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

Proceeding	92048480
Party	Plaintiff Sinbad Grand Cafe, LLC
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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.

Dated: May 20, 2008

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

/natupatel/

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 Trademark Trial and Appeal Board (“TTAB”). On January 9, 2008, Registrant filed its belated answer to the Petition. (“Answer”)

### **DISCOVERY DISPUTE**

Sinbad propounded its Special Interrogatories – Set One (“SI”) on 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 SI was propounded and at which point any response was tardy, Registrant sent a response to the SI (the “Response”) containing many deficiencies. (Patel Decl. ¶2) On March 25, 2008, counsel for Petitioner sent counsel for Registrant a detailed and thorough meet and confer letter to illustrate the Responses’ deficiencies so that counsel could work together to resolve the issues. Petitioner clarified the requests and even apprised Registrant’ s counsel of the relevant case law. (Patel Decl. ¶3) On April 1, 2008, the parties met and conferred via telephone in an effort to resolve the problems with the deficient Responses. (Patel Decl. ¶4) On April 9, 2008, Petitioner’ s counsel reminded counsel for Registrant that he was still waiting for the supplemental responses. (Patel Decl. ¶5) On April 10, 2008, counsel for Registrant finally took the time to contact counsel for Petitioner, only to ask for an extension so that he could respond at a later date. (Patel Decl. ¶6) On April 16, 2008, counsel for

Petitioner requested that counsel for Registrant set a definite response date or counsel would begin work on a motion to compel discovery responses. (Patel Decl. ¶7) In response, counsel for Registrant promised to supplement the responses by May 2, 2008. (Patel Decl. ¶8) On May 6, 2008, counsel for Petitioner sent yet another letter to counsel for Registrant requesting the supplemental responses. Patel Decl. ¶9) On May 8, 2008, counsel for Registrant responded by requesting an additional extension of time until May 12, 2008, to which counsel for Petitioner agreed in the spirit of cooperation. (Patel Decl. ¶10) On May 13, 2008, having received no supplemental responses, counsel for Petitioner once again notified counsel for Registrant that Registrant's conduct was very disappointing and that Petitioner was going to proceed with a motion to compel responses. (Patel Decl. ¶11) Later that day, counsel for Registrant indicated that they would be able to send unverified responses on that same day and verified responses by May 16, 2008, which was agreed upon by the Petitioner. (Patel Decl. ¶12) However, to this date, despite Petitioner's numerous meet and confer attempts, counsel for Registrant has not provide the supplemental responses. (Patel Decl. ¶¶13-16) 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 TTAB compel Registrant to supplement its responses.

The dispute is with reference to Special Interrogatory nos. 1 – 6, 8, 10 – 21, 23 – 25 (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 SPECIAL INTERROGATORIES**

<b>SI</b>	<b>Requests Information Relating To</b>	<b>Deficient Response by Registrant</b>
1	Identify the officers and directors of Registrant from 1995 until the present.	<p>Objection that the terms “officers” and “directors” are vague and ambiguous.</p> <p>Objection as overbroad in scope as to time.</p> <p>Objection on basis of attorney-client privilege.</p>
2	Identify the person(s) most knowledgeable about Registrant’ s sales, advertising and sales promotion, adoption and use, licensing, and assignment or other transfer of rights.	Nancy Debabneh.
3	Identify the person(s) most knowledgeable about the decision to adopt, register, and/or use the Trademark.	Al-Fakher for Tobacco Trading & Agencies Co.
4	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.	<p>Objection as overbroad in scope as to time.</p> <p>Objection that request seeks information protected by privilege.</p>
5, 6	Information pertaining to the nature of Registrant’ s business and the date Registrant first engaged in such business.	Manufacturing and trading in flavored tobacco. First distributed within the United States in 1999.
8	For <b>each</b> of the goods identified as goods Registrant currently uses, intends to use, or has used the Trademark with or without any design element or in a stylized format of any sort, identify the first use dates or expected first use dates both inside and outside the United States, identify the state or geographic region where each such goods and/or services have been or are expected to be sold, and identify all documents supporting the responses to the other subparagraphs.	The goods were first used in the United States in 1999, first used anywhere in 1999, the goods have been sold or expected to be sold everywhere in the world, and “discovery and investigation is ongoing and continuing”.

<b>RESPONSE TO SPECIAL INTERROGATORIES</b>		
<b>SI</b>	<b>Requests Information Relating To</b>	<b>Deficient Response by Registrant</b>
10, 11	Identify all inquiries, investigations, surveys, evaluations and/or studies conducted by Registrant or anyone acting for or on its behalf with respect to the Trademark.	Objection to the extent the request is a premature demand for expert reports pursuant to California Code of Civil Procedure § 2034.
12, 13	The channels of trade in which the Trademark is used and/or in which goods bearing the Trademark are sold, including the geographic area in which the Trademark is used and/or sold, the manner in which the goods or services reach the ultimate consumer, the geographical reach of each such channel, and the approximate percentage of total sales of goods and/or services through each such channel.	“Please find attached Doc 17.”
14	Identify the ordinary purchaser of the goods sold under the Trademark, including the level of care exercised.	“Please find attached Doc 17.”
15	Identify all third parties which have used the Trademark in connection with flavored tobacco in the United States since 1995.	Objection as overbroad in scope as to time.  Objection on basis of privilege.  Objection on basis of premature demand for expert reports pursuant to California Code of Civil Procedure § 2034.
16, 17, 18	Licenses, assignments, or other rights granted by Registrant to third parties to use the Trademark or any mark incorporating the Trademark.	Objection as overbroad in scope as to time.  Objection on basis of privilege.  Objection on basis of premature demand for expert reports pursuant to California Code of Civil Procedure § 2034.
19	Explain in detail the relationship between Bassam Hamade and Registrant.	An individual who falsely registered the mark of Respondent.

<b>RESPONSE TO SPECIAL INTERROGATORIES</b>		
<b>SI</b>	<b>Requests Information Relating To</b>	<b>Deficient Response by Registrant</b>
20	Explain in detail the relationship between Nadine Hamade and Registrant.	“N/A”
21	Explain in detail the relationship between Omar Khaled Sarmini and Registrant.	Omar Khaled Sarmini has sold his Trademark (Al-Fakher) to the Registrant.
23	Explain in detail the relationship between Sierra Network, Inc. and Registrant.	Sierra Network, Inc. is the exclusive distributor of the Registrant’ s products in the United States.
24	Identify each statement or opinion obtained by or for Registrant regarding any issues in this cancellation proceeding.	Objection as overbroad in scope as to time.  Objection on basis of privilege.  Objection on basis of premature demand for expert reports pursuant to California Code of Civil Procedure § 2034.
25	Identify each person who participated in or supplied information used in any of the interrogatories.	Al-Fakher for Tobacco Trading & Agencies Co. Ltd.

## **INTRODUCTION**

Registrant' s responses are grossly inadequate for various reasons outlined hereunder in this motion. Based on those reasons, Petitioner respectfully request the TTAB to compel Registrant to provide supplemental responses. First of all, Registrant objects based upon "premature expert reports" under California state law, which has no relevance in a TTAB proceeding. Second, the Registrant has failed to adequately respond to the Disputed Items despite the fact that the Disputed Items are significantly relevant to the claims at issue. Additionally, Registrant has impermissibly responded to several interrogatories merely by referring to other documents which do not contain the relevant information sought. Third, Registrant made many irrelevant objections to the Disputed Items which are without merit. Petitioner respectfully requests the TTAB to issue sanctions for Registrant' s repeated failures to cooperate and providesupplemental responses 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 provide information requested by Petitioner.

37 C.F.R. §2.120(e) states:

“(1) If a party ... fails to answer any question propounded in a discovery deposition, or any interrogatory, or fails to produce and permit the inspection and copying of any document or thing, the party seeking discovery may file a motion before the Trademark Trial and Appeal Board for an order to compel a designation, or attendance at a deposition, or an answer, or production and an opportunity to inspect and copy.”

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 interrogatories, and requests for production of documents and things. Trademark Trial and Appeal Board Manual of Procedure (“TBMP”) §§523.01, 411.

It is very apparent that Registrant has failed to comply with TBMP §§523.01, 411 and has failed to provide the information requested by Petitioner based on irrelevant and meritless objections. Therefore the TTAB must overrule Registrant’ s objections and compel it to fully supplement its responses.

**I. REGISTRANT MAKES IRRELEVANT OBJECTIONS ON THE BASIS OF CALIFORNIA LAW IN A FEDERAL TTAB PROCEEDING AND THEREFORE THESE OBJECTIONS MUST BE OVERRULED**

Perplexingly, Registrant makes completely irrelevant objections to the Disputed Items on the basis of California state law even though this matter is before the TTAB.

TBMP §101.01 states:

“All proceedings before the Trademark Trial and Appeal Board ("TTAB" or "Board") are governed by the Lanham Trademark Act of 1946, as amended, ("Act of 1946" or "Act"), 15 U.S.C. § 1051 et seq.; the rules of practice in trademark cases (commonly known as the Trademark Rules of Practice), which may be found in Parts 2 and 7 of Title 37 of the Code of Federal Regulations ("CFR"); the rules pertaining to assignments in trademark cases, which may be found in Parts 3 and 7 of 37 CFR; and the rules relating to representation of others before the United States Patent and Trademark Office which may be found in Part 10 of 37 CFR. The United States Patent and Trademark Office (“USPTO” or “Office”) rules governing procedure in inter partes proceedings before the Board are adapted, in large part, from the Federal Rules of Civil Procedure, with modifications due primarily to the administrative nature of Board proceedings.”

Here, Registrant objected to SI 10, 11, 15-18, and 24 of the Disputed Items based upon Cal. Code. Civ. Proc. §2034. Nevertheless, Registrant’ s objections fail since California civil procedure is a matter of state law, not federal law. State law does not govern board proceedings. Therefore, Registrant’ s objections based upon California law must be overruled and the TTAB must compel Registrant to supplement its responses.

