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

Proceeding	92060849
Party	Defendant Sunkiss Thermoreactors Inc.
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

FINAM,)	
)	
Petitioner,)	
)	Cancellation No. 92/060,849
v.)	
)	Reg. No. 1,200,333
Sunkiss Thermoreactors, Inc.,)	
)	Mark: SUNKISS
Registrant.)	

**REGISTRANT’S MOTION TO QUASH NOTICE OF
RULE 30(b)(6) DEPOSITION UPON WRITTEN QUESTIONS
AND FOR PROTECTIVE ORDER**

The Registrant, Sunkiss Thermoreactors, Inc. (“Registrant” or “TSI”), pursuant to FED. R. CIV. P. 26 and TBMP 410, respectfully moves for (1) an order quashing the Petitioner FINAM’s (“Petitioner” or “FINAM”) Notice of Rule 30(b)(6) Deposition Upon Written Questions served in this proceeding on September 24, 2015 (the “Notice of Written Deposition”), and (2) a protective order.

I. FACTUAL BACKGROUND

Discovery in this proceeding is scheduled to close on October 18, 2015. Dkt. 7. The Parties have not agreed to, nor has the Petitioner sought, an extension of the discovery deadline. On September 24, 2015, the Petitioner served its Notice of Written Deposition upon TSI. Exhibit 1. The Parties have not agreed to electronic service in this matter. Therefore, the following dates would apply to the various deadlines which occur in relation to a written deposition:

October 19, 2015: TSI’s cross-examination questions;¹

¹ In light of this motion to quash, TSI will not serve objections or cross-examination questions by this date. Should the Board allow the Petitioner to proceed with its Notice of

November 3, 2015: The Petitioner's re-direct questions;

November 13, 2015: Service of the notice of deposition and all questions on the officer taking the deposition.

See TBMP 404.07.

The Petitioner originally pled only a theory of abandonment to support its petition for cancellation. Dkt. 1. On September 18, 2015, the Petitioner filed a Motion for Leave to File an Amended Petition for Cancellation (the "Motion to Amend"). Dkt. 10. TSI filed its objections to the Motion to Amend on October 8, 2015. Dkt. 13. Neither the Petitioner's reply nor the Board's decision on the Motion to Amend have occurred to date.

On June 16, 2015, the Petitioner served a first round of discovery requests on TSI. TSI answered this first round of discovery requests, including 31 interrogatories, 77 requests for documents and 33 requests for admission on August 10, 2015. *See* Composite Exhibit 2. One month later, on September 10, 2015, the Petitioner served a second round of discovery requests on TSI including 15 more interrogatories and 12 more requests for documents. *See* Composite Exhibit 3.

II. ARGUMENT

A. The Petitioner's Notice of Written Deposition Should Be Quashed as It Is Untimely, Constitutes Harassment, and Is without a Proper Basis

A motion to quash a notice of deposition may be filed prior to the taking of the noticed deposition for a variety of grounds including when the proposed deposition (1) is untimely and/or (2) constitutes harassment or is without proper basis. TBMP 521; *see also Rhone-Poulenc Industries v. Gulf Oil Corp.*, 198 U.S.P.Q. 372 (T.T.A.B. 1978) (deposition noticed during discovery but scheduled for date after close of discovery was untimely); and *National*

written Deposition, TSI will serve its objections and cross-examination questions in due course.

Football League v. DNH Management LLC, 85 U.S.P.Q.2d 1852, 1855 (T.T.A.B. 2008) (notice of deposition quashed as untimely).

1. The Notice of Written Deposition Is Untimely

Here, the Petitioner's Notice of Written Deposition is untimely and should be quashed. Discovery depositions, including those taken on written questions, "must be both noticed **and taken** during the discovery period." TBMP 404.07(b) (emphasis added). The discovery period in this proceeding closes on October 18, 2015. Dkt. 7. This is **before** TSI's cross-examination questions in response to the Notice of Written Deposition are even due. Indeed, following the proper procedure for written depositions, the deposition with all of its questions would not be served on the officer taking the deposition until November 13, 2015, almost one month after the close of discovery. The written deposition will simply not be taken during the discovery period. The Notice of Written Deposition is facially untimely and should be quashed.

2. The Notice of Written Deposition Constitutes Harassment and Is without a Proper Basis

The Notice of Written Deposition also constitutes harassment and is without a proper basis. The Petitioner has already served 46 interrogatories, 89 requests for documents and 33 requests for admission in this matter, when the Petitioner pled only one claim of abandonment. *See* Composite Exhibits 2 and 3. The questions in the Notice of Written Deposition are duplicative of the same questions asked by the Petitioner in its unseemly amount of discovery requests. *Compare* Exhibit 1 with Composite Exhibits 2 and 3, *e.g.*, Exhibit 1, questions 26, 27, 29, 36 through 44, 55, 56, and 62 through 67 with Exhibit 2, Interrogatory Nos. 4 through 6, 9, 13, and 16 through 27, and Requests for Admission 8, 9, 12 through 14, 19, and 23, and

Exhibit 3, Interrogatory Nos. 43 and 45.² Eight questions (numbers 159 through 166) pertain solely to TSI's answers to the requests for admission and are facially duplicative.

In addition to being redundant and duplicative, many of the questions in the Notice of Written Deposition are also irrelevant to this proceeding and unlikely to lead to admissible evidence. For example, the Petitioner seeks to ask deposition questions regarding agreements that pre-dated when TSI became the owner of the mark, the incorporation of TSI including "why" it was incorporated, if TSI acquired manufacturing technology from another entity, and other marks or products TSI may sell under or offer. *See, e.g.*, Exhibit 1, questions 21 through 25, 28, 30 through 35, 45 through 49, 54, 57 through 61, 68 through 110, 126 through 158, 188 through 198, and 273 through 284. There is simply no proper basis for these topics in the current proceeding – which only concerns the question of whether TSI has abandoned its use of the mark SUNKISS for space heaters, as they appear in Registration No. 1,200,333. Indeed, the Petitioner admits as much in its Motion to Amend where it states that its second set of discovery requests are "on the issues underlying [the Petitioner's] proposed amendment," and its second set of discovery requests focuses on a mark other than the registered SUNKISS mark (specifically the mark SUNSPOT) and questions regarding corporations and members. *See* Dkt. 10, p. 4 and *compare with* Exhibit 3.

Curiously, this unrelated SUNSPOT mark featured in the Petitioner's recent discovery requests and its Notice of Written Deposition is part of the allegations in a recent demand letter served in Canada on TSI (without prejudice) on September 11, 2015, (one day after the Petitioner served its second set of discovery requests) by an alleged group, Group Sunkiss, to

² The identified examples do **not** include duplicative questions on irrelevant or immaterial matters.

which the Petitioner is a part. Specifically, the demand letter alleges trademark infringement of the Mark at issue here and the other mark, SUNSPOT, plus assertions of contractual violations regarding the use of technology and that a 2008 distribution contract between a third-party and one of TSI's licensees is being terminated. In other words, much of the questions in the Notice of Written Deposition that are immaterial and/or irrelevant to this proceeding before the Board may be relevant to the Petitioner in relation to the demand letter served in Canada by this alleged Group Sunkiss. It is entirely improper for the Petitioner to use this proceeding as a fishing expedition to gather and bolster its evidence or standing in another proceeding or threatened action on additional issues in Canada.

After discounting the questions from the Notice of Written Deposition that are either duplicative, immaterial/irrelevant, or only necessary for a deposition (i.e., on the background of the witness) fewer than half of the propounded questions remain. Virtually every remaining question pertains to documents produced by TSI.³ The Petitioner has shown by its second set of interrogatories that it can request the necessary information on a document through interrogatories. *See* Exhibit 3, Interrogatory Nos. 1 through 4.

The Notice of Written Deposition should therefore further be quashed as it constitutes harassment and has no proper basis.

³ Arguably, questions 50 through 53 are not identically duplicative. However, the answer to the questions can be gleaned from TSI's answers to other discovery requests already propounded by the Petitioner.

B. In the Alternative, the Taking of the Petitioner’s Notice of Written Deposition Should Be Deferred until after Determination of the Pending Motion to Amend

In the alternative, in the event the Board determines that the Notice of Written Deposition is not untimely, harassing, or without a proper basis, then the taking of the written deposition should be deferred until after determination of the Petitioner’s pending Motion to Amend.

See TBMP 521 (“a party may move to quash a notice of deposition on the ground that . . . the taking of the deposition should be deferred until after determination of a certain motion pending before the Board.”)

As noted *supra*, nearly half of the Notice of Written Deposition are questions directed to a ground of cancellation that is the subject of the Motion to Amend. If the Board denies the Motion to Amend, then clearly these questions would be improper at any deposition. Therefore, if the Board declines to quash the Notice of Written Deposition in its entirety, the taking of the deposition should be deferred until after the Board rules on the pending Motion to Amend.⁴

C. In the Alternative, a Protective Order Should Be Entered Prohibiting the Taking of the Deposition

A party from whom a discovery deposition is sought may move for and the Board may, for good cause shown, make any order which justice requires to protect that party from annoyance, embarrassment, oppression, undue burden, or expense. FED. R. CIV. P. 26, Trademark Rule 2.120(f), TBMP 410 and TBMP 526. Accordingly, the Board has the discretion to enter a protective order that a discovery deposition not be had. While “the rules contemplate liberal discovery, the right to discovery is not unlimited [and] the Board [has] discretion to

⁴ To be clear, by offering this alternative argument TSI is **not** agreeing that any resulting “re-setting” of the case schedule would suddenly cause the Notice of Written Deposition to be timely. The timeliness of the Notice of Written Deposition should be measured by the case schedule at the time the Notice was served.

manage the discovery process in order to balance the requesting party's need for information against the injury that may result from discovery abuse." *FMR Corp. v. Alliant Partners*, 51 U.S.P.Q.2d 1759, 1761 (T.T.A.B. 1999) (citing TBMP 402.02 (internal citation omitted)).

TSI moves for a protective order that a discovery deposition not be had on the grounds that the Petitioner forfeited its right to an untimely discovery deposition because of its deliberate failure to notice the deposition until it was impossible for the deposition to occur within the discovery period set by the Board. Additionally, the duplicative and irrelevant nature of the questions in the Notice of Written Deposition demonstrate that it was brought for purposes of annoyance and embarrassment and to cause TSI undue burden and expense.

Schedule A of the Notice of Written Deposition, as discussed *supra*, is extremely broad and burdensome and includes numerous categories which are not relevant, material, or reasonably calculated to lead to the discovery of admission evidence and duplicate of other discovery requests already propounded on TSI. For example, questions 26, 27, 29, 36 through 44, 55, 56, 62 through 67, and 159 through 166 are duplicative of the Petitioner's Interrogatories Nos. 4 through 6, 9, 13, 16 through 27, Requests for Admission Nos. 8, 9, 12 through 14, 19, and 23, and Requests for Documents Nos. 43 and 45. *Compare* Exhibit 1 with Exhibits 2 and 3. Moreover, at least the following questions are entirely immaterial, irrelevant and not likely to lead to admissible evidence: Questions 21 through 25, 28, 30 through 35, 45 through 49, 54, 57 through 61, 68 through 110, 126 through 158, 188 through 198, and 273 through 284. *See* Exhibit 1.⁵

⁵ If the Board does not quash the entirety of the Notice of Written Deposition or enter a protective order preventing the taking of the deposition, then TSI respectfully requests that these duplicative and immaterial/irrelevant questions (and any other duplicative, immaterial or irrelevant questions) be deemed to exceed the scope of discovery under FED. R. CIV. P. 26(b)(1) and TBMP 400 and examination of such questions be prohibited.

III. CONCLUSION

The Petitioner's Notice of Written Deposition is untimely, constitutes harassment and lacks a proper basis and, therefore, should be quashed. Discovery closes in this proceeding on October 18, 2015. The Petitioner's Notice of Written Deposition is untimely and the noticed deposition would occur a month after the close of discovery. Moreover, more than half of the noticed questions for the deposition are either duplicative of discovery responses already provided to the Petitioner, directed to immaterial and irrelevant matters, or are mere "background" questions for the deponent. Of the remaining noticed questions the Petitioner could have propounded less burdensome discovery requests. Indeed, the Petitioner did follow this path for some documents.

In the alternative, the taking of the noticed deposition should be deferred until after the Board rules on the Petitioner's Motion to Amend since the denial of the Motion to Amend would make clear that many of the noticed questions are irrelevant, immaterial and improper under FED. R. CIV. P. 26.

If the Board denies TSI's motion to quash, TSI requests that the Board issue a protective order preventing the taking of the noticed deposition to protect TSI from annoyance, embarrassment, oppression, undue burden, or expense.

Respectfully submitted,

October 14, 2015
Date

/s/ Rebecca J. Stempien Coyle
Rebecca J. Stempien Coyle
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Attorneys for Registrant

EXHIBIT 1

Cancellation No. 92/060,849
FINAM v. Sunkiss Thermoreactors, Inc.
Registrant's Motion to Quash

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

FINAM,

Petitioner,

v.

Sunkiss Thermoreactors, Inc.,

Registrant.

Cancellation No.: 92060849

Registration No.: 1,200,333

Mark: SUNKISS

NOTICE OF RULE 30(b)(6) DEPOSITION
UPON WRITTEN QUESTIONS PURSUANT TO 37 C.F.R. §2.124

TO: Sunkiss Thermoreactors, Inc.

C/O: Levy & Grandinetti
PO Box 18385
Washington, DC 20036-8385
Attn.: Ms. Rebecca J. Stempien Coyle
mail@levygrandinetti.com

PLEASE TAKE NOTICE that in the above-captioned opposition proceedings, pursuant to Rule 30(b)(6) of the Federal Rules of Civil Procedure, 37 C.F.R. § 2.124 and TBMP § 404.07, Petitioner FINAM will take the discovery deposition on written questions of Registrant Sunkiss Thermoreactors, Inc. through one or more of its officers, directors, or managing agents, or other persons designated by Registrant, with knowledge of the topics identified in Appendix A hereto, upon oath and before a notary public or other duly authorized offer authorized to administer oaths, commencing as soon as feasible in accordance with the above mentioned rules,

and continuing thereafter until completed as the offices of McMillan S.E.N.C.R.L., s.r.l./LLP,
1000 Sherbrooke Street West, Suite 2700, Montréal, Québec H3A 3G4.

You are cordially invited to cross-examine by written questions, in accordance with the
aforementioned rules.

Respectfully Submitted,

By: 

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Kristen A. Mogavero
COLLEN IP
THE HOLYOKE-MANHATTAN BUILDING
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Counsel for Petitioner

Dated: September 24, 2015

Appendix A

1. All products and services sold or offered for sale in the United States by Registrant Sunkiss Thermoreactors, Inc. (“Registrant”) in conjunction with Registrant’s SUNKISS trademark.
2. Use of Registrant’s Marks in the United States, as well as any periods of non-use, and any intended future uses of the mark.
3. Registrant’s advertising, marketing, manufacturing and product development activities and plans for Registrant’s Marks in the United States.
4. The channels of trade through which Registrant sells and/or distributes goods in conjunction with Registrant’s Marks in the United States.
5. The customers and distributors to whom Registrant sells goods in conjunction with Registrant’s Marks in the United States.
6. The manner in which Registrant distributes products bearing Registrant’s Marks in the United States.
7. The dollar amounts expended by Registrant in developing and promoting Registrant’s Marks, either in alone or in combination with any other term, design, or designation in the United States.
8. Registrant’s annual U.S. sales of goods bearing Registrant’s Marks for the past eight years, in U.S. dollars.

9. Registrant's annual U.S. sales of goods bearing Registrant's Marks for the past eight years, in units.

10. Licenses or agreements with any third parties related to the use or ownership of Registrant's Marks in the United States.

11. Registrant's plans to market, distribute, sell, or provide products using Registrant's Marks in the United States.

12. Registrant's enforcement efforts with respect to Registrant's Marks.

13. All documents produced by Registrant in response to Petitioner's First Set of Interrogatories and Request for Document Production.

14. All information provided by Registrant in its responses to Petitioner's First Set of Interrogatories.

15. The factual bases for Registrant's admissions and denials provided in response to Petitioner's First Set of Requests for Admissions.

