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

Proceeding	92059099
Party	Defendant Dog Haus LLC
Correspondence Address	CHET H OLSEN; WALTER M. CRANDALL 2 Park Plaza Suite 730 Irvine, CA 92614 UNITED STATES wmc@rolawfirm.com
Submission	Motion for Sanctions
Filer's Name	Walter M. Crandall
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Signature	/Walter M. Crandall/
Date	07/17/2015
Attachments	2015-07-17 DOG HAUS Motion to Dismiss.pdf(345847 bytes ) 2015-07-17 DOG HAUS Table of Contents.pdf(289924 bytes ) 2015-07-17 DOG HAUS Table of Authorities.pdf(292239 bytes ) Declaration of WMC with Exhibits.pdf(1857478 bytes )

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

**CARNEVOR INC.,**

Petitioner,

v.

**DOG HAUS, LLC,**

Registrant/Respondent.

Cancellation Nos.: 92059099  
92059167

**REGISTRANT'S MOTION TO DISMISS PETITIONER'S CLAIMS FOR  
CANCELLATION AND FOR SANCTIONS PROHIBITING PETITIONER FROM  
OPPOSING REGISTRANT'S COUNTERCLAIM FOR PETITIONER'S REFUSAL TO  
ATTEND DEPOSITION**

Cancellation Nos. 92059099  
92059167

Registrant/Respondent Registration Nos.	4326591	Published: March 13, 2012
	4202507	Published: June 19, 2012
Petitioner's Registration No.	4336555	Registration Date: May 14, 2013
Petitioner's Application Serial No.	85459723	

Registrant's Marks: DOG HAUS;



Petitioner's Registered Mark: HUND & BIER HAUS  
Petitioner's Application Mark: HUNDEHAUS

Commissioner for Trademarks  
Trademark Trial and Appeal Board  
P.O. Box 1451  
Alexandria, VA 22313-1451

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Pursuant to 37 CFR § 2.120(g)(2) and Trademark Trial and Appeal Board Manual of Procedure (“TBMP”) 527.02; or, in the alternative, 37 CFR § 2.120(e) and TBMP 523.01, Registrant and Respondent, Dog Haus LLC dba Dog Haus (“Registrant” or “Dog Haus”), respectfully moves the Board to:

(1) Dismiss with prejudice, Petitioner Carnevor, Inc.’s (“Petitioner” or “Carnevor”) Petitions for Cancellation Nos. 92059099 and 92059167 for Petitioner’s refusal to attend deposition; and,

(2) Enter an Order prohibiting Petitioner Carnevor, Inc. from supporting or opposing its claims or defenses, or from introducing matters into evidence in regards to Registrant’s Counterclaim to Cancellation number 92059099, seeking cancellation of Petitioner’s mark, for Petitioner’s refusal to attend deposition; or, if these first two prayers are denied, in the alternative,

(3) Compel Petitioner Carnevor, Inc. and its agents to attend deposition and extend the discovery period as to Registrant Dog Haus LLC dba Dog Haus for the limited purpose of allowing Registrant to take these depositions and any follow up discovery related thereto.

In support of this Motion, Registrant is filing the attached Memorandum of Points and Authorities, a Declaration from Walter M. Crandall, Esq. containing exhibits, a Table of Authorities, and a Table of Contents.

For the reasons provided in the supporting Memorandum, Registrant would show the Board that pursuant to 37 CFR § 2.120(b) the Petitioner and its agents are required to appear

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for deposition properly noticed and served on the opposing party following Fed. R. Civ. P. 30(b)(6) or 30(b)(1). Registrant has noticed the depositions of Petitioner and its agents twice and each time, Petitioner has failed to appear for deposition and has refused to provide future dates for Registrant to take its deposition even though Registrant has met and conferred in an attempt to accommodate the calendars of Petitioner and its counsel. It is clear that Petitioner's failure to appear for deposition twice and refusal to provide any dates it is willing to appear for deposition are evasive discovery tactics and instances of willful misconduct that warrant dismissal of Petitioner's claims.

Dated: July 17, 2015

Respectfully submitted,

/Walter M. Crandall/  
WALTER M. CRANDALL  
2 Park Plaza, Suite 730  
Irvine, California 92614

Attorneys for Registrant,  
Dog Haus LLC

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**MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF REGISTRANT'S  
MOTION TO DISMISS PETITIONER'S CLAIMS AND PROHIBIT PETITIONER  
FROM OPPOSING REGISTRANT'S COUNTERCLAIM TO CANCEL PETITIONER'S  
TRADEMARK**

**INTRODUCTION**

Registrant and Respondent, Dog Haus LLC dba Dog Haus (“Registrant” or “Dog Haus”) is an operator of a growing fast-casual restaurant chain that serves fast-casual food items such as sausage sandwiches, hamburgers, french fries, tater-tots, milk shakes, and alcoholic and non-alcoholic beverages. There are currently nine Dog Haus franchises open between Southern California and Colorado, and an additional fifty-six franchises scheduled to open across several States in the next twelve months. Dog Haus first opened in Pasadena, California in 2010.

Petitioner Carnevor, Inc. (“Petitioner” or “Carnevor”) operates a fast-casual restaurant in Redlands, California that has been in-and-out of operation. Based on its Facebook page, it appears that Carnevor began operating under the fictitious business name, HundeHaus in April of 2012 by serving sausage sandwiches at breweries near Redlands, California. Similarly, based on its Facebook page, it appears that Carnevor opened a deli counter store front on or about August 2, 2013 under the name Hund & Bier Haus. It appears that Hund & Bier Haus was out of operation from March of 2014 through the present, but they advertise they will be opening a new restaurant in the summer of 2015.

On information and belief, Dog Haus first learned of Carnevor doing business as HundeHaus after February 16, 2012, when the United States Patent and Trademark Office (“USPTO”) issued an Office action in response to Carnevor’s trademark application for the

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mark "HUNDEHAUS". The Office action indicated that a mark in a prior-filed pending application may present a bar to registration of Petitioner's HUNDEHAUS application due to a likelihood of confusion between the two marks. The prior-filed pending application was Registrant's application for the mark "DOG HAUS". On August 18, 2012, the USPTO Examining Attorney issued an Office action suspending Petitioner's application until Registrant's mark for DOG HAUS was registered or abandoned. Registrant's DOG HAUS mark registered on the Principal Register on April 30, 2013. On or about December 17, 2012, and unbeknownst to Registrant, Petitioner filed an application for the mark "HUND & BIER HAUS" on the Supplemental Register and the mark registered on May 14, 2013. On March 4, 2014, the USPTO issued an Office action refusing registration of Petitioner's HUNDEHAUS mark because Registrant's DOG HAUS mark registered.

Around September of 2012, Registrant contacted Petitioner to demand that Petitioner cease and desist use of the name HundeHaus due to the likelihood of consumer confusion as identified by the USPTO, particularly because Registrant and Petitioner were operating fast-casual restaurants that both served sausage sandwiches in Southern California. At that time, Petitioner agreed to abandon the HundeHaus name. Subsequently, Registrant became aware that Petitioner began operating under the name Hund & Bier Haus. Registrant objected to this use and sent Petitioner multiple cease and desist letters demanding that Petitioner find another name that would not create a likelihood of confusion with Dog Haus' marks. In response to Registrant's demands, Petitioner then filed the Petitions for cancellation in this action. Registrant counterclaimed against Petitioner on the grounds that the addition of the

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merely descriptive term “& Bier” does not cure the likelihood of confusion previously identified by the USPTO.

### **FACTUAL BACKGROUND**

Pursuant to 37 CFR § 2.120(b) the parties are required to appear for deposition properly noticed and served on the opposing party following Fed. R. Civ. P. 30(b)(6) or 30(b)(1). Registrant served a Deposition Notice on Petitioner pursuant to Fed. R. Civ. P. 30(b)(6) and TBMP 404.06(b) on March 25, 2015, with Certificate of Service for deposition on April 10, 2015. Declaration of Crandall ¶2, Ex. 1. Registrant also served Petitioner with Deposition Notices for its agents Kasha Shahabi and Fareh Sameh pursuant to Fed. R. Civ. P. 30(b)(1) and TBMP 404.06(a) on March 25, 2015, with Certificate of Service for deposition on April 10, 2015. Declaration of Crandall ¶3, Ex. 2.

On April 7, 2015, Registrant attempted to confirm that Petitioner and its agents would appear for deposition through a letter sent by facsimile and email through counsel. Declaration of Crandall ¶4, Ex. 3. Thereafter, Petitioner called Registrant and indicated that Petitioner and its counsel were unavailable for the depositions, requested a 90-day extension to all deadlines in the action, and promised that Petitioner would soon thereafter provide dates that it and its agents would be available for deposition in late May or early June. Declaration of Crandall ¶5. As a professional courtesy and to accommodate Petitioner and its counsel, Registrant consented to the extension and took the depositions off calendar in reliance upon Petitioner’s promise to appear for depositions on a date in late May or early June, and to explore settlement of the matters. Declaration of Crandall ¶6.

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Over the next two months, the parties attempted to discuss settlement of the action but were unable to settle the dispute. Declaration of Crandall ¶7. During this time, Petitioner failed to provide Registrant with any dates for Registrant to take its deposition. Declaration of Crandall ¶8. Thus, on June 19, 2015, Registrant served a Deposition Notice on Petitioner pursuant to Fed. R. Civ. P. 30(b)(6) and TBMP 404.06(b), with Certificate of Service for deposition scheduled on July 10, 2015. Declaration of Crandall ¶9, Ex. 4. On the same day, Registrant also served Petitioner with Deposition Notices for its agents Kasha Shahabi and Fareh Sameh pursuant to Fed. R. Civ. P. 30(b)(1) and TBMP 404.06(a), with Certificate of Service for deposition on July 10, 2015. Declaration of Crandall ¶10, Ex. 5. With service of the Deposition Notices, Registrant included a letter indicating seven alternative dates it would be amenable to taking Petitioner's deposition before discovery closed in this action and Petitioner failed to respond to the correspondence. Declaration of Crandall ¶11, Ex. 6.

