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

Proceeding	92060599
Party	Defendant Thomas Clark
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Submission	Motion to Compel Discovery
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Date	10/04/2016
Attachments	Turnkey Motion to Compel and Exhibits.pdf(1371973 bytes)

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

<p>Turn-Key Vacation Rental, Inc.,</p> <p style="text-align:center">Petitioner,</p> <p>v.</p> <p>Thomas Clark,</p> <p style="text-align:center">Registrant.</p>	<p>Cancellation No.: 92060599 Registration No.: 4340236</p> <p>Date of Registration: May 21, 2013</p> <p>Mark: TURNKEY</p>
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**MOTION TO COMPEL PETITIONER’S RESPONSES TO DISCOVERY AND/OR
MOTION FOR SANCTIONS**

1. Introduction

Registrant Thomas Clark (“Registrant” or “Clark”) moves for an order compelling Turn-Key Vacation Rentals, Inc. (“Petitioner”) to substantively respond to Request for Admissions Nos. 1 – 61, Interrogatories Nos. 1 – 20, and Request for Production of Documents and Things Nos. 1 – 70 (“Registrant’s Requests”), and/or Sanctions for Petitioner’s improper actions during the Discovery period. Clark’s motion is presented pursuant to Rule 523.01 of the Trademark Trial and Appeal Board manual of Procedure and 37 CFR § 2.120(e).

Petitioner never responded to any of Registrant’s Requests. The information that Registrant sought through this discovery is relevant and necessary for Registrant to prepare for the trial of this dispute, and Registrant therefore respectfully requests that Petitioner be ordered to provide substantive responses and production in regard to the aforementioned discovery. Registrant further requests that Petitioner be assessed sanctions (as detailed below) for Petitioner’s blatant disregard and abuse of the Discovery rules set forth by the Trademark Rules of Practice and Title 37 of the Code of Federal Regulations. Not only did Petitioner fail to

respond to Registrant's Requests, Petitioner also obstructed and failed to participate meaningfully in the meet and confer process. In light of this conduct, and already closed discovery period, Registrant is left with no choice but to move to compel Opposer's responses.

2. Service of Registrant's Discovery

On July 26, 2016, Registrant served upon Petitioner Request for Admissions Nos. 1 – 61, Interrogatories Nos. 1 – 20, and Request for Production of Documents and Things Nos. 1 – 70 (“Registrant's Requests”). (See **Exhibits A, B, and C**). The information sought through discovery is relevant and necessary for Registrant to prepare for the trial of this Cancellation, and Registrant therefore respectfully requests that Petitioner be ordered to provide substantive responses to the aforementioned discovery.

3. Petitioner did not respond to any discovery propounded by Registrant

Petitioner's responses to Registrant's Requests were due on August 30, 2016. Petitioner failed to substantively respond to all of Registrant's Requests, in fact, Petitioner never responded at all, substantively or otherwise.

4. Registrant Made Several Good Faith Efforts to Resolve the Discovery Dispute

Registrant made several good faith efforts to resolve the discovery dispute on an amicable basis, including offers to settle the matter. Despite the best efforts of Registrant, (i) Petitioner simply ignored three of these correspondences, (ii) responded to one correspondence without addressing its failure to respond to discovery, and (iii) and strung along Registrant until the close of discovery when it finally informed Registrant that Petitioner is not required to respond to discovery due to Registrant's failure to serve his initial disclosures. See **Declaration of Kuscha Hatami at ¶ 2 and 3**. Petitioner still has not responded to Registrant's efforts to come to an amicable resolution, notwithstanding a recent email correspondence from Registrant

to Petitioner, which included a courtesy copy of Registrant's Initial Disclosures and a note informing Petitioner that Registrant will address its refusal to comply with its discovery responsibilities in a motion to the Board. *Id* at ¶ 4 .

In sum, Petitioner did not at any time refer to, or bring to Registrant's attention, Petitioner's non-receipt of Registrant's Initial Disclosures document, and waited until after the close of discovery, notwithstanding communication from Registrant prior to the close of discovery regarding Petitioner's failure to respond to Registrant's Requests, in a blatant act of bad Gamesmanship.

5. Registrant's Initial Disclosures

On January 5, 2015, the Board instituted this proceeding and issued its Trial Dates (the "Trial Dates"). *See TTABVUE – Cancellation No. 92060599*. Between January 5, 2015, the Trial Dates were changed by the Board on two separate occasions, specifically, on July 1, 2015, and December 31, 2015. *Id*.

Apparently, when undersigned Firm was entering the revised Trial Dates in its calendaring system, the Initial Disclosures deadline was inadvertently not calendared at all and in its place the expert disclosures deadline was calendared.

Due to undersigned Firm's calendaring error, when it served Registrant's Requests on Petitioner, it had a good faith believe that it had previously served its Initial Disclosures on Petitioner.

Undersigned Firm did not realize its calendaring error until after it inquired with Petitioner's Counsel regarding its failure to timely respond to Registrant's Request.

Rule 6(b), Federal Rule of Civil Procedure, states in pertinent part:

(1) In General. When an act may or must be done within a specified time, the court may, for good cause, extend the time:

- (a) with or without motion or notice if the court acts, or if a request is made, before the original time or its extension expires; or
- (b) on motion made after the time expired if the party failed to act because of excusable neglect.

Excusable neglect is an elastic concept. *Coleman v. Blue Cross Blue Shield of Kan.*, 487 F. Supp. 2d 1225, 1234-35 (D. Kan. 2007). The equitable test for whether excusable neglect has been established considers all relevant circumstances regarding the omission including: “(1) the danger of prejudice; (2) the length of the delay and its potential impact on judicial proceedings; (3) the reasons for the delay which includes whether it was within the reasonable control of the party seeking to show excusable neglect; and (4) whether that party acted in good faith.” *Colamen*, 487 F. Supp.2d at 1234-1235.

Plaintiff’s Pretrial Disclosures are not due until October 23, 2016.

Here, there is no prejudice to Petitioner, Plaintiff’s Pretrial Disclosures are not due until October 23, 2016, and Petitioner has continued to use its alleged mark during the pendency of this matter, to the detriment of Registrant. Registrant is not seeking an extension of the remaining trial dates instead it seeks the Board to order Petitioner to respond to Registrant’s Requests, and/or issue appropriate sanctions after review of this motion.

Registrant did not cause this calendaring error for the purposes of delay, makes this motion to compel and/or motion for sanctions as a result of excusable neglect of undersigned Firm’s error in calendaring the Initial Disclosures deadlines, and because Petitioner refuses to

cooperate in a meaningful discussion regarding its failure to timely respond to Registrant's Requests.

5. Meet and Confer Letter to Petitioner, dated September 6, 2016, two days prior to the close of discovery

Registrant sent a meet and confer letter to Petitioner on September 6, 2016, two days prior to the close of discovery via email, informing Petitioner that Registrant is not in receipt of Petitioner's discovery responses, which were due on August 30, 2016. *See Exhibit D.*

6. Petitioner's Letter, dated September 7, 2016

In hopes that Petitioner sent a correspondence to ensure that its failure to fail discovery responses was an inadvertent error, Registrant was surprised that Petitioner merely acknowledged Registrant's September 6, 2016 email correspondence, and inquired whether Registrant would stipulate to declaration testimony in lieu of deposition testimony. Petitioner never addressed its failure to respond to Registrant's Requests. *See Exhibit E.*

Petitioner did not mention it was not obligated to respond to Registrant's Requests due to Registrant's alleged failure to serve his initial disclosures, notwithstanding the fact that if true, and were Registrant informed Registrant was in a position to serve or clarify the lack of initial disclosures prior to the close of discovery. *Id.*

7. Meet and Confer Discussion, dated September 12, 2016

Because Petitioner did not timely respond to Registrant's Requests, did not point to any alleged deficiencies or failure to comply with the Board's rules on the part of Registrant, Registrant made a settlement offer with a request to engage in settlement communications by September 22, 2016, or Registrant would be forced to push for dismissal based on Petitioner's failure to respond to Registrant's Requests. *See Declaration of Kuscha Hatami at ¶ 5.*

8. Petitioner's Letter, dated September 16, 2016

Three days after making his settlement offer, and ten days after Registrant initially inquired about Petitioner's failure to respond to Registrant's Requests, Petitioner sent a letter informing Registrant that Petitioner was not required to respond to Registrant's Requests pursuant to Trademark Rule 2.120(a)(3) and based on Registrant's failure to serve Initial Disclosures on Petitioner. *See Declaration of Kuscha Hatami at ¶ 6.*

The content of Petitioner's long awaited letter is the first time Registrant was informed that Petitioner disputes the receipt of Registrant's Initial Disclosures. Surely, Petitioner could have made this point when its responses were due August 30, or when Registrant inquired about Petitioner's responses one week later (two and one half days before the close of discovery). Instead, Petitioner hid the ball, and strategically waited approximately one week after the close of discovery to make this assertion.

8. Meet and Confer Discussions, dated September 16, 17, 20, and 28, 2016

In light of Petitioner's position that it is not required to respond to Registrant's Requests, Registrant followed up four more times in an effort to come to an amicable resolution.

On September 16, 2016, Registrant made yet another settlement offer via email to resolve this dispute. Petitioner did not respond to Registrant's correspondence. *See Declaration of Kuscha Hatami at ¶ 7.*

On September 17, 2016, based on Petitioner's silence, withdrew its September 16, 2016 offer and extended another settlement offer. Petitioner did not respond to Registrant's correspondence. *Id.*

On September 20, 2016, Registrant made yet another settlement offer to Petitioner via email, and informed Petitioner that Registrant will file a motion with the Board addressing this discovery dispute if the parties cannot resolve this matter. *Id.*

On September 28, 2016, Registrant served Petitioner with its Initial Disclosures (*see Exhibit F – Registrant’s Initial Disclosures*), again informing Petitioner that Registrant will address Petitioner’s improper action by filing a motion with the Board. *Id.*

In sum, Registrant afforded Petitioner multiple opportunities prior to submitting this motion to (a) resolve the pending discovery dispute, or (b) settle this matter amicably, all of which Petitioner simply ignored.

9. Petitioner’s Failure to Timely Respond To or Properly Object to Registrant’s Requests

Petitioner fails to appreciate that the discovery rules go well beyond Trademark Rule 2.120(a)(3) regarding one party’s failure to serve initial disclosures and the opposing parties duties regarding discovery. *See Amazon Technologies v. Wax*, 93 USPQ2d 1702, 1704-06 (TTAB 2009).

It is incumbent upon a party who has been served with interrogatories to respond by articulating his objections (with particularity) to those interrogatories which he believes to be proper.” *Medtronic, Inc. v. Pacesetter Systems, Inc.*, 222 USPQ 80, 83 (TTAB 1984) (emphasis supplied); *see also*, Fed.R.Civ.P. 33(b)(4) (“the grounds for objecting to an interrogatory must be stated with specificity. Any ground not stated in a timely objection is waived...”) and Advisory Committee Note to 1993 Amendment thereto (“Paragraph (4) is added to make clear that objections must be specifically justified, and that unstated or untimely grounds for objection ordinarily are waived.”); *Redland Soccer Club, Inc. v. Department of the Army*, 55 F. 3d 827, 856 (3rd Cir. 1995); *McLeod, Alexander, Powel & Apfeel, P.C. v. Quarles*, 894 F.2d 1482, 1485; *Amazon Technologies v. Wax*, 93 USPQ2d 1702, 1704-06 (TTAB 2009).

