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

Proceeding	92048480
Party	Defendant AL-FAKHER FOR TABACCO TRADING & AGENCIES CO. LTD.
Correspondence Address	F. Freddy Sayegh Sayegh & Associates, PLC 5895 Washington Boulevard Culver City, CA 90232 UNITED STATES fsayegh@spattorney.com
Submission	Opposition/Response to Motion
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Signature	//s//
Date	06/04/2008
Attachments	92048480 - Sinbad vs Al-fakher - Respondents' opposition to petitioner's motion to compel.pdf (36 pages)(2671982 bytes)

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 CAFE, LLC,

Petitioner,

vs.

AL-FAKHER FOR TOBACCO TRADING &
AGENCIES CO. LTD.,

Respondent

Cancellation No. 92048480

**RESPONDENT'S OPPOSITION TO
PETITIONER'S MOTION TO COMPEL
RESPONSES FROM REGISTRANT TO
PETITIONER'S SPECIAL
INTERROGATORIES- SET ONE;
MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT THEROF;
DECLARATIONS OF SUMITHRA RAO
AND EMIL HAKIM IN SUPPORT
THEREOF**

Petition Filed: November 21, 2007

Discovery Period Closes: October 28, 2008

COMES NOW Respondent AL-FAKHER FOR TOBACCO TRADING & AGENCIES
CO. LTD and hereby files Its Opposition to Petitioner's Motion to Compel Responses to
Petitioner's Special Interrogatories Set One (1).

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

In its Motion to Compel, Petitioner complains that Respondent's objections to Petitioner's first set of Special Interrogatories are improper, however several of Petitioner's Interrogatories are grossly overbroad and, furthermore, they seek information from protected expert reports prepared for Respondent in anticipation of this action. Thus, Respondent's objections to those interrogatories are warranted. Moreover, Petitioner's motion is mooted by the fact that Respondent has already served the requested supplemental responses to the Special Interrogatories at issue. Additionally, Petitioner asks the TTAB to unfairly award sanctions against Respondent despite the fact that Respondent did not authorize and had no knowledge of the conduct complained of. Therefore, as will be explained in the following, Petitioner's Motion to Compel should be denied and no sanctions should be awarded against Respondent or Respondent's current counsel.

II. PERTINENT FACTUAL SUMMARY

This trademark cancellation action arises from a pending case in the Central District of California- Western Division, *Sierra Network, Inc. v. Akram Allos, et al.*, Case. No. 2:07-cv-06104-DSF-CT ("Central District case"), in which Respondent alleges that Petitioner committed trademark infringement as well as other violations of Respondent's intellectual property rights in the mark "Al-Fakher."

Sierra Network, Inc. is the exclusive licensee in the United States of a brand of tobacco called "Al-Fakher." (See Declaration of Emil Hakim, ¶2). Sierra Network, Inc. ("Sierra") filed a complaint in September 10, 2008 against Akram Allos, principal officer of the corporate Petitioner SINBAD GRAND CAFÉ ("Petitioner"), alleging trademark infringement as well as other violations of Sierra's intellectual property rights in the trademark "Al- Fakher." In response to the action instituted by Sierra against Akram Allos, Petitioner filed a petition to cancel Sierra Network, Inc.'s registration in the trademark "Al-Fakher" on November 21, 2007.

After Petitioner propounded its Special Interrogatories on February 5, 2008, Respondent was contacted by his then counsel, Freddy Sayegh, several times in February and through April seeking information necessary to respond to the Petitioner's Interrogatories. (*See* Hakim Decl., ¶3). Respondent then provided answers as requested by Mr. Sayegh. (*See* Hakim Decl., ¶3). From the period of February through May 2008, Mr. Sayegh never notified Respondent of Petitioner's request for supplemental responses and meet and confer letters, nor was Respondent aware that Mr. Sayegh had missed deadlines and extended deadlines to respond to the interrogatories. (*See* Hakim Decl., ¶4).

After inquiring into the status of both the Central District case and the instant trademark cancellation action, Respondent became aware of many problems that arose with respect to both actions. (*See* Hakim Decl., ¶5). However, Respondent was still not apprised as to the issues with discovery requests. (*See* Hakim Decl., ¶6). On May 28, 2008, Respondent retained the law firm of Gareeb | Pham, LLP as counsel in both the Central District case and the trademark cancellation action. (*See* Declaration of Christopher Q. Pham, ¶2). On that same day, Gareeb | Pham, LLP filed a substitution of attorney with the Central District court to replace Mr. Sayegh as Respondent's attorney of record. (*See* Pham Decl., ¶3). At this time, Gareeb | Pham was first made aware of the current status of the Central District action and the trademark cancellation action, including the state of the discovery process and Petitioner's Motion to Compel. (*See* Pham Decl., ¶4). Furthermore, Respondent did not become aware of the true status of both actions until it was informed by current counsel. (*See* Hakim Decl., ¶7, Pham Decl., ¶5).

On June 4, 2008, Gareeb | Pham filed for substitution of attorney in the instant trademark cancellation action to replace Freddy Sayegh as Respondent's counsel of record (*See* Pham Decl., ¶6). On June 4, 2008, Respondent filed supplemental responses to Petitioner's first set of Special Interrogatories. (*See* Pham Decl., ¶7).

III. ARGUMENT

A. Petitioner's Motion to Compel Responses is Moot Because Respondent has already Provided The Requested Supplemental Responses

As will be explained below, Respondent's objections to Petitioner's Interrogatories are valid and supported by Federal law. As for Petitioner's complaint that Respondent did not provide complete answers to its interrogatories, Respondent in fact provided answers with little or no objections to a majority of Petitioner's interrogatories. Furthermore, Petitioner's Motion to Compel responses to Special Interrogatories Nos. 1-3, 5-6, 8, 12-14, 19-21 and 23-24 is completely unnecessary given the fact that Respondent has already provided its supplemental responses to those interrogatories, as requested by Petitioner. On June 4, 2008, current counsel for Respondent served verified responses to Petitioner's first set of Special Interrogatories on counsel for Petitioner by U.S. Mail. (*See* Rao Decl., ¶6). Thus, there is no need for the TTAB to intervene and compel the responses at issue, because there is no issue. Accordingly, Petitioner's Motion to Compel should be denied.

