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

Proceeding	92050920
Party	Plaintiff Intellect Technical Solutions, Inc.
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Submission	Reply in Support of Motion
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Attachments	reply to response to amended motion to compel.pdf (38 pages)(1207128 bytes)

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

In re: Registration No. 3,009,990
Trademark: ENTELLECT
Registered November 1, 2005

INTELLECT TECHNICAL SOLUTIONS, INC.

Petitioner,

v.

MILENA SONI,

Respondent.

Cancellation No.: 92050920

**PETITIONER'S REPLY TO RESPONDENT'S OPPOSITION TO PETITIONER'S
AMENDED MOTION TO COMPEL**

Petitioner, Intellect Technical Solutions, Inc., by and through its undersigned counsel, replies to Respondent's Opposition to Petitioner's Amended Motion to Compel pursuant to 37 CFR 2.127, and states as follows:

As of the date of filing of this Reply, Petitioner has received only 75 pages of document discovery from Respondent, more than 70 pages of which were copies of documents available in the public prosecution history for the ENTELLECT registration or were provided to Respondent by Petitioner. None of the documents produced by Respondent evidence actual sales of any of the services claimed in the Registration or provided any meaningful insight into the markets in which Respondent allegedly sells such services. At the same time, Respondent refuses to admit that no such documents exist (see Responses to Requests for Admission 142-144, attached here as Exhibit A), stating that new documents may be discovered, in spite of the fact that the document requests have been outstanding for over eight (8) months already. Accordingly,

Petitioner respectfully argues that, were the Board to accept the arguments asserted by Respondent, the Board would be rewarding precisely the type of evasive and uncooperative discovery tactics that the Rules are intended to prevent. *See* TBMP § 408.01 (“The Board expects parties (and their attorneys or other authorized representatives) to cooperate with one another in the discovery process, and looks with extreme disfavor upon those who do not.”)

More specifically, Respondent makes four basic arguments in response to Petitioner’s Amended Motion to Compel: information relating to sales is irrelevant, information relating to customers is irrelevant, information relating to third party agreements is irrelevant, and Respondent’s interest in protecting its confidential information trumps Petitioner’s interest in obtaining meaningful discovery on these issues. These arguments, largely raised for the first time in Respondent’s response brief, are addressed in turn below.

Information Relating to Respondent’s Sales is Relevant

As is set forth in detail in Petitioner’s Motion for Leave to Amend its Petition to Cancel, filed on March 10, 2010 (“Motion to Amend”), substantial questions were raised during Respondent’s deposition as to whether Respondent was making use of the ENTELLECT mark (“Respondent’s Mark”) in commerce in connection with the services listed in the subject registration. Even so, Respondent has refused to answer interrogatories regarding the amount of sales made in connection with Respondent’s Mark and has failed to provide a single document evidencing sales.

In her specific discovery responses, Respondent refused to provide sales information based on confidentiality concerns. In her response to Petitioner’s Amended Motion to Compel (the “Response”), Respondent now objects to providing documents and interrogatory answers regarding sales based on the assertion that the information sought by Petitioner is irrelevant. *See*

Response at 3 (“The amount of revenue earned by RESPONDENT is not relevant to PETITIONER’s trial testimony.”) To the contrary, evidence of sales of the services identified in the registration is clearly relevant to the question of whether actual use of the Respondent’s Mark has been made in interstate commerce in connection with the services listed in the registration. The extent of such sales also bears on the question of likelihood of confusion. *See Varian Associates v. Fairfield-Noble Corporation*, 188 USPQ 581, 583 (TTAB 1975) (“[t]he Board has held, in addition, that sales ... in round numbers, for the goods bearing the mark involved in an opposition proceeding are proper matters for discovery”); and *American Optical Corporation v. Exomet, Inc.*, 181 USPQ 120, 123 (TTAB 1974)(“information concerning extent of sales may well have a bearing on the question of likelihood of confusion”) *overruled on other grounds*.

Respondent’s arguments that such evidence is irrelevant is further contradicted by Respondent’s discovery requests to Petitioner. In Request 34 of Respondent’s First Set of Requests for Production of Documents to Petitioner, a copy of which is attached hereto as Exhibit B, Respondent requests all documents concerning revenue Petitioner earned from the use of Petitioner’s mark. Similarly, in Interrogatory 15 of Respondent’s First Set of Interrogatories to Petitioner, a copy of which is attached hereto as Exhibit C, Respondent requested Petitioner’s gross revenues for services rendered under Petitioner’s mark. When a party to a proceeding before the Board requests discovery on a topic from the opposing party, that party may not then argue that a corresponding request is unreasonable when made by its adversary. *See Amazon Technologies, Inc. v Wax*, 93 USPQ.2d 1702, 1706 (TTAB 2009) (citing TBMP and denying objections to discovery requests when largely identical requests were made by the objecting party).