**II. THE TTAB MUST COMPEL REGISTRANT TO SUPPLEMENT THE RESPONSES BECAUSE THE DISPUTED ITEMS ARE WITHIN THE SCOPE OF DISCOVERABLE INFORMATION YET REGISTRANT’S RESPONSES ARE INADEQUATE**

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

As a preliminary matter, 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.”

The Disputed Items seek information that will shed light on Registrant’s use and acquisition of the Trademark. For example, in SI 16, 17, and 18 of the Disputed Items, Petitioner requested information relating to what licenses, assignments, or other rights were granted by Registrant to third parties to use the Trademark or any mark incorporating the Trademark. The requested information is relevant to establish the nature and extent of use of the Trademark by Registrant, which would indicate if at any point Registrant abandoned the use of the Trademark.

To further illustrate the relevance of Petitioner’s requests, consider for example SI 1 of the Disputed Items. Petitioner requested information relating to the identification of officers and directors of the company since 1995. As the TTAB will agree, the requested information is relevant since the statement of use for the Trademark claims a date of first use of January 10, 1995. The identification of such officers and directors of the company from 1995 to the present, who conceivably would have a say in the selection and use of

the Trademark, is necessary to allow Petitioner to depose individuals who may have information as to whether “Al-Fakher” was actually in continuous use from January 10, 1995 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.

**B. REGISTRANT FAILED TO PROVIDE ADEQUATE RESPONSES TO THE INTERROGATORIES AND MUST BE COMPELLED TO SUPPLEMENT ITS RESPONSES**

Apart from Registrant’s numerous yet fallacious objections, Registrant inadequately addressed some of the Disputed Items. This must not be tolerated.

Ordinarily, a party on which interrogatories have been served should respond to them by stating, with respect to each interrogatory, either an answer or an objection. If an interrogatory is answered, the answer must be made *separately and fully*, in writing under oath. TBMP §405.04(b) (emphasis added)

Petitioner made numerous requests which required Registrant to identify parties. Petitioner specifically requested that Registrant give the full name, present or last known address, and the present or last known place of employment for individuals. With regard to companies, Petitioner requested the full corporate name, a description of the nature of the company’s business, the state of incorporation of the company, the address and principal place of business, and the identity of the officers or other person having knowledge of this matter. See **Exhibit A** to Patel Decl.

Here, Registrant responded to SI 2, 3, and 25 of the Disputed Items by providing the name of a person or company. With regard to the individuals identified, Registrant did not provide the person’s present or last known address and last known place of

employment. For the companies identified, again, Registrant failed to provide the brief description of the general nature of the business, its state of incorporation, the address and principal place of business, and the identity of officers or other persons having knowledge of the matter. As of the date of filing this motion, Registrant has yet to provide the requested information.

Additionally, to this date, Registrant has continuously ignored repeated requests and failed to provide relevant information as requested in various interrogatories. For example, Petitioner requested in SI 7 and 8 of the Disputed Items that Registrant identify each of the goods and/or services on or in connection with the Trademark which with Registrant currently uses, intends to use, or has used the Trademark, and for each good or service identified, provide the first use date within the United States and outside the United States, and identify the state or geographic region where each such goods and/or services have been and/or are expected to be sold and/or advertised. Registrant responded by listing over fifty goods and/or services, yet identified only one year of first use allegedly for all the listed goods and/or services. How could this be true?

Therefore, Registrant has not adequately responded to Petitioner's requests, and the TTAB must compel Registrant to supplement its responses.

C. **THE DOCUMENTS REFERRED TO IN REGISTRANT'S RESPONSES ARE NOT RESPONSIVE TO PETITIONER'S REQUESTS AND THE TTAB MUST COMPEL REGISTRANT TO SUPPLEMENT ITS RESPONSES**

Registrant further attempts to provide insufficient responses to the Disputed Items by merely referring to "Document 17" without providing any other information.

An answer to an interrogatory should be complete in itself and should not refer to the pleadings, or to depositions or other documents, or other interrogatories. *Scaife v. Boenne*, 191 FRD 590, 594 (ND IN, 2000).

TBMP §405.04(b) states in part:

“In some cases, the information sought in an interrogatory may be derived or ascertained from the business records of the responding party, or from an examination, audit, or inspection of those business records (including a compilation, abstract, or summary thereof) and the burden of deriving or ascertaining the information is substantially the same for the propounding party as for the responding party. In those cases, the responding party may answer the interrogatory by itself providing, in its written answer to the interrogatory, the information sought. Alternatively, the responding party may answer the interrogatory by specifying the records from which the information may be derived or ascertained, and affording to the propounding party reasonable opportunity to examine, audit, or inspect the records and to make copies, compilations, abstracts, or summaries. If the responding party elects to answer an interrogatory by specifying and producing business records, the specification must be in sufficient detail to permit the propounding party to locate and identify, as readily as can the responding party, the records from which the answer may be ascertained.”

Here, Registrant responds to SI 12-14 of the Disputed Items with the sole phrase “Please find attached Doc. 17”. Document 17 is simply a list of names, without any indications of any relationship between the parties. Petitioner specifically requested information regarding the channels of trade in which the Trademark is used and/or sold, the geographic area by state in which the Trademark is used and/or sold, the manner in which the goods reach the ultimate consumer, the geographic reach of each such channel and the approximate percentage of total sales of goods and/or services through each such channel. Petitioner also requested that Registrant identify the ordinary purchaser of the goods or services sold or intended to be sold under the Trademark. ***The document referred to by Registrant is in not responsive to any of those requests, since it simply provides a list of names.*** Registrant has not even identified who the parties in the list are,

or whether they are distributors or are otherwise customers of Registrant. Thus, Petitioner cannot ascertain the information it seeks from the one page document referred to by Registrant's responses. Therefore, the TTAB must compel Registrant to supplement its responses to the Disputed Items.

**III. REGISTRANT MAKES SEVERAL BASELESS OBJECTIONS WHICH MUST BE OVERRULED BY THE TTAB 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.

The law is clear that all grounds for objection to an interrogatory must be stated "with specificity" FRCP 33(b)(4); see *Nagele v. Electronic Data Systems Corp.* (WD NY, 2000) 193 FRD 94, 109 (objection that interrogatories were "burdensome" overruled because objecting party failed to "particularize" basis for objection). If required to make the objection understandable, the objecting party must state reasons for any objection. See FRCP 33(b)(1); *Chubb Integrated Sys. Ltd. v. National Bank of Wash.*, 103 FRD 52, 58 (D DC, 1984) – "irrelevant" did not fulfill party's burden to explain its objections.

**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 SI 1 of the Disputed Items, arguing that the terms "officers" and "directors" (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. Where the ambiguity can be easily resolved by conferring with the propounding party, courts are likely to overrule an

objection that the interrogatory is vague and ambiguous. *Beach v. City of Olathe, Kans.*, 203 FRD 489, 497 (D KS, 2001).

The objections by Registrant to SI 1 of the Disputed Items 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. Additionally, Petitioner already defined the Terms in its meet and confer letters. See **Exhibit C** to Patel Decl.

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.

**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 the Disputed Items, specifically SI No. 4, 15-18, and 24, as overbroad in scope as to time.

Where 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. *Mitchell v. National R.R. Passenger Corp.*, 208 FRD 455, 458, fn. 4 (D DC, 2002); *St. Paul Reinsurance Co., Ltd. v. Commercial Fin' l Corp*, 198 FRD 508, 512 (ND IA, 2001).

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, Petitioner requested that Registrant identify the officers and directors of Registrant from 1995 until the present (refer to SI 1). The statement of

use of the registration for the Trademark claims a date of use anywhere in the world as early as January 10, 1995. Therefore, identification of people knowledgeable about the sales of Registrant is relevant to many of Petitioner's claims, including, but not limited to, establishing whether Registrant sold or distributed goods since 1995, and the nature and extent of those sales or distribution.

Additionally, even if we hypothetically assume that Registrant's objections have a valid basis, Registrant must answer the remaining parts of the question which are not overbroad in scope as to time. Contemplate for instance, Petitioner's request that Registrant provide information 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 is still required at a minimum to provide information dating from January 15, 2001, which is the claimed date of first use in commerce by Registrant. Yet to this date, Registrant has not provided any responses aside from its objections.

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.

C. **REGISTRANT DID NOT PROPERLY USE PRIVILEGE AS A BASIS FOR OBJECTION SINCE PETITIONER SEEKS INFORMATION THAT IS NOT PRIVILEGED AND 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 SI No. 4, 15-18, and 24 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 SI 4 of the Disputed Items, Petitioner requested information relating to existing relations, including contracts, agreements, licenses, assignments, or other relations, between Registrant and any third party, relating to the Trademark. Contracts, agreements, licenses, or assignments are not communications, nor are they formed between an attorney and a client. Rather, they are formed between Registrant and a third-party. Therefore attorney-client privilege does not protect this information.

In another example, in SI 15 of the Disputed Items, Petitioner requested that Registrant identify third parties who have used the Trademark in connection with flavored tobacco products in the United States since 1995. Petitioner simply asked Registrant to identify the third parties and did not ask for communications, yet Registrant still unreasonably objected on the basis of attorney-client privilege without providing further explanation.

Additionally, Registrant’s objections on the basis of attorney work-product fail because the information sought is not attorney work product. For example, in SI 4 of the

Disputed Items, information regarding Registrant's contracts, licenses, assignments, or other relationships with third parties should be information maintained by Registrant in the ordinary course of Registrant's business, and would therefore not be trial preparation material. Therefore attorney work-product protection does not apply to this information.

Therefore, Registrant must be compelled to supplement its responses to the interrogatories to which it objected to on the basis of privilege.

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

If the TTAB were to conclude that the privilege applies, which is highly unlikely, the TTAB must compel Registrant to identify and provide, based on the instructions provided in the definitions of SI, - 1) the privilege or protection that Registrant claims 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 upon which Registrant based its claim of privilege or protection.