On July 1, 2015, Registrant called Petitioner, through counsel, in an attempt to confirm Petitioner's appearance at the depositions noticed for July 10, 2015. Declaration of Crandall ¶12. On July 2, 2015, Petitioner returned the call alleging that although the parties for Petitioner were available for deposition as noticed on July 10, 2015, counsel for Petitioner was unavailable. Declaration of Crandall ¶13. Petitioner demanded that Registrant consent to a 60-day continuance of all deadlines in this matter, while at the same time refusing to provide any future dates for Registrant to take Petitioner's deposition. Declaration of Crandall ¶14. Registrant initially refused Petitioner's demand for a 60-day continuance due to Petitioner's repeated failure to appear for deposition, unwillingness to provide future

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dates for a deposition, and refusal to produce a verification to interrogatory responses that Registrant has requested since March 25, 2015. *Id.* In an attempt to meet and confer and compromise, Registrant then indicated that it would grant the additional 60-day extension if Petitioner provided dates for which it would appear for deposition. Declaration of Crandall ¶15. Petitioner then indicated that there is not a single date in July or August (the entire duration of its requested 60-day extension) for which it would confirm its availability to appear for deposition. Declaration of Crandall ¶16.

Registrant documented Petitioner's stance on July 2, 2015, by sending an email to Petitioner following the phone conversation, and indicated that pursuant to 37 CFR Section 2.120(g)(1) { sic }, Registrant had no choice but to file a motion seeking the striking of Petitioner's pleadings, enjoining Petitioner from supporting or opposing designated claims or defenses, prohibiting Petitioner from introducing evidence, and entering judgment against Petitioner. Declaration of Crandall ¶17, Ex. 7.

On July 7, 2015, Petitioner sent an email to Registrant disputing that it refused to appear for deposition, stating that it was willing to reschedule the depositions for August for tentative dates, none of which were provided in the email. Declaration of Crandall ¶18, Ex. 8. Petitioner also threatened to file a motion to compel further responses to the interrogatories it propounded on Registrant on December 11, 2014, to which Registrant provided a timely general objection on January 15, 2014. *Id.*

On July 9, 2015, Registrant responded to Petitioner through letter, reiterating that it would be willing to grant an extension to all deadlines in this case if Petitioner confirmed

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deposition dates by July 14, 2015. Declaration of Crandall ¶19, Ex. 9. In the letter, Registrant also provided a breakdown of how it calculated the subparts of Petitioner's interrogatories to warrant Registrant's general objection pursuant to 37 CFR Section 2.120(d)(1) and TBMP 405.03(e). Petitioner failed to confirm deposition dates by July 14, 2015, as requested in Registrant's letter. Declaration of Crandall ¶20. Since April, Petitioner has failed to appear for properly noticed depositions twice, and still continues to refuse to provide dates for Registrant to take its deposition. Declaration of Crandall ¶21.

### **ARGUMENT**

37 CFR § 2.120 (g)(2) provides for the imposition of sanctions against Petitioner. "If a party, or an officer, director, or managing agent of a party, or a person designated under Rule 30(b)(6) or 31(a) of the Federal Rules of Civil Procedure to testify on behalf of a party, fails to attend the party's or person's discovery deposition, after being served with proper notice, or fails to provide any response to a set of interrogatories or to a set of requests for production of documents and things, and such party or the party's attorney or other authorized representative informs the party seeking discovery that no response will be made thereto, the Board may make any appropriate order, as specified in paragraph (g)(1) of this section." [37 CFR § 2.120 (g)(2)] Specifically, 37 CFR § 2.120(g)(1) calls for the imposition of sanctions pursuant to those available under Fed. R. Civ. P. 37(b)(2).

Fed. R. Civ. P. 37(b)(2) provides for the following sanctions:

(i) directing that the matters embraced in the order or other designated facts be taken as established for purposes of the action, as the prevailing party claims;

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- (ii) prohibiting the disobedient party from supporting or opposing designated claims or defenses, or from introducing designated matters in evidence;
- (iii) striking pleadings in whole or in part;
- (iv) staying further proceedings until the order is obeyed;
- (v) dismissing the action or proceeding in whole or in part;
- (vi) rendering a default judgment against the disobedient party; or,
- (vii) treating as contempt of court the failure to obey any order except an order to submit to a physical or mental examination.

Generally, the determination and imposition of an appropriate sanction is a fact-specific inquiry. Ehrenhaus v. Reynolds, 965 F. 2d 916, 920 (10<sup>th</sup> Cir. 1992). Dismissal of a party's case is appropriate only in instances of willful misconduct. *Id.* This is the current situation as Carnevor has refused to appear for deposition twice and continues to refuse to provide any future deposition dates - an evasive discovery tactic that demonstrates willful misconduct.

In Ehrenhaus, the appellate court directed trial courts to consider a number of factors prior to choosing dismissal as an appropriate sanction. Some of those factors are: (1) the degree of actual prejudice to the opposing party; (2) the amount of interference with the judicial process; (3) the culpability of the litigant; and (4) the efficacy of lesser sanctions. Ehrenhaus, 965 F.2d at 921.

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Actual Prejudice to Registrant

On April 8, 2015, Petitioner stated it would provide available dates for Registrant to take its deposition in late May or early June if Registrant consented to a 90-day extension of all deadlines in the matter and agreed to take the depositions scheduled for April 10, 2015 off calendar. In reliance on Petitioner's promise, Registrant consented to the extension and took the depositions off calendar with the intent of continuing them to a date in May or June. However, Petitioner never provided Registrant with deposition dates despite Registrant's follow up requests.

Registrant then re-noticed the depositions and included a list of alternative dates in an attempt to further accommodate Petitioner and its counsel. Once again, in violation of its obligation to appear for deposition, Petitioner responded by calling Registrant to indicate that it would not appear for deposition as noticed, and demanded an additional 60-day extension to all deadlines in this matter while at the same time refusing to provide any future dates for Registrant to take Petitioner's deposition. Petitioner's refusal to appear for deposition causes prejudice to Registrant because Registrant is left to guess as to what evidence, if any, Petitioner has to support its contentions. Registrant is unable to execute its discovery plan because it has no way of determining the individual witnesses Petitioner intends to call to prosecute its claims. The production of such information and testimony is required, but has not been supplied. Registrant is left to speculate about Petitioner's contentions. In addition to the prejudice caused by this failure, Registrant suffers prejudice

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caused by the expense of bringing this motion and its extensive attempts to meet and confer, and delay in the disposition of this dispute.

Registrant is being forced to spend more time and money in pursuit of discovery — just the opposite result from the intent of the TBMP. Petitioner's non-compliance has already prolonged this litigation. Additional steps are now required to ascertain the state of discovery and trial preparation while a cloud of uncertainty hangs over Registrant's head.

The Board should determine that Registrant has been prejudiced by Petitioner's failures and order dismissal with prejudice of this action as to Petitioner's Petitions to cancel Registrant's marks. The Board should also prohibit Petitioner from supporting or opposing all claims or defenses, or from introducing matters into evidence in opposition to Registrant's Counterclaim to cancel Petitioner's mark.

#### Interference with the Judicial Process

Petitioner's failure to appear for deposition and other evasive discovery tactics has halted and stymied the cancellation proceeding and interferes with the judicial process.

Nothing further can be accomplished in assessing the case and moving it toward a meaningful disposition without the depositions of Petitioner and its agents. Petitioner has willfully thwarted the Board's attempt to make these proceedings smoother, more efficient and orderly, through the TBMP, and the Board should determine that Petitioner's acts and evasive tactics significantly interfere with the judicial process. Accordingly, the Board should order dismissal with prejudice of this

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action as to Petitioner's Petitions to cancel Registrant's marks and prohibit Petitioner from supporting or opposing claims or defenses, or from introducing matters into evidence in opposition to Registrant's Counterclaim to cancel Petitioner's mark.

#### Culpability of Petitioner

Petitioner is fully culpable in its repeated failure to appear for deposition and its refusal to provide future dates that it will appear for deposition. Registrant set dates to take Petitioner's deposition twice and on both occasions provided correspondence indicating a willingness to find dates that were mutually acceptable to all parties and their counsel if the noticed dates were unavailable. Registrant even offered to extend the deadlines of this action a second time, and notice Petitioner's deposition a third time, if Petitioner provided future dates for deposition and Petitioner still refuses to cooperate. Not only has Petitioner evaded its obligations, it also has sought to circumvent the rules by asking for additional extensions without any intent of appearing for deposition within the timeframe of the requested extension. Petitioner's culpability is clear and the Board should order dismissal with prejudice of this action as to Petitioner's Petitions to cancel Registrant's marks and prohibit Petitioner from supporting or opposing claims or defenses, or from introducing matters into evidence in opposition to Registrant's Counterclaim to cancel Petitioner's mark.