Here, Petitioner completely ignored Registrant’s Requests, it never objected nor responded to even one Interrogatory, Request for Admissions, or Request for Documents and

Things propounded by Registrant. In addition to not responding to any of Registrant's Requests, Petitioner further failed to act when it never mentioned applicant's alleged failure to serve initial disclosures, notwithstanding Registrant's email correspondences to Petitioner reminding it that it had failed to timely respond to Registrant's Requests just days prior to the close of discovery, and again after the close of discovery.

Moreover, Petitioner compounded the problem when it continued to hide the ball by responding to Registrant's September 6 discovery meet and confer correspondence without addressing Petitioner's lack of discovery responses, or that it refused to respond due to Registrant's failure to serve Initial Disclosures. Thereafter, Petitioner waited for the discovery period to expire, and did not correspond or inform Registrant that it objected to Registrant's Requests based on a failure to serve Initial Disclosures until September 16, 2016, after a follow up communication from Registrant on September 12, 2016. Petitioner's consistent failure to mention the initial disclosures was improper. *See, e.g., Sentrol, Inc. v. Sentex Systems, Inc.*, 231 USPQ 666, 667 (TTAB 1986) (addressing parties' duties during meet and confer process); *Amazon Technologies v. Wax*, 93 USPQ2d 1702, 1704-06 (TTAB 2009).

In order for the meet and confer process to be meaningful and serve its intended purpose, "the parties must present to each other the merits of their respective positions with the same candor, specificity, and support during informal negotiations as during the briefing of discovery motions." *Nevada Power Co. v. Monsanto Co.*, 151 F.R.D. 118, 120 (D. Nev. 1993) (emphasis supplied) (construing a local rule containing meet and confer requirements similar to those in Trademark Rule 2.120(e)(1)). *Amazon Technologies v. Wax*, 93 USPQ2d 1702, 1704-06 (TTAB 2009). The meet and confer process cannot be truly complete until "after all the cards have been laid on the table," by both parties. *Id*; see also, *Dondi Properties Corp. v. Commerce Savings*

and Loan Ass'n, 121 F.R.D. 284, 289 (N.D. Tex. 1988) (construing a local rule less onerous than Trademark Rule 2.120(e)(1) and stating “The purpose of the conference requirement is to promote a frank exchange between counsel to resolve issues by agreement or to at least narrow and focus the matters in controversy before judicial resolution is sought.”) (emphasis supplied); *Nevada Power Co. v. Monsanto Co.*, 151 F.R.D. 118, 120 (D. Nev. 1993). Here, Petitioner was under an equal obligation as Registrant to participate in good faith in Registrant’s efforts to resolve this matter. *Amazon Technologies v. Wax*, 93 USPQ2d 1702, 1704-06 (TTAB 2009). However, Petitioner failed to lay its cards on the table. Indeed, it initially responded, without addressing the discovery issue, to Registrant’s September 6, 2016 communication as a bluff, to waste time and confuse Registrant, with the full knowledge that discovery was about to expire. In fact, Petitioner failed to lay down its cards until 10 days after Registrant’s initial communication, and eight days after the close of discovery. Petitioner’s failure to lay down its cards resulted in this unnecessary motion to compel, which could easily have been resolved without the necessity of filing it.

Furthermore, where a party believes that it need not respond to discovery requests because the propounding party has not served initial disclosures, it has a duty to object, specifically, on that basis. *Amazon Technologies v. Wax*, 93 USPQ2d 1702, 1704-06 (TTAB 2009). Proceeding as Petitioner did here, by responding to a failure to respond to discovery with an unrelated inquiry about stipulated testimonies, and refusing to reveal the true basis for withholding responsive information, until after the close of discovery, only serves to waste the parties’ and the Board’s time. Cf. Trademark Rule 2.120(d) (“If a party upon which interrogatories have been served believes that the number of interrogatories exceeds the limitation ... the party shall within the time for (and instead of) serving answers and specific

objections to the interrogatories, serve a general objection on the ground of their excessive number.”; TBMP § 405.03(e) (2d ed. Rev. 2004); *Amazon Technologies v. Wax*, 93 USPQ2d 1702, 1704-06 (TTAB 2009).

In sum, Petitioner should have, and could have objected to Registrant’s Requests on the basis that Registrant had not served its initial disclosures. *Amazon Technologies v. Wax*, 93 USPQ2d 1702, 1704-06 (TTAB 2009) (opposer’s mistaken belief that applicant failed to serve initial disclosures does not excuse opposer’s failure to respond to or properly object to applicant’s interrogatories and document requests on the basis of failure to serve initial disclosures.); 37 CFR § 2.120(a)(3); Fed. R. Civ. P. 33(b)(2), 34(b)(2)(A), and 36(a)(3). Moreover, a party is not relieved from responding properly and timely to Discovery requests although the other party has failed to respond to Discovery or otherwise violated the Discovery rules. *Miss America Pageant v. Petite Productions, Inc.*, 17 U.S.P.Q.2d 1067, 1070 (TTAB 1990); *Giant Food, Inc. v. Standard Terry Mills, Inc.*, 229 U.S.P.Q. 955, 966 n.21 (TTAB 1986), adhered to on reconsideration, 231 U.S.P.Q. 626 (TTAB 1986); Fed.R.Civ.P. 26(d).

9. Registrant’s Discovery to Petitioner is Permissible and Proper Scope

Discovery is governed by the liberal standards of Rule 26(b)(1) of the Federal Rules of Civil Procedure, which broadly entitles any party to “obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of any discoverable matter.”

Rule 26, the Federal Courts and the TTAB have interpreted this relevance standard expansively to include any information that might “reasonably assist a party in evaluating a case, preparing for trial or facilitating settlement.” *Hickman v. Taylor*, 329 U.S. 495, 506-507 (1947).

Further, Rule 26(b)(1) provides that “[r]elevant information need not be admissible at the trial if the discovery appears reasonably calculated to lead to the discovery of admissible evidence.”

10. Registrant must be afforded the same Discovery opportunities as Petitioner has been afforded

Registrant has in good faith responded to all of Petitioner’s Discovery Requests. Registrant has responded to at least 23 Document Requests and 24 Interrogatories from Petitioner. *See Hatami Declaration at ¶ 8.* While Registrant responded to Petitioner’s Discovery requests, and even engaged Petitioner in settlement negotiations, Petitioner has obstructed Discovery and has not allowed Registrant the same opportunities that Petitioner was afforded. Excusing Petitioner from substantially responding to all of Registrant’s Discovery requests would be an extreme prejudice to Registrant’s defense.

11. Motion to Stay the Proceeding Pending Receipt of Petitioner’s Substantive Responses to Discovery

Applicant moves pursuant to Rule 523.01 and 37 CFR § 2.120(e)(2) for an Order staying the proceeding with respect to all matters not germane to the motion, pending resolution of Applicant’s motion to compel responses.

12. Motion for Sanctions against Petitioner

The Board expects each party to cooperate in discovery process and to make a good faith effort to satisfy the discovery requests of its opponent. *See Fed.R.Civ.P. 26(g); Johnson Pump/General Valve Inc. v. Chromalloy American Corp.*, 13 USPQ 2d 1719 (TTAB 1989); *Bison Corp. v. Perfecta Chemie B.V.*, 4 USPQ2d 1718, 1720 (TTAB 1987); *Sentrol, Inc. v. Sentex Systems, Inc.*, 231 USPQ 666 (TTAB 1986).

Petitioner has failed to cooperate with Registrant in the discovery process so that this matter can be resolved in a fair and efficient manner. Petitioner’s attorneys have a duty to make

a good faith effort to satisfy the discovery needs of its opponent. *Luehrmann v. Kwik Kopy Corp.*, 2 USPQ2d 1303, 1305 (TTAB 1987); *Medtronic, Inc. v. Pacesetters Systems, Inc.*, 222 USPQ 80, 83 (TTAB 1984).

Petitioner and Petitioner's attorneys have engaged in a course of evasion and misconduct in defiance of the discovery rules. If a party or its attorney engages in a course of evasion or misconduct the defiance of the discovery rules, the Board will impose appropriate sanctions against that party, including the entry of judgment by default in extreme cases. *Giant Food v. Standard Terry Mills*, 229 USPQ 955 (TTAB 1986); *Johnson Pump/General Valve Inc. v. Chromalloy American Corp.*, 13 USPQ2d 1719, 1721 n.4 (TTAB 1989).

13. Discovery Sanctions Available to TTAB, pursuant to TBMP § 411.04

In *inter partes* proceedings before the Board, a variety of sanctions may be imposed, in appropriate cases, for failure to provide discovery. The sanctions which may be entered by the Board include, inter alia: (i) striking all or part of the pleadings of the disobedient party; (ii) refusing to allow the disobedient party to support or oppose designated claims or defenses; (iii) drawing adverse inferences against uncooperative party; (iv) prohibiting the disobedient party from introducing designated matters in evidence; and (v) entering judgment against the disobedient party.

14. Motion to Enter Order Striking All or Part of Opposer's Pleadings

Pursuant to TBMP § 411.04, Registrant moves for an order striking all or part of Petitioner's Pleadings.

15. Motion to Enter Order Refusing to Allow Petitioner to Support Designated Claims

Pursuant to TBMP § 411.04, Registrant moves for an order refusing to allow Petitioner to support designated claims.

16. Motion to Enter Order Drawing Adverse Inferences against Petitioner

Pursuant to TBMP § 411.04, Registrant moves for an order drawing adverse inferences against Petitioner.

17. Motion to Enter Order Prohibiting Petitioner from Introducing Designated Matters in Evidence

Pursuant to TBMP § 411.04, Petitioner moves for an order prohibiting Petitioner from introducing designated matters in evidence.

18. Motion for an Order Finding Petitioner's Objections to Discovery are Forfeited

Pursuant to TBMP Rules § 405.04(a), 406.04(a) and 407.03(a), Registrant moves for an order determining any objections available to Petitioner to Registrant's Requests are forfeited.

19. Motion to Find that All Requests for Admissions Propounded by Registrant are Admitted by Petitioner

Registrant moves for an order finding that all Requests for Admissions propounded by Registrant are admitted by Petitioner.

20. Motion to Enter Judgment against Opposer

If a party or its attorney engage in a course of evasion or misconduct in defiance of the discovery rules, the Board will impose appropriate sanctions against that party, including the entry of judgment by default in extreme cases. *Giant Food v. Standard Terry Mills*, 229 USPQ 955 (TTAB 1986); *Johnson Pump/General Valve Inc. v. Chromalloy American Corp.*, 13 USPQ2d 1719, 1721 n.4 (TTAB 1989).

Registrant submits that Petitioner's failure to respond to any of Registrant's Request, including not objecting to them based on its position that Registrant allegedly failed to serve its Initial disclosures, and then hiding the ball when prior to the close of discovery Registrant inquired about Petitioner's failure to timely serve its responses to Registrant's Requests,

represents an extreme case of defiance of the discovery rules such that entry of judgement by default is appropriate.

