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

Proceeding	92053501
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Attachments	Motion for Sanctions.pdf (21 pages)(114704 bytes) Exhibit A to Sanctions Motion3.pdf (34 pages)(589365 bytes) Exhibit B to Sanctions Motion.pdf (10 pages)(266387 bytes) Exhibit C to Sanctions Motion.pdf (9 pages)(261999 bytes) Exhibit D to Sanctions Motion.pdf (39 pages)(1879738 bytes) Exhibit E to Sanctions Motion.pdf (63 pages)(3283662 bytes) Exhibit F to Sanctions Motion3.pdf (57 pages)(696630 bytes) Exhibit G to Sanctions Motion.pdf (120 pages)(516874 bytes) Exhibit H to Sanctions Motion3.pdf (37 pages)(3896387 bytes) Exhibit I to Sanctions Motion.pdf (40 pages)(515761 bytes)

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

CHRISTIAN M. ZIEBARTH, **Petitioner,** **vs.** **DEL TACO LLC** **Respondent.**	**Reg. No. 1,043,729** **Cancellation No. 92053501**

RESPONDENT DEL TACO LLC'S MOTION FOR SANCTIONS

Pursuant to Rule 527.01(a) and (e) of the Trademark Rules of Practice, Respondent Del Taco LLC ("Del Taco"), by its counsel, hereby moves for Sanctions against Petitioner Christian Ziebarth ("Petitioner"). Del Taco believes sanctions in the form of a dismissal of this proceeding is the appropriate remedy for Petitioner's continuing gross misconduct in this matter, as set out herein.

Petitioner recently served his Pretrial Disclosures on Del Taco. *See* Exhibit A attached hereto. These Pretrial Disclosures include witnesses, documents, and information not previously disclosed in discovery by Petitioner. *Id.* The Board Order of December 12, 2012 on Del Taco's first Motion for Sanctions (hereinafter "Sanctions Order") was explicitly clear that Petitioner would be bound by his responses to Del Taco's discovery requests. *See* TTABVUE Filing # 33. The Sanctions Order was also explicitly clear that Petitioner could not present evidence or arguments that exceeded that which Petitioner previously provided during discovery. While Del Taco is mindful that the Sanctions Order advised Del Taco to apprise the Board of Petitioner's violation in Del Taco's trial brief, given the volume of information, documents and witnesses disclosed outside the scope of Petitioner's discovery responses and the resulting expense Del Taco would have to incur in trial

through depositions, motion filings, and other trial preparation, Del Taco has no choice but to file the instant Motion seeking relief from the Board in the form of Sanctions against Petitioner for his willful, deliberate and blatant violation of the Sanctions Order.

More specifically, Del Taco respectfully requests that due to Petitioner's willful violation of the Sanctions Order that this proceeding be dismissed in its entirety. In the alternative, Del Taco seeks an Order that Petitioner be prohibited from offering the testimony of previously undisclosed witnesses Michael Annis and William Odell and presenting any evidence, documents or testimony on the categories identified by Petitioner for the very first time in his Pretrial Disclosures, as further detailed.

Del Taco further notes that the nature and extent of the documentation and information listed in Petitioner's Pretrial Disclosures <u>not previously provided or identified in discovery disclosed to Del Taco clearly demonstrates that Petitioner willfully failed to comply with the Board Order of January 21, 2013</u>. Therefore, Del Taco renews its August 22, 2012 Motion for Sanctions and seeks dismissal of this action in its entirety for the reasons set forth below. Alternatively, Del Taco seeks an order precluding Petitioner from offering any evidence on the subjects on which full discovery has been blatantly denied by Petitioner including: (1) Petitioner's alleged bona fide intent to use his application for NAUGLES, and (2) Petitioner's alleged standing based on this same application.

The grounds for this motion are set forth below. As requested by the Board, Del Taco further attaches copies of its discovery requests and Petitioner's responses, both the initial and two supplemental responses, as Exhibits B through I.

BRIEF IN SUPPORT

I. INTRODUCTION AND BACKGROUND

As noted in Del Taco's first Motion for Sanctions and original Motion to Compel, this is a cancellation proceeding involving Respondent Del Taco's U.S. Registration No.

1,043,729 for the mark NAUGLES for "*restaurant services*." Petitioner claims standing based on his ownership of U.S. Application Serial No. 85/040746 for NAUGLES for "*cafeteria and restaurant services*," filed on May 17, 2010, premised upon his alleged *bona fide* intent to use the mark.

Rather than burden the Board with a long recitation of the history of this proceeding, Del Taco will only recite the most relevant history to this instant motion. Discovery, in the form of Interrogatories, Document Requests and Requests for Admission, was first served by Del Taco on April 20, 2011 seeking basic information regarding Petitioner's intended usage of the NAUGLES mark including planned locations, channels of trade, consumers, financial information, products, and other items directly related to Petitioner's *bona fide* intent to use the mark, as alleged in his application. *See* Exhibits B and C. After requesting and being granted multiple extensions, Petitioner finally served responses on July 11, 2011 refusing to respond and instead objecting to every single request propounded by Del Taco and producing only a handful of public record documents printed from the US Trademark Office website regarding Del Taco's NAUGLES mark. *See* Exhibits D and E. Petitioner clearly did not need the multiple extensions since his only intended response was to object to all of the discovery requests in toto.

After a careful review of the responses and documents produced, Del Taco sent correspondence to Petitioner regarding the gross deficiencies in Petitioner's production on August 11, 2011. Petitioner refused to respond further on August 21, 2011, and the parties engaged in an ultimately unsuccessful round of settlement discussions. On September 22, 2011, Del Taco had no choice but to file a Motion to Compel. *See* TTABVUE Filing #9. The Board granted the Motion to Compel on January 21, 2012 ordering Petitioner to produce supplemental responses and documents within 30 days on February 20, 2012. *See* TTABVUE Filing # 16 (hereinafter "Compel Order").

Shortly thereafter, Petitioner's first counsel filed a Motion to Withdraw on February 2, 2012 requesting another extension of time to respond to Del Taco's still outstanding discovery. *See* TTABVUE Filing # 18. Petitioner's second counsel eventually made an appearance on February 17, 2012 and an additional 20 days were granted to Petitioner to respond. *See* TTABVUE Filings # 20 and 23.

Petitioner finally served supplemental responses nearly one year after Del Taco's original discovery requests on March 14, 2012, that were again woefully deficient. *See* Exhibits F and G. Based on what Del Taco believed was a willful attempt to evade his discovery obligations, Del Taco filed its first Motion for Sanctions on August 22, 2012. *See* TTABVUE Filing # 29. The Board ultimately ruled that Petitioner's discovery responses included improper objections and that Interrogatory Responses 1, 6, 7, 8, 9, 10, 11, 13, and 14 were expressly deficient. *See* Sanctions Order. In fact, the Board deemed that Request for Admission 1 was admitted due to improper inconsistencies and Petitioner's obvious attempt to evade his discovery obligations. *Id.*

Petitioner was ordered by the Board to produce supplemental responses to all of the discovery responses, including a privilege log. *Id.* The proceeding deadlines were thereafter reset by the Board and the proceeding was resumed. Supplemental responses were ultimately provided by Petitioner's second counsel, on December 21, 2012, but no privilege log was sent. *See* Exhibit H and I.

On January 4, 2013, Petitioner's second counsel filed a request to withdraw. *See* TTABVUE Filing # 34. Three weeks later on January 23, 2013, the eve of Petitioner's deadline to serve pretrial disclosures, Petitioner's third counsel made an appearance. *See* TTABVUE Filing # 35. Petitioner further requested and was later granted another extension of time to serve his Pretrial Disclosures in light of Petitioner's third change of counsel. See TTABVUE Filings # 36 and 41. On January 24, 2013, Petitioner served over

30 pages of disclosures in his Pretrial Disclosures. *See* Exhibit A. The 30 pages of detailed Pretrial Disclosures identified numerous witnesses as well as document and information categories far beyond the scope of any discovery responses ever provided by Petitioner in this case, notwithstanding the clear order of the Board in the Sanctions Order that Petitioner could not rely upon witnesses, documents and categories of information upon which Petitioner had refused to produce discovery. Despite being granted an extension till February 24, 2013, Petitioner did not supplement his original Pretrial Disclosures, and therefore stands by and intends to rely upon the information, witnesses, and documents disclosed therein, therefore necessitating the filing of this motion.

II. ARGUMENT

Where a party fails to comply with an order of the Board relating to discovery, the Board has the authority to impose sanctions against that party for such noncompliance. Trademark Rule 2.120(g)(1); *see also M.C.I. Foods Inc. v. Bunte*, 86 USPQ2d 1044, 1047 (TTAB 2008); *Highbeam Marketing LLC v. Highbeam Research LLC*, 85 USPQ2d 1902, 1904 (TTAB 2008). No good faith efforts to resolve the dispute are required of the moving party. *See* Trademark Rule 2.210(g). The sanctions that may be imposed by the Board include prohibiting the disobedient party from introducing designated matters in evidence and entering judgment against the disobedient party. *See* Trademark Board Manual of Procedure ("TBMP") § 527.01(a). Judgment against the disobedient party is a justified sanction "where no less drastic remedy would be effective and there is a strong showing of willful evasion." TBMP § 521.01(a); *see also Baron Philippe de Rothchild S.A. v. Styl-Rite Optical Mfg. Co.*, 55 USPQ2d 1848, 1854 (TTAB 2000) (holding that pattern of dilatory conduct indicated willful disregard of Board order and resulted in entry of judgment).

In this case, Petitioner has demonstrated a willful disregard for ***two*** separate Board orders and a willful evasion of his duty in the discovery process that justifies dismissal of

this proceeding. The voluminous categories of documents and information as well as undisclosed witnesses in his Pretrial Disclosures demonstrates Petitioner's intentional withholding – in fact, blatant refusal, to participate in the discovery process over the course of two years of discovery, three supplemental productions, a Motion to Compel, and a Motion for Sanctions. Such conduct by Petitioner, particularly in light of the previous accommodations to Petitioner by both Del Taco and the Board, justifies the more severe sanction of dismissal of this proceeding in its entirety with prejudice.[1]

a. The Pretrial Disclosures Include Witnesses Not Previously Disclosed by Petitioner in Discovery.

Most notably, for the first time ever in the Pretrial Disclosures, Petitioner cites the names of two new witnesses: Michael L. Annis and William Odell. *See* Exhibit A, pgs. 9-12, 26-30. These witnesses were never disclosed by Petitioner in discovery or even referenced in any documents provided by Petitioner. *See* Exhibits D-I. In fact, this is the first time Del Taco has even become aware of Mr. Odell's relationship with Petitioner or Mr. Odell's alleged knowledge relevant to this case and Petitioner's alleged *bona fide* intent to use the mark at issue. Similarly, Mr. Annis was not once identified by Petitioner in any previous discovery as a potential witness or person with relevant information. This is again, the first mention of Mr. Annis and his potential relevance to Del Taco's alleged abandonment of the NAUGLES mark. *See* Exhibits D-I. To the extent these two witnesses were known to Petitioner during the course of discovery, they were deliberately withheld from Del Taco in three separate productions of responses and supplemental responses.

Petitioner's repeated failure to disclose these witnesses to Del Taco in discovery must preclude Petitioner from calling either of these witnesses to testify, submitting

[1] At a minimum, Petitioner should be precluded from offering the testimony of the undisclosed witnesses or submission of the information and documents not previously produced in discovery (despite Del Taco's repeated demands) and all related to Petitioner's alleged bona fide intent to use the NAUGLES trademark.

affidavits from either witness, or submitting any other information or documentation related to either individual under the instructions of the Sanctions Order and out of fairness to Del Taco. To allow Petitioner to proceed with these witnesses after failing to disclose them to Del Taco would unfairly prejudice and force Del Taco to incur expenses related to defending such testimony and responding to the never before disclosed information or documents related to these two withheld witnesses. Del Taco should not be forced to suffer the consequences for Petitioner's willful disregard of his discovery obligations.

In addition to these never before disclosed witnesses, Petitioner also named in his Pretrial Disclosures Rob Hallstrom as a potential witness. *See* Exhibit A, pgs. 18-23. While Mr. Hallstrom was briefly referenced in two emails produced by Petitioner, these two emails did not reference or disclose the numerous categories of information and documents that Petitioner now purports Mr. Hallstrom will address in his testimony. *Id*. As such, Mr. Hallstrom's testimony should be limited to only the basic information and topics contained in the two emails produced by Petitioner referencing Mr. Hallstrom.

b. The Pretrial Disclosures Include Information Not Previously Disclosed by Petitioner in Discovery.

In addition to never before disclosed witnesses, the Pretrial Disclosures also include references to new and/or additional information not once disclosed by Petitioner over the course of three separate productions of discovery responses and documents directly relating to his *bona fide* intent to use the NAUGLES mark, the very subject of the Sanctions Order, Del Taco's discovery, and the Compel Order. Under the Sanctions Order, Petitioner should therefore be precluded from offering any evidence related to this new and/or additional information only now disclosed in his Pretrial Disclosures, as set forth below.

i. Testimony as to Alleged Efforts to Secure Funding as Evidence of Petitioner's Bona Fide Intent to Use.

More specifically, Petitioner's Pretrial Disclosures now claim that Mr. Ziebarth, Mr. Josh Maxwell, Mr. Dan Dvorak, Mr. Hallstrom, Ms. Barbara Caruso, and Mr. Jeff Naugle will testify as to "efforts to secure funding for restaurant services … before, during and after the filing" of Petitioner's NAUGLES application. *See* Exhibit A, pgs. 3, 12, 16, 20, 24, 31. However, Petitioner has only previously disclosed efforts to secure financing from March 21, 2012 to the present day. *See* Exhibit H, pg. 9 and attachments thereto. This date is well after the filing of Petitioner's NAUGLES application on May 20, 2010. To the extent any such efforts took place prior to March 21, 2012, such information and documents were deliberately withheld from discovery by Petitioner. Therefore, Petitioner should now be precluded from offering any evidence as to financial funding prior to March 21, 2012.

Further, Petitioner's previously produced discovery responses do not disclose any efforts on the part of Mr. Maxwell, Mr. Dvorak, Mr. Hallstrom, Ms. Caruso or Mr. Naugle to obtain such funding. In fact, these individuals do not appear on any documents relating to funding produced by Petitioner. Yet, the Pretrial Disclosures disclose that these individuals will not only talk as to the "efforts to secure funding" but that Mr. Maxwell will further discuss "investment presentations" and "potential business loans." *See* Exhibit A, pg. 12. Despite Del Taco's specific discovery requests related to Petitioner's alleged efforts in this regard, these alleged investment presentations and business loans were not once disclosed by Petitioner in the course of discovery, let alone the participation of Mr. Maxwell. *See* Exhibit B, pgs. 3, 6; Exhibit C, pgs. 2-3. To the extent such presentations, loans, or efforts took place; they were deliberately withheld from discovery by Petitioner. Therefore, Petitioner should be precluded from offering any testimony whatsoever by Mr. Maxwell, Mr. Dvorak, Mr. Hallstrom, Ms. Caruso, or Mr. Naugle in connection with any efforts to secure funding, investment presentations or potential business loans.

ii. Testimony as to Alleged Interactions with Del Taco Representatives as to Bona Fide Intent to Use.

Petitioner next claims in his Pretrial Disclosures that Mr. Ziebarth and Mr. Hallstrom will testify as to "interactions and discussions with Del Taco representatives concerning revival of the NAUGLES brand." *See* Exhibit A, pgs. 3, 20. Yet in his discovery responses, Petitioner only disclosed such "discussions" with one person tangentially related to Del Taco, namely, Ms. Caruso, an employee with an outside communications agency that works with Del Taco. *See* Exhibit H, pg. 3. Petitioner further produced in discovery a LinkedIn email to Noah Chillingworth, a current employee at Del Taco merely asking for a meeting, but no other reference is made to Mr. Chillingworth throughout the remainder of Petitioner's discovery responses indicating that any such meeting ever took place or even that Mr. Chillingworth even responded to Petitioner's request for a meeting. No documents or responses were ever produced referencing Mr. Hallstrom's alleged participation in these meetings. To the extent such information or documentation was available; it was deliberately withheld by Petitioner from production despite clear and repeated requests from Del Taco seeking such information. *See* Exhibit B, pgs. 3, 7, 23.

Therefore, Petitioner should now be precluded from offering any testimony concerning purported "interactions and discussions with Del Taco representatives concerning revival of the NAUGLES brand" unrelated to the few conversations with Ms. Caruso referenced in Petitioner's previous production. Mr. Hallstrom should also be precluded from offering any testimony with respect to such interactions since no information or documentation concerning his alleged participation or involvement in this regard was disclosed or produced by Petitioner in discovery.

iii. Testimony as to Alleged Interactions with Members of the Naugle Family Concerning Bona Fide Intent to Use.

Petitioner further purports that Mr. Ziebarth, Mr. Maxwell, Mr. Dvorak, Mr. Hallstrom, and Ms. Caruso shall present testimony as to "interactions and discussion with members of the Naugle family concerning the revival of the NAUGLES brand." *See* Exhibit A, pgs. 3, 13, 16, 20, 24. Yet, the only member of the Naugle family disclosed in discovery to have any contact or connection to this case is Jeff Naugle. *See* Exhibits F, pgs. 9-10 and H, pg. 3. Petitioner has also disclosed one email correspondence with Bill Naugle, but Petitioner has never designated him as a person with any information relating to Petitioner's intended usage of the NAUGLES mark in response to Del Taco's discovery. *See* Exhibits D-I. No other references or disclosures related to any other members of the Naugle family have been made in the course of discovery. *Id.* Moreover, Petitioner has never disclosed any participation in any of these alleged meetings by Mr. Maxwell, Mr. Dvorak, Mr. Hallstrom, or Ms. Caruso. *Id.* To the extent such meetings existed at all and involved these individuals, they were deliberately withheld from discovery by Petitioner despite Del Taco's clear and repeated requests for this information. *See* Exhibit B, pgs. 3-4, 7-9; Exhibit C, pgs. 2-4.

Therefore, Petitioner should therefore be precluded from introducing any evidence of meetings or interactions with other members of the Naugle family at trial by Mr. Maxwell, Mr. Dvorak, Mr. Hallstrom, or Ms. Caruso at all and from introducing any testimony by Mr. Ziebarth outside of the limited disclosures previously made by Petitioner in discovery.

iv. Testimony as to Alleged Interactions with Unnamed Third Parties as to Petitioner's Bona Fide Intent to Use.

Petitioner's Pretrial Disclosures next claim that Mr. Ziebarth, Mr. Maxwell, and Mr. Hallstrom will offer testimony regarding "interactions and discussions with other individuals concerning the revival of the NAUGLES brand" and that he will now produce "the identity of individuals with whom Mr. Ziebarth has discussed the revival of the NAUGLES brand." *See*

Exhibit A, pgs. 3, 13, 19. Petitioner still does not provide the identity of any of these unnamed third parties even in his Pretrial Disclosures. *Id.*

In response to a request from Del Taco directly on this point, Petitioner only identified himself, Mr. Maxwell, Mr. Dvorak, Ms. Caruso and Mr. Naugle as having information relevant to "revival of the NAUGLES brand." *Id.*; *see* Exhibits F, pgs. 9-10 and H, pg. 3. As such, Petitioner should be limited to presenting testimony and evidence as interactions and discussions between these individuals and these individuals only. No testimony from Mr. Hallstrom in this regard should be permitted due to Petitioner's failure to disclose any such information in discovery.

v. Testimony as to Alleged Restaurant Design Concepts.

The Pretrial Disclosures further state that Mr. Dvorak will offer testimony as to concept designs of potential restaurants and branding. *See* Exhibit A, pg. 16. Yet, no documentation regarding any concept designs or branding was ever produced by Petitioner in discovery despite clear requests by Del Taco seeking this exact information. *See* Exhibit B, pgs. 3, 5-8, 27. Further, no documentation or responses were ever produced from Petitioner indicating Mr. Dvorak's contemplated role in this regard. To the extent any such information exists, it was deliberately withheld by Petitioner from discovery. Therefore, under the Board Sanctions Order, Petitioner should be precluded from offering any testimony by Mr. Dvorak regarding concept designs of potential restaurants or branding.

vi. Testimony as to Alleged Business Development and Promotion.

Petitioner should further be precluded from offering any testimony by Mr. Dvorak as to any business development or promotion relating to the alleged "revival of the NAUGLES brand." *See* Exhibit A, pg. 16. Petitioner never disclosed, whether in responses or documentation produced, any role by Mr. Dvorak with respect to business development or promotion. *See* Exhibits D-I. To the extent such information exists, it was deliberately

withheld by Petitioner from his production despite clear requests from Del Taco for this information. *See* Exhibit B, pgs. 3, 6-8. Therefore, under the Sanctions Order, Petitioner should be precluded from offering any testimony by Mr. Dvorak regarding alleged business development and promotion of the "revival of the NAUGLES brand." *See* Exhibit A, pg. 16.

vii. Testimony as to Alleged Visits to Restaurant Sites.

Petitioner should also be precluded from offering any testimony by Mr. Hallstrom as to "inquiries made relating to the acquisition of buildings for future NAUGLES restaurants," "visits with Mr. Ziebarth to potential locations for future NAUGLES restaurants;" and "research relating to and visits to locations which were previously NAUGLES restaurants." *See* Exhibit A, pg. 19. Despite clear requests from Del Taco covering these exact subjects, Petitioner produced no such responses indicating any such activities on the part of Petitioner or even referencing Mr. Hallstrom. *See* Exhibit B, pgs. 3-5, 7. To the extent such actions took place on the part of Petitioner and/or Mr. Hallstrom, they were deliberately withheld by Petitioner from discovery produced to Del Taco. Therefore, under the Sanctions Order, Petitioner should be precluded from offering any evidence as to these alleged inquiries, visits, and research by Petitioner or Mr. Hallstrom.

c. Petitioner's Pretrial Disclosures Include References to Documents Not Previously Produced by Petitioner in Discovery.

In addition to previously unnamed witnesses and undisclosed information, the Pretrial Disclosures also include references to documents not produced by Petitioner in the course of discovery, and again relating directly to his *bona fide* intent -- the very subject matter of Del Taco's discovery requests, the Sanctions Order and the Compel Order.

i. Alleged Documents Detailing the Circumstances Leading Up to Petitioner's Decision to File His Trademark Application.

Petitioner's Pretrial Disclosures first state that during the testimony of Mr. Ziebarth, Petitioner may introduce documents "relating to the circumstances leading up to Mr.

Ziebarth's decision to file" his trademark application. *See* Exhibit A, pg. 5. Yet, Petitioner has only disclosed two emails discussing the trademark application filing and hiring of an attorney between Petitioner and Mr. Hallstrom. Petitioner did not produce any other documents, communications or things in this regard and therefore should be precluded from offering any such additional evidence at trial.

ii. Alleged Documents Regarding Efforts to Secure Funding Demonstrating Petitioner's *Bona Fide* Intent to Use.

The Pretrial Disclosures next state that during the testimony of Mr. Ziebarth, Mr. Dvorak, Mr. Hallstrom, Ms. Caruso, and Mr. Naugle, Petitioner may introduce documents relating to "efforts to secure funding for restaurant services before, during and after the filing of" Petitioner's trademark application for NAUGLES. *See* Exhibit A, pgs. 5, 18, 22, 26, 33. However, as noted above, Petitioner only disclosed documents relating to efforts to secure funding beginning on March 21, 2012, long after the filing of Petitioner's trademark application for NAUGLES. Further, no documents referencing Mr. Dvorak, Mr. Hallstrom, or Ms. Caruso in this regard were ever produced by Petitioner.

If documents relating to funding prior to or during the filing of Petitioner's applications for NAUGLES or relating to Mr. Dvorak, Mr. Hallstrom, Ms. Caruso, or Mr. Naugle's participation exist, as claimed by Petitioner in his Pretrial Disclosures, these documents were deliberately withheld by Petitioner from production despite Del Taco's clear requests seeking this information. *See* Exhibit B, pgs. 3, 6, 8. Therefore, under the Sanctions Order, Petitioner should be precluded from introducing any documents whatsoever relating to efforts to secure funding prior to March 21, 2012 or in any way involving Mr. Dvorak, Mr. Hallstrom, Ms. Caruso, or Mr. Naugle.

iii. Alleged Documents Regarding Investment Presentations, Potential Business Loans, and Meetings with Potential Investors Demonstrating Petitioner's *Bona Fide* Intent to Use.

Petitioner should also be precluded from introducing any documents relating to any alleged investment presentations, meetings with potential investors, and business loans. *See* Exhibit A, pg. 14. Petitioner's Pretrial Disclosures claim that during the testimony of Mr. Maxwell, Petitioner may introduce documents relating to these subjects. *Id.* Yet, Petitioner did not produce a single document disclosing Mr. Maxwell's alleged participation in any "investment presentations," "meetings with potential investors," or relating to "business loans." *Id.* To the extent these documents exist, they were deliberately withheld by Petitioner from production despite Del Taco's clear requests seeking this information. *See* Exhibit B, pgs. 3, 6, 8. Therefore, under the Sanctions Order, Petitioner should be precluded from offering any documents relating to "investment presentations, "potential business loans," and "meetings with potential investors" involving Mr. Maxwell or otherwise.

iv. Alleged Documents Regarding Alleged Meetings and Brain Storming Sessions.

Petitioner's Pretrial Disclosures further claim that during the testimony of Mr. Ziebarth, Mr. Maxwell, Mr. Dvorak, Mr. Hallstrom, and Ms. Caruso, Petitioner may introduce documents "relating to all meetings and brain-storming sessions wherein the revival of the NAUGLES brand was discussed." *See* Exhibit A, pgs. 5, 14, 17, 22, 25. Yet no such documents have ever been produced by Petitioner in discovery. In fact, the only documents produced by Petitioner that could remotely be construed to be relevant to this subject are handwritten calendar entries and/or the Hallstrom emails previously produced making a vague reference to wanting to "meet up" in the future. Further, not a single document produced even references Mr. Maxwell, Mr. Dvorak, or Ms. Caruso in this regard. To the extent these documents exist, they were deliberately withheld by Petitioner from discovery despite Del Taco's clear requests seeking this information. *See* Exhibit B, pgs. 7-

9. Therefore, under the Sanctions Order, Petitioner should be precluded from offering any documents relating to "meetings and brain-storming sessions" aside from the handwritten calendar entries and Hallstrom emails discussed above.

v. Alleged Documents Regarding Interactions and Discussions with Members of the Naugle Family.

Petitioner next claims that during the testimony of Mr. Ziebarth, Mr. Maxwell, Mr. Dvorak, Mr. Hallstrom, or Ms. Caruso, Petitioner may introduce documents "relating to interactions and discussions with members of the Naugle family concerning the revival of the NAUGLES brand." *See* Exhibit A, pgs. 5, 14, 17-18, 22, 26. As noted previously, Petitioner has only disclosed "meetings" with ***one*** member of the Naugle family: Jeff Naugle. *See* Exhibits D-I. While Petitioner did produce one email correspondence with Bill Naugle, this single email does not reference any meetings nor does Petitioner disclose any additional documents or correspondence in his discovery responses. *Id.* Moreover, Petitioner has not produced any documents demonstrating Mr. Maxwell, Mr. Dvorak, Mr. Hallstrom, or Ms. Caruso's participation in these meetings at all. To the extent any such documents exist, as claimed in the Pretrial Disclosures, they were deliberately withheld by Petitioner from production despite Del Taco's direct requests for this information. *See* Exhibit B, pgs. 7-9. Therefore, pursuant to the Sanctions Order, Petitioner should be precluded from offering any documents aside from the calendar entries, two Rob Hallstrom emails, and lone email correspondence with Bill Naugle previously produced in discovery.

vi. Alleged Documents Involving Mr. Dvorak and Petitioner's *Bona Fide* Intent to Use.

Petitioner should be precluded from offering into evidence any documents relating to Petitioner's alleged *bona fide* intent to use the NAUGLES mark and involving Mr. Dvorak. *See* Exhibit 2, pg. 17. In his Pretrial Disclosures, Petitioner claims that documents relating to "Petitioner's intent to use the NAUGLES mark," "Mr. Ziebarth's ideas to utilize the

NAUGLES name" and "Mr. Ziebarth's actions takes, and time frames of such, to develop the idea" of allegedly "reviving the NAUGLES brand" may be introduced during the testimony of Mr. Dvorak. *Id.* Yet, no such documents involving Mr. Dvorak or even referencing him were ever produced by Petitioner in discovery. To the extent such documents existed, they were deliberately withheld by Petitioner from production despite the requests of Del Taco directly seeking this documentation. *See* Exhibit B, pgs. 7-9. Therefore, under the Sanctions Order, Petitioner should be precluded from offering any documents whatsoever in connection with Mr. Dvorak relating to Petitioner's alleged *bona fide* intent to use the NAUGLES mark.

vii. Alleged Documents Regarding Concept Designs, Branding, Business Development and Promotion.

Petitioner's Pretrial Disclosures next disclose that during the testimony of Mr. Dvorak, Petitioner may offer into evidence documents relating to "concept designs of potential restaurants and branding" as well documents "relating to general business development and promotion" in connection with the alleged "revival of the NAUGLES brand." *See* Exhibit A, pg. 17. No such documents were ***ever*** produced by Petitioner. Nor, as more detailed above, was Mr. Dvorak's alleged role in these activities ***ever*** disclosed by Petitioner in discovery, despite clear requests from Del Taco seeking this information. *See* Exhibit B, pgs. 7-9. To the extent such documentation exists, it was deliberately withheld by Petitioner from production throughout the course of discovery. Therefore, under the Sanctions Order, Petitioner should be precluded from offering any documents whatsoever in connection with "concept designs of potential restaurants and branding" as well documents "relating to general business development and promotion" in connection with the alleged "revival of the NAUGLES brand." *See* Exhibit A, pg. 17.

viii. Alleged Documents Regarding Ms. Caruso's Knowledge of Petitioner's Identification of Potential Restaurants and Menu Items.

Petitioner next claims that he may introduce documents relating to the "identification of potential restaurant sites" and "menu" during the testimony of Ms. Caruso, a representative of Del Taco. *See* Exhibit A, pg. 26. Not only is it highly unlikely that someone affiliated with Del Taco would have such knowledge of Petitioner's alleged efforts, Petitioner did not disclose a single document about this information throughout two years of discovery in this proceeding. To the extent such documents exist they were deliberately withheld by Petitioner from discovery despite Del Taco's clear requests for this information. *See* Exhibit B, pgs. 7-9. Therefore, under the Sanctions Order, Petitioner should be precluded from offering any documents whatsoever in connection with "potential restaurant sites" and a "menu" during the testimony of Ms. Caruso.

ix. Alleged Documents Detailing Visits to Restaurant Sites and Related Research.

Petitioner should further be precluded from introducing any documents in connection with Mr. Hallstrom as to "inquiries made relating to the acquisition of buildings for future NAUGLES restaurants," "visits with Mr. Ziebarth to potential locations for future NAUGLES restaurants;" and "research relating to and visits to locations which were previously NAUGLES restaurants." *See* Exhibit A, pg. 21. Despite clear requests from Del Taco covering these exact subjects, Petitioner produced no documents demonstrating any inquiries, visits, or research involving restaurant sites, let alone Mr. Hallstrom's participation in such alleged efforts. *See* Exhibit B, pgs. 7-9. To the extent such documents exist, they were deliberately withheld by Petitioner from discovery. Therefore, under the Sanctions Order, Petitioner should be precluded from introducing any documents whatsoever relating to these alleged inquiries, visits, and research by Petitioner and/or Mr. Hallstrom.

c. Petitioner's Pretrial Disclosures Further Purport to Produce Information and Documents Relating to Claims Never Brought by Petitioner.

Petitioner's Pretrial Disclosures further include references to facts and information Petitioner intends to set forth that were not once alleged by Petitioner in his Petitioner for Cancellation or ever raised elsewhere throughout this entire proceeding. Specifically, Del Taco points to intended testimony Petitioner proposes to offer regarding the "veracity" of Del Taco's renewal in 2006 of the NAUGLES registration. *See* Exhibit A, pgs. 7-9. The repeated references to "veracity" and "swearing under penalty of perjury" in Petitioner's Pretrial Disclosures relate not to a claim of abandonment, but go directly to a claim of fraud, which Petitioner has not alleged at any point in this proceeding, nor has Petitioner ever requested leave to amend his Petition for Cancellation to allege such a claim. In fact, Petitioner has not once requested from Del Taco or the Trademark Office a certified copy of the entire file history for over 20-year old NAUGLES registration. Instead, Petitioner has waited until his Pretrial Disclosures to suddenly make new and baseless claims, and purport to include testimony and documents he has never produced or referenced ever before.

By now attempting to raise brand new claims and issues, Petitioner attempts to force Del Taco to incur unnecessary and undue expense and time, and suffer undue prejudice defending against baseless testimony and evidence Petitioner has never raised before the Board. Petitioner's failure to produce or request such information and documents in discovery or even raise a claim remotely related to these new allegations regarding Del Taco's "veracity" must preclude Petitioner from now introducing such baseless, prejudicial and irrelevant testimony and evidence at trial pursuant to the Sanctions Order. Accordingly, Del Taco respectfully requests that the Board preclude Petitioner from offering any testimony, documents, or other evidence relating to the alleged "veracity" or other

"truthfulness" of Del Taco's 2006 NAUGLES registration renewal as set forth in Petitioner's Pretrial Disclosures. *See* Exhibit A pgs. 7-9.

d. Petitioner's Pretrial Disclosures Demonstrate that Petitioner Willfully Withheld Documents, Witnesses, and Information in Discovery Justifying Dismissal of This Proceeding.

The foregoing information and documents for the first time identified in Petitioner's Pretrial Disclosures as set forth in detail above demonstrates that Petitioner, contrary to his claims in response to Del Taco's first Motion for Sanctions, has willfully withheld information, witnesses, and documents from discovery regarding his *bona fide* intent to use the NAUGLES mark across two years and multiple supplements of Petitioner's discovery responses. *See* Exhibits D-I. The sheer magnitude of such willful and deliberate behavior evidence an unabashed intention to evade Petitioner's duty to comply with the Compel Order, the Sanctions Order, the Trademark Rules, and the Federal Rules of Civil Procedure throughout this entire proceeding, and justifies a sanction in the form of dismissal of this proceeding in its entirety and with prejudice.

The fact that Petitioner has made a second change in counsel near the Pretrial Disclosure deadline should not be an acceptable defense to the extensive and willful actions of Petitioner. First, Petitioner requested and received an additional 30 days to produce pretrial disclosures, thus granting new counsel sufficient time to review not only the discovery in this case but also the recently issued Sanctions Order concerning the clear limitations on what evidence Petitioner could rely on in this proceeding. *See* TTABVUE Filings # 36, 37, and 41. Moreover, in his Pretrial Disclosures, Petitioner expressly reserved the right to amend and/or supplement the disclosures in accordance with the Motion to Extend filed by Petitioner. *See* Exhibit A, pg. 1. Thus, the change of counsel so close to the Pretrial Disclosure deadline should not serve as a defense. That Petitioner chose not to supplement or amend his Pretrial Disclosures demonstrates that Petitioner

stands by the over 30 pages of Disclosures and the information, witnesses, and documents referenced therein, yet never once disclosed by Petitioner in discovery.

Petitioner should be held accountable for his continued, willful, and evasive misconduct throughout this proceeding. For over two years and three separate productions of responses and documents, Petitioner has willfully refused to comply with two Board orders, the Trademark Rules, and the Federal Rules of Civil Procedure. Such actions are not the result of changes of counsel, inadvertent mistake, or excusable neglect. Rather, Petitioner has demonstrated a repeated and deliberate evasion of his duty to respond to discovery and now attempts to use that evasion to his benefit at trial. Petitioner's behavior and expansive withholding of documents, information, and witnesses as detailed throughout this memorandum demonstrate that no additional supplements or "bites at the apple" will result in correction of Petitioner's misconduct without severely prejudicing Del Taco's rights. As such, dismissal of this proceeding in its entirety is most certainly justified.

III. CONCLUSION

For the foregoing reasons, Respondent Del Taco LLC respectfully requests that the Board issue an order dismissing this action in its entirety due to Petitioner's willful and deliberate decision not to produce witnesses, documents and information throughout the course of discovery that were clearly available when requested by Del Taco in discovery, and now identified for the first time in Petitioner's Pretrial Disclosures. In the alternative, Del Taco requests that the Board issue an order precluding Petitioner from introducing at trial the witnesses, testimony and documents identified for the very first time, in Petitioner's Pretrial Disclosures, as further set forth in detail herein.

Dated: **March 8, 2013**

/ April L Besl /

April L. Besl
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Attorneys for Respondent
Del Taco LLC

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing was sent by certified first-class mail, on this 8th day of March, 2013, to Kelly K. Pfeiffer, Amezcua-Moll Associations PC, Lincoln Professional Center, 1122 E. Lincoln Ave. Suite 203, Orange, CA 92865.

/ April L Besl /
April L Besl

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of Registration No. 1043729
Date of Registration: July 13, 1976

CHRISTIAN M. ZIEBARTH
Petitioner,

v.

DEL TACO, LLC
Registrant.

Cancellation No.: 92053501

Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3513

PETITIONER'S PRETRIAL DISCLOSURES

Pursuant to Fed. R. Civ. P. 26(a)(3) and 37 CFR § 2.121(e), Petitioner CHRISTIAN M. ZIEBARTH ("Petitioner") hereby makes his pretrial disclosures to Registrant DEL TACO, LLC ("Registrant"). These disclosures are based on information and documents presently available to and located by Petitioner and his current attorneys of record. Petitioner is currently not in possession of all of Registrant's previously-produced documents. Petitioner reserves the right to amend and/or supplement these pretrial disclosures in accordance with any order issued by the Trademark Trial and Appeal Board ("the Board") in response to Petitioner's pending Motion to Extend all remaining deadlines in this matter which may authorize Petitioner to make such amendments and/or supplements. Petitioner's disclosures herein represent a good-faith effort to identify information he reasonably believes is required by the Federal Rules of Civil Procedure and 37 CFR § 2.121.

37 CFR § 2.121(e) and Federal Rule of Civil Procedure 26(a)(3) require Petitioner to disclose:

> the name and, if not previously provided, the telephone number and address of each witness from whom it intends to take testimony, or may take testimony if the need arises, general identifying information about the witness, such as relationship to any party, including job title if employed by a party, or, if neither a party nor related to a party, occupation and job title, a general summary or list of subjects on which the witness is expected to testify, and a general summary or list of the types of documents and things which may be introduced as exhibits during the testimony of the witness. . . . If a party does not plan to take testimony from any witnesses, it must so state in its pretrial disclosure.

1. **Christian M. Ziebarth**

A. [redacted]

B. Identifying information: Mr. Ziebarth is the Petitioner in this action and owner of the pending trademark application serial no. 85040746, filed May 17, 2010.

C. List of subjects on which Mr. Ziebarth can testify:

* Mr. Ziebarth's ideas to utilize the NAUGLES name in association with restaurant services;

*Mr. Ziebarth's actions taken, and time frames of such, to develop the idea of reviving the NAUGLES brand;

*Why, when and how Mr. Ziebarth began to develop the idea to revive the NAUGLES brand;

* The filing of trademark application serial no. 85040746, including the circumstances leading up to Mr. Ziebarth's decision to file the application;

*The time frame during which Mr. Ziebarth first came up with the ideas to utilize the NAUGLES brand;

*Mr. Ziebarth's bona fide intention to use the NAUGLES mark prior to filing his trademark application serial no. 85040746;

*Meetings and brain-storming sessions wherein the revival of the NAUGLES brand was discussed;

*Mr. Ziebarth's continued intention to use the NAUGLES mark after filing his trademark application serial no. 85040746;

*Efforts to secure funding for restaurant services rendered under the NAUGLES brand before, during and after the filing of trademark application serial no. 85040746;

*Interactions and discussions with Del Taco representatives concerning revival of the NAUGLES brand;

*Interactions and discussions with members of the Naugle family concerning the revival of the NAUGLES brand;

*Interactions and discussions with other individuals concerning the revival of the NAUGLES brand;

*The identity of individuals with whom Mr. Ziebarth has discussed revival of the NAUGLES brand;

*Information evidencing Del Taco's lack of intent to revive the NAUGLES brand;

*When and how Mr. Ziebarth learned that Del Taco lacked the intention to revive the NAUGLES brand;

*The identification of potential restaurant sites for Mr. Ziebarth's intended restaurants utilizing the NAUGLES brand;

*Nature of Mr. Ziebarth's proposed restaurants utilizing the NAUGLES brand; including menu;

*Publicly available facts detailing when and how Del Taco abandoned the NAUGLES mark;

*Any and all subject matter contained in discovery exchanged during this proceeding;

*Any and all documents exchanged between the parties during this proceeding; and

*Any and all pleadings and accompanying exhibits, filed with the Board during this proceeding.

D. List of types of documents and things which may be introduced as exhibits during Mr. Ziebarth's testimony:

*Documents submitted in and relating to Mr. Ziebarth's federal application for the mark NAUGLES, serial no. 85040746;

*Publicly available documents relating to Registrant closing its NAUGLES restaurants;

*Documents relating to Mr. Ziebarth's ideas to utilize the NAUGLES name in association with restaurant services;

*Documents relating to Mr. Ziebarth's actions taken, and time frames of such, to develop the idea of reviving the NAUGLES brand;

*Documents relating to why, when and how Mr. Ziebarth began to develop the idea to revive the NAUGLES brand;

*Documents relating to the circumstances leading up to Mr. Ziebarth's decision to file the trademark application serial no. 85040746;

*Documents relating to the time frame during which Mr. Ziebarth first came up with ideas to utilize the NAUGLES brand;

*Documents relating to Mr. Ziebarth's bona fide intent to use the NAUGLES mark prior to filing his trademark application serial no. 85040746;

*Documents relating to all meetings and brain-storming sessions wherein the revival of the NAUGLES brand was discussed;

*Documents relating to Mr. Ziebarth's continued intention to use the NAUGLES mark after filing his trademark application serial no. 85040746;

*Documents relating to efforts to secure funding for restaurant services rendered under the NAUGLES brand before, during and after the filing of trademark application serial no. 85040746;

*Documents relating to interactions and discussions with Del Taco representatives concerning revival of the NAUGLES brand;

*Documents relating to interactions and discussions with members of the Naugle family concerning the revival of the NAUGLES brand;

*Documents relating to interactions and discussions with other individuals concerning the revival of the NAUGLES brand;

*Documents relating to the identity of individuals with whom Mr. Ziebarth has discussed revival of the NAUGLES brand;

*Documents relating to information evidencing Del Taco's lack of intent to revive the NAUGLES brand;

*Documents relating to when and how Mr. Ziebarth learned that Del Taco lacked the intent to revive the NAUGLES brand;

*Documents relating to the identification of potential restaurant sites for Mr. Ziebarth's intended restaurants utilizing the NAUGLES brand;

*Documents relating to the nature of Mr. Ziebarth's proposed restaurants utilizing the NAUGLES brand, including menu;

*Documents relating to publicly available facts detailing when and how Del Taco abandoned the NAUGLES mark;

* Documents relating to any and all subject matter contained in discovery exchanged during this proceeding;

*Documents exchanged between the parties during this proceeding;

and

* Documents relating to any and all pleadings and accompanying exhibits, filed with the Board during this proceeding.

2. **Person(s) Most Knowledgeable from Del Taco, LLC**

A. Contact information: Information to be provided by Registrant.

B. Identifying information: Information to be provided by Registrant.

C. List of subjects on which Del Taco, LLC's PMKs can testify:

*Registrant's acquisition of the NAUGLES trademark, registration no. 1043729;

*Registrant's decision to phase out NAUGLES and the times frames of such decisions;

*Process of phasing out NAUGLES by Registrant and the time frame of same;

*Abandonment of NAUGLES mark by Registrant;

*Lack of Registrant's desire to revive the NAUGLES mark in relation to restaurant services;

*Discussions, or lack there of, concerning use of the NAUGLES mark by Registrant from 1995 to present;

*Lack of money generated by Registrant from its lack of use of NAUGLES mark from 1995 to present;

* Discussions, or lack there of, concerning use of the NAUGLES mark by Registrant from 1995 to present;

*Time frame of Registrant's completion of phasing out its use of the NAUGLES mark in commerce in relation to restaurant services;

*Registrant's renewal application for registration no. 1043729 filed with the USPTO in 2006;

*The veracity, or lack there of, of Registrant's Section 8 declaration of use filed in 2006 in connection with registration no. 1043729;

*Registrant's renewal application for registration no. 1043729 filed with the USPTO in and/or for 1996;

*The veracity, or lack thereof, of Registrant's Section 8 declaration of use filed in and/or for 1996 in connection with registration no. 1043729;

*Why or how Registrant believed that it was truthfully swearing under penalty of perjury that the NAUGLES mark was still in use in commerce by Registrant in connection with restaurant services as of 1996;

*The specimen filed in 1996 with the USPTO in connection with Registrant's renewal application for registration no. 1043729, and the reasons behind the decision to use this document as the specimen; and

*Del Taco's lack of intent to revive the NAUGLES brand.

D. List of types of documents and things which may be introduced as exhibits during Del Taco's PMKs' testimony:

*Documents relating to Registrant's acquisition of the NAUGLES trademark, registration no. 1043729;

* Documents relating to Registrant's decision to phase out NAUGLES and the times frames of such decisions;

*Documents relating to the process of phasing out NAUGLES by Registrant and the time frame of same;

*Documents relating to the abandonment of NAUGLES mark by Registrant;

*Documents relating to the lack of Registrant's desire to revive the NAUGLES mark in relation to restaurant services;

*Documents relating to discussions, or lack there of, concerning use of the NAUGLES mark by Registrant from 1995 to present;

*Documents relating to a lack of money generated by Registrant from its lack of use of NAUGLES mark from 1995 to present;

*Documents relating to discussions, or lack there of, concerning use of the NAUGLES mark by Registrant from 1995 to present;

*Documents relating to the time frame of Registrant's completion of phasing out its use of the NAUGLES mark in commerce in relation to restaurant services;

*Documents relating to Registrant's renewal application for registration no. 1043729 filed with the USPTO in 2006;

*Documents relating to the veracity, or lack there of, of Registrant's Section 8 declaration of use filed in 2006 in connection with registration no. 1043729;

*Documents relating to Registrant's renewal application for registration no. 1043729 filed with theUSPTO in and/or for 1996;

*Documents relating to the veracity, or lack thereof, of Registrant's Section 8 declaration of use filed in and/or for 1996 in connection with registration no. 1043729;

*Documents relating to why or how Registrant believed that it was truthfully swearing under penalty of perjury that the NAUGLES mark was still in use in commerce by Registrant in connection with restaurant services as of 1996;

*Documents relating to the specimen filed in 1996 with the USPTO in connection with Registrant's renewal application for registration no. 1043729, and the reasons behind the decision to use this document as the specimen; and

*Documents relating to Del Taco's lack of intent to revive the NAUGLES brand.

3. **Michael L. Annis**

A. Contact information: Information to be provided by Registrant.

B. Identifying information: In Registrant's 2006 and/or 1996 renewal applications and Section 8 declarations filed with the USPTO, Mr. Annis identified himself as Vice President and General Counsel of Registrant and signed said renewal

applications and Section 8 declarations under penalty of perjury on or about May 15, 2006. Mr. Annis made the sworn declaration that the NAUGLES mark was still in use in commerce by Registrant in connection with restaurant services as of May 15, 2006 and/or 1996.

C. List of subjects on which Mr. Annis can testify:

*Registrant's renewal application for registration no. 1043729 filed with the USPTO in 2006;

*The veracity, or lack thereof, of Registrant's Section 8 declaration of use filed in 2006 in connection with registration no. 1043729;

*Why or how Mr. Annis believed that he was truthfully swearing under penalty of perjury that the NAUGLES mark was still in use in commerce by Registrant in connection with restaurant services as of May 15, 2006;

*The specimen filed in 2006 with the USPTO in connection with Registrant's renewal application and Section 8 declaration of use for registration no. 1043729, and the reasons behind the decision to use that document as the specimen;

*Registrant's 1996 renewal application for registration no. 1043729 filed with the USPTO;

*The veracity, or lack thereof, of Registrant's 1996 Section 8 declaration of use filed in connection with registration no. 1043729;

*Why or how Mr. Annis believed that he was truthfully swearing under penalty of perjury that the NAUGLES mark was still in use in commerce by Registrant in connection with restaurant services as of 1996; and

*The specimen filed with the USPTO in connection with Registrant's 1996 renewal application and Section 8 declaration of use for registration no. 1043729, and the reasons behind the decision to use that document as the specimen.

D. List of types of documents and things which may be introduced as exhibits during Mr. Annis' testimony:

*Documents relating to Registrant's renewal application for registration no. 1043729 filed with the USPTO in 2006;

*Documents relating to the veracity, or lack thereof, of Registrant's Section 8 declaration of use filed in 2006 in connection with registration no. 1043729;

*Documents relating to why or how Mr. Annis believed that he was truthfully swearing under penalty of perjury that the NAUGLES mark was still in use in commerce by Registrant in connection with restaurant services as of May 15, 2006;

*Documents relating to the specimen filed in 2006 with the USPTO in connection with Registrant's renewal application and Section 8 declaration of use for registration no. 1043729, and the reasons behind the decision to use that document as the specimen;

*Documents relating to Registrant's 1996 renewal application for registration no. 1043729 filed with the USPTO;

*Documents relating to the veracity, or lack thereof, of Registrant's 1996 Section 8 declaration of use filed in connection with registration no. 1043729;

*Documents relating to why or how Mr. Annis believed that he was truthfully swearing under penalty of perjury that the NAUGLES mark was still in use in commerce by Registrant in connection with restaurant services as of 1996; and

*Documents relating to the specimen filed with the USPTO in connection with Registrant's 1996 renewal application and Section 8 declaration of use for registration no. 1043729, and the reasons behind the decision to use that document as the specimen.