CERTIFICATE OF SERVICE

I, Carina Scorcia, hereby certify that a true and correct copy of the foregoing Notice of Rule 30(b)(6) Deposition Upon Written Questions Pursuant to 37 C.F.R. § 2.124 has been served by First Class Mail, Postage Prepaid, on September 24, 2015 upon Registrant's Attorney of Record at the following address:

Levy & Grandinetti
PO Box 18385
Washington, DC 20036-8385
Attn.: Ms. Rebecca J. Stempien Coyle
mail@levygrandinetti.com

Carina Scorcia

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

FINAM,

Petitioner,

v.

Sunkiss Thermoreactors, Inc.,

Registrant.

Cancellation No.: 92060849

Registration No.: 1,200,333

Mark: SUNKISS

**PETITIONER'S DISCOVERY DEPOSITION OF REGISTRANT'S RULE 30(b)(6)
WITNESS ON WRITTEN QUESTIONS PURSUANT TO 37 C.F.R. §2.124**

Petitioner hereby submits for answer under oath by Registrant Sunkiss Thermoreactors, Inc. through one or more of its officers, directors, or managing agents, or other persons designated by Registrant, the following written deposition questions, pursuant to 37 C.F.R. § 2.124 and TBMP 404.07.

INSTRUCTIONS

This deposition will be designated TRADE SECRET/COMMERCIALY SENSITIVE subject to the Protective Order executed by the parties in June 2015, and thus access to the answers will be restricted pursuant to such agreement. To the extent any specific material does not need to be designated in this matter, the designation of such portion(s) will be modified upon review of the transcript.

The questions below were prepared by counsel for Petitioner, and function as the direct examination of the witness. Counsel for Registrant will likely add additional questions, which will function as the cross-examination of the witness. All of these questions will be read to the witness, for the witness to answer under oath, and both the questions and answers will be

recorded in a written transcript. The witness will have the opportunity to review the transcript for accuracy, and will then sign a form to confirm the accuracy of the transcript.

1. Please state your full legal name, address, and date of birth.
2. Please describe your educational background such as the schools you attended, the graduation years, and degrees, if any.
3. What is your job experience since graduation?
4. What companies have you worked for?
5. What roles and responsibilities did you have at these companies?
6. Do you have any training in your current industry?
7. If so, what training have you received?
8. Please state your current employer and job title.
9. How long have you worked for your current employer?
10. How long have you been in your current position?
11. Are you responsible for supervising any employees or agents?
12. If so, how many?
13. Please explain your job responsibilities at your position at Sunkiss Thermoreactors, Inc.?
14. Do your current job responsibilities involve the U.S. market?
15. If so, what are your current job responsibilities with regard to the U.S. market?
16. Are you familiar with products marketed and sold under the SUNKISS mark in the United States either by Sunkiss Thermoreactors, Inc. or any authorized third-party?
17. Are you or have you ever been employed by Ayotte Techno-Gaz, Inc.?

18. If you answered yes to the previous question, please explain your responsibilities at your position with Ayotte Techno-Gaz, Inc.
19. Are you or have you ever been employed by American Industrial Ovens, Inc.?
20. If you answered yes to the previous question, please explain your responsibilities at your position with American Industrial Ovens, Inc.
21. In what year was Sunkiss Thermoreactors, Inc. incorporated?
22. Why was Sunkiss Thermoreactors, Inc. established?
23. Who founded or incorporated Sunkiss Thermoreactors, Inc.?
24. Please identify all current owners or shareholders of Sunkiss Thermoreactors, Inc.
25. For each individual or entity identified in response to the last question, please identify their ownership interest in Sunkiss Thermoreactors, Inc.
26. Who is the person (or persons) responsible for the day to day management of Sunkiss Thermoreactors, Inc.?
27. What specific products does Sunkiss Thermoreactors, Inc. currently sell under the SUNKISS trademark in the United States, either directly or through authorized third-parties?
28. What other products does Sunkiss Thermoreactors, Inc. sell in the United States, either directly or through authorized third-parties?
29. Who manufactures the space heaters sold under the SUNKISS mark by Sunkiss Thermoreactors, Inc. or authorized third-parties?
30. Did the manufacturer identified above acquire the technology to manufacture the space heaters from any other party?

31. If you answered yes to the previous question, from whom did the manufacturer acquire the technology?
32. Did the manufacturer identified above acquire the know-how to manufacture the space heaters from any other party?
33. If you answered yes to the previous question, from whom did the manufacturer acquire the know-how?
34. Did the manufacturer identified above develop all of the know-how to manufacture the space heaters from any other party?
35. If you answered no to the previous question, from whom did the manufacturer acquire the know-how?
36. Does Sunkiss Thermoreactors, Inc. sell space heaters in the United States through any third-parties other than American Industrial Ovens, Inc. or Ayotte Techno-Gaz, Inc.?
37. If you answered yes to the previous question, please identify the third-parties by name and the specific details of the business arrangement they have with Sunkiss Thermoreactors, Inc.
38. Since 2009, approximately what portion of space heaters sold in the United States were sold directly by Sunkiss Thermoreactors, Inc. as opposed to an authorized third-party?
39. Since 2008, what were the annual sales (in U.S. dollars) by year of space heaters sold under the SUNKISS mark by Sunkiss Thermoreactors, Inc. in the United States?
40. Since 2008, what were the annual sales (in U.S. dollars) by year of space heaters sold under the SUNKISS mark by Ayotte Techno-Gaz, Inc. in the United States?
41. Since 2008, what were the annual sales (in U.S. dollars) by year of space heaters sold under the SUNKISS mark by American Industrial Ovens, Inc. in the United States?

42. Since 2008, what were the annual sales (in U.S. dollars) by year of space heaters sold in the United States under the SUNKISS mark by any other third-party with the authorization of Sunkiss Thermoreactors, Inc.?
43. Does Sunkiss Thermoreactors, Inc. monitor its licensee's use of the SUNKISS mark?
44. If you answered yes to the previous question, how does Sunkiss Thermoreactors, Inc. monitor its licensee's use of the SUNKISS mark?
45. Did Sunkiss Thermoreactors, Inc. ever contemplate selling space heaters in the United States under a mark other than SUNKISS?
46. If you answered yes to the previous question, when did this occur?
47. If Sunkiss Thermoreactors, Inc. ever contemplated selling space heaters in the United States under a mark other than SUNKISS, what alternative marks were considered?
48. Did Sunkiss Thermoreactors, Inc. ever sell space heaters in the United States under a mark other than SUNKISS?
49. If you answered yes to the previous question, please identify the mark or marks used, the time period of use, and the extent of use in terms of units sold or dollar amount of sales in the United States.
50. Between 2009 and the present, was there any period of time of three years or greater that Sunkiss Thermoreactors, Inc. either directly or through an authorized third-party did not sell "space heaters" under the SUNKISS mark in the United States?
51. If you answered yes to the previous question, please identify the specific beginning and end dates.

52. Between 2009 and the present, was there any period of time of one year or greater that Sunkiss Thermoreactors, Inc. either directly or through an authorized third-party did not sell "space heaters" under the SUNKISS mark in the United States?
53. If you answered yes to the previous question, please identify the specific beginning and end dates.
54. Who generally are the consumers of space heaters sold by Sunkiss Thermoreactors, Inc. or authorized third parties?
55. Does Sunkiss Thermoreactors, Inc. advertise or market space heaters sold under the SUNKISS mark in the United States?
56. How does Sunkiss Thermoreactors, Inc. advertise or market space heaters sold under the SUNKISS mark?
57. Was there ever any business relationship between Sunkiss Thermoreactors, Inc. and either Sunkiss Societe par Actions Simpliffee or its predecessors-in-interest?

Please note, Sunkiss Societe par Actions Simpliffee and its predecessors in interest, including Les Radiants SMR, Inc., will be referred to collectively herein as "Sunkiss SAS" unless specified otherwise.

58. If you answered yes to the previous question, what was, in detail, the history of the relationship between Sunkiss Thermoreactors, Inc., and Sunkiss SAS.
59. When did the business relationship between Sunkiss Thermoreactors, Inc. and Sunkiss SAS first begin?
60. How did the business relationship between Sunkiss Thermoreactors, Inc. and Sunkiss SAS first begin?

61. What was the progression, if any, of the business relationship between Sunkiss Thermoreactors, Inc. and Sunkiss SAS from inception to the present day?
62. Is there any business relationship between Sunkiss Thermoreactors, Inc. and Ayotte Techno-Gaz, Inc.?
63. If you answered yes to the previous question, please explain the relationship between Sunkiss Thermoreactors, Inc. and Ayotte Techno-Gaz, Inc.
64. Is there any business relationship between Sunkiss Thermoreactors, Inc. and American Industrial Ovens, Inc.?
65. If you answered yes to the previous question, please explain the relationship between Sunkiss Thermoreactors, Inc. and American Industrial Ovens.
66. Is there any business relationship between Ayotte Techno-Gaz, Inc. and American Industrial Ovens, Inc.?
67. If you answered yes to the previous question, please explain the relationship between Ayotte Techno-Gaz, Inc. and American Industrial Ovens, Inc.

Exhibit 1

68. The witness should be handed what has been marked as Petitioner's **Exhibit 1**, also identified as SUNKISS 0001118-000133. Have you seen the document marked as Exhibit 1 before?
69. If you answered yes to the previous question, please identify the document.
70. What was the business relationship, if any, between Sunkiss SAS and Sunkiss Thermoreactors, Inc. prior to the execution of the agreement shown in Exhibit 1?
71. Why did Sunkiss Thermoreactors, Inc. decide to enter into the agreement shown in Exhibit 1?

72. Did Sunkiss SAS ever state the reason or reasons why it wanted to enter into the agreement shown in Exhibit 1?
73. If you answered yes to the previous question, please state the reasons expressed by Sunkiss SAS as to why it wanted to enter into the agreement shown in Exhibit 1.
74. Was there ever a discussion between Sunkiss Thermoreactors, Inc. and Sunkiss SAS about the parties' respective rights in the SUNKISS mark and how it would be reflected in the agreement shown in Exhibit 1?
75. If you answered yes to the previous question, please explain what Sunkiss Thermoreactors, Inc. and Sunkiss SAS's respective positions were with regards to the ownership of the SUNKISS mark.
76. Please refer to the page marked as SUNKISS000120, and specifically paragraph 1.12. Do you agree that this paragraph defines the applicable territory for the agreement to include the United States?
77. If you do not agree and answered no to the previous question, please explain in detail the reason for your answer.
78. Please refer to the page marked as SUNKISS000126, and specifically paragraph 10.3(a). Does this paragraph grant Sunkiss SAS the right to monitor the quality of goods sold under the SUNKISS mark?
79. If you do not agree and answered no to the previous question, please explain in detail the reason for your answer.
80. Referring again to Exhibit 1, specifically paragraphs 6.1, 6.2 and 6.3 on the page marked SUNKISS000123. Did Sunkiss Thermoreactors, Inc. ever pay Sunkiss SAS the royalties contemplated by these paragraphs?

81. If you answered yes to the previous question, on what dates were such payments made?
82. What amount of royalties, in Canadian dollars, was paid by Sunkiss Thermoreactors, Inc. to Sunkiss SAS since March 1, 2010?
83. If no royalties were ever paid by Sunkiss Thermoreactors, Inc. to Sunkiss SAS please explain why.
84. Referring again to Exhibit 1, specifically paragraph 6.2 on the page marked SUNKISS000123. Does paragraph 6.2 require that Sunkiss Thermoreactors, Inc. provide Sunkiss SAS with a detailed report indicating per product, the total number of products sold and the total amount of revenues from net sales for that quarter and the calculation of royalties due to Sunkiss for that quarter?
85. Did Sunkiss Thermoreactors, Inc. ever provide Sunkiss SAS or Les Radiants SMR, Inc. with the reports contemplated in paragraph 6.2?
86. If you answered yes to the previous question, on what dates were such reports provided?
87. If Sunkiss Thermoreactors, Inc. did not submit the reports contemplated by paragraph 6.2 to Sunkiss SAS please explain why not.
88. Please refer to the page marked as SUNKISS000131. Do you recognize this to be the signature of Daniel Ayotte?

Exhibit 2

89. The witness should be handed what has been marked as Petitioner's **Exhibit 2**, also identified as SUNKISS 000144-000155. Have you seen the document marked as Exhibit 2 before?
90. If you answered yes to the previous question, please identify the document.

91. Why did Sunkiss Thermoreactors, Inc. decide to enter into the agreement shown in Exhibit 2?
92. Did Ayotte Techno-Gaz, Inc. ever state the reason or reasons why it wanted to enter into the agreement shown in Exhibit 2?
93. If you answered yes to the previous question, please state the reasons expressed by Ayotte Techno-Gaz, Inc. as to why it wanted to enter into the agreement shown in Exhibit 2.
94. Please explain your understanding of the Sunkiss Thermoreactors, Inc. and Ayotte Techno-Gaz, Inc.'s respective obligations under the agreement shown in Exhibit 2.
95. Is this contract between Sunkiss Thermoreactors, Inc. and Ayotte Techno-Gaz still in effect?
96. If you answered no to the previous question, please explain in detail when and how this contract was dissolved.
97. Please refer to the page marked as SUNKISS 000144, specifically the first paragraph of the section labeled "Preamble." Could you please read this paragraph aloud so that it is on the record.
98. Do you agree that the first paragraph states that Sunkiss Thermoreactors, Inc. has been granted the right to manufacture, recondition, distribute and market certain products in accordance with an agreement entered into on March 1, 2008?
99. Do you agree that the paragraph identified in the previous question means that Sunkiss Thermoreactors, Inc.'s right to sell certain products and use the SUNKISS mark in association with those products is subject to the license agreement that was marked as Exhibit 1?

100. If you answered no to the previous question, why do you not believe that Sunkiss Thermoreactors, Inc.'s right to sell certain products and use the SUNKISS mark in association with those products is subject to the license agreement that was marked as Exhibit 1?

Exhibit 3

101. The witness should be handed what has been marked as Petitioner's **Exhibit 3**, also identified as SUNKISS 000134-000143. Have you seen the document marked as Exhibit 3 before?

102. If you answered yes to the previous question, please identify the document.

103. Was there a business relationship between Sunkiss SAS and Ayotte Techno-Gaz, Inc. prior to the execution of the agreement shown in Exhibit 3?

104. What was the business relationship between Sunkiss SAS and Ayotte Techno-Gaz, Inc. prior to the execution of the agreement shown in Exhibit 3?

105. Why did Ayotte Techno-Gaz, Inc. decide to enter into the agreement shown in Exhibit 3?

106. Did Sunkiss SAS ever state the reason or reasons why it wanted to enter into the agreement shown in Exhibit 3?

107. If you answered yes to the previous question, what were the reasons expressed by Sunkiss SAS as to why it wanted to enter into the agreement shown in Exhibit 3.

108. From Sunkiss Thermoreactors, Inc.'s perspective, what was the primary purpose of the agreement shown in Exhibit 3.

109. Do you believe this agreement is still in effect?

110. If you answered no to the previous question, please explain the reason for your answer.

Exhibit 4

111. The witness should be handed what has been marked as Petitioner's **Exhibit 4**, also identified as SUNKISS 000156-000158. Have you seen the document marked Exhibit 4 before?

112. If you answered yes to the previous question, please identify the document.

113. Did Sunkiss SAS ever state the reason or reasons why it wanted to transfer the SUNKISS marks to Sunkiss Thermoreactors, Inc.?

114. If you answered yes to the previous question, what reasons did Sunkiss SAS express as to why it wanted to transfer the SUNKISS marks to Sunkiss Thermoreactors, Inc.?

115. Did Sunkiss SAS ever say anything to Sunkiss Thermoreactors, Inc. about the parties' respective ownership rights in the SUNKISS mark pursuant to the agreement shown in Exhibit 4?

116. If you answered yes to the previous question, please what did Sunkiss SAS say to Sunkiss Thermoreactors, Inc. about the parties' respective ownership rights in the SUNKISS mark pursuant to the agreement shown in Exhibit 4.

117. Who first suggested the transfer of the SUNKISS trademarks from Sunkiss SAS to Sunkiss Thermoreactors, Inc.?

118. What reason, if any, did the party identified in response to the previous question give for wanting to transfer the SUNKISS mark?