B. Respondent's Objections to Special Interrogatories are Supported by Federal Law and Should be Sustained

1. Special Interrogatories Nos. 4, 15, 16, 17, 18 and 24, are overbroad in scope and time

Respondent's objections to Interrogatories 4, 15, 16, 17 and 18 are well supported under Federal law. The scope and limits of discovery are controlled by *Federal Rule of Civil Procedure* 26(b), which states, in pertinent part, that "[p]arties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party..." and that "[f]or good cause, the court may order discovery of any matter relevant to the subject matter involved in the action." *Federal Rules of Civil Procedure* 26(b)(1). An objection will be sustained if either a particular interrogatory or a set of interrogatories is thought by the court to be so broad and all inclusive as to be burdensome. *Flour Mills of America, Inc. v. Pace*, 75 F.R.D. 676, 680 (E.D. Okl. 1977); *see also Cone Mills Corp. v. Joseph Bancroft & Sons Co.*, D.C.Del.1963, 33 F.R.D. 318 (D. Del. 1963) (holding that interrogatories were too broad, general, burdensome, and oppressive, when they sought communications between defendant and over eighty patent licensees); *Porter v. Montaldo's*, 71 F.Supp. 372 (D. Ohio 1946) (when interrogatories

propounded by plaintiff in Price Administrator's action to recover damages on account of overceiling sale of merchandise asked defendant to perform extensive accounting and auditing operations of its own books and records in order that it might prepare and present to plaintiff in tabulated form, or in other convenient form, every minute detail upon which plaintiff might base his recovery of damages, interrogatories were objectionable as burdensome). Here, Respondent has objected to these specific interrogatories because they seek information far outside the scope provided for under Rule 26(b)(1) and are, thus, so overbroad that they are burdensome.

Petitioner argues that Respondent's objections to Interrogatories 4, 15, 16, 17 and 18 are improper because "[w]here an interrogatory is overbroad, the responding party should answer whatever part of the question is proper, object to the balance, and provide some meaningful explanation of the basis for the objection." [See Petitioner's Motion to Compel Supplemental Responses to Special Interrogatories- Set One ("Motion to Compel"), p. 15, lines 15-19]. However, a party resisting discovery on the grounds that a request is overly broad, including any objection to the temporal scope of the request, only has the burden to support its objection so long as the request is not *overly broad on its face*. *Etienne v. Wolverine Tube, Inc.*, 185 F.R.D. 653, 656 (D.Kan. 1999) (emphasis added). Unfortunately for Petitioner, the interrogatories at issue fall squarely in this category.

Special Interrogatory No. 4 asks Respondent to "describe in detail all past and existing relations, including contracts, agreements, licenses, assignments, or other relations, between Registrant and any third party, relating to the Trademark." [See Respondent Al-Fakher for Tobacco Trading & Agencies Co. Ltd. Corporation's Responses to Petitioners First Set of Special Interrogatories ("Respondent's Responses to Interrogatories"), p. 17]. First, the request is not limited to domestic "relations" but presumably includes "relations" in foreign territories. Respondent's business relations with third parties in foreign territories is not within the scope of Discovery because it is not relevant to the claim or defense of any party. Additionally, the request seeks information prior to 2001, which is also not relevant.

Petitioner states in its Motion to Compel that Interrogatory No. 4 is relevant to establishing Respondent's "[t]rademark-related activities within the U.S. and whether Registrant's produces were in fact use in commerce in the U.S. since 1999." (*See* Motion to Compel, Appendix A, p. 21). As indicated in Respondent's Supplemental Responses to Petitioner's First Set of Special Interrogatories Nos. 5, 6, and 8, the actual date of first use in commerce in the U.S. is 2001. (*See* Respondent's Supplemental Responses to Petitioner's First Set Special Interrogatories, attached hereto as Exhibit "B"). Thus, the only date of first use that should be considered in this cancellation action is the date of first use in commerce in the United States, because it is the United States Trademark registration that Petitioner is seeking to cancel. *See* J. Thomas McCarthy, *McCarthy on Trademarks and Unfair Competition* (4th Ed. 2000) §29:25 at 29-55 (a mark exists only under the laws of each sovereign nation). Thus, the interrogatory is overbroad because it includes a request for information that is not relevant to this case, specifically, information for the time prior to when Registrant used the mark in the United States and information regarding the Registrant's use of the mark in foreign territories.

Additionally, for the same reasons as outlined above, Special Interrogatories Nos. 15, 16, 17, and 18 are also excessively overbroad as to scope and time.

-Interrogatory No. 15 seeks the identities of "all third parties which have used the TRADEMARK in connection with flavored tobacco products in the United States since 1995."

-Interrogatory No. 16 seeks information regarding "each and every instance where REGISTRANT has licensed and/or negotiated to license...to third parties to use AL-FAKHER..."

-Interrogatory No. 17 seeks information regarding "the nature and extent of any license identified in your response to Interrogatory No. 16."

-Interrogatory No. 18 seeks the identity of "all DOCUMENTS that support or substantiate your response to Interrogatory No. 17."

(See Respondent's Responses to Interrogatories, p. 21-22). If Petitioner is seeking to cancel a United States Trademark registration, then the only third parties that matter are those that have used the trademark since 2001 or those with whom Respondent has licensed the right to use the trademark since 2001, because 2001 is the date of first use in the United States. Additionally, Interrogatories Nos. 16-18 presumably seek information relating to the licensing of the trademark in non U.S. territories, which is not relevant to either Petitioner's claims or Respondent's defenses.

Moreover, Special Interrogatory No. 4, which asks for "all past and existing relations, including contracts, agreements, licenses, assignment, or other relations" is clearly overbroad, because it does not limit the request to any particular types of transactions or relations. Thus, even purchasers and consumers are included in this request, the names of whom cannot possibly be obtained without Respondent enduring significant cost and burden. Therefore, Respondent's objections to Petitioner's Interrogatories on the basis of overbreadth as to scope and time should be sustained.

2. Respondent's objections based on premature demand for expert reports should be sustained under federal law because they are protected work-product

Federal Rule of Civil Procedure 26(b)(4) governs the discovery of facts known and opinions held by experts and acquired or developed in anticipation of litigation or for trial. Federal courts have held that a district court " 'should not ordinarily permit one party...to inspect reports prepared by [an] expert, in the absence of a showing that the facts or the information sought are necessary for the moving party's preparation for trial and cannot be obtained by the moving party's independent investigation or research.' " *Hobart Manufacturing Co. v. Holiday Frosted Food Company*, 188 F.Supp. 135, 136 (E.D. Penn. 1960) (citing 4 Moore's Federal Practice 1158). Furthermore, courts have also held that such reports consisting of its authors' conclusions, opinions and recommendations may not be discovered by the other party because they are protected work product. *See Craig v. Eastern Air Lines, Inc.*, 40 F.R.D. 508 (E.D.N.Y. 1966) (holding that a motion by a respondent, directing the United States as co-respondent to

make available for inspection and copying the report made by an employee expert of federal aviation agency would be denied, when report consisted of its author's conclusions, opinions, and recommendations based on information available to movant's experts); *Hickman v. Taylor*, 329 U.S. 495 (1947).

Petitioner argues that its interrogatories do not seek information which consist of communications between Respondent and counsel, and that Respondent's use of privilege as a basis for objection is improper. However, discovery of reports organizing and tabulating the information requested by Special Interrogatories 1, 4, 10, 11, 15, 16, 17, and 17 should not be permitted by the TTAB because those reports were either prepared by employees of Respondent or accountants and others acting on behalf of Respondent, all in anticipation of litigation. Considering that the authors of these reports could likely be used as experts and because the reports likely contain the authors' conclusions, opinions and recommendations based on the reports, which is considered protected work-product under *Hickman v. Taylor*, Petitioner's Motion to Compel responses to these interrogatories should be denied.

