this date, despite Petitioner's numerous meet and confer attempts, Registrant has not provided the supplemental responses or documents. (Patel Decl. ¶¶10-13) Registrant has consistently failed to timely provide verified supplemental responses despite Petitioner's repeated good-faith deadline extensions. Petitioner has received nothing but excuses from Registrant and now respectfully requests that the Board compel Registrant to supplement its responses.

The dispute is with reference to Document Requests nos. 1, 2, 4, 8 – 13, 15 – 31, 33 – 50 (collectively, the "Disputed Items"). These Disputed Items request information relevant to support Petitioner's claims. As seen from the table below, Registrant's responses are grossly inadequate and fail to meet the TTAB rules and FRCP guidelines:

**RESPONSE TO REQUEST FOR PRODUCTION OF DOCUMENTS**

<b>RFD</b>	<b>Requests Information Relating To</b>	<b>Deficient Response by Registrant</b>
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1	The organization, formation, ownership, and incorporation of Registrant.	Objection that the terms “organization”, “formation”, and “ownership” are vague and ambiguous. Without waiving these objections, Registrant responds by attaching a copy of Al-Fakher’s company registration certificate and corporate documents.
2	Identification of the names of all persons charged with the creation, selection, or use of the Trademark from 2001 to the present.	Petitioner responds by attaching copies of documents relating to the first use of the Trademark in 1999.
4	Registrant’s use of the Trademark in connection with any products offered for sale or sold in the United States by Registrant.	Petitioner responds by providing trademark registrations from the United State Trademark Offices.
8	Depictions or illustrations of any markings of the Trademark on or in connection with any advertising or promotion.	Petitioner responds by attaching documents that comprise, depict, or illustrate any marking by Registrant of the Trademark on or in connection with any advertising.
9	One sample of each advertisement or promotional material in which the Trademark appears.	“Please find the attached advertisements”
10	The conception of any part of the subject matter of the Trademark	“Please find the documents attached”
11	The selection, design, adoption, proposed use, decision to use, and first use of the Trademark by Registrant.	“Please find the documents attached”
12	One sample of each logo, design, hand tag, packaging, font type, and font size in which the Trademark is being used or is intended to be used by Registrant.	“Please find the documents attached”
13	The results of any search, investigation, studies, analyses, reports or opinions on the enforceability, registerability, and availability of the subject matter claim	“Please find the documents attached”

<b>RESPONSE TO REQUEST FOR PRODUCTION OF DOCUMENTS</b>		
<b>RFD</b>	<b>Requests Information Relating To</b>	<b>Deficient Response by Registrant</b>

	of the Trademark.	
15	Documents authored by or on behalf of Registrant or the named creator of the Trademark that refers or relates to the subject matter disclosed in the Trademark.	"Please find the documents attached"
16	Identify each product which is being used or is intended to be used by Registrant in which the Trademark appears.	"Please find the document attached"
17	Produce one copy of all media advertising, including magazine, newspaper, radio and television commercials as well as press releases prepared by Registrant, whether or not released, which contain the Trademark.	"Please find the document attached"
18, 19	Any relationship or association between Sinbad and Registrant, and documents which refer to Sinbad.	There was a relationship between Sierra Network and Sinbad. Please find attached Doc. 15.
20	Research, reports, surveys, or studies conducted by Registrant regarding consumer's perception of the Trademark.	"Discovery is ongoing and continuing"
21	Channels of trade in which Registrant's products bearing the Trademark are sold, including the geographic area by state or territory.	"Please find attached Doc. 17."
22	Correspondence between Registrant and any person or entity regarding cease and desist demands in connection with the Trademark.	"Please find attached Doc. 14"
23	The transfer of ownership of the Trademark from Bassam Hamade to Nadine Hamade on or about November 11, 2004.	"Attached herewith please find the abstract of assignment"

<b>RESPONSE TO REQUEST FOR PRODUCTION OF DOCUMENTS</b>		
<b>RFD</b>	<b>Requests Information Relating To</b>	<b>Deficient Response by Registrant</b>
24	The sale of Registrant's products within the United States by Bassam Hamade from 2001 to 2004 which bears the Trademark.	Objection on the grounds that the request is irrelevant.
25	The sale of Registrant's products within the United States by Nadine Hamade from 2004 to 2006 which bears the Trademark.	Objection on the grounds that the request is irrelevant.
26	Transfer of ownership of the Trademark from Nadine Hamade to Omar Khaled Sarmini.	"Discovery is ongoing and continuing"
27	Sales of the Registrant's products by Omar Khaled Sarmini in the United States from 2005 to 2006 which bears the Trademark.	"Discovery is ongoing and continuing"
28	Transfer of ownership from Omar Khaled Sarmini to Registrant on or about August 30, 2006.	Objection as overbroad in scope as to time. Objection on basis of privilege. Plaintiff responds by attaching Documents 18 and 19.
29	Sales of Registrant's products in the United States from 2001 to the present.	Objection as overbroad in scope as to time. Objection on basis of privilege.
30	Licenses, agreements, contracts, and/or arrangements between Registrant and any third party which relate to the Trademark.	Objection as overbroad in scope as to time. Objection on basis of privilege. Plaintiff responds by attaching Document 20.
31	Litigation initiated by Registrant against any third-party in the United States which relates to the Trademark.	Objection as overbroad in scope as to time. Objection on basis of privilege.
33	Permission, authorization, or license by Registrant, or by any person acting for or on its behalf, to use "Al-Fakher" as an element of a trademark, service mark, internet domain name, or trade name.	"Discovery is ongoing and continuing"

<b>RESPONSE TO REQUEST FOR PRODUCTION OF DOCUMENTS</b>		
<b>RFD</b>	<b>Requests Information Relating To</b>	<b>Deficient Response by Registrant</b>

34	Documents to support Registrant's denial of paragraph 8 of the Petition in the Answer.	"Please find attached Doc. 12."
35	Documents to support Registrant's denial of paragraph 9 of the Petition in the Answer.	"Please find attached Doc. 13."
36	Documents to support Registrant's denial of paragraph 10 of the Petition in the Answer.	"Please find attached Doc. 13."
37	Documents to support Registrant's denial of paragraph 12 of the Petition in the Answer.	"Please find attached Doc. 12."
38	Documents to support Registrant's denial of paragraph 13 of the Petition in the Answer.	"Please find attached Doc. 12."
39	Documents to support Registrant's denial of paragraph 14 of the Petition in the Answer.	"Please find attached Doc. 12."
40	Documents to support Registrant's denial of paragraph 16 of the Petition in the Answer.	"Discovery is ongoing and continuing."
41	Documents to support Registrant's denial of paragraph 17 of the Petition in the Answer.	"Discovery is ongoing and continuing."
42	Documents to support Registrant's denial of paragraph 18 of the Petition in the Answer.	"Please find attached Doc. 12."
43	Documents to support Registrant's denial of paragraph 19 of the Petition in the Answer.	"Discovery is ongoing and continuing."
44	Documents to support Registrant's denial of paragraph 23 of the Petition in the Answer.	"Please find attached Doc. 2 & Doc. 3."

<b>RESPONSE TO REQUEST FOR PRODUCTION OF DOCUMENTS</b>		
<b>RFD</b>	<b>Requests Information Relating To</b>	<b>Deficient Response by Registrant</b>

45	Documents to support Registrant's denial of paragraph 24 of the Petition in the Answer.	"Please find attached Doc. 2 & Doc. 3."
46	Documents to support Registrant's denial of paragraph 25 of the Petition in the Answer.	"Discovery is ongoing and continuing."
47	Documents to support Registrant's denial of paragraph 26 of the Petition in the Answer.	"Discovery is ongoing and continuing."
48	Documents to support Registrant's denial of paragraph 28 of the Petition in the Answer.	"Discovery is ongoing and continuing."
49	Documents to support Registrant's denial of paragraph 29 of the Petition in the Answer.	"Discovery is ongoing and continuing."
50	Documents identified in Response to Special Interrogatories 8(d), 13, 18, and 24.	"Discovery is ongoing and continuing."

## INTRODUCTION

Registrant's responses are grossly inadequate for various reasons outlined hereunder in this motion. Based on those reasons, Petitioner respectfully requests the Board to compel Registrant to provide supplemental responses and document production. First of all, Registrant has failed to properly answer each of the Disputed Items. Second, Registrant made many irrelevant, meritless objections to the Disputed Items. Third, as summarized for the Board's convenience in Appendix A, the requested documents are clearly discoverable. Finally, Petitioner respectfully requests the Board to compel Registrant to comply with the TTAB rules and issue sanctions for Registrant's repeated failures to cooperate and to meet its discovery obligations.

## ARGUMENT

This motion is to compel Registrant to supplement its responses to the Disputed Items since it has failed to adequately respond and provide relevant documents requested by Petitioner.

During the discovery period in an inter partes proceeding before the Board, any party may serve requests for production of documents and things on any other party. Trademark Trial and Appeal Board Manual of Procedure ("TBMP") § 406.01. The scope of a request for production, in an inter partes proceeding before the Board, is governed by Federal Rule of Civil Procedure ("FRCP") 34(a), which in turn refers to FRCP 26(b). TBMP § 406.02.

FRCP 34(a) states:

Any party may serve on any other party a request (1) to produce and permit the party making the request, or someone acting on the requestor's behalf, to inspect and copy, any designated documents (including writings, drawings, graphs, charts, photographs, phonorecords, and other data compilations from which

information can be obtained, translated, if necessary, by the Registrant through detection devices into reasonably usable form), or to inspect and copy, test, or sample any tangible things which constitute or contain matters within the scope of Rule 26(b) and which are in the possession, custody or control of the party upon whom the request is served; or (2) to permit entry upon designated land or other property in the possession or control of the party upon whom the request is served for the purpose of inspection and measuring, surveying, photographing, testing, or sampling the property or any designated object or operation thereon, within the scope of Rule 26(b).

In inter partes proceedings before the TTAB, a motion to compel discovery procedure is available in the event of a failure to provide discovery requested by means of requests for production of documents and things. TBMP §§523.01, 411.

It is very apparent that Registrant has failed to comply with FRCP 34(a) and 26(b) and has failed to provide the information requested by Petitioner based on irrelevant and meritless objections. Therefore the Board must overrule Registrant's objections and compel it to fully supplement its responses and provide responsive documents.

**I. THE BOARD MUST COMPEL REGISTRANT TO PROPERLY RESPOND TO THE DOCUMENT REQUESTS.**

**A. THE DISPUTED ITEMS ARE WITHIN THE SCOPE OF DISCOVERABLE INFORMATION SINCE THEY ARE RELEVANT TO PETITIONER'S CLAIMS**

Though Registrant has objected to Request No. 24 and 25 as being irrelevant, all of the Disputed Items are relevant; therefore the Registrant must separately and fully answer each of the Disputed Items.

FRCP 26(b)(1) states:

“Unless otherwise limited by court order, the scope of discovery is as follows: Parties may obtain discovery regarding any non-privileged matter that is relevant to any party's claim or defense — including the existence, description, nature, custody, condition, and location of any documents or other tangible things and the identity and location of persons who know of any discoverable matter.”

To begin, Registrant specifically objected to Request No. 24 and 25 as irrelevant and to that extent has not provided any responsive documents. However, in Requests No. 24 and 25, Petitioner requested documents relating to sales of Registrant's products within the United States *by Bassam Hamade* from 2001 to 2004 and *by Nadine Hamade* from 2004 to 2006. Both individuals are listed in the abstract of assignment as the owners of the Trademark for the dates requested; thus documents indicating any sales made within the United States from 2001 to 2006 establish whether Registrant's products were actually distributed or sold in the United States from 2001 to 2006, or whether at any point in time, Registrant abandoned the use of the Trademark. Therefore, the requested documents are very relevant and the Board must compel Registrant to supplement its responses and produce documents.

To further illustrate the relevance of Petitioner's requests, consider for example Request No. 29 of the Disputed Items. Petitioner requested documents relating to the sales of Registrant's products in the United States from 2001 to the present, which bears the Trademark, including, without limitation, all purchase orders, wire transfers, invoices, receipts, contracts, agreements, and/or sales summaries. As the Board will agree, the requested documents are relevant since the *statement of use* for the Trademark claims a date of first use in commerce of January 15, 2001. Documents relating to the sale of Registrant's products from 2001 to the present are necessary to establish whether "Al-Fakher" was actually in continuous use from January 15, 2001 to the date of filing of this Petition.

Therefore, all of the Disputed Items are relevant to Petitioner's claims and within the scope of discoverable information and the Board must compel Registrant to supplement its responses and its document production.

**B. REGISTRANT HAS FAILED TO FULLY RESPOND TO THE DISPUTED ITEMS.**

Registrant has failed to properly respond to the Disputed Items and must be compelled to respond in conformance with federal rule requirements.

A response to a request for production of documents and things must state, with respect to each item or category of documents or things requested to be produced, that inspection and related activities will be permitted as requested or that the party has no responsive documents, unless the request is objected to, in which case the reasons for objection must be stated. See FRCP 34(b) and *No Fear Inc. v. Rule*, 54 USPQ2d 1551, 1555 (TTAB 2000), citing 8A Wright, Miller & Marcus, *Federal Practice and Procedure: Civil 2d* § 2213 (2d ed. 1994) (a proper response requires stating as to each request either that there are responsive documents and they will be produced (or withheld on a claim of privilege) or stating party has no responsive documents).

Registrant has responded to every request except Request No. 23 with the non-responsive phrase "Discovery and investigation is ongoing and continuing", which is unresponsive, since it is not an agreement to produce documents, nor a statement that there are no responsive documents, nor an objection to the request. Registrant has failed, for every Disputed Item not objected to, to state whether there are responsive documents and they will be produced, or that Registrant has no responsive documents. Thus the Board must compel Registrant to supplement its responses to the Disputed Items.

Additionally, many of the documents produced by Registrant are simply not responsive to Petitioner's requests. For example, in response to Request No. 4, Petitioner requested all documents relating to Registrant's use of the Trademark in connection with any products offered for sale or sold in the United States by Registrant. Registrant merely provided copies of the registration for the Trademark. Registrant provided no other documents, such as sales invoices or shipping records, to establish that any products were in fact sold or offered for sale in the United States by Registrant.

Registrant even refers to non-responsive documents when asked to provide evidence supporting its denial of Petitioner's claims in the Answer. For example, in Request No. 35 and 36 Petitioner requested Registrant to provide documents to support Registrant's denial of Petitioner's claims that the Trademark was descriptive and had not acquired distinctiveness as of the time of filing. Registrant merely attached records of *international* trademark registrations, which have absolutely no bearing on both the descriptiveness of the Trademark or the acquired distinctiveness of the Trademark *as used in the United States*. Thus many of the documents provided are non-responsive and the Board must compel Registrant to supplement its document production.

Therefore, Petitioner respectfully requests the Board to compel Registrant to supplement its responses and produce responsive documents.

C. **THE BOARD MUST COMPEL REGISTRANT TO ORGANIZE THE DOCUMENTS PRODUCED.**

The unwieldy amount of documents provided by Registrant is not sufficiently organized, as they are neither individually numbered, nor organized into categories corresponding with the RFD.

A party that produces documents for inspection must produce them as they are kept in the usual course of business, or must organize and label them to correspond with the categories in the request. See FRCP 34(b) and *No Fear Inc. v. Rule*, supra at 1556, citing 8A Wright, Miller & Marcus, Federal Practice and Procedure: Civil 2d § 2213 (2d ed. 1994) (party may not simply dump large quantities of documents containing responsive as well as unresponsive documents).

For Request No. 10-13, 15-17 of the Disputed Items, Registrant replied with the phrase “Please find the documents attached” without any further clarification. The documents produced are not organized as they are kept in the ordinary course of business. The documents produced by Registrant are not organized in a manner to correspond with the categories in each request, since Registrant’s response to the Requests was a mere general reference to ALL of the documents. Therefore Registrant must be compelled to organize the documents to correspond with the categories.

Additionally, despite Petitioner’s request that Registrant number the documents individually in sequence, Registrant has failed to do so. Documents are not even bates stamped, which is a normal litigation procedure when documents are produced. Instead, the documents are lumped together in batches as “Document No.”, which makes reference to individual documents a confusing and difficult process. Therefore the Board must compel Registrant to sequentially number documents it produces in order to avoid confusion.