119. Does Sunkiss Thermoreactor, Inc. have an understanding of Sunkiss Thermoreactor Inc.'s and Sunkiss SAS' respective rights in the SUNKISS mark pursuant to the agreement shown in Exhibit 4?
120. If you answered yes to the previous question, what is Sunkiss Thermoreactor, Inc.'s understanding of Sunkiss Thermoreactor Inc.'s and Sunkiss SAS' respective rights in the SUNKISS mark pursuant to the agreement shown in Exhibit 4?
121. Please refer to the page marked as SUNKISS000156, specifically paragraph 1.1. Did Sunkiss Thermoreactors, Inc. pay 4,000 euros to Sunkiss SAS?

Exhibit 5

122. The witness should be handed what has been marked as Petitioner's **Exhibit 5**, also identified as SUNKISS000159. Have you seen the document marked Exhibit 5 before?
123. If you answered yes to the previous question, please identify the document.
124. Why did Sunkiss Thermoreactors, Inc. sign the agreement shown in Exhibit 5?
125. What is or was the intended purpose of the agreement shown in Exhibit 5?

Exhibit 6

126. The witness should be handed what has been marked as Petitioner's **Exhibit 6**, also identified as SUNKISS 000178-179. Have you seen the document marked Exhibit 6 before?
127. If you answered yes to the previous question, please identify the document.
128. Why did Sunkiss Thermoreactors, Inc. and Sunkiss SAS enter into this agreement?

129. Does the agreement shown in Exhibit 6 amend certain provisions of the 2008 license agreement between Sunkiss Thermoreactors, Inc. and Sunkiss SAS as shown in Exhibit 1?
130. If you answered no to the previous question, please explain the reason for your answer in detail.
131. On what date did Sunkiss Thermoreactors, Inc. sign the agreement marked as Exhibit 6?
132. Did Sunkiss Thermoreactors, Inc. sign the agreement marked as Exhibit 6 after it signed the agreement marked as Exhibit 4?
133. I would now like to direct your attention to Exhibits 1 and 6. Is the agreement marked as Exhibit 1 the agreement that is referenced in the first paragraph of the agreement of Exhibit 6?
134. If you answered no to the previous question, please identify the agreement that is referenced in the first paragraph of the agreement of Exhibit 6.
135. Please refer to the page of Exhibit 6 marked as SUNKISS 000179. Does the language on that page indicate that all other provisions of the 2008 license agreement, as shown in Exhibit 1, remain unchanged?
136. If you answered no to the previous question, please why you don't believe the language on that page indicates that all other provisions of the 2008 license agreement, as shown in Exhibit 1, remain unchanged?
137. I direct your attention again to Exhibit 6. Can you please read the sentence on the page labelled SUNKISS000179 that begins with the words "Tous les autres"?

138. Do you understand the sentence you just read to affirm that all the provisions of the 2008 license agreement between Sunkiss Thermoreactors, Inc. and Sunkiss SAS remain in full force and effect, with the exception of the changes contemplated by the agreement shown in Exhibit 6?
139. If you answered no to the previous question, what about this language leads you to this conclusion?
140. Do you understand the agreement marked Exhibit 6 to affirm that all the provisions of the 2008 license agreement between Sunkiss Thermoreactors, Inc. and Sunkiss SAS remain in full force and effect, with the exception of the changes contemplated therein?
141. On the date that Sunkiss Thermoreactor, Inc signed the agreement marked as Exhibit 6, was it Sunkiss Thermoreactor, Inc's understanding that the agreement marked as Exhibit 1 remained in full force and effect with the exception of the changes contemplated by the agreement marked as Exhibit 1?
142. If you answered no to the previous question, why not?
143. Referring to Exhibit 1, specifically paragraph 2.1(b) on the page marked as SUNKISS000120. Does this agreement grant Sunkiss Thermoreactors. Inc. an exclusive and non-transferable license to use the SUNKISS marks in the United States?
144. If you answered no to the previous question, why not?
145. Referring again to Exhibit 1, specifically paragraph 2.2(b) on the pages marked SUNKISS000120-121. Do you understand this agreement to allow Sunkiss SAS to control and modify the presentation of the SUNKISS mark?

146. If you answered no to the previous question, please explain the reason why you do not believe this agreement to allow Sunkiss SAS to control and modify the presentation of the SUNKISS mark.
147. Referring again to Exhibit 1, specifically paragraph 2.2(e) on the pages marked SUNKISS000120-121. Under this agreement, does Sunkiss Thermoreactors, Inc.'s use of the SUNKISS marks benefit Sunkiss SAS?
148. If you answered no to the previous question, why not?
149. Again referring to Exhibit 1, specifically paragraph 10.3 on the page marked SUNKISS000126. Does the 2010 agreement shown in Exhibit 6 reaffirm this provision?
150. If you answered no to the previous question, please explain why you do not agree.
151. Again directing your attention to Exhibit 1, specifically paragraph 10.3 on the page marked SUNKISS000126. Do you believe that Sunkiss SAS retains the right to monitor the quality of goods sold under the SUNKISS mark?
152. If you answered no to the previous question, please explain why not.
153. By granting Sunkiss SAS the right to control and modify the presentation of the SUNKISS mark and monitor the quality of goods sold under the SUNKISS mark, has Sunkiss Thermoreactors, Inc. relinquished any right it had to control the use of the SUNKISS mark in the United States?
154. If you answered no to the previous question, why is it you believe that Sunkiss Thermoreactors, Inc. has not relinquished any right it had to control the use of the SUNKISS mark in the United States?
155. If Sunkiss Thermoreactors, Inc. believes itself to be the owner of the SUNKISS marks, why did Sunkiss Thermoreactors Inc. sign the agreement marked as Exhibit 6?

156. Is the agreement marked as Exhibit 1 still in effect?
157. If you answered no to the previous question, when was the agreement terminated?
158. If you believe that the agreement marked as Exhibit 1 is no longer in effect, how was it terminated?

Exhibit 7

159. The witness should be handed what has been marked as Petitioner's **Exhibit 7**. Have you seen the document marked Exhibit 7 before?
160. Do you recognize this document as Registrant's response to Petitioner's Request for Admission No. 8?
161. Are you aware of any written agreement between Sunkiss Thermoreactors, Inc. and American Industrial Ovens authorizing American Industrial Oven's use of the SUNKISS mark in the United States?
162. If you answered yes to the previous question, please explain the terms of such agreement.
163. Are you aware of any oral and implied license between Sunkiss Thermoreactors, Inc. and American Industrial Ovens, Inc. authorizing American Industrial Oven's use of the SUNKISS mark in the United States?
164. If you answered yes to the previous question, approximately when was that license granted?
165. If there is an oral and implied license between Sunkiss Thermoreactors, Inc. and American-Industrial Ovens, Inc., does American-Industrial Ovens, Inc. pay any royalties to Sunkiss Thermoreactors, Inc. pursuant to the agreement?

166. If there is an oral and implied license between Sunkiss Thermoreactors, Inc. and American-Industrial Ovens, Inc. what are the terms of that agreement?

Exhibit 8

167. The witness should be handed what has been marked as Petitioner's **Exhibit 8**. Have you seen the document marked Exhibit 8 before?

168. If you answered yes to the previous question, please identify the documents.

169. Please refer to the pages of Exhibit 8 labelled SUNKISS 000205-000211, 000213-000214, 000271-000274 and 000276. Are these invoices either for service calls or refurbishing machines or parts?

170. Again, please refer to the pages of Exhibit 8 labelled SUNKISS 000205-000211, 000213-000214, 000271-000274 and 000276. Are these invoices for the sale of complete space heaters sold under the SUNKISS mark?

171. If you have testified that the invoices identified in the previous question are not for space heaters sold under the SUNKISS mark, why not?

172. Please refer to the pages of Exhibit 8 labelled SUNKISS 215, 275, and 282. Are these invoices for the sale and/or installation of parts for a Sunkiss Thermoreactor?

173. Again, please refer to the pages of Exhibit 8 labelled SUNKISS 215, 275, and 282. Are these invoices for the sale of complete space heaters sold under the SUNKISS mark?

174. If the invoices identified in the previous question are not for space heaters sold under the SUNKISS mark, why not?

175. Please refer to the pages of Exhibit 8 labelled SUNKISS 216, 269, 270, and 294. Does the SUNKISS mark appear anywhere on these invoices?

176. Again, referring to the pages labelled SUNKISS 216, 269, 270, and 294. How do these invoices evidence use of the SUNKISS mark in association with space heaters?
177. Please refer to the page of Exhibit 8 labelled SUNKISS 289. What is the “finishing light” identified in that invoice?
178. Again, referring to the page labelled SUNKISS 289. Is the “finishing light” identified in the invoice a “space heater”?

Exhibit 9

179. The witness should be handed what has been marked as Petitioner’s **Exhibit 9** and labelled SUNKISS000007-8. Have you seen the document marked Exhibit 9 before?
180. If you answered yes to the previous question, please identify the document.
181. When was the document shown in Exhibit 9 created?
182. Who created the document shown in Exhibit 9?
183. What is the intended purpose of the document shown in Exhibit 9?
184. Was the document shown in Exhibit 9 distributed?
185. If the answer to the previous question was yes, to whom was the document distributed?
186. For each of the people or entities identified in response to the previous question, when was the document in Exhibit 9 distributed to them?
187. In Exhibit 9, what does HT100 and HT200 refer to?
188. I refer back to Exhibit 8 and the pages specifically marked as SUNKISS 000272-000276 and 000294. In the upper right corner of the page, there is a stylized version of

the SUN-SPOT trademark positioned just above and in close proximity to "HT-100-200."

Please explain the association, if any, between SUN-SPOT and HT-100-200.

189. Who owns the SUN-SPOT trademark?
190. Does Ayotte Techno-Gaz, Inc. use the SUN-SPOT mark in association with space heaters in the United States?
191. What was the date of first use of the SUN-SPOT mark by Ayotte Techno-Gaz, Inc. in association with space heaters in the United States.
192. What was the date of last use of the SUN-SPOT mark by Ayotte Techno-Gaz, Inc. in association with space heaters in the United States.
193. Did Sunkiss Thermoreactors, Inc. use the SUN-SPOT mark in association with space heaters in the United States?
194. What was the date of first use of the SUN-SPOT mark by Sunkiss Thermoreactors, Inc. in association with space heaters in the United States?
195. What was the date of last use of the SUN-SPOT mark by Sunkiss Thermoreactors, Inc. in association with space heaters in the United States?
196. Does American Industrial Ovens use the SUN-SPOT mark in association with space heaters in the United States?
197. What was the date of first use of the SUN-SPOT mark by American Industrial Ovens, Inc. in association with space heaters in the United States?
198. What was the date of last use of the SUN-SPOT mark by American Industrial Ovens, Inc. in association with space heaters in the United States?

Exhibit 10

199. The witness should be handed what has been marked as Petitioner's **Exhibit 10**.

Have you seen the document marked Exhibit 10 before?

200. If you answered yes to the previous question, please identify the document.

201. When was the document shown in Exhibit 10 created?

202. Who created the document shown in Exhibit 10?

203. Why was the document shown in Exhibit 10 created?

204. How was the document shown in Exhibit 10 used?

205. Was the document shown in Exhibit 10 distributed?

206. To whom was the document shown in Exhibit 10 distributed?

207. For each person or entity identified in response to the previous question, identify when the document in Exhibit 10 was distributed to them.

Exhibit 11

208. The witness should be handed what has been marked as Petitioner's *Exhibit 11*.

Have you seen the document marked Exhibit 11 before?

209. If you answered yes to the previous question, please identify the document.

210. Is the date in the upper left-hand corner the date the document was created?

211. If you answered no to the previous question, please identify the significance of the date in the upper left-hand corner of the document.

212. When was the document shown in Exhibit 11 created?

213. Who created the document shown in Exhibit 11?

214. Why was the document shown in Exhibit 11 created?

215. How was the document shown in Exhibit 11 used?
216. Was the document shown in Exhibit 11 distributed to anyone?
217. To whom was the document shown in Exhibit 11 distributed?
218. For each person or entity identified in response to the previous question, identify when the document in Exhibit 11 was distributed to them.

Exhibit 12

219. The witness should be handed what has been marked as Petitioner's **Exhibit 12**.
Have you seen the document marked Exhibit 12 before?
220. If you answered yes to the previous question, please identify the document.
221. When was the document shown in Exhibit 12 created?
222. Who created the document shown in Exhibit 12?
223. Why was the document shown in Exhibit 12 created?
224. How was the document shown in Exhibit 12 used?
225. Was the document shown in Exhibit 12 distributed?
226. To whom was the document shown in Exhibit 12 distributed?
227. For each person or entity identified in response to the previous question, identify when the document in Exhibit 12 was distributed to them.

Exhibit 13

228. The witness should be handed what has been marked as Petitioner's **Exhibit 13**.
Have you seen the documents marked as Exhibit 13 before?
229. If you answered yes to the previous question, please identify the documents.

230. What were Mr. Jacques Villeneuve's roles and responsibilities at Ayotte Techno-Gaz, Inc?
231. What was the specific purpose and nature of Mr. Villeneuve's visits to the United States as contemplated by the letters in Exhibit 13?
232. Did any of Mr. Villeneuve's activities in the United States involve the sale or marketing of space heaters under the SUNKISS mark?
233. If you answered yes to the previous question, what were these activities?
234. The documents in Exhibit 13 reference Richelieu Hardware (USA). Is there a business relationship between Ayotte Techno-Gaz, Inc. and Richelieu Hardware (USA)?
235. If you answered yes to the previous question, what is the business relationship between Ayotte Techno-Gaz, Inc. and Richelieu Hardware (USA)?
236. Is there a business relationship between Sunkiss Thermoreactors, Inc. and Richelieu Hardware (USA)?
237. If you answered yes to the previous question, what is the business relationship between Sunkiss Thermoreactors, Inc. and Richelieu Hardware (USA)?
238. Is there a business relationship between American Industrial Ovens, Inc. and Richelieu Hardware (USA)?
239. If you answered yes to the previous question, what is the business relationship between American Industrial Ovens, Inc. and Richelieu Hardware (USA)?

Exhibit 14

240. The witness should be handed what has been marked as Petitioner's **Exhibit 14**.
Have you seen the documents marked as Exhibit 14 before?
241. If you answered yes to the previous question, please identify the documents.

242. Did a representative of Sunkiss Thermoreactors, Inc. attend the Sherwin-Williams Automotive Finishes Vendor Show on or about January 17, 2012?
243. Who attended the show on Sunkiss Thermoreactor, Inc.'s behalf?
244. For each individual identified in response to the previous question, please explain their role and responsibilities with Sunkiss Thermoreactors, Inc.
245. If Bridgett Roy was not identified in response to the previous questions, please explain her title, responsibilities and dates of employment with Sunkiss Thermoreactors, Inc.
246. Specify what products, if any, were advertised or displayed with the SUNKISS mark at the Sherwin-Williams Automotive Finishes Vendor Show.
247. Were there space heaters displayed with the SUNKISS mark at the Sherwin-Williams Automotive Finishes Vendor Show?

Exhibit 15

248. The witness should be handed what has been marked as Petitioner's **Exhibit 15**. Have you seen the documents marked as Exhibit 15 before?
249. If you answered yes to the previous question, please identify the documents.
250. What is the Specialty Equipment Market Association?
251. Is or was Sunkiss Thermoreactors, Inc a member of the Specialty Equipment Market Association?
252. Who are other members of the Specialty Equipment Market Association?
253. Referring to Exhibit 15, and the page specifically marked as SUNKISS000283, there are two line items on the invoice for Pocket Guide Advertising and SEMA Show Sponsorship. What are these charges for?

254. Are the Pocket Guide Advertising and SEMA Show Sponsorship related to the SEMA Show that was held in November 2011 in Las Vegas Nevada?
255. Did the Pocket Guide Advertising specifically include the SUNKISS mark in association with space heaters?
256. Did a representative of Sunkiss Thermoreactors, Inc. attend the SEMA Show on or about November 1-4, 2011?
257. Who attended the show on Sunkiss Thermoreactor, Inc.'s behalf?
258. For each individual identified in response to the previous question, please explain their role and responsibilities with Sunkiss Thermoreactors, Inc.
259. What products, if any, were advertised or displayed with the SUNKISS mark at the 2011 SEMA Show.
260. Since 2008, did Sunkiss Thermoreactors, Inc., Ayotte Techno-Gaz, Inc. or American Industrial Ovens, Inc. attend any other trade shows in the United States?
261. If you answered yes to the previous questions, which other trade shows has Sunkiss Thermoreactors, Inc., Ayotte Techno-Gaz, Inc. and/or American Industrial Ovens, Inc. attended in the United States?
262. For each show identified in response to the previous question, specify the date and location of the show and whether there was advertisement or sales of space heaters under the SUNKISS mark?
263. Do you have any documents evidencing attendance at these other trade shows?