C. Sanctions Against Respondent and Respondent's Current Counsel would not be Proper in this Instance

Neither Respondent nor current counsel for Respondent should be subject to sanctions. *Federal Rule of Civil Procedure 37* "provides generally for sanctions against parties or persons unjustifiably resisting discovery." Advisory Committee Note to Rule 37, Proposed Amendments to the Federal Rule of Civil Procedure Relating to Discovery, 48 F.R.D. 487, 538 (1969). The provisions of Rule 37(d), which authorize sanctions with regard to interrogatories, do not apply "for anything less than a serious or total failure to respond to interrogatories." *Fjelstad v. American Honda Motor Co., Inc.*, 762 F.2d 1334 (9th Cir. 1985) (Rule 37(d) did not give district court authority to impose sanctions against defendant subsidiary, which filed partial answers to some interrogatories, where trial court did not find that subsidiary's many objections were meritless or made in bad faith). Only if a party wholly fails to respond to an entire set of interrogatories are sanctions under this rule appropriate. *See* Advisory Committee Note to Rule

37, *supra*, at 542; Wright & Miller, *supra*, §2291 (“The Advisory Committee Note to the 1970 amendments of Rule 37(d) refers to ‘a set of interrogatories’ and to ‘the total non-compliance with which Rule 37(d) is concerned.’”). Subdivision (d) of the rule also is inapplicable if the party has served answers to interrogatories but the answers are thought to be incomplete or evasive. *Southard v. Pennsylvania Railroad Co.*, 24 F.R.D. 456 (E.D. Penn. 1959).

Here, Respondent has complied by responding to Petitioner’s entire first set of interrogatories. There was no complete failure to respond on Respondent’s part. Indeed, even as it is Petitioner’s opinion that the responses are incomplete or evasive or that Respondent’s objections are not warranted, Rule 37 sanctions would still not be appropriate under Federal Law.

Furthermore, sanctions are imposed “not merely to penalize those whose conduct may be deemed to warrant such a sanction, but to deter those who might be tempted to such conduct in the absence of such a deterrent.” *National Hockey League v. Metropolitan Hockey Club, Inc.*, 427 U.S. 639, 643 (1976). In the instant case, neither the punishment nor deterrent purposes of Rule 37 are served by awarding sanctions against Respondent or Respondent’s current counsel.

First, Respondent was not informed of Petitioner’s repeated discovery requests and meet and confer letters, nor was it informed of Respondent’s former counsel’s requests for continued extensions and failure to provide supplemental responses. (*See* Hakim Decl., ¶ 4). Respondent, therefore, should not be penalized or punished for conduct it was not aware of and did not authorize.

Secondly, Respondent’s current counsel should not be subject to sanctions for conduct for which it is not responsible and with which it was not involved in any way. Respondent’s counsel did not take on this case until after the conduct at issue took place. (*See* Pham Decl., ¶4). In fact, current counsel was retained in an effort to rectify the current state of the situation. Thus, it would not be fair to punish Respondent’s current counsel merely because it was the law firm stuck with the “hot potato”.

Therefore, the TTAB should not grant Petitioner's request for sanctions against either Respondent or Respondent's counsel.

IV. CONCLUSION

In light of the foregoing facts and argument, Respondent respectfully requests that the TTAB deny Petitioner's Motion to Compel.

Dated: June 4, 2008

Respectfully Submitted,
GAREEB | PHAM, LLP

By: _____



Christopher Q. Pham, Esq.
Sumithra Rao, Esq.
Attorneys for Respondent
AL-FAKHER FOR TOBACCO
TRADING & AGENCIES CO.
LTD.

DECLARATION OF CHRISTOPHER Q. PHAM

I, Christopher Q. Pham, Esq., hereby declare,

1. I am a partner with the law firm GAREEB | PHAM, LLP, counsel for Respondent in the above-entitled action. The following is within my personal knowledge and if called upon as a witness, I could and would competently testify thereto.

2. On May 28, 2008, Respondent retained the law firm of Gareeb | Pham, LLP as counsel of record in both a pending action against Petitioner in the Central District as well as this trademark cancellation action.

3. That day, my firm filed a substitution of attorney with the Central District court to replace Freddy Sayegh as Respondent's attorney of record in the Central District Case. A true and correct copy of the substitution of attorney in the Central District Case is attached hereto as "Exhibit A."

4. After filing the substitution of attorney in the Central District Case, on May 29, 2008, I was first made aware of the current status of the Central District action and the trademark cancellation action, including the state of the discovery process and Petitioner's Motion to Compel.

5. On June 4, 2008, I informed Respondent of the current state of the proceedings in the trademark cancellation action.

6. On June 4, 2008, my firm applied online with the Trademark Trial and Appeals Board for a substitution of attorney of record for Respondent in place of Freddy Sayegh. A true and correct copy of the online record of the substitution of attorney for the TTAB is attached hereto as Exhibit "B."

7. On June 4, 2008, my firm served Respondent's Supplemental Responses to Petitioner's First Set of Special Interrogatories by U.S. Mail. A true and correct copy of the Responses and Proof of Service are attached hereto as Exhibit "C."

I declare under penalty of perjury and the laws of the United States of America that the foregoing is true and correct to the best of my knowledge. This declaration was executed this 4th day of June, 2008, in Los Angeles, California.

A handwritten signature in black ink, consisting of several overlapping loops and a horizontal stroke, positioned above a solid horizontal line.

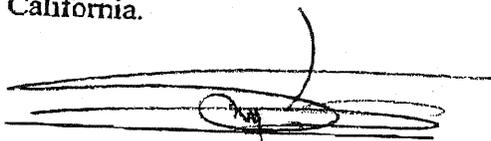
Christopher Q. Pham

DECLARATION OF EMIL HAKIM

I, Emil Hakim, do hereby declare the following:

1. I am CEO and principal officer of the Sierra Network, Inc., which is the exclusive licensee in the United States of the trademark "Al-Fakher," at issue in the above-entitled action. The following is within my personal knowledge and if called upon as a witness, I could and would competently testify thereto.
2. Sierra Network, Inc. is the exclusive licensee in the United States of a brand of tobacco called "Al-Fakher."
3. I was contacted by my then counsel of record, Freddy Sayegh, several times from February through April of 2008 seeking information necessary to respond to the Petitioner's Special Interrogatories. I provided answers as requested by Mr. Sayegh.
4. From the period of February through May 2008, Mr. Sayegh never notified me of Petitioner's request for supplemental responses and meet and confer letters, nor was I made aware that Mr. Sayegh had missed deadlines and extended deadlines to respond to the interrogatories.
5. After inquiring into the status of both the Central District case and the instant trademark cancellation action, I became aware of many problems that arose with respect to both actions.
6. However, I was still not apprised as to the issues with discovery requests.
7. I did not become aware of the true status of both actions until I was informed by current counsel of record, Christopher Q. Pham.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge. This declaration was executed this 4th day of June, 2008, in Los Angeles, California.



