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

Proceeding	92050920
Party	Defendant Soni, Milena
Correspondence Address	SURJIT P SONI THE SONI LAW FIRM 35 N LAKE AVENUE , SUITE 720 PASADENA, CA 91101 UNITED STATES surj@sonilaw.com, woosoon@sonilaw.com, ron@sonilaw.com
Submission	Defendant's Notice of Reliance
Filer's Name	Ronald E. Perez/
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Signature	/Ronald E. Perez/
Date	03/31/2011
Attachments	Respondents 3rd notice of reliance.Final.pdf (32 pages)(2024384 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,) CANCELLATION NO.: 92050920
v.)
)
MILENA SONI)
)
Respondent.)
_____)

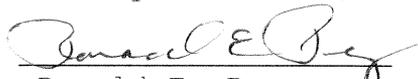
RESPONDENT'S THIRD NOTICE OF RELIANCE

RESPONDENT, Milena Soni, ("SONI") hereby submits this Notice of Reliance in accordance with 37 C.F.R. § 2.120, *et seq.* and 37 C.F.R. § 2.122, *et seq.* The following, the copy of which is attached hereto, is designated and made part of the record of the instant proceeding.

1. SONI Exhibit No. 9: RESPONDENT's First Set of Request for Production to PETITIONER, and PETITIONER's response thereto, pursuant to 37 C.F.R. § 2.120(j).

Dated: March 31, 2011

Respectfully submitted,

By: 
Ronald E. Perez
Woo Soon Choe
Attorneys for RESPONDENT,
Milena Soni

INTELLECT TECHNICAL SOLUTIONS, INC.

v.

MILENA SONI

CANCELLATION NO. 92050920

SONI Exhibit No. 9

1 PLEASE READ THE FOLLOWING DEFINITIONS AND INSTRUCTIONS
2 CAREFULLY; THEY APPLY TO ALL REQUESTS IN THIS CASE
3

4 DEFINITIONS

5 A. As referred to herein, the terms "PETITIONER," "YOU",
6 "YOUR", and "YOURS" mean not only Petitioner Intellect Technical
7 Solutions, Inc. but also any predecessors in title or interest to,
8 and any persons who are, or were at any time to which the claims
9 involved in this case relate, in control or otherwise associated
10 with any of the foregoing, as well as any divisions or subsidiaries,
11 and attorneys, agents, employees, salesmen or representatives of any
12 of the foregoing, whether independent contractors, agents, or
13 otherwise, including all persons purporting to act on behalf of
14 Intellect Technical Solutions, Inc. "YOU" also includes any and all
15 businesses, entities, partnerships, organizations or associations in
16 which any of the foregoing have control.

17 B. The term "RESPONDENT" refers to Registrant Milena Soni in
18 this proceeding, and all other persons acting on her behalf or at
19 her direction or control, including her employees, agents,
20 representatives and her attorneys.

21 C. The term "DOCUMENTS" herein includes, by way of example,
22 but not by way of limitation, the following items, whether sketched,
23 written, typed, printed, recorded, transcribed, punched, filmed or
24 reproduced by any process that is or has been in the possession,
25 control, care or custody of YOU, namely: notes, handwritten or
26 otherwise; correspondence; communications of any nature including
27 internal company communications, oral or otherwise; telegrams;
28 memoranda; summaries or records of personal conversations; diaries;

1 reports; schedules; calendars; working papers; studies;
2 publications; tape recordings; pictures or other recorded matter;
3 specifications; charts; plans; graphs; drawings; photographs; price
4 lists; indices; computer disks, tapes, CD's, DVD's and other
5 electronic recording devices; data sheets; data cards; minutes or
6 records of meetings including directors' meetings; reports and/or
7 summaries of interviews; opinions of counsel; agreements; reports or
8 summaries of negotiations; publications; brochures; pamphlets;
9 advertisements; circulars; trade letters; press releases; writings;
10 graphs; records; data compilations; drafts of documents and
11 revisions of drafts of documents and notes; check stubs; canceled
12 checks; invoices; statements; ledgers; every copy of such writing or
13 records where the original is or is not in the possession, care,
14 custody or control of YOU; and every copy of such writing or record
15 where such copy is not an identical copy of an original or where
16 such copy contains any commentary or notation whatsoever that does
17 not appear in the original. "DOCUMENTS" further includes all things
18 within the meaning of Fed. R. Civ. P., Rule 34(a), and "writings,"
19 "recordings" and "photographs," whether "original" or "duplicate,"
20 within the meaning of Fed. R. Evid., Rule 1001.