Exhibit 16

264. The witness should be handed what has been marked as Petitioner's **Exhibit 16**.
Have you seen the document marked Exhibit 16 before?

265. If you answered yes to the previous question, please identify the document.
266. When was the document shown in Exhibit 16 created?
267. Who created the document shown in Exhibit 16?
268. Why was the document shown in Exhibit 16 created?
269. How was the document shown in Exhibit 16 used?
270. Was the document shown in Exhibit 16 distributed?
271. To whom was the document shown in Exhibit 16 distributed?
272. For each person or entity identified in response to the previous question, identify when the document in Exhibit 16 was distributed to them.

* * *

273. Since January 2011, did Sunkiss Thermoreactors, Inc. solicit the participation of Sunkiss SAS in the management of the company?
274. Since January 2011, did Sunkiss Thermoreactors, Inc. invite the participation of Sunkiss SAS in the management of the company?
275. Since January 2011, did Sunkiss Thermoreactors, Inc. permit the participation of Sunkiss SAS in the management of the company?
276. Since January 2011, did Sunkiss Thermoreactors, Inc. ever prohibit the participation of Sunkiss SAS in the management of the company?
277. Since January 2011, did Sunkiss Thermoreactors, Inc. solicit the participation of Les Radiants SMR, Inc. in the management of the company?
278. Since January 2011, did Sunkiss Thermoreactors, Inc. invite the participation of Les Radiants SMR, Inc. in the management of the company?

279. Since January 2011, did Sunkiss Thermoreactors, Inc. permit the participation of Les Radiants SMR, Inc. in the management of the company?
280. Since January 2011, did Sunkiss Thermoreactors, Inc. ever prohibit the participation of Les Radiants SMR, Inc. in the management of the company?
281. Since January 2011, did Sunkiss Thermoreactors, Inc. consult with Sunkiss SAS regarding its trademark usage in the United States?
282. Since January 2011, did Sunkiss Thermoreactors, Inc. discuss its use of the SUNKISS mark in the United States with Sunkiss SAS?
283. Since January 2011, did Sunkiss Thermoreactors, Inc. consult with Les Radiants SMR, Inc. regarding its trademark usage in the United States?
284. Since January 2011, did Sunkiss Thermoreactors, Inc. discuss its use of the SUNKISS mark in the United States with Les Radiants SMR, Inc.?

Respectfully Submitted,

By: 

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Dated: September 24, 2015

CERTIFICATE OF SERVICE

I, Carina Scorcia, hereby certify that a true and correct copy of the foregoing PETITIONER'S DISCOVERY DEPOSITION OF REGISTRANT'S RULE 30(b)(6) WITNESSON WRITTEN QUESTIONS PURSUANT TO 37 C.F.R. §2.124 has been served by First Class Mail, Postage Prepaid, on September 24, 2015 upon Registrant's Attorney of Record at the following address:

Levy & Grandinetti
PO Box 18385
Washington, DC 20036-8385
Attn.: Ms. Rebecca J. Stempien Coyle
mail@levygrandinetti.com

Carina Scorcia

EXHIBIT 2

Cancellation No. 92/060,849

FINAM v. Sunkiss Thermoreactors, Inc.

Registrant's Motion to Quash

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

FINAM,)	
)	
Petitioner,)	
)	Cancellation No. 92/060,849
v.)	
)	Reg. No. 1,200,333
Sunkiss Thermoreactors, Inc.,)	
)	Mark: SUNKISS
Registrant.)	

**REGISTRANT’S OBJECTIONS AND RESPONSES TO
PETITIONER’S FIRST SET OF INTERROGATORIES**

The Registrant, Sunkiss Thermoreactors, Inc. (“Registrant”), by and through counsel, responds to the Petitioner’s First Set of Interrogatories as follows.

The Registrant’s answers are based upon information currently available to it. The Registrant’s investigation and discovery in this action are ongoing, and the Registrant reserves the right to supplement these answers in the event that additional information is obtained through such investigation or discovery.

Nothing contained in these answers is intended to be or should be construed to be an admission by the Registrant of the relevance or admissibility at trial or on any motion of any information contained in these answers.

GENERAL OBJECTIONS AND RESPONSES

The Registrant’s responses are made subject to, and without waiver of, the following general objections as well as any specific objection(s) stated for each request.

1. The Registrant objects to each interrogatory to the extent that it seeks information that is protected from discovery by the attorney-client privilege, the work-product doctrine, or

any other applicable privilege or immunity. These responses are not intended to be, or may not be deemed in any way to be, a waiver of any such available privilege or immunity.

2. The Registrant objects to the Petitioner's definitions, instructions, and interrogatories to the extent that they impose burdens or obligations differing from or adding to those required by the FEDERAL RULES OF CIVIL PROCEDURE (FED. R. CIV. P.) or the TRADEMARK TRIAL AND APPEAL BOARD MANUAL OF PROCEDURE (TBMP), including the purported obligations on the Registrant to "identify" documents and things prior to their production and "identify" contact information for persons or entities represented by counsel. The Registrant's responses will be prepared in accordance with both the FED. R. CIV. P. and the TBMP.

3. The Registrant objects to each interrogatory to the extent that it seeks information and identification of documents that are already in the Petitioner's possession or that are publicly available and therefore accessible to the Petitioner.

4. The Registrant objects to each interrogatory to the extent that it seeks information that is not in the Registrant's possession, custody, or control.

5. The Registrant objects to each interrogatory to the extent that it seeks identification of documents that have been prepared by or reviewed by experts or consultants who have not yet been designated to testify on behalf of the Registrant.

6. The Registrant objects to each interrogatory to the extent it seeks confidential information concerning services developed by the Registrant that are not at issue in this proceeding and/or other information that is not reasonably calculated to lead to the discovery of admissible evidence relevant to a claim or defense of any party.

7. The Registrant objects to the Petitioner's interrogatories to the extent that they are duplicative of the Petitioner's document requests.

8. The Registrant objects to the Petitioner's interrogatories to the extent they seek the identification of electronically stored information that is not reasonably accessible and would be unduly burdensome or expensive to produce.

9. The Registrant objects to the Petitioner's interrogatories to the extent they seek discovery of confidential and/or competitive information, including, for example, documents containing trade secrets, development or confidential information and will produce only such documents in accordance with the Protective Order agreed to by the Parties, and approved by the TTAB on August 6, 2015.

10. The Registrant objects to the Petitioner's interrogatories to the extent they seek information related to any promotional materials, uses of trademarks or service marks, services, goods, contracts, or other agreements, in or under development, consideration, or negotiation. Such information is neither relevant to any claims or defenses asserted in this proceeding, nor reasonably likely to lead to the discovery of admissible evidence.

11. The Registrant objects to the Petitioner's definition of "Petitioner" to the extent that it presumes or requires knowledge on the part of the Registrant as to all of FINAM's divisions, departments, subsidiaries, parents, partners, joint venture partners, officers, directors, owners, agents, employees, accountants, attorneys, predecessors or successors in interest and other persons acting on behalf of or for the benefit of FINAM.

12. The Registrant objects to the Petitioner's definition of "Goods" and "Products" as overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence to the extent that it includes items the Registrant "intends" to market, distribute or divide. The Registrant further objects to the Petitioner's definition of "Goods" and "Products" as overbroad, unduly burdensome, and not reasonably calculated to lead to the

discovery of admissible evidence to the extent that it includes items that are not identified in Registration No. 1,200,333. The Registrant will apply the following definition to “Goods” and “Products”: space heaters as identified in Registration No. 1,200,333.

13. The Registrant objects to the Petitioner’s definition of “identify” or “specify” or “state the identity of” as overbroad, unduly burdensome, requires waiver of applicable privileges, and not reasonably calculated to lead to the discovery of admissible evidence. The Registrant further objects to the definition of “identify” or “specify” or “state the identity of” on the ground that it purports to create an obligation beyond the requirements of FED. R. CIV. P. and TBMP. The Registrant further objects to the Petitioner’s definition of “identify” or “specify” or “state the identity of” to the extent the definition undermines, contradicts, or purports to prohibit the Registrant’s right to produce documents in response to an interrogatory pursuant to FED. R. CIV. P. 33.

14. The Registrant objects to the Petitioner’s instruction “M” as overbroad and unduly burdensome to the extent that it requires the waiver of applicable privileges. The Registrant further objects on the ground that it purports to create an obligation beyond the requirements of FED. R. CIV. P. and TBMP.

15. The Registrant’s responses to each interrogatory regarding the Registrant will include, unless otherwise noted, any entity that is using the Registrant’s Mark on behalf of the Registrant and/or to the benefit of the Registrant.

16. Any objection or lack of objection to an interrogatory is not to be deemed an admission by the Registrant that it is aware of information that is requested by the interrogatory.

17. Pursuant to FED. R. CIV. P. 26(e) the Registrant will supplement responses as additional information becomes available to the Registrant.

18. The Registrant objects to the Petitioner's interrogatories to the extent that they seek a legal conclusion or seeks to apply legal definitions, precedent or other interpretation, that are not common and customary in the United States. For this responses, the Registrant will apply the usual meaning, definitions, precedent and/or other interpretation found in the United States.

SPECIFIC RESPONSES

The Registrant responds to the Petitioner's interrogatories as follows, subject to the general objections stated above and the specific objections stated below.

1. Identify each place of business which Registrant presently maintains in connection with trademark usage or trademark licensing in the United States, and describe the type of business activities in each place of business.

RESPONSE TO INTERROGATORY NO. 1

The Registrant objects to Interrogatory No. 1 as vague and ambiguous with respect to the terms "presently maintains" and "in connection with." The Registrant further objects to this interrogatory to the extent that it is unduly burdensome and oppressive in seeking a description of "the type of business activities in each place of business." The Registrant further objects to this interrogatory to the extent it seeks information that is not relevant to the claims and defenses asserted in this proceeding and/or seeks information not reasonably likely to lead to the discovery of admissible evidence, including information related to "the type of business activities in each place of business." The Registrant will respond to this interrogatory to the extent that it seeks the identification of each location maintained by the Registrant where some aspect of the manufacture, advertising, use, sale, or offers to sell of the Product or licensing of the Registrant's Mark are conducted. The Registrant will further respond to this interrogatory by

stating what type of business activities relevant to the use or licensing of the Registrant's Mark. Subject to and without waiving the foregoing objections and its General Objections, the Registrant provides the following response.

The Registrant currently maintains a place of business located at 2223 Route 131 Nord, Norte-Dame de Lourdes, Quebec J0K1K0, Canada in connection with all "trademark usage or trademark licensing in the United States" for the Registrant's Mark. Ayotte Techno-Gaz Inc. currently rents space in a warehouse, located at 1320 State 9 Champlain, New York 12919.

2. Identify any assignment, license, distribution agreement, or other permitted use agreements with respect to any Products bearing the SUNKISS mark of which Registrant is aware.

RESPONSE TO INTERROGATORY NO. 2

The Registrant objects to Interrogatory No. 2 as vague and ambiguous as to the terms "aware" and "the SUNKISS mark" and with respect to the terms "Product" and "SUNKISS mark." The Registrant will respond to this interrogatory applying the following definition to the term "SUNKISS mark": "the Registrant's Mark." The Registrant will respond to this interrogatory applying the following definition to the term "Products:" space heaters as identified in Registration No. 1,200,333. The Registrant will respond to this interrogatory to the extent that it seeks an identification of any assignment, license, distribution agreement, or other permitted use agreements in the United States with respect to any Products bearing the SUNKISS mark of which the Registrant has first-hand knowledge. Subject to and without waiving the foregoing objections and its General Objections, the Registrant provides the following response.

Pursuant to Rule 33(d) of the Federal Rules of Civil Procedure, the Registrant will produce non-privileged documents from which the requested information can be derived or ascertained, in the manner set forth in the Registrant's responses to the Petitioner's first set of requests for production.

3. Identify any United States trademark applications or registrations owned by Registrant which incorporate the term "Sunkiss."

RESPONSE TO INTERROGATORY NO. 3

The Registrant objects to Interrogatory No. 3 as vague and ambiguous. The Registrant will respond to this interrogatory to the extent that it seeks the identification of any live federal United States trademark applications or registrations owned by Registrant which incorporate the term "Sunkiss." The Registrant further objects to this interrogatory to the extent that it seeks information and identification of documents that are publicly available and therefore publicly accessible to the Petitioner. Subject to and without waiving the foregoing objections and its General Objections, the Registrant provides the following response.

The Registrant owns Registration No. 1,200,333.

4. Identify any assignment, license, distribution agreement, or other permitted use agreements to which Registrant and Ayotte Techno-Gaz Inc are parties and which references the intellectual property (including but not limited to trademarks) of either or both parties.

RESPONSE TO INTERROGATORY NO. 4

The Registrant objects to Interrogatory No. 4 as duplicative of at least Interrogatory No. 2. The Registrant further objects to this interrogatory as vague and ambiguous with respect

to the term “references.” The Registrant further objects to this interrogatory to the extent it seeks information that is not relevant to the claims and defenses asserted in this proceeding and/or seeks information not reasonably likely to lead to the discovery of admissible evidence, including information related to intellectual property other than the Registrant’s Mark. Subject to and without waiving the foregoing objections and its General Objections, the Registrant provides the following response.

Pursuant to Rule 33(d) of the Federal Rules of Civil Procedure, the Registrant will produce non-privileged documents from which the requested information can be derived or ascertained, in the manner set forth in the Registrant’s responses to the Petitioner’s first set of requests for production.

5. Identify any assignment, license, distribution agreement, or other permitted use agreements to which Registrant and American Industrial Ovens are parties and which references the intellectual property (including but not limited to trademarks) of either or both parties.

RESPONSE TO INTERROGATORY NO. 5

The Registrant objects to Interrogatory No. 5 as duplicative of at least Interrogatory No. 2. The Registrant further objects to this interrogatory as vague and ambiguous with respect to the term “references.” The Registrant further objects to this interrogatory to the extent it seeks information that is not relevant to the claims and defenses asserted in this proceeding and/or seeks information not reasonably likely to lead to the discovery of admissible evidence, including information related to intellectual property other than the Registrant’s Mark. Subject to and without waiving the foregoing objections and its General Objections, the Registrant provides the following response.

The Registrant and American Industrial Ovens share a common owner, who is also the Director of both companies, Mr. Daniel Ayotte. While there are no written agreements between the Registrant and American Industrial Ovens, there is an oral understanding and implied license between the companies allowing American Industrial Ovens to use the Registrant's Mark in the United States.

6. Identify and describe each Product Registrant sells under the SUNKISS mark.

RESPONSE TO INTERROGATORY NO. 6

The Registrant objects to Interrogatory No. 6 to the extent that it is duplicative of at least Interrogatory No. 3. The Registrant further objects to this interrogatory as vague and ambiguous with respect to the terms "Product" and "SUNKISS mark." The Registrant will respond to this interrogatory applying the following definition to the term "SUNKISS mark": "the Registrant's Mark." The Registrant will respond to this interrogatory applying the following definition to the term "Products:" space heaters as identified in Registration No. 1,200,333. The Registrant further objects to this interrogatory to the extent that it seeks information and identification of documents that are publicly available and therefore publicly accessible to the Petitioner. The Registrant further objects to this interrogatory to the extent that it seeks the identification of Products that the Registrant no longer sells under its Mark and has voluntarily cancelled from the Registration. Subject to and without waiving the foregoing objections and its General Objections, the Registrant provides the following response.

Pursuant to Rule 33(d) of the Federal Rules of Civil Procedure, the Registrant will produce non-privileged documents from which the requested information can be derived or

ascertained, in the manner set forth in the Registrant's responses to the Petitioner's first set of requests for production.

7. For each Product identified in response to Interrogatory No. 6, above, identify the earliest date susceptible to proof when Registrant made such sales of that Product in the United States.

