

ESTTA Tracking number: **ESTTA406408**

Filing date: **04/29/2011**

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

Proceeding	92052625
Party	Defendant AirNautic Watch Company
Correspondence Address	JENNIFER P. RABIN AKERMAN SENTERFITT 222 LAKEVIEW AVENUE, SUITE 400 WEST PALM BEACH, FL 33401-6183 UNITED STATES jennifer.rabin@akerman.com
Submission	Motion to Compel Discovery
Filer's Name	Jennifer P. Rabin
Filer's e-mail	ip@akerman.com, jennifer.rabin@akerman.com, ashleigh.bhole@akerman.com
Signature	/Jennifer P. Rabin/
Date	04/29/2011
Attachments	AirNautic Motion to Compel-Final (AIRNAU~1).PDF (7 pages)(31941 bytes) Airnautic's Motion to Compel - Exhibits A B (WP763256).PDF (43 pages) (1820518 bytes)

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

Nautica Apparel, Inc.,

Petitioner,

v.

AirNautic Watch Company,

Registrant.

Cancellation No.: 92052625

Mark: AIRNAUTIC

Reg. No. 3,640,791

Reg. Date: June 16, 2009

Motion to Compel

Registrant, AIRNAUTIC WATCH COMPANY, moves for an order requiring Petitioner, NAUTICA APPAREL, INC., to respond to Registrant's First Request for Production of Documents in accordance with Federal Rule of Civil Procedure 34 and the guidelines set forth by the Board and moves to stay all testimony periods pending a resolution of the discovery motion in accordance with TBMP § 510.03.

Registrant's Memorandum

Despite Petitioner instituting this proceeding to cancel Registrant's AIRNAUTIC mark, Petitioner has not complied in good faith with its discovery obligations under the Federal Rules of Civil Procedure by providing 13,000+ pages of uncategorized documents and elusive written responses to Registrant's discovery requests. There is attached hereto as Registrant's Exhibit A, a copy of Registrant's First Request for Production of Documents and the associated responses of Petitioner.

In an effort to resolve Registrant's concern for the manner of Petitioner's document production, Registrant's counsel contacted Petitioner's counsel to notify him of the burden Petitioner had imposed on Registrant's counsel by producing tens of thousands of unorganized

documents on a flash drive. In response, Petitioner's counsel stated that the 13,439 unlabeled and uncategorized documents produced on a flash drive were properly produced in accordance with Fed.R.Civ.P. 34, and as an alternative to reviewing the documents as produced, Registrant's counsel could fly to New York or New Jersey to examine the 13,000+ documents "as kept in the ordinary course of business." (See Letter attached as Registrant's Exhibit B).

Because Registrant's efforts to resolve the parties' issues were unsuccessful, Registrant moves for an order requiring Petitioner to label and organize the 13,439 documents already produced on the flash drive and to fully respond to the following production requests: 12-14, 17-21, 23, 24, 26, 27, 33, 34, 36-41, 44, 47-49, 49, 51, 52, 56, 59-65 and 67.

- 1) Producing tens of thousands of documents in no apparent order does not comply with Petitioner's obligation under Rule 34(b).

It is well-established that a party may not simply dump on the requesting party large quantities of documents containing responsive as well as unresponsive documents. *See* Fed.R.Civ.P. 34(b) and TBMP § 406.04. The TTAB recently found that an opposer's identification of tens of thousands of pages documents in response to discovery requests with no index or guide was improper. *See Amazon Technologies, Inc. v. Wax*, 95 U.S.P.Q.2d 1865, 1868 (TTAB 2010); *see also Wagner v. Dryvit Systems, Inc.*, 208 F.R.D. 606, 610 (D. Neb. 2001) (producing large amounts of documents in no apparent order does not comply with a party's obligation under Rule 34); *Stiller v. Arnold*, 167 F.R.D. 68, 71 (N.D. Ind. 1996) ("Producing 7,000 pages of documents in no apparent order does not comply with a party's obligation under Rule 34(b)"). In fact a plaintiff's conduct was found to be sanctionable when it produced approximately 9,000 documents without attempting to categorize them or relate the documents to discovery requests. *Govas v. Chalmers*, 965 F.2d 298 (7th Cir.1992).

In light of the foregoing case law, it is clear that Petitioner's production of 13,000+ documents unlabeled and unorganized on a flash drive in response to Registrant's document requests is exactly the type of "game-playing" not tolerated by the Board. As such, the TTAB should order Petitioner to organize and label the 13,349 documents already produced on the flash drive in a manner that complies with its duty to produce documents under Fed.R.Civ.P. 34.

- 2) Petitioner has a duty to respond to all requests to the extent that the request is not objectionable.

Additionally, upon further review of Petitioner's responses in connection with preparing this motion, it became abundantly clear that Petitioner had not responded in good faith. With respect to the document requests to which Petitioner merely responded with general objections on the grounds that the requests were overly broad, "the responding party still has a duty to respond *to the extent the request is not objectionable*." *Aikens v. Deluxe Fin. Svs., Inc.*, 217 F.R.D. 533, 539 (D. Kan. 2003) (emphasis in original). As such, Petitioner must respond to the portions of the above-referenced requests that are not objectionable, and at the very least, Petitioner should be ordered to state whether the requested documents exist and will not be produced or do not exist at all.

Furthermore, it is important to note that Petitioner has improperly objected to a number of document requests as being irrelevant or overbroad. By way of example, Registrant notes the following document requests to which Petitioner objected on the grounds of irrelevance and/or overbreadth and failed to respond in accordance with Fed.R.Civ.P. 34:

- 1) Request Nos. 21, 23 and 24 request the production of documents relating to relevant trademark search reports, investigations, and/or opinions pertaining to either the Petitioner's or the Registrant's respective marks. It is unquestionable that search reports and the like are discoverable. *See Fisons Ltd. v. Capability Brown Ltd.*, 209 USPQ 167, 170 (TTAB

1980); *Goodyear Tire & Rubber Co. v. Tyrco Industries*, 186 USPQ 207, 208 (TTAB 1975) (whether applicant received opinions concerning adoption of mark is relevant and is not privileged and applicant must identify person, date and documents relating thereto); *Miles Laboratories, Inc. v. Instrumentation Laboratory, Inc.*, 185 USPQ 432, 434 (TTAB 1975). Yet, Petitioner unacceptably objected to these requests on the grounds that they were "overbroad and unduly burdensome" and failed to state that it would produce non-privileged existing documents or that such documents did not exist.

2) Request no. 18 requests the production of documents related to Petitioner's actual or potential classes of customers. The classes of customers for a party's involved goods or services are unquestionably discoverable. *See* TBMP § 414(3). However, the Petitioner objected to this request on the grounds that it was irrelevant and failed to respond that it would produce non-privileged existing documents or state that such documents did not exist.

3) Requests Nos. 33, 34, 37 and 38 seek documents relating to various agreements between Petitioner and third parties regarding Petitioner's marks. Information concerning agreements with third parties, including settlement and other contractual agreements between a responding party and third parties based on the responding party's involved mark, is discoverable. *See Johnston Pump/General Valve Inc. v. Chromalloy American Corp.*, 10 USPQ2d 1671, 1675 (TTAB 1988) (licensing agreements and arrangements between opposer and third parties and amount of sales thereto are relevant); *American Society of Oral Surgeons v. American College of Oral & Maxillofacial Surgeons*, 201 USPQ 531, 533 (TTAB 1979) (relevant to show admissions against interest, limitations on rights in mark, course of conduct leading to abandonment, that the mark has been carefully policed, etc.); *Georgia-Pacific Corp. v. Great Plains Bag Co.*, 190 USPQ 193, 197 (TTAB 1976) (settlement agreements that have

avoided litigation may show limitations on party's rights in mark or reveal inconsistent statements); *J.B. Williams Co. v. Pepsodent G.m.b.H.*, 188 USPQ 577, 580-81 (TTAB 1975) (identity of all civil and USPTO proceedings involving mark is not objectionable); and *Johnson & Johnson v. Rexall Drug Co.*, 186 USPQ 167, 172 (TTAB 1975) (contacts with third parties, such as through litigation or agreements, based on pleaded mark for involved goods, are relevant).