21 D. The word "CONCERNING" includes evidencing, embodying,
22 containing, pertaining to, referring to, alluding to, responding to,
23 relating to, connected with, commenting on, with respect to, about,
24 regarding, discussing, showing, describing, effecting, analyzing
25 and/or constituting.

26 E. "COMMUNICATION" means the act or fact of communicating
27 between or among any persons, including in-person conversations,
28 telephone conversations, letters, memoranda, notes, summaries,

1 photographs, audiotapes, videotapes, or other materials or memorials
2 of communication, meetings or occasion of joint or mutual presence,
3 as well as transfer of any document or writing from one person to
4 another.

5 F. "FACTS" means all circumstances, events and evidence
6 pertaining to or concerning the item in question.

7 G. "SUPPORTING" means tending to prove, establish or
8 corroborate.

9 H. "CANCELLATION" means the Petition for Cancellation filed
10 by YOU in this proceeding, namely Cancellation No. 92050920 in the
11 United States Patent and Trademark Office before the Trademark Trial
12 and Appeal Board, and all of the allegations therein.

13 I. "ANSWER" means the document filed in this action entitled
14 "Respondent's Answer to Petition for Cancellation."

15 J. "AND," as well as "OR" shall be construed either
16 disjunctively or conjunctively; the term "INCLUDING" means
17 "including but not limited to"; the word "ALL" means "any and all;
18 the past tense shall include the present tense; the single shall be
19 deemed to include the plural and vice versa, all as is necessary to
20 bring within the scope of these requests all matters which might
21 otherwise be construed to be outside their scope.

22 K. The designation "USPTO" means the United States Patent and
23 Trademark Office.

24 L. The term "RESPONDENT'S MARK" means the mark that is the
25 subject of RESPONDENT'S United States ("U.S.") Registration No.
26 3,009,990 for the ENTELLECT mark, issuing from the USPTO application
27 having serial No. 76/539,434.

28 M. The term "RESPONDENT'S REGISTRATION" means the issued

1 USPTO trademark application designated with Registration No.
2 3,009,990.

3 N. The term "YOUR APPLICATIONS" means the USPTO trademark
4 Applications Nos. 77/363,060 AND 77/957,757.

5 O. The term "YOUR MARK" means the trademark that is the
6 subject of U.S. Trademark Applications Nos. 77/363,060 AND
7 77/957,757.

8 P. The term "TRADEMARK SEARCH" refers to any LISTING or
9 evaluation of trademarks and/or service marks in YOUR possession,
10 custody or control, including such listings in the possession,
11 custody or control of YOUR attorneys. A "LISTING" means a
12 recordation of information including one or more marks.

13 Q. The term "DATE(S) OF FIRST USE" refers to the earliest
14 date of use of a trademark or service mark by the first sale of a
15 product or service in conjunction with the mark, as well as any
16 other date on which such use of such a mark was recommenced after
17 use of the mark was discontinued for more than one month.

18 R. The term "INSTANCES OF ACTUAL CONFUSION" means any
19 event(s) in which a consumer or potential consumer ("CUSTOMER") of a
20 product or service of a party to this proceeding behaved in a manner
21 that suggested the CUSTOMER believed a product or service came from
22 one of the parties to this proceeding, when in fact the product or
23 service came from the other party to this proceeding.

24 S. The term "MARKETING CHANNELS" means the means in the
25 marketplace by which YOU sell and distribute YOUR products and
26 services using a trademark or service mark, including but not
27 limited to internet web sites, particular retail stores, wholesale
28 distributors, mail or delivery service.

REQUESTS FOR PRODUCTION OF DOCUMENTS

REQUEST NO. 1:

ALL DOCUMENTS showing, evidencing OR substantiating ownership by YOU of YOUR MARK.