4. **Josh Maxwell**

A. [redacted]

B. Identifying information: business partner with Petitioner in Z-Man Restaurant Group.

C. List of subjects on which Mr. Maxwell can testify:

*Multiple meetings with Jeff Naugle regarding the history of Naugles and reviving the NAUGLES brand;

*Business plans relating to the revival of the NAUGLES brand;

*Investment presentations relating to the revival of the NAUGLES brand;

*Meetings with potential investors relating to the revival of the NAUGLES brand;

*Potential business loans relating to the revival of the NAUGLES brand;

*Potential restaurants and other potential modes of reviving the NAUGLES brand in relation to food and restaurant services;

*Mr. Ziebarth's ideas to utilize the NAUGLES name in association with restaurant services;

*Mr. Ziebarth's actions taken, and time frames of such, to develop the idea of reviving the NAUGLES brand;

*Meetings and brain-storming sessions wherein the revival of the NAUGLES brand was discussed;

*Mr. Ziebarth's continued intention to use the NAUGLES mark after filing his trademark application serial no. 85040746;

*Efforts to secure funding for restaurant services rendered under the NAUGLES brand;

*Interactions and discussions with members of the Naugle family concerning the revival of the NAUGLES brand;

*Interactions and discussions with other individuals concerning the revival of the NAUGLES brand;

*The identification of potential restaurant sites for Mr. Ziebarth's intended restaurants utilizing the NAUGLES brand;

*Nature of Mr. Ziebarth's proposed restaurants utilizing the NAUGLES brand; including menu;

*Publicly available facts detailing when and how Del Taco abandoned the NAUGLES mark;

*Any and all subject matter contained in discovery exchanged during this proceeding;

*Any and all documents exchanged between the parties during this proceeding; and

*Any and all pleadings, and accompanying exhibits, filed with the Board during this proceeding.

D. List of types of documents and things which may be introduced as exhibits during Mr. Maxwell's testimony:

*Documents relating to multiple meetings with Jeff Naugle regarding the history of Naugles and reviving the NAUGLES brand;

*Documents relating to business plans relating to the revival of the NAUGLES brand;

* Documents relating to investment presentations relating to the revival of the NAUGLES brand;

*Documents relating to meetings with potential investors relating to the revival of the NAUGLES brand;

*Documents relating to potential business loans relating to the revival of the NAUGLES brand;

*Documents relating to potential restaurants and other potential modes of reviving the NAUGLES brand in relation to food and restaurant services;

*Documents relating to Mr. Ziebarth's ideas to utilize the NAUGLES name in association with restaurant services;

*Documents relating to Mr. Ziebarth's actions taken, and time frames of such, to develop the idea of reviving the NAUGLES brand;

*Documents relating to meetings and brain-storming sessions wherein the revival of the NAUGLES brand was discussed;

*Documents relating to Mr. Ziebarth's continued intention to use the NAUGLES mark after filing his trademark application serial no. 85040746;

*Documents relating to efforts to secure funding for restaurant services rendered under the NAUGLES brand;

*Documents relating to interactions and discussions with members of the Naugle family concerning the revival of the NAUGLES brand;

*Documents relating to interactions and discussions with other individuals concerning the revival of the NAUGLES brand;

*Documents relating to the identification of potential restaurant sites for Mr. Ziebarth's intended restaurants utilizing the NAUGLES brand;

*Documents relating to the nature of Mr. Ziebarth's proposed restaurants utilizing the NAUGLES brand; including menu;

*Documents relating to publicly available facts detailing when and how Del Taco abandoned the NAUGLES mark;

*Documents relating to any and all subject matter contained in discovery exchanged during this proceeding;

*Documents relating to any and all documents exchanged between the parties during this proceeding; and

*Documents relating to any and all pleadings, and accompanying exhibits, filed with the Board during this proceeding.

5. **Dan Dvorak**

A. [redacted]

B. Identifying information: business partner with Petitioner in Z-Man Restaurant Group; Marketing/ Product Development

C. List of subjects on which Mr. Dvorak can testify:

*Meetings with Jeff Naugle regarding the history of Naugles and reviving the NAUGLES brand;

*Petitioner's intent to use the NAUGLES mark;

*Concept designs of potential restaurants and branding relating to the NAUGLES mark;

*General business development and promotion relating to the revival of the NAUGLES brand;

*Mr. Ziebarth's ideas to utilize the NAUGLES name in association with restaurant services;

*Mr. Ziebarth's actions taken, and time frames of such, to develop the idea of reviving the NAUGLES brand;

*Meetings and brain-storming sessions wherein the revival of the NAUGLES brand was discussed;

*Mr. Ziebarth's continued intention to use the NAUGLES mark after filing his trademark application serial no. 85040746;

*Efforts to secure funding for restaurant services rendered under the NAUGLES brand;

*Interactions and discussions with members of the Naugle family concerning the revival of the NAUGLES brand;

*Interactions and discussions with other individuals concerning the revival of the NAUGLES brand;

*The identification of potential restaurant sites for Mr. Ziebarth's intended restaurants utilizing the NAUGLES brand;

*Nature of Mr. Ziebarth's proposed restaurants utilizing the NAUGLES brand; including menu; and

^Publicly available facts detailing when and how Del Taco abandoned the NAUGLES mark.

D. List of types of documents and things which may be introduced as exhibits during Mr. Dvorak's testimony:

*Documents relating to meetings with Jeff Naugle regarding the history of Naugles and reviving the NAUGLES brand;

*Documents relating to Petitioner's intent to use the NAUGLES mark;

*Documents relating to concept designs of potential restaurants and branding relating to the NAUGLES mark;

* Documents relating to general business development and promotion relating to the revival of the NAUGLES brand;

*Documents relating to Mr. Ziebarth's ideas to utilize the NAUGLES name in association with restaurant services;

*Documents relating to Mr. Ziebarth's actions taken, and time frames of such, to develop the idea of reviving the NAUGLES brand;

*Documents relating to meetings and brain-storming sessions wherein the revival of the NAUGLES brand was discussed;

*Documents relating to Mr. Ziebarth's continued intention to use the NAUGLES mark after filing his trademark application serial no. 85040746;

*Documents relating to efforts to secure funding for restaurant services rendered under the NAUGLES brand;

*Documents relating to interactions and discussions with members of the Naugle family concerning the revival of the NAUGLES brand;

*Documents relating to interactions and discussions with other individuals concerning the revival of the NAUGLES brand;

*Documents relating to the identification of potential restaurant sites for Mr. Ziebarth's intended restaurants utilizing the NAUGLES brand;

*Documents relating to the nature of Mr. Ziebarth's proposed restaurants utilizing the NAUGLES brand; including menu; and

*Documents relating to publicly available facts detailing when and how Del Taco abandoned the NAUGLES mark.

6. **Rob Hallstrom**

A. [redacted]

B. Identifying information: Mr. Hallstrom was Mr. Ziebarth's original intended business partner relating to the revival of the NAUGLES brand. While Mr. Hallstrom is not currently Mr. Ziebarth's business partner, he has personal knowledge of facts, occurrences and circumstances relating to the inception of Mr. Ziebarth's ideas and intent relating to the revival of the NAUGLES brand.

C. List of subjects on which Mr. Hallstrom can testify:

*Petitioner's intent to utilize the NAUGLES mark in connection with restaurant services prior to and after Petitioner filed his trademark application for NAUGLES, serial no. 85040746;

*The inception of Mr. Ziebarth's ideas relating to the revival of the NAUGLES brand;

*Visits with Mr. Ziebarth to potential locations for future NAUGLES restaurants;

*Inquiries made relating to the acquisition of buildings for future NAUGLES restaurants;

*Research relating to and visits to locations which were previously NAUGLES restaurants;

*Menu items from the original NAUGLES restaurants;

* Mr. Ziebarth's ideas to utilize the NAUGLES name in association with restaurant services;

*Mr. Ziebarth's actions taken, and time frames of such, to develop the idea of reviving the NAUGLES brand;

*Why, when and how Mr. Ziebarth began to develop the idea to revive the NAUGLES brand;

*The time frame during which Mr. Ziebarth first came up with the ideas to utilize the NAUGLES brand;

*Mr. Ziebarth's bona fide intention to use the NAUGLES mark prior to filing his trademark application serial no. 85040746;

*Meetings and brain-storming sessions wherein the revival of the NAUGLES brand was discussed;

*Mr. Ziebarth's continued intention to use the NAUGLES mark after filing his trademark application serial no. 85040746;

*Efforts to secure funding for restaurant services rendered under the NAUGLES brand before, during and after the filing of trademark application serial no. 85040746;

*Interactions and discussions with Del Taco representatives concerning revival of thc NAUGLES brand;

*Interactions and discussions with members of the Naugle family concerning the revival of the NAUGLES brand;

*Interactions and discussions with other individuals concerning the revival of the NAUGLES brand;

*Information evidencing Del Taco's lack of intent to revive the NAUGLES brand;

*When and how Mr. Ziebarth learned that Del Taco lacked the intention to revive the NAUGLES brand;

*The identification of potential restaurant sites for Mr. Ziebarth's intended restaurants utilizing the NAUGLES brand;

*Nature of Mr. Ziebarth's proposed restaurants utilizing the NAUGLES brand; including menu; and

*Publicly available facts detailing when and how Del Taco abandoned the NAUGLES mark.

D. List of types of documents and things which may be introduced as exhibits during Mr. Hallistrom's testimony:

*Documents relating to Petitioner's intent to utilize the NAUGLES mark in connection with restaurant services prior to and after Petitioner filed his trademark application for NAUGLES, serial no. 85040746;

*Documents relating to the inception of Mr. Ziebarth's ideas relating to the revival of the NAUGLES brand;

*Documents relating to visits with Mr. Ziebarth to potential locations for future NAUGLES restaurants;

*Documents relating to inquiries made relating to the acquisition of buildings for future NAUGLES restaurants;

*Documents relating to research relating to and visits to locations which were previously NAUGLES restaurants;

*Documents relating to menu items from the original NAUGLES restaurants;

*Documents relating to Mr. Ziebarth's ideas to utilize the NAUGLES name in association with restaurant services;

*Documents relating to Mr. Ziebarth's actions taken, and time frames of such, to develop the idea of reviving the NAUGLES brand;

*Documents relating to why, when and how Mr. Ziebarth began to develop the idea to revive the NAUGLES brand;

*Documents relating to the time frame during which Mr. Ziebarth first came up with the ideas to utilize the NAUGLES brand;

*Documents relating to Mr. Ziebarth's bona fide intention to use the NAUGLES mark prior to filing his trademark application serial no. 85040746;

*Documents relating to meetings and brain-storming sessions wherein the revival of the NAUGLES brand was discussed;

*Documents relating to Mr. Ziebarth's continued intention to use the NAUGLES mark after filing his trademark application serial no. 85040746;

*Documents relating to efforts to secure funding for restaurant services rendered under the NAUGLES brand before, during and after the filing of trademark application serial no. 85040746;

*Documents relating to interactions and discussions with Del Taco representatives concerning revival of the NAUGLES brand;

*Documents relating to interactions and discussions with members of the Naugle family concerning the revival of the NAUGLES brand;

*Documents relating to interactions and discussions with other individuals concerning the revival of the NAUGLES brand;

*Documents relating to information evidencing Del Taco's lack of intent to revive the NAUGLES brand;

*Documents relating to when and how Mr. Ziebarth learned that Del Taco lacked the intention to revive the NAUGLES brand;

*Documents relating to the identification of potential restaurant sites for Mr. Ziebarth's intended restaurants utilizing the NAUGLES brand;

*Documents relating to the nature of Mr. Ziebarth's proposed restaurants utilizing the NAUGLES brand; including menu; and

*Documents relating to publicly available facts detailing when and how Del Taco abandoned the NAUGLES mark.

7. **Barbara Caruso**

A. [redacted]

B. Identifying information: Public Relations Representative for Del Taco; Caruso Communications; Ms. Caruso is the first person to whom Mr. Ziebarth voiced the idea of reviving the NAUGLES brand.

C. List of subjects on which Ms. Caruso can testify:

*When and how Mr. Ziebarth brought the idea of reviving the NAUGLES brand to her;

*Her opinions and statements given to Mr. Ziebarth regarding the strength of his idea to revive the NAUGLES idea;

*Her assertions to Mr. Ziebarth regarding bringing the idea to revive the NAUGLES brand back to the marketing team;

* Mr. Ziebarth's ideas to utilize the NAUGLES name in association with restaurant services;

*Mr. Ziebarth's actions taken, and time frames of such, to develop the idea of reviving the NAUGLES brand;

*Why, when and how Mr. Ziebarth began to develop the idea to revive the NAUGLES brand;

*The time frame during which Mr. Ziebarth first came up with the ideas to utilize the NAUGLES brand;

*Mr. Ziebarth's bona fide intention to use the NAUGLES mark prior to filing his trademark application serial no. 85040746;

*Meetings and brain-storming sessions wherein the revival of the NAUGLES brand was discussed;

*Mr. Ziebarth's continued intention to use the NAUGLES mark after filing his trademark application serial no. 85040746;

*Efforts to secure funding for restaurant services rendered under the NAUGLES brand before, during and after the filing of trademark application serial no. 85040746;

*Interactions and discussions with Del Taco representatives concerning revival of the NAUGLES brand;

*Interactions and discussions with members of the Naugle family concerning the revival of the NAUGLES brand;

*Interactions and discussions with other individuals concerning the revival of the NAUGLES brand;

*Information evidencing Del Taco's lack of intent to revive the NAUGLES brand;

*When and how Mr. Ziebarth learned that Del Taco lacked the intention to revive the NAUGLES brand;

*The identification of potential restaurant sites for Mr. Ziebarth's intended restaurants utilizing the NAUGLES brand;

*Nature of Mr. Ziebarth's proposed restaurants utilizing the NAUGLES brand; including menu; and

*Publicly available facts detailing when and how Del Taco abandoned the NAUGLES mark.

D. List of types of documents and things which may be introduced as exhibits during Ms. Caruso's testimony:

*Documents relating to when and how Mr. Ziebarth brought the idea of reviving the NAUGLES brand to her;

*Documents relating to her opinions and statements given to Mr. Ziebarth regarding the strength of his idea to revive the NAUGLES idea;

*Documents relating to her assertions to Mr. Ziebarth regarding bringing the idea to revive the NAUGLES brand back to the marketing team;

*Documents relating to Mr. Ziebarth's ideas to utilize the NAUGLES name in association with restaurant services;

*Documents relating to Mr. Ziebarth's actions taken, and time frames of such, to develop the idea of reviving the NAUGLES brand;

*Documents relating to why, when and how Mr. Ziebarth began to develop the idea to revive the NAUGLES brand;

*Documents relating to the time frame during which Mr. Ziebarth first came up with the ideas to utilize the NAUGLES brand;

*Documents relating to Mr. Ziebarth's bona fide intention to use the NAUGLES mark prior to filing his trademark application serial no. 85040746;

*Documents relating to meetings and brain-storming sessions wherein the revival of the NAUGLES brand was discussed;

*Documents relating to Mr. Ziebarth's continued intention to use the NAUGLES mark after filing his trademark application serial no. 85040746;

*Documents relating to efforts to secure funding for restaurant services rendered under the NAUGLES brand before, during and after the filing of trademark application serial no. 85040746;

*Documents relating to interactions and discussions with Del Taco representatives concerning revival of the NAUGLES brand;

*Documents relating to interactions and discussions with members of the Naugle family concerning the revival of the NAUGLES brand;

*Documents relating to interactions and discussions with other individuals concerning the revival of the NAUGLES brand;

*Documents relating to information evidencing Del Taco's lack of intent to revive the NAUGLES brand;

*Documents relating to when and how Mr. Ziebarth learned that Del Taco lacked the intention to revive the NAUGLES brand;

*Documents relating to the identification of potential restaurant sites for Mr. Ziebarth's intended restaurants utilizing the NAUGLES brand;

*Documents relating to the nature of Mr. Ziebarth's proposed restaurants utilizing the NAUGLES brand; including menu; and

*Documents relating to publicly available facts detailing when and how Del Taco abandoned the NAUGLES mark.

8. **William Odell**

A. [redacted]

B. Identifying information: Mr. Odell is long-time, personal acquaintance of Mr. Ziebarth.

C. List of subjects on which Mr. Odell can testify:

*The inception of Mr. Ziebarth's idea to revive the NAUGLES brand;

*Meetings with Mr. Ziebarth and Jeff Naugle regarding revival of the NAUGLES brand;

*Del Taco's disinterest in reviving the NAUGLES brand itself;

* Mr. Ziebarth's ideas to utilize the NAUGLES name in association with restaurant services;

*Mr. Ziebarth's actions taken, and time frames of such, to develop the idea of reviving the NAUGLES brand;

*Why, when and how Mr. Ziebarth began to develop the idea to revive the NAUGLES brand;

*The time frame during which Mr. Ziebarth first came up with the ideas to utilize the NAUGLES brand;

*Mr. Ziebarth's bona fide intention to use the NAUGLES mark prior to filing his trademark application serial no. 85040746;

*Meetings and brain-storming sessions wherein the revival of the NAUGLES brand was discussed;

*Mr. Ziebarth's continued intention to use the NAUGLES mark after filing his trademark application serial no. 85040746;

*Efforts to secure funding for restaurant services rendered under the NAUGLES brand before, during and after the filing of trademark application serial no. 85040746;

*Interactions and discussions with Del Taco representatives concerning revival of the NAUGLES brand;

*Interactions and discussions with members of the Naugle family concerning the revival of the NAUGLES brand;

*Interactions and discussions with other individuals concerning the revival of the NAUGLES brand;

*Information evidencing Del Taco's lack of intent to revive the NAUGLES brand;

*When and how Mr. Ziebarth learned that Del Taco lacked the intention to revive the NAUGLES brand;

*The identification of potential restaurant sites for Mr. Ziebarth's intended restaurants utilizing the NAUGLES brand;

*Nature of Mr. Ziebarth's proposed restaurants utilizing the NAUGLES brand; including menu; and

*Publicly available facts detailing when and how Del Taco abandoned the NAUGLES mark.

D. <u>List of types of documents and things which may be introduced as exhibits during Mr. Odell's testimony</u>:

*Documents relating to the inception of Mr. Ziebarth's idea to revive the NAUGLES brand;

*Documents relating to meetings with Mr. Ziebarth and Jeff Naugle regarding revival of the NAUGLES brand;

*Documents relating to Del Taco's disinterest in reviving the NAUGLES brand itself;

*Documents relating to Mr. Ziebarth's ideas to utilize the NAUGLES name in association with restaurant services;

*Documents relating to Mr. Ziebarth's actions taken, and time frames of such, to develop the idea of reviving the NAUGLES brand;

*Documents relating to why, when and how Mr. Ziebarth began to develop the idea to revive the NAUGLES brand;

*Documents relating to the time frame during which Mr. Ziebarth first came up with the ideas to utilize the NAUGLES brand;

*Documents relating to Mr. Ziebarth's bona fide intention to use the NAUGLES mark prior to filing his trademark application serial no. 85040746;

*Documents relating to meetings and brain-storming sessions wherein the revival of the NAUGLES brand was discussed;

*Documents relating to Mr. Ziebarth's continued intention to use the NAUGLES mark after filing his trademark application serial no. 85040746;

*Documents relating to efforts to secure funding for restaurant services rendered under the NAUGLES brand before, during and after the filing of trademark application serial no. 85040746;

*Documents relating to interactions and discussions with Del Taco representatives concerning revival of the NAUGLES brand;

*Documents relating to interactions and discussions with members of the Naugle family concerning the revival of the NAUGLES brand;

*Documents relating to interactions and discussions with other individuals concerning the revival of the NAUGLES brand;

*Documents relating to information evidencing Del Taco's lack of intent to revive the NAUGLES brand;

*Documents relating to when and how Mr. Ziebarth learned that Del Taco lacked the intention to revive the NAUGLES brand;

*Documents relating to the identification of potential restaurant sites for Mr. Ziebarth's intended restaurants utilizing the NAUGLES brand;

*Documents relating to the nature of Mr. Ziebarth's proposed restaurants utilizing the NAUGLES brand;including menu; and

*Documents relating to publicly available facts detailing when and how Del Taco abandoned the NAUGLES mark.

9. **Jeff Naugle (John Jeffrey Naugle)**

A. [redacted].

B. Identifying information: Restaurant owner and operator; Mr. Naugle was the first member of the Naugle family to whom Mr. Ziebarth spoke regarding the revival of the NAUGLES brand.

C. List of subjects on which Mr. Naugle can testify:

*Mr. Ziebarth's ideas to utilize the NAUGLES name in association with restaurant services;

*Mr. Ziebarth's actions taken, and time frames of such, to develop the idea of reviving the NAUGLES brand;

*Why, when and how Mr. Ziebarth began to develop the idea to revive the NAUGLES brand;

*The time frame during which Mr. Ziebarth first came up with the ideas to utilize the NAUGLES brand;

*Mr. Ziebarth's bona fide intention to use the NAUGLES mark prior to filing his trademark application serial no. 85040746;

*Meetings and brain-storming sessions wherein the revival of the NAUGLES brand was discussed;

*Mr. Ziebarth's continued intention to use the NAUGLES mark after filing his trademark application serial no. 85040746;

*Efforts to secure funding for restaurant services rendered under the NAUGLES brand before, during and after the filing of trademark application serial no. 85040746;

*Interactions and discussions with members of the Naugle family concerning the revival of the NAUGLES brand;

*Interactions and discussions with other individuals concerning the revival of the NAUGLES brand;

*Information evidencing Del Taco's lack of intent to revive the NAUGLES brand;

*When and how Mr. Ziebarth learned that Del Taco lacked the intention to revive the NAUGLES brand;

*The identification of potential restaurant sites for Mr. Ziebarth's intended restaurants utilizing the NAUGLES brand;

*Nature of Mr. Ziebarth's proposed restaurants utilizing the NAUGLES brand; including menu; and

*Publicly available facts detailing when and how Del Taco abandoned the NAUGLES mark.

D. List of types of documents and things which may be introduced as exhibits during Mr. Naugle's testimony:

*Documents relating to Mr. Ziebarth's ideas to utilize the NAUGLES name in association with restaurant services;

*Documents relating to Mr. Ziebarth's actions taken, and time frames of such, to develop the idea of reviving the NAUGLES brand;

*Documents relating to why, when and how Mr. Ziebarth began to develop the idea to revive the NAUGLES brand;

*Documents relating to the time frame during which Mr. Ziebarth first came up with the ideas to utilize the NAUGLES brand;

*Documents relating to Mr. Ziebarth's bona fide intention to use the NAUGLES mark prior to filing his trademark application serial no. 85040746;

*Documents relating to meetings and brain-storming sessions wherein the revival of the NAUGLES brand was discussed;

*Documents relating to Mr. Ziebarth's continued intention to use the NAUGLES mark after filing his trademark application serial no. 85040746;

*Documents relating to efforts to secure funding for restaurant services rendered under the NAUGLES brand before, during and after the filing of trademark application serial no. 85040746;

*Documents relating to interactions and discussions with members of the Naugle family concerning the revival of the NAUGLES brand;

*Documents relating to interactions and discussions with other individuals concerning the revival of the NAUGLES brand;

*Documents relating to information evidencing Del Taco's lack of intent to revive the NAUGLES brand;

*Documents relating to when and how Mr. Ziebarth learned that Del Taco lacked the intention to revive the NAUGLES brand;

*Documents relating to the identification of potential restaurant sites for Mr. Ziebarth's intended restaurants utilizing the NAUGLES brand;

*Documents relating to the mature of Mr. Ziebarth's proposed restaurants utilizing the NAUGLES brand; including menu; and

*Documents relating to publicly available facts detailing when and how Del Taco abandoned the NAUGLES mark.

Respectfully submitted,

CHRISTIAN M. ZIEBARTH

By /Kelly K. Pfeiffer./

Attorney for Petitioner
Kelly K. Pfeiffer
AMEZCUA-MOLL & ASSOCIATES, P.C.
Lincoln Professional Center
1122 E. Lincoln Ave., Suite 203
Orange, CA 92865

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing **PETITIONER'S PRETRIAL DISCLOSURES** was served upon April L. Besl, DINSMORE & SHOHL, LLP , attorney of record for the Registrant in this action by depositing one copy thereof in the United States mail, first-class postage prepaid on January 24, 2013 and addressed as follows:

April L. Besl, Esq.
DINSMORE & SHOHL, LLP
255 East Fifth Street
Cincinnati, OH 45202

/Kelly K. Pfeiffer/
Kelly K. Pfeiffer
AMEZCUA-MOLL & ASSOCIATES, P.C.
Lincoln Professional Center
1122 E. Lincoln Ave., Suite 203
Orange, CA 92865
Attorney for Petitioner CHRISTIAN M. ZIEBARTH

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

CHRISTIAN M. ZIEBARTH, **Petitioner,** **vs.** **DEL TACO LLC** **Respondent.**	**Reg. No. 1,043,729** **Cancellation No. 92053501**

RESPONDENT'S FIRST SET OF INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS TO PETITIONER

In accordance with Rules 33 and 34 of the Federal Rules of Civil Procedure and Rule 2.116 of the Trademark Rules of Practice, Petitioner is called upon to fully respond to the document requests and interrogatories set forth below within thirty (30) days of the date of service. Applicant requests that all written responses and all responsive documents be produced at the offices of Dinsmore & Shohl LLP, 1900 Chemed Center, 255 East Fifth Street, Cincinnati, Ohio 45202.

DEFINITIONS

A. As used herein, the term "Petitioner," "You" and "Your" includes the individual Christian M. Ziebarth and any of his employees, agents, and representatives thereof.

B. As used herein, the term "Registrant" or "Del Taco" includes Del Taco LLC, its predecessors in interest, divisions, subsidiaries and related organizations, and the officers, directors, employees, agents and representatives thereof.

C. As used herein, the term "the Petitioner's NAUGLES Mark" refers to the subject of Application Serial No. 85/040,746 in the name of Christian M. Ziebarth.

D. As used herein, the term "Petitioner's NAUGLES Products" includes those products and services which Petitioner offers for sale or plans to offer for sale under the NAUGLES mark.

E. As used herein, "and" as well as "or" shall be construed disjunctively and conjunctively as necessary in order to bring within the scope of the request all documents which might otherwise be construed to be outside its scope.

F. As used herein, the singular shall include the plural and the present tense shall include the past tense and vice versa in order to bring within the scope of the request all documents which might otherwise be construed to be outside its scope.

INSTRUCTIONS

1. If Petitioner objects to the Interrogatories and Document Requests below based on a claim of privilege or a claim that such Interrogatories or Document Requests require the disclosure of attorney work product, state the nature of the privilege claimed and the nature of the information over which the privilege is claimed.

2. Every interrogatory herein shall be deemed a continuing interrogatory, and You are to supplement Your answers promptly, if and when You obtain relevant information in addition to, or in any way inconsistent with, Your initial answer to any such interrogatory.

3. If Petitioner is aware that a document or group of documents once existed but has been destroyed, this should be stated, and it should also be stated who destroyed it, why it was destroyed and the circumstances under which it was destroyed.

INTERROGATORIES

Interrogatory No. 1:

Describe in detail the nature of the present business of Petitioner in connection with Petitioner's NAUGLES Mark.

ANSWER:

Interrogatory No. 2:

Describe in detail all activities undertaken by Petitioner to utilize Petitioner's NAUGLES Mark prior to the filing of Petitioner's NAUGLES Mark with the United States Patent and Trademark Office.

ANSWER:

Interrogatory No. 3:

Identify each person with any information concerning Petitioner's selection of Petitioner's NAUGLES Mark.

ANSWER:

Interrogatory No. 4:

Describe in detail the circumstances under which Petitioner decided to select Petitioner's NAUGLES Mark for use in conjunction with Petitioner's business.

ANSWER:

Interrogatory No. 5:

Identify all products or services planned to be offered by Petitioner under Petitioner's NAUGLES Mark.

ANSWER:

Interrogatory No. 6:

Identify all transfers of rights in Petitioner's NAUGLES Mark granted by or to Petitioner.

ANSWER:

Interrogatory No. 7:

State whether Petitioner's NAUGLES Products are currently offered to the public.

ANSWER:

Interrogatory No. 8:

Identify the territorial areas in the United States where Petitioner plans to offer Petitioner's NAUGLES Products.

ANSWER:

Interrogatory No. 9:

Identify the territorial areas in the United States where Petitioner plans to manufacture Petitioner's NAUGLES Products.

ANSWER:

Interrogatory No. 10:

Identify the channels of trade through which Petitioner plans to offer Petitioner's NAUGLES Products.

ANSWER:

Interrogatory No. 11:

Identify the representative outlets through which Petitioner plans to offer Petitioner's NAUGLES Products.

ANSWER:

Interrogatory No. 12:

Identify the target market to which Petitioner plans to offer Petitioner's NAUGLES Products.

ANSWER:

Interrogatory No. 13:

Identify the target customer base to which Petitioner plans to offer Petitioner's NAUGLES Products.

ANSWER:

Interrogatory No. 14:

Identify all sources of funding to finance Petitioner's NAUGLES Products.

ANSWER:

Interrogatory No. 15:

Identify the marketing channels through which Petitioner plans to promote Petitioner's NAUGLES Products.

ANSWER:

DOCUMENT REQUESTS

1. All documents and things which refer to Petitioner's creation and selection of Petitioner's NAUGLES Mark.

2. All documents and things which refer to Petitioner's decision to apply to register Petitioner's NAUGLES Mark with the United States Patent and Trademark Office.

3. All documents and things which refer to any clearance searches Petitioner performed for Petitioner's NAUGLES Mark.

4. All documents and things evidencing Petitioner's current use of Petitioner's NAUGLES Mark.

5. All documents and things evidencing Petitioner's intent to use Petitioner's NAUGLES Mark when Petitioner filed its application with the United States Patent and Trademark Office.

6. All documents and things which refer to any products or services Petitioner offers for sale and/or plans to offer for sale under Petitioner's NAUGLES Mark.

7. All documents and things which refer to any licensing agreements Petitioner has entered into with respect to Petitioner's NAUGLES Mark.

8. All documents and things which refer to the territorial areas in the United States where Petitioner offers or plans to offer Petitioner's NAUGLES Products.

9. All documents and things which refer to the territorial areas in the United States where Petitioner manufactures or plans to manufacture Petitioner's NAUGLES Products.

10. All documents and things which refer to the channels of trade through which Petitioner offers or plans to offer Petitioner's NAUGLES Products.

11. All documents and things which refer to representative outlets through which Petitioner offers or plans to offer Petitioner's NAUGLES Products.

12. All documents and things which refer to representative customers who have or are intended to purchase Petitioner's NAUGLES Products.

13. All documents and things which refer to the target market Petitioner has identified for Petitioner's NAUGLES Products.

14. All documents and things which refer to any source of sponsorship, funding, or other financial support for the creation, distribution, manufacturing, marketing, promotion, and/or sale of Petitioner's NAUGLES Products.

15. All documents and things which refer to Petitioner's present and/or planned marketing plans for Petitioner's NAUGLES Products including, but not limited to specimens of all advertising and promotional materials which relate to or refer to Petitioner's NAUGLES Products.

16. All documents and things from any promotional outlet, including but not limited to, magazines, blogs, newspapers, social media sites, television, radio, catalogues, circulars, leaflets, sales or promotional literature, brochures, bulletins, fliers, signs, sales displays, posters, and/or other materials in which Petitioner's NAUGLES Products have been promoted and/or may be promoted in the future.

17. All documents and things which refer to Petitioner's present and/or planned manufacturing processes and supply chains for Petitioner's NAUGLES Products.

18. All documents and things which refer to Petitioner's current shipping processes and or planned shipping processes for Petitioner's NAUGLES Products.

19. All documents and things which refer to Petitioner's monthly expenditures to date and planned future expenditures with respect to Petitioner's NAUGLES Products.

20. All documents and things which refer to any consumer or market testing Petitioner has received or conducted relating to Petitioner's NAUGLES Products.

21. All documents and things which refer to any consumer or market testing Petitioner has received or conducted relating to Petitioner's NAUGLES Mark.

22. All documents and things, including but not limited to, communications with third parties, social media pages, and blogs which refer to Del Taco, Del Taco's marks, or Del Taco's goods or services.

23. All documents and things, including but not limited to, communications with third parties, social media pages, and blogs which refer to Petitioner's NAUGLES Mark.

24. All documents and things, including but not limited to, communications with third parties, social media pages, and blogs which refer to Petitioner's NAUGLES Products.

25. All documents and things, including but not limited to, plans, specifications, proposals, correspondence and memoranda, and samples that refer to the design, specifications, packaging, locations, recipes, format, and ingredients for Petitioner's NAUGLES Products.

26. All documents which refer to each and every discussion, correspondence, dispute, controversy, or proceeding of any kind or nature between Petitioner and any third party which involved Petitioner's NAUGLES Mark as applied for or any common law variation thereof.

27. All documents and things on which Petitioner relied in making its allegations contained in Petitioner's PETITION FOR CANCELLATION.

Dated: **April 20, 2011**

April L. Besl
Joshua A. Lorentz
DINSMORE & SHOHL LLP
255 East Fifth Street
Cincinnati, Ohio 45202
(513) 977-8527-direct
(513) 977-8141-fax
april.besl@dinslaw.com

Attorneys for Respondent
Del Taco LLC

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing was sent by email, on this 20th day of April, 2011, to Susan M. Natland and Gregory Phillips, Knobbe Martens Olson & Bear LLP, 2040 Main Street, 14th Floor, Irvine, California 92614, Susan.Natland@kmob.com and Gregory.Phillips@kmob.com.

April L Besl

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

CHRISTIAN M. ZIEBARTH, **Petitioner,** **vs.** **DEL TACO LLC** **Respondent.**	**Reg. No. 1,043,729** **Cancellation No. 92053501**

RESPONDENT'S FIRST SET OF REQUESTS FOR ADMISSION TO PETITIONER

In accordance with Rule 36 of the Federal Rules of Civil Procedure and 37 C.F.R. § 2.120, Petitioner is called upon to fully respond to the following Requests for Admissions within thirty (30) days of the date of service.

DEFINITIONS

A. As used herein, the term "Petitioner," "You" and "Your" includes the individual Christian M. Ziebarth and any of his employees, agents, and representatives thereof.

B. As used herein, the term "Registrant" or "Del Taco" includes Del Taco LLC, its predecessors in interest, divisions, subsidiaries and related organizations, and the officers, directors, employees, agents and representatives thereof.

C. As used herein, the term "the Petitioner's NAUGLES Mark" refers to the subject of Application Serial No. 85/040,746 in the name of Christian M. Ziebarth.

D. As used herein, the term "Petitioner's NAUGLES Products" includes those products and services which Petitioner offers for sale or plans to offer for sale under the NAUGLES mark.

INSTRUCTIONS

In responding to each request for admission, Petitioner must either admit or deny the statement, or must provide detailed reasons as to why the statement cannot truthfully be admitted or denied, as required by Rule 36 of the Federal Rules of Civil Procedure. In addition, Registrant is required to explain in detail any qualifications to its responses.

ADMISSION REQUESTS

1. Petitioner is not currently offering any products under Petitioner's NAUGLES Mark.

2. Petitioner has not previously offered any products under Petitioner's NAUGLES Mark.

3. Petitioner is not currently offering any services under Petitioner's NAUGLES Mark.

4. Petitioner has not previously offered any services under Petitioner's NAUGLES Mark.

5. Petitioner was not offering cafeteria and restaurant services under Petitioner's NAUGLES Mark as of May 17, 2010.

6. Petitioner is not currently offering cafeteria and restaurant services under Petitioner's NAUGLES Mark.

7. Petitioner has not entered into any licensing agreements with third parties in connection with Petitioner's NAUGLES Mark.

8. Petitioner has not obtained any loans necessary to finance the manufacturing, sale and distribution of Petitioner's NAUGLES Products.

9. Petitioner has not entered into a partnership to finance the manufacturing, sale and distribution of Petitioner's NAUGLES Products.

10. Petitioner has not raised any funds to finance the manufacturing, sale and distribution of Petitioner's NAUGLES Products.

11. Petitioner has not created any marketing plans for Petitioner's NAUGLES Products.

12. Petitioner has not made any monthly expenditures to date for the purpose of manufacturing or preparing to manufacture Petitioner's NAUGLES Products.

13. Petitioner has not conducted any consumer testing with respect to Petitioner's NAUGLES Products.

14. Petitioner has not conducted any market testing with respect to Petitioner's NAUGLES Products.

15. Petitioner has not conducted any consumer testing with respect to Petitioner's NAUGLES Mark.

16. Petitioner has not conducted any market testing with respect to Petitioner's NAUGLES Mark.

17. Petitioner has not entered into any contracts with third parties for manufacturing of Petitioner's NAUGLES Products.

18. Petitioner has not entered into any contracts with third parties for ingredients to be used in Petitioner's NAUGLES Products.

19. Petitioner has not entered into any contracts with third parties for shipping of Petitioner's NAUGLES Products.

20. Petitioner has not entered into any contracts with third parties for the sale of Petitioner's NAUGLES Products.

21. Petitioner has not entered into any contracts with third parties to operate cafeterias offering Petitioner's NAUGLES Products.

22. Petitioner has not entered into any contracts with third parties to operate restaurants offering Petitioner's NAUGLES Products.

23. Petitioner has not entered into any contracts with third parties for locations where Petitioner's NAUGLES Products will be offered.

24. Petitioner has not entered into any contracts with third parties for marketing of Petitioner's NAUGLES Products.

25. Petitioner has not entered into any negotiations with third parties for manufacturing of Petitioner's NAUGLES Products.

26. Petitioner has not entered into any negotiations with third parties for ingredients to be used in Petitioner's NAUGLES Products.

27. Petitioner has not entered into any negotiations with third parties for shipping of Petitioner's NAUGLES Products.

28. Petitioner has not entered into any negotiations with third parties for the sale of Petitioner's NAUGLES Products.

29. Petitioner has not entered into any negotiations with third parties to operate cafeterias offering Petitioner's NAUGLES Products.

30. Petitioner has not entered into any negotiations with third parties to operate restaurants offering Petitioner's NAUGLES Products.

31. Petitioner has not entered into any negotiations with third parties for locations where Petitioner's NAUGLES Products will be offered.

32. Petitioner has not entered into any negotiations with third parties for marketing of Petitioner's NAUGLES Products.

33. The website located at the domain name http://www.mexfoodla.com/ is owned by Petitioner.

34. The website located at the domain name http://www.mexfoodla.com/ is operated by Petitioner.

35. All posts by "ChristianZ" at the domain name http://www.mexfoodla.com/ are by Petitioner.

36. Petitioner has not discussed Petitioner's NAUGLES Products on http://www.mexfoodla.com/.

37. Petitioner has not discussed Petitioner's NAUGLES Mark on http://www.mexfoodla.com/.

38. The website located at the domain name http://ocfoodblogs.blogspot.com/ is owned by Petitioner.

39. The website located at the domain name http://ocfoodblogs.blogspot.com/ is operated by Petitioner.

40. All posts by "ChristianZ" at the domain name http://ocfoodblogs.blogspot.com are by Petitioner.

41. Petitioner has not discussed Petitioner's NAUGLES Products on http://ocfoodblogs.blogspot.com.

42. Petitioner has not discussed Petitioner's NAUGLES Mark on http://ocfoodblogs.blogspot.com.

43. The website located at the domain http://warmth-of-the-sun.blogspot.com/ is owned by Petitioner.

44. The website located at the domain http://warmth-of-the-sun.blogspot.com/ is operated by Petitioner.

45. All posts by "ChristianZ" at the domain name http://warmth-of-the-sun.blogspot.com/ are by Petitioner.

46. Petitioner has not discussed Petitioner's NAUGLES Products on http://warmth-of-the-sun.blogspot.com/.

47. Petitioner has not discussed Petitioner's NAUGLES Mark on http://warmth-of-the-sun.blogspot.com/.

48. The website located at the domain http://ocmexfood.blogspot.com/ is owned by Petitioner.

49. The website located at the domain http://ocmexfood.blogspot.com/ is operated by Petitioner.

50. All posts by "ChristianZ" at the domain name http://ocmexfood.blogspot.com/ are by Petitioner.

51. Petitioner has not discussed Petitioner's NAUGLES Products on http://ocmexfood.blogspot.com/.

52. Petitioner has not discussed Petitioner's NAUGLES Mark on http://ocmexfood.blogspot.com/.

53. The website located at the domain http://www.christianziebarth.com/ is owned by Petitioner.

54. The website located at the domain http://www.christianziebarth.com/ is operated by Petitioner.

55. All information posted at the domain http://www.christianziebarth.com/ is posted by Petitioner.

56. Petitioner has not discussed Petitioner's NAUGLES Products on http://www.christianziebarth.com/.

57. Petitioner has not discussed Petitioner's NAUGLES Mark on http://www.christianziebarth.com/.

58. The Facebook page located at http://www.facebook.com/ocmexfood?v=wall is owned by Petitioner.

59. The Facebook page located at http://www.facebook.com/ocmexfood?v=wall is operated by Petitioner.

60. All posts under the name "OC Mex Food" on the Facebook page located at http://www.facebook.com/ocmexfood?v=wall are by Petitioner.

61. Petitioner has not discussed Petitioner's NAUGLES Products on http://www.facebook.com/ocmexfood?v=wall.

62. Petitioner has not discussed Petitioner's NAUGLES Mark on http://www.facebook.com/ocmexfood?v=wall.

63. The Twitter page located at http://twitter.com/#!/cmziebarth is owned by Petitioner.

64. The Twitter page located at http://twitter.com/#!/cmziebarth is operated by Petitioner.

65. All posts under the name "cmziebarth" on http://twitter.com/#!/cmziebarth are by Petitioner.

66. Petitioner has not discussed Petitioner's NAUGLES Products on http://twitter.com/#!/cmziebarth.

67. Petitioner has not discussed Petitioner's NAUGLES Mark on http://twitter.com/#!/cmziebarth.

68. Apart from its current NAUGLES application, Petitioner has not applied to register the NAUGLES mark with any governmental entity.

69. Petitioner took the idea for Petitioner's NAUGLES Products from Registrant.

70. Petitioner was aware of Registrant's use of the NAUGLES mark prior to filing Petitioner's NAUGLES Mark with the United States Patent and Trademark Office.

71. Petitioner was aware of Registrant's registration of the NAUGLES mark prior to filing Petitioner's NAUGLES Mark with the United States Patent and Trademark Office.

72. Petitioner selected Petitioner's NAUGLES Mark for Petitioner's NAUGLES Products with full knowledge of Registrant's ownership and use of NAUGLES.

Dated: **April 20, 2011**

April L. Besl
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Attorneys for Respondent
Del Taco LLC

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing was sent by email, on this 20th day of April, 2011, to Susan M. Natland and Gregory Phillips, Knobbe Martens Olson & Bear LLP, 2040 Main Street, 14th Floor, Irvine, California 92614, Susan.Natland@kmob.com and Gregory.Phillips@kmob.com.

April L. Besl

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Christian M. Ziebarth, Petitioner, v. Del Taco, LLC, Respondent.	Cancellation No. 92053501

PETITIONER'S RESPONSE TO RESPONDENT'S FIRST SET OF INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS

Pursuant to the Rules of Practice of the United States Patent and Trademark Office, and Rule 33 of the Federal Rules of Civil Procedure ("FRCP") and the Trademark Trial and Appeal Board Manual of Procedure ("TBMP"), Christian M. Ziebarth ("Petitioner") hereby responds to Del Taco, LLC's ("Respondent") First Set of Interrogatories and Requests for Production of Documents ("Requests" or "Request") as set forth below.

GENERAL OBJECTIONS TO INTERROGATORIES

The following General Objections to Respondent's Interrogatories are incorporated by reference in response to each Interrogatory set forth below and are not waived with respect to any response.

1. Petitioner generally objects to Respondent's Interrogatories to the extent they seek disclosure of any information protected, privileged or immune, or otherwise exempt from discovery pursuant to applicable state and federal statutes, the FRCP, case law, regulations, administrative

orders, or any other applicable rules, decisions, or laws including, but not limited to, information protected by the attorney-client privilege, the work product doctrine or other applicable privilege.

2. Petitioner generally objects to Respondent's Interrogatories to the extent that they seek the disclosure of information that is not relevant to any party's claim or defense.

3. Petitioner generally objects to Respondent's Interrogatories, including the instructions and definitions, to the extent they purport to impose upon Petitioner obligations greater than those imposed by the applicable FRCP, 37 CFR § 2.120(d), or other applicable rules or law.

4. Petitioner generally objects to Respondent's Interrogatories to the extent that they seek information that is not calculated to lead to the discovery of admissible evidence or to the extent that Respondent's Interrogatories seek the disclosure of information, documents or things beyond the scope of discovery as provided by the applicable FRCP, 37 CFR § 2.120(d), or other applicable rules or law.

5. Some of Respondent's Interrogatories contain discrete subparts. To the extent Petitioner considers any Interrogatory having discrete subparts to constitute a single Interrogatory, Petitioner objects to each such Interrogatory as being contrary to FRCP 33(a) and 37 CFR § 2.120(d).

6. Petitioner objects to each of Respondent's Interrogatories to the extent that they seek information that is a matter of public record or otherwise available to Respondent without imposing undue burden on Petitioner.

7. Only the express and overt meaning of these responses is intended. No response should be construed to contain implied statements, representations, or admissions of any kind. The fact that Petitioner has responded or objected to an Interrogatory, or has produced documents in response to an Interrogatory, should not be understood as an admission that Petitioner accepts or admits the existence of any "fact" set forth in or assumed by that Interrogatory.

8. Words and terms used in the following responses shall be construed in accordance with their normal meanings and connotations, and shall in no way be interpreted as terms of art or statutorily defined terms used in the trademark or unfair competition laws. Petitioner specifically disavows any such meaning or connotation that might be accorded to such terms. Likewise, Petitioner objects to Respondent's definitions and instructions to the extent that they make individual Interrogatories vague, ambiguous, or unintelligible by attributing a novel meaning to an ordinary word or multiple meanings to a single word.

9. Petitioner generally objects to Respondent's Interrogatories to the extent they seek information concerning "all" or "any" person or entity concerning a particular subject on the grounds that Petitioner would be required to search for information from every person or entity. Petitioner objects to performing searches of such breadth on the grounds of undue burden and expense. In its search for relevant documents, Petitioner has made, or will make, a reasonable search as required by the FRCP.

10. Petitioner generally objects to Respondent's Interrogatories to the extent that they seek information, documents or things not in Petitioner's possession, custody or control. Petitioner's responses are based upon information and writings presently available to Petitioner.

11. In response to Respondent's Interrogatories, Petitioner may exercise its option to produce documents from which the answers to the Interrogatories may be derived or ascertained, in accordance with FRCP 33(d).

12. As to all matters referred to in these responses to Respondent's Interrogatories, investigation and discovery continues. Accordingly, Petitioner reserves his right to modify these responses and to present in any proceedings and at trial any further information and documents obtained during discovery as well as during the testimony and trial periods and preparation for the testimony and trial periods. Further discovery, independent investigation, and legal research and

analysis may supply additional facts adding meaning to known facts, as well as establish entirely new factual conclusions or legal conclusions, all of which may lead to substantial additions to, changes in, and variations from the responses set forth herein. Petitioner reserves the right to produce any subsequently discovered evidence, facts, and/or documents, and to supplement or change its responses based on such information. Moreover, certain of Respondent's Interrogatories are premature in that they seek contentions or other information that Petitioner cannot provide at this stage of the case. Finally, certain of Respondent's Interrogatories are subject to specific objections and are therefore not the subject of legitimate discovery. The responses given herein are done so in a good faith effort to supply as much information as is presently known which should in no way lead to the prejudice of Petitioner in connection with further discovery, research or analysis.

RESPONSE TO RESPONDENT'S FIRST SET OF INTERROGATORIES

INTERROGATORY NO. 1:

Describe in detail the nature of the present business of Petitioner in connection with Petitioner's NAUGLES Mark.

RESPONSE TO INTERROGATORY NO. 1:

Petitioner incorporates by this reference its General Objections to Respondent's Interrogatories as if set forth fully herein. Petitioner further objects to this Interrogatory on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Interrogatory seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter,

not privileged, that is relevant to the *claim or defense* of any party") (emphasis added); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.,* 2010 WL 5099662, f.4 (T.T.A.B., Dec. 1, 2010) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark).

INTERROGATORY NO. 2:

Describe in detail all activities undertaken by Petitioner to utilize Petitioner's NAUGLES Mark prior to the filing of Petitioner's NAUGLES Mark with the United States Patent and Trademark Office.

RESPONSE TO INTERROGATORY NO. 2:

Petitioner incorporates by this reference its General Objections to Respondent's Interrogatories as if set forth fully herein. Petitioner also objects to this Interrogatory to the extent that it requests information protected by the attorney-client privilege or work product doctrine. Petitioner further objects to this Interrogatory on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Interrogatory seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the *claim or defense* of any party") (emphasis added); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.,*

2010 WL 5099662, f.4 (T.T.A.B., Dec. 1, 2010) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark).

INTERROGATORY NO. 3:

Identify each person with any information concerning Petitioner's selection of Petitioner's NAUGLES Mark.

RESPONSE TO INTERROGATORY NO. 3:

Petitioner incorporates by this reference its General Objections to Respondent's Interrogatories as if set forth fully herein. Petitioner also objects to this Interrogatory to the extent that it requests information protected by the attorney-client privilege or work product doctrine. Petitioner further objects to this Interrogatory on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Interrogatory seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the *claim or defense* of any party") (emphasis added); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.*, 2010 WL 5099662, f.4 (T.T.A.B., Dec. 1, 2010) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark).

INTERROGATORY NO. 4:

Describe in detail the circumstances under which Petitioner decided to select Petitioner's NAUGLES Mark for use in conjunction with Petitioner's business.

RESPONSE TO INTERROGATORY NO. 4:

Petitioner incorporates by this reference its General Objections to Respondent's Interrogatories as if set forth fully herein. Petitioner also objects to this Interrogatory to the extent that it requests information protected by the attorney-client privilege or work product doctrine. Petitioner further objects to this interrogatory to the extent that it requests information protected by the attorney-client privilege or work product doctrine. Petitioner further objects to this Interrogatory on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Interrogatory seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the *claim or defense* of any party") (emphasis added); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.,* 2010 WL 5099662, f.4 (T.T.A.B., Dec. 1, 2010) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark).

INTERROGATORY NO. 5:

Identify all products or services planned to be offered by Petitioner under Petitioner's NAUGLES Mark.

RESPONSE TO INTERROGATORY NO. 5:

Petitioner incorporates by this reference its General Objections to Respondent's Interrogatories as if set forth fully herein. Petitioner further objects to this Interrogatory on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Interrogatory seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the *claim or defense* of any party") (emphasis added); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.,* 2010 WL 5099662, f.4 (T.T.A.B., Dec. 1, 2010) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark).