RESPONSE TO INTERROGATORY NO. 7

The Registrant objects to Interrogatory No. 7 as vague and ambiguous with respect to the term "susceptible to proof." The Registrant further objects to this interrogatory as vague and ambiguous with respect to the term "Product." The Registrant will respond to this interrogatory applying the following definition to the term "Products:" space heaters as identified in Registration No. 1,200,333. The Registrant further objects to this interrogatory to the extent that it calls for a legal conclusion. The Registrant further objects to this interrogatory to the extent that it asserts or suggests that offers to sell are not sufficient to establish "use" of a trademark in the United States. The Registrant further objects to this interrogatory to the extent that it seeks information or the identification of information that is not within the Registrant's possession, custody or control. Subject to and without waiving the foregoing objections and its General Objections, the Registrant provides the following response.

Pursuant to Rule 33(d) of the Federal Rules of Civil Procedure, the Registrant will produce non-privileged documents from which the requested information can be derived or ascertained, in the manner set forth in the Registrant's responses to the Petitioner's first set of requests for production.

8. Identify the date that Registrant first used the SUNKISS mark in commerce in the United States.

RESPONSE TO INTERROGATORY NO. 8

The Registrant objects to Interrogatory No. 8 as duplicative of at least Interrogatory No. 7. The Registrant further objects to this interrogatory as vague and ambiguous with respect to the term “SUNKISS mark.” The Registrant will respond to this interrogatory applying the following definition to the term “SUNKISS mark”: “the Registrant’s Mark.” The Registrant further objects to this interrogatory to the extent that it calls for a legal conclusion. The Registrant further objects to this interrogatory to the extent that it seeks information or the identification of information that is not within the Registrant’s possession, custody or control. Subject to and without waiving the foregoing objections and its General Objections, the Registrant provides the following response.

Pursuant to Rule 33(d) of the Federal Rules of Civil Procedure, the Registrant will produce non-privileged documents from which the requested information can be derived or ascertained, in the manner set forth in the Registrant’s responses to the Petitioner’s first set of requests for production.

9. For each Product identified in response to Interrogatory No. 6, identify the manufacturer or supplier from which Registrant acquires said Product.

RESPONSE TO INTERROGATORY NO. 9

The Registrant objects to Interrogatory No. 9 as vague and ambiguous with respect to the term “Product.” The Registrant will respond to this interrogatory applying the following definition to the term “Products:” space heaters as identified in Registration No. 1,200,333. The

Registrant further objects to this interrogatory to the extent it seeks information that is not relevant to the claims and defenses asserted in this proceeding and/or seeks information not reasonably likely to lead to the discovery of admissible evidence. The Registrant further objects to this interrogatory to the extent that it seeks information or the identification of information that is not within the Registrant's possession, custody or control. Subject to and without waiving the foregoing objections and its General Objections, the Registrant provides the following response.

The Registrant is the manufacturer and supplier of the space heaters sold and offered in the United States under the Registrant's Mark.

10. Identify each person having knowledge of the dates and circumstances surrounding Registrant's first use and/or alleged trademark use of the SUNKISS mark in connection with each Product identified in response to Interrogatory No. 6.

RESPONSE TO INTERROGATORY NO. 10

The Registrant objects to Interrogatory No. 10 as vague and ambiguous with respect to the term "circumstances surrounding." The Registrant further objects to this interrogatory as vague and ambiguous with respect to the terms "Product" and "SUNKISS mark." The Registrant will respond to this interrogatory applying the following definition to the term "Products:" space heaters as identified in Registration No. 1,200,333. The Registrant will respond to this interrogatory applying the following definition to the term "SUNKISS mark": "the Registrant's Mark." The Registrant further objects to this interrogatory to the extent that "alleged trademark use" suggests that the Registrant has not used its SUNKISS Mark in connection with each Product identified in response to Interrogatory No. 6. The Registrant

further objects to this interrogatory to the extent that it is unduly burdensome and oppressive. The Registrant further objects to this interrogatory to the extent that it seeks information or the identification of information that is not within the Registrant's possession, custody or control. Subject to and without waiving the foregoing objections and its General Objections, the Registrant provides the following response.

Mr. Daniel Ayotte is the person with the Registrant with knowledge of the dates and circumstances surrounding Registrant's use of its SUNKISS Mark in connection with each Product identified in response to Interrogatory No. 6. Mr. Ayotte is to be contacted only through counsel.

Upon information and belief Mr. Michel Charmes has knowledge of the dates and circumstances surrounding the use of the SUNKISS Mark in connection with each Product identified in response to Interrogatory No. 6. Upon information and belief Mr. Charmes was the president of Sunkiss, Societe Par Actions Simplifiee, at Chemin des Vignes Zone, d'activities Actipole 2B, Beligneux B 10360 Bressolles, France.

Upon information and belief, Mr. Jean Jacques Charmes has knowledge of the dates and circumstances surrounding the use of the SUNKISS Mark in connection with each Product identified in response to Interrogatory No. 6. The Registrant is not aware of Mr. Jean Jacques Charmes' current address. Upon information and belief, at least as recently as 2002, Mr. Jean Jacques Charmes was the President of A.J.C., located at 6-10 Boulevard des Monts d'Or, 69580 Sathonay-Camp, France.

Upon information and belief, Mr. Yvon Pithon has knowledge of the dates and circumstances surrounding the first use of the SUNKISS Mark in connection with each Product identified in response to Interrogatory No. 6. The Registrant is not aware of Mr. Pithon's current

address. Upon information and belief, at least as recently as 1996, Mr. Pithon was the Director of Calinter S.A., located at 20 rue de Lausanne, Geneva, Switzerland CH 1201.

11. Identify three individuals most knowledgeable about the nature of the Registrant's business including the advertising, marketing, manufacturing, sales and/or licensing of Products bearing the SUNKISS mark.

RESPONSE TO INTERROGATORY NO. 11

The Registrant objects to Interrogatory No. 11 to the extent that it is unduly burdensome and oppressive in seeking the identification of "individuals most knowledgeable" and is not limited to the identification of the person(s) who are or have been employed by the Registrant with the most knowledge. The Registrant further objects to this interrogatory to the extent that it is unduly burdensome and oppressive and seeks information that is not relevant to the claims and defenses asserted in this proceeding and/or seeks information not reasonably likely to lead to the discovery of admissible evidence in requiring the identification of "three individuals most knowledgeable" regardless of whether the knowledge of any of these individuals is first-hand knowledge or relevant. The Registrant further objects to this interrogatory as vague and ambiguous with respect to the term "SUNKISS mark." The Registrant will respond to this interrogatory applying the following definition to the term "SUNKISS mark": "the Registrant's Mark." Subject to and without waiving the foregoing objections and its General Objections, the Registrant provides the following response.

The Registrant is not aware of three current individuals with current knowledge of substance about the nature of the Registrant's business including the advertising, marketing, manufacturing, sales and/or licensing of Products bearing the SUNKISS mark.

Mr. Daniel Ayotte is the person with the Registrant with knowledge of the dates and circumstances about the nature of the Registrant's business including the advertising, marketing, manufacturing, sales and/or licensing of Products bearing the SUNKISS mark. Mr. Ayotte is to be contacted only through counsel.

Upon information and belief Mr. Michel Charmes is knowledgeable about the nature of the Registrant's business including the advertising, marketing, manufacturing, sales and/or licensing of Products bearing the SUNKISS mark.

12. Identify each person having knowledge of the dates and/or circumstances surrounding Registrant's creation, adoption, and/or acquisition of the SUNKISS marks.

RESPONSE TO INTERROGATORY NO. 12

The Registrant objects to Interrogatory No. 12 as vague and ambiguous with respect to the term "circumstances surrounding." The Registrant further objects to this interrogatory as vague and ambiguous with respect to the term "SUNKISS marks." The Registrant will respond to this interrogatory applying the following definition to the term "SUNKISS marks": "the Registrant's Mark." The Registrant further objects to this interrogatory to the extent that it is unduly burdensome and oppressive in seeking the identification of "each person having knowledge" and is not limited to the identification of the person(s) who are or have been employed by the Registrant with the most knowledge. The Registrant further objects to this interrogatory to the extent that it seeks information that is not relevant to the claims and defenses asserted in this proceeding and/or seeks information not reasonably likely to lead to the discovery of admissible evidence, including information related to the Registrant's creation, adoption, and/or acquisition of the SUNKISS marks regardless of what goods or products were

associated with the SUNKISS marks. The Registrant will respond to this interrogatory to the extent that it seeks the identification of each person at, or previously employed by, the Registrant with first-hand knowledge of the dates and/or details of the Registrant's creation, adoption, and/or acquisition of its SUNKISS Mark for the Products. Subject to and without waiving the foregoing objections and its General Objections, the Registrant provides the following response.

Mr. Daniel Ayotte is the person with the Registrant with knowledge of the dates and circumstances surrounding the Registrant's acquisition of the Registrant's Mark. Mr. Ayotte is to be contacted only through counsel.

Upon information and belief Mr. Michcel Charmes, Mr. Jean Jacques Charmes and/or Mr. Yvon Pithon have knowledge about the dates and/or circumstances surrounding Registrant's creation, adoption, and/or acquisition of the Registrant's Mark.

13. For each Product identified by Registrant in response to Interrogatory No. 6 as being sold under the SUNKISS mark, set forth the amount of sales in dollars in the United States for the past ten years, broken down on a yearly basis.

RESPONSE TO INTERROGATORY NO. 13

The Registrant objects to Interrogatory No. 13 to the extent that it is unduly burdensome and oppressive in seeking the identification of "the amount of sales in dollars in the United States for the past ten years." The Registrant further objects to this interrogatory as vague and ambiguous with respect to the terms "Product" and "SUNKISS mark. The Registrant will respond to this interrogatory applying the following definition to the term "Products:" space heaters as identified in Registration No. 1,200,333. The Registrant will respond to this interrogatory applying the following definition to the term "SUNKISS mark": "the Registrant's

Mark.” The Registrant further objects to this interrogatory to the extent that it seeks information or the identification of information that is not within the Registrant’s possession, custody or control. The Registrant did not acquire ownership of the Registration until 2009. Subject to and without waiving the foregoing objections and its General Objections, the Registrant provides the following response.

Pursuant to Rule 33(d) of the Federal Rules of Civil Procedure, the Registrant will produce non-privileged documents from which the requested information can be derived or ascertained, in the manner set forth in the Registrant’s responses to the Petitioner’s first set of requests for production.

14. Identify the total amount of marketing and/or advertising expenditures for Products bearing the SUNKISS mark in the United States incurred by Registrant over the past ten years.

RESPONSE TO INTERROGATORY NO. 14

The Registrant objects to Interrogatory No. 14 to the extent that it is unduly burdensome and oppressive in seeking the identification of “the total amount of marketing and/or advertising expenditures for Products bearing the SUNKISS mark in the United States incurred by Registrant over the past ten years” as vague and ambiguous with respect to the terms “Product” and “SUNKISS mark.” The Registrant will respond to this interrogatory applying the following definition to the term “Products:” space heaters as identified in Registration No. 1,200,333. The Registrant will respond to this interrogatory applying the following definition to the term “SUNKISS mark”: “the Registrant’s Mark.” The Registrant further objects to this interrogatory to the extent that it seeks information or the identification of information that is not within the

Registrant's possession, custody or control. The Registrant did not acquire ownership of the Registration until 2009. Subject to and without waiving the foregoing objections and its General Objections, the Registrant provides the following response.

Pursuant to Rule 33(d) of the Federal Rules of Civil Procedure, the Registrant will produce non-privileged documents from which the requested information can be derived or ascertained, in the manner set forth in the Registrant's responses to the Petitioner's first set of requests for production.

15. Explain the significance of the term "Sunkiss" to Registrant.

RESPONSE TO INTERROGATORY NO. 15

The Registrant objects to Interrogatory No. 15 as vague and ambiguous. The Registrant understands the Petitioner to be asking the significance of the term "Sunkiss" as a mark to the Registrant. The Registrant further objects to this interrogatory to the extent that it seeks information that is not relevant to the claims and defenses asserted in this proceeding and/or seeks information not reasonably likely to lead to the discovery of admissible evidence.

16. Identify all third party uses, through license agreements or otherwise, of the SUNKISS mark in the United States of which Registrant is aware, including but not limited to uses of the SUNKISS mark in combination with other words, phrases or designs.

RESPONSE TO INTERROGATORY NO. 16

The Registrant objects to Interrogatory No. 16 as vague and ambiguous as to the term "aware." The Registrant will respond to this interrogatory to the extent that it seeks an identification of "all third party uses, through license agreements or otherwise, of the SUNKISS

mark in the United States of which Registrant” has first-hand knowledge, “including but not limited to uses of the SUNKISS mark in combination with other words, phrases or designs.” The Registrant further objects to this interrogatory as vague and ambiguous with respect to the term “SUNKISS mark.” The Registrant will respond to this interrogatory applying the following definition to the term “SUNKISS mark”: “the Registrant’s Mark.” The Registrant further objects to this interrogatory to the extent it is duplicative of at least Interrogatory No. 2. The Registrant further objects to this interrogatory to the extent that it to the extent that it is unduly burdensome and oppressive. The Registrant further objects to this interrogatory to the extent that it seeks information that is not relevant to the claims and defenses asserted in this proceeding and/or seeks information not reasonably likely to lead to the discovery of admissible evidence, including the identification of “all third party uses . . . of the SUNKISS mark in the United States” without being limited to the Products. The Registrant will respond to this interrogatory to the extent that it seeks the identification of third party uses of the SUNKISS mark in the United States for the Products. The Registrant further objects to this interrogatory to the extent that it seeks information or the identification of information that is not within the Registrant’s possession, custody or control. Subject to and without waiving the foregoing objections and its General Objections, the Registrant provides the following response.

Pursuant to Rule 33(d) of the Federal Rules of Civil Procedure, the Registrant will produce non-privileged documents from which the requested information can be derived or ascertained, in the manner set forth in the Registrant’s responses to the Petitioner’s first set of requests for production.

17. Identify and describe each Product Ayotte Techno-Gaz sells under the SUNKISS mark.

RESPONSE TO INTERROGATORY NO. 17

The Registrant objects to Interrogatory No. 17 as vague and ambiguous with respect to the terms “Product” and “SUNKISS mark.” The Registrant will respond to this interrogatory applying the following definition to the term “Products:” space heaters as identified in Registration No. 1,200,333. The Registrant will respond to this interrogatory applying the following definition to the term “SUNKISS mark”: “the Registrant’s Mark.” The Registrant further objects to this interrogatory to the extent that it seeks information or the identification of information that is not within the Registrant’s possession, custody or control. Subject to and without waiving the foregoing objections and its General Objections, the Registrant provides the following response.

The Registrant has first-hand knowledge that Ayotte Techno-Gaz Inc. sells and offers to sell space heaters under the Registrant’s Mark in the United States. These space heaters sold and offered by Ayotte Techno-Gaz Inc. are the same as the space heaters described in response to Interrogatory No. 6, and the Registrant incorporates that description herein.

Pursuant to Rule 33(d) of the Federal Rules of Civil Procedure, the Registrant will produce non-privileged documents from which the requested information can be derived or ascertained, in the manner set forth in the Registrant’s responses to the Petitioner’s first set of requests for production.

18. For each Product identified by Registrant in response to Interrogatory No. 17 as being sold under the SUNKISS mark, set forth the number of units sold in the United States for the past ten years, broken down on a yearly basis.

RESPONSE TO INTERROGATORY NO. 18

The Registrant objects to Interrogatory No. 18 to the extent that it is unduly burdensome and oppressive in seeking the identification of “the number of units sold in the United States for the past ten years.” The Registrant further objects to this interrogatory as vague and ambiguous with respect to the terms “Product” and “SUNKISS mark.” The Registrant will respond to this interrogatory applying the following definition to the term “Products:” space heaters as identified in Registration No. 1,200,333. The Registrant will respond to this interrogatory applying the following definition to the term “SUNKISS mark”: “the Registrant’s Mark.” The Registrant further objects to this interrogatory to the extent that it seeks information or the identification of information that is not within the Registrant’s possession, custody or control. The Registrant further objects to this interrogatory to the extent that it is unduly burdensome and oppressive and seeks information that is not kept in the regular course of business. The Registrant further objects to this interrogatory to the extent that it seeks information or the identification of information that is not within the Registrant’s possession, custody or control. The Registrant did not acquire ownership of the Registration until 2009. Subject to and without waiving the foregoing objections and its General Objections, the Registrant provides the following response.