REQUEST NO. 2:

ALL DOCUMENTS CONCERNING OR showing ownership of any claimed predecessor-in-title to YOUR MARK.

REQUEST NO. 3:

ALL DOCUMENTS CONCERNING creation, conception, selection, adoption, acquisition OR decision by YOU to use YOUR MARK.

REQUEST NO. 4:

ALL DOCUMENTS CONCERNING any searches, surveys, investigations, analyses, research, opinions OR studies by or on behalf of YOU relating to any trademark, service mark, trade name, name, word, design, term OR phrase that includes the term "INTELLECT."

REQUEST NO. 5:

ALL DOCUMENTS including the names of current AND former employees of YOU AND any other persons hired by YOU who were involved in the design, development OR research of YOUR MARK and sales or marketing of any service bearing or otherwise using YOUR MARK.

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1 **REQUEST NO. 6:**

2 ALL DOCUMENTS YOU submitted to, OR received from, the USPTO
3 CONCERNING YOUR APPLICATIONS for registration of YOUR MARK.

4
5 **REQUEST NO. 7:**

6 ALL DOCUMENTS prepared by YOU in an attempt to register YOUR
7 MARK under the laws of any state OR before the USPTO.

8
9 **REQUEST NO. 8:**

10 ALL DOCUMENTS CONCERNING ALL COMMUNICATIONS between YOU AND
11 anybody other than the USPTO CONCERNING YOUR APPLICATIONS for
12 registration of YOUR MARK.

13
14 **REQUEST NO. 9:**

15 ALL DOCUMENTS CONCERNING ALL validity/invalidity opinions OR
16 analyses of YOUR MARK OR RESPONDENT'S MARK that have been prepared
17 by YOU (OR by a third party on behalf of YOU) OR that have been
18 received by YOU.

19
20 **REQUEST NO. 10:**

21 ALL DOCUMENTS CONCERNING any authorization OR license agreement
22 between YOU AND another business entity OR person CONCERNING YOUR
23 MARK.

24
25 **REQUEST NO. 11:**

26 Representative samples of DOCUMENTS CONCERNING advertising
27 conducted by authorized users of YOUR MARK.

1 **REQUEST NO. 12:**

2 Representative samples of DOCUMENTS CONCERNING OR tending to
3 show the amount of money spent by any authorized user of YOUR MARK
4 for promotional activities or advertisements for YOUR MARK.

5
6 **REQUEST NO. 13:**

7 ALL DOCUMENTS SUPPORTING YOUR contention in paragraph 14 of the
8 CANCELLATION that "Petitioner has been using its INTELLECT as a
9 service mark and trade name for recruiting and placement services
10 since at least as early as December 31, 1997".

11
12 **REQUEST NO. 14:**

13 For each of the services listed in YOUR APPLICATIONS, ALL
14 DOCUMENTS CONCERNING the DATE OF FIRST USE of YOUR MARK anywhere AND
15 ALL DOCUMENTS CONCERNING the DATE OF FIRST USE of YOUR MARK in
16 interstate commerce in the United States in connection with such
17 service.

18
19 **REQUEST NO. 15:**

20 For each of the services listed in YOUR APPLICATIONS, ALL
21 DOCUMENTS, other than requested in REQUEST NO. 14, CONCERNING YOUR
22 first use of YOUR MARK anywhere AND YOUR first use of YOUR MARK in
23 interstate commerce in the United States in connection with such
24 service.

25
26 **REQUEST NO. 16:**

27 ALL COMMUNICATIONS between YOU AND anybody CONCERNING YOUR
28 first use of YOUR MARK anywhere, YOUR first use of YOUR MARK in

1 interstate commerce in the United States, AND the respective DATES
2 OF FIRST USE claimed by YOU.

3
4 **REQUEST NO. 17:**

5 All DOCUMENTS CONCERNING any variation of YOUR MARK, OR
6 services upon which such variation(s) were used, including, but not
7 limited to, invoices, advertisements, promotional materials,
8 brochures, labels, tags, packaging, containers, point of sale
9 displays, trademark searches, surveys AND studies.

10
11 **REQUEST NO. 18:**

12 Representative samples of DOCUMENTS CONCERNING YOUR current use
13 of YOUR MARK in connection with the services listed in YOUR
14 APPLICATIONS.