**II. REGISTRANT MAKES SEVERAL BASELESS OBJECTIONS APART FROM THE RELEVANCE OBJECTIONS, WHICH MUST BE OVERRULED BY THE BOARD BASED UPON ESTABLISHED LAW**

Registrant made several meritless objections and failed to adequately respond to the Disputed Items, despite the heavy weight of authority requiring adequate responses.

To be effective, the objection must *identify* the specific document or evidence requested as to which the objection is made; and set forth the reason for the objection, including claims of privilege or work product protection. FRCP 34(b); see *Eureka Financial Corp. v. Hartford Acc. & Indem. Co.*, 136 FRD 179, 185 (ED CA 1991).

A. **THE DISPUTED ITEMS SEEK INFORMATION USING TERMS WHICH ARE NOT VAGUE AND AMBIGUOUS SINCE THEY HAVE READILY DEFINED MEANING**

Registrant erroneously maintains objections to Request No. 1 of the Disputed Items, arguing that the terms “organization”, “formation”, “ownership” and “incorporation” (the “Terms”) as used in the Disputed Items are vague and ambiguous.

Yet Registrant must exercise reason and common sense to attribute ordinary definitions to terms and phrases used in interrogatories. The objections by Registrant are unfounded as the definitions of the Terms as relate to companies are defined in numerous sources and as a basic tenet of corporation law.

Furthermore, Registrant’s objections stated no reasons or facts upon which it based its objection that the Terms were vague and ambiguous and not explained to Petitioner as to what was vague and ambiguous about the Terms. The objections are in bad faith and therefore must be overruled. Registrant must be compelled to supplement its responses and document production.

B. **THE DISPUTED ITEMS SEEK INFORMATION WHICH IS NOT OVERBROAD IN SCOPE AS TO TIME**

Registrant unfairly refuses to comply with Petitioner’s responses, objecting to Request No. 28, 29, 30, and 31 of the Disputed Items as overbroad in scope as to time.

Registrant provided no meaningful explanation as to why the requests are overbroad in scope as to time. This is because the requests are in fact **not overbroad** in scope as to time. For example, in Request No. 29, Petitioner requested that Registrant provide all documents relating to the sale of Registrant's products in the United States from 2001 until the present which bear the trademark. As stated supra, the claimed date of first use in commerce is January 15, 2001. Therefore, Petitioner is entitled to discovery of documents such as purchase orders, invoices, contracts, and/or sales summaries from 2001 to the present, in order to establish the nature and scope of Registrant's use of the Trademark in the United States.

Additionally, even if we hypothetically assume that Registrant's objections have a valid basis; Registrant must answer the parts of the requests which are not overbroad in scope as to time. Contemplate for instance, Petitioner's Request No. 30 that Registrant provide documents as to licenses, assignments, or other rights granted by Registrant to third parties to use the Trademark or any mark incorporating the Trademark. Even if we assume that some part of the request is overbroad in scope as to time from 1995, Registrant must, at a minimum, provide documents dating from the claimed date of first use. Yet to this date, Registrant has not adequately responded to this request.

Therefore Registrant's objections to the Disputed Items as being overbroad in scope as to time must be overruled and Registrant must be compelled to supplement its responses and document production.

C. **REGISTRANT'S PRIVILEGE OBJECTION HAS NO MERIT SINCE PETITIONER SEEKS INFORMATION THAT IS NOT PRIVILEGED AND THEREFORE THE OBJECTIONS MUST BE OVERRULED**

Petitioner's interrogatories do not seek information, which consist of communications between attorneys and their client. Yet Registrant vehemently objects to the information sought by Request No. 28, 29, 30, and 31 of the Disputed Items as protected by attorney-client privilege and attorney work-product privilege.

Each party has the right to discover "any matter, not privileged, that is relevant to the claim or defense of any party." FRCP 26(b)(1). The attorney-client privilege protects confidential communications between a client and an attorney. See *Clarke v. American Commerce Nat'l Bank*, 974 F2d 127, 129 (9th Cir. 1992). The work product doctrine protects trial preparation materials that reveal an attorney's strategy, intended lines of proof, evaluation of strengths and weaknesses, and inferences drawn from interviews. FRCP 26(b)(3); see *Hickman v. Taylor* (1947) 329 US 495, 511.

Much of the information Petitioner seeks either does not consist of communications or does not consist of communication between counsel and counsel's client. For example, in Request No. 30 of the Disputed Items, Petitioner requested information relating to existing relations between Registrant and any third party, relating to the Trademark. Documents evidencing relationships such as contracts, agreements, licenses, or assignments are not communications, nor are they formed between Registrant and its counsel. Therefore attorney-client privilege does not protect these documents. These documents are related to the Registrant's relationship with the third parties.

Additionally, Registrant's objections on the basis of attorney work-product fail because the information sought is not attorney work product. For example, in Request No. 30, information regarding Registrant's contracts, licenses, assignments, or other relationships with third parties should be information maintained by Registrant in the

ordinary course of its business, and would therefore not be trial preparation material. Therefore attorney work-product protection does not protect these documents and the Board must compel Registrant to supplement its responses and document production.

**D. REGISTRANT MUST BE COMPELLED TO EXPLAIN THE BASIS FOR ITS CLAIM OF PRIVILEGE OR PROTECTION.**

FRCP 26(b)(5) requires parties to provide a privilege log for documents withheld on grounds of privilege or work product. The Board has discretion to reject a claim of privilege where an insufficient privilege log is provided. *United States v. Construction Products Research, Inc.*, 73 F.3d 464, 473 (2nd Cir. 1996). Petitioner further outlined the requirement pursuant to section M of the Definitions of Petitioner's First Request for Production of Documents. See Exhibit A to Patel Decl.

Here, when claiming privilege in Request No. 28, 29, 30, and 31 of the Disputed Items, Registrant merely claimed attorney-client privilege and work-product privilege objections, without providing any factual basis for the objections. Registrant further failed to provide any privilege logs for any and/or all of the documents withheld. Therefore, Petitioner respectfully requests the Board to reject Registrant's claim of privilege and compel Registrant to supplement its responses and document production.

**III. THE DISPUTED ITEMS ARE CLEARLY DISCOVERABLE.**

Based on the foregoing, Petitioner respectfully requests that the supplemental responses to the Disputed Items are required under the Board's own guidelines and federal law. For the Board's convenience, Petitioner has summarized the reasons why the responses should be compelled in Appendix A below, which is incorporated in its entirety by reference.

**IV. DISCOVERY SANCTIONS SHOULD BE IMPOSED AGAINST REGISTRANT FOR ITS EGREGIOUS CONDUCT**

Petitioner recognizes that the Board generally does not issue sanctions with reference to a motion to compel for parties failure to cooperate to resolve inadequacies of responses. However, in the instant case, Registrant's conduct is egregious and demonstrates a lack of respect for the Board's rules and procedures. If such conduct is permitted, the legal fees and the cost in such administrative proceedings will significantly increase. To deter such conduct, Petitioner respectfully requests that the Board review the record at hand and impose any sanctions that the Board deems appropriate.

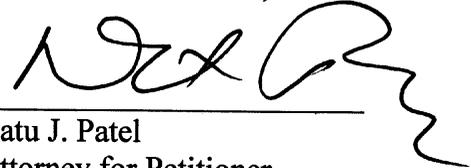
**V. CONCLUSION**

Based on the foregoing, Petitioner respectfully requests the Board to grant this Motion to Compel and warn Registrant that failure to comply may result in dismissal or default.

Dated: May 30, 2008

Respectfully Submitted,  
THE PATEL LAW FIRM, P.C.

By: \_\_\_\_\_

  
Natu J. Patel  
Attorney for Petitioner  
Sinbad Grand Cafe, LLC

**APPENDIX A  
STATEMENT OF DISPUTED ITEMS**

<b>RFP</b>	<b>Requests Documents Relating To</b>	<b>Deficient Response by Registrant</b>	<b>Reasons Why Responses Should be Compelled</b>
1	Organization, formation, ownership, and incorporation of Registrant.	<p>Objection that the terms “Organization”, “formation”, and “ownership” are vague and ambiguous.</p> <p>Attached a copy of Al-Fakher for Tobacco Trading &amp; Agencies company registration certificate and corporate documents.</p>	Registrant’s objection fails since the definition of “organization”, “formation”, and “ownership” is a matter of common sense and is easily ascertainable.
2	Identification of the names of persons charged with the creation, selection, or use of the Trademark from 2001 to the present.	Registrant produced a document which purported to certify the date of first use of the Trademark in 1999.	The document produced does not identify the names of the persons charged with the creation, selection, or use of the Trademark from 2001 to the present.
4	Registrant’s use of the Trademark in connection with any products offered for sale or sold in the United States by Registrant.	Registrant produced copies of trademark registrations records from the USPTO.	The USPTO records provided do not establish that any products were in fact sold or offered for sale in the United States by Registrant. Registrant must be compelled to provide business records such as shipping or sales invoices.
8	Documents which comprise, depict, or illustrate any marking by Registrant of the	Production of some documents which comprise, illustrate, or depict any	Even though Registrant, in its response to the Special Interrogatories, identified over eighty different products with which it is using, or intends to use the Trademark, it has produced

**APPENDIX A  
STATEMENT OF DISPUTED ITEMS**

RFP	Requests Documents Relating To	Deficient Response by Registrant	Reasons Why Responses Should be Compelled
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	Trademark in connection with any advertising, intended advertising, promotion, or intended promotion of any products.	marking by Registrant of the Trademark.	advertisements for only a few products.
9	One sample of each advertisement, intended advertisement, item of promotional material, and intended item of promotional material that was stored, emailed, printed or disseminated by Registrant in which Trademark appears.	A few samples of advertisements for tobacco products were provided.	Registrant has not provided <b><u>one sample for each</u></b> of the over eighty goods identified in the Special Interrogatories.
10, 11, 12,	Conception of the Trademark; by Registrant; Selection, design, adoption, proposed use, decision to use, and first use of the trademark; sample of each logo, design, hand tag, packaging, font type, and font size in which the Trademark is being used or is intended to be used.	“Please find the documents attached.”	<p>The response refers to all of the documents, whether a document is responsive or not. Since the Documents not sufficiently organized into categories pursuant to FRCP 34(b), Petitioner cannot determine which Documents are responsive.</p> <p>Pursuant to FRCP 34(b), Registrant fails to state whether documents will be produced, or are not within Registrant’s custody, possession, or control.</p>

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<b>RFP</b>	<b>Requests Documents Relating To</b>	<b>Deficient Response by Registrant</b>	<b>Reasons Why Responses Should be Compelled</b>
13, 15	Results of any search, investigation, studies, analyses, inquiries, reports, or opinions on the enforceability and registerability of the subject matter; Documents authored by or on behalf of Registrant that refer to relate to the subject matter disclosed in the Trademark.	“Please find the documents attached.”	Response does not comply with requirements of FRCP 34(b) as set forth supra.
16, 17	Documents sufficient to identify each product which is being used or is intended to be used by Registrant in which the Trademark appears or will appear.  One copy of all media advertising, whether or not released, which contain the Trademark.	“Please find the documents attached.”	Response does not comply with requirements of FRCP 34(b) as set forth supra.
18, 19	Any relationship or association between Sinbad and Registrant; documents which refer to Sinbad in	There was a relationship between Sierra Network, Inc. and Sinbad Grand Cafe. Please find	Doc. 15 refers to a purported agreement between Sinbad and Sierra Network.  Given the nature of the purported agreement, there must be shipping invoices and/or bills of sale or other

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<b>RFP</b>	<b>Requests Documents Relating To</b>	<b>Deficient Response by Registrant</b>	<b>Reasons Why Responses Should be Compelled</b>
	any way.	attached Doc. 15.	records detailing the relationship between the parties. Yet to the date of filing this motion, Registrant has not provided such documents.
20	Research, reports, surveys, or studies conducted by Registrant regarding consumer's perception of the Trademark.	"Discovery and investigation is ongoing and continuing" (Non-responsive reply.)	To the date of filing this motion, Registrant has failed to produce any documents responsive to this request.  Response does not comply with requirements of FRCP 34(b) as set forth supra.
21	Channels of trade in which Registrant's products bearing the Trademark are sold, including the geographic area by state or territory.	"Please find attached Doc. 17"	Doc. 17 does not show the channels of trade in which the products bearing the Trademark are sold, since Doc. 17 is a mere list of names and contact information, without any further identification of who the parties are. Additionally, Doc. 17 does not list where the products bearing the Trademark are sold, including in which of the states in the United States such products are sold.
22	Correspondence between Registrant and any person or entity regarding any cease and desist demands in connection with the Trademark.	Please find attached Doc. 14.	Response does not comply with requirements of FRCP 34(b) as set forth supra.
23	The transfer of ownership from Bassam Hamade to Nadine Hamade.	"Attached herewith please find the abstract of assignment."	Response does not comply with requirements of FRCP 34(b) as set forth supra.

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24	Sale of Registrant's products within the United States by Bassam Hamade from 2001 to 2004.	Registrant objects on the grounds of irrelevance.	Bassam Hamade was the purported owner of the Trademark from 2001 to 2004. Maintenance of trademark rights requires continuous use in commerce. Documents which demonstrate use of the Trademark during this period are relevant to establish whether the Trademark was in continuous use.
25	Sale of Registrant's products within the United States by Nadine Hamade from 2004 to 2006.	Registrant objects on the grounds of irrelevance.	Nadine Hamade was the purported owner of the Trademark from 2004 to 2006. Maintenance of trademark rights requires continuous use in commerce. Documents which demonstrate use of the Trademark during this period are relevant to establish whether the Trademark was in continuous use.
26, 27	The transfer of ownership from Nadine Hamade to Omar Khaled Sarmini on or about June 1, 2006; sales of the Registrant's products by Omar Khaled Sarmini in the United States from 2005 to 2006 which bears the Trademark.	"Discovery and investigation is ongoing and continuing"	<p>According to Doc. 20 produced by Registrant, Omar Khaled Sarmini appears to be or have been a manager of Registrant. Since Omar Khaled Sarmini was a representative of Registrant, Registrant must have documents demonstrating the transfer of ownership from Nadine Hamade to Omar Khaled Sarmini.</p> <p>To the date of filing this motion, Registrant has failed to produce any documents responsive to these requests.</p> <p>Response does not comply with requirements of FRCP 34(b) as set forth supra.</p>
28	The transfer of ownership from Omar Khaled Sarmini to Registrant on or	Objection on the grounds that the Request is grossly overbroad in scope as to time.	<p>Registrant's ownership of the Trademark from 2006 to the present is directly relevant to these proceedings.</p> <p>Registrant fails to provide a privilege</p>

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	about August 30, 2006.	<p>Objection on the basis of attorney-client privilege and/or work-product doctrine.</p> <p>Registrant responds by attaching Doc. 18 and Doc. 19.</p> <p>“Discovery and investigation is ongoing and continuing”</p>	<p>log for any documents to which privilege is claimed.</p> <p>Response does not comply with requirements of FRCP 34(b) as set forth supra.</p>
29	The sales of Registrant’s products in the United States from 2001 to the present, which bear the Trademark.	<p>Objection on the grounds that the Request is grossly overbroad in scope as to time.</p> <p>Objection on the basis of attorney-client privilege and/or work-product doctrine.</p> <p>“Discovery and investigation is ongoing and continuing”</p>	<p>The date of first use in commerce for the Trademark is listed as January 15, 2001, thus information responsive to this request is relevant to establish whether the Trademark was in continuous use since 2001.</p> <p>Registrant fails to provide a privilege log.</p> <p>To the date of filing this motion, Registrant has failed to produce any documents responsive to this request.</p> <p>Response does not comply with requirements of FRCP 34(b) as set forth supra.</p>
30	Licenses, agreements, contracts, and/or arrangements between Registrant and any third party	Objection on the grounds that the Request is grossly overbroad in scope as to time.	The date of first use of the Trademark anywhere in the world is listed as January 10, 1995. Therefore documents which relate back to that date are relevant to establish the true date of first use of the Trademark.