Here, when claiming privilege in SI No. 4, 15-18, and 24 of the Disputed Items, Registrant failed to identify the subject matter of the communication or information and failed to identify any additional facts upon which Registrant based its claim of privilege or protection. Upon review of these special interrogatories, the Petitioner is confident that the TTAB will conclude that the objections raised by Registrant are meritless. In the unlikely event the TTAB decides to uphold Registrant's objections based upon privilege, the TTAB must, at a minimum, compel Registrant to identify the subject matter and additional facts as requested by Petitioner.

**IV. 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 TTAB's own guidelines and federal law. For TTAB's convenience, Petitioner has summarized the reasons why the responses should be compelled in the Appendix A below, which is incorporated in its entirety by reference.

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

Petitioner recognizes that the TTAB 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 TTAB'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 TTAB review the record at hand and impose any sanctions that the TTAB deems appropriate.

**VI. CONCLUSION**

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

Dated: May 20, 2008

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

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

**APPENDIX A  
RESPONSE TO SPECIAL INTERROGATORIES**

<b>SI</b>	<b>Requests Information Relating To</b>	<b>Deficient Response by Registrant</b>	<b>Reasons Why Responses Should be Compelled</b>
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1	Identify the officers and directors of Registrant from 1995 until the present.	<p>Objection that the terms “officers” and “directors” are vague and ambiguous.</p> <p>Objection as overbroad in scope as to time.</p> <p>Objection on basis of attorney-client privilege.</p>	<p>Registrant’s objection fails since the definition of “officers” and “directors” is a matter of common sense and is easily ascertainable.</p> <p>Registrant’s objection to the SI as overbroad in scope as to time fails since since the date of first use was January 10, 1995, and identification of people knowledgeable about Registrant’s sales from 1995 onwards is relevant to establishing the nature and extent of distribution of Registrant’s goods.</p> <p>Registrant’s objections on the basis of attorney-client privilege fail since identification of officers and directors is not a communication.</p> <p>Identification of officers and directors of a foreign company is not readily ascertainable from the United States.</p>
2	Identify the person(s) most knowledgeable about Registrant’s sales, advertising and sales promotion, adoption and use, licensing, and assignment or other transfer of rights.	Nancy Debabneh.	Registrant failed to completely identify the persons most knowledgeable by only providing a name when the directions require Registrant to include her title, present or last known address, and present or last known place of employment.
3	Identify the person(s) most knowledgeable about the	Al-Fakher for Tobacco Trading & Agencies Co.	Registrant failed to identify the person most knowledgeable since it only provided a name for a company, whereas there must be some individuals who were responsible for the

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	decision to adopt, register, and/or use the Trademark.		decision. Otherwise, Registrant must identify some person representing the company as the person most knowledgeable about the decision. Registrant must include the address and position for the person identified.
4	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.	<p>Objection as overbroad in scope as to time.</p> <p>Objection that request seeks information protected by privilege.</p>	<p>Registrant's objection to the SI as overbroad in scope as to time fails since information as to relations between Registrant and third parties regarding the Trademark is relevant to establishing Registrant's Trademark-related activities within the U.S. and whether Registrant's products were in fact used in commerce in the U.S. since 1999. Detailed descriptions of the relations between Registrant and any third party are relevant to establish when the Trademark was first in use in the U.S., the nature and extent of those activities, and whether at any point Registrant ceased use of the Trademark in the U.S.</p> <p>Registrant's objections on the basis of attorney-client privilege fail since objections on the basis of attorney-client privilege do not protect communications between non-attorneys.</p> <p>Registrant's objections on the basis of work product privilege fail since communications between non-attorneys are not protected by work-product privilege. Additionally, it strains credulity to believe that Registrant kept no records in the ordinary course of business regarding parties it had past and existing relationships with, between Registrant and a third party, since the time of Registrant's inception. These records would not be prepared by attorneys.</p>

**APPENDIX A  
RESPONSE TO SPECIAL INTERROGATORIES**

SI	Requests Information Relating To	Deficient Response by Registrant	Reasons Why Responses Should be Compelled
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5, 6	Information pertaining to the nature of Registrant's business and the date Registrant first engaged in such business.	Manufacturing and trading in flavored tobacco. First distributed within the United States in 1999.	Both interrogatories seek the date upon which Registrant engaged in each business. Registrant failed to completely comply with the request since it provided the year, but not the date of such use.
8	For <b><u>each</u></b> of the goods identified as goods Registrant currently uses, intends to use, or has used the Trademark with or without any design element or in a stylized format of any sort, identify the first use dates or expected first use dates both inside and outside the United States, identify the state or geographic region where each such goods and/or services have been or are expected to be	The goods were first used in the United States in 1999, first used anywhere in 1999, the goods have been sold or expected to be sold everywhere in the world, and "discovery and investigation is ongoing and continuing".	Registrant listed numerous goods and products, but has not provided details regarding the first use dates in the United States, first use dates outside of the United States, state or geographic regions, and documents relating to <b><u>EACH</u></b> good identified.  Registrant fails to provide complete information since it only provided the year of first use, and not the date of first use. Registrant also fails to provide the specific state or geographic region for the goods with which the Trademark is used.

**APPENDIX A  
RESPONSE TO SPECIAL INTERROGATORIES**

<b>SI</b>	<b>Requests Information Relating To</b>	<b>Deficient Response by Registrant</b>	<b>Reasons Why Responses Should be Compelled</b>
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	sold, identify all documents supporting the responses to the other subparagraphs.		
10, 11	Identify all inquiries, investigations, surveys, evaluations and/or studies conducted by Registrant or anyone acting for or on its behalf with respect to the Trademark.	Objection to the extent the request is a premature demand for expert reports pursuant to California Code of Civil Procedure § 2034.	California Code of Civil Procedure does not govern in a Federal TTAB proceeding.
12, 13	The channels of trade in which the Trademark is used and/or in which goods bearing the Trademark are sold, including the geographic area in which the Trademark is used and/or sold, the manner in which the goods or services reach the ultimate	“Please find attached Doc 17.”	The response is not complete and impermissibly incorporates a document by reference instead, which furthermore does not provide the information requested since it is a mere list of names.

**APPENDIX A  
RESPONSE TO SPECIAL INTERROGATORIES**

<b>SI</b>	<b>Requests Information Relating To</b>	<b>Deficient Response by Registrant</b>	<b>Reasons Why Responses Should be Compelled</b>
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	consumer, the geographical reach of each such channel, and the approximate percentage of total sales of goods and/or services through each such channel.		
14	Identify the ordinary purchaser of the goods sold under the Trademark, including the level of care exercised.	“Please find attached Doc 17.”	The response is not complete and impermissibly incorporates a document by reference instead, which furthermore does not provide the information requested since it is a mere list of names.
15	Identify all third parties which have used the Trademark in connection with flavored tobacco in the United States since 1995.	<p>Objection as overbroad in scope as to time.</p> <p>Objection on basis of privilege.</p> <p>Objection on basis of premature demand for expert reports pursuant to California Code of Civil</p>	<p>Registrant’s objection to the SI as overbroad in scope as to time fails since the statement of use for the Trademark lists a date of first use anywhere in the world as January 15, 1995 and Petitioner is entitled to discovery of relevant material from 1995 onwards.</p> <p>If Registrant’s assertions are to be believed, Registrant was incorporated in 1999. At the very least, it must therefore be compelled to identify all third parties who have used the Trademark in connection with the sale of flavored tobacco since 1999.</p> <p>Registrant’s objections on the basis of attorney-client privilege fail since objections on the basis of attorney-client privilege do not protect</p>

**APPENDIX A  
RESPONSE TO SPECIAL INTERROGATORIES**

<b>SI</b>	<b>Requests Information Relating To</b>	<b>Deficient Response by Registrant</b>	<b>Reasons Why Responses Should be Compelled</b>
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		<p>Procedure § 2034.</p>	<p>communications between non-attorneys.</p> <p>Registrant’s objections on the basis of work product privilege fail since Registrant must have kept records in the ordinary course of business regarding parties it had past and existing relationships with, between Registrant and a third party, since the time of Registrant’s inception. These records would not be prepared by attorneys.</p> <p>California Code of Civil Procedure does not govern in a Federal TTAB proceeding.</p>
16, 17, 18	<p>Licenses, assignments, or other rights granted by Registrant to third parties to use the Trademark or any mark incorporating the Trademark.</p>	<p>Objection as overbroad in scope as to time.</p> <p>Objection on basis of privilege.</p> <p>Objection on basis of premature demand for expert reports pursuant to California Code of Civil Procedure § 2034.</p>	<p>Registrant’s objection to the SI as overbroad in scope as to time fails since Registrant’s licensing or negotiations to license, assign or grant rights to parties at any time are relevant to establish whether in fact Registrant has sold or distributed goods within the U.S. or abroad, and the nature and extent of those sales or distribution within the U.S. or abroad.</p> <p>Registrant’s objections on the basis of attorney-client privilege fail since objections on the basis of attorney-client privilege do not protect communications between non-attorneys.</p> <p>Agreements between non-attorney third parties are not prepared in preparation for trial and are thus not protected by attorney work product.</p> <p>Registrant’s objections on the basis of work product privilege fail since it is difficult to believe that Registrant kept no records in the ordinary course of business regarding parties it had past and existing relationships with, between Registrant and a third party, since the time of Registrant’s inception. These records would not be prepared by attorneys.</p>