15
16 **REQUEST NO. 19:**

17 Representative samples of DOCUMENTS sufficient to identify each
18 of YOUR marketing channels through which YOU market the services
19 listed in YOUR APPLICATIONS.

20
21 **REQUEST NO. 20:**

22 Representative samples of DOCUMENTS CONCERNING market research
23 conducted by YOU OR on behalf of YOU in connection with YOUR MARK,
24 including, but not limited to, surveys OR statistics showing YOUR
25 target consumers.

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1 **REQUEST NO. 21:**

2 Representative samples of DOCUMENTS sufficient to identify each
3 class of purchasers OR consumers of YOUR services offered in
4 connection with YOUR MARK.

5
6 **REQUEST NO. 22:**

7 ALL DOCUMENTS CONCERNING studies, tests, ratings OR surveys in
8 connection with quality AND performance of YOUR services bearing OR
9 otherwise using YOUR MARK.

10
11 **REQUEST NO. 23:**

12 Representative samples of DOCUMENTS CONCERNING advertising,
13 promoting OR marketing of YOUR MARK in connection with the services
14 listed in YOUR APPLICATIONS since the DATES OF FIRST USE claimed by
15 YOU to the present, including but not limited to, brochures, point
16 of sale displays, invoices, internet web materials, service
17 catalogs, newsletters, emails, internal company memorandums,
18 newspaper articles, magazine AND trade journal articles, radio AND
19 television advertisements, OR other advertisement or promotional
20 materials whether in print or electronic versions.

21
22 **REQUEST NO. 24:**

23 ALL DOCUMENTS CONCERNING ALL presentations provided by YOU at
24 seminars OR other meetings, including offline OR online via the
25 Internet, showing OR otherwise referring to YOUR MARK.

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1 **REQUEST NO. 25:**

2 ALL DOCUMENTS CONCERNING exhibits OR displays OR other OR
3 promotional materials used by YOU at any conference OR trade show,
4 showing OR otherwise referring to YOUR MARK.

5
6 **REQUEST NO. 26:**

7 ALL DOCUMENTS CONCERNING information provided to the press OR
8 news media CONCERNING YOUR services bearing OR otherwise using YOUR
9 MARK.

10
11 **REQUEST NO. 27:**

12 ALL news reports, articles from magazines, newspapers, trade
13 journals OR other published materials from the press, news media OR
14 any medium CONCERNING OR referencing to YOUR MARK OR any service
15 bearing OR otherwise using YOUR MARK.

16
17 **REQUEST NO. 28:**

18 ALL DOCUMENTS CONCERNING displays AND signs bearing OR
19 otherwise using YOUR MARK.

20
21 **REQUEST NO. 29:**

22 ALL COMMUNICATIONS CONCERNING YOUR MARK.

23
24 **REQUEST NO. 30:**

25 ALL DOCUMENTS CONCERNING YOUR first knowledge of RESPONDENT'S
26 MARK.

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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 bearing OR otherwise using YOUR MARK AND RESPONDENT'S services
2 bearing or otherwise using RESPONDENT'S MARK.

3

4 **REQUEST NO. 37:**

5 ALL DOCUMENTS CONCERNING analyses, research, reports AND
6 summaries of the markets for services bearing OR otherwise using
7 YOUR MARK.

8

9 **REQUEST NO. 38:**

10 ALL DOCUMENTS CONCERNING any future plans by YOU to expand YOUR
11 sales OR marketing of services bearing OR otherwise using YOUR MARK
12 to service categories other than the services listed in YOUR
13 APPLICATIONS.

14

15 **REQUEST NO. 39:**

16 ALL DOCUMENTS CONCERNING any past, pending OR potential
17 litigation, legal disputes OR governmental adversarial proceedings
18 (including, but not limited to, court OR administrative proceedings)
19 in which YOU were OR are a party anywhere in the world CONCERNING
20 YOUR MARK.