#### Efficacy of Lesser Sanctions

Petitioner has acknowledged its unwillingness to appear for deposition by repeatedly failing to appear for deposition pursuant to the first two notices, and by

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failing to provide any future dates, which means it has willfully failed to respond to Registrant's authorized discovery demands. Petitioner has threatened to compel further responses to interrogatories propounded in December of 2014, which Registrant responded to by general objection in January of 2015, as a last ditch effort in an attempt to distract attention away from its willful refusal to appear for deposition. Given its admission of its own culpability, it is clear that Petitioner is "gaming" the system for which the appropriate sanction is dismissal with prejudice of this action as to Petitioner's Petitions to cancel Registrant's marks, and to prohibit Petitioner from supporting or opposing claims or defenses, or from introducing matters into evidence in opposition to Registrant's Counterclaim to cancel Petitioner's mark.

### **CONCLUSION**

WHEREFORE, Registrant prays that the Board, pursuant to 37 CFR § 2.120(g)(2) and TBMP 527.02; or, in the alternative, 37 CFR § 2.120(e) and TBMP 523.01:

(1) Dismiss with prejudice, Petitioner Carnevor, Inc.'s Petitions for Cancellation Nos. 92059099 and 92059167 for Petitioner's refusal to attend deposition; and,

(2) Enter an Order prohibiting Petitioner Carnevor, Inc. from supporting or opposing its claims or defenses, or from introducing matters into evidence in regards to Registrant's Counterclaim to Cancellation number 92059099 seeking cancellation of Petitioner's mark for Petitioner's refusal to attend deposition; or, if these first two prayers are denied, in the alternative,

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(3) Compel Petitioner Carnevor, Inc. and its agents to attend deposition and extend the discovery period as to Registrant Dog Haus LLC dba Dog Haus for the limited purpose of allowing Registrant to take the depositions of Petitioner Carnevor, Inc. and its agents.

Dated: July 17, 2015

Respectfully submitted,

/Walter M. Crandall/  
WALTER M. CRANDALL  
2 Park Plaza, Suite 730  
Irvine, California 92614

Attorneys for Registrant,  
Dog Haus LLC

Cancellation Nos. 92059099  
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing REGISTRANT'S MOTION TO DISMISS PETITIONER'S CLAIMS FOR CANCELLATION AND FOR SANCTIONS PROHIBITING PETITIONER FROM OPPOSING REGISTRANT'S COUNTERCLAIM FOR PETITIONER'S REFUSAL TO ATTEND DEPOSITION is being served upon counsel for Petitioner by deposit of same in the United States Mail, first class postage prepaid, on this date in an envelope addressed to:

Stephen Anderson  
Anderson Law  
27280 Via Industria, Unit B  
Temecula, CA 92590

on July 17, 2015.

/Walter M. Crandall/  
Walter M. Crandall

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Walter M. Crandall  
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I hereby certify that a true and correct copy of the foregoing REGISTRANT'S TABLE OF AUTHORITIES TO ITS MOTION TO DISMISS PETITIONER'S CLAIMS FOR CANCELLATION AND FOR SANCTIONS PROHIBITING PETITIONER FROM OPPOSING REGISTRANT'S COUNTERCLAIM FOR PETITIONER'S REFUSAL TO ATTEND DEPOSITION is being served upon counsel for Petitioner by deposit of same in the United States Mail, first class postage prepaid, on this date in an envelope addressed to:

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on July 17, 2015.

/Walter M. Crandall/  
Walter M. Crandall

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
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**CARNEVOR INC.,**

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Registrant/Respondent.

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**DECLARATION OF WALTER M. CRANDALL IN SUPPORT OF REGISTRANT'S  
MOTION TO DISMISS PETITIONER'S CLAIMS FOR CANCELLATION AND FOR  
SANCTIONS PROHIBITING PETITIONER FROM OPPOSING REGISTRANT'S  
COUNTERCLAIM FOR PETITIONER'S REFUSAL TO ATTEND DEPOSITION AND  
EXHIBITS**

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I, Walter M. Crandall, declare as follows:

1. I am attorney of record for Registrant and Respondent, Dog Haus LLC dba Dog Haus (“Registrant” or “Dog Haus”), in this action. I make this declaration in support of Registrant’s Motion to Dismiss Petitioner’s Claims for Cancellation and for Sanctions Prohibiting Petitioner from Opposing Registrant’s Counterclaim for Petitioner’s Refusal to Attend Deposition. If called as a witness, I would testify as follows:

2. Registrant served a Deposition Notice on Petitioner pursuant to Fed. R. Civ. P. 30(b)(6) and TBMP 404.06(b) on March 25, 2015, with Certificate of Service for deposition on April 10, 2015. A true and correct copy of the Deposition Notice served on Petitioner is incorporated by reference and attached hereto as Exhibit 1.

3. Registrant also served Petitioner with Deposition Notices for its agents Kasha Shahabi and Fareh Sameh pursuant to Fed. R. Civ. P. 30(b)(1) and TBMP 404.06(a) on March 25, 2015, with Certificate of Service for deposition on April 10, 2015. A true and correct copy of the Deposition Notices served on Petitioner’s agents are incorporated by reference and attached hereto as Exhibit 2.

4. On April 7, 2015, Registrant attempted to confirm that Petitioner and its agents would appear for deposition through a letter sent by facsimile and email through counsel. A true and correct copy of the correspondence sent on April 7, 2015 is incorporated by reference and attached hereto as Exhibit 3.

5. Thereafter, Petitioner’s counsel, Stephen Anderson (“Petitioner’s counsel”) called me and indicated that he and Petitioner were unavailable for the depositions, requested a

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90-day extension to all deadlines in the action, and promised that Petitioner would soon thereafter provide dates that it and its agents would be available for deposition in late May or early June.

6. As a professional courtesy and to accommodate Petitioner and its counsel, Registrant consented to the extension and took the depositions off calendar in reliance upon Petitioner's promise to appear for depositions on a date in late May or early June, and to explore settlement of the matters.

7. Over the next two months, the parties attempted to discuss settlement of the action but were unable to settle the dispute.

8. During this time, Petitioner failed to provide Registrant with any dates for Registrant to take its deposition.

9. On June 19, 2015, Registrant served a Deposition Notice on Petitioner pursuant to Fed. R. Civ. P. 30(b)(6) and TBMP 404.06(b), with Certificate of Service for deposition scheduled on July 10, 2015. A true and correct copy of the Deposition Notice is incorporated by reference and attached hereto as Exhibit 4.

10. On the same day, Registrant also served Petitioner with Deposition Notices for its agents Kasha Shahabi and Fareh Sameh pursuant to Fed. R. Civ. P. 30(b)(1) and TBMP 404.06(a), with Certificate of Service for deposition on July 10, 2015. A true and correct copy of the Deposition Notices are incorporated by reference and attached hereto as Exhibit 5.

11. With service of the Deposition Notices, Registrant included a letter indicating seven alternative dates it would be amenable to taking Petitioner's deposition before discovery

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closed in this action and Petitioner failed to respond to the correspondence. A true and correct copy of the correspondence sent with the Deposition Notices is incorporated by reference and attached hereto as Exhibit 6.

12. On July 1, 2015, Registrant called Petitioner, through counsel, in an attempt to confirm Petitioner's appearance at the depositions noticed for July 10, 2015.

13. On July 2, 2015, Petitioner returned the call alleging that although the parties for Petitioner were available for deposition as noticed on July 10, 2015, counsel for Petitioner was unavailable.

14. During this phone call, Petitioner demanded that Registrant consent to a 60-day continuance of all deadlines in this matter, while at the same time refusing to provide any future dates for Registrant to take Petitioner's deposition. Registrant initially refused Petitioner's demand for a 60-day continuance due to Petitioner's repeated failure to appear for deposition, unwillingness to provide future dates for a deposition, and refusal to produce a verification to interrogatory responses that Registrant has requested since March 25, 2015.

15. During the same phone call, in an attempt to meet and confer and compromise, Registrant then indicated that it would grant the additional 60-day extension if Petitioner provided dates that it would appear for deposition.

16. Petitioner then indicated that there is not a single date in July or August (the entire duration of its requested 60-day extension) for which it would confirm its availability to appear for deposition.

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17. Registrant documented Petitioner's stance on July 2, 2015, by sending an email to Petitioner following the phone conversation, and indicated that pursuant to 37 CFR Section 2.120(g)(1) {sic}, Registrant had no choice but to file a motion seeking the striking of Petitioner's pleadings, enjoining Petitioner from supporting or opposing designated claims or defenses, prohibiting Petitioner from introducing evidence, and entering judgment against Petitioner. A true and correct copy of the email sent indicating this motion to dismiss would be filed is incorporated by reference and attached hereto as Exhibit 7.

18. On July 7, 2015, Petitioner sent an email to Registrant disputing that it refused to appear for deposition, stating that it was willing to reschedule the depositions for August for tentative dates, none of which were provided. Petitioner also threatened to file a motion to compel further responses to the interrogatories it propounded on Registrant on December 11, 2014, to which Registrant provided a timely general objection to on January 15, 2014. A true and correct copy of the email received from Petitioner's counsel is incorporated by reference and attached hereto as Exhibit 8.

19. On July 9, 2015, Registrant responded to Petitioner through letter, reiterating that it would be willing to grant an extension to all deadlines in this case if Petitioner confirmed deposition dates by July 14, 2015. A true and correct copy of the correspondence sent on July 9, 2015 is incorporated by reference and attached hereto as Exhibit 9.

20. Petitioner failed to confirm deposition dates by July 14, 2015 as requested in Registrant's letter.

Cancellation Nos. 92059099  
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21. Since April of 2015, Petitioner has failed to appear for properly noticed depositions twice, and still continues to refuse to provide dates for Registrant to take its deposition.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on July 17, 2015, at Irvine, California.

