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

Proceeding	92053501
Party	Defendant Del Taco, LLC
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Submission	Defendant's Notice of Reliance
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Date	01/15/2014
Attachments	Notice of Reliance - 1st RFAs.pdf(7967 bytes ) 2011-07-11 Petitioner_s Response to Respondent_s First Set of Requests for Admissions.PDF(3288057 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

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**RESPONDENT DEL TACO LLC'S NOTICE OF RELIANCE**

Pursuant to Rule 704.09 of the Trademark Trial and Appeal Board Manual of Procedure and 37 CFR § 2.120(j), Respondent Del Taco LLC ("Del Taco"), by its counsel, hereby gives notice that Del Taco offers into evidence and will rely on the attached Petitioner's Response to Respondent's First Set of Requests for Admission.

Respectfully Submitted,

Dated: January 15, 2014

/ April L Besl /

April L. Besl  
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*Attorneys for Respondent  
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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of the foregoing was sent by first-class mail, with courtesy copy via email, on this 15<sup>th</sup> day of January, 2014, to Kelly K. Pfeiffer, Amezcua-Moll Associations PC, Lincoln Professional Center, 1122 E. Lincoln Ave. Suite 203, Orange, CA 92865.

*/ April L Besl /*  
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April L Besl

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 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.

### **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 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 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