Moreover, it is important to note that that Petitioner's Petition to Cancel names 55+ marks, registered or applied for by Petitioner, that are allegedly at issue in this cancellation proceeding. As such, Registrant's document requests pertaining to any goods and/or services identified in such applications or registrations is relevant and discoverable by Registrant. *See Johnson & Johnson v. Rexall Drug Co.*, 186 USPQ 167, 172 (TTAB 1975) (discovery requests concerning goods on which opposer uses a mark are proper to the extent that the scope of the inquiry is limited to the goods identified in the application or *mentioned by the opposer during discovery*). Because Petitioner has set the breadth and scope of the goods and/or services at issue in this matter by naming 55+ marks in its Petition to Cancel, Petitioner cannot in hindsight claim that discovery pertaining to such goods and/or services is overbroad, unduly burdensome or irrelevant.

Further, Registrant directs the Board to Requests Nos. 59-65 for which Petitioner has provided especially inadequate responses. In these document requests Registrant seeks documents that support various statements quoted from Petitioner's Petition to Cancel. Certainly documents supporting the allegations made in the very filing that initiated this proceeding are relevant and discoverable. Yet, Petitioner has responded to these requests by referring Registrant "to its Petition to Cancel and to case law." Certainly this type of elusive response is not the type

of response that would contribute to liberal discovery as contemplated by the Federal Rules of Civil Procedure or under the Petitioner's duty to cooperate as laid out by the Board.

Conclusion

The foregoing provides clear evidence that Petitioner has not only improperly provided tens of thousands of unorganized and unlabeled documents on a flash drive in response to Registrant's requests, but has also failed to fully respond to a significant number of Registrant's requests. Therefore, Registrant respectfully moves the Board to order Petitioner to label and organize the 13,439 documents already produced on the flash drive and to fully respond to all of the requests to which Petitioner's response did not comply with the Federal Rules of Civil Procedure and the Board's instructions regarding responses to document requests.

Good Faith Certification

On April 11, 2011, Registrant's counsel made a good faith effort, through U.S. mail correspondence, to resolve the issues in this motion with Neil B. Friedman, counsel for Petitioner. In an April 13, 2011 response, Mr. Friedman disagreed with Registrant's position, and thus, the issue here remains unresolved. The undersigned hereby certifies that the above statements with respect to conversation with opposing counsel are true.

Respectfully submitted,

AKERMAN SENTERFITT

Date: April 29, 2011

/Jennifer Parkins Rabin/
Jennifer Parkins Rabin, FL Bar No. 0965642
222 Lakeview Avenue, 4th Floor
West Palm Beach, FL 33401
Telephone: (561) 653-5000
Telefax: (561) 653-5333
Attorney For Registrant

Certificate of Service

I HEREBY CERTIFY that a true and complete copy of the foregoing MOTION TO COMPEL has been served by mailing said true and complete copy on the April 29, 2011, via First Class Mail, postage prepaid to:

Neil B. Friedman
BAKER and RANNELLS, PA
575 Route 28, Suite 102
Raritan, New Jersey 08869

/Ashleigh Bholé/
Ashleigh Bholé

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

Nautica Apparel, Inc.,

Petitioner,

v.

AirNautic Watch Company,

Registrant.

Cancellation No.: 92052625

Mark: AIRNAUTIC

Reg. No. 3,640,791

Reg. Date: June 16, 2009

REGISTRANT'S EXHIBIT A TO MOTION TO COMPEL

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

NAUTICA APPAREL, INC.,

Cancellation No.: 92052625

Petitioner,

Mark: AIRNAUTIC

v.

Reg. No.: 3640791

AIRNAUTIC WATCH COMPANY,

Registered: June 16, 2009

Registrant.

**PETITIONER'S RESPONSE TO REGISTRANT'S
FIRST REQUEST FOR PRODUCTION OF DOCUMENTS**

Petitioner, Nautica Apparel, Inc., ("Petitioner"), responds to the First Request For Production of Documents and Things served by AirNautic Watch Company. ("Registrant") as follows:

GENERAL OBJECTIONS

1. The following general objections are incorporated by reference in Petitioner's response to each and every request for production of documents and things set forth below.

2. The specific responses set forth below are for the purposes of discovery only, and Petitioner neither waives nor intends to waive, but expressly reserves, any and all objections it may have to the relevance, competence, materiality, admission, admissibility or use at trial of any information, documents or writing produced, identified or referred to herein, or to the introduction of any evidence at trial relating to the subjects covered by such response.

3. Petitioner expressly reserves its right to rely, at any time including trial, upon subsequently discovered information or documents or information or documents omitted from the specific response set forth below as a result of mistake, oversight or inadvertences.

4. The specific responses set forth below are based upon Petitioner's interpretation of the language used in the requests for production of documents and things, and Petitioner reserves its right to amend or to supplement its responses in the event Registrant asserts an interpretation that differs from Petitioner's interpretation.

5. By making these responses, Petitioner does not concede it is in possession of any information or documents responsive to any particular request for production of documents and things or that any response given is relevant to this action.

6. Subject to and without waiving the general and specific responses and objections set forth herein, Petitioner will provide herewith information that Petitioner has located and reviewed to date. Petitioner will continue to provide responsive information as such is discovered. Petitioner's failure to object to a particular document request or willingness to provide responsive information pursuant to a document request is not, and shall not be construed as, an admission of the relevance, or admissibility into evidence, of any such information or documents, nor does it constitute a representation that any such information or documents in fact exists.

7. Because Petitioner may not have discovered all the information that is possibly within the scope of the Document Requests, Petitioner expressly reserves its right to amend or to supplement these Responses and Objections with any additional information or documents that emerges through discovery or otherwise.

8. Petitioner objects at the outset to the overly burdensome and redundant nature of Registrant's excessive document requests.

9. Petitioner objects to the Document Requests to the extent that they require the production of documents protected from disclosure by the attorney-client privilege, the attorney work product doctrine, the joint defense privilege or any other applicable privilege or immunities. Petitioner responds to the Document Requests on the condition that the inadvertent response regarding information covered or the inadvertent production of a document or documents covered by such privilege, rule or doctrine does not waive any of Petitioner's right to assert such privilege, rule or doctrine and the Petitioner may withdraw any such response or document inadvertently made or produced as soon as identified.

10. Petitioner objects to the Document Requests to the extent that they seek proprietary, sensitive, or confidential documents or commercial information or information made confidential by law or any agreement or that reflects trade secrets. Petitioner responds to the Document Requests on the condition that the inadvertent responses or documents regarding any proprietary, sensitive, or confidential information does not waive any of Petitioner's rights and that Petitioner may withdraw any such response or documents inadvertently made as soon as identified.

11. Petitioner objects to the Document Requests to the extent that they seek information that is not relevant to the subject matter of this action or reasonably calculated to lead to the discovery of admissible evidence.

12. Petitioner objects to the Document Requests to the extent that they are vague, ambiguous and overbroad and therefore not susceptible to a responses as

propounded. To the extent that any Request for Documents requires Petitioner to produce a sample of each different document used for any particular category, or to produce "all documents", Petitioner objects to the same as being overly broad, overly burdensome, and beyond what is required of Petitioner under the applicable rules. Accordingly, to the extent of that Petitioner agrees to make available for inspection or produce documents in response to any such requests, such production shall be limited to representative documents.

13. Petitioner objects to the Document Requests to the extent that they exceed the requirements of the Federal Rules of Civil Procedure or the Trademark Rules of Practice.

14. Petitioner objects to the Document Requests to the extent that they require Petitioner to undertake any investigation to ascertain information or to obtain documents not presently within its possession, custody or control on the grounds of undue burden and/or because information from other sources are equally available to Registrant.

15. Petitioner objects to the Document Requests to the extent that they require Petitioner to undertake such an extensive review that such Document Requests are unduly burdensome and harassing.

REQUESTS

REQUEST NO. 1: All documents and things concerning the creation, consideration, design, development, selection and adoption, first use of or intent to use the "NAUTICA" and/or "NAUT" designation(s) on or in connection with Your Products or Services for all marks upon which Petitioner intends to rely in this proceeding, including but not limited to, those marks and registrations identified in Paragraph 4 of the Petition for Cancellation.