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	which relate in any manner to the Trademark.	<p>Objection on the basis of attorney-client privilege and/or work-product doctrine.</p> <p>Registrant responds by attaching Doc. 20.</p> <p>“Discovery and investigation is ongoing and continuing”</p>	<p>Registrant fails to provide a privilege log.</p> <p>Response does not comply with requirements of FRCP 34(b) as set forth supra.</p>
31	Litigation initiated by Registrant against any third-party in the United States which relates in any manner to the Trademark.	<p>Objection on the grounds that the Request is grossly overbroad in scope as to time.</p> <p>Objection on the basis of attorney-client privilege and/or work-product doctrine.</p> <p>“Discovery and investigation is ongoing and continuing”</p>	<p>The scope of time is limited as to the date of first use of the Trademark anywhere in the world, January 10, 1995. Litigation initiated by Registrant is relevant to establish whether any issues relating to the validity of the Trademark were decided.</p> <p>Registrant fails to provide a privilege log.</p> <p>Registrant nonetheless <b>does not object</b> to production of documents which relate to litigation initiated by Registrant <b>outside</b> of the United States.</p> <p>Response does not comply with requirements of FRCP 34(b) as set forth supra.</p>
32	Litigation initiated by Registrant against any third-party outside of the United States which relates in any	Attached a copy of a cancellation action filed against a Jordanian company which	Response does not comply with requirements of FRCP 34(b) as set forth supra.

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	manner to the Trademark.	registered “Al-Fakher” in its name, and a settlement agreement signed between the Registrant and the third party.	
33	Permission, authorization, or license by Registrant, or any person acting on its behalf, to use “Al-Fakher” as an element of a trademark, service mark, Internet domain name, or trade name.	“Discovery and investigation is ongoing and continuing” (Non-responsive reply.)	To the date of filing this motion, Registrant has failed to produce any documents responsive to this request.  Response does not comply with requirements of FRCP 34(b) as set forth supra.
34	Registrant’s denial of paragraph 8 of the Answer.	Please find attached Doc. 12.  Discovery is ongoing and continuing.	Document 12 is USPTO records of the Trademark, which do not state what “Al-Fakher” translates to in English.  Response does not comply with requirements of FRCP 34(b) as set forth supra.
35	Registrant’s denial of paragraph 9 of the Answer.	Please find attached Doc. 13.  Discovery is ongoing and continuing.	Document 13 appears to be a collection of international trademark registrations. These registrations do not support Registrant’s denial of Petitioner’s claim that the Trademark is descriptive, and thus Document 13 is not responsive.  Response does not comply with requirements of FRCP 34(b) as set forth supra.

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36	Registrant's denial of paragraph 10 of the Answer.	Please find attached Doc. 13.  Discovery is ongoing and continuing.	Document 13 appears to be a collection of international trademark registrations. These registrations do not support Registrant's denial of Petitioner's claim that the Trademark has not acquired distinctiveness in the United States, and thus Document 13 is not responsive.  Response does not comply with requirements of FRCP 34(b) as set forth supra.
37	Registrant's denial of paragraph 12 of the Answer.	Please find attached Doc. 12.  Discovery is ongoing and continuing.	Document 12 appears to be USPTO records of the Trademark, which does not support Registrant's denial of Petitioner's claim that Bassam Hamade omitted the English translation of "Al-Fakher" when applying for the Trademark.  Response does not comply with requirements of FRCP 34(b) as set forth supra.
38	Registrant's denial of paragraph 13 of the Answer.	Please find attached Doc. 12.  Discovery is ongoing and continuing.	Document 12 appears to be USPTO records of the Trademark, which does not support Registrant's denial of Petitioner's claim that the omission by Bassam Hamade constituted a material omission or misrepresentation to the USPTO.  Response does not comply with requirements of FRCP 34(b) as set forth supra.
39	Registrant's denial of paragraph 14 of the Answer.	Please find attached Doc. 12.  Discovery is ongoing and	Document 12 appears to be USPTO records of the Trademark, which does not support Registrant's denial of Petitioner's claim that if the USPTO had known of Bassam Hamade's

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		continuing.	omission, it would not have granted registration of the Trademark.  Response does not comply with requirements of FRCP 34(b) as set forth supra.
40	Registrant's denial of paragraph 16 of the Answer.	Discovery is ongoing and continuing.	Registrant fails to produce any documents to support Registrant's denial of Petitioner's claim.  To the date of filing this motion, Registrant has failed to produce any documents responsive to this request.  Response does not comply with requirements of FRCP 34(b) as set forth supra.
41	Registrant's denial of paragraph 17 of the Answer.	Discovery is ongoing and continuing.	Registrant fails to produce any documents to support Registrant's denial of Petitioner's claim.  To the date of filing this motion, Registrant has failed to produce any documents responsive to this request.  Response does not comply with requirements of FRCP 34(b) as set forth supra.
42	Registrant's denial of paragraph 18 of the Answer.	Please find attached Doc. 12.  Discovery is ongoing and continuing.	Doc. 12 is the USPTO records of the Trademark, which do not support Registrant's denial of Petitioner's claim that the USPTO relied upon the misrepresentation by Bassam Hamade in granting registration of the Trademark. In fact, Doc. 12 is evidence to the contrary since the registration was granted despite the misrepresentation by Bassam Hamade.

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			Response does not comply with requirements of FRCP 34(b) as set forth supra.
43	Registrant's denial of paragraph 19 of the Answer.	Please find attached Doc. 12.  Discovery is ongoing and continuing.	Document 12 appears to be USPTO records of the Trademark, which does not support Registrant's denial of Petitioner's claim that Bassam Hamade knew products bearing the mark "Al-Fakher" were not sold in 1995, or that the mark was not otherwise in use as a trademark in 1995.  Response does not comply with requirements of FRCP 34(b) as set forth supra.
44, 45	Registrant's denial of paragraph 23 and 24 of the Answer.	Please find attached Doc. 2 and 3.  Discovery is ongoing and continuing.	Document 2 and 3 are documents in a foreign language, identified by Registrant as stating that Registrant was incorporated abroad in 1999. However, such correspondence only establishes that Registrant existed outside of the United States, not that the Trademark was used in the United States.  The correspondence does not support Registrant's denial of Petitioner's claim that Bassam Hamade abandoned use of the Trademark during 2001 to 2004, or that Nadine Hamade abandoned use of the Trademark during 2004 to 2006.  Response does not comply with requirements of FRCP 34(b) as set forth supra.
46	Registrant's denial of paragraph 25 of the Answer.	Discovery is ongoing and continuing.	To the date of filing this motion, Registrant has failed to produce any documents to support Registrant's denial of Petitioner's claim.

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			Response does not comply with requirements of FRCP 34(b) as set forth supra.
47	Registrant's denial of paragraph 26 of the Answer.	Discovery is ongoing and continuing.	To the date of filing this motion, Registrant has failed to produce any documents to support Registrant's denial of Petitioner's claim.  Response does not comply with requirements of FRCP 34(b) as set forth supra.
48	Registrant's denial of paragraph 28 of the Answer.	Discovery is ongoing and continuing.	To the date of filing this motion, Registrant has failed to produce any documents to support Registrant's denial of Petitioner's claim.  Response does not comply with requirements of FRCP 34(b) as set forth supra.
49	Registrant's denial of paragraph 29 of the Answer.	Discovery is ongoing and continuing.	To the date of filing this motion, Registrant has failed to produce any documents to support Registrant's denial of Petitioner's claim.  Response does not comply with requirements of FRCP 34(b) as set forth supra.
50	Documents identified in response to Special Interrogatories No. 8(d), 13, 18, and 24.	Discovery is ongoing and continuing.	To the date of filing this motion, Registrant has failed to produce any responsive documents.  Response does not comply with requirements of FRCP 34(b) as set forth supra.

**CERTIFICATE OF SERVICE**

It is hereby certified that a true and correct copy of the foregoing **NOTICE OF MOTION AND MOTION TO COMPEL RESPONSES TO PETITIONER'S FIRST SET OF REQUEST FOR PRODUCTION OF DOCUMENTS AND THINGS TO RESPONDENT; DECLARATION OF NATU J. PATEL IN SUPPORT THEREOF; REQUEST FOR SANCTIONS** was served by electronic mail and U.S. mail, upon attorneys for Respondent, this 30th day of May, 2008 as follows:

F. Freddy Sayegh, Esq.  
THE FOXX FIRM, PLC  
Sayegh & Associates, PLC  
5895 Washington Boulevard  
Culver City, CA 90232  
fsayegh@spattorney.com



\_\_\_\_\_  
Jeannine Choi

\_\_\_\_\_  
May 30, 2008

Date



2. Attached hereto as **Exhibit B** is a true and correct copy of Al-Fakher For Tobacco Trading & Agencies Co. LTD. Corporation's ("Al-Fakher") response to Sinbad's First Set of Requests for Production of Documents and Things dated March 14, 2008.

3. Attached hereto as **Exhibit C** is a true and correct copy of the *thirteen (13) page* letter I sent to Mr. Sayegh on April 3, 2008. This letter was sent as a meet and confer attempt to resolve the inadequacies in Al-Fakher's responses to Sinbad's First Set of Requests for Production of Documents and Things. Per the meet and confer letter, responses were due on or before April 15, 2008.

4. Not having received any documents by April 15, 2008 as requested, I sent Mr. Sayegh a follow up letter on April 16, 2008. Attached hereto as **Exhibit D** is a true and correct copy of the letter dated April 16, 2008 requesting responses and supplemented document production ("Supplemental Responses") as soon as possible.

5. In response to my April 16, 2008 letter, Mr. Sayegh sent me an e-mail on April 18, 2008, assuring me that the Supplemental Responses would be provided by May 2, 2008. I followed up with an e-mail on April 24, 2008, agreeing with his proposed due date of May 2, 2008 in an effort to avoid a motion to compel. A true and correct copy of the e-mail exchange between the counsels is attached hereto as **Exhibit E**.

6. Not having received the Supplemental Responses on May 2, 2008 as promised, I sent Mr. Sayegh another follow up letter on May 6, 2008 and set another deadline to provide the Supplemental Responses on or before May 9, 2008. I further advised Mr. Sayegh that Sinbad will start preparing a motion to compel if Al-Fakher did not provide a specific date by which Al-Fakher will provide the Supplemental Responses. Attached hereto as **Exhibit F** is a true and correct copy of the letter dated May 6, 2008.

7. In response to my May 6, 2008 letter, Mr. Sayegh sent me an e-mail on May 8, 2008 requesting a further extension until May 12, 2008. On May 9, 2008, I sent an e-mail agreeing to his request, once again simply to avoid a motion to compel. A true and correct copy of the e-mail exchange between the counsels is attached hereto as **Exhibit G**.

8. Not having received the Supplemental Responses on May 12, 2008, I sent another e-mail advising Mr. Sayegh that Al-Fakher's conduct was very disappointing and that Sinbad would proceed with a motion to compel. Attached hereto as **Exhibit H** is a true and correct copy of the e-mail dated May 13, 2008.

9. In response to my May 13, 2008 e-mail, Mr. Sayegh sent me an e-mail indicating that he will contact his client and provide us with Supplemental Responses. He assured me that he will provide non-verified Supplemental Responses before the end of the day and with amended responses later that week. I gave him another extension to provide verified Supplemental Responses by no later than May 16, 2008. A true and correct copy of the e-mail exchange between the counsels is attached hereto as **Exhibit I**.

10. On May 13, 2008, I received neither unverified nor verified responses from Al-Fakher.

11. On May 13, 2008, in the late evening, I received an e-mail from Mr. Sayegh assuring me that he would send the Supplemental Responses by May 16, 2008 and that he will call me to provide the status of the Supplemental Responses on May 14, 2008. Attached hereto as **Exhibit J** is a true and correct copy of Mr. Sayegh's e-mail dated May 13, 2008.

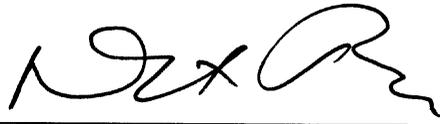
12. Mr. Sayegh promised to call me on May 14, 2008 after he had an opportunity to confer with his client. Not having received a telephone call from Mr. Sayegh on May 14, 2008 as promised, I called and left a message for Mr. Sayegh at 10:30 a.m. on May 16, 2008 regarding the status of Al-Fakher's Supplemental Responses.

13. As of the date of this declaration, I have neither received Supplemental Responses nor a telephone call from Mr. Sayegh.

I declare under the penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed this 30th day of May 2008 at Irvine, California.

Dated: May 30, 2008

By:   
Natu J. Patel  
Attorney for Petitioner,  
Sinbad Grand Cafe, LLC

The Patel Law Firm, P.C.  
2532 Dupont Drive  
Irvine, CA 92612  
Telephone: (949) 955-1077  
Facsimile: (949) 955-1877  
npatel@thePatelLawFirm.com

**CERTIFICATE OF SERVICE**

It is hereby certified that a true and correct copy of the foregoing **DECLARATION OF NATU J. PATEL IN SUPPORT OF PETITIONER'S MOTION TO COMPEL RESPONDENT'S RESPONSES TO FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS AND THINGS** was served by electronic mail and U.S. mail, upon attorneys for Respondent, this 30th day of May, 2008 as follows:

F. Freddy Sayegh, Esq.  
THE FOXX FIRM, PLC  
Sayegh & Associates, PLC  
5895 Washington Boulevard  
Culver City, CA 90232  
fsayegh@spattorney.com



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Jeannine Choi

May 30, 2008

Date

# **EXHIBIT A**

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

***In the matter of Registration No. 2782619  
Issued on November 11, 2003***

SINBAD GRAND CAFÉ, LLC.,

Petitioner,

v.

AL-FAKHER FOR TABACCO TRADING &  
AGENCIES CO. LTD. CORPORATION,

Respondent.

**Cancellation No. 92048480**

Assigned for All Purposes to the  
United States Patent and Trademark Office  
Trademark Trial and Appeal Board

**PETITIONER SINBAD GRAND CAFE'S  
FIRST SET OF REQUESTS FOR  
PRODUCTION OF DOCUMENTS AND  
THINGS TO RESPONDENT**

**Petition Filed:** November 21, 2007  
**Discovery Period Closes:** July 28, 2008

**PROPOUNDING PARTY:**

Petitioner, SINBAD GRAND CAFÉ, LLC

**RESPONDING PARTY:**

Respondent, AL-FAKHER FOR TABACCO  
TRADING & AGENCIES, CO. LTD.

**SET NO.:**

ONE

Pursuant to the provisions of 37 C.F.R. § 2.120 and Rule 34 of the Federal Rules of Civil Procedure, Petitioner ("Sinbad Grand Cafe") hereby addresses its First Set of Requests for Production of Documents to Respondent ("Al-Fakher for Tabacco Trading & Agencies Co. Ltd.") to be responded to and complied with fully within thirty (30) days of service thereof.

## **DEFINITIONS**

Unless the context clearly requires otherwise, the following definitions and instructions shall apply to these requests and all other discovery requests in this action unless otherwise provided:

- A. As used herein, the term “AND” includes “OR,” and the term “OR” includes “AND.”
  
- B. The term “CONCERNING” means referring to, describing, evidencing.
  
- C. The term “COMMUNICATION” means any transfer of information of any kind, orally, in writing, or by any other manner, at any time or place, and under any circumstances whatsoever and shall include, but is not limited to, the following: contracts or agreements; drawings or sketches; invoices, orders, or acknowledgements; diaries or reports; forecasts or appraisals; memoranda of telephonic or in person communications by or with any person; other memoranda, letters, telegrams, telexes, or cables prepared, drafted, received or sent; tapes transcripts, or recordings; photographs, pictures, or films; computer programs, computer data, or computer printouts; or graphic, symbolic, recorded, or written materials of any nature whatsoever.
  
- D. DESCRIBE, REFER OR RELATE. As used herein, the phrase “DESCRIBE, REFER OR RELATE” means mentioning, describing, discussing, memorializing, concerning, consisting of, containing, or depicting in any way, directly or indirectly, the subject matter of the demand.
  
