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

Proceeding	92051659
Party	Plaintiff Nowlan Family Trust
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Submission	Motion to Compel Discovery
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Signature	/John J. O'Malley/
Date	12/30/2010
Attachments	Motion to Compel.pdf (69 pages)(3026221 bytes)

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

In the Trademark Cancellation of

Mark: BUCK ROGERS
Registration No.: 714,184
Registered: April 18, 1961

Cancellation No. 92051659

Date: December 30, 2010

-and-

Mark: BUCK ROGERS
Registration No.: 1,555,871
Registered: September 12, 1989

Nowlan Family Trust,
Petitioner,

v.

Dille Family Trust,
Registrant.

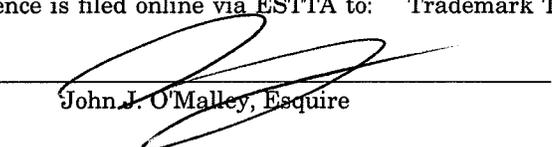
PETITIONER'S MOTION TO COMPEL DISCOVERY

Petitioner, Nowlan Family Trust, (hereinafter "Petitioner"), pursuant to Trademark Rule 37 C.F.R. § 2.120(e) and Rule 37 of the Federal Rules of Civil Procedure, hereby moves the Trademark Trial and Appeal Board (hereinafter "Board") for an order compelling Registrant, Dille Family Trust (hereinafter "Registrant") to (i) produce all documents responsive to Petitioner's First Set of

* * *
Certificate of Filing

I hereby certify that this correspondence is filed online via ESTTA to: Trademark Trial and Appeal Board on 12/30/2010.

12/30/10
Date of Signature
1471355-2


John J. O'Malley, Esquire

Document Requests; and (ii) produce all documents previously identified by Registrant as responsive to Petitioners First Set of Interrogatories. ¹

I. Statement of Facts

1. On January 4, 2010, Petitioner served its First Set of Document Requests and First Set of Interrogatories. O'Malley Decl. ¶ 2.

2. On February 8, 2010, Registrant served its Responses to Petitioner's First Set of Document Requests and First Set of Interrogatories². O'Malley Decl. ¶ 2.

2. On June 4, 2010, Petition filed a Motion to Compel Discovery with regard to Petition's first and second set of discovery requests. O'Malley Decl. ¶ 3.

3. On November 22, 2010, the Board issued an Order denying in part and granting in part Petitioner's Motion to Compel. O'Malley Decl. ¶ 4.

4. On November 24, 2010, Petitioner's counsel sent a letter to Registrant's counsel requesting a date to expect production of documents previously identified as responsive to Petitioner's First Set of Document Requests and Interrogatories. O'Malley Decl. ¶ 5.

5. On December 6, 2010, Petitioner's counsel sent a follow up letter to Registrant's counsel requesting a meet and confer regarding Petitioner's November 24, 2010 correspondence. O'Malley Decl. ¶ 6.

¹ In support of Petitioner's Motion to Compel Discovery, Petitioner submits the Declaration of John J. O'Malley, which is incorporated herein by reference (hereinafter "O'Malley Decl. ¶ ____").

² Copies of Registrant's Responses which show both the requests and responses are attached as Exhibits A and B to the O'Malley Declaration.

6. On December 13, 2010, the parties' held a telephone conference. O'Malley Decl. ¶ 7.

7. On December 15, 2010, Petitioner's counsel sent a letter to Registrant's counsel agreeing to meet for a settlement conference provided Registrant produces documents previously identified as responsive to Petitioner's First Set of Document Requests and Interrogatories. O'Malley Decl. ¶ 8.

8. On December 16, 2010, Registrant's counsel sent an email advising that it would not agree to a settlement conference if it was required to produce documents. On that same date, Petitioner's counsel responded that the documents needed to be produced. O'Malley Decl. ¶ 9.

9. To date, Petitioner's counsel has not received a response to its email and has not received a single document responsive to its request served almost one year ago on January 4, 2010. O'Malley Decl. ¶ 10.

II. ARGUMENT

A. Petitioner Complied with Trademark Rule 2.120(e)

As set forth in the accompanying Declaration of John J. O'Malley, Petitioner has made a good faith effort to resolve the discovery disputes presented herein as required by 37 C.F.R. §2.120(e). Registrant has failed to resolve these issues and has successfully denied Petitioner its right to previously identified responsive documents. As such, Petitioner seeks an order from the Board compelling Registrant to comply with its duties and obligations under the rules of discovery

and produce documents responsive to Petitioner's First Set of Document Requests and First Set of Interrogatories.

As noted previously, Petitioner first served its First Set of Document Requests and First Set of Interrogatories on January 4, 2010. Petitioner has repeatedly requested that the responsive documents be produced. To date, not a single document has been produced by Registrant.

By its dilatory conduct and failure to respond to Petitioner's lawful discovery, Registrant has prevented Petitioner from effectively moving forward to a determination of the merits. Further, Petitioner will be prejudiced by such blatant non-cooperation and non-production in its efforts to prepare for trial in this matter, unless Registrant is compelled by the Board to produce all documents responsive to Petitioner's First Set of Document Requests and First Set of Interrogatories.³

Petitioner believes that this matter may be best resolved via a telephone conference with the Board.

III. CONCLUSION

For the foregoing reasons, Petitioner respectfully requests that this motion be granted in its entirety and that the Board:

1. Compel Registrant, within 15 days of the mailing date of its Order herein, to provide any and all documents previously identified as responsive to Petitioner's First Set of Document Requests and First Set of Interrogatories

³ Based on the Board's prior November 22, 2010 Order, Petitioner understands that any document produced will be subject to objection and reserves the right to challenge any such objection once it has the opportunity to review the document production.

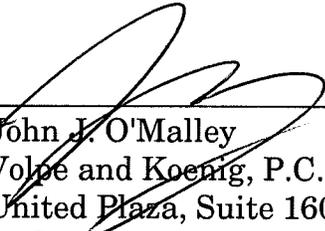
at the offices of Volpe and Koenig P.C., located at 30 South 17th Street,
Philadelphia, PA 19103.

2. Provide any further relief favorable to Petitioner that the Board deems just.

Respectfully submitted,

Nowlan Family Trust,

Dated: 12/30/10

By 
John J. O'Malley
Volpe and Koenig, P.C.
United Plaza, Suite 1600
30 South 17th Street
Philadelphia, PA 19103
Telephone: 215-568-6400
Facsimile: 215-568-6499
Attorney for Petitioner

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

In the Trademark Cancellation of

Mark: BUCK ROGERS
Registration No.: 714,184
Registered: April 18, 1961

Cancellation No. 92051659

Date: December 30, 2010

-and-

Mark: BUCK ROGERS
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Nowlan Family Trust,
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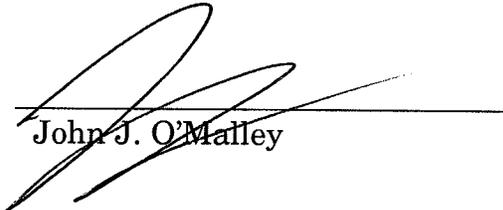
CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing, Petitioner's Motion to Compel Discovery, was served on Registrant and Registrant's counsel as follows:

Maurice B. Pilosof, Esq.
1925 Century Park East, Suite 2300
Los Angeles, CA 90067
Via e-mail and first class mail

Date:

12/30/10



John J. O'Malley

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

In the Trademark Cancellation of

Mark: BUCK ROGERS
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Mark: BUCK ROGERS
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Nowlan Family Trust,
Petitioner,

v.

Dille Family Trust,
Registrant.

**DECLARATION OF JOHN J. O'MALLEY IN SUPPORT OF PETITIONER'S
MOTION TO COMPEL DISCOVERY**

I, John J. O'Malley, do hereby declare and state as follows:

1. I am a shareholder at the law firm of Volpe and Koenig P.C., counsel for Petitioner, Nowlan Family Trust (hereinafter "Petitioner") in the above captioned matter. I submit this Declaration along with documents attached for purposes of providing information and identifying exhibits in support of Petitioner's Motion to Compel Discovery.

2. On January 4, 2010 Petitioner served its First Request for Production of Documents, First Request for Admissions and First Set of Interrogatories on

Registrant. Registrant served its responses on February 2, 2010. True and accurate copies of Registrant's Responses to Petitioner's First Set of Interrogatories and First Request for Production of Documents are attached hereto as Exhibits A and B.

3. On June 4, 2010, Petition filed a Motion to Compel Discovery with regard to Petition's first and second set of discovery requests.

4. On November 22, 2010, the Board issued an Order denying in part and granting in part Petitioner's Motion to Compel.

5. On November 24, 2010, Petitioner's counsel sent a letter to Registrant's counsel requesting a date to expect production of documents previously identified as responsive to Petitioner's First Set of Document Requests and Interrogatories. Attached hereto as Exhibit C is a true and correct copy of the November 24, 2010 correspondence.

6. On December 6, 2010, Petitioner's counsel sent a follow up letter to Registrant's counsel requesting a meet and confer regarding Petitioner's November 24, 2010 correspondence. Attached hereto as Exhibit D is a true and correct copy of the December 6, 2010 correspondence.