Response to Request No. 1.

Petitioner objects to this Request to the extent that it seeks documents that are subject to the attorney-client privilege, the attorney work product privilege or are otherwise privileged or protected from disclosure. Nautica also objects to this Request as overbroad and unduly burdensome. Without waiver of and subject to each and every General Objection, Petitioner states that it is under no obligation to produce "all" documents. Petitioner has been using its marks for almost thirty years, representative responsive documents will be produced to the extent they exist.

REQUEST NO. 2: All documents and things upon which Petitioner relied or intends to rely to establish, or which support, a claimed date of first use for the "NAUTICA" and/or "NAUT" designation(s) in commerce with your Products or Services.

Response to Request No. 2.

Petitioner objects to this request on the grounds that it is overbroad and unduly burdensome and/or requests documents that are protected by the attorney-client privilege and/or the attorney work product privilege or are otherwise privileged or protected from disclosure. Petitioner also objects to this request on the grounds that it is redundant to Request Number 1. Without waiver of and subject to each and every General Objection, representative responsive documents will be produced to the extent they exist.

REQUEST NO. 3: All documents and things identifying the method and manner of use of the "NAUTICA" and/or "NAUT" designation(s) on Your Products and Services.

Response to Request No. 3.

Petitioner objects to this request on the grounds that it is overbroad and unduly burdensome and/or requests documents that are protected by the attorney-client privilege and/or the attorney work product privilege or are otherwise privileged or protected from disclosure. Petitioner also objects on the grounds also objects to this Request as vague, and ambiguous with respect to the term 'method and manner of use.' Without waiver of and subject to each and every General Objection, representative responsive documents will be produced to the extent they exist.

REQUEST NO. 4: All documents and things that summarize, describe or otherwise demonstrate the exact nature of each product and service in connection with which Petitioner has used the "NAUTICA" and/or "NAUT" designation(s), including but not limited to, the ways in which each product and service may be used by a purchaser.

Response to Request No. 4.

Petitioner objects to this request on the grounds that it is redundant, irrelevant, overbroad and unduly burdensome and/or requests documents that are protected by the attorney-client privilege and/or the attorney work product privilege or are otherwise privileged or protected from disclosure. Petitioner also objects to this request on the grounds that it is vague, ambiguous and hypothetical with respect to the term "used by a purchaser." The intended uses of Petitioner's goods are self-evident. Without waiver of and subject to each and every General Objection, representative responsive documents

will be produced to the extent they exist.

REQUEST NO. 5: Representative samples of each and every label, container, trade dress, wrapper, packaging, letterhead, sign, catalog, brochure or other document and thing, bearing the "NAUTICA" and/or "NAUT" designation(s), employed or used by Petitioner.

Response to Request No. 5.

Petitioner objects to this request on the grounds that it is irrelevant, overbroad and unduly burdensome and/or requests documents that are protected by the attorney-client privilege and/or the attorney work product privilege or are otherwise privileged or protected from disclosure. Without waiver of and subject to each and every General Objection, representative responsive documents will be produced to the extent they exist.

REQUEST NO. 6: Representative specimens of each advertisement and promotional material used or distributed by Petitioner that refers to any product or services in connection with which Petitioner has used the "NAUTICA" and/or "NAUT" designation(s).

Response to Request No. 6.

Petitioner objects to this request on the grounds that it is irrelevant, redundant, overbroad and unduly burdensome and/or requests documents that are protected by the attorney-client privilege and/or the attorney work product privilege or are otherwise privileged or protected from disclosure. Without waiver of and subject to each and every General Objection, representative responsive documents will be produced to the extent they exist.

REQUEST NO. 7: Representative specimens of each and every advertisement and promotional material used or distributed by Petitioner that refers to any product or services in connection with which Petitioner has used the "NAUTICA" and/or "NAUT" designation(s) and which feature the letter "A" or "N" more prominently than other letters contained in the "NAUTICA" and/or "NAUT" designation(s).

Response to Request No. 7.

Petitioner objects to this request on the grounds that it is irrelevant, redundant, overbroad and unduly burdensome and/or requests documents that are protected by the attorney-client privilege and/or the attorney work product privilege or are otherwise privileged or protected from disclosure. Without waiver of and subject to each and every General Objection, Petitioner refers Registrant to representative, responsive documents will be produced to the extent they exist.

REQUEST NO. 8: Representative specimens of each and every watch, timepiece, clock, piece of jewelry or other similar good manufactured, distributed, advertised, sold or otherwise endorsed by Petitioner.

Response to Request No. 8.

Petitioner objects to this request on the grounds that it is overbroad and unduly burdensome and/or requests documents that are protected by the attorney-client privilege and/or the attorney work product privilege or are otherwise privileged or protected from disclosure. Petitioner also objects to this request as redundant of request #6. Without waiver of and subject to each and every General Objection, representative responsive documents will be produced to the extent they exist.

REQUEST NO. 9: All documents and things concerning your past, present or future plans to advertise, market, sell or promote products or services under the "NAUTICA" and/or "NAUT" designation(s).

Response to Request No. 9.

Petitioner objects to this request on the grounds that it is irrelevant, redundant, overbroad and unduly burdensome and/or requests documents that are protected by the attorney-client privilege and/or the attorney work product privilege or are otherwise privileged or protected from disclosure. Without waiver of and subject to each and every General Objection, Petitioner refers Registrant to representative, responsive documents being produced herein to the extent that they exist.

REQUEST NO. 10: All documents and things which comprise, relate to or refer to any plans, projections or estimates of the number or dollar value of Your Products or Services offered under the "NAUTICA" and/or "NAUT" designation(s).

Response to Request No. 10.

Petitioner objects to this request on the grounds that it is irrelevant, redundant, overbroad and unduly burdensome and/or requests documents that are protected by the attorney-client privilege and/or the attorney work product privilege or are otherwise privileged or protected from disclosure. Without waiver of and subject to each and every General Objection, Petitioner refers Registrant to representative, responsive documents being produced herein to the extent that they exist.

REQUEST NO. 11: All documents and things which comprise, relate to or refer to any plans, projections or estimates of the number or dollar value of any watches, timepieces, clocks, or other similar time keeping devices offered under the "NAUTICA" and/or "NAUT" designation(s).

Response to Request No. 11.

Petitioner objects to this request on the grounds that it is irrelevant, redundant, overbroad and unduly burdensome and/or requests documents that are protected by the attorney-client privilege and/or the attorney work product privilege or are otherwise privileged or protected from disclosure. Without waiver of and subject to each and every General Objection, Petitioner refers Registrant to representative, responsive documents being produced herein to the extent that they exist.

REQUEST NO. 12: All documents and things which comprise, relate to or refer to the actual or suggested retail price of Your Products or Services, offered under the "NAUTICA" and/or "NAUT" designation(s), including, but not limited to, price lists and product catalogs.

Response to Request No. 12.

Petitioner objects to this request on the grounds that it is irrelevant, overbroad and unduly burdensome and/or requests documents that are protected by the attorney-client privilege and/or the attorney work product privilege or are otherwise privileged or protected from disclosure.

REQUEST NO. 13: All documents and things which comprise, relate to, include, or refer specifically to the actual or suggested retail price of watches, timepieces, clocks, pieces of jewelry or other similar items, offered under the "NAUTICA" and/or "NAUT" designation(s), including, but not limited to, price lists and product catalogs.

Response to Request No. 13.

Petitioner objects to this request on the grounds that it is redundant, irrelevant, overbroad and unduly burdensome and/or requests documents that are protected by the attorney-client privilege and/or the attorney work product privilege or are otherwise privileged or protected from disclosure.

REQUEST NO. 14: All documents and things which comprise, relate to, or refer to the actual or suggested retail price of any products or services for which Petitioner registered or applied for a "NAUTICA" and/or "NAUT" designation(s) under IC 014, including, but not limited to price lists and product catalogs.

Response to Request No. 14.