21. Conclusion

Petitioner's lack of objections and failure to provide any substantive responses, or any responses to ALL of Registrant's Requests based on the failure to serve initial disclosures is baseless, inexcusable, and an extreme abuse and disregard for the discovery rules. Petitioner further obstructed meaningful meet and confer efforts, by obstructing efforts by Registrant to resolve this discovery dispute. The referenced statutory and case law precedent provide for sanctions in extreme cases such as this matter. Applicant respectfully requests that Petitioner be ordered to provide substantive responses to discovery, and be penalized for its abuse of discovery, with sanctions as requested in this motion.

Dated October 4, 2016

Respectfully Submitted

HP Law Group

/s/ Kuscha Hatami

Kuscha Hatami

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CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that the foregoing **MOTION TO COMPEL PETITIONER'S RESPONSES TO DISCOVERY AND/OR MOTION FOR SANCTIONS** was served upon Petitioner by delivering true and correct copies of same to Petitioner's counsel via USPS mail on October 4, 2016 as follows:

David M. Adler
Adler Law Group
300 Saunders Road
Suite 100
Riverwoods, IL. 60015

/s/ Kuscha Hatami
Kuscha Hatami

HATAMI DECLARATION

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

<p>Turn-Key Vacation Rental, Inc.,</p> <p style="text-align:center">Petitioner,</p> <p>v.</p> <p>Thomas Clark,</p> <p style="text-align:center">Registrant.</p>	<p>Cancellation No.: 92060599 Registration No.: 4340236</p> <p>Date of Registration: May 21, 2013</p> <p>Mark: TURNKEY</p>
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DECLARATION OF KUSCHA HATAMI

I, Kuscha Hatami declare that:

1. I am a member of the Bar of the State of California and a member of the firm HP Law Group, attorneys for Registrant Thomas Clark (“Registrant”) in this Cancellation proceeding before the Trademark Trial and Appeal Board (“TTAB”). Except where indicated, I make this declaration on the basis of my own personal knowledge, and in support of Registrant’s Motion to Compel Petitioner’s Responses to Discovery and/or Motion for Sanctions. If called upon to do so, I could and would testify to the statements in my Declaration under oath.
2. During September 2016, I made numerous good faith efforts to resolve the discovery dispute between Registrant and Petitioner, and/or settle the dispute amicably. Petitioner never indicated whether it would either (a) resolve the discovery dispute or (b) settle the matter whereby any discovery disputes would be moot. Instead, Petitioner’s attorney hid the ball and waited until the close of discovery to respond to me.
3. In response to one of Registrant’s efforts to resolve the discover dispute amicably and/or settle the case, Petitioner informed Registrant that Petitioner is not required to respond to

Registrant's discovery requests because Registrant failed to serve his Initial Disclosures on Petitioner.

4. Petitioner's has systematically ignored most of Registrant's efforts to resolve the parties' discovery dispute, and Petitioner's counsel has not responded to my last email, sent September 28, 2016, when I informed him that I am submitting a courtesy copy of Registrant's Initial Disclosures, and that I would address his improper actions during discovery with the Trademark Trial and Appeal Board (the "Board") shortly. Petitioner's counsel could have responded in an attempt to avoid unnecessary motion practice, but instead, he has completely ignored me.

5. On September 12, 2016, I sent an email to Petitioner's counsel informing him that since Petitioner failed to respond to Registrant's discovery requests, has not informed Registrant why Petitioner has not cooperated in discovery, and in lieu of engaging Petitioner in motion practice to compel discovery or move for dismissal, Registrant makes a settlement offer valid for 10 days.

6. On September 16, 2016, Petitioner finally addresses its lack of discovery responses based on Trademark Rule 2.120(a)(3), due to Registrant's failure to serve its initial disclosures. In sum, Petitioner's counsel specifically said that Petitioner was not required to respond to discovery at all due to alleged violations of Trademark Rule 2.120(a)(3).

7. I reached out via email to Petitioner's counsel on September 16, 17, 20, and 28, in hopes to either resolve the discovery dispute amicably, or settle the matter by proposing settlement offers, or informing him that Registrant will address the discovery dispute by motion with the Board. Petitioner's counsel ignored all of my correspondences, and the last time I heard from him was September 16, 2016.

8. Registrant in good faith responded to all of Petitioner's Discovery Requests. Specifically, Registrant responded to at least 23 Document Requests and 24 Interrogatories propounded by Petitioner. No additional discovery was propounded by Petitioner.

I declare under penalty of perjury under the laws of the United States that the above statement is true and correct and was executed in Larkspur, CA, on the 4th day of October, 2016.

Dated: October 4, 2016

Respectfully Submitted

HP Law Group

/s/ Kusch Hatami

Kuscha Hatami

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EXHIBIT A

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

Turn-Key Vacation Rentals, Inc.,

Petitioner,

v.

Thomas Clark,

Registrant.

Cancellation No.: 92060599

Registration No.: 4340236

Date of Registration: May 21, 2013

Mark: **TURNKEY**

REGISTRANT’S FIRST REQUEST FOR ADMISSIONS

Pursuant to Rules 26 and 36, Fed.R.Civ.P., and 37 C.F.R. § 2.120, Registrant Thomas Clark (“Registrant”), by and through undersigned counsel, hereby requests that Petitioner Turn-Key Vacation Rentals, Inc., (“Petitioner”) admit, within thirty (30) days of service of this Request for Admissions (the “Requests”), the truth of the matters that follow.

DEFINITIONS AND INSTRUCTIONS

As used here:

A. “You,” “Your,” “Petitioner,” or “TKVR” refers to Petitioner Turn-Key Vacation Rentals, Inc., including all alter egos, agents, representatives, and all other persons acting or purporting to act on his behalf.

B. The “Petitioner’s Trademark” refers to the word and trademark **TURN-KEY VACATION RENTALS** as identified in U.S. Trademark Application Serial No. 86/477,775.

C. The term “Applied-for Services” means “Providing information in the field of real estate via the Internet; Providing real estate listings via the Internet; Real estate management of vacation homes; Real estate services, namely, rental of vacation homes; Real estate services, namely, rental of vacation homes, condominiums, cabins,



Silicon Valley

San Jose

San Francisco

and villas using pay per click advertising on a global computer network; Real estate services, namely, vacation home rental management services” as identified in Petitioner’s U.S. Trademark Application Serial No. 86/477,775.

D. The “Registrant’s Trademark” refers to the word and trademark **TURNKEY** as identified in U.S. Trademark Registration No 4,340,236.

E. “Documents” means, but without limitation: every writing or record of every type and description including those existing in all manner of memory means or devices used in connection with electronic computers or word processors that is or has been in the possession, control or custody, or of which you have knowledge, including without limitation: papers, contracts, correspondence, memoranda, tapes, communications, invoices, accounts, stenographic or handwritten notes, studies, publications, books, pamphlets, pictures, photographs, films, videotapes, sound or voice recordings, maps, reports, surveys, minutes, graphs, statistical compilations, charts, calculations, projections, plans, data processing cards, tapes or disks or computer records or printouts; every copy of every such writing or record where the original is not in your possession, custody or control; and every copy of every such writing or record where such copy is not an identical copy of the original or where such copy contains any commentary or notation whatsoever that does not appear on the original;

F. The phrase “all documents” means every document, as defined above, known to Petitioner and every such document that can be located or discovered by reasonably diligent efforts undertaken by or on behalf of Petitioner.

G. As used herein, a document “relating,” “referring,” or that “relates” or “refers” to any given subject means any document that constitutes, comprises, contains, embodies, reflects, identifies, describes, mentions, supports, corroborates, demonstrates, proves, evidences, shows, refutes, disputes, rebuts, controverts, contradicts, states, shows, refers to, pertains directly or indirectly to, deals with, or is in any way relevant or pertinent to that subject including, without limitation, documents concerning the preparation of other documents.

H. “Communication” includes, without limitation, communications by whatever means transmitted (i.e. whether oral, written, electronic, or other), as well as any note, memorandum or other record thereof;

I. “Entity” means any individual, firm, partnership, corporation, proprietorship, association, governmental body or any other organization or entity;

J. “Date” means the exact day, month and year if ascertainable or, if not, the best available approximation (including relationship to other events);

K. The term “including” means including but not limited to.

L. The term “person” means any natural person, individual, proprietorship, partnership, corporation, division, agency, association, organization, joint venture, firm, or other business enterprise, governmental body, group of natural persons or any other known or recognized entity.

M. As used herein, and unless otherwise indicated, the singular shall always include the plural and *vice versa*, and the present tense shall always include the past tense and *vice versa*.

N. A masculine, feminine, or neutral pronoun shall be interpreted to include each of the others.

O. The terms “trademark(s)” or “marks” as used herein shall include trademarks, service marks, whether registered or common law, trade names, or any other word or symbol used in connection with business activities as defined in 15 U.S.C. § 1127, and all forms in which any such marks are presented, such as with or without an apostrophe, in any design, typeface, or otherwise.

REQUESTS FOR ADMISSION

REQUEST NO. 1: Admit that Registrant’s Trademark is a strong mark.

REQUEST NO. 2: Admit that Registrant’s Trademark is a distinctive mark.

REQUEST NO. 3: Admit that Registrant’s Trademark identifies the source or origin of Registrant’s services.

REQUEST NO. 4: Admit that prior to filing the application for Petitioner's Trademark, Petitioner was aware of Thomas Clark's prior claim to the TURNKEY Trademark.

REQUEST NO. 5: Admit that You did not use Petitioner's Trademark in commerce in the United States on any good or service before October 25, 2012.

REQUEST NO. 6: Admit that You did not use Petitioner's Trademark in commerce in the United States on "providing information in the field of real estate via the Internet" before October 25, 2012.

REQUEST NO. 7: Admit that You did not use Petitioner's Trademark in commerce in the United States on "providing real estate listings via the Internet" before October 25, 2012.

REQUEST NO. 8: Admit that You did not use Petitioner's Trademark in commerce in the United States on "real estate management of vacation homes" before October 25, 2012.

REQUEST NO. 9: Admit that You did not use Petitioner's Trademark in commerce in the United States on "real estate services, namely, rental of vacation homes" before October 25, 2012.

REQUEST NO. 10: Admit that You did not use Petitioner's Trademark in commerce in the United States on "real estate services, namely, rental of vacation homes, condominiums, cabins, and villas using pay per click advertising on a global computer network" before October 25, 2012.

REQUEST NO. 11: Admit that You did not use Petitioner's Trademark in commerce in the United States on "real estate services, namely, vacation home rental management services" before October 25, 2012.

REQUEST NO. 12: Admit that the Registrant's Trademark was used in commerce in the United States prior to Petitioner's use of Petitioner's Trademark.

REQUEST NO. 13: Admit that You are not aware of any use of Petitioner's mark by Registrant.

REQUEST NO. 14: Admit that that you do not have any documents in your custody, control or possession that any consumer believes that Petitioner was the source of any goods or services offered for sale or sold by Registrant.

REQUEST NO. 15: Admit that Petitioner's Trademark is not famous.

REQUEST NO. 16: Admit that Petitioner's Trademark is not distinctive.

REQUEST NO. 17: Admit that Petitioner's Trademark is comprised of four common English words.

