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

Proceeding	92052251
Party	Plaintiff Bose Corporation
Correspondence Address	TASHIA BUNCH FISH & RICHARDSON P.C. 225 FRANKLIN STREET BOSTON, MA 02110 UNITED STATES tmdoctc@fr.com, brosius@fr.com, tbunch@fr.com
Submission	Motion to Compel Discovery
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Signature	/charles hieken/
Date	01/28/2011
Attachments	motiontofile.pdf (23 pages)(805900 bytes)

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

In the matter of Registration No. 3705744
For the Mark INNOVATIVE LIFESTYLE UNQUESTIONABLE VALUE
Issued on November 3, 2009

In the matter of Registration No. 92052251
For the Mark INNOVATION LIFESTYLE
Issued in November 10, 2009

Bose Corporation,

Petitioner,

v.

jWin Electronics Corp.,

Registrant.

Cancellation No. 92052234 (parent)
Cancellation No. 92052251

United States Patent and Trademark Office
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

MOTION TO COMPEL DISCOVERY RESPONSES

CERTIFICATE OF MAILING BY FIRST CLASS MAIL

I hereby certify under 37 CFR §2.197 that this correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage on the date indicated below and is addressed to the Commissioner for Trademarks, P.O. Box 1451, Alexandria, VA 22313-1451

<<Date>>

Date of Deposit

Signature

<<Name>>

Typed or Printed Name of Person Signing Certificate

Registrant : Jwin Electronics Corp.
Reg. No. : 3705744
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Mark : INNOVATIVE LIFESTYLE UNQUESTIONABLE VALUE
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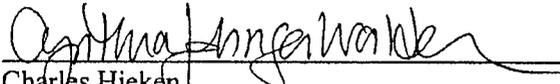
Attorney's Docket No.: 02103-0932PP1

Pursuant to 37 C.F.R. Sect. 2.210(e)(2), Petitioner hereby files this Motion to Compel Discovery Responses from Registrant.

Petition served interrogatories and document production request on Petitioner on November 30, 2010. Copies of Petitioner's First Set of Interrogatories to Registrant and Petitioner's First Set of Document Production Responses are attached hereto as Exhibit 1. On December 22, 2010, Petitioner contacted Registrant to follow up on the status of the discovery responses. On January 26, 2011, Petitioner called Registrant's counsel, Ms. Hyunjung Kim, to once again request that discovery responses be provided in view of the pending commencement of Petitioner's testimony period. Petitioner's counsel and Registrant's counsel had a telephone conference regarding the outstanding discovery responses on January 27, 2011, but Petitioner did not agree to provide the outstanding interrogatory responses or respond to the outstanding document production requests. The parties have therefore attempted to resolve this issue, but have been unable to do so.

Respectfully submitted,

Date: January 28, 2011


Charles Hieken
Cynthia Johnson Walden
FISH & RICHARDSON P.C.
One Marina Park Drive
Boston, Massachusetts 02210-1878

Telephone: (617) 542-5070
Facsimile: (617) 542-8906

Attorneys for Petitioner,
BOSE CORPORATION

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing MOTION TO COMPEL DISCOVERY RESPONSES has this 28th day January 2011, been served via e-mail to Registrant (by its consent) and first class mail, at the following address:

Ms. Hyunjung Kim
Jwin Electronics Corp.
51-41 59th Place
Woodside, NY 11377
United States
hyunkim@jwin.com

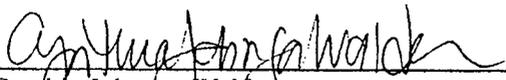

Cynthia Johnson Walden

EXHIBIT 1

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

In the Matter of Registration Nos. 3,705,744 and 3,709,147
For the Marks INNOVATIVE LIFESTYLE UNQUESTIONABLE VALUE and INNOVATIVE
LIFESTYLE
Issued on November 3, 2009 and November 10, 2009

Bose Corporation,

Petitioner,

v.

jWin Electronics Corp.,

Registrant.