Petitioner responded to Respondent's requests by providing Profit and Loss statements for the years 1998 through 2009. See Petitioner's Response No. 11 to Respondent's First Set of Interrogatories (attached hereto as Exhibit D). The information provided on those financial statements corresponds directly to the information that would be included on the documents sought by Petitioner, including the tax returns filed by Respondent in connection with her business activities. Petitioner notes that the tax returns are the only documents that Respondent has admitted to exist that document her business revenues. See Exh. A, Response Nos. 125-140.

Petitioner therefore respectfully submits that Respondent's arguments that documents and interrogatory responses pertaining to revenues earned in connection with the services recited in Respondent's registration should **not** be accepted by the Board because (i) such information is clearly relevant to the question of use and/or abandonment, (ii) the extent of revenues earned is relevant to the question of likelihood of confusion, and (iii) Respondent's own requests for the corresponding information from Petitioner are acknowledgements of the relevance of such information in this proceeding and the appropriateness of seeking such documents in discovery.

Information Relating to Respondent's Customers is Relevant

Respondent similarly argues that information relating to customers to whom services have been rendered in connection with Respondent's mark is likewise irrelevant. *See* Response at 4 (“[t]he identity of RESPONDENT's clients is not relevant”). The identities of customers to whom Respondent provides services under Respondent's Mark is clearly relevant both to questions of non-use and/or abandonment and to questions of likelihood of confusion. Contrary to Respondent's assertion that Respondent has identified several clients, to date, the information that Petitioner has received regarding customers to whom Respondent provides services has been deposition testimony in

which she discusses providing referrals for vocational testing services to family members, friends and one business, but stops short of providing other specific customer information beyond asserting that there have been approximately 100 customers between 2002 and 2009. Nor does she provide examples of recruiting positions she has filled or persons to whom psychological counseling services have been rendered under her mark. Without further information regarding Respondent's customers, Petitioner has insufficient information to determine whether or not Respondent is actually servicing any of the same markets and types of customers as Petitioner, questions which have clear bearing on the issue of likelihood of confusion.

Petitioner further notes that, just as Respondent has done with respect to questions of revenue, Respondent acknowledged the relevance of customer information in this proceeding and the appropriateness of seeking discovery on customer identities when Respondent requested information about Petitioner's customers. In Interrogatory 14 of Respondent's First Set of Interrogatories to Petitioner, Respondent requested the identities of all persons who purchased listed services from Petitioner. *See* Exh. C. In response, Petitioner provided the names and addresses of more than a hundred representative customers who purchased services from Petitioner since 1998, and in doing so provided identities for more than the total number of customers that Respondent claims to have serviced. *See*, Exh. D. Petitioner also provided numerous documents evidencing actual sales to such services. Petitioner respectfully argues that Respondent should be required to provide at least the same level of discovery with respect to her customers that she requested and received from Petitioner. *See Amazon Technologies, Inc*, 93 USPQ.2d at 1706 (discussed *supra*).

Petitioner therefore submits that Respondent's arguments that the identities of Respondent's customers should **not** be accepted by the Board because (i) such information is clearly relevant to the question of use and/or abandonment, (ii) the identities of customers to whom Respondent sells services is relevant to the questions of actual confusion and likelihood of confusion, and (iii) Respondent's own requests for the corresponding information from Petitioner acknowledge the relevance of such information in this proceeding and the appropriateness of discovery requests seeking such information. At the very least, Respondent should be required to provide the identities of representative customers who purchased services from each of the three classes of services at issue in this proceeding, for each year at issue in this proceeding.

Details of Agreements and Business Relationships under Which Third Parties Offer Services for Respondent are also Relevant

Respondent goes on to argue that providing the details of agreements under which third parties provide the services identified in the subject registration is burdensome as the details of such agreements are also irrelevant. *See* Response at 7 ("RESPONDENT submits that RESPONDENT's responses are sufficient and that PETITIONER's further demands for any unstated details of the agreement are irrelevant."). To date, the only information that Petitioner has received in connection with such third party arrangements are assertions that agreements exist and statements that Respondent's provision of services under the mark at issue involve providing referrals to those third parties. In Respondent's deposition testimony, when asked what she specifically does for the company, Mrs. Soni stated "[v]ery little...[j]ust tell people...about this." In this and other testimony, Respondent appears to be relying on the actions of third parties to support her use of Registrant's Mark in commerce. *See*, Melina Soni's Deposition Transcript at p. 31, a copy of which is attached hereto as Exh. E. Respondent's responses to Petitioner's requests for admission also appear to suggest that she intends to argue

that she has engaged others to perform the Disputed Services that she does not herself provide, further suggesting her intent to offer evidence of use through third party channels. *See* Exh. A, Response Nos. 25-29. If Registrant is relying, in whole or in part, on the actions of third parties to support her use of the mark, Petitioner is entitled to discovery on such agreements.