21

22 **REQUEST NO. 40:**

23 ALL DOCUMENTS CONCERNING any objection raised to YOUR use OR
24 registration of YOUR MARK by any third party.

25

26 **REQUEST NO. 41:**

27 ALL DOCUMENTS CONCERNING any cease and desist letter OR other
28 COMMUNICATION CONCERNING a claim of infringement of, OR by, YOUR

1 MARK.

2

3 **REQUEST NO. 42:**

4 ALL DOCUMENTS CONCERNING YOUR policies regarding retention,
5 storage, filing AND destruction of documents and things.

6

7 **REQUEST NO. 43:**

8 ALL DOCUMENTS CONCERNING any efforts to enforce the rights in
9 YOUR MARK against any third person OR third party.

10

11 **REQUEST NO. 44:**

12 ALL DOCUMENTS SUPPORTING (OR refuting) any instances of any
13 actual source confusion (OR possible source confusion) between YOUR
14 MARK AND RESPONDENT'S MARK.

15

16 **REQUEST NO. 45:**

17 ALL DOCUMENTS SUPPORTING (OR refuting) a likelihood of source
18 confusion between YOUR MARK AND RESPONDENT'S MARK.

19

20 **REQUEST NO. 46:**

21 ALL DOCUMENTS CONCERNING any objection made by YOU to the use
22 by others of marks believed OR alleged by YOU to be confusingly
23 similar to YOUR MARK.

24

25 **REQUEST NO. 47:**

26 ALL DOCUMENTS identified in, reviewed OR relied upon in the
27 preparation of YOUR Responses to RESPONDENT'S First Set of
28 Interrogatories concurrently served herewith.

1 **REQUEST NO. 48:**

2 ALL DOCUMENTS, other than those produced in response to the
3 preceding REQUESTS, that YOU may OR intend to use in support of YOUR
4 position in the instant CANCELLATION proceeding.

5

6 **REQUEST NO. 49:**

7 ALL DOCUMENTS IDENTIFYING ALL persons YOU intend to OR may call
8 as witnesses in support of YOUR position in the instant CANCELLATION
9 proceeding.

10

11 **REQUEST NO. 50:**

12 Representative samples of DOCUMENTS CONCERNING YOUR use of YOUR
13 MARK in connection with any Internet website, including, but not
14 limited to, the first use of YOUR MARK on OR within an Internet
15 website.

16

17 **REQUEST NO. 51:**

18 ALL COMMUNICATIONS sent OR received by YOU CONCERNING the
19 instant CANCELLATION proceeding.

20

21 **REQUEST NO. 52:**

22 If YOUR response to any of RESPONDENT's First Set of Requests
23 for Admission concurrently served herewith is anything other than an
24 unqualified admission, then produce ALL DOCUMENTS SUPPORTING the

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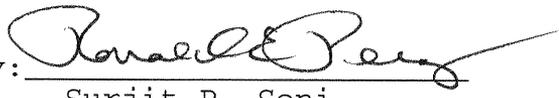
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1 FACTS upon which YOU base YOUR response for each such request for
2 admission categorized by request for admission number.

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Dated: December 24, 2009

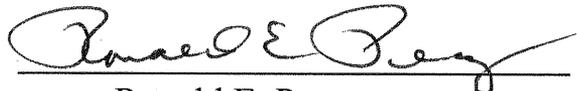
THE SONI LAW FIRM

By: 
Surjit P. Soni
Ronald E. Perez
WooSoon Choe
Attorneys for Respondent
Milena Soni

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the foregoing document entitled **RESPONDENT'S FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS TO PETITIONER** was served upon the Petitioner via First-Class Mail on this 24th day of December 2009, as follows:

William G. Giltinan
Carlton Fields, P.A.
P.O. Box 3239
Tampa, FL 33601-3239



Ronald E. Perez

**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 RESPONSE TO RESPONDENT'S FIRST SET OF
REQUESTS FOR PRODUCTION**

Petitioner INTELLECT TECHNICAL SOLUTIONS, INC. (hereinafter "Intellect"), by and through its undersigned counsel, hereby provides its responses to Respondent's Request for Production of Documents.

Preliminary Statement

Intellect, responds to these requests, 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 requests; and

D. The right at any time to revise, correct, add to or clarify any of the responses submitted herein; and

E. Intellect reserves the right to interpose additional objections at such time as further responses are provided.

F. Certain documents may be produced in a form that indicates that certain information has been redacted. Information may be redacted on the grounds that the matter (a) is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence or (b) is protected from discovery by the attorney/client privilege, work product doctrine, or other applicable privileges.