- E. The term “DOCUMENT” is defined to be synonymous in meaning and equal in scope to the usage of this term in Fed. R. Civ. P. 34(a), and includes electronically stored information. A draft or non-identical copy of a document is a separate

document within the meaning of this term. Moreover, the term "DOCUMENT" or its plural form "DOCUMENTS" or the term "WRITING" or its plural form "WRITINGS" means any and all "DOCUMENTS" tangible things, and property, including the originals and all non-identical copies, whether different from the originals by reason of any notation made on such copies or otherwise, and includes, without limitation, correspondence, memoranda, notes, diaries, statistics, letters, telegrams, telex, telefax, minutes, agreements, reports, studies, checks, statements, receipts, summaries, pamphlets, books, interoffice and intra-office communications, notations of any sort of conversations, telephone calls, meetings or other communications, bulletins, computer printouts, invoices, worksheets, all forms of drafts, notations, workings, alterations, modifications, changes and amendments of any of the foregoing, graphical or aural records or representations of any kind, including, without limitation, photographs, charts, microfiche, microfilm, videotape, records, motion pictures, and electronic, mechanical or electrical records or representations of any kind, including, without limitation, tapes, cassettes, discs, recordings, computer discs, computer tapes, computer cards, computer programs, computer software, computer-readable media, electronically stored media, and any other form of stored information.

- F. When referring to a person, "TO IDENTIFY" means to give, to the extent known, the person's full name, present or last known address, and, when referring to a natural person, the present or last known place of employment. When referring to a company, "TO IDENTIFY" means to give, to the extent known, the company's full corporate name, a brief description of the general nature of the business, its state of incorporation, the address and principal place of business; and the identity of the officers or other person having knowledge of the matter with respect to which the company has been identified. Once a person or company has been identified in accordance with this subparagraph, only the name of that person or

company need be listed in response to subsequent discovery requesting the identification of that person or company.

- G. When referring to documents, "TO IDENTIFY" means to give, to the extent known, the (a) type of document; (b) general subject matter; (c) date of the document; and (d) author(s), addressee(s), and recipient(s).
- H. "REGISTRANT" shall mean Al-Fakher for Tabacco Trading & Agencies Co. Ltd. and its divisions, subsidiaries, joint ventures, predecessors or successors-in-interest, and/or its present and former officers, directors, agents, representatives and employees, and any other person acting on behalf of any of the foregoing, its officers, directors, owners, employees, contractors, consultants, partners, corporate parent, subsidiaries, or affiliates.
- I. The term "PERSON" means any natural person or any business, legal, or governmental entity or association.
- J. "SINBAD" means Sinbad Grand Cafe, LLC., and its officers, directors, owners, and employees contractors, consultants, partners, subsidiaries, or affiliates.
- K. The term "TRADEMARK" or "AL-FAKHER" shall mean the United States Trademark Registration No. 2,782,619, and the application from which it issued the trademark entitled "AL-FAKHER" to the original registrant, Bassam Hamade, on November 11, 2003.
- L. POSSESSION, CUSTODY OR CONTROL. Each request herein requires production of any and all documents in the possession, custody, or control of YOU. A document is deemed to be in YOUR possession, custody, or control if the document is in YOUR physical custody, or in the physical custody of any

other person and YOU own the requested document in whole or in part; has a right by contract, statute or otherwise to use, inspect, examine or copy the requested document on any terms; has and understanding, whether express or implied, that YOU may use, inspect, examine or copy the requested document on any terms; has as a practical matter, been able to use, inspect, examine or copy the requested document when plaintiff has sought to do so; or is able to lawfully use, inspect, examine or copy the requested documents. Documents within your possession, custody, or control include, but are not limited to, documents that are in the custody of defendant's attorney or other agents.

M. PRIVILEGE ASSERTED. Where a request calls for the production of a document as to which a claim of privilege is asserted, please set forth the following with respect to each document:

- (a) The type of document;
- (b) The date of the document;
- (c) The name, business address and present position of the author(s) or originator(s) of the document;
- (d) The position of the author(s) or originator(s) of the document at the time the document was prepared;
- (e) The names and address of all persons or entities who have received a copy of the document;
- (f) The position of each recipient of the document at the time the document was prepared and at the time the document was received;
- (g) A general description of the subject matter of the document;
- (h) All information contained in the document to which the claimed privilege is not asserted;
- (i) All information contained in the document to which the claimed privilege is not asserted;

- (j) If the protection of the work product doctrine is asserted, the proceeding in anticipation of which the document was prepared.
- N. SINGULAR AND PLURAL. As used herein, the singular shall include the plural, and the plural shall include the singular.
- O. "USPTO" means the United States Patent and Trademark Office.
- P. "YOU" and "YOUR" means the person listed as the Responding Party, and any and all Persons, employees, agents, attorneys, officers, directors, representatives, accountants, and all other Persons or servants acting or purporting to act on the behalf of said Responding Party.
- Q. "PETITION" shall mean the Petition for Cancellation for AL-FAKHER at issue in the instant case, filed on November 21, 2007.
- R. "ANSWER" shall mean the ANSWER TO PETITION FOR CANCELLATION filed by the REGISTRANT with the USPTO on or about January 9, 2008.

### **INSTRUCTIONS**

A. In the event any communication or information responsive to any of the following requests is withheld from production on the basis of privilege, IDENTIFY each person who participated in or had knowledge of the communication or other information and provide the following:

- (1) The privilege or protection that YOU claim precludes disclosure;
- (2) The subject matter of the communication or information (without revealing the content as to which privilege is claimed); and

(3) Any additional facts on which YOU base your claim of privilege or protection.

B. When a request for production directs YOU to provide information, YOU are required to supply all information known by or available to YOU or YOUR employees, agents, representative, attorneys and experts. If you cannot completely satisfy the request after making diligent efforts to do so, please so state.

### **REQUEST FOR PRODUCTION**

#### **REQUEST NO. 1:**

Produce all Documents relating to the organization, formation, ownership, and incorporation of REGISTRANT.

#### **REQUEST NO. 2:**

Produce all Documents which identify the names of all persons charged with the creation, selection, or use of the TRADEMARK from 2001 to the present.

#### **REQUEST NO. 3:**

Produce all Documents identifying the names of all persons having supervisory authority over the persons referred to in your Response to Request No. 2

#### **REQUEST NO. 4:**

Produce all Documents relating to REGISTRANT'S use of the TRADEMARK in connection with any products offered for sale or sold in the United States by REGISTRANT.

#### **REQUEST NO. 5:**

Produce all Documents which record, refer, or relate to any translations by REGISTRANT of the TRADEMARK into English.

**REQUEST NO. 6:**

Produce all Documents which refer to any inquiry, investigation, evaluation, analysis or survey conducted by REGISTRANT relating to this cancellation proceeding.

**REQUEST NO. 7:**

Produce a copy of each statement or opinion of any expert which REGISTRANT obtained regarding any grounds for cancellation in this proceeding.

**REQUEST NO. 8:**

Produce all Documents that comprise, depict or illustrate any marking by REGISTRANT of the TRADEMARK on or in connection with any advertising, intended advertising, promotion, or intended promotion of any products.

**REQUEST NO. 9:**

Produce one sample of each advertisement, intended advertisement, item of promotional material and intended item of promotional material that was stored, emailed, printed or disseminated by REGISTRANT in which the TRADEMARK appears.

**REQUEST NO. 10:**

Produce all Documents that refer or relate to the conception of any part of the subject matter of the TRADEMARK.

**REQUEST NO. 11:**

Produce all Documents that refer or relate to the selection, design, adoption, proposed use, decision to use, and first use of the TRADEMARK by REGISTRANT, including samples of any names, designations, and other marks considered and rejected in every different logo, design, hang tag, packaging, font type, and font size.

**REQUEST NO. 12:**

Produce one sample of each logo, design, hang tag, packaging, font type, and font size in which the TRADEMARK is being used or is intended to be used by REGISTRANT.

**REQUEST NO. 13:**

Produce all Documents concerning or embodying the results of any search, investigation, studies, analyses, inquiries, reports or opinions on the enforceability, unenforceability, registerability, and availability of the subject matter claimed of the TRADEMARK by any party.

**REQUEST NO. 14:**

Produce all Documents containing the complete file history of the TRADEMARK, including, but not limited to, those containing the preparation, filing, or prosecution of any applications for registration of marks with the USPTO by REGISTRANT incorporating the term "Al-Fakher."

**REQUEST NO. 15:**

Produce all Documents authored by or on behalf of REGISTRANT or the named creator of the TRADEMARK that refer or relate to the subject matter disclosed in the TRADEMARK, including, but not limited to, articles, publications, internal memoranda, presentations or reports.

**REQUEST NO. 16:**

Produce all Documents sufficient to identify each product which is being used or is intended to be used by REGISTRANT in which the TRADEMARK appears, or will appear.

**REQUEST NO. 17:**

Produce one copy of all media advertising, including magazine, newspaper, radio, and television commercials as well as press releases prepared by REGISTRANT, whether or not released, which contain the TRADEMARK.

**REQUEST NO. 18:**

Produce all Documents which either include or refer to any relationship or association between SINBAD and REGISTRANT.

**REQUEST NO. 19:**

Produce all Documents that are in possession of REGISTRANT that refer to SINBAD in any way.

**REQUEST NO. 20:**

Produce all Documents which relate to or which constitute any research, reports, surveys, or studies conducted by REGISTRANT regarding consumers' perception of the TRADEMARK.

**REQUEST NO. 21:**

Produce all Documents relating to channels of trade in which REGISTRANT'S products bearing the TRADEMARK are sold, including the geographic area by state or territory.

**REQUEST NO. 22:**

Produce all correspondence between REGISTRANT and to any person or entity, regarding any cease and desist demands in connection with the TRADEMARK.

///

**REQUEST NO. 23:**

Produce all Documents which relate to the transfer of ownership of TRADEMARK from Bassam Hamade to Nadine Hamade on or about November 11, 2004.

**REQUEST NO. 24:**

Produce all Documents relating to the sale of REGISTRANT'S products within the United States by Bassam Hamade from 2001 to 2004 which bears the TRADEMARK, including, without limitation, all purchase orders, wire transfers, invoices, receipts, contracts, agreements, and/or sales summaries.

**REQUEST NO. 25:**

Produce all Documents relating to the sale of REGISTRANT'S products within the United States by Nadine Hamade from 2004 to 2006 which bears the TRADEMARK, including, without limitation, all purchase orders, wire transfers, invoices, receipts, contracts, agreements, and/or sales summaries.

**REQUEST NO. 26:**

Produce all Documents which relate to the transfer of ownership of the TRADEMARK from Nadine Hamade to Omar Khaled Sarmini on or about June 1, 2006.

**REQUEST NO. 27:**

Produce all Documents relating to the sales of REGISTRANT'S products by Omar Khaled Sarmini in the United States from 2005 to 2006 which bears the TRADEMARK, including, without limitation, all purchase orders, wire transfers, invoices, receipts, contracts, agreements, and/or sales summaries.

///

**REQUEST NO. 28:**

Produce all Documents which relate to the transfer of ownership of the TRADEMARK from Omar Khaled Sarmini to REGISTRANT on or about August 30, 2006.

**REQUEST NO. 29:**

Produce all Documents relating to the sales of REGISTRANT'S products in the United States from 2001 to present, which bears the TRADEMARK, including, without limitation, all purchase orders, wire transfers, invoices, receipts, contracts, agreements, and/or sales summaries.

**REQUEST NO. 30:**

Produce all Documents which record, refer, or relate to any licenses, agreements, contracts, and/or arrangements between REGISTRANT and any third-party which relate in any manner to the TRADEMARK.

**REQUEST NO. 31:**

Produce all Documents which refer or relate to any litigation that was initiated by REGISTRANT against any third-party in the United States which relates in any manner to the TRADEMARK.

**REQUEST NO. 32:**

Produce all Documents which refer or relate to any litigation that was initiated by REGISTRANT against any third-party outside the United States which relates in any manner to the TRADEMARK.

///

///

**REQUEST NO. 33:**

Produce all Documents which record, refer, or relate to any permission, authorization, or license by REGISTRANT, or by any person acting for or on its behalf, to use "Al-Fakher" as an element of a trademark, service mark, Internet domain name, or trade name.

**REQUEST NO. 34:**

Produce all Documents which support YOUR denial in paragraph 8 of the ANSWER to the PETITION.

**REQUEST NO. 35:**

Produce all Documents which support YOUR denial in paragraph 9 of the ANSWER to the PETITION.

**REQUEST NO. 36:**

Produce all Documents which support YOUR denial in paragraph 10 of the ANSWER to the PETITION.

**REQUEST NO. 37:**

Produce all Documents which support YOUR denial in paragraph 12 of the ANSWER to the PETITION.

**REQUEST NO. 38:**

Produce all Documents which support YOUR denial in paragraph 13 of the ANSWER to the PETITION.

///

///

**REQUEST NO. 39:**

Produce all Documents which support YOUR denial in paragraph 14 of the ANSWER to the PETITION.

**REQUEST NO. 40:**

Produce all Documents which support YOUR denial in paragraph 16 of the ANSWER to the PETITION.

**REQUEST NO. 41:**

Produce all Documents which support YOUR denial in paragraph 17 of the ANSWER to the PETITION.

**REQUEST NO. 42:**

Produce all Documents which support YOUR denial in paragraph 18 of the ANSWER to the PETITION.

**REQUEST NO. 43:**

Produce all Documents which support YOUR denial in paragraph 19 of the ANSWER to the PETITION.

**REQUEST NO. 44:**

Produce all Documents which support YOUR denial in paragraph 23 of the ANSWER to the PETITION.

**REQUEST NO. 45:**

Produce all Documents which support YOUR denial in paragraph 24 of the ANSWER to the PETITION.

**REQUEST NO. 46:**

Produce all Documents which support YOUR denial in paragraph 25 of the ANSWER to the PETITION.

**REQUEST NO. 47:**

Produce all Documents which support YOUR denial in paragraph 26 of the ANSWER to the PETITION.

**REQUEST NO. 48:**

Produce all Documents which support YOUR denial in paragraph 28 of the ANSWER to the PETITION.

**REQUEST NO. 49:**

Produce all Documents which support YOUR denial in paragraph 29 of the ANSWER to the PETITION.

**REQUEST NO. 50:**

Produce all Documents identified in Response to Special Interrogatories No. 8(d), 13, 18, and 24.

February 5, 2008

Respectfully submitted,  
The Patel Law Firm, P.C.

By: 

Natu J. Patel  
Attorney for Petitioner Akram Allos

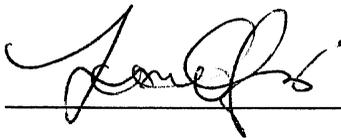
The Patel Law Firm, P.C.  
2532 Dupont Drive  
Irvine, CA 92612  
Telephone: (949) 955-1077  
Facsimile: (949) 955-1877  
[npatel@thePatelLawFirm.com](mailto:npatel@thePatelLawFirm.com)

**CERTIFICATE OF SERVICE**

It is hereby certified that a true and correct copy of the foregoing PETITIONER SINBAD GRAND CAFE'S FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS AND THINGS TO RESPONDENT was served by First-Class mail and electronic mail, upon attorneys for Respondent, this 5th day of February, 2008 as follows:

Lawrence E. Abelman, Esq.  
Victor M. Tannenbaum, Esq.  
Abelman Frayne & Schwab  
666 Third Avenue  
New York, NY 10017  
leabelman@lawabel.com  
vmtannenbaum@lawabel.com

F. Freddy Sayegh, Esq.  
Sayegh & Associates, PLC  
5895 Washington Boulevard  
Culver City, CA 90232  
fsayegh@spattorney.com



Jeannine Choi

2/5/08

Date

# **EXHIBIT B**

1 SAYEGH & ASSOCIATES, PLC  
2 F. FREDDY SAYEGH (Bar # 230297)  
3 5895 Washington Boulevard  
4 Culver City, California 90232  
5 Telephone: (310) 895-1188  
6 Facsimile: (310) 895-1180

7 Attorney for Al-Fakher for Tabacco Trading &  
8 Agencies Co. Ltd. Corporation

9 UNITED STATES PATENT AND TRADEMARK OFFICE  
10  
11 BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

12 SINBAD GRAND CAFE, LLC.,

13 Petitioner,  
14 v.

15 AL-FAKHER FOR TABACCO  
16 TRADING & AGENCIES CO. LTD.  
17 CORPORATION,

18 Respondent.

Cancellation No. 92048480

Assigned for All Purposes to the United States  
Patent and Trademark Office Trademark Trial  
and Appeal Board

**RESPONDENT AL-FAKHER FOR  
TABACCO TRADING & AGENCIES CO.  
LTD. CORPORATION'S RESPONSE TO  
PETITIONER'S FIRST SET OF  
REQUESTS FOR PRODUCTION OF  
DOCUMENTS AND THINGS**

Petition Filed: November 21, 2007  
Discovery Period Closes: July 28, 2008

21  
22 PROPOUNDING PARTY: Petitioner, SINBAD GRAND CAFE, LLC.,

23  
24 RESPONDING PARTY: Respondent, AL-FAKHER FOR TABACCO TRADING &  
25 AGENCIES CO. LTD. CORPORATION,

26 SET NO.: One

27 Respondent AL-FAKHER FOR TABACCO TRADING & AGENCIES, CO. LTD  
28 (hereinafter "Respondent") hereby responds, pursuant to Rule 2034.20 of the Federal Rules of

1 Civil Procedure, to Petitioner SINBAD GRAND CAFÉ, LLC.'S (hereinafter "Petitioner")  
2 Requests for Production of Documents, Set No. One.  
3  
4

5 **GENERAL STATEMENT**

6 Respondent has not completed his investigation of the facts relating to this case, nor has  
7 he completed discovery or preparation for trial. These responses are made on the basis of  
8 information presently available to Defendant. There may be further information of which  
9 Respondent is unaware. Therefore, Respondent reserves the right to offer or rely at trial on  
10 subsequently discovered information.