Pursuant to Rule 33(d) of the Federal Rules of Civil Procedure, the Registrant will produce non-privileged documents from which the requested information can be derived or ascertained, in the manner set forth in the Registrant’s responses to the Petitioner’s first set of requests for production.

19. For each Product identified in response to Interrogatory No. 17, identify the manufacturer or supplier from which Ayotte Techno-Gaz acquires said Product.

RESPONSE TO INTERROGATORY NO. 19

The Registrant objects to Interrogatory No. 19 as vague and ambiguous with respect to the terms “Product” and “SUNKISS mark.” The Registrant will respond to this interrogatory applying the following definition to the term “Products:” space heaters as identified in Registration No. 1,200,333. The Registrant will respond to this interrogatory applying the following definition to the term “SUNKISS mark”: “the Registrant’s Mark.” The Registrant further objects to this interrogatory to the extent that it seeks information or the identification of information that is not within the Registrant’s possession, custody, or control. The Registrant further objects to this interrogatory to the extent it seeks information that is not relevant to the claims and defenses asserted in this proceeding and/or seeks information not reasonably likely to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing objections and its General Objections, the Registrant provides the following response.

All Products offered or sold by Ayotte Techno-Gaz Inc. under or otherwise bearing the Registrant’s Mark are acquired from the Registrant.

Pursuant to Rule 33(d) of the Federal Rules of Civil Procedure, the Registrant will produce non-privileged documents from which the requested information can be derived or ascertained, in the manner set forth in the Registrant’s responses to the Petitioner’s first set of requests for production.

20. Identify and describe each Product American Industrial Ovens sells under the SUNKISS mark.

RESPONSE TO INTERROGATORY NO. 20

The Registrant objects to Interrogatory No. 20 as vague and ambiguous with respect to the terms “Product” and “SUNKISS mark.” The Registrant will respond to this interrogatory applying the following definition to the term “Products:” space heaters as identified in Registration No. 1,200,333. The Registrant will respond to this interrogatory applying the following definition to the term “SUNKISS mark”: “the Registrant’s Mark.” The Registrant further objects to this interrogatory to the extent that it seeks information or the identification of information that is not within the Registrant’s possession, custody, or control. Subject to and without waiving the foregoing objections and its General Objections, the Registrant provides the following response.

The Registrant has first-hand knowledge that American Industrial Ovens sells and offers to sell space heaters under Registrant’s Mark in the United States. These space heaters sold and offered by American Industrial Ovens are the same as the space heaters described in response to Interrogatory No. 6, and the Registrant incorporates that description herein.

Pursuant to Rule 33(d) of the Federal Rules of Civil Procedure, the Registrant will produce non-privileged documents from which the requested information can be derived or ascertained, in the manner set forth in the Registrant’s responses to the Petitioner’s first set of requests for production.

21. For each Product identified by Registrant in response to Interrogatory No. 20 as being sold under the SUNKISS mark, set forth the number of units sold in the United States for the past ten years, broken down on a yearly basis.

RESPONSE TO INTERROGATORY NO. 21

The Registrant objects to Interrogatory No. 21 to the extent that it is unduly burdensome and oppressive in seeking the identification of “the number of units sold in the United States for the past ten years.” The Registrant further objects to this interrogatory as vague and ambiguous with respect to the terms “Product” and “SUNKISS mark.” The Registrant will respond to this interrogatory applying the following definition to the term “Products:” space heaters as identified in Registration No. 1,200,333. The Registrant will respond to this interrogatory applying the following definition to the term “SUNKISS mark”: “the Registrant’s Mark.” The Registrant further objects to this interrogatory to the extent that it is unduly burdensome and oppressive and seeks information that is not kept in the regular course of business. The Registrant further objects to this interrogatory to the extent that it seeks information or the identification of information that is not within the Registrant’s possession, custody or control. The Registrant did not acquire ownership of the Registration until 2009. Subject to and without waiving the foregoing objections and its General Objections, the Registrant provides the following response.

Pursuant to Rule 33(d) of the Federal Rules of Civil Procedure, the Registrant will produce non-privileged documents from which the requested information can be derived or ascertained, in the manner set forth in the Registrant’s responses to the Petitioner’s first set of requests for production.

22. For each Product identified in response to Interrogatory No. 20, identify the manufacturer or supplier from which Ayotte Techno-Gaz acquires said Product.

RESPONSE TO INTERROGATORY NO. 22

The Registrant objects to Interrogatory No. 22 as vague and ambiguous with respect to the terms “Product” and “SUNKISS mark.” The Registrant will respond to this interrogatory applying the following definition to the term “Products:” space heaters as identified in Registration No. 1,200,333. The Registrant will respond to this interrogatory applying the following definition to the term “SUNKISS mark” - “the Registrant’s Mark.” The Registrant further objects to this interrogatory as vague and ambiguous with respect to its inquiry into the manufacturer or supplier for “Ayotte Techno-Gaz” for the Products identified in response to Interrogatory No. 20. The Registrant will respond to this interrogatory to the extent that it seeks the identification of the manufacturer or supplier from which American Industrial Ovens acquires each Product identified in response to Interrogatory No. 20. The Registrant further objects to this interrogatory to the extent that it seeks information or the identification of information that is not within the Registrant’s possession, custody, or control. The Registrant further objects to this interrogatory to the extent it seeks information that is not relevant to the claims and defenses asserted in this proceeding and/or seeks information not reasonably likely to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing objections and its General Objections, the Registrant provides the following response.

All Products offered or sold by American Industrial Ovens under or otherwise bearing the Registrant’s Mark are acquired from the Registrant.

Pursuant to Rule 33(d) of the Federal Rules of Civil Procedure, the Registrant will produce non-privileged documents from which the requested information can be derived or ascertained, in the manner set forth in the Registrant’s responses to the Petitioner’s first set of requests for production.

23. Identify and explain the corporate relationship, if any, between Registrant and Ayotte Techno-Gaz.

RESPONSE TO INTERROGATORY NO. 23

The Registrant objects to Interrogatory No. 23 as vague and ambiguous with respect to the terms “explain” and “corporate relationship.” Subject to and without waiving the foregoing objections and its General Objections, the Registrant provides the following response.

Ayotte Techno-Gaz Inc. is a distributor for the Registrant in the United States. Ayotte Techno-Gaz Inc. and the Registrant are commonly owned by Mr. Daniel Ayotte. Mr. Ayotte is the sole shareholder of 9063-8974 Quebec Inc., who is the sole shareholder of Ayotte Techno-Gaz Inc.. Mr. Ayotte is the majority shareholder of 9140-3543 Quebec Inc., who is a 50% shareholder of the Registrant. Mr. Ayotte is the director of both the Registrant and Ayotte Techno-Gaz Inc.

24. Identify and explain the corporate relationship, if any, between Registrant and American Industrial Ovens.

RESPONSE TO INTERROGATORY NO. 24

The Registrant objects to Interrogatory No. 24 as vague and ambiguous with respect to the terms “explain” and “corporate relationship.” Subject to and without waiving the foregoing objections and its General Objections, the Registrant provides the following response.

American Industrial Ovens is a distributor for the Registrant. The Registrant manufactures space heaters in Canada for sale under the Registrant’s Mark in the United States. American Industrial Ovens and the Registrant are commonly owned by Mr. Daniel Ayotte. Mr. Ayotte is the sole shareholder of 9063-8974 Quebec Inc., who is the sole shareholder of

American Industrial Ovens/Fours Industriels Américains Inc. Mr. Ayotte is the majority shareholder of 9140-3543 Quebec Inc., who is a 50% shareholder of the Registrant. Mr. Ayotte is the director of both the Registrant and American Industrial Ovens. American Industrial Ovens is used by Mr. Ayotte as the face of his operation in the United States, rather than the French name Ayotte Techno-Gaz Inc., because he considered Ayotte Techno-Gaz Inc. was not relatable in the English-speaking United States.

25. Identify and explain the corporate relationship, if any, between Ayotte Techno-Gaz and American Industrial Ovens.

RESPONSE TO INTERROGATORY NO. 25

The Registrant objects to Interrogatory No. 25 as vague and ambiguous with respect to the terms “explain” and “corporate relationship.” The Registrant further objects to this interrogatory to the extent that it seeks information or the identification of information that is not within the Registrant’s possession, custody or control. Subject to and without waiving the foregoing objections and its General Objections, the Registrant provides the following response.

American Industrial Ovens and Ayotte Techno-Gaz Inc. are commonly owned by Mr. Daniel Ayotte. Mr. Ayotte is the sole shareholder of 9063-8974 Quebec Inc., who is the sole shareholder of both American Industrial Ovens/Fours Industriels Américains Inc. and Ayotte Techno-Gaz Inc. Mr. Ayotte is the directors of both Ayotte Techno-Gaz Inc. And American Industrial Ovens.

26. Identify all outlets through which third-parties sell Products under the SUNKISS mark. Identify any assignment, license, distribution agreement, or other permitted use

agreements with respect to any Products bearing the SUNKISS mark of which Registrant is aware.

RESPONSE TO INTERROGATORY NO. 26

The Registrant objects to Interrogatory No. 26 as vague and ambiguous with respect to the terms “Product” and “SUNKISS mark.” The Registrant will respond to this interrogatory applying the following definition to the term “Products:” space heaters as identified in Registration No. 1,200,333. The Registrant will respond to this interrogatory applying the following definition to the term “SUNKISS mark”: “the Registrant’s Mark.” The Registrant further objects to this interrogatory as vague and ambiguous with respect to the term “outlets.” The Registrant further objects to this interrogatory on the basis that it is a compound interrogatory, consisting of at least two separate interrogatories. The Registrant further objects to this interrogatory as duplicative of at least Interrogatory Nos. 2, 4, and 5. The Registrant further objects to this interrogatory to the extent that it seeks information and identification of documents that are publicly available and therefore publicly accessible to the Petitioner. Subject to and without waiving the foregoing objections and its General Objections, the Registrant provides the following response.

Pursuant to Rule 33(d) of the Federal Rules of Civil Procedure, the Registrant will produce non-privileged documents from which the requested information can be derived or ascertained, in the manner set forth in the Registrant’s responses to the Petitioner’s first set of requests for production.

27. Identify any websites through which Registrant currently advertises or sells Products bearing the SUNKISS mark.

RESPONSE TO INTERROGATORY NO. 27

The Registrant objects to Interrogatory No. 27 as vague and ambiguous with respect to the terms “Product” and “SUNKISS mark.” The Registrant will respond to this interrogatory applying the following definition to the term “Products:” space heaters as identified in Registration No. 1,200,333. The Registrant will respond to this interrogatory applying the following definition to the term “SUNKISS mark”: “the Registrant’s Mark.” The Registrant further objects to this interrogatory to the extent that it seeks information and identification of documents that are publicly available and therefore publicly accessible to the Petitioner. Subject to and without waiving the foregoing objections and its General Objections, the Registrant provides the following response.

The Products bearing the Registrant’s Mark are currently advertised on the following website: <http://www.americanovens.com>.

Pursuant to Rule 33(d) of the Federal Rules of Civil Procedure, the Registrant will produce non-privileged documents from which the requested information can be derived or ascertained, in the manner set forth in the Registrant’s responses to the Petitioner’s first set of requests for production.

28. Identify any other marks incorporating the term “Sunkiss” which Registrant has used in connection with the sale, advertisement, or promotion of goods or services.

RESPONSE TO INTERROGATORY NO. 28

The Registrant objects to Interrogatory No. 28 to the extent that it seeks information that is not relevant to the claims and defenses asserted in this proceeding and/or seeks information not reasonably likely to lead to the discovery of admissible evidence, including information

related marks other than the Registrant's Mark and/or goods or services other than the Products, as defined in the Registrant's General Objections above.

29. For each mark identified in response to the preceding Interrogatory, identify the products and services sold, advertised and/or marketed by Registrant under that mark.

RESPONSE TO INTERROGATORY NO. 29

The Registrant objects to Interrogatory No. 29 to the extent that it seeks information that is not relevant to the claims and defenses asserted in this proceeding and/or seeks information not reasonably likely to lead to the discovery of admissible evidence, including information related marks other than the Registrant's Mark and/or goods or services other than the Products, as defined in the Registrant's General Objections above.

30. Identify all other uses by Registrant of term "Sunkiss," alone or in combination with other elements.

RESPONSE TO INTERROGATORY NO. 30

The Registrant objects to Interrogatory No. 30 to the extent that it seeks information that is not relevant to the claims and defenses asserted in this proceeding and/or seeks information not reasonably likely to lead to the discovery of admissible evidence, including information related to marks other than the Registrant's Mark. The Registrant further objects to this interrogatory as duplicative of at least Interrogatory No. 28.

31. Identify all persons who have participated in any way in the preparation of the answer or responses to these Interrogatories. If more than one individual is identified, state

specifically, with reference to Interrogatory numbers, the areas of participation of each such person.

RESPONSE TO INTERROGATORY NO. 31

The Registrant objects to Interrogatory No. 31 as vague and ambiguous with respect to the term “participated in any way.” The Registrant will respond to this interrogatory to the extent that it seeks the identification of persons who participated in a meaningful or substantive manner, and not merely in a *de minimis* manner, such as forwarding of correspondence that the person did not write, read, or otherwise review. Subject to and without waiving the foregoing objections and its General Objections, the Registrant provides the following response.

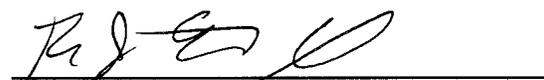
Mr. Ayotte participated in the preparation of the answer or responses to these Interrogatories.

These objections and responses are served by counsel for Registrant, Sunkiss

Thermoreactors, Inc.

Respectfully submitted,

August 10, 2015
Date



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Attorneys for Registrant

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Registrant's Objections and Responses to Petitioner's First Set of Interrogatories was served this date by first class mail, postage prepaid, and e-mail on the Petitioner's attorneys as follows:

Ms. Kristen A. Mogavero
Ms. Jess M. Collen
COLLEN IP INTELLECTUAL PROPERTY LAW PC
The Holyoke-Manhattan Building
80 South Highland Avenue
Ossining, New York 10562
kmogavero@collenip.com

August 10, 2015
Date


Rebecca J. Stempien Coyle

VERIFICATION

I, Daniel Ayotte, the Director of Sunkiss Thermoreactors, Inc., have read the foregoing Registrant's Objections and Responses to Petitioner's First Set of Interrogatories and know their contents. The statements are true and correct and are of my own personal knowledge, except for those matters stated to be upon information and belief, and as to those matters, I believe them to be true.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

August 12, 2018
Date



Daniel Ayotte
Director
Sunkiss Thermoreactors, Inc.

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

FINAM,)	
)	
Petitioner,)	
)	Cancellation No. 92/060,849
v.)	
)	Reg. No. 1,200,333
Sunkiss Thermoreactors, Inc.,)	
)	Mark: SUNKISS
Registrant.)	
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**REGISTRANT’S OBJECTIONS AND RESPONSES
TO PETITIONER’S FIRST SET OF REQUESTS
FOR THE PRODUCTION OF DOCUMENTS AND THINGS**

The Registrant, Sunkiss Thermoreactors, Inc. (“Registrant”), by and through counsel, responds to the Petitioner’s First Set of Requests for the Production of Documents and Things follows.

The Registrant’s responses are based upon information currently available to it. The Registrant’s investigation and discovery in this action are ongoing, and the Registrant reserves the right to supplement these responses in the event that additional information is obtained through such investigation or discovery.

Nothing contained in these answers is intended to be or should be construed to be an admission by the Registrant of the relevance or admissibility at trial or on any motion of any documents produced in response to the Petitioner’s requests.

GENERAL OBJECTIONS AND RESPONSES

The Registrant’s responses are made subject to, and without waiver of, the following general objections as well as any specific objection(s) stated for each request.

1. The Registrant objects to the Petitioner's document requests to the extent they seek information or documents related to any promotional materials, uses of trademarks or service marks, services, goods, contracts, or other agreements, in or under development, consideration, or negotiation. Such information or documents are neither relevant to any claims or defenses asserted in this proceeding nor reasonably likely to lead to the discovery of admissible evidence.

2. Where the Registrant has stated that it will respond and produce documents, such statements do not imply or constitute a representation that such documents are known to exist or do, in fact, exist. To the extent such documents are responsive, are located after a reasonably diligent search, and are not subject to any objection or privilege, they will be produced.