REQUEST NO. 18: Admit that you use Petitioner's Trademark in connection with the identification, rental, and management of real estate.

REQUEST NO. 19: Admit that you use Petitioner's Trademark in connection with the identification, rental, and management of real estate intended for short and long-term residential rentals.

REQUEST NO. 20: Admit that you use Petitioner's Trademark in connection with the identification, rental, and management of real estate that is marketed to tourists.

REQUEST NO. 21: Admit that you use Petitioner's Trademark in connection with the identification, rental, and management of real estate that is marketed to business people.

REQUEST NO. 22: Admit that you use Petitioner's Trademark in connection with the identification, rental, and management of real estate that is marketed to corporations.

REQUEST NO. 23: Admit that you use Petitioner's Trademark in connection with the identification, rental, and management of real estate that is marketed to i.

REQUEST NO. 24: Admit that your website is located at www.turnkeyvacationrentals.com.

REQUEST NO. 25: Admit that your website at www.turnkeyvacationrentals.com never provided information in the field of real estate.

REQUEST NO. 26: Admit that your website at www.turnkeyvacationrentals.com never featured real estate listings.

REQUEST NO. 27: Admit that your website at www.turnkeyvacationrentals.com never allowed consumers to rent vacation homes, condominiums, cabins and villas using pay per click advertising on a global computer network.

REQUEST NO. 28: Admit that your website at www.turnkeyvacationrentals.com currently does not provide information in the field of real estate.

REQUEST NO. 29: Admit that your website at www.turnkeyvacationrentals.com currently does not feature real estate listings.

REQUEST NO. 30: Admit that your website at www.turnkeyvacationrentals.com currently does not allow consumers to rent vacation homes, condominiums, cabins and villas using pay per click advertising on a global computer network.

REQUEST NO. 31: Admit that your twitter.com social network page is located at <https://twitter.com/TurnKeyVacation?lang=en>.

REQUEST NO. 32: Admit that your twitter page currently does not provide information in the field of real estate.

REQUEST NO. 33: Admit that your twitter page currently does not feature real estate listings.

REQUEST NO. 34: Admit that your twitter page currently does not allow consumers to rent vacation homes, condominiums, cabins and villas using pay per click advertising on a global computer network.

REQUEST NO. 35: Admit that the only live websites that feature any information about you or your real estate services are www.turnkeyvacationrentals.com and <https://twitter.com/TurnKeyVacation?lang=en>.

REQUEST NO. 36: Admit that the only websites that ever featured any information about you or your real estate services are www.turnkeyvacationrentals.com and <https://twitter.com/TurnKeyVacation?lang=en>.

REQUEST NO. 37: Admit that Registrant's use of Registrant's Trademark has not caused you to lose any sales of services bearing Petitioner's Trademark.

REQUEST NO. 38: Admit that that you do not have any documents in your custody, control or possession that Registrant's use of Registrant's Trademark has caused you to lose any sales of services bearing Petitioner's Trademark.

REQUEST NO. 39: Admit that Registrant's use of Registrant's Trademark has not caused you suffer any injury.

REQUEST NO. 40: Admit that that you do not have any documents in your custody, control or possession that Registrant's use of Registrant's Trademark has caused you to suffer any injury.

REQUEST NO. 41: Admit that you are not the first user of the term "TURNKEY."

REQUEST NO. 42: Admit that you are not the first user of the term "TURN-KEY."

REQUEST NO. 43: Admit that you are not the first user of the term "TURN."

REQUEST NO. 44: Admit that you are not the first user of the term "KEY."

REQUEST NO. 45: Admit that Petitioner's trademark is descriptive.

REQUEST NO. 46: Admit that Petitioner's trademark is generic.

REQUEST NO. 47: Admit that You did not use Petitioner's Trademark in commerce in the United States on any good or service before November 1, 2012.

REQUEST NO. 48: Admit that You did not use Petitioner's Trademark in commerce in the United States on "providing information in the field of real estate via the Internet" before November 1, 2012.

REQUEST NO. 49: Admit that You did not use Petitioner's Trademark in commerce in the United States on "providing real estate listings via the Internet" before November 1, 2012.

REQUEST NO. 50: Admit that You did not use Petitioner's Trademark in commerce in the United States on "real estate management of vacation homes" before November 1, 2012.

REQUEST NO. 51: Admit that You did not use Petitioner's Trademark in commerce in the United States on "real estate services, namely, rental of vacation homes" before November 1, 2012.

REQUEST NO. 52: Admit that You did not use Petitioner's Trademark in commerce in the United States on "real estate services, namely, rental of vacation homes, condominiums, cabins, and villas using pay per click advertising on a global computer network" before November 1, 2012.

REQUEST NO. 53: Admit that You did not use Petitioner's Trademark in commerce in the United States on "real estate services, namely, vacation home rental management services" before November 1, 2012.

REQUEST NO. 54: Admit that You did not use Petitioner's Trademark in commerce in the United States on any good or service before October 1, 2012.

REQUEST NO. 55: Admit that You did not use Petitioner's Trademark in commerce in the United States on "providing information in the field of real estate via the Internet" before October 1, 2012.

REQUEST NO. 56: Admit that You did not use Petitioner's Trademark in commerce in the United States on "providing real estate listings via the Internet" before October 1, 2012.

REQUEST NO. 57: Admit that You did not use Petitioner's Trademark in commerce in the United States on "real estate management of vacation homes" before October 1, 2012.

REQUEST NO. 58: Admit that You did not use Petitioner’s Trademark in commerce in the United States on “real estate services, namely, rental of vacation homes” before October 1, 2012. 2012.

REQUEST NO. 59: Admit that You did not use Petitioner’s Trademark in commerce in the United States on “real estate services, namely, rental of vacation homes, condominiums, cabins, and villas using pay per click advertising on a global computer network” before October 1, 2012.

REQUEST NO. 60: Admit that You did not use Petitioner’s Trademark in commerce in the United States on “real estate services, namely, vacation home rental management services” before October 1, 2012.

REQUEST NO. 61: Admit that besides registering the Internet domain name turnkeyvacationrental.com on July 2, 2011, and adopting the corporate name TURN-KEY VACATION RENTALS, Inc. on February 27, 2012, You did not actually offer any real estate sales or leasing or related services under the TURN-KEY VACATION RENTALS mark during the period of July 2, 2011 to February 27, 2012.

Date: July 26, 2016

Respectfully submitted,

HP LAW GROUP

/s/ Kuscha Hatami

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Mitesh@hplg.law

Attorneys for Registrant



CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that the foregoing **REGISTRANT'S FIRST REQUEST FOR ADMISSIONS** was served upon Petitioner by delivering true and correct copies of same to Petitioner's counsel via First Class U.S. mail on July 26, 2016 as follows:

David M. Adler
Adler Law Group
300 Saunders Road
Suite 100
Riverwoods, IL. 60015

/s/ Kuscha Hatami
Kuscha Hatami

EXHIBIT B

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

Turn-Key Vacation Rentals, Inc.,

Petitioner,

v.

Thomas Clark,

Registrant.

Cancellation No.: 92060599

Registration No.: 4340236

Date of Registration: May 21, 2013

Mark: **TURNKEY**

**REGISTRANT’S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS AND
THINGS TO PETITIONER**

Pursuant to Rules 26(b) and 34, Fed.R.Civ.P., and 37 C.F.R. § 2.120, Registrant Thomas Clark (“Registrant”), by and through undersigned counsel, hereby requests that Petitioner Turn-Key Vacation Rentals, Inc., (“Petitioner”), produce for inspection and copying by Registrant’s counsel, within thirty (30) days after the date of service of this request, the following documents and things, said production to be made at the law offices of HP Law Group LLP, 1300 Montecito Avenue, No. 20, Mountain View, California 94043, or at another mutually agreed upon location.

DEFINITIONS

As used here:

A. “You,” “Your,” “Petitioner,” or “TKVR” refers to Petitioner Turn-Key Vacation Rentals, including all alter egos, agents, representatives, and all other persons acting or purporting to act on his behalf.

B. The “Petitioner’s Trademark” refers to the word and trademark **TURN-KEY VACATION RENTALS** as identified in U.S. Trademark Application Serial No. 86/477,775.



C. The term “Applied-for Services” means “Providing information in the field of real estate via the Internet; Providing real estate listings via the Internet; Real estate management of vacation homes; Real estate services, namely, rental of vacation homes; Real estate services, namely, rental of vacation homes, condominiums, cabins, and villas using pay per click advertising on a global computer network; Real estate services, namely, vacation home rental management services” as identified in Petitioner’s U.S. Trademark Application Serial No. 86/477,775.

D. The “Registrant’s Trademark” refers to the word and trademark **TURNKEY** as identified in U.S. Trademark Registration No 4,340,236.

E. “Documents” means, but without limitation: every writing or record of every type and description including those existing in all manner of memory means or devices used in connection with electronic computers or word processors that is or has been in the possession, control or custody, or of which you have knowledge, including without limitation: papers, contracts, correspondence, memoranda, tapes, communications, invoices, accounts, stenographic or handwritten notes, studies, publications, books, pamphlets, pictures, photographs, films, videotapes, sound or voice recordings, maps, reports, surveys, minutes, graphs, statistical compilations, charts, calculations, projections, plans, data processing cards, tapes or disks or computer records or printouts; every copy of every such writing or record where the original is not in your possession, custody or control; and every copy of every such writing or record where such copy is not an identical copy of the original or where such copy contains any commentary or notation whatsoever that does not appear on the original.

F. The phrase “all documents” means every document, as defined above, known to Petitioner and every such document that can be located or discovered by reasonably diligent efforts undertaken by or on behalf of Petitioner.

G. “Communication” includes, without limitation, communications by whatever means transmitted (i.e. whether oral, written, electronic, or other), as well as any note, memorandum or other record thereof.

H. “Entity” means any individual, firm, partnership, corporation, proprietorship, association, governmental body or any other organization or entity.

I. “Date” means the exact day, month and year if ascertainable or, if not, the best available approximation (including relationship to other events).

J. “Identify,” when used in reference to:

(1) an individual means to state his full name, present or last known residence address and present or last known position or business affiliation (designating which), job title, employment address and present or last known business and residence telephone numbers, together with a statement as to his present or former relationship with Petitioner, if any, and the inclusive dates thereof;

(2) a firm, partnership, corporation, proprietorship, association, or other organization or entity means to state its full name and present or last known address and telephone number (designating which); and

(3) a document shall mean to state the date, author, sender, recipient, type of document, (i.e. a letter, memorandum, book, telegram, chart, etc.) or some other means of identifying it, and its present location or custodian; in the case of documents within your possession, custody, control, or access, whether you will make them available to Petitioner’s attorneys for inspection and/or copying; and in the case of a document that was but is no longer in your possession, custody or control, what disposition was made of it and why.

K. “Relate” or any permutation thereof, means that which is, constitutes, comprises, discloses, reflects, describes, discusses, concerns, supports, contradicts, or in any other manner touches on.

L. When producing the documents, please keep all documents segregated by the file in which the documents are contained and indicate the name of the file in which the documents are contained and the name of the documents being produced.