Petitioner objects to this request on the grounds that it is redundant, irrelevant, overbroad and unduly burdensome and/or requests documents that are protected by the attorney-client privilege and/or the attorney work product privilege or are otherwise privileged or protected from disclosure.

REQUEST NO. 15: All documents which relate or refer to any marketing or advertising plans, scheduling, programs, forecasts or strategies for the promotion and advertising of Your Products or Services under the "NAUTICA" and/or "NAUT" designation(s).

Response to Request No. 15.

Petitioner objects to this request on the grounds that it is redundant, irrelevant, overbroad and unduly burdensome and/or requests documents that are protected by the attorney-client privilege and/or the attorney work product privilege or are otherwise privileged or protected from disclosure. Without waiver of and subject to each and every General Objection, responsive documents will be produced to the extent they exist.

REQUEST NO. 16: All documents and things sufficient to identify the channels of trade through which you have distributed, sold or offered to sell, Your Products or Services under the "NAUTICA" and/or "NAUT" designation(s).

Response to Request No. 16.

Petitioner objects to this request on the grounds that it is overbroad and unduly burdensome and/or requests documents that are protected by the attorney-client privilege and/or the attorney work product privilege or are otherwise privileged or protected from disclosure. Without waiver of and subject to each and every General Objection, responsive documents will be produced to the extent they exist.

REQUEST NO. 17: All documents and things sufficient to identify the advertising methods through which you have advertised, marketed or promoted or intend to advertise, market or promote Your Products or Services under the "NAUTICA" and/or "NAUT" designation(s).

Response to Request No. 17.

Petitioner objects to this request on the grounds that it is redundant, irrelevant, overbroad and unduly burdensome and/or requests documents that are protected by the

attorney-client privilege and/or the attorney work product privilege or are otherwise privileged or protected from disclosure. Petitioner also objects to the request on the grounds that it is vague and ambiguous with respect to the term "advertising methods."

REQUEST NO. 18: All documents and things sufficient to identify the actual or potential class(es) of customers, clients, sales representatives, brokers and/or distributors of Petitioner to whom you have marketed, attempted to market or intend to market Your Products or Services, sold or to be sold, in connection with the "NAUTICA" and/or "NAUT" designation(s).

Response to Request No. 18.

Petitioner objects to this request on the grounds that it is redundant, irrelevant, overbroad and unduly burdensome and/or requests documents that are protected by the attorney-client privilege and/or the attorney work product privilege or are otherwise privileged or protected from disclosure. Petitioner also objects to the request on the grounds that it is vague and ambiguous with respect to the terms "class(es) of customers," "clients," and "brokers." Further, Petitioner is under no obligation to produce "all" such documents.

REQUEST NO. 19: All documents and things concerning your use of or intent to use any design, logo or other pictorial or graphic element in connection with the "NAUTICA" and/or "NAUT" designation(s) on or in connection with any product, service or promotion.

Response to Request No. 19.

Petitioner objects to this request on the grounds that it is irrelevant, overbroad and unduly burdensome and/or requests documents that are protected by the attorney-client privilege and/or the attorney work product privilege or are otherwise privileged or

protected from disclosure. Petitioner also objects on the grounds that it is under no obligation to produce "all" documents.

REQUEST NO. 20: All documents and things that reflect or refer to the date when and the circumstances under which Petitioner first became aware of Registrant's use of AIRNAUTIC.

Response to Request No. 20.

Petitioner objects to this request on the grounds that it is overbroad and unduly burdensome and/or requests documents that are protected by the attorney-client privilege and/or the attorney work product privilege or are otherwise privileged or protected from disclosure.

REQUEST NO. 21: All documents or things concerning any formal or informal searches or investigations concerning Registrant, its goods and services, Registrant's use of the AIRNAUTIC mark, or Registrant's ownership of the AIRNAUTIC mark, performed by, or on behalf of, you or any entity you hired.

Response to Request No. 21.

Petitioner objects to this request on the grounds that it is overbroad and unduly burdensome and/or requests documents that are protected by the attorney-client privilege and/or the attorney work product privilege or are otherwise privileged or protected from disclosure.

REQUEST NO. 22: All documents and things concerning any formal or informal market studies, surveys, public opinion polls, focus groups or other studies concerning the use of the "NAUTICA" and/or "NAUT" designation(s).

Response to Request No. 22.

Petitioner objects to this request on the grounds that it is overbroad and unduly burdensome and/or requests documents that are protected by the attorney-client privilege and/or the attorney work product privilege or are otherwise privileged or protected from disclosure. Petitioner objects to the request on the grounds that it is vague and ambiguous with respect to the terms "market studies, surveys, public opinion polls, focus groups or other studies." Petitioner also objects on the grounds that it is under no obligation to produce "all" documents. Without waiver of and subject to each and every General Objection, Petitioner refers Registrant to representative responsive documents produced herein, to the extent they exist.

REQUEST NO. 23: All documents and things concerning any opinions, including but not limited to, legal opinions, or other statements, concerning the decision to file a trademark application for any of the "NAUTICA" and/or "NAUT" designation(s) currently owned by Petitioner.

Response to Request No. 23.

Petitioner objects to this request on the grounds that it is overbroad and unduly burdensome and/or requests documents that are protected by the attorney-client privilege and/or the attorney work product privilege or are otherwise privileged or protected from disclosure.

REQUEST NO. 24: All documents and things concerning any opinions, including but not limited to, legal opinions, or other statements, concerning whether the use of the "NAUTICA"

and/or "NAUT" designation(s) by Petitioner would violate or implicate any trademark or other rights of any third party.

Response to Request No. 24.

Petitioner objects to this request on the grounds that it is overbroad and unduly burdensome and/or requests documents that are protected by the attorney-client privilege and/or the attorney work product privilege or are otherwise privileged or protected from disclosure.

REQUEST NO. 25: All documents and things concerning any opinions, including but not limited to, legal opinions, or other statements, concerning whether the "NAUTICA" and/or "NAUT" designation(s) are famous in accordance with 15 U.S.C. §1125.

Response to Request No. 25.

Petitioner objects to this request on the grounds that it is overbroad and unduly burdensome and/or requests documents that are protected by the attorney-client privilege and/or the attorney work product privilege or are otherwise privileged or protected from disclosure. Petitioner also objects on the grounds that it is under no obligation to produce "all" documents. Petitioner refers Registrant to representative, responsive documents being produced herein to the extent that they exist and in particular to the holdings in the TTAB decisions in Opposition Number 113893, Nautica Apparel, Inc. v. Kevin Crain, Nautica Apparel, Inc. v. Brian Carlucci, Opposition No. 91165909, and Nautica Apparel, Inc. v. Martanna, LLC, Opposition No. 91177192, which are publicly available documents.

REQUEST NO. 26: All documents and things concerning the yearly expenditures to date and planned future expenditures corresponding to each type of advertising, promotion, marketing or other publicity in connection with the "NAUTICA" and/or "NAUT" designation(s).

Response to Request No. 26.

Petitioner objects to this request on the grounds that it is redundant, irrelevant, overbroad and unduly burdensome and/or requests documents that are protected by the attorney-client privilege and/or the attorney work product privilege or are otherwise privileged or protected from disclosure. c

REQUEST NO. 27: All documents or things concerning any complaints, or other negative comments or feedback, concerning Your Products or Services marketed or sold under the "NAUTICA" and/or "NAUT" designation(s).

Response to Request No. 27

Petitioner objects to this request on the grounds that it is irrelevant, overbroad and unduly burdensome and/or requests documents that are protected by the attorney-client privilege and/or the attorney work product privilege or are otherwise privileged or protected from disclosure.

REQUEST NO. 28: All documents and things concerning any publicity, whether favorable or unfavorable, concerning Petitioner's products or services marketed or sold under the "NAUTICA" and/or "NAUT" designation(s).

Response to Request No. 28

Petitioner objects to this request on the grounds that it is irrelevant, overbroad and unduly burdensome and/or requests documents that are protected by the attorney-client privilege and/or the attorney work product privilege or are otherwise privileged or protected from disclosure. Without waiver of and subject to each and every General Objection, Petitioner refers Registrant to representative responsive documents produced herein, to the extent they exist.