Emil Hakim

EXHIBIT

A

Name and address
GareebPham LLP
Christopher Q. Pham SBN: 206697
707 Wilshire Boulevard, Suite 5300
Los Angeles, CA 90017
Telephone : (213) 455-2930
Facsmile :(213)455-2940

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

Sierra Network, Inc., a California Corporation

Plaintiff(s)

CASE NUMBER

CV 07-6104

v.

Tobacco Import USA

Defendant(s).

REQUEST FOR APPROVAL OF
SUBSTITUTION OF ATTORNEY

Sierra Network Inc.

Name of Party

Plaintiff Defendant Other

hereby request the Court approve the substitution of Christopher Q. Pham

New Attorney

as attorney of record in place and stead of F. Freddy Sayegh

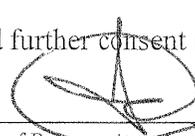
Present Attorney

Dated May 28, 2008


Signature of Party/Authorized Representative of Party

I have given proper notice pursuant to Local Rule 83-2.9 and further consent to the above substitution.

Dated May 28, 2008


Signature of Present Attorney

I am duly admitted to practice in this District pursuant to Local Rule 83-2.

Dated May 28, 2008


Signature of New Attorney

206697

State Bar Number

If party requesting to appear Pro Se:

Dated May 28, 2008

Signature of Requesting Party

NOTE: COUNSEL AND PARTIES ARE REMINDED TO SUBMIT A COMPLETED ORDER ON REQUEST FOR APPROVAL OF SUBSTITUTION OF ATTORNEY (G-01 ORDER) ALONG WITH THIS REQUEST.

1 **PROOF OF SERVICE**

2 I am a resident of the State of California, over the age of eighteen years, and not a party to the
3 within action. My business address is **GAREEB | PHAM LLP**, located at Aon Center, 707
4 Wilshire Boulevard, 53rd Floor, Los Angeles, California 90017. On May 28, 2008, I served the
5 herein described document(s):

6 **REQUEST FOR APPROVAL OF SUBSTITUTION OF ATTORNEY**

7 by transmitting via facsimile the document(s) listed above to the fax number(s)
8 set forth below on this date before 5:00 p.m.

9 X by placing the document(s) listed above in a sealed envelope with postage
10 thereon fully prepaid, in the United States mail at Los Angeles, California
11 addressed as set forth below.

12 X CM/ECF - by electronically transmitting the document(s) listed above to
13
14 by personally delivering the document(s) listed above to the person(s) at the
15 address(es) set forth below.

16 by overnight delivery of the document(s) listed above to the person(s) at the
17 address(es) set forth below.

18 I am readily familiar with the firm's practice of collection and processing correspondence for
19 mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day
20 with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion
21 of the party served, service is presumed invalid if postal cancellation date or postage

22 F. Freddy Sayegh
23 Sayegh & Associates
24 5895 Washington Blvd
25 Culver City, CA 90232

26 Natu J. Patel
27 Patel Law Firm
28 2532 Dupont Drive
Irvine, CA 92612-1524

Sierra Network, Inc.
19818 S. Alameda Street
Rancho Dominguez, CA 90221

29 I declare under penalty of perjury under the laws of the State of California that the above
30 is true and correct. Executed on May 28, 2008 at Los Angeles, California.

31 
32 _____
33 Vanessa Tello

EXHIBIT

B

**Received Your Revocation of Attorney/Domestic Representative
and/or Appointment of Attorney/Domestic Representative and
Your Revocation of Attorney/Domestic Representative and/or
Appointment of Attorney/Domestic Representative Was Submitted
Successfully**

Success!

We have received your form for serial number 76315226 (and others, as listed in the form). We will send an Email summary of the form to "srabin@gareebpham.com", which will be your official confirmation of receipt. For electronically-submitted forms, the USPTO will not mail any additional paper confirmation.

NOTE: Do **NOT** send a duplicate paper copy of this filing to the USPTO, as it will interfere with the proper processing of the electronic submission.

Thank you.

TEAS Support Team

STAMP: USPTO/RAA-74.211.173.2-20080604190544323944-76315226-
40098dfc99a12e7c71e5d7295a82dc82add-N/A-N/A-20080603185105473004



Trademark Electronic Application System (TEAS) service
U.S. Patent and Trademark Office
Please refer questions or comments to: teas@uspto.gov

EXHIBIT

C

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

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

SINBAD GRAND CAFÉ, LLC)	Cancellation No. 92048480
)	
Petitioner,)	
)	
vs.)	RESPONDENT'S
)	SUPPLEMENTAL
)	RESPONSES TO PETITIONER'S
)	FIRST SET OF SPECIAL
)	INTERROGATORIES
AL FAKHER FOR TOBACCO TRADING)	
& AGENCIES CO. LTD.,)	
)	Petition Filed: November 21, 2007
Respondent.)	
)	
)	

PROPOUNDING PARTY: **Petitioner, SINBAD GRAND CAFÉ, LLC**

RESPONDING PARTY: **Respondent, AL-FAKHER FOR TOBACCO
TRADING & AGENCIES CO., LTD.**

SET NO.: **One**

Respondent Al-Fakher for Tobacco Trading & Agencies Co., Ltd., pursuant to the provisions of 37 C.F.R. § 2.120 and Rule 34 of the Federal Rules of Civil Procedure, hereby provides supplemental responses to Petitioner Sinbad Grand Café, LLC's First Set of Special Interrogatories.

GENERAL STATEMENT

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

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

No incidental or implied admissions are intended by these responses. Respondent's responses or objections to any request are not intended as an admission of any purported facts set forth or assumed by such request. Respondent's response to any request is not intended as a waiver by Respondent of any objection to that request or any other request.

RESPONSES TO INTERROGATORIES

Supplemental Response to Interrogatory No. 1

Respondent has objected to these specific interrogatories because they seek information outside the scope provided for under Rule 26(b)(1) and are thus, over broad. Further, corporate records needed to respond to Petitioner are in the Middle East are not easy to locate or obtain as well as containing privileged information under foreign laws. The information requested by Special Interrogatory 1 is impermissible as the information is contained in reports either prepared by employees of Respondent or accountants and others acting on behalf of

Respondent, all in anticipation of litigation. The authors of these reports could likely be used as experts. The reports likely contain the authors' conclusions, opinions and recommendations, which is considered protected work-product, Without waiving its objections, Respondent states that Mr. Omar Khaled Sarmini was general manager of Registrant in Jordan from 1995 to 2004. In 2004, Mr. Sarmini assigned the company to Mr. Samer Fakhouri who is the owner and an officer of the Al-Fakher entities in Ajman, UAE..

Discovery and investigation are ongoing and continuing.

Supplemental Response to Interrogatory No. 2

After good-faith investigation and diligent inquiry, this Special Interrogatory 2 is impossible to answer except to state that Nancy Debabneh is an authorized legal representative of International Business Legal Associates of Amman Jordan and has knowledge of Registrant's licensing of its rights.

Discovery and investigation are ongoing and continuing.