INTERROGATORY NO. 6:

Identify all transfers of rights in Petitioner's NAUGLES Mark granted by or to Petitioner.

RESPONSE TO INTERROGATORY NO. 6:

Petitioner incorporates by this reference its General Objections to Respondent's Interrogatories as if set forth fully herein. Petitioner further objects to this Interrogatory on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Interrogatory seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action

based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the *claim or defense* of any party") (emphasis added); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.,* 2010 WL 5099662, f.4 (T.T.A.B., Dec. 1, 2010) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark).

INTERROGATORY NO. 7:

State whether Petitioner's NAUGLES Products are currently offered to the public.

RESPONSE TO INTERROGATORY NO. 7:

Petitioner incorporates by this reference its General Objections to Respondent's Interrogatories as if set forth fully herein. Petitioner further objects to this Interrogatory on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Interrogatory seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the *claim or defense* of any party") (emphasis added); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.,* 2010 WL 5099662, f.4 (T.T.A.B., Dec. 1, 2010) (stating that the

nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark).

INTERROGATORY NO. 8:

Identify the territorial areas in the United States where Petitioner plans to offer Petitioner's NAUGLES Products.

RESPONSE TO INTERROGATORY NO. 8:

Petitioner incorporates by this reference its General Objections to Respondent's Interrogatories as if set forth fully herein. Petitioner further objects to this Interrogatory on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Interrogatory seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the *claim or defense* of any party") (emphasis added); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.,* 2010 WL 5099662, f.4 (T.T.A.B., Dec. 1, 2010) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark).

INTERROGATORY NO. 9:

Identify the territorial areas in the United States where Petitioner plans to manufacture Petitioner's NAUGLES Products.

RESPONSE TO INTERROGATORY NO. 9:

Petitioner incorporates by this reference its General Objections to Respondent's Interrogatories as if set forth fully herein. Petitioner further objects to this Interrogatory on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also

objects that this Interrogatory seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the *claim or defense* of any party") (emphasis added); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.,* 2010 WL 5099662, f.4 (T.T.A.B., Dec. 1, 2010) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark).

INTERROGATORY NO. 10:

Identify the channels of trade through which Petitioner plans to offer Petitioner's NAUGLES Products.

RESPONSE TO INTERROGATORY NO. 10:

Petitioner incorporates by this reference its General Objections to Respondent's Interrogatories as if set forth fully herein. Petitioner further objects to this Interrogatory on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Interrogatory seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the *claim or defense* of any party") (emphasis added); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.,* 2010 WL 5099662, f.4 (T.T.A.B., Dec. 1, 2010) (stating that the

nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark).

INTERROGATORY NO. 11:

Identify the representative outlets through which Petitioner plans to offer Petitioner's NAUGLES Products.

RESPONSE TO INTERROGATORY NO. 11:

Petitioner incorporates by this reference its General Objections to Respondent's Interrogatories as if set forth fully herein. Petitioner further objects to this Interrogatory on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Interrogatory seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the *claim or defense* of any party") (emphasis added); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.,* 2010 WL 5099662, f.4 (T.T.A.B., Dec. 1, 2010) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark).

INTERROGATORY NO. 12:

Identify the target market to which Petitioner plans to offer Petitioner's NAUGLES Products.

RESPONSE TO INTERROGATORY NO. 12:

Petitioner incorporates by this reference its General Objections to Respondent's Interrogatories as if set forth fully herein. Petitioner further objects to this Interrogatory on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also

objects that this Interrogatory seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the *claim or defense* of any party") (emphasis added); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.,* 2010 WL 5099662, f.4 (T.T.A.B., Dec. 1, 2010) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark).

INTERROGATORY NO. 13:

Identify the target customer base to which Petitioner plans to offer Petitioner's NAUGLES Products

RESPONSE TO INTERROGATORY NO. 13:

Petitioner incorporates by this reference its General Objections to Respondent's Interrogatories as if set forth fully herein. Petitioner further objects to this Interrogatory on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Interrogatory seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the *claim or defense* of any party") (emphasis added); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.,* 2010 WL 5099662, f.4 (T.T.A.B., Dec. 1, 2010) (stating that the

nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark).

INTERROGATORY NO. 14:

Identify all sources of funding to finance Petitioner's NAUGLES Products.

RESPONSE TO INTERROGATORY NO. 14:

Petitioner incorporates by this reference its General Objections to Respondent's Interrogatories as if set forth fully herein. Petitioner further objects to this Interrogatory on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Interrogatory seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the *claim or defense* of any party") (emphasis added); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.,* 2010 WL 5099662, f.4 (T.T.A.B., Dec. 1, 2010) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark).

INTERROGATORY NO. 15:

Identify the marketing channels through which Petitioner plans to promote Petitioner's NAUGLES Products.

RESPONSE TO INTERROGATORY NO. 15:

Petitioner incorporates by this reference its General Objections to Respondent's Interrogatories as if set forth fully herein. Petitioner further objects to this Interrogatory on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Interrogatory seeks information that is neither relevant nor reasonably calculated

to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the *claim or defense* of any party") (emphasis added); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.,* 2010 WL 5099662, f.4 (T.T.A.B., Dec. 1, 2010) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark).

GENERAL OBJECTIONS TO RESPONDENT'S REQUESTS FOR PRODUCTION OF DOCUMENTS

The following General Objections to Respondent's Requests for Production of Documents are incorporated by reference in response to each and every request set forth below and are not waived with respect to any response. The following responses are based upon information and writings presently available to Petitioner.

1. Petitioner objects generally to the instructions and definitions in the Requests to the extent that those instructions and definitions fail to comply with or impose obligations in excess of Rule 34 of the Federal Rules of Civil Procedure.

2. Petitioner objects to the Requests to the extent they seek "all documents" concerning a particular subject on the grounds that performing searches of such breadth create an undue burden and expense on Petitioner. Searching for relevant documents, Petitioner has made, and will make, inquiry of all persons who are reasonably likely to have such documents.

3. Petitioner objects to the Requests to the extent that it calls for the production of information, documents or things protected from disclosure by the attorney-client privilege, the work-product doctrine, or any other applicable privilege, immunity, or other limitation on discovery. Petitioner has stated its privilege objections expressly in its response to each request

that would, in its view, reasonably be interpreted to encompass privileged information, documents, or things. Should any other request encompass privileged information, documents, or things, however, Petitioner hereby asserts this general objection. Moreover, should any such response by Petitioner occur, it was inadvertent and shall not constitute a waiver of privilege or of Petitioner's right to object during this litigation or otherwise to the use of any such information, documents, or things.

4. Petitioner objects to the Requests to the extent that they seek information, documents or things that are not relevant to the cancellation action, or are not reasonably calculated to lead to the discovery of admissible evidence.

5. Petitioner objects to the Requests to the extent that they seek information, documents or things not in Petitioner's possession, custody or control.

6. Petitioner objects to the Requests to the extent that they are overbroad, unduly burdensome, or fail to describe the information, documents or things sought with a reasonable degree of specificity. Petitioner will attempt to construe the terms and phrases used by Respondent in ways to give those terms and phrases meanings that will result in the production of relevant information, documents and things designed to lead to the discovery of admissible evidence.

7. Petitioner objects to the Requests to the extent that they seek private, privileged, and confidential commercial, financial, trade secret and/or proprietary business information. Petitioner may provide this information, if relevant, not obtainable by less intrusive means, and not privileged, subject to the Trademark Trial and Appeal Board Protective Order in place between the parties. Petitioner further objects to the Requests to the extent that they call for the production of information, documents, or things that Petitioner received or obtained from a third party under a non-disclosure agreement or any other obligation in the nature of a non-disclosure agreement.

8. Petitioner will make, or has made, a good faith, reasonable effort to search for such information, documents and things responsive to the Requests and, subject to its objections, will

identify or produce at an appropriate time, or has identified or produced such information, documents and things within its possession, custody or control.

9. Petitioner objects to each request to the extent that each request calls for the production or identification of attorney-client privilege and/or work product documents generated by Petitioner's counsel or its agents for internal use and/or privileged communications between or among Petitioner and its counsel since the commencement of this action. The applicability of the attorney-client privilege and/or work product doctrine to such documents is so clear and the burden of identifying each such document is so great that requiring Petitioner to do so would be so burdensome as to result in injustice and would be oppressive in that the burden imposed thereby would be incommensurate with the result sought by Respondent.

10. Petitioner has performed a diligent search for information, documents and things responsive to the Requests. Discovery is ongoing, however, and Petitioner's investigation is continuing. Therefore, Petitioner reserves its right to supplement its responses herein and its production with any responsive, non-privileged information, documents, or things that may be subsequently discovered.

RESPONSE TO RESPONDENT'S FIRST REQUESTS FOR PRODUCTION OF DOCUMENTS

DOCUMENT REQUEST NO. 1:

All documents and things which refer to Petitioner's creation and selection of Petitioner's NAUGLES Mark.

RESPONSE TO DOCUMENT REQUEST NO. 1:

Petitioner incorporates by this reference its General Objections to Respondent's Requests as if set forth fully herein. Petitioner also objects to this Request to the extent that it requests information protected by the attorney-client privilege or work product doctrine. Petitioner further

objects to this Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the *claim or defense* of any party") (emphasis added); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.,* 2010 WL 5099662, f.4 (T.T.A.B., Dec. 1, 2010) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark).

DOCUMENT REQUEST NO. 2:

All documents and things which refer to Petitioner's decision to apply to register Petitioner's NAUGLES Mark with the United States Patent and Trademark Office.

RESPONSE TO DOCUMENT REQUEST NO.2:

Petitioner incorporates by this reference its General Objections to Respondent's Requests as if set forth fully herein. Petitioner also objects to this Request to the extent that it requests information protected by the attorney-client privilege or work product doctrine. Petitioner further objects to this Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's

abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the *claim or defense* of any party") (emphasis added); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.,* 2010 WL 5099662, f.4 (T.T.A.B., Dec. 1, 2010) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark).

DOCUMENT REQUEST NO. 3:

All documents and things which refer to any clearance searches Petitioner performed for Petitioner's NAUGLES Mark.

RESPONSE TO DOCUMENT REQUEST NO. 3:

Petitioner incorporates by this reference its General Objections to Respondent's Requests as if set forth fully herein. Petitioner also objects to this Request to the extent that it requests information protected by the attorney-client privilege or work product doctrine. Petitioner further objects to this Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the *claim or defense* of any party") (emphasis added); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.,* 2010 WL 5099662, f.4

(T.T.A.B., Dec. 1, 2010) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark).

DOCUMENT REQUEST NO. 4:

All documents and things evidencing Petitioner's current use of Petitioner's NAUGLES Mark.

RESPONSE TO DOCUMENT REQUEST NO.4:

Petitioner incorporates by this reference its General Objections to Respondent's Requests as if set forth fully herein. Petitioner further objects to this Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the *claim or defense* of any party") (emphasis added); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.,* 2010 WL 5099662, f.4 (T.T.A.B., Dec. 1, 2010) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark).

DOCUMENT REQUEST NO. 5:

All documents and things evidencing Petitioner's intent to use Petitioner's NAUGLES Mark when Petitioner filed its application with the United States Patent and Trademark Office.

RESPONSE TO DOCUMENT REQUEST NO.5:

Petitioner incorporates by this reference its General Objections to Respondent's Requests as if set forth fully herein. Petitioner also objects to this Request to the extent that it requests information protected by the attorney-client privilege or work product doctrine. Petitioner further objects to this Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the *claim or defense* of any party") (emphasis added); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.,* 2010 WL 5099662, f.4 (T.T.A.B., Dec. 1, 2010) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark).

DOCUMENT REQUEST NO. 6:

All documents and things which refer to any products or services Petitioner offers for sale and/or plans to offer for sale under Petitioner's NAUGLES Mark.

RESPONSE TO DOCUMENT REQUEST NO.6:

Petitioner incorporates by this reference its General Objections to Respondent's Requests as if set forth fully herein. Petitioner further objects to this Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Request seeks information that is neither relevant nor reasonably calculated to lead to the

discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the *claim or defense* of any party") (emphasis added); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.,* 2010 WL 5099662, f.4 (T.T.A.B., Dec. 1, 2010) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark).

DOCUMENT REQUEST NO. 7:

All documents and things which refer to any licensing agreements Petitioner has entered into with respect to Petitioner's NAUGLES Mark.

RESPONSE TO DOCUMENT REQUEST NO.7:

Petitioner incorporates by this reference its General Objections to Respondent's Requests as if set forth fully herein. Petitioner further objects to this Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the *claim or defense* of any party") (emphasis added); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing

expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.,* 2010 WL 5099662, f.4 (T.T.A.B., Dec. 1, 2010) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark).

DOCUMENT REQUEST NO. 8:

All documents and things which refer to the territorial areas in the United States where Petitioner offers or plans to offer Petitioner's NAUGLES Products.

RESPONSE TO DOCUMENT REQUEST NO. 8:

Petitioner incorporates by this reference its General Objections to Respondent's Requests as if set forth fully herein. Petitioner further objects to this Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the *claim or defense* of any party") (emphasis added); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.,* 2010 WL 5099662, f.4 (T.T.A.B., Dec. 1, 2010) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark).

DOCUMENT REQUEST NO. 9:

All documents and things which refer to the territorial areas in the United States where Petitioner manufactures or plans to manufacture Petitioner's NAUGLES Products.

RESPONSE TO DOCUMENT REQUEST NO. 9:

Petitioner incorporates by this reference its General Objections to Respondent's Requests as if set forth fully herein. Petitioner further objects to this Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the *claim or defense* of any party") (emphasis added); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.,* 2010 WL 5099662, f.4 (T.T.A.B., Dec. 1, 2010) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark).

DOCUMENT REQUEST NO. 10:

All documents and things which refer to the channels of trade through which Petitioner offers or plans to offer Petitioner's NAUGLES Products.

RESPONSE TO DOCUMENT REQUEST NO.10:

Petitioner incorporates by this reference its General Objections to Respondent's Requests as if set forth fully herein. Petitioner further objects to this Request on the grounds that it is

vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the *claim or defense* of any party") (emphasis added); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.*, 2010 WL 5099662, f.4 (T.T.A.B., Dec. 1, 2010) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark).

DOCUMENT REQUEST NO. 11:

All documents and things which refer to representative outlets through which Petitioner offers or plans to offer Petitioner's NAUGLES products.

RESPONSE TO DOCUMENT REQUEST NO. 11:

Petitioner incorporates by this reference its General Objections to Respondent's Requests as if set forth fully herein. Petitioner further objects to this Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that

is relevant to the *claim or defense* of any party") (emphasis added); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.,* 2010 WL 5099662, f.4 (T.T.A.B., Dec. 1, 2010) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark).

DOCUMENT REQUEST NO. 12:

All documents and things which refer to representative customers who have or are intended to purchase Petitioner's NAUGLES Products.

RESPONSE TO DOCUMENT REQUEST NO.12:

Petitioner incorporates by this reference its General Objections to Respondent's Requests as if set forth fully herein. Petitioner further objects to this Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the *claim or defense* of any party") (emphasis added); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.,* 2010 WL 5099662, f.4 (T.T.A.B., Dec. 1, 2010) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark).

DOCUMENT REQUEST NO. 13:

All documents and things which refer to the target market Petitioner has identified for Petitioner's NAUGLES Products.

RESPONSE TO DOCUMENT REQUEST NO. 13:

Petitioner incorporates by this reference its General Objections to Respondent's Requests as if set forth fully herein. Petitioner further objects to this Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the *claim or defense* of any party") (emphasis added); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.,* 2010 WL 5099662, f.4 (T.T.A.B., Dec. 1, 2010) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark).

DOCUMENT REQUEST NO. 14:

All documents and things which refer to any source of sponsorship, funding, or other financial support for the creation, distribution, manufacturing, marketing, promotion, and/or sale of Petitioner's NAUGLES Products.

RESPONSE TO DOCUMENT REQUEST NO.14:

Petitioner incorporates by this reference its General Objections to Respondent's Requests as if set forth fully herein. Petitioner further objects to this Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the *claim or defense* of any party") (emphasis added); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.,* 2010 WL 5099662, f.4 (T.T.A.B., Dec. 1, 2010) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark).

DOCUMENT REQUEST NO. 15:

All documents and things which refer to Petitioner's present and/or planned marketing plans for Petitioner's NAUGLES Products including, but not limited to specimens of all advertising and promotional materials which relate to or refer to Petitioner's NAUGLES Products.

RESPONSE TO DOCUMENT REQUEST NO. 15:

Petitioner incorporates by this reference its General Objections to Respondent's Requests as if set forth fully herein. Petitioner further objects to this Request on the grounds that it is

vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the *claim or defense* of any party") (emphasis added); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.,* 2010 WL 5099662, f.4 (T.T.A.B., Dec. 1, 2010) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark).

DOCUMENT REQUEST NO. 16:

All documents and things from any promotional outlet, including but not limited to, magazines, blogs, newspapers, social media sites, television, radio, catalogues, circulars, leaflets, sales or promotional literature, brochures, bulletins, fliers, signs, sales displays, posters, and/or other materials in which Petitioner's NAUGLES Products have been promoted and/or may be promoted in the future.

RESPONSE TO DOCUMENT REQUEST NO.16:

Petitioner incorporates by this reference its General Objections to Respondent's Requests as if set forth fully herein. Petitioner further objects to this Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or

intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the *claim or defense* of any party") (emphasis added); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.,* 2010 WL 5099662, f.4 (T.T.A.B., Dec. 1, 2010) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark).

DOCUMENT REQUEST NO. 17:

All documents and things which refer to Petitioner's present and/or planned manufacturing processes and supply chains for Petitioner's NAUGLES Products.

RESPONSE TO DOCUMENT REQUEST NO.17:

Petitioner incorporates by this reference its General Objections to Respondent's Requests as if set forth fully herein. Petitioner further objects to this Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the *claim or defense* of any party") (emphasis added); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v.*

Nirvana for Health Inc., 2010 WL 5099662, f.4 (T.T.A.B., Dec. 1, 2010) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark).

DOCUMENT REQUEST NO. 18:

All documents and things which refer to Petitioner's current shipping processes and or planned shipping processes for Petitioner's NAUGLES Products.

RESPONSE TO DOCUMENT REQUEST NO.18:

Petitioner incorporates by this reference its General Objections to Respondent's Requests as if set forth fully herein. Petitioner further objects to this Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the *claim or defense* of any party") (emphasis added); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.,* 2010 WL 5099662, f.4 (T.T.A.B., Dec. 1, 2010) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark).

DOCUMENT REQUEST NO. 19:

All documents and things which refer to Petitioner's monthly expenditures to date and planned future expenditures with respect to Petitioner's NAUGLES Products.

RESPONSE TO DOCUMENT REQUEST NO. 19:

Petitioner incorporates by this reference its General Objections to Respondent's Requests as if set forth fully herein. Petitioner further objects to this Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the *claim or defense* of any party") (emphasis added); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.,* 2010 WL 5099662, f.4 (T.T.A.B., Dec. 1, 2010) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark).

DOCUMENT REQUEST NO. 20:

All documents and things which refer to any consumer or market testing Petitioner has received or conducted relating to Petitioner's NAUGLES Products.

RESPONSE TO DOCUMENT REQUEST NO.20:

Petitioner incorporates by this reference its General Objections to Respondent's Requests as if set forth fully herein. Petitioner further objects to this Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Request seeks information that is neither relevant nor reasonably calculated to lead to the

discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the *claim or defense* of any party") (emphasis added); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.,* 2010 WL 5099662, f.4 (T.T.A.B., Dec. 1, 2010) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark).

DOCUMENT REQUEST NO. 21:

All documents and things which refer to any consumer or market testing Petitioner has received or conducted relating to Petitioner's NAUGLES Mark.

RESPONSE TO DOCUMENT REQUEST NO. 21:

Petitioner incorporates by this reference its General Objections to Respondent's Requests as if set forth fully herein. Petitioner further objects to this Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the *claim or defense* of any party") (emphasis added); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing

expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.,* 2010 WL 5099662, f.4 (T.T.A.B., Dec. 1, 2010) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark).

DOCUMENT REQUEST NO. 22:

All documents and things, including but not limited to, communications with third parties, social media pages, and blogs which refer to Del Taco, Del Taco's marks, or Del Taco's goods or services.

RESPONSE TO DOCUMENT REQUEST NO. 22:

Petitioner incorporates by this reference its General Objections to Respondent's Requests as if set forth fully herein. Petitioner also objects to this Request to the extent that it requests information protected by the attorney-client privilege or work product doctrine. Petitioner further objects to this request on the grounds that it is vague, ambiguous, unduly burdensome, overly broad and seeks documents and things that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence, specifically but not limited to, Respondent has not defined the phrases "Del Taco's marks" or "Del Taco's goods or services," not limited the requested communications to those involving Petitioner, and Respondent can obtain for itself public information regarding third party online discussions.

DOCUMENT REQUEST NO. 23:

All documents and things, including but not limited to, communications with third parties, social media pages, and blogs which refer to Petitioner's NAUGLES Mark.

RESPONSE TO DOCUMENT REQUEST NO. 23:

Petitioner incorporates by this reference its General Objections to Respondent's Requests as if set forth fully herein. Petitioner also objects to this Request to the extent that it requests

information protected by the attorney-client privilege or work product doctrine. Petitioner further objects to this Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the *claim or defense* of any party") (emphasis added); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.,* 2010 WL 5099662, f.4 (T.T.A.B., Dec. 1, 2010) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark).

DOCUMENT REQUEST NO. 24:

All documents and things, including but not limited to, communications with third parties, social media pages, and blogs which refer to Petitioner's NAUGLES Products.

RESPONSE TO DOCUMENT REQUEST NO.24:

Petitioner incorporates by this reference its General Objections to Respondent's Requests as if set forth fully herein. Petitioner also objects to this Request to the extent that it requests information protected by the attorney-client privilege or work product doctrine. Petitioner further objects to this Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a

cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the *claim or defense* of any party") (emphasis added); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.,* 2010 WL 5099662, f.4 (T.T.A.B., Dec. 1, 2010) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark).

DOCUMENT REQUEST NO. 25:

All documents and things, including but not limited to, plans, specifications, proposals, correspondence and memoranda, and samples that refer to the design, specifications, packaging, locations, recipes, format, and ingredients for Petitioner's NAUGLES Products.

RESPONSE TO DOCUMENT REQUEST NO.25:

Petitioner incorporates by this reference its General Objections to Respondent's Requests as if set forth fully herein. Petitioner also objects to this Request to the extent that it requests information protected by the attorney-client privilege or work product doctrine. Petitioner further objects to this Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the *claim or defense* of any party") (emphasis added); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat

broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.,* 2010 WL 5099662, f.4 (T.T.A.B., Dec. 1, 2010) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark).

DOCUMENT REQUEST NO. 26:

All documents which refer to each and every discussion, correspondence, dispute, controversy, or proceeding of any kind or nature between Petitioner and any third party which involved Petitioner's NAUGLES Mark as applied for or any common law variation thereof.

RESPONSE TO DOCUMENT REQUEST NO. 26:

Petitioner incorporates by this reference its General Objections to Respondent's Requests as if set forth fully herein. Petitioner also objects to this Request to the extent that it requests information protected by the attorney-client privilege or work product doctrine. Petitioner further objects to this Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the *claim or defense* of any party") (emphasis added); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.,* 2010 WL 5099662, f.4 (T.T.A.B., Dec. 1, 2010) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark).

DOCUMENT REQUEST NO. 27:

All documents and things on which Petitioner relied in making its allegations contained in Petitioner's PETITION FOR CANCELLATION.

RESPONSE TO DOCUMENT REQUEST NO. 27:

Petitioner incorporates by this reference its General Objections to Respondent's Requests as if set forth fully herein. Petitioner also objects to this Request to the extent that it requests information protected by the attorney-client privilege or work product doctrine. Petitioner further objects to this request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects to this Request to the extent that it seeks production of documents protected by the attorney-client privilege, the work product doctrine, or any other applicable privilege.

Subject to and without waiving these objections, Petitioner will produce responsive, non-privileged documents to the extent that any exist and are within Petitioner's possession, custody or control.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: July 11, 2011

By:_____

Susan M. Natland
Gregory B. Phillips
2040 Main Street, Fourteenth Floor
Irvine, CA 92614
(949) 760-0404

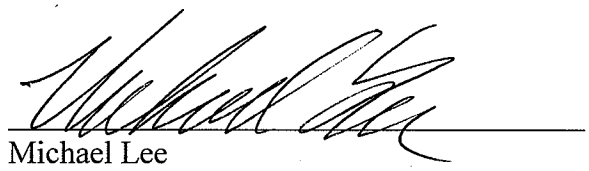
Attorneys for Christian M. Ziebarth, Petitioner

11518855

CERTIFICATE OF SERVICE

I hereby certify that I served a copy of the foregoing **PETITIONER'S RESPONSE TO RESPONDENT'S FIRST SET OF INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS** upon Respondent's counsel by depositing one copy thereof in the United States Mail, first-class postage prepaid, on July 11, 2011, addressed as follows:

April L. Besl, Esq.
DINSMORE & SHOHL LLP
255 East Fifth Street
Cincinnati, OH 45202



Michael Lee

CZIEB.001CN

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Christian M. Ziebarth, Petitioner, v. Del Taco, LLC, Respondent.	Cancellation No. 92053501

PETITIONER'S RESPONSE TO RESPONDENT'S FIRST SET OF REQUESTS FOR ADMISSIONS

The following General Objections are incorporated by reference into each response set forth below and are not waived with respect to any response.

1. Petitioner generally objects to Respondent's Admission Requests to the extent they seek disclosure of any information, document, or thing protected, privileged or immune, or otherwise exempt from discovery pursuant to applicable state and federal statutes, the FRCP, case law, regulations, administrative orders, or any other applicable rules, decisions, or laws including, but not limited to, information protected by the attorney-client privilege, the work-product doctrine or other applicable privilege.

2. Petitioner generally objects to Respondent's Admission Requests to the extent they purport to impose upon Petitioner obligations greater than those imposed by the applicable FRCP, 37 CFR § 2.120(d), or other applicable rules or law.

3. Petitioner generally objects to Respondent's Admission Requests to the extent that they seek information that is irrelevant and not calculated to lead to the discovery of

admissible evidence or to the extent that Respondent's Admission Requests seek the disclosure of information, documents or things beyond the scope of discovery as provided by the applicable FRCP, 37 CFR § 2.120(d), or other applicable rules or law.

4. Petitioner objects to Respondent's Admission Requests to the extent that they request confidential or proprietary information. Petitioner may provide such information, if relevant, not obtainable by less intrusive means, and not privileged, subject to the Trademark Trial and Appeal Board Protective Order in place between the parties.

5. Petitioner reserves the right to object to further inquiry with respect to the subject matter of Respondent's Admission Requests and responses provided thereto.

6. Petitioner objects to each of Respondent's Admission Requests to the extent that they seek information that is a matter of public record or otherwise available to Respondent without imposing undue burden on Respondent.

7. Petitioner objects to Respondent's Admission Requests on the grounds that they are premature in that Petitioner has not yet completed its own discovery and preparation for the testimony or trial periods. Petitioner reserves the right to provide any subsequently discovered information, and to supplement or change its responses based on such information.

8. As to all matters referred to in these responses to Respondent's Admission Requests, investigation and discovery continues. Accordingly, Petitioner reserves its right to modify, amend or change these responses, to present, use or rely on in any proceedings and at trial any supplemental, amended, changed or modified responses and/or further information and documents obtained during discovery and preparation for trial. Further discovery, independent investigation, and legal research and analysis may supply additional facts and documents adding meaning to known facts and documents, as well as establish entirely new factual conclusions or

legal conclusions, all of which may lead to substantial additions to, changes in, and variations from the responses set forth herein. Petitioner reserves the right to produce any subsequently discovered evidence, facts, and/or documents, and to supplement, amend, or change its responses based on such information. The responses given herein are done so in a good faith effort to supply as much information as is presently known, which should in no way lead to the prejudice of Petitioner in connection with further discovery, research or analysis. However, Petitioner reserves the right to supplement, change or amend its responses due to information inadvertently omitted from these responses. No incidental or implied admissions of any kind are intended by the responses herein.

9. Petitioner preserves all objections as to competency, relevancy, materiality, privilege, and admissibility as evidence for any purpose in any proceeding in this or any other action.

10. Petitioner preservers the right to object to the use of any response or document in any proceeding in this or any other action.

11. Petitioner preserves the right to object on any grounds, at any time, to a demand for further response to these or any other Admission Requests.

RESPONSE TO PETITIONER'S FIRST REQUESTS FOR ADMISSIONS

REQUEST FOR ADMISSION NO. 1:

Petitioner is not currently offering any products under Petitioner's NAUGLES Mark.

RESPONSE TO REQUEST FOR ADMISSION NO. 1:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also

objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the *claim or defense* of any party") (emphasis added); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.,* 2010 WL 5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, this Admission Request is outside the allowable scope of discovery in this proceeding. Accordingly, Petitioner is not required to admit or deny this Admission Request, and does not admit this Admission Request.

REQUEST FOR ADMISSION NO. 2:

Petitioner has not previously offered any products under Petitioner's NAUGLES Mark.

RESPONSE TO REQUEST FOR ADMISSION NO. 2:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation

action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the *claim or defense* of any party") (emphasis added); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.,* 2010 WL 5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, this Admission Request is outside the allowable scope of discovery in this proceeding. Accordingly, Petitioner is not required to admit or deny this Admission Request, and does not admit this Admission Request.

REQUEST FOR ADMISSION NO. 3:

Petitioner is not currently offering any services under Petitioner's NAUGLES Mark.

RESPONSE TO REQUEST FOR ADMISSION NO. 3:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the *claim or defense* of any party")

(emphasis added); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.*, 2010 WL 5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, this Admission Request is outside the allowable scope of discovery in this proceeding. Accordingly, Petitioner is not required to admit or deny this Admission Request, and does not admit this Admission Request.

REQUEST FOR ADMISSION NO. 4:

Petitioner has not previously offered any services under Petitioner's NAUGLES Mark.

RESPONSE TO REQUEST FOR ADMISSION NO. 4:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the *claim or defense* of any party") (emphasis added); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.*, 2010 WL 5099662, f.4

(T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, this Admission Request is outside the allowable scope of discovery in this proceeding. Accordingly, Petitioner is not required to admit or deny this Admission Request, and does not admit this Admission Request.

REQUEST FOR ADMISSION NO. 5:

Petitioner was not offering cafeteria and restaurant services under Petitioner's NAUGLES Mark as of May 17, 2010.

RESPONSE TO REQUEST FOR ADMISSION NO. 5:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the *claim or defense* of any party") (emphasis added); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.,* 2010 WL 5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's

mark). As set forth in these objections, this Admission Request is outside the allowable scope of discovery in this proceeding. Accordingly, Petitioner is not required to admit or deny this Admission Request, and does not admit this Admission Request.

REQUEST FOR ADMISSION NO. 6:

Petitioner is not currently offering cafeteria and restaurant services under Petitioner's NAUGLES Mark.

RESPONSE TO REQUEST FOR ADMISSION NO. 6:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the *claim or defense* of any party") (emphasis added); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.,* 2010 WL 5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, this Admission Request is outside the allowable scope of

discovery in this proceeding. Accordingly, Petitioner is not required to admit or deny this Admission Request, and does not admit this Admission Request.

REQUEST FOR ADMISSION NO. 7:

Petitioner has not entered into any licensing agreements with third parties in connection with Petitioner's NAUGLES Mark.

RESPONSE TO REQUEST FOR ADMISSION NO. 7:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the *claim or defense* of any party") (emphasis added); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.,* 2010 WL 5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, this Admission Request is outside the allowable scope of discovery in this proceeding. Accordingly, Petitioner is not required to admit or deny this Admission Request, and does not admit this Admission Request.

REQUEST FOR ADMISSION NO. 8:

Petitioner has not obtained any loans necessary to finance the manufacturing, sale and distribution of Petitioner's NAUGLES Products.

RESPONSE TO REQUEST FOR ADMISSION NO. 8:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the *claim or defense* of any party") (emphasis added); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.,* 2010 WL 5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, this Admission Request is outside the allowable scope of discovery in this proceeding. Accordingly, Petitioner is not required to admit or deny this Admission Request, and does not admit this Admission Request.

REQUEST FOR ADMISSION NO. 9:

Petitioner has not entered into a partnership to finance the manufacturing, sale and distribution of Petitioner's NAUGLES Products.

RESPONSE TO REQUEST FOR ADMISSION NO. 9:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the *claim or defense* of any party") (emphasis added); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.,* 2010 WL 5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, this Admission Request is outside the allowable scope of discovery in this proceeding. Accordingly, Petitioner is not required to admit or deny this Admission Request, and does not admit this Admission Request.

REQUEST FOR ADMISSION NO. 10:

Petitioner has not raised any funds to finance the manufacturing, sale and distribution of Petitioner's NAUGLES Products.

RESPONSE TO REQUEST FOR ADMISSION NO. 10:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the *claim or defense* of any party") (emphasis added); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.,* 2010 WL 5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, this Admission Request is outside the allowable scope of discovery in this proceeding. Accordingly, Petitioner is not required to admit or deny this Admission Request, and does not admit this Admission Request.

REQUEST FOR ADMISSION NO. 11:

Petitioner has not created any marketing plans for Petitioner's NAUGLES Products.

RESPONSE TO REQUEST FOR ADMISSION NO. 11:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the *claim or defense* of any party") (emphasis added); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.*, 2010 WL 5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, this Admission Request is outside the allowable scope of discovery in this proceeding. Accordingly, Petitioner is not required to admit or deny this Admission Request, and does not admit this Admission Request.

REQUEST FOR ADMISSION NO. 12:

Petitioner has not made any monthly expenditures to date for the purpose of manufacturing or preparing to manufacture Petitioner's NAUGLES Products.

RESPONSE TO REQUEST FOR ADMISSION NO. 12:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the *claim or defense* of any party") (emphasis added); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.,* 2010 WL 5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, this Admission Request is outside the allowable scope of discovery in this proceeding. Accordingly, Petitioner is not required to admit or deny this Admission Request, and does not admit this Admission Request.

REQUEST FOR ADMISSION NO. 13:

Petitioner has not conducted any consumer testing with respect to Petitioner's NAUGLES Products.

RESPONSE TO REQUEST FOR ADMISSION NO. 13:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the *claim or defense* of any party") (emphasis added); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.,* 2010 WL 5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, this Admission Request is outside the allowable scope of discovery in this proceeding. Accordingly, Petitioner is not required to admit or deny this Admission Request, and does not admit this Admission Request.

REQUEST FOR ADMISSION NO. 14:

Petitioner has not conducted any market testing with respect to Petitioner's NAUGLES Products.

RESPONSE TO REQUEST FOR ADMISSION NO. 14:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials

regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the *claim or defense* of any party") (emphasis added); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.,* 2010 WL 5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, this Admission Request is outside the allowable scope of discovery in this proceeding. Accordingly, Petitioner is not required to admit or deny this Admission Request, and does not admit this Admission Request.

REQUEST FOR ADMISSION NO. 15:

Petitioner has not conducted any consumer testing with respect to Petitioner's NAUGLES Mark.

RESPONSE TO REQUEST FOR ADMISSION NO. 15:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the *claim or defense* of any party") (emphasis added); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing

discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.,* 2010 WL 5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, this Admission Request is outside the allowable scope of discovery in this proceeding. Accordingly, Petitioner is not required to admit or deny this Admission Request, and does not admit this Admission Request.

REQUEST FOR ADMISSION NO. 16:

Petitioner has not conducted any market testing with respect to Petitioner's NAUGLES Mark.

RESPONSE TO REQUEST FOR ADMISSION NO. 16:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the *claim or defense* of any party") (emphasis added); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.,* 2010 WL 5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, this Admission Request is outside the allowable scope of discovery in this proceeding. Accordingly, Petitioner is not required to admit or deny this Admission Request, and does not admit this Admission Request.

REQUEST FOR ADMISSION NO. 17:

Petitioner has not entered into any contracts with third parties for manufacturing of Petitioner's NAUGLES Products.

RESPONSE TO REQUEST FOR ADMISSION NO. 17:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the *claim or defense* of any party") (emphasis added); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.,* 2010 WL 5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, this Admission Request is outside the allowable scope of discovery in this proceeding. Accordingly, Petitioner is not required to admit or deny this Admission Request, and does not admit this Admission Request.

REQUEST FOR ADMISSION NO. 18:

Petitioner has not entered into any contracts with third parties for ingredients to be used in Petitioner's NAUGLES Products.

RESPONSE TO REQUEST FOR ADMISSION NO. 18:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner further objects to this Admission Request on the

grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the *claim or defense* of any party") (emphasis added); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.,* 2010 WL 5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, this Admission Request is outside the allowable scope of discovery in this proceeding. Accordingly, Petitioner is not required to admit or deny this Admission Request, and does not admit this Admission Request.

REQUEST FOR ADMISSION NO. 19:

Petitioner has not entered into any contracts with third parties for shipping of Petitioner's NAUGLES Products.

RESPONSE TO REQUEST FOR ADMISSION NO. 19:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery

regarding any matter, not privileged, that is relevant to the *claim or defense* of any party") (emphasis added); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.,* 2010 WL 5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, this Admission Request is outside the allowable scope of discovery in this proceeding. Accordingly, Petitioner is not required to admit or deny this Admission Request, and does not admit this Admission Request.

REQUEST FOR ADMISSION NO. 20:

Petitioner has not entered into any contracts with third parties for the sale of Petitioner's NAUGLES Products.

RESPONSE TO REQUEST FOR ADMISSION NO. 20:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the *claim or defense* of any party") (emphasis added); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.,* 2010 WL 5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's

mark). As set forth in these objections, this Admission Request is outside the allowable scope of discovery in this proceeding. Accordingly, Petitioner is not required to admit or deny this Admission Request, and does not admit this Admission Request.

REQUEST FOR ADMISSION NO. 21:

Petitioner has not entered into any contracts with third parties to operate cafeterias offering Petitioner's NAUGLES Products.

RESPONSE TO REQUEST FOR ADMISSION NO. 21:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the *claim or defense* of any party") (emphasis added); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.*, 2010 WL 5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, this Admission Request is outside the allowable scope of discovery in this proceeding. Accordingly, Petitioner is not required to admit or deny this Admission Request, and does not admit this Admission Request.

REQUEST FOR ADMISSION NO. 22:

Petitioner has not entered into any contracts with third parties to operate restaurants offering Petitioner's NAUGLES Products.

RESPONSE TO REQUEST FOR ADMISSION NO. 22:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the *claim or defense* of any party") (emphasis added); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.,* 2010 WL 5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, this Admission Request is outside the allowable scope of discovery in this proceeding. Accordingly, Petitioner is not required to admit or deny this Admission Request, and does not admit this Admission Request.

REQUEST FOR ADMISSION NO. 23:

Petitioner has not entered into any contracts with third parties for locations where Petitioner's NAUGLES Products will be offered.

RESPONSE TO REQUEST FOR ADMISSION NO. 23:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably

calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the *claim or defense* of any party") (emphasis added); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.*, 2010 WL 5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, this Admission Request is outside the allowable scope of discovery in this proceeding. Accordingly, Petitioner is not required to admit or deny this Admission Request, and does not admit this Admission Request.

REQUEST FOR ADMISSION NO. 24:

Petitioner has not entered into any contracts with third parties for marketing of Petitioner's NAUGLES Products.

RESPONSE TO REQUEST FOR ADMISSION NO. 24:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the *claim or defense* of any party") (emphasis added); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat

broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.,* 2010 WL 5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, this Admission Request is outside the allowable scope of discovery in this proceeding. Accordingly, Petitioner is not required to admit or deny this Admission Request, and does not admit this Admission Request..

REQUEST FOR ADMISSION NO. 25:

Petitioner has not entered into any negotiations with third parties for manufacturing of Petitioner's NAUGLES Products.

RESPONSE TO REQUEST FOR ADMISSION NO. 25:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the *claim or defense* of any party") (emphasis added); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.,* 2010 WL 5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, this Admission Request is outside the allowable scope of

discovery in this proceeding. Accordingly, Petitioner is not required to admit or deny this Admission Request, and does not admit this Admission Request.

REQUEST FOR ADMISSION NO. 26:

Petitioner has not entered into any negotiations with third parties for ingredients to be used in Petitioner's NAUGLES Products.

RESPONSE TO REQUEST FOR ADMISSION NO. 26:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the *claim or defense* of any party") (emphasis added); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.*, 2010 WL 5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, this Admission Request is outside the allowable scope of discovery in this proceeding. Accordingly, Petitioner is not required to admit or deny this Admission Request, and does not admit this Admission Request.

REQUEST FOR ADMISSION NO. 27:

Petitioner has not entered into any negotiations with third parties for shipping of Petitioner's NAUGLES Products.

RESPONSE TO REQUEST FOR ADMISSION NO. 27:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the *claim or defense* of any party") (emphasis added); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.,* 2010 WL 5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, this Admission Request is outside the allowable scope of discovery in this proceeding. Accordingly, Petitioner is not required to admit or deny this Admission Request, and does not admit this Admission Request.

REQUEST FOR ADMISSION NO. 28:

Petitioner has not entered into any negotiations with third parties for the sale of Petitioner's NAUGLES Products.

RESPONSE TO REQUEST FOR ADMISSION NO. 28:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials

regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the *claim or defense* of any party") (emphasis added); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.,* 2010 WL 5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, this Admission Request is outside the allowable scope of discovery in this proceeding. Accordingly, Petitioner is not required to admit or deny this Admission Request, and does not admit this Admission Request.

REQUEST FOR ADMISSION NO. 29:

Petitioner has not entered into any negotiations with third parties to operate cafeterias offering Petitioner's NAUGLES Products.

RESPONSE TO REQUEST FOR ADMISSION NO. 29:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the *claim or defense* of any party") (emphasis added); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing

discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.,* 2010 WL 5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, this Admission Request is outside the allowable scope of discovery in this proceeding. Accordingly, Petitioner is not required to admit or deny this Admission Request, and does not admit this Admission Request.

REQUEST FOR ADMISSION NO. 30:

Petitioner has not entered into any negotiations with third parties to operate restaurants offering Petitioner's NAUGLES Products.

RESPONSE TO REQUEST FOR ADMISSION NO. 30:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the *claim or defense* of any party") (emphasis added); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.,* 2010 WL 5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, this Admission Request is outside the allowable scope of discovery in this proceeding. Accordingly, Petitioner is not required to admit or deny this Admission Request, and does not admit this Admission Request.

REQUEST FOR ADMISSION NO. 31:

Petitioner has not entered into any negotiations with third parties for locations where Petitioner's NAUGLES Products will be offered.

RESPONSE TO REQUEST FOR ADMISSION NO. 31:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the *claim or defense* of any party") (emphasis added); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.,* 2010 WL 5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, this Admission Request is outside the allowable scope of discovery in this proceeding. Accordingly, Petitioner is not required to admit or deny this Admission Request, and does not admit this Admission Request.

REQUEST FOR ADMISSION NO. 32:

Petitioner has not entered into any negotiations with third parties for marketing of Petitioner's NAUGLES Products.

RESPONSE TO REQUEST FOR ADMISSION NO. 32:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner further objects to this Admission Request on the

grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the *claim or defense* of any party") (emphasis added); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.,* 2010 WL 5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, this Admission Request is outside the allowable scope of discovery in this proceeding. Accordingly, Petitioner is not required to admit or deny this Admission Request, and does not admit this Admission Request.

REQUEST FOR ADMISSION NO. 33:

The website located at the domain name http://www.mexfoodla.com/ is owned by Petitioner.

RESPONSE TO REQUEST FOR ADMISSION NO. 33:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery

regarding any matter, not privileged, that is relevant to the *claim or defense* of any party") (emphasis added); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.,* 2010 WL 5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, this Admission Request is outside the allowable scope of discovery in this proceeding. Accordingly, Petitioner is not required to admit or deny this Admission Request, and does not admit this Admission Request.

REQUEST FOR ADMISSION NO. 34:

The website located at the domain name http://www.mexfoodla.com/ is operated by Petitioner.

RESPONSE TO REQUEST FOR ADMISSION NO. 34:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the *claim or defense* of any party") (emphasis added); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.,* 2010 WL 5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's

mark). As set forth in these objections, this Admission Request is outside the allowable scope of discovery in this proceeding. Accordingly, Petitioner is not required to admit or deny this Admission Request, and does not admit this Admission Request.

REQUEST FOR ADMISSION NO. 35:

All posts by "ChristianZ" at the domain name http://WWW.mexfoodla.com/ are by Petitioner.

RESPONSE TO REQUEST FOR ADMISSION NO. 35:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the *claim or defense* of any party") (emphasis added); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.,* 2010 WL 5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, this Admission Request is outside the allowable scope of discovery in this proceeding. Accordingly, Petitioner is not required to admit or deny this Admission Request, and does not admit this Admission Request.

REQUEST FOR ADMISSION NO. 36:

Petitioner has not discussed Petitioner's NAUGLES Products on http://www.mexfoodla.com/.

RESPONSE TO REQUEST FOR ADMISSION NO. 36:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the *claim or defense* of any party") (emphasis added); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.,* 2010 WL 5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, this Admission Request is outside the allowable scope of discovery in this proceeding. Accordingly, Petitioner is not required to admit or deny this Admission Request, and does not admit this Admission Request.

REQUEST FOR ADMISSION NO. 37:

Petitioner has not discussed Petitioner's NAUGLES Mark on http://www.mexfoodla.com/.

RESPONSE TO REQUEST FOR ADMISSION NO. 37:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials

regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the *claim or defense* of any party") (emphasis added); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.,* 2010 WL 5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, this Admission Request is outside the allowable scope of discovery in this proceeding. Accordingly, Petitioner is not required to admit or deny this Admission Request, and does not admit this Admission Request.

REQUEST FOR ADMISSION NO. 38:

The website located at the domain name http://ocfoodblogs.blogspot.com/ is owned by Petitioner.

RESPONSE TO REQUEST FOR ADMISSION NO. 38:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the *claim or defense* of any party") (emphasis added); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing

discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.,* 2010 WL 5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, this Admission Request is outside the allowable scope of discovery in this proceeding. Accordingly, Petitioner is not required to admit or deny this Admission Request, and does not admit this Admission Request.

REQUEST FOR ADMISSION NO. 39:

The website located at the domain name http://ocfoodblogs.blogspot.com/ is operated by Petitioner.

RESPONSE TO REQUEST FOR ADMISSION NO. 39:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the *claim or defense* of any party") (emphasis added); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.,* 2010 WL 5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, this Admission Request is outside the allowable scope of discovery in this proceeding. Accordingly, Petitioner is not required to admit or deny this Admission Request, and does not admit this Admission Request.

REQUEST FOR ADMISSION NO. 40:

All posts by "ChristianZ" at the domain name http://ocfoodblogs.blogspot.com are by Petitioner.

RESPONSE TO REQUEST FOR ADMISSION NO. 40:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the *claim or defense* of any party") (emphasis added); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.,* 2010 WL 5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, this Admission Request is outside the allowable scope of discovery in this proceeding. Accordingly, Petitioner is not required to admit or deny this Admission Request, and does not admit this Admission Request.

REQUEST FOR ADMISSION NO. 41:

Petitioner has not discussed Petitioner's NAUGLES Products on http://ocfoodblogs.blogspot.com.

RESPONSE TO REQUEST FOR ADMISSION NO. 41:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner further objects to this Admission Request on the

grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the *claim or defense* of any party") (emphasis added); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.,* 2010 WL 5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, this Admission Request is outside the allowable scope of discovery in this proceeding. Accordingly, Petitioner is not required to admit or deny this Admission Request, and does not admit this Admission Request.

REQUEST FOR ADMISSION NO. 42:

Petitioner has not discussed Petitioner's NAUGLES Mark on http://ocfoodblogs.blogspot.com.

RESPONSE TO REQUEST FOR ADMISSION NO. 42:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery

regarding any matter, not privileged, that is relevant to the *claim or defense* of any party") (emphasis added); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.,* 2010 WL 5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, this Admission Request is outside the allowable scope of discovery in this proceeding. Accordingly, Petitioner is not required to admit or deny this Admission Request, and does not admit this Admission Request.

REQUEST FOR ADMISSION NO. 43:

The website located at the domain http://warmth-of-the-sun.blogspot.com/ is owned by Petitioner.

RESPONSE TO REQUEST FOR ADMISSION NO. 43:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the *claim or defense* of any party") (emphasis added); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.,* 2010 WL 5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's

mark). As set forth in these objections, this Admission Request is outside the allowable scope of discovery in this proceeding. Accordingly, Petitioner is not required to admit or deny this Admission Request, and does not admit this Admission Request.

REQUEST FOR ADMISSION NO. 44:

The website located at the domain http://warmth-of-the-sun.blogspot.com/ is operated by Petitioner.

RESPONSE TO REQUEST FOR ADMISSION NO. 44:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the *claim or defense* of any party") (emphasis added); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.,* 2010 WL 5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, this Admission Request is outside the allowable scope of discovery in this proceeding. Accordingly, Petitioner is not required to admit or deny this Admission Request, and does not admit this Admission Request.

REQUEST FOR ADMISSION NO. 45:

All posts by "ChristianZ" at the domain name http://warmth-of-the- sun.blogspot.com/ are by Petitioner.

RESPONSE TO REQUEST FOR ADMISSION NO. 45:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the *claim or defense* of any party") (emphasis added); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.,* 2010 WL 5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, this Admission Request is outside the allowable scope of discovery in this proceeding. Accordingly, Petitioner is not required to admit or deny this Admission Request, and does not admit this Admission Request.

REQUEST FOR ADMISSION NO. 46:

Petitioner has not discussed Petitioner's NAUGLES Products on http://warmth-of-the-sun.blogspot.com/.

RESPONSE TO REQUEST FOR ADMISSION NO. 46:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials

regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the *claim or defense* of any party") (emphasis added); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.,* 2010 WL 5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, this Admission Request is outside the allowable scope of discovery in this proceeding. Accordingly, Petitioner is not required to admit or deny this Admission Request, and does not admit this Admission Request.

REQUEST FOR ADMISSION NO. 47:

Petitioner has not discussed Petitioners NAUGLES Mark on http://warmth-of-the-sun.blogspot.com/.