/Walter M. Crandall/

WALTER M. CRANDALL

2 Park Plaza, Suite 730

Irvine, California 92614

Attorneys for Registrant and Respondent,

Dog Haus LLC dba Dog Haus

Cancellation Nos. 92059099  
92059167

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing DECLARATION OF WALTER M. CRANDALL IN SUPPORT OF REGISTRANT'S MOTION TO DISMISS PETITIONER'S CLAIMS FOR CANCELLATION AND FOR SANCTIONS PROHIBITING PETITIONER FROM OPPOSING REGISTRANT'S COUNTERCLAIM FOR PETITIONER'S REFUSAL TO ATTEND DEPOSITION AND EXHIBITS is being served upon counsel for Petitioner by deposit of same in the United States Mail, first class postage prepaid, on this date in an envelope addressed to:

Stephen Anderson  
Anderson Law  
27280 Via Industria, Unit B  
Temecula, CA 92590

on July 17, 2015.

/Walter M. Crandall/  
Walter M. Crandall

**EXHIBIT 1**

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

**CARNEVOR INC.,**

Petitioner,  
v.

**DOG HAUS, LLC,**

Registrant/Respondent.

**Cancellation No.: 92059099  
(Parent of No.: 92059167)**

**REGISTRANT DOG HAUS, LLC'S  
NOTICE OF DEPOSITION FOR  
PETITIONER CARNEVOR, INC.  
PURSUANT TO FED. R. CIV. P. 30(b)(6)  
AND TBMP 404.06(b)**

Date: April 10, 2015

Time: 10:00 a.m.

Place: Robertson & Olsen, LLP  
2 Park Plaza, Suite 730  
Irvine, California 92614

PLEASE TAKE NOTICE that, pursuant to Federal Rule of Civil Procedure 30(b)(6) and Trademark Trial and Appeal Board Manual of Procedure Section 404.06(b), Registrant DOG HAUS, LLC ("Registrant") will take the deposition on oral examination of Petitioner CARNEVOR, INC. ("Petitioner"), as an organization, on the topics detailed below. Petitioner CARNEVOR, INC. shall identify the person or persons who will speak on its behalf on each topic.

The deposition will take place on April 10, 2015, at Robertson & Olsen, LLP located at 2 Park Plaza, Suite 730, Irvine, California 92614, at 10:00 a.m. before a court reporter, or before any notary public authorized to administer oaths in the State of California who is present at the specified time and place. This deposition will be

recorded by stenographic, audio and video means, and Registrant provides notice to Petitioner and the other parties to this action that the deposition may be used at the time of trial. The taking of this deposition may be adjourned from day to day until completed, excepting Saturdays, Sundays and holidays, and may occur over several days if more than one person is necessary to provide the information requested.

IF AN INTERPRETER IS NEEDED IT IS REQUESTED THAT THIS OFFICE BE NOTIFIED AT LEAST FIVE (5) DAYS PRIOR TO THE SCHEDULED DEPOSITION.

#### DEFINITIONS

The noticing party may use LiveNote, or other computer software to obtain an instant visual display of the testimony. Further, the oral examination will be recorded stenographically and may also be videotaped.

A list of all parties or attorneys for parties on whom this Notice of Deposition is served is shown on the accompanying Proof of Service.

As used in this Notice, the following definitions apply to each of the topics to be examined of the deponent set forth below:

A. As used herein, the terms " Petitioner " and "You" shall mean, without limitation, Petitioner CARNEVOR, INC., and any of its agents, officers, managers, partners, employees, directors, officers, representatives, or anyone else acting on that organization's behalf.

B. As used herein, the term " Registrant " shall mean, without limitation, Registrant DOG HAUS, LLC, and any of its agents, officers, partners, employees, directors, officers, representatives, or anyone else acting on that organization's behalf.

### TOPICS TO BE EXAMINED

1. Petitioner's U.S. Trademark Application Serial No. 85/459723 filed under Section 1(b) on October 29, 2011 for the mark HUNDEHAUS.

2. Petitioner's U.S. Trademark Application Serial No. 85/404,673 and resulting Registration No. 4,336,555 for the mark HUND & BIER HAUS. (Collectively referred to hereinafter with HUNDEHAUS as "Petitioner's marks.")

3. Petitioner's use of trademarks in commerce.

4. Petitioner's use of service marks in commerce.

5. The nature of Petitioner's goods.

6. Petitioner's channels of trade.

7. Conditions under which Petitioner makes sales.

8. Buyers of Petitioner's services and goods.

9. The fame of Petitioner's marks.

10. The number and nature of marks similar to Petitioner's marks in use on similar goods and services.

11. The nature and extent of any actual confusion between Petitioner's marks and Registrant's marks ("Registrant's marks" as used hereinafter shall mean Registrant DOG HAUS, LLC's Registration No. 4,326,591 issued on April 30, 2013 for DOG HAUS, and Registration No. 4,202,507, issued on the Principal Register on September 04, 2012 to DOG HAUS, LLC for the logo mark bearing the words DOG HAUS.

12. The variety of goods on which the Petitioner's marks are used or not used.

13. Petitioner's current and former business operations.

14. The extent to which Petitioner has a right to exclude others form use of Petitioner's marks.

15. The choice of Petitioner's Marks.

16. The marketing and promotion of Petitioner's goods and services.

17. The date of first use of each of Petitioner's Marks.

18. The goodwill of Petitioner's Marks.

19. The circumstances under which Petitioner first learned of Registrant's Marks.

Dated: March 25, 2015

Respectfully submitted,

/Walter M. Crandall/  
WALTER M. CRANDALL  
2 Park Plaza, Suite 730  
Irvine, California 92614

Attorneys for Registrant,  
Dog Haus LLC

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing REGISTRANT DOG HAUS, LLC'S NOTICE OF DEPOSITION FOR PETITIONER CARNEVOR, INC. PURSUANT TO FED. R. CIV. P. 30(b)(6) AND TBMP 404.06(b) is being served upon counsel for Petitioner by deposit of same in the United States Mail, first class postage prepaid, on this date in an envelope addressed to:

Stephen Anderson  
Anderson Law  
27280 Via Industria, Unit B  
Temecula, CA 92590

on March 25, 2015.

Walter M. Crandall/  
Walter M. Crandall

**EXHIBIT 2**

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

**CARNEVOR INC.,**

Petitioner,  
v.

**DOG HAUS, LLC,**

Registrant/Respondent.

**Cancellation No.: 92059099  
(Parent of No.: 92059167)**

**REGISTRANT DOG HAUS, LLC'S  
NOTICE OF DEPOSITION FOR  
PETITIONER CARNEVOR, INC.'S  
KASHA SHAHABI PURSUANT TO FED.  
R. CIV. P. 30(b)(1) AND TBMP 404.06(a)**

Date: April 10, 2015

Time: 3:00 p.m.

Place: Robertson & Olsen, LLP  
2 Park Plaza, Suite 730  
Irvine, California 92614

PLEASE TAKE NOTICE that, pursuant to Federal Rule of Civil Procedure 30(b)(1) and Trademark Trial and Appeal Board Manual of Procedure Section 404.06(a), Registrant DOG HAUS, LLC ("Registrant") will take the deposition on oral examination of Petitioner CARNEVOR, INC.'S ("Petitioner") officer KASHA SHAHABI.

The deposition will take place on April 10, 2015, at Robertson & Olsen, LLP located at 2 Park Plaza, Suite 730, Irvine, California 92614, at 3:00 p.m. before a court reporter, or before any notary public authorized to administer oaths in the State of California who is present at the specified time and place. This deposition will be recorded by stenographic, audio and video means, and Registrant provides notice to Petitioner and the other parties to this action that the deposition may be used at the

time of trial. The taking of this deposition may be adjourned from day to day until completed, excepting Saturdays, Sundays and holidays, and may occur over several days if more than one person is necessary to provide the information requested.

IF AN INTERPRETER IS NEEDED IT IS REQUESTED THAT THIS OFFICE BE NOTIFIED AT LEAST FIVE (5) DAYS PRIOR TO THE SCHEDULED DEPOSITION.

#### DEFINITIONS

The noticing party may use LiveNote, or other computer software to obtain an instant visual display of the testimony. Further, the oral examination will be recorded stenographically and may also be videotaped.

A list of all parties or attorneys for parties on whom this Notice of Deposition is served is shown on the accompanying Proof of Service.

Dated: March 25, 2015

Respectfully submitted,

/Walter M. Crandall/  
WALTER M. CRANDALL  
2 Park Plaza, Suite 730  
Irvine, California 92614

Attorneys for Registrant,  
Dog Haus LLC

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing REGISTRANT DOG HAUS, LLC'S NOTICE OF DEPOSITION FOR PETITIONER CARNEVOR, INC.'S KASHA SHAHABI PURSUANT TO FED. R. CIV. P. 30(b)(1) AND TBMP 404.06(a) is being served upon counsel for Petitioner by deposit of same in the United States Mail, first class postage prepaid, on this date in an envelope addressed to:

Stephen Anderson  
Anderson Law  
27280 Via Industria, Unit B  
Temecula, CA 92590

on March 25, 2015.

Walter M. Crandall/  
Walter M. Crandall

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

**CARNEVOR INC.,**

Petitioner,  
v.

**DOG HAUS, LLC,**

Registrant/Respondent.

**Cancellation No.: 92059099  
(Parent of No.: 92059167)**

**REGISTRANT DOG HAUS, LLC'S  
NOTICE OF DEPOSITION FOR  
PETITIONER CARNEVOR, INC.'S  
FAREH SAMEH PURSUANT TO FED. R.  
CIV. P. 30(b)(1) AND TBMP 404.06(a)**

Date: April 10, 2015

Time: 1:30 p.m.