REQUEST NO. 29: All documents and things concerning any objection, litigation, proceeding, or dispute in connection with Petitioner's use or intended use of the "NAUTICA" and/or "NAUT" designation(s).

Response to Request No. 29

Petitioner objects to this request on the grounds that it is irrelevant, overbroad and unduly burdensome and/or requests documents that are protected by the attorney-client privilege and/or the attorney work product privilege or are otherwise privileged or protected from disclosure or are available to the public. Petitioner refers Registrant to the TTAB and PACER websites.

REQUEST NO. 30: All documents and things concerning any proceeding or dispute before the TTAB in connection with Petitioner's use or intended use of the "NAUTICA" and/or "NAUT" designation(s) in which Petitioner was a Plaintiff.

Response to Request No. 30

Petitioner objects to this request on the grounds that it is redundant of request number 29, irrelevant, overbroad and unduly burdensome and/or requests documents that are protected by the attorney-client privilege and/or the attorney work product privilege

or are otherwise privileged or protected from disclosure or are available to the public.

Petitioner refers Registrant to the TTAB website.

REQUEST NO. 31: All documents and things concerning any proceeding or dispute before the TTAB in connection with Petitioner's use or intended use of the "NAUTICA" and/or "NAUT" designation(s) in which Petitioner was a Defendant.

Response to Request No. 31

Petitioner objects to this request on the grounds that it is redundant of request number 29, irrelevant, overbroad and unduly burdensome and/or requests documents that are protected by the attorney-client privilege and/or the attorney work product privilege or are otherwise privileged or protected from disclosure or are available to the public. Petitioner refers Registrant to the TTAB website.

REQUEST NO. 32: All documents and things concerning any final decisions by the TTAB concerning the "NAUTICA" and/or "NAUT" designation(s) in which Petitioner was a Plaintiff or a Defendant.

Response to Request No. 32

Petitioner objects to this request on the grounds that it is redundant, irrelevant, overbroad and unduly burdensome and/or requests documents that are protected by the attorney-client privilege and/or the attorney work product privilege or are otherwise privileged or protected from disclosure or are available to the public. Petitioner also objects on the grounds that it is under no obligation to produce "all" documents. Without waiver of and subject to each and every General Objection, Petitioner refers Registrant to representative, responsive documents being produced herein to the extent that they exist.

REQUEST NO. 33: All documents and things concerning any policing efforts made by or on behalf of Petitioner, whether successful or unsuccessful, including, but not limited to, demand letters to third parties, UDRP, ICANN or other domain name proceedings, in connection with third party use or intended use of the "NAUTICA" and/or "NAUT" designation(s).

Response to Request No. 33

Petitioner objects to this request on the grounds that it is irrelevant, overbroad and unduly burdensome and/or requests documents that are protected by the attorney-client privilege and/or the attorney work product privilege or are otherwise privileged or protected from disclosure.

REQUEST NO. 34: All documents and things that refer, concern, reference or relate to any assignment, license, concurrent use or co-existence agreement or any other agreement, whether oral or written, relating to the right to use the "NAUTICA" and/or "NAUT" designation(s).

Response to Request No. 34

Petitioner objects to this request on the grounds that it is irrelevant, overbroad and unduly burdensome and/or requests documents that are protected by the attorney-client privilege and/or the attorney work product privilege or are otherwise privileged or protected from disclosure.

REQUEST NO. 35: All documents and things that refer, concern, reference or relate to any sponsorship agreements, whether oral or written, which involve the "NAUTICA" and/or "NAUT" designation(s).

Response to Request No. 35

Petitioner objects to this request on the grounds that it is irrelevant, overbroad and unduly burdensome and/or requests documents that are protected by the attorney-client privilege and/or the attorney work product privilege or are otherwise privileged or protected from disclosure or are available to the public. Petitioner also objects on the grounds that it is under no obligation to produce "all" documents. Petitioner also objects on the grounds that the request is vague and ambiguous with respect to the term "sponsorship agreements." Without waiver of and subject to each and every General Objection, Petitioner refers Registrant to representative, responsive documents being produced herein, to the extent they exist.

REQUEST NO. 36: All documents and things that refer, concern, reference or relate to any Notices of Opposition or Petitions for Cancellation filed by Petitioner which were withdrawn.

Response to Request No. 36

Petitioner objects to this Request on the grounds that it request documents that are publicly available on the TTAB website.

REQUEST NO. 37: All documents and things that refer, concern, reference or relate to any settlement agreements made by or on behalf of Petitioner in connection with any third party use of designations containing the words, or variations of the words, "NAUTICA" or "NAUTIC," or the four letters "NAUT."

Response to Request No. 37

Petitioner objects to this Request on the grounds that it is irrelevant, overbroad and unduly burdensome, redundant, and/or requests documents and/or contain confidential business information with respect to third parties not involved in this litigation. Petitioner also objects on the grounds that it is under no obligation to produce "all" documents.

REQUEST NO. 38: All documents and things which state or indicate in any way the number and/or dollar value of the sales of any goods or services sold pursuant to any license, sponsorship or endorsement or other similar agreement entered into by Petitioner and any third party relating to such party's use of the "NAUTICA" and/or "NAUT" designation(s) since the date of any such license, sponsorship, endorsement or other similar agreement was made.

Response to Request No. 38

Petitioner objects to this Request on the grounds that it is redundant, irrelevant, overbroad and unduly burdensome, redundant, and/or requests documents and/or contain confidential business information with respect to third parties not involved in this litigation. Petitioner also objects on the grounds that it is under no obligation to produce "all" documents and on the grounds that the request is vague and ambiguous with respect to the term "number and/or dollar value."

REQUEST NO. 39: All documents and things that refer or relate to any federal, state, or local government inquiry, investigation, or action relating in whole or in part to any products or services in connection with which Petitioner has used the "NAUTICA" and/or "NAUT" designation(s).

Response to Request No. 39

Petitioner objects to this request on the grounds that it is irrelevant, overbroad and unduly burdensome and/or requests documents that are protected by the attorney-client privilege and/or the attorney work product privilege or are otherwise privileged or protected from disclosure. Petitioner objects on the grounds that it is under no obligation to produce "all" documents. Petitioner also objects to the request on the grounds that it is vague and ambiguous with respect to the terms "inquiry," and "action."

REQUEST NO. 40: All documents and things that refer or relate to any complaints, protests, objections, demands, threats, or other claims concerning any products or services in connection with which Petitioner has used the "NAUTICA" and/or "NAUT" designation(s).

Response to Request No. 40

Petitioner objects to this request on the grounds that it is irrelevant, overbroad and unduly burdensome and/or requests documents that are protected by the attorney-client privilege and/or the attorney work product privilege or are otherwise privileged or protected from disclosure. Petitioner objects on the grounds that it is under no obligation to produce "all" documents. Petitioner also objects to the request on the grounds that it is vague and ambiguous with respect to the terms "complaints, protests, objections, demands, threats or other claims."

REQUEST NO. 41: All documents and things concerning any application to register the "NAUTICA" and/or "NAUT" designation(s) with any governmental authority in the United States or abroad, in connection with Your Products or Services.

Response to Request No. 41

Petitioner objects to this request on the grounds that it is irrelevant, overbroad and unduly burdensome and/or requests documents that are protected by the attorney-client privilege and/or the attorney work product privilege or are otherwise privileged or protected from disclosure or as they relate to matters outside of the United States. Petitioner objects on the grounds that it is under no obligation to produce "all" documents. Petitioner also objects to the request on the grounds that it is vague and ambiguous with respect to the term "governmental authority." Petitioner's applications to register its Marks are public records and are available to Registrant via TDR and the USPTO website.

REQUEST NO. 42: All documents and things that reflect, relate to or refer to any instances of actual confusion, mistake or deception that have or may have occurred as to any relationship, connection or possible association, endorsement, approval or sponsorship between Petitioner and Registrant.