M. If you claim any documents are privileged, for each such document please:

1. identify and describe each such document by date, author, and recipient;
2. identify each person, and his or her job title, (other than stenographic or clerical assistance) participating in the preparation of the document;

3. identify each person to whom the contents of the document have been communicated by copy, exhibition, reading or summarization;
4. provide a brief summary of its contents;
5. state the privilege or privileges in sufficient detail so that the Court, or other judicial entity, may adjudicate the validity of the claim. You are required to set forth as to any document for which privilege, attorneys' work product or trial preparation materials is claimed: the nature of the privilege claimed, the grounds relied upon for the claim of privilege (with specificity), the person who claims the privilege and whether there has been any waiver of the privilege. If there has been a waiver, provide a detailed description of the circumstances surrounding the waiver; and
6. identify the paragraph of this discovery request to which the document responds.

N. If Petitioner refuses to produce any document responsive in whole or in part to any Request, Petitioner must state each specific ground for Petitioner's refusal. At a minimum, this must include for each document so withheld:

1. the author(s);
2. the addressee(s) and person(s) copied;
3. the general subject matter of the document;
4. the date of the document; and
5. the specific grounds for withholding the document.

O. If Petitioner objects to producing any part of any document, Petitioner must produce the portions of the document to which Petitioner does not object.

P. If any portion of a document is responsive to this Request, then the entire document shall be produced. Documents produced pursuant to this Request shall be produced in the order in which they appear in Petitioner's files, and shall not be shuffled or otherwise rearranged. Documents that in their original condition were stapled, clipped, or otherwise fastened together shall be produced in such form.

Q. As used here, unless otherwise indicated, the single shall always include the plural, and the present tense shall always include the past tense, and *vice versa*.

R. A masculine, feminine, or neutral pronoun shall not exclude the other genders.

S. This request is a continuing request for all documents and things described below which may hereafter come into Petitioner's possession, custody, or control.

DOCUMENT REQUESTS

Request No. 1

All documents referring to or relating to any United States trademark or service mark application or registration filed and/or prosecuted by or on behalf of Petitioner which contains Petitioner's Trademark or any variation thereof, alone or in combination with other words or design elements, in any form.

Request No. 2

All documents referring or relating to any state trademark or service mark application filed and/or prosecuted by or on behalf of Petitioner which contains Petitioner's Trademark or any variation thereof, alone or in combination with other words or design elements, in any form.

Request No. 3

All documents referring or relating to any foreign trademark or service mark application filed and/or prosecuted by or on behalf of Petitioner which contains Petitioner's Trademark or any variation thereof, alone or in combination with other words or design elements, in any form.

Request No. 4

All documents which relate to past, present and future business plans with respect to the adoption, selection, registration and use of Petitioner's Trademark, including all notes, memoranda, minutes of meetings, and correspondence referring or relating to such adoption or selection.

Request No. 5

Representative samples of all promotional materials or items utilized, or under consideration to be utilized, in the advertising and promotion of Petitioner's Trademark, including without limitation direct mail literature, magazine advertisements, newspaper advertisements, radio or television advertisements or scripts, audio or video tapes, press releases, press kits, and/or internet or e-mail advertisements.

Request No. 6

All documents evidencing Petitioner's actual or projected advertising expenditures, advertising budgets, and financial statements related to any good and/or service advertised, promoted, marketed, offered for sale, sold, or otherwise provided by Petitioner for which Petitioner made any use or intends to make any use of Petitioner's Trademark.

Request No. 7

Documents sufficient to identify all of Petitioner's past and present employees and any other persons who were involved in or contributed to the creation, selection, consideration and/or evaluation of Petitioner's Trademark.

Request No. 8

Representative samples of all signs, brochures, handbills, stationery, business cards, and decals used by or intended to be used by Petitioner in connection with Petitioner's Trademark, and samples evidencing each and every manner in which Petitioner's Trademark has been displayed or will be displayed.

Request No. 9

All agreements, policies, contracts, and all other documents evidencing any agreements which relate to the acquisition, use, promotion, licensing, assignment and/or concerning Petitioner's Trademark, including any modification of such agreements.

Request No. 10

All documents referring or relating to Petitioner's examination, analysis, opinion, tests, inquiries and consideration of the Petitioner's Trademark prior to adoption Petitioner's Trademark.

Request No. 11

All documents regarding, referring or relating to, or containing any results of, any survey, poll, search, investigation, or other study undertaken by, or on behalf of, Petitioner in connection with Petitioner's Trademark, Registrant's Trademark, the likelihood of confusion between Petitioner's Trademark and Registrant's Trademark, and/or damage to Petitioner's Trademark.

Request No. 12

All documents referring or relating to the conception, design, development, and selection of Petitioner's Trademark.

Request No. 13

All documents relating to Petitioner's consideration of alternative terms, names and symbols other than or in place of Petitioner's Trademark.

Request No. 14

All documents regarding any investigation, trademark search, clearance, or evaluation concerning Petitioner's Trademark, possible registration of Petitioner's Trademark and

Petitioner's Trademark's use by any other party, conducted by, or on behalf of, Petitioner, prior to and/or after adopting Petitioner's Trademark.

Request No. 15

All documents regarding any investigation, trademark search, clearance, or evaluation concerning Registrant and/or Registrant's Trademark conducted by, or on behalf of, Petitioner, prior to and/or after adopting Petitioner's Trademark.

Request No. 16

Documents sufficient to identify each type of service or product that Petitioner intends to or already has advertised, distributed, offered for sale, or sold to customers under Petitioner's Trademark, including but not limited to the Applied-For Services.

Request No. 17

All documents which relate or refer to any of Petitioner's uses or intended uses of Petitioner's Trademark in connection with any of its goods or services, including but not limited to, marketing reports, internal memoranda, promotional materials and outside communications.

Request No. 18

All documents relating to Petitioner's marketing strategy or promotional strategy involving the use of Petitioner's Trademark and Petitioner's business plan for any products or services using Petitioner's Trademark.

Request No. 19

All documents which relate to any of Petitioner's investors.

Request No. 20

Representative documents that identify the past, present and anticipated market trade channels and means of distribution by which all services or products sold or to be sold by Petitioner under Petitioner's Trademark reach or will reach ultimate users.

Request No. 21

All documents relating to Petitioner's intentions or plans, alone or in conjunction with any other person or entity, to expand the use of Petitioner's Trademark in the future in connection with additional goods or services or additional geographic locations.

Request No. 22

All agreements, actual or contemplated, between Petitioner and another person or entity, involving Petitioner's Trademark.

Request No. 23

All documents which refer or relate to Registrant, apart from the pleadings and correspondence exchanged by the parties in this action, including, but not limited to, all

communications between Registrant and Petitioner prior to the commencement of this action.

Request No. 24

All documents identified in your responses to Registrant's First Set of Interrogatories or referred to or relied upon in the course of Petitioner's preparation of responses to the First Set of Interrogatories.

Request No. 25

All non-privileged documents relating to any TTAB proceeding or litigation to which Petitioner has been a party which has involved any question of any party's intellectual property rights, or of any action in tort or contract involving any party's reputation or economic rights, including but not limited to any claims relating to trademark infringement, rights of publicity, misappropriation, invasion of privacy, false light, false advertising, fraud, defamation, slander, libel, tortious interference with business relations, and tortious interference with prospective business opportunities.

Request No. 26

All documents which refer or relate to any and all inquiries by consumers as to whether any good or service offered for sale or sold by Petitioner under Petitioner's Trademark is related, associated, affiliated, or otherwise connected with Registrant.

Request No. 27

All documents upon which you rely to support your allegation in Paragraph 1 of the First Amended Petition for Cancellation that "Petitioner has been in the business of vacation rental property management and leasing since March 2011."

Request No. 28

All documents upon which you rely to support your allegation in Paragraph 2 of the First Amended Petition for Cancellation that "Petitioner operates her vacation rental property management and leasing business under the trade name and trademark TURN-KEY VACATION RENTALS."

Request No. 29

All documents upon which you rely to support your allegation in Paragraph 6 of the First Amended Petition for Cancellation that "Since at least as early as February 27, 2012, Petitioner has used the trademark TURN-KEY VACATION RENTALS and has promoted her business using the mark."

Request No. 30

All documents upon which you rely to support your allegation in Paragraph 13 of the First Amended Petition for Cancellation that "Respondent was aware of Petitioner's prior use of and prior rights in the mark TURN-KEY VACATION RENTALS at least as early as September 5, 2012."

Request No. 31

All documents upon which you rely to support your allegation in Paragraph 18 of the First Amended Petition for Cancellation that “At the time Respondent filed Application Serial Number 85763978, Respondent had notice of Petitioner’s use of the name TURN-KEY VACATION RENTALS.”

Request No. 32

All documents upon which you rely to support your allegation in Paragraph 19 of the First Amended Petition for Cancellation that “At the time Respondent filed Application Serial Number 85763978, Respondent had actual notice of Petitioner’s use of the domain name turnkeyvacationrentals.com.”

Request No. 33

All documents upon which you rely to support your allegation in Paragraph 20 of the First Amended Petition for Cancellation that “Since Respondent was unable to purchase the domain name turnkeyvacationrentals.com and since Respondent knew that Petitioner was using the name TURN-KEY VACATION RENTALS, Respondent intentionally registered the mark TURNKEY in an effort to block Petitioner from being able to register and/or enforce the TURN-KEY VACATION RENTALS mark.”

Request No. 34

All documents upon which you rely to support your allegation in Paragraph 21 of the First Amended Petition for Cancellation that “...Petitioner has priority of use of the mark TURN-KEY VACATION RENTALS, which is confusingly similar to Respondent’s mark TURNKEY, that Respondent willfully and intentionally lied under oath about his right to seek registration of the mark TURNKEY, that Respondent willfully and intentionally lied under oath about his right to use the mark TURNKEY, that Respondent willfully and intentionally deceived the TTAB about his right to use the mark TURNKEY...that allowing Respondent to own Registration 4340236 is likely to cause confusion, mistake, and deception with respect to Petitioner’s well established prior use of and rights in the mark for identical services.”

Request No. 35

All documents upon which you rely to support your allegation in Paragraph 23 of the First Amended Petition for Cancellation that “Respondent’s mark TURNKEY is identical in overall sound, meaning, and commercial impression to TURN-KEY, the dominant portion of Petitioner’s trade name TURN-KEY VACATION RENTALS.”

Request No. 36

All documents upon which you rely to support your allegation in Paragraph 24 of the First Amended Petition for Cancellation that “Respondent’s mark TURNKEY is identical in overall sound, meaning, and commercial impression to TURN-KEY, the dominant portion of Petitioner’s trademark TURN-KEY VACATION RENTALS.”

Request No. 37

All documents upon which you rely to support your allegation in Paragraph 25 of the First Amended Petition for Cancellation that “Respondent’s Class IC 036 services are

identical to Petitioner's Class IC 036 services: "Real estate services, namely, rental of vacation homes and lodging."

Request No. 38

All documents upon which you rely to support your allegation in Paragraph 31 of the First Amended Petition for Cancellation that "At the time Respondent filed Application Serial Number 85763978, Respondent knowingly made false, material misrepresentations of fact with the intent to deceive the USPTO."

Request No. 39

All documents upon which you rely to support your allegation in Paragraph 32 of the First Amended Petition for Cancellation that "At the time Respondent filed Application Serial Number 85763978, Respondent knew that the mark was owned and in use by Petitioner and that it had been used by Petitioner prior to Respondent's filing date of October 25, 2012."