Cancellation No. 92052234

United States Patent and Trademark Office
Trademark Trial and Appeal Board
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PETITIONER'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS

I. Introduction

Pursuant to Rule 34 of the Federal Rules of Civil Procedure, as incorporated into the Trademark Rules of Practice pursuant to C.F.R. §§ 2.116 and 2.120, Petitioner, Bose Corporation ("Petitioner"), requests that Registrant, jWin Electronics Corp., ("Registrant"), produce the documents and things specified below for inspection and copying by Petitioner within thirty (30) dates from the date of service at the law offices of Fish & Richardson P.C., One Marina Park Drive, Boston, Massachusetts, 02110, or at such other place or in such other manner as may be mutually agreed upon between counsel for the parties.

Registrant : jWin Electronics Corp.
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Pursuant to Rule 34, production should be labeled according to the specific request to which it pertains. The following definitions, instructions and rules of construction apply.

II. Definitions, Instructions And Rules Of Construction

1. These requests seek production to the full extent provided by the Federal Rules of Civil Procedure and shall be interpreted as inclusive rather than exclusive. They are of a continuing nature and, to the extent required by the applicable statutes and regulations, you are required to make supplemental production if, prior to the termination of this case, you obtain additional or different information covered by any one of these Requests.

2. The words "or," "and," "all," "every," "any," "each," "one or more," "including," and similar words of guidance are intended merely as such and should not be construed as words of limitation. The words "and" and "or" are to be construed both conjunctively and disjunctively and shall include each other whenever possible to expand, not restrict, the scope of the request. The word "including" shall not be used to limit any general category or description that precedes it. The words "all," "every," "any," "each," and "one or more" shall include each other whenever possible to expand, not restrict, the scope of the request. The singular form of a noun or pronoun includes the plural form and vice versa.

3. If Registrant objects to furnishing a document or thing requested by any request, or any portion thereof, Registrant should state the basis of such objection, identify the type of categories of responsive documents or things to which each objection applies, and furnish all requested documents or things to which the objection does not apply.

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4. Any redacted document should be clearly stamped with the word "REDACTED," and the portions redacted should be clearly indicated.

5. If an identified item has been destroyed, is alleged to have been destroyed, or exists but is no longer in your possession, custody, or control, state:

- a. the date of the item;
 - b. the name and title of the author(s), sender(s), and recipient(s) of the item;
 - c. the reason for the destruction, disposition, or non-availability of the item;
 - d. the person(s) having knowledge of its destruction, disposition, or non-availability;
 - e. the person(s) responsible for its destruction, disposition, or non-availability;
- and if applicable, the person or entity that now possesses, has custody of, or controls the item

6. If a document is not in English but an English translation (including an informal, summary, or "rough" translation) exists, produce both documents.

7. The following words and terms shall have the following meanings:
- a. "Registrant" refers to jWin Electronics Corp., and, where applicable, its officers, directors, employees, partners, agents, corporate parent, subsidiaries, including subsidiaries of a corporate parent, affiliates, predecessors or successors, attorneys, representatives, assigns, and persons having a duty of loyalty to jWin Electronics Corp.

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This definition is not intended to impose a discovery obligation on any person who is not a party to the litigation.

b. "Petitioner" refers to Bose Corporation, and, where applicable, its officers, directors, employees, partners, agents, corporate parent, subsidiaries, including subsidiaries of a corporate parent, affiliates, predecessors or successors, attorneys, representatives, assigns, and persons having a duty of loyalty to Bose Corporation.

c. "Identify" when used with respect to a person or other legal entity means to provide the following information regarding the person:

- i. the name of the person;
- ii. the address of the person;
- iii. if the person is or was Registrant's employee, the title of the person and the years during which he or she was Registrant's employee; and
- iv. such other known information as may be necessary to permit such person or entity to be subpoenaed or his, her or its deposition noticed.

d. "Petitioner's Mark" refer to Petitioner's LIFESTYLE mark, as they appear as the subject of Trademark Registration Nos. 1,622,251 and 2,108,847.

