

ESTTA Tracking number: **ESTTA604263**

Filing date: **05/14/2014**

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

Proceeding	92052897
Party	Plaintiff Thomas SkÅ¶ld
Correspondence Address	ARTHUR E JACKSON MOSER IP LAW GROUP 1030 BROAD STREET, SUITE 203 SHREWSBURY, NJ 07702 UNITED STATES docketing@mtiplaw.com, ajackson@mtiplaw.com
Submission	Plaintiff's Notice of Reliance
Filer's Name	Arthur E, Jackson
Filer's e-mail	ajackson@mtiplaw.com
Signature	/Arthur E. Jackson/
Date	05/14/2014
Attachments	SKDGaldermaRespNotReliance.pdf(757901 bytes)

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

In the Matter of Registration Nos. 2985751; and 3394514

Dated: August 16, 2005 & March 11, 2008, Respectively

Thomas Sköld,)	
Petitioner)	
)	
v.)	
)	Cancellation No. 92052897
Galderma Laboratories, Inc.,)	
Registrant)	
_____)	

SKÖLD RESPONSIVE NOTICE OF RELIANCE

Pursuant to Section 704 of the TTAB Manual of Procedure, Petitioner submits herewith, and intends to rely upon, the documents listed below. These documents are submitted in response Registrant's Notice of Reliance dated 31 March 2014. This filing is made on or before the close of Plaintiff's 15-day Rebuttal Period.

Specifically, of the portion of Petitioner's Response to Registrant's Second Request for Admissions, responses 101-108, 110-115, 125-131, 189-193, 199-202, 204 and 206 are needed to put the cherry picked responses provided by Registrant in context. Petitioner's Supplemental Response to Registrant's Second Request for Admissions is provided to set forth the missing context for responses 116 and 117. Moreover, Petitioner Sköld's Supplemental Response to Registrant's First Set of Interrogatories is provided because the responses submitted by Petitioner as its Exhibit 10 to Interrogatories 4 and 5 were 10 months out-of-date when submitted.

**Submitted Under §704.11 TTAB Manual of Procedure – Interrogatory Answers;
Admissions**

Exhibit T157	Petitioner's Response to Registrant's Second Request for Admissions (portion)
Exhibit T158	Petitioner's Supplemental Response to Registrant's Second Request for Admissions
Exhibit T159	Petitioner Sköld's Supplemental Response to Registrant's First Set of Interrogatories

Respectfully submitted,

Date: May 14, 2014

By: /Arthur E. Jackson

Arthur E. Jackson, Esq.
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Attorney for Petitioner

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Thomas Sköld,)	
Petitioner,)	
)	
v.)	
)	Cancellation No. 92052897
Galderma Laboratories, Inc.,)	
Registrant)	

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Sköld Responsive Notice of Reliance and the Exhibits referred to therein were sent by email on this 13th day of May, 2014 to:

Jeff.Becker@haynesboone.com


Arthur E. Jackson

T157

The statement that "Petitioner denies/admits this assertion" or equivalent language signifies that Petitioner denies/confirms the Request for Admission immediately preceding the language.

Request for Admission 52:

All of the documents that Petitioner produced in response to Registrant's First Request for Production of Documents and Things are true and correct copies of authentic documents.

On information and belief, all documents he has produced are true and correct copies of authentic documents.

Request for Admission 53:

All of the documents that Petitioner produced in connection with his Initial Disclosure under Rule 26(a)(1)(A)(ii), as listed under "Part A" and "Part C" of Petitioner's counsel's January 17, 2012 letter to Registrant's counsel, are true and correct copies of authentic documents.

On information and belief, all documents he has produced are true and correct copies of authentic documents.

Request for Admission 54:

All of the documents that Petitioner produced in connection with his First Updated Initial Disclosure under Rule 26(a)(1)(A)(ii), as listed under "Part A" of Petitioner's counsel's March 15, 2012 letter to Registrant's counsel, are true and correct copies of authentic documents.