Supplemental Response to Interrogatory No. 3

This Special Interrogatory seeks certain information publicly available on the TTAB website. Mr. Samer Fakhouri processed the original trademark protection and assigned the Trademark to Registrant. Nancy Debabneh is an authorized legal representative of International Business Legal Associates of Amman Jordan and has knowledge of Registrant's licensing of its rights.

Discovery and investigation are ongoing and continuing.

Supplemental Response to Interrogatory No. 4

Respondent has objected to Special Interrogatory 4 because it seeks information outside the scope provided for under Rule 26(b)(1) and is thus, over broad. This Special Interrogatory's request is presumably includes "relations, contracts," etc. throughout the world, beyond the scope of the U.S. trademark registration territories. Even purchasers of goods could be in the category of "third party ... relating to the Trademark." Respondent's business relations with third parties in foreign territories is not relevant to the claim or

defense of any party. Additionally, the request seeks information prior to the date Registrant used the Trademark in the United States, which is also not relevant. It is the United States Trademark registration that Petitioner is seeking to cancel.

Discovery and investigation are ongoing and continuing.

Supplemental Response to Interrogatory No. 5

This Special Interrogatory seeks prior to the date Registrant used the Trademark in the United States, which is not relevant. It is the United States Trademark registration that Petitioner is seeking to cancel. Respondent states that Registrant's business relevant to the Trademark commenced January 10, 1995 in the Middle East and in the United States.

As the public USPTO data base reflects, Registrant's first use is January 10, 1995, and first use in commerce is January 15, 2001. An apparent inadvertent tyographical error in earlier responses misstated a date in 1999.

Discovery and investigation are ongoing and continuing.

Supplemental Response to Interrogatory No. 6

This Special Interrogatory seeks prior to the date Registrant used the Trademark in the United States, which is not relevant. It is the United States Trademark registration that Petitioner is seeking to cancel. Respondent states that Registrant's business relevant to the Trademark commenced January 10, 1995 in the Middle East and in the United States.

Discovery and investigation are ongoing and continuing.

Supplemental Response to Interrogatory No. 8

This Special Interrogatory seeks certain information publicly available on the TTAB website. Further, certain responsive information is contained in corporate records and are in the Middle East and are not easy to locate or obtain and contain privileged information under foreign laws. This request seeks theories and conjectures and make the identification of supporting documents impossible to ascertain.

The goods Registrant currently uses or has used under the Trademark include the following territories through the following authorized distributors: Sierra Network, Inc., Emil Hakim, 4000 W. 139th St., Hawthorne, CA 90250, U.S.A.; Restaurant Titanic Café, Mustafa Krich, 49 Raymond St, Bankstown NSW 2200, Australia; Los City, Arafat Abu Khadra, Arafatco5@yahoo.com Malaysia; Shesha Kuwait Center, Mohamad Mash'ai, Shweikh Industrial, Area 3, Section A, Number 95, P.O. Box 64914, Postal Code 70460 Shweikh 8, Kuwait; Al Fakher Co. Ltd, Arshad Mahmud or Saamir Alhindawi, Unit 8 Hounslow Buswiness Park, Alice Way, TW 3 3UD, UK; Swiss General Trading, Housam Abu Heba, Doorfmattenstrass a 6 CH-6182 Escholzmatt, Switzerland; Jemat Al Fakher E.S.T., Ibrahim Asseco, RIADH – SAUDI ARABIA – Al.Helleh – Al.Helleh Str., P.O. Box 69847, Postal Code 11557 (Saudi Arabia Ofc 1); Asel Al Fakhama, Ali Arfaj, Dammam-Saudi Arabia, P.O. Box 74443, Postal Code 31952 (Saudi Arabia Ofc 2); Nile Trading, Ashraf Ibrahim, 65A & 31 Kenji Worth Center, Kenji Worth 7708, Cape Town, South Africa; Persain Dokhan Co., Sarlfraz Moubaraki, No. 20 , Majek Str., Shareeati Str., Tehran, Iran; Amal General Trading, Ahmed Abed Allahi Ali, P.O. Box 4147 Djibouti, Area No. 7, Street No. 36 Djibouti; Unipal General Trading Company, Imad Khoury, P.O. Box 2190, Industrial Zone, Ramallah, Palestine; Sultan Center KFT, Yasser Omaid, 1076 Budapest, Thokoly at 26, Hungary; Fortuna Cigar House, Igor Ozhenkov, 21, Bugaevskaya Street, Odessa, Ukraine, 65005, Ukraine.

Discovery and investigation are ongoing and continuing.

Supplemental Responses to Interrogatory No. 10

The information requested is by this Special Interrogatory is impermissible as the information is contained in reports either prepared by employees of Respondent or accountants and others acting on behalf of Respondent, all in anticipation of litigation. The authors of these reports could likely be used as experts. The reports likely contain the

authors' conclusions, opinions and recommendations, which is considered protected work-product.

Discovery and investigation are ongoing and continuing.

Supplemental Responses to Interrogatory No. 11

The information requested by this Special Interrogatory is impermissible as the information is contained in reports either prepared by employees of Respondent or accountants and others acting on behalf of Respondent, all in anticipation of litigation. The authors of these reports could likely be used as experts. The reports likely contain the authors' conclusions, opinions and recommendations, which is considered protected work-product.

Discovery and investigation are ongoing and continuing.

Supplemental Responses to Interrogatory No. 12

This Special Interrogatory is not completely possible to answer as the response would refer to information contained in reports either prepared by employees of Respondent or accountants and others acting on behalf of Respondent, all in anticipation of litigation. The authors of these reports could likely be used as experts. The reports likely contain the authors' conclusions, opinions and recommendations, which is considered protected work-product.

Respondent refers Petitioner to documents and other public information on the USPTO website regarding Registrant's Trademark.

After good-faith investigation and diligent inquiry Respondent provides the following information regarding the channels of trade in which the Trademark is used and/or in which goods bearing the Trademark are sold:

Sierra Network, Inc., Emil Hakim, 4000 W. 139th St., Hawthorne, CA 90250, U.S.A.;
Restaurant Titanic Café, Mustafa Krich, 49 Raymond St, Bankstown NSW 2200,
Australia; Los City, Arafat Abu Khadra, Arafatco5@yahoo.com Malaysia; Shesha Kuwait

Center, Mohamad Mash'ai, Shweikh Industrial, Area 3, Section A, Number 95, P.O. Box 64914, Postal Code 70460 Shweikh 8, Kuwait; Al Fakher Co. Ltd, Arshad Mahmud or Saamir Alhindawi, Unit 8 Hounslow Buswiness Park, Alice Way, TW 3 3UD, UK; Swiss General Trading, Housam Abu Heba, Doorfmattenstrass a 6 CH-6182 Escholzmatt, Switzerland; Jemat Al Fakher E.S.T., Ibrahim Asseco, RIADH – SAUDI ARABIA – Al.Helleh – Al.Helleh Str., P.O. Box 69847, Postal Code 11557 (Saudi Arabia Ofc 1); Asef Al Fakhama, Ali Arfaj, Dammam-Saudi Arabia, P.O. Box 74443, Postal Code 31952 (Saudi Arabia Ofc 2); Nile Trading, Ashraf Ibrahim, 65A & 31 Kenji Worth Center, Kenji Worth 7708, Cape Town, South Africa; Persain Dokhan Co., Sarlfraz Moubaraki, No. 20 , Majek Str., Shareeati Str., Tehran, Iran; Amal General Trading, Ahmed Abed Allahi Ali, P.O. Box 4147 Djibouti, Area No. 7, Street No. 36 Djibouti; Unipal General Trading Company, Imad Khoury, P.O. Box 2190, Industrial Zone, Ramallah, Palestine; Sultan Center KFT, Yasser Omair, 1076 Budapest, Thokoly at 26, Hungary; Fortuna Cigar House, Igor Ozhenkov, 21, Bugaevskaya Street, Odessa, Ukraine, 65005, Ukraine.