Response to Request No. 42

Petitioner objects to this request on the grounds that it is irrelevant, overbroad and unduly burdensome and/or requests documents that are protected by the attorney-client privilege and/or the attorney work product privilege or are otherwise privileged or protected from disclosure. Petitioner also objects to the request on the grounds that it is vague and ambiguous with respect to the terms "mistake or deception" and "relationship, connection or possible association, endorsement, approval or sponsorship," and to the request to produce "all" documents. Petitioner is under no obligation to produce "all"

documents. Without waiver of and subject to each and every General Objection, no responsive documents are known to exist at this time.

REQUEST NO. 43: All documents and things that reflect or refer to any communication between Petitioner and any other person or entity discussing or referring to this Petition for Cancellation.

Response to Request No. 43

Petitioner objects to this request on the grounds that it is overbroad and unduly burdensome and/or requests documents that are protected by the attorney-client privilege and/or the attorney work product privilege or are otherwise privileged or protected from disclosure. Petitioner also objects to the request on the grounds that it is vague and ambiguous with respect to the term "communication" and on the grounds that it is not obligated to produce "all" documents. Without waiver of and subject to each and every General Objection, no responsive documents are known to exist at this time.

REQUEST NO. 44: All documents and things that relate or refer to any websites or domain names registered, operated or used by Petitioner for the sale or advertising of Your Products or Services, or any websites or domain names you display, advertise or promote, or on which you intend to display, advertise or promote Your Products or Services.

Response to Request No. 44

Petitioner objects to this request on the grounds that it is overbroad and unduly burdensome and/or requests documents that are protected by the attorney-client privilege and/or the attorney work product privilege or are otherwise privileged or protected from

disclosure. Petitioner also objects to the request on the grounds that it is under no obligation to produce "all" documents.

REQUEST NO. 45: All documents and things relating to the geographical area(s) where Your Products or Services using the "NAUTICA" and/or "NAUT" designation(s) are sold, marketed or promoted, and the length of time Your Products or Services have been sold, marketed, or promoted in each such area(s).

Response to Request No. 45

Petitioner objects to this request on the grounds that it is overbroad and unduly burdensome and/or requests documents that are protected by the attorney-client privilege and/or the attorney work product privilege or are otherwise privileged or protected from disclosure. Petitioner also objects to the request on the grounds that it is vague and ambiguous with respect to the term "geographical area" and refers to matters outside of the United States. Petitioner has used in mark in commerce on its goods for over thirty years throughout the United States. Petitioner also objects to the request on the grounds that it is under no obligation to produce "all" documents. Without waiver of and subject to each and every General Objection, Petitioner refers Registrant to representative, responsive documents being produced herein to the extent that they exist.

REQUEST NO. 46: All documents relating or referring to annual budgets, financial projections, and forecasts relating to revenues, costs and profits for Your Products or Services.

Response to Request No. 46

Petitioner objects to this request on the grounds that it is redundant, overbroad and unduly burdensome and/or requests documents that are protected by the attorney-client

privilege and/or the attorney work product privilege or are otherwise privileged or protected from disclosure. Further, Petitioner has no obligation to produce 'all' documents. Without waiver of and subject to each and every General Objection, Petitioner refers Registrant to representative, responsive documents being produced herein to the extent that they exist.

REQUEST NO. 47: Copies of all documents, including, but not limited to, board meeting minutes and internal memoranda between Petitioner's shareholders, members, management personnel and/or other employees which detail, discuss or describe, in any way, each and every good and/or service with which Petitioner has used, currently uses, or intends to use the "NAUTICA" and/or "NAUT" designation(s).

Response to Request No. 47

Petitioner objects to this request on the grounds that it is irrelevant, redundant, overbroad and unduly burdensome and/or requests documents that are protected by the attorney-client privilege and/or the attorney work product privilege or are otherwise privileged or protected from disclosure. Petitioner also objects to the request on the grounds that it is under no obligation to produce "all" documents.

REQUEST NO. 48: Copies of all documents, including, but not limited to, board meeting minutes and internal memoranda between Petitioner's shareholders, members, management personnel and/or other employees which detail, discuss or describe Registrant and/or Petitioner's decision to pursue or not pursue an opposition or cancellation against Registrant.

Response to Request No. 48

Petitioner objects to this request on the grounds that it is redundant, overbroad and unduly burdensome and/or requests documents that are protected by the attorney-client privilege and/or the attorney work product privilege or are otherwise privileged or protected from disclosure. Petitioner also objects to the request on the grounds that it is under no obligation to produce "all" documents.

REQUEST NO. 49: All documents and things relating to the names and addresses of all past and present office, directors, managers, partners, limited partners, general partners, and shareholders of Petitioner.

Response to Request No. 49

Petitioner objects to this request on the grounds that it is overbroad and unduly burdensome and/or requests documents that are protected by the attorney-client privilege and/or the attorney work product privilege or are otherwise privileged or protected from disclosure. Petitioner also objects to the request on the grounds that it is vague and ambiguous with respect to the term "present office." Further, Petitioner has no obligation to produce 'all' documents or produce personal information regarding third party individuals no longer employed or associated with Petitioner.

REQUEST NO. 50: Any and all documents relating to Petitioner's corporate structure, including but not limited to any controlling companies, parent companies, subsidiaries and affiliates, and the shareholders, officers, directors, management, and representatives of each such entity.

Response to Request No. 50

Petitioner objects to the request on the grounds that it is under no obligation to produce "all" documents. Without waiver of and subject to each and every General Objection, Petitioner refers Registrant to representative, responsive documents being produced herein to the extent that they exist.

REQUEST NO. 51: All documents and things concerning the governance structure for Petitioner, including, but not limited to, all articles of incorporation, bylaws, limited liability company documents and/or partnership agreements.

Response to Request No. 51

Petitioner objects to this request on the grounds that it is irrelevant, overbroad and unduly burdensome and/or requests documents that are protected by the attorney-client privilege and/or the attorney work product privilege or are otherwise privileged or protected from disclosure.

REQUEST NO. 52: Copies of all financial statements on a yearly basis, beginning with the first year in which Petitioner used any of the "NAUTICA" and/or "NAUT" designation(s) which include financial information relating to, referring to or describing the sale of Your Products and Services.

Response to Request No. 52

Petitioner objects to this request on the grounds that it is irrelevant, overbroad and unduly burdensome and/or requests documents that are protected by the attorney-client privilege and/or the attorney work product privilege or are otherwise privileged or protected from disclosure. Petitioner objects on the ground that it is under no obligation

to produce "all" documents. Petitioner also objects to the request on the grounds that it is vague and ambiguous with respect to the term "financial statements."

REQUEST NO. 53: All documents and things that support, contradict, relate to or refer to Petitioner's statement that "Petitioner is the owner of numerous trademarks in a variety and constantly expanding number of classes including the NAUTICA mark, marks that contain the word NAUTICA, and marks that contain the letters NAUT and variations thereof ("Petitioner's Marks") as trademarks, trade names, and as service marks" as set forth in Paragraph 4 of Petitioner's Petition for Cancellation.

Response to Request No. 53

Petitioner objects to this request on the grounds that it is overbroad and unduly burdensome and/or requests documents that are protected by the attorney-client privilege and/or the attorney work product privilege or are otherwise privileged or protected from disclosure. Petitioner also objects on the ground that it is under no obligation to produce "all" documents. Without waiver of and subject to each and every General Objection, Petitioner refers Registrant to representative, responsive documents being produced herein to the extent that they exist including Petitioner's incontestable Registrations and Petitioner's Petition to Cancel.

REQUEST NO. 54: All documents and things that support, contradict, relate to or refer to Petitioner's statement that "Petitioner's Goods and Services have been widely advertised, offered for sale and sold throughout the United States under Petitioner's Marks and Petitioner's Marks are famous," as set forth in Paragraph 5 of Petitioner's Petition for Cancellation.