Place: Robertson & Olsen, LLP  
2 Park Plaza, Suite 730  
Irvine, California 92614

PLEASE TAKE NOTICE that, pursuant to Federal Rule of Civil Procedure 30(b)(1) and Trademark Trial and Appeal Board Manual of Procedure Section 404.06(a), Registrant DOG HAUS, LLC ("Registrant") will take the deposition on oral examination of Petitioner CARNEVOR, INC.'S ("Petitioner") officer FAREH SAMEH.

The deposition will take place on April 10, 2015, at Robertson & Olsen, LLP located at 2 Park Plaza, Suite 730, Irvine, California 92614, at 1:30 p.m. before a court reporter, or before any notary public authorized to administer oaths in the State of California who is present at the specified time and place. This deposition will be recorded by stenographic, audio and video means, and Registrant provides notice to Petitioner and the other parties to this action that the deposition may be used at the

time of trial. The taking of this deposition may be adjourned from day to day until completed, excepting Saturdays, Sundays and holidays, and may occur over several days if more than one person is necessary to provide the information requested.

IF AN INTERPRETER IS NEEDED IT IS REQUESTED THAT THIS OFFICE BE NOTIFIED AT LEAST FIVE (5) DAYS PRIOR TO THE SCHEDULED DEPOSITION.

#### DEFINITIONS

The noticing party may use LiveNote, or other computer software to obtain an instant visual display of the testimony. Further, the oral examination will be recorded stenographically and may also be videotaped.

A list of all parties or attorneys for parties on whom this Notice of Deposition is served is shown on the accompanying Proof of Service.

Dated: March 25, 2015

Respectfully submitted,

/Walter M. Crandall/  
WALTER M. CRANDALL  
2 Park Plaza, Suite 730  
Irvine, California 92614

Attorneys for Registrant,  
Dog Haus LLC

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing REGISTRANT DOG HAUS, LLC'S NOTICE OF DEPOSITION FOR PETITIONER CARNEVOR, INC.'S FAREH SAMEH PURSUANT TO FED. R. CIV. P. 30(b)(1) AND TBMP 404.06(a) is being served upon counsel for Petitioner by deposit of same in the United States Mail, first class postage prepaid, on this date in an envelope addressed to:

Stephen Anderson  
Anderson Law  
27280 Via Industria, Unit B  
Temecula, CA 92590

on March 25, 2015.

Walter M. Crandall/  
Walter M. Crandall

**EXHIBIT 3**

**ROBERTSON & OLSEN, LLP**  
A LAW PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

April 7, 2015

*Sent Via Facsimile and Email*

Stephen Anderson  
Anderson Law  
27280 Via Industria, Unit B  
Temecula, CA 92590  
Fax: (951) 296-0614  
attorneys@brandxperts.com

Re: *Carnevor, Inc. v. Dog Haus LLC*  
(USPTO TTAB Cancellation Nos. 92059099 and 92059167)  
Attempts to Contact

Dear Mr. Anderson,

Thank you for your voicemail of Friday, April 3, 2015. Since that same day, I have left several voicemails for your office and cell phone and have not heard back from you.

Please confirm by email, facsimile, or telephone whether Petitioner Carnevor, Inc. ("Carnevor") and its officers Kasha Shahabi and Fareh Sameh will be appearing for the Depositions noticed by Registrant Dog Haus LLC ("Dog Haus") and set for Friday, April 10, 2015.

If April 10, 2015, is not mutually convenient for you or the deponents, please contact my office immediately to discuss alternative dates for the depositions during the week of April 13th. If my office does not hear from you, or the deponents fail to appear for their Depositions on Friday, April 10, 2015, Dog Haus will have no choice but to file a Motion to Compel the Depositions of Carnevor and its officers.

Please do not hesitate to contact me should you have any questions.

Very truly yours,

*Walter M. Crandall*  
Walter M. Crandall, Counsel

WMC/mm

[www.rolawfirm.com](http://www.rolawfirm.com)

ORANGE COUNTY: JAMBOREE CENTER 2 PARK PLAZA SUITE 730 IRVINE, CA 92614 (714) 361-2111 (714) 361-2110 FAX  
LOS ANGELES: 9636 CULVER BOULEVARD SUITE 301 CULVER CITY, CA 90232 (310) 388-4870 (310) 388-4871 FAX

**EXHIBIT 4**

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

**CARNEVOR INC.,**

Petitioner,  
v.

**DOG HAUS, LLC,**

Registrant/Respondent.

**Cancellation No.: 92059099  
(Parent of No.: 92059167)**

**REGISTRANT DOG HAUS, LLC'S  
NOTICE OF DEPOSITION FOR  
PETITIONER CARNEVOR, INC.  
PURSUANT TO FED. R. CIV. P. 30(b)(6)  
AND TBMP 404.06(b)**

Date: July 10, 2015

Time: 10:00 a.m.

Place: Robertson & Olsen, LLP  
2 Park Plaza, Suite 730  
Irvine, California 92614

PLEASE TAKE NOTICE that, pursuant to Federal Rule of Civil Procedure 30(b)(6) and Trademark Trial and Appeal Board Manual of Procedure Section 404.06(b), Registrant DOG HAUS, LLC ("Registrant") will take the deposition on oral examination of Petitioner CARNEVOR, INC. ("Petitioner"), as an organization, on the topics detailed below. Petitioner CARNEVOR, INC. shall identify the person or persons who will speak on its behalf on each topic.

The deposition will take place on July 10, 2015, at Robertson & Olsen, LLP located at 2 Park Plaza, Suite 730, Irvine, California 92614, at 10:00 a.m. before a court reporter, or before any notary public authorized to administer oaths in the State of California who is present at the specified time and place. This deposition will be

recorded by stenographic, audio and video means, and Registrant provides notice to Petitioner and the other parties to this action that the deposition may be used at the time of trial. The taking of this deposition may be adjourned from day to day until completed, excepting Saturdays, Sundays and holidays, and may occur over several days if more than one person is necessary to provide the information requested.

IF AN INTERPRETER IS NEEDED IT IS REQUESTED THAT THIS OFFICE BE NOTIFIED AT LEAST FIVE (5) DAYS PRIOR TO THE SCHEDULED DEPOSITION.

#### DEFINITIONS

The noticing party may use LiveNote, or other computer software to obtain an instant visual display of the testimony. Further, the oral examination will be recorded stenographically and may also be videotaped.

A list of all parties or attorneys for parties on whom this Notice of Deposition is served is shown on the accompanying Proof of Service.

As used in this Notice, the following definitions apply to each of the topics to be examined of the deponent set forth below:

A. As used herein, the terms " Petitioner " and "You" shall mean, without limitation, Petitioner CARNEVOR, INC., and any of its agents, officers, managers, partners, employees, directors, officers, representatives, or anyone else acting on that organization's behalf.

B. As used herein, the term " Registrant " shall mean, without limitation, Registrant DOG HAUS, LLC, and any of its agents, officers, partners, employees, directors, officers, representatives, or anyone else acting on that organization's behalf.

### TOPICS TO BE EXAMINED

1. Petitioner's U.S. Trademark Application Serial No. 85/459723 filed under Section 1(b) on October 29, 2011 for the mark HUNDEHAUS.

2. Petitioner's U.S. Trademark Application Serial No. 85/404,673 and resulting Registration No. 4,336,555 for the mark HUND & BIER HAUS. (Collectively referred to hereinafter with HUNDEHAUS as "Petitioner's marks.")

3. Petitioner's use of trademarks in commerce.

4. Petitioner's use of service marks in commerce.

5. The nature of Petitioner's goods.

6. Petitioner's channels of trade.

7. Conditions under which Petitioner makes sales.

8. Buyers of Petitioner's services and goods.

9. The fame of Petitioner's marks.

10. The number and nature of marks similar to Petitioner's marks in use on similar goods and services.

11. The nature and extent of any actual confusion between Petitioner's marks and Registrant's marks ("Registrant's marks" as used hereinafter shall mean Registrant DOG HAUS, LLC's Registration No. 4,326,591 issued on April 30, 2013 for DOG HAUS, and Registration No. 4,202,507, issued on the Principal Register on September 04, 2012 to DOG HAUS, LLC for the logo mark bearing the words DOG HAUS.

12. The variety of goods on which the Petitioner's marks are used or not used.

13. Petitioner's current and former business operations.

14. The extent to which Petitioner has a right to exclude others from use of  
Petitioner's marks.

15. The choice of Petitioner's Marks.

16. The marketing and promotion of Petitioner's goods and services.

17. The date of first use of each of Petitioner's Marks.

18. The goodwill of Petitioner's Marks.

19. The circumstances under which Petitioner first learned of Registrant's  
Marks.

Dated: June 19, 2015

Respectfully submitted,

/Walter M. Crandall/  
WALTER M. CRANDALL  
2 Park Plaza, Suite 730  
Irvine, California 92614

Attorneys for Registrant,  
Dog Haus LLC

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing REGISTRANT DOG HAUS, LLC'S NOTICE OF DEPOSITION FOR PETITIONER CARNEVOR, INC. PURSUANT TO FED. R. CIV. P. 30(b)(6) AND TBMP 404.06(b) is being served upon counsel for Petitioner by deposit of same in the United States Mail, first class postage prepaid, on this date in an envelope addressed to:

Stephen Anderson  
Anderson Law  
27280 Via Industria, Unit B  
Temecula, CA 92590

on June 19, 2015.