Discovery and investigation are ongoing and continuing.

Supplemental Responses to Interrogatory No. 13

This Special Interrogatory is not completely possible to answer as the response would refer to information contained in reports either prepared by employees of Respondent or accountants and others acting on behalf of Respondent, all in anticipation of litigation. The authors of these reports could likely be used as experts. The reports likely contain the authors' conclusions, opinions and recommendations, which is considered protected work-product.

Respondent refers Petitioner to documents and other public information on the USPTO website regarding Registrant's Trademark.

After good-faith investigation and diligent inquiry Respondent provides the following information regarding the channels of trade in which the Trademark is used and/or in which goods bearing the Trademark are sold:

Sierra Network, Inc., Emil Hakim, 4000 W. 139th St., Hawthorne, CA 90250, U.S.A.; Restaurant Titanic Café, Mustafa Krich, 49 Raymond St, Bankstown NSW 2200, Australia; Los City, Arafat Abu Khadra, Arafatco5@yahoo.com Malaysia; Shesha Kuwait Center, Mohamad Mash'ai, Shweikh Industrial, Area 3, Section A, Number 95, P.O. Box 64914, Postal Code 70460 Shweikh 8, Kuwait; Al Fakher Co. Ltd, Arshad Mahmud or Saamir Alhindawi, Unit 8 Hounslow Buswiness Park, Alice Way, TW 3 3UD, UK; Swiss General Trading, Housam Abu Heba, Doorfmattenstrass a 6 CH-6182 Escholzmatt, Switzerland; Jemat Al Fakher E.S.T., Ibrahim Asseco, RIADH – SAUDI ARABIA – Al.Helleh – Al.Helleh Str., P.O. Box 69847, Postal Code 11557 (Saudi Arabia Ofc 1); Asef Al Fakhama, Ali Arfaj, Dammam-Saudi Arabia, P.O. Box 74443, Postal Code 31952 (Saudi Arabia Ofc 2); Nile Trading, Ashraf Ibrahim, 65A & 31 Kenji Worth Center, Kenji Worth 7708, Cape Town, South Africa; Persain Dokhan Co., Sarlfraz Moubaraki, No. 20 , Majek Str., Shareeati Str., Tehran, Iran; Amal General Trading, Ahmed Abed Allahi Ali, P.O. Box 4147 Djibouti, Area No. 7, Street No. 36 Djibouti; Unipal General Trading Company, Imad Khoury, P.O. Box 2190, Industrial Zone, Ramallah, Palestine; Sultan Center KFT, Yasser Omair, 1076 Budapest, Thokoly at 26, Hungary; Fortuna Cigar House, Igor Ozhenkov, 21, Bugaevskaya Street, Odessa, Ukraine, 65005, Ukraine.

Discovery and investigation are ongoing and continuing.

Supplemental Response to Interrogatory No. 14

After good-faith investigation and diligent inquiry, this interrogatory is impossible to answer except to refer to information contained in reports either prepared by employees of Respondent or accountants and others acting on behalf of Respondent, all in anticipation of litigation. The authors of these reports could likely be used as experts. The reports

likely contain the authors' conclusions, opinions and recommendations, which is considered protected work-product.

Discovery and investigation are ongoing and continuing.

Supplemental Response to Interrogatory No. 15

Respondent reaffirms its objection to Special Interrogatory 15 because it seeks information outside the scope provided for under Rule 26(b)(1) and is thus, over broad. The information requested is further impermissible as the information is contained in reports either prepared by employees of Respondent or accountants and others acting on behalf of Respondent, all in anticipation of litigation. The authors of these reports could likely be used as experts. The reports likely contain the authors' conclusions, opinions and recommendations, which is considered protected work-product.

Without waiving its objections, Respondent provides the following regarding third parties which have used the Trademark during some or all of the relevant period of this matter:

Sierra Network, Inc., Emil Hakim, 4000 W. 139th St., Hawthorne, CA 90250, U.S.A.; Restaurant Titanic Café, Mustafa Krich, 49 Raymond St, Bankstown NSW 2200, Australia; Los City, Arafat Abu Khadra, Arafatco5@yahoo.com Malaysia; Shesha Kuwait Center, Mohamad Mash'ai, Shweikh Industrial, Area 3, Section A, Number 95, P.O. Box 64914, Postal Code 70460 Shweikh 8, Kuwait; Al Fakher Co. Ltd, Arshad Mahmud or Saamir Alhindawi, Unit 8 Hounslow Buswiness Park, Alice Way, TW 3 3UD, UK; Swiss General Trading, Housam Abu Heba, Doorfmattenstrass a 6 CH-6182 Escholzmatt, Switzerland; Jemat Al Fakher E.S.T., Ibrahim Asseco, RIADH – SAUDI ARABIA – Al.Helleh – Al.Helleh Str., P.O. Box 69847, Postal Code 11557 (Saudi Arabia Ofc 1); Asel Al Fakhama, Ali Arfaj, Dammam-Saudi Arabia, P.O. Box 74443, Postal Code 31952 (Saudi Arabia Ofc 2); Nile Trading, Ashraf Ibrahim, 65A & 31 Kenji Worth Center, Kenji

Worth 7708, Cape Town, South Africa; Persain Dokhan Co., Sarlfraz Moubaraki, No. 20 ,
Majek Str., Shareeati Str., Tehran, Iran; Amal General Trading, Ahmed Abed Allahi Ali,
P.O. Box 4147 Djibouti, Area No. 7, Street No. 36 Djibouti; Unipal General Trading
Company, Imad Khoury, P.O. Box 2190, Industrial Zone, Ramallah, Palestine; Sultan
Center KFT, Yasser Omair, 1076 Budapest, Thokoly at 26, Hungary; Fortuna Cigar House,
Igor Ozhenkov, 21, Bugaevskaya Street, Odessa, Ukraine, 65005, Ukraine.

Discovery and investigation are ongoing and continuing.