7. On December 13, 2010, the parties' held a telephone conference to discuss the document production and the possibility of settlement.

8. On December 15, 2010, Petitioner's counsel sent a letter to Registrant's counsel agreeing to meet for a settlement conference provided Registrant produces documents previously identified as responsive to Petitioner's First Set of Document

Requests and Interrogatories. Attached hereto as Exhibit E is a true and correct copy of the December 15, 2010 correspondence.

9. On December 16, 2010, Registrant's counsel sent an email advising that it would not agree to a settlement conference if it was required to produce documents. On that same date, Petitioner's counsel responded that the documents needed to be produced. Attached hereto as Exhibit F are true and correct copies of the December 16, 2010 e-mail correspondence.

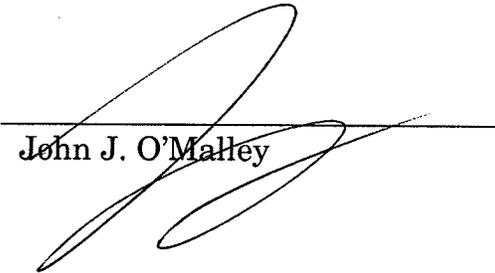
10. As of the date of this motion, Petitioner has not received a response from Registrant to the December 16, 2010 correspondence and Registrant has not produced a single responsive document.

11. Petitioner has made a good faith effort to resolve with Registrant the issues presented in the accompanying Motion to Compel Discovery.

Pursuant to 28 U.S.C. ¶1746, I, John J. O'Malley, further declare under penalty of perjury that all statements made herein based on my own personal knowledge are true and that all statements made on information and belief are believed to be true.

Date:

12/30/10



John J. O'Malley

EXHIBIT A

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

NOWLAN FAMILY TRUST,

Petitioner,

v.

THE DILLE FAMILY TRUST,

Registrant.

Cancellation No. 92051659

**REGISTRANT THE DILLE FAMILY TRUST'S RESPONSES TO
PETITIONER'S FIRST SET OF DOCUMENT REQUESTS**

Pursuant to Rules 26 and 34 of the Federal Rules of Civil Procedure, Registrant The Dille Family Trust ("Registrant") hereby responds and objects to Petitioner's First Set of Document Requests (the "Requests") as follows:

DEFINITIONS

1. "Burdensome" when used in an objection means that the Request exposes Registrant to undue burden or expense in relation to its likely benefit, taking into account the needs of the proceeding, the party's resources, the importance of the issues at stake in the proceeding, and the importance of the proposed discovery in resolving the issues. *See* Fed. R. Civ. P. 26(b)(2)(iii).

2. "Duplicative" or "Duplicativeness" when used in an objection means that the Request is unreasonably cumulative or duplicative or that the requested documents can be obtained from some other source that is more convenient, less burdensome, or less expensive. *See* Fed. R. Civ. P. 26(b)(2)(i).

3. “Irrelevant” or “Irrelevance” when used in an objection means that the Request is not reasonably calculated to lead to the discovery of admissible or relevant evidence. *See* Fed. R. Civ. P. 26(b)(1).

4. “Overbroad” or “Overbreadth” when used in an objection means that the Request is not reasonably particular, or seeks documents merely tangential to the matters at issue in the case, or is not limited to a particular time period or geographic region.

5. “Privilege” or “Privileged” when used in an objection means that the requested documents are protected by the attorney-client or attorney work product privilege.

6. “Vague” or “Vagueness” when used in an objection means that the wording of the Request is objectionable as vague and/or ambiguous including, without limitation, due to use of undefined terms.

GENERAL OBJECTIONS

Registrant objects to the Requests generally as follows:

1. Registrant objects to each Request as Overbroad, Unduly Burdensome and Irrelevant insofar as it is unlimited as to time, particularly given that Registrant’s challenged registrations were issued nearly fifty years ago and twenty years ago, respectively and, further, that Registrant and its predecessors in interest have used the BUCK ROGERS mark on a wide variety of goods and services for more than eighty years. Given the vast time span of such use, many persons with knowledge of Registrant’s use are now deceased and some of the historical evidence of Registrant’s use is difficult to locate. Subject to and without waiving the foregoing objections, Registrant will provide responses to the Requests generally limited to conduct that occurred on or

after January 1, 1994 with respect to Registrant's use of Registrant's Mark in connection with board games and since January 1, 1999 with respect to Registrant's use of Registrant's Mark in connection with newspaper comic strips.

2. Registrant objects to the definition of "Registrant" as Overbroad, Irrelevant and Unduly Burdensome to the extent that it includes various entities and individuals who did not file the challenged registrations and are not parties to this proceeding. Subject to and without waiving the foregoing objections, Registrant will construe the term "Registrant," to include only the Dille Family Trust and its trustees.

3. Registrant objects to the definition of "Registrant's Products" as Overbroad, Irrelevant and Unduly Burdensome to the extent it applies to products that are not identified in the challenged registrations. Subject to and without waiving the foregoing objections, Registrant will construe the term "Registrant's Products" to include only the goods that are identified in the challenged registrations.

4. Registrant objects to the Requests and their Instructions and Definitions on the grounds that they are Burdensome, Irrelevant and Overbroad to the extent that they purport to impose obligations on Registrant beyond those required by the applicable rules.

5. Registrant objects to the Requests to the extent that they seek Privileged documents.

6. Registrant objects to the Requests on the grounds that they are Burdensome, Irrelevant and Overbroad to the extent that they seek documents concerning any of Registrant's activities outside of the United States. Unless otherwise noted, all answers and responses are limited to activities within the United States.

7. Registrant objects to the Instructions and Definitions and each Request as Burdensome, Duplicative, Irrelevant and Overbroad to the extent that they Request the production of “any,” “each” or “all” documents of a specific nature or type, when a limited amount of such documents will provide the requested information.

8. Registrant’s responses and objections to the Requests are without prejudice to, and Registrant does not waive, any evidentiary objections relating thereto.

9. Where Registrant has objected on the grounds that a Request is Burdensome, Duplicative and/or Overbroad, it may nevertheless provide documents that it considers to be sufficient for the purposes of the proceeding with respect to the subject of the Request.

10. Any inadvertent production of Privileged documents shall not be intended or deemed to be a waiver of any Privilege pertaining to any Request or the subject matter thereof.

11. Registrant has not concluded its investigation of the facts relating to this proceeding or completed formal discovery or preparation for trial. Accordingly, there may exist documents responsive to the Requests that Registrant does not yet have knowledge of or has not yet located, identified or reviewed. All the following responses are therefore based on such information as is currently known or available to Registrant after a reasonable inquiry. Upon further investigation, Registrant reserves the right to alter, amend or supplement its responses.

12. Registrant reserves its right to make available for inspection evidence of any subsequently discovered facts or fact, to alter or amend its objections and responses set forth herein, and otherwise to assert factual and legal contentions as additional facts

are ascertained, analyses are made, and legal research is completed. Registrant objects to each Request to the extent that it purports to limit or restrict Registrant's right to rely upon any documents for any purpose whatsoever, including, but not limited to, the use of responsive documents or information as evidence at any subsequent hearing, trial or other proceeding.

13. Nothing contained in any response to any Request shall be construed as an admission by Registrant relative to the existence or non-existence of any documents or information, and no such response shall be construed as an admission respecting the relevance or admissibility of any document or information, or the truth or accuracy of any statement or characterization contained in any Request.

RESPONSES

Document Request No. 1:

Any and all documents referring, reflecting or relating to applications or other documents filed with the United States Patent and Trademark Office by Registrant for or related to trademark or service mark registrations in the United States or any variation of Registrant's Marks, either alone or in combination with any other words or symbols.

Response to Document Request No. 1:

Registrant objects to this Request as Overbroad, Irrelevant and Unduly Burdensome to the extent it requests documents relating to products that are not identified in the challenged registrations and to applications and registrations that are not at issue in this proceeding. Subject to and without waiving the foregoing objections, Registrant will make available for inspection responsive documents in its possession, custody or control relating to Registrant's Registrations.

Document Request No. 2:

Any and all documents referring, reflecting, reflecting or relating to Registrant's applications or registration for the BUCK ROGERS mark, either alone or in combination with any other words or symbols, throughout the world.

Response to Document Request No. 2:

Registrant objects to this Request as Duplicative, Overbroad, Irrelevant and Unduly Burdensome to the extent it requests documents relating to products that are not identified in the challenged registrations and to applications and registrations that are not at issue in this proceeding. Subject to and without waiving the foregoing objections, Registrant will make available for inspection responsive documents in its possession, custody or control relating to Registrant's Registrations.

Document Request No. 3:

Any and all documents that refer or relate to the derivation, commercial impression, connotation, meaning and/or message intended by Registrant through its use or intended use in commerce of Registrant's Marks in the United States, including but not limited to surveys, studies, research, reports, or investigations.

Response to Document Request No. 3:

Registrant objects to this Request as Irrelevant.

