

ESTTA Tracking number: **ESTTA220040**

Filing date: **06/24/2008**

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

| | |
|------------------------|--|
| Proceeding | 92049363 |
| Party | Defendant BOOKLAB, INC. |
| Correspondence Address | BOOKLAB, INC. 16 VIA MIRA MONTE HENDERSON, NV 89011 UNITED STATES |
| Submission | Other Motions/Papers |
| Filer's Name | John T. Wilson |
| Filer's e-mail | john@myerswilson.com, michael@myerswilson.com |
| Signature | /John T. Wilson/ |
| Date | 06/24/2008 |
| Attachments | Answer & Motion to Abate.pdf (6 pages)(39591 bytes) Exhibit A.pdf (15 pages)(1486864 bytes) Exhibit B.pdf (8 pages)(635749 bytes) Exhibit C.pdf (2 pages)(149679 bytes) Exhibit D.pdf (3 pages)(276049 bytes) Exhibit E.pdf (4 pages)(400948 bytes) Exhibit F.pdf (10 pages)(1127929 bytes) Exhibit G.pdf (6 pages)(576285 bytes) Exhibit H.pdf (2 pages)(145398 bytes) Exhibit I.pdf (4 pages)(601972 bytes) Exhibit J.pdf (2 pages)(153440 bytes) |

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

In the matter of trademark Registration No. 3181837
For the mark "BOOKLAB"
Date registration December 5, 2006

| | | |
|------------------|---|---------------------------|
| CRAIG JENSEN | § | |
| d/b/a Booklab II | § | |
| Petitioner, | § | Cancellation No. 92049363 |
| | § | |
| v. | § | Registration No. 3181837 |
| | § | |
| BOOKLAB, INC. | § | ORAL HEARING REQUESTED |
| Registrant | § | |
| | § | |
| | § | |
| | § | |

REGISTRANT BOOKLAB, INC.'s ORIGINAL ANSWER TO PETITIONER
CRAIG JENSEN d/b/a BOOKLAB II's PETITION TO CANCEL

AND

MOTION TO ABATE PETITION TO CANCEL

COMES NOW, Registrant Booklab, Inc., and files this Original Answer and Motion to Abate to Petitioner Craig Jensen d/b/a Booklab II's Petition to Cancel ("Answer"). In support of said Answer, Registrant shows the following:

A. INTRODUCTION

Petitioner is Craig Jensen d/b/a Booklab II (hereinafter referred to as "JENSEN"); Registrant is Booklab, Inc. (hereinafter referred to as "BOOKLAB");

B. FACTUAL BACKGROUND

1. Booklab is the owner of the “Booklab” trademark filed with the United States Patent and Trademark Office on March 31st, 2005, Registration No. 3,181,837 (the “Booklab Mark(s)”).

2. On or about March 23rd, 2005, JENSEN sold to Booklab all right, title and interest in and to the domain “Booklab.COM” to Registrant Booklab (f/k/a Rivalry Books, Inc.) for the sum of Two thousand Sixty Five and no/100 Dollars (\$2,065.00) (the “Purchase Money”).

3. Further, JENSEN, by and through a defunct and abandoned company Booklab, Inc., a Delaware company unrelated to Registrant, also allowed a prior “Booklab” mark to be cancelled pursuant to Section 8 on July 6, 1999. *See Registration No. 1,743,075; See Corporate Records from State of Texas, attached hereto as Exhibit F; See Corporate Records from State of Delaware, attached hereto as Exhibit G.*

4. JENSEN, by and through a defunct and abandoned company Booklab, Inc., a Delaware company unrelated to Registrant, allowed a prior “Booklab” mark to be cancelled pursuant to Section 8 on June 7, 2003. *See Registration No. 1,712,296; See Corporate Records from State of Texas, attached hereto as Exhibit F; See Corporate Records from State of Delaware, attached hereto as Exhibit G.*

5. JENSEN made representations to Registrant that JENSEN had in fact abandoned use of the words “Booklab” and any common law right therein, including all trademark rights.

6. Upon reason and belief that JENSEN had abandoned all claims to the Booklab mark, Booklab secured a federally registered trademark as specified above.

7. On or after March 23rd, 2005, JENSEN, after abandoning the mark “Booklab” and representing to Registrant that no further claim to Booklab would be made, commenced using the words “Booklab II” in interstate commerce.

8. Registrant would not have trademarked the term “Booklab” just so JENSEN could operate as “Booklab II.”

B. LITIGATION HISTORY

9. On July 2nd 2007, BOOKLAB sued JENSEN for trademark infringement, fraud and for other related causes of action in the United States District Court for the Western District of Texas, Cause No. A07CA536LY (the “Federal Litigation”). *See Exhibit A, attached hereto and incorporated by reference herein.*

10. On August 6th, 2007, JENSEN filed his answer to the Federal Litigation. *See Exhibit B, attached hereto and incorporated by reference herein.*

11. On October 19th, 2007, BOOKLAB served JENSEN its First Request for Production, both by facsimile and Certified Mail Return Receipt Requested.

12. On December 18th, 2007, BOOKLAB filed its first Motion to Compel Craig Jensen to respond to Plaintiff’s Request for Production.

13. On January 14th, 2008, the Court Order’s JENSEN to comply with BOOKLAB’s discovery request with twenty (20) days from the date of the Order. The Court further notes that Defendant has “*no basis on which Defendant may properly object to producing the requested documents. Insofar as Defendant has failed to respond with any objections within the required time frame...*” *See Exhibit C, Order on Motion to Compel, attached hereto and incorporated by reference herein.*

14. On April 8th, 2008, BOOKKLAB files a Second Motion to Compel Production and Request for Attorney’s Fees for JENSEN’s failure to comply with the first discovery related Court Order.

15. On April 16th, 2008, the Court Order's JENSEN to pay reasonable attorney's fees in the amount of \$850.00 to BOOKLAB for failing to comply with the Court's first Order on Motion to Compel. *See Exhibit D, Order on Second Motion to Compel, attached hereto and incorporated by reference herein.*

16. On May 7th, 2008, JENSEN, by and through his attorney, sent BOOKLAB additional production along with his Petition to Cancel. *See Exhibit J, Letter from Opposing Counsel, attached hereto and incorporated by reference herein.*

17. On May 23rd, 2008, The Court Orders an Initial Pretrial Conference to be held on Monday, June 2, 2008, at 2::00 PM. *See Exhibit H, Order Setting Initial Pretrial Conference, attached hereto and incorporated by reference herein.*

18. On June 2nd, 2008, Judge Yeakel signs a comprehensive Scheduling Order related to the Federal Litigation. *See Exhibit E, Scheduling Order, attached hereto and incorporated by reference herein.*

19. A complete copy of the procedural history of the Federal Litigation is attached. *See Exhibit I, Complete Procedural History, attached hereto and incorporate by reference herein.*

C. ORIGINAL ANSWER

20. BOOKLAB specifically denies each and every allegation found in JENSEN's Petition to Cancel and demands strict proof thereof.

21. BOOKLAB requests an oral hearing before the Trademark Trial and Appeal Board.

D. MOTION TO ABATE

22. WHEREAS JENSEN and BOOKLAB have active litigation in the United States District Court for the Western District of Texas, Cause No. A07CA536LY (i.e. the Federal Litigation);

23. WHEREAS the claims of JENSEN in the Federal Litigation are substantially the same as the claims being alleged in his Petition to Cancel; and

24. WHEREAS the parties have already expended significant time and energy in the Federal Litigation, and the action before the Trademark Trial and Appeal Board would be unnecessarily cumulative;

25. THEREFORE, REGISTRANT BOOKLAB respectfully requests that these proceedings in the United States Patent and Trademark Office, Trademark Trial and Appeal Board, be abated until final trial in the Federal Litigation.

Respectfully submitted,

MYERS WILSON P.C.

By: /JOHN T. WILSON/

John T. Wilson
State Bar No. 24008284
16660 Dallas Parkway, Suite 2500
Dallas, Texas 75248
Telephone: (972) 248-8080
Facsimile: (972) 248-8088

ATTORNEY FOR
REGISTRANT BOOKLAB, INC.

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the above motions have been served upon opposing counsel pursuant to Rules of Federal Civil Procedure (First Class U.S. Mail) as indicated below on June 24th, 2008:

William N. Hulsey III, Esq.
Principal, HULSEY^{IP} Intellectual Property Lawyers,
P.C.
Attorneys & Counselors When IP MattersTM
Senior Research Fellow, IC2 Institute, University of
Texas, Austin
919 Congress Avenue, Suite 919
Austin, Texas 78701
[O]512-795-1295; [F]512-681-0919; [C]512-658-7173

Attorney for JENSEN.