**APPENDIX A  
RESPONSE TO SPECIAL INTERROGATORIES**

<b>SI</b>	<b>Requests Information Relating To</b>	<b>Deficient Response by Registrant</b>	<b>Reasons Why Responses Should be Compelled</b>
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			California Code of Civil Procedure does not govern in a Federal TTAB proceeding.
19	Explain in detail the relationship between Bassam Hamade and Registrant.	An individual who falsely registered the mark of Respondent.	Response fails to describe in detail the nature and scope of the relationship between Bassam Hamade and Registrant.
20	Explain in detail the relationship between Nadine Hamade and Registrant.	“N/A”	Registrant has not responded to this interrogatory at all.
21	Explain in detail the relationship between Omar Khaled Sarmini and Registrant.	Omar Khaled Sarmini has sold his Trademark (Al-Fakher) to the Registrant.	Registrant fails to provide details as to when the Trademark was sold to Registrant, at what price, circumstances regarding the sale of the Trademark, and the scope of the sale of the Trademark.
23	Explain in detail the relationship between Sierra Network, Inc. and Registrant.	Sierra Network, Inc. is the exclusive distributor of the Registrant’s products in the United States.	Registrant fails to provide details of the nature of the relationship, such as terms of the distributorship, payment under the distributorship, or other conditions imposed by Registrant.
24	Identify each statement or	Objection as overbroad in	Registrant’s objection to the SI as overbroad in scope as to time fails since statements or

**APPENDIX A  
RESPONSE TO SPECIAL INTERROGATORIES**

<b>SI</b>	<b>Requests Information Relating To</b>	<b>Deficient Response by Registrant</b>	<b>Reasons Why Responses Should be Compelled</b>
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	opinion obtained by or for Registrant regarding any issues in this cancellation proceeding.	scope as to time.  Objection on basis of privilege.  Objection on basis of premature demand for expert reports pursuant to California Code of Civil Procedure § 2034.	opinions regarding issues in this proceeding are relevant to the proceeding.  Registrant's objections on the grounds of privilege fail to provide 1) the subject matter of the communications or information and 2) any additional facts upon which it bases its claim of privilege or protection.  California Code of Civil Procedure does not govern in a Federal TTAB proceeding.
25	Identify each person who participated in or supplied information used in any of the interrogatories.	Al-Fakher for Tobacco Trading & Agencies Co. Ltd.	Registrant failed to identify each person by only providing a name for a company, whereas there must be some individuals who were responsible for participating in or supplying information used in the interrogatories. Every individual agent or representative of the company who participated in or supplied information used in the interrogatories must be identified.  Otherwise, Registrant must be compelled to identify some person representing the company as the person most knowledgeable about the decision. Registrant must also be compelled to include the address and position for the person identified.

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

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

SINBAD GRAND CAFÉ, LLC.,

Petitioner,

v.

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

Respondent.

**Cancellation No. 92048480**

**DECLARATION OF NATU J. PATEL IN  
SUPPORT OF PETITIONER'S MOTION  
TO COMPEL RESPONDENT'S  
RESPONSES TO SPECIAL  
INTERROGATORIES**

Petition Filed: November 21, 2007

I, Natu J. Patel, declare that I am the attorney of record for Petitioner, Sinbad Grand Café ("Sinbad"), LLC, in the above captioned case. I am making this declaration in support of Petitioner's Motion to Compel Respondent's Responses to Special Interrogatories Propounded on February 6, 2008. As such, I have personal knowledge of the following facts and if called upon, I could and would competently testify thereto:

1. Attached hereto as **Exhibit A** is a true and correct copy of Sinbad's First Set of Special Interrogatories propounded by First-Class and electronic mail, to counsel for Respondent, Mr. F. Freddy Sayegh ("Mr. Sayegh"), on February 5, 2008. Responses were due on March 11, 2008.

2. Attached hereto as **Exhibit B** is a true and correct copy of Mr. Sayegh's response to Sinbad's First Set of Special Interrogatories dated March 14, 2008.

3. Attached hereto as **Exhibit C** is a true and correct copy of the *nine (9) page* letter I sent to Mr. Sayegh on March 25, 2008. This letter was sent as a meet and confer attempt to resolve the inadequacies in Al-Fakher For Tobacco Trading & Agencies Co.'s ("Al-Fakher") responses to Sinbad's First Set of Special Interrogatories. Per the meet and confer letter, responses were due on or before April 8, 2008.

4. After my telephone conference with Mr. Sayegh, I sent a confirming e-mail on April 1, 2008, inquiring about a convenient deadline for the supplemental responses to the First Set of Special Interrogatories (the "Supplemental Responses"). Attached hereto as **Exhibit D** is a true and correct copy of the e-mail dated April 1, 2008.

5. Not having received a response to my April 1, 2008 e-mail, I sent a second follow up letter on April 9, 2008, requesting a response by April 14, 2008. A true and correct copy of the April 9, 2008 letter is attached hereto as **Exhibit E**.

6. Attached hereto as **Exhibit F** is a true and correct copy of the e-mail that I received from Mr. Sayegh on April 10, 2008, assuring me that he will provide me with the exact due date for the Supplemental Responses on April 11, 2008.

7. Not having received an exact date on April 11, 2008 as promised, I sent Mr. Sayegh third follow up letter on April 16, 2008. Attached hereto as **Exhibit G** is a true and correct copy of the letter dated April 16, 2008 requesting an update regarding the exact due date for the Supplemental Responses by April 18, 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.

8. 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 H**.

9. 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. Attached hereto as **Exhibit I** is a true and correct copy of the letter dated May 6, 2008.

10. 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 J**.

11. 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 K** is a true and correct copy of the e-mail dated May 13, 2008.

12. 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 L**.

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

14. 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 responses on May 14, 2008. Attached hereto as **Exhibit M** is a true and correct copy of the e-mail dated May 13, 2008.

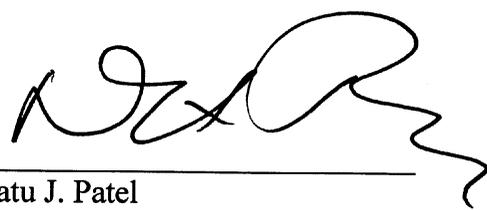
15. Mr. Sayegh promised to call me on May 14, 2008 after he had an opportunity to confer with his client. Not having received a telephone call from Mr. Sayegh on May 14, 2008 as promised, I called and left a message for Mr. Sayegh at 10:30 a.m. on May 16, 2008 regarding the status of Al-Fakher's Supplementary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

16. 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 20th day of May 2008 at Irvine, California.

Dated: May 20, 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 SPECIAL INTERROGATORIES was served by electronic mail, upon attorneys for Respondent, this 20th 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

**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 SPECIAL INTERROGATORIES was served by electronic mail, upon attorneys for Respondent, this 20th 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

# **EXHIBIT A**



### **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. "TRADEMARK" or "AL-FAKHER" shall mean the United States Trademark Registration No. 2,782,619, and the application from which the trademark entitled "AL-FAKHER" was issued to the original registrant, Bassam Hamade on November 11, 2003.
- L. POSSESSION, CUSTODY OR CONTROL. Each interrogatory 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 an interrogatory 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 interrogatories is withheld 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 an interrogatory 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.

### **INTERROGATORIES**

#### **INTERROGATORY NO. 1:**

Identify all officers and directors of REGISTRANT from 1995 until the present.

#### **INTERROGATORY NO. 2:**

With respect to the TRADEMARK, identify the person or persons most knowledgeable about REGISTRANT'S sales, advertising and sales promotion, adoption and use, licensing, and assignment or other transfer of rights.

#### **INTERROGATORY NO. 3:**

Identify all persons who were involved in, or participated in any way with, the decision to adopt, register and/or use the TRADEMARK, and for each such person, state his/her title and the role he/she played to adopt, register and/or use the TRADEMARK.

#### **INTERROGATORY NO. 4:**

Describe in detail all past and existing relations, including contracts, agreements, licenses, assignments, or other relations, between REGISTRANT and any third party, including predecessor companies or individuals, related, or affiliated companies or individuals, relating in any manner to the TRADEMARK.

**INTERROGATORY NO. 5:**

Describe in detail the nature of REGISTRANT'S business or businesses, including the date on which REGISTRANT first engaged in each such business outside of the United States.

**INTERROGATORY NO. 6:**

Describe in detail the nature of REGISTRANT'S business or businesses, including the date on which REGISTRANT first engaged in each such business within the United States.

**INTERROGATORY NO. 7:**

Identify and fully describe each of the goods and/or services on or in connection with which REGISTRANT currently uses, intends to use, or has used the TRADEMARK with or without any design element or in a stylized format of any sort.

**INTERROGATORY NO. 8:**

For each of the goods and/or services identified in response to Interrogatory No. 7:

a. Identify the first use date(s) within the United States and/or the expected first use date of the TRADEMARK with such goods or services within the United States;

b. Identify the first use date(s) outside of the United States and/or the expected first use date of the TRADEMARK with such goods or services outside of the United States.

c. Identify the state or geographic region where each such goods and/or services have been and/or are expected to be sold and/or advertised; and

d. Identify all DOCUMENTS supporting the responses to subparagraphs (a), (b) and (c) above.

**INTERROGATORY NO. 9:**

Describe the English meaning and derivation of the term “AL-FAKHER” as used in connection with the goods of REGISTRANT upon or in connection with which REGISTRANT has used that phrase.

**INTERROGATORY NO. 10:**

Identify all inquiries, investigations, surveys, evaluations and/or studies conducted by REGISTRANT or by anyone acting for or on its behalf with respect to the TRADEMARK, and marks owned or used by REGISTRANT which incorporate the term “AL-FAKHER” as an element of the mark, including the date conducted, the name, address, and title of each person who conducted it, the purpose for which it was conducted, the findings or conclusions made.

**INTERROGATORY NO. 11:**

Identify all documents which record, refer, or relate to such inquiry, investigation, survey, evaluation or study identified in your response to Interrogatory no. 10.

**INTERROGATORY NO. 12:**

State in detail the channels of trade in which the TRADEMARK is used and/or in which goods bearing the TRADEMARK are sold, including the geographic area by state, territory or possession in which the TRADEMARK is used and/or sold, the manner in which the goods or services reach the ultimate consumer, the geographical reach of each such channel, and the approximate percentage of total sales of goods and/or services through each such channel.