e. "Registrant's Marks" refers to the INNOVATIVE LIFESTYLE UNQUESTIONABLE VALUE and INNOVATIVE LIFESTYLE mark as they appear as the subject of Trademark Registration Nos. 3,705,744 and 3,709,147, both collectively and individually.

f. "Document" shall have its customary meaning, as set forth in the Fed. R. Civ. P. 34 and Fed. R. Evid. 1001, and shall include but not be limited to any kind of printed,

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typed, recorded, written, graphic or photographic matter (including electronic, audio and/or video tape recordings), however printed, produced, reproduced, coded or stored, of any kind. A draft or non-identical copy is a separate document within the meaning of this term.

g. "Relate to," "relating to," "relates to," or "concerning" shall be construed broadly to mean and include evidencing, constituting, referring to, comprising, illustrating, recording, memorializing, discussing, or describing, supporting, embodying, setting forth, alluding to, responding to, connected with, commencing on, in respect of, about, regarding, showing, mentioning, analyzing, reflecting or constituting.

h. "Communications" means any oral, written, telephonic, electronic or radio frequency transmission contact or attempted contact between two or more persons, companies or organizations, or government entities, including all of the directors, officers, officials, employees, staffs or representatives thereof, and shall include, without limitation, communication as defined by the term "document" above, and oral communications by such means as face-to-face meeting and telephone conversations.

i. "Person" means any individual, firm, association, organization, joint venture, trust, partnership, corporation, or other collective organization or entity.

j. "Thing" or "things" include any tangible thing or object, whether or not claimed to be privileged.

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III. Requests

Request No. 1. All documents identified in Registrant's responses to Bose's First Set of Interrogatories to Registrant.

Request No. 2. Representative samples or photographs of each type of product that Registrant manufactures or intends to manufacture (whether itself or through others on behalf of Registrant) sells or intends to sell (whether itself or through others on behalf of Registrant), including but not limited to representative samples that reflect products identified in Registrant's responses to Petitioner's Interrogatory No. 1.

Request No. 3. Documents and things showing each manner in which Registrant displays or otherwise uses Registrant's Marks.

Request No. 5. Documents and things that show Registrant's annual sales revenue, if any, from sale of goods and/or services identified in responses to Petitioner's Interrogatory No. 1.

Request No. 7. Documents and things that show the annual expenditures, if any, incurred by Registrant in connection with the marketing of the goods and/or services identified in response to Petitioner's Interrogatory No. 1.

Request No. 9. Documents and things relating to Petitioner's Mark, including but not limited to all minutes, notes or other records of any meetings at which Petitioner's Mark were discussed.

Request No. 10. Documents and things relating to the proposal, consideration, and decision by Registrant to adopt Registrant's Marks.

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Request No. 11. Documents and things relating to (a) any request or opinion of counsel related to Registrant's Marks; and (b) all searches, surveys or investigations of which Registrant is aware related to Registrant's Marks.

Request No. 12. Documents and things that support Registrant's claimed dates of first use in commerce of each of Registrant's Marks.

Request No. 13. Documents and things related to any agreements involving Registrant's Marks, including but not limited to all documents and things that relate to Registrant's responses to Petitioner's Interrogatory Nos. 11-12.

Request No. 14. Documents and things related to any use or proposed use of Registrant's Mark by unrelated third parties without Registrant's authorization, including but not limited to all documents and things that relate to Registrant's response to Petitioner's Interrogatory No. 13.

Request No. 15. Documents and things related to protests made by Registrant to others, or by others to Registrant, based upon or relating to Registrant's use or proposed use of Registrant's Marks.

Request No. 16. All documents and things concerning (a) any communication to or from Registrant concerning Petitioner's products and/or Petitioner's Mark; and (b) any actual or apparent association between Registrant and Petitioner or their respective products, including but not limited to all documents and things that relate to Registrant's response to Petitioner's Interrogatory Nos. 14-15.