/JOHN T. WILSON/

JOHN T. WILSON

EXHIBIT A

EXHIBIT

A

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1973, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THIS FORM.)

I. (a) PLAINTIFFS

BOOKLAB, INC.

(b) County of Residence of First Listed Plaintiff CLARK COUNTY, NV (EXCEPT RULES PLAINTIFF CASES)

(c) Attorney's Firm Name, Address, and Telephone Number

MYERS WILSON P.C., ATTORNEYS & COUNSELORS AT LAW, 16660 DALLAS PARKWAY, SUITE 2300, DALLAS, TEXAS 75248, (972) 248-8680.

DEFENDANTS

CRAIG JENSEN d/b/a BOOKLAB II

County of Residence of First Listed Defendant HAYS COUNTY, TX (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorney (if known)

A07CA 536LY

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
2 U.S. Government Defendant
3 Federal Question (U.S. Government Not a Party)
4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State
Citizen of Another State
Citizen or Subject of a Foreign Country
Incorporated or Principal Place of Business in This State
Incorporated and Principal Place of Business in Another State
Foreign Nation

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Table with columns: CONTRACT, REAL PROPERTY, PERSONAL INJURY, CIVIL RIGHTS, PRISONER PETITIONS, TORTS, LABOR, FORECLOSURE/PENALTY, LABOR, SOCIAL SECURITY, FEDERAL TAX SUITS, BANKRUPTCY, OTHER STATUTES.

V. ORIGIN

- 1 Original Proceeding
2 Removed from State Court
3 Remanded from Appellate Court
4 Reinstated or Reopened
5 Transferred from another district (specify)
6 Multidistrict Litigation
7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Code Statute under which you are filing. (Do not cite jurisdictional statutes unless diversity.)
TRADEMARK INFRINGEMENT

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$ CHECK YES only if demanded in complaint. JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

DATE: 6/29/07 SIGNATURE OF ATTORNEY OF RECORD: [Signature] DOCKET NUMBER:

FOR OFFICE USE ONLY: RECEIPT #, AMOUNT, APPLICANT, JUDGE, MAG. JUDGE

3. This action arises under Trademark laws of the United States, 15 U.S.C. §§ 1051 et seq., and is brought to redress the infringement and dilution of Booklab's trademarks by Defendant.

4. This Court has jurisdiction over Plaintiff's claims pursuant to 28 U.S.C. §§ 1331, 1338, 15 U.S.C. § 1125 and 15 U.S.C. § 1121.

5. Venue is proper in this district with respect to Plaintiff's claims pursuant to 28 U.S.C. §§ 1391(b).

III.

PARTIES

6. Plaintiff Booklab is a Nevada corporation with its principal place of business located at 16 Via Monte, Henderson, Nevada 89011.

7. Defendant CRAIG JENSEN d/b/a Booklab II ("JENSEN") is a Texas resident with his principal place of business located at 1724 McCarty Lane, San Marcos, Texas 78666 and resides and may be served by serving Defendant at 1724 McCarty Lane, San Marcos, Texas 78666.

IV.

FACTUAL BACKGROUND

8. Booklab is the owner of the "Booklab" trademark filed with the United States Patent and Trademark Office on March 31st, 2005, Registration No. 3,181,837 (the "Booklab Mark(s)").

9. On or about March 23rd, 2005, Defendant sold to Booklab all right, title and interest in and to the domain "Booklab.COM" to Plaintiff Booklab (f/k/a Rivalry

Books, Inc.) for the sum of Two thousand and Sixty Five and no/100 Dollars (\$2,065.00) (the "Purchase Money.")

10. Defendant, by and through a defunct and abandoned company Booklab, Inc., a Delaware company unrelated to Plaintiff, allowed a prior "Booklab" mark to be cancelled pursuant to Section 8. See Registration No. 1,743,075.

11. Defendant made representations to Plaintiff that Defendant had in fact abandoned use of the words "Booklab" and any common law right therein, including all trademark rights.

12. Upon reason and belief that Defendant had abandoned all claims to the Booklab mark, Booklab secured a federally registered trademark as specified above.

13. On or after March 23rd, 2005, Defendant, after abandoning the mark "Booklab" and representing to Plaintiff that no further claim to Booklab would be made, commenced using the words "Booklab II" in interstate commerce.

14. Plaintiff would not have trademarked the term "Booklab" just so Defendant could operate as "Booklab II."

V.

CAUSES OF ACTION

COUNT ONE

Federal Trademark Infringement (Section 32 of the Lanham Act)

15. Booklab incorporates and realleges the foregoing paragraphs as if fully set forth at length.

16. The "Booklab" (Registration No. 3,181,837) is a federally registered mark.

17. Booklab has used, and continues to use, the federally-registered Booklab Mark.
18. The Infringing Marks are reproductions, counterfeits, copies, and /or colorable imitations of the registered Booklab mark.
19. Defendant have used, and continue to use, the Infringing Marks in commerce.
20. Defendant have used, and continue to use, the Infringing Marks without the consent of Booklab.
21. Defendant have used, and continue to use, the Infringing Marks in connection the sale, offering for sale, distribution, and/or advertising of its goods and services.
22. Defendant's use and continued use of the Infringing Marks are likely to cause confusion, mistake and /or deception.
23. Defendant's acts and conduct violate 15 U.S.C. § 1114
24. Booklab has been damaged, and is likely to be further damaged, by Defendant's use of the Infringing Marks.
25. Booklab is entitled to, and seeks, damages under 15 U.S.C. § 1117, including the actual damages sustained by Booklab, Defendant's profits from the infringement, and the costs of this action. Due to the circumstances of this case, Booklab is entitled to three times it actual damages.
26. Booklab is also entitled to, and seeks, attorneys' fees as Defendant's conduct was knowing and willful and this case is exceptional.

COUNT TWO

False Designation of Origin (Section 43(a) of the Lanham Act)

27. Booklab incorporates and realleges the foregoing paragraphs as if fully set forth at length.

28. The Infringing Marks constitute words, terms, names, symbols, or devices, or combinations thereof, or false designations of origin, false or misleading descriptions of fact, or false misleading representations of fact.

29. Defendant have used, and continue to use, the Infringing Marks in commerce.

30. Defendant have used, and continue to use, the Infringing Marks in connection with its goods and services.

31. Defendant's use and continued use of the Infringing Marks is likely to cause confusion, or cause mistake, or deceive as to the affiliation, connection, or association of Defendant with Booklab, or as to the origin, sponsorship, or approval of Defendant's goods and services by Booklab.

32. Defendant's acts and conduct violate 15 U.S.C. § 1125(a).

33. Booklab has been damaged, and is likely to be further damaged, by Defendant's use of the Infringing Marks.

34. Booklab is entitled to, and seeks, damages under 15 U.S.C. § 1117, including the actual damages sustained by Booklab, Defendant's profits from the infringement, and the costs of this action. Due to the circumstances of this case, Booklab is entitled to three times its actual damages.

35. Booklab is also entitled to, and seeks, attorneys' fees as Defendant's conduct was knowing and willful and this case is exceptional.

COUNT THREE

Common Law Trademark Infringement

36. Booklab incorporates and realleges the foregoing paragraphs as if fully set forth at length.

37. As arbitrary or suggestive marks, the Booklab Mark is inherently distinctive.

38. As inherently distinctive marks, the Booklab Mark are protectable common law trademarks or service marks.

39. Booklab has a protectable interest in the Booklab Mark as they relate to its services and products.

40. Booklab is the senior user of the Booklab Mark.

41. Defendant's use and continued use of the Infringing Marks create a likelihood of confusion between the Infringing Marks and the Booklab Mark and between Defendant's services and Booklab's services.

42. Defendant's acts and conduct constitute common law trademark and/or service mark infringement.

43. Booklab has been damaged, and is likely to be further damaged, by Defendant's use of the Infringing Marks.

44. Booklab is entitled to, and seeks to, recover all damages caused to Booklab by Defendant's unlawful conduct.

COUNT FOUR

Violation of Texas Anti-Dilution Statute

45. Booklab incorporates and realleges the foregoing paragraphs as if fully set forth at length.

46. Defendant's actions have injured, and are likely to continue to injure, Booklab's business reputation.

47. Defendant's actions have diluted, and are likely to continue to dilute, the distinctive quality of the Booklab Mark.

48. Defendant's actions have harmed Booklab and will continue to harm Booklab.

49. Defendant's acts and conduct violate the Texas Anti-Dilution Statute, TEX. BUS. & COMM. CODE ANN. § 16.29

50. Booklab has been damaged, and is likely to be further damaged, by Defendant's use further use of the Infringing Marks. Such harm will continue unless Defendant are restrained from using the Infringing Marks.