RESPONSE TO REQUEST FOR ADMISSION NO. 47:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the *claim or defense* of any party") (emphasis added); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing

discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.,* 2010 WL 5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, this Admission Request is outside the allowable scope of discovery in this proceeding. Accordingly, Petitioner is not required to admit or deny this Admission Request, and does not admit this Admission Request.

REQUEST FOR ADMISSION NO. 48:

The Website located at the domain http://ocmexfood.blogspot.com/is owned by Petitioner.

RESPONSE TO REQUEST FOR ADMISSION NO. 48:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the *claim or defense* of any party") (emphasis added); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.,* 2010 WL 5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, this Admission Request is outside the allowable scope of discovery in this proceeding. Accordingly, Petitioner is not required to admit or deny this Admission Request, and does not admit this Admission Request.

REQUEST FOR ADMISSION NO. 49:

The website located at the domain http://ocmexfood.blogspot.com/ is operated by Petitioner.

RESPONSE TO REQUEST FOR ADMISSION NO. 49:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the *claim or defense* of any party") (emphasis added); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.,* 2010 WL 5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, this Admission Request is outside the allowable scope of discovery in this proceeding. Accordingly, Petitioner is not required to admit or deny this Admission Request, and does not admit this Admission Request.

REQUEST FOR ADMISSION NO. 50:

All posts by "ChristianZ" at the domain name http://ocmexfood.blogspot.com/ are by Petitioner.

RESPONSE TO REQUEST FOR ADMISSION NO. 50:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner further objects to this Admission Request on the

grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the *claim or defense* of any party") (emphasis added); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.*, 2010 WL 5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, this Admission Request is outside the allowable scope of discovery in this proceeding. Accordingly, Petitioner is not required to admit or deny this Admission Request, and does not admit this Admission Request.

REQUEST FOR ADMISSION NO. 51:

Petitioner has not discussed Petitioner's NAUGLES Products on http://ocmexfood.blogspot.com/.

RESPONSE TO REQUEST FOR ADMISSION NO. 51:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery

regarding any matter, not privileged, that is relevant to the *claim or defense* of any party") (emphasis added); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.,* 2010 WL 5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, this Admission Request is outside the allowable scope of discovery in this proceeding. Accordingly, Petitioner is not required to admit or deny this Admission Request, and does not admit this Admission Request.

REQUEST FOR ADMISSION NO. 52:

Petitioner has not discussed Petitioner's NAUGLES Mark on http://ocmexfood.blogspot.com/.

RESPONSE TO REQUEST FOR ADMISSION NO. 52:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the *claim or defense* of any party") (emphasis added); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.,* 2010 WL 5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's

mark). As set forth in these objections, this Admission Request is outside the allowable scope of discovery in this proceeding. Accordingly, Petitioner is not required to admit or deny this Admission Request, and does not admit this Admission Request.

REQUEST FOR ADMISSION NO. 53:

The website located at the domain http://www.christianziebarth.com/ is owned by Petitioner.

RESPONSE TO REQUEST FOR ADMISSION NO. 53:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the *claim or defense* of any party") (emphasis added); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.,* 2010 WL 5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, this Admission Request is outside the allowable scope of discovery in this proceeding. Accordingly, Petitioner is not required to admit or deny this Admission Request, and does not admit this Admission Request.

REQUEST FOR ADMISSION NO. 54:

The website located at the domain http://www.christianziebarth.com/ is operated by Petitioner.

RESPONSE TO REQUEST FOR ADMISSION NO. 54:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the *claim or defense* of any party") (emphasis added); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.,* 2010 WL 5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, this Admission Request is outside the allowable scope of discovery in this proceeding. Accordingly, Petitioner is not required to admit or deny this Admission Request, and does not admit this Admission Request.

REQUEST FOR ADMISSION NO. 55:

All information posted at the domain http://www.christianziebarth.com/ is posted by Petitioner.

RESPONSE TO REQUEST FOR ADMISSION NO. 55:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably

calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the *claim or defense* of any party") (emphasis added); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.,* 2010 WL 5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, this Admission Request is outside the allowable scope of discovery in this proceeding. Accordingly, Petitioner is not required to admit or deny this Admission Request, and does not admit this Admission Request.

REQUEST FOR ADMISSION NO. 56:

Petitioner has not discussed Petitioner's NAUGLES Products on http://www.christianziebarth.com/.

RESPONSE TO REQUEST FOR ADMISSION NO. 56:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the *claim or defense* of any party") (emphasis added); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat

broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.,* 2010 WL 5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, this Admission Request is outside the allowable scope of discovery in this proceeding. Accordingly, Petitioner is not required to admit or deny this Admission Request, and does not admit this Admission Request.

REQUEST FOR ADMISSION NO. 57:

Petitioner has not discussed Petitioner's NAUGLES Mark on http://www.christianziebarth.com/.

RESPONSE TO REQUEST FOR ADMISSION NO. 57:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the *claim or defense* of any party") (emphasis added); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.,* 2010 WL 5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, this Admission Request is outside the allowable scope of

discovery in this proceeding. Accordingly, Petitioner is not required to admit or deny this Admission Request, and does not admit this Admission Request.

REQUEST FOR ADMISSION NO. 58:

The Facebook page located at http://www.facebook.com/ocmexfood?v=wall is owned by Petitioner.

RESPONSE TO REQUEST FOR ADMISSION NO. 58:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the *claim or defense* of any party") (emphasis added); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.,* 2010 WL 5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, this Admission Request is outside the allowable scope of discovery in this proceeding. Accordingly, Petitioner is not required to admit or deny this Admission Request, and does not admit this Admission Request.

REQUEST FOR ADMISSION NO. 59:

The Facebook page located at http://www.facebook.com/ocmexfood?v=wall is operated by Petitioner.

RESPONSE TO REQUEST FOR ADMISSION NO. 59:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the *claim or defense* of any party") (emphasis added); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.,* 2010 WL 5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, this Admission Request is outside the allowable scope of discovery in this proceeding. Accordingly, Petitioner is not required to admit or deny this Admission Request, and does not admit this Admission Request.

REQUEST FOR ADMISSION NO. 60:

All posts under the name "OC Mex Food" on the Facebook page located at http://www.facebook.com/ocmexfood?v=wall are by Petitioner.

RESPONSE TO REQUEST FOR ADMISSION NO. 60:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials

regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the *claim or defense* of any party") (emphasis added); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.,* 2010 WL 5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, this Admission Request is outside the allowable scope of discovery in this proceeding. Accordingly, Petitioner is not required to admit or deny this Admission Request, and does not admit this Admission Request.

REQUEST FOR ADMISSION NO. 61:

Petitioner has not discussed Petitioner's NAUGLES Products on http://www.facebook.com/ocmexfood?v=wall.

RESPONSE TO REQUEST FOR ADMISSION NO. 61:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the *claim or defense* of any party") (emphasis added); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing

discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.,* 2010 WL 5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, this Admission Request is outside the allowable scope of discovery in this proceeding. Accordingly, Petitioner is not required to admit or deny this Admission Request, and does not admit this Admission Request.

REQUEST FOR ADMISSION NO. 62:

Petitioner has not discussed Petitioner's NAUGLES Mark on http://www.facebook.com/ocmexfood?v=wall.

RESPONSE TO REQUEST FOR ADMISSION NO. 62:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the *claim or defense* of any party") (emphasis added); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.,* 2010 WL 5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, this Admission Request is outside the allowable scope of discovery in this proceeding. Accordingly, Petitioner is not required to admit or deny this Admission Request, and does not admit this Admission Request.

REQUEST FOR ADMISSION NO. 63:

The Twitter page located at http://twitter.com/#!/cmziebarth is owned by Petitioner.

RESPONSE TO REQUEST FOR ADMISSION NO. 63:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the *claim or defense* of any party") (emphasis added); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.,* 2010 WL 5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, this Admission Request is outside the allowable scope of discovery in this proceeding. Accordingly, Petitioner is not required to admit or deny this Admission Request, and does not admit this Admission Request.

REQUEST FOR ADMISSION NO. 64:

The Twitter page located at http://twitter.com/#!/cmziebarth is operated by Petitioner.

RESPONSE TO REQUEST FOR ADMISSION NO. 64:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably

calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the *claim or defense* of any party") (emphasis added); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.,* 2010 WL 5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, this Admission Request is outside the allowable scope of discovery in this proceeding. Accordingly, Petitioner is not required to admit or deny this Admission Request, and does not admit this Admission Request.

REQUEST FOR ADMISSION NO. 65:

All posts under the name "cmziebarth" on http://twitter.com/#!/cmziebarth are by Petitioner.

RESPONSE TO REQUEST FOR ADMISSION NO. 65:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the *claim or defense* of any party") (emphasis added); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat

broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.,* 2010 WL 5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, this Admission Request is outside the allowable scope of discovery in this proceeding. Accordingly, Petitioner is not required to admit or deny this Admission Request, and does not admit this Admission Request.

REQUEST FOR ADMISSION NO. 66:

Petitioner has not discussed Petitioner's NAUGLES Products on http://twitter.com/#!/cmziebarth.

RESPONSE TO REQUEST FOR ADMISSION NO. 66:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the *claim or defense* of any party") (emphasis added); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.,* 2010 WL 5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, this Admission Request is outside the allowable scope of

discovery in this proceeding. Accordingly, Petitioner is not required to admit or deny this Admission Request, and does not admit this Admission Request.

REQUEST FOR ADMISSION NO. 67:

Petitioner has not discussed Petitioner's NAUGLES Mark on http://twitter.com/#!/cmziebarth.

RESPONSE TO REQUEST FOR ADMISSION NO. 67:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the *claim or defense* of any party") (emphasis added); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.,* 2010 WL 5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, this Admission Request is outside the allowable scope of discovery in this proceeding. Accordingly, Petitioner is not required to admit or deny this Admission Request, and does not admit this Admission Request.

REQUEST FOR ADMISSION NO. 68:

Apart from its current NAUGLES application, Petitioner has not applied to register the NAUGLES mark with any governmental entity.

RESPONSE TO REQUEST FOR ADMISSION NO. 68:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the *claim or defense* of any party") (emphasis added); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.,* 2010 WL 5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, this Admission Request is outside the allowable scope of discovery in this proceeding. Accordingly, Petitioner is not required to admit or deny this Admission Request, and does not admit this Admission Request.

REQUEST FOR ADMISSION NO. 69:

Petitioner took the idea for Petitioner's NAUGLES Products from Registrant.

RESPONSE TO REQUEST FOR ADMISSION NO. 69:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation

action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the *claim or defense* of any party") (emphasis added); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.,* 2010 WL 5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, this Admission Request is outside the allowable scope of discovery in this proceeding. Accordingly, Petitioner is not required to admit or deny this Admission Request, and does not admit this Admission Request.

REQUEST FOR ADMISSION NO. 70:

Petitioner was aware of Registrant's use of the NAUGLES mark prior to filing Petitioner's NAUGLES Mark with the United States Patent and Trademark Office.

RESPONSE TO REQUEST FOR ADMISSION NO. 70:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the *claim or defense* of any party") (emphasis added); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.,* 2010 WL 5099662, f.4

(T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, this Admission Request is outside the allowable scope of discovery in this proceeding. Accordingly, Petitioner is not required to admit or deny this Admission Request, and does not admit this Admission Request.

REQUEST FOR ADMISSION NO. 71:

Petitioner was aware of Registrant's registration of the NAUGLES mark prior to filing Petitioner's NAUGLES Mark with the United States Patent and Trademark Office.

RESPONSE TO REQUEST FOR ADMISSION NO. 71:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the *claim or defense* of any party") (emphasis added); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.,* 2010 WL 5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, this Admission Request is outside the allowable scope of discovery in this proceeding. Accordingly, Petitioner is not required to admit or deny this Admission Request, and does not admit this Admission Request.

REQUEST FOR ADMISSION NO. 72:

Petitioner selected Petitioner's NAUGLES Mark for Petitioner's NAUGLES Products with full knowledge of Registrant's ownership and use of NAUGLES.

RESPONSE TO REQUEST FOR ADMISSION NO. 72:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the *claim or defense* of any party") (emphasis added); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.,* 2010 WL 5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, this Admission Request is outside the allowable scope of

discovery in this proceeding. Accordingly, Petitioner is not required to admit or deny this Admission Request, and does not admit this Admission Request.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: July 11, 2011

By:_____

Susan M. Natland
Gregory B. Phillips
2040 Main Street
Fourteenth Floor
Irvine, CA 92614
(949) 760-0404
Attorneys for Christian M. Ziebarth, Petitioner

11519224

CERTIFICATE OF SERVICE

I hereby certify that I served a copy of the foregoing **PETITIONER'S RESPONSE TO RESPONDENT'S FIRST SET OF REQUESTS FOR ADMISSIONS** upon Respondent's counsel by depositing one copy thereof in the United States Mail, first-class postage prepaid, on July 11, 2011, addressed as follows:

April L. Besl, Esq.
DINSMORE & SHOHL LLP
255 East Fifth Street
Cincinnati, OH 45202

Michael Lee

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

CHRISTIAN M. ZIEBARTH, **Petitioner,** **vs.** **DEL TACO LLC** **Respondent.**	**Reg. No. 1,043,729** **Cancellation No. 92053501**

PETITIONER'S SUPPLEMENTAL RESPONSES TO RESPONDENT'S FIRST SET OF INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS, SET NO. ONE

Pursuant to the Rules of Practice of the United States Patent and Trademark Office, and Rule 33 of the Federal Rules of Civil Procedure ("FRCP") and the Trademark Trial and Appeal Board Manual of Procedure ("TBMP"), Christian M. Ziebarth ("Petitioner") hereby responds to Del Taco, LLC's ("Respondent") First Set of Interrogatories and Requests for Production of Documents ("Requests" or "Request") as set forth below.

GENERAL OBJECTIONS TO INTERROGATORIES

The following General Objections to Respondent's Interrogatories are incorporated by reference in response to each Interrogatory set forth below and are not waived with respect to any response.

1. Petitioner generally objects to Respondent's Interrogatories to the extent they seek disclosure of any information, document, or thing protected, privileged or immune, or otherwise exempt from discovery pursuant to applicable state and federal statutes, the FRCP, case law, regulations, administrative orders, or any other applicable rules, decisions, or laws including, but

not limited to, information protected by the attorney-client privilege, the work-product doctrine or other applicable privilege.

2. Petitioner generally objects to Respondent's Interrogatories to the extent they purport to impose upon Petitioner obligations greater than those imposed by the applicable FRCP, 37 CFR § 2.120(d), or other applicable rules or law.

3. Petitioner generally objects to Respondent's Interrogatories to the extent that they seek information that is irrelevant and not calculated to lead to the discovery of admissible evidence or to the extent that Respondent's Interrogatories seek the disclosure of information, documents, or things beyond the scope of discovery as provided by the applicable FRCP, 37 CFR § 2.120(d), or other applicable rules or law.

4. Petitioner objects to Respondent's Interrogatories to the extent that they request confidential or proprietary information. Petitioner may provide such information, if relevant, not obtainable by less intrusive means, and not privileged, subject to the Trademark Trial and Appeal Board Protective Order in place between the parties.

5. Petitioner reserves the right to object to further inquiry with respect to the subject matter of Respondent's Interrogatories and responses provided thereto.

6. Petitioner objects to each of Respondent's Interrogatories to the extent that they seek information that is a matter of public record or otherwise available to Respondent without imposing undue burden on Respondent.

7. Petitioner objects to Respondent's Interrogatories on the grounds that they are premature in that Petitioner has not yet completed its own discovery and preparation for the testimony or trial periods. Petitioner reserves the right to provide any subsequently discovered information, and to supplement or change its responses based on such information.

8. As to all matters referred to in these responses to Respondent's Interrogatories, investigation and discovery continues. Accordingly, Petitioner reserves its right to modify, amend or change these responses, to present, use or rely on in any proceedings and at trial any supplemental, amended, changed or modified responses and/or further information and documents obtained during discovery and preparation for trial. Further discovery, independent investigation, and legal research and analysis may supply additional facts and documents adding meaning to known facts and documents, as well as establishing entirely new factual conclusions or legal conclusions, all of which may lead to substantial additions to, changes in, and variations from the responses set forth herein. Petitioner reserves the right to produce any subsequently discovered evidence, facts, and/or documents, and to supplement, amend, or change its responses based on such information. The responses given herein are done so in a good faith effort to supply as much information as is presently known, which should in no way lead to the prejudice of Petitioner in connection with further discovery, research or analysis. However, Petitioner reserves the right to supplement, change or amend its responses due to information inadvertently omitted from these responses. No incidental or implied admissions of any kind are intended by the responses here.

9. Petitioner preserves all objections as to competency, relevancy, materiality, privilege, and admissibility as evidence for any purpose in any proceeding in this or any other action.

10. Petitioner preserves the right to object to the use of any response or document in any proceeding in this or any other action.

11. Petitioner preserves the right to object on any grounds, at any time, to a demand for further response to these or any other Interrogatories.

12. Some of Respondent's Interrogatories contain discrete subparts. To the extent Petitioner considers any Interrogatory having discrete subparts to constitute a single Interrogatory, Petitioner objects to each such Interrogatory as being contrary to FRCP 33(a) and 37 CFR §2.120(d).

13. Only the express and overt meaning of these responses is intended. No response should be construed to contain implied statements, representations, or admissions of any kind. The fact that Petitioner has responded or objected to an Interrogatory, or has produced documents in response to an Interrogatory, should not be understood as an admission that Petitioner accepts or admits the existence of any "fact" set forth in or assumed by that Interrogatory.

14. Words and terms used in the following responses shall be construed in accordance with their normal meanings and connotations, and shall in no way be interpreted as terms of art or statutorily defined terms used in the trademark or unfair competition laws. Petitioner specifically disavows any such meaning or connotation that might be accorded to such terms. Likewise, Petitioner objects to Respondent's definitions and instructions to the extent that they make individual Interrogatories vague, ambiguous, or unintelligible by attributing a novel meaning to any ordinary word or multiple meanings to a single word.

15. Petitioner generally objects to Respondent's Interrogatories to the extent they seek information concerning "all" or "any" person or entity concerning a particular subject on the grounds that Petitioner would be required to search for information from every person or entity. Petitioner objects to performing searches of such breadth, on the grounds of undue burden and expense. In its search for relevant documents, Petitioner has made, or will make, a reasonable search as required by the FRCP.

16. Petitioner general objects to Respondent's Interrogatories to the extent that they seek information, documents, or things not in Petitioner's possession, custody or control. Petitioner's responses are based upon information and writings presently available to Petitioner.

17. In response to Respondent's Interrogatories, Petitioner may exercise its option to produce documents from which the answers to the Interrogatories may be derived or ascertained, in accordance with FRCP 33(d).

RESPONSE TO RESPONDENT'S FIRST SET OF INTERROGATORIES

INTERROGATORY NO. 1:

Describe in detail the nature of the present business of Petitioner in connection with Petitioner's NAUGLES Mark.

RESPONSE TO INTERROGATORY NO. 1:

Petitioner incorporates by this reference its General Objections to Respondent's Interrogatories as if set forth fully herein. Petitioner maintains any and all Objections to this Interrogatory stated in its original response to this Interrogatory as if set forth fully herein. Petitioner further objects to this Interrogatory on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Interrogatory seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in

framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.*, 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Interrogatory is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner has a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark and has taken the following steps in support of said intention in addition to filing the instant Petition to Cancel, on or about December 20, 2010 based on Respondent's non-use of the mark in commerce since 1995. Respondent closed the last Naugles Restaurant in 1995 in connection with their business scheme to convert Naugles Restaurants to Del Tacos. Respondent has not used the mark in commerce on the services identified in Registration No. 1,043,729, namely, restaurant services since this time; however, Respondent filed a renewal of this registration on July 8, 1996 and Section 8 & 15 Affidavits on May 18, 2006 presenting a photo of an old Naugles Restaurant sign that no longer exists. Respondent declared that they are still using the mark on the goods identified in the registration, even though no restaurant services were offered since closing the last Naugles some 16 years earlier, and even though Respondent expressly stated in a document named "Franchise Offering Circular," "We no longer offer restaurants under the name of Naugles." (Item 1, Page 1; file name UFOC 3/2004). Del Tacos also identifies and lists what it categorizes as "Primary Trademarks" and the Naugles trademark is NOT listed as a Primary Trademark. (Item 13 "Trademarks", Page 20; file name UFOC 3/2004). Further, in a document named "Marketing Meeting – Reno, September 15, 1995" it states "Flyers to hand out announcing the closure of Naugles."

Additionally, Petitioner filed an intent-to-use trademark application on or about May 17, 2010, Serial No. 85040746; therefore, Petitioner is not required to offer any products or services as of the filing of this trademark application, but must have only a bona fide intention to do so. Since 2009, Petitioner has engaged in extensive research on reviving the Naugles fast food chain as a viable business, including meeting with attorneys regarding adopting and using the Naugles trademark; meeting with Del Tacos' PR Representative Barbara Caruso, APR Caruso Communications in or around September 2009 to discuss reviving the brand; partnering with Jeff Naugle and engaging in discussions with other Naugle family members regarding the brand; recreating and testing original Naugles menu items; marketing and surveying revival of Naugles Restaurant through online blogs, facebook and Twitter pages; and securing the domain name "nauglestacos.com." Moreover, Petitioner has scouted potential locations for restaurants and met with potential investors and restaurant consultants.

INTERROGATORY NO. 2:

Describe in detail all activities undertaken by Petitioner to utilize Petitioner's NAUGLES Mark prior to the filing of Petitioner's NAUGLES Mark with the United States Patent and Trademark Office.

RESPONSE TO INTERROGATORY NO. 2:

Petitioner incorporates by this reference its General Objections to Respondent's Interrogatories as if set forth fully herein. Petitioner maintains any and all Objections to this Interrogatory stated in its original response to this Interrogatory as if set forth fully herein. Petitioner further objects to this Interrogatory on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Interrogatory seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence

because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.*, 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Interrogatory is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner filed an intent-to-use trademark application on or about May 17, 2010, Serial No. 85040746; therefore, Petitioner is not required to offer any products or services as of the filing of this trademark application, but must have only a bona fide intention to do so. Since 2009, Petitioner has engaged in extensive research on reviving the Naugles fast food chain as a viable business, including meeting with attorneys regarding adopting and using the Naugles trademark; meeting with Del Tacos' PR Representative Barbara Caruso, APR Caruso Communications in or around September 2009 to discuss reviving the brand; partnering with Jeff Naugle and engaging in discussions with other Naugle family members regarding the brand; recreating and testing original Naugles menu items; marketing and surveying revival of Naugles Restaurant through online blogs, facebook and Twitter pages; and securing the domain name "nauglestacos.com." Moreover, Petitioner has

scouted potential locations for restaurants and met with potential investors and restaurant consultants.

INTERROGATORY NO. 3:

Identify each person with any information concerning Petitioner's selection of Petitioner's NAUGLES Mark.

RESPONSE TO INTERROGATORY NO. 3:

Petitioner incorporates by this reference its General Objections to Respondent's Interrogatories as if set forth fully herein. Petitioner maintains any and all Objections to this Interrogatory stated in its original response to this Interrogatory as if set forth fully herein. Petitioner further objects to this Interrogatory on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Interrogatory seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.*, 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Interrogatory is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner responses as follows:

[redacted]

INTERROGATORY NO. 4:

Describe in detail the circumstances under which Petitioner decided to select Petitioner's NAUGLES Mark for use in conjunction with Petitioner's business.

RESPONSE TO INTERROGATORY NO. 4:

Petitioner incorporates by this reference its General Objections to Respondent's Interrogatories as if set forth fully herein. Petitioner maintains any and all Objections to this Interrogatory stated in its original response to this Interrogatory as if set forth fully herein. Petitioner further objects to this Interrogatory on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Interrogatory seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.,*

2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Interrogatory is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner selected the NAUGLES Mark because Respondent closed the last Naugles Restaurant in 1995 in connection with their business scheme to convert Naugles Restaurants to Del Tacos. Respondent expressly stated in a document named "Franchise Offering Circular," "We no longer offer restaurants under the name of Naugles." (Item 1, Page 1; file name UFOC 3/2004). Del Tacos also identifies and lists what it categorizes as "Primary Trademarks" and the Naugles trademark is NOT listed as a Primary Trademark. (Item 13 "Trademarks", Page 20; file name UFOC 3/2004). Further, in a document named "Marketing Meeting – Reno, September 15, 1995" it states "Flyers to hand out announcing the closure of Naugles."

Petitioner decided to register the NAUGLES mark for use in business after discussing a NAUGLES revival with an employee of the Respondent. Petitioner had reason to believe the Respondent could act on the suggestion. After waiting over a year for action to be taken Petitioner learned that trademark registrations are not held inviolate ad infinitum but must be kept in continuous use and that three consecutive years of disuse legally constituted abandonment. Del Taco had abandoned the NAUGLES mark approximately fifteen years earlier. Approximately a year and a half after broaching the topic with Respondent and finally surmising that they would not act on Petitioner's suggestion and after obtaining expert legal advice which confirmed Respondent's abandonment of said mark Petitioner went ahead with registering the NAUGLES mark.

INTERROGATORY NO. 5:

Identify all products or services planned to be offered by Petitioner under Petitioner's NAUGLES Mark.

RESPONSE TO INTERROGATORY NO. 5:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Interrogatory stated in its original response to this Interrogatory as if set forth fully herein. Petitioner further objects to this Interrogatory on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Interrogatory seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.*, 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Interrogatory is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner has a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark based on original Naugles menu items and reviving the Naugles fast food chain as a viable business.

INTERROGATORY NO. 6:

Identify all transfers of rights in Petitioner's NAUGLES Mark granted by or to Petitioner.

RESPONSE TO INTERROGATORY NO. 6:

Petitioner incorporates by this reference its General Objections to Respondent's Interrogatories as if set forth fully herein. Petitioner maintains any and all Objections to this Interrogatory stated in its original response to this Interrogatory as if set forth fully herein. Petitioner further objects to this Interrogatory on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Interrogatory seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.*, 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Interrogatory is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner has a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark and has taken the following steps in support of said intention in addition to filing the instant Petition to Cancel on or about December 20, 2010 based on Respondent's abandonment and non-use of the mark in commerce since 1995. Respondent closed the last Naugles Restaurant in 1995 in connection with their business scheme to convert Naugles Restaurants to Del Tacos. Respondent expressly stated in a document named "Franchise Offering Circular," "We no longer offer restaurants under the name of Naugles." (Item 1, Page 1; file name UFOC 3/2004). Del Tacos also identifies and lists what it categorizes as "Primary Trademarks" and the Naugles trademark is NOT listed as a Primary Trademark. (Item 13 "Trademarks", Page 20; file name UFOC 3/2004). Further, in a document named "Marketing Meeting – Reno, September 15, 1995" it states "Flyers to hand out announcing the closure of Naugles." Additionally, Petitioner filed an intent-to-use trademark application on or about May 17, 2010, Serial No. 85040746 and adopted an abandoned mark to offer restaurant and cafeteria services. Petitioner is partnering with Jeff Naugle and engaging in discussions with other Naugle family members regarding the brand and recreating and testing original Naugles menu items.

INTERROGATORY NO. 7:

State whether Petitioner's NAUGLES Products are currently offered to the public.

RESPONSE TO INTERROGATORY NO. 7:

Petitioner incorporates by this reference its General Objections to Respondent's Interrogatories as if set forth fully herein. Petitioner maintains any and all Objections to this Interrogatory stated in its original response to this Interrogatory as if set forth fully herein. Petitioner further objects to this Interrogatory on the grounds that it is vague, ambiguous, unduly

burdensome and overly broad. Petitioner also objects that this Interrogatory seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.*, 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Interrogatory is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, No.

INTERROGATORY NO. 8:

Identify the territorial areas in the United States where Petitioner plans to offer Petitioner's NAUGLES Products.

RESPONSE TO INTERROGATORY NO. 8:

Petitioner incorporates by this reference its General Objections to Respondent's Interrogatory as if set forth fully herein. Petitioner maintains any and all Objections to this Interrogatory stated in its original response to this Interrogatory as if set forth fully herein. Petitioner further objects to this Interrogatory on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Interrogatory seeks information

that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.*, 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Interrogatory is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner has a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark and the territorial areas in the United States where Petitioner plans to offer Petitioner's NAUGLES Products is still in the planning stages.

INTERROGATORY NO. 9:

Identify the territorial areas in the United States where Petitioner plans to manufacture Petitioner's NAUGLES Products.

RESPONSE TO INTERROGATORY NO. 9:

Petitioner incorporates by this reference its General Objections to Respondent's Interrogatory as if set forth fully herein. Petitioner maintains any and all Objections to this Interrogatory stated in its original response to this Interrogatory as if set forth fully herein.

Petitioner further objects to this Interrogatory on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Interrogatory seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.*, 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Interrogatory is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner has a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark and the territorial areas in the United States where Petitioner plans to manufacture Petitioner's NAUGLES Products is still in the planning stages but will be limited to the United States.

INTERROGATORY NO. 10:

Identify the channels of trade through which Petitioner plans to offer Petitioner's NAUGLES Products.

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RESPONSE TO INTERROGATORY NO. 10:

Petitioner incorporates by this reference its General Objections to Respondent's Interrogatory as if set forth fully herein. Petitioner maintains any and all Objections to this Interrogatory stated in its original response to this Interrogatory as if set forth fully herein. Petitioner further objects to this Interrogatory on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Interrogatory seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.*, 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Interrogatory is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner has a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark and the channels of trade through which Petitioner plans to offer Petitioner's NAUGLES Products is still in the planning stages but will be limited to retail food outlets.

INTERROGATORY NO. 11:

Identify the representative outlets through which Petitioner plans to offer Petitioner's NAUGLES Products.

RESPONSE TO INTERROGATORY NO. 11:

Petitioner incorporates by this reference its General Objections to Respondent's Interrogatory as if set forth fully herein. Petitioner maintains any and all Objections to this Interrogatory stated in its original response to this Interrogatory as if set forth fully herein. Petitioner further objects to this Interrogatory on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Interrogatory seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.*, 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Interrogatory is outside the allowable scope of discovery in this proceeding.

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Accordingly and without waiving said objections, Petitioner has a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark and the representative outlets where Petitioner plans to offer Petitioner's NAUGLES Products is still in the planning stages but will be limited to retail food outlets.

INTERROGATORY NO.12:

Identify the target market to which Petitioner plans to offer Petitioner's NAUGLES Products.

RESPONSE TO INTERROGATORY NO. 12:

Petitioner incorporates by this reference its General Objections to Respondent's Interrogatory as if set forth fully herein. Petitioner maintains any and all Objections to this Interrogatory stated in its original response to this Interrogatory as if set forth fully herein. Petitioner further objects to this Interrogatory on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Interrogatory seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.*, 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of

abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Interrogatory is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner has a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark, and the target market Petitioner plans to offer Petitioner's NAUGLES Products is still in the planning stages but will offer products to those who remember the original Naugles restaurants and those who want a quality fast casual meal.

INTERROGATORY NO. 13:

Identify the target customer base to which Petitioner plans to offer Petitioner's NAUGLES Products.

RESPONSE TO INTERROGATORY NO. 13:

Petitioner incorporates by this reference its General Objections to Respondent's Interrogatory as if set forth fully herein. Petitioner maintains any and all Objections to this Interrogatory stated in its original response to this Interrogatory as if set forth fully herein. Petitioner further objects to this Interrogatory on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Interrogatory seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in

framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.*, 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Interrogatory is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner has a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark and the target customer base to which Petitioner plans to offer Petitioner's NAUGLES Products is still in the planning stage but will offer products to those who remember the original Naugles restaurants and those who want a quality fast casual meal s .

INTERROGATORY NO. 14:

Identify all sources of funding to finance Petitioner's NAUGLES Products.

RESPONSE TO INTERROGATORY NO. 14:

Petitioner incorporates by this reference its General Objections to Respondent's Interrogatory as if set forth fully herein. Petitioner maintains any and all Objections to this Interrogatory stated in its original response to this Interrogatory as if set forth fully herein. Petitioner further objects to this Interrogatory on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Interrogatory seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim

or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.*, 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Interrogatory is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner has a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark and is pursuing all sources of funding, including private and commercial sources.

INTERROGATORY NO. 15:

Identify the marketing channels through which Petitioner plans to promote Petitioner's NAUGLES Mark.

RESPONSE TO INTERROGATORY NO. 15:

Petitioner incorporates by this reference its General Objections to Respondent's Interrogatory as if set forth fully herein. Petitioner maintains any and all Objections to this Interrogatory stated in its original response to this Interrogatory as if set forth fully herein. Petitioner further objects to this Interrogatory on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Interrogatory seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1)

("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.*, 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Interrogatory is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner has a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark and the marketing channels through which Petitioner plans to promote Petitioner's NAUGLES Products is through word of mouth, the Internet and print and television marketing channels.

GENERAL OBJECTIONS TO RESPONDENT'S REQUESTS FOR PRODUCTION OF DOCUMENTS

The following General Objections to Respondent's Requests for Production of Documents are incorporated by reference in response to each and every request set forth below and are not waived with respect to any response. The following responses are based upon information and writings presently available to Petitioner.

1. Petitioner objects generally to the instructions and definitions in the Requests to the extent that those instructions and definitions fail to comply with or impose obligations in excess of Rule 34 of the Federal Rules of Civil Procedure.

2. Petitioner objects to the Requests to the extent they seek "all documents" concerning a particular subject on the grounds that performing searches of such breadth create an undue burden and expense on Petitioner. Searching for relevant documents, Petitioner has made, and will make, inquiry of all persons who are reasonably likely to have such documents.

3. Petitioner objects to the Requests to the extent it calls for production of information, documents or thing protected from disclosure by the attorney-client privilege, the work-product doctrine, or any other applicable privilege, immunity, or other limitation on discover. Petitioner has stated its privilege objections expressly in its response to each request that would, in its view, reasonably be interpreted to encompass privileged information, documents, or things. Should any other requests encompass privileged information, documents, or things, however, Petitioner hereby asserts this general objection. Moreover, should any such response by Petitioner occur, it was inadvertent and shall not constitute a waiver of privilege or of Petitioner's right to object during this litigation or otherwise to the use of any such information, documents, or things.

4. Petitioner objects to the Requests to the extent that they seek information, documents or things that are not relevant to the cancellation action, or are not reasonably calculated to lead to the discovery of admissible evidence.

5. Petitioner reserves the Requests to the extent that they seek information, documents or things not in Petitioner's possession, custody or control.

6. Petitioner objects to Requests to the extent that they are overbroad, unduly burdensome, or fail to describe the information, documents or things sought with a reasonable degree of specificity. Petitioner will attempt to construe the terms and phrases used by Respondent in ways to give those terms and phrases meanings that will result in the production

of relevant information, documents and things designed to lead to the discovery of admissible evidence.

7. Petitioner objects to the Requests to the extent that they seek private, privileged, and confidential, commercial, financial, trade secret and/or proprietary business information. Petitioner may provide this information, if relevant, not obtainable by less intrusive means, and not privileged, subject to the Trademark Trial and Appeal Board Protective Order in place between the parties. Petitioner further objects to the Requests to the extent that they call for the production of information, documents, or things that Petitioner received or obtained from a third party under a non-disclosure agreement or any other obligation in the nature of a non-disclosure agreement.

8. Petitioner will make, or has made, a good faith, reasonable effort to search for such information, documents and things responsive to the Requests and, subject to its objections, will identify or produce at an appropriate time, or has identified or produced such information documents and things within its possession, custody or control.

9. Petitioner preserves all objections as to competency, relevancy, materiality, privilege, and admissibility as evidence for any purpose in any proceeding in this or any other action.

10. Petitioner preserves the right to object to the use of any response or document in any proceeding in this or any other action.

11. Petitioner preserves the right to object on any grounds, at any time, to a demand for further response to these or any other Requests.

12. Petitioner has performed a diligent search for information, documents, and things responsive to the Requests. Discovery is ongoing, however, and Petitioner's investigation is

continuing. Therefore, Petitioner reserves its right to supplement its responses herein and its production with any responsive, non-privileged information, documents, or things that may be subsequently discovered.

DOCUMENT REQUEST NO. 1:

All documents and things which refer to Petitioner's creation and selection of Petitioner's NAUGLES Marks.

RESPONSE TO DOCUMENT REQUEST NO. 1:

Petitioner incorporates by this reference its General Objections to Respondent's Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Request stated in its original response to this Request as if set forth fully herein. Petitioner also objects to this Request to the extent that it requests information protected by the attorney-client privilege or work product doctrine. Petitioner further objects to this Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.*, 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and

extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner will produce responsive, non-privileged documents to the extent that any exist and are within Petitioner's possession, custody or control.

DOCUMENT REQUEST NO. 2:

All documents and things which refer to Petitioner's decision to apply to register Petitioner's NAUGLES Mark with the United States Patent and Trademark Office.

RESPONSE TO DOCUMENT REQUEST NO. 2:

Petitioner incorporates by this reference its General Objections to Respondent's Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Request stated in its original response to this Request as if set forth fully herein. Petitioner also objects to this Request to the extent that it requests information protected by the attorney-client privilege or work product doctrine. Petitioner further objects to this Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act

reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.*, 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner will produce responsive, non-privileged documents to the extent that any exist and are within Petitioner's possession, custody or control.

DOCUMENT REQUEST NO. 3:

All documents and things which refer to any clearance searches Petitioner performed for Petitioner's NAUGLES Mark.

RESPONSE TO DOCUMENT REQUEST NO. 3:

Petitioner incorporates by this reference its General Objections to Respondent's Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Request stated in its original response to this Request as if set forth fully herein. Petitioner also objects to this Request to the extent that it requests information protected by the attorney-client privilege or work product doctrine. Petitioner further objects to this Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant

to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.*, 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner will produce responsive, non-privileged documents to the extent that any exist and are within Petitioner's possession, custody or control.

DOCUMENT REQUEST NO. 4:

All documents and things evidencing Petitioner's current use of Petitioner's NAUGLES Mark.

RESPONSE TO DOCUMENT REQUEST NO. 4:

Petitioner incorporates by this reference its General Objections to Respondent's Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Request stated in its original response to this Request as if set forth fully herein. Petitioner also objects to this Request to the extent that it requests information protected by the attorney-client privilege or work product doctrine. Petitioner further objects to this Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses

submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.*, 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner will produce responsive, non-privileged documents to the extent that any exist and are within Petitioner's possession, custody or control.

DOCUMENT REQUEST NO. 5:

All documents and things evidencing Petitioner's intent to use Petitioner's NAUGLES Mark when Petitioner filed its application with the United States Patent and Trademark Office.

RESPONSE TO DOCUMENT REQUEST NO. 5:

Petitioner incorporates by this reference its General Objections to Respondent's Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Request stated in its original response to this Request as if set forth fully herein. Petitioner also objects to this Request to the extent that it requests information protected by the attorney-client privilege or work product doctrine. Petitioner further objects to this Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of

admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.*, 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner will produce responsive, non-privileged documents to the extent that any exist and are within Petitioner's possession, custody or control.

DOCUMENT REQUEST NO. 6:

All documents and things which refer to any products or services Petitioner offers for sale and/or plans to offer for sale under Petitioner's NAUGLES Mark.

RESPONSE TO DOCUMENT REQUEST NO. 6:

Petitioner incorporates by this reference its General Objections to Respondent's Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Request stated in its original response to this Request as if set forth fully herein. Petitioner also objects to this Request to the extent that it requests information protected by the attorney-client privilege or work product doctrine. Petitioner further objects to this Request on the grounds that it is vague,

ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.*, 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner will produce responsive, non-privileged documents to the extent that any exist and are within Petitioner's possession, custody or control.

DOCUMENT REQUEST NO. 7:

All documents and things which refer to any licensing agreements Petitioner has entered into with respect to Petitioner's NAUGLES Mark.

RESPONSE TO DOCUMENT REQUEST NO. 7:

Petitioner incorporates by this reference its General Objections to Respondent's Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Request stated in its original response to this Request as if set forth fully herein. Petitioner also objects to this

Request to the extent that it requests information protected by the attorney-client privilege or work product doctrine. Petitioner further objects to this Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.*, 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, no such documents exist at this time that are responsive to this request.

DOCUMENT REQUEST NO. 8:

All documents and things which refer to the territorial areas in the United States where Petitioner offers or plans to offer Petitioner's NAUGLES Products.

RESPONSE TO DOCUMENT REQUEST NO. 8:

Petitioner incorporates by this reference its General Objections to Respondent's Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Request stated in

its original response to this Request as if set forth fully herein. Petitioner also objects to this Request to the extent that it requests information protected by the attorney-client privilege or work product doctrine. Petitioner further objects to this Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.*, 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, no such documents exist, at this time that are responsive to this request.

DOCUMENT REQUEST NO. 9:

All documents and things which refer to the territorial areas in the United States where Petitioner manufacturers or plans to manufacture Petitioner's NAUGLES Products.

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RESPONSE TO DOCUMENT REQUEST NO. 9:

Petitioner incorporates by this reference its General Objections to Respondent's Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Request stated in its original response to this Request as if set forth fully herein. Petitioner also objects to this Request to the extent that it requests information protected by the attorney-client privilege or work product doctrine. Petitioner further objects to this Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.*, 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, no such documents exist, at this time that are responsive to this request.

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DOCUMENT REQUEST NO. 10:

All documents and things which refer to the channels of trade through which Petitioner offers or plans to offer Petitioner's NAUGLES Products.

RESPONSE TO DOCUMENT REQUEST NO. 10:

Petitioner incorporates by this reference its General Objections to Respondent's Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Request stated in its original response to this Request as if set forth fully herein. Petitioner also objects to this Request to the extent that it requests information protected by the attorney-client privilege or work product doctrine. Petitioner further objects to this Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.*, 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, no such documents exist, at this time that are responsive to this request.

DOCUMENT REQUEST NO. 11:

All documents and things which refer to representative outlets through which Petitioner offers or plans to offer Petitioner's NAUGLES Products.

RESPONSE TO DOCUMENT REQUEST NO. 11:

Petitioner incorporates by this reference its General Objections to Respondent's Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Request stated in its original response to this Request as if set forth fully herein. Petitioner also objects to this Request to the extent that it requests information protected by the attorney-client privilege or work product doctrine. Petitioner further objects to this Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.*, 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of

abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, no such documents exist, at this time that are responsive to this request.

DOCUMENT REQUEST NO. 12:

All documents and things which refer to representative customers who have or are intended to purchase Petitioner's NAUGLES Products.

RESPONSE TO DOCUMENT REQUEST NO. 12:

Petitioner incorporates by this reference its General Objections to Respondent's Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Request stated in its original response to this Request as if set forth fully herein. Petitioner further objects to this Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects to this Request to the extent that it requests information protected by the attorney-client privilege or work product doctrine. Petitioner also objects that this Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.*, 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and

extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, no such documents exist, at this time that are responsive to this request.

DOCUMENT REQUEST NO. 13:

All documents and things which refer to the target market Petitioner has identified for Petitioner's NAUGLES Products.

RESPONSE TO DOCUMENT REQUEST NO. 13:

Petitioner incorporates by this reference its General Objections to Respondent's Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Request stated in its original response to this Request as if set forth fully herein. Petitioner also objects to this Request to the extent that it requests information protected by the attorney-client privilege or work product doctrine. Petitioner further objects to this Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.,*

2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, no such documents exist, at this time that are responsive to this request.

DOCUMENT REQUEST NO. 14:

All documents and things which refer to any source of sponsorship, funding, or other financial support for the creation, distribution, manufacturing, marketing, promotion, and/or sale of Petitioner's NAUGLES Products.

RESPONSE TO DOCUMENT REQUEST NO. 14:

Petitioner incorporates by this reference its General Objections to Respondent's Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Request stated in its original response to this Request as if set forth fully herein. Petitioner also objects to this Request to the extent that it requests information protected by the attorney-client privilege or work product doctrine. Petitioner further objects to this Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is

therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.*, 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, no such documents exist, at this time that are responsive to this request.

DOCUMENT REQUEST NO. 15:

All documents and things which refer to Petitioner's present and/or planned marketing plans for Petitioner's NAUGLES Products including, but not limited to specimens of all advertising and promotional materials which relate to or refer Petitioner's NAUGLES Products.

RESPONSE TO DOCUMENT REQUEST NO. 15:

Petitioner incorporates by this reference its General Objections to Respondent's Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Request stated in its original response to this Request as if set forth fully herein. Petitioner also objects to this Request to the extent that it requests information protected by the attorney-client privilege or work product doctrine. Petitioner further objects to this Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ.

P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.*, 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner has a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark and has taken the following steps in support of said intention in addition to filing the instant Petition to Cancel on or about December 20, 2010 based on Respondent's non-use of the mark in commerce since 1995. At this stage of Petitioner's business plans, the requested documents are premature. Accordingly, there are no documents responsive to this request.

DOCUMENT REQUEST NO. 16:

All documents and things from any promotional outlet, including but not limited to, magazines, blogs, newspapers, social media sites, television, radio, catalogues, circulars, leaflets, sales or promotional literature, brochures, bulletins, fliers, signs, sales displays, posters, and/or other materials in which Petitioner's NAUGLES Products have been promoted and/or may be promoted in the future.

RESPONSE TO DOCUMENT REQUEST NO. 16:

Petitioner incorporates by this reference its General Objections to Respondent's Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Request stated in

its original response to this Request as if set forth fully herein. Petitioner also objects to this Request to the extent that it requests information protected by the attorney-client privilege or work product doctrine. Petitioner further objects to this Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.*, 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, no such documents, exist at this time that are responsive to this request.

DOCUMENT REQUEST NO. 17:

All documents and things which refer to Petitioner's present and/or planned manufacturing processes and supply chains Petitioner's NAUGLES Products.

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RESPONSE TO DOCUMENT REQUEST NO. 17:

Petitioner incorporates by this reference its General Objections to Respondent's Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Request stated in its original response to this Request as if set forth fully herein. Petitioner also objects to this Request to the extent that it requests information protected by the attorney-client privilege or work product doctrine. Petitioner further objects to this Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.*, 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, no such documents exist, at this time that are responsive to this request.

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DOCUMENT REQUEST NO. 18:

All documents and things which refer to Petitioner's current shipping processes and or planned shipping processes for Petitioner's NAUGLES Products.

RESPONSE TO DOCUMENT REQUEST NO. 18:

Petitioner incorporates by this reference its General Objections to Respondent's Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Request stated in its original response to this Request as if set forth fully herein. Petitioner also objects to this Request to the extent that it requests information protected by the attorney-client privilege or work product doctrine. Petitioner further objects to this Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.*, 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner has a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark and has taken the following steps in support of said intention in addition to filing the instant Petition to Cancel on or about December 20, 2010 based on Respondent's non-use of the mark in commerce since 1995. At this stage of Petitioner's business plans, the requested documents are premature. Accordingly, there are no documents responsive to this request.

DOCUMENT REQUEST NO. 19:

All documents and things which refer to Petitioner's monthly expenditures to date and planned future expenditures with respect to Petitioner's NAUGLES Products.

RESPONSE TO DOCUMENT REQUEST NO. 19:

Petitioner incorporates by this reference its General Objections to Respondent's Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Request stated in its original response to this Request as if set forth fully herein. Petitioner also objects to this Request to the extent that it requests information protected by the attorney-client privilege or work product doctrine. Petitioner further objects to this Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act

reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.*, 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, no such documents exist, at this time that are responsive to this request.

DOCUMENT REQUEST NO. 20:

All documents and things which refer to any consumer or marketing testing Petitioner has received or conducted relating to Petitioner's NAUGLES Products.

RESPONSE TO DOCUMENT REQUEST NO. 20:

Petitioner incorporates by this reference its General Objections to Respondent's Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Request stated in its original response to this Request as if set forth fully herein. Petitioner also objects to this Request to the extent that it requests information protected by the attorney-client privilege or work product doctrine. Petitioner further objects to this Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is

therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.*, 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, no such documents exist, at this time that are responsive to this request.

DOCUMENT REQUEST NO. 21:

All documents and things which refer to any consumer or market testing Petitioner has received or conducted relating to Petitioner's NAUGLES Mark.

RESPONSE TO DOCUMENT REQUEST NO. 21:

Petitioner incorporates by this reference its General Objections to Respondent's Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Request stated in its original response to this Request as if set forth fully herein. Petitioner also objects to this Request to the extent that it requests information protected by the attorney-client privilege or work product doctrine. Petitioner further objects to this Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant

to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.*, 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, no such documents exist, at this time that are responsive to this request.

DOCUMENT REQUEST NO. 22:

All documents and things, including but not limited to, communications with third parties, social media pages, and blogs which refer to Del Taco, Del Taco's marks, or Del Taco's goods and services.

RESPONSE TO DOCUMENT REQUEST NO. 22:

Petitioner incorporates by this reference its General Objections to Respondent's Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Request stated in its original response to this Request as if set forth fully herein. Petitioner also objects to this Request to the extent that it requests information protected by the attorney-client privilege or work product doctrine. Petitioner further objects to this Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence, specifically but not limited to, Respondent has not defined the phrases "Del Taco's marks" or "Del Taco's goods or services," not limited the requested communications to

those involving Petitioner, and Respondent can obtain for itself public information regarding third party online discussions. As set forth in these objections, Petitioner maintains that this Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner has made brief mention on the Internet that the Naugles chain may return, but no such documents exist, at this time that are responsive to this request.

DOCUMENT REQUEST NO. 23:

All documents and things, including but not limited to, communications with third parties, social media pages, and blogs which refer to Petitioner's NAUGLES Mark.

RESPONSE TO DOCUMENT REQUEST NO. 23:

Petitioner incorporates by this reference its General Objections to Respondent's Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Request stated in its original response to this Request as if set forth fully herein. Petitioner also objects to this Request to the extent that it requests information protected by the attorney-client privilege or work product doctrine. Petitioner further objects to this Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act

reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.*, 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner will produce responsive, non-privileged documents to the extent that any exist and are within Petitioner's possession, custody or control.

DOCUMENT REQUEST NO. 24:

All documents and things, including but not limited to, communications with third parties, social media pages, and blogs which refer to Petitioner's NAUGLES Products.