Document Request No. 4:

Any and all documents that refer or relate to the derivation, commercial impression, connotation, meaning and/or message perceived by United States consumers observing, otherwise learning of or becoming aware of Registrant's Marks including but not limited to, surveys, studies, research, reports or investigations.

Response to Document Request No. 4:

Registrant objects to this Request as Irrelevant.

Document Request No. 5:

Any and all documents that describe, refer to, comment on, or otherwise relate to any third party use in commerce of the Registrant's Marks.

Response to Document Request No. 5:

Registrant objects to this Request as Overbroad, Irrelevant and Unduly Burdensome to the extent it requests documents relating to products that are not identified in the challenged registrations and to the extent it requests production of "all" specified documents. Subject to and without waiving the foregoing objections, Registrant will make available for inspection responsive documents in its possession, custody or control relating to Registrant's use of Registrant's Mark in connection with the goods identified in Registrant's Registrations.

Document Request No. 6:

Any and all documents relating or referring to products sold under the Registrant's Marks in the United States.

Response to Document Request No. 6:

Registrant objects to this Request as Overbroad, Irrelevant and Unduly Burdensome to the extent it requests documents relating to products that are not identified in the challenged registrations and to the extent it requests production of "all" specified documents. Subject to and without waiving the foregoing objections, Registrant will make available for inspection responsive documents in its possession,

custody or control relating to Registrant's use of Registrant's Mark in connection with the goods identified in Registrant's Registrations.

Document Request No. 7:

Any and all documents relating or referring to United States distributors for Registrant's Products.

Response to Document Request No. 7:

Registrant objects to this Request as Overbroad, Irrelevant and Unduly Burdensome to the extent it requests documents relating to products that are not identified in the challenged registrations and to the extent it requests production of "all" specified documents. Subject to and without waiving the foregoing objections, Registrant will make available for inspection responsive documents in its possession, custody or control relating to Registrant's use of Registrant's Mark in connection with the goods identified in Registrant's Registrations.

Document Request No. 8:

Any and all documents relating or referring to United States manufacturers for Registrant's Products.

Response to Document Request No. 8:

Registrant objects to this Request as Overbroad, Irrelevant and Unduly Burdensome to the extent it requests documents relating to products that are not identified in the challenged registrations and to the extent it requests production of "all" specified documents. Subject to and without waiving the foregoing objections, Registrant will make available for inspection responsive documents in its possession,

custody or control relating to Registrant's use of Registrant's Mark in connection with the goods identified in Registrant's Registrations.

Document Request No. 9:

Any and all documents, brochures, invoices, advertisements or any writing whatsoever upon which Registrant relies to establish date(s) of first use in commerce in the United States for each of Registrant's Marks and Registrant's Registrations.

Response to Document Request No. 9:

Registrant objects to this Request as Overbroad, Irrelevant and Unduly Burdensome to the extent it requests documents relating to products that are not identified in the challenged registrations and to the extent it requests production of "all" specified documents. Subject to and without waiving the foregoing objections, Registrant will make available for inspection responsive documents in its possession, custody or control relating to Registrant's use of Registrant's Mark in connection with the goods identified in Registrant's Registrations, to the extent such documents are still extant and reasonably accessible given the passage of time since Registrant's date of first use. (*See* General Objection No. 1.)

Document Request No. 10:

Any and all documents, brochures, invoices, advertisements or any writing whatsoever upon which Registrant relies to establish continuous use in commerce in the United States for each of Registrant's Marks.

Response to Document Request No. 10:

Registrant objects to this Request as Overbroad, Irrelevant and Unduly Burdensome to the extent it requests documents relating to products that are not

identified in the challenged registrations and to the extent it requests production of “all” specified documents. Subject to and without waiving the foregoing objections, Registrant will make available for inspection responsive documents in its possession, custody or control relating to Registrant’s use of Registrant’s Mark in connection with the goods identified in Registrant’s Registrations.

Document Request No. 11:

Any and all documents relating or referring to the channels of trade in the United States for Registrant’s Products.

Response to Document Request No. 11:

Registrant objects to this Request as Overbroad, Irrelevant and Unduly Burdensome to the extent it requests documents relating to products that are not identified in the challenged registrations and to the extent it requests production of “all” specified documents. Subject to and without waiving the foregoing objections, Registrant will make available for inspection responsive documents in its possession, custody or control relating to Registrant’s use of Registrant’s Mark in connection with the goods identified in Registrant’s Registrations.

Document Request No. 12:

Any and all documents that refer or relate to the class or type of consumer or prospective consumer of Registrant’s products offered or intended to be offered for sale in the United States in connection with Registrant’s Marks.

Response to Document Request No. 12:

Registrant objects to this Request as Irrelevant.

Document Request No. 13:

Any and all documents that refer or relate to the sale or promotion in interstate commerce or Registrant's Products.

Response to Document Request No. 13:

Registrant objects to this Request as Overbroad, Irrelevant and Unduly Burdensome to the extent it requests documents relating to products that are not identified in the challenged registrations and to the extent it requests production of "all" specified documents. Subject to and without waiving the foregoing objections, Registrant will make available for inspection responsive documents in its possession, custody or control relating to Registrant's use of Registrant's Mark in connection with the goods identified in Registrant's Registrations.

Document Request No. 14:

Specimens of each label, tag, trade dress, or package ever used in commerce in the United States in connection with the offering of Registrant's Products.

Response to Document Request No. 14:

Registrant objects to this Request as Overbroad, Irrelevant and Unduly Burdensome to the extent it requests documents relating to products that are not identified in the challenged registrations. Subject to and without waiving the foregoing objections, and in accordance with the limitations set forth in General Objection No. 1, Registrant will make available for inspection responsive documents in its possession, custody or control relating to Registrant's use of Registrant's Mark in connection with the goods identified in Registrant's Registrations.

Document Request No. 15:

Any and all documents relating to any of Registrant's Products that are intended to be sold in the United States within the next year.

Response to Document Request No. 15:

Registrant objects to this Request as Overbroad, Irrelevant and Unduly Burdensome to the extent it requests documents relating to products that are not identified in the challenged registrations and to the extent it requests production of "all" specified documents. Subject to and without waiving the foregoing objections, Registrant will make available for inspection responsive documents in its possession, custody or control relating to Registrant's use of Registrant's Mark in connection with the goods identified in Registrant's Registrations.

Document Request No. 16:

Any and all documents that refer to, relate to or concern the registrability of the Registrant's Marks in the United States.

Response to Document Request No. 16:

Registrant objects to this Request as Irrelevant.

Document Request No. 17:

Any and all documents that concern, refer or relate to a likelihood of confusion or any instances of actual confusion between Registrant's Marks and any other party's marks resulting from the actual or prospective use in commerce of Registrant's Marks.

Response to Document Request No. 17:

Registrant objects to this Request as Overbroad, Irrelevant and Unduly Burdensome to the extent it requests documents relating to products that are not

identified in the challenged registrations. Registrant further objects to this Request as Vague to the extent it requests documents concerning “prospective” use in commerce of Registrant’s Marks by unnamed parties. Subject to and without waiving the foregoing objections, Registrant will make available for inspection responsive documents in its possession, custody or control relating to Registrant’s use of Registrant’s Mark in connection with the goods identified in Registrant’s Registrations.

Document Request No. 18:

All documents relied upon in preparing the Section 8 Declaration filed with the Renewal Application for U.S. Registration No. 714,184.

Response to Document Request No. 18:

Registrant objects to this Request as Overbroad, Irrelevant and Unduly Burdensome to the extent it requests production of “all” specified documents. Subject to and without waiving the foregoing objections, Registrant will make available for inspection responsive documents in its possession, custody or control, to the extent such documents are still extant and reasonably accessible given the passage of time since the identified Section 8 Declaration was filed.

Document Request No. 19:

All documents relied upon in preparing the Section 8 Declaration filed for U.S. Registration No. 1,555,871.

Response to Document Request No. 19:

Registrant objects to this Request as Overbroad, Irrelevant and Unduly Burdensome to the extent it requests production of “all” specified documents. Subject to

and without waiving the foregoing objections, Registrant will make available for inspection responsive documents in its possession, custody or control, to the extent such documents are still extant and reasonably accessible given the passage of time since the identified Section 8 Declaration was filed.

Document Request No. 20:

Any and all documents that refer to, in any manner, any license or possible license of the Registrant's Marks for use in commerce in the United States.

Response to Document Request No. 20:

Registrant objects to this Request as Overbroad, Irrelevant and Unduly Burdensome to the extent it requests documents relating to products that are not identified in the challenged registrations and to the extent it requests production of "all" specified documents. Subject to and without waiving the foregoing objections, Registrant will make available for inspection responsive documents in its possession, custody or control relating to Registrant's licensing of Registrant's Mark for use in connection with the goods identified in Registrant's Registrations.

Document Request No. 21:

Any and all documents concerning, referring or relating to any policing by Registrant of third party use in commerce or Registrant's Marks or variants thereof.

Response to Document Request No. 21:

Registrant objects to this Request as Overbroad, Irrelevant and Unduly Burdensome to the extent it requests documents relating to products that are not identified in the challenged registrations and to the extent it requests production of "all" specified documents. Subject to and without waiving the foregoing objections,

Registrant will make available for inspection responsive documents in its possession, custody or control relating to Registrant's use of Registrant's Mark in connection with the goods identified in Registrant's Registrations.