**INTERROGATORY NO. 13:**

Identify all DOCUMENTS sufficient to support your response to Interrogatory no. 12.

**INTERROGATORY NO. 14:**

Identify the ordinary purchaser or the goods or services sold and intended to be sold under the TRADEMARK including, without limitation, the level of care exercised by such an ordinary purchaser in purchasing the goods or services sold under the TRADEMARK.

**INTERROGATORY NO. 15:**

Identify all third parties which have used the TRADEMARK in connection with flavored tobacco products in the United States since 1995.

**INTERROGATORY NO. 16:**

Identify each and every instance where REGISTRANT has licensed and/or negotiated to license, assign, or otherwise grant rights to third parties to use AL-FAKHER or any mark incorporating the term "AL-FAKHER", specifically identifying the name of the person with whom such license or negotiation occurred.

**INTERROGATORY NO. 17:**

Describe in detail the nature and extent of any license or negotiation identified in your response to Interrogatory no. 16.

**INTERROGATORY NO. 18:**

Identify all DOCUMENTS that support or substantiate your response to Interrogatory no. 17.

**INTERROGATORY NO. 19:**

Describe and explain in detail the nature of the relationship between Bassam Hamade and REGISTRANT.

**INTERROGATORY NO. 20:**

Describe and explain in detail the nature of the relationship between Nadine Hamade and REGISTRANT.

**INTERROGATORY NO. 21:**

Describe and explain in detail the nature of the relationship between Omar Khaled Sarmini and REGISTRANT.

**INTERROGATORY NO. 22:**

Describe and explain in detail the nature of the relationship between Al-Fakher Trading Company, L.L.C., and REGISTRANT.

**INTERROGATORY NO. 23:**

Describe and explain in detail the nature of the relationship between Sierra Network, Inc. and REGISTRANT.

**INTERROGATORY NO. 24:**

Identify each statement or opinion obtained by or for REGISTRANT regarding any issue in this cancellation proceeding including, but not limited to, whether the statement was oral or in writing, and identify all documents which record, refer to, or relate to such statement or opinion.

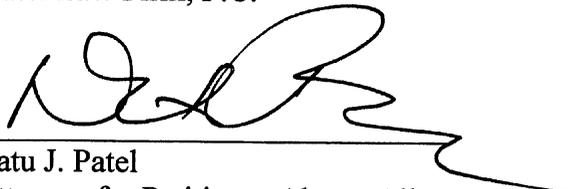
**INTERROGATORY NO. 25:**

Identify each person who participated in or supplied information used in any of the above interrogatories; beside the name of each such person, state the number of the interrogatory answer(s) with respect to which that person participated in or supplied information.

*Special Interrogatories, Set One  
In the matter of Registration No. 2782619  
Issued on November 11, 2003*

February 5, 2008

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

By:   
Natu J. Patel  
Attorney for Petitioner Akram Allos

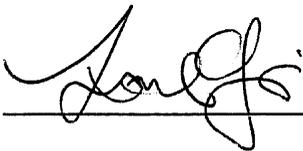
The Patel Law Firm, P.C.  
2532 Dupont Drive  
Irvine, CA 92612  
Telephone: (949) 955-1077  
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[npatel@thePatelLawFirm.com](mailto:npatel@thePatelLawFirm.com)

**CERTIFICATE OF SERVICE**

It is hereby certified that a true and correct copy of the foregoing PETITIONER SINBAD GRAND CAFE'S FIRST SET OF SPECIAL INTERROGATORIES 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  
8  
9 Attorney for Al-Fakher for Tobacco Trading &  
10 Agencies Co. Ltd.

11 UNITED STATES PATENT AND TRADEMARK OFFICE  
12  
13 BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD  
14

15 SINBAD GRAND CAFE, LLC.,

16 Petitioner,  
17 v.

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

21 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 SPECIAL  
INTERROGATORIES**

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

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

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

25 SET NO.: One

26 Respondent AL-FAKHER FOR TABACCO TRADING & AGENCIES, CO. LTD  
27 (hereinafter "Respondent") hereby responds, pursuant to Rule 34 of the Federal Rules of Civil  
28

1 Procedure, to Petitioner SINBAD GRAND CAFÉ, LLC.'S (hereinafter "Petitioner") Requests  
2 for Special Interrogatories, Set No. One.

3  
4 **GENERAL STATEMENT**

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

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

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



1 and documentation in violation of the attorney-client privilege and/or Work Product Doctrine.

2 INTERROGATORY NO. 5:

3 Describe in detail the nature of REGISTRANT'S business or businesses including the date on  
4 with REGISTRANT first engaged in each such business outside of the United States.

5 RESPONSE TO INTERROGATORY NO. 5:

6 Manufacturing and trading in Molasses (flavored Tobacco), Packaging and filling the Tobacco  
7 products; Exporting products of Tobacco and smokers' Articles worldwide; Participating in  
8 tenders. since 1999.

9 INTERROGATORY NO.6:

10 Describe in detail the nature of REGISTRANT'S business or businesses including the date on  
11 with REGISTRANT first engaged in each such business within of the united sates

12 RESPONSE TO INTERROGATORY NO.6:

13 Manufacturing and trading in Molasses (flavored Tobacco), Packaging and filling the Tobacco  
14 products; Exporting products of Tobacco and smokers' Articles worldwide; Participating in  
15 tenders. First distributed in the United States in 1999.

16 INTERROGATORY NO.7:

17 Identify and fully describe each of the goods and/or services on or in connection with which  
18 REGISTRANT currently uses, intends to use, or has used the TRADEMARK with or without  
19 any design element or in a stylized format of any sort.

20 RESPONSE TO INTERROGATORY NO.7:

21 Paper, cardboard and goods made from these materials, namely, advertisement boards of paper, cardboard  
22 almanacs, announcement cards, boxes of cardboard and paper, calendars, document covers, envelopes,  
23 note books, writing pads, waxed paper, prints and engravings, printed timetables, paper board, wrapping  
24 paper, writing and drawing papers, pennants of paper, filter paper, packing paper, printing paper,  
25 document files, office labeling machines, posters, pictures, placards of paper and cardboard, printed paper  
26 signs, packing materials, namely, absorbent pads of paper and cellulose for use in food packaging,  
27 cardboard packaging, industrial packaging containers of paper, packaging materials for packing,  
28 packaging, namely blister cards, paper bags for packaging, paper envelopes for packaging, paper for  
wrapping and packaging, paper packaging and containers for food and beverages comprised of materials  
designed to lessen adverse effects on the environment, paper pouches for packaging, paperboard boxes for  
industrial packaging, plastic bags for packaging, plastic bubble packs for wrapping or packaging, plastic  
or paper bags for merchandise packaging, bookbindings; photographs; stationery; adhesives for stationery  
or household purposes; paint brushes; typewriters; office requisites, namely, paper cutters, paper knives,  
pencil lead holders, pencils, penholders, pens, addressing machines, plates for addressing machines,  
seals, stamps, cases for stamps, envelope sealing machines, letter openers, laminators, paper perforators;  
printers' type;

1 Tobacco; cigar bands, smokers' articles, namely, cigarette paper, cigarette holders not of precious metal,  
2 tobacco pouches, pipe racks, pipe cleaners, absorbent paper for tobacco pipes, cigarette cases not of  
3 precious metal, cigar cases not of precious metal, match boxes, lighters not of precious metal, hookahs;  
4 matches

4 Serving food and drinks, namely, cafes, coffee shops, cafeterias, restaurants, self service restaurants and  
5 snack bars; catering of food and drink.

5 INTERROGATORY NO.8:

6 For each of the goods and/or services identified in response to interrogatory No.

7 7:

- 8 a. Identify the first use date(s) within the United States and /or the expected first used date  
9 of the TRADEMARK with such goods or service within the United States;
- 10 b. Identify the first use date(s) outside the United States and /or the expected first use date  
11 of the TRADEMARK with such goods or service within the United States.
- 12 c. Identify the state or geographic region where each such goods and/or services have been  
13 and/or are expected to be sold and/or advertised; and
- 14 d. Identify all DOCUMENTS supporting the responses to subparagraphs (a), (b) and (c)  
15 above.

16 RESPONSE TO INTERROGATORY NO.8:

17 Petitioner objects to this request as it is compound. Without waiving these objections

- 18 a. The goods were first used in United States in 1999.
- 19 b. 1999
- 20 c. Throughout the world
- 21 d. Discovery and investigation is ongoing and continuing.

22 INTERROGATORY NO.9:

23 Describe the English meaning and derivations of the term "AL-FAKHER" as used in  
24 connections with the goods of the REGISTRANT upon or in connection with which  
25 REGISTRANT has used that phrase.

26 RESPONSE TO INTERROGATORY NO.9:

27 Fancy

1 INTERROGATORY NO.10:

2 Identify all inquires, investigations, surveys, evaluations and/or studies conduct by  
3 REGISTRANT or by anyone acting for or on its behalf with respect to the TRADEMARK, and  
4 marks owned or used by REGISTRANT which incorporate the term "AL- FAKHER" as an  
5 element of the mark, including the date conducted, the name, address, and title of each person  
6 who conducted it, the purpose for which it was conducted, the findings or conclusions made.

7 RESPONSE TO INTERROGATORY NO.10:

8 Plaintiff objects to this Request to the extent that it is a premature demand for expert reports not  
9 required at this time pursuant to *Code of Civil Procedure* § 2034.

10 INTERROGATORY NO.11:

11 Identify all documents which record, refer, or to such inquiry, investigation, survey, evaluation  
12 or study identified in your response to Interrogatory no.10.

13 RESPONSE TO INTERROGATORY NO.11:

14 Plaintiff objects to this Request to the extent that it is a premature demand for expert reports not  
15 required at this time pursuant to *Code of Civil Procedure* § 2034.