G. Petitioner has not fully completed its investigation of matters in this case and has not completed preparation for trial. The responses herein reflect on the present state of Petitioner's discovery regarding the documents that Respondent has requested and represent Petitioner's reasonable efforts to provide the information requested. Except as otherwise stated below, an objection to a specific request does not imply the documents responsive to these specific requests exist. Petitioner expressly reserves the right to rely upon at any time, including trial, subsequently discovered information or information omitted from these responses as a result of mistake, error, oversight, or inadvertence.

H. Production of any document is not intended as, and shall not be deemed to be, a waiver of any objection set forth herein. On the contrary, Respondent expressly reserves the right to raise any applicable objection at any time. Moreover, the inadvertent production of documents protected from discovery by the attorney-client privilege, work product doctrine or some other applicable privilege shall not constitute a waiver of such privileges with respect to those or any other documents. In the event that inadvertent production occurs, Petitioner shall promptly return

all inadvertently produced documents to Respondent upon request, and shall make no use of the contents thereof nor premise any further discovery on information learned therefrom.

General Objection

1. Intellect objects to Respondent's Request for Production of Documents to the extent the requests seek information that is the subject of privileged communications between attorney and client or that is protected by Fed. R. Civ. P. 26(b)(3) or (4), or both. Even where an objection as to privilege is not specifically raised in a response, all of Intellect's responses to Respondent's Request for Production of Documents are subject to withholding of such protected information and, by making these responses, Intellect is not waiving or failing to assert any privilege available to it.

2. Intellect objects to Respondent's Requests to the extent that they seek to impose upon Intellect any obligation greater than that imposed by Rule 26(e), Fed. R. Civ. P.

3. Any response herein is not an admission of relevance, materiality, or admissibility of the information provided and Intellect expressly reserves all objections regarding relevance, materiality and admissibility thereof.

4. Intellect objects to each of the requests to the extent that it requires Intellect to obtain and produce information generated by a person over whom Intellect does not exercise control on the grounds that the requests exceed the permissible scope of discovery.

5. Intellect objects to each of the requests to the extent that it is vague, ambiguous, overly broad or otherwise lacks sufficient precision to permit a reasonable response.

6. Intellect objects to each of the requests to the extent that it seeks information irrelevant to the issues in this case and is not reasonably calculated to lead to the discovery of admissible evidence.

7. Intellect objects to each of the requests to the extent that it seeks information that is confidential, trade secret or otherwise proprietary in nature not covered by a protective order in this proceeding.

8. Petitioner objects to the entire set of document requests to the extent that it seeks documents that are equally available to both Parties.

9. Petitioner objects to Respondent's document production request insofar as they seek documents not in Petitioner's possession, custody or control.

10. Petitioner objects to Respondent's attempt to create definitions of words devoid of any common sense or rational basis. Specifically, Petitioner objects to any attempt by Respondent to construe "and" as disjunctive or to construe "or" as conjunctive and objects to any attempt to defining the past tense as including the present tense, and shall respond to these requests with "and" being construed conjunctively, with "or" being construed disjunctively, and with the tenses of verbs being construed as indicated on their respective faces.

Responses and Objections

Subject to each of the general objections stated above, Intellect specifically responds and objects to each of Respondent's Request for Production of Documents. The various pleadings and exhibits of record are incorporated by reference herein and are therefore not specifically listed as responses to each of the requests. The paragraph numbers used below correspond to the paragraph numbers used in Respondent's Request for Production of Documents.

Responses to Requests for Production of Documents

1. Petitioner objects to Respondent's Request No. 1 as burdensome and overbroad. Notwithstanding such objection, Petitioner will produce non-privileged, relevant documents responsive to this request.

2. None
3. Petitioner will produce non-privilege, relevant documents.
4. Petitioner objects to Respondent's Request No. 4 as burdensome and overbroad.

Notwithstanding such objection, Petitioner will produce non-privileged, relevant documents responsive to this request.