Petitioner objects to this Request as duplicative of Request 53.

Request for Admission 55:

Petitioner's Document No. 102 is a true and correct copy of an authentic document.

Petitioner objects to this Request as duplicative of Request 53.

Prior to February 28, 2002, Petitioner did not present the information contained in Petitioner's Document No. 103 in the U.S. in any trade publication.

Petitioner objects to this Request as unduly burdensome. It has been clear from the papers Petitioner filed with the Board and served to the Registrant that this form of advertising is not germane to his use, at the time, of the mark. Subject to this objection, Petitioner confirms the assertion.

Request for Admission 101:

Prior to February 28, 2002, Petitioner did not meet with Johnson & Johnson regarding the Technology.

Denied.

Request for Admission 102:

Petitioner did not meet with Johnson & Johnson on September 11, 2001.

Denied.

Request for Admission 103:

Prior to February 28, 2002, Petitioner did not deliver any substance in a container that in any way bore the mark RESTORADERM to Johnson & Johnson.

Denied.

Request for Admission 104:

Prior to February 28, 2002, Petitioner did not present Petitioner's Document No. 102 to Johnson & Johnson.

Denied.

Request for Admission 105:

Prior to February 28, 2002, Petitioner did not present Petitioner's Document No. 103 to Johnson & Johnson.

Denied.

Request for Admission 106:

Any disclosure in any way relating to the Technology that Petitioner made to Johnson and Johnson prior to February 28, 2002, was subject to one or more nondisclosure agreements.

Petitioner can neither confirm nor deny this assertion.

Request for Admission 107:

Prior to February 28, 2002, Petitioner did not meet with Medicis regarding the Technology.

Petitioner objects to this request as incurably ambiguous. To the extent Petitioner understands the question, denied.

Request for Admission 108:

Petitioner did not meet with Medicis on September 11, 2001.

Petitioner objects to this request as incurably ambiguous. To the extent Petitioner understands the question, denied.

Request for Admission 109:

Prior to February 28, 2002, Petitioner did not deliver any substance in a container that in any way bore the mark RESTORADERM to Medicis.

Petitioner confirms this assertion.

Request for Admission 110:

Prior to February 28, 2002, Petitioner did not present Petitioner's Document No. 102 to Medicis.

Petitioner can neither confirm nor deny this assertion.

Request for Admission 111:

Prior to February 28, 2002, Petitioner did not present Petitioner's Document No. 103 to Medicis.

Petitioner can neither confirm nor deny this assertion.

Request for Admission 112:

Any disclosure in any way relating to the Technology that Petitioner made to Medicis prior to February 28, 2002, was subject to one or more nondisclosure agreements.

Petitioner can neither confirm nor deny this assertion.

Request for Admission 113:

Prior to February 28, 2002, Petitioner did not meet with Ortho-McNeil regarding the Technology.

Petitioner denies this assertion.

Request for Admission 114:

Petitioner did not meet with Ortho-McNeil on September 11, 2001.

Petitioner denies this assertion.

Request for Admission 115:

Prior to February 28, 2002, Petitioner did not deliver any substance in a container that in any way bore the mark RESTORADERM to Ortho-McNeil.

Petitioner denies this assertion; such a substance was delivered to a collaborating corporate affiliate of Ortho-McNeil.

Request for Admission 116:

Prior to February 28, 2002, Petitioner did not present Petitioner's Document No. 102 to Ortho-McNeil.

Petitioner confirms this assertion.

Request for Admission 117:

Prior to February 28, 2002, Petitioner did not present Petitioner's Document No. 103 to Ortho-McNeil.

Petitioner confirms this assertion.

Request for Admission 118:

Any disclosure in any way relating to the Technology that Petitioner made to Allergan prior to February 28, 2002, was subject to one or more nondisclosure agreements.

Petitioner can neither confirm nor deny this assertion.