16 INTERROGATORY NO.12:

17 State in detail the channels of trade in which the TRADEMARK is used and/or in which goods  
18 bearing the TRADEMARK are sold, including the geographic area by state, territory or  
19 possession in which the TRADEMARK is used and/or sold, the manner in which the goods or  
20 services reach the ultimate consumer, the geographical reach of each such channel, and the  
21 approximate percentage of total sales of goods and/or services through each such channel.

22 RESPONSE TO INTERROGATORY NO.12:

23 Please find attached Doc.17

24 INTERROGATORY NO.13:

25 Identify all DOCUMENTS sufficient to support your response to Interrogatory no.12.

26 RESPONSE TO INTERROGATORY NO.13:

27 Please find attached Doc.17  
28

1 INTERROGATORY NO.14:

2 Identify the ordinary purchaser of the goods or services sold and intended to be sold under the  
3 TRADEMARK including, without limitation, the level of care exercised by such an ordinary  
4 purchaser in purchasing the goods or service sold under the TRADEMARK.

5 RESPONSE TO INTERROGATORY NO.14:

6 Please find attached Doc.17

7 INTERROGATORY NO.15:

8 Identify all third parties which have used the TRADEMARK in connection with flavored  
9 tobacco products in the United States since 1995.

10 RESPONSE TO INTERROGATORY NO.15:

11 Plaintiff objects to the Request on the grounds that the Request is grossly overbroad in scope as  
12 to time. Plaintiff additionally objects to the Request on the extent that it seeks information and  
13 documentation in violation of the attorney-client privilege and/or the Work Product Doctrine.  
14 Furthermore, Plaintiff objects to this Request to the extent that it is a premature demand for  
15 expert reports not required at this time pursuant to *Code of Civil Procedure* § 2034.

16 INTERROGATORY NO.16:

17 Identify each every instance where REGISTRANT has licensed and/or negotiated to license,  
18 assign, or otherwise grant rights to third parties to use AL-FAKHER or any mark incorporating  
19 the term "AL-FAKHER", specifically identifying the name of the person with whom such  
20 license or negotiation occurred.

21 RESPONSE TO INTERROGATORY NO.16:

22 Plaintiff objects to the Request on the grounds that the Request is grossly overbroad in scope as  
23 to time. Plaintiff additionally objects to the Request on the extent that it seeks information and  
24 documentation in violation of the attorney-client privilege and/or the Work Product Doctrine.  
25 Furthermore, Plaintiff objects to this Request to the extent that it is a premature demand for  
26 expert reports not required at this time pursuant to *Code of Civil Procedure* § 2034.

27 INTERROGATORY NO.17:

28 Describe in detail the nature and extent of any license or negotiation identified in your response  
to Interrogatory no.16

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RESPONSE TO INTERROGATORY NO.17:

Plaintiff objects to the Request on the grounds that the Request is grossly overbroad in scope as to time. Plaintiff additionally objects to the Request on the extent that it seeks information and documentation in violation of the attorney-client privilege and/or the Work Product Doctrine. Furthermore, Plaintiff objects to this Request to the extent that it is a premature demand for expert reports not required at this time pursuant to *Code of Civil Procedure* § 2034.

INTERROGATORY NO.18:

Identify all DOCUMENTS that support or substantiate your response to Interrogatory no.17

RESPONSE TO INTERROGATORY NO.18:

Plaintiff objects to the Request on the grounds that the Request is grossly overbroad in scope as to time. Plaintiff additionally objects to the Request on the extent that it seeks information and documentation in violation of the attorney-client privilege and/or the Work Product Doctrine. Furthermore, Plaintiff objects to this Request to the extent that it is a premature demand for expert reports not required at this time pursuant to *Code of Civil Procedure* § 2034.

INTERROGATORY NO.19:

Describe and explain in detail the nature of the relationship between Bassam Hamade and REGISTRANT.

RESPONSE TO INTERROGATORY NO.19:

An individual who falsely regisetered the mark of Respondent.

INTERROGATORY NO.20:

Describe and explain in detail the nature of the relationship between Nadine Hamade and REGISTRANT.

RESPONSE TO INTERROGATORY NO.20:

N/A

INTERROGATORY NO.21

Describe and explain in detail the nature of the relationship between Omar Khaled Sarmini and REGISTRANT.

1 RESPONSE TO INTERROGATORY NO.21:

2 Omar Khalid Sarmini had sold his trademark (Al-Fakher) to the Registrant.

3  
4 INTERROGATORY NO.22:

5 Describe and explain in detail the nature of the relationship between Al-Fakher Trading  
6 Company, L.L.C., and REGISTRANT.

7  
8 RESPONSE TO INTERROGATORY NO.22:

9 The Registrant is the owner of al-Fakher Trading Company LLC.

10 INTERROGATORY NO.23:

11 Describe and explain in detail the nature of the relationship between Sierra Network, Inc. and  
12 REGISTRANT.

13 RESPONSE TO INTERROGATORY NO.23:

14 Sierra Network, Inc. is the exclusive distributor of the Registrant's products in the United States.

15 INTERROGATORY NO.24:

16 Identify each statement or opinion obtained by or for REGISTRANT regarding any issues in this  
17 cancellation proceeding including, but not limited to, whether the statement was in oral or in  
18 writing, and identify all documents which record, refer to, or relate to such statement or opinion.

19 RESPONSE TO INTERROGATORY NO.24:

20 Plaintiff objects to the Request on the grounds that the Request is grossly overbroad in scope as  
21 to time. Plaintiff additionally objects to the Request on the extent that it seeks information and  
22 documentation in violation of the attorney-client privilege and/or the Work Product Doctrine.  
23 Furthermore, Plaintiff objects to this Request to the extent that it is a premature demand for  
24 expert reports not required at this time pursuant to *Code of Civil Procedure* § 2034.

25 INTERROGATORY NO.25:

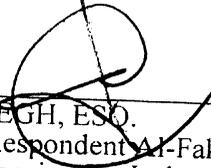
26 Identify each person who participated in or supplied information used in any of the above  
27 interrogatories; beside the name of each such person, state the number of the interrogatory  
28 answer(s) with respect to which that person participated in or supplied information.

1 RESPONSE TO INTERROGATORY NO.25:

2 All the answers were from Al-Fakher for Tobacco Trading & Agencies co. Ltd.  
3  
4

5 DATED: March 14, 2008

SAYEGH & ASSOCIATES, PLC

6  
7  
8 By:   
9 FAHED SAYEGH, ESQ.  
10 Attorney for Respondent Al-Fakher for Tobacco  
11 Trading & Agencies Co. Ltd.  
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# **EXHIBIT C**

# **The Patel Law Firm**

A Professional Corporation

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

March 25, 2008

**Via Facsimile & E-Mail**  
**(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**  
**Meet & Confer re: First Set of Special Interrogatories**

Dear Mr. Sayegh:

I reviewed your client's responses that were served on March 14, 2008. Please consider this letter as a meet and confer attempt to resolve your inadequate responses to Petitioner Sinbad Grand Cafe's First Set of Special Interrogatories propounded to respondent on February 5, 2008.

As explained below, your responses are inadequate and deficient. Some of your objections have no merit. Based on our explanation, we request that you amend/supplement your interrogatory responses 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.

## **SPECIAL INTERROGATORIES**

### **Interrogatory No. 1**

You objected to this interrogatory on the grounds that the terms "officers" and "directors" are vague and ambiguous. Your objection is unfounded as the definitions of "officers" and "directors" as relate to companies are defined in numerous sources and as a basic tenet of corporation law. Registrant is a company incorporated in the United Arab Emirates as Al-Fakher. As such, the "officer" of the company is clearly defined as one who holds an office of trust, authority, or command, such as a president or treasurer. The "director" of a company is one of a group of persons entrusted with the overall direction of a corporate enterprise. The terms are not vague and ambiguous.

March 25, 2008

You also objected on the grounds that the interrogatory was overbroad as to scope as to time. Where 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. *Mitchell v. National R.R. Passenger Corp.*, 208 FRD 455, 458, fn. 4 (DDC 2002); *St. Paul Reinsurance Co., Ltd. v. Commercial Fin'l Corp.*, 198 FRD 508, 512 (ND IA 2001). Your mere statement that the interrogatory is overbroad in scope as to time is meaningless without further explanation and thus invalid as an objection.

Additionally, 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) (emphasis added). The statement of use for the trademark registration claims a date of use anywhere in the world as early as January 10, 1995. Therefore, identification of people knowledgeable about the sales of Al-Fakher is relevant to many of our claims, including, but not limited to, establishing whether Al-Fakher has sold or distributed goods since 1995, and the nature and extent of those sales or distribution. Evidently, for purposes of discovery and deposition we need to know who was responsible for overseeing the operations of Al-Fakher during the period from 1995 to the present.

You further objected on the grounds of attorney-client privilege. However, the attorney-client privilege protects confidential communications between a client and an attorney. See *Clarke v. American Commerce Nat'l Bank* (9th Cir. 1992) 974 F2d 127, 129. Mere information as to the identity and contact information of an officer or director is not a communication and is not protected by the attorney-client privilege.

You finally objected on the grounds of attorney work-product privilege. 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. We fail to see how identification of officers and directors and provision of their contact information in any way reveals your strategy or your evaluation of the case.

Please also note that when an objection is made to part of an interrogatory, the remainder of the interrogatory must be answered. FRCP 33(b)(1).

Therefore, your objections to the interrogatory are unfounded and unreasonable. Please identify all officers and directors of Registrant from 1995 until the present and include their name(s), title(s), present and last known address(es), and present and last known place(s) of employment.

If you still claim privilege, please identify: (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. Please note that we specifically requested this information in Section A of the instructions to the First Set of Special Interrogatories, if privilege is claimed. As outlined above, your objections have no merit. Therefore, please supplement your responses.

March 25, 2008

### **Interrogatory No. 2**

In response to this interrogatory, you only provided the name of the person responsible, Nancy Debabneh, and failed to provide any additional information. Please refer to Section F of the Definitions of the First Set of Special Interrogatories for additional guidance.