RESPONSE TO DOCUMENT REQUEST NO. 24:

Petitioner incorporates by this reference its General Objections to Respondent's Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Request stated in its original response to this Request as if set forth fully herein. Petitioner also objects to this Request to the extent that it requests information protected by the attorney-client privilege or work product doctrine. Petitioner further objects to this Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant

to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.*, 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner will produce responsive, non-privileged documents to the extent that any exist and are within Petitioner's possession, custody or control.

DOCUMENT REQUEST NO. 25:

All documents and things, including but not limited to, plans, specifications, proposals, correspondence and memoranda, and samples that refer to the design, specifications, packaging, locations, recipes, format, and ingredients for Petitioner's NAUGLES Products.

RESPONSE TO DOCUMENT REQUEST NO. 25:

Petitioner incorporates by this reference its General Objections to Respondent's Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Request stated in its original response to this Request as if set forth fully herein. Petitioner also objects to this Request to the extent that it requests information protected by the attorney-client privilege or work product doctrine. Petitioner further objects to this Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use

of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.*, 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner has a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark and has taken the following steps in support of said intention in addition to filing the instant Petition to Cancel on or about December 20, 2010 based on Respondent's non-use of the mark in commerce since 1995. At this stage of Petitioner's business plans, the requested documents are premature. Accordingly, there are no documents responsive to this request.

DOCUMENT REQUEST NO. 26:

All documents which refer to each and every discussion, correspondence, dispute, controversy, or proceeding of any kind or nature between Petitioner and any third party which involved Petitioner's NAUGLES Mark as applied for or any common law variation thereof.

RESPONSE TO DOCUMENT REQUEST NO. 26:

Petitioner incorporates by this reference its General Objections to Respondent's Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Request stated in

its original response to this Request as if set forth fully herein. Petitioner also objects to this Request to the extent that it requests information protected by the attorney-client privilege or work product doctrine. Petitioner further objects to this Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.*, 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Request is outside the allowable scope of discovery in this proceeding.

No such documents currently exist apart from brief mentions made on the Internet that the NAUGLES chain may return. Before it came to Petitioner's attention that trademarks could be abandoned through disuse Petitioner wrote some blog entries petitioning Respondent to revive the NAUGLES brand. This was done in good faith that Del Taco, an entity which the Petitioner respects, would act on this suggestion. Petitioner, shortly after making this suggestion, received some communication that Respondent would act on this suggestion. Sometime later Respondent ceased responding to Petitioner regarding the subject of a NAUGLES revival. Around the

summer of 2009 Petitioner made one last attempt to discuss the subject through e-mail with Barbara Caruso, PR consultant for Del Taco, with Petitioner receiving no response. Still attempting to give Respondent a final chance beyond that Petitioner attempted to broach the subject via LinkedIn communication with Del Taco Marketing VP Noah Chillingworth. Petitioner also received no response to this communication. Only after all this effort did Petitioner learn that Respondent had actually, in the view of United States trademark law, abandoned the trademark by entirely ceasing its usage of the mark in 1994 or 1995 with no hint of usage since that time. After learning these legal facts and after having made a sincere effort to help Respondent profit from the popular NAUGLES brand and then, and only then, after seeing their apparent disinterest in any sort of a NAUGLES revival did Petitioner move forward with their own registration.

Accordingly and without waiving said objections, Petitioner will produce responsive, non-privileged documents to the extent that any exist and are within Petitioner's possession, custody or control.

DATED this 14th day of March, 2012.

Respectfully submitted,

RICHARD F. CHRISTESEN, ESQ.
ATTORNEY AT LAW

Richard F. Christesen
Attorneys for Petitioner

Christian M. Ziebarth, Petitioner

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing **PETITIONER'S SUPPLEMENTAL RESPONSES TO RESPONDENT'S FIRST SET OF INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS, SET NO. ONE** was sent by email, on this 14th day of March, 2012, to the party below:

April L. Besl
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Del Taco LLC

/s Venus Griffith Trunnel/

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

CHRISTIAN M. ZIEBARTH, **Petitioner,** **vs.** **DEL TACO LLC** **Respondent.**	**Reg. No. 1,043,729** **Cancellation No. 92053501**

PETITIONER'S SUPPLEMENTAL RESPONSES TO RESPONDENT'S FIRST SET OF REQUESTS FOR ADMISSIONS, SET NO. ONE

The following General Objections are incorporated by reference into each response set forth below and are not waived with respect to any response.

1. Petitioner generally objects to Respondent's Admission Requests to the extent they seek disclosure of any information, document, or thing protected, privileged or immune, or otherwise exempt from discovery pursuant to applicable state and federal statutes, the FRCP, case law, regulations, administrative orders, or any other applicable rules, decisions, or laws including, but not limited to, information protected by the attorney-client privilege, the work-product doctrine or other applicable privilege.

2. Petitioner generally objects to Respondent's Admission Requests to the extent they purport to impose upon Petitioner obligations greater than those imposed by the applicable FRCP, 37 CFR § 2.120(d), or other applicable rules or law.

3. Petitioner generally objects to Respondent's Admission Requests to the extent that they seek information that is irrelevant and not calculated to lead to the discovery of admissible evidence or to the extent that Respondent's Admission Requests seek the disclosure

of information, documents, or things beyond the scope of discovery as provided by the applicable FRCP, 37 CFR § 2.120(d), or other applicable rules or law.

4. Petitioner objects to Respondent's Admission Requests to the extent that they request confidential or proprietary information. Petitioner may provide such information, if relevant, not obtainable by less intrusive means, and not privileged, subject to the Trademark Trial and Appeal Board Protective Order in place between the parties.

5. Petitioner reserves the right to object to further inquiry with respect to the subject matter of Respondent's Admission Requests and responses provided thereto.

6. Petitioner objects to each of Respondent's Admission Requests to the extent that they seek information that is a matter of public record or otherwise available to Respondent without imposing undue burden on Respondent.

7. Petitioner objects to Respondent's Admission Requests on the grounds that they are premature in that Petitioner has not yet completed its own discovery and preparation for the testimony or trial periods. Petitioner reserves the right to provide any subsequently discovered information, and to supplement or change its responses based on such information.

8. As to all matters referred to in these responses to Respondent's Admission Requests, investigation and discovery continues. Accordingly, Petitioner reserves its right to modify, amend or change these responses, to present, use or rely on in any proceedings and at trial any supplemental, amended, changed or modified responses and/or further information and documents obtained during discovery and preparation for trial. Further discovery, independent investigation, and legal research and analysis may supply additional facts and documents adding meaning to known facts and documents, as well as establishing entirely new factual conclusions or legal conclusions, all of which may lead to substantial additions to, changes in, and variations

from the responses set forth herein. Petitioner reserves the right to produce any subsequently discovered evidence, facts, and/or documents, and to supplement, amend, or change its responses based on such information. The responses given herein are done so in a good faith effort to supply as much information as is presently known, which should in no way lead to the prejudice of Petitioner in connection with further discovery, research or analysis. However, Petitioner reserves the right to supplement, change or amend its responses due to information inadvertently omitted from these responses. No incidental or implied admissions of any kind are intended by the responses here.

9. Petitioner preserves all objections as to competency, relevancy, materiality, privilege, and admissibility as evidence for any purpose in any proceeding in this or any other action.

10. Petitioner preserves the right to object to the use of any response or document in any proceeding in this or any other action.

11. Petitioner preserves the right to object on any grounds, at any time, to a demand for further response to these or any other Admission Requests.

REQUEST FOR ADMISSION NO. 1:

Petitioner is not currently offering any products under Petitioner's NAUGLES Mark.

RESPONSE TO REQUEST FOR ADMISSION NO. 1:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission

Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also Nirvana, Inc. v. Nirvana for Health Inc., 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner has a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark and has taken the following steps in support of said intention in addition to filing the instant Petition to Cancel, on or about December 20, 2010 based on Respondent's non-use of the mark in commerce since 1995. Respondent closed the last Naugles Restaurant in 1995 in connection with their business scheme to convert Naugles Restaurants to Del Tacos. Respondent has not used the mark in commerce on the services identified in Registration No. 1,043,729, namely, restaurant services since this time; however, Respondent filed a renewal of this registration on July 8, 1996 and Section 8 & 15 Affidavits on May 18, 2006 presenting a photo of an old Naugles Restaurant sign that no longer exists. Respondent declared that they are still using the mark on the goods identified in the registration, even though no restaurant services were offered since closing the last Naugles some

16 years earlier, and even though Respondent expressly stated in a document named "Franchise Offering Circular," "We no longer offer restaurants under the name of Naugles." (Item 1, Page 1; file name UFOC 3/2004). Del Tacos also identifies and lists what it categorizes as "Primary Trademarks" and the Naugles trademark is NOT listed as a Primary Trademark. (Item 13 "Trademarks", Page 20; file name UFOC 3/2004). Further, in a document named "Marketing Meeting – Reno, September 15, 1995" it states "Flyers to hand out announcing the closure of Naugles."

Additionally, Petitioner filed an intent-to-use trademark application on or about May 17, 2010, Serial No. 85040746; therefore, Petitioner is not required to offer any products or services as of the filing of this trademark application, but must have only a bona fide intention to do so. Since 2009, Petitioner has engaged in extensive research on reviving the Naugles chain, including meeting with attorneys regarding adopting and using the Naugles trademark; meeting with Del Tacos' PR Representative Barbara Caruso, APR Caruso Communications in or around September 2009 to discuss reviving the brand; partnering with Jeff Naugle and engaging in discussions with other Naugle family members regarding the brand; recreating and testing original Naugles menu items; marketing and surveying revival of Naugles Restaurant through online blogs, facebook and Twitter pages; and securing the domain name "nauglestacos.com." Moreover, Petitioner has scouted potential locations for restaurants and met with potential investors and restaurant consultants. Except for expressly stated herein, deny.

REQUEST FOR ADMISSION NO. 2:

Petitioner has not previously offered any products under Petitioner's NAUGLES Mark.

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RESPONSE TO REQUEST FOR ADMISSION NO. 2:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also Nirvana, Inc. v. Nirvana for Health Inc., 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner has a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark and has taken the following steps in support of said intention in addition to filing the instant Petition to Cancel, on or about December 20, 2010 based on Respondent's non-use of the mark in commerce since 1995. Respondent closed the last Naugles Restaurant in 1995 in connection with their business scheme

to convert Naugles Restaurants to Del Tacos. Respondent has not used the mark in commerce on the services identified in Registration No. 1,043,729, namely, restaurant services since this time; however, Respondent filed a renewal of this registration on July 8, 1996 and Section 8 & 15 Affidavits on May 18, 2006 presenting a photo of an old Naugles Restaurant sign that no longer exists. Respondent declared that they are still using the mark on the goods identified in the registration, even though no restaurant services were offered since closing the last Naugles some 16 years earlier, and even though Respondent expressly stated in a document named "Franchise Offering Circular," "We no longer offer restaurants under the name of Naugles." (Item 1, Page 1; file name UFOC 3/2004). Del Tacos also identifies and lists what it categorizes as "Primary Trademarks" and the Naugles trademark is NOT listed as a Primary Trademark. (Item 13 "Trademarks", Page 20; file name UFOC 3/2004). Further, in a document named "Marketing Meeting – Reno, September 15, 1995" it states "Flyers to hand out announcing the closure of Naugles."

Additionally, Petitioner filed an intent-to-use trademark application on or about May 17, 2010, Serial No. 85040746; therefore, Petitioner is not required to offer any products or services as of the filing of this trademark application, but must have only a bona fide intention to do so. Since 2009, Petitioner has engaged in extensive research on reviving the Naugles chain, including meeting with attorneys regarding adopting and using the Naugles trademark; meeting with Del Tacos' PR Representative Barbara Caruso, APR Caruso Communications in or around September 2009 to discuss reviving the brand; partnering with Jeff Naugle and engaging in discussions with other Naugle family members regarding the brand; recreating and testing original Naugles menu items; marketing and surveying revival of Naugles Restaurant through online blogs, facebook and Twitter pages; and securing the domain name "nauglestacos.com."

Moreover, Petitioner has scouted potential locations for restaurants and met with potential investors and restaurant consultants. Except for expressly stated herein, deny.

REQUEST FOR ADMISSION NO. 3:

Petitioner has not previously offered any services under Petitioner's NAUGLES Mark.

RESPONSE TO REQUEST FOR ADMISSION NO. 3:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also Nirvana, Inc. v. Nirvana for Health Inc., 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner has a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark and has taken the following steps in support of said intention in addition to filing the instant Petition to Cancel, on or about December 20, 2010 based on Respondent's non-use of the mark in commerce since 1995. Respondent closed the last Naugles Restaurant in 1995 in connection with their business scheme to convert Naugles Restaurants to Del Tacos. Respondent has not used the mark in commerce on the services identified in Registration No. 1,043,729, namely, restaurant services since this time; however, Respondent filed a renewal of this registration on July 8, 1996 and Section 8 & 15 Affidavits on May 18, 2006 presenting a photo of an old Naugles Restaurant sign that no longer exists. Respondent declared that they are still using the mark on the goods identified in the registration, even though no restaurant services were offered since closing the last Naugles some 16 years earlier, and even though Respondent expressly stated in a document named "Franchise Offering Circular," "We no longer offer restaurants under the name of Naugles." (Item 1, Page 1; file name UFOC 3/2004). Del Tacos also identifies and lists what it categorizes as "Primary Trademarks" and the Naugles trademark is NOT listed as a Primary Trademark. (Item 13 "Trademarks", Page 20; file name UFOC 3/2004). Further, in a document named "Marketing Meeting – Reno, September 15, 1995" it states "Flyers to hand out announcing the closure of Naugles."

Additionally, Petitioner filed an intent-to-use trademark application on or about May 17, 2010, Serial No. 85040746; therefore, Petitioner is not required to offer any products or services as of the filing of this trademark application, but must have only a bona fide intention to do so. Since 2009, Petitioner has engaged in extensive research on reviving the Naugles chain, including meeting with attorneys regarding adopting and using the Naugles trademark; meeting

with Del Tacos' PR Representative Barbara Caruso, APR Caruso Communications in or around September 2009 to discuss reviving the brand; partnering with Jeff Naugle and engaging in discussions with other Naugle family members regarding the brand; recreating and testing original Naugles menu items; marketing and surveying revival of Naugles Restaurant through online blogs, facebook and Twitter pages; and securing the domain name "nauglestacos.com." Moreover, Petitioner has scouted potential locations for restaurants and met with potential investors and restaurant consultants. Except for expressly stated herein, deny.

REQUEST FOR ADMISSION NO. 4:

Petitioner has not previously offered any services under Petitioner's NAUGLES Mark.

RESPONSE TO REQUEST FOR ADMISSION NO. 4:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also Nirvana, Inc. v. Nirvana for Health

Inc., 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner has a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark and has taken the following steps in support of said intention in addition to filing the instant Petition to Cancel, on or about December 20, 2010 based on Respondent's non-use of the mark in commerce since 1995. Respondent closed the last Naugles Restaurant in 1995 in connection with their business scheme to convert Naugles Restaurants to Del Tacos. Respondent has not used the mark in commerce on the services identified in Registration No. 1,043,729, namely, restaurant services since this time; however, Respondent filed a renewal of this registration on July 8, 1996 and Section 8 & 15 Affidavits on May 18, 2006 presenting a photo of an old Naugles Restaurant sign that no longer exists. Respondent declared that they are still using the mark on the goods identified in the registration, even though no restaurant services were offered since closing the last Naugles some 16 years earlier, and even though Respondent expressly stated in a document named "Franchise Offering Circular," "We no longer offer restaurants under the name of Naugles." (Item 1, Page 1; file name UFOC 3/2004). Del Tacos also identifies and lists what it categorizes as "Primary Trademarks" and the Naugles trademark is NOT listed as a Primary Trademark. (Item 13 "Trademarks", Page 20; file name UFOC 3/2004). Further, in a document named "Marketing Meeting – Reno, September 15, 1995" it states "Flyers to hand out announcing the closure of Naugles."

Additionally, Petitioner filed an intent-to-use trademark application on or about May 17, 2010, Serial No. 85040746; therefore, Petitioner is not required to offer any products or services as of the filing of this trademark application, but must have only a bona fide intention to do so. Since 2009, Petitioner has engaged in extensive research on reviving the Naugles chain, including meeting with attorneys regarding adopting and using the Naugles trademark; meeting with Del Tacos' PR Representative Barbara Caruso, APR Caruso Communications in or around September 2009 to discuss reviving the brand; partnering with Jeff Naugle and engaging in discussions with other Naugle family members regarding the brand; recreating and testing original Naugles menu items; marketing and surveying revival of Naugles Restaurant through online blogs, facebook and Twitter pages; and securing the domain name "nauglestacos.com." Moreover, Petitioner has scouted potential locations for restaurants and met with potential investors and restaurant consultants. Except for expressly stated herein, deny.

REQUEST FOR ADMISSION NO. 5:

Petitioner was not offering cafeteria and restaurant services under Petitioner's NAUGLES Mark as of May 17, 2010.

RESPONSE TO REQUEST FOR ADMISSION NO. 5:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or

intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also Nirvana, Inc. v. Nirvana for Health Inc., 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner has a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark and has taken the following steps in support of said intention in addition to filing the instant Petition to Cancel, on or about December 20, 2010 based on Respondent's non-use of the mark in commerce since 1995. Respondent closed the last Naugles Restaurant in 1995 in connection with their business scheme to convert Naugles Restaurants to Del Tacos. Respondent has not used the mark in commerce on the services identified in Registration No. 1,043,729, namely, restaurant services since this time; however, Respondent filed a renewal of this registration on July 8, 1996 and Section 8 & 15 Affidavits on May 18, 2006 presenting a photo of an old Naugles Restaurant sign that no longer exists. Respondent declared that they are still using the mark on the goods identified in the registration, even though no restaurant services were offered since closing the last Naugles some 16 years earlier, and even though Respondent expressly stated in a document named "Franchise Offering Circular," "We no longer offer restaurants under the name of Naugles." (Item 1, Page 1;

file name UFOC 3/2004). Del Tacos also identifies and lists what it categorizes as "Primary Trademarks" and the Naugles trademark is NOT listed as a Primary Trademark. (Item 13 "Trademarks", Page 20; file name UFOC 3/2004). Further, in a document named "Marketing Meeting – Reno, September 15, 1995" it states "Flyers to hand out announcing the closure of Naugles."

Additionally, Petitioner filed an intent-to-use trademark application on or about May 17, 2010, Serial No. 85040746; therefore, Petitioner is not required to offer any products or services as of the filing of this trademark application, but must have only a bona fide intention to do so. Since 2009, Petitioner has engaged in extensive research on reviving the Naugles chain, including meeting with attorneys regarding adopting and using the Naugles trademark; meeting with Del Tacos' PR Representative Barbara Caruso, APR Caruso Communications in or around September 2009 to discuss reviving the brand; partnering with Jeff Naugle and engaging in discussions with other Naugle family members regarding the brand; recreating and testing original Naugles menu items; marketing and surveying revival of Naugles Restaurant through online blogs, facebook and Twitter pages; and securing the domain name "nauglestacos.com." Moreover, Petitioner has scouted potential locations for restaurants and met with potential investors and restaurant consultants. Except for expressly stated herein, deny.

REQUEST FOR ADMISSION NO. 6:

Petitioner is not currently offering cafeteria and restaurant services under Petitioner's NAUGLES Mark.

RESPONSE TO REQUEST FOR ADMISSION NO. 6:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to

this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also Nirvana, Inc. v. Nirvana for Health Inc., 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner has a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark and has taken the following steps in support of said intention in addition to filing the instant Petition to Cancel, on or about December 20, 2010 based on Respondent's non-use of the mark in commerce since 1995. Respondent closed the last Naugles Restaurant in 1995 in connection with their business scheme to convert Naugles Restaurants to Del Tacos. Respondent has not used the mark in commerce on the services identified in Registration No. 1,043,729, namely, restaurant services since this time; however, Respondent filed a renewal of this registration on July 8, 1996 and Section 8 & 15

Affidavits on May 18, 2006 presenting a photo of an old Naugles Restaurant sign that no longer exists. Respondent declared that they are still using the mark on the goods identified in the registration, even though no restaurant services were offered since closing the last Naugles some 16 years earlier, and even though Respondent expressly stated in a document named "Franchise Offering Circular," "We no longer offer restaurants under the name of Naugles." (Item 1, Page 1; file name UFOC 3/2004). Del Tacos also identifies and lists what it categorizes as "Primary Trademarks" and the Naugles trademark is NOT listed as a Primary Trademark. (Item 13 "Trademarks", Page 20; file name UFOC 3/2004). Further, in a document named "Marketing Meeting – Reno, September 15, 1995" it states "Flyers to hand out announcing the closure of Naugles."

Additionally, Petitioner filed an intent-to-use trademark application on or about May 17, 2010, Serial No. 85040746; therefore, Petitioner is not required to offer any products or services as of the filing of this trademark application, but must have only a bona fide intention to do so. Since 2009, Petitioner has engaged in extensive research on reviving the Naugles chain, including meeting with attorneys regarding adopting and using the Naugles trademark; meeting with Del Tacos' PR Representative Barbara Caruso, APR Caruso Communications in or around September 2009 to discuss reviving the brand; partnering with Jeff Naugle and engaging in discussions with other Naugle family members regarding the brand; recreating and testing original Naugles menu items; marketing and surveying revival of Naugles Restaurant through online blogs, facebook and Twitter pages; and securing the domain name "nauglestacos.com." Moreover, Petitioner has scouted potential locations for restaurants and met with potential investors and restaurant consultants. Except for expressly stated herein, deny.

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REQUEST FOR ADMISSION NO. 7:

Petitioner has not entered into any licensing agreements with third parties in connection with Petitioner's NAUGLES Mark.

RESPONSE TO REQUEST FOR ADMISSION NO. 7:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also Nirvana, Inc. v. Nirvana for Health Inc., 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner has a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark and has taken the following

steps in support of said intention in addition to filing the instant Petition to Cancel, on or about December 20, 2010 based on Respondent's non-use of the mark in commerce since 1995. Respondent closed the last Naugles Restaurant in 1995 in connection with their business scheme to convert Naugles Restaurants to Del Tacos. Respondent has not used the mark in commerce on the services identified in Registration No. 1,043,729, namely, restaurant services since this time; however, Respondent filed a renewal of this registration on July 8, 1996 and Section 8 & 15 Affidavits on May 18, 2006 presenting a photo of an old Naugles Restaurant sign that no longer exists. Respondent declared that they are still using the mark on the goods identified in the registration, even though no restaurant services were offered since closing the last Naugles some 16 years earlier, and even though Respondent expressly stated in a document named "Franchise Offering Circular," "We no longer offer restaurants under the name of Naugles." (Item 1, Page 1; file name UFOC 3/2004). Del Tacos also identifies and lists what it categorizes as "Primary Trademarks" and the Naugles trademark is NOT listed as a Primary Trademark. (Item 13 "Trademarks", Page 20; file name UFOC 3/2004). Further, in a document named "Marketing Meeting – Reno, September 15, 1995" it states "Flyers to hand out announcing the closure of Naugles."

Additionally, Petitioner filed an intent-to-use trademark application on or about May 17, 2010, Serial No. 85040746; therefore, Petitioner is not required to offer any products or services as of the filing of this trademark application, but must have only a bona fide intention to do so. Since 2009, Petitioner has engaged in extensive research on reviving the Naugles chain, including meeting with attorneys regarding adopting and using the Naugles trademark; meeting with Del Tacos' PR Representative Barbara Caruso, APR Caruso Communications in or around September 2009 to discuss reviving the brand; partnering with Jeff Naugle and engaging in

discussions with other Naugle family members regarding the brand; recreating and testing original Naugles menu items; marketing and surveying revival of Naugles Restaurant through online blogs, facebook and Twitter pages; and securing the domain name "nauglestacos.com." Moreover, Petitioner has scouted potential locations for restaurants and met with potential investors and restaurant consultants. Except for expressly stated herein, deny.

REQUEST FOR ADMISSION NO. 8:

Petitioner has not obtained any loans necessary to finance the manufacturing, sale and distribution of Petitioner's NAUGLES Products.

RESPONSE TO REQUEST FOR ADMISSION NO. 8:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also Nirvana, Inc. v. Nirvana for Health Inc., 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature

and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner has a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark and has taken the following steps in support of said intention in addition to filing the instant Petition to Cancel, on or about December 20, 2010 based on Respondent's non-use of the mark in commerce since 1995. Respondent closed the last Naugles Restaurant in 1995 in connection with their business scheme to convert Naugles Restaurants to Del Tacos. Respondent has not used the mark in commerce on the services identified in Registration No. 1,043,729, namely, restaurant services since this time; however, Respondent filed a renewal of this registration on July 8, 1996 and Section 8 & 15 Affidavits on May 18, 2006 presenting a photo of an old Naugles Restaurant sign that no longer exists. Respondent declared that they are still using the mark on the goods identified in the registration, even though no restaurant services were offered since closing the last Naugles some 16 years earlier, and even though Respondent expressly stated in a document named "Franchise Offering Circular," "We no longer offer restaurants under the name of Naugles." (Item 1, Page 1; file name UFOC 3/2004). Del Tacos also identifies and lists what it categorizes as "Primary Trademarks" and the Naugles trademark is NOT listed as a Primary Trademark. (Item 13 "Trademarks", Page 20; file name UFOC 3/2004). Further, in a document named "Marketing Meeting – Reno, September 15, 1995" it states "Flyers to hand out announcing the closure of Naugles."

Additionally, Petitioner filed an intent-to-use trademark application on or about May 17, 2010, Serial No. 85040746; therefore, Petitioner is not required to offer any products or services

as of the filing of this trademark application, but must have only a bona fide intention to do so. Since 2009, Petitioner has engaged in extensive research on reviving the Naugles chain, including meeting with attorneys regarding adopting and using the Naugles trademark; meeting with Del Tacos' PR Representative Barbara Caruso, APR Caruso Communications in or around September 2009 to discuss reviving the brand; partnering with Jeff Naugle and engaging in discussions with other Naugle family members regarding the brand; recreating and testing original Naugles menu items; marketing and surveying revival of Naugles Restaurant through online blogs, facebook and Twitter pages; and securing the domain name "nauglestacos.com." Moreover, Petitioner has scouted potential locations for restaurants and met with potential investors and restaurant consultants. Except for expressly stated herein, deny.

REQUEST FOR ADMISSION NO. 9:

Petitioner has not entered into a partnership to finance the manufacturing, sale and distribution of Petitioner's NAUGLES Products.

RESPONSE TO REQUEST FOR ADMISSION NO. 9:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark.

Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also Nirvana, Inc. v. Nirvana for Health Inc., 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner has a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark and has taken the following steps in support of said intention in addition to filing the instant Petition to Cancel, on or about December 20, 2010 based on Respondent's non-use of the mark in commerce since 1995. Respondent closed the last Naugles Restaurant in 1995 in connection with their business scheme to convert Naugles Restaurants to Del Tacos. Respondent has not used the mark in commerce on the services identified in Registration No. 1,043,729, namely, restaurant services since this time; however, Respondent filed a renewal of this registration on July 8, 1996 and Section 8 & 15 Affidavits on May 18, 2006 presenting a photo of an old Naugles Restaurant sign that no longer exists. Respondent declared that they are still using the mark on the goods identified in the registration, even though no restaurant services were offered since closing the last Naugles some 16 years earlier, and even though Respondent expressly stated in a document named "Franchise Offering Circular," "We no longer offer restaurants under the name of Naugles." (Item 1, Page 1; file name UFOC 3/2004). Del Tacos also identifies and lists what it categorizes as "Primary Trademarks" and the Naugles trademark is NOT listed as a Primary Trademark. (Item 13

"Trademarks", Page 20; file name UFOC 3/2004). Further, in a document named "Marketing Meeting – Reno, September 15, 1995" it states "Flyers to hand out announcing the closure of Naugles."

Additionally, Petitioner filed an intent-to-use trademark application on or about May 17, 2010, Serial No. 85040746; therefore, Petitioner is not required to offer any products or services as of the filing of this trademark application, but must have only a bona fide intention to do so. Since 2009, Petitioner has engaged in extensive research on reviving the Naugles chain, including meeting with attorneys regarding adopting and using the Naugles trademark; meeting with Del Tacos' PR Representative Barbara Caruso, APR Caruso Communications in or around September 2009 to discuss reviving the brand; partnering with Jeff Naugle and engaging in discussions with other Naugle family members regarding the brand; recreating and testing original Naugles menu items; marketing and surveying revival of Naugles Restaurant through online blogs, facebook and Twitter pages; and securing the domain name "nauglestacos.com." Moreover, Petitioner has scouted potential locations for restaurants and met with potential investors and restaurant. Except for expressly stated herein, deny.

REQUEST FOR ADMISSION NO. 10:

Petitioner has not raised any funds to finance the manufacturing, sale and distribution of Petitioner's NAUGLES Products.

RESPONSE TO REQUEST FOR ADMISSION NO. 10:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague,

ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also Nirvana, Inc. v. Nirvana for Health Inc., 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner has a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark and has taken the following steps in support of said intention in addition to filing the instant Petition to Cancel, on or about December 20, 2010 based on Respondent's non-use of the mark in commerce since 1995. Respondent closed the last Naugles Restaurant in 1995 in connection with their business scheme to convert Naugles Restaurants to Del Tacos. Respondent has not used the mark in commerce on the services identified in Registration No. 1,043,729, namely, restaurant services since this time; however, Respondent filed a renewal of this registration on July 8, 1996 and Section 8 & 15 Affidavits on May 18, 2006 presenting a photo of an old Naugles Restaurant sign that no longer exists. Respondent declared that they are still using the mark on the goods identified in the

registration, even though no restaurant services were offered since closing the last Naugles some 16 years earlier, and even though Respondent expressly stated in a document named "Franchise Offering Circular," "We no longer offer restaurants under the name of Naugles." (Item 1, Page 1; file name UFOC 3/2004). Del Tacos also identifies and lists what it categorizes as "Primary Trademarks" and the Naugles trademark is NOT listed as a Primary Trademark. (Item 13 "Trademarks", Page 20; file name UFOC 3/2004). Further, in a document named "Marketing Meeting – Reno, September 15, 1995" it states "Flyers to hand out announcing the closure of Naugles."

Additionally, Petitioner filed an intent-to-use trademark application on or about May 17, 2010, Serial No. 85040746; therefore, Petitioner is not required to offer any products or services as of the filing of this trademark application, but must have only a bona fide intention to do so. Since 2009, Petitioner has engaged in extensive research on reviving the Naugles chain, including meeting with attorneys regarding adopting and using the Naugles trademark; meeting with Del Tacos' PR Representative Barbara Caruso, APR Caruso Communications in or around September 2009 to discuss reviving the brand; partnering with Jeff Naugle and engaging in discussions with other Naugle family members regarding the brand; recreating and testing original Naugles menu items; marketing and surveying revival of Naugles Restaurant through online blogs, facebook and Twitter pages; and securing the domain name "nauglestacos.com." Moreover, Petitioner has scouted potential locations for restaurants and met with potential investors and restaurant consultants. Except for expressly stated herein, deny.

REQUEST FOR ADMISSION NO. 11:

Petitioner has not created any marketing plans for Petitioner's NAUGLES Products.

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RESPONSE TO REQUEST FOR ADMISSION NO. 11:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also Nirvana, Inc. v. Nirvana for Health Inc., 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner has a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark and has taken the following steps in support of said intention in addition to filing the instant Petition to Cancel, on or about December 20, 2010 based on Respondent's non-use of the mark in commerce since 1995. Respondent closed the last Naugles Restaurant in 1995 in connection with their business scheme

to convert Naugles Restaurants to Del Tacos. Respondent has not used the mark in commerce on the services identified in Registration No. 1,043,729, namely, restaurant services since this time; however, Respondent filed a renewal of this registration on July 8, 1996 and Section 8 & 15 Affidavits on May 18, 2006 presenting a photo of an old Naugles Restaurant sign that no longer exists. Respondent declared that they are still using the mark on the goods identified in the registration, even though no restaurant services were offered since closing the last Naugles some 16 years earlier, and even though Respondent expressly stated in a document named "Franchise Offering Circular," "We no longer offer restaurants under the name of Naugles." (Item 1, Page 1; file name UFOC 3/2004). Del Tacos also identifies and lists what it categorizes as "Primary Trademarks" and the Naugles trademark is NOT listed as a Primary Trademark. (Item 13 "Trademarks", Page 20; file name UFOC 3/2004). Further, in a document named "Marketing Meeting – Reno, September 15, 1995" it states "Flyers to hand out announcing the closure of Naugles."

Additionally, Petitioner filed an intent-to-use trademark application on or about May 17, 2010, Serial No. 85040746; therefore, Petitioner is not required to offer any products or services as of the filing of this trademark application, but must have only a bona fide intention to do so. Since 2009, Petitioner has engaged in extensive research on reviving the Naugles chain, including meeting with attorneys regarding adopting and using the Naugles trademark; meeting with Del Tacos' PR Representative Barbara Caruso, APR Caruso Communications in or around September 2009 to discuss reviving the brand; partnering with Jeff Naugle and engaging in discussions with other Naugle family members regarding the brand; recreating and testing original Naugles menu items; marketing and surveying revival of Naugles Restaurant through online blogs, facebook and Twitter pages; and securing the domain name "nauglestacos.com."

Moreover, Petitioner has scouted potential locations for restaurants and met with potential investors and restaurant consultants. Except for expressly stated herein, deny.

REQUEST FOR ADMISSION NO.12:

Petitioner has not made any monthly expenditures to date for the purpose of manufacturing or preparing to manufacture Petitioner's NAUGLES Products.

RESPONSE TO REQUEST FOR ADMISSION NO. 12:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also Nirvana, Inc. v. Nirvana for Health Inc., 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner has a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark and has taken the following steps in support of said intention in addition to filing the instant Petition to Cancel, on or about December 20, 2010 based on Respondent's non-use of the mark in commerce since 1995. Respondent closed the last Naugles Restaurant in 1995 in connection with their business scheme to convert Naugles Restaurants to Del Tacos. Respondent has not used the mark in commerce on the services identified in Registration No. 1,043,729, namely, restaurant services since this time; however, Respondent filed a renewal of this registration on July 8, 1996 and Section 8 & 15 Affidavits on May 18, 2006 presenting a photo of an old Naugles Restaurant sign that no longer exists. Respondent declared that they are still using the mark on the goods identified in the registration, even though no restaurant services were offered since closing the last Naugles some 16 years earlier, and even though Respondent expressly stated in a document named "Franchise Offering Circular," "We no longer offer restaurants under the name of Naugles." (Item 1, Page 1; file name UFOC 3/2004). Del Tacos also identifies and lists what it categorizes as "Primary Trademarks" and the Naugles trademark is NOT listed as a Primary Trademark. (Item 13 "Trademarks", Page 20; file name UFOC 3/2004). Further, in a document named "Marketing Meeting – Reno, September 15, 1995" it states "Flyers to hand out announcing the closure of Naugles."

Additionally, Petitioner filed an intent-to-use trademark application on or about May 17, 2010, Serial No. 85040746; therefore, Petitioner is not required to offer any products or services as of the filing of this trademark application, but must have only a bona fide intention to do so. Since 2009, Petitioner has engaged in extensive research on reviving the Naugles chain, including meeting with attorneys regarding adopting and using the Naugles trademark; meeting

with Del Tacos' PR Representative Barbara Caruso, APR Caruso Communications in or around September 2009 to discuss reviving the brand; partnering with Jeff Naugle and engaging in discussions with other Naugle family members regarding the brand; recreating and testing original Naugles menu items; marketing and surveying revival of Naugles Restaurant through online blogs, facebook and Twitter pages; and securing the domain name "nauglestacos.com." Moreover, Petitioner has scouted potential locations for restaurants and met with potential investors and restaurant consultants. Except for expressly stated herein, deny.

REQUEST FOR ADMISSION NO. 13:

Petitioner has not conducted any consumer testing with respect to Petitioner's NAUGLES Products.

RESPONSE TO REQUEST FOR ADMISSION NO. 13:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must

act reasonably in framing discovery requests."); see also Nirvana, Inc. v. Nirvana for Health Inc., 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner has a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark and has taken the following steps in support of said intention in addition to filing the instant Petition to Cancel, on or about December 20, 2010 based on Respondent's non-use of the mark in commerce since 1995. Respondent closed the last Naugles Restaurant in 1995 in connection with their business scheme to convert Naugles Restaurants to Del Tacos. Respondent has not used the mark in commerce on the services identified in Registration No. 1,043,729, namely, restaurant services since this time; however, Respondent filed a renewal of this registration on July 8, 1996 and Section 8 & 15 Affidavits on May 18, 2006 presenting a photo of an old Naugles Restaurant sign that no longer exists. Respondent declared that they are still using the mark on the goods identified in the registration, even though no restaurant services were offered since closing the last Naugles some 16 years earlier, and even though Respondent expressly stated in a document named "Franchise Offering Circular," "We no longer offer restaurants under the name of Naugles." (Item 1, Page 1; file name UFOC 3/2004). Del Tacos also identifies and lists what it categorizes as "Primary Trademarks" and the Naugles trademark is NOT listed as a Primary Trademark. (Item 13 "Trademarks", Page 20; file name UFOC 3/2004). Further, in a document named "Marketing Meeting – Reno, September 15, 1995" it states "Flyers to hand out announcing the closure of Naugles."

Additionally, Petitioner filed an intent-to-use trademark application on or about May 17, 2010, Serial No. 85040746; therefore, Petitioner is not required to offer any products or services as of the filing of this trademark application, but must have only a bona fide intention to do so. Since 2009, Petitioner has engaged in extensive research on reviving the Naugles chain, including meeting with attorneys regarding adopting and using the Naugles trademark; meeting with Del Tacos' PR Representative Barbara Caruso, APR Caruso Communications in or around September 2009 to discuss reviving the brand; partnering with Jeff Naugle and engaging in discussions with other Naugle family members regarding the brand; recreating and testing original Naugles menu items; marketing and surveying revival of Naugles Restaurant through online blogs, facebook and Twitter pages; and securing the domain name "nauglestacos.com." Moreover, Petitioner has scouted potential locations for restaurants and met with potential investors and restaurant consultants. Except for expressly stated herein, deny.

REQUEST FOR ADMISSION NO. 14:

Petitioner has not conducted any market testing with respect to Petitioner's NAUGLES Products.

RESPONSE TO REQUEST FOR ADMISSION NO. 14:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or

intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also Nirvana, Inc. v. Nirvana for Health Inc., 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner has a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark and has taken the following steps in support of said intention in addition to filing the instant Petition to Cancel, on or about December 20, 2010 based on Respondent's non-use of the mark in commerce since 1995. Respondent closed the last Naugles Restaurant in 1995 in connection with their business scheme to convert Naugles Restaurants to Del Tacos. Respondent has not used the mark in commerce on the services identified in Registration No. 1,043,729, namely, restaurant services since this time; however, Respondent filed a renewal of this registration on July 8, 1996 and Section 8 & 15 Affidavits on May 18, 2006 presenting a photo of an old Naugles Restaurant sign that no longer exists. Respondent declared that they are still using the mark on the goods identified in the registration, even though no restaurant services were offered since closing the last Naugles some 16 years earlier, and even though Respondent expressly stated in a document named "Franchise Offering Circular," "We no longer offer restaurants under the name of Naugles." (Item 1, Page 1;

file name UFOC 3/2004). Del Tacos also identifies and lists what it categorizes as "Primary Trademarks" and the Naugles trademark is NOT listed as a Primary Trademark. (Item 13 "Trademarks", Page 20; file name UFOC 3/2004). Further, in a document named "Marketing Meeting – Reno, September 15, 1995" it states "Flyers to hand out announcing the closure of Naugles."

Additionally, Petitioner filed an intent-to-use trademark application on or about May 17, 2010, Serial No. 85040746; therefore, Petitioner is not required to offer any products or services as of the filing of this trademark application, but must have only a bona fide intention to do so. Since 2009, Petitioner has engaged in extensive research on reviving the Naugles chain, including meeting with attorneys regarding adopting and using the Naugles trademark; meeting with Del Tacos' PR Representative Barbara Caruso, APR Caruso Communications in or around September 2009 to discuss reviving the brand; partnering with Jeff Naugle and engaging in discussions with other Naugle family members regarding the brand; recreating and testing original Naugles menu items; marketing and surveying revival of Naugles Restaurant through online blogs, facebook and Twitter pages; and securing the domain name "nauglestacos.com." Moreover, Petitioner has scouted potential locations for restaurants and met with potential investors and restaurant consultants. Petitioner is informally aware that there is an interest in the Naugles brand in the populace. Except for expressly stated herein, deny.

REQUEST FOR ADMISSION NO. 15:

Petitioner has not conducted any consumer testing with respect to Petitioner's NAUGLES Mark.

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RESPONSE TO REQUEST FOR ADMISSION NO. 15:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also Nirvana, Inc. v. Nirvana for Health Inc., 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner has a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark and has taken the following steps in support of said intention in addition to filing the instant Petition to Cancel, on or about December 20, 2010 based on Respondent's non-use of the mark in commerce since 1995. Respondent closed the last Naugles Restaurant in 1995 in connection with their business scheme

to convert Naugles Restaurants to Del Tacos. Respondent has not used the mark in commerce on the services identified in Registration No. 1,043,729, namely, restaurant services since this time; however, Respondent filed a renewal of this registration on July 8, 1996 and Section 8 & 15 Affidavits on May 18, 2006 presenting a photo of an old Naugles Restaurant sign that no longer exists. Respondent declared that they are still using the mark on the goods identified in the registration, even though no restaurant services were offered since closing the last Naugles some 16 years earlier, and even though Respondent expressly stated in a document named "Franchise Offering Circular," "We no longer offer restaurants under the name of Naugles." (Item 1, Page 1; file name UFOC 3/2004). Del Tacos also identifies and lists what it categorizes as "Primary Trademarks" and the Naugles trademark is NOT listed as a Primary Trademark. (Item 13 "Trademarks", Page 20; file name UFOC 3/2004). Further, in a document named "Marketing Meeting – Reno, September 15, 1995" it states "Flyers to hand out announcing the closure of Naugles."

Additionally, Petitioner filed an intent-to-use trademark application on or about May 17, 2010, Serial No. 85040746; therefore, Petitioner is not required to offer any products or services as of the filing of this trademark application, but must have only a bona fide intention to do so. Since 2009, Petitioner has engaged in extensive research on reviving the Naugles chain, including meeting with attorneys regarding adopting and using the Naugles trademark; meeting with Del Tacos' PR Representative Barbara Caruso, APR Caruso Communications in or around September 2009 to discuss reviving the brand; partnering with Jeff Naugle and engaging in discussions with other Naugle family members regarding the brand; recreating and testing original Naugles menu items; marketing and surveying revival of Naugles Restaurant through online blogs, facebook and Twitter pages; and securing the domain name "nauglestacos.com."

Moreover, Petitioner has scouted potential locations for restaurants and met with potential investors and restaurant consultants. Except for expressly stated herein, deny.

REQUEST FOR ADMISSION NO. 16:

Petitioner has not conducted any market testing with respect to Petitioner's NAUGLES Marks.

RESPONSE TO REQUEST FOR ADMISSION NO. 16:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also Nirvana, Inc. v. Nirvana for Health Inc., 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner has a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark and has taken the following steps in support of said intention in addition to filing the instant Petition to Cancel, on or about December 20, 2010 based on Respondent's non-use of the mark in commerce since 1995. Respondent closed the last Naugles Restaurant in 1995 in connection with their business scheme to convert Naugles Restaurants to Del Tacos. Respondent has not used the mark in commerce on the services identified in Registration No. 1,043,729, namely, restaurant services since this time; however, Respondent filed a renewal of this registration on July 8, 1996 and Section 8 & 15 Affidavits on May 18, 2006 presenting a photo of an old Naugles Restaurant sign that no longer exists. Respondent declared that they are still using the mark on the goods identified in the registration, even though no restaurant services were offered since closing the last Naugles some 16 years earlier, and even though Respondent expressly stated in a document named "Franchise Offering Circular," "We no longer offer restaurants under the name of Naugles." (Item 1, Page 1; file name UFOC 3/2004). Del Tacos also identifies and lists what it categorizes as "Primary Trademarks" and the Naugles trademark is NOT listed as a Primary Trademark. (Item 13 "Trademarks", Page 20; file name UFOC 3/2004). Further, in a document named "Marketing Meeting – Reno, September 15, 1995" it states "Flyers to hand out announcing the closure of Naugles."

Additionally, Petitioner filed an intent-to-use trademark application on or about May 17, 2010, Serial No. 85040746; therefore, Petitioner is not required to offer any products or services as of the filing of this trademark application, but must have only a bona fide intention to do so. Since 2009, Petitioner has engaged in extensive research on reviving the Naugles chain, including meeting with attorneys regarding adopting and using the Naugles trademark; meeting

with Del Tacos' PR Representative Barbara Caruso, APR Caruso Communications in or around September 2009 to discuss reviving the brand; partnering with Jeff Naugle and engaging in discussions with other Naugle family members regarding the brand; recreating and testing original Naugles menu items; marketing and surveying revival of Naugles Restaurant through online blogs, facebook and Twitter pages; and securing the domain name "nauglestacos.com." Moreover, Petitioner has scouted potential locations for restaurants and met with potential investors and restaurant consultants. Except for expressly stated herein, deny.

REQUEST FOR ADMISSION NO. 17:

Petitioner has not entered into any contracts with third parties for manufacturing of Petitioner's NAUGLES Products.

RESPONSE TO REQUEST FOR ADMISSION NO. 17:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must

act reasonably in framing discovery requests."); see also Nirvana, Inc. v. Nirvana for Health Inc., 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner has a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark and has taken the following steps in support of said intention in addition to filing the instant Petition to Cancel, on or about December 20, 2010 based on Respondent's non-use of the mark in commerce since 1995. Respondent closed the last Naugles Restaurant in 1995 in connection with their business scheme to convert Naugles Restaurants to Del Tacos. Respondent has not used the mark in commerce on the services identified in Registration No. 1,043,729, namely, restaurant services since this time; however, Respondent filed a renewal of this registration on July 8, 1996 and Section 8 & 15 Affidavits on May 18, 2006 presenting a photo of an old Naugles Restaurant sign that no longer exists. Respondent declared that they are still using the mark on the goods identified in the registration, even though no restaurant services were offered since closing the last Naugles some 16 years earlier, and even though Respondent expressly stated in a document named "Franchise Offering Circular," "We no longer offer restaurants under the name of Naugles." (Item 1, Page 1; file name UFOC 3/2004). Del Tacos also identifies and lists what it categorizes as "Primary Trademarks" and the Naugles trademark is NOT listed as a Primary Trademark. (Item 13 "Trademarks", Page 20; file name UFOC 3/2004). Further, in a document named "Marketing Meeting – Reno, September 15, 1995" it states "Flyers to hand out announcing the closure of Naugles."

Additionally, Petitioner filed an intent-to-use trademark application on or about May 17, 2010, Serial No. 85040746; therefore, Petitioner is not required to offer any products or services as of the filing of this trademark application, but must have only a bona fide intention to do so. Since 2009, Petitioner has engaged in extensive research on reviving the Naugles chain, including meeting with attorneys regarding adopting and using the Naugles trademark; meeting with Del Tacos' PR Representative Barbara Caruso, APR Caruso Communications in or around September 2009 to discuss reviving the brand; partnering with Jeff Naugle and engaging in discussions with other Naugle family members regarding the brand; recreating and testing original Naugles menu items; marketing and surveying revival of Naugles Restaurant through online blogs, facebook and Twitter pages; and securing the domain name "nauglestacos.com." Moreover, Petitioner has scouted potential locations for restaurants and met with potential investors and restaurant consultants. Except for expressly stated herein, deny.

REQUEST FOR ADMISSION NO. 18:

Petitioner has not entered into any contracts with third parties for ingredients to be used in Petitioner's NAUGLES Products.

RESPONSE TO REQUEST FOR ADMISSION NO. 18:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or

intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also Nirvana, Inc. v. Nirvana for Health Inc., 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner has a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark and has taken the following steps in support of said intention in addition to filing the instant Petition to Cancel, on or about December 20, 2010 based on Respondent's non-use of the mark in commerce since 1995. Respondent closed the last Naugles Restaurant in 1995 in connection with their business scheme to convert Naugles Restaurants to Del Tacos. Respondent has not used the mark in commerce on the services identified in Registration No. 1,043,729, namely, restaurant services since this time; however, Respondent filed a renewal of this registration on July 8, 1996 and Section 8 & 15 Affidavits on May 18, 2006 presenting a photo of an old Naugles Restaurant sign that no longer exists. Respondent declared that they are still using the mark on the goods identified in the registration, even though no restaurant services were offered since closing the last Naugles some 16 years earlier, and even though Respondent expressly stated in a document named "Franchise Offering Circular," "We no longer offer restaurants under the name of Naugles." (Item 1, Page 1;

file name UFOC 3/2004). Del Tacos also identifies and lists what it categorizes as "Primary Trademarks" and the Naugles trademark is NOT listed as a Primary Trademark. (Item 13 "Trademarks", Page 20; file name UFOC 3/2004). Further, in a document named "Marketing Meeting – Reno, September 15, 1995" it states "Flyers to hand out announcing the closure of Naugles."

Additionally, Petitioner filed an intent-to-use trademark application on or about May 17, 2010, Serial No. 85040746; therefore, Petitioner is not required to offer any products or services as of the filing of this trademark application, but must have only a bona fide intention to do so. Since 2009, Petitioner has engaged in extensive research on reviving the Naugles chain, including meeting with attorneys regarding adopting and using the Naugles trademark; meeting with Del Tacos' PR Representative Barbara Caruso, APR Caruso Communications in or around September 2009 to discuss reviving the brand; partnering with Jeff Naugle and engaging in discussions with other Naugle family members regarding the brand; recreating and testing original Naugles menu items; marketing and surveying revival of Naugles Restaurant through online blogs, facebook and Twitter pages; and securing the domain name "nauglestacos.com." Moreover, Petitioner has scouted potential locations for restaurants and met with potential investors and restaurant consultants. Except for expressly stated herein, deny.

REQUEST FOR ADMISSION NO. 19:

Petitioner has not entered into any contracts with third parties for shipping of Petitioner's NAUGLES Products.