51. Unless Defendant are restrained from the acts complained of, the Booklab and the public will suffer irreparable harm, for which the Booklab has no adequate remedy at law.

52. Booklab is entitled to, and seeks, an injunction under the Texas Anti-Dilution Statute. TEX. BUS. & COMM. CODE ANN. § 16.29.

COUNT FIVE

Unfair Competition

53. Booklab incorporates and realleges the foregoing paragraphs as if fully set forth at length.

54. Defendant's actions have harmed Booklab and constitute unfair competition under the common law of Texas and the Lanham Act.

COUNT SIX

Fraud

55. Booklab incorporates and realleges the foregoing paragraphs as if fully set forth at length.

56. Defendant materially misrepresented its cancellation, abandonment and claim to the mark "Booklab."

57. Defendant's material misrepresentation was done in a manner to mislead Booklab and induce Booklab into paying Defendant the Purchase Money.

58. By deliberately withholding material facts as stated, Defendant intended that Booklab would rely on the misrepresentations thereby succeeding in inducing Booklab into paying said Purchase Money.

59. As a direct and proximate result of Defendant's fraud, Booklab has suffered injury and is entitled to actual damages, interest, exemplary and costs.

V.

WILLFUL INFRINGEMENT

61. Booklab incorporates and realleges the foregoing paragraphs as if fully set forth at length.

62. Defendant's unlawful acts described herein have been made with full knowledge of Booklab's rights in the Booklab Mark. Such acts constitute willful violation of Booklab's trademark rights, making this case exceptional pursuant to 15

U.S.C. §§ 1117 and 1125, entitling Booklab to enhanced damages and reasonable attorney's fees.

VI.

REMEDIES

63. Booklab incorporates and realleges the foregoing paragraphs as if fully set forth at length.

64. Booklab respectfully requests monetary relief, including (1) Defendant's profits, (2) any damages sustained by Booklab, and (3) the cost of this action. *See* 15 U.S.C. § 1117.

65. Due to Defendant's willful disregard of Booklab's trademark rights, Booklab respectfully request reasonable attorney's fees and treble damages. *See id.*

66. Booklab also respectfully requests an order from the Court requiring that all infringing articles used in connection with Defendant's services be destroyed. *See* 15 U.S.C. § 1118.

67. Pursuant to 15 U.S.C. § 1119, Booklab requests that this Court order the cancellation of any registrations of Defendant's for the Infringing Marks. To the extent the Infringing Marks have not yet been registered at the time of trial of this matter, Booklab requests that this Court order the un-filing of Defendant's applications for any such registrations, if any.

68. Pursuant to common law, Booklab also respectfully requests i) an amount of money sufficient to compensate it for the actual damage caused to Booklab by Defendant's wrongful and infringing acts and conduct; and ii) any exemplary damages to which it may be entitled.

69. Booklab is entitled to injunctive relief under both federal and state law. See 15 U.S.C. § 1116 and TEX. BUS. & COM. CODE ANN. § 16.29.

VII.

APPLICATION FOR TEMPORARY RESTRAINING ORDER

70. Because of Defendant's unlawful appropriation of Booklab's trademark, Defendant has undermined Booklab's business by selling goods and/or services using such the Booklab Mark.

71. Defendant's sale of goods and/or services containing the Booklab Mark have caused and continue to cause Booklab imminent and irreparable harm for which there is no adequate remedy at law.

72. Since Booklab can readily establish itself as owner of the Booklab Mark, Booklab is likely to succeed on the merits of the case prohibiting Defendant from using said mark.

73. The injury faced by Booklab outweighs the injury that would be sustained by Defendant. Furthermore, the Court's granting of a temporary restraining order against Defendant would not adversely affect public policy or public interest.

74. Booklab respectfully demands that Defendant be restrained from displaying, using, or selling any goods or services containing the Booklab Mark. If necessary, Booklab is willing to post a bond in order for the Court to issue the temporary restraining order against Defendant.

VIII.

ATTORNEYS' FEES

75. Because of the conduct of Defendant, Booklab has been compelled to engage the services of an attorney to prosecute this action. As a result, Booklab is entitled to recover a reasonable sum for the necessary services of Myers Wilson P.C. in the preparation and trial of this action and for any appeals related thereto.

IX.

PRAYER FOR RELIEF

Accordingly, Booklab respectfully prays that the Court:

76. Decree that Defendant infringe the Booklab Mark;
77. Decree that Defendant frequently induced Booklab into paying the Purchase Money;
78. Defendant be ordered to account for and pay to Booklab all profits derived by reason of Defendant's acts alleged in this Complaint;
79. Defendant be ordered to pay to Booklab all actual damages suffered by Booklab because of Defendant's actions;
80. Defendant be ordered to pay to Booklab treble and/or exemplary damages as a result of its willful infringement and/or fraud;
81. Defendant be ordered to pay Booklab its costs of suit, including reasonable and necessary attorneys' fees and expenses for prosecution and appeal, if any, of this matter;
82. Defendant be ordered to pay Booklab damages, including actual damages, Defendant's profits from the infringement, and the costs of this action pursuant to 15 U.S.C. § 1117.

83. Defendant be ordered to pay Booklab's attorneys' fees, costs and treble damages pursuant to 15 U.S.C. § 1117.

84. Defendant be ordered to surrender to Booklab for destruction all labels, signs, prints, packages, wrappers, receptacles, and advertisements, or other materials bearing the name, logo, color scheme, trademark, or servicemark of Defendant, or otherwise constituting violation of 15 U.S.C. § 1125(a).

85. Certify to the Director of the United States Patent and Trademark Office a decree or order ordering the cancellation of any registrations granted to Defendant for the Infringing Marks and ordering the un-filing of any applications for registration of the Infringing Marks, if any;

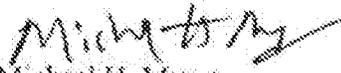
86. Defendant be ordered to pay Booklab pre-judgment and post-judgment interest at the highest legal rate on all sums awarded in this Court's judgment; and

87. Booklab be awarded all such other and further relief, in law or in equity, to which it may be justly entitled.

Dated: June 29th, 2007

Respectfully submitted,

MYERS WILSON P.C.


Michael H. Myers
Texas Bar No. 24032779
John T. Wilson
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Suite 2500
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Attorneys for Plaintiff

EXHIBIT B

EXHIBIT B

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS

FILED

2007 AUG -6 PM 1:48

CLERK OF DISTRICT COURT
WESTERN DISTRICT OF TEXAS

BY _____
DEPUTY

BOOKLAB, INC.

Plaintiff,

v.

CRAIG JENSEN
d/b/a BookLab II

Defendant

Case No. AO7CA 536LY

DEFENDANT'S ANSWER TO ORIGINAL COMPLAINT

TO THE HONORABLE COURT:

COMES NOW, Defendant Craig Jensen, d/b/a BookLab II, ("Jensen" or "Defendant")
and files this its Defendant's Answer (the "Answer") to Original Complaint, an in support of said
Answer avers the following:

I.

SUMMARY OF CAUSES OF ACTION.

1. In Answer to the Complaint, Defendant Jensen answers as follows:

2. Plaintiff denies.

EXHIBIT
B

II.

JURISDICTION AND VENUE

3. Stipulated as to the statute under which the case arises, otherwise denied.
4. Defendant affirms.
5. Defendant affirms.

III.

PARTIES

6. Defendant can neither affirm or deny.
7. Defendant agrees and has accepted service.

IV.

FACTUAL BACKGROUND

8. Defendant denies.
9. Defendant denies.
10. Defendant denies.
11. Defendant denies.
12. Defendant denies.
13. Defendant denies.
14. Defendant can neither affirm nor deny.

V.

CAUSES OF ACTION

COUNT ONE

Federal Trademark Infringement (Section 32 of the Lanham Act)

15. Defendant denies.

16. Defendant acknowledges the existence of Plaintiff's federal trademark registration, but otherwise denies any and all claims made by Plaintiff.