While you mentioned Nancy Debabneh in your response, you failed to include her title, present or last known address, and present or last known place of employment. Please supplement your responses with the information you failed to include. Additionally, please confirm whether Nancy Debabneh is the only person most knowledgeable about *Registrant's sales, advertising and sales promotion, adoption and use, licensing, and assignment or other transfer of rights.*

Without such information we cannot schedule a deposition of or otherwise discover relevant information from this person as we are entitled to.

### **Interrogatory No. 3**

In response to this interrogatory, you only identified Al-Fakher, which, to the best of our knowledge, is a business, and not a natural person. Surely there must be someone working or who worked at Al-Fakher who was involved in the decision to create or acquire the trademark. Therefore, your response is deficient. Please identify all persons who were involved in, or participated in any way with, the decision to adopt, register, and/or use the trademark, and state his or her title and the role he/she played to adopt, register, and/or use the trademark.

### **Interrogatory No. 4**

You objected to this interrogatory on the grounds that the request is overbroad as to scope in time. However, your assertion in your response to Interrogatory No. 6 is that Registrant existed since 1999, and first distributed within the United States in 1999. Information as to relations between Registrant and third parties regarding the trademark is relevant to establishing Registrant's trademark-related activities within the U.S. and to obtain information to enable us to question companies as to whether Registrant's products were in fact used in commerce in the U.S. since 1999. Detailed explanation of the relations between Registrant and any third parties are relevant to establish when the trademark was first in use in the U.S., the nature and extent of those activities, and whether at any point Registrant ceased use of the trademark in the U.S, among other things. Therefore, the request is not overbroad in scope as to time. Please supplement your responses accordingly.

You also objected on the basis of attorney-client privilege and work product protection. However, relations between Registrant and third parties include communications that are not between an attorney and client. Additionally, contracts, agreements, licenses, assignments, and other relations between Registrant and third

March 25, 2008

parties existed before litigation ensued or was not even contemplated. Additionally, such communications are not protected by work product doctrine.

Therefore, please describe in detail all past and existing relationships between Registrant and any third party relating in any manner to the trademark.

#### **Interrogatory No. 5 and 6**

Interrogatory No. 5 seeks information pertaining to registrant's activities outside the United States, while Interrogatory No. 6 seeks the same information within the United States. Your responses are incomplete. Both interrogatories specifically seek the date on which REGISTRANT first engaged in each business. First you have provided the year but not the date. Additionally, you provided the year for all types of activities. Please clarify and supplement your responses accordingly.

#### **Interrogatory No. 8**

In your response to Interrogatory No. 7, you list numerous goods and products; however, you are completely evasive when it comes to providing details. You have completely ignored your obligation to truthfully respond to subsections 8(a), 8(b), and 8(c), for all the products you listed in your response to Interrogatory No. 8. This is not acceptable. Please supplement your response to Interrogatory No. 8 for each of the goods and/or services.

Additionally, in response to the request 8(d), you have failed to identify documents and produce responsive documents. Surely you must have some documents to support your assertions that Registrant has used the trademark on all the goods that are listed in Interrogatory No. 7. Please supplement your responses.

#### **Interrogatory No. 10 and 11**

You objected to this interrogatory on the basis that it was a premature demand for expert reports pursuant to Code of Civil Procedure 2034. However, you completely ignored to provide any response relating to any non-expert inquiries, investigations, surveys, evaluations and/or studies conducted by Registrant or anyone acting for or on its behalf.

Please note that your objection is based on the California Code of Civil Procedure. Title 28 of the United States code governing judiciary procedure does not contain a section 2034. Additionally, as you may be aware that California law and civil procedure does not apply in a federal trademark cancellation proceeding before the Trademark Trial and Appeals Board. The Federal Rules of Civil Procedure and regulations adopted by the TTAB apply, while state law does not. Thus, your objection is groundless and you are required to answer the interrogatory in full.

March 25, 2008

Therefore, please respond to these interrogatories by identifying all inquiries, investigations, surveys, evaluations, and/or studies conducted by Registrant or anyone acting for or on its behalf with respect to the trademark as soon as possible. Please also identify and provide all documents which record, refer, or relate to such inquiry, investigation, survey, evaluation, or study identified in your response to Interrogatory No. 10.

### **Interrogatory No. 12, 13**

You responded that document 17 was responsive to this interrogatory. However, answers to interrogatories should be complete in itself and should not refer to other documents. See *Scaife v. Boenne*, 191 FRD 590, 594 (ND IN 2000). Therefore, you must detail the channels of trade in which the trademark is used and/or in which goods bearing the trademark are sold, including the geographic area by state, territory, or possession in which the trademark is used and/or sold, the manner in which goods or services reach the ultimate consumer, the geographical reach of each such channel, and the approximate percentage of total sales of goods and/or services through each such channel. Additionally, merely attaching a document to this interrogatory is not sufficient.

Additionally, document 17 lists Sierra Network, Inc. ("Sierra") and the table has no label. Please confirm that this table is a list of distributors of Registrant's products. Otherwise, please identify the nature and purpose of this list.

Furthermore, assuming document 17 lists Sierra as the U.S. distributor, your response is still incomplete. Please state where Sierra sells Registrant's products, how Sierra distributes or sells the products to ultimately reach consumers, the geographic location where such products are ultimately distributed or sold, and the approximate percentage of total sales and/or services through each channel. Please also supply any documents which support your response as requested in Interrogatory No. 13.

### **Interrogatory No. 14**

Please refer to our comments under Interrogatory No. 13 as to why mere reference to a document is not a sufficient response to an interrogatory.

Your response to this interrogatory is insufficient, as it does not identify the ordinary purchaser of the goods or services sold under the trademark.

Please identify the ordinary purchaser of the goods or services sold and intended to be sold under the trademark and the level of care exercised by such an ordinary purchaser in purchasing the goods or services sold under the trademark.

### **Interrogatory No. 15**

See above as to why your objections are insufficient or fail.

March 25, 2008

You objected to this interrogatory on the grounds of being overbroad in scope as to time. The statement of use for the trademark lists a date of first use anywhere in the world as January 15, 1995. Therefore, Petitioner is entitled to discovery of relevant material from 1995 onwards.

You further objected to this interrogatory on the basis of attorney-client privilege. Identification of parties does not require revealing communications between the attorney and the client. Furthermore, since Registrant is not an attorney, and third parties using the trademark are not attorneys, attorney-client privilege does not apply to communications between Registrant and third parties using the trademark.

You additionally objected on the basis of attorney work product. We fail to see how mere identification of parties could be attorney work product.

You finally objected on the basis of expert reports pursuant to the Code of Civil Procedure section 2034. The interrogatory, however, is simply to identify third parties who have used the trademark. This does not require expert reports, merely identification to the best of Registrant's knowledge as to who has used the trademark. Obviously Registrant and Sierra Networks have used the trademark. Since the licensing to Sierra Networks is fairly recent, and your assertion in your answer to Interrogatory No. 6 is that Registrant has engaged in business in the U.S. since 1999, there must have been other licensees of the trademark since 1999. Furthermore, as stated earlier, California law does not apply here.

Therefore, please supplement your responses by identifying all third parties who have used the trademark in connection with flavored tobacco products within the United States since 1995. If referring to an individual, provide the person's full name, present or last known address, and the present or last known place of employment. If referring to a business, provide 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.

Please supplement your responses as soon as possible.

### **Interrogatory No. 16, 17, 18**

Please see above as to why your objections have no merit.

You objected to these interrogatories on the grounds of being overbroad in scope as to time. However, Registrant's licensing or negotiations to license, assign or grant rights to parties at ANY TIME are relevant to establish whether in fact Registrant has sold or distributed goods within the U.S. or abroad, and the nature and extent of those sales or distribution within the U.S. or abroad.

You further objected to these interrogatories on the basis of attorney-client privilege. Once again however, mere identification of instances where Registrant has

March 25, 2008

licensed or negotiated to license the trademark or trademarked products is not a communication between attorney and client.

You also objected to these interrogatories on the basis of work product privilege. We fail to see how mere identification of parties and their addresses is attorney work product.

You finally objected to these interrogatories on the basis of expert reports pursuant to the Code of Civil Procedure section 2034. Licensing and negotiations between parties have no need of expert reports and California law does not apply.

Therefore, we are entitled to the full scope of responsive information. Please identify each instance where Registrant has licensed and/or negotiated to license, assign, or otherwise grant rights to third parties to use Al-Fakher or any mark incorporating the term "AL-FAKHER", specifically identifying the name of the person with whom such license or negotiation occurred. Please also describe in detail the nature and extent of any such license or negotiation identified. Please also provide documents which support or substantiate the details you supply.

#### **Interrogatory No. 19**

Your response to this interrogatory is insufficient. Your response only describes an action of Bassam Hamade. It does not describe and explain in detail the nature of the relationship between Bassam Hamade and Registrant. Surely Bassam Hamade must have had some other relationship with Registrant if Bassam Hamade falsely registered Registrant's mark. The interrogatory specifically requires that you describe the nature of relationship with Bassam Hamade. Please supplement your response as soon as possible.

#### **Interrogatory No. 20**

Your response to this interrogatory is incomplete, as you simply answered "N/A". It appears from the Exclusive Distributorship Agreement of document 20 that Omar Khaled Sarmini is or was a representative of Registrant. Since Nadine Hamade assigned the trademark to Omar Khaled Sarmini, and Omar Khaled Sarmini is or was a representative of Registrant, surely there is some relationship between Nadine Hamade and Registrant. Please describe and explain in detail the nature of any relationship between Registrant and Nadine Hamade. Your response is inadequate.