11 These responses are made solely for the purpose of this action. Respondent reserves the  
12 right to object to the use of any response in any other action. Each response is given subject to  
13 all appropriate objections, including but not limited to, objections concerning competency,  
14 relevancy, materiality, propriety, admissibility, the attorney-client privilege and the work-  
15 product doctrine, which would require the exclusion of any statements contained herein where  
16 made by a witness present and testifying in court. All such objections and grounds therefore are  
17 reserved and may be interposed at the time of trial. By providing information in response to any  
18 interrogatory, Respondent does not intend to authorize the use of such information in any action  
19 other than this one, nor does he waive any right he may have to object to further use of the  
20 information provided in this action or any other action, and thus reserves any and all rights he  
21 may have to object to such further use.

22 No incidental or implied admissions are intended by these responses. Respondent's  
23 responses or objections to any interrogatory are not intended as an admission of any purported  
24 facts set forth or assumed by such interrogatory. Respondent's response to any interrogatory is  
25 not intended as a waiver by him of any objection to that interrogatory or any other interrogatory.  
26  
27  
28

**RESPONSE TO REQUESTS FOR PRODUCTION OF DOCUMENTS SET ONE**

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2  
3 REQUEST NO. 1:

4 Produce all Documents relating to the organization, formation, ownership, and  
5 incorporation of REGISTRANT.

6 RESPONSE TO REQUEST NO. 1:

7 Respondent objects on the grounds that the terms "organization", "formation", and "ownership"  
8 are vague and ambiguous. Without waiving these objections, respondent responds by attaching a  
9 copy of Al-Fakher for Tobacco Trading & Agencies company registration certificate and  
10 corporate documents. Discovery and investigation is ongoing and continuing.

11 REQUEST NO. 2:

12 Produce all Documents which identify the names of all persons charged with the creation,  
13 selection or use of the TRADEMARK from 2001 to the present.

14 RESPONSE TO REQUEST NO. 2:

15 Petitioner responds by attaching copies of "To whom it may concern" issued by the registrant  
16 Al-Fakher for Tobacco Trading and Agencies Co and another one issued by Al-Fakher for  
17 Tobacco Trading LLC, in which it had been certified that the first use of Al-Fakher trademark  
18 was on 1999. Discovery and investigation is ongoing and continuing.

19 REQUEST NO. 3:

20 Produce all Documents identifying the names of all persons having supervisory authority  
21 over the persons referred to in your Response to Request No.2

22 RESPONSE TO REQUEST NO. 3:

23 Petitioner responds by attaching a declaration which certified that Mr. Samer Fakhouri is the  
24 general manager of the registrant Al-Fakher for Tobacco Trading & Agencies Co, and has the  
25 exclusive right to deal with others in the name of the registrant and to represent the registrant  
26 solo. Discovery and investigation is ongoing and continuing.

27 REQUEST NO. 4:

28 Produce all Documents relating to REGISTRANT'S use of the TRADEMARK in  
connection with any products offered for sale or sold in the United States by REGISTRANT.

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RESPONSE TO REQUEST NO. 4:

Petitioner responds by providing trademark registrations from the United States Trademark Offices. Discovery and investigation is ongoing and continuing.

REQUEST NO. 5:

Produce all Documents which record, refer, or related to any translations by REGISTRANT of the TRADEMARK into English.

RESPONSE TO REQUEST NO. 5:

Petitioner responds by attaching the meaning of the trademark "Al-Fakher" including translation and transliteration of the trademark. Discovery and investigation is ongoing and continuing.

REQUEST NO.6:

Produce all Documents which refer to any inquiry, investigation, evaluation, analysis or survey conducted by REGISTRANT relating to this cancellation proceeding.

RESPONSE TO REQUEST NO.6:

None has been performed yet. Discovery and investigation is ongoing and continuing.

REQUEST NO.7:

Produce a copy of each statement or opinion of any expert which REGISTRANT obtained regarding any grounds for cancellation in this proceeding.

RESPONSE TO REQUEST NO.7:

None has been performed yet. Discovery and investigation is ongoing and continuing.

REQUEST NO.8

Produce all Documents that comprise, depict or illustrate any marking by REGISTRANT of the TRADEMARK on or in connection with any advertising, intended advertising, promotion, or intended promotion of any products.

RESPONSE TO REQUEST NO.8:

Petitioner responds by providing documents that comprise, depict or illustrate any marking by REGISTRANT of the TRADEMARK on or in connection with any advertising, intended advertising, promotion, or intended promotion of any products. Discovery and investigation is ongoing and continuing.

1 REQUEST NO.9:

2 Produce one sample of each advertisement, intended advertisement, item of promotional  
3 material and intended item of promotional material that was stored, emailed, printed or  
4 disseminated by REGISTRANT in which TRADEMARK appears.

4 RESPONSE TO REQUEST NO.9:

5 Please find the attached advertisements. Discovery and investigation is ongoing and continuing.

6  
7 REQUEST NO.10:

8 Produce all Documents that refer or relate to the conception of any part of the subject  
9 matter of the TRADEMARK.

9 RESPONSE TO REQUEST NO.10:

10 Please find the documents attached. Discovery and investigation is ongoing and continuing.

11  
12 REQUEST NO.11:

13 Produce all Documents the refer or relate to the selection, design, adoption, proposed use,  
14 decision to use, and first use of the TRADEMARK by REGISTRANT, including samples of any  
15 names, designations, and other marks considered and rejected in every different logo, design,  
16 hang tag, packaging, font type, and font size.

16 RESPONSE TO REQUEST NO.11:

17 Please find the documents attached. Discovery and investigation is ongoing and continuing.

18  
19 REQUEST NO.12:

20 Produce one sample of each logo, design, hand tag, packaging, font type, and font size in which  
21 the TRADEMARK is being used or is intended to be used by REGISTRANT.

21 RESPONSE TO REQUEST NO.12:

22 Please find the documents attached. Discovery and investigation is ongoing and continuing.

23  
24 REQUEST NO.13:

25 Produce all Documents concerning or embodying the results of any search, investigation,  
26 studies, analyses, inquiries, reports or opinions on the enforceability, unenforceability,  
27 registerability, and availability of the subject matter claimed of the TRADEMARK by any party.

27 RESPONSE TO REQUEST NO.13:

28 Please find the documents attached. Discovery and investigation is ongoing and continuing.

1 REQUEST NO.14:

2 Produce all Documents containing the complete file history of the TRADEMARK,  
3 including, but not limited to, those containing the preparation, filing, or prosecution of any  
4 applications for registration of marks with the USPTO by REGISTRANT incorporating the  
5 term "Al-Fakher."

6 RESPONSE TO REQUEST NO.14:

7 We attach documents related to the application of trademark "Al-Fakher" No. 77012850 and  
8 registered trademark "Golden Al-Fakher" No. 78606649 both in the USPTO. (Please find  
9 attached Doc.9 & Doc.10) Discovery and investigation is ongoing and continuing.

10 REQUEST NO.15:

11 Produce all Documents authored by or on behalf of REGISTRANT or the named creator  
12 of the TRADEMARK that refer or relate to the subject matter disclosed in the TRADEMARK,  
13 including, but not limited to, articles, publications, internal memoranda, presentations or reports

14 RESPONSE TO REQUEST NO.15:

15 Please find the documents attached. Discovery and investigation is ongoing and continuing.

16 REQUEST NO.16:

17 Produce all Documents sufficient to identify each product which is being used or is intended to  
18 be used by REGISTRANT in which the TRADEMARK appears, or will appear.

19 RESPONSE TO REQUEST NO.16:

20 Please find the documents attached. Discovery and investigation is ongoing and continuing.

21 REQUEST NO.17:

22 Produce one copy of all media advertising, including magazine, newspaper, radio, and  
23 television commercials as well as press releases prepared by REGISTRANT, whether or not  
24 released, which contain the TRADEMARK.

25 RESPONSE TO REQUEST NO.17:

26 Please find the documents attached. Discovery and investigation is ongoing and continuing.

27 REQUEST NO.18:

28 Produce all Documents which either include or refer to any relationship or association  
between SINBAD and REGISTRANT.

1 RESPONSE TO REQUEST NO.18:

2 There was a relationship between Sierra Network Inc. and Sinbad grand Café.(Please find  
3 attached Doc. 15). Discovery and investigation is ongoing and continuing.

4 REQUEST NO.19:

5 Produce all Documents that are in possession of REGISTRANT that refer to SINBAD in  
6 any way.

7 RESPONSE TO REQUEST NO.19:

8 There was a relationship between Sierra Network Inc. and Sinbad grand Café.(Please find  
9 attached Doc. 15). Discovery and investigation is ongoing and continuing.

10 REQUEST NO.20:

11 Produce all Documents which relate to or which constitute any research, reports, surveys,  
12 or studies conducted by REGISTRANT regarding consumers' perception of the TRADEMARK.

13 RESPONSE TO REQUEST NO.20:

14 Discovery and investigation is ongoing and continuing.

15 REQUEST NO.21:

16 Produce all Documents relating to channels of trade in which REGISTRANT'S products  
17 bearing the TRADEMARK are sold, including the geographic area by state or territory.

18 RESPONSE TO REQUEST NO.21:

19 Please find attached Doc. 17. Discovery and investigation is ongoing and continuing.

20 REQUEST NO.22:

21 Produce all correspondence between REGISTRANT and to any person or entity,  
22 regarding any cease and desist demands in connection with the TRADEMARK.

23 RESPONSE TO REQUEST NO.22:

24 Please find attached Doc.14. Discovery and investigation is ongoing and continuing.

25 REQUEST NO.23:

26 Produce all Documents which relate to the transfer of ownership of TRADEMARK from  
27 Bassam Hamade to Nadine Hamade on or about November 11, 2004.

28

1 RESPONSE TO REQUEST NO.23:

2 Attached herewith please find the abstract of assignment.

3 REQUEST NO.24:

4 Produce all documents relating to the sale of REGISTRANT'S products within the  
5 United States by Bassam Hamade from 2001 to 2004 which bears the TRADEMARK, including,  
6 without limitation, all purchase orders, wire transfers, invoices, receipts, contracts, agreements,  
7 and/or sales summaries.

8 RESPONSE TO REQUEST NO.24:

9 Petitioner objects on the grounds that this question is irrelevant. Discovery and investigation is  
10 ongoing and continuing.

11 REQUEST NO.25:

12 Produce all Documents relating to the sale of REGISTRANT'S products within the  
13 United States by Nadine Hamade from 2004 to 2006 which bears the TRADEMARK, including,  
14 without limitation, all purchase orders, wire transfers, invoices, receipts, contracts, agreements,  
15 and/or sales summaries.

16 RESPONSE TO REQUEST NO.25:

17 Petitioner objects on the grounds that this question is irrelevant. Discovery and investigation is  
18 ongoing and continuing.

19 REQUEST NO.26:

20 Produce all Documents which relate to the transfer of ownership of the TRADEMARK  
21 from Nadine Hamade to Omar Khaled Sarmini on or about June 1, 2006.

22 RESPONSE TO REQUEST NO.26:

23 Discovery and investigation is ongoing and continuing.

24 REQUEST NO.27:

25 Produce all Documents relating to the sales of the REGISTRANT'S products by Omar  
26 Khaled Sarmini in the United States from 2005 to 2006 which bears the TRADEMARK,  
27 including, without limitation, all purchases orders, wire transfers, invoices, receipts, contracts,  
28 agreements, and/or sales summaries.

1 RESPONSE TO REQUEST NO.27:

2 Discovery and investigation is ongoing and continuing.

3 REQUEST NO.28:

4 Produce all Documents which relate to the transfer of ownership of the TRADEMARK  
5 from Omar Khaled Sarmini to REGISTRANT on or about August 30, 2006.

6 RESPONSE TO REQUEST NO.28:

7 Plaintiff also objects to the Request on the grounds that the Request is grossly overbroad in scope  
8 as to time. Plaintiff additionally objects to this Request to the extent that it seeks information  
9 and documentation in violation of the attorney-client privilege and/or Work Product Doctrine.  
10 Without waiving these objections, and to the extent Plaintiff understands this Request, Plaintiff  
11 responds to this Request by attached Doc. 18 & Doc.19. Discovery and investigation is ongoing  
12 and continuing.

13 REQUEST NO.29:

14 Produce all Documents relating to the sales of REGISTRANT'S products on the United  
15 States from 2001 to present, which bears the TRADEMARK, including, without limitation, all  
16 purchases orders, wire transfers, invoices, receipts, contracts, agreements, and/or sales  
17 summaries.

18 RESPONSE TO REQUEST NO.29:

19 Plaintiff also objects to the Request on the grounds that the Request is grossly overbroad in scope  
20 as to time. Plaintiff additionally objects to this Request to the extent that it seeks information  
21 and documentation in violation of the attorney-client privilege and/or Work Product Doctrine.  
22 Discovery and investigation is ongoing and continuing.

23 REQUEST NO.30:

24 Produce all Documents which record, refer, or relate to any licenses, agreements,  
25 contracts, and/or arrangements between REGISTRANT and any third-party which relate in any  
26 manner to the TRADEMARK.

27 RESPONSE TO REQUEST NO.30:

28 Plaintiff also objects to the Request on the grounds that the Request is grossly overbroad in scope  
as to time. Plaintiff additionally objects to this Request to the extent that it seeks information  
and documentation in violation of the attorney-client privilege and/or Work Product Doctrine.  
Without waiving these objections, and to the extent Plaintiff understands this Request, Plaintiff

1 responds to this Request by attaching Doc.20. Discovery and investigation is ongoing and  
2 continuing.

3 REQUEST NO.31:

4 Produce all Documents which refer or relate to any litigation that was initiated by  
5 REGISTRANT against any third-party in the United States which relates in any manner to the  
6 TRADEMARK.

7 RESPONSE TO REQUEST NO.31:

8 Plaintiff also objects to the Request on the grounds that the Request is grossly overbroad in scope  
9 as to time. Plaintiff additionally objects to this Request to the extent that it seeks information  
10 and documentation in violation of the attorney-client privilege and/or Work Product Doctrine.  
11 Discovery and investigation is ongoing and continuing.

12 REQUEST NO.32:

13 Produce all Documents which refer or relate to any litigation that was initiated by  
14 REGISTRANT against any third-party outside the United States which relates in any manner to  
15 the TRADEMARK.

16 RESPONSE TO REQUEST NO.32:

17 We attached a copy of cancellation action filed against a Jordanian company which registered the  
18 TRADEMARK in its name, and a settlement agreements signed between the registrant and the  
19 said Jordanian company.(Please find attached Doc. 11, and Doc.14) Discovery and investigation  
20 is ongoing and continuing.