17. Defendant denies.

18. Defendant denies.

19. Defendant denies.

20. Defendant denies.

21. Defendant denies.

22. Defendant denies.

23. Defendant denies.

24. Defendant denies.

25. Defendant denies.

26. Defendant denies.

COUNT TWO

False Designation of Origin (Section 43(a) of the Lanham Act)

27. Defendant denies.

28. Defendant denies.

29. Defendant denies.

30. Defendant denies.

31. Defendant denies.

32. Defendant denies.

33. Defendant denies.

34. Defendant denies.

35. Defendant denies.

COUNT THREE

Common Law Trademark Infringement

36. Defendant denies.

37. Defendant denies.

38. Defendant denies.

39. Defendant denies.

40. Defendant denies.

41. Defendant denies.

42. Defendant denies.

43. Defendant denies.

44. Defendant denies.

COUNT FOUR

Violation of Texas Anti-Dilution Statute

45. Defendant denies.

46. Defendant denies.

47. Defendant denies.

48. Defendant denies.

49. Defendant denies.

50. Defendant denies.

51. Defendant denies.

52. Defendant denies.

COUNT FIVE

Unfair Competition

53. Defendant denies.

54. Defendant denies.

COUNT SIX
Fraud

55. Defendant denies.

56. Defendant denies.

57. Defendant denies.

58. Defendant denies.

59. Defendant denies.

V.

WILLFUL INFRINGEMENT

61. Defendant denies.

62. Defendant denies.

VI.

REMEDIES

63. Defendant denies.

64. Defendant asserts that Plaintiff has no basis for monetary relief, including no basis for (1) Defendant's profits; (2) damages; or (3) the cost of this action. Instead, due to the baseless nature of this action, Defendant prays the Court award to Defendant the costs of this action.

65. Defendant asserts that Plaintiff has no basis for reasonable attorneys fees or treble damages.

66. As there are no infringing articles, Defendant prays that the Court refuse Plaintiffs request any articles from Defendant.

67. Defendant prays that this Court deny Plaintiff's request.

68. Defendant prays that this Court deny Plaintiff's request.

69. Defendant prays that this Court deny Plaintiff's request.

VII.

APPLICATION FOR TEMPORARY RESTRAINING ORDER

70. Defendant denies.

71. Defendant denies.

72. Defendant denies.

73. Defendant denies.

74. Defendant denies.

VII

ATTORNEYS FEES

75. Defendant denies.

IX

PRAYER FOR RELIEF

Accordingly, Defendant respectfully prays that the Court:

76. Decree that Defendant neither infringes or violates any legal rights of Plaintiff.

77. Decree that Plaintiff fails to show that Defendant fraudulently induced Plaintiff in any matter relating to this action.

78. Decree that Plaintiff is entitled to no accounting.

79. Decree that Plaintiff is entitled to no damages.

80. Decree that Plaintiff is entitled to no treble or exemplary damages.

81. Decree that Plaintiff is required to pay all of Defendant's costs relating to this action and any appeals.

82. Decree that Plaintiff is entitled to no damages pursuant to 15 U.S.C. § 1117.

83. Decree that Plaintiff is entitled to no damages pursuant to 15 U.S.C. § 1117.

84. Decree that Plaintiff is entitled to no surrender of any items pursuant to 15 U.S.C. § 112.

85. Decree that Plaintiff is entitled to certification or other direction to anyone or any office at the United States Patent and Trademark Office.

86. Decree that Plaintiff be ordered to pay Defendant pre-judgment and post-judgment interest at the highest legal rate on all sums awarded in this Court's judgment; and

87. Dismiss this case with full prejudice against Plaintiff as to any matters pertaining hereto.

Dated August 6, 2007

Respectfully submitted,

HULSEY INTELLECTUAL PROPERTY
LAWYERS, P.C.



William N. Hulsey III
Texas Bar No. 10261150

EXHIBIT C

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

BOOKLAB, INC.

V.

CRAIG JENSEN, D/B/A BOOKLAB II

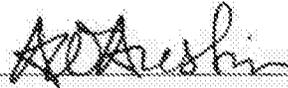
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A-07-CA-536 LY

ORDER

Before the Court is Plaintiff's Motion to Compel Craig Jensen to Response [*sic*] to Plaintiff's Request for Production (Clerk's Doc. No. 9). The Motion was filed on December 18, 2007. On December 21, 2007, Defendant filed a Response with the Court notifying the Court that it was providing Plaintiff with "all information within its present knowledge or control" pursuant to Federal Rule of Civil Procedure 26. See Defendant's Response, Clerk's Doc. No. 12. Defendant attached the relevant information to its Motion. It appears that Plaintiff's Motion may now be moot, in light of Defendant's response, and Plaintiff has not filed a reply suggesting otherwise. Nevertheless, the Court **ORDERS** that Plaintiff's file a reply no later than January 11, 2008, indicating whether, in light of Defendant's response, there is any issue in the Motion to Compel that requires resolution by the Court.

SIGNED this 4th day of January, 2008.



ANDREW W. AUSTIN
UNITED STATES MAGISTRATE JUDGE

EXHIBIT

C

EXHIBIT D

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

BOOKLAB, INC.

V.

CRAIG JENSEN, D/B/A BOOKLAB II

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A-07-CA-536 LY

ORDER

Before the Court is Plaintiff's Motion to Compel Craig Jensen to Respond [*sic*] to Plaintiff's Request for Production (Clerk's Doc. No. 9) and Plaintiff's Reply to Defendant Jensen's Response to Booklab's Motion to Compel Production Requests (Clerk's Doc. No. 14).

The Plaintiff's Motion to Compel was filed on December 18, 2007. On December 21, 2007, Defendant filed a Response with the Court notifying the Court that it was providing Plaintiff with "all information within its present knowledge or control" pursuant to Federal Rule of Civil Procedure 26. See Defendant's Response, Clerk's Doc. No. 12. Defendant implied that it had attached the relevant information to its Response. However, it was not fully clear whether Defendant had in fact replied such as to satisfy the original motion. Therefore, the Court ordered Plaintiff to file with the Court a Reply delineating if there were still any outstanding discovery issues. See Order, Clerk's Doc. No. 13. Plaintiff has done so and contends that Defendant's answers to its Requests for Production are almost invariably incomplete or deficient.

The Court first notes that Defendant's initial response on December 21, 2007, was not in compliance with the Federal Rules of Civil Procedure. In a one-page filing Defendant noted that he was complying under FED. R. CIV. P. 26 and then attached thirty pages of email communications. The proper response to a request for production under Rule 34 is to address individually each request at issue and claim privilege or otherwise substantively address the contents of the request. See FED. R. CIV. P. 34(b)(2)(B) ("For each item or category, the response must either state that inspection and

EXHIBIT

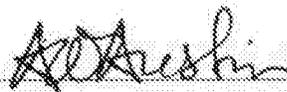
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related activities will be permitted as requested or state an objection to the request, including the reasons.”). It is plain that Plaintiff is requesting far more than email communications.

Further, failure to object to requests for production within 30 days of the requests waives any objections the respondent may have. FED. R. CIV. P. 34(b)(2)(A). *See also Richmark Corp. v. Timber Falling Consultants*, 959 F.2d 1468, 1473 (9th Cir.1992) (citing *Davis v. Fendler*, 650 F.2d 1154, 1160 (9th Cir.1981)) (“It is well established that a failure to object to discovery requests within the time required constitutes a waiver of any objection.”) There is, therefore, no basis on which Defendant may properly object to producing the requested documents. Insofar as Defendant has failed to respond with any objections within the required time frame, he is required by Rule 34 to produce the documents requested by Plaintiff. *Id.*

Therefore, the Court **GRANTS** Plaintiff’s Motion to Compel (Clerk’s Doc. No. 9), and **ORDERS** that Defendant serve a proper response to Plaintiff’s request for production, as required by FED. R. CIV. P. 34, and produce responsive documents, no later than 20 days from the date of this order. All other relief requested in the motion is denied.

SIGNED this 14th day of January, 2008.



ANDREW W. AUSTIN
UNITED STATES MAGISTRATE JUDGE

EXHIBIT E

4. All parties asserting claims for relief shall file and serve on all other parties their designation of potential witnesses, testifying experts, and proposed exhibits, and shall serve on all other parties, but not file, the materials required by Federal Rule of Civil Procedure 26(a)(2)(B) on or before June 2, 2008. Parties resisting claims for relief shall file and serve on all other parties their designations of potential witnesses, testifying experts, and proposed exhibits, and shall serve on all other parties, but not file, the materials required by Federal Rule of Civil Procedure 26(a)(2)(B) on or before July 1, 2008. All designations of rebuttal experts shall be filed and served on all other parties within fifteen (15) days of receipt of the report of the opposing expert, and the materials required by Federal Rule of Civil Procedure 26(a)(2)(B) for such rebuttal experts, to the extent not already served, shall be served, but not filed, on all other parties within fifteen (15) days of receipt of the report of the opposing expert.