Supplemental Response to Interrogatory No. 16,

Respondent reaffirms its objection to this Special Interrogatory because they seek information outside the scope provided for under Rule 26(b)(1) and are thus, over broad. The information requested is further impermissible as the information is contained in reports either prepared by employees of Respondent or accountants and others acting on behalf of Respondent, all in anticipation of litigation. The authors of these reports could likely be used as experts. The reports likely contain the authors' conclusions, opinions and recommendations, which is considered protected work-product. Further, the requested information is subject to communications with Registrant's legal counsel and is privileged.

Without waiving its objections, Respondent provides the following regarding licenses, assignments, or other rights granted by Registrant to third parties for use of the Trademark:

Sierra Network, Inc., Emil Hakim, 4000 W. 139th St., Hawthorne, CA 90250, U.S.A.;
Restaurant Titanic Café, Mustafa Krich, 49 Raymond St, Bankstown NSW 2200,
Australia; Los City, Arafat Abu Khadra, Arafatco5@yahoo.com Malaysia; Shesha Kuwait
Center, Mohamad Mash'ai, Shweikh Industrial, Area 3, Section A, Number 95, P.O. Box
64914, Postal Code 70460 Shweikh 8, Kuwait; Al Fakher Co. Ltd, Arshad Mahmud or
Saamir Alhindawi, Unit 8 Hounslow Buswiness Park, Alice Way, TW 3 3UD, UK; Swiss

General Trading, Housam Abu Heba, Doorfmattenstrass a 6 CH-6182 Escholzmatt, Switzerland; Jemat Al Fakher E.S.T., Ibrahim Asseco, RIADH – SAUDI ARABIA – Al.Helleh – Al.Helleh Str., P.O. Box 69847, Postal Code 11557 (Saudi Arabia Ofc 1); Asef Al Fakhama, Ali Arfaj, Dammam-Saudi Arabia, P.O. Box 74443, Postal Code 31952 (Saudi Arabia Ofc 2); Nile Trading, Ashraf Ibrahim, 65A & 31 Kenji Worth Center, Kenji Worth 7708, Cape Town, South Africa; Persain Dokhan Co., Sarlfraz Moubaraki, No. 20 , Majek Str., Shareeati Str., Tehran, Iran; Amal General Trading, Ahmed Abed Allahi Ali, P.O. Box 4147 Djibouti, Area No. 7, Street No. 36 Djibouti; Unipal General Trading Company, Imad Khoury, P.O. Box 2190, Industrial Zone, Ramallah, Palestine; Sultan Center KFT, Yasser Omair, 1076 Budapest, Thokoly at 26, Hungary; Fortuna Cigar House, Igor Ozhenkov, 21, Bugaevskaya Street, Odessa, Ukraine, 65005, Ukraine.

Discovery and investigation are ongoing and continuing.

Supplemental Response to Interrogatory No. 17,

Respondent reaffirms its objection to this Special Interrogatory because they seek information outside the scope provided for under Rule 26(b)(1) and are thus, over broad. The information requested is further impermissible as the information is contained in reports either prepared by employees of Respondent or accountants and others acting on behalf of Respondent, all in anticipation of litigation. The authors of these reports could likely be used as experts. The reports likely contain the authors' conclusions, opinions and recommendations, which is considered protected work-product. Further, the requested information is subject to communications with Registrant's legal counsel and is privileged.

Without waiving its objections, Respondent provides the following regarding licenses, assignments, or other rights granted by Registrant to third parties for use of the Trademark:

Sierra Network, Inc., Emil Hakim, 4000 W. 139th St., Hawthorne, CA 90250, U.S.A.;
Restaurant Titanic Café, Mustafa Krich, 49 Raymond St, Bankstown NSW 2200,
Australia; Los City, Arafat Abu Khadra, Arafatco5@yahoo.com Malaysia; Shesha Kuwait
Center, Mohamad Mash'ai, Shweikh Industrial, Area 3, Section A, Number 95, P.O. Box
64914, Postal Code 70460 Shweikh 8, Kuwait; Al Fakher Co. Ltd, Arshad Mahmud or
Saamir Alhindawi, Unit 8 Hounslow Buswiness Park, Alice Way, TW 3 3UD, UK; Swiss
General Trading, Housam Abu Heba, Doorfmattenstrass a 6 CH-6182 Escholzmatt,
Switzerland; Jemat Al Fakher E.S.T., Ibrahim Asseco, RIADH – SAUDI ARABIA –
Al.Helleh – Al.Helleh Str., P.O. Box 69847, Postal Code 11557 (Saudi Arabia Ofc 1); Asel
Al Fakhama, Ali Arfaj, Dammam-Saudi Arabia, P.O. Box 74443, Postal Code 31952
(Saudi Arabia Ofc 2); Nile Trading, Ashraf Ibrahim, 65A & 31 Kenji Worth Center, Kenji
Worth 7708, Cape Town, South Africa; Persain Dokhan Co., Sarlfraz Moubaraki, No. 20 ,
Majek Str., Shareeati Str., Tehran, Iran; Amal General Trading, Ahmed Abed Allahi Ali,
P.O. Box 4147 Djibouti, Area No. 7, Street No. 36 Djibouti; Unipal General Trading
Company, Imad Khoury, P.O. Box 2190, Industrial Zone, Ramallah, Palestine; Sultan
Center KFT, Yasser Omair, 1076 Budapest, Thokoly at 26, Hungary; Fortuna Cigar House,
Igor Ozhenkov, 21, Bugaevskaya Street, Odessa, Ukraine, 65005, Ukraine.

Discovery and investigation are ongoing and continuing.

Supplemental Response to Interrogatory No. 18,

Respondent reaffirms its objection to this Special Interrogatory because they seek information outside the scope provided for under Rule 26(b)(1) and are thus, over broad. The information requested is further impermissible as the information is contained in reports either prepared by employees of Respondent or accountants and others acting on behalf of Respondent, all in anticipation of litigation. The authors of these reports could likely be used as experts. The reports likely contain the authors' conclusions, opinions and recommendations, which is considered protected work-product. Further, the

requested information is subject to communications with Registrant's legal counsel and is privileged.

Without waiving its objections, Respondent provides the following regarding licenses, assignments, or other rights granted by Registrant to third parties for use of the Trademark:

Sierra Network, Inc., Emil Hakim, 4000 W. 139th St., Hawthorne, CA 90250, U.S.A.; Restaurant Titanic Café, Mustafa Krich, 49 Raymond St, Bankstown NSW 2200, Australia; Los City, Arafat Abu Khadra, Arafatco5@yahoo.com Malaysia; Shesha Kuwait Center, Mohamad Mash'ai, Shweikh Industrial, Area 3, Section A, Number 95, P.O. Box 64914, Postal Code 70460 Shweikh 8, Kuwait; Al Fakher Co. Ltd, Arshad Mahmud or Saamir Alhindawi, Unit 8 Hounslow Buswiness Park, Alice Way, TW 3 3UD, UK; Swiss General Trading, Housam Abu Heba, Doorfmattenstrass a 6 CH-6182 Escholzmatt, Switzerland; Jemat Al Fakher E.S.T., Ibrahim Asseco, RIADH – SAUDI ARABIA – Al.Helleh – Al.Helleh Str., P.O. Box 69847, Postal Code 11557 (Saudi Arabia Ofc 1); Asel Al Fakhama, Ali Arfaj, Dammam-Saudi Arabia, P.O. Box 74443, Postal Code 31952 (Saudi Arabia Ofc 2); Nile Trading, Ashraf Ibrahim, 65A & 31 Kenji Worth Center, Kenji Worth 7708, Cape Town, South Africa; Persain Dokhan Co., Sarlfraz Moubaraki, No. 20 , Majek Str., Shareeati Str., Tehran, Iran; Amal General Trading, Ahmed Abed Allahi Ali, P.O. Box 4147 Djibouti, Area No. 7, Street No. 36 Djibouti; Unipal General Trading Company, Imad Khoury, P.O. Box 2190, Industrial Zone, Ramallah, Palestine; Sultan Center KFT, Yasser Omair, 1076 Budapest, Thokoly at 26, Hungary; Fortuna Cigar House, Igor Ozhenkov, 21, Bugaevskaya Street, Odessa, Ukraine, 65005, Ukraine.