Document Request No. 22:

Any and all documents that refer to, in any manner, any assignment or possible assignment of the Registrant's Marks.

Response to Document Request No. 22:

Registrant objects to this Request as Overbroad, Irrelevant and Unduly Burdensome to the extent it requests production of "all" specified documents. Subject to and without waiving the foregoing objections, Registrant will make available for inspection responsive documents in its possession, custody or control.

Document Request No. 23:

Any organizations chart(s) for Registrant and any subsidiaries, divisions and other affiliates or related companies of Registrant.

Response to Document Request No. 23:

There are no documents responsive to this Request.

Document Request No. 24:

Any and all documents referring to or relating to payments made by third parties to Registrant for use in commerce of Registrant's Marks in the United States.

Response to Document Request No. 24:

Registrant objects to this Request as Overbroad, Irrelevant and Unduly Burdensome to the extent it requests documents relating to products that are not identified in the challenged registrations and to the extent it requests production of "all"

specified documents. Subject to and without waiving the foregoing objections, Registrant will make available for inspection responsive documents in its possession, custody or control relating to Registrant's use of Registrant's Mark in connection with the goods identified in Registrant's Registrations.

Document Request No. 25:

Any and all documents that evidence or refer to marketing of Registrant's Marks in the United States.

Response to Document Request No. 25:

Registrant objects to this Request as Overbroad, Irrelevant and Unduly Burdensome to the extent it requests documents relating to products that are not identified in the challenged registrations and to the extent it requests production of "all" specified documents. Subject to and without waiving the foregoing objections, Registrant will make available for inspection responsive documents in its possession, custody or control relating to Registrant's use of Registrant's Mark in connection with the goods identified in Registrant's Registrations.

Document Request No. 26:

Any and all documents that relate to the fame, distinctiveness and recognition of Registrant's Marks.

Response to Document Request No. 26:

Registrant objects to this Request as Irrelevant.

Document Request No. 27:

Any and all business or marketing plans or meeting minutes that refer or relate to Registrant's Marks.

Response to Document Request No. 27:

Registrant objects to this Request as Overbroad, Irrelevant and Unduly Burdensome to the extent it requests documents relating to products that are not identified in the challenged registrations and to the extent it requests production of “all” specified documents. Subject to and without waiving the foregoing objections, Registrant will make available for inspection responsive documents in its possession, custody or control, if any, relating to Registrant’s use of Registrant’s Mark in connection with the goods identified in Registrant’s Registrations.

Document Request No. 28:

Any and all documents concerning, referring or relating to Registrant’s use in commerce in the United States of Registrant’s Marks.

Response to Document Request No. 28:

Registrant objects to this Request as Overbroad, Irrelevant and Unduly Burdensome to the extent it requests documents relating to products that are not identified in the challenged registrations and to the extent it requests production of “all” specified documents. Subject to and without waiving the foregoing objections, Registrant will make available for inspection responsive documents in its possession, custody or control relating to Registrant’s use of Registrant’s Mark in connection with the goods identified in Registrant’s Registrations.

Document Request No. 29:

Any and all documents that Registrant relied upon in preparing its answer to the Petition to Cancel in this matter.

Response to Document Request No. 29:

Registrant objects to this Request as Overbroad, Irrelevant and Unduly Burdensome to the extent it requests documents relating to products that are not identified in the challenged registrations and to the extent it requests production of “all” specified documents. Subject to and without waiving the foregoing objections, Registrant will make available for inspection responsive documents in its possession, custody or control.

Document Request No. 30:

Any and all documents not otherwise produced in accordance with a specific request herein which were identified or relied upon by Registrant in its Answers to Petitioner’s Requests.

Response to Document Request No. 30:

Registrant objects to this Request as Overbroad, Irrelevant and Unduly Burdensome to the extent it requests documents relating to products that are not identified in the challenged registrations and to the extent it requests production of “all” specified documents. Subject to and without waiving the foregoing objections, Registrant will make available for inspection responsive documents in its possession, custody or control.

Document Request No. 31:

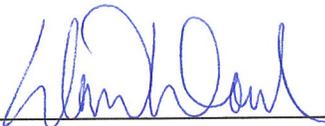
Any and all documents Registrant now or hereafter has relied on or intends to rely on in this opposition proceeding.

Response to Document Request No. 31:

Registrant objects to this Request as Overbroad, Irrelevant and Unduly Burdensome to and as violative of T.B.M.P. § 414(7).

Dated: New York, New York
February 8, 2010

FROSS ZELNICK LEHRMAN & ZISSU, P.C.

By: 
David Donahue

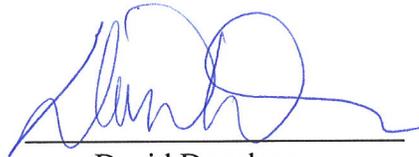
866 United Nations Plaza
New York, New York 10017
(212) 813-5900
ddonahue@fzlz.com

Attorneys for Registrant The Dille Family Trust

CERTIFICATE OF SERVICE

The undersigned counsel for Registrant The Dille Family Trust hereby certifies that a true and correct copy of the attached REGISTRANT THE DILLE FAMILY TRUST'S RESPONSES TO PETITIONER'S FIRST SET OF DOCUMENT REQUESTS was served by First Class Mail, postage prepaid, on counsel for Petitioner on February 8, 2010 by mailing the same to the following address:

John J. O'Malley
Volpe and Koeing, P.C.
30 S. 17th Street - United Plaza
Philadelphia, PA 19103



David Donahue

EXHIBIT B

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

NOWLAN FAMILY TRUST,

Petitioner,

v.

THE DILLE FAMILY TRUST,

Registrant.

Cancellation No. 92051659

**REGISTRANT THE DILLE FAMILY TRUST'S RESPONSES TO
PETITIONER'S FIRST SET OF INTERROGATORIES**

Pursuant to Rules 26 and 33 of the Federal Rules of Civil Procedure, Registrant The Dille Family Trust ("Registrant") hereby responds and objects to Petitioner's First Set of Interrogatories (the "Interrogatories") as follows:

DEFINITIONS

1. "Burdensome" when used in an objection means that the Interrogatory exposes Registrant to undue burden or expense in relation to its likely benefit, taking into account the needs of the proceeding, the party's resources, the importance of the issues at stake in the proceeding, and the importance of the proposed discovery in resolving the issues. *See* Fed. R. Civ. P. 26(b)(2)(iii).

2. "Duplicative" or "Duplicativeness" when used in an objection means that the Interrogatory is unreasonably cumulative or duplicative or that the requested information can be obtained from some other source that is more convenient, less burdensome, or less expensive. *See* Fed. R. Civ. P. 26(b)(2)(i).

3. “Irrelevant” or “Irrelevance” when used in an objection means that the Interrogatory is not reasonably calculated to lead to the discovery of admissible or relevant evidence. *See* Fed. R. Civ. P. 26(b)(1).

4. “Overbroad” or “Overbreadth” when used in an objection means that the Interrogatory is not reasonably particular, or seeks information merely tangential to the matters at issue in the case, or is not limited to a particular time period or geographic region.

5. “Privilege” or “Privileged” when used in an objection means that the requested information is protected by the attorney-client or attorney work product privilege.

6. “Vague” or “Vagueness” when used in an objection means that the wording of the Interrogatory is objectionable as vague and/or ambiguous including, without limitation, due to use of undefined terms.

GENERAL OBJECTIONS

Registrant objects to the Interrogatories generally as follows:

1. Registrant objects to each Interrogatory as Overbroad, Unduly Burdensome and Irrelevant insofar as it is unlimited as to time, particularly given that Registrant’s challenged registrations were issued nearly fifty years ago and twenty years ago, respectively and, further, that Registrant and its predecessors in interest have used the BUCK ROGERS mark on a wide variety of goods and services for more than eighty years. Given the vast time span of such use, many persons with knowledge of Registrant’s use are now deceased and some of the historical evidence of Registrant’s use is difficult to locate. Subject to and without waiving the foregoing objections, Registrant

will provide responses to the Interrogatories generally limited to conduct that occurred on or after January 1, 1990.

2. Registrant objects to the definition of “Registrant” as Overbroad, Irrelevant and Unduly Burdensome to the extent that it includes various entities and individuals who did not file the challenged registrations and are not parties to this proceeding. Subject to and without waiving the foregoing objections, Registrant will construe the term “Registrant,” to include only the Dille Family Trust and its trustees.

3. Registrant objects to the definition of “Registrant’s Products” as Overbroad, Irrelevant and Unduly Burdensome to the extent it applies to products that are not identified in the challenged registrations. Subject to and without waiving the foregoing objections, Registrant will construe the term “Registrant’s Products” to include only the goods that are identified in the challenged registrations.

4. Registrant objects to the Interrogatories and their Instructions and Definitions on the grounds that they are Burdensome, Irrelevant and Overbroad to the extent that they purport to impose obligations on Registrant beyond those required by the applicable rules.