5. An objection to the reliability of an expert's proposed testimony under Federal Rule of Evidence 702 shall be made by motion, specifically stating the basis for the objection and identifying the objectionable testimony, within eleven (11) days of receipt of the written report of the expert's proposed testimony or within eleven (11) days of the expert's deposition, if a deposition is taken, whichever is later. **The failure to strictly comply with this paragraph will be deemed a waiver of any objection that could have been made pursuant to Federal Rule of Evidence 702.**

6. The parties shall complete discovery on or before December 1, 2008. Counsel may, by agreement, continue discovery beyond the deadline, but there will be no intervention by the Court except in extraordinary circumstances, and no trial setting will be vacated because of information obtained in post-deadline discovery.

7. All dispositive motions shall be filed and served on all other parties on or before February 8, 2009 and shall be limited to twenty (20) pages. Responses shall be filed and served on all other parties within eleven (11) days of the service of the motion and shall be limited to twenty (20) pages. Any replies shall be filed and served on all other parties within eleven (11) days of the service of the response and shall be limited to ten (10) pages, but the Court need not wait for the reply before ruling on the motion.

The parties shall not complete the following paragraph 8. It will be completed by the Court at the initial pretrial conference to be scheduled by the Court.

8. This case is set for final pretrial conference, in chambers, on the 19th day of May, 2009, at 3:00 PM and Beach trial in the month of June, 2009. The final pretrial conference shall be attended by at least one of the attorneys who will conduct the trial for each of the parties and by any unrepresented parties. The parties should consult Local Rule CV-16(e) regarding matters to be filed in advance of the final pretrial conference.

SIGNED this 2nd day of June, 2008.


LEE YEAKEL
UNITED STATES DISTRICT JUDGE

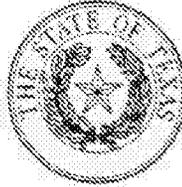
AGREED:

Attorney for Plaintiff(s)

Attorney for Defendant(s)

PLEASE CALL JANIE JONES IF YOU HAVE QUESTIONS: (512) 916-8996 ext. 234

EXHIBIT F



Office of the Secretary of State

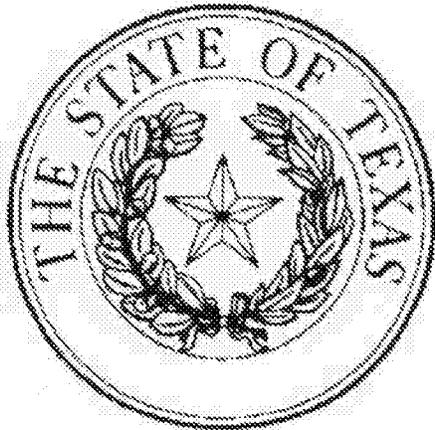
The undersigned, as Secretary of State of Texas, does hereby certify that the attached is a true and correct copy of each document on file in this office as described below:

BOOKLAB, INC.
Filing Number: 7603706

Application For Certificate Of Authority
Change Of Registered Agent/Office
Change Of Registered Agent/Office
Certificate Of Withdrawal

April 01, 1988
March 29, 1989
May 20, 1994
April 23, 1999

In testimony whereof, I have hereunto signed my name officially and caused to be impressed hereon the Seal of State at my office in Austin, Texas on June 12, 2008.



A handwritten signature in cursive script that reads "Phil Wilson".

Phil Wilson
Secretary of State

EXHIBIT

F

APPLICATION FOR CERTIFICATE OF AUTHORITY

FILED
In the Office of the
Secretary of State of Texas

Pursuant to the provisions of Article 8.05 of the Texas Business Corporation Act, the undersigned corporation hereby applies for a Certificate of Authority to transact business in Texas: APR 11 1988

1. The name of the corporation is BOOKLAB, INC. Corporations Section

2. If the name of the corporation does not contain the word "corporation," "company," "incorporated," or "limited" (or an abbreviation thereof), then the name of the corporation with the word or abbreviation which it elects to add thereto for use in Texas is: (Or if the corporate name is not available in Texas, then specify the assumed name which the corporation elects to use in Texas and attach Assumed Name Certificate.)

NOT APPLICABLE

3. It is incorporated under the laws of DELAWARE

4. The date of its incorporation is 3/21/88 and the period of its duration is perpetual (State "Perpetual" or term of years).

5. The address of its principal office in the state or country under the laws of which it is incorporated is

Corporation Trust Center, 1209 Orange Street, Wilmington, DE 19801

6. The address of its proposed registered office in Texas is (a P. O. Box is not sufficient)
c/o CT CORPORATION SYSTEM

1601 Elm Street, Dallas, Texas 75201

and the name of its proposed registered agent in Texas at such address is

CT CORPORATION SYSTEM

7. The purpose or purposes of the corporation which it proposes to pursue in the transaction of business in Texas are:

Conservation services to libraries and fine binding and box making services.

Any lawful act or activity for which corporations may be organized under the Texas Business Corporation Act.

8. It is authorized to pursue such purpose or purposes in the state or country under the laws of which it is incorporated.

9. The names and respective addresses of its directors are:

| NAME | ADDRESS |
|------------------------|--|
| <u>Paul A. Parisi</u> | <u>Acme Bookbinding Co., Inc. 100 Cambridge Street, Charlestown, MA 02129-1228</u> |
| <u>Craig W. Jensen</u> | <u>8403 Cross Park Drive, Suite 2E, Austin TX 78754</u> |
| <u>James M. Larsen</u> | <u>Bridgeport National Bindery 104 Ramah Circle South, Agawam, MA 01001</u> |
| _____ | _____ |
| _____ | _____ |

10. The names and respective addresses of its officers are:

| NAME | OFFICE | ADDRESS |
|-----------------|-----------|--------------------|
| Craig W. Jensen | President | See address for #9 |
| James M. Larsen | Treasurer | See address for #9 |
| Paul A. Parisi | Secretary | See address for #9 |
| | | |
| | | |

11. The aggregate number of shares which it has authority to issue, itemized by classes, par value of shares, shares without par value, and series, if any, within a class, is:

| NUMBER OF SHARES | CLASS | SERIES | PAR VALUE PER SHARE OR STATEMENT THAT SHARES ARE WITHOUT PAR VALUE |
|------------------|--------|--------|--|
| 3,000 | Common | - | no par value |
| | | | |
| | | | |

12. The aggregate number of its issued shares, itemized by classes, par value of shares, shares without par value, and series, if any, within a class, is:

| NUMBER OF SHARES | CLASS | SERIES | PAR VALUE PER SHARE OR STATEMENT THAT SHARES ARE WITHOUT PAR VALUE |
|------------------|--------|--------|--|
| 1,000 | Common | - | no par value |
| | | | |
| | | | |

13. The amount of its stated capital is \$ 1,000.00
(See Texas Business Corporation Act, Article 1.02A(11) for definition of stated capital).

14. Consideration of the value of at least One Thousand Dollars (\$1,000.00) has been paid for the issuance of its shares.

15. This Application is accompanied by a Certificate of Good Standing, duly authenticated by an authorized officer of the state or country under the laws of which it is incorporated.

BOOKLAB, INC.
(Name of Corporation)
James M. Larsen
James M. Larsen
Secretary - its Treasurer (Title of Officer)

ANTI-TRUST AFFIDAVIT

STATE OF Massachusetts

COUNTY OF Hampden

Before me, the undersigned authority, on this day personally appeared James M. Larsen

who being by me duly sworn, deposes and says:

That the BOOKLAB, INC. is not a trust or organization in restraint of trade, in violation of the laws of Texas; that it has not, within twelve months next preceding the date of this affidavit, entered into any combination, contract, obligation or agreement to create nor which may tend to create or to carry out any restriction in trade or commerce or aids to commerce, nor to fix, maintain, increase or reduce the price of any merchandise, produce or commodity, or any article of commerce; nor to prevent or lessen competition in the manufacture, making, transportation, sale or purchase of any merchandise, produce or commodity, or any article of commerce, or in the preparation thereof for market; nor to fix or maintain any standard or figure whereby the price of same is or has been in any manner affected, controlled or established. That it has not, during said time, entered into, executed or carried out any contract, obligation or agreement with any person, corporation or association of persons not to sell or dispose of any commodity or articles of commerce below a common standard or figure, or to keep the price thereof at a fixed or graded figure, or to preclude a fair and unrestricted competition in the sale of any commodity or articles of commerce, or to regulate, fix or limit the output thereof, or to abstain from engaging in or continuing business or from the purchase or sale of any commodity or article of commerce partially or entirely within the State of Texas or any portion thereof.