Respondent, however, denies the existence of any written agreements (*see* Exh. A, Response Nos. 37, 49, 54, 57 and 59), admits that there are unwritten agreements (*see* Exh. A, Response Nos. 18, 24 and 25), but refuses to provide descriptions of the nature and terms of those unwritten agreements. If Respondent intends to rely on such agreements, Petitioner should not be forced to wait for Respondent's testimony to learn about their details.

Petitioner therefore submits that Respondent's arguments regarding Petitioner's requests for details of Respondent's agreements with third parties should **not** be accepted by the Board because (i) such information is clearly relevant to the question of use and/or abandonment, (ii) the channels through which Respondent sells services are relevant to the questions of actual confusion and likelihood of confusion, and (iii) to allow Respondent to withhold such information and then argue that her use of the mark is supported by the actions of third parties would constitute unfair surprise.

Respondent's Concerns Regarding Confidentiality are Moot

Finally, Respondent argues repeatedly that she should be shielded from Petitioner's discovery requests because the information sought is confidential. As is noted in Petitioner's Amended Motion to Compel, the Provisions for Protecting Confidential Information Revealed During Board Proceeding ("Protective Agreement") is in place in this case, and was approved by the Board on January 21, 2010. Petitioner has already provided substantial amounts of proprietary information to Respondent under that agreement. Petitioner has further offered to

cooperate with Respondent and accept documents that are reasonably redacted as a further protection for Respondent. Given the protections already in place in the approved Protective Agreement, and the additional protections suggested by Petitioner, and the fact that Petitioner has already provided corresponding confidential information to Respondent, Respondent's arguments in this regard are moot.

Conclusion

Petitioner has cooperated in the discovery process and has provided thousands of pages of documents, information regarding sales, information regarding expenses, and names and addresses of more than 100 customers to Respondent. Should Respondent be allowed to withhold the information requested by Petitioner, Petitioner would be prejudiced as it would be forced to enter the testimony period without having received substantive discovery from Respondent on relevant issues, even after having provided comparable discovery itself. Perhaps more importantly, should Respondent be permitted to withhold such discovery, the Board would be condoning and rewarding precisely the type of evasive and uncooperative discovery practices that the Rules are designed to prevent.

WHEREFORE, Petitioner respectfully requests that the Board grant Petitioner's Amended Motion to Compel and enter an order requiring Respondent to provide the responses and documents sought by Petitioner.

Respectfully submitted,

Date: May 26, 2010

/William G. Giltinan/
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CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing Petitioner's Reply to Respondent's Opposition to Petitioner's Amended Motion To Compel on Respondent's counsel at the following addresses:

Surjit P. Soni
Ronald E. Perez
WooSoon Choe
The Soni Law Firm
35 N. Lake Ave. #720
Pasadena, CA 91101

via First Class United States Mail, postage prepaid, and deposited with the United States Postal Service on May 26, 2010.

Dated: May 26, 2010

/William G. Giltinan/
William G. Giltinan

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

INTELLECT TECHNICAL)
SOLUTIONS, INC.)
)
Petitioner,) CANCELLATION NO.: 92050920
v.)
)
MILENA SONI) Reg. No. 3,009,990
)
Respondent.)
_____)

RESPONDENT'S RESPONSE TO
PETITIONER'S FIRST SET OF REQUESTS FOR ADMISSION

PROPOUNDING PARTY: RESPONDENT, MILENA SONI

RESPONDING PARTY: PETITIONER, INTELLECT TECHNICAL SOLUTIONS, INC.

SET NO.: ONE

TO PETITIONER and its Counsel of Record:

RESPONDENT Milena Soni ("RESPONDENT"), pursuant to Rule 33 of the Federal Rules of Civil Procedure (Fed. R. Civ. P.) and TTAB Rule 405, hereby responds to the first set of requests for admission from Petitioner Intellect Technical Solutions, Inc. ("PETITIONER").

EXHIBIT A

RESPONSE TO REQUEST NO. 16:

Respondent incorporates by reference the general objections set forth above.