21 REQUEST NO.33:

22 Produce all Documents which record, refer, or relate to any permission, authorization, or  
23 license by REGISTRANT, or by any person acting for or on its behalf, to use "Al-Fakher" as an  
24 element of a trademark, service mark, Internet domain name, or trade name.

25 RESPONSE TO REQUEST NO.33:

26 Discovery and investigation is ongoing and continuing.

27 REQUEST NO.34:

28 Produce all Documents which support YOUR denial in paragraph 8 of the ANSWER to  
the PETITION.

RESPONSE TO REQUEST NO.34:

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Please find attached Doc. 12. Discovery is ongoing and continuing.

REQUEST NO.35:

Produce all Documents which support YOUR denial in paragraph 9 of the ANSWER to the PETITION.

RESPONSE TO REQUEST NO.35:

Please find attached Doc. 13, scanned copies of the TRADEMARK registration certificate worldwide. Discovery is ongoing and continuing.

REQUEST NO.36:

Produce all Documents which support YOUR denial in paragraph 10 of the ANSWER to the PETITION.

RESPONSE TO REQUEST NO.36:

Please find attached Doc. 13, scanned copies of the TRADEMARK registration certificate worldwide. Discovery is ongoing and continuing.

REQUEST NO.37:

Produce all Documents which support YOUR denial in paragraph 12 of the ANSWER to the PETITION.

RESPONSE TO REQUEST NO.37:

Please find attached Doc. 12 .Discovery is ongoing and continuing.

REQUEST NO.38:

Produce all Documents which support YOUR denial in paragraph 13 of the ANSWER to the PETITION.

RESPONSE TO REQUEST NO.38:

Please find attached Doc. 12. Discovery is ongoing and continuing.

REQUEST NO.39:

Produce all Documents which support YOUR denial in paragraph 14 of the ANSWER to the PETITION.

RESPONSE TO REQUEST NO.39:

Please find attached Doc. 12. Discovery is ongoing and continuing.

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REQUEST NO.40:

Produce all Documents which support YOUR denial in paragraph 16 of the ANSWER to the PETITION.

RESPONSE TO REQUEST NO.40:

Discovery is ongoing and continuing.

REQUEST NO.41:

Produce all Documents which support YOUR denial in paragraph 17 of the ANSWER to the PETITION.

RESPONSE TO REQUEST NO.41:

Discovery is ongoing and continuing.

REQUEST NO.42:

Produce all Documents which support YOUR denial in paragraph 18 of the ANSWER to the PETITION.

RESPONSE TO REQUEST NO.42:

Please find attached Doc. 12. Discovery is ongoing and continuing.

REQUEST NO.43:

Produce all Documents which support YOUR denial in paragraph 19 of the ANSWER to the PETITION.

RESPONSE TO REQUEST NO.43:

Discovery is ongoing and continuing.

REQUEST NO.44:

Produce all Documents which support YOUR denial in paragraph 23 of the ANSWER to the PETITION.

RESPONSE TO REQUEST NO.44:

Please find attached Doc.2 & Doc.3. Discovery is ongoing and continuing.

REQUEST NO.45:

Produce all Documents which support YOUR denial in paragraph 24 of the ANSWER to the PETITION.

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RESPONSE TO REQUEST NO.45:

Please find attached Doc.2 & Doc.3. Discovery is ongoing and continuing.

REQUEST NO.46:

Produce all Documents which support YOUR denial in paragraph 25 of the ANSWER to the PETITION.

RESPONSE TO REQUEST NO.46:

Discovery is ongoing and continuing.

REQUEST NO.47:

Produce all Documents which support YOUR denial in paragraph 26 of the ANSWER to the PETITION.

RESPONSE TO REQUEST NO.47:

Discovery is ongoing and continuing.

REQUEST NO.48:

Produce all Documents which support YOUR denial in paragraph 28 of the ANSWER to the PETITION.

RESPONSE TO REQUEST NO.48:

Discovery and investigation is ongoing and continuing.

REQUEST NO.49:

Produce all Documents which support YOUR denial in paragraph 29 of the ANSWER to the PETITION.

RESPONSE TO REQUEST NO.49:

Discovery is ongoing and continuing.

REQUEST NO.50:

Produce all Documents identified in Response to Special Interrogatories No.8(d). 13, 18, and 24.

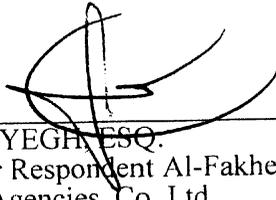
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RESPONSE TO REQUEST NO.50:

Discovery is ongoing and continuing.

DATED: March 14, 2008

SAYEGH & ASSOCIATES, PLC

By:   
FAHED SAYEGH, ESQ.  
Attorney for Respondent Al-Fakher for Tobacco  
Trading & Agencies, Co. Ltd.

VERIFICATION

Page 1 of 2

**David@SierraNetworkInc.com**

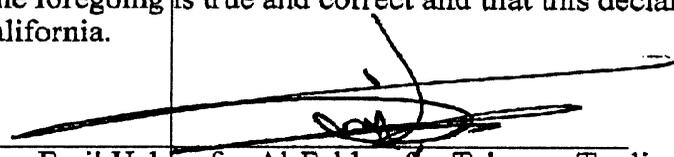
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**From:** Freddy Sayegh [fsayegh@spattorney.com]  
**Sent:** Friday, March 14, 2008 12:08 PM  
**To:** DAVID@SIERRANETWORKINC.COM; Emilhakim@aol.com  
**Subject:** VERIFICATION-RFP.doc

VERIFICATION

I, EMIL HAKIM, am the AGENT FOR RESPONDENT in the above-entitled action. I have read the foregoing *RESPONSES TO FIRST SET OF REQUEST FOR PRODUCTION OF DOCUMENTS* and know the contents thereof. The same is true of my own knowledge, except as to those matters which are therein alleged on information and belief, and as to those matters, I believe it to be true. I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed in the City of Los Angeles, California.

DATED: March 14, 2008




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Emil Hakim for Al-Fakher for Tabacco Trading & Agencies,  
 Co. Ltd.

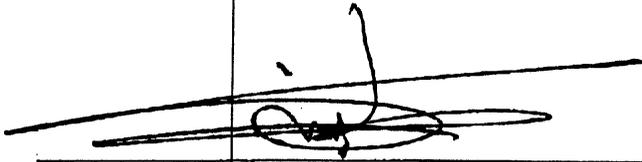
VERIFICATION

I, EMIL HAKIM, am the AGENT FOR RESPONDENT in the above-entitled action. I have read the foregoing *RESPONSES TO FIRST SET OF SPECIAL INTERROGATORIES* and know the contents thereof. The same is true of my own knowledge, except as to those matters which are therein alleged on information and belief, and as to those matters, I believe it to be true. I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed in the City of Los Angeles, California.

3/14/2008

VERIFICATION

DATED: March 14, 2008

A handwritten signature in black ink, appearing to be 'Emil Hakim', is written over a horizontal line. The signature is somewhat stylized and overlaps the line.

Emil Hakim for Al-Fakher for Tobacco Trading & Agencies,  
Co. Ltd.

# **EXHIBIT C**

# The Patel Law Firm

A Professional Corporation

2532 Dupont Drive, Irvine, California 92612  
Tel: (949) 955-1077 - Fax: (949) 955-1877  
NPatel@thePatelLawFirm.com

April 3, 2008

**Via Facsimile & E-Mail**  
**fsayegh@spattorney.com**  
**(310) 895-1180**

F. Freddy Sayegh, Esq.  
THE FOXX FIRM, PLC.  
5895 Washington Boulevard  
Culver City, CA 90232

**Re: Cancellation Proceeding No. 92048480**  
**Our File No.: A005-8000**  
**First Set of Requests for Production of Documents and Things**

Dear Mr. Sayegh:

We have reviewed your client's responses and the documents that were served on March 14, 2008. You had assured us that you will re-serve these documents again, Bates stamped, to allow the parties to authenticate and track the documents during the proceedings. Please consider this letter as a meet and confer attempt to resolve your inadequate responses to Petitioner Sinbad Grand Cafe's First Set of Requests for Production of Documents and Things propounded to respondent on February 5, 2008.

As explained below, your responses are insufficient and deficient. Some of your objections have no merit. Additionally, your responses fail to meet the requirements of Federal Rules of Civil Procedure ("FRCP") 34(b). You are required to respond separately to each item in the request by agreeing to comply, stating an inability to comply, or objecting to the request. Responses 2 - 24, 26, 27, and 31 - 50, fail to state an agreement to comply, an inability to comply, or an objection to the request.

In agreeing to comply, the response must be specific as to what is agreed; the response must state with respect to each item or category that inspection and related activities will be permitted as requested, except to the extent of any objections made.

If you respond that you are unable to reply, you must state both that a "diligent search and reasonable inquiry has been made in an effort to locate the item requested" and the reason you are unable to comply, i.e. the document never existed, was lost or stolen, was inadvertently destroyed, or is not in your possession, custody, or control.

If you object to any item or category requested, the objection must identify the specific document or evidence requested as to which the objection is made; and set forth the reason for objection, including claims of privilege or work product protection. Where an objection applies to only a portion of the documents requested, you must produce the remainder.

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Furthermore, when objecting on the basis of privilege or work product, you are required by FRCP 26(b)(5) to provide a privilege log for documents withheld. The privilege log should set forth the general nature of the document, the identity and position of its author, the date it was written, the identity and position of all addresses and recipients, the document's present location, the specific reasons it was withheld (which privilege is claimed), and any attachment to an allegedly privileged document should be listed separately from the document to which it is attached.

Additionally, you are required to organize and label responsive documents to correspond with the categories in the request. The purpose of this rule is to prevent deliberate mixing of critical documents with others in the hope of obscuring their significance. *FRCP 34(b); FRCP 34(b), Adv. Comm. Notes (1970)*

Based on our explanation, we request that you amend/supplement your responses and document production as soon as possible. As you know, we would like to move forward with deposition(s), but cannot do so unless these issues are resolved.

### **REQUESTS FOR PRODUCTION OF DOCUMENTS AND THINGS**

This meet and confer only addresses certain document requests. Many of the documents that you have supplied are in Arabic language and are still under review. Once we complete our review and analysis of those documents, we will forward you another supplemental meet and confer letter to address any open issues.

#### **Request No. 1**

Your objections are unfounded and have no merit based on the arguments presented in our meet and confer letter dated March 25, 2008 pertaining to special interrogatories. There is nothing vague and ambiguous about the terms "organization", "formation," and "ownership". Additionally, our document request seeks documents that are very relevant. Please supplement your response and produce all responsive documents immediately.

#### **Request No. 2**

The document request seeks all documents which identify the names of all persons charged with the creation, selection, or use of the Trademark from 2001 to the present. You produced a document certifying that the first use of Al-Fakher trademark was in 1999. Your response as well as your document production is not responsive. Please supplement your response and produce the documents accordingly.

#### **Request No. 4**

Your response to this request was to supply records of trademark registrations from the USPTO. However, these documents do not establish that any products were in

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fact sold or offered for sale in the U.S. by registrant. Surely there must be records of commercial activity, such as shipping or sales invoices, within the U.S. since you claim that the trademark was used in interstate commerce since 1999. Please supplement your response and supply us with documents relating to Registrant's use of the Trademark in connection with any products offered for sale or sold in the United States by Registrant.

### **Request No. 8**

You were asked to produce all documents that comprise, depict, or illustrate any marking by Registrant of the Trademark on or in connection with any advertising, intended advertising, promotion, or intended promotion of any products. You provided one page depicting the logo "Al Fakher." Based on your responses to Interrogatory No. 7, and other interrogatories, you claim to use or intend to use the Trademark in connection with over eighty products other than Tobacco. Either your client is being untruthful in his responses or simply withholding hundreds of documents that are in his possession that are responsive. Please supplement your response and produce all responsive documents.

### **Request No. 9**

This request asks you to produce one sample of each advertisement, intended advertisement, item of promotional material and intended item of promotional material that was stored, emailed, printed or disseminated by Registrant in which TRADEMARK appears." You provided only few copies of advertisement. This is NOT acceptable. As requested, please produce "one sample of each" of the goods or services that you listed in your answer to interrogatory no. 7. Copies are NOT acceptable. Additionally, also produce one SAMPLE of each item, as requested. Please supplement your responses and provide the items and material as requested.

### **Request No. 10-13, 15-17**

Your response to these requests stated that "Please find the documents attached." As set forth above, according to Rule 34(b), you are required to organize and label responsive documents to correspond with the categories of the requests. The blanket statement "Please find the documents attached" is not sufficient labeling. Furthermore, you stated that "Discovery and investigation is ongoing and continuing." As explained above you must agree to comply with this request, state an inability to comply with this request, or make objections to this request. If you agree to comply, please specify what you agree to comply with. If you are unable to comply, please state whether a diligent search was made and state the reason why you are unable to comply.

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**Request No. 18, 19**

You were asked to provide all documents which either include or refer to any relationship or association between Sinbad and Registrant, and documents which refer to Sinbad in any way. Your response to these interrogatories was that there was a relationship between Sierra Network and Sinbad Grand Cafe, and to refer to Document 15. However, given the nature of the purported relationship indicated in Document 15, there must be some invoices or bills of sale or other records detailing the relationship between the parties and the events between them. Furthermore, your statement that discovery and investigation is ongoing and continuing is non-responsive pursuant to FRCP 34(b) as explained above. Please supplement your responses and provide the items and material as requested.

**Request No. 20**

You were asked to produce all documents which relate to or which constitute any research, reports, surveys, or studies conducted by Registrant regarding consumer's perception of the Trademark. You stated that "Discovery and investigation is ongoing and continuing." Your reply to this request is non-responsive pursuant to FRCP 34(b) as explained above. Please supplement your response with documents which relate to or which constitute any research, reports, surveys, or studies conducted by Registrant regarding consumers' perception of the Trademark.

**Request No. 21**

You were asked to produce documents you have relating to channels of trade in which Registrant's products bearing the Trademark are sold, including the geographic area by state or territory. You responded by referring to Document 17. However, Document 17 does not state in which of the states in the United States the products bearing the trademark were distributed or sold, nor does it say which channels of trade the products were distributed or sold in. Please supplement your response and produce all responsive documents.

**Request No. 22**

You were asked to produce all correspondence between Registrant and any person or entity, regarding any cease and desist demands in connection with the Trademark. However, your response is non-responsive pursuant to FRCP 34(b) as explained above. Please supplement your responses and produce all responsive documents.

**Request No. 23**

You were asked to provide documents which relate to the transfer of ownership of the Trademark from Bassam Hamade to Nadine Hamade on or about November 11,

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2004. You responded by attaching an abstract of assignment. However, your response is non-responsive pursuant to FRCP 34(b) as explained above. Please supplement your response and produce all responsive documents.

**Request No. 24**

You were asked to provide documents you have relating to the sale of Registrant's products within the United States by Bassam Hamade from 2001 to 2004 which bears the Trademark. You objected to this request as irrelevant. However, Bassam Hamade was the owner of the trademark from approximately 2001 to 2004. Maintenance of trademark rights requires continuous use in commerce. Whether or not Bassam Hamade actually made use of the mark during this period is directly relevant to establishing whether the trademark was in continuous use within the United States. Please supplement your response and produce all responsive documents.

**Request No. 25**

You were asked to provide any documents you have relating to the sale of Registrant's products within the United States by Nadine Hamade from 2004 to 2006 which bears the Trademark. You objected to this request as irrelevant. However, Nadine Hamade was the owner of the trademark from approximately 2004 to 2006. Maintenance of trademark rights requires continuous use in commerce. Whether or not Nadine Hamade actually made use of the mark during this period is directly relevant to establishing whether the trademark was in continuous use within the United States. Please supplement your response and produce all responsive documents.