Request for Admission 125:

Prior to February 28, 2002, Petitioner did not meet with any Company in the U.S., other than CollaGenex, regarding the Technology.

Denied.

Request for Admission 126:

Prior to February 28, 2002, Petitioner did not deliver any substance in a container that in any way bore the mark RESTORADERM to any Company in the U.S. other than CollaGenex.

Denied.

Request for Admission 127:

Prior to February 28, 2002, Petitioner did not present Petitioner's Document No. 102 to any Company in the U.S. other than CollaGenex.

Denied.

Request for Admission 128:

Prior to February 28, 2002, Petitioner did not present Petitioner's Document No. 103 to any Company in the U.S. other than CollaGenex.

Denied.

Request for Admission 129:

Prior to February 28, 2002, Petitioner did not meet with any person in the U.S. other than representatives of CollaGenex, regarding the Technology.

Denied.

Request for Admission 130:

Prior to February 28, 2002, Petitioner did not deliver any substance in a container that in any way bore the mark RESTORADERM to any person in the U.S. other than representatives of CollaGenex.

Denied.

Request for Admission 131:

Prior to February 28, 2002, Petitioner did not sell goods in the U.S. that in any way bore the mark RESTORADERM.

The question is insolubly ambiguous. To the extent it is understood, denied.

Request for Admission 132:

Prior to February 28, 2002, Petitioner made no effort to create an association among the mark RESTORADERM, the Technology, and Petitioner in the mind of public consumers of dermatological goods in the U.S.

Petitioner objects to this request as incurably ambiguous. Petitioner's papers to the Board or to the Registrant have all emphasized that his product, as marketed at the time, was a technology, and its market, at the time, was companies. If a "public consumers" includes companies, as required if the question is to be interpreted as relevant to Petitioner's allegations, denied.

Request for Admission 133:

Prior to February 28, 2002, Petitioner made no effort to create an association among the mark RESTORADERM, the Technology, and Petitioner in the mind of the purchasing public in the U.S.

Petitioner objects to this request as incurably ambiguous. Petitioner's papers to the Board or to the Registrant have all emphasized that his product, as marketed at the time, was a technology, and its market, at the time, was companies. If a "purchasing public" includes companies, as required if the question is to be interpreted as relevant to Petitioner's allegations, denied.

Request for Admission 134:

Petitioner objects to this request as incurably ambiguous. On information and belief, the RESTORADERM Technology was described in materials directed to the investing public prior to February 28, 2002.

Request for Admission 189:

Prior to February 28, 2002, no information relating to the Technology appeared in any solicitation for public investment or related disclosure statement in the U.S.

Petitioner objects to this request as incurably ambiguous. On information and belief, the RESTORADERM Technology was described in materials directed to the investing public prior to February 28, 2002.

Request for Admission 190:

Prior to February 28, 2002, Petitioner did not purchase any advertisement time to promote any product that in any way bore the mark RESTORADERM to consumers in the U.S.

Petitioner objects to this request as incurably ambiguous. Petitioner's papers to the Board or to the Registrant have all emphasized that its technology was marketed to companies. If a "advertisement time" includes that which is appropriate to Petitioner's marketing and presentations to companies, denied.

Request for Admission 191:

Prior to February 28, 2002, Petitioner did not have an advertising budget for promoting any product that in any way bore the mark RESTORADERM to consumers in the U.S.

Petitioner objects to this request as incurably ambiguous. Petitioner's papers to the Board or to the Registrant have all emphasized that its technology was marketed to companies. If a "advertising budget" includes that which is appropriate to Petitioner's marketing and presentations to companies, denied.

Request for Admission 192:

Prior to February 28, 2002, Petitioner did not purchase any advertisement time to promote any product that in any way incorporated the Technology to consumers in the U.S.