RESPONSE TO REQUEST FOR ADMISSION NO. 19:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to

this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also Nirvana, Inc. v. Nirvana for Health Inc., 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner has a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark and has taken the following steps in support of said intention in addition to filing the instant Petition to Cancel, on or about December 20, 2010 based on Respondent's non-use of the mark in commerce since 1995. Respondent closed the last Naugles Restaurant in 1995 in connection with their business scheme to convert Naugles Restaurants to Del Tacos. Respondent has not used the mark in commerce on the services identified in Registration No. 1,043,729, namely, restaurant services since this time; however, Respondent filed a renewal of this registration on July 8, 1996 and Section 8 & 15

Affidavits on May 18, 2006 presenting a photo of an old Naugles Restaurant sign that no longer exists. Respondent declared that they are still using the mark on the goods identified in the registration, even though no restaurant services were offered since closing the last Naugles some 16 years earlier, and even though Respondent expressly stated in a document named "Franchise Offering Circular," "We no longer offer restaurants under the name of Naugles." (Item 1, Page 1; file name UFOC 3/2004). Del Tacos also identifies and lists what it categorizes as "Primary Trademarks" and the Naugles trademark is NOT listed as a Primary Trademark. (Item 13 "Trademarks", Page 20; file name UFOC 3/2004). Further, in a document named "Marketing Meeting – Reno, September 15, 1995" it states "Flyers to hand out announcing the closure of Naugles."

Additionally, Petitioner filed an intent-to-use trademark application on or about May 17, 2010, Serial No. 85040746; therefore, Petitioner is not required to offer any products or services as of the filing of this trademark application, but must have only a bona fide intention to do so. Since 2009, Petitioner has engaged in extensive research on reviving the Naugles chain, including meeting with attorneys regarding adopting and using the Naugles trademark; meeting with Del Tacos' PR Representative Barbara Caruso, APR Caruso Communications in or around September 2009 to discuss reviving the brand; partnering with Jeff Naugle and engaging in discussions with other Naugle family members regarding the brand; recreating and testing original Naugles menu items; marketing and surveying revival of Naugles Restaurant through online blogs, facebook and Twitter pages; and securing the domain name "nauglestacos.com." Moreover, Petitioner has scouted potential locations for restaurants and met with potential investors and restaurant consultants. Except for expressly stated herein, deny.

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REQUEST FOR ADMISSION NO. 20:

Petitioner has not entered into any contracts with third parties for the sale of Petitioner's NAUGLES Products.

RESPONSE TO REQUEST FOR ADMISSION NO. 20:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also Nirvana, Inc. v. Nirvana for Health Inc., 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner has a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark and has taken the following

steps in support of said intention in addition to filing the instant Petition to Cancel, on or about December 20, 2010 based on Respondent's non-use of the mark in commerce since 1995. Respondent closed the last Naugles Restaurant in 1995 in connection with their business scheme to convert Naugles Restaurants to Del Tacos. Respondent has not used the mark in commerce on the services identified in Registration No. 1,043,729, namely, restaurant services since this time; however, Respondent filed a renewal of this registration on July 8, 1996 and Section 8 & 15 Affidavits on May 18, 2006 presenting a photo of an old Naugles Restaurant sign that no longer exists. Respondent declared that they are still using the mark on the goods identified in the registration, even though no restaurant services were offered since closing the last Naugles some 16 years earlier, and even though Respondent expressly stated in a document named "Franchise Offering Circular," "We no longer offer restaurants under the name of Naugles." (Item 1, Page 1; file name UFOC 3/2004). Del Tacos also identifies and lists what it categorizes as "Primary Trademarks" and the Naugles trademark is NOT listed as a Primary Trademark. (Item 13 "Trademarks", Page 20; file name UFOC 3/2004). Further, in a document named "Marketing Meeting – Reno, September 15, 1995" it states "Flyers to hand out announcing the closure of Naugles."

Additionally, Petitioner filed an intent-to-use trademark application on or about May 17, 2010, Serial No. 85040746; therefore, Petitioner is not required to offer any products or services as of the filing of this trademark application, but must have only a bona fide intention to do so. Since 2009, Petitioner has engaged in extensive research on reviving the Naugles chain, including meeting with attorneys regarding adopting and using the Naugles trademark; meeting with Del Tacos' PR Representative Barbara Caruso, APR Caruso Communications in or around September 2009 to discuss reviving the brand; partnering with Jeff Naugle and engaging in

discussions with other Naugle family members regarding the brand; recreating and testing original Naugles menu items; marketing and surveying revival of Naugles Restaurant through online blogs, facebook and Twitter pages; and securing the domain name "nauglestacos.com." Moreover, Petitioner has scouted potential locations for restaurants and met with potential investors and restaurant consultants. Except for expressly stated herein, deny.

REQUEST FOR ADMISSION NO. 21:

Petitioner has not entered into any contracts with third parties to operate cafeterias offering Petitioner's NAUGLES Products.

RESPONSE TO REQUEST FOR ADMISSION NO. 21:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also Nirvana, Inc. v. Nirvana for Health Inc., 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature

and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner has a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark and has taken the following steps in support of said intention in addition to filing the instant Petition to Cancel, on or about December 20, 2010 based on Respondent's non-use of the mark in commerce since 1995. Respondent closed the last Naugles Restaurant in 1995 in connection with their business scheme to convert Naugles Restaurants to Del Tacos. Respondent has not used the mark in commerce on the services identified in Registration No. 1,043,729, namely, restaurant services since this time; however, Respondent filed a renewal of this registration on July 8, 1996 and Section 8 & 15 Affidavits on May 18, 2006 presenting a photo of an old Naugles Restaurant sign that no longer exists. Respondent declared that they are still using the mark on the goods identified in the registration, even though no restaurant services were offered since closing the last Naugles some 16 years earlier, and even though Respondent expressly stated in a document named "Franchise Offering Circular," "We no longer offer restaurants under the name of Naugles." (Item 1, Page 1; file name UFOC 3/2004). Del Tacos also identifies and lists what it categorizes as "Primary Trademarks" and the Naugles trademark is NOT listed as a Primary Trademark. (Item 13 "Trademarks", Page 20; file name UFOC 3/2004). Further, in a document named "Marketing Meeting – Reno, September 15, 1995" it states "Flyers to hand out announcing the closure of Naugles."

Additionally, Petitioner filed an intent-to-use trademark application on or about May 17, 2010, Serial No. 85040746; therefore, Petitioner is not required to offer any products or services

as of the filing of this trademark application, but must have only a bona fide intention to do so. Since 2009, Petitioner has engaged in extensive research on reviving the Naugles chain, including meeting with attorneys regarding adopting and using the Naugles trademark; meeting with Del Tacos' PR Representative Barbara Caruso, APR Caruso Communications in or around September 2009 to discuss reviving the brand; partnering with Jeff Naugle and engaging in discussions with other Naugle family members regarding the brand; recreating and testing original Naugles menu items; marketing and surveying revival of Naugles Restaurant through online blogs, facebook and Twitter pages; and securing the domain name "nauglestacos.com." Moreover, Petitioner has scouted potential locations for restaurants and met with potential investors and restaurant consultants. Except for expressly stated herein, deny.

REQUEST FOR ADMISSION NO. 22:

Petitioner has not entered into any contracts with third parties for operate restaurants offering Petitioner's NAUGLES Products.

RESPONSE TO REQUEST FOR ADMISSION NO. 22:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark.

Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also Nirvana, Inc. v. Nirvana for Health Inc., 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner has a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark and has taken the following steps in support of said intention in addition to filing the instant Petition to Cancel, on or about December 20, 2010 based on Respondent's non-use of the mark in commerce since 1995. Respondent closed the last Naugles Restaurant in 1995 in connection with their business scheme to convert Naugles Restaurants to Del Tacos. Respondent has not used the mark in commerce on the services identified in Registration No. 1,043,729, namely, restaurant services since this time; however, Respondent filed a renewal of this registration on July 8, 1996 and Section 8 & 15 Affidavits on May 18, 2006 presenting a photo of an old Naugles Restaurant sign that no longer exists. Respondent declared that they are still using the mark on the goods identified in the registration, even though no restaurant services were offered since closing the last Naugles some 16 years earlier, and even though Respondent expressly stated in a document named "Franchise Offering Circular," "We no longer offer restaurants under the name of Naugles." (Item 1, Page 1; file name UFOC 3/2004). Del Tacos also identifies and lists what it categorizes as "Primary Trademarks" and the Naugles trademark is NOT listed as a Primary Trademark. (Item 13

"Trademarks", Page 20; file name UFOC 3/2004). Further, in a document named "Marketing Meeting – Reno, September 15, 1995" it states "Flyers to hand out announcing the closure of Naugles."

Additionally, Petitioner filed an intent-to-use trademark application on or about May 17, 2010, Serial No. 85040746; therefore, Petitioner is not required to offer any products or services as of the filing of this trademark application, but must have only a bona fide intention to do so. Since 2009, Petitioner has engaged in extensive research on reviving the Naugles chain, including meeting with attorneys regarding adopting and using the Naugles trademark; meeting with Del Tacos' PR Representative Barbara Caruso, APR Caruso Communications in or around September 2009 to discuss reviving the brand; partnering with Jeff Naugle and engaging in discussions with other Naugle family members regarding the brand; recreating and testing original Naugles menu items; marketing and surveying revival of Naugles Restaurant through online blogs, facebook and Twitter pages; and securing the domain name "nauglestacos.com." Moreover, Petitioner has scouted potential locations for restaurants and met with potential investors and restaurant consultants. Except for expressly stated herein, deny.

REQUEST FOR ADMISSION NO. 23:

Petitioner has not entered into any contracts with third parties for locations where Petitioner's NAUGLES Products will be offered.

RESPONSE TO REQUEST FOR ADMISSION NO. 23:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague,

ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also Nirvana, Inc. v. Nirvana for Health Inc., 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner has a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark and has taken the following steps in support of said intention in addition to filing the instant Petition to Cancel, on or about December 20, 2010 based on Respondent's non-use of the mark in commerce since 1995. Respondent closed the last Naugles Restaurant in 1995 in connection with their business scheme to convert Naugles Restaurants to Del Tacos. Respondent has not used the mark in commerce on the services identified in Registration No. 1,043,729, namely, restaurant services since this time; however, Respondent filed a renewal of this registration on July 8, 1996 and Section 8 & 15 Affidavits on May 18, 2006 presenting a photo of an old Naugles Restaurant sign that no longer exists. Respondent declared that they are still using the mark on the goods identified in the

registration, even though no restaurant services were offered since closing the last Naugles some 16 years earlier, and even though Respondent expressly stated in a document named "Franchise Offering Circular," "We no longer offer restaurants under the name of Naugles." (Item 1, Page 1; file name UFOC 3/2004). Del Tacos also identifies and lists what it categorizes as "Primary Trademarks" and the Naugles trademark is NOT listed as a Primary Trademark. (Item 13 "Trademarks", Page 20; file name UFOC 3/2004). Further, in a document named "Marketing Meeting – Reno, September 15, 1995" it states "Flyers to hand out announcing the closure of Naugles."

Additionally, Petitioner filed an intent-to-use trademark application on or about May 17, 2010, Serial No. 85040746; therefore, Petitioner is not required to offer any products or services as of the filing of this trademark application, but must have only a bona fide intention to do so. Since 2009, Petitioner has engaged in extensive research on reviving the Naugles chain, including meeting with attorneys regarding adopting and using the Naugles trademark; meeting with Del Tacos' PR Representative Barbara Caruso, APR Caruso Communications in or around September 2009 to discuss reviving the brand; partnering with Jeff Naugle and engaging in discussions with other Naugle family members regarding the brand; recreating and testing original Naugles menu items; marketing and surveying revival of Naugles Restaurant through online blogs, facebook and Twitter pages; and securing the domain name "nauglestacos.com." Moreover, Petitioner has scouted potential locations for restaurants and met with potential investors and restaurant consultants. Except for expressly stated herein, deny.

REQUEST FOR ADMISSION NO. 24:

Petitioner has not entered into any contracts with third parties for marketing of Petitioner's NAUGLES Products.

RESPONSE TO REQUEST FOR ADMISSION NO. 24:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also Nirvana, Inc. v. Nirvana for Health Inc., 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner has a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark and has taken the following steps in support of said intention in addition to filing the instant Petition to Cancel, on or about December 20, 2010 based on Respondent's non-use of the mark in commerce since 1995. Respondent closed the last Naugles Restaurant in 1995 in connection with their business scheme

to convert Naugles Restaurants to Del Tacos. Respondent has not used the mark in commerce on the services identified in Registration No. 1,043,729, namely, restaurant services since this time; however, Respondent filed a renewal of this registration on July 8, 1996 and Section 8 & 15 Affidavits on May 18, 2006 presenting a photo of an old Naugles Restaurant sign that no longer exists. Respondent declared that they are still using the mark on the goods identified in the registration, even though no restaurant services were offered since closing the last Naugles some 16 years earlier, and even though Respondent expressly stated in a document named "Franchise Offering Circular," "We no longer offer restaurants under the name of Naugles." (Item 1, Page 1; file name UFOC 3/2004). Del Tacos also identifies and lists what it categorizes as "Primary Trademarks" and the Naugles trademark is NOT listed as a Primary Trademark. (Item 13 "Trademarks", Page 20; file name UFOC 3/2004). Further, in a document named "Marketing Meeting – Reno, September 15, 1995" it states "Flyers to hand out announcing the closure of Naugles."

Additionally, Petitioner filed an intent-to-use trademark application on or about May 17, 2010, Serial No. 85040746; therefore, Petitioner is not required to offer any products or services as of the filing of this trademark application, but must have only a bona fide intention to do so. Since 2009, Petitioner has engaged in extensive research on reviving the Naugles chain, including meeting with attorneys regarding adopting and using the Naugles trademark; meeting with Del Tacos' PR Representative Barbara Caruso, APR Caruso Communications in or around September 2009 to discuss reviving the brand; partnering with Jeff Naugle and engaging in discussions with other Naugle family members regarding the brand; recreating and testing original Naugles menu items; marketing and surveying revival of Naugles Restaurant through online blogs, facebook and Twitter pages; and securing the domain name "nauglestacos.com."

Moreover, Petitioner has scouted potential locations for restaurants and met with potential investors and restaurant consultants. Except for expressly stated herein, deny.

REQUEST FOR ADMISSION NO. 25:

Petitioner has not entered into any negotiations with third parties for manufacturing of Petitioner's NAUGLES Products.

RESPONSE TO REQUEST FOR ADMISSION NO. 25:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also Nirvana, Inc. v. Nirvana for Health Inc., 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner has a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark and has taken the following steps in support of said intention in addition to filing the instant Petition to Cancel, on or about December 20, 2010 based on Respondent's non-use of the mark in commerce since 1995. Respondent closed the last Naugles Restaurant in 1995 in connection with their business scheme to convert Naugles Restaurants to Del Tacos. Respondent has not used the mark in commerce on the services identified in Registration No. 1,043,729, namely, restaurant services since this time; however, Respondent filed a renewal of this registration on July 8, 1996 and Section 8 & 15 Affidavits on May 18, 2006 presenting a photo of an old Naugles Restaurant sign that no longer exists. Respondent declared that they are still using the mark on the goods identified in the registration, even though no restaurant services were offered since closing the last Naugles some 16 years earlier, and even though Respondent expressly stated in a document named "Franchise Offering Circular," "We no longer offer restaurants under the name of Naugles." (Item 1, Page 1; file name UFOC 3/2004). Del Tacos also identifies and lists what it categorizes as "Primary Trademarks" and the Naugles trademark is NOT listed as a Primary Trademark. (Item 13 "Trademarks", Page 20; file name UFOC 3/2004). Further, in a document named "Marketing Meeting – Reno, September 15, 1995" it states "Flyers to hand out announcing the closure of Naugles."

Additionally, Petitioner filed an intent-to-use trademark application on or about May 17, 2010, Serial No. 85040746; therefore, Petitioner is not required to offer any products or services as of the filing of this trademark application, but must have only a bona fide intention to do so. Since 2009, Petitioner has engaged in extensive research on reviving the Naugles chain, including meeting with attorneys regarding adopting and using the Naugles trademark; meeting

with Del Tacos' PR Representative Barbara Caruso, APR Caruso Communications in or around September 2009 to discuss reviving the brand; partnering with Jeff Naugle and engaging in discussions with other Naugle family members regarding the brand; recreating and testing original Naugles menu items; marketing and surveying revival of Naugles Restaurant through online blogs, facebook and Twitter pages; and securing the domain name "nauglestacos.com." Moreover, Petitioner has scouted potential locations for restaurants and met with potential investors and restaurant consultants. Except for expressly stated herein, deny.

REQUEST FOR ADMISSION NO. 26:

Petitioner has not entered into any negotiations with third parties for ingredients to be used in Petitioner's NAUGLES Products.

RESPONSE TO REQUEST FOR ADMISSION NO. 26:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must

act reasonably in framing discovery requests."); see also Nirvana, Inc. v. Nirvana for Health Inc., 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner has a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark and has taken the following steps in support of said intention in addition to filing the instant Petition to Cancel, on or about December 20, 2010 based on Respondent's non-use of the mark in commerce since 1995. Respondent closed the last Naugles Restaurant in 1995 in connection with their business scheme to convert Naugles Restaurants to Del Tacos. Respondent has not used the mark in commerce on the services identified in Registration No. 1,043,729, namely, restaurant services since this time; however, Respondent filed a renewal of this registration on July 8, 1996 and Section 8 & 15 Affidavits on May 18, 2006 presenting a photo of an old Naugles Restaurant sign that no longer exists. Respondent declared that they are still using the mark on the goods identified in the registration, even though no restaurant services were offered since closing the last Naugles some 16 years earlier, and even though Respondent expressly stated in a document named "Franchise Offering Circular," "We no longer offer restaurants under the name of Naugles." (Item 1, Page 1; file name UFOC 3/2004). Del Tacos also identifies and lists what it categorizes as "Primary Trademarks" and the Naugles trademark is NOT listed as a Primary Trademark. (Item 13 "Trademarks", Page 20; file name UFOC 3/2004). Further, in a document named "Marketing Meeting – Reno, September 15, 1995" it states "Flyers to hand out announcing the closure of Naugles."

Additionally, Petitioner filed an intent-to-use trademark application on or about May 17, 2010, Serial No. 85040746; therefore, Petitioner is not required to offer any products or services as of the filing of this trademark application, but must have only a bona fide intention to do so. Since 2009, Petitioner has engaged in extensive research on reviving the Naugles chain, including meeting with attorneys regarding adopting and using the Naugles trademark; meeting with Del Tacos' PR Representative Barbara Caruso, APR Caruso Communications in or around September 2009 to discuss reviving the brand; partnering with Jeff Naugle and engaging in discussions with other Naugle family members regarding the brand; recreating and testing original Naugles menu items; marketing and surveying revival of Naugles Restaurant through online blogs, facebook and Twitter pages; and securing the domain name "nauglestacos.com." Moreover, Petitioner has scouted potential locations for restaurants and met with potential investors and restaurant consultants. Except for expressly stated herein, deny.

REQUEST FOR ADMISSION NO. 27:

Petitioner has not entered into any negotiations with third parties for shipping of Petitioner's NAUGLES Products.

RESPONSE TO REQUEST FOR ADMISSION NO. 27:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or

intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also Nirvana, Inc. v. Nirvana for Health Inc., 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner has a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark and has taken the following steps in support of said intention in addition to filing the instant Petition to Cancel, on or about December 20, 2010 based on Respondent's non-use of the mark in commerce since 1995. Respondent closed the last Naugles Restaurant in 1995 in connection with their business scheme to convert Naugles Restaurants to Del Tacos. Respondent has not used the mark in commerce on the services identified in Registration No. 1,043,729, namely, restaurant services since this time; however, Respondent filed a renewal of this registration on July 8, 1996 and Section 8 & 15 Affidavits on May 18, 2006 presenting a photo of an old Naugles Restaurant sign that no longer exists. Respondent declared that they are still using the mark on the goods identified in the registration, even though no restaurant services were offered since closing the last Naugles some 16 years earlier, and even though Respondent expressly stated in a document named "Franchise Offering Circular," "We no longer offer restaurants under the name of Naugles." (Item 1, Page 1;

file name UFOC 3/2004). Del Tacos also identifies and lists what it categorizes as "Primary Trademarks" and the Naugles trademark is NOT listed as a Primary Trademark. (Item 13 "Trademarks", Page 20; file name UFOC 3/2004). Further, in a document named "Marketing Meeting – Reno, September 15, 1995" it states "Flyers to hand out announcing the closure of Naugles."

Additionally, Petitioner filed an intent-to-use trademark application on or about May 17, 2010, Serial No. 85040746; therefore, Petitioner is not required to offer any products or services as of the filing of this trademark application, but must have only a bona fide intention to do so. Since 2009, Petitioner has engaged in extensive research on reviving the Naugles chain, including meeting with attorneys regarding adopting and using the Naugles trademark; meeting with Del Tacos' PR Representative Barbara Caruso, APR Caruso Communications in or around September 2009 to discuss reviving the brand; partnering with Jeff Naugle and engaging in discussions with other Naugle family members regarding the brand; recreating and testing original Naugles menu items; marketing and surveying revival of Naugles Restaurant through online blogs, facebook and Twitter pages; and securing the domain name "nauglestacos.com." Moreover, Petitioner has scouted potential locations for restaurants and met with potential investors and restaurant consultants. Except for expressly stated herein, deny.

REQUEST FOR ADMISSION NO. 28:

Petitioner has not entered into any negotiations with third parties for the sale of Petitioner's NAUGLES Products.

RESPONSE TO REQUEST FOR ADMISSION NO. 28:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to

this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also Nirvana, Inc. v. Nirvana for Health Inc., 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner has a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark and has taken the following steps in support of said intention in addition to filing the instant Petition to Cancel, on or about December 20, 2010 based on Respondent's non-use of the mark in commerce since 1995. Respondent closed the last Naugles Restaurant in 1995 in connection with their business scheme to convert Naugles Restaurants to Del Tacos. Respondent has not used the mark in commerce on the services identified in Registration No. 1,043,729, namely, restaurant services since this time; however, Respondent filed a renewal of this registration on July 8, 1996 and Section 8 & 15

Affidavits on May 18, 2006 presenting a photo of an old Naugles Restaurant sign that no longer exists. Respondent declared that they are still using the mark on the goods identified in the registration, even though no restaurant services were offered since closing the last Naugles some 16 years earlier, and even though Respondent expressly stated in a document named "Franchise Offering Circular," "We no longer offer restaurants under the name of Naugles." (Item 1, Page 1; file name UFOC 3/2004). Del Tacos also identifies and lists what it categorizes as "Primary Trademarks" and the Naugles trademark is NOT listed as a Primary Trademark. (Item 13 "Trademarks", Page 20; file name UFOC 3/2004). Further, in a document named "Marketing Meeting – Reno, September 15, 1995" it states "Flyers to hand out announcing the closure of Naugles."

Additionally, Petitioner filed an intent-to-use trademark application on or about May 17, 2010, Serial No. 85040746; therefore, Petitioner is not required to offer any products or services as of the filing of this trademark application, but must have only a bona fide intention to do so. Since 2009, Petitioner has engaged in extensive research on reviving the Naugles chain, including meeting with attorneys regarding adopting and using the Naugles trademark; meeting with Del Tacos' PR Representative Barbara Caruso, APR Caruso Communications in or around September 2009 to discuss reviving the brand; partnering with Jeff Naugle and engaging in discussions with other Naugle family members regarding the brand; recreating and testing original Naugles menu items; marketing and surveying revival of Naugles Restaurant through online blogs, facebook and Twitter pages; and securing the domain name "nauglestacos.com." Moreover, Petitioner has scouted potential locations for restaurants and met with potential investors and restaurant consultants. Except for expressly stated herein, deny.

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REQUEST FOR ADMISSION NO. 29:

Petitioner has not entered into any negotiations with third parties to operate cafeterias offering Petitioner's NAUGLES Products.

RESPONSE TO REQUEST FOR ADMISSION NO. 29:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also Nirvana, Inc. v. Nirvana for Health Inc., 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner has a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark and has taken the following

steps in support of said intention in addition to filing the instant Petition to Cancel, on or about December 20, 2010 based on Respondent's non-use of the mark in commerce since 1995. Respondent closed the last Naugles Restaurant in 1995 in connection with their business scheme to convert Naugles Restaurants to Del Tacos. Respondent has not used the mark in commerce on the services identified in Registration No. 1,043,729, namely, restaurant services since this time; however, Respondent filed a renewal of this registration on July 8, 1996 and Section 8 & 15 Affidavits on May 18, 2006 presenting a photo of an old Naugles Restaurant sign that no longer exists. Respondent declared that they are still using the mark on the goods identified in the registration, even though no restaurant services were offered since closing the last Naugles some 16 years earlier, and even though Respondent expressly stated in a document named "Franchise Offering Circular," "We no longer offer restaurants under the name of Naugles." (Item 1, Page 1; file name UFOC 3/2004). Del Tacos also identifies and lists what it categorizes as "Primary Trademarks" and the Naugles trademark is NOT listed as a Primary Trademark. (Item 13 "Trademarks", Page 20; file name UFOC 3/2004). Further, in a document named "Marketing Meeting – Reno, September 15, 1995" it states "Flyers to hand out announcing the closure of Naugles."

Additionally, Petitioner filed an intent-to-use trademark application on or about May 17, 2010, Serial No. 85040746; therefore, Petitioner is not required to offer any products or services as of the filing of this trademark application, but must have only a bona fide intention to do so. Since 2009, Petitioner has engaged in extensive research on reviving the Naugles chain, including meeting with attorneys regarding adopting and using the Naugles trademark; meeting with Del Tacos' PR Representative Barbara Caruso, APR Caruso Communications in or around September 2009 to discuss reviving the brand; partnering with Jeff Naugle and engaging in

discussions with other Naugle family members regarding the brand; recreating and testing original Naugles menu items; marketing and surveying revival of Naugles Restaurant through online blogs, facebook and Twitter pages; and securing the domain name "nauglestacos.com." Moreover, Petitioner has scouted potential locations for restaurants and met with potential investors and restaurant consultants. Except for expressly stated herein, deny.

REQUEST FOR ADMISSION NO. 30:

Petitioner has not entered into any negotiations with third parties to operate restaurants offering Petitioner's NAUGLES Products.

RESPONSE TO REQUEST FOR ADMISSION NO. 30:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also Nirvana, Inc. v. Nirvana for Health Inc., 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature

and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner has a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark and has taken the following steps in support of said intention in addition to filing the instant Petition to Cancel, on or about December 20, 2010 based on Respondent's non-use of the mark in commerce since 1995. Respondent closed the last Naugles Restaurant in 1995 in connection with their business scheme to convert Naugles Restaurants to Del Tacos. Respondent has not used the mark in commerce on the services identified in Registration No. 1,043,729, namely, restaurant services since this time; however, Respondent filed a renewal of this registration on July 8, 1996 and Section 8 & 15 Affidavits on May 18, 2006 presenting a photo of an old Naugles Restaurant sign that no longer exists. Respondent declared that they are still using the mark on the goods identified in the registration, even though no restaurant services were offered since closing the last Naugles some 16 years earlier, and even though Respondent expressly stated in a document named "Franchise Offering Circular," "We no longer offer restaurants under the name of Naugles." (Item 1, Page 1; file name UFOC 3/2004). Del Tacos also identifies and lists what it categorizes as "Primary Trademarks" and the Naugles trademark is NOT listed as a Primary Trademark. (Item 13 "Trademarks", Page 20; file name UFOC 3/2004). Further, in a document named "Marketing Meeting – Reno, September 15, 1995" it states "Flyers to hand out announcing the closure of Naugles."

Additionally, Petitioner filed an intent-to-use trademark application on or about May 17, 2010, Serial No. 85040746; therefore, Petitioner is not required to offer any products or services

as of the filing of this trademark application, but must have only a bona fide intention to do so. Since 2009, Petitioner has engaged in extensive research on reviving the Naugles chain, including meeting with attorneys regarding adopting and using the Naugles trademark; meeting with Del Tacos' PR Representative Barbara Caruso, APR Caruso Communications in or around September 2009 to discuss reviving the brand; partnering with Jeff Naugle and engaging in discussions with other Naugle family members regarding the brand; recreating and testing original Naugles menu items; marketing and surveying revival of Naugles Restaurant through online blogs, facebook and Twitter pages; and securing the domain name "nauglestacos.com." Moreover, Petitioner has scouted potential locations for restaurants and met with potential investors and restaurant consultants. Except for expressly stated herein, deny.

REQUEST FOR ADMISSION NO. 31:

Petitioner has not entered into any negotiations with third parties for locations where Petitioner's NAUGLES Products will be offered.

RESPONSE TO REQUEST FOR ADMISSION NO. 31:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark.

Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also Nirvana, Inc. v. Nirvana for Health Inc., 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner has a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark and has taken the following steps in support of said intention in addition to filing the instant Petition to Cancel, on or about December 20, 2010 based on Respondent's non-use of the mark in commerce since 1995. Respondent closed the last Naugles Restaurant in 1995 in connection with their business scheme to convert Naugles Restaurants to Del Tacos. Respondent has not used the mark in commerce on the services identified in Registration No. 1,043,729, namely, restaurant services since this time; however, Respondent filed a renewal of this registration on July 8, 1996 and Section 8 & 15 Affidavits on May 18, 2006 presenting a photo of an old Naugles Restaurant sign that no longer exists. Respondent declared that they are still using the mark on the goods identified in the registration, even though no restaurant services were offered since closing the last Naugles some 16 years earlier, and even though Respondent expressly stated in a document named "Franchise Offering Circular," "We no longer offer restaurants under the name of Naugles." (Item 1, Page 1; file name UFOC 3/2004). Del Tacos also identifies and lists what it categorizes as "Primary Trademarks" and the Naugles trademark is NOT listed as a Primary Trademark. (Item 13

"Trademarks", Page 20; file name UFOC 3/2004). Further, in a document named "Marketing Meeting – Reno, September 15, 1995" it states "Flyers to hand out announcing the closure of Naugles."

Additionally, Petitioner filed an intent-to-use trademark application on or about May 17, 2010, Serial No. 85040746; therefore, Petitioner is not required to offer any products or services as of the filing of this trademark application, but must have only a bona fide intention to do so. Since 2009, Petitioner has engaged in extensive research on reviving the Naugles chain, including meeting with attorneys regarding adopting and using the Naugles trademark; meeting with Del Tacos' PR Representative Barbara Caruso, APR Caruso Communications in or around September 2009 to discuss reviving the brand; partnering with Jeff Naugle and engaging in discussions with other Naugle family members regarding the brand; recreating and testing original Naugles menu items; marketing and surveying revival of Naugles Restaurant through online blogs, facebook and Twitter pages; and securing the domain name "nauglestacos.com." Moreover, Petitioner has scouted potential locations for restaurants and met with potential investors and restaurant consultants. Except for expressly stated herein, deny.

REQUEST FOR ADMISSION NO. 32:

Petitioner has not entered into any negotiations with third parties for marketing of Petitioner's NAUGLES Products.

RESPONSE TO REQUEST FOR ADMISSION NO. 32:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague,

ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also Nirvana, Inc. v. Nirvana for Health Inc., 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner has a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark and has taken the following steps in support of said intention in addition to filing the instant Petition to Cancel, on or about December 20, 2010 based on Respondent's non-use of the mark in commerce since 1995. Respondent closed the last Naugles Restaurant in 1995 in connection with their business scheme to convert Naugles Restaurants to Del Tacos. Respondent has not used the mark in commerce on the services identified in Registration No. 1,043,729, namely, restaurant services since this time; however, Respondent filed a renewal of this registration on July 8, 1996 and Section 8 & 15 Affidavits on May 18, 2006 presenting a photo of an old Naugles Restaurant sign that no longer exists. Respondent declared that they are still using the mark on the goods identified in the

registration, even though no restaurant services were offered since closing the last Naugles some 16 years earlier, and even though Respondent expressly stated in a document named "Franchise Offering Circular," "We no longer offer restaurants under the name of Naugles." (Item 1, Page 1; file name UFOC 3/2004). Del Tacos also identifies and lists what it categorizes as "Primary Trademarks" and the Naugles trademark is NOT listed as a Primary Trademark. (Item 13 "Trademarks", Page 20; file name UFOC 3/2004). Further, in a document named "Marketing Meeting – Reno, September 15, 1995" it states "Flyers to hand out announcing the closure of Naugles."

Additionally, Petitioner filed an intent-to-use trademark application on or about May 17, 2010, Serial No. 85040746; therefore, Petitioner is not required to offer any products or services as of the filing of this trademark application, but must have only a bona fide intention to do so. Since 2009, Petitioner has engaged in extensive research on reviving the Naugles chain, including meeting with attorneys regarding adopting and using the Naugles trademark; meeting with Del Tacos' PR Representative Barbara Caruso, APR Caruso Communications in or around September 2009 to discuss reviving the brand; partnering with Jeff Naugle and engaging in discussions with other Naugle family members regarding the brand; recreating and testing original Naugles menu items; marketing and surveying revival of Naugles Restaurant through online blogs, facebook and Twitter pages; and securing the domain name "nauglestacos.com." Moreover, Petitioner has scouted potential locations for restaurants and met with potential investors and restaurant consultants. Except for expressly stated herein, deny.

REQUEST FOR ADMISSION NO. 33:

The website located at the domain name http://www.mexfoodla.com/ is owned by Petitioner.

RESPONSE TO REQUEST FOR ADMISSION NO. 33:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also Nirvana, Inc. v. Nirvana for Health Inc., 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, admit.

REQUEST FOR ADMISSION NO. 34:

The website located at the domain name http://www.mexfoodla.com/ is operated by Petitioner.

RESPONSE TO REQUEST FOR ADMISSION NO. 34:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also Nirvana, Inc. v. Nirvana for Health Inc., 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, admit.

REQUEST FOR ADMISSION NO. 35:

All posts by "ChristianZ" at the domain name http://www.mexfoodla.com/ are by Petitioner.

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RESPONSE TO REQUEST FOR ADMISSION NO. 35:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also Nirvana, Inc. v. Nirvana for Health Inc., 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, deny.

REQUEST FOR ADMISSION NO. 36:

Petitioner has not discussed Petitioner's NAUGLES Products on http://www.mexfoodla.com/.

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RESPONSE TO REQUEST FOR ADMISSION NO. 36:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also Nirvana, Inc. v. Nirvana for Health Inc., 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner has a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark and has taken the following steps in support of said intention in addition to filing the instant Petition to Cancel, on or about December 20, 2010 based on Respondent's non-use of the mark in commerce since 1995. Respondent closed the last Naugles Restaurant in 1995 in connection with their business scheme

to convert Naugles Restaurants to Del Tacos. Respondent has not used the mark in commerce on the services identified in Registration No. 1,043,729, namely, restaurant services since this time; however, Respondent filed a renewal of this registration on July 8, 1996 and Section 8 & 15 Affidavits on May 18, 2006 presenting a photo of an old Naugles Restaurant sign that no longer exists. Respondent declared that they are still using the mark on the goods identified in the registration, even though no restaurant services were offered since closing the last Naugles some 16 years earlier, and even though Respondent expressly stated in a document named "Franchise Offering Circular," "We no longer offer restaurants under the name of Naugles." (Item 1, Page 1; file name UFOC 3/2004). Del Tacos also identifies and lists what it categorizes as "Primary Trademarks" and the Naugles trademark is NOT listed as a Primary Trademark. (Item 13 "Trademarks", Page 20; file name UFOC 3/2004). Further, in a document named "Marketing Meeting – Reno, September 15, 1995" it states "Flyers to hand out announcing the closure of Naugles."

Additionally, Petitioner's account is separate and apart from his planned revival of the Naugles Restaurant and is not relevant to cancellation of Respondent's trademark due to abandonment based on non-use of the mark in connection with restaurant services for over 16 years. Except for expressly stated herein, deny.

REQUEST FOR ADMISSION NO. 37:

Petitioner has not discussed Petitioner's NAUGLES Mark on http://www.mexfoodla.com/.

RESPONSE TO REQUEST FOR ADMISSION NO. 37:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to

this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also Nirvana, Inc. v. Nirvana for Health Inc., 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner has a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark and has taken the following steps in support of said intention in addition to filing the instant Petition to Cancel, on or about December 20, 2010 based on Respondent's non-use of the mark in commerce since 1995. Respondent closed the last Naugles Restaurant in 1995 in connection with their business scheme to convert Naugles Restaurants to Del Tacos. Respondent has not used the mark in commerce on the services identified in Registration No. 1,043,729, namely, restaurant services since this time; however, Respondent filed a renewal of this registration on July 8, 1996 and Section 8 & 15

Affidavits on May 18, 2006 presenting a photo of an old Naugles Restaurant sign that no longer exists. Respondent declared that they are still using the mark on the goods identified in the registration, even though no restaurant services were offered since closing the last Naugles some 16 years earlier, and even though Respondent expressly stated in a document named "Franchise Offering Circular," "We no longer offer restaurants under the name of Naugles." (Item 1, Page 1; file name UFOC 3/2004). Del Tacos also identifies and lists what it categorizes as "Primary Trademarks" and the Naugles trademark is NOT listed as a Primary Trademark. (Item 13 "Trademarks", Page 20; file name UFOC 3/2004). Further, in a document named "Marketing Meeting – Reno, September 15, 1995" it states "Flyers to hand out announcing the closure of Naugles."

Additionally, Petitioner's account is separate and apart from his planned revival of the Naugles Restaurant and is not relevant to cancellation of Respondent's trademark due to abandonment based on non-use of the mark in connection with restaurant services for over 16 years. Except for expressly stated herein, deny.

REQUEST FOR ADMISSION NO. 38:

The website located at the domain name http://ocfoodblogs.blogspot.com/ is owned by Petitioner.

RESPONSE TO REQUEST FOR ADMISSION NO. 38:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission

Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also Nirvana, Inc. v. Nirvana for Health Inc., 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, deny.

REQUEST FOR ADMISSION NO. 39:

The website located at the domain name http://ocfoodblogs.blogspot.com/ is operated by Petitioner.

RESPONSE TO REQUEST FOR ADMISSION NO. 39:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the

discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also Nirvana, Inc. v. Nirvana for Health Inc., 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, deny.

REQUEST FOR ADMISSION NO. 40:

All posts by "ChristianZ" at the domain name http://ocfoodblogs.blogspot.com/ are by Petitioner.

RESPONSE TO REQUEST FOR ADMISSION NO. 40:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or

intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also Nirvana, Inc. v. Nirvana for Health Inc., 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, deny.

REQUEST FOR ADMISSION NO. 41:

Petitioner has not discussed Petitioner's NAUGLES Products on http://ocfoodblogs.blogspot.com/.

RESPONSE TO REQUEST FOR ADMISSION NO. 41:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims

and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also Nirvana, Inc. v. Nirvana for Health Inc., 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner has a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark and has taken the following steps in support of said intention in addition to filing the instant Petition to Cancel, on or about December 20, 2010 based on Respondent's non-use of the mark in commerce since 1995. Respondent closed the last Naugles Restaurant in 1995 in connection with their business scheme to convert Naugles Restaurants to Del Tacos. Respondent has not used the mark in commerce on the services identified in Registration No. 1,043,729, namely, restaurant services since this time; however, Respondent filed a renewal of this registration on July 8, 1996 and Section 8 & 15 Affidavits on May 18, 2006 presenting a photo of an old Naugles Restaurant sign that no longer exists. Respondent declared that they are still using the mark on the goods identified in the registration, even though no restaurant services were offered since closing the last Naugles some 16 years earlier, and even though Respondent expressly stated in a document named "Franchise Offering Circular," "We no longer offer restaurants under the name of Naugles." (Item 1, Page 1; file name UFOC 3/2004). Del Tacos also identifies and lists what it categorizes as "Primary

Trademarks" and the Naugles trademark is NOT listed as a Primary Trademark. (Item 13 "Trademarks", Page 20; file name UFOC 3/2004). Further, in a document named "Marketing Meeting – Reno, September 15, 1995" it states "Flyers to hand out announcing the closure of Naugles."

Additionally, Petitioner's account is separate and apart from his planned revival of the Naugles Restaurant and is not relevant to cancellation of Respondent's trademark due to abandonment based on non-use of the mark in connection with restaurant services for over 16 years. Except for expressly stated herein, deny.

REQUEST FOR ADMISSION NO. 42:

Petitioner has not discussed Petitioner's NAUGLES Mark on http://ocfoodblogs.blogspot.com/.

RESPONSE TO REQUEST FOR ADMISSION NO. 42:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of

discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also Nirvana, Inc. v. Nirvana for Health Inc., 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner has a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark and has taken the following steps in support of said intention in addition to filing the instant Petition to Cancel, on or about December 20, 2010 based on Respondent's non-use of the mark in commerce since 1995. Respondent closed the last Naugles Restaurant in 1995 in connection with their business scheme to convert Naugles Restaurants to Del Tacos. Respondent has not used the mark in commerce on the services identified in Registration No. 1,043,729, namely, restaurant services since this time; however, Respondent filed a renewal of this registration on July 8, 1996 and Section 8 & 15 Affidavits on May 18, 2006 presenting a photo of an old Naugles Restaurant sign that no longer exists. Respondent declared that they are still using the mark on the goods identified in the registration, even though no restaurant services were offered since closing the last Naugles some 16 years earlier, and even though Respondent expressly stated in a document named "Franchise Offering Circular," "We no longer offer restaurants under the name of Naugles." (Item 1, Page 1; file name UFOC 3/2004). Del Tacos also identifies and lists what it categorizes as "Primary Trademarks" and the Naugles trademark is NOT listed as a Primary Trademark. (Item 13 "Trademarks", Page 20; file name UFOC 3/2004). Further, in a document named

"Marketing Meeting – Reno, September 15, 1995" it states "Flyers to hand out announcing the closure of Naugles."

Additionally, Petitioner's account is separate and apart from his planned revival of the Naugles Restaurant and is not relevant to cancellation of Respondent's trademark due to abandonment based on non-use of the mark in connection with restaurant services for over 16 years. Except for expressly stated herein, deny.

REQUEST FOR ADMISSION NO. 43:

The website located at the domain name http://warmth-of-the-sun.blogspot.com/ is owned by Petitioner.

RESPONSE TO REQUEST FOR ADMISSION NO. 43:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also Nirvana, Inc. v. Nirvana for Health

Inc., 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, admit.

REQUEST FOR ADMISSION NO. 44:

The website located at the domain name http://warmth-of-the-sun.blogspot.com/ is operated by Petitioner.

RESPONSE TO REQUEST FOR ADMISSION NO. 44:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also Nirvana, Inc. v. Nirvana for Health Inc., 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature

and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, admit.

REQUEST FOR ADMISSION NO. 45:

All posts by "ChristianZ" at the domain name http://warmth-of-the-sun.blogspot.com/ are by Petitioner.

RESPONSE TO REQUEST FOR ADMISSION NO. 45:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also Nirvana, Inc. v. Nirvana for Health Inc., 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of

abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, admit.

REQUEST FOR ADMISSION NO. 46:

Petitioner has not discussed Petitioner's NAUGLES Products on http://warmth-of-the-sun.blogspot.com/.

RESPONSE TO REQUEST FOR ADMISSION NO. 46:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also Nirvana, Inc. v. Nirvana for Health Inc., 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of

abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner has a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark and has taken the following steps in support of said intention in addition to filing the instant Petition to Cancel, on or about December 20, 2010 based on Respondent's non-use of the mark in commerce since 1995. Respondent closed the last Naugles Restaurant in 1995 in connection with their business scheme to convert Naugles Restaurants to Del Tacos. Respondent has not used the mark in commerce on the services identified in Registration No. 1,043,729, namely, restaurant services since this time; however, Respondent filed a renewal of this registration on July 8, 1996 and Section 8 & 15 Affidavits on May 18, 2006 presenting a photo of an old Naugles Restaurant sign that no longer exists. Respondent declared that they are still using the mark on the goods identified in the registration, even though no restaurant services were offered since closing the last Naugles some 16 years earlier, and even though Respondent expressly stated in a document named "Franchise Offering Circular," "We no longer offer restaurants under the name of Naugles." (Item 1, Page 1; file name UFOC 3/2004). Del Tacos also identifies and lists what it categorizes as "Primary Trademarks" and the Naugles trademark is NOT listed as a Primary Trademark. (Item 13 "Trademarks", Page 20; file name UFOC 3/2004). Further, in a document named "Marketing Meeting – Reno, September 15, 1995" it states "Flyers to hand out announcing the closure of Naugles."

Additionally, Petitioner's account is separate and apart from his planned revival of the Naugles Restaurant and is not relevant to cancellation of Respondent's trademark due to

abandonment based on non-use of the mark in connection with restaurant services for over 16 years. Except for expressly stated herein, deny.

REQUEST FOR ADMISSION NO. 47:

Petitioner has not discussed Petitioner's NAUGLES Mark on http://warmth-of-the-sun.blogspot.com/.

RESPONSE TO REQUEST FOR ADMISSION NO. 47:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also Nirvana, Inc. v. Nirvana for Health Inc., 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner has a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark and has taken the following steps in support of said intention in addition to filing the instant Petition to Cancel, on or about December 20, 2010 based on Respondent's non-use of the mark in commerce since 1995. Respondent closed the last Naugles Restaurant in 1995 in connection with their business scheme to convert Naugles Restaurants to Del Tacos. Respondent has not used the mark in commerce on the services identified in Registration No. 1,043,729, namely, restaurant services since this time; however, Respondent filed a renewal of this registration on July 8, 1996 and Section 8 & 15 Affidavits on May 18, 2006 presenting a photo of an old Naugles Restaurant sign that no longer exists. Respondent declared that they are still using the mark on the goods identified in the registration, even though no restaurant services were offered since closing the last Naugles some 16 years earlier, and even though Respondent expressly stated in a document named "Franchise Offering Circular," "We no longer offer restaurants under the name of Naugles." (Item 1, Page 1; file name UFOC 3/2004). Del Tacos also identifies and lists what it categorizes as "Primary Trademarks" and the Naugles trademark is NOT listed as a Primary Trademark. (Item 13 "Trademarks", Page 20; file name UFOC 3/2004). Further, in a document named "Marketing Meeting – Reno, September 15, 1995" it states "Flyers to hand out announcing the closure of Naugles."

Additionally, Petitioner's account is separate and apart from his planned revival of the Naugles Restaurant and is not relevant to cancellation of Respondent's trademark due to abandonment based on non-use of the mark in connection with restaurant services for over 16 years. Except for expressly stated herein, deny.

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REQUEST FOR ADMISSION NO. 48:

The website located at the domain name http://ocmexfood.blogspot.com/ is owned by Petitioner.

RESPONSE TO REQUEST FOR ADMISSION NO. 48:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also Nirvana, Inc. v. Nirvana for Health Inc., 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, admit.

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REQUEST FOR ADMISSION NO. 49:

The website located at the domain name http://ocmexfood.blogspot.com/ is operated by Petitioner.

RESPONSE TO REQUEST FOR ADMISSION NO. 49:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also Nirvana, Inc. v. Nirvana for Health Inc., 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, admit.

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REQUEST FOR ADMISSION NO. 50:

All posts by "ChristianZ" at the domain name http://ocmexfood.blogspot.com/ are by Petitioner.

RESPONSE TO REQUEST FOR ADMISSION NO. 50:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also Nirvana, Inc. v. Nirvana for Health Inc., 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, admit.

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REQUEST FOR ADMISSION NO. 51:

Petitioner has not discussed Petitioner's NAUGLES Products on http://ocmexfood.blogspot.com/.

RESPONSE TO REQUEST FOR ADMISSION NO. 51:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also Nirvana, Inc. v. Nirvana for Health Inc., 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner has a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark and has taken the following

steps in support of said intention in addition to filing the instant Petition to Cancel, on or about December 20, 2010 based on Respondent's non-use of the mark in commerce since 1995. Respondent closed the last Naugles Restaurant in 1995 in connection with their business scheme to convert Naugles Restaurants to Del Tacos. Respondent has not used the mark in commerce on the services identified in Registration No. 1,043,729, namely, restaurant services since this time; however, Respondent filed a renewal of this registration on July 8, 1996 and Section 8 & 15 Affidavits on May 18, 2006 presenting a photo of an old Naugles Restaurant sign that no longer exists. Respondent declared that they are still using the mark on the goods identified in the registration, even though no restaurant services were offered since closing the last Naugles some 16 years earlier, and even though Respondent expressly stated in a document named "Franchise Offering Circular," "We no longer offer restaurants under the name of Naugles." (Item 1, Page 1; file name UFOC 3/2004). Del Tacos also identifies and lists what it categorizes as "Primary Trademarks" and the Naugles trademark is NOT listed as a Primary Trademark. (Item 13 "Trademarks", Page 20; file name UFOC 3/2004). Further, in a document named "Marketing Meeting – Reno, September 15, 1995" it states "Flyers to hand out announcing the closure of Naugles."

Additionally, Petitioner has left some responses to commenters letting them know that Naugles may return. Except for expressly stated herein, deny.

REQUEST FOR ADMISSION NO. 52:

Petitioner has not discussed Petitioner's NAUGLES Mark on http://ocmexfood.blogspot.com/.

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RESPONSE TO REQUEST FOR ADMISSION NO. 52:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also Nirvana, Inc. v. Nirvana for Health Inc., 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner has a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark and has taken the following steps in support of said intention in addition to filing the instant Petition to Cancel, on or about December 20, 2010 based on Respondent's non-use of the mark in commerce since 1995. Respondent closed the last Naugles Restaurant in 1995 in connection with their business scheme

to convert Naugles Restaurants to Del Tacos. Respondent has not used the mark in commerce on the services identified in Registration No. 1,043,729, namely, restaurant services since this time; however, Respondent filed a renewal of this registration on July 8, 1996 and Section 8 & 15 Affidavits on May 18, 2006 presenting a photo of an old Naugles Restaurant sign that no longer exists. Respondent declared that they are still using the mark on the goods identified in the registration, even though no restaurant services were offered since closing the last Naugles some 16 years earlier, and even though Respondent expressly stated in a document named "Franchise Offering Circular," "We no longer offer restaurants under the name of Naugles." (Item 1, Page 1; file name UFOC 3/2004). Del Tacos also identifies and lists what it categorizes as "Primary Trademarks" and the Naugles trademark is NOT listed as a Primary Trademark. (Item 13 "Trademarks", Page 20; file name UFOC 3/2004). Further, in a document named "Marketing Meeting – Reno, September 15, 1995" it states "Flyers to hand out announcing the closure of Naugles."