5. Registrant objects to the Interrogatories to the extent that they seek Privileged information.

6. Registrant objects to the Interrogatories on the grounds that they are Burdensome, Irrelevant and Overbroad to the extent that they seek documents concerning any of Registrant’s activities outside of the United States. Unless otherwise noted, all answers and responses are limited to activities within the United States.

7. Registrant objects to the Instructions and Definitions and each Interrogatory as Burdensome, Duplicative, Irrelevant and Overbroad to the extent that they Interrogatory the production of “any,” “each” or “all” information of a specific nature or type, when a limited amount of such information will provide the requested information.

8. Registrant’s responses and objections to the Interrogatories are without prejudice to, and Registrant does not waive, any evidentiary objections relating thereto.

9. Where Registrant has objected on the grounds that an Interrogatory is Burdensome, Duplicative and/or Overbroad, it may nevertheless provide information that it considers to be sufficient for the purposes of the proceeding with respect to the subject of the Interrogatory.

10. Any inadvertent production of Privileged documents shall not be intended or deemed to be a waiver of any Privilege pertaining to any Interrogatory or the subject matter thereof.

11. Registrant has not concluded its investigation of the facts relating to this proceeding or completed formal discovery or preparation for trial. Accordingly, there may exist information responsive to the Interrogatories that Registrant does not yet have knowledge of or has not yet located, identified or reviewed. All the following responses are therefore based on such information as is currently known or available to Registrant after a reasonable inquiry. Upon further investigation, Registrant reserves the right to alter, amend or supplement its responses.

12. Registrant reserves its right to make available for inspection evidence of any subsequently discovered facts or fact, to alter or amend its objections and responses

set forth herein, and otherwise to assert factual and legal contentions as additional facts are ascertained, analyses are made, and legal research is completed. Registrant objects to each Interrogatory to the extent that it purports to limit or restrict Registrant's right to rely upon any information for any purpose whatsoever, including, but not limited to, the use of responsive documents or information as evidence at any subsequent hearing, trial or other proceeding.

13. Nothing contained in any response to any Interrogatory shall be construed as an admission by Registrant relative to the existence or non-existence of any documents or information, and no such response shall be construed as an admission respecting the relevance or admissibility of any document or information, or the truth or accuracy of any statement or characterization contained in any Interrogatory.

RESPONSES

Interrogatory No. 1:

Identify each person who had any participation in the participation in the preparation of the answers to these interrogatories and for each person identify the relevant Interrogatory answer(s) by number(s).

Responses to Interrogatory No. 1:

Registrant objects to this Interrogatory insofar as it calls for Privileged information. Subject to the foregoing objections and without waiving the same, Registrant responds as follows

Lorraine Dille Williams and Flint Dille participated in the preparation of the answers to each Interrogatory herein.

Interrogatory No. 2:

Identify all persons who participated in selecting Registrant's Marks.

Responses to Interrogatory No. 2:

Registrant objects to this Interrogatory as Irrelevant and Unduly Burdensome.

Subject to and without waiving the foregoing objections, Registrant responds that John F. Dille selected Registrant's Mark for use on or in connection with a newspaper comic strip and for use on or in connection with board games.

Interrogatory No. 3:

What is the first date of use of Registrant's Marks on goods for sale in interstate commerce in the United States?

Responses to Interrogatory No. 3:

Registrant objects to this Interrogatory as Overbroad, Irrelevant and Unduly Burdensome to the extent it requests information about products that are not identified in the challenged registrations. Subject to and without waiving the foregoing objections, Registrant responds that it first used Registrant's Mark in interstate commerce in the United States on or in connection with a newspaper comic strip at least as early as September 10, 1928 and on or in connection with board games at least as early as the 1930s.

Interrogatory No. 4:

Identify each person having knowledge of Registrant's first date of use in commerce in the United States of Registrant's Marks.

Responses to Interrogatory No. 4:

Registrant objects to this Interrogatory as Overbroad, Irrelevant and Unduly Burdensome to the extent it requests information about products that are not identified in the challenged registrations. Subject to and without waiving the foregoing objections, Registrant responds that the predecessors in interest of Registrant who would have had personal knowledge of Registrant's first use of Registrant's Mark are deceased, as such use occurred more than eighty years ago. Registrant further responds that Lorraine Dille Williams and Flint Dille are persons with knowledge of Registrant's use of Registrant's Mark on or in connection with newspaper comic strips and board games within the relevant time period (*see* General Objection No. 1).

Interrogatory No. 5:

Identify each of Registrant's Products sold, offered for sale, and/or distributed in the United States bearing Registrant's Marks.

Responses to Interrogatory No. 5:

Registrant objects to this Interrogatory as Overbroad, Irrelevant and Unduly Burdensome to the extent it requests information about products that are not identified in the challenged registrations. Subject to and without waiving the foregoing objections, Registrant responds that it has used Registrant's Mark on or in connection with a vast array of goods and services for more than eighty years. Since 1990, Registrant or its licensees have sold, distributed and/or offered the following goods on or in connection with Registrant's Mark: newspaper comic strips, board games, role-playing games, belt buckles, cigarette cases, picture frames, key chains, dolls, figurines, toy rocket pistols, toy action figures, toy rockets, clothing, costumes, trading cards, stationery, coloring books, comic books, graphic novels, fiction books, video games, coin-operated video

game machines, computer games, motion picture films, audio-visual recordings, sound recordings, television programs, and many others.

Respondent further responds that pursuant to Federal Rule of Civil Procedure 33(d), Registrant will make available for inspection non-privileged documents within its possession, custody or control from which additional information requested by this Interrogatory may be derived or ascertained.

Interrogatory No. 6:

For each product identified in response to Interrogatory No. 5, identify the date of first use in commerce.

Responses to Interrogatory No. 6:

Registrant incorporates its objections and response to Interrogatory 3 as if fully restated herein.

Interrogatory No. 7:

For each product identified in response to Interrogatory No. 5, identify the dates of use in commerce.

Responses to Interrogatory No. 7:

Registrant objects to this Interrogatory as Overbroad, Irrelevant and Unduly Burdensome to the extent it requests information about products that are not identified in the challenged registrations. Subject to and without waiving the foregoing objections, Registrant responds that it has used Registrant's Mark on or in connection with a vast array of goods and services for more than eighty years. Within the relevant time period (*see* General Objection No. 1), Applicant entered into master licenses with TSR, Inc. (from 1986-1997) and Walt Disney Pictures (from 1997-2003), as well as more limited

licenses with several other entities. As used below, **Category 1** signifies use of Registrant's Mark in connection with the identified goods during the time period of the TSR, Inc. master license, approximately 1986-1997, **Category 2** signifies use of Registrant's Mark in connection with the identified goods during the time period of the master license to Walt Disney Pictures, approximately 1997-2003, and **Category 3** signifies use of Registrant's Mark in connection with the identified goods in the post-Disney era through the present:

- a. newspaper comic strips—Categories 1-3;
- b. board games—Categories 1 and 3;
- c. role-playing games—Category 1;
- d. belt buckles—Categories 1 and 3;
- e. cigarette cases—Categories 1 and 3;
- f. picture frames—Categories 1 and 3;
- g. key chains—Categories 1 and 3;
- h. dolls—Categories 1-3;
- i. figurines—Categories 1-3;
- j. toy rocket pistols—Categories 1 and 3;
- k. toy action figures—Categories 1 and 3;
- l. comic books—Categories 1 and 3;
- m. fiction books—Category 1;
- n. video games—Categories 1 and 3;
- o. coin-operated video game machines—Category 1;
- p. computer games—Categories 1 and 3;

- q. motion picture films—Categories 1-3;
- r. audio-visual recordings—Categories 1-3;
- s. television programs—Categories 1-3;
- t. toy rockets and vehicles—Categories 1-3;
- u. clothing and costumes—Categories 1 and 3;
- v. trading cards and card games—Categories 1 and 3;
- w. stationery—Categories 1 and 2;
- x. coloring books—Categories 1 and 3; and
- y. graphic novels—Category 1.

Respondent further responds that pursuant to Federal Rule of Civil Procedure 33(d), Registrant will make available for inspection non-privileged documents within its possession, custody or control from which additional information requested by this Interrogatory may be derived or ascertained.

Interrogatory No. 8:

Describe the class(es) of United States customers who have purchased or whom Registrant expects to purchase Registrant's Products.

Responses to Interrogatory No. 8:

Registrant objects to this Interrogatory as Irrelevant.

Interrogatory No. 9:

Identify any additional Registrant's Products that are to be introduced in the United States within the next two (2) years.

Responses to Interrogatory No. 9:

Redacted

Interrogatory No. 10:

With respect to the first date of use in commerce of Registrant's marks as identified in Registrant's Application, identify all documents, brochures, invoices, advertisements or any writing whatsoever upon which Registrant relies upon to establish that date.

Responses to Interrogatory No. 10:

Registrant objects to this Interrogatory as Vague in that "Registrant's Application" is not a defined term and further objects to this Interrogatory as Overbroad, Irrelevant and Unduly Burdensome to the extent it requests information about products that are not identified in the challenged registrations and to the extent it requests disclosure of "all" specified documents. Subject to and without waiving the foregoing objections, Registrant responds that pursuant to Federal Rule of Civil Procedure 33(d), it will make available for inspection non-privileged documents within its possession,

custody or control from which information requested by this Interrogatory may be derived or ascertained.