Petitioner objects to this request as incurably ambiguous. Petitioner's papers to the Board or to the Registrant have all emphasized that its technology was marketed to companies. If a "advertisement time" includes that which is appropriate to Petitioner's marketing and presentations to companies, denied.

Request for Admission 193:

Prior to February 28, 2002, Petitioner did not have an advertising budget for promoting any product that in any way incorporated the Technology to consumers in the U.S.

Petitioner objects to this request as incurably ambiguous. Petitioner's papers to the Board or to the Registrant have all emphasized that its technology was marketed to companies. If a "advertising budget" includes that which is appropriate to Petitioner's marketing and presentations to companies, denied.

Request for Admission 194:

Petitioner has produced to Registrant all documents or things in Petitioner's possession, custody, or control upon which Petitioner may rely to establish Petitioner's actual use of the mark RESTORADERM prior to February 28, 2002.

Petitioner has produced, or is producing in connection with its responses to Registrant's discovery requests of January 2, 2002, all documents or things in Petitioner's possession, custody, or control that it has identified at this time.

Request for Admission 195:

Petitioner has produced to Registrant all documents or things in Petitioner's possession, custody, or control upon which Petitioner may rely to establish Petitioner's use of the mark RESTORADERM in any way prior to February 28, 2002.

Petitioner has produced, or is producing in connection with its responses to Registrant's discovery requests of January 2, 2002, all documents or things in Petitioner's possession, custody, or control that it has identified at this time.

Request for Admission 196:

Prior to February 28, 2002, Petitioner's use of the mark RESTORADERM in the U.S. was not sufficient to inform or apprise prospective retail purchasers of the present availability of Petitioner's goods under the mark RESTORADERM.

Petitioner objects to this request as incurably ambiguous. Petitioner's papers to the Board or to the Registrant have all emphasized that its technology was marketed to companies. If a "prospective retail purchasers" includes that which is appropriate to Petitioner's marketing and presentations to companies, and if goods includes the then presently available technology, denied.

Request for Admission 197:

Prior to February 28, 2002, Petitioner's use of the mark RESTORADERM in the U.S. was not sufficient to inform or apprise prospective retail purchasers of the future availability of Petitioner's goods under the mark RESTORADERM.

Petitioner objects to this request as incurably ambiguous. Petitioner's papers to the Board or to the Registrant have all emphasized that its technology was marketed to companies. If a "prospective retail purchasers" includes that which is appropriate to Petitioner's marketing and presentations to companies, and if goods includes the then presently available technology, denied.

Request for Admission 198:

Prior to February 28, 2002, Petitioner did not actually provide services in the U.S. under the mark RESTORADERM.

Denied. See TMEP 901.03.

Request for Admission 199:

Prior to February 28, 2002, Petitioner made no effort to create an association among the mark RESTORADERM, the Technology, and Petitioner in the mind of public consumers of dermatological services in the U.S.

Petitioner objects to this request as incurably ambiguous. Petitioner's papers to the

Board or to the Registrant have all emphasized that its technology was marketed to companies. If a "consumers of dermatological services" includes technology consumers appropriate to Petitioner's marketing and presentations to companies, denied.

Request for Admission 200:

Prior to February 28, 2002, no association existed among the mark RESTORADERM, the Technology, and Petitioner in the mind of public consumers of dermatological services in the U.S.

Petitioner objects to this request as incurably ambiguous. Petitioner's papers to the Board or to the Registrant have all emphasized that its technology was marketed to companies. If a "consumers of dermatological services" includes technology consumers appropriate to Petitioner's marketing and presentations to companies, denied.

Request for Admission 201:

Prior to February 28, 2002, consumers in the U.S. did not identify the mark RESTORADERM with Petitioner.

Petitioner objects to this request as incurably ambiguous. Petitioner's papers to the Board or to the Registrant have all emphasized that its technology was marketed to companies. If a "consumers in the U.S." includes technology consumers appropriate to Petitioner's marketing and presentations to companies, denied.