Additionally, Petitioner has left responses to commenters letting them know that Naugles may return.

REQUEST FOR ADMISSION NO. 53:

The website located at the domain name http://christianziebarth.com/ is owned by Petitioner.

RESPONSE TO REQUEST FOR ADMISSION NO. 53:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague,

ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also Nirvana, Inc. v. Nirvana for Health Inc., 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, admit.

REQUEST FOR ADMISSION NO. 54:

The website located at the domain name http://christianziebarth.com/ is operated by Petitioner.

RESPONSE TO REQUEST FOR ADMISSION NO. 54:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission

Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also Nirvana, Inc. v. Nirvana for Health Inc., 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, admit.

REQUEST FOR ADMISSION NO. 55:

All the information posted at the domain name http://christianziebarth.com/ is posted by Petitioner.

RESPONSE TO REQUEST FOR ADMISSION NO. 55:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the

discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also Nirvana, Inc. v. Nirvana for Health Inc., 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, admit.

REQUEST FOR ADMISSION NO. 56:

Petitioner has not discussed Petitioner's NAUGLES Products on http://christianziebarth.com/.

RESPONSE TO REQUEST FOR ADMISSION NO. 56:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or

intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also Nirvana, Inc. v. Nirvana for Health Inc., 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, admit.

REQUEST FOR ADMISSION NO. 57:

Petitioner has not discussed Petitioner's NAUGLES Mark on http://christianziebarth.com/.

RESPONSE TO REQUEST FOR ADMISSION NO. 57:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims

and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also Nirvana, Inc. v. Nirvana for Health Inc., 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner has a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark and has taken the following steps in support of said intention in addition to filing the instant Petition to Cancel, on or about December 20, 2010 based on Respondent's non-use of the mark in commerce since 1995. Respondent closed the last Naugles Restaurant in 1995 in connection with their business scheme to convert Naugles Restaurants to Del Tacos. Respondent has not used the mark in commerce on the services identified in Registration No. 1,043,729, namely, restaurant services since this time; however, Respondent filed a renewal of this registration on July 8, 1996 and Section 8 & 15 Affidavits on May 18, 2006 presenting a photo of an old Naugles Restaurant sign that no longer exists. Respondent declared that they are still using the mark on the goods identified in the registration, even though no restaurant services were offered since closing the last Naugles some 16 years earlier, and even though Respondent expressly stated in a document named "Franchise Offering Circular," "We no longer offer restaurants under the name of Naugles." (Item 1, Page 1; file name UFOC 3/2004). Del Tacos also identifies and lists what it categorizes as "Primary

Trademarks" and the Naugles trademark is NOT listed as a Primary Trademark. (Item 13 "Trademarks", Page 20; file name UFOC 3/2004). Further, in a document named "Marketing Meeting – Reno, September 15, 1995" it states "Flyers to hand out announcing the closure of Naugles."

Additionally, Petitioner's account is separate and apart from his planned revival of the Naugles Restaurant and is not relevant to cancellation of Respondent's trademark due to abandonment based on non-use of the mark in connection with restaurant services for over 16 years. Except for expressly stated herein, deny.

REQUEST FOR ADMISSION NO. 58:

The Facebook page located at http://www.facebook.com/ocmexfood?v=wall is owned by Petitioner.

RESPONSE TO REQUEST FOR ADMISSION NO. 58:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of

discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also Nirvana, Inc. v. Nirvana for Health Inc., 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, admit.

REQUEST FOR ADMISSION NO. 59:

The Facebook page located at http://www.facebook.com/ocmexfood?v=wall is operated by Petitioner.

RESPONSE TO REQUEST FOR ADMISSION NO. 59:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must

act reasonably in framing discovery requests."); see also Nirvana, Inc. v. Nirvana for Health Inc., 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, admit.

REQUEST FOR ADMISSION NO. 60:

All posts under the name "OC Mex Food" on the Facebook page located at http://www.facebook.com/ocmexfood?v=wall are by Petitioner.

RESPONSE TO REQUEST FOR ADMISSION NO. 60:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also Nirvana, Inc. v. Nirvana for Health

Inc., 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, deny.

REQUEST FOR ADMISSION NO. 61:

Petitioner has not discussed Petitioner's NAUGLES Products on http://www.facebook.com/ocmexfood?v=wall.

RESPONSE TO REQUEST FOR ADMISSION NO. 61:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also Nirvana, Inc. v. Nirvana for Health Inc., 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature

and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner has a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark and has taken the following steps in support of said intention in addition to filing the instant Petition to Cancel, on or about December 20, 2010 based on Respondent's non-use of the mark in commerce since 1995. Respondent closed the last Naugles Restaurant in 1995 in connection with their business scheme to convert Naugles Restaurants to Del Tacos. Respondent has not used the mark in commerce on the services identified in Registration No. 1,043,729, namely, restaurant services since this time; however, Respondent filed a renewal of this registration on July 8, 1996 and Section 8 & 15 Affidavits on May 18, 2006 presenting a photo of an old Naugles Restaurant sign that no longer exists. Respondent declared that they are still using the mark on the goods identified in the registration, even though no restaurant services were offered since closing the last Naugles some 16 years earlier, and even though Respondent expressly stated in a document named "Franchise Offering Circular," "We no longer offer restaurants under the name of Naugles." (Item 1, Page 1; file name UFOC 3/2004). Del Tacos also identifies and lists what it categorizes as "Primary Trademarks" and the Naugles trademark is NOT listed as a Primary Trademark. (Item 13 "Trademarks", Page 20; file name UFOC 3/2004). Further, in a document named "Marketing Meeting – Reno, September 15, 1995" it states "Flyers to hand out announcing the closure of Naugles."

Additionally, Petitioner's account is separate and apart from his planned revival of the Naugles Restaurant and is not relevant to cancellation of Respondent's trademark due to

abandonment based on non-use of the mark in connection with restaurant services for over 16 years. Except for expressly stated herein, deny.

REQUEST FOR ADMISSION NO. 62:

Petitioner has not discussed Petitioner's NAUGLES Mark on http://www.facebook.com/ocmexfood?v=wall.

RESPONSE TO REQUEST FOR ADMISSION NO. 62:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also Nirvana, Inc. v. Nirvana for Health Inc., 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, admit.

REQUEST FOR ADMISSION NO. 63:

The Twitter page located at http://twitter.com/#!/cmziebarth is owned by Petitioner.

RESPONSE TO REQUEST FOR ADMISSION NO. 63:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also Nirvana, Inc. v. Nirvana for Health Inc., 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, admit.

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REQUEST FOR ADMISSION NO. 64:

The Twitter page located at http://twitter.com/#!/cmziebarth is operated by Petitioner.

RESPONSE TO REQUEST FOR ADMISSION NO. 64:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also Nirvana, Inc. v. Nirvana for Health Inc., 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, admit.

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REQUEST FOR ADMISSION NO. 65:

All posts under the name "cmziebarth" on http://twitter.com/#!/cmziebarth are by Petitioner.

RESPONSE TO REQUEST FOR ADMISSION NO. 65:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also Nirvana, Inc. v. Nirvana for Health Inc., 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, admit.

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REQUEST FOR ADMISSION NO. 66:

Petitioner has not discussed Petitioner's NAUGLES Products on http://twitter.com/#!/cmziebarth.

RESPONSE TO REQUEST FOR ADMISSION NO. 66:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also Nirvana, Inc. v. Nirvana for Health Inc., 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner has a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark and has taken the following

steps in support of said intention in addition to filing the instant Petition to Cancel, on or about December 20, 2010 based on Respondent's non-use of the mark in commerce since 1995. Respondent closed the last Naugles Restaurant in 1995 in connection with their business scheme to convert Naugles Restaurants to Del Tacos. Respondent has not used the mark in commerce on the services identified in Registration No. 1,043,729, namely, restaurant services since this time; however, Respondent filed a renewal of this registration on July 8, 1996 and Section 8 & 15 Affidavits on May 18, 2006 presenting a photo of an old Naugles Restaurant sign that no longer exists. Respondent declared that they are still using the mark on the goods identified in the registration, even though no restaurant services were offered since closing the last Naugles some 16 years earlier, and even though Respondent expressly stated in a document named "Franchise Offering Circular," "We no longer offer restaurants under the name of Naugles." (Item 1, Page 1; file name UFOC 3/2004). Del Tacos also identifies and lists what it categorizes as "Primary Trademarks" and the Naugles trademark is NOT listed as a Primary Trademark. (Item 13 "Trademarks", Page 20; file name UFOC 3/2004). Further, in a document named "Marketing Meeting – Reno, September 15, 1995" it states "Flyers to hand out announcing the closure of Naugles."

Additionally, Petitioner's account is separate and apart from his planned revival of the Naugles Restaurant and is not relevant to cancellation of Respondent's trademark due to abandonment based on non-use of the mark in connection with restaurant services for over 16 years. Admit.

REQUEST FOR ADMISSION NO. 67:

Petitioner has not discussed Petitioner's NAUGLES Mark on http://twitter.com/#!/cmziebarth.

RESPONSE TO REQUEST FOR ADMISSION NO. 67:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); see also Nirvana, Inc. v. Nirvana for Health Inc., 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner has a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark and has taken the following steps in support of said intention in addition to filing the instant Petition to Cancel, on or about December 20, 2010 based on Respondent's non-use of the mark in commerce since 1995. Respondent closed the last Naugles Restaurant in 1995 in connection with their business scheme

to convert Naugles Restaurants to Del Tacos. Respondent has not used the mark in commerce on the services identified in Registration No. 1,043,729, namely, restaurant services since this time; however, Respondent filed a renewal of this registration on July 8, 1996 and Section 8 & 15 Affidavits on May 18, 2006 presenting a photo of an old Naugles Restaurant sign that no longer exists. Respondent declared that they are still using the mark on the goods identified in the registration, even though no restaurant services were offered since closing the last Naugles some 16 years earlier, and even though Respondent expressly stated in a document named "Franchise Offering Circular," "We no longer offer restaurants under the name of Naugles." (Item 1, Page 1; file name UFOC 3/2004). Del Tacos also identifies and lists what it categorizes as "Primary Trademarks" and the Naugles trademark is NOT listed as a Primary Trademark. (Item 13 "Trademarks", Page 20; file name UFOC 3/2004). Further, in a document named "Marketing Meeting – Reno, September 15, 1995" it states "Flyers to hand out announcing the closure of Naugles."

Additionally, Petitioner's account is separate and apart from his planned revival of the Naugles Restaurant and is not relevant to cancellation of Respondent's trademark due to abandonment based on non-use of the mark in connection with restaurant services for over 16 years. Admit.

DATED this 14th day of March, 2012.

Respectfully submitted,

RICHARD F. CHRISTESEN, ESQ.
ATTORNEY AT LAW

Richard F. Christesen
Attorneys for Petitioner

Christian M. Ziebarth, Petitioner

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing **PETITIONER'S SUPPLEMENTAL RESPONSES TO RESPONDENT'S FIRST SET OF REQUESTS FOR ADMISSIONS, SET NO. ONE** was sent by email, on this 14th day of March, 2012, to the party below:

April L. Besl
Joshua A. Lorentz
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Cincinnati, Ohio 45202
(513) 977-8527-direct
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Attorneys for Respondent
Del Taco LLC

/s Venus Griffith Trunnel/

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

CHRISTIAN M. ZIEBARTH, **Petitioner,** **vs.** **DEL TACO LLC** **Respondent.**	**Reg. No. 1,043,729** **Cancellation No. 92053501**

PETITIONER'S RULE 26(e) SUPPLEMENTAL RESPONSES TO RESPONDENT'S FIRST SET OF INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS, SET NO. ONE

Pursuant to the Rules of Practice of the United States Patent and Trademark Office, and Rules 26(e) of the Federal Rules of Civil Procedure ("FRCP") and the Trademark Trial and Appeal Board Manual of Procedure ("TBMP"), Christian M. Ziebarth ("Petitioner") hereby supplements its responses to Del Taco, LLC's ("Respondent") First Set of Interrogatories and Requests for Production of Documents ("Requests" or "Request") as set forth below.

GENERAL OBJECTIONS TO INTERROGATORIES

Petitioner maintains all previously stated General Objections to Respondent's Interrogatories which are incorporated by reference in response to each Interrogatory set forth below and are not waived with respect to any response.

SUPPLEMENTAL RESPONSES TO RESPONDENT'S

FIRST SET OF INTERROGATORIES

INTERROGATORY NO. 1:

Describe in detail the nature of the present business of Petitioner in connection with Petitioner's NAUGLES Mark.

SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 1:

Petitioner incorporates by this reference its General Objections to Respondent's Admissions as if set forth fully herein. Petitioner maintains any and all Objections to this Request for Admission stated in its prior responses as if set forth fully herein.

Accordingly and without waiving said objections, Petitioner continues to have a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark. On or about March 21, 2012, Petitioner entered into a general partnership with Josh Maxwell and Daniel Dvorak to provide additional funding and to continue plans to open Naugles restaurants. Under California law, no agreement or filing is required and none has been memorialized in writing to date. Petitioner created an Operational Information Request and detailed Naugles Business Plan outlining Petitioner's Naugles Restaurants business which were provided to Respondent on or about June 7, 2012 and July 9, 2012, respectively.

Petitioner has provided preview meals under the Naugles mark. On or around March 20, 2012, Petitioner catered lunch at his place of employment serving Naugles menu items and created a Naugles menu for the lunch. On or around July 25, 2012, Petitioner served burritos to the Gringo Bandito Hot Sauce Company as a potential vendor in connection with its Naugles products. Petitioner continues to prepare preview meals, scout locations, develop its menu, ingredients, products, and marketing, continues to hold regular meetings, and continues to develop the Naugles Restaurant concept as outlined in its Business Plan and Operational Information Request documents.

INTERROGATORY NO. 3:

Identify each person with any information concerning Petitioner's selection of Petitioner's NAUGLES Mark.

SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 3:

Petitioner incorporates by this reference its General Objections to Respondent's Interrogatories as if set forth fully herein. Petitioner maintains any and all Objections to this Interrogatory stated in its prior responses as if set forth fully herein. Petitioner responses as follows:

Christian Ziebarth, ChristianZ@netscape.net

Josh Maxwell, josh@cacheits.com

Daniel Dvorak, daniel.r.dvorak@gmail.com

Barbara Caruso, APR Caruso Communications, consultant for Del Taco. Respondent is more likely to have full contact information for Ms. Caruso.

Jeff Naugle, jeff.naugle@att.net

INTERROGATORY NO. 4:

Describe in detail the circumstances under which Petitioner decided to select Petitioner's NAUGLES Mark for use in conjunction with Petitioner's business.

SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 4:

Petitioner incorporates by this reference its General Objections to Respondent's Interrogatories as if set forth fully herein. Petitioner maintains any and all Objections to this Interrogatory stated in its prior responses as if set forth fully herein.

Subject to the above, Petitioner is informed and believes that Respondent Del Taco abandoned the NAUGLES mark based on its non-use of the mark for over 10 years and based on Respondent's overall business plan to phase out the Naugles brand and replace it with Del Taco. As a result, Petitioner has adopted the NAUGLES mark and has a bona fide intent to use the NAUGLES mark in connection with restaurant and cafeteria services. Petitioner filed an intent

to use application for the NAUGLES mark, Application Serial No. 85040746, on May 17, 2010 and filed a Petitioner for Cancellation of the Respondent's Naugles' Registration No. 1,043,729 on December 20, 2010 following a Section 2d refusal of his application based on Respondent's registration.

INTERROGATORY NO. 5:

Identify all products or services planned to be offered by Petitioner under Petitioner's NAUGLES Mark.

SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 5:

Petitioner incorporates by this reference its General Objections to Respondent's Interrogatories as if set forth fully herein. Petitioner maintains any and all Objections to this Interrogatory stated in its prior responses as if set forth fully herein.

Subject to the above, Petitioner created a Naugles Business Plan and an Operational Information Request as requested by counsel for Del Taco on May 16, 2012. Pursuant to Rule 33(d) of the Federal Rules of Civil Procedure, the information requested by this Interrogatory is contained in the following documents: 1) Operational Information Request and 2) Naugles Business Plan. Petitioner incorporates these documents as if set forth fully herein. Both documents were provided to Respondent on or about June 7, 2012 and July 9, 2012, respectively.

Petitioner continues to have a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark. On or about March 21, 2012, Petitioner entered into a general partnership with Josh Maxwell and Daniel Dvorak to provide additional funding and to continue plans to open Naugles restaurants. Under California law, no agreement or filing is required and none has been memorialized in writing to date. Petitioner created an Operational Information Request and detailed Naugles Business Plan outlining Petitioner's Naugles.

Petitioner has provided preview meals under the Naugles mark. On or around March 20, 2012, Petitioner catered lunch at his place of employment serving Naugles menu items and created a Naugles menu for the lunch. On or around July 25, 2012, Petitioner served burritos to the Gringo Bandito Hot Sauce Company as a potential vendor in connection with its Naugles products. Petitioner continues to prepare preview meals, scout locations, develop its menu, ingredients, products, and marketing, continues to hold regular meetings, and continues to develop the Naugles Restaurant concept as outlined in its Business Plan and Operational Information Request documents.

INTERROGATORY NO. 6:

Identify all transfers of rights in Petitioner's NAUGLES Mark granted by or to Petitioner.

SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 6:

Petitioner incorporates by this reference its General Objections to Respondent's Interrogatories as if set forth fully herein. Petitioner maintains any and all Objections to this Interrogatory stated in its prior responses as if set forth fully herein.

Subject to the above, Petitioner is informed and believes that Respondent Del Taco abandoned the NAUGLES mark based on its non-use of the mark for over 10 years and based on Respondent's overall business plan to phase out the Naugles brand and replace it with Del Taco. On this basis, Petitioner has adopted the NAUGLES mark and has a bona fide intent to use the NAUGLES mark in connection with restaurant and cafeteria services. Petitioner filed an intent to use application for the NAUGLES mark, Application Serial No. 85040746, on May 17, 2010 and filed a Petitioner for Cancellation of the Respondent's Naugles' Registration No. 1,043,729 on December 20, 2010 following a Section 2d refusal of his application based on Respondent's registration.

On or about March 21, 2012, Petitioner entered into a general partnership with Josh Maxwell and Daniel Dvorak to provide additional funding and to continue plans to open Naugles restaurants. Under California law, no agreement or filing is required and none has been memorialized in writing to date. Petitioner created an Operational Information Request and detailed Naugles Business Plan outlining Petitioner's Naugles.

INTERROGATORY NO. 8:

Identify the territorial areas in the United States where Petitioner plans to offer Petitioner's NAUGLES Products.

SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 8:

Petitioner incorporates by this reference its General Objections to Respondent's Interrogatories as if set forth fully herein. Petitioner maintains any and all Objections to this Interrogatory stated in its prior responses as if set forth fully herein.

Subject to the above, Petitioner created a Naugles Business Plan and an Operational Information Request as requested by counsel for Del Taco on May 16, 2012. Pursuant to Rule 33(d) of the Federal Rules of Civil Procedure, the information requested by this Interrogatory is contained in the following documents: 1) Operational Information Request and 2) Naugles Business Plan. Petitioner incorporates these documents as if set forth fully herein. Both documents were provided to Respondent on or about June 7, 2012 and July 9, 2012, respectively.

INTERROGATORY NO. 9:

Identify the territorial areas in the United States where Petitioner plans to manufacture Petitioner's NAUGLES Products.

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SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 9:

Petitioner incorporates by this reference its General Objections to Respondent's Interrogatories as if set forth fully herein. Petitioner maintains any and all Objections to this Interrogatory stated in its prior responses as if set forth fully herein.

Subject to the above, Petitioner created a Naugles Business Plan and an Operational Information Request as requested by counsel for Del Taco on May 16, 2012. Pursuant to Rule 33(d) of the Federal Rules of Civil Procedure, the information requested by this Interrogatory is contained in the following documents: 1) Operational Information Request and 2) Naugles Business Plan. Petitioner incorporates these documents as if set forth fully herein. Both documents were provided to Respondent on or about June 7, 2012 and July 9, 2012, respectively.

INTERROGATORY NO. 10:

Identify the channels of trade through which Petitioner plans to offer Petitioner's NAUGLES Products.

SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 10:

Petitioner incorporates by this reference its General Objections to Respondent's Interrogatories as if set forth fully herein. Petitioner maintains any and all Objections to this Interrogatory stated in its prior responses as if set forth fully herein.

Subject to the above, Petitioner created a Naugles Business Plan and an Operational Information Request as requested by counsel for Del Taco on May 16, 2012. Pursuant to Rule 33(d) of the Federal Rules of Civil Procedure, the information requested by this Interrogatory is contained in the following documents: 1) Operational Information Request and 2) Naugles Business Plan. Petitioner incorporates these documents as if set forth fully herein. Both documents were provided to Respondent on or about June 7, 2012 and July 9, 2012, respectively.

INTERROGATORY NO. 11:

Identify the representative outlets through which Petitioner plans to offer Petitioner's NAUGLES Products.

SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 11:

Petitioner incorporates by this reference its General Objections to Respondent's Interrogatories as if set forth fully herein. Petitioner maintains any and all Objections to this Interrogatory stated in its prior responses as if set forth fully herein.

Subject to the above, Petitioner created a Naugles Business Plan and an Operational Information Request as requested by counsel for Del Taco on May 16, 2012. Pursuant to Rule 33(d) of the Federal Rules of Civil Procedure, the information requested by this Interrogatory is contained in the following documents: 1) Operational Information Request and 2) Naugles Business Plan. Petitioner incorporates these documents as if set forth fully herein. Both documents were provided to Respondent on or about June 7, 2012 and July 9, 2012, respectively.

INTERROGATORY NO.12:

Identify the target market to which Petitioner plans to offer Petitioner's NAUGLES Products.

SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 12:

Petitioner incorporates by this reference its General Objections to Respondent's Interrogatories as if set forth fully herein. Petitioner maintains any and all Objections to this Interrogatory stated in its prior responses as if set forth fully herein.

Subject to the above, Petitioner created a Naugles Business Plan and an Operational Information Request as requested by counsel for Del Taco on May 16, 2012. Pursuant to Rule 33(d) of the Federal Rules of Civil Procedure, the information requested by this Interrogatory is

contained in the following documents: 1) Operational Information Request and 2) Naugles Business Plan. Petitioner incorporates these documents as if set forth fully herein. Both documents were provided to Respondent on or about June 7, 2012 and July 9, 2012, respectively.

INTERROGATORY NO. 13:

Identify the target customer base to which Petitioner plans to offer Petitioner's NAUGLES Products.

SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 13:

Petitioner incorporates by this reference its General Objections to Respondent's Interrogatories as if set forth fully herein. Petitioner maintains any and all Objections to this Interrogatory stated in its prior responses as if set forth fully herein.

Subject to the above, Petitioner created a Naugles Business Plan and an Operational Information Request as requested by counsel for Del Taco on May 16, 2012. Pursuant to Rule 33(d) of the Federal Rules of Civil Procedure, the information requested by this Interrogatory is contained in the following documents: 1) Operational Information Request and 2) Naugles Business Plan. Petitioner incorporates these documents as if set forth fully herein. Both documents were provided to Respondent on or about June 7, 2012 and July 9, 2012, respectively.

INTERROGATORY NO. 14:

Identify all sources of funding to finance Petitioner's NAUGLES Products.

SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 14:

Petitioner incorporates by this reference its General Objections to Respondent's Interrogatories as if set forth fully herein. Petitioner maintains any and all Objections to this Interrogatory stated in its prior responses as if set forth fully herein.

Subject to the above, Petitioner created a Naugles Business Plan and an Operational Information Request as requested by counsel for Del Taco on May 16, 2012. Pursuant to Rule 33(d) of the Federal Rules of Civil Procedure, the information requested by this Interrogatory is contained in the following documents: 1) Operational Information Request and 2) Naugles Business Plan. Petitioner incorporates these documents as if set forth fully herein. Both documents were provided to Respondent on or about June 7, 2012 and July 9, 2012, respectively.

INTERROGATORY NO. 15:

Identify the marketing channels through which Petitioner plans to promote Petitioner's NAUGLES Mark.

SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 15:

Petitioner incorporates by this reference its General Objections to Respondent's Interrogatories as if set forth fully herein. Petitioner maintains any and all Objections to this Interrogatory stated in its prior responses as if set forth fully herein.

Subject to the above, Petitioner created a Naugles Business Plan and an Operational Information Request as requested by counsel for Del Taco on May 16, 2012. Pursuant to Rule 33(d) of the Federal Rules of Civil Procedure, the information requested by this Interrogatory is contained in the following documents: 1) Operational Information Request and 2) Naugles Business Plan. Petitioner incorporates these documents as if set forth fully herein. Both documents were provided to Respondent on or about June 7, 2012 and July 9, 2012, respectively.

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GENERAL OBJECTIONS TO RESPONDENT'S REQUESTS FOR PRODUCTION OF DOCUMENTS

Petitioner maintains all previously stated General Objections to Respondent's Document Requests which are incorporated by reference in response to each Interrogatory set forth below and are not waived with respect to any response.

DOCUMENT REQUEST NO. 3:

All documents and things which refer to any clearance searches Petitioner performed for Petitioner's NAUGLES Mark.

SUPPLEMENTAL RESPONSE TO DOCUMENT REQUEST NO. 3:

Petitioner incorporates by this reference its General Objections to Respondent's Request as if set forth fully herein. Petitioner maintains any and all Objections to this Demand for Production stated in its prior responses as if set forth fully herein. Subject to the above, None.

DOCUMENT REQUEST NO. 4:

All documents and things evidencing Petitioner's current use of Petitioner's NAUGLES Mark.

SUPPLEMENTAL RESPONSE TO DOCUMENT REQUEST NO. 4:

Petitioner incorporates by this reference its General Objections to Respondent's Request as if set forth fully herein. Petitioner maintains any and all Objections to this Demand for Production stated in its prior responses as if set forth fully herein. Accordingly and without waiving said objections, Petitioner will produce a copy of the Naugles Business Plan, Operational Information Request, photographs and other responsive, non-privileged documents to the extent that any exist and are within Petitioner's possession, custody or control.

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DOCUMENT REQUEST NO. 6:

All documents and things which refer to any products or services Petitioner offers for sale and/or plans to offer for sale under Petitioner's NAUGLES Mark.

SUPPLEMENTAL RESPONSE TO DOCUMENT REQUEST NO. 6:

Petitioner incorporates by this reference its General Objections to Respondent's Request as if set forth fully herein. Petitioner maintains any and all Objections to this Demand for Production stated in its prior responses as if set forth fully herein. Accordingly and without waiving said objections, Petitioner will produce a copy of the Naugles Business Plan, Operational Information Request, photographs and other responsive, non-privileged documents to the extent that any exist and are within Petitioner's possession, custody or control.

DOCUMENT REQUEST NO. 8:

All documents and things which refer to the territorial areas in the United States where Petitioner offers or plans to offer Petitioner's NAUGLES Products.

SUPPLEMENTAL RESPONSE TO DOCUMENT REQUEST NO. 8:

Petitioner incorporates by this reference its General Objections to Respondent's Request as if set forth fully herein. Petitioner maintains any and all Objections to this Demand for Production stated in its prior responses as if set forth fully herein. Accordingly and without waiving said objections, Petitioner will produce a copy of the Naugles Business Plan, Operational Information Request, photographs and other responsive, non-privileged documents to the extent that any exist and are within Petitioner's possession, custody or control.

DOCUMENT REQUEST NO. 9:

All documents and things which refer to the territorial areas in the United States where Petitioner manufacturers or plans to manufacture Petitioner's NAUGLES Products.

SUPPLEMENTAL RESPONSE TO DOCUMENT REQUEST NO. 9:

Petitioner incorporates by this reference its General Objections to Respondent's Request as if set forth fully herein. Petitioner maintains any and all Objections to this Demand for Production stated in its prior responses as if set forth fully herein. Accordingly and without waiving said objections, Petitioner will produce a copy of the Naugles Business Plan, Operational Information Request, photographs and other responsive, non-privileged documents to the extent that any exist and are within Petitioner's possession, custody or control.

DOCUMENT REQUEST NO. 10:

All documents and things which refer to the channels of trade through which Petitioner offers or plans to offer Petitioner's NAUGLES Products.

SUPPLEMENTAL RESPONSE TO DOCUMENT REQUEST NO. 10:

Petitioner incorporates by this reference its General Objections to Respondent's Request as if set forth fully herein. Petitioner maintains any and all Objections to this Demand for Production stated in its prior responses as if set forth fully herein. Accordingly and without waiving said objections, Petitioner will produce a copy of the Naugles Business Plan, Operational Information Request, photographs and other responsive, non-privileged documents to the extent that any exist and are within Petitioner's possession, custody or control.

DOCUMENT REQUEST NO. 11:

All documents and things which refer to representative outlets through which Petitioner offers or plans to offer Petitioner's NAUGLES Products.

SUPPLEMENTAL RESPONSE TO DOCUMENT REQUEST NO. 11:

Petitioner incorporates by this reference its General Objections to Respondent's Request as if set forth fully herein. Petitioner maintains any and all Objections to this Demand for

Production stated in its prior responses as if set forth fully herein. Accordingly and without waiving said objections, Petitioner will produce a copy of the Naugles Business Plan, Operational Information Request, photographs and other responsive, non-privileged documents to the extent that any exist and are within Petitioner's possession, custody or control.

DOCUMENT REQUEST NO. 12:

All documents and things which refer to representative customers who have or are intended to purchase Petitioner's NAUGLES Products.

SUPPLEMENTAL RESPONSE TO DOCUMENT REQUEST NO. 12:

Petitioner incorporates by this reference its General Objections to Respondent's Request as if set forth fully herein. Petitioner maintains any and all Objections to this Demand for Production stated in its prior responses as if set forth fully herein. Accordingly and without waiving said objections, Petitioner will produce a copy of the Naugles Business Plan, Operational Information Request, photographs and other responsive, non-privileged documents to the extent that any exist and are within Petitioner's possession, custody or control.

DOCUMENT REQUEST NO. 13:

All documents and things which refer to the target market Petitioner has identified for Petitioner's NAUGLES Products.

SUPPLEMENTAL RESPONSE TO DOCUMENT REQUEST NO. 13:

Petitioner incorporates by this reference its General Objections to Respondent's Request as if set forth fully herein. Petitioner maintains any and all Objections to this Demand for Production stated in its prior responses as if set forth fully herein. Accordingly and without waiving said objections, Petitioner will produce a copy of the Naugles Business Plan,

Operational Information Request, photographs and other responsive, non-privileged documents to the extent that any exist and are within Petitioner's possession, custody or control.

DOCUMENT REQUEST NO. 14:

All documents and things which refer to any source of sponsorship, funding, or other financial support for the creation, distribution, manufacturing, marketing, promotion, and/or sale of Petitioner's NAUGLES Products.

SUPPLEMENTAL RESPONSE TO DOCUMENT REQUEST NO. 14:

Petitioner incorporates by this reference its General Objections to Respondent's Request as if set forth fully herein. Petitioner maintains any and all Objections to this Demand for Production stated in its prior responses as if set forth fully herein. Accordingly and without waiving said objections, Petitioner will produce a copy of the Naugles Business Plan, Operational Information Request, photographs and other responsive, non-privileged documents to the extent that any exist and are within Petitioner's possession, custody or control.

DOCUMENT REQUEST NO. 15:

All documents and things which refer to Petitioner's present and/or planned marketing plans for Petitioner's NAUGLES Products including, but not limited to specimens of all advertising and promotional materials which relate to or refer Petitioner's NAUGLES Products.

SUPPLEMENTAL RESPONSE TO DOCUMENT REQUEST NO. 15:

Petitioner incorporates by this reference its General Objections to Respondent's Request as if set forth fully herein. Petitioner maintains any and all Objections to this Demand for Production stated in its prior responses as if set forth fully herein. Accordingly and without waiving said objections, Petitioner will produce a copy of the Naugles Business Plan,

Operational Information Request, photographs and other responsive, non-privileged documents to the extent that any exist and are within Petitioner's possession, custody or control.

DOCUMENT REQUEST NO. 16:

All documents and things from any promotional outlet, including but not limited to, magazines, blogs, newspapers, social media sites, television, radio, catalogues, circulars, leaflets, sales or promotional literature, brochures, bulletins, fliers, signs, sales displays, posters, and/or other materials in which Petitioner's NAUGLES Products have been promoted and/or may be promoted in the future.

SUPPLEMENTAL RESPONSE TO DOCUMENT REQUEST NO. 16:

Petitioner incorporates by this reference its General Objections to Respondent's Request as if set forth fully herein. Petitioner maintains any and all Objections to this Demand for Production stated in its prior responses as if set forth fully herein. Accordingly and without waiving said objections, Petitioner will produce a copy of the Naugles Business Plan, Operational Information Request, photographs and other responsive, non-privileged documents to the extent that any exist and are within Petitioner's possession, custody or control.

DOCUMENT REQUEST NO. 17:

All documents and things which refer to Petitioner's present and/or planned manufacturing processes and supply chains Petitioner's NAUGLES Products.

SUPPLEMENTAL RESPONSE TO DOCUMENT REQUEST NO. 17:

Petitioner incorporates by this reference its General Objections to Respondent's Request as if set forth fully herein. Petitioner maintains any and all Objections to this Demand for Production stated in its prior responses as if set forth fully herein. Accordingly and without waiving said objections, Petitioner will produce a copy of the Naugles Business Plan,

Operational Information Request, photographs and other responsive, non-privileged documents to the extent that any exist and are within Petitioner's possession, custody or control.

DOCUMENT REQUEST NO. 19:

All documents and things which refer to Petitioner's monthly expenditures to date and planned future expenditures with respect to Petitioner's NAUGLES Products.

SUPPLEMENTAL RESPONSE TO DOCUMENT REQUEST NO. 19:

Petitioner incorporates by this reference its General Objections to Respondent's Request as if set forth fully herein. Petitioner maintains any and all Objections to this Demand for Production stated in its prior responses as if set forth fully herein. Accordingly and without waiving said objections, Petitioner will produce a copy of the Naugles Business Plan, Operational Information Request, photographs and other responsive, non-privileged documents to the extent that any exist and are within Petitioner's possession, custody or control.

DOCUMENT REQUEST NO. 20:

All documents and things which refer to any consumer or marketing testing Petitioner has received or conducted relating to Petitioner's NAUGLES Products.

SUPPLEMENTAL RESPONSE TO DOCUMENT REQUEST NO. 20:

Petitioner incorporates by this reference its General Objections to Respondent's Request as if set forth fully herein. Petitioner maintains any and all Objections to this Demand for Production stated in its prior responses as if set forth fully herein. Accordingly and without waiving said objections, Petitioner will produce a copy of the Naugles Business Plan, Operational Information Request, photographs and other responsive, non-privileged documents to the extent that any exist and are within Petitioner's possession, custody or control.

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DOCUMENT REQUEST NO. 21:

All documents and things which refer to any consumer or market testing Petitioner has received or conducted relating to Petitioner's NAUGLES Mark.

SUPPLEMENTAL RESPONSE TO DOCUMENT REQUEST NO. 21:

Petitioner incorporates by this reference its General Objections to Respondent's Request as if set forth fully herein. Petitioner maintains any and all Objections to this Demand for Production stated in its prior responses as if set forth fully herein. Accordingly and without waiving said objections, Petitioner will produce a copy of the Naugles Business Plan, Operational Information Request, photographs and other responsive, non-privileged documents to the extent that any exist and are within Petitioner's possession, custody or control.

DOCUMENT REQUEST NO. 23:

All documents and things, including but not limited to, communications with third parties, social media pages, and blogs which refer to Petitioner's NAUGLES Mark.

SUPPLEMENTAL RESPONSE TO DOCUMENT REQUEST NO. 23:

Petitioner incorporates by this reference its General Objections to Respondent's Request as if set forth fully herein. Petitioner maintains any and all Objections to this Demand for Production stated in its prior responses as if set forth fully herein. Accordingly and without waiving said objections, Petitioner will produce a copy of the Naugles Business Plan, Operational Information Request, photographs and other responsive, non-privileged documents to the extent that any exist and are within Petitioner's possession, custody or control..

DOCUMENT REQUEST NO. 24:

All documents and things, including but not limited to, communications with third parties, social media pages, and blogs which refer to Petitioner's NAUGLES Products.

SUPPLEMENTAL RESPONSE TO DOCUMENT REQUEST NO. 24:

Petitioner incorporates by this reference its General Objections to Respondent's Request as if set forth fully herein. Petitioner maintains any and all Objections to this Demand for Production stated in its prior responses as if set forth fully herein. Accordingly and without waiving said objections, Petitioner will produce a copy of the Naugles Business Plan, Operational Information Request, photographs and other responsive, non-privileged documents to the extent that any exist and are within Petitioner's possession, custody or control.

DOCUMENT REQUEST NO. 25:

All documents and things, including but not limited to, plans, specifications, proposals, correspondence and memoranda, and samples that refer to the design, specifications, packaging, locations, recipes, format, and ingredients for Petitioner's NAUGLES Products.

SUPPLEMENTAL RESPONSE TO DOCUMENT REQUEST NO. 25:

Petitioner incorporates by this reference its General Objections to Respondent's Request as if set forth fully herein. Petitioner maintains any and all Objections to this Demand for Production stated in its prior responses as if set forth fully herein. Accordingly and without waiving said objections, Petitioner will produce a copy of the Naugles Business Plan, Operational Information Request, photographs and other responsive, non-privileged documents to the extent that any exist and are within Petitioner's possession, custody or control.

DOCUMENT REQUEST NO. 26:

All documents which refer to each and every discussion, correspondence, dispute, controversy, or proceeding of any kind or nature between Petitioner and any third party which involved Petitioner's NAUGLES Mark as applied for or any common law variation thereof.

///

SUPPLEMENTAL RESPONSE TO DOCUMENT REQUEST NO. 26:

Petitioner incorporates by this reference its General Objections to Respondent's Request as if set forth fully herein. Petitioner maintains any and all Objections to this Demand for Production stated in its prior responses as if set forth fully herein. Accordingly and without waiving said objections, Petitioner will produce a copy of the Naugles Business Plan, Operational Information Request, photographs and other responsive, non-privileged documents to the extent that any exist and are within Petitioner's possession, custody or control.

DATED this 28th day of September, 2012.

Respectfully submitted,

RICHARD F. CHRISTESEN, ESQ.
ATTORNEY AT LAW

Richard F. Christesen
Attorneys for Petitioner

Christian M. Ziebarth, Petitioner

SUPPLEMENTAL RESPONSE TO DOCUMENT REQUEST NO. 26:

Petitioner incorporates by this reference its General Objections to Respondent's Request as if set forth fully herein. Petitioner maintains any and all Objections to this Demand for Production stated in its prior responses as if set forth fully herein. Accordingly and without waiving said objections, Petitioner will produce a copy of the Naugles Business Plan, Operational Information Request, photographs and other responsive, non-privileged documents to the extent that any exist and are within Petitioner's possession, custody or control.

DATED this 28 day of September, 2012.

Respectfully submitted,

RICHARD F. CHRISTESEN, ESQ.
ATTORNEY AT LAW

Richard F. Christesen
Attorneys for Petitioner

Christian M. Ziebarth, Petitioner

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing **PETITIONER'S RULE 26(e) SUPPLEMENTAL RESPONSES TO RESPONDENT'S FIRST SET OF INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS, SET NO. ONE** was sent by *U.S. Mail*, on this 28th day of September, 2012, to the party below:

April L. Besl
Joshua A. Lorentz
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255 East Fifth Street
Cincinnati, Ohio 45202
(513) 977-8527-direct
(513) 977-8141-fax
april.besl@dinslaw.com
Attorneys for Respondent
Del Taco LLC

/s Richard F. Christesen/

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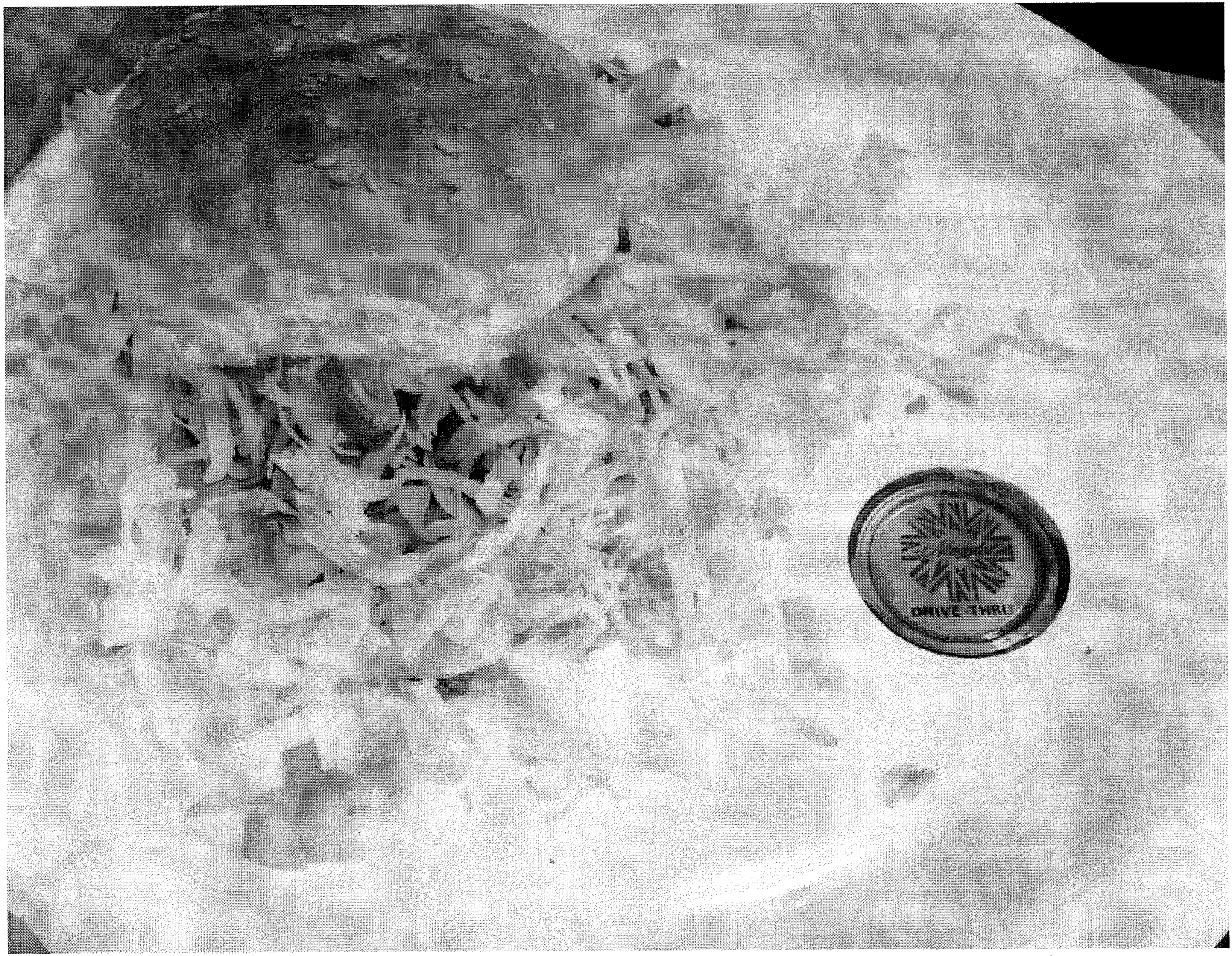
SIOUX CITY
ROOT BEER
SIOUX CITY
ROOT BEER
MADE WITH CANE SUGAR
BEER
MADE WITH CANE SUGAR
El Sabor
GRINGO
Mas Picante
BANDITO
Hot Sauce


DRIVE-THRU

March 20, 2012

Today we are serving

Naugles Tacos

- large Taco Shell
- our own special ground beef
- shredded lettuce
- diced tomatoes
- grated cheddar cheese
- Naugles red sauce

Bun Tacos

- Same as above but with a hamburger bun instead of a taco shell

Beef & Cheese Burritos

- Flour tortilla
- our own special ground beef
- grated cheddar cheese

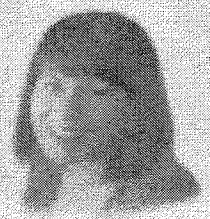
Dick Naugle Says:

- Prepare Food Fresh
- Serve Customer Fast
- Keep Place Clean

FROM OCREGISTER.COM/BUSINESS

Twitter talk suggests comeback for Naugles fast-food brand

Does anyone remember **Naugles**? The Mexican fast-food chain — famous for its bun taco and Naugleburger — disappeared years ago after it merged with Del Taco in 1988.



NANCY LUNA
REGISTER WRITER

Well, it appears Naugles might be making a comeback. One of my Twitter followers alerted me late Wednesday to say she stumbled upon a Twitter account called Naugles. The active site describes itself as a "quasi-unofficial" social-media account for the popular food chain from the 1970s and '80s.

The Twitter site, and its companion Naugles website, declares that the brand is "getting ready" for a comeback.

I messaged the Naugles Twitter account, asking if the comeback was legitimate.

The response: "We are a group of Naugles fans working to bring the beloved chain back; this is a serious, bona fide business venture, nothing less."

No other disclosures were provided, including names of the parties involved.

A year after the merger, Del Taco announced plans to convert 171 Naugles restaurants into Del Tacos.

Life is raw material. We are artisans. We can sculpt
our existence into something beautiful, or debase it
into ugliness. It's in our hands.
—Cathy Better

Daily Notes

drove w/ Bill up to
Visalia to meet w/
Jeff Naugle to talk
about reviving the old
Naugles fast food chain

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

CHRISTIAN M. ZIEBARTH, **Petitioner,** **vs.** **DEL TACO LLC** **Respondent.**	**Reg. No. 1,043,729** **Cancellation No. 92053501**

PETITIONER'S RULE 26(e) SUPPLEMENTAL RESPONSES TO RESPONDENT'S FIRST SET OF REQUESTS FOR ADMISSIONS, SET NO. ONE

Pursuant to the Rules of Practice of the United States Patent and Trademark Office, and Rules 26(e) of the Federal Rules of Civil Procedure ("FRCP") and the Trademark Trial and Appeal Board Manual of Procedure ("TBMP"), Christian M. Ziebarth ("Petitioner") hereby supplements its responses to Del Taco, LLC's ("Respondent") First Set of Request for Admissions ("Requests" or "Request") as set forth below.

GENERAL OBJECTIONS TO INTERROGATORIES

Petitioner maintains all previously stated General Objections to Respondent's Request for Admissions which are incorporated by reference in response to each Admission set forth below and are not waived with respect to any response.

SUPPLEMENTAL RESPONSES TO RESPONDENT'S

FIRST SET OF REQUEST FOR ADMISSIONS

REQUEST FOR ADMISSION NO. 1:

Petitioner is not currently offering any products under Petitioner's NAUGLES Mark.

SUPPLEMENTAL RESPONSE TO REQUEST FOR ADMISSION NO. 1:

Petitioner incorporates by this reference its General Objections to Respondent's Admissions as if set forth fully herein. Petitioner maintains any and all Objections to this Request for Admission stated in its prior responses as if set forth fully herein.

Accordingly and without waiving said objections, Petitioner continues to have a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark. On or about March 21, 2012, Petitioner entered into a general partnership with Josh Maxwell and Daniel Dvorak to provide additional funding and to continue plans to open Naugles restaurants. Under California law, no agreement or filing is required and none has been memorialized in writing to date. Petitioner created an Operational Information Request and detailed Naugles Business Plan outlining Petitioner's Naugles Restaurants business which were provided to Respondent on or about June 7, 2012 and July 9, 2012, respectively.

Petitioner has provided preview meals under the Naugles mark. On or around March 20, 2012, Petitioner catered lunch at his place of employment serving Naugles menu items and created a Naugles menu for the lunch. On or around July 25, 2012, Petitioner served burritos to the Gringo Bandito Hot Sauce Company as a potential vendor in connection with its Naugles products. Petitioner continues to prepare preview meals, scout locations, develop its menu, ingredients, products, and marketing, continues to hold regular meetings, and continues to develop the Naugles Restaurant concept as outlined in its Business Plan and Operational Information Request documents.

Subject to the above, Admit.

REQUEST FOR ADMISSION NO. 2:

Petitioner has not previously offered any products under Petitioner's NAUGLES Mark.

SUPPLEMENTAL RESPONSE TO REQUEST FOR ADMISSION NO. 2:

Petitioner incorporates by this reference its General Objections to Respondent's Admissions as if set forth fully herein. Petitioner maintains any and all Objections to this Request for Admission stated in its prior responses as if set forth fully herein.

Accordingly and without waiving said objections, Petitioner continues to have a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark. On or about March 21, 2012, Petitioner entered into a general partnership with Josh Maxwell and Daniel Dvorak to provide additional funding and to continue plans to open Naugles restaurants. Under California law, no agreement or filing is required and none has been memorialized in writing to date. Petitioner created an Operational Information Request and detailed Naugles Business Plan outlining Petitioner's Naugles Restaurants business which were provided to Respondent on or about June 7, 2012 and July 9, 2012, respectively.

Petitioner has provided preview meals under the Naugles mark. On or around March 20, 2012, Petitioner catered lunch at his place of employment serving Naugles menu items and created a Naugles menu for the lunch. On or around July 25, 2012, Petitioner served burritos to the Gringo Bandito Hot Sauce Company as a potential vendor in connection with its Naugles products. Petitioner continues to prepare preview meals, scout locations, develop its menu, ingredients, products, and marketing, continues to hold regular meetings, and continues to develop the Naugles Restaurant concept as outlined in its Business Plan and Operational Information Request documents. Subject to the above, Deny.

REQUEST FOR ADMISSION NO. 3:

Petitioner is not currently offering any services under Petitioner's NAUGLES Mark.

///

SUPPLEMENTAL RESPONSE TO REQUEST FOR ADMISSION NO. 3:

Petitioner incorporates by this reference its General Objections to Respondent's Admissions as if set forth fully herein. Petitioner maintains any and all Objections to this Request for Admission stated in its prior responses as if set forth fully herein.