Since the request seeks information about someone other than Respondent, Respondent denies this request for admission.

REQUEST NUMBER 17:

Admit that Respondent has not used any website to display the ENTELLECT Mark.

RESPONSE TO REQUEST NO. 17:

Respondent incorporates by reference the general objections set forth above.

Subject to and without waiving the foregoing objections, Respondent denies this request for admission.

REQUEST NUMBER 18:

Admit that Respondent has not used any website to promote the Disputed Services.

RESPONSE TO REQUEST NO. 18:

Respondent incorporates by reference the general objections set forth above.

Subject to and without waiving the foregoing objections, Respondent denies this request for admission.

REQUEST NUMBER 24:

Admit that Respondent does not promote the Disputed Services other than by word of mouth, business cards and letterhead.

RESPONSE TO REQUEST NO. 24:

Respondent incorporates by reference the general objections set forth above.

Subject to and without waiving the foregoing objections, Respondent denies this request for admission.

REQUEST NUMBER 25:

Admit that Respondent has no employees who perform the Disputed Services for others.

RESPONSE TO REQUEST NO. 25:

Respondent incorporates by reference the general objections set forth above.

Respondent objects to the term "employees" as vague and ambiguous.

Subject to and without waiving the foregoing objections, Respondent denies this request for admission.

REQUEST NUMBER 26:

Admit that Between Date of First Use and the present, Respondent has not engaged others to perform the Disputed Services.

RESPONSE TO REQUEST NO. 26:

Respondent incorporates by reference the general objections set forth above.

Subject to and without waiving the foregoing objections, Respondent denies this request for admission.

REQUEST NUMBER 27:

Admit that Surjit P. Soni is not an employee of Respondent.

RESPONSE TO REQUEST NO. 27:

Respondent incorporates by reference the general objections set forth above.

Respondent objects to the term "employee" as vague and ambiguous.

Subject to and without waiving the foregoing objections, Respondent denies this request for admission.

REQUEST NUMBER 28:

Admit that Patrick R. Neils is not an employee of Respondent.

RESPONSE TO REQUEST NO. 28:

Respondent incorporates by reference the general objections set forth above.

Respondent objects to the term "employee" as vague and ambiguous.

Subject to and without waiving the foregoing objections, Respondent denies this request for admission.

REQUEST NUMBER 29:

Admit that Kenneth G. Neils is not an employee of Respondent.

RESPONSE TO REQUEST NO. 29:

Respondent incorporates by reference the general objections set forth above.

Respondent objects to the term "employee" as vague and ambiguous.

Subject to and without waiving the foregoing objections, Respondent denies this request for admission.

REQUEST NUMBER 30:

Admit that Respondent is not a corporation organized under the laws of any state.

RESPONSE TO REQUEST NO. 30:

Respondent incorporates by reference the general objections set forth above.

Subject to and without waiving the foregoing objections, Respondent admits this request for admission.

REQUEST NUMBER 31:

Admit that Respondent is not a limited liability company organized under the laws of any state.

RESPONSE TO REQUEST NO. 31:

Respondent incorporates by reference the general objections set forth above.

Subject to and without waiving the foregoing objections, Respondent admits this request for admission.

REQUEST NUMBER 35:

Admit that Respondent is an individual doing business as ENTELLECT.

RESPONSE TO REQUEST NO. 35:

Respondent incorporates by reference the general objections set forth above.

Subject to and without waiving the foregoing objections, Respondent denies this request for admission.

REQUEST NUMBER 36:

Admit that Respondent is not registered to do business in any state.

RESPONSE TO REQUEST NO. 36:

Respondent incorporates by reference the general objections set forth above.

Subject to and without waiving the foregoing objections, Respondent denies this request for admission.

REQUEST NUMBER 37:

Admit that Respondent has not entered into any written license agreement purporting to give a third party the right to use the ENTELLECT Mark in connection with the Disputed Services.

RESPONSE TO REQUEST NO. 37:

Respondent incorporates by reference the general objections set forth above.

Subject to and without waiving the foregoing objections, Respondent admits this request for admission.

REQUEST NUMBER 38:

Admit that Respondent has not given any third party a license to use the ENTELLECT Mark in connection with the Disputed Services.

RESPONSE TO REQUEST NO. 38:

Respondent incorporates by reference the general objections set forth above.

Subject to and without waiving the foregoing objections, Respondent denies this request for admission.

REQUEST NUMBER 39:

Admit that Respondent is not in possession, custody or control of any copies of a license agreement purporting to give any third party the right to use the ENTELLECT Mark in connection with the Disputed Services that have not been produced to Petitioner.