/Walter M. Crandall/  
Walter M. Crandall

**EXHIBIT 5**

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

**CARNEVOR INC.,**

Petitioner,  
v.

**DOG HAUS, LLC,**

Registrant/Respondent.

**Cancellation No.: 92059099  
(Parent of No.: 92059167)**

**REGISTRANT DOG HAUS, LLC'S  
NOTICE OF DEPOSITION FOR  
PETITIONER CARNEVOR, INC.'S  
KASHA SHAHABI PURSUANT TO FED.  
R. CIV. P. 30(b)(1) AND TBMP 404.06(a)**

Date: July 10, 2015

Time: 3:00 p.m.

Place: Robertson & Olsen, LLP  
2 Park Plaza, Suite 730  
Irvine, California 92614

PLEASE TAKE NOTICE that, pursuant to Federal Rule of Civil Procedure 30(b)(1) and Trademark Trial and Appeal Board Manual of Procedure Section 404.06(a), Registrant DOG HAUS, LLC ("Registrant") will take the deposition on oral examination of Petitioner CARNEVOR, INC.'S ("Petitioner") officer KASHA SHAHABI.

The deposition will take place on July 10, 2015, at Robertson & Olsen, LLP located at 2 Park Plaza, Suite 730, Irvine, California 92614, at 3:00 p.m. before a court reporter, or before any notary public authorized to administer oaths in the State of California who is present at the specified time and place. This deposition will be recorded by stenographic, audio and video means, and Registrant provides notice to Petitioner and the other parties to this action that the deposition may be used at the

time of trial. The taking of this deposition may be adjourned from day to day until completed, excepting Saturdays, Sundays and holidays, and may occur over several days if more than one person is necessary to provide the information requested.

IF AN INTERPRETER IS NEEDED IT IS REQUESTED THAT THIS OFFICE BE NOTIFIED AT LEAST FIVE (5) DAYS PRIOR TO THE SCHEDULED DEPOSITION.

#### DEFINITIONS

The noticing party may use LiveNote, or other computer software to obtain an instant visual display of the testimony. Further, the oral examination will be recorded stenographically and may also be videotaped.

A list of all parties or attorneys for parties on whom this Notice of Deposition is served is shown on the accompanying Proof of Service.

Dated: June 19, 2015

Respectfully submitted,

Walter M. Crandall  
WALTER M. CRANDALL  
2 Park Plaza, Suite 730  
Irvine, California 92614

Attorneys for Registrant,  
Dog Haus LLC

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing REGISTRANT DOG HAUS, LLC'S NOTICE OF DEPOSITION FOR PETITIONER CARNEVOR, INC.'S KASHA SHAHABI PURSUANT TO FED. R. CIV. P. 30(b)(1) AND TBMP 404.06(a) is being served upon counsel for Petitioner by deposit of same in the United States Mail, first class postage prepaid, on this date in an envelope addressed to:

Stephen Anderson  
Anderson Law  
27280 Via Industria, Unit B  
Temecula, CA 92590

on June 19, 2015.

Walter M. Crandall/  
Walter M. Crandall

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

**CARNEVOR INC.,**

Petitioner,  
v.

**DOG HAUS, LLC,**

Registrant/Respondent.

**Cancellation No.: 92059099  
(Parent of No.: 92059167)**

**REGISTRANT DOG HAUS, LLC'S  
NOTICE OF DEPOSITION FOR  
PETITIONER CARNEVOR, INC.'S  
FAREH SAMEH PURSUANT TO FED. R.  
CIV. P. 30(b)(1) AND TBMP 404.06(a)**

Date: July 10, 2015

Time: 1:30 p.m.

Place: Robertson & Olsen, LLP  
2 Park Plaza, Suite 730  
Irvine, California 92614

PLEASE TAKE NOTICE that, pursuant to Federal Rule of Civil Procedure 30(b)(1) and Trademark Trial and Appeal Board Manual of Procedure Section 404.06(a), Registrant DOG HAUS, LLC ("Registrant") will take the deposition on oral examination of Petitioner CARNEVOR, INC.'S ("Petitioner") officer FAREH SAMEH.

The deposition will take place on July 10, 2015, at Robertson & Olsen, LLP located at 2 Park Plaza, Suite 730, Irvine, California 92614, at 1:30 p.m. before a court reporter, or before any notary public authorized to administer oaths in the State of California who is present at the specified time and place. This deposition will be recorded by stenographic, audio and video means, and Registrant provides notice to Petitioner and the other parties to this action that the deposition may be used at the

time of trial. The taking of this deposition may be adjourned from day to day until completed, excepting Saturdays, Sundays and holidays, and may occur over several days if more than one person is necessary to provide the information requested.

IF AN INTERPRETER IS NEEDED IT IS REQUESTED THAT THIS OFFICE BE NOTIFIED AT LEAST FIVE (5) DAYS PRIOR TO THE SCHEDULED DEPOSITION.

#### DEFINITIONS

The noticing party may use LiveNote, or other computer software to obtain an instant visual display of the testimony. Further, the oral examination will be recorded stenographically and may also be videotaped.

A list of all parties or attorneys for parties on whom this Notice of Deposition is served is shown on the accompanying Proof of Service.

Dated: June 19, 2015

Respectfully submitted,

/Walter M. Crandall/  
WALTER M. CRANDALL  
2 Park Plaza, Suite 730  
Irvine, California 92614

Attorneys for Registrant,  
Dog Haus LLC

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing REGISTRANT DOG HAUS, LLC'S NOTICE OF DEPOSITION FOR PETITIONER CARNEVOR, INC.'S FAREH SAMEH PURSUANT TO FED. R. CIV. P. 30(b)(1) AND TBMP 404.06(a) is being served upon counsel for Petitioner by deposit of same in the United States Mail, first class postage prepaid, on this date in an envelope addressed to:

Stephen Anderson  
Anderson Law  
27280 Via Industria, Unit B  
Temecula, CA 92590

on June 19, 2015.

Walter M. Crandall  
Walter M. Crandall

**EXHIBIT 6**

June 19, 2015

***Sent Via U.S. Mail and Email***

Stephen Anderson  
Anderson Law  
27280 Via Industria, Unit B  
Temecula, CA 92590

Re: ***Carnevor, Inc. v. Dog Haus, LLC***  
(USPTO TTAB Cancellation Nos. 92059099 and 92059167)  
Meet and Confer Re: Insufficient Responses of Carnevor, Inc. to Registrant's First  
Set of Interrogatories

Dear Mr. Anderson,

Registrant Dog Haus, LLC ("Dog Haus") has considered Petitioner Carnevor, Inc.'s ("Petitioner" or "Carnevor") request for another ninety-day extension to the deadlines in this matter and cannot consent to the request for the following reasons.

On March 25, 2015, through counsel, Dog Haus sent Carnevor a meet and confer letter requesting that Carnevor produce a verification for its responses to the interrogatories propounded by Dog Haus. Despite Dog Haus' efforts, Carnevor has yet to produce said verification.

Similarly, on March 25, 2015, Dog Haus served Carnevor with deposition notices to take the depositions of Carnevor's principals and persons most knowledgeable. A few days before the scheduled depositions, we discussed the unavailability of your clients and yourself for the deposition dates. As a courtesy to Carnevor, Dog Haus stipulated to a 90-day continuance of all remaining deadlines and you indicated that you would contact me within a week or two with deposition dates for late May, or early June. Despite Carnevor's promises, and Dog Haus' additional requests for said dates, Carnevor has yet to provide Dog Haus with any dates for these depositions.

Due to Carnevor's failure to cooperate in good faith in the discovery process, Dog Haus is unable to consent to another extension of the deadlines in this matter. This letter is a final demand that Carnevor produce the verification to the interrogatories propounded upon it by Dog Haus. Failure to provide my office with the signed verification bearing an original signature by Wednesday, July 1, 2015, will leave Dog Haus no choice but to file a motion for an order waiving all objections raised by Carnevor in response to the interrogatories, compelling new responses without any objections, and compelling delivery of a signed verification of all responses by Carnevor.

Mr. Anderson  
*Dog Haus adv. Carnevor, Inc.*  
June 19, 2015  
Page 2

Please find enclosed revised deposition notices for Dog Haus to take the depositions of Carnevor's principals and persons most knowledgeable. Due to Carnevor's failure to provide available dates as previously promised, the depositions have been scheduled for Friday, July 10, 2015. Should Carnevor, or its counsel, be unavailable for deposition on July 10, 2015, Dog Haus is amenable to taking said depositions on June 29, or July 1, 2, 6, 7, 8, 9, or 10. Please contact me to confirm a date on which Carnevor and its principals are willing to appear for deposition. Should Carnevor fail to appear for deposition by July 10, 2015, Dog Haus will have no choice but to file a motion for an order compelling Carnevor's appearance for deposition, and will also seek terminating sanctions against Carnevor for its failure to cooperate in the discovery process.

Please do not hesitate to contact me should you have any questions.

Very truly yours,

*Walter M. Crandall*  
Walter M. Crandall, Counsel

**EXHIBIT 7**

## Walter M. Crandall

---

**From:** Walter M. Crandall <wmc@rolawfirm.com>  
**Sent:** Thursday, July 2, 2015 2:15 PM  
**To:** 'attorneys@brandxperts.com'  
**Cc:** 'Chet Olsen'; Harrison Colter  
**Subject:** Meet and Confer Re: Depositions Dates  
**Attachments:** 2015-06-19 Letter to Anderson Re Extension Depos Meet and Confer SI.pdf

Dear Mr. Anderson,

This letter is to confirm that during our telephone conversation today you indicated that your client, Petitioner Carnevor, Inc., is unwilling to show for deposition on July 10, 2015, and that you are also unable to appear on that date due to your trial schedule.