The Registrant's General Objections and Responses to Petitioner's First Set of Interrogatories, served contemporaneously herewith, are incorporated by reference and made a part hereof, as if fully stated herein.

SPECIFIC RESPONSES

The Registrant responds to the Petitioner's document requests as follows, subject to the General Objections stated above and in the Registrant's General Objections and Responses to Petitioner's First Set of Interrogatories.

1. All documents which refer to, relate to, or evidence the first use in interstate commerce of the SUNKISS mark by Registrant.

Response to Request No. 1

The Registrant objects to Document Request No. 1 to the extent that it is unduly burdensome and oppressive. The Registrant further objects to this document request to the extent that it seeks information and documents in the Petitioner's custody or control or that are

publicly available and therefore publicly accessible to the Petitioner. The Registrant further objects to this document request to the extent that it seeks information and documents that are not relevant to the claims and defenses asserted in this proceeding and/or seeks information not reasonably likely to lead to the discovery of admissible evidence, including information related to the “first use in interstate commerce of the SUNKISS mark by the Registrant.” The Petitioner has only alleged abandonment. The Registrant further objects to this document request to the extent that it suggests that “use in interstate commerce” is the only type of trademark use that is permitted under the Lanham Act for the acquisition of rights. The Registrant will respond to this document request to include “use in commerce,” as defined by 15 U.S.C. § 1127. The Registrant further objects to this document request as vague and ambiguous with respect to the term “SUNKISS mark.” The Registrant will respond to this document request applying the following definition, “the Registrant’s Mark,” to the term “SUNKISS mark.” The Registrant further objects to this request to the extent that it seeks documents or information that is not within the Registrant’s possession, custody or control. The Registrant did not acquire ownership of the Registration until 2009. Subject to these objections, the Registrant provides the following response.

The Registrant will provide responsive, non-privileged documents in its possession, custody and control located after a reasonable search.

2. Documents evidencing any corporations, companies, partnerships, joint ventures or like organizations, registered or unregistered, through which Registrant sells, advertises, and/or markets Products bearing the SUNKISS mark.

Response to Request No. 2

The Registrant objects to Document Request No. 2 to the extent that it seeks information and documents in the Petitioner's custody or control or that are publicly available and therefore publicly accessible to the Petitioner. The Registrant further objects to this document request as vague and ambiguous with respect to the terms "Products" and "SUNKISS mark." The Registrant will respond to this document request applying the following definition to the term "Products:" space heaters as identified in Registration No. 1,200,333. The Registrant will respond to this document request applying the following definition, "the Registrant's Mark," to the term "SUNKISS mark." The Registrant further objects to this document request as vague and ambiguous with respect to the terms "evidencing" and "through which." The Registrant further objects to this document request to the extent it calls for a legal conclusion. Subject to these objections, the Registrant provides the following response.

The Registrant will provide responsive, non-privileged documents in its possession, custody and control located after a reasonable search.

3. All documents relating to any application ever filed in the United States for federal or state registration of the SUNKISS mark.

Response to Request No. 3

The Registrant objects to Document Request No. 3 to the extent that it is unduly burdensome and oppressive. The Registrant further objects to this document request as vague and ambiguous with respect to the term "SUNKISS mark." The Registrant will respond to this document request applying the following definition, "the Registrant's Mark," to the term "SUNKISS mark." The Registrant further objects to this document request as vague and

ambiguous with respect to the term “relating to.” The Registrant further objects to this document request to the extent that it seeks information and documents that are not relevant to the claims and defenses asserted in this proceeding and/or seeks information not reasonably likely to lead to the discovery of admissible evidence, including information related to “any application ever filed in the United States for federal or state registration of the SUNKISS mark.” The Registrant will respond to this document request to the extent that it seeks documents “relating to” the application for the Registration. The Registrant further objects to this document request to the extent that it seeks information and documents in the Petitioner’s custody or control or that are publicly available and therefore publicly accessible to the Petitioner. The Registrant further objects to this document request to the extent it seeks information protected by the attorney-client privilege, work product doctrine and/or any other applicable privilege. The Registrant further objects to this request to the extent that it seeks documents or information that is not within the Registrant’s possession, custody or control. The Registrant did not acquire ownership of the Registration until 2009. Subject to these objections, the Registrant provides the following response.

The Registrant will provide responsive, non-privileged documents in its possession, custody and control located after a reasonable search.

4. All documents and other evidence which would support a claim that Registrant has continuously used the SUNKISS mark in commerce on the goods and services listed in the Registration since 1983.

Response to Request No. 4

The Registrant objects to Document Request No. 4 to the extent that it is unduly burdensome and oppressive. The Registrant further objects to this document request to the extent that it seeks information and documents in the Petitioner's custody or control or that are publicly available and therefore publicly accessible to the Petitioner. The Registrant further objects to this document request as vague and ambiguous with respect to the term "SUNKISS mark." The Registrant will respond to this document request applying the following definition, "the Registrant's Mark," to the term "SUNKISS mark." The Registrant further objects to this document request to the extent that it calls for a legal conclusion. The Registrant further objects to this document request to the extent that its request for the production of documents to "support a claim that Registrant has continuously used the SUNKISS mark in commerce on the goods and services listed in the Registration since 1983" includes any goods or services no longer active or identified in the Registration. The Registrant will respond to this document request to the extent that it is requesting documents in relation to goods and services currently listed in the Registration. The Registrant further objects to this request to the extent that it seeks documents or information that is not within the Registrant's possession, custody or control. The Registrant did not acquire ownership of the Registration until 2009. Subject to these objections, the Registrant provides the following response.

The Registrant will provide responsive, non-privileged documents in its possession, custody and control located after a reasonable search.

5. Documents relating to the manufacturing or developing of Products to be used with the SUNKISS mark in the United States.

Response to Request No. 5

The Registrant objects to Document Request No. 5 to the extent that it is unduly burdensome and oppressive. The Registrant further objects to this document request as vague and ambiguous with respect to the terms “Products” and “SUNKISS mark.” The Registrant will respond to this document request applying the following definition to the term “Products:” space heaters as identified in Registration No. 1,200,333. The Registrant will respond to this document request applying the following definition, “the Registrant’s Mark,” to the term “SUNKISS mark.” The Registrant further objects to this document request as vague and ambiguous with respect to the term “developing.” The Registrant further objects to this document request to the extent that it seeks documents or information that contains or otherwise reveals any trade secrets or other proprietary business or financial information. Such documents or information will be provided pursuant to the terms of the Protective Order entered by the Board in this proceeding on August 6, 2015. Subject to these objections, the Registrant provides the following response.

The Registrant will provide responsive, non-privileged documents in its possession, custody and control located after a reasonable search.

6. All licenses, agreements, consents or other documents concerning use of the SUNKISS mark in the United States.

Response to Request No. 6

The Registrant objects to Document Request No. 6 to the extent that it is unduly burdensome and oppressive. The Registrant further objects to this document request as vague and ambiguous with respect to the term “SUNKISS mark.” The Registrant will respond to this document request applying the following definition, “the Registrant’s Mark,” to the term

“SUNKISS mark.” The Registrant further objects to this document request as duplicative of at least Document Request Nos. 2 and 4. The Registrant further objects to this document request to the extent that it seeks documents or information that contains or otherwise reveals any trade secrets or other proprietary business or financial information. Such documents or information will be provided pursuant to the terms of the Protective Order entered by the Board in this proceeding on August 6, 2015. The Registrant further objects to this request to the extent that it seeks documents or information that is not within the Registrant’s possession, custody or control. The Registrant did not acquire ownership of the Registration until 2009. Subject to these objections, the Registrant provides the following response.

The Registrant will provide responsive, non-privileged documents in its possession, custody and control located after a reasonable search.

7. All documents concerning third-party use of the SUNKISS mark, whether authorized or unauthorized, in the United States.

Response to Request No. 7

The Registrant objects to Document Request No. 7 to the extent that it is unduly burdensome and oppressive. The Registrant further objects to this document request to the extent that it seeks information and documents in the Petitioner’s custody or control or that are publicly available and therefore publicly accessible to the Petitioner. The Registrant further objects to this document request as vague and ambiguous with respect to the term “SUNKISS mark.” The Registrant will respond to this document request applying the following definition, “the Registrant’s Mark,” to the term “SUNKISS mark.” The Registrant further objects to this document request as duplicative of at least Document Request Nos. 2, 4, and 6. The Registrant

further objects to this document request to the extent that it seeks documents or information that contains or otherwise reveals any trade secrets or other proprietary business or financial information. Such documents or information will be provided pursuant to the terms of the Protective Order entered by the Board in this proceeding on August 6, 2015. The Registrant further objects to this request to the extent that it seeks documents or information that is not within the Registrant's possession, custody or control. The Registrant did not acquire ownership of the Registration until 2009. Subject to these objections, the Registrant provides the following response.

The Registrant will provide responsive, non-privileged documents in its possession, custody and control located after a reasonable search.

8. All licenses, assignments, consents or other agreements which reference the SUNKISS mark, whether or not Registrant is a party.

Response to Request No. 8

The Registrant objects to Document Request No. 8 to the extent that it is unduly burdensome and oppressive. The Registrant further objects to this document request as vague and ambiguous with respect to the terms "SUNKISS mark." The Registrant will respond to this document request applying the following definition, "the Registrant's Mark," to the term "SUNKISS mark." The Registrant further objects to this document request as duplicative of at least Document Request Nos. 2, 4, 6, and 7. The Registrant further objects to this document request to the extent that it is unduly burdensome and oppressive in seeking the identification of or production of documents regardless of "whether or not Registrant is a party." The Registrant further objects to this document request to the extent that it seeks information or documents that

are not within the Registrant's possession, custody, or control. The Registrant did not acquire ownership of the Registration until 2009. The Registrant will respond to this document request to the extent that it seeks "licenses, assignments, consents or other agreements which reference the" Registrant's Mark which are within the Registrant's possession, custody, or control. The Registrant further objects to this document request to the extent that it seeks documents or information that contains or otherwise reveals any trade secrets or other proprietary business or financial information. Such documents or information will be provided pursuant to the terms of the Protective Order entered by the Board in this proceeding on August 6, 2015. Subject to these objections, the Registrant provides the following response.

The Registrant will provide responsive, non-privileged documents in its possession, custody and control located after a reasonable search.

9. All documents pertaining to, evidencing, or referencing the ownership of the SUNKISS mark in the United States.

Response to Request No. 9

The Registrant objects to Document Request No. 9 to the extent that it is unduly burdensome and oppressive. The Registrant further objects to this document request to the extent that it seeks information and documents in the Petitioner's custody or control or that are publicly available and therefore publicly accessible to the Petitioner. The Registrant further objects to this document request as vague and ambiguous with respect to the term "SUNKISS mark." The Registrant will respond to this document request applying the following definition, "the Registrant's Mark," to the term "SUNKISS mark." The Registrant further objects to this document request as duplicative of at least Document Request Nos. 2, 4, 6, 7, and 8. The

Registrant further objects to this document request to the extent that it seeks information or documents that are not within the Registrant's possession, custody, or control. The Registrant did not acquire ownership of the Registration until 2009. The Registrant further objects to this document request to the extent that it seeks documents or information that contains or otherwise reveals any trade secrets or other proprietary business or financial information. Such documents or information will be provided pursuant to the terms of the Protective Order entered by the Board in this proceeding on August 6, 2015. Subject to these objections, the Registrant provides the following response. The Registrant further objects to this document request to the extent that it seeks documents or information that contains or otherwise reveals any trade secrets or other proprietary business or financial information. Such documents or information will be provided pursuant to the terms of the Protective Order entered by the Board in this proceeding on August 6, 2015. The Registrant further objects to this document request to the extent it seeks information protected by the attorney-client privilege, work product doctrine, and/or any other applicable privilege. Subject to these objections, the Registrant provides the following response.

The Registrant will provide responsive, non-privileged documents in its possession, custody and control located after a reasonable search.

10. All licenses, agreements, consents or other documents concerning, referencing, or evidencing Ayotte Techno-Gaz's use of the SUNKISS mark in the United States.

Response to Request No. 10

The Registrant objects to Document Request No. 10 as vague and ambiguous with respect to the term "SUNKISS mark." The Registrant will respond to this document request applying the following definition, "the Registrant's Mark," to the term "SUNKISS mark." The

Registrant further objects to this document request as duplicative of at least Document Request Nos. 2, 4, and 6 through 9. The Registrant further objects to this document request to the extent that it seeks information or documents that are not within the Registrant's possession, custody, or control. The Registrant further objects to this document request to the extent that it seeks documents or information that contains or otherwise reveals any trade secrets or other proprietary business or financial information. Such documents or information will be provided pursuant to the terms of the Protective Order entered by the Board in this proceeding on August 6, 2015. Subject to these objections, the Registrant provides the following response.

The Registrant will provide responsive, non-privileged documents in its possession, custody and control located after a reasonable search.

11. All licenses, agreements, consents, or other documents concerning Ayotte Techno-Gaz's manufacturing of goods to be sold under the SUNKISS mark in the United States.

Response to Request No. 11

The Registrant objects to Document Request No. 11 as vague and ambiguous with respect to the term "SUNKISS mark." The Registrant will respond to this document request applying the following definition, "the Registrant's Mark," to the term "SUNKISS mark." The Registrant further objects to this document request as duplicative of at least Document Request Nos. 2, 4, and 6 through 9. The Registrant further objects to this document request to the extent that it seeks information or documents that are not within the Registrant's possession, custody, or control. The Registrant further objects to this document request to the extent that it seeks documents or information that contains or otherwise reveals any trade secrets or other proprietary business or financial information. Such documents or information will be provided

pursuant to the terms of the Protective Order entered by the Board in this proceeding on August 6, 2015. Subject to these objections, the Registrant provides the following response.

The Registrant will provide responsive, non-privileged documents in its possession, custody and control located after a reasonable search.

12. All licenses, agreements, consents, or other documents concerning Ayotte Techno-Gaz's procurement of goods to be sold under the SUNKISS mark in the United States.

Response to Request No. 12

The Registrant objects to Document Request No. 12 as vague and ambiguous with respect to the term "SUNKISS mark." The Registrant will respond to this document request applying the following definition, "the Registrant's Mark," to the term "SUNKISS mark." The Registrant further objects to this document request as duplicative of at least Document Request Nos. 2, 4, and 6 through 9. The Registrant further objects to this document request to the extent that it seeks information or documents that are not within the Registrant's possession, custody, or control. The Registrant further objects to this document request to the extent that it seeks documents or information that contains or otherwise reveals any trade secrets or other proprietary business or financial information. Such documents or information will be provided pursuant to the terms of the Protective Order entered by the Board in this proceeding on August 6, 2015. Subject to these objections, the Registrant provides the following response.

The Registrant will provide responsive, non-privileged documents in its possession, custody and control located after a reasonable search.

13. All licenses, agreements, consents or other documents concerning American Industrial Oven's use of the SUNKISS mark in the United States.

Response to Request No. 13

The Registrant objects to Document Request No. 13 as vague and ambiguous with respect to the term "SUNKISS mark." The Registrant will respond to this document request applying the following definition, "the Registrant's Mark," to the term "SUNKISS mark." The Registrant further objects to this document request as duplicative of at least Document Request Nos. 2, 4, and 6 through 9. The Registrant further objects to this document request to the extent that it seeks information or documents that are not within the Registrant's possession, custody, or control. The Registrant further objects to this document request to the extent that it seeks documents or information that contains or otherwise reveals any trade secrets or other proprietary business or financial information. Such documents or information will be provided pursuant to the terms of the Protective Order entered by the Board in this proceeding on August 6, 2015. Subject to these objections, the Registrant provides the following response.

The Registrant will provide responsive, non-privileged documents in its possession, custody and control located after a reasonable search.

14. All licenses, agreements, consents, or other documents concerning American Industrial Oven's manufacturing of goods to be sold under the SUNKISS mark in the United States.