Request No. 40

All documents upon which you rely to support your allegation in Paragraph 33 of the First Amended Petition for Cancellation that "Respondent knew at the time of filing Application Serial Number 85763978 that Petitioner had adopted and was using the legal business name TURN-KEY VACATION RENTALS, Inc. for her vacation rental property management and leasing business."

Request No. 41

All documents upon which you rely to support your allegation in Paragraph 34 of the First Amended Petition for Cancellation that "Respondent knew at the time of filing Application Serial Number 85763978 that the mark was identical, or so nearly identical to Petitioner's mark, that it was likely, when used on or in connection with the services of Respondent, to cause confusion, mistake, or deception."

Request No. 42

All documents upon which you rely to support your allegation in Paragraph 35 of the First Amended Petition for Cancellation that "Respondent sought registration of its TURNKEY mark to prevent Petitioner from registering TURN-KEY VACATION RENTALS."

Request No. 43

All documents upon which you rely to support your allegation in Paragraph 36 of the First Amended Petition for Cancellation that "Petitioner has priority of use of her TURN-KEY VACATION RENTALS mark based on actual use in commerce, or use analogous to trademark use, prior to Respondent's alleged date of first use."

Request No. 44

All documents upon which you rely to support your allegation in Paragraph 37 of the First Amended Petition for Cancellation that "Petitioner made actual, or at least analogous use of the mark TURN-KEY VACATION RENTALS at least as early as July

2, 2011 when Petitioner registered the Internet domain name turnkeyvacationrental.com through the Internet Registrar 1and1/com, and certainly by February 27, 2012, when Petitioner adopted the corporate name TURN-KEY VACATION RENTALS, Inc.”

Request No. 45

All documents upon which you rely to support your allegation in Paragraph 40 of the First Amended Petition for Cancellation that “Respondent made materially false statements to the USPTO with the intent to deceive the USPTO because Respondent intended to procure his TURNKEY trademark to prevent Petitioner from registering or enforcing her TURN-KEY VACATION RENTALS mark.”

Request No. 46

All documents upon which you rely to support your allegation in Paragraph 41 of the First Amended Petition for Cancellation that “...Respondent’s TURNKEY mark is identical in sound, meaning, and commercial impression to TURN-KEY, the dominant portion of Petitioner’s mark, TURN-KEY VACATION RENTALS. Petitioner has priority of use of the mark and allowing Respondent to own Registration #4340236 creates a substantial likelihood that consumers will be confused by Respondent’s use of the mark TURNKEY in connection with Respondent’s goods or services resulting in irreparable harm and damage to the Petitioner.”

Request No. 47

Documents, other than Petitioner’s Trademark Application(s), adequate to establish the date of first use and the date of first use in commerce of Petitioner’s Trademark in connection with “Providing information in the field of real estate via the Internet,” in International Class 36, and documents reflecting the actual mark as displayed in connection with such services at the time of first use and as of the date of this request.

Request No. 48

Documents, other than Petitioner’s Trademark Application(s), adequate to establish the date of first use and the date of first use in commerce of Petitioner’s Trademark in connection with “providing real estate listings via the Internet,” in International Class 36, and documents reflecting the actual mark as displayed in connection with such services at the time of first use and as of the date of this request.

Request No. 49

Documents, other than Petitioner’s Trademark Application(s), adequate to establish the date of first use and the date of first use in commerce of Petitioner’s Trademark in connection with “real estate management of vacation homes,” in International Class 36, and documents reflecting the actual mark as displayed in connection with such services at the time of first use and as of the date of this request.

Request No. 50

Documents, other than Petitioner’s Trademark Application(s), adequate to establish the date of first use and the date of first use in commerce of Petitioner’s Trademark in connection with “real estate services, namely, rental of vacation homes,” in International

Class 36, and documents reflecting the actual mark as displayed in connection with such services at the time of first use and as of the date of this request.

Request No. 51

Documents, other than Petitioner's Trademark Application(s), adequate to establish the date of first use and the date of first use in commerce of Petitioner's Trademark in connection with "real estate services, namely, rental of vacation homes, condominiums, cabins, and villas using pay per click advertising on a global computer network," in International Class 36, and documents reflecting the actual mark as displayed in connection with such services at the time of first use and as of the date of this request.

Request No. 52

Documents, other than Petitioner's Trademark Application(s), adequate to establish the date of first use and the date of first use in commerce of Petitioner's Trademark in connection with "real estate services, namely, vacation rental management services," in International Class 36, and documents reflecting the actual mark as displayed in connection with such services at the time of first use and as of the date of this request.

Request No. 53

Documents reflecting gross sales, gross profits, revenues, and related financial information related or derived from "providing information in the field of real estate via the Internet," which are advertised, promoted, marketed, offered for sale, sold, or otherwise provided by Petitioner for which Petitioner made any use of Petitioner's Trademark, including, without limitation, the quantity of such services sold and the revenue generated by such sale.

Request No. 54

Documents reflecting gross sales, gross profits, revenues, and related financial information related or derived from "providing real estate listings via the Internet," which are advertised, promoted, marketed, offered for sale, sold, or otherwise provided by Petitioner for which Petitioner made any use of Petitioner's Trademark, including, without limitation, the quantity of such services sold and the revenue generated by such sale.

Request No. 55

Documents reflecting gross sales, gross profits, revenues, and related financial information related or derived from "real estate management of vacation homes," which are advertised, promoted, marketed, offered for sale, sold, or otherwise provided by Petitioner for which Petitioner made any use of Petitioner's Trademark, including, without limitation, the quantity of such services sold and the revenue generated by such sale.

Request No. 56

Documents reflecting gross sales, gross profits, revenues, and related financial information related or derived from "real estate services, namely, rental of vacation homes," which are advertised, promoted, marketed, offered for sale, sold, or otherwise

provided by Petitioner for which Petitioner made any use of Petitioner's Trademark, including, without limitation, the quantity of such services sold and the revenue generated by such sale.

Request No. 57

Documents reflecting gross sales, gross profits, revenues, and related financial information related or derived from "real estate services, namely, rental of vacation homes, condominiums, cabins, and villas using pay per click advertising on a global computer network," which are advertised, promoted, marketed, offered for sale, sold, or otherwise provided by Petitioner for which Petitioner made any use of Petitioner's Trademark, including, without limitation, the quantity of such services sold and the revenue generated by such sale.

Request No. 58

Documents reflecting gross sales, gross profits, revenues, and related financial information related or derived from "real estate services, namely, vacation home rental management services," which are advertised, promoted, marketed, offered for sale, sold, or otherwise provided by Petitioner for which Petitioner made any use of Petitioner's Trademark, including, without limitation, the quantity of such services sold and the revenue generated by such sale.

Request No. 59

All documents concerning, evidencing, relating, or referring to, authorizations, policies, contracts and/or agreements with third parties involving Petitioner's Trademark, including but not limited to, all franchise agreements, manufacturing agreements, settlement agreements, distribution agreements, and other agreements which relate to the use of Petitioner's Trademark.

Request No. 60

All documents relating to any instance of actual, likely, or possible confusion between Registrant or any of its respective goods or services, on the one hand, and Petitioner and/or the goods or services marketed or sold under Petitioner's Trademark, on the other hand, including, without limitation, any reports of any such confusion.

Request No. 61

All documents referring or relating to U.S. Serial No. 86/477,775 for the mark TURN-KEY VACATION RENTALS.

Request No. 62

Documents evidencing sales of the Applied-for Services in connection with Petitioner's Trademark by Petitioner in 2012.

Request No. 63

Documents evidencing sales of the Applied-for Services in connection with Petitioner's Trademark by Petitioner in 2013.

Request No. 64

Documents evidencing sales of the Applied-for Services in connection with Petitioner's Trademark by Petitioner in 2014.

Request No. 65

Documents evidencing sales of the Applied-for Services in connection with Petitioner's Trademark by Petitioner in 2015.

Request No. 66

Documents evidencing sales of the Applied-for Services in connection with Petitioner's Trademark by Petitioner in 2016.

Request No. 67

Petitioner's organizational chart(s) since February 2012.

Request No. 68

All tax returns filed with the Internal Revenue Service or any other taxing authority by or on behalf of Petitioner since 2012 to the present.

Request No. 69

All documents related to, concerning, touching on, regarding, or directed to the allegations made by you in your Notice of Opposition.

Request No. 70

All documents that refute any of the allegations contained in your Notice of Opposition.

Date: July 26, 2016

Respectfully submitted,

HP LAW GROUP

/s/ Kuscha Hatami

Kuscha Hatami, Esq.
Mitesh Patel, Esq.
1300 Montecito Avenue
No. 20
Mountain View, CA. 94043
Hatami@legaledgelaw.com
Mitesh@hplg.law

Attorneys for Registrant

CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that the foregoing **FIRST REQUEST FOR PRODUCTION OF DOCUMENTS AND THINGS TO PETITIONER** was served upon Petitioner by delivering true and correct copies of same to Petitioner's counsel via First Class U.S. mail on July 26, 2016 as follows:

David M. Adler
Adler Law Group
300 Saunders Road
Suite 100
Riverwoods, IL. 60015

/s/ Kuscha Hatami
Kuscha Hatami

EXHIBIT C

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

Turn-Key Vacation Rentals, Inc.,

Petitioner,

v.

Thomas Clark,

Registrant.

Cancellation No.: 92060599

Registration No.: 4340236

Date of Registration: May 21, 2013

Mark: TURNKEY

APPLICANT'S FIRST SET OF INTERROGATORIES

Pursuant to Rules 26 and 33, Fed.R.Civ.P., and 37 C.F.R. § 2.120, Registrant Thomas Clark (“Registrant”), by and through undersigned counsel, hereby requests that Petitioner Turn-Key Vacation Rentals, Inc., (“Petitioner”), answer the following interrogatories under oath within 30 days after service hereof.

DEFINITIONS AND INSTRUCTIONS

The following Definitions and Instructions apply to these interrogatories:

1. “You,” “Your,” “Petitioner,” or “TKVR” refers to Petitioner Turn-Key Vacation Rentals, Inc., including all alter egos, agents, representatives, and all other persons acting or purporting to act on his behalf.
2. The “Petitioner’s Trademark” refers to the word and trademark **TURN-KEY VACATION RENTALS** as identified in U.S. Trademark Application Serial No. 86/477,775.
3. The term “Applied-for Services” means “Providing information in the field of real estate via the Internet; Providing real estate listings via the Internet; Real estate management of vacation homes; Real estate services, namely, rental of vacation homes; Real estate services, namely, rental of vacation homes, condominiums, cabins, and villas using pay per click advertising on a global computer network; Real estate



services, namely, vacation home rental management services” as identified in Petitioner’s U.S. Trademark Application Serial No. 86/477,775.

4. The “Registrant’s Trademark” refers to the word and trademark **TURNKEY** as identified in U.S. Trademark Registration No 4,340,236.

5. The term "mark(s)" shall also include all trademarks and service marks, whether registered or common law, and all trade names, or any other word or symbol used by Petitioner upon which Petitioner intends to rely in this action.