Interrogatory No. 11:

With respect to any claim by Registrant that goods identified in U.S. Registrant Nos. 714,184 and 1,555,871 have been in continuous use since the first date of use claimed, identify all documents, brochures, invoices, advertisements or any writing whatsoever upon which Registrant relies upon to establish that date.

Responses to Interrogatory No. 11:

Registrant objects to this Interrogatory as Vague and Duplicative of Interrogatory 10, the objections and response to which are hereby incorporated by reference as if fully stated herein. Subject to and without waiving the foregoing objections, Registrant responds that pursuant to Federal Rule of Civil Procedure 33(d), it will make available for inspection non-privileged documents within its possession, custody or control from which information requested by this Interrogatory may be derived or ascertained.

Interrogatory No. 12:

With respect to the first date of use in commerce of Registrant's marks as identified in Interrogatory No. 6, identify all documents, brochures, invoices, advertisements or any advertisements or any writing whatsoever upon which Registrant relies upon to establish that date.

Responses to Interrogatory No. 12:

Registrant objects to this Interrogatory as Overbroad, Irrelevant and Unduly Burdensome to the extent it requests information about products that are not identified in the challenged registrations and to the extent it requests disclosure of "all" specified

documents. Subject to and without waiving the foregoing objections, Registrant responds that pursuant to Federal Rule of Civil Procedure 33(d), it will make available for inspection non-privileged documents within its possession, custody or control from which information requested by this Interrogatory may be derived or ascertained.

Interrogatory No. 13:

If use of Registrant's Mark in the United States has been continuous since the date of first use in commerce, identify all documents, brochures, invoices, advertisements or any writing whatsoever upon which Registrant relies upon to establish that continuous use.

Responses to Interrogatory No. 13:

Registrant objects to this Interrogatory as Overbroad, Irrelevant and Unduly Burdensome to the extent it requests information about products that are not identified in the challenged registrations and to the extent it requests disclosure of "all" specified documents. Subject to and without waiving the foregoing objections, Registrant responds that pursuant to Federal Rule of Civil Procedure 33(d), it will make available for inspection non-privileged documents within its possession, custody or control from which information requested by this Interrogatory may be derived or ascertained.

Interrogatory No. 14:

Identify each person having knowledge of Registrant's claims of continuous use in commerce of Registrant's Marks in the United States.

Responses to Interrogatory No. 14:

Registrant objects to this Interrogatory as Duplicative and as Overbroad, Irrelevant and Unduly Burdensome to the extent it requests information about products

that are not identified in the challenged registrations and to the extent it requests disclosure of “each” person with knowledge. Subject to and without waiving the foregoing objections, Registrant responds that (i) Lorraine Dille Williams and Flint Dille have general knowledge of Registrant’s continuous use of Registrant’s Mark in connection with Registrant’s Products, (ii) Mary L. Winburn, Debbie Poutsch, and Willard Martens have knowledge of Registrant’s use in the 1990s, (iii) Steve Forde of Go Hero LLC has knowledge of Registrant’s current use in connection with action figures and various other merchandise, and (iv) Dan Herman of Hermes Press has knowledge of Registrant’s current use in connection with newspaper comic strips. Registrant further responds that pursuant to Federal Rule of Civil Procedure 33(d), Registrant will make available for inspection non-privileged documents within its possession, custody or control from which information requested by this Interrogatory may be derived or ascertained.

Interrogatory No. 15:

For each of Registrant’s Marks, identify each person who is most knowledgeable about Plaintiff’s sales, advertising, adoption and use in commerce, licensing, acquisition and assignment, past and present trademark controversies, preparation and filing of trademark applications and maintenance of registrations which are associated with Registrant’s Marks.

Responses to Interrogatory No. 15:

Registrant objects to this Interrogatory as Duplicative and as Overbroad, Irrelevant and Unduly Burdensome to the extent it requests information about products that are not identified in the challenged registrations. Subject to and without waiving the

foregoing objections, Registrant responds that (i) Lorraine Dille Williams and Flint Dille are the persons most knowledgeable about each of the several topics set forth in this Interrogatory, (ii) Mary L. Winburn, Debbie Poutsch, and Willard Martens are persons with knowledge of Registrant's use and of Registrant's Marks in the 1990s, (iii) Arthur M. Martin and Eric H. Weimers are persons with knowledge of the trademark applications and maintenance of registrations associated with the challenged registrations, (iv) Steve Forde of Go Hero LLC has knowledge of Registrant's current use in connection with action figures and various other merchandise, and (v) Dan Herman of Hermes Press has knowledge of Registrant's current use in connection with newspaper comic strips.

Interrogatory No. 16:

Identify all applications and registrations owned by Registrant anywhere in the world.

Responses to Interrogatory No. 16:

Registrant objects to this Interrogatory as Irrelevant.

Interrogatory No. 17:

For Registrant's Mark, identify any period during which use in commerce was discontinued and identify the goods and/or services for which use was discontinued.

Responses to Interrogatory No. 17:

Registrant objects to this Interrogatory as Duplicative and as Overbroad, Irrelevant and Unduly Burdensome to the extent it requests information about products that are not identified in the challenged registrations. Subject to and without waiving the foregoing objections, Registrant responds that it never "discontinued" use of Registrant's

Mark; rather, at all times relevant to this proceeding, Registrant either was actively using, licensing others to use, or actively seeking licensees to use Registrant's Mark on or in connection with a wide variety of products.

Interrogatory No. 18:

Identify any time period when Registrant's Marks have not been in continuous use with newspaper comic strips.

Responses to Interrogatory No. 18:

See General Objection No. 1. Subject to and without waiving the foregoing objection, Registrant responds that there has been continuous use of Registrant's Mark on or in connection with newspaper comic strips since at least as early as 1990, including, without limitation, by Spec Productions under license from Registrant, and by Hermes Press, also under license from Registrant.

Interrogatory No. 19:

Identify any time period when Registrant's Marks have not been in continuous use with board games.

Responses to Interrogatory No. 19:

See General Objection No. 1. Subject to and without waiving the foregoing objection, Registrant responds that Registrant's former licensee, TSR, Inc., used Registrant's Mark on or in connection with board games during the late 1980s through 1997, at which time Registrant's license with TSR ended. Copies of TSR's licensed board game are still available for purchase on the internet. From 1997 through 2003, Registrant licensed the right to use Registrant's Mark on or in connection with a major motion picture and a wide variety of motion-picture-related merchandise, including board

games, under a master license to Walt Disney Pictures. From 2004 through the present, Registrant has actively sought new master licensees for Registrant's Mark for use in connection with a wide variety of goods, which would include board games. In 2008, Registrant commenced work on a board game under Registrant's Mark, which was released in 2009.

Interrogatory No. 20:

Describe in detail the demographics or expected demographics of the United States customers and ultimate consumers of Registrant's Products.

Responses to Interrogatory No. 20:

Registrant objects to this Interrogatory as Irrelevant. Registrant further objects to this Interrogatory as Overbroad and Unduly Burdensome to the extent it requests information about products that are not identified in the challenged registrations. Subject to and without waiving the foregoing objections, Registrant responds that Registrant's Products appeal to individuals of all ages.

Interrogatory No. 21:

Describe in detail all channels of trade in which Registrant's Products travel or are expected to travel in the United States.

Responses to Interrogatory No. 21:

Registrant objects to this Interrogatory as Duplicative and as Overbroad, Irrelevant and Unduly Burdensome to the extent it requests information about products that are not identified in the challenged registrations. Subject to and without waiving the foregoing objections, Registrant responds that its newspaper comic strips under Registrant's Mark are offered and/or travel in the following channels of trade: mail

order, the internet, fanzines, hobby shops, comic book stores, and retail book stores.

Registrant further responds that its board games under Registrant's Mark currently are sold on the internet at retail and made available to retail stores and hobby shops for purchase at wholesale.

Registrant further responds that pursuant to Federal Rule of Civil Procedure 33(d), Registrant will make available for inspection non-privileged documents within its possession, custody or control from which information requested by this Interrogatory may be derived or ascertained.

Interrogatory No. 22:

Provide the names of retail store chains where Registrant's Products are or are expected to be offered for sale in the United States.

Responses to Interrogatory No. 22:

Registrant objects to this Interrogatory as Duplicative and as Overbroad, Irrelevant and Unduly Burdensome to the extent it requests information about products that are not identified in the challenged registrations. Subject to and without waiving the foregoing objections, Registrant responds that its products are available for sale at www.gohero.com, www.amazon.com, www.barnesandnoble.com, and www.target.com, to name a few popular online retail stores, and that further information concerning the retail store chains that carry its board games and newspaper comic strips under Registrant's Mark would be in the possession of Registrant's licensees.

Registrant further responds that pursuant to Federal Rule of Civil Procedure 33(d), Registrant will make available for inspection non-privileged documents within its

possession, custody or control from which information requested by this Interrogatory may be derived or ascertained.