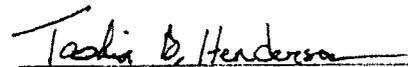
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Request No. 17. All documents and things concerning any surveys, such as polls, market research studies, likelihood of confusion surveys, or secondary meaning surveys, related to Petitioner's Mark and/or Registrant's Mark, including but not limited to all documents and things that relate to Registrant's response to Petitioner's Interrogatory Nos. 18-19.

Request No. 18. All documents and things concerning any formal disputes, such as court litigations, administrative proceedings, arbitrations or mediations, involving Registrant's Marks, including but not limited to all documents and things that relate to Registrant's response to Petitioner's Interrogatory Nos. 20-21.

Dated: November 30, 2010



Charles Hieken
Amy L. Brosius
Tashia B. Henderson
FISH & RICHARDSON P.C.
One Marina Park Drive
Boston, MA 02110
Telephone: (617) 542-5070
Facsimile: (617) 542-8906

Attorneys for Petitioner,
Bose Corporation

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing PETITIONER'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS has this 30th day of November, 2010, been mailed by prepaid first class mail to the below-identified Attorney at his/her place of business:

Ms. Hyunjung Kim
jWin Electronics Corporation
2 Harbor Park Drive
Port Washington, NY 11050

By: Tashia B. Henderson
Tashia B. Henderson

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

In the Matter of Registration Nos. 3,705,744 and 3,709,147
For the Marks INNOVATIVE LIFESTYLE UNQUESTIONABLE VALUE and INNOVATIVE
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PETITIONER'S FIRST SET OF INTERROGATORIES

I. Introduction

Pursuant to Rule 33 of the Federal Rules of Civil Procedure, as incorporated into the Trademark Rules of Practice 37 C.F.R. §§ 2.116 and 2.120, Petitioner, Bose Corporation ("Petitioner"), requests that Registrant, jWin Electronics Corp., ("Registrant"), answer the following interrogatories under oath and serve such answers on the undersigned counsel within thirty (30) days from the date of service. The following definitions, instructions and rules of construction apply.

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II. Definitions, Instructions And Rules Of Construction

1. These Interrogatories seek answers to the full extent provided by the Federal Rules of Civil Procedure and shall be interpreted as inclusive rather than exclusive. They are of a continuing nature and, to the extent required by the applicable statutes and regulations, you are required to make supplemental answers if, prior to the termination of this case, you obtain additional or different information covered by any one of these Interrogatories.

2. The words "or," "and," "all," "every," "any," "each," "one or more," "including," and similar words of guidance are intended merely as such and should not be construed as words of limitation. The words "and" and "or" are to be construed both conjunctively and disjunctively and shall include each other whenever possible to expand, not restrict, the scope of the request. The word "including" shall not be used to limit any general category or description that precedes it. The words "all," "every," "any," "each," and "one or more" shall include each other whenever possible to expand, not restrict, the scope of the request. The singular form of a noun or pronoun includes the plural form and vice versa.

3. If Registrant objects to furnishing the information requested by any interrogatory, or any portion thereof, Registrant should state the basis of such objection, identify the type of categories of responsive information to which each objection applies, and furnish all requested information to which the objection does not apply.

4. The following words and terms shall have the following meanings:

a. "Registrant" refers to jWin Electronics Corp., and, where applicable, its officers, directors, employees, partners, agents, corporate parent, subsidiaries, including

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subsidiaries of a corporate parent, affiliates, predecessors or successors, attorneys, representatives, assigns, and persons having a duty of loyalty to jWin Electronics Corp. This definition is not intended to impose a discovery obligation on any person who is not a party to the litigation.

b. "Petitioner" refers to Bose Corporation, and, where applicable, its officers, directors, employees, partners, agents, corporate parent, subsidiaries, including subsidiaries of a corporate parent, affiliates, predecessors or successors, attorneys, representatives, assigns, and persons having a duty of loyalty to Bose Corporation.