**Request No. 26, 27**

You were asked to provide documents demonstrating the transfer of ownership from Nadine Hamade to Omar Khaled Sarmini, or documents which relate to sales of Registrant's products by Omar Khaled Sarmini in the United States from 2005 to 2006 which bear the trademark. Your response to these requests is that discovery is ongoing and continuing. Your reply to these requests is non-responsive pursuant to FRCP 34(b) as explained above. Additionally, according to the Document 20 which you produced, Omar Khaled Sarmini appears to be a manager of Registrant. Since Omar Khaled Sarmini is or was a representative of Registrant, surely you must have some documents demonstrating the transfer of ownership from Nadine Hamade to Omar Khaled Sarmini, or documents which relate to sales of Registrant's products by Omar Khaled Sarmini in the United States from 2005 to 2006 which bear the trademark. Please supplement your response and produce all responsive documents.

**Request No. 28**

You were asked to produce all documents which relate to the transfer of ownership of the Trademark from Omar Khaled Sarmini to Registrant on or about August

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30, 2006. You objected on the basis of being overbroad in scope as to time. However, Registrant's ownership of the Trademark from 2006 to the present is directly relevant to this Petition and the cancellation proceedings.

You also object on the basis of attorney-client privilege and attorney work-product. First of all, your assertion of attorney client privilege and attorney work product protection is unfounded. We seek documentation relating to sales of products within the U.S. many of which have nothing to do with communications between an attorney and client, and most of which were not likely prepared in anticipation of litigation. Furthermore, by withholding documents under privilege you are required to provide the following pursuant to section M of the Definitions of Petitioner's First Request for Production of Documents:

- (a) The type of the document;
- (b) The date of the document;
- (c) The name, business address and present position of the author(s) or originator(s) of the document;
- (d) The position of the author(s) or originator(s) of the document at the time the document was prepared;
- (e) The names and address of all persons or entities who have received a copy of the document;
- (f) The position of each recipient of the document at the time the document was prepared and at the time the document was received;
- (g) A general description of the subject matter of the document;
- (h) All information contained in the document to which the claimed privilege is not asserted;
- (i) All information contained in the document to which the claimed privilege is not asserted;
- (j) If the protection of the work product doctrine is asserted, the proceeding in anticipation of which the document was prepared.

You also produced Documents 18 and 19 in response to this request. However, your response is still non-responsive pursuant to FRCP 34(b) as explained above.

In response to this request, you also state that discovery is ongoing. Your reply to this request is non-responsive pursuant to FRCP 34(b) as explained above. Please supplement your response and provide us with responsive documents.

### **Request No. 29**

You were asked to provide all documents relating to the sales of Registrant's products in the United States from 2001 to the present, which bear the Trademark, including, without limitation, ***all*** purchase orders, wire transfers, invoices, receipts, contracts, agreements, and/or sales summaries. You object on the basis of the request being overbroad in scope as to time. However, the date of first use for the trademark is listed as January 15, 2001. Therefore, information responsive to this request from 2001 onwards is relevant to establishing that the mark was in fact in continuous use within the U.S. since January 15, 2001.

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You also object on the basis of privilege, and as explained above by withholding documents under privilege you are required to comply with the instructions outlined in section M of the Definitions of Petitioner's First Request for Production of Documents.

In response to this request, you also state that discovery is ongoing. Your reply to this request is non-responsive pursuant to FRCP 34(b) as explained above. We need this information before depositions are taken. Please supply us with responsive documents as soon as possible.

### **Request No. 30**

You were asked to provide all documents which record, refer, or relate to any licenses, agreements, contracts, and/or arrangements between Registrant and any third-party which relate in any manner to the Trademark. You object on the basis of the request being overbroad in scope as to time. However, the date of first use anywhere in the world for the Trademark is listed as May 10, 1995, therefore documents which refer to any use from 1995 onwards is relevant to establish the true date of first use.

You also object on the basis of privilege, and as explained above by withholding documents under privilege you are required to comply with section M of the Definitions of Petitioner's First Request for Production of Documents.

You also produced Document 20 in response to this request. Your reply to this request is non-responsive pursuant to FRCP 34(b) as explained above.

In response to this request, you also state that discovery is ongoing. Your reply to this request is non-responsive pursuant to FRCP 34(b) as explained above. We need this information before depositions are taken. Please supply us with responsive documents as soon as possible.

### **Request No. 31**

Please see above for reasons why your objections are insufficient or fail.

You were asked to produce all documents which refer or relate to any litigation that was initiated by Registrant against any third-party in the United States which relates in any manner to the Trademark. Your response to this request that discovery is ongoing is non-responsive pursuant to FRCP 34(b) as explained above. Furthermore, you do not state whether you have any documents which refer or relate to any litigation that was initiated by Registrant against any third party in the United States which relates in any manner to the trademark. Please state whether any such documents are within your possession, custody, or control, and provide such documents soon as possible.

### **Request No. 33**

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You were asked to produce all documents which record, refer, or relate to any permission, authorization, or license by Registrant, or by any person acting for or on its behalf, to use “Al-Fakher” as an element of a trademark, service mark, Internet domain name, or trade name. Your response to this request that discovery is ongoing is non-responsive pursuant to FRCP 34(b) as explained above. Please supplement your response and produce all responsive documents.

#### **Request No. 34**

You were asked to supply documents which support your denial of paragraph 8 in the Answer to the Petition. Paragraph 8 alleges that “AL-FAKHER” translates to “quality” in English. Your response to this request that discovery is ongoing is non-responsive pursuant to FRCP 34(b) as explained above. Your response to this request also referred to Document 12, which appears to be USPTO records regarding the trademark registration. However, our review of the documents produced indicates that these documents are not responsive. These trademark records contain no mention of a translation of “Al-Fakher” into English. Please supplement your answer and produce responsive documents.

#### **Request No. 35**

You were asked to supply documents which support your denial of paragraph 9 in the Answer to the Petition. Paragraph 9 alleges that “AL-FAKHER” describes a quality, characteristic, function, feature, purpose, or use of the relevant goods. Your specific denial directed towards one of the paragraphs of the petition, when not based upon lack of knowledge or information, is only proper where you can deny all the allegations in particular portions of the petition in good faith. FRCP 8(b)

Your response to this request that discovery is ongoing is non-responsive pursuant to FRCP 34(b) as explained above. Your response to this request also referred to document 13, which appears to be a collection of international trademark registrations. However, our review of the documents produced indicates that these documents are not responsive. These trademark records do not approach the question of whether the trademark “AL-FAKHER” is descriptive or not. Thus, no good-faith basis for denial of the allegation exists in the documents you provided. Please supplement your answer and produce responsive documents.

#### **Request No. 36**

You were asked to supply documents which support your denial of paragraph 10 in the Answer to the Petition. Paragraph 10 alleges that the Trademark had not acquired distinctiveness in the United States as of the time of filing, September 21, 2001. Your response to this request that discovery is ongoing is non-responsive pursuant to FRCP 34(b) as explained above. Your response to this request also referred to Document 13. However, our review of the documents produced indicates that these documents are not responsive. These international registrations have nothing to do with whether Registrant

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has acquired distinctiveness within the United States. Thus, no good-faith basis for denial of the allegation exists in the documents you provided. Please supplement your answer and produce responsive documents.

**Request No. 37**

You were asked to supply documents which support your denial of paragraph 12 in the Answer to the Petition. Paragraph 12 alleges that Bassam Hamade omitted the English translation of “Al-Fakher” when registering the trademark. Your response to this request that discovery is ongoing is non-responsive pursuant to FRCP 34(b) as explained above. Your response to this request also referred to Document 12. However, our review of the documents produced indicates that these documents are not responsive. The complete lack of any mention of an English translation in Document 12 only serves to strengthen our assertion. Thus, no good-faith basis for denial of the allegation exists in the documents you provided. Please supplement your answer and produce responsive documents.

**Request No. 38**

You were asked to supply documents which support your denial of paragraph 13 in the Answer to the Petition. Paragraph 13 alleges that the omission of an English translation for “Al-Fakher” constituted a material omission or misrepresentation to the USPTO. Your response to this request that discovery is ongoing is non-responsive pursuant to FRCP 34(b) as explained above. Your response to this request also referred to Document 12. However, our review of the documents produced indicates that these documents are not responsive. These documents do not support your denial of this allegation. Thus, no good-faith basis for denial of the allegation exists in the documents you provided. Please supplement your answer and produce responsive documents.

**Request No. 39**

You were asked to supply documents which support your denial of paragraph 14 in the Answer to the Petition. Paragraph 14 alleges that the material omission or misrepresentation was made intentionally, and if the USPTO had known of the misrepresentation of omission, would not have granted registration. Your response to this request that discovery is ongoing is non-responsive pursuant to FRCP 34(b) as explained above. Your response to this request also referred to Document 12. However, our review of the documents produced indicates that these documents are not responsive. Thus, no good-faith basis for denial of the allegation exists in the documents you provided. Please supplement your answer and produce responsive documents.

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**Request No. 40**

You were asked to supply documents which support your denial of paragraph 16 in the Answer to the Petition. Paragraph 16 alleges that on or about July 30, 2003, Bassam Hamade was the one who registered the Trademark, the date of first use was claimed as May 10, 1995, and the statement of use was signed by Bassam Hamade on or about July 24, 2003. Your response to this request that discovery is ongoing is non-responsive pursuant to FRCP 34(b) as explained above. Additionally, your denial of these events is clearly contrary to the existing record and contrary in particular to the Document 12 that you produced. Thus, no good-faith basis for denial of the allegation exists in the documents you provided. If you have any documents which support a good faith basis for denying this entire allegation, please supplement your response and produce all responsive documents.

**Request No. 41**

You were asked to supply documents which support your denial of paragraph 17 in the Answer to the Petition. Paragraph 17 alleges that Bassam Hamade did not sell products bearing the mark "AL-FAKHER" or otherwise use "AL-FAKHER" as a trademark in 1995, in paragraph 17 in the Answer to the Petition. Your response to this request that discovery is ongoing is non-responsive pursuant to FRCP 34(b) as explained above. Do you have any documents which support your denial? Surely you must have some documents to support a good-faith basis for denial of the allegation. Please supplement your response and produce all responsive documents.

**Request No. 42**

You were asked to supply documents which support your denial of paragraph 18 in the Answer to the Petition. Paragraph 18 alleges that the USPTO did rely on Bassam Hamade's listing of the date of first use anywhere in the world as May 10, 1995. Your response to this request that discovery is ongoing is non-responsive pursuant to FRCP 34(b) as explained above. Your reply to this request also referred to document 12. However, our review of the documents produced indicates that these documents are not responsive. In fact, Document 12 appears to offer proof to the contrary, that the USPTO did in fact rely upon the date of first use since the USPTO did grant registration of the trademark. Thus, no good-faith basis for denial of the allegation exists in the documents you provided. Please supplement your response and produce all responsive documents.

**Request No. 43**

You were asked to supply documents which support your denial of paragraph 19 in the Answer to the Petition. Paragraph 19 alleges that Bassam Hamade knew products bearing the mark "AL-FAKHER" were not sold or "AL-FAKHER" was not otherwise used as a trademark in 1995. Your response to this request that discovery is ongoing is non-responsive pursuant to FRCP 34(b) as explained above. Do you have

April 3, 2008

any documents which support your denial? Surely you must have some documents to support a good-faith basis for denial of the allegation. Please supplement your response and produce all responsive documents as soon as possible.

**Request No. 44, 45**

You were asked to supply documents which support your denial of paragraphs 23 and 24 in the Answer to the Petition. Paragraphs 23 and 24 allege that Bassam Hamade abandoned use of the trademark at some point in time during 2001 to 2004 and Nadine Hamade abandoned use of the trademark at some point in time during 2004 to 2006. Your response to these requests that discovery is ongoing is non-responsive pursuant to FRCP 34(b) as explained above.

Your response to this request also referred to Documents 2 and 3, which you identified as correspondence stating that Registrant was incorporated abroad in 1999. We have not yet had an opportunity to translate these documents. However, if Documents 2 and 3 do show that Registrant was incorporated abroad in 1999, this correspondence only establishes that the Registrant existed outside of the United States in 1999. Use in the United States, not use in a foreign nation, establishes trademark rights within the United States. Therefore, Documents 2 and 3 you provided do not support your denial that Bassam Hamade abandoned the use of the mark at some point from 2001 to 2004. Additionally, the documents you provided do not support your denial that Nadine Hamade abandoned use of the mark at some point from 2004 to 2006. Thus, no good-faith basis for denial of the allegations exists in the documents you provided. Please supplement your response and produce all responsive documents as soon as possible.

**Request No. 46**

You were asked to supply documents which support your denial of paragraph 25 in the Answer to the Petition. Paragraph 25 alleges that Bassam Hamade abandoned the mark before the attempted transfer of ownership to Nadine Hamade. Your response to this request that discovery is ongoing is non-responsive pursuant to FRCP 34(b) as explained above. Do you have any documents which support your denial? Surely you must have some documents to support a good-faith basis for denial of the allegation. Please supplement your response and produce all responsive documents as soon as possible.

**Request No. 47**

You were asked to supply documents which support your denial of paragraph 26 in the Answer to the Petition. Paragraph 26 alleges that the transfer of ownership of the trademark to Nadine Hamade was invalid, and that the transfer of ownership from Nadine Hamade to Omar Khaled Sarmini was invalid, and that the transfer of ownership from Omar Khaled Sarmini to Registrant was invalid. Your response to this request that discovery is ongoing is non-responsive pursuant to FRCP 34(b) as explained above. Do

April 3, 2008

you have any documents which support your denial? Surely you must have some documents to support a good-faith basis for denial of the allegation. Please supplement your response and produce all responsive documents as soon as possible.

**Request No. 48**

You were asked to supply documents which support your denial of paragraph 28 in the Answer to the Petition. Paragraph 28 alleges that Bassam Hamade transferred ownership of the trademark to Nadine Hamade on or about November 16, 2004. Your response to this request that discovery is ongoing is non-responsive pursuant to FRCP 34(b) as explained above. Do you have any documents which support your denial? Your reply directly contradicts the record in the USPTO database. Thus, no good-faith basis for denial of the allegations exists in the documents you provided. Please supplement your response and produce all responsive documents as soon as possible.

**Request No. 49**

You were asked to supply documents which support your denial of paragraph 29 in the Answer to the Petition. Paragraph 29 alleges that Bassam Hamade the assignment of the trademark to Nadine Hamade was made without accompanying goodwill. Your response to this request that discovery is ongoing is non-responsive pursuant to FRCP 34(b) as explained above. Do you have any documents which support your denial? Surely you must have some documents to support a good-faith basis for denial of the allegation. Please supplement your response and produce all responsive documents as soon as possible.

**Request No. 50**

You were asked to supply documents identified in Response to Special Interrogatories No. 8(d), 13, 18, and 24. Your response to this request that discovery is ongoing is non-responsive pursuant to FRCP 34(b) as explained above and in our detailed meet and confer letter regarding special interrogatories that we sent recently. Please supplement your response and produce all responsive documents as soon as possible.

\*\*\*\*\*

As explained in this meet and confer letter and our previous meet and confer letter on Special Interrogatories, your responses fail to comply the FRCP requirements. It is imperative that you address these issues, supplement your responses and produce documents as soon as possible to help us move forward. If you have any questions, please do not hesitate to contact us. We would like your supplemental responses on or before **April 15, 2008** and document production soon thereafter. If we do not get adequate response that complies with FRCP, we will have no choice but to seek the Board's intervention. I am hopeful that such intervention will not be necessary.

F. Freddy Sayegh, Esq.  
THE FOXX FIRM, PLC  
Re: Meet & Confer – RFPD – Set No. One

April 3, 2008

Should you have any questions or need clarification on any of the issues raised in my meet and confer letters, please do not hesitate to call me.

Very truly yours,  
The Patel Law Firm, P.C.

A handwritten signature in black ink that reads "Nattu Patel" followed by a stylized flourish or initials.

Nattu J. Patel

NJP/jc/jjc

# The Patel Law Firm

A Professional Corporation

---

2532 Dupont Drive  
Irvine, California 92612-1524  
Tel: (949) 955-1077  
Fax: (949) 955-1877

## FACSIMILE COVER SHEET

**To:** F. Freddy Sayegh, Esq.

**From:** Natu J. Patel

THE FOXX FIRM

THE PATEL LAW FIRM, P.C.