Interrogatory No. 23:

Identify all distributors of Registrant's Products in the United States.

Responses to Interrogatory No. 23:

Registrant objects to this Interrogatory as Overbroad, Irrelevant and Unduly Burdensome to the extent it requests information about products that are not identified in the challenged registrations and to the extent it requests disclosure of "all" distributors. Subject to and without waiving the foregoing objections, Registrant responds that Go Hero LLC is a distributor of board games under Registrant's Mark and that Spec Productions and Hermes Press are distributors of newspaper comic strips under Registrant's Mark.

Interrogatory No. 24:

Identify all manufacturers of Registrant's Products in the United States.

Responses to Interrogatory No. 24:

Registrant objects to this Interrogatory as Irrelevant.

Interrogatory No. 25:

Identify each licensee of Registrant's Marks.

Responses to Interrogatory No. 25:

Registrant objects to this Interrogatory as Duplicative and as Overbroad, Irrelevant and Unduly Burdensome to the extent it requests information about products that are not identified in the challenged registrations. Subject to and without waiving the

foregoing objections, Registrant responds that Spec Productions and Hermes Press are its licensees with respect to newspaper comic strips.

Interrogatory No. 26:

Identify each assignment of Registrant's Marks.

Responses to Interrogatory No. 26:

Registrant objects to this Interrogatory as Duplicative and as Overbroad, Irrelevant and Unduly Burdensome to the extent it requests information about products that are not identified in the challenged registrations. Subject to and without waiving the foregoing objections, Registrant responds that pursuant to Federal Rule of Civil Procedure 33(d), Registrant will make available for inspection non-privileged documents within its possession, custody or control from which information requested by this Interrogatory may be derived or ascertained.

Interrogatory No. 27:

Explain in detail the basis for Registrant's claim that it has not abandoned the Registrant's Marks.

Responses to Interrogatory No. 27:

Registrant incorporates by reference its responses to each Interrogatory as if fully stated herein. Registrant further responds that at all times relevant to this proceeding, Registrant either was actively using, licensing others to use, or actively seeking licensees to use Registrant's Mark on or in connection with a wide variety of products, including board games and newspaper comic strips. To the extent there were any periods of non-use of Registrant's Mark on or in connection with a particular product, such periods were the result of the cyclical nature of the licensing business with respect to famous

entertainment characters such as Registrant's BUCK ROGERS character. Registrant always maintained an intention to resume such use, as evidenced by, among other things, its vigorous and substantial past and present licensing activity with respect to Registrant's Mark.

Subject to and without waiving the foregoing objections, Registrant responds that pursuant to Federal Rule of Civil Procedure 33(d), Registrant will make available for inspection non-privileged documents within its possession, custody or control from which additional information requested by this Interrogatory may be derived or ascertained.

Interrogatory No. 28:

Identify all documents which support the allegations and contentions made in Registrant's Answer to the Petition to Cancel filed in this case.

Responses to Interrogatory No. 28:

Registrant objects to this Interrogatory as Overbroad, Irrelevant, Unduly Burdensome and violative of T.B.M.P. § 414(7).

Interrogatory No. 29:

Identify all individuals involved in preparing the Section 8 Declaration filed for Registration No. 1,555,871.

Responses to Interrogatory No. 29:

Registrant objects to this Interrogatory as Overbroad, Irrelevant and Unduly Burdensome to the extent it requests it requests disclosure of "all" individuals involved in preparing the subject Section 8 declaration. Subject to and without waiving the foregoing objections, Registrant responds that the following individuals were involved:

Virginia Nichols Dille;

Arthur M. Martin;

Eric H. Weimers; and

Lorraine Dille Williams

Interrogatory No. 30:

Identify all individuals involved in preparing the Section 8 Declaration filed with the Renewal Application for Registrations No. 714,184.

Responses to Interrogatory No. 30:

Registrant objects to this Interrogatory as Overbroad, Irrelevant and Unduly Burdensome to the extent it requests it requests disclosure of “all” individuals involved in preparing the subject Section 8 declaration. Subject to and without waiving the foregoing objections, Registrant responds that the following individuals were involved:

Virginia Nichols Dille;

Arthur M. Martin;

Eric H. Weimers; and

Lorraine Dille Williams

Interrogatory No. 31:

Identify the individual who is most familiar with the classes of purchasers, channels of trade and distributors in the United States for Registrant’s Products.

Responses to Interrogatory No. 31:

The persons most familiar with the listed subjects are Lorraine Dille Williams and Flint Dille.

Interrogatory No. 32:

Identify all persons who have contributed in any way to the marketing, advertising or promotion of Registrant's products in the United States and state their contribution to that effort.

Responses to Interrogatory No. 32:

Registrant objects to this Interrogatory as Overbroad, Irrelevant and Unduly Burdensome to the extent it requests it requests disclosure of "all" persons. Subject to and without waiving the foregoing objections, Registrant responds that the persons most familiar with the listed subjects are Lorraine Dille Williams and Flint Dille.

Interrogatory No. 33:

Identify all persons responsible for sales of the Registrant's Products in the United States.

Responses to Interrogatory No. 33:

Registrant objects to this Interrogatory as Overbroad, Unduly Burdensome and Irrelevant to the extent it seeks identification of "all" persons. Subject to and without waiving the foregoing objections, Registrant responds that the persons responsible for sales of Registrant's Products in the United States are Lorraine Dille Williams and Flint Dille.

Interrogatory No. 34:

State how and when Registrant first became aware of any trademark applications filed by Petitioner for the BUCK ROGERS trademark, including but not limited to, the date of such awareness and the manner in which Registrant became aware of such information.

Responses to Interrogatory No. 34:

Registrant objects to this Interrogatory as Irrelevant.

Interrogatory No. 35:

Identify all United States media in which Registrant's Products were or are expected to be advertised and/or promoted.

Responses to Interrogatory No. 35:

Registrant objects to this Interrogatory as Overbroad, Irrelevant and Unduly Burdensome to the extent it requests information about products that are not identified in the challenged registrations and to the extent it requests disclosure of "all" media. Subject to and without waiving the foregoing objections, Registrant responds that its licensees and distributors conduct all advertising of products under the BUCK ROGERS mark and that pursuant to Federal Rule of Civil Procedure 33(d), Registrant will make available for inspection non-privileged documents within its possession, custody or control, if any, from which information requested by this Interrogatory may be derived or ascertained.

Interrogatory No. 36:

Identify all expert witnesses from whom Registrant intends to present testimony in this Opposition.

Responses to Interrogatory No. 36:

Registrant objects to this Interrogatory as premature and will respond to this Interrogatory at the time specified for expert disclosures in the applicable Scheduling Order issued by the Board herein.

Interrogatory No. 37:

Identify all documents Registrant intends to rely on in this proceeding.

Responses to Interrogatory No. 37:

Registrant objects to this Interrogatory as Overbroad, Irrelevant, Unduly Burdensome and violative of T.B.M.P. § 414(7).

Interrogatory No. 38:

Identify all other witnesses from whom Registrant intends to present testimony in this proceeding.

Responses to Interrogatory No. 38:

Registrant objects to this Interrogatory as violative of T.B.M.P. § 414(7).

Interrogatory No. 39:

Identify each officer, trustee and/or managing agent of Registrant.

Responses to Interrogatory No. 39:

Arthur M. Martin is the sole trustee of Registrant.

Interrogatory No. 40:

For each expert witness identified in response to Interrogatory No. 36, identify the nature of the testimony each expert witness will provide.

Responses to Interrogatory No. 40:

Registrant objects to this Interrogatory as premature and will respond to this Interrogatory at the time specified for expert disclosures in the applicable Scheduling Order issued by the Board herein.

Interrogatory No. 41:

For each expert witness identified in response to Interrogatory No. 36, identify the credentials used to establish the witness as an expert witness.

Responses to Interrogatory No. 41:

Registrant objects to this Interrogatory as premature and will respond to this Interrogatory at the time specified for expert disclosures in the applicable Scheduling Order issued by the Board herein.

Interrogatory No. 42:

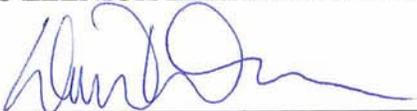
For each witness identified in response to Interrogatory No. 38, identify nature of the testimony each witness will provide.

Responses to Interrogatory No. 42:

Registrant objects to this Interrogatory as violative of T.B.M.P. § 414(7).

Dated: New York, New York
February 8, 2010

FROSS ZELNICK LEHRMAN & ZISSU, P.C.