RESPONSE TO REQUEST NO. 39:

Respondent incorporates by reference the general objections set forth above.

Respondent to be doing business under the name "Potentials Development, Inc."

RESPONSE TO REQUEST NO. 48:

Respondent incorporates by reference the general objections set forth above.

Subject to and without waiving the foregoing objections, Respondent admits this request for admission.

REQUEST NUMBER 49:

Admit that Respondent is not a party to a written contract with Potentials Development, Inc. or any company known by Respondent to be doing business under the name "Potentials Development, Inc."

RESPONSE TO REQUEST NO. 49:

Respondent incorporates by reference the general objections set forth above.

Subject to and without waiving the foregoing objections, Respondent admits this request for admission.

REQUEST NUMBER 50:

Admit that Respondent is not a party to any contract with Potentials Development, Inc. or any company known by Respondent to be doing business under the name "Potentials Development, Inc."

REQUEST NUMBER 53:

Admit that Respondent is not a member of the board of directors of PDI Coaching Services.

RESPONSE TO REQUEST NO. 53:

Respondent incorporates by reference the general objections set forth above.

Subject to and without waiving the foregoing objections, Respondent admits this request for admission.

REQUEST NUMBER 54:

Admit that Respondent is not a party to a written contract with PDI Coaching Services.

RESPONSE TO REQUEST NO. 54:

Respondent incorporates by reference the general objections set forth above.

Subject to and without waiving the foregoing objections, Respondent admits this request for admission.

REQUEST NUMBER 55:

Admit that Respondent is not a party to any contract with PDI Coaching Services.

RESPONSE TO REQUEST NO. 55:

Respondent incorporates by reference the general objections set forth above.

Subject to and without waiving the foregoing objections, Respondent denies this request for admission.

REQUEST NUMBER 56:

Admit that Respondent is not an equity owner of PDI Coaching Services.

RESPONSE TO REQUEST NO. 56:

Respondent incorporates by reference the general objections set forth above.

Subject to and without waiving the foregoing objections, Respondent admits this request for admission.

REQUEST NUMBER 57:

Admit that Respondent is not a party to a written contract with Patrick R. Neils.

RESPONSE TO REQUEST NO. 57:

Respondent incorporates by reference the general objections set forth above.

Subject to and without waiving the foregoing objections, Respondent admits this request for admission.

REQUEST NUMBER 58:

Admit that Respondent is not a party to any contract with Patrick R. Neils.

RESPONSE TO REQUEST NO. 58:

Respondent incorporates by reference the general objections set forth above.

Subject to and without waiving the foregoing objections, Respondent denies this request for admission.

REQUEST NUMBER 59:

Admit that Respondent is not a party to a written contract with Kenneth G. Neils.

RESPONSE TO REQUEST NO. 59:

Respondent incorporates by reference the general objections set forth above.

Subject to and without waiving the foregoing objections, Respondent admits this request for admission.

REQUEST NUMBER 60:

Admit that Respondent is not a party to any contract with Kenneth G. Neils.

RESPONSE TO REQUEST NO. 60:

Respondent incorporates by reference the general objections set forth above.

Subject to and without waiving the foregoing objections, Respondent denies this request for admission.

REQUEST NUMBER 61:

Admit that Respondent has referred others to Patrick R. Neils for testing services.

RESPONSE TO REQUEST NO. 61:

Respondent incorporates by reference the general objections set forth above.

Respondent objects to the terms "referred others" and "testing" as vague, ambiguous.

Subject to and without waiving the foregoing objections, Respondent is without knowledge and information to be able to respond to this request for admission and therefore denies it.

REQUEST NUMBER 125:

Admit that Respondent does not have in her possession, custody, or control any financial records reflecting amounts received by Respondent for providing the Disputed Services.

RESPONSE TO REQUEST NO. 125:

Respondent incorporates by reference the general objections set forth above.

Subject to and without waiving the foregoing objections, Respondent has made a reasonable inquiry and the information known or readily obtainable by Respondent is insufficient to enable Respondent to admit or deny this request.

REQUEST NUMBER 126:

Admit that Surjit P. Soni has no financial records in his possession, custody or control reflecting amounts received by Respondent for providing the Disputed Services.

RESPONSE TO REQUEST NO. 126:

Respondent incorporates by reference the general objections set forth above.

Subject to and without waiving the foregoing objections, Respondent has made a reasonable inquiry and the information

known or readily obtainable by Respondent is insufficient to enable Respondent to admit or deny this request.