6. The term “including” means including but not limited to.

7. The term "person" means any natural person, individual, proprietorship, partnership, corporation, division, agency, association, organization, joint venture, firm, or other business enterprise, governmental body, group of natural persons or other entity.

8. When an Interrogatory calls for an answer or identification that will include the name of a person who is an individual proprietorship, partnership, corporation, association, organization, or other entity, this person should be identified as follows:

- (a) by name;
- (b) by current business address, telephone and facsimile numbers, and email addresses;
- (c) by type of entity; and
- (d) by jurisdiction of organization

9. When an Interrogatory calls for the identification of or inquires about a document, the term "document" shall include any tangible item whatsoever including, without limitation, all correspondence, books, memoranda, reports, records, invoices, labels, writings, displays, photographs, drawings, sketches, mockups, art work, specimens, advertisements, illustrative materials, magnetic recording tapes, microfilms, other storage means by which information is retained in retrievable form, and other materials, documents, and things, whether printed, typewritten, handwritten, recorded, or reproduced or reproducible by any electronic or mechanical process. The response shall include the following:

- (a) the type of document and a general description of the document (e.g., letter, report, memorandum);
- (b) its date;

- (c) the number of pages in the document;
- (d) the identity of each author(s) of the document or had any input into the document;
- (e) a general description of the subject matter to which it pertains;
- (f) the names and addresses of the recipient(s) of the document, including but not limited to, all persons receiving or shown the document or copies thereof; and
- (g) the name and addresses of the person in whose custody, possession, or control the document is currently maintained.

10. The phrase “all documents” means every document, as defined above, known to Petitioner and every such document that can be located or discovered by reasonably diligent efforts undertaken by or on behalf of Petitioner.

11. The term “advertisement” or “advertisements” shall be interpreted in the broadest sense and includes and means without limitation, any means employed in promoting or publicizing Petitioner’s goods, services, or business, including, without limitation, signs, labels, displays, tags, containers, television and/or radio commercials, leaflets, brochures, billboards, publications, catalogs, direct mail circulars, and advertising of every kind and/or in any and all media. It shall also mean all notes, drafts, alterations, modifications, changes, amendments and non-identical copies of documents by whatever means made.

12. Whenever an Interrogatory calls for the identification of any litigation or proceeding, the response should set forth the following:

- (a) the court or other forum;
- (b) the Civil Action Number or other means of identifying the litigation or proceeding;
- (c) the parties and attorneys involved in the litigation or proceeding;
- (d) the date of commencement of the litigation or proceeding;
- (e) a brief summary and characterization of issues involved in the litigation or proceeding;
- (f) the mark(s) involved in the litigation or proceeding;
- (g) the current status of such litigation or proceeding;
- (h) the resolution, if any, of such litigation or proceeding;

- (i) a complete citation of all reported and unreported decisions resulting from the litigation or proceeding; and
- (j) if any such litigation or proceeding was not fully prosecuted, the reason why.

13. Whenever an Interrogatory calls for the identification of any or all of Petitioner's marks or any other mark, as to each mark, identify the following:

- (a) the federal, state, and/or foreign registration and/or application number;
- (b) the application filing date and/or registration date;
- (c) the owner of the registration and/or application and/or any right to use the mark;
- (d) each good and/or service identified or to be identified by the mark and the manner in which the mark is or will be used;
- (e) the date of first use or projected date of first use of the mark in connection with each good and/or service identified by the mark; and
- (f) the geographic area and circumstances surrounding each use.

14. If a privilege is claimed with respect to any information requested, please provide all information falling within the scope of the Interrogatory which is not privileged, and identify with sufficient particularity for the purposes of a motion to compel a response or production of each item of information, or thing, separately, with respect to which you claim a privilege, and furnish all information requested in Paragraph 13 above.

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

16. As used herein, the single shall always include the plural, and the present tense shall always include the past tense, and *vice versa*.

17. A masculine, feminine, or neutral pronoun shall not exclude the other genders.

18. As used herein, a document "relating," "referring," or that "relates" or "refers" to any given subject means any document that constitutes, comprises, contains, embodies, reflects, identifies, states, shows, refers to, pertains directly or indirectly to, deals with, or is

in any way relevant or pertinent to that subject including, without limitation, documents concerning the preparation of other documents.

19. Whenever an Interrogatory requests that Petitioner "describe in detail" any occurrence, communication, or circumstance, the following as to each occurrence, communication, or circumstance should be furnished:

- (a) the date(s);
- (b) location;
- (c) full identification of all parties, individuals, and/or entities involved;
- (d) specific actions or events involved in the occurrence, communication, or circumstance; and
- (e) identify with specificity each document relating to such occurrence, communication, or circumstance.

20. Each interrogatory shall be answered separately and fully in writing and under oath. The answers are to be signed and sworn to by the person making them. If Petitioner refuses to answer any interrogatory, in whole or in part, Petitioner must state each specific ground for Petitioner's refusal. If Petitioner objects in part to any interrogatory, answer the remainder completely.

21. To the extent any information called for by these interrogatories is unknown to Petitioner, so state, and set forth such remaining information as is known. If any estimate can reasonably be made in place of unknown information, set forth the best estimate, clearly designated as such, in place of unknown information, and describe the basis upon which the estimate is made.

22. If Petitioner exercises his option under Fed. R. Civ. P. 33(d) to produce business records in lieu of responding to any Interrogatory, the following procedure must be followed:

- (a) In response to each such Interrogatory, Petitioner must explain why the burden of deriving or ascertaining the answer is substantially the same for Petitioner as it is for Applicant, and identify the specific records containing the answer.
- (b) In producing such records, Petitioner must produce such records separately and designate the Interrogatory or Interrogatories to which

each record responds, as well as the identification of the file from which the documents were obtained.

23. These Interrogatories are continuing in character and require supplementation in accordance with Rule 26(e) of the Federal Rules of Civil Procedure.

INTERROGATORIES

Interrogatory No. 1:

With respect to Petitioner's Trademark, (a) identify the person(s) most knowledgeable with respect to the adoption, use, projected use, or registration of Petitioner's Trademark, (b) identify the date of first use in commerce of Petitioner's Trademark with respect to each of the Applied-for Services, and (c) state in detail each and every product or service identified by Petitioner's Trademark.

Response:

Interrogatory No. 2:

State all channels of trade in which each product or service identified, or to be identified, by Petitioner's Trademark have been sold, are presently sold or offered for sale, or intended to be offered for sale, and state all manners in which these products or services are distributed, offered for sale and/or sold, or intended to be distributed, offered for sale and/or sold.

Response:

Interrogatory No. 3:

Identify each geographic area and location in the United States in which Petitioner, or others under the authority of Petitioner, have advertised or promoted (or intends to advertise or promote) the products and/or services identified in response to Interrogatory No. 1, including the date of the advertisement, the name of the advertising agency responsible for the placement of such advertisement, the name of the publication(s) in which any print advertisements appeared, the name of the radio or television station(s) in which a broadcast advertisement was broadcast, and all documents relating to all such advertising or promotion. With regard to internet websites, identify the address or the "URL" of each website, describe what is offered on the site and when each item was first offered at the site, and describe in detail whether items as advertised can be purchased from the web site or whether only information is offered at the web site.

Response:

Interrogatory No. 4:

State the annual dollar amount expended by Petitioner by others under the authority of or at the direction of Petitioner, for all advertising and promotion identified in Petitioner's response to Interrogatory No. 3, from the date of first use of Petitioner's Trademark to the present.

Response:

Interrogatory No. 5:

Identify each person who possesses knowledge of the facts surrounding the selection, adoption and use of Petitioner's Trademark, state in detail the knowledge each such person possesses, identify all documents related to the selection, adoption, and use of these marks, and state in detail all reasons for the selection of these marks as opposed to any other mark.

Response:

Interrogatory No. 6:

State Petitioner's annual gross revenue, since the date of first use identified in response to Interrogatory No. 1(b), for each product or service identified by Petitioner's Trademark, including each Applied-for Good, and identify each person with knowledge of the facts set forth in response to this Interrogatory and state the specific knowledge that each person possesses.

Response:

Interrogatory No. 7:

Identify each search, clearance, watch service, investigation or other inquiry, prepared by you, or on your behalf, directed to Petitioner's Trademark, and state the nature and means of preparing each such search clearance, watch service report, investigation or other inquiry, the date(s) upon which each such search clearance, watch service report, investigation or other inquiry was conducted, the identity of each person involved in conducting, receiving and reviewing such search clearance, watch service report, investigation or other inquiry, and each person who authorized each such search clearance, watch service report, investigation or other inquiry.

Response:

Interrogatory No. 8:

Describe in detail your use, intended use, or anticipated use of Petitioner's Trademark in commerce in the United States and the circumstances surrounding first use of Petitioner's Trademark in connection with each Applied-For Services.

Response:

Interrogatory No. 9:

Other than this proceeding, state whether Petitioner is presently, or has ever been, a party to any litigation, TTAB proceeding, or other proceeding anywhere in the world, in which the similarity of Petitioner's Trademark to a third party's mark was at issue. If Petitioner was the objecting party, identify all individuals involved in making the decision to object.

Response:

Interrogatory No. 10:

Identify each person who prepared, assisted in the preparation of, provided information, who was consulted, or whose documents or files were consulted for the answers to the foregoing and following interrogatories, stating each Interrogatory that each such individual prepared, assisted in the preparation of, provided information for, who was consulted for, or whose documents or files were consulted for the answer thereto.

Response:

Interrogatory No. 11:

If Petitioner has ever conducted or caused to be conducted on his behalf any market survey or other investigation which disclosed or related in any way to consumer recognition or awareness of Petitioner's Trademark, identify the date or dates of such survey or investigation, each person who conducted or is conducting such survey or investigation, the results of such survey or investigation, and all documents which relate in any way to such survey or investigation.

Response:

Interrogatory No. 12:

Identify each non-party witness from whom you intend to seek testimony (by affidavit, declaration, or deposition) in connection with this proceeding and, for each, the specific topics on which the witness will testify and if the witness is an expert, the substance of the

facts relied upon and opinions to which the expert is expected to testify and a summary of the grounds for each opinion.

Response:

Interrogatory No. 13:

State whether Petitioner has licensed or intends to license the use of Petitioner's Trademark to any person and/or entity and identify each such person and/or entity and state the licensed goods or services.

Response:

Interrogatory No. 14:

Identify each product and service that Petitioner sells or offers for sale or intends to offer for sale that is identified by any mark that contains Petitioner's Trademark, alone or in combination, and for each such product, identify its retail price

Response:

Interrogatory No. 15:

State whether Petitioner is aware of any instances of actual confusion between goods and/or services identified by Petitioner's Trademark and goods and/or services identified by the Registrant or Applicant's Trademark, and for each such instance of actual confusion, state the relevant facts concerning the discovery of such actual confusion, identify all persons with knowledge regarding such actual confusion and identify all documents evidencing such actual confusion.

Response:

Interrogatory No. 16:

Identify all persons with knowledge with regard to any claim or defense asserted by Petitioner in connection with this proceeding and for each person so identified state the nature of such knowledge.

Response:

Interrogatory No. 17:

Identify all assignments, franchise agreements, settlement agreements, distribution agreements, and other agreements that relate to the use and/or acquisition of Petitioner's Trademark.