Response to Request No. 54

Petitioner objects to this request on the grounds that it is overbroad and unduly burdensome and/or requests documents that are protected by the attorney-client privilege and/or the attorney work product privilege or are otherwise privileged or protected from disclosure. Petitioner objects on the ground that it is under no obligation to produce "all" documents. Without waiver of and subject to each and every General Objection, Petitioner refers Registrant to representative, responsive documents being produced herein to the extent that they exist, and in particular to the holdings in TTAB decision in Opposition Number 113893, Nautica Apparel, Inc. v. Kevin Crain (the TTAB ruled that the NAUTICA mark was famous, based on worldwide recognition, sales, extensive advertising and promotion expenditures), Nautica Apparel, Inc. v. Brian Carlucci, Opposition No. 91165909, and Nautica Apparel, Inc. v. Martanna, LLC, Opposition No. 91177192, wherein the TTAB held the NAUTICA mark to be famous with a high degree of public recognition and renown.

REQUEST NO. 55: All documents and things that support, contradict, relate to or refer to Petitioner's statement that "Petitioner is now and has been, for many years prior to any date which may be claimed by Registrant, engaged in the use of Petitioner's Marks for Petitioner's Goods and Services, including without limitation, high quality clothing, watches, fragrance products and other goods and services," as set forth in Paragraph 7 of the Petition for Cancellation.

Response to Request No. 55

Petitioner objects to this request on the grounds that it is overbroad and unduly burdensome and/or requests documents that are protected by the attorney-client privilege

and/or the attorney work product privilege or are otherwise privileged or protected from disclosure. Petitioner objects on the ground that it is under no obligation to produce "all" documents. Without waiver of and subject to each and every General Objection, Petitioner refers Registrant to representative, responsive documents being produced herein to the extent that they exist.

REQUEST NO. 56: All documents and things that support, contradict, relate to or refer to Petitioner's statement that "Since Petitioner owns Petitioner's Marks by virtue of prior use, confusion, mistake or deception as to the source of origin of the goods will arise and will injure and damage the Petitioner and its goodwill," as set forth in Paragraph 11 of the Petition for Cancellation.

Response to Request No. 56

Petitioner objects to this request on the grounds that it is overbroad and unduly burdensome and/or requests documents that are protected by the attorney-client privilege and/or the attorney work product privilege or are otherwise privileged or protected from disclosure. Petitioner objects on the ground that it is under no obligation to produce "all" documents. Without waiver of and subject to each and every General Objection, Petitioner refers Registrant Petitioner's Petition to Cancel.

REQUEST NO. 57: All documents and things that support, contradict, relate to or refer to Petitioner's statement that "As a result of Petitioner's long use, extensive advertising and promotion, and successful sales for at least 25 years, Petitioner's Marks have become distinctive and famous, long prior to any date which may be claimed by Registrant," as set forth in Paragraph 12 of the Petition for Cancellation.

Response to Request No. 57

Petitioner objects to this request on the grounds that it is overbroad and unduly burdensome and/or requests documents that are protected by the attorney-client privilege and/or the attorney work product privilege or are otherwise privileged or protected from disclosure. Petitioner objects on the ground that it is under no obligation to produce "all" documents. Without waiver of and subject to each and every General Objection, Petitioner refers Registrant to the holdings in TTAB decision in Opposition Number 113893, Nautica Apparel, Inc. v. Kevin Crain (the TTAB ruled that the NAUTICA mark was famous, based on worldwide recognition, sales, extensive advertising and promotion expenditures), Nautica Apparel, Inc. v. Brian Carlucci, Opposition No. 91165909, and Nautica Apparel, Inc. v. Martanna, LLC, Opposition No. 91177192, wherein the TTAB held the NAUTICA mark to be famous with a high degree of public recognition and renown. Petitioner also refers Petitioner to representative, responsive documents being produced herein to the extent that they exist.

REQUEST NO. 58: All documents and things that support, contradict, relate to or refer to Petitioner's statement that "Petitioner's Goods and Services, most notably its watches, are identical in nature and otherwise similar and related to the goods marketed and sold by Registrant," as set forth in Paragraph 14 of the Petition for Cancellation.

Response to Request No. 58

Petitioner objects to this request on the grounds that it is overbroad and unduly burdensome and/or requests documents that are protected by the attorney-client privilege and/or the attorney work product privilege or are otherwise privileged or protected from

disclosure. Petitioner objects on the ground that it is under no obligation to produce "all" documents. Without waiver of and subject to each and every General Objection, Petitioner refers Registrant to representative, responsive documents being produced herein to the extent that they exist.

REQUEST NO. 59: All documents and things that support, contradict, relate to or refer to Petitioner's statement that "The continued registration of Registrant's mark to Registrant is likely to and will cause the relevant purchasing public to erroneously assume and thus be confused, misled, or deceived, that Registrant's Goods are made by, licensed by, controlled by, sponsored by, or in some way connected, related or associated with Petitioner, all to Petitioner's irreparable damage," as set forth in Paragraph 15 of the Petition for Cancellation.

Response to Request No. 59

Petitioner objects to this request on the grounds that it is overbroad and unduly burdensome and/or requests documents that are protected by the attorney-client privilege and/or the attorney work product privilege or are otherwise privileged or protected from disclosure. Petitioner objects on the grounds that it is under no obligation to produce "all" documents. Without waiver of and subject to each and every General Objection, Petitioner refers Registrant to its Petition to Cancel and to case law.

REQUEST NO. 60: All documents and things that support, contradict, relate to or refer to Petitioner's statement that "Petitioner believes that it is and likely will be damaged by the continued registration of Registrant's mark," as set forth in Paragraph 16 of the Petition for Cancellation.

Response to Request No. 60

Petitioner objects to this request on the grounds that it is overbroad and unduly burdensome and/or requests documents that are protected by the attorney-client privilege and/or the attorney work product privilege or are otherwise privileged or protected from disclosure. Petitioner objects on the grounds that it is under no obligation to produce "all" documents. Without waiver of and subject to each and every General Objection, Petitioner refers Registrant to its Petition to Cancel.

REQUEST NO. 61: All documents and things that support, contradict, relate to or refer to Petitioner's statement that "The association which would arise from the similarity between Registrant's Mark and Petitioner's famous Marks will harm the reputation of Petitioner and Petitioner's famous Marks thereby resulting in dilution by tarnishment in violation of Section 43(c) of the Lanham Act, 15 U.S.C. §1125(c). There is an overwhelming likelihood that this association will impugn Petitioner's Goods and Services and injure its business reputation," as set forth in Paragraph 17 of the Petition for Cancellation.

Response to Request No. 61

Petitioner objects to this request on the grounds that it is overbroad and unduly burdensome and/or requests documents that are protected by the attorney-client privilege and/or the attorney work product privilege or are otherwise privileged or protected from disclosure. Petitioner objects on the grounds that it is under no obligation to produce

"all" documents.. Without waiver of and subject to each and every General Objection, Petitioner refers Registrant to its Petition to Cancel and to case law.

REQUEST NO. 62: All documents and things that support, contradict, relate to or refer to Petitioner's statement that "The association which would arise from the similarity between Registrant's Mark and Petitioner's famous Mark will impair the distinctiveness of Petitioner's famous Marks and thereby result in dilution by blurring in violation of Section 43(c) of the Lanham Act, 15 U.S.C. §1125(c)," as set forth in Paragraph 18 of the Petition for Cancellation.

Response to Request No. 62

Petitioner objects to this request on the grounds that it is overbroad and unduly burdensome and/or requests documents that are protected by the attorney-client privilege and/or the attorney work product privilege or are otherwise privileged or protected from disclosure. Petitioner objects on the grounds that it is under no obligation to produce "all" documents. Without waiver of and subject to each and every General Objection, Petitioner refers Registrant to its Petition to Cancel and to case law.

REQUEST NO. 63: All documents and things that support, contradict, relate to or refer to Petitioner's statement that "Registrant's Mark falsely suggests a connection with Petitioner, and/or will bring Petitioner into contempt or disrepute, in violation of §2(a) of the Lanham Act, 15 U.S.C. §1052(a), all to Petitioner's irreparable damage," as set forth in Paragraph 19 of the Petition for Cancellation.

Response to Request No. 63

Petitioner objects to this request on the grounds that it is overbroad and unduly burdensome and/or requests documents that are protected by the attorney-client privilege and/or the attorney work product privilege or are otherwise privileged or protected from disclosure. Petitioner objects on the grounds that it is under no obligation to produce "all" documents. Without waiver of and subject to each and every General Objection, Petitioner refers Registrant to its Petition to Cancel and to case law.