REQUEST NUMBER 127:

Admit that Respondent failed to declare amounts received for providing the Disputed Services as income on Respondent's 2002 Federal Income Tax Returns.

RESPONSE TO REQUEST NO. 127:

Respondent incorporates by reference the general objections set forth above.

Subject to and without waiving the foregoing objections, Respondent denies this request for admission.

REQUEST NUMBER 128:

Admit that Respondent failed to declare amounts received for providing the Disputed Services as income on Respondent's 2003 Federal Income Tax Returns.

RESPONSE TO REQUEST NO. 128:

Respondent incorporates by reference the general objections set forth above.

Subject to and without waiving the foregoing objections, Respondent denies this request for admission.

REQUEST NUMBER 129:

Admit that Respondent failed to declare amounts received for providing the Disputed Services as income on Respondent's 2004 Federal Income Tax Returns.

RESPONSE TO REQUEST NO. 129:

Respondent incorporates by reference the general objections set forth above.

Subject to and without waiving the foregoing objections, Respondent denies this request for admission.

REQUEST NUMBER 130:

Admit that Respondent failed to declare amounts received for providing the Disputed Services as income on Respondent's 2005 Federal Income Tax Returns.

RESPONSE TO REQUEST NO. 130:

Respondent incorporates by reference the general objections set forth above.

Subject to and without waiving the foregoing objections, Respondent denies this request for admission.

REQUEST NUMBER 131:

Admit that Respondent failed to declare amounts received for providing the Disputed Services as income on Respondent's 2006 Federal Income Tax Returns.

RESPONSE TO REQUEST NO. 131:

Respondent incorporates by reference the general objections set forth above.

Subject to and without waiving the foregoing objections, Respondent denies this request for admission.

REQUEST NUMBER 132:

Admit that Respondent failed to declare amounts received for providing the Disputed Services as income on Respondent's 2007 Federal Income Tax Returns.

RESPONSE TO REQUEST NO. 132:

Respondent incorporates by reference the general objections set forth above.

Subject to and without waiving the foregoing objections, Respondent denies this request for admission.

REQUEST NUMBER 133:

Admit that Respondent failed to declare amounts received for providing the Disputed Services as income on Respondent's 2008 Federal Income Tax Returns.

RESPONSE TO REQUEST NO. 133:

Respondent incorporates by reference the general objections set forth above.

Subject to and without waiving the foregoing objections, Respondent denies this request for admission.

REQUEST NUMBER 134:

Admit that Respondent failed to declare amounts received for providing the Disputed Services on Respondent's 2002 California Income Tax Returns.

RESPONSE TO REQUEST NO. 134:

Respondent incorporates by reference the general objections set forth above.

Subject to and without waiving the foregoing objections, Respondent denies this request for admission.

REQUEST NUMBER 135:

Admit that Respondent failed to declare amounts received for providing the Disputed Services on Respondent's 2003 California Income Tax Returns.

RESPONSE TO REQUEST NO. 135:

Respondent incorporates by reference the general objections set forth above.

Subject to and without waiving the foregoing objections, Respondent denies this request for admission.

REQUEST NUMBER 136:

Admit that Respondent failed to declare amounts received for providing the Disputed Services on Respondent's 2004 California Income Tax Returns.

RESPONSE TO REQUEST NO. 136:

Respondent incorporates by reference the general objections set forth above.

Subject to and without waiving the foregoing objections, Respondent denies this request for admission.

REQUEST NUMBER 137:

Admit that Respondent failed to declare amounts received for providing the Disputed Services on Respondent's 2005 California Income Tax Returns.

RESPONSE TO REQUEST NO. 137:

Respondent incorporates by reference the general objections set forth above.

Subject to and without waiving the foregoing objections, Respondent denies this request for admission.

REQUEST NUMBER 138:

Admit that Respondent failed to declare amounts received for providing the Disputed Services on Respondent's 2006 California Income Tax Returns.

RESPONSE TO REQUEST NO. 138:

Respondent incorporates by reference the general objections set forth above.

Subject to and without waiving the foregoing objections, Respondent denies this request for admission.

REQUEST NUMBER 139:

Admit that Respondent failed to declare amounts received for providing the Disputed Services on Respondent's 2007 California Income Tax Returns.

RESPONSE TO REQUEST NO. 139:

Respondent incorporates by reference the general objections set forth above.

Subject to and without waiving the foregoing objections, Respondent denies this request for admission.

REQUEST NUMBER 140:

Admit that Respondent failed to declare amounts received for providing the Disputed Services on Respondent's 2008 California Income Tax Returns.

RESPONSE TO REQUEST NO. 140:

Respondent incorporates by reference the general objections set forth above.