Affiant further says that the above named corporation has not within twelve months next preceding the date of this affidavit, either directly or through the instrumentality of trustees or otherwise, acquired the shares or certificates of stocks or bonds, franchises or other rights or the physical properties or any part thereof of any other corporation or corporations for the purpose of preventing or lessening or which tends to affect or lessen competition. That it has not within said time entered into any agreements or understanding to refuse to buy from or sell to any other person, corporation, firm or association of persons any commodities or articles of commerce, nor entered into any agreement to boycott or threaten to refuse to buy from or sell to any person, firm or corporation or association of persons for the buying from or selling to any other person, firm, corporation or association of persons.

Affiant further says that no officer of the above named corporation has, within his knowledge, during the said twelve months, made on behalf of it or for its benefits, any such contract or agreement as is specified in this affidavit.

James M. Larsen
James M. Larsen, Treasurer

Sworn to and subscribed before me, this the 30th day of March, A. D., 1988.

John M. Gray

(SEAL)

Notary Public in and for Commonwealth of Mass
Comm. Expires 5-26-89

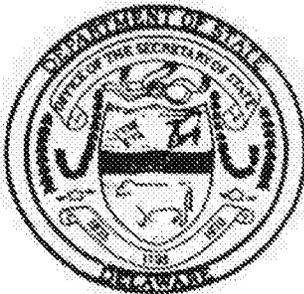
NOTE—The above affidavit must be subscribed and sworn to by the president or vice-president or secretary or treasurer or two of the directors of the corporation applying for permit.



Office of Secretary of State

I, MICHAEL HARKINS, SECRETARY OF STATE OF THE STATE OF DELAWARE DO HEREBY CERTIFY BOOKLAB, INC. IS DULY INCORPORATED UNDER THE LAWS OF THE STATE OF DELAWARE AND IS IN GOOD STANDING AND HAS A LEGAL CORPORATE EXISTENCE SO FAR AS THE RECORDS OF THIS OFFICE SHOW, AS OF THE DATE SHOWN BELOW.

! ! ! ! ! ! ! ! ! !



729061080

Michael Harkins
Michael Harkins, Secretary of State

AUTHENTICATION:

11629135

DATE:

03/21/1988

PROFIT

FILED
In the Office of the
Secretary of State of Texas

MAR 29 1989

STATEMENT OF CHANGE OF REGISTERED
OFFICE OR REGISTERED AGENT, OR BOTH
BY
A FOREIGN PROFIT CORPORATION

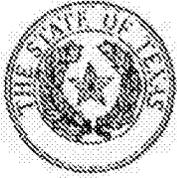
Corporations Section

Pursuant to the provisions of the Texas Business Corporation Act, the undersigned corporation, organized under the laws of the State of Delaware submits the following statement for the purpose of changing its registered office or its registered agent, or both, in the State of Texas:

1. The name of the corporation is BOOKLAB, INC.
2. The post office address of its present registered office is c/o C T Corporation System, 1601 Elm Street, Dallas, TX 75201.
3. The post office address, including street and number, to which its registered office is to be changed is 8403 Cross Park Drive, Suite 2E, Austin, TX 78754.
4. The name of its present registered agent is C T Corporation System.
5. The name of its successor registered agent is Craig W. Jensen.
6. The post office address of its registered office and the ~~post office~~ address of the business office of its registered agent, as changed, will be identical.
7. Such change was authorized by: (Check one)
 A. The Board of Directors
 B. An officer of the corporation so authorized by the Board of Directors.

Dated March 22, 19 89.


An Authorized Officer
Craig W. Jensen, President



STATEMENT OF CHANGE OF REGISTERED OFFICE in the Office of the
OR REGISTERED AGENT OR BOTH BY Secretary of State
A CORPORATION

MAY 20 1994

Corporations Section

1. The name of the corporation is BookLab, Inc.
 The corporation's charter number is 076037

2. The address of the registered office as PRESENTLY shown in the records of the Texas secretary of state is: (Please provide street address, city, state and zip code. The address must be in Texas).
8403 Cross Park Drive, Suite 2E, Austin, Texas 78754

3. A. The address of the NEW registered office is: (Please provide street address, city, state and zip code. The address must be in Texas.)
1606 Headway Circle, Suite 100, Austin, Texas 78754-5109

OR B. The registered office address will not change.

4. The name of the registered agent as PRESENTLY shown in the records of the Texas secretary of state is Craig W. Jensen

5. A. The name of the NEW registered agent is _____

OR B. The registered agent will not change.

6. Following the changes shown above, the address of the registered office and the address of the office of the registered agent will continue to be identical, as required by law.

7. The changes shown above were authorized by:

(Profit corporations may select A or B)
 (Non-Profit corporations may select A, B, or C)

- A. The board of directors; OR
- B. An officer of the corporation so authorized by the board of directors; OR
- C. The members of the corporation in whom management of the corporation is vested pursuant to article 2.14C of the Texas Non-Profit Corporation Act.

 An Authorized Officer

Please submit this form in duplicate with the appropriate filing fee.
PROFIT corporations: \$15.00; NON-PROFIT corporations: \$5.00

Office of the
Secretary of State



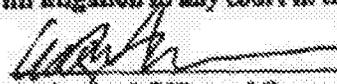
Corporations Section
P.O. Box 13697
Austin, Texas 78711-3697

APPLICATION FOR
CERTIFICATE OF WITHDRAWAL

FILED
In the Office of the
Secretary of State of Texas
APR 23 1999

Pursuant to the appropriate provision of the Texas Business Corporation Act, the Texas Non-Profit Corporation Act or the Texas Limited Liability Company Act, the undersigned entity hereby applies for a certificate of withdrawal from the State of Texas and for that purpose submits the following statement:

1. The name of the entity is Book Lab Inc
2. It is organized under the laws of Delaware
3. It is not transacting business or conducting affairs in the State of Texas.
4. It hereby surrenders its authority to transact business in Texas.
5. It revokes the authority of its registered agent in the State of Texas to accept service of process and consents that service of process in any action, suit or proceeding based upon any cause of action arising in this state during the time it was authorized to transact business or conduct affairs may hereafter be made on it by service thereof on the secretary of state of Texas.
6. The post office address to which the secretary of state may mail a copy of any process against the entity that may be served on the secretary of state is:
6112 Jarey Dr Austin TX 78751
7. All sums due, or accrued, by this corporation to the State of Texas have been paid, or adequate provision has been made for the payment thereof.
8. If the entity is a non-profit corporation, all known creditors or claimants have been paid or provided for and the corporation is not involved in or threatened with litigation in any court in the State of Texas, or adequate provision has been made for the satisfaction of any judgment, order or decree which may be entered against it in any pending suits. If the entity is a limited liability company, all known creditors or claimants have been paid or provided for and the limited liability company is not involved in or threatened with litigation in any court in the State of Texas.



Authorized Officer of Corporation
Member or Manager of Limited Liability Company



TEXAS COMPTROLLER OF PUBLIC ACCOUNTS
CAROLE KEETON RYLANDER • COMPTROLLER • AUSTIN, TEXAS 78774

PMRX452/2HL7

CERTIFICATION OF ACCOUNT STATUS

THE STATE OF TEXAS

COUNTY OF TRAVIS

I, Carole Keeton Rylander, Comptroller of Public Accounts of the State of Texas, DO HEREBY CERTIFY that according to the records of this office

BOOKLAB, INC.

is, as of this date, in good standing with this office for the purpose of merger, withdrawal, conversion when the converting entity will no longer be subject to the franchise tax filing provisions, dissolution under Article 6.01 of the Texas Business Corporation Act or dissolution under Article 6.08 of the Texas Limited Liability Company Act, having filed the required franchise tax reports and having paid the franchise tax computed to be due through December 31, 1999

This certificate is not valid for the purpose of dissolution under Article 6.06 of the Texas Business Corporation Act.

GIVEN UNDER MY HAND AND
SEAL OF OFFICE in the City of
Austin, this 23rd day of
April, 1999 A.D.

CAROLE KEETON RYLANDER
Comptroller of Public Accounts

Charter/C.O.A. number: 00076037

EXHIBIT G

Delaware

PAGE 1

The First State

I, HARRIET SMITH WINDSOR, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED ARE TRUE AND CORRECT COPIES OF ALL DOCUMENTS ON FILE OF "BOOKLAB, INC." AS RECEIVED AND FILED IN THIS OFFICE.