REQUEST NO. 64: All documents and things that support, contradict, relate to or refer to Petitioner's statement that "Registrant's use of Registrant's Mark points uniquely and unmistakably to Petitioner," as set forth in Paragraph 20 of the Petition for Cancellation.

Response to Request No. 64

Petitioner objects to this request on the grounds that it is overbroad and unduly burdensome and/or requests documents that are protected by the attorney-client privilege and/or the attorney work product privilege or are otherwise privileged or protected from disclosure. Petitioner objects on the grounds that it is under no obligation to produce "all" documents. Without waiver of and subject to each and every General Objection, Petitioner refers Registrant to its Petition to Cancel and to case law.

REQUEST NO. 65: All documents and things that support, contradict, relate to or refer to Petitioner's statement that "Consumers that encounter Registrant's Mark will recognize Registrant's Mark as pointing uniquely and unmistakably to Petitioner," as set forth in Paragraph 21 of the Petition for Cancellation.

Response to Request No. 65

Petitioner objects to this request on the grounds that it is overbroad and unduly burdensome and/or requests documents that are protected by the attorney-client privilege and/or the attorney work product privilege or are otherwise privileged or protected from disclosure. Petitioner objects on the grounds that it is under no obligation to produce "all" documents. Petitioner refers Registrant to its Petition to Cancel and to case law.

REQUEST NO. 66: All documents and things that support, contradict, relate to or refer to Petitioner's statement that "The continued registration of Registrant's Mark to Registrant would create a false and misleading connection to Petitioner all to the irreparable damage of consumers and Petitioner," as set forth in Paragraph 22 of the Petition for Cancellation.

Response to Request No. 66

Petitioner objects to this request on the grounds that it is overbroad and unduly burdensome and/or requests documents that are protected by the attorney-client privilege and/or the attorney work product privilege or are otherwise privileged or protected from disclosure. Petitioner objects on the grounds that it is under no obligation to produce "all" documents. Without waiver of and subject to each and every General Objection, no responsive documents are known to exist at this time.

REQUEST NO. 67: Copies of all documents and things which relate, reference or refer to trademark watch notices or other similar notices which Petitioner has received in connection with third-party use of trademarks or service marks which include the words NAUTICA, NAUTICAL and/or the four letters "NAUT".

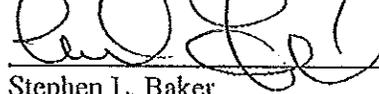
Response to Request No. 67

Petitioner objects to this request on the grounds that it is irrelevant with respect to third parties, overbroad and unduly burdensome and/or requests documents that are protected by the attorney-client privilege and/or the attorney work product privilege or are otherwise privileged or protected from disclosure. Petitioner also objects on the grounds that it is under no obligation to produce "all" documents.

Dated: March 4, 2011

By:

BAKER & RANNELLS PA



Stephen L. Baker
Neil B. Friedman
575 Route 28, Suite 102
Raritan, NJ 08869
(908) 722-5640
Attorneys for Petitioner,
Nautica Apparel, Inc.

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

Nautica Apparel, Inc.,

Petitioner,

v.

AirNautic Watch Company,

Registrant.

Cancellation No.: 92052625

Mark: AIRNAUTIC

Reg. No. 3,640,791

Reg. Date: June 16, 2009

REGISTRANT'S EXHIBIT B TO MOTION TO COMPEL

BAKER AND RANNELLS, P.A.
INTELLECTUAL PROPERTY ATTORNEYS

STEPHEN L. BAKER ♦
JOHN M. RANNELLS ♦
NEIL B. FRIEDMAN ♦

RYAN A. MCGONIGLE ♦
LINDA M. KURTH*

575 ROUTE 28 - SUITE 102
RARITAN, NEW JERSEY 08869
TELEPHONE (908) 722-5640
FACSIMILE (908) 725-7088
WWW.TMLAWWORLDWIDE.COM

NEW YORK OFFICE
570 LEXINGTON AVENUE
10TH FLOOR
NEW YORK, NY 10022
TELEPHONE (212) 481-7007
FACSIMILE (800) 688-8235

ADMITTED TO PRACTICE IN
♦NEW YORK & NEW JERSEY
*NEW JERSEY & REG. PATENT
ATTORNEY

PLEASE RESPOND TO THE NEW JERSEY ADDRESS
EMAIL: N.FRIEDMAN@BR-TMLAW.COM

April 13, 2011

VIA FIRST CLASS MAIL

Jennifer Parkins Rabin, Esq.
Akerman Senterfitt
222 Lakeview Avenue, Suite 400
West Palm Beach, FL 33401-6183

RECORDED
INDEXED
APR 13 2011
AKERMAN SENTERFITL, P.

Re: Nautica Apparel, Inc. v. AirNautic Watch Company
Cancellation No. 92052625

Dear Ms. Rabin:

I am in receipt of your letter dated April 11, 2011.

My objection to the number of interrogatories served under 37 CFR §2.120(d) stands. We reviewed the interrogatories served several times and by my count you have just fewer than seventy-five (75) interrogatories with delineated subparts. That number grows well beyond the seventy-five (75) interrogatory limit when you include the numerous non-delineated compound questions or conjunctive questions. In order to resolve this dispute, I suggest that you serve revised interrogatories. Alternatively, we would be prepared to respond to the first seventy-five (75) interrogatories served by our count. If this is not acceptable, please make your motion.

With respect to Nautica's production, during our emails exchanged between August 18, 2010 and August 26, 2010, you agreed that "[I]n connection with document production, responsive documents shall be served upon counsel for the requesting party." On March 4, 2011, pursuant to FRCP 34, we produced 13,439 documents to Registrant's sixty-seven (67) Document Requests as they are kept in the usual course of business, via a portable flash drive. Nautica went to great expense to electronically scan representative documents responsive to Registrant's numerous Requests. I hasten to remind you that the Requests called for the production of numerous items from and throughout Nautica's near thirty (30) years of existence. The same were produced. There was no intent to bury any documents in this production and we intend to use the produced documents at trial in this

matter. Nautica is under no obligation to create an index for its production. Surely, our agreement to deliver the documents to your office was more economical and efficient for your client than your letter's suggestion that they be made available "at a regular place of business." We trust the Board would see it that way, too. Notwithstanding our prior agreement however, we would be amenable to discussing arrangements for you to come to New York or New Jersey to review the produced documents as they are kept. Any documents that you identify during that review can be flagged for printing at your client's expense.

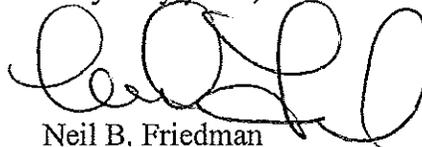
Your letter also mischaracterizes the various extensions of time that were previously agreed to while both sides labored over proposed settlement terms. It now appears to me that you insisted that I file for the agreed upon extensions simply for purposes of gamesmanship if settlement could not be reached. There has been no delay by Nautica in responding to Registrant's Requests.

As for a privilege log, we enclose one with this letter which is specifically relevant to your client and its registration. Nautica will not produce a privilege log concerning the numerous Requests made by Registrant that cover its legal communications with counsel and privileged documents that spans close to thirty (30) years.

Lastly, Nautica believes that it properly objected and responded to Request No. 29 since the documents and information responsive to the request are available through public sources and is equally available to Registrant as it is to Nautica. Indeed, Nautica already provided unreported decisions it obtained from the TTAB in its production to you. In order to avoid a dispute regarding this Request however, Nautica supplements its production with the enclosed representative documents and information gleaned from the TTAB and PACER websites already identified (See Bates Nos. 13440 through 13554). Any additional information is publicly available and can be obtained by Registrant independently.

We trust that the concerns raised in your letter have been fully addressed. Feel free to contact me if you wish to discuss these matters further.

Very truly yours,

A handwritten signature in black ink, appearing to read "Neil B. Friedman". The signature is fluid and cursive, with the first name being the most prominent.

Neil B. Friedman

NBF:aa
Enclosures