c. "Identify" when used with respect to a person or other legal entity means to provide the following information regarding the person:

- i. the name of the person;
- ii. the address of the person;
- iii. if the person is or was Registrant's employee, the title of the person and the years during which he or she was Registrant's employee; and
- iv. such other known information as may be necessary to permit such person or entity to be subpoenaed or his, her or its deposition noticed.

d. "Petitioner's Mark" refers to Petitioner's LIFESTYLE mark, as it appears as the subject of Trademark Registration Nos. 1,622,251 and 2,108,847.

e. "Registrant's Marks" refers to the INNOVATIVE LIFESTYLE UNQUESTIONABLE VALUE and INNOVATIVE LIFESTYLE mark as they appear as the subject of Trademark Registration Nos. 3,705,744 and 3,709,147, both collectively and individually.

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f. "Document" shall have its customary meaning, as set forth in the Fed. R. Civ. P. 34 and Fed. R. Evid. 1001, and shall include but not be limited to any kind of printed, typed, recorded, written, graphic or photographic matter (including electronic, audio and/or video tape recordings), however printed, produced, reproduced, coded or stored, of any kind. A draft or non-identical copy is a separate document within the meaning of this term.

g. "Relate to," "relating to," "relates to," or "concerning" shall be construed broadly to mean and include evidencing, constituting, referring to, comprising, illustrating, recording, memorializing, discussing, or describing, supporting, embodying, setting forth, alluding to, responding to, connected with, commencing on, in respect of, about, regarding, showing, mentioning, analyzing, reflecting or constituting.

h. "Communications" means any oral, written, telephonic, electronic or radio frequency transmission contact or attempted contact between two or more persons, companies or organizations, or government entities, including all of the directors, officers, officials, employees, staffs or representatives thereof, and shall include, without limitation, communication as defined by the term "document" above, and oral communications by such means as face-to-face meeting and telephone conversations.

i. "Person" means any individual, firm, association, organization, joint venture, trust, partnership, corporation, or other collective organization or entity.

j. "Thing" or "things" include any tangible thing or object, whether or not claimed to be privileged.

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III. Interrogatories

Interrogatory No. 1. Identify each and every good and/or service in connection with which Registrant uses Registrant's Marks (whether such use is by Registrant or through others on behalf of Registrant).

Interrogatory No. 2. State the date(s) and describe the circumstances under which the Registrant selected Registrant's Marks, identify the person or persons who selected Registrant's Marks, and identify all other marks that were considered along with Registrant's Marks for possible use by the Registrant in connection with the goods and/or services identified in response to Interrogatory No. 1.

Interrogatory No. 3. Identify each search that Registrant performed, including searches Registrant had performed for it, relating to Registrant's Marks.

Interrogatory No. 4. Identify all marks including the term "LIFESTYLE" the existence of which were known to Registrant at the time Registrant adopted Registrant's Marks.

Interrogatory No. 5. State the date and describe the circumstances under which Registrant first learned of Petitioner's Mark.

Interrogatory No. 6. Identify the channels of trade through which the goods and/or services identified in response to Interrogatory No. 1 travel.

Interrogatory No. 7. Identify the demographics of purchasers of the goods and/or services identified in response to Interrogatory No. 1.

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Interrogatory No. 8. For each of Registrant's Marks, identify the date and describe the circumstances under which Registrant first used the marks.

Interrogatory No. 9. For each of Registrant's Marks, identify the date and describe the circumstances under which Registrant first used the marks in commerce regulable by the United States.

Interrogatory No. 10. Identify by type all marketing material that are presently used by Registrant (or by others on Registrant's behalf) in connection with the promotion of goods and/or services in connection with which Registrant uses Registrant's Marks. For illustrative purposes only and without limiting the foregoing, such material would include, e.g., literature, tags, labels, packages, signs, posters, point-of sale displays, brochures, and advertisements.

Interrogatory No. 11. State whether Registrant's Marks have been the subject of any type of agreement, whether written or oral. For illustrative purposes only and without limiting the foregoing, such agreements would include, e.g., assignments, license agreements, manufacturing agreements, or security interests.