By: 

David Donahue

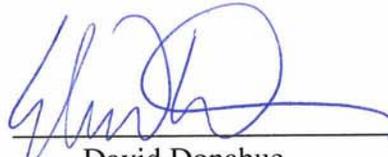
866 United Nations Plaza
New York, New York 10017
(212) 813-5900
ddonahue@fzlz.com

Attorneys for Registrant The Dille Family Trust

CERTIFICATE OF SERVICE

The undersigned counsel for Registrant The Dille Family Trust hereby certifies that a true and correct copy of the attached REGISTRANT THE DILLE FAMILY TRUST'S RESPONSES TO PETITIONER'S FIRST SET OF INTERROGATORIES was served by First Class Mail, postage prepaid, on counsel for Petitioner on February 8, 2010 by mailing the same to the following address:

John J. O'Malley
Volpe and Koeing, P.C.
30 S. 17th Street - United Plaza
Philadelphia, PA 19103



David Donahue

EXHIBIT C



United Plaza
30 South 17th Street
Philadelphia, PA 19103

P: 215-568-6400
F: 215-568-6499
www.volpe-koenig.com

BRINGING LAW TO YOUR IDEAS®

John J. O'Malley
jomalley@volpe-koenig.com

November 24, 2010

Maurice B. Pilosof, Esq.
1925 Century Park East, Suite 2300
Los Angeles, CA 90067

VIA E-MAIL AND U.S. MAIL

Re: Cancellation of Buck Rogers Trademark Registrations
Cancellation No. 92051659

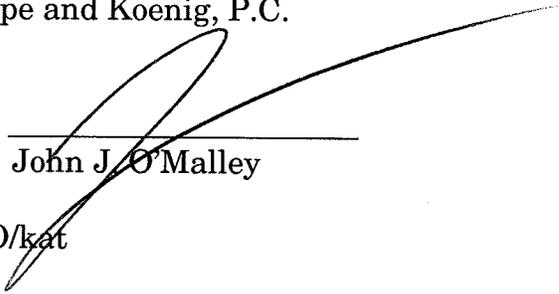
Dear Mr. Pilosof:

Further to the Board's November 22, 2010 Order, please advise when we can expect to receive documents responsive to our First Requests for Production of Documents and those documents responsive to our First Set of Interrogatories.

We look forward to your response.

Very truly yours,

Volpe and Koenig, P.C.

By: 
John J. O'Malley

JJO/kat

EXHIBIT D



United Plaza
30 South 17th Street
Philadelphia, PA 19103

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jomalley@volpe-koenig.com

December 6, 2010

Maurice B. Pilosof, Esq.
1925 Century Park East, Suite 2300
Los Angeles, CA 90067

VIA E-MAIL AND U.S. MAIL

Re: Cancellation of Buck Rogers Trademark Registrations
Cancellation No. 92051659

Dear Mr. Pilosof:

We have not received a response to our November 24, 2010 letter, copy attached. In view of your lack of response, please advise if you are available on Tuesday or Wednesday for a meet and confer regarding this matter.

We look forward to your response.

Very truly yours,

Volpe and Koenig, P.C.

By: _____
John J. O'Malley

JJO/naf
Enclosure



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Philadelphia, PA 19103

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John J. O'Malley
jomalley@volpe-koenig.com

November 24, 2010

Maurice B. Pilosof, Esq.
1925 Century Park East, Suite 2300
Los Angeles, CA 90067

VIA E-MAIL AND U.S. MAIL

Re: Cancellation of Buck Rogers Trademark Registrations
Cancellation No. 92051659

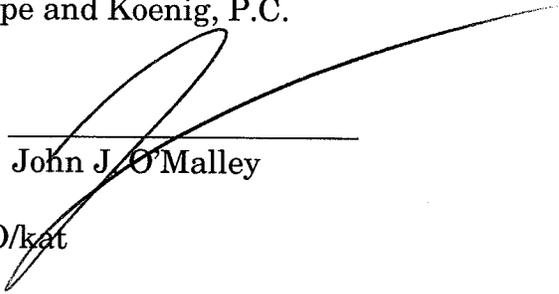
Dear Mr. Pilosof:

Further to the Board's November 22, 2010 Order, please advise when we can expect to receive documents responsive to our First Requests for Production of Documents and those documents responsive to our First Set of Interrogatories.

We look forward to your response.

Very truly yours,

Volpe and Koenig, P.C.

By: 
John J. O'Malley

JJO/kat

EXHIBIT E



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John J. O'Malley
jomalley@volpe-koenig.com

December 15, 2010

Maurice B. Pilosof, Esq.
1925 Century Park East, Suite 2300
Los Angeles, CA 90067

VIA E-MAIL AND U.S. MAIL

Re: Cancellation of Buck Rogers Trademark Registrations
Cancellation No. 92051659

Dear Mr. Pilosof:

Further to our conversation this week, I can confirm that my client is willing attend settlement negotiations at a mutually convenient location preferably in January or no later than February. In addition, it is our understanding that each party would bring a representative who has full and complete authority to resolve all the outstanding issues between and among the parties.

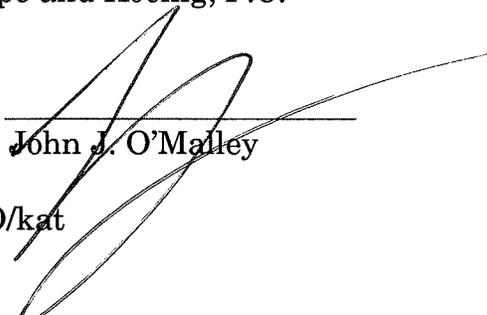
Notwithstanding the above, we note that we served our first set of document requests on January 4, 2010. As we approach the one year anniversary of that date, we must insist on the production of documents responsive to the first set of documents request as well as those documents that have been identified by the Registrant as responsive to the first set of interrogatories by **December 20, 2010**.

If we receive timely good faith responses, we will agree to suspend the proceedings pending the settlement negotiations.

We look forward to your response.

Very truly yours,

Volpe and Koenig, P.C.

By: 
John J. O'Malley

JJO/kat

1464751-1

Patents

Trademarks

Copyrights

Trade Secrets

Litigation

Licensing

EXHIBIT F

Katie Tinker

From: Maurice B. Pilosof [mpilosof@ipbymbp.com]
Sent: Thursday, December 16, 2010 11:58 AM
To: Katie Tinker
Cc: John O'Malley
Subject: RE: Nowlan Family Trust v. Dille Family Trust, Cancellation No. 92051659

Dear John:

As we see it, we are either going to suspend proceedings or we are not. The provision in your letter requiring production of document on or prior to December 20, 2010 is unacceptable. Therefore, please advise as to whether you are willing to withdraw this provision.

Very truly yours,

Maurice B. Pilosof

From: Katie Tinker [mailto:KTinker@volpe-koenig.com]
Sent: Wednesday, December 15, 2010 2:14 PM
To: mpilosof@ipbymbp.com
Cc: John O'Malley
Subject: Nowlan Family Trust v. Dille Family Trust, Cancellation No. 92051659

Dear Mr. Pilosof:

Mr. O'Malley asked me to forward the attached correspondence. If you have any questions, please contact Mr. O'Malley.

Regards,

Katie A. Tinker
Litigation Paralegal
Volpe and Koenig, P.C.
United Plaza, Suite 1600
30 South 17th Street
Philadelphia, PA 19103
Direct: 215.255.9140
Fax: 215.568.6499



United Plaza
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www.volpe-koenig.com

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12/30/2010

Katie Tinker

From: John O'Malley [JOMalley@volpe-koenig.com]
Sent: Thursday, December 16, 2010 8:26 PM
To: Maurice B. Pilosof
Cc: Katie Tinker
Subject: RE: Nowlan Family Trust v. Dille Family Trust, Cancellation No. 92051659

Maurice:

My client remains willing to participate in settlement negotiations and suspend the proceedings. However, they are not willing to suspend the proceedings until the outstanding discovery has been provided. If we are at an impasse regarding settlement on that point, we still need the the documents. Accordingly, we must insist on production in the very near future. This request has been pending since my November 24, 2010 letter and we are entitled to a response. If we cannot reach agreement, we intended to approach the TTAB for a conference.

We look forward to hearing from you.

Regards,

John

John J. O'Malley
Volpe and Koenig, P.C.
Telephone: 1-215-568-6400
Facsimile: 1-215-568-6499
E-mail: jomalley@volpe-koenig.com

From: Maurice B. Pilosof [mailto:mpilosof@ipbymbp.com]
Sent: Thursday, December 16, 2010 11:58 AM
To: Katie Tinker
Cc: John O'Malley
Subject: RE: Nowlan Family Trust v. Dille Family Trust, Cancellation No. 92051659

Dear John:

As we see it, we are either going to suspend proceedings or we are not. The provision in your letter requiring production of document on or prior to December 20, 2010 is unacceptable. Therefore, please advise as to whether you are willing to withdraw this provision.

Very truly yours,

Maurice B. Pilosof

From: Katie Tinker [mailto:KTinker@volpe-koenig.com]
Sent: Wednesday, December 15, 2010 2:14 PM
To: mpilosof@ipbymbp.com
Cc: John O'Malley

12/30/2010

Subject: Nowlan Family Trust v. Dille Family Trust, Cancellation No. 92051659

Dear Mr. Pilosof:

Mr. O'Malley asked me to forward the attached correspondence. If you have any questions, please contact Mr. O'Malley.

Regards,

Katie A. Tinker
Litigation Paralegal
Volpe and Koenig, P.C.
United Plaza, Suite 1600
30 South 17th Street
Philadelphia, PA 19103
Direct: 215.255.9140
Fax: 215.568.6499



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