#### **Interrogatory No. 21**

Your response to this interrogatory is insufficient, since you do not describe in detail the nature of the relationship between Omar Khaled Sarmini and Registrant. Surely you must know when the trademark was sold, for how much, circumstances around the sale of trademark, and what the scope of the trademark sale was. Furthermore, it appears that you are withholding information as you did not mention that

March 25, 2008

Omar Khaled Sarmini is or was a representative of Registrant, even though Omar Khaled Sarmini is listed as being a representative of Registrant, on the Exclusive Distributorship Agreement that you have produced. Please be more diligent with your responses or we will be forced to seek sanctions.

**Interrogatory No. 23**

Your response to this interrogatory is inadequate and incomplete. Interrogatory requests that you describe and explain in detail the nature of relationship between Sierra Network & the Registrant. You only stated that Sierra Network is the exclusive distributor. Your response does not provide any other information that is fundamental to exclusive distributorship – for e.g., the terms of the distributorship, payment under the exclusive distributorship, or other conditions that are imposed by the Registrant. We expect you to describe and explain the nature of relationship in detail. Please supplement your responses.

**Interrogatory No. 24**

Please refer to our response to your objections as explained above under several other interrogatories, which were not responded in good faith based on the same objections.

Further note that, your objections to this interrogatory as overbroad in scope as to time are completely groundless and irrelevant as statements or opinions regarding issues in this proceeding are obviously relevant to this proceeding.

Additionally, as stated earlier, your objections on the grounds of privilege do not state (1) the subject matter of the communication or information (without revealing the content as to which privilege is claimed); and (2) any additional facts on which YOU base your claim of privilege or protection.

As explained before, objections based on California law are not applicable in this federal trademark proceeding.

Therefore, please identify each statement or opinion obtained by or for Registrant regarding any issues in this cancellation proceeding including, but not limited to, whether the statement was in oral or in writing, and identify all documents which record, refer to, or relate to such statement or opinion. Please supplement your response as soon as possible.

**Interrogatory No. 25**

In response to this interrogatory, you only identified Al-Fakher, which, to the best of our knowledge, is a business, not a natural person. Surely there must be someone working or who worked at Al-Fakher who participated in or supplied information used in any of the above interrogatories. Therefore, your response is insufficient. Please

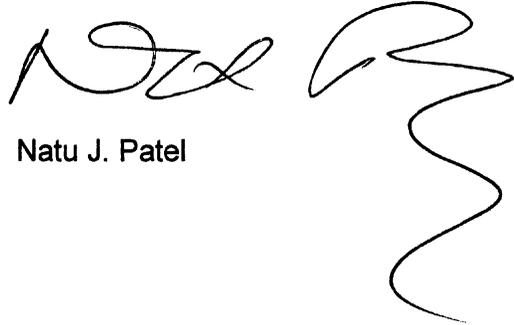
F. Freddy Sayegh, Esq.  
THE FOXX FIRM, PLC  
Re: Meet & Confer – SI – Set No. One

March 25, 2008

identify all persons who participated or supplied information used in the above interrogatories and besides the name of each person, state the number of the interrogatory answers with respect to which that person participated in or supplied information.

If you have any questions regarding any issues that we have raised in this meet and confer, please feel free to contact me at your earliest convenience. We would appreciate receiving amended responses **on or before April 8, 2008**. Should you fail to provide amended responses, please note that we intend to file Motion to Compel and seek appropriate sanctions against your client from Trademark Trial and Appeal Board.

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

A handwritten signature in black ink, appearing to read 'Natu J. Patel', with a long, wavy flourish extending downwards from the end of the signature.

Natu J. Patel

NJP/jc

# 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:** 10 (including Cover Page)

---

**Phone:**

**Date:** March 25, 2008

---

**Re:** Cancellation Proceeding No. 92048480

Meet & Confer re:

**CC:**

First Set of Special Interrogatories

---

**Urgent**

**For Review**

**Please Comment**

**Please Reply**

**Please Recycle**

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# Fax Call Report



THE PATEL LAW FIRM, P.C.  
19499551877  
Mar-25-2008 6:36PM

Job	Date	Time	Type	Identification	Duration	Pages	Result
799	3/25/2008	6:33:44PM	Send	13108951180	2:59	10	OK

**The Patel Law Firm**  
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2531 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 FOXF FIRM		THE PATEL LAW FIRM, P.C.
Fax:	(310) 895-1180	Pages:	10 (including Cover Page)
Phone:		Date:	March 25, 2008
Re:	Cancellation Proceeding No. 92048480 Meet & Confer re: First Set of Special Interrogatories	CC:	
<input type="checkbox"/> Urgent <input checked="" type="checkbox"/> For Review <input type="checkbox"/> Please Comment <input checked="" type="checkbox"/> Please Reply <input type="checkbox"/> Please Recycle			

• Comments:

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**Jeannine Choi**

---

**From:** Jeannine Choi [jchoi@thepatellawfirm.com]  
**Sent:** Tuesday, March 25, 2008 6:52 PM  
**To:** fsayegh@spattorney.com  
**Cc:** 'Natu Patel'; jchoi@thepatellawfirm.com  
**Subject:** Meet & Confer re: First Set of Special Interrogatories 032508

Dear Mr. Sayegh:

Attached please find a letter from Mr. Patel regarding responses to Petitioner's First Set of Special Interrogatories. A copy has also been faxed 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 D**

**From:** Natu Patel [mailto:Npatel@thepatellawfirm.com]  
**Sent:** Tuesday, April 01, 2008 12:01 PM  
**To:** 'Freddy Sayegh '  
**Cc:** 'Jeannine Choi'; 'Natu Patel'  
**Subject:** RE: Meet & Confer -

Hello Freddy:

Thank you very much for returning my phone call. I understand that we have a differing perspective on what constitutes infringement. I further understand that we will not be able to avoid the Court's intervention relating to the Motion to Dismiss that I sent you yesterday. Per our discussion, I will go ahead and file the Motion to Dismiss either today or tomorrow.

With respect to my meet & confer letter pertaining to Special Interrogatories (Cancellation Proceedings), please let me know as to when can we expect your supplemental responses. I am willing to work with you on a reasonable extension period with an understanding that you will extend the same courtesy to me in case I need it.

Please feel free to call me if you have any questions.

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 E**

# The Patel Law Firm

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---

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

April 9, 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:

We sent you a meet and confer letter on March 25, 2008 regarding inadequate responses to First Set of Special Interrogatories and requested a response by April 8, 2008. We have yet to hear from you. Please let us know when we can expect the supplemental responses. If we do not hear from you on or before April 14, 2008 regarding responses to our meet and confer, we will have no choice but to move forward with the Motion to Compel responses and seek appropriate sanctions.

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

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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.

**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 9, 2008

---

**Re:** Supplemental Responses to  
First Set of Special Interrogatories

**CC:**

---

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

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# Fax Call Report



THE PATEL LAW FIRM, P.C.  
19499551877  
Apr-9-2008 6:36PM

Job	Date	Time	Type	Identification	Duration	Pages	Result
836	4/ 9/2008	6:35:03PM	Send	13108951180	0:59	2	OK

**The Patel Law Firm**  
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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 9, 2008
Re:	Supplemental Responses to First Set of Special Interrogatories	CC:	
<input type="checkbox"/> Urgent <input checked="" type="checkbox"/> For Review <input type="checkbox"/> Please Comment <input checked="" type="checkbox"/> Please Reply <input type="checkbox"/> Please Recycle			

• Comments:

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**Jeannine Choi**

---

**From:** Jeannine Choi [jchoi@thepatellawfirm.com]  
**Sent:** Wednesday, April 09, 2008 6:36 PM  
**To:** 'fsayegh@spattorney.com'  
**Cc:** 'Natu Patel'; 'Jeffrey Dworin'  
**Subject:** Re: Supplemental Responses to Special Interrogatories

Dear Mr. Sayegh:

Attached please find a letter from Mr. Patel.

Should you have any questions, please let us know.

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 F**

**From:** Freddy Sayegh [mailto:fsayegh@spattorney.com]  
**Sent:** Thursday, April 10, 2008 11:10 AM  
**To:** 'Jeannine Choi'  
**Cc:** 'Natu Patel'; 'Jeffrey Dworin'  
**Subject:** RE: Supplemental Responses to Special Interrogatories

Dear Mr. Patel,

I have a meeting with the client today at 2:00 pm. He was unavailable since the last time we spoke, therefore, I did not have a timeline for supplemental responses for you.

Tomorrow, I will have an exact date as to when you should expect supplemental responses.

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

Freddy Sayegh  
310-895-1188

---

**From:** Jeannine Choi [mailto:jchoi@thepatellawfirm.com]  
**Sent:** Wednesday, April 09, 2008 6:36 PM  
**To:** fsayegh@spattorney.com  
**Cc:** 'Natu Patel'; 'Jeffrey Dworin'  
**Subject:** Re: Supplemental Responses to Special Interrogatories

Dear Mr. Sayegh:

Attached please find a letter from Mr. Patel.

Should you have any questions, please let us know.

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  
E-mail: [JChoi@ThePatelLawFirm.com](mailto:JChoi@ThePatelLawFirm.com)

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# **EXHIBIT G**

# The Patel Law Firm

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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

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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.

**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 92614-1524  
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:	Sierra Network, Inc. v.	Date:	April 16, 2008
Rex:	Tobacco Import USA, et al.	CC:	
<input type="checkbox"/> Urgent	<input checked="" type="checkbox"/> For Review	<input type="checkbox"/> Please Comment	<input checked="" type="checkbox"/> Please Reply
		<input type="checkbox"/> 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@ThePatellLawFirm.com](mailto:JChoi@ThePatellLawFirm.com)

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04/16/2008

# **EXHIBIT H**

**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 I**

# The Patel Law Firm

A Professional Corporation

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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, appearing to read "Natu Patel" with a stylized flourish at the end.

Natu J. Patel

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

NJP/jjc

**Jeannine Choi**

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**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

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E-mail: [JChoi@ThePatelLawFirm.com](mailto:JChoi@ThePatelLawFirm.com)

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# **EXHIBIT J**

**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

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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 K**

**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

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# **EXHIBIT L**

**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

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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 M**

**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