THE FOLLOWING DOCUMENTS HAVE BEEN CERTIFIED:

CERTIFICATE OF INCORPORATION, FILED THE TWENTY-FIRST DAY OF MARCH, A.D. 1988, AT 10 O'CLOCK A.M.

CERTIFICATE OF DISSOLUTION, FILED THE TENTH DAY OF AUGUST, A.D. 1999, AT 9 O'CLOCK A.M.

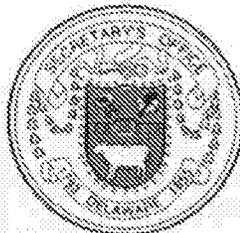
AND I DO HEREBY FURTHER CERTIFY THAT THE AFORESAID CERTIFICATES ARE THE ONLY CERTIFICATES ON RECORD OF THE AFORESAID CORPORATION, "BOOKLAB, INC."

EXHIBIT

G

2155419 8100H

080702307



Harriet Smith Windsor

Harriet Smith Windsor, Secretary of State

AUTHENTICATION: 6668057

DATE: 06-18-08

128081000

FILED

21554-19-

CERTIFICATE OF INCORPORATION
OF
BOOKLAB, INC.

MAR 21 1968
10 AM
H. J. ...
SECRETARY OF STATE

* * * * *

1. The name of the corporation is
BOOKLAB, INC.
2. The address of its registered office in the State of Delaware is Corporation Trust Center, 1209 Orange Street, in the City of Wilmington, County of New Castle. The name of its registered agent at such address is The Corporation Trust Company.
3. The nature of the business or purposes to be conducted or promoted is to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of Delaware.
4. The total number of shares of stock which the corporation shall have authority to issue is three thousand (3,000); all of such shares shall be without par value.
5. The name and mailing address of each incorporator is as follows:

| <u>NAME</u> | <u>MAILING ADDRESS</u> |
|---------------------|--|
| Robert S. Burstein | Cohen and Wolf, P.C. 1115 Broad Street Bridgeport, Connecticut 06604 |
| Lisa L. Fant | Cohen and Wolf, P.C. 1115 Broad Street Bridgeport, Connecticut 06604 |
| Andrea M. Koncevich | Cohen and Wolf, P.C. 1115 Broad Street Bridgeport, Connecticut 06604 |

6. No director shall have any personal liability to the corporation or its stockholders for any monetary damages for breach of fiduciary duty as a director, except that this Article shall not eliminate or limit the liability of each director (i) for any breach of such director's duty of loyalty to the corporation or its stockholders, (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (iii) under Section 174 of the Delaware General Corporation Law, or (iv) for any transaction from which such director derived an improper personal benefit.

7. The corporation is to have perpetual existence.

8. In furtherance and not in limitation of the powers conferred by statute, the board of directors is expressly authorized to make, alter or repeal the by-laws of the corporation.

9. Elections of directors need not be by written ballot unless the by-laws of the corporation shall so provide.

Meetings of stockholders may be held within or without the State of Delaware, as the by-laws may provide. The books of the corporation may be kept (subject to any provision contained in the statutes) outside the State of Delaware at such place or places as may be designated from time to time by the board of directors or in the by-laws of the corporation.

10. The corporation reserves the right to amend, alter, change or repeal any provision contained in this certificate of incorporation, in the manner now or hereafter prescribed by

statute, and all rights conferred upon stockholders herein are granted subject to this reservation.

WE, THE UNDERSIGNED, being each of the incorporators hereinbefore named, for the purpose of forming a corporation pursuant to the General Corporation Law of the State of Delaware, do make this certificate, hereby declaring and certifying that this is our act and deed and the facts herein stated are true, and accordingly have hereunto set our hands this 15th day of March, 1988.

Robert S. Burstein
Robert S. Burstein

Lisa L. Fart
Lisa L. Fart

Andrea M. Konzevich
Andrea M. Konzevich

STATE OF DELAWARE
SHORT FORM CERTIFICATE OF
DISSOLUTION
(Pursuant to Sections 275 and 391(a)(5)(ii))

1. Name of Corporation BookLab, Inc.
2. The corporation has no assets and has ceased transacting business.
3. The corporation, for each year since its incorporation in this State, has been required to pay only the minimum franchise tax then prescribed by Section 303 of the General Corporation Law of the State of Delaware.
4. The corporation has paid all franchise taxes and fees due to or assessable by this State through the end of the year in which the certificate of dissolution is filed.
5. The dissolution has been authorized by the board of directors and stockholders or by unanimous consent of stockholders on Dec. 31, 1998
6. The names and addresses of the directors and officers of the corporation are as follows.

| NAME | TITLE | ADDRESS |
|------------------------|-----------------------|---|
| <u>Craig W. Jensen</u> | <u>President</u> | <u>6112 Jandy Dr. Austin, TX 78757</u> |
| <u>James M. Larsen</u> | <u>Secretary</u> | <u>P.O. Box 289, Agawam, MA 01001</u> |
| <u>Karl A. Kiriši</u> | <u>Vice President</u> | <u>100 Cambridge St., Oxbowtown, MA, 0212</u> |

7. The signatory hereto acknowledges the above statements to be true.

By: 
Authorized Officer

Name: Craig W. Jensen
Print or Type

Title: President

EXHIBIT H

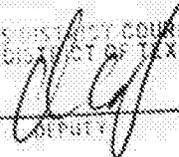
IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

FILED

2008 MAY 23 PM 3:52

CLERK OF DISTRICT COURT
WESTERN DISTRICT OF TEXAS

BY



BOOKLAB, INC.

VS.

CAUSE NO. A-07-CA-536- LY

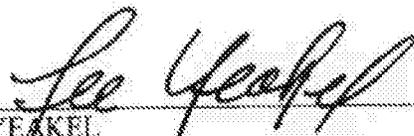
CRAIG JENSEN, D/B/A/ BOOKLAB II

ORDER SETTING INITIAL PRETRIAL CONFERENCE

IT IS HEREBY ORDERED that the above entitled and numbered case has been set for an INITIAL PRETRIAL CONFERENCE in Chambers, Second Floor of the United States Courthouse, 200 West 8th Street, Austin, Texas, on **Monday, June 2, 2008, at 2:00 P.M.**

FURTHER, the parties are notified that at the initial pretrial conference, the Court will schedule a final pretrial conference and set a trial month.

SIGNED this 23rd day of May, 2008.



LEE YEAKEL
UNITED STATES DISTRICT JUDGE

EXHIBIT
H

EXHIBIT I

EXHIBIT

I

PATENT/TRADENAME

**U.S. District Court [LIVE]
Western District of Texas (Austin)
CIVIL DOCKET FOR CASE #: 1:07-cv-00536-LY**

Booklab, Inc. v. Jensen
Assigned to: Judge Lee Yeakel
Cause: 15:1051 Trademark Infringement

Date Filed: 07/02/2007
Jury Demand: None
Nature of Suit: 840 Trademark
Jurisdiction: Federal Question

| Date Filed | # | Docket Text |
|------------|-----------|--|
| 07/02/2007 | <u>1</u> | COMPLAINT (Filing fee \$ 350 receipt number 406850), filed by Booklab, Inc.. (Attachments: # <u>1</u> Civil Cover Sheet and receipt)(tdk,) (Entered: 07/06/2007) |
| 07/06/2007 | <u>2</u> | Report on Patent/Trademark sent to U.S. Patent and Trademark Office with a copy of the complaint. (tdk,) (Entered: 07/06/2007) |
| 07/06/2007 | <u>3</u> | Letter/Correspondence to counsel John Wilson regarding non-admission status. (tdk,) (Entered: 07/06/2007) |
| 07/17/2007 | <u>4</u> | Summons Issued as to Craig Jensen. (dm,) (Entered: 07/17/2007) |
| 08/06/2007 | <u>5</u> | MOTION to Appear Pro Hac Vice by William N. Hulsey on behalf of Craig Jensen. (dm,) (Entered: 08/06/2007) |
| 08/06/2007 | <u>6</u> | ANSWER to Complaint by Craig Jensen.(dm,) (Entered: 08/06/2007) |
| 08/06/2007 | | Pro Hac Vice Fee Paid by William N. Hulsey; Filing fee \$ 25, receipt number 407325. (dm,) (Entered: 08/09/2007) |
| 08/07/2007 | <u>7</u> | ORDER granting <u>5</u> Motion to Appear Pro Hac Vice Signed by Judge Lee Yeakel. (dm,) (Entered: 08/07/2007) |
| 12/18/2007 | <u>8</u> | MOTION to Appear Pro Hac Vice by Michael Howard Myers <i>on behalf of John T. Wilson</i> by on behalf of Booklab, Inc.. (Myers, Michael) (Entered: 12/18/2007) |
| 12/18/2007 | <u>9</u> | MOTION to Compel <i>Response to Plaintiff's Requests for Production</i> by Booklab, Inc.. (Myers, Michael) (Entered: 12/18/2007) |
| 12/20/2007 | <u>10</u> | ORDER REFERRING MOTION: <u>9</u> MOTION to Compel <i>Response to Plaintiff's Requests for Production</i> filed by Booklab, Inc.. Signed by Judge Lee Yeakel. Referral Magistrate Judge: Andrew W. Austin. (dm,) (Entered: 12/20/2007) |
| 12/20/2007 | <u>11</u> | ORDER granting <u>8</u> Motion to Appear Pro Hac Vice. Signed by Judge Lee |