5. Petitioner objects to Respondent's Request No. 5 as burdensome, overbroad, and oppressive because it seeks information not relevant to the subject matter of this action and not reasonably calculated to lead to the discovery of admissible evidence. Notwithstanding such objection, Petitioner will produce non-privileged, relevant documents responsive to this request.

6. Petitioner objects to Respondent's Request No. 6 as burdensome and oppressive, as such documents are readily and publicly available to Respondent from the USPTO.

7. Petitioner objects to Respondent's Request No. 7 to the extent that documents requested are subject to the attorney/client privilege and also objects on the basis that non-privileged documents are readily and publicly available from the USPTO.

8. Petitioner objects to Respondent's Request No.8 to the extent that documents requested are subject to the attorney/client privilege. Petitioner has no responsive documents that are not privileged.

9. Petitioner objects to Respondent's Request No. 9 as seeking documents protected under the attorney/client privilege and work product privilege. Petitioner has no responsive documents that are not privileged.

10. To the extent that Petitioner can understand this request, Petitioner has no responsive documents.

11. Petitioner has no responsive documents.

12. Petitioner has no responsive documents.

13. Petitioner will produce non-privileged, relevant documents responsive to this request.

14. Petitioner will produce non-privileged, relevant documents responsive to this request.

15. Petitioner objects to Respondent's Request No. 15 as being vague and overbroad. To the extent that Petitioner can understand this request, it is duplicative of the Request No. 14.

16. Petitioner objects to Respondent's Request No. 16 as being vague and overbroad. To the extent that Petitioner can understand this request, it is duplicative of the Request No. 14.

17. Petitioner objects to Respondent's Request No. 17 as burdensome and overbroad. Notwithstanding such objection, Petitioner will produce non-privileged, relevant documents responsive to this request.

18. Petitioner will produce non-privileged, relevant documents responsive to this request.

19. Petitioner objects to Respondent's Request No. 19 as vague and overbroad. Notwithstanding such objection, Petitioner will produce non-privileged, relevant documents responsive to this request.

20. Petitioner objects to Respondent's Request No. 20 as vague and overbroad. To the extent understood – none.

21. Petitioner objects to Respondent's Request No. 21 as vague and indefinite, as Petitioner has no idea what Respondent means by "class of purchasers or consumers."

22. Petitioner objects to Respondent's Request No. 22 as being vague and overbroad, but will provide non-privileged, relevant documents.

23. Petitioner directs attention to documents submitted to the USPTO in support of Petitioner's application, which documents are readily and publicly available to Respondent. Petitioner will also provide other non-privileged, relevant documents to this request.

24. Petitioner objects to Respondent's Request No. 24 as burdensome and overbroad. Notwithstanding such objection, Petitioner will produce non-privileged, relevant documents responsive to this request.

25. Petitioner objects to Respondent's Request No. 25 as burdensome and overbroad. Notwithstanding such objection, Petitioner will produce non-privileged, relevant documents responsive to this request.

26. Petitioner will produce non-privileged, relevant documents responsive to this request.

27. Petitioner objects to Respondent's Request No. 27 as burdensome and overbroad, in requesting publicly available documents that are as readily available to Respondent as to Petitioner.

28. Petitioner objects to Respondent's Request No. 28 as burdensome and overbroad. Notwithstanding such objection, Petitioner will produce non-privileged, relevant documents responsive to this request

29. Petitioner objects to Respondent's Request No. 29 as vague, ambiguous, overbroad, unduly burdensome and oppressive as being unlimited in time or scope. Notwithstanding such objection, Petitioner will produce non-privileged, relevant documents responsive to this request

30. The requested documents comprise the USPTO official action in that application which is equally available to Respondent.

31. Petitioner objects to Respondent's Request No. 31, as requesting documents covered by the work product privilege. There are no non-privileged documents.

32. Petitioner objects to Respondent's Request No. 32 as vague, ambiguous, overbroad, unduly burdensome and oppressive in that Respondent has not defined the meaning of the term "transaction" and is requesting documents not relevant to this proceeding or reasonably calculated to lead to the discovery of admissible evidence. Notwithstanding such objection, Petitioner will produce non-privileged, relevant documents containing the term "Intellect" sent by James Barge.