In an attempt to accommodate your schedule, I asked for definitive dates for Registrant-Respondent Dog Haus LLC ("Dog Haus") to take your client's deposition even if it required taking the deposition in August and you responded that you have no available dates for a deposition for the remainder of 2015.

Please find attached the letter I sent to you on June 19, 2015 explaining why Dog Haus is unwilling to enter into an additional extension of time for the deadlines in this matter due to Petitioner's failure to produce a verification to interrogatories and Petitioner's unwillingness to appear for deposition despite repeated requests. It is apparent through Petitioner's unwillingness to produce the verification, or appear for deposition, that it is willfully evading discovery in this action.

Petitioner leaves Dog Haus no choice but to file a motion for discovery sanctions pursuant to 37 CFR Section 2.120(g)(1) to seek striking of Petitioner's pleadings, enjoining Petitioner from supporting or opposing designated claims or defenses, prohibiting Petitioner from introducing evidence, and entering judgment against Petitioner.

Please feel free to contact me should you have any questions.

Regards,

Kiff

Walter M. "Kiff" Crandall, Counsel  
ROBERTSON & OLSEN, LLP  
A Law Partnership Including Professional Corporations  
2 Park Plaza, Suite 730, Irvine, California 92614  
Phone 714-361-2111 • Fax 714-361-2110  
email: [wmc@rolawfirm.com](mailto:wmc@rolawfirm.com) • website: [www.rolawfirm.com](http://www.rolawfirm.com)

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**EXHIBIT 8**

## Walter M. Crandall

---

**From:** attorneys@brandxperts.com  
**Sent:** Tuesday, July 7, 2015 9:55 PM  
**To:** Walter M. Crandall; attorneys@brandxperts.com  
**Cc:** 'Chet Olsen'; Harrison Colter  
**Subject:** Re: Meet and Confer Re: Depositions Dates  
**Attachments:** VERIFICATION.pdf

Walter:

Your comments are false and are strenuously disputed.

My client is "willing" and able, to be deposed, however, as I have repeatedly advised you, and as you have known for months, I have been scheduled to appear as lead trial counsel in a ground-breaking case in the USDC for the District of Columbia which is set to begin a three -week trial on July 13, 2015.

While I was trying in good faith to make it on the date and time you recently scheduled (with the obvious intention of causing an unwarranted issue) and (despite your total unwillingness to cooperate in good faith) just a few days ago, on June 30, 2015 the Court issued the following Order which requires my even more immediate personal attendance in Washington DC.

**Case Name:** PALETERIA LA MICHOACANA, INC. v. PRODUCTOS LACTEOS TOCUMBO S.A. DE C.V.  
**Case Number:** 1:11-cv-01623-RC  
**Filer:**  
**Document Number:** No document attached

Docket Text:

**MINUTE ORDER: Upon consideration of [226] Plaintiffs' Motion to Compel, Reopen Discovery, and Continue the Trial Date, it is hereby ORDERED that Defendant shall file its opposition to the motion on or before July 6, 2015. It is FURTHER ORDERED that the parties shall appear before the Court for a hearing on the motion on July 9, 2015 at 10:30 a.m. in Courtroom 14. SO ORDERED. Signed by Judge Rudolph Contreras on 06/30/2015. (lcrc3)**

I did not tell you that I had no available dates, rather I told you that I expect the above matter to last for three weeks and that we could reschedule the depositions for August, but that I would first need to check with my client to see if any particular dates are available. In addition, I told you that my dates would likely be tentative, but that we could work that out.

I ALSO RAISED THE MATTER THAT WE HAVE DISCUSSED NUMEROUS TIMES.

THAT IS YOUR CLIENT'S FAILURE AND REFUSAL TO RESPOND TO ANY DISCOVERY HEREIN WHATSOEVER, AND YOUR FAILURE DESPITE MY PRIOR REQUESTS, THAT YOU SUPPLEMENT ITS PRIOR RESPONSES WHICH THEMSELVES CONSISTED PURELY OF IMPROPER OBJECTIONS.

TO YOUR GENERAL OBJECTIONS REGARDING THE NUMBER OF INTERROGATORIES - I HAVE REQUESTED SEVERAL TIMES that you demonstrate your method of calculation - that is - HOW YOU CALCULATE THAT THE NUMBER EXCEEDS 75?

IN AN EFFORT TO MEET AND CONFER, I HAVE ADVISED YOU TWICE PREVIOUSLY THAT MY CLIENT IS WILLING TO WITHDRAW INTERROGATORY NOS. 10, 12, 13, 18, 37 and 44, but you have not supplemented your client's responses!

YOU HAVE DISREGARDED AND IGNORED MY PRIOR CORRESPONDENCE LEAVING ME WITH NO CHOICE BUT TO MOVE TO COMPEL AND TO RESET THE DISCOVERY PERIODS, WHICH AS I HAVE TWICE ADVISED YOU, I WOULD HAVE ALREADY DONE BUT FOR THE UNANTICIPATED LAST-MINUTE BRIEFING SCHEDULE AND NEWLY ALLEGED MATTERS AND ISSUES WHICH HAVE BEEN RAISED IN THE DISTRICT COURT CASE I MENTIONED ABOVE.

ACCORDINGLY, I AM FORCED TO FILE A MOTION TO COMPEL AND TO EXTEND THE REMAINING DATES HEREIN.

Kif- I would be happy to discuss with this matter further with you. But still it remains that your client has no apparent intention of fulfilling its own duties of complying with discovery or otherwise cooperating in good faith herein.

By the way, I have attached my client's verification that you requested.

Regards,

Stephen L. Anderson  
Anderson & Associates  
WE PROTECT IMAGINATION

Offices in Temecula, California --- WEBSITES EVERYWHERE!  
email: [attorneys@brandXperts.com](mailto:attorneys@brandXperts.com)

Anderson & Associates  
27280 Via Industria, Unit B  
Temecula, California 92590 U.S.A.

+(951) 296-1700 tel.

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<http://www.mybrandsonline.com/> REGISTER NOW!  
<http://www.weprotectimagination.com/> IP SOLUTIONS

-----Original Message-----

**From:** Walter M. Crandall [<mailto:wmc@rolawfirm.com>]  
**Sent:** Thursday, July 2, 2015 02:14 PM

**To:** attorneys@brandxperts.com  
**Cc:** "Chet Olsen", 'Harrison Colter'  
**Subject:** Meet and Confer Re: Depositions Dates

Dear Mr. Anderson,

This letter is to confirm that during our telephone conversation today you indicated that your client, Petitioner Carnevor, Inc., is unwilling to show for deposition on July 10, 2015, and that you are also unable to appear on that date due to your trial schedule.

In an attempt to accommodate your schedule, I asked for definitive dates for Registrant-Respondent Dog Haus LLC (?Dog Haus?) to take your client?s deposition even if it required taking the deposition in August and you responded that you have no available dates for a deposition for the remainder of 2015.

Please find attached the letter I sent to you on June 19, 2015 explaining why Dog Haus is unwilling to enter into an additional extension of time for the deadlines in this matter due to Petitioner?s failure to produce a verification to interrogatories and Petitioner?s unwillingness to appear for deposition despite repeated requests. It is apparent through Petitioner?s unwillingness to produce the verification, or appear for deposition, that it is willfully evading discovery in this action.

Petitioner leaves Dog Haus no choice but to file a motion for discovery sanctions pursuant to 37 CFR Section 2.120(g)(1) to seek striking of Petitioner?s pleadings, enjoining Petitioner from supporting or opposing designated claims or defenses, prohibiting Petitioner from introducing evidence, and entering judgment against Petitioner.

Please feel free to contact me should you have any questions.

Regards,

Kiff

Walter M. ?Kiff? Crandall, Counsel  
ROBERTSON & OLSEN, LLP  
A Law Partnership Including Professional Corporations  
2 Park Plaza, Suite 730, Irvine, California 92614  
Phone 714-361-2111 ? Fax 714-361-2110  
email: [wmc@rolawfirm.com](mailto:wmc@rolawfirm.com) ? website: [www.rolawfirm.com](http://www.rolawfirm.com)

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**EXHIBIT** 9

July 9, 2015

***Sent Via U.S. Mail and Email***

Stephen Anderson  
Anderson Law  
27280 Via Industria, Unit B  
Temecula, CA 92590

Re: ***Carnevor, Inc. v. Dog Haus, LLC***  
(USPTO TTAB Cancellation Nos. 92059099 and 92059167)  
Meet and Confer Re: Extension, Depositions, and Dog Haus' Objections to  
Carnevor's First Set of Interrogatories

Dear Mr. Anderson,

This letter is in response to your email sent at 9:55 p.m. on July 7, 2015, and is an attempt by Registrant and Respondent Dog Haus, LLC ("Dog Haus" or "Registrant") to meet and confer with Petitioner Carnevor, Inc. ("Carnevor" or "Petitioner") regarding Dog Haus' attempts to take the depositions of Carnevor and its agents. This letter is also an attempt to meet and confer in response to Carnevor's threat to file a motion to compel further responses against Dog Haus in regards to Dog Haus' timely, January 15, 2015 general objection pursuant to TBMP 405.03(e) to the excessive number of interrogatories propounded by Carnevor.