Request for Admission 202:

Prior to February 28, 2002, the pharmaceutical business in the U.S. did not identify the mark RESTORADERM with Petitioner.

Petitioner objects to this request as incurably ambiguous. Petitioner's papers to the Board or to the Registrant have all emphasized that its technology was marketed to companies. If a "consumers in the U.S." includes technology consumers appropriate to Petitioner's marketing and presentations to companies, denied.

Request for Admission 203:

Prior to February 28, 2002, Petitioner did not purchase any advertisement time to promote any service that in any way bore the mark RESTORADERM to consumers in the U.S.

Petitioner objects to this Request as unduly burdensome. It has been clear from the papers Petitioner filed with the Board and served to the Registrant that this form of advertising is not germane to his use of the mark. Subject to this objection, Petitioner confirms the assertion.

Request for Admission 204:

Prior to February 28, 2002, Petitioner did not have an advertising budget for promoting any service that in any way bore the mark RESTORADERM to consumers in the U.S.

Petitioner objects to this request as incurably ambiguous. Petitioner's papers to the Board or to the Registrant have all emphasized that its technology was marketed to companies. If a "consumers in the U.S." includes technology consumers appropriate to Petitioner's marketing and presentations to companies, denied.

Request for Admission 205:

Prior to February 28, 2002, Petitioner did not purchase any advertisement time to promote any service that in any way incorporated the Technology to consumers in the U.S.

Petitioner objects to this Request as unduly burdensome. It has been clear from the papers Petitioner filed with the Board and served to the Registrant that this form of advertising is not germane to his use of the mark. Subject to this objection, Petitioner confirms the assertion.

Request for Admission 206:

Prior to February 28, 2002, Petitioner did not have an advertising budget for promoting any service that in any way incorporated the Technology to consumers in the U.S.

Petitioner objects to this request as incurably ambiguous. Petitioner's papers to the Board or to the Registrant have all emphasized that its technology was marketed to companies. If a "consumers in the U.S." includes technology consumers appropriate to

Petitioner's marketing and presentations to companies, denied.

Request for Admission 207:

Prior to February 28, 2002, Petitioner's use of the mark RESTORADERM in the U.S. was not sufficient to inform or apprise prospective purchasers of the present availability of Petitioner's services under the mark RESTORADERM.

Denied.

Request for Admission 208:

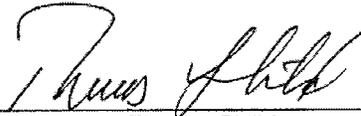
Prior to February 28, 2002, Petitioner's use of the mark RESTORADERM in the U.S. was not sufficient to inform or apprise prospective purchasers of the future availability of Petitioner's services under the mark RESTORADERM.

Denied.

VERIFICATION

Thomas Sköld, acknowledging that this verification is made under penalty of perjury, states that he has read the foregoing Petitioner Sköld's Response to Registrant's Second Requests for Admissions, and that to the best of his knowledge, information and belief, the facts set forth therein are true and correct.

DATED: February 6, 2013


Thomas Sköld

Respectfully submitted,

Date: February 7, 2013

By: / Arthur E. Jackson /

Arthur E. Jackson, Ph.D., Esq.
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Attorney for Petitioner

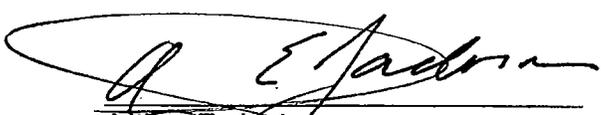
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Thomas Sköld,)	
Petitioner,)	
)	
v.)	
)	Cancellation No. 92052897
Galderma Laboratories, Inc.,)	
Registrant)	
<hr/>)

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Petitioner Sköld's Response to Registrant's **Second Request for Admissions** was sent by email on this 7th of February, 2013 to:

Jeff.Becker@haynesboone.com



Arthur E. Jackson

T 158

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

In the Matter of Registration Nos. 2985751; and 3394514

Dated: August 16, 2005 & March 11, 2008, Respectively

Exhibit	T158
Skold v. Galderma	
Cancellation No. 92052897	

Thomas Sköld,
Petitioner,

v.