Response:

Interrogatory No. 18:

Describe how Petitioner acquired "common law rights in" Petitioner's Trademark.

Response:

Interrogatory No. 19:

Identify the date and describe the circumstances when you first learned about Registrant.

Response:

Interrogatory No. 20:

Describe the facts surrounding the cancellation and/or abandonment of any prior trademark registrations and applications for Petitioner's Trademark filed on behalf of Petitioner.

Response:

Date: July 26, 2016

Respectfully submitted,

HP LAW GROUP

/s/ Kuscha Hatami

Kuscha Hatami, Esq.
Mitesh Patel, Esq.
1300 Montecito Avenue
No. 20
Mountain View, CA. 94043
Hatami@legaledgelaw.com
Mitesh@hplg.law

Attorneys for Registrant



CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that the foregoing **FIRST REQUEST FOR PRODUCTION OF DOCUMENTS AND THINGS TO PETITIONER** was served upon Petitioner by delivering true and correct copies of same to Petitioner's counsel via First Class U.S. mail on July 26, 2016 as follows:

David M. Adler
Adler Law Group
300 Saunders Road
Suite 100
Riverwoods, IL. 60015

/s/ Kuscha Hatami
Kuscha Hatami

EXHIBIT D



Kuscha Hatami <hatami@legaledgelaw.com>

Re: Turnkey Discovery

1 message

Kuscha Hatami <hatami@legaledgelaw.com>
To: David Adler <david@adler-law.com>

Tue, Sep 6, 2016 at 3:42 PM

Hi David,

I just want to inform you that we never received your responses, which are late more than a week.

Best regards,

Kuscha

Best regards,

Kuscha Hatami**HP Law Group**
Partner
Intellectual Property**Call me: 858.342.9621**
Follow me: [Kuscha's Twitter](#)
Ask me: [Kuscha's Quora](#)

This electronic transmission contains information which is confidential and/or privileged. The information is intended for use only by the individual or entity named above. If you are not the intended recipient (or the employee or agent responsible for delivering this information to the intended recipient), you are hereby notified that any use, dissemination, distribution, or copying of this communication is prohibited. If you have received this information in error, please notify me by electronic mail and delete all copies of the transmission. Thank you.

On Tue, Jul 26, 2016 at 10:58 AM, Kuscha Hatami <hatami@legaledgelaw.com> wrote:

Dear David,

We hope that you are well. Attached please find courtesy copies of Registrant's requests for Admissions, Interrogatories, and Production. The same are being served today.

Best regards,

Kuscha Hatami**HP Law Group**
Partner
Intellectual Property**Call me: 858.342.9621**
Follow me: [Kuscha's Twitter](#)
Ask me: [Kuscha's Quora](#)

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10/3/2016

Law Firm Mail - Re: Turnkey Discovery

notified that any use, dissemination, distribution, or copying of this communication is prohibited. If you have received this information in error, please notify me by electronic mail and delete all copies of the transmission. Thank you.

EXHIBIT E



Kuscha Hatami <hatami@legaledgelaw.com>

Re: Turnkey Discovery

1 message

David Adler <adlerlaw1@mac.com>

Wed, Sep 7, 2016 at 12:57 PM

To: Kuscha Hatami <hatami@legaledgelaw.com>

Hi Kuscha,

Thanks for your email.

Can you tell me if you will agree to stipulate to declaration testimony in lieu of deposition testimony? As you may recall, in my March 9, 2016 correspondence to you I requested that we agree to this as part of the discovery plan. I never received a reply.

Please let me know. Thanks.

Sincerely,

David M. Adler | [Adler Law Group](#)
Safeguarding Ideas, Relationships & Talent ®
CITY: 20 N. Wacker Drive #1200 Chicago IL 60606
SUBURBS: 300 Saunders Rd, #100 Riverwoods, IL 60015
[Direct: \(866\) 734-2568](#)
[2016 Illinois Super Lawyer](#)

[Email](#) | [Web](#) | [Blog](#) | [Twitter](#) | [LinkedIn](#)

The information in this electronic mail is intended for the named recipients only. It may contain privileged and confidential matter. If you have received this electronic mail in error, please notify the sender immediately by replying to this electronic e-mail or by toll-free call to [\(866\) 734-2568](#). Do not disclose the contents to anyone.

On September 6, 2016 at 5:43:26 PM, Kuscha Hatami (hatami@legaledgelaw.com) wrote:

Hi David,

I just want to inform you that we never received your responses, which are late more than a week.

Best regards,

Kuscha

Best regards,

Kuscha Hatami**HP Law Group****Partner****Intellectual Property****Call me: [858.342.9621](tel:858.342.9621)****Follow me: [Kuscha's Twitter](#)****Ask me: [Kuscha's Quora](#)**

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Dear David,

We hope that you are well. Attached please find courtesy copies of Registrant's requests for Admissions, Interrogatories, and Production. The same are being served today.

Best regards,

Kuscha Hatami

HP Law Group
Partner
Intellectual Property

Call me: 858.342.9621
Follow me: [Kuscha's Twitter](#)
Ask me: [Kuscha's Quora](#)

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EXHIBIT F

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

Turn-Key Vacation Rentals, Inc.,

Petitioner,

v.

Thomas Clark,

Registrant.

Opposition No.: 92060599

Registration No.: 4340236

Registration Date: May 21,
2013

Mark: Turnkey

REGISTRANT THOMAS CLARK'S INITIAL DISCLOSURES

Registrant Thomas Clark ("Clark"), by and through its undersigned counsel, provides the following initial disclosures under Federal Rule of Civil Procedure 26(a)(1), Trademark Rule 2.120. These initial disclosures are based on information reasonably available to Clark as of the date below. Fed. R. Civ. P. 26(a)(1). Clark reserves the right to supplement, alter, or amend these disclosures as discovery progresses and as further information becomes available through its ongoing investigation or discovery. Furthermore, Clark reserves the right to further supplement, alter, or amend these initial disclosures at appropriate intervals as provided for in Federal Rule of Civil Procedure 26(e)(1). Supplemental disclosures will be made to the extent that they are not mooted by future discovery responses or have not otherwise been made known to Registrant during the discovery process or in writing.

By making these initial disclosures, Clark is not waiving its right to object to the production of such documents, or testimony of such witnesses, on any ground, including, without limitation: (1) on the basis of privilege or work product protection; (2) on the ground that the information sought is not relevant to the subject matter of Cancellation No. 92060599 (the "Cancellation")

involving the TurnKey trademark in United States Trademark Registration No. 4340236 (the “Clark TurnKey Mark”), and is not reasonably calculated to lead to the discovery of admissible evidence; and (3) on the ground that the information sought is not sufficiently relevant to justify the burden or expense of production. Further, Clark is not making a representation that he has identified every document, tangible thing, or witness that may possibly be relevant to this proceeding. These disclosures represent a good faith effort to identify information that Clark reasonably believes Federal Rule of Civil Procedure 26(a)(1) calls for.

I. KNOWLEDGEABLE INDIVIDUALS (FED. R. CIV. P. 26(A)(1)(A)(I)).

As required by Fed. R. Civ. P. 26(a), Clark identifies the following person(s) who are likely to have discoverable information that Clark may use to support its defense and/or claims. Clark is informed and believes that there are potentially other persons who may possess discoverable information that Clark may use to support its defense and/or claims. Discovery is continuing and Clark reserves the right to designate such persons as witnesses as such witnesses become known to Clark.

Individual/Entity	Subject(s) of information
Thomas Clark CEO Turnkey Vacation Rentals To be contacted through counsel for Registrant, HP Law Group	Thomas Clark is the owner of the Turnkey registration and CEO of Turnkey Vacation Rentals. It is anticipated that he may testify regarding the facts underlying the allegations in the Cancellation and the defenses to the allegations in the Cancellation.
Individuals or owners, officers, directors, employees and/or agents of entities who have used Petitioner’s or Registrant’s goods and/or services, whose identities are not yet known or who were disclosed in Petitioner’s Initial Disclosures.	Use of Petitioner’s or Registrant’s goods and/or services.

II. RELEVANT NON-PRIVILEGED DOCUMENTS (FED. R. CIV. P. 26(A)(1)(A)(II)).

Subject to the qualifications set forth above, Clark discloses the following categories of documents, data compilations, and tangible things that are in its possession, custody, or

control and that it may use to support its claims. The documents are located with (a) Clark at 1571 Chestnut St., San Francisco, CA. 94123 (b) HP Law Group, 1300 Montecito Avenue, Unit 20, Mountain View, CA. 94043, (c) Petitioner, or (d) Petitioner's counsel

1. Copies of Clark's United States trademark filings, registration, and submissions to the United States Patent & Trademark Office ("USPTO"), publicly available, located with Clark, and/or located with Petitioner;
2. Copies of Petitioner's United States trademark filings and submissions to the USPTO, publicly available, located with Clark, and/or located with Petitioner;
3. Documents relating to the use or intended use of Clark's Turnkey Mark, located with Opposer;
4. Documents relating to the use or intended use of Petitioner's Turnkey Vacation Rentals Mark located with Petitioner;
5. Correspondence between Petitioner and Clark relating to the claims asserted in this action, located with Petitioner and Clark, and publicly available;
6. Documents relating to the management and protection of Petitioner's Turnkey Vacation Rentals Mark, located with Petitioner;
7. Documents relating to the use of Petitioner's goods or services under the Turnkey Vacation Rentals Mark, located with Petitioner;
8. Documents relating to target customers and trade channels of Petitioner's goods or services under the Turnkey Vacation Rentals Mark, located with Petitioner;
9. Documents relating to Registrant's company TurnKey, publically available, and/or located with Petitioner;
10. Documents relating to Registrant's internet website, located at www.turnkeyvr.com;

11. Internet archives documents regarding Registrant's www.turkeyvr.com website publicly available and/or located with Petitioner;
12. Screenshots from Petitioner's Internet website, located at www.turnkeyvacationrentals.com;
13. Internet archives documents regarding Petitioner's use of its www.turnkeyvacationrentals.com website publicly available and/or located with Petitioner;
14. Documents relating to Petitioner's business in connection with Petitioner's Turnkey Vacation Rentals Mark, located with Petitioner;
15. All publicly available documents relevant to this proceeding;
16. Registrant also intends to rely on all pleadings, including all attachments, submitted in this Cancellation. Because these documents are, or will be, of record, Registrant does not identify them separately.

To the extent that any of these documents are proprietary, trade secret, or confidential, Clark will make them available only after the entry of an appropriate protective order.

Caspar notes that the initial disclosures required by Fed. R. Civ. P. 26(a)(1)(A)(iii) (relating to computation of damages) and Fed. R. Civ. P. 26(a)(1)(A)(iv) (relating to insurance agreements) are not applicable to this proceeding.

Date: September 28, 2016

Respectfully Submitted,

HP Law Group

/s/ Kuscha Hatami
Kuscha Hatami, Esq.
HP Law Group
Attorneys for Registrant

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the following
REGISTRANT THOMAS CLARK'S INITIAL DISCLOSURES was served on this September
28, 2016, by first class U.S. mail, postage prepaid on the following counsel for Petitioner:

David Adler
Adler Law Group
300 Saunders Road
Suite 100
Riverwoods, IL. 60015

Signed: /s/ Kuscha Hatami