Subject to and without waiving the foregoing objections, Respondent denies this request for admission.

REQUEST NUMBER 141:

Admit that Respondent has not claimed a Federal Income Tax deduction for advertising expenses related to the performance of the Disputed Services in connection with the ENTELLECT Mark on any income tax return filed subsequent to May 1, 2002.

RESPONSE TO REQUEST NO. 141:

Respondent incorporates by reference the general objections set forth above.

Subject to and without waiving the foregoing objections, Respondent admits this request for admission.

REQUEST NUMBER 142:

Admit that Respondent does not have in her possession, custody or control any non-privileged documents responsive to Petitioner's First Request for Production to Respondent (served on October 5, 2009) that have not been produced to Petitioner.

RESPONSE TO REQUEST NO. 142:

Respondent incorporates by reference the general objections set forth above.

Subject to and without waiving the foregoing objections, Respondent denies this request for admission because other documents may be uncovered by a more thorough search or may be discovered.

REQUEST NUMBER 143:

Admit that Surjit P. Soni does not have in his possession, custody or control any non-privileged documents responsive to Petitioner's First Request for Production to Respondent (served on October 5, 2009) that have not been produced to Petitioner.

RESPONSE TO REQUEST NO. 143:

Respondent incorporates by reference the general objections set forth above.

Subject to and without waiving the foregoing objections, Respondent is without knowledge and information to be able to respond to this request for admission and therefore denies it.

REQUEST NUMBER 144:

Admit that Respondent's Affiliates do not have in their possession, custody or control any non-privileged documents responsive to Petitioner's First Request for Production to Respondent (served on October 5, 2009) that have not been produced to Petitioner.

RESPONSE TO REQUEST NO. 144:

Respondent incorporates by reference the general objections set forth above.

Subject to and without waiving the foregoing objections, Respondent has made a reasonable inquiry and the information known or readily obtainable by Respondent is insufficient to enable Respondent to admit or deny this request

REQUEST NUMBER 145:

Admit that Respondent has abandoned the ENTELLECT Mark.

RESPONSE TO REQUEST NO. 145:

Respondent incorporates by reference the general objections set forth above.

1 **REQUEST NO. 31:**

2 ALL DOCUMENTS CONCERNING any search, analysis OR investigation
3 in connection with RESPONDENT'S MARK.

4
5 **REQUEST NO. 32:**

6 ALL DOCUMENTS CONCERNING transactions OR COMMUNICATIONS between
7 YOU AND anyone other than RESPONDENT that refer to RESPONDENT'S
8 MARK.

9
10 **REQUEST NO. 33:**

11 ALL DOCUMENTS CONCERNING YOUR advertising, marketing AND other
12 promotional expenditures CONCERNING YOUR MARK since YOUR MARK'S
13 inception.

14
15 **REQUEST NO. 34:**

16 For each of the services listed in YOUR APPLICATIONS, ALL
17 DOCUMENTS CONCERNING the revenues in dollars, on a monthly, bi-
18 monthly, quarterly, annual OR other periodic basis, received by YOU
19 from the sale OR license by YOU of such service, from the DATE(S) OF
20 FIRST USE of YOUR MARK to the present.

21
22 **REQUEST NO. 35:**

23 ALL DOCUMENTS CONCERNING customers lists CONCERNING YOUR
24 services bearing OR otherwise using YOUR MARK.

25
26 **REQUEST NO. 36:**

27 ALL DOCUMENTS SUPPORTING OR tending to SUPPORT market
28 competition OR overlapping MARKETING CHANNELS between YOUR services

1 **INTERROGATORY NO. 13:**

2 For each type of the service described in INTERROGATORY NO. 6,
3 IDENTIFY each geographic area by region OR state in which YOU have
4 provided OR advertised such service in connection with YOUR MARK.

5
6 **INTERROGATORY NO. 14:**

7 IDENTIFY ALL persons who have purchased the services described
8 in INTERROGATORY NO. 6, beginning with the earliest of the DATE(S)
9 OF FIRST USE of YOUR MARK.

10

11 **INTERROGATORY NO. 15:**

12 For each type of service described in INTERROGATORY NO. 6,
13 state the gross revenues in U.S. dollars YOU received from providing
14 such service on an annual basis from the year each such service was
15 first offered under YOUR MARK to the present.