Response to Request No. 14

The Registrant objects to Document Request No. 14 as vague and ambiguous with respect to the term "SUNKISS mark." The Registrant will respond to this document request

applying the following definition, “the Registrant’s Mark,” to the term “SUNKISS mark.” The Registrant further objects to this document request as duplicative of at least Document Request Nos. 2, 4, and 6 through 9. The Registrant further objects to this document request to the extent that it seeks information or documents that are not within the Registrant’s possession, custody, or control. The Registrant further objects to this document request to the extent that it seeks documents or information that contains or otherwise reveals any trade secrets or other proprietary business or financial information. Such documents or information will be provided pursuant to the terms of the Protective Order entered by the Board in this proceeding on August 6, 2015. Subject to these objections, the Registrant provides the following response.

The Registrant does not possess any responsive documents.

15. All licenses, agreements, consents, or other documents concerning American Industrial Oven’s procurement of goods to be sold under the SUNKISS mark in the United States.

Response to Request No. 15

The Registrant objects to Document Request No. 15 as vague and ambiguous with respect to the term “SUNKISS mark.” The Registrant will respond to this document request applying the following definition, “the Registrant’s Mark,” to the term “SUNKISS mark.” The Registrant further objects to this document request as duplicative of at least Document Request Nos. 2, 4, and 6 through 9. The Registrant further objects to this document request to the extent that it seeks information or documents that are not within the Registrant’s possession, custody, or control. The Registrant further objects to this document request to the extent that it seeks documents or information that contains or otherwise reveals any trade secrets or other

proprietary business or financial information. Such documents or information will be provided pursuant to the terms of the Protective Order entered by the Board in this proceeding on August 6, 2015. Subject to these objections, the Registrant provides the following response.

The Registrant does not possess any responsive documents.

16. All documents pertaining to, evidencing, or referencing the trademark rights of Sunkiss Societe Par Actions Simpliffee (“Sunkiss SAS”) in the SUNKISS mark.

Response to Request No. 16

The Registrant objects to Document Request No. 16 as vague and ambiguous with respect to the term “SUNKISS mark.” The Registrant will respond to this document request applying the following definition, “the Registrant’s Mark,” to the term “SUNKISS mark.” The Registrant further objects to this document request as duplicative of at least Document Request Nos. 2, 4, and 6 through 9. The Registrant further objects to this document request to the extent that it seeks information or documents that are not within the Registrant’s possession, custody, or control. The Registrant further objects to this document request to the extent that it seeks documents or information that contains or otherwise reveals any trade secrets or other proprietary business or financial information. Such documents or information will be provided pursuant to the terms of the Protective Order entered by the Board in this proceeding on August 6, 2015. The Registrant further objects to this document request to the extent it seeks information protected by the attorney-client privilege, work product doctrine and/or any other applicable privilege. Subject to these objections, the Registrant provides the following response.

The Registrant will provide responsive, non-privileged documents in its possession, custody and control located after a reasonable search.

17. All assignments, licenses, consents or other agreements to which Sunkiss SAS and Registrant are parties.

Response to Request No. 17

The Registrant objects to Document Request No. 17 as duplicative of at least Document Request Nos. 2, 4, and 6 through 9. The Registrant further objects to this document request to the extent that it seeks information and documents that are not relevant to the claims and defenses asserted in this proceeding and/or seeks information not reasonably likely to lead to the discovery of admissible evidence, including information related to any “assignments, licenses, consents, or other agreements” which are not directed to include the Registrant’s Mark. The Registrant further objects to this document request to the extent that it seeks documents or information that contains or otherwise reveals any trade secrets or other proprietary business or financial information. Such documents or information will be provided pursuant to the terms of the Protective Order entered by the Board in this proceeding on August 6, 2015. Subject to these objections, the Registrant provides the following response.

The Registrant will provide responsive, non-privileged documents in its possession, custody and control located after a reasonable search.

18. All assignments, licenses, consents or other agreements to which Sunkiss SAS and Registrant are parties and which reference the intellectual property rights (including but not limited to trademark rights) of one or both parties.

Response to Request No. 18

The Registrant objects to Document Request No. 18 as duplicative of at least Document Request Nos. 2, 4, and 6 through 9. The Registrant further objects to this document request to

the extent that it seeks information and documents that are not relevant to the claims and defenses asserted in this proceeding and/or seeks information not reasonably likely to lead to the discovery of admissible evidence, including information related to any “assignments, licenses, consents, or other agreements” which are not directed to include the Registrant’s Mark. The Registrant further objects to this document request to the extent that it seeks documents or information that contains or otherwise reveals any trade secrets or other proprietary business or financial information. Such documents or information will be provided pursuant to the terms of the Protective Order entered by the Board in this proceeding on August 6, 2015. Subject to these objections, the Registrant provides the following response.

The Registrant will provide responsive, non-privileged documents in its possession, custody and control located after a reasonable search.

19. All documents pertaining to, evidencing, or referencing the trademark rights of Ayotte Techno-Gaz Inc. in the SUNKISS mark.

Response to Request No. 19

The Registrant objects to Document Request No. 19 as vague and ambiguous with respect to the term “SUNKISS mark.” The Registrant will respond to this document request applying the following definition, “the Registrant’s Mark,” to the term “SUNKISS mark.” The Registrant further objects to this document request as duplicative of at least Document Request Nos. 2, 4, 6 through 12. The Registrant further objects to this document request to the extent that it seeks information or documents that are not within the Registrant’s possession, custody, or control. The Registrant further objects to this document request to the extent that it seeks documents or information that contains or otherwise reveals any trade secrets or other

proprietary business or financial information. Such documents or information will be provided pursuant to the terms of the Protective Order entered by the Board in this proceeding on August 6, 2015. The Registrant further objects to this document request to the extent it seeks information protected by the attorney-client privilege, work product doctrine and/or any other applicable privilege. Subject to these objections, the Registrant provides the following response.

The Registrant will provide responsive, non-privileged documents in its possession, custody and control located after a reasonable search.

20. All assignments, licenses, consents or other agreements to which Ayotte Techno-Gaz Inc. and Registrant are parties.

Response to Request No. 20

The Registrant objects to Document Request No. 20 as duplicative of at least Document Request Nos. 2, 4, 6 through 12, and 19. The Registrant further objects to this document request to the extent that it seeks information and documents that are not relevant to the claims and defenses asserted in this proceeding and/or seeks information not reasonably likely to lead to the discovery of admissible evidence, including information related to any “assignments, licenses, consents, or other agreements” which are not directed to include the Registrant’s Mark. The Registrant further objects to this document request to the extent that it seeks documents or information that contains or otherwise reveals any trade secrets or other proprietary business or financial information. Such documents or information will be provided pursuant to the terms of the Protective Order entered by the Board in this proceeding on August 6, 2015. Subject to these objections, the Registrant provides the following response.

The Registrant will provide responsive, non-privileged documents in its possession, custody and control located after a reasonable search.

21. All assignments, licenses, consents or other agreements to which Registrant and Ayotte Techno-Gaz Inc. are parties and which reference the intellectual property rights (including but not limited to trademark rights) of one or both parties.

Response to Request No. 21

The Registrant objects to Document Request No. 21 as duplicative of at least Document Request Nos. 2, 4, 6 through 12, and 19 through 20. The Registrant further objects to this document request to the extent that it seeks information and documents that are not relevant to the claims and defenses asserted in this proceeding and/or seeks information not reasonably likely to lead to the discovery of admissible evidence, including information related to any “assignments, licenses, consents, or other agreements” which are not directed to include the Registrant’s Mark. The Registrant further objects to this document request to the extent that it seeks documents or information that contains or otherwise reveals any trade secrets or other proprietary business or financial information. Such documents or information will be provided pursuant to the terms of the Protective Order entered by the Board in this proceeding on August 6, 2015. Subject to these objections, the Registrant provides the following response.

The Registrant will provide responsive, non-privileged documents in its possession, custody and control located after a reasonable search.

22. All documents pertaining to, evidencing, or referencing the trademark rights of American Industrial Ovens. in the SUNKISS mark.

Response to Request No. 22

The Registrant objects to Document Request No. 22 as vague and ambiguous with respect to the terms “SUNKISS mark.” The Registrant will respond to this document request applying the following definition, “the Registrant’s Mark,” to the term “SUNKISS mark.” The Registrant further objects to this document request as duplicative of at least Document Request Nos. 2, 4, 6 through 9, and 13 through 15. The Registrant further objects to this document request to the extent that it seeks documents or information that contains or otherwise reveals any trade secrets or other proprietary business or financial information. Such documents or information will be provided pursuant to the terms of the Protective Order entered by the Board in this proceeding on August 6, 2015. Subject to these objections, the Registrant provides the following response.

The Registrant does not possess any responsive documents.

23. All assignments, licenses, consents or other agreements to which American Industrial Ovens. and Registrant are parties.

Response to Request No. 23

The Registrant objects to Document Request No. 23 as duplicative of at least Document Request Nos. 2, 4, 6 through 9, 13 through 15, and 22. The Registrant further objects to this document request to the extent that it seeks information and documents that are not relevant to the claims and defenses asserted in this proceeding and/or seeks information not reasonably likely to lead to the discovery of admissible evidence, including information related to any “assignments, licenses, consents, or other agreements” which are not directed to include the Registrant’s Mark. The Registrant further objects to this document request to the extent that it

seeks documents or information that contains or otherwise reveals any trade secrets or other proprietary business or financial information. Such documents or information will be provided pursuant to the terms of the Protective Order entered by the Board in this proceeding on August 6, 2015. Subject to these objections, the Registrant provides the following response.

The Registrant does not possess any responsive documents.

24. All assignments, licenses, consents or other agreements to which Registrant and American Industrial Ovens are parties and which reference the intellectual property rights (including but not limited to trademark rights) of one or both parties.

Response to Request No. 24

The Registrant objects to Document Request No. 24 as duplicative of at least Document Request Nos. 2, 4, 6 through 9, 13 through 15, and 22 through 23. The Registrant further objects to this document request to the extent that it seeks information and documents that are not relevant to the claims and defenses asserted in this proceeding and/or seeks information not reasonably likely to lead to the discovery of admissible evidence, including information related to any “assignments, licenses, consents, or other agreements” which are not directed to include the Registrant’s Mark. The Registrant further objects to this document request to the extent that it seeks documents or information that contains or otherwise reveals any trade secrets or other proprietary business or financial information. Such documents or information will be provided pursuant to the terms of the Protective Order entered by the Board in this proceeding on August 6, 2015. Subject to these objections, the Registrant provides the following response.

The Registrant does not possess any responsive documents.

25. All documents evidencing each Product with which the SUNKISS mark is used in the United States by Registrant.

Response to Request No. 25

The Registrant objects to Document Request No. 25 as vague and ambiguous with respect to the terms “Product” and “SUNKISS mark.” The Registrant will respond to this document request applying the following definition to the term “Products:” space heaters as identified in Registration No. 1,200,333. The Registrant will respond to this document request applying the following definition, “the Registrant’s Mark,” to the term “SUNKISS mark.” The Registrant further objects to this document request as duplicative of at least Document Request Nos. 1 and 4. Subject to these objections, the Registrant provides the following response.

The Registrant will provide responsive, non-privileged documents in its possession, custody and control located after a reasonable search.

26. All documents evidencing each Product with which the SUNKISS mark is used in the United States by Ayotte Techno-Gax [sic].

Response to Request No. 26

The Registrant objects to Document Request No. 26 as vague and ambiguous with respect to the terms “Product” and “SUNKISS mark.” The Registrant will respond to this document request applying the following definition to the term “Products:” space heaters as identified in Registration No. 1,200,333. The Registrant will respond to this document request applying the following definition, “the Registrant’s Mark,” to the term “SUNKISS mark.” The Registrant further objects to this document request as duplicative of at least Document Request

Nos. 10 through 12, 19 through 21, and 25. Subject to these objections, the Registrant provides the following response.

The Registrant will provide responsive, non-privileged documents in its possession, custody and control located after a reasonable search.

27. All documents evidencing each Product with which the SUNKISS mark is used in the United States by American Industrial Ovens.

Response to Request No. 27

The Registrant objects to Document Request No. 27 as vague and ambiguous with respect to the terms “Product” and “SUNKISS mark.” The Registrant will respond to this document request applying the following definition to the term “Products:” space heaters as identified in Registration No. 1,200,333. The Registrant will respond to this document request applying the following definition, “the Registrant’s Mark,” to the term “SUNKISS mark.” The Registrant further objects to this document request as duplicative of at least Document Request Nos. 13 through 15, and 22 through 25. Subject to these objections, the Registrant provides the following response.

The Registrant will provide responsive, non-privileged documents in its possession, custody and control located after a reasonable search.

28. Samples of actual Products sold in the United States under the SUNKISS mark, with the mark clearly affixed in the ordinary manner in which the mark is affixed to goods for sale by Registrant, in the ordinary course of business.

Response to Request No. 28

The Registrant objects to Document Request No. 28 as vague and ambiguous with respect to the terms “Product” and “SUNKISS mark.” The Registrant will respond to this document request applying the following definition to the term “Products:” space heaters as identified in Registration No. 1,200,333. The Registrant will respond to this document request applying the following definition, “the Registrant’s Mark,” to the term “SUNKISS mark.” The Registrant further objects to this document request as duplicative of at least Document Request No. 25. The Registrant further objects to this document request to the extent that it is unduly burdensome and oppressive in seeking “samples of actual Products.” Subject to these objections, the Registrant provides the following response.

The Registrant will produce photographs showing “actual Products sold in the United States under the” Registrant’s Mark in the ordinary course of business. The Registrant will make samples of “actual Products” available for inspection at a mutually convenient time for the Parties at the location where the Products are kept during the ordinary course of business.

29. Samples of actual Products sold in the United States under the SUNKISS mark, with the mark clearly affixed in the ordinary manner in which the mark is affixed to goods for sale by Ayotte Techno-Gaz , in the ordinary course of business.

Response to Request No. 29

The Registrant objects to Document Request No. 29 as vague and ambiguous with respect to the terms “Product” and “SUNKISS mark.” The Registrant will respond to this document request applying the following definition to the term “Products:” space heaters as

identified in Registration No. 1,200,333. The Registrant will respond to this document request applying the following definition, “the Registrant’s Mark,” to the term “SUNKISS mark.” The Registrant further objects to this document request as duplicative of at least Document Request Nos. 25 and 26. The Registrant further objects to this document request to the extent that it is unduly burdensome and oppressive in seeking “samples of actual Products.” Subject to these objections, the Registrant provides the following response.

The Registrant will produce photographs showing “actual Products sold in the United States under the” Registrant’s Mark in the ordinary course of business. The Registrant will make samples of “actual Products” available for inspection at a mutually convenient time for the Parties at the location where the Products are kept during the ordinary course of business.

30. Samples of actual Products sold in the United States under the SUNKISS mark, with the mark clearly affixed in the ordinary manner in which the mark is affixed to goods for sale by American Industrial Ovens, in the ordinary course of business.

Response to Request No. 30

The Registrant objects to Document Request No. 30 as vague and ambiguous with respect to the terms “Product” and “SUNKISS mark.” The Registrant will respond to this document request applying the following definition to the term “Products:” space heaters as identified in Registration No. 1,200,333. The Registrant will respond to this document request applying the following definition, “the Registrant’s Mark,” to the term “SUNKISS mark.” The Registrant further objects to this document request as duplicative of at least Document Request Nos. 25 and 27. The Registrant further objects to this document request to the extent that it is unduly

burdensome and oppressive in seeking “samples of actual Products.” Subject to these objections, the Registrant provides the following response.

The Registrant will produce photographs showing “actual Products sold in the United States under the” Registrant’s Mark in the ordinary course of business. The Registrant will make samples of “actual Products” available for inspection at a mutually convenient time for the Parties at the location where the Products are kept during the ordinary course of business.

31. Any tags or labels used by Registrant in connection with the sale of Products under the SUNKISS mark in the United States.

Response to Request No. 31

The Registrant objects to Document Request No. 31 as vague and ambiguous with respect to the terms “Product” and “SUNKISS mark.” The Registrant will respond to this document request applying the following definition to the term “Products:” space heaters as identified in Registration No. 1,200,333. The Registrant will respond to this document request applying the following definition, “the Registrant’s Mark,” to the term “SUNKISS mark.” The Registrant further objects to this document request as duplicative of at least Document Request Nos. 25 through 30. The Registrant further objects to this document request to the extent that it is unduly burdensome and oppressive in seeking “any tags or labels.” Subject to these objections, the Registrant provides the following response.

The Registrant will produce photographs or facsimiles showing “any tags or labels used by Registrant in connection with the sale of Products under