33. Petitioner objects to Respondent's Request No. 33 as vague, burdensome and overbroad. Notwithstanding such objection, Petitioner will produce non-privileged, relevant documents responsive to this request

34. Petitioner objects to Respondent's Request No. 34 as vague, ambiguous, and overbroad, in requesting revenues from services that may or may not have been sold or offered in connection with the relevant trademarks. Notwithstanding such objection, Petitioner will produce non-privileged, relevant documents relevant to the sale of such services in connection with Petitioner's mark.

35. Petitioner objects to Respondent's Request No. 35 as vague and ambiguous in requests concerning "services bearing or otherwise using your mark." Petitioner does not understand how services can bear a mark, as services are intangible. Notwithstanding the foregoing objection, Petitioner refers Respondent to Petitioner's response to Respondent's Interrogatory No. 14.

36. Petitioner objects to Respondent's Request No. 36 as vague and ambiguous in that Respondent does not define "market competition" and Petitioner does not know the meaning of

the request for “documents supporting...marketing channels... .” Notwithstanding this objection, Petitioner refers the Respondent to the official actions issued by the USPTO in Petitioner’s applications, which are equally available to Respondent and Petitioner.

37. Petitioner has no record of any such documents.

38. Petitioner objects to Respondent’s Request No. 38 as being irrelevant to this proceeding and not reasonably calculated to lead to the discovery of admissible evidence.

39. None

40. None, except for the present proceeding.

41. None

42. None

43. None

44. None

45. Petitioner refers Respondents to the prosecution file in the Petitioner’s application for registration of the mark “Intellect.”

46. Petitioner is aware of no such objections except as involved in the present proceedings.

47. See the responses to the other requests set forth in Respondent’s First Set of Requests for Production.

48. Petitioner objects to Respondent’s Request No. 48 as oppressive, burdensome and overbroad in failing to define documents being requested and because this request is premature, as discovery has not yet been completed.

49. Petitioner has not completed its discovery and therefore cannot state all persons who may be called by Petitioner as witnesses. Further, Petitioner objects to Respondent’s

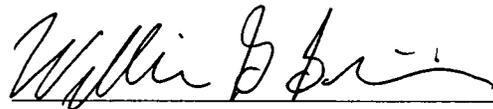
Request No. 49 as oppressive, burdensome and overbroad to the extent that it seeks “all” responsive documents instead of merely representative documents sufficient to show the information specified. Notwithstanding such objection, Petitioner will produce non-privileged, relevant documents responsive to this request. Petitioner refers Respondent to Petitioner’s response to Respondent’s Interrogatory No. 21.

50. Petitioner will produce non-privileged documents responsive to this request.

51. Petitioner objects to Respondent’s Request No. 51 as oppressive, burdensome and overbroad in its request for all communications set or received by Petitioner concerning the instant cancellation proceeding, many of which documents would be completely irrelevant to any issue in the current proceeding and not reasonably calculated to lead to the discovery of admissible evidence. Notwithstanding the foregoing objection, Petitioner identifies communications between Petitioner and its counsel, on the one hand, and Respondent, on the other, and communications with the USPTO in Petitioner’s pending applications, both of which are readily available to Respondent. Other potentially responsive documents are subject to the attorney/client and work product privilege.

52. Petitioner objects to Respondent’s Request No. 52 as oppressive, burdensome and overbroad in that the Request defines no category of documents and no limitations thereon. Notwithstanding such objection, Petitioner refers Respondent to the documents being indentified by Respondent herein.

Date: 1/28/2010



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Tampa, FL 33601-3239
(813) 223-7000
Attorney for Petitioner

CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing Petitioner's Response to Respondent's First Set of Requests for Production on respondent's counsel at the following addresses:

Surjit P. Soni
Ronald E. Perez
Woo Soon 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 January 28, 2010.

Dated: January 28, 2010



William G. Giltinan

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the foregoing document entitled **RESPONDENT'S THIRD NOTICE OF RELIANCE AND SONI EXHIBIT NO. 9** were served upon the PETITIONER via email transmission and USPS First Class Mail on this 31st day of March 2011, as follows:

William Giltinan
Carlton Fields, P.A.
PO Box 3239
Tampa FL 33601-3239
tgiltinan@carltonfields.com

By: 
Lauren P. Coyle