16

17 **INTERROGATORY NO. 16:**

18 For the services described in INTERROGATORY NO. 6, describe any
19 period of time since inception of YOUR MARK when YOU discontinued
20 use of YOUR MARK in connection with such services, including any
21 FACTS SUPPORTING the circumstances AND reasons for each
22 discontinuation, including IDENTIFICATION of the date and location
23 of any resumption of use, including IDENTIFICATION of any FACTS
24 SUPPORTING the circumstances AND reasons for each resumption of use.

25

26 **INTERROGATORY NO. 17:**

27 IDENTIFY ALL service mark AND trademark (trade mark)
28 applications, whether with the USPTO OR with any U.S. state OR

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

In re: Registration No. 3,009,990
Trademark: ENTELLECT
Registered November 1, 2005

INTELLECT TECHNICAL SOLUTIONS, INC.

Petitioner,

v.

MILENA SONI,

Respondent.

Cancellation No.: 92050920

**RESPONSE BY PETITIONER
TO RESPONDENT'S FIRST SET OF INTERROGATORIES**

Petitioner Intellect Technical Solutions, Inc. ("Petitioner"), responds and objects as follows to Respondent's First Set of Interrogatories to Petitioner, served on December 24, 2009:

Preliminary Statement

Petitioner responds to these interrogatories, preserving:

- A. All objections and/or questions as to competency, relevancy, materiality, privilege and admissibility as evidence for any purpose with regard to the response or the subject matter thereof, in any proceeding of this action or any action;
- B. The right to object to the use of any said responses or the subject matter thereof, in any proceeding in this or any other action;
- C. The right to object on any ground at any time to a demand for further responses to these or any other Interrogatories; and

INTERROGATORY NO. 11:

State YOUR annual OR monthly (if annual OR monthly sales are not available, provide quarterly OR other periodic basis) expenditures, in U.S. dollars, for each of the ADVERTISING OUTLETS for advertising or promoting the services described in INTERROGATORY NO. 6, beginning with the earliest of the DATE(S) OF FIRST USE of YOUR MARK.

Answer:

See enclosed copies of Petitioner's Profit and Loss Statements for 1998-2009. Note that these documents are highly confidential and subject to the Confidentiality Agreement between the parties and having an effective date of January 5, 2010.

INTERROGATORY NO. 12:

IDENTIFY AND describe in detail YOUR MARKETING CHANNELS for the services described in INTERROGATORY NO. 6.

Answer:

Petitioner objects to this Interrogatory as being vague and ambiguous but, to the extent understood, directs Respondent's attention to the response to Interrogatory 10.

INTERROGATORY NO. 13:

For each type of the service described in INTERROGATORY NO. 6, IDENTIFY each geographic area by region OR state in which YOU have provided OR advertised such service in connection with YOUR MARK.

Answer:

The services have been promoted nationwide.

INTERROGATORY NO. 14:

IDENTIFY ALL persons who have purchased the services described in INTERROGATORY NO. 6, beginning with the earliest of the DATE(S) OF FIRST USE of YOUR MARK.

Answer:

See the attached listing of persons who have purchased the services described. Note that these documents are Trade Secret/Commercially Sensitive and subject to the Confidentiality Agreement between the parties and having an effective date of January 5, 2010.

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

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4

5	INTELLECT TECHNICAL SOLUTIONS,)
6	INC.,) Cancellation
7	Petitioner,) No.92050920
8	vs.) VOLUME I
9	MILENA SONI,)
10	Respondent.)
11)

12
13

14 Deposition of MILENA SONI, taken
15 at 350 West Colorado Boulevard,
16 Pasadena, California, commencing at
17 9:00 A.M., Tuesday, February 9, 2010,
18 before Harry Hansen, CSR No. 4907.

19
20
21
22

23 PAGES 1 - 152

24 PAGES 109-152 ARE CONFIDENTIAL AND

EXHIBIT E

25 BOUND UNDER SEPARATE COVER

1 Q. So what specifically do you do for the
2 company Entellect?

3 A. Very little.

4 MR. SONI: Asked and answered.

5 BY MR. BLEEKER:

6 Q. Specifically what do you do?

7 A. Refer. Just tell the people, whoever I
8 come in contact, I tell them about this. And
9 whoever I socially I meet that I think might
10 benefit, I -- I let them know and do referrals.

11 Q. Other than tell people about the business,
12 is there anything else you do for the business?

13 A. No.

14 Q. When you communicate to people about the
15 business, is it always in person, like
16 person-to-person communication?

17 A. Not always.

18 Q. What other forms of communication --

19 A. On the phone.

20 Q. Anything else?

21 A. Sometimes indirectly I've told somebody,
22 and like I told you, told somebody indirectly.

23 Q. So you'll tell somebody and they will tell
24 somebody else?

25 A. Sometimes.