Galderma Laboratories, Inc.,
Registrant

Cancellation No. 92052897

BOX TTAB/FEE
Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3513

PETITIONER SKÖLD'S SUPPLEMENTAL RESPONSE TO REGISTRANT'S SECOND REQUESTS FOR ADMISSIONS

Pursuant to Rules 26 and 36 of the Federal Rules of Civil Procedure, Petitioner Thomas Sköld ("Sköld"), by and through its undersigned counsel, submits this supplement response to the Registrant's Second Requests for Admissions as follows set forth below.

Petitioner objects to these Requests to the extent that they seek to impose burdens or obligations inconsistent with, or in excess of, those imposed by the Federal Rules of Civil Procedure, title 37 of the Code of Federal Regulations, the TTAB Manual of Procedure, or any other applicable rules and statutes.

Additionally, Petitioner object to each request for admission to the extent that it calls for the disclosure of material or information protected by one or more of the attorney-client privilege, work-product doctrine, or any other applicable privilege.

Petitioner reserves the right to amend, supplement, or change its responses in light of information learned in the course of its investigations.

The statement that "Petitioner denies/admits this assertion" or equivalent language signifies that Petitioner denies/confirms the Request for Admission immediately preceding the language.

Request for Admission 116:

Prior to February 28, 2002, Petitioner did not present Petitioner's Document No. 102 to Ortho-McNeil.

Petitioner confirms this assertion only in that Petitioner regarded the entity to which he did present Document No. 102 to be Johnson & Johnson, consistent with his response to Request for Admission 104.

Request for Admission 117:

Prior to February 28, 2002, Petitioner did not present Petitioner's Document No. 103 to Ortho-McNeil.

Petitioner confirms this assertion only in that Petitioner regarded the entity to which he did present Document No. 102 to be Johnson & Johnson, consistent with his response to Request for Admission 104.

VERIFICATION

Thomas Sköld, acknowledging that this verification is made under penalty of perjury, states that he has read the foregoing Petitioner Sköld's Supplemental Response to Registrant's Second Requests for Admissions, and that to the best of his knowledge, information and belief, the facts set forth therein are true and correct.

DATED: May 14, 2014


Thomas Sköld

Respectfully submitted,

Date: May 14, 2013

By: / Arthur E Jackson/

Arthur E. Jackson, Ph.D., Esq.
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Attorney for Petitioner

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

Thomas Sköld,)	
Petitioner,)	
)	
v.)	
)	Cancellation No. 92052897
Galderma Laboratories, Inc.,)	
Registrant)	
)	

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Petitioner Sköld's Supplemental Response to Registrant's **Second Request for Admissions** was sent by email on this 14th of May, 2014 to:

Jeff.Becker@haynesboone.com

/Arthur E Jackson/

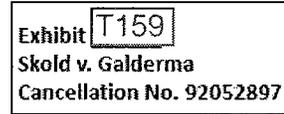
Arthur E. Jackson

T159

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

In the Matter of Registration Nos. 2985751; and 3394514

Dated: August 16, 2005 & March 11, 2008, Respectively



Thomas Sköld,)	
Petitioner,)	
)	
v.)	
)	Cancellation No. 92052897
Galderma Laboratories, Inc.,)	
Registrant)	
)	

PETITIONER SKÖLD'S SUPPLEMENTAL RESPONSE TO REGISTRANT'S FIRST SET OF INTERROGATORIES

Pursuant to Rules 26 and 33 of the Federal Rules of Civil Procedure, Petitioner Thomas Sköld ("Sköld"), by and through its undersigned counsel, submits this response to the Registrant's First Set of Interrogatories as set forth below.