---

**Fax:** (310) 895-1180

**Pages:** 14 (including Cover Page)

**Phone:**

**Date:** April 3, 2008

---

**Re:** Cancellation Proceeding No. 92048480  
Meet & Confer re: First Set of RFPD

**CC:**

---

**Urgent**     **For Review**     **Please Comment**     **Please Reply**     **Please Recycle**

---

● **Comments:**

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# Fax Call Report



THE PATEL LAW FIRM, P.C.  
19499551877  
Apr-3-2008 11:00AM

Job	Date	Time	Type	Identification	Duration	Pages	Result
815	4/ 3/2008	10:56:14AM	Send	13108951180	4:03	14	OK

**The Patel Law Firm**  
A Professional Corporation

2532 Dupont Drive  
Irvine, California 92612-1524  
Tel: (949) 955-1077  
Fax: (949) 955-1877

### FACSIMILE COVER SHEET

To:	F. Freddy Sayegh, Esq.	From:	Natu J. Patel
	THE FOXX FIRM		THE PATEL LAW FIRM, P.C.
Fax:	(310) 895-1180	Pages:	14 (including Cover Page)
Phone:		Date:	April 3, 2008
Re:	Cancellation Proceeding No. 82048480 Meet & Confer re: First Set of RFPD	CC:	

Urgent     For Review     Please Comment     Please Reply     Please Recycle

• Comments:

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# **EXHIBIT D**

# The Patel Law Firm

A Professional Corporation

2532 Dupont Drive, Irvine, California 92612  
Tel: (949) 955-1077 - Fax: (949) 955-1877  
NPatel@thePatelLawFirm.com

April 16, 2008

**Via Facsimile and E-Mail**  
**fsayegh@spattorney.com**  
**(310) 895-1180**

F. Freddy Sayegh, Esq.  
SAYEGH & ASSOCIATES, PLC  
5895 Washington Blvd.  
Culver City, CA 90232

**Re: Sierra Network, Inc. v. Tobacco Import USA et al.**

Dear Mr. Sayegh:

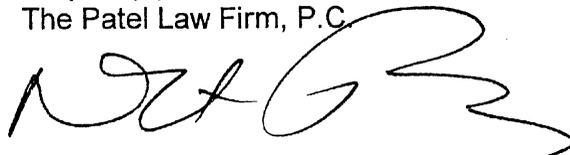
In response to my letter dated March 25, 2008, you advised us on April 10, 2008 that you will get back to us regarding the specific date by which you will supplement your responses to Special Interrogatories. We would appreciate receiving a closure with respect to our meet and confer letter at your earliest convenience.

If we do not hear from you on or before Friday, April 18, 2008, we will start preparing a motion to compel ("Motion"). Once we initiate the preparation of the Motion, please note that we will file the Motion unless your client agrees to reimburse us for attorney's fees and expenses incurred in preparation of such Motion.

Additionally, please note that the response to our meet and confer letter dated April 3, 2008 pertaining to Request for Production of Documents was due on April 15, 2008. Please provide us your responses as soon as possible and supplement your production of documents immediately to allow us to proceed with the depositions in the above referenced matter.

We look forward to hearing from you at your earliest convenience.

Very truly yours,  
The Patel Law Firm, P.C.



Natu J. Patel

cc: Jeffrey Z. Dworin, Esq.: DworinLaw@comcast.net  
NJP/jjc

# The Patel Law Firm

A Professional Corporation

---

2532 Dupont Drive  
Irvine, California 92612-1524  
Tel: (949) 955-1077  
Fax: (949) 955-1877

## FACSIMILE COVER SHEET

**To:** F. Freddy Sayegh, Esq.

**From:** Natu J. Patel

THE FOXX FIRM

THE PATEL LAW FIRM, P.C.

---

**Fax:** (310) 895-1180

**Pages:** 2 (including Cover Page)

---

**Phone:**

**Date:** April 16, 2008

---

**Re:** Sierra Network, Inc. v.  
Tobacco Import USA, et al.

**CC:**

---

**Urgent**     **For Review**     **Please Comment**     **Please Reply**     **Please Recycle**

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● **Comments:**

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# Fax Call Report



THE PATEL LAW FIRM, P.C.  
19499551877  
Apr-16-2008 6:02PM

Job	Date	Time	Type	Identification	Duration	Pages	Result
865	4/16/2008	6:01:26PM	Send	13108951180	1:13	2	OK

**The Patel Law Firm**  
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2532 Dupont Drive  
Irvine, California 92612-1524  
Tel: (949) 955-1077  
Fax: (949) 955-1877

### FACSIMILE COVER SHEET

To:	F. Freddy Sayegh, Esq. THE FOXF FIRM	From:	Natu J. Patel THE PATEL LAW FIRM, P.C.
Fax:	(310) 895-1180	Pages:	2 (including Cover Page)
Phone:		Date:	April 16, 2008
Re:	Sierra Network, Inc. v. Tobacco Import USA, et al.	CC:	

Urgent     For Review     Please Comment     Please Reply     Please Recycle

• Comments:  
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**Jeannine Choi**

---

**From:** Jeannine Choi [jchoi@thepatellawfirm.com]  
**Sent:** Wednesday, April 16, 2008 6:19 PM  
**To:** 'fsayegh@spattorney.com'  
**Cc:** 'Jeffrey Dworin'; 'npatel@thepatellawfirm.com'  
**Subject:** Letter from Mr. Patel re: SI & RFPD Supplemental Responses

Dear Mr. Sayegh:

Please see attached for a copy of a letter from Mr. Patel. A copy has also been sent via facsimile for your convenience.

Should you have any questions, please don't hesitate to contact us.

Kind regards,

**Jeannine Choi**  
Legal Assistant  
The Patel Law Firm, P.C.  
2532 Dupont Drive  
Irvine, California 92612  
Business: (949) 955-1077  
Facsimile: (949) 955-1877

[www.thepatellawfirm.com](http://www.thepatellawfirm.com)  
E-mail: [JChoi@ThePatelLawFirm.com](mailto:JChoi@ThePatelLawFirm.com)

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# **EXHIBIT E**

**From:** Natu Patel [mailto:Npatel@thepatellawfirm.com]  
**Sent:** Thursday, April 24, 2008 7:51 PM  
**To:** 'Freddy Sayegh '  
**Cc:** 'Jeffrey Dworin'; 'Jeannine Choi'; 'Natu Patel'  
**Subject:** RE: Letter from Mr. Patel re: SI & RFPD Supplemental Responses  
**Importance:** High

Hello Freddy:

I look forward to receiving your responses and documents on May 2, 2008.

Thanks,  
Natu

The Patel Law Firm, P.C.  
2532 Dupont Drive  
Irvine, CA 92612-1524

Telephone: (949) 955-1077  
Facsimile: (949) 955-1877

[www.thepatellawfirm.com](http://www.thepatellawfirm.com)

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---

**From:** Freddy Sayegh [mailto:fsayegh@spattorney.com]  
**Sent:** Friday, April 18, 2008 12:30 PM  
**To:** 'Jeannine Choi'  
**Cc:** 'Jeffrey Dworin'; npatel@thepatellawfirm.com  
**Subject:** RE: Letter from Mr. Patel re: SI & RFPD Supplemental Responses

Dear Natu,

My client has been in and out of the country and I have not had the chance to meet with my client.

We can set the last day to provide supplemental responses for May 2, 2008. We will also continue your date to file any motions to compel accordingly.

If you have any questions, please do not hesitate to contact me.

Freddy Sayegh

# **EXHIBIT F**

# The Patel Law Firm

A Professional Corporation

---

2532 Dupont Drive, Irvine, California 92612  
Tel: (949) 955-1077 - Fax: (949) 955-1877  
NPatel@thePatelLawFirm.com

May 6, 2008

**Via E-Mail Only**  
**fsayegh@spattorney.com**

F. Freddy Sayegh, Esq.  
THE FOXX FIRM, PLC  
SAYEGH & ASSOCIATES, PLC  
5895 Washington Blvd.  
Culver City, CA 90232

**Re: Cancellation Proceeding No. 92048480**  
**Our File No. A005-8000**  
**Supplemental Responses to First Sets of RFD & SI**

Dear Mr. Sayegh:

We sent a meet and confer letter on March 25, 2008 (9 pages) requesting supplemental responses to First Set of Special Interrogatories by April 8, 2008. We sent a second meet and confer letter on April 3, 2008 (13 pages) regarding deficient responses to First Set of Request for Production of Documents asking you to provide the amended responses by April 15, 2008.

In response to our April 9, 2008 follow-up letter requesting status of the supplemental responses, you responded that you will give us an exact date on which we can expect those supplemental responses, which we in fact did not receive. Subsequently, in response to our second follow-up letter dated April 16, 2008, you responded that you will provide us the supplemental responses by May 2, 2008.

As of today, we have received neither the supplemental responses nor any update on when we would receive these responses. If we do not receive your amended responses on or before Friday, **May 9, 2008**, we will start preparing a motion to compel ("Motion"). Discovery is expected to close on October 28, 2008. It is imperative that you provide us with these responses as soon as possible to allow us to start the deposition of your client and other witnesses.

If we do not reach a closure on this issue, we will file the Motion and seek sanctions in the very near future. As stated in our earlier correspondence, once we initiate the preparation of the Motion, please note that we will file the Motion unless your client agrees to reimburse us for attorney's fees and expenses incurred in preparation of such Motion.

F. Freddy Sayegh, Esq.  
THE FOXX FIRM, PLC  
Re: Supplemental Responses to First Sets of RFD & SI

May 6, 2008

We look forward to hearing from you at your earliest convenience.

Very truly yours,  
The Patel Law Firm, P.C.

A handwritten signature in black ink that reads "Natu Patel" followed by a stylized flourish or initials.

Natu J. Patel

cc: Jeffrey Z. Dworin, Esq.: DworinLaw@comcast.net

NJP/jjc

**Jeannine Choi**

---

**From:** Jeannine Choi [jchoi@thepatellawfirm.com]  
**Sent:** Tuesday, May 06, 2008 7:01 PM  
**To:** 'fsayegh@spattorney.com'  
**Cc:** 'Jeffrey Dworin'; 'Natu Patel'  
**Subject:** Letter re: Supplemental Responses to First Sets of SI and RFD 050608

Dear Mr. Sayegh:

Attached please find a letter from Mr. Patel regarding supplemental responses to First Sets of Special Interrogatories and Request for Production of Documents.

Please let us know if you have any questions.

Kind regards,

**Jeannine Choi**  
Legal Assistant  
The Patel Law Firm, P.C.  
2532 Dupont Drive  
Irvine, California 92612  
Business: (949) 955-1077  
Facsimile: (949) 955-1877

[www.thepatellawfirm.com](http://www.thepatellawfirm.com)  
E-mail: [JChoi@ThePatelLawFirm.com](mailto:JChoi@ThePatelLawFirm.com)

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# **EXHIBIT G**

**From:** Natu Patel [mailto:Npatel@thepatellawfirm.com]  
**Sent:** Friday, May 09, 2008 10:03 AM  
**To:** 'Freddy Sayegh '  
**Cc:** 'Jeffrey Dworin'; 'Jeannine Choi'; 'Natu Patel'  
**Subject:** RE: Letter re: Supplemental Responses to First Sets of SI and RFD 050608

Hello Freddy:

Thank you for your response.

As requested, I will wait till Monday (i.e. May 12, 2008). Please understand that I have an obligation to my client and cannot continue to drag this matter.

If I do not have your amended responses by Monday evening, we will proceed with the Motion to Compel.

If you have any questions, or wish to discuss this matter further, please call me.

Best Regards,  
Natu

The Patel Law Firm, P.C.  
2532 Dupont Drive  
Irvine, CA 92612-1524

Telephone: (949) 955-1077  
Facsimile: (949) 955-1877

[www.thepatellawfirm.com](http://www.thepatellawfirm.com)

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---

**From:** Freddy Sayegh [mailto:fsayegh@spattorney.com]  
**Sent:** Thursday, May 08, 2008 3:41 PM  
**To:** 'Jeannine Choi'  
**Cc:** 'Jeffrey Dworin'; 'Natu Patel'  
**Subject:** RE: Letter re: Supplemental Responses to First Sets of SI and RFD 050608

Dear Mr. Patel,

I have still not heard from my client who was supposed to arrive from China yesterday, and meet with me today. He has not showed up. Further we have discussed bringing on a new law firm to litigate the TM Cancellation and the Sierra v. Allos.

If I can have until Monday to resolve all of these issues and to provide supplemental responses that would be greatly appreciated.

Please contact me if you have any questions.

Thank you,

Freddy Sayegh

# **EXHIBIT H**

**From:** Natu Patel [mailto:Npatel@thepatellawfirm.com]  
**Sent:** Tuesday, May 13, 2008 9:15 AM  
**To:** 'Freddy Sayegh '  
**Cc:** 'Jeffrey Dworin'; 'Jeannine Choi'; 'Natu Patel'  
**Subject:** RE: Letter re: Supplemental Responses to First Sets of SI and RFD 050608

Hello Freddy:

You had assured us the amended responses and additional documents by close of business – Monday, May 12, 2008. We have neither received any responses nor an explanation. This is certainly disappointing. Although we prefer not to get the TTAB board involved in these types of discovery issues, it leaves our client with no choice. We plan to proceed with the Motion to Compel and seek sanctions against your client.

Best Regards,  
Natu

The Patel Law Firm, P.C.  
2532 Dupont Drive  
Irvine, CA 92612-1524

Telephone: (949) 955-1077  
Facsimile: (949) 955-1877

[www.thepatellawfirm.com](http://www.thepatellawfirm.com)

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# **EXHIBIT I**

**From:** Natu Patel [mailto:Npatel@thepatellawfirm.com]  
**Sent:** Tuesday, May 13, 2008 10:19 AM  
**To:** 'Freddy Sayegh '  
**Cc:** 'Jeffrey Dworin'; 'Jeannine Choi'; 'Natu Patel'  
**Subject:** RE: Letter re: Supplemental Responses to First Sets of SI and RFD 050608

Hello Freddy:

As you know, we have been patiently waiting for your client's responses.

You can send me your informal responses that you plan to send me today. However, these types of informal responses serve no purpose in the litigation. We must have VERIFIED responses from your client and the DOCUMENTS that we have been eagerly waiting for, by no later than Friday, May 16, 2008.

Please note that if the verified responses do not address the deficiencies raised in our extensive meet and confer letters, we will proceed with the motion.

Thank you for your understanding.

Best Regards,  
Natu

The Patel Law Firm, P.C.  
2532 Dupont Drive  
Irvine, CA 92612-1524

Telephone: (949) 955-1077  
Facsimile: (949) 955-1877

[www.thepatellawfirm.com](http://www.thepatellawfirm.com)

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---

**From:** Freddy Sayegh [mailto:fsayegh@spattorney.com]  
**Sent:** Tuesday, May 13, 2008 10:02 AM  
**To:** 'Natu Patel'  
**Cc:** 'Jeffrey Dworin'; 'Jeannine Choi'  
**Subject:** RE: Letter re: Supplemental Responses to First Sets of SI and RFD 050608

Natu,

I have been patiently waiting for my client to contact me and provide supplemental responses.

I will send to you TODAY what I was able to provide supplemental responses to without his input and information.

I reserve the right to amend further responses which plan to do this week.

Thank you,

Freddy Sayegh

# **EXHIBIT J**

**From:** Freddy Sayegh [mailto:fsayegh@spattorney.com]  
**Sent:** Tuesday, May 13, 2008 7:01 PM  
**To:** 'Natu Patel'  
**Subject:** RE: Letter re: Supplemental Responses to First Sets of SI and RFD 050608

Dear Mr. Patel,

When we started this litigation we both agreed to act in with full disclosure and fairness with one another and I remain committed to our promises. After preparing responses to your meet and confer letter which almost every question states *discovery is ongoing and continuing and are non-responsive* I felt in fairness I should give you responses that are actually responsive to your requests.

Since it would be irrelevant for me to provide you non-responsive documents, I am going to meet with an employee of Sierra tomorrow although not the principle to begin to provide me all of the relevant documents tomorrow.

With that said, I will contact you after our meeting tomorrow via the telephone to give you an accurate timeline as to when we should have the responsive documents.

I will have some of the documents and information by Friday but reserve the right to supplement those responses.

I will also call you in the morning to discuss these issues

Thank you,

Freddy Sayegh