Accordingly and without waiving said objections, Petitioner continues to have a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark. On or about March 21, 2012, Petitioner entered into a general partnership with Josh Maxwell and Daniel Dvorak to provide additional funding and to continue plans to open Naugles restaurants. Under California law, no agreement or filing is required and none has been memorialized in writing to date. Petitioner created an Operational Information Request and detailed Naugles Business Plan outlining Petitioner's Naugles Restaurants business which were provided to Respondent on or about June 7, 2012 and July 9, 2012, respectively.

Petitioner has provided preview meals under the Naugles mark. On or around March 20, 2012, Petitioner catered lunch at his place of employment serving Naugles menu items and created a Naugles menu for the lunch. On or around July 25, 2012, Petitioner served burritos to the Gringo Bandito Hot Sauce Company as a potential vendor in connection with its Naugles products. Petitioner continues to prepare preview meals, scout locations, develop its menu, ingredients, products, and marketing, continues to hold regular meetings, and continues to develop the Naugles Restaurant concept as outlined in its Business Plan and Operational Information Request documents. Subject to the above, Admit.

REQUEST FOR ADMISSION NO. 4:

Petitioner has not previously offered any services under Petitioner's NAUGLES Mark.

///

SUPPLEMENTAL RESPONSE TO REQUEST FOR ADMISSION NO. 4:

Petitioner incorporates by this reference its General Objections to Respondent's Admissions as if set forth fully herein. Petitioner maintains any and all Objections to this Request for Admission stated in its prior responses as if set forth fully herein.

Accordingly and without waiving said objections, Petitioner continues to have a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark. On or about March 21, 2012, Petitioner entered into a general partnership with Josh Maxwell and Daniel Dvorak to provide additional funding and to continue plans to open Naugles restaurants. Under California law, no agreement or filing is required and none has been memorialized in writing to date. Petitioner created an Operational Information Request and detailed Naugles Business Plan outlining Petitioner's Naugles Restaurants business which were provided to Respondent on or about June 7, 2012 and July 9, 2012, respectively.

Petitioner has provided preview meals under the Naugles mark. On or around March 20, 2012, Petitioner catered lunch at his place of employment serving Naugles menu items and created a Naugles menu for the lunch. On or around July 25, 2012, Petitioner served burritos to the Gringo Bandito Hot Sauce Company as a potential vendor in connection with its Naugles products. Petitioner continues to prepare preview meals, scout locations, develop its menu, ingredients, products, and marketing, continues to hold regular meetings, and continues to develop the Naugles Restaurant concept as outlined in its Business Plan and Operational Information Request documents. Subject to the above, Deny.

REQUEST FOR ADMISSION NO. 5:

Petitioner was not offering cafeteria and restaurant services under Petitioner's NAUGLES Mark as of May 17, 2010.

SUPPLEMENTAL RESPONSE TO REQUEST FOR ADMISSION NO. 5:

Petitioner incorporates by this reference its General Objections to Respondent's Admission Requests as if set forth fully herein. Petitioner maintains any and all Objections to this Admission Request stated in its original response to this Admission Request as if set forth fully herein. Petitioner further objects to this Admission Request on the grounds that it is vague, ambiguous, unduly burdensome and overly broad. Petitioner also objects that this Admission Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because information and materials regarding Petitioner's use or intended use of the mark NAUGLES is irrelevant in a cancellation action based on the claims and defenses submitted in connection with Respondent's abandonment of the NAUGLES mark. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party"); T.B.M.P. § 402.01 ("While the scope of discovery is therefore somewhat broad, parties may not engage in 'fishing expeditions' and must act reasonably in framing discovery requests."); *see also Nirvana, Inc. v. Nirvana for Health Inc.,* 2010WL5099662, f.4 (T.T.A.B., Dec. 1, 2010) (non precedential) (stating that the nature and extent of petitioner's use of its mark is irrelevant in connection with petitioner's claim of abandonment of respondent's mark). As set forth in these objections, Petitioner maintains that this Admission Request is outside the allowable scope of discovery in this proceeding.

Accordingly and without waiving said objections, Petitioner has a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark and has taken the following steps in support of said intention in addition to filing the instant Petition to Cancel, on or about December 20, 2010 based on Respondent's non-use of the mark in commerce since 1995. Respondent closed the last Naugles Restaurant in 1995 in connection with their business scheme

to convert Naugles Restaurants to Del Tacos. Respondent has not used the mark in commerce on the services identified in Registration No. 1,043,729, namely, restaurant services since this time; however, Respondent filed a renewal of this registration on July 8, 1996 and Section 8 & 15 Affidavits on May 18, 2006 presenting a photo of an old Naugles Restaurant sign that no longer exists. Respondent declared that they are still using the mark on the goods identified in the registration, even though no restaurant services were offered since closing the last Naugles some 16 years earlier, and even though Respondent expressly stated in a document named "Franchise Offering Circular," "We no longer offer restaurants under the name of Naugles." (Item 1, Page 1; file name UFOC 3/2004). Del Tacos also identifies and lists what it categorizes as "Primary Trademarks" and the Naugles trademark is NOT listed as a Primary Trademark. (Item 13 "Trademarks", Page 20; file name UFOC 3/2004). Further, in a document named "Marketing Meeting – Reno, September 15, 1995" it states "Flyers to hand out announcing the closure of Naugles."

Additionally, Petitioner filed an intent-to-use trademark application on or about May 17, 2010, Serial No. 85040746; therefore, Petitioner is not required to offer any products or services as of the filing of this trademark application, but must have only a bona fide intention to do so. Since 2009, Petitioner has engaged in extensive research on reviving the Naugles chain, including meeting with attorneys regarding adopting and using the Naugles trademark; meeting with Del Tacos' PR Representative Barbara Caruso, APR Caruso Communications in or around September 2009 to discuss reviving the brand; partnering with Jeff Naugle and engaging in discussions with other Naugle family members regarding the brand; recreating and testing original Naugles menu items; marketing and surveying revival of Naugles Restaurant through online blogs, facebook and Twitter pages; and securing the domain name "nauglestacos.com."

Moreover, Petitioner has provided preview meals, scouted potential locations for restaurants and met with potential investors and restaurant consultants. Subject to the above, Admit.

REQUEST FOR ADMISSION NO. 6:

Petitioner is not currently offering cafeteria and restaurant services under Petitioner's NAUGLES Mark.

SUPPLEMENTAL RESPONSE TO REQUEST FOR ADMISSION NO. 6:

Petitioner incorporates by this reference its General Objections to Respondent's Admissions as if set forth fully herein. Petitioner maintains any and all Objections to this Request for Admission stated in its prior responses as if set forth fully herein.

Accordingly and without waiving said objections, Petitioner continues to have a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark. On or about March 21, 2012, Petitioner entered into a general partnership with Josh Maxwell and Daniel Dvorak to provide additional funding and to continue plans to open Naugles restaurants. Under California law, no agreement or filing is required and none has been memorialized in writing to date. Petitioner created an Operational Information Request and detailed Naugles Business Plan outlining Petitioner's Naugles Restaurants business which were provided to Respondent on or about June 7, 2012 and July 9, 2012, respectively.

Petitioner has provided preview meals under the Naugles mark. On or around March 20, 2012, Petitioner catered lunch at his place of employment serving Naugles menu items and created a Naugles menu for the lunch. On or around July 25, 2012, Petitioner served burritos to the Gringo Bandito Hot Sauce Company as a potential vendor in connection with its Naugles products. Petitioner continues to prepare preview meals, scout locations, develop its menu, ingredients, products, and marketing, continues to hold regular meetings, and continues to

develop the Naugles Restaurant concept as outlined in its Business Plan and Operational Information Request documents. Subject to the above, Admit.

REQUEST FOR ADMISSION NO. 7:

Petitioner has not entered into any licensing agreements with third parties in connection with Petitioner's NAUGLES Mark.

SUPPLEMENTAL RESPONSE TO REQUEST FOR ADMISSION NO. 7:

Petitioner incorporates by this reference its General Objections to Respondent's Admissions as if set forth fully herein. Petitioner maintains any and all Objections to this Request for Admission stated in its prior responses as if set forth fully herein.

Accordingly and without waiving said objections, Petitioner continues to have a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark. On or about March 21, 2012, Petitioner entered into a general partnership with Josh Maxwell and Daniel Dvorak to provide additional funding and to continue plans to open Naugles restaurants. Under California law, no agreement or filing is required and none has been memorialized in writing to date. Petitioner created an Operational Information Request and detailed Naugles Business Plan outlining Petitioner's Naugles Restaurants business which were provided to Respondent on or about June 7, 2012 and July 9, 2012, respectively.

Petitioner has provided preview meals under the Naugles mark. On or around March 20, 2012, Petitioner catered lunch at his place of employment serving Naugles menu items and created a Naugles menu for the lunch. On or around July 25, 2012, Petitioner served burritos to the Gringo Bandito Hot Sauce Company as a potential vendor in connection with its Naugles products. Petitioner continues to prepare preview meals, scout locations, develop its menu, ingredients, products, and marketing, continues to hold regular meetings, and continues to

develop the Naugles Restaurant concept as outlined in its Business Plan and Operational Information Request documents. Subject to the above, Admit.

REQUEST FOR ADMISSION NO. 8:

Petitioner has not obtained any loans necessary to finance the manufacturing, sale and distribution of Petitioner's NAUGLES Products.

SUPPLEMENTAL RESPONSE TO REQUEST FOR ADMISSION NO. 8:

Petitioner incorporates by this reference its General Objections to Respondent's Admissions as if set forth fully herein. Petitioner maintains any and all Objections to this Request for Admission stated in its prior responses as if set forth fully herein.

Accordingly and without waiving said objections, Petitioner continues to have a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark. On or about March 21, 2012, Petitioner entered into a general partnership with Josh Maxwell and Daniel Dvorak to provide additional funding and to continue plans to open Naugles restaurants. Under California law, no agreement or filing is required and none has been memorialized in writing to date. Petitioner created an Operational Information Request and detailed Naugles Business Plan outlining Petitioner's Naugles Restaurants business which were provided to Respondent on or about June 7, 2012 and July 9, 2012, respectively.

Petitioner continues to prepare preview meals, scout locations, develop its menu, ingredients, products, and marketing, continues to hold regular meetings, and continues to develop the Naugles Restaurant concept as outlined in its Business Plan and Operational Information Request documents. Subject to the above, Deny.

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REQUEST FOR ADMISSION NO. 9:

Petitioner has not entered into a partnership to finance the manufacturing, sale and distribution of Petitioner's NAUGLES Products.

SUPPLEMENTAL RESPONSE TO REQUEST FOR ADMISSION NO. 9:

Petitioner incorporates by this reference its General Objections to Respondent's Admissions as if set forth fully herein. Petitioner maintains any and all Objections to this Request for Admission stated in its prior responses as if set forth fully herein.

Accordingly and without waiving said objections, Petitioner continues to have a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark. On or about March 21, 2012, Petitioner entered into a general partnership with Josh Maxwell and Daniel Dvorak to provide additional funding and to continue plans to open Naugles restaurants. Under California law, no agreement or filing is required and none has been memorialized in writing to date. Petitioner created an Operational Information Request and detailed Naugles Business Plan outlining Petitioner's Naugles Restaurants business which were provided to Respondent on or about June 7, 2012 and July 9, 2012, respectively. Subject to the above, Deny.

REQUEST FOR ADMISSION NO. 10:

Petitioner has not raised any funds to finance the manufacturing, sale and distribution of Petitioner's NAUGLES Products.

SUPPLEMENTAL RESPONSE TO REQUEST FOR ADMISSION NO. 10:

Petitioner incorporates by this reference its General Objections to Respondent's Admissions as if set forth fully herein. Petitioner maintains any and all Objections to this Request for Admission stated in its prior responses as if set forth fully herein.

Accordingly and without waiving said objections, Petitioner continues to have a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark. On or about March 21, 2012, Petitioner entered into a general partnership with Josh Maxwell and Daniel Dvorak to provide additional funding and to continue plans to open Naugles restaurants. Under California law, no agreement or filing is required and none has been memorialized in writing to date. Petitioner created an Operational Information Request and detailed Naugles Business Plan outlining Petitioner's Naugles Restaurants business which were provided to Respondent on or about June 7, 2012 and July 9, 2012, respectively.

Petitioner continues to prepare preview meals, scout locations, develop its menu, ingredients, products, and marketing, continues to hold regular meetings, and continues to develop the Naugles Restaurant concept as outlined in its Business Plan and Operational Information Request documents. Subject to the above, Deny.

REQUEST FOR ADMISSION NO. 11:

Petitioner has not created any marketing plans for Petitioner's NAUGLES Products.

SUPPLEMENTAL RESPONSE TO REQUEST FOR ADMISSION NO. 11:

Petitioner incorporates by this reference its General Objections to Respondent's Admissions as if set forth fully herein. Petitioner maintains any and all Objections to this Request for Admission stated in its prior responses as if set forth fully herein.

Accordingly and without waiving said objections, Petitioner continues to have a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark. On or about March 21, 2012, Petitioner entered into a general partnership with Josh Maxwell and Daniel Dvorak to provide additional funding and to continue plans to open Naugles restaurants. Under California law, no agreement or filing is required and none has been memorialized in writing to

date. Petitioner created an Operational Information Request and detailed Naugles Business Plan outlining Petitioner's Naugles Restaurants business which were provided to Respondent on or about June 7, 2012 and July 9, 2012, respectively.

Petitioner has provided preview meals under the Naugles mark. On or around March 20, 2012, Petitioner catered lunch at his place of employment serving Naugles menu items and created a Naugles menu for the lunch. On or around July 25, 2012, Petitioner served burritos to the Gringo Bandito Hot Sauce Company as a potential vendor in connection with its Naugles products. Petitioner continues to prepare preview meals, scout locations, develop its menu, ingredients, products, and marketing, continues to hold regular meetings, and continues to develop the Naugles Restaurant concept as outlined in its Business Plan and Operational Information Request documents. Subject to the above, Deny.

REQUEST FOR ADMISSION NO.12:

Petitioner has not made any monthly expenditures to date for the purpose of manufacturing or preparing to manufacture Petitioner's NAUGLES Products.

SUPPLEMENTAL RESPONSE TO REQUEST FOR ADMISSION NO. 12:

Petitioner incorporates by this reference its General Objections to Respondent's Admissions as if set forth fully herein. Petitioner maintains any and all Objections to this Request for Admission stated in its prior responses as if set forth fully herein.

Accordingly and without waiving said objections, Petitioner continues to have a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark. On or about March 21, 2012, Petitioner entered into a general partnership with Josh Maxwell and Daniel Dvorak to provide additional funding and to continue plans to open Naugles restaurants. Under California law, no agreement or filing is required and none has been memorialized in writing to

date. Petitioner created an Operational Information Request and detailed Naugles Business Plan outlining Petitioner's Naugles Restaurants business which were provided to Respondent on or about June 7, 2012 and July 9, 2012, respectively.

Petitioner has provided preview meals under the Naugles mark. On or around March 20, 2012, Petitioner catered lunch at his place of employment serving Naugles menu items and created a Naugles menu for the lunch. On or around July 25, 2012, Petitioner served burritos to the Gringo Bandito Hot Sauce Company as a potential vendor in connection with its Naugles products. Petitioner continues to prepare preview meals, scout locations, develop its menu, ingredients, products, and marketing, continues to hold regular meetings, and continues to develop the Naugles Restaurant concept as outlined in its Business Plan and Operational Information Request documents. Subject to the above, Deny.

REQUEST FOR ADMISSION NO. 13:

Petitioner has not conducted any consumer testing with respect to Petitioner's NAUGLES Products.

SUPPLEMENTAL RESPONSE TO REQUEST FOR ADMISSION NO. 13:

Petitioner incorporates by this reference its General Objections to Respondent's Admissions as if set forth fully herein. Petitioner maintains any and all Objections to this Request for Admission stated in its prior responses as if set forth fully herein.

Accordingly and without waiving said objections, Petitioner continues to have a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark. On or about March 21, 2012, Petitioner entered into a general partnership with Josh Maxwell and Daniel Dvorak to provide additional funding and to continue plans to open Naugles restaurants. Under California law, no agreement or filing is required and none has been memorialized in writing to

date. Petitioner created an Operational Information Request and detailed Naugles Business Plan outlining Petitioner's Naugles Restaurants business which were provided to Respondent on or about June 7, 2012 and July 9, 2012, respectively.

Petitioner has provided preview meals under the Naugles mark. On or around March 20, 2012, Petitioner catered lunch at his place of employment serving Naugles menu items and created a Naugles menu for the lunch. On or around July 25, 2012, Petitioner served burritos to the Gringo Bandito Hot Sauce Company as a potential vendor in connection with its Naugles products. Petitioner continues to prepare preview meals, scout locations, develop its menu, ingredients, products, and marketing, continues to hold regular meetings, and continues to develop the Naugles Restaurant concept as outlined in its Business Plan and Operational Information Request documents. Subject to the above, Deny.

REQUEST FOR ADMISSION NO. 14:

Petitioner has not conducted any market testing with respect to Petitioner's NAUGLES Products.

SUPPLEMENTAL RESPONSE TO REQUEST FOR ADMISSION NO. 14:

Petitioner incorporates by this reference its General Objections to Respondent's Admissions as if set forth fully herein. Petitioner maintains any and all Objections to this Request for Admission stated in its prior responses as if set forth fully herein.

Accordingly and without waiving said objections, Petitioner continues to have a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark. On or about March 21, 2012, Petitioner entered into a general partnership with Josh Maxwell and Daniel Dvorak to provide additional funding and to continue plans to open Naugles restaurants. Under California law, no agreement or filing is required and none has been memorialized in writing to

date. Petitioner created an Operational Information Request and detailed Naugles Business Plan outlining Petitioner's Naugles Restaurants business which were provided to Respondent on or about June 7, 2012 and July 9, 2012, respectively.

Petitioner has provided preview meals under the Naugles mark. On or around March 20, 2012, Petitioner catered lunch at his place of employment serving Naugles menu items and created a Naugles menu for the lunch. On or around July 25, 2012, Petitioner served burritos to the Gringo Bandito Hot Sauce Company as a potential vendor in connection with its Naugles products. Petitioner continues to prepare preview meals, scout locations, develop its menu, ingredients, products, and marketing, continues to hold regular meetings, and continues to develop the Naugles Restaurant concept as outlined in its Business Plan and Operational Information Request documents. Subject to the above, Deny.

REQUEST FOR ADMISSION NO. 15:

Petitioner has not conducted any consumer testing with respect to Petitioner's NAUGLES Mark.

SUPPLEMENTAL RESPONSE TO REQUEST FOR ADMISSION NO. 15:

Petitioner incorporates by this reference its General Objections to Respondent's Admissions as if set forth fully herein. Petitioner maintains any and all Objections to this Request for Admission stated in its prior responses as if set forth fully herein.

Accordingly and without waiving said objections, Petitioner continues to have a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark. On or about March 21, 2012, Petitioner entered into a general partnership with Josh Maxwell and Daniel Dvorak to provide additional funding and to continue plans to open Naugles restaurants. Under California law, no agreement or filing is required and none has been memorialized in writing to

date. Petitioner created an Operational Information Request and detailed Naugles Business Plan outlining Petitioner's Naugles Restaurants business which were provided to Respondent on or about June 7, 2012 and July 9, 2012, respectively.

Petitioner has provided preview meals under the Naugles mark. On or around March 20, 2012, Petitioner catered lunch at his place of employment serving Naugles menu items and created a Naugles menu for the lunch. On or around July 25, 2012, Petitioner served burritos to the Gringo Bandito Hot Sauce Company as a potential vendor in connection with its Naugles products. Petitioner continues to prepare preview meals, scout locations, develop its menu, ingredients, products, and marketing, continues to hold regular meetings, and continues to develop the Naugles Restaurant concept as outlined in its Business Plan and Operational Information Request documents. Subject to the above, Deny.

REQUEST FOR ADMISSION NO. 16:

Petitioner has not conducted any market testing with respect to Petitioner's NAUGLES Marks.

SUPPLEMENTAL RESPONSE TO REQUEST FOR ADMISSION NO. 16:

Petitioner incorporates by this reference its General Objections to Respondent's Admissions as if set forth fully herein. Petitioner maintains any and all Objections to this Request for Admission stated in its prior responses as if set forth fully herein.

Accordingly and without waiving said objections, Petitioner continues to have a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark. On or about March 21, 2012, Petitioner entered into a general partnership with Josh Maxwell and Daniel Dvorak to provide additional funding and to continue plans to open Naugles restaurants. Under California law, no agreement or filing is required and none has been memorialized in writing to

date. Petitioner created an Operational Information Request and detailed Naugles Business Plan outlining Petitioner's Naugles Restaurants business which were provided to Respondent on or about June 7, 2012 and July 9, 2012, respectively.

Petitioner has provided preview meals under the Naugles mark. On or around March 20, 2012, Petitioner catered lunch at his place of employment serving Naugles menu items and created a Naugles menu for the lunch. On or around July 25, 2012, Petitioner served burritos to the Gringo Bandito Hot Sauce Company as a potential vendor in connection with its Naugles products. Petitioner continues to prepare preview meals, scout locations, develop its menu, ingredients, products, and marketing, continues to hold regular meetings, and continues to develop the Naugles Restaurant concept as outlined in its Business Plan and Operational Information Request documents. Subject to the above, Deny.

REQUEST FOR ADMISSION NO. 17:

Petitioner has not entered into any contracts with third parties for manufacturing of Petitioner's NAUGLES Products.

SUPPLEMENTAL RESPONSE TO REQUEST FOR ADMISSION NO. 17:

Petitioner incorporates by this reference its General Objections to Respondent's Admissions as if set forth fully herein. Petitioner maintains any and all Objections to this Request for Admission stated in its prior responses as if set forth fully herein.

Accordingly and without waiving said objections, Petitioner continues to have a bona ide intention to offer restaurant and cafeteria services under the NAUGLES mark. On or about March 21, 2012, Petitioner entered into a general partnership with Josh Maxwell and Daniel Dvorak to provide additional funding and to continue plans to open Naugles restaurants. Under California law, no agreement or filing is required and none has been memorialized in writing to

date. Petitioner created an Operational Information Request and detailed Naugles Business Plan outlining Petitioner's Naugles Restaurants business which were provided to Respondent on or about June 7, 2012 and July 9, 2012, respectively.

Petitioner has provided preview meals under the Naugles mark. On or around March 20, 2012, Petitioner catered lunch at his place of employment serving Naugles menu items and created a Naugles menu for the lunch. On or around July 25, 2012, Petitioner served burritos to the Gringo Bandito Hot Sauce Company as a potential vendor in connection with its Naugles products. Petitioner continues to prepare preview meals, scout locations, develop its menu, ingredients, products, and marketing, continues to hold regular meetings, and continues to develop the Naugles Restaurant concept as outlined in its Business Plan and Operational Information Request documents. Subject to the above, Deny.

REQUEST FOR ADMISSION NO. 18:

Petitioner has not entered into any contracts with third parties for ingredients to be used in Petitioner's NAUGLES Products.

SUPPLEMENTAL RESPONSE TO REQUEST FOR ADMISSION NO. 18:

Petitioner incorporates by this reference its General Objections to Respondent's Admissions as if set forth fully herein. Petitioner maintains any and all Objections to this Request for Admission stated in its prior responses as if set forth fully herein.

Accordingly and without waiving said objections, Petitioner continues to have a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark. On or about March 21, 2012, Petitioner entered into a general partnership with Josh Maxwell and Daniel Dvorak to provide additional funding and to continue plans to open Naugles restaurants. Under California law, no agreement or filing is required and none has been memorialized in writing to

date. Petitioner created an Operational Information Request and detailed Naugles Business Plan outlining Petitioner's Naugles Restaurants business which were provided to Respondent on or about June 7, 2012 and July 9, 2012, respectively.

Petitioner has provided preview meals under the Naugles mark. On or around March 20, 2012, Petitioner catered lunch at his place of employment serving Naugles menu items and created a Naugles menu for the lunch. On or around July 25, 2012, Petitioner served burritos to the Gringo Bandito Hot Sauce Company as a potential vendor in connection with its Naugles products. Petitioner continues to prepare preview meals, scout locations, develop its menu, ingredients, products, and marketing, continues to hold regular meetings, and continues to develop the Naugles Restaurant concept as outlined in its Business Plan and Operational Information Request documents. Subject to the above, Deny.

REQUEST FOR ADMISSION NO. 19:

Petitioner has not entered into any contracts with third parties for shipping of Petitioner's NAUGLES Products.

SUPPLEMENTAL RESPONSE TO REQUEST FOR ADMISSION NO. 19:

Petitioner incorporates by this reference its General Objections to Respondent's Admissions as if set forth fully herein. Petitioner maintains any and all Objections to this Request for Admission stated in its prior responses as if set forth fully herein.

Accordingly and without waiving said objections, Petitioner continues to have a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark. On or about March 21, 2012, Petitioner entered into a general partnership with Josh Maxwell and Daniel Dvorak to provide additional funding and to continue plans to open Naugles restaurants. Under California law, no agreement or filing is required and none has been memorialized in writing to

date. Petitioner created an Operational Information Request and detailed Naugles Business Plan outlining Petitioner's Naugles Restaurants business which were provided to Respondent on or about June 7, 2012 and July 9, 2012, respectively.

Petitioner has provided preview meals under the Naugles mark. On or around March 20, 2012, Petitioner catered lunch at his place of employment serving Naugles menu items and created a Naugles menu for the lunch. On or around July 25, 2012, Petitioner served burritos to the Gringo Bandito Hot Sauce Company as a potential vendor in connection with its Naugles products. Petitioner continues to prepare preview meals, scout locations, develop its menu, ingredients, products, and marketing, continues to hold regular meetings, and continues to develop the Naugles Restaurant concept as outlined in its Business Plan and Operational Information Request documents. Subject to the above, Deny.

REQUEST FOR ADMISSION NO. 20:

Petitioner has not entered into any contracts with third parties for the sale of Petitioner's NAUGLES Products.

SUPPLEMENTAL RESPONSE TO REQUEST FOR ADMISSION NO. 20:

Petitioner incorporates by this reference its General Objections to Respondent's Admissions as if set forth fully herein. Petitioner maintains any and all Objections to this Request for Admission stated in its prior responses as if set forth fully herein.

Accordingly and without waiving said objections, Petitioner continues to have a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark. On or about March 21, 2012, Petitioner entered into a general partnership with Josh Maxwell and Daniel Dvorak to provide additional funding and to continue plans to open Naugles restaurants. Under California law, no agreement or filing is required and none has been memorialized in writing to

date. Petitioner created an Operational Information Request and detailed Naugles Business Plan outlining Petitioner's Naugles Restaurants business which were provided to Respondent on or about June 7, 2012 and July 9, 2012, respectively.

Petitioner has provided preview meals under the Naugles mark. On or around March 20, 2012, Petitioner catered lunch at his place of employment serving Naugles menu items and created a Naugles menu for the lunch. On or around July 25, 2012, Petitioner served burritos to the Gringo Bandito Hot Sauce Company as a potential vendor in connection with its Naugles products. Petitioner continues to prepare preview meals, scout locations, develop its menu, ingredients, products, and marketing, continues to hold regular meetings, and continues to develop the Naugles Restaurant concept as outlined in its Business Plan and Operational Information Request documents. Subject to the above, Deny.

REQUEST FOR ADMISSION NO. 21:

Petitioner has not entered into any contracts with third parties to operate cafeterias offering Petitioner's NAUGLES Products.

SUPPLEMENTAL RESPONSE TO REQUEST FOR ADMISSION NO. 21:

Petitioner incorporates by this reference its General Objections to Respondent's Admissions as if set forth fully herein. Petitioner maintains any and all Objections to this Request for Admission stated in its prior responses as if set forth fully herein.

Accordingly and without waiving said objections, Petitioner continues to have a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark. On or about March 21, 2012, Petitioner entered into a general partnership with Josh Maxwell and Daniel Dvorak to provide additional funding and to continue plans to open Naugles restaurants. Under California law, no agreement or filing is required and none has been memorialized in writing to

date. Petitioner created an Operational Information Request and detailed Naugles Business Plan outlining Petitioner's Naugles Restaurants business which were provided to Respondent on or about June 7, 2012 and July 9, 2012, respectively.

Petitioner has provided preview meals under the Naugles mark. On or around March 20, 2012, Petitioner catered lunch at his place of employment serving Naugles menu items and created a Naugles menu for the lunch. On or around July 25, 2012, Petitioner served burritos to the Gringo Bandito Hot Sauce Company as a potential vendor in connection with its Naugles products. Petitioner continues to prepare preview meals, scout locations, develop its menu, ingredients, products, and marketing, continues to hold regular meetings, and continues to develop the Naugles Restaurant concept as outlined in its Business Plan and Operational Information Request documents. Subject to the above, Deny.

REQUEST FOR ADMISSION NO. 22:

Petitioner has not entered into any contracts with third parties for operate restaurants offering Petitioner's NAUGLES Products.

SUPPLEMENTAL RESPONSE TO REQUEST FOR ADMISSION NO. 22:

Petitioner incorporates by this reference its General Objections to Respondent's Admissions as if set forth fully herein. Petitioner maintains any and all Objections to this Request for Admission stated in its prior responses as if set forth fully herein.

Accordingly and without waiving said objections, Petitioner continues to have a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark. On or about March 21, 2012, Petitioner entered into a general partnership with Josh Maxwell and Daniel Dvorak to provide additional funding and to continue plans to open Naugles restaurants. Under California law, no agreement or filing is required and none has been memorialized in writing to

date. Petitioner created an Operational Information Request and detailed Naugles Business Plan outlining Petitioner's Naugles Restaurants business which were provided to Respondent on or about June 7, 2012 and July 9, 2012, respectively.

Petitioner has provided preview meals under the Naugles mark. On or around March 20, 2012, Petitioner catered lunch at his place of employment serving Naugles menu items and created a Naugles menu for the lunch. On or around July 25, 2012, Petitioner served burritos to the Gringo Bandito Hot Sauce Company as a potential vendor in connection with its Naugles products. Petitioner continues to prepare preview meals, scout locations, develop its menu, ingredients, products, and marketing, continues to hold regular meetings, and continues to develop the Naugles Restaurant concept as outlined in its Business Plan and Operational Information Request documents. Subject to the above, Deny.

REQUEST FOR ADMISSION NO. 23:

Petitioner has not entered into any contracts with third parties for locations where Petitioner's NAUGLES Products will be offered.

SUPPLEMENTAL RESPONSE TO REQUEST FOR ADMISSION NO. 23:

Petitioner incorporates by this reference its General Objections to Respondent's Admissions as if set forth fully herein. Petitioner maintains any and all Objections to this Request for Admission stated in its prior responses as if set forth fully herein.

Accordingly and without waiving said objections, Petitioner continues to have a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark. On or about March 21, 2012, Petitioner entered into a general partnership with Josh Maxwell and Daniel Dvorak to provide additional funding and to continue plans to open Naugles restaurants. Under California law, no agreement or filing is required and none has been memorialized in writing to

date. Petitioner created an Operational Information Request and detailed Naugles Business Plan outlining Petitioner's Naugles Restaurants business which were provided to Respondent on or about June 7, 2012 and July 9, 2012, respectively.

Petitioner has provided preview meals under the Naugles mark. On or around March 20, 2012, Petitioner catered lunch at his place of employment serving Naugles menu items and created a Naugles menu for the lunch. On or around July 25, 2012, Petitioner served burritos to the Gringo Bandito Hot Sauce Company as a potential vendor in connection with its Naugles products. Petitioner continues to prepare preview meals, scout locations, develop its menu, ingredients, products, and marketing, continues to hold regular meetings, and continues to develop the Naugles Restaurant concept as outlined in its Business Plan and Operational Information Request documents. Subject to the above, Deny.

REQUEST FOR ADMISSION NO. 24:

Petitioner has not entered into any contracts with third parties for marketing of Petitioner's NAUGLES Products.

SUPPLEMENTAL RESPONSE TO REQUEST FOR ADMISSION NO. 24:

Petitioner incorporates by this reference its General Objections to Respondent's Admissions as if set forth fully herein. Petitioner maintains any and all Objections to this Request for Admission stated in its prior responses as if set forth fully herein.

Accordingly and without waiving said objections, Petitioner continues to have a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark. On or about March 21, 2012, Petitioner entered into a general partnership with Josh Maxwell and Daniel Dvorak to provide additional funding and to continue plans to open Naugles restaurants. Under California law, no agreement or filing is required and none has been memorialized in writing to

date. Petitioner created an Operational Information Request and detailed Naugles Business Plan outlining Petitioner's Naugles Restaurants business which were provided to Respondent on or about June 7, 2012 and July 9, 2012, respectively.

Petitioner has provided preview meals under the Naugles mark. On or around March 20, 2012, Petitioner catered lunch at his place of employment serving Naugles menu items and created a Naugles menu for the lunch. On or around July 25, 2012, Petitioner served burritos to the Gringo Bandito Hot Sauce Company as a potential vendor in connection with its Naugles products. Petitioner continues to prepare preview meals, scout locations, develop its menu, ingredients, products, and marketing, continues to hold regular meetings, and continues to develop the Naugles Restaurant concept as outlined in its Business Plan and Operational Information Request documents. Subject to the above, Deny.

REQUEST FOR ADMISSION NO. 27:

Petitioner has not entered into any negotiations with third parties for shipping of Petitioner's NAUGLES Products.

SUPPLEMENTAL RESPONSE TO REQUEST FOR ADMISSION NO. 27:

Petitioner incorporates by this reference its General Objections to Respondent's Admissions as if set forth fully herein. Petitioner maintains any and all Objections to this Request for Admission stated in its prior responses as if set forth fully herein.

Accordingly and without waiving said objections, Petitioner continues to have a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark. On or about March 21, 2012, Petitioner entered into a general partnership with Josh Maxwell and Daniel Dvorak to provide additional funding and to continue plans to open Naugles restaurants. Under California law, no agreement or filing is required and none has been memorialized in writing to

date. Petitioner created an Operational Information Request and detailed Naugles Business Plan outlining Petitioner's Naugles Restaurants business which were provided to Respondent on or about June 7, 2012 and July 9, 2012, respectively.

Petitioner has provided preview meals under the Naugles mark. On or around March 20, 2012, Petitioner catered lunch at his place of employment serving Naugles menu items and created a Naugles menu for the lunch. On or around July 25, 2012, Petitioner served burritos to the Gringo Bandito Hot Sauce Company as a potential vendor in connection with its Naugles products. Petitioner continues to prepare preview meals, scout locations, develop its menu, ingredients, products, and marketing, continues to hold regular meetings, and continues to develop the Naugles Restaurant concept as outlined in its Business Plan and Operational Information Request documents. Subject to the above, Deny.

REQUEST FOR ADMISSION NO. 27:

Petitioner has not entered into any negotiations with third parties for shipping of Petitioner's NAUGLES Products.

SUPPLEMENTAL RESPONSE TO REQUEST FOR ADMISSION NO. 27:

Petitioner incorporates by this reference its General Objections to Respondent's Admissions as if set forth fully herein. Petitioner maintains any and all Objections to this Request for Admission stated in its prior responses as if set forth fully herein.

Accordingly and without waiving said objections, Petitioner continues to have a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark. On or about March 21, 2012, Petitioner entered into a general partnership with Josh Maxwell and Daniel Dvorak to provide additional funding and to continue plans to open Naugles restaurants. Under California law, no agreement or filing is required and none has been memorialized in writing to

date. Petitioner created an Operational Information Request and detailed Naugles Business Plan outlining Petitioner's Naugles Restaurants business which were provided to Respondent on or about June 7, 2012 and July 9, 2012, respectively.

Petitioner has provided preview meals under the Naugles mark. On or around March 20, 2012, Petitioner catered lunch at his place of employment serving Naugles menu items and created a Naugles menu for the lunch. On or around July 25, 2012, Petitioner served burritos to the Gringo Bandito Hot Sauce Company as a potential vendor in connection with its Naugles products. Petitioner continues to prepare preview meals, scout locations, develop its menu, ingredients, products, and marketing, continues to hold regular meetings, and continues to develop the Naugles Restaurant concept as outlined in its Business Plan and Operational Information Request documents. Subject to the above, Deny.

REQUEST FOR ADMISSION NO. 28:

Petitioner has not entered into any negotiations with third parties for the sale of Petitioner's NAUGLES Products.

SUPPLEMENTAL RESPONSE TO REQUEST FOR ADMISSION NO. 28:

Petitioner incorporates by this reference its General Objections to Respondent's Admissions as if set forth fully herein. Petitioner maintains any and all Objections to this Request for Admission stated in its prior responses as if set forth fully herein.

Accordingly and without waiving said objections, Petitioner continues to have a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark. On or about March 21, 2012, Petitioner entered into a general partnership with Josh Maxwell and Daniel Dvorak to provide additional funding and to continue plans to open Naugles restaurants. Under California law, no agreement or filing is required and none has been memorialized in writing to

date. Petitioner created an Operational Information Request and detailed Naugles Business Plan outlining Petitioner's Naugles Restaurants business which were provided to Respondent on or about June 7, 2012 and July 9, 2012, respectively.

Petitioner has provided preview meals under the Naugles mark. On or around March 20, 2012, Petitioner catered lunch at his place of employment serving Naugles menu items and created a Naugles menu for the lunch. On or around July 25, 2012, Petitioner served burritos to the Gringo Bandito Hot Sauce Company as a potential vendor in connection with its Naugles products. Petitioner continues to prepare preview meals, scout locations, develop its menu, ingredients, products, and marketing, continues to hold regular meetings, and continues to develop the Naugles Restaurant concept as outlined in its Business Plan and Operational Information Request documents. Subject to the above, Deny.

REQUEST FOR ADMISSION NO. 29:

Petitioner has not entered into any negotiations with third parties to operate cafeterias offering Petitioner's NAUGLES Products.

SUPPLEMENTAL RESPONSE TO REQUEST FOR ADMISSION NO. 29:

Petitioner incorporates by this reference its General Objections to Respondent's Admissions as if set forth fully herein. Petitioner maintains any and all Objections to this Request for Admission stated in its prior responses as if set forth fully herein.

Accordingly and without waiving said objections, Petitioner continues to have a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark. On or about March 21, 2012, Petitioner entered into a general partnership with Josh Maxwell and Daniel Dvorak to provide additional funding and to continue plans to open Naugles restaurants. Under California law, no agreement or filing is required and none has been memorialized in writing to

date. Petitioner created an Operational Information Request and detailed Naugles Business Plan outlining Petitioner's Naugles Restaurants business which were provided to Respondent on or about June 7, 2012 and July 9, 2012, respectively.

Petitioner has provided preview meals under the Naugles mark. On or around March 20, 2012, Petitioner catered lunch at his place of employment serving Naugles menu items and created a Naugles menu for the lunch. On or around July 25, 2012, Petitioner served burritos to the Gringo Bandito Hot Sauce Company as a potential vendor in connection with its Naugles products. Petitioner continues to prepare preview meals, scout locations, develop its menu, ingredients, products, and marketing, continues to hold regular meetings, and continues to develop the Naugles Restaurant concept as outlined in its Business Plan and Operational Information Request documents. Subject to the above, Deny.

REQUEST FOR ADMISSION NO. 30:

Petitioner has not entered into any negotiations with third parties to operate restaurants offering Petitioner's NAUGLES Products.

SUPPLEMENTAL RESPONSE TO REQUEST FOR ADMISSION NO. 30:

Petitioner incorporates by this reference its General Objections to Respondent's Admissions as if set forth fully herein. Petitioner maintains any and all Objections to this Request for Admission stated in its prior responses as if set forth fully herein.

Accordingly and without waiving said objections, Petitioner continues to have a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark. On or about March 21, 2012, Petitioner entered into a general partnership with Josh Maxwell and Daniel Dvorak to provide additional funding and to continue plans to open Naugles restaurants. Under California law, no agreement or filing is required and none has been memorialized in writing to

date. Petitioner created an Operational Information Request and detailed Naugles Business Plan outlining Petitioner's Naugles Restaurants business which were provided to Respondent on or about June 7, 2012 and July 9, 2012, respectively.

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REQUEST FOR ADMISSION NO. 31:

Petitioner has not entered into any negotiations with third parties for locations where Petitioner's NAUGLES Products will be offered.

SUPPLEMENTAL RESPONSE TO REQUEST FOR ADMISSION NO. 31:

Petitioner incorporates by this reference its General Objections to Respondent's Admissions as if set forth fully herein. Petitioner maintains any and all Objections to this Request for Admission stated in its prior responses as if set forth fully herein.

Accordingly and without waiving said objections, Petitioner continues to have a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark. On or about March 21, 2012, Petitioner entered into a general partnership with Josh Maxwell and Daniel Dvorak to provide additional funding and to continue plans to open Naugles restaurants. Under California law, no agreement or filing is required and none has been memorialized in writing to

date. Petitioner created an Operational Information Request and detailed Naugles Business Plan outlining Petitioner's Naugles Restaurants business which were provided to Respondent on or about June 7, 2012 and July 9, 2012, respectively.

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REQUEST FOR ADMISSION NO. 32:

Petitioner has not entered into any negotiations with third parties for marketing of Petitioner's NAUGLES Products.

SUPPLEMENTAL RESPONSE TO REQUEST FOR ADMISSION NO. 32:

Petitioner incorporates by this reference its General Objections to Respondent's Admissions as if set forth fully herein. Petitioner maintains any and all Objections to this Request for Admission stated in its prior responses as if set forth fully herein.

Accordingly and without waiving said objections, Petitioner continues to have a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark. On or about March 21, 2012, Petitioner entered into a general partnership with Josh Maxwell and Daniel Dvorak to provide additional funding and to continue plans to open Naugles restaurants. Under California law, no agreement or filing is required and none has been memorialized in writing to

date. Petitioner created an Operational Information Request and detailed Naugles Business Plan outlining Petitioner's Naugles Restaurants business which were provided to Respondent on or about June 7, 2012 and July 9, 2012, respectively.

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REQUEST FOR ADMISSION NO. 35:

All posts by "ChristianZ" at the domain name http://www.mexfoodla.com/ are by Petitioner.

SUPPLEMENTAL RESPONSE TO REQUEST FOR ADMISSION NO. 35:

Petitioner incorporates by this reference its General Objections to Respondent's Admissions as if set forth fully herein. Petitioner maintains any and all Objections to this Request for Admission stated in its prior responses as if set forth fully herein.

Accordingly and without waiving said objections, Petitioner continues to have a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark. On or about March 21, 2012, Petitioner entered into a general partnership with Josh Maxwell and Daniel Dvorak to provide additional funding and to continue plans to open Naugles restaurants. Under California law, no agreement or filing is required and none has been memorialized in writing to

date. Petitioner created an Operational Information Request and detailed Naugles Business Plan outlining Petitioner's Naugles Restaurants business which were provided to Respondent on or about June 7, 2012 and July 9, 2012, respectively.

Petitioner has provided preview meals under the Naugles mark. On or around March 20, 2012, Petitioner catered lunch at his place of employment serving Naugles menu items and created a Naugles menu for the lunch. On or around July 25, 2012, Petitioner served burritos to the Gringo Bandito Hot Sauce Company as a potential vendor in connection with its Naugles products. Petitioner continues to prepare preview meals, scout locations, develop its menu, ingredients, products, and marketing, continues to hold regular meetings, and continues to develop the Naugles Restaurant concept as outlined in its Business Plan and Operational Information Request documents. Subject to the above, Admit.

REQUEST FOR ADMISSION NO. 40:

All posts by "ChristianZ" at the domain name http://ocfoodblogs.blogspot.com/ are by Petitioner.

SUPPLEMENTAL RESPONSE TO REQUEST FOR ADMISSION NO. 40:

Petitioner incorporates by this reference its General Objections to Respondent's Admissions as if set forth fully herein. Petitioner maintains any and all Objections to this Request for Admission stated in its prior responses as if set forth fully herein.

Accordingly and without waiving said objections, Petitioner continues to have a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark. On or about March 21, 2012, Petitioner entered into a general partnership with Josh Maxwell and Daniel Dvorak to provide additional funding and to continue plans to open Naugles restaurants. Under California law, no agreement or filing is required and none has been memorialized in writing to

date. Petitioner created an Operational Information Request and detailed Naugles Business Plan outlining Petitioner's Naugles Restaurants business which were provided to Respondent on or about June 7, 2012 and July 9, 2012, respectively.

Petitioner has provided preview meals under the Naugles mark. On or around March 20, 2012, Petitioner catered lunch at his place of employment serving Naugles menu items and created a Naugles menu for the lunch. On or around July 25, 2012, Petitioner served burritos to the Gringo Bandito Hot Sauce Company as a potential vendor in connection with its Naugles products. Petitioner continues to prepare preview meals, scout locations, develop its menu, ingredients, products, and marketing, continues to hold regular meetings, and continues to develop the Naugles Restaurant concept as outlined in its Business Plan and Operational Information Request documents. Subject to the above, Admit.

REQUEST FOR ADMISSION NO. 52:

Petitioner has not discussed Petitioner's NAUGLES Mark on http://ocmexfood.blogspot.com/.

SUPPLEMENTAL RESPONSE TO REQUEST FOR ADMISSION NO. 52:

Petitioner incorporates by this reference its General Objections to Respondent's Admissions as if set forth fully herein. Petitioner maintains any and all Objections to this Request for Admission stated in its prior responses as if set forth fully herein.

Accordingly and without waiving said objections, Petitioner continues to have a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark. On or about March 21, 2012, Petitioner entered into a general partnership with Josh Maxwell and Daniel Dvorak to provide additional funding and to continue plans to open Naugles restaurants. Under California law, no agreement or filing is required and none has been memorialized in writing to

date. Petitioner created an Operational Information Request and detailed Naugles Business Plan outlining Petitioner's Naugles Restaurants business which were provided to Respondent on or about June 7, 2012 and July 9, 2012, respectively.

Petitioner has provided preview meals under the Naugles mark. On or around March 20, 2012, Petitioner catered lunch at his place of employment serving Naugles menu items and created a Naugles menu for the lunch. On or around July 25, 2012, Petitioner served burritos to the Gringo Bandito Hot Sauce Company as a potential vendor in connection with its Naugles products. Petitioner continues to prepare preview meals, scout locations, develop its menu, ingredients, products, and marketing, continues to hold regular meetings, and continues to develop the Naugles Restaurant concept as outlined in its Business Plan and Operational Information Request documents. Subject to the above, Deny.

REQUEST FOR ADMISSION NO. 57:

Petitioner has not discussed Petitioner's NAUGLES Mark on http://christianziebarth.com/.

SUPPLEMENTAL RESPONSE TO REQUEST FOR ADMISSION NO. 57:

Petitioner incorporates by this reference its General Objections to Respondent's Admissions as if set forth fully herein. Petitioner maintains any and all Objections to this Request for Admission stated in its prior responses as if set forth fully herein.

Accordingly and without waiving said objections, Petitioner continues to have a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark. On or about March 21, 2012, Petitioner entered into a general partnership with Josh Maxwell and Daniel Dvorak to provide additional funding and to continue plans to open Naugles restaurants. Under California law, no agreement or filing is required and none has been memorialized in writing to

date. Petitioner created an Operational Information Request and detailed Naugles Business Plan outlining Petitioner's Naugles Restaurants business which were provided to Respondent on or about June 7, 2012 and July 9, 2012, respectively.

Petitioner has provided preview meals under the Naugles mark. On or around March 20, 2012, Petitioner catered lunch at his place of employment serving Naugles menu items and created a Naugles menu for the lunch. On or around July 25, 2012, Petitioner served burritos to the Gringo Bandito Hot Sauce Company as a potential vendor in connection with its Naugles products. Petitioner continues to prepare preview meals, scout locations, develop its menu, ingredients, products, and marketing, continues to hold regular meetings, and continues to develop the Naugles Restaurant concept as outlined in its Business Plan and Operational Information Request documents. Subject to the above, Admit.

REQUEST FOR ADMISSION NO. 62:

Petitioner has not discussed Petitioner's NAUGLES Mark on http://www.facebook.com/ocmexfood?v=wall.

SUPPLEMENTAL RESPONSE TO REQUEST FOR ADMISSION NO. 62:

Petitioner incorporates by this reference its General Objections to Respondent's Admissions as if set forth fully herein. Petitioner maintains any and all Objections to this Request for Admission stated in its prior responses as if set forth fully herein.

Accordingly and without waiving said objections, Petitioner continues to have a bona fide intention to offer restaurant and cafeteria services under the NAUGLES mark. On or about March 21, 2012, Petitioner entered into a general partnership with Josh Maxwell and Daniel Dvorak to provide additional funding and to continue plans to open Naugles restaurants. Under California law, no agreement or filing is required and none has been memorialized in writing to

date. Petitioner created an Operational Information Request and detailed Naugles Business Plan outlining Petitioner's Naugles Restaurants business which were provided to Respondent on or about June 7, 2012 and July 9, 2012, respectively.

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DATED this 28th day of September, 2012.

Respectfully submitted,

RICHARD F. CHRISTESEN, ESQ.
ATTORNEY AT LAW

Richard F. Christesen
Attorneys for Petitioner

Christian M. Ziebarth, Petitioner

date. Petitioner created an Operational Information Request and detailed Naugles Business Plan outlining Petitioner's Naugles Restaurants business which were provided to Respondent on or about June 7, 2012 and July 9, 2012, respectively.

Petitioner has provided preview meals under the Naugles mark. On or around March 20, 2012, Petitioner catered lunch at his place of employment serving Naugles menu items and created a Naugles menu for the lunch. On or around July 25, 2012, Petitioner served burritos to the Gringo Bandito Hot Sauce Company as a potential vendor in connection with its Naugles products. Petitioner continues to prepare preview meals, scout locations, develop its menu, ingredients, products, and marketing, continues to hold regular meetings, and continues to develop the Naugles Restaurant concept as outlined in its Business Plan and Operational Information Request documents. Subject to the above, Deny.

DATED this 28 day of September, 2012.

Respectfully submitted,

RICHARD F. CHRISTESEN, ESQ.
ATTORNEY AT LAW

Richard F. Christesen
Attorneys for Petitioner

Christian M. Ziebarth, Petitioner

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing **PETITIONER'S RULE 26(e) SUPPLEMENTAL RESPONSES TO RESPONDENT'S FIRST SET OF REQUESTS FOR ADMISSIONS, SET NO. ONE** was sent by *U.S. Mail*, on this 28 day of September, 2012, to the party below:

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/s Richard F. Christesen/