As a general note, applicable to multiple Interrogatories, Petitioner's RESTORADERM Technology is based on (a) compositions of stratum corneum lipids (phospholipids/ceramide/cholesterol/fatty acid), and (b) the presence of different macromolecular aggregates formed of the lipids. Its primary intent is for formulation for delivering pharmaceutically active substances into or through the dermis of a patient. But Sköld's use of the trademark has extended to the vehicle. References herein to the "RESTORADERM Technology" are references to technology encompassing (a) and (b).

As a general note, the responses below may speak of "Registrant," where the context should make clear whether the referenced party was, at the time of events recited, Galderma Laboratories, Inc. ("Galderma") or its predecessor in interest, Collagenex Pharmaceuticals, Inc. ("Collagenex"). At other times, the specific such party may be called out.

Interrogatory No.4:

Describe in detail how the term RESTORADERM was first conceived of.

Response to Interrogatory No. 4:

At an early stage of development Sköld and Mats Silvander were brainstorming about giving the development a name and came up with Lipoid, LipoDerm, Restoraderm for use with various aspects of technology under consideration. The idea was to use Restoraderm for topical delivery and Lipoid for nasal/oral delivery. Lately the nasal and oral system goes under the trademark LipoGrid Technology.

The topical technology labeled with the Lipoderm and RESTORADERM marks was presented to Collagenex on Sept. ~~11th~~ ^{12th} 2001, especially via a document substantially identical to that labeled "A theory of the "mode of action" concerning this new technology" ("Mode of Action Document", **Bates SKOLD-000011**). In early 2002 Collagenex had a couple of sessions internally (Jeff Day, Rob Ashley and Chris Powala) to decide which the Sköld's trademarks they were comfortable with and settled on Restoraderm. Collagenex then asked if Sköld was fine with that choice, and he gave them approval (contingent on the license), which led to the license provided by the 2002 Agreement. Since then the mark has been associated with RESTORADERM Technology, though since 2010 there has been the confusion brought on by Registrant's unlicensed and misleading use of the mark.

The Mode of Action Document is being provided with the First Updated Initial Disclosures.

Interrogatory No.6:

State the date of, and describe in detail the circumstances of, your first use of the mark RESTORADERM in commerce in connection with the sale, offering for sale, distribution, or advertising of a dermatology product.

Response to Interrogatory No. 6:

The week of Sept. 11, 2001, Sköld had scheduled meetings with **Neutrogena** Neutrogen (Ortho McNeil), Medicis and **Allergan** Alerga, each of which **at least the first two of whom** had received from Sköld the Mode of Action Document. Each of these was a set up as part of selling RESTORADERM Technology product and services.

In late 2001, prior to any usage or conception of usage by Registrant, Petitioner delivered to Collagenex RESTORADERM labeled samples of a base formulation for RESTORADERM Technology.

Petitioner's meeting with Collagenex is set forth in the answer to Interrogatory No. 4.

Moreover, in November ~~and~~ ^{or} December of 2001, samples labeled "RESTORADERM Technology" were delivered to Collagenex.

VERIFICATION

Thomas Sköld, acknowledging that this verification is made under penalty of perjury, states that he has read the foregoing Petitioner Sköld's Supplemental Response to Registrant's First Set of Interrogatories, and that to the best of his knowledge, information and belief, the facts set forth therein are true and correct.

DATED: May 14, 2013

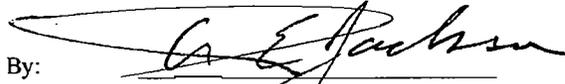
A handwritten signature in cursive script, appearing to read 'Thomas Sköld', written in black ink.

Thomas Sköld

Respectfully submitted,

Date: May 15, 2013

By:

A handwritten signature in black ink, appearing to read "A. E. Jackson", written over a horizontal line.

Arthur E. Jackson, Ph.D., Esq.
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Attorney for Petitioner