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| | | Yeakel. (dm,) (Entered: 12/20/2007) |
| 12/21/2007 | 12 | RESPONSE to Motion, filed by Craig Jensen, re 9 MOTION to Compel <i>Response to Plaintiff's Requests for Production</i> filed by Plaintiff Booklab, Inc. (Hulsey, William) (Entered: 12/21/2007) |
| 12/28/2007 | | Pro Hac Vice Fee Paid by John T. Wilson; Filing fee \$ 25, receipt number 420341. (dm,) (Entered: 01/08/2008) |
| 01/04/2008 | 13 | ORDERED that Plaintiff's file a reply no later than January 11, 2008... Signed by Judge Andrew W. Austin. (dm,) (Entered: 01/04/2008) |
| 01/11/2008 | 14 | REPLY to Response to Motion, filed by Booklab, Inc., re 9 MOTION to Compel <i>Response to Plaintiff's Requests for Production</i> filed by Plaintiff Booklab, Inc. (Myers, Michael) (Entered: 01/11/2008) |
| 01/14/2008 | 15 | ORDER granting 9 Motion to Compel. Signed by Judge Andrew W. Austin. (dm,) (Entered: 01/14/2008) |
| 02/04/2008 | 16 | ***DOCUMENT HAS BEEN STRICKEN PURSUANT TO AN ORDER STRIKING PLEADING, DOC. #17*** RESPONSE to Motion, filed by Craig Jensen, re 9 MOTION to Compel <i>Response to Plaintiff's Requests for Production</i> filed by Plaintiff Booklab, Inc. (Hulsey, William) Modified on 2/5/2008 (dm,). (Entered: 02/04/2008) |
| 02/05/2008 | 17 | ORDER Striking Pleading 16 Response to Motion. Signed by Judge Andrew W. Austin. (dm,) (Entered: 02/05/2008) |
| 02/05/2008 | | Motions No Longer Referred: 9 MOTION to Compel <i>Response to Plaintiff's Requests for Production</i> . (dm,) (Entered: 02/05/2008) |
| 03/18/2008 | 18 | Second MOTION to Compel by Booklab, Inc.. (Attachments: # 1 Exhibit Jensen Response, # 2 Exhibit E-Mail Correspondence)(Wilson, John) (Entered: 03/18/2008) |
| 03/18/2008 | | MOTION for Attorney Fees by Booklab, Inc. (2 part motion, to view this document see # 18). (dm,) (Entered: 03/18/2008) |
| 03/18/2008 | 19 | DEFICIENCY NOTICE: re 18 Second MOTION to Compel. (dm,) (Entered: 03/18/2008) |
| 03/19/2008 | 20 | ATTACHMENT <i>Proposed Order</i> to MOTION for Attorney Fees, 18 Second MOTION to Compel by Booklab, Inc.. (Wilson, John) (Entered: 03/19/2008) |
| 04/04/2008 | 21 | ORDER REFERRING MOTION: MOTION for Attorney Fees filed by Booklab, Inc., 18 Second MOTION to Compel filed by Booklab, Inc. Signed by Judge Lee Yeakel. Referral Magistrate Judge: Andrew W. Austin. (dm,) (Entered: 04/04/2008) |
| 04/08/2008 | 22 | RESPONSE to Motion, filed by Craig Jensen, re 18 Second MOTION to Compel filed by Plaintiff Booklab, Inc. (Hulsey, William) (Entered: 04/08/2008) |
| 04/08/2008 | 23 | DEFICIENCY NOTICE: re 22 Response to Motion. (dm,) (Entered: 04/08/2008) |

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| 04/08/2008 | 24 | REPLY to Response to Motion, filed by Booklab, Inc., re MOTION for Attorney Fees filed by Plaintiff Booklab, Inc., 18 Second MOTION to Compel filed by Plaintiff Booklab, Inc. (Wilson, John) (Entered: 04/08/2008) |
| 04/16/2008 | 25 | ORDER GRANTING 18 Motion to Compel; GRANTING [] Motion for Attorney Fees. Signed by Judge Andrew W. Austin. (dm,) (Entered: 04/16/2008) |
| 04/16/2008 | | Motions No Longer Referred: 18 Second MOTION to Compel, MOTION for Attorney Fees. (dm,) (Entered: 04/16/2008) |
| 04/17/2008 | 26 | Order for Proposed Scheduling Order. Plaintiff shall submit a proposed scheduling order to the Court within sixty (60) days after the appearance of any defendant. Proposed Scheduling Order due by 4/30/2008. Signed by Judge Lee Yeakel. (dm,) (Entered: 04/17/2008) |
| 04/25/2008 | 27 | MOTION re 26 Order for Scheduling Recommendations/Proposed Scheduling Order by Booklab, Inc.. (Attachments: # 1 Exhibit Exhibit 1 - Booklab Proposed Scheduling Order, # 2 Exhibit Exhibit 2 - Jensen Proposed Sheduling Order)(Wilson, John) (Entered: 04/25/2008) |
| 05/23/2008 | 28 | ORDER, Initial Pretrial Conference set for 6/2/2008 02:00 PM before Judge Lee Yeakel. Signed by Judge Lee Yeakel. (td) (Entered: 05/23/2008) |
| 06/02/2008 | 29 | Minute Entry for proceedings held before Judge Lee Yeakel: Initial Pretrial Conference held on 6/2/2008 (Minute entry documents are not available electronically.). (Court Reporter Kathy Carroll.)(dm,) (Entered: 06/02/2008) |
| 06/02/2008 | 30 | SCHEDULING ORDER:Final Pretrial Conference set for 5/29/2009 03:00 PM and Bench Trial in the month of June 2009 before Judge Lee Yeakel. ADR Report Deadline due by 12/1/2008. Amended Pleadings due by 6/16/2008. Discovery due by 12/1/2008. Joinder of Parties due by 6/16/2008. Motions due by 2/8/2009. Signed by Judge Lee Yeakel. (dm,) (Entered: 06/03/2008) |
| 06/02/2008 | 31 | ORDER DISMISSING 27 Motion to Enter Scheduling Order. Signed by Judge Lee Yeakel. (dm,) (Entered: 06/03/2008) |

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EXHIBIT J

HULSEY^{IP}

WITH  Osha • Liang

William N. Hulsey III
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May 7, 2008

John T. Wilson
Myers & Wilson, LLP
16660 Dallas Parkway, Suite 2500
Dallas, Texas 75248
Telephone: (972) 248-8080

Re: Case No. A07CA536LY, "BOOKLAB", INC. (Plaintiff) v. CRAIG JENSEN, d/b/a
"Booklab" II

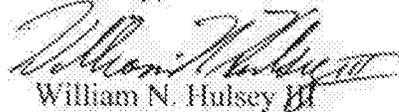
Dear John:

Attached to this letter are further documents that Craig Jensen has found responsive to your document production requests for referenced case.

As you have not communicated to me regarding which documents you desire, I am providing ones that are presently available to us. Furthermore, we are continuing to search for more documents you have demanded.

Since you continue to refuse to call to talk (as opposed to leaving voicemail) or return my calls to you, we have taken step of seeking a cancellation of your client's trademark. As you can see, we have submitted these documents we now produce as the basis for our Petition to Cancel the BOOKLAB trademark registration. The Petition was filed with the U.S. Patent & Trademark Office on May 6, 2008.

Sincerely,



William N. Hulsey III
HULSEY Intellectual Property
Lawyers, P.C.

EXHIBIT

J