**Summary of Carnevor's Evasive Discovery Tactics**

Pursuant to 37 CFR § 2.120(b) the parties are required to appear for deposition properly noticed and served on the opposing party following Fed. R. Civ. P. 30(b)(6) or 30(b)(1). Dog Haus served a Deposition Notice on Carnevor pursuant to Fed. R. Civ. P. 30(b)(6) and TBMP 404.06(b) on March 25, 2015 with Certificate of Service, for a deposition scheduled for April 10, 2015. Dog Haus also served Carnevor with Deposition Notices for its agents Kasha Shahabi and Fareh Sameh pursuant to Fed. R. Civ. P. 30(b)(1) and TBMP 404.06(a) on March 25, 2015 with Certificate of Service, for depositions on April 10, 2015.

On April 7, 2015, Dog Haus attempted to confirm that Carnevor and its agents would appear for deposition through a letter sent by facsimile and email through counsel. Thereafter, Carnevor responded by calling Dog Haus to indicate the unavailability of Carnevor and its counsel for the depositions, requested a 90-day extension to all deadlines in the action, and indicated that Carnevor would soon thereafter provide dates that it and its agents would be available for deposition in late May or early June. As a professional courtesy and to accommodate Carnevor and its counsel, Dog

Mr. Anderson  
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Haus consented to the extension and took the depositions off calendar in reliance upon Carnevor's agreement to appear for depositions in late May or early June.

Carnevor failed to provide Dog Haus with any dates for Dog Haus to take its deposition and Dog Haus served a second Deposition Notice on Carnevor pursuant to Fed. R. Civ. P. 30(b)(6) and TBMP 404.06(b) on June 19, 2015 with Certificate of Service, for a deposition scheduled on July 10, 2015. Dog Haus also served Carnevor with Deposition Notices for its agents Kasha Shahabi and Fareh Sameh pursuant to Fed. R. Civ. P. 30(b)(1) and TBMP 404.06(a) on June 19, 2015 with Certificate of Service, for deposition on July 10, 2015. With service of the Deposition Notices, Dog Haus included correspondence indicating seven alternative dates it would be amenable to taking Carnevor's deposition before discovery closed in this matter and Carnevor failed to respond to the correspondence.

On July 1, 2015, Dog Haus called Carnevor, through counsel, to confirm Carnevor's appearance at the depositions noticed for July 10, 2015. On July 2, 2015, Carnevor returned the call indicating that although the parties were available for deposition as noticed on July 10, 2015, counsel for Carnevor was unavailable. Carnevor demanded that Dog Haus consent to a 60-day continuance of all deadlines in this matter, while at the same time refusing to provide any future dates for Dog Haus to take Carnevor's deposition. Dog Haus refused Carnevor's demand for a 60-day continuance due to Carnevor's repeated failure to appear for deposition, unwillingness to provide dates for a deposition, and refusal to produce a verification to interrogatory responses that Dog Haus has requested since March 25, 2015. When Dog Haus indicated that it would consider the additional 60-day extension if Carnevor provides dates for deposition, Carnevor indicated that there is not a single date in July, August, or thereafter that it will confirm its availability and appear for deposition.

***Dog Haus Will Consent to a 45-day Extension if Carnevor Provides Firm Deposition Dates***

Dog Haus has bent over backwards to accommodate Carnevor and its counsel's calendar the first two times it noticed Carnevor's deposition. The fact that Carnevor's counsel is also handling another trademark case does not justify Carnevor's unwillingness to appear for deposition in this matter, Carnevor's failure to meet and confer regarding available dates after the deposition notices were sent, or its second request for an extension of all deadlines on the eve of deposition and near the close of discovery.

If Carnevor provides Dog Haus with firm dates for Dog Haus to take the deposition of Carnevor and its agents, Dog Haus is willing to consent to a 45-day extension of all deadlines that have not already expired in this action. Currently, Dog Haus is available to take the deposition of Carnevor and its agents on August 4, 5, 6, 7, 11, 12, 13, 18, 19, 21, 26, and 27. Please confirm that Carnevor

Mr. Anderson  
***Dog Haus adv. Carnevor, Inc.***  
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and its agents will appear for deposition and specify one of the dates listed above by the close of business on Tuesday, July 14, 2015, and my office will prepare a consented motion to extend discovery and testimony periods by 45 days in this action. Should Carnevor fail to confirm a date by Tuesday, July 14, 2015, Dog Haus will withdraw its willingness to consent to the extension and will have no choice but to file a motion for terminating sanctions against Carnevor pursuant to 37 CFR § 2.120 (g).

***Carnevor's Unmeritorious Threat to File a Motion to Compel***

Your July 7<sup>th</sup> email inaccurately alleges that Dog Haus has failed and refused to respond to any discovery. This is simply untrue as Dog Haus provided timely responses and objections to every discovery demand Carnevor has made in this action. Your email also inaccurately alleges that Carnevor has attempted to meet and confer multiple times regarding Dog Haus' objection to the number of interrogatories propounded by Carnevor. This is also untrue, as your July 7<sup>th</sup> email is the first time Carnevor has attempted to meet and confer regarding any of Dog Haus' objections and responses.

Through counsel, Carnevor mentioned Dog Haus' responses in passing during the phone conversation on or about April 8, 2015. At that time, Carnevor merely mentioned that in the future, it would follow up with Dog Haus regarding discovery responses, but at that time, Carnevor failed to provide any specific responses or objections it intended to discuss. Carnevor's assertion that twice previously it indicated a willingness to withdraw interrogatory numbers 10, 12, 13, 18, 37, and 44, is blatantly false. Dog Haus invites Carnevor to produce documentation supporting Carnevor's assertion that it previously has made a meaningful attempt to meet and confer regarding this objection. Carnevor simply cannot do this because its assertions are false.

***Dog Haus Invites Carnevor to revise its 6,374 subparts of its Interrogatories to the 75 permitted by 37 CFR Section 2.120(d)(1) and TBMP 405.03***

Dog Haus stands by its general objection pursuant to 37 CFR Section 2.120(d)(1) and TBMP 405.03(e) that the Interrogatories propounded by Carnevor are excessive in number because the Interrogatories propounded by Carnevor contain at least 6,374 subparts. Dog Haus has enclosed with this letter a copy of Petitioner's Interrogatories demonstrating how Dog Haus calculated the 6,374 subparts. This is being provided solely for the purpose of demonstrating calculation and Dog Haus reserves any and all rights to object to the substance and form of any and all of these Interrogatories or any other Interrogatories in the future on any and all grounds.

The total number of interrogatories which a party may serve on another party, in a proceeding, may not exceed 75, counting subparts. [TBMP 405.03(a)] In determining whether the number of

interrogatories served by one party on another exceeds the limit of 37 CFR Section 2.120(d)(1), the Board will count each subpart within an interrogatory as a separate interrogatory, regardless of whether the subpart is separately designated (i.e., separately numbered or lettered). [TBMP 405.03(d)]

If a propounding party sets forth its interrogatories as 75 or fewer separately designated questions (counting both separately designated interrogatories and separately designated subparts), but the interrogatories actually contain more than 75 questions, the Board will not be bound by the propounding party's numbering or designating system. Rather, the Board will look to the substance of the interrogatories, and count each question as a separate interrogatory. For example, if two or more questions are combined in a single compound interrogatory, and are not set out as separate subparts, the Board will look to the substance of the interrogatory, and count each of the combined questions as a separate interrogatory. [Id.]

If an interrogatory contains both an initial question, and follow-up questions to be answered if the first is answered in the affirmative, the initial question and each follow-up question will be counted as separate interrogatories. [Id.]

Similarly, if an interrogatory begins with a broad introductory clause ("Describe fully the facts and circumstances surrounding applicant's first use of the mark XYZ, including:") followed by several subparts ("Applicant's date of first use of the mark on the goods listed in the application," "Applicant's date of first use of the mark on such goods in commerce," etc.), the Board will count the broad introductory clause and each subpart as a separate interrogatory, whether or not the subparts are separately designated. [Id.]

If an interrogatory requests information concerning more than one issue, such as information concerning both "sales and advertising figures," or both "adoption and use," the Board will count each issue on which information is sought as a separate interrogatory. [Id.]

For example, Carnevor's Interrogatory number 23 demands, "State whether any consumer polls, customer surveys, market studies or other analysis, has/have ever been conducted by You or for Respondent or by any person acting for or on its behalf, which concern or relate to any brand or trademark including or incorporating either of the terms "DOG" and "HAUS" or "HOUSE," and if so, Identify and Describe in Detail each such poll, survey, study or other analysis, including the date and location where each such poll, survey or study was performed and the brands, and trademarks considered or compared during such market study, consumer survey or consumer poll."

Mr. Anderson  
*Dog Haus adv. Carnevor, Inc.*  
July 9, 2015  
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A conservative estimate of the actual number of questions contained in the substance of Carnevor's Interrogatory number 23 provides that there are more than a dozen questions being asked of Dog Haus in what Carnevor deems to be a single interrogatory.

Carnevor's offer to withdraw Interrogatories 10, 12, 13, 18, 37, and 44 still leaves 5,179 subparts that the Board will recognize as separate interrogatories should Carnevor decide to file a motion to compel further responses. At this time, Dog Haus is unwilling to withdraw its general objection that Carnevor served an excessive amount of interrogatories pursuant to 37 CFR Section 2.120(d)(1) and TBMP 405.03(e). Unless Carnevor serves revised Interrogatories that comply with 37 CFR Section 2.120(d)(1) and TBMP 405.03, or selects no more than 75 of the 6,374 subparts for Dog Haus to respond to, Dog Haus will stand by this general objection. Dog Haus invites Carnevor to make a good faith effort by correspondence to further meet and confer to resolve these issues.

Please do not hesitate to contact me should you have any questions.

Very truly yours,

*Walter M. Crandall*  
Walter M. Crandall, Counsel