Interrogatory No. 12. If the answer to Interrogatory No. 11 is other than an unqualified negative, for each such agreement, identify:

- (a) the date of the agreement;
- (b) the parties to the agreement;
- (c) whether the agreement is oral or in writing;
- (d) the goods and/or services covered by the agreement;

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- (e) the marks covered by the agreement; and
- (f) the quality control provisions in the agreement.

Interrogatory No. 13. Identify each instance, of which Registrant has knowledge directly or indirectly, of use of Registrant's Marks by unrelated third parties without Registrant's authorization.

Interrogatory No. 14. Identify each instance, of which Registrant has knowledge directly or indirectly, of any association between Registrant and Petitioner, arising in whole or in part from Registrant's use of Registrant's Marks. For illustrative purposes only and without limiting the foregoing, such association would include, e.g., actual or purported confusion, mistake, or deception; misdirected inquiries, orders, cancellations or returns; misassumptions as to the source or origin; or complaints or comments from third parties.

Interrogatory No. 15. As to each instance of association identified in response to Interrogatory No. 14, of which the Registrant has direct knowledge, provide a detailed description of the circumstances surrounding the instance of association.

Interrogatory No. 16. Identify the price per unit of each of good and/or service in connection with which Registrant uses Registrant's Marks.

Interrogatory No. 17. Identify the total revenue generated to Registrant from the sale of goods and/or services in connection with which Registrant's Marks are used.

Interrogatory No. 18. State whether Registrant is aware of any survey that is related to the issues in this proceeding. For illustrative purposes only, and without

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limiting the foregoing, such surveys would include, e.g., polls or market research studies related to the likelihood of confusion between Registrant's Marks and Petitioner's Mark, or as to the source of goods in connection with which Registrant's Marks or Petitioner's Mark are used, or as to the existence of any affiliation or connection between Petitioner and Registrant or their respective goods.

Interrogatory No. 19. Unless the response to Interrogatory No. 18 is an unqualified negative, for each survey of which Registrant is aware, identify:

- (a) the date the survey was prepared;
- (b) the nature of the information covered in the survey; and
- (c) the present location of the survey.

Interrogatory No. 20. State whether Registrant has ever participated in any formal dispute involving Registrant's Marks. For illustrative purposes only, and without limiting the foregoing, such disputes would include, e.g., court litigations, administrative proceedings, arbitrations or mediations.

Interrogatory No. 21. Unless the response to Interrogatory No. 20 is an unqualified negative, with respect to each dispute in which Registrant has ever participated, identify:

- (a) the full title of the dispute, e.g., the names of the parties and docket no., if applicable;
- (b) the date of commencement of the dispute;
- (c) the name of the court/body before which the dispute was brought; and

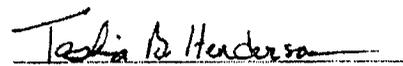
Registrant : jWin Electronics Corp.
Reg. No. : 3,705,744 and 3,709,147
Issued : November 3, 2009
Mark : INNOVATIVE LIFESTYLE UNQUESTIONABLE VALUE and INNOVATIVE LIFESTYLE
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(d) the current status of the dispute.

Interrogatory No. 22. Identify all other marks that include the formative "lifestyle" which are used or which are intended to be used by Registrant, and state the goods and/or services with which such marks are used and/or intended to be used, and when such goods and/or services are intended to be offered for sale to consumers.

Dated: November 30, 2010



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Attorneys for Petitioner,
Bose Corporation

Registrant : jWin Electronics Corp.
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing PETITIONER'S FIRST SET OF INTERROGATORIES has this 30th day of November, 2010, been mailed by prepaid first class mail to the below-identified Attorney at his/her place of business:

Ms. Hyunjung Kim
jWin Electronics Corporation
2 Harbor Park Drive
Port Washington, NY 11050

By: Tashia B. Henderson
Tashia B. Henderson