Discovery and investigation are ongoing and continuing.

Supplemental Response to Interrogatory No. 19

This Special Interrogatory 19 is impossible to answer as Registrant has been put in the position of defending its Trademark and other proprietary rights solely due to the conduct of Petitioner. The previously provided response addressed Petitioner's request. Respondent states that no relevant "relationship" other than litigation adversaries exists between Registrant and Bassam Hamade.

Discovery and investigation are ongoing and continuing.

Supplemental Response to Interrogatory No. 20

This Special Interrogatory 20 is impossible to answer as Registrant has been put in the position of defending its Trademark and other proprietary rights solely due to the conduct of Petitioner, who is likely the party who has a relationship with Nadine Hamade. Thus, no relevant "relationship" other than litigation adversaries exists between Registrant and Bassam Hamade or between Registrant and Nadine Hamade.

Discovery and investigation are ongoing and continuing.

Supplemental Response to Interrogatory No. 21

This Special Interrogatory 20 is impossible to supplement with a further answer as the response previously provided addressed the relevant relationship between Registrant and Omar Khaled Sarmini, which consists of the sale and transfer of a business asset.

Discovery and investigation are ongoing and continuing.

Supplemental Response to Interrogatory No. 23

This Special Interrogatory 23 is impossible to supplement with a further answer as response previously provided addressed the relevant relationship Petitioner queried between Registrant and Sierra Network, Inc.

Discovery and investigation are ongoing and continuing.

Supplemental Response to Interrogatory No. 24

Respondent reaffirms its objection to Special Interrogatory 24 because it seeks information outside the scope provided for under Rule 26(b)(1) and is thus, over broad.

After good-faith investigation and diligent inquiry, this interrogatory is impossible to answer except to refer to information contained in reports either prepared by employees of Respondent or accountants and others acting on behalf of Respondent, all in anticipation of litigation. The authors of these reports could likely be used as experts. The reports likely contain the authors' conclusions, opinions and recommendations, which is considered protected work-product. Additionally, while Petitioner claims the impermissibly requested information is "relevant," such "relevance" does not defeat privileged communications between Registrant and its legal counsel.

Discovery and investigation are ongoing and continuing.

Supplemental Response to Interrogatory No. 25

Emil Hakim, on behalf of Sierra Network, exclusive U.S.A. distributor for Registrant, participated in preparation of these Special Interrogatories.

Discovery and investigation are ongoing and continuing.

Dated: June 4, 2008

By:



GAREEB|PHAM, LLP

Christopher Q. Pham

Susan Rabin

Alexander S. Gareeb

Attorneys for Respondent

AL-FAKHER FOR TOBACCO

TRADING & AGENCIES CO., LTD.

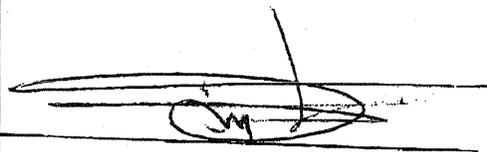
**RESPONDENT'S VERIFICATION OF SUPPLEMENTAL RESPONSES TO
PETITIONER'S FIRST SET SPECIAL INTERROGATORIES**

I, Emil Hakim, declare:

I am CEO and principal officer of the Sierra Network, Inc., which is the exclusive licensee in the United States of the trademark "Al-Fakher," at issue in the above-entitled action, and I have been authorized to make this verification on Respondent's behalf.

I have read the foregoing **RESPONDENT'S SUPPLEMENTAL RESPONSES TO PETITIONER'S FIRST SET SPECIAL INTERROGATORIES** on file herein and know the contents thereof. The same is true of my own knowledge, except as to those matters which are therein stated on information and belief, and, as to those matters, I believe them to be true.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that this verification was executed this 4th day of June, 2008, at Los Angeles, California.

A handwritten signature in black ink, appearing to be "Emil Hakim", is written over a horizontal line. The signature is somewhat stylized and includes a vertical stroke that extends upwards from the main body of the signature.

Emil Hakim

1 **PROOF OF SERVICE**

2 I am a resident of the State of California, over the age of eighteen years, and not a party to the
3 within action. My business address is **GAREEB | PHAM LLP**, located at Aon Center, 707
4 Wilshire Boulevard, 53rd Floor, Los Angeles, California 90017. On June 4, 2008, I served the
5 herein described document(s):

6 **RESPONDENT'S OPPOSITION TO PETITIONER'S MOTION TO COMPEL
7 RESPONSES FROM REGISTRANT TO PETITIONER'S SPECIAL
8 INTERROGATORIES – SET ONE; MEMORANDUM OF POINTS AND
9 AUTHORITIES IN SUPPORT THEREOF; DECLARATIONS OF SUMITHRA RAO
10 AND EMAIL HAKIM IN SUPPORT THEREOF**

11 by transmitting via facsimile the document(s) listed above to the fax number(s)
12 set forth below on this date before 5:00 p.m.

13 X by placing the document(s) listed above in a sealed envelope with postage
14 thereon fully prepaid, in the United States mail at Los Angeles, California
15 addressed as set forth below.

16 X E-File - by electronically transmitting the document(s) listed above to

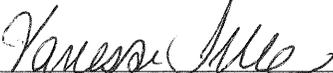
17 by personally delivering the document(s) listed above to the person(s) at the
18 address(es) set forth below.

19 by overnight courier of the document(s) listed above to the person(s) at the
20 address(es) set forth below.

21 Natu J. Patel
22 The Patel Law Firm, P.C.
23 2532 Dupont Drive
24 Irvine, CA 92612

25 I am readily familiar with the firm's practice of collection and processing correspondence
26 for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same
27 day with postage thereon fully prepaid in the ordinary course of business. I am aware that on
28 motion of the party served, service is presumed invalid if postal cancellation date or postage
meter date is more than one day after date of deposit for mailing in affidavit.

I declare under penalty of perjury under the laws of the State of California that the above
is true and correct. Executed on June 4, 2008 at Los Angeles, California.

29 
30 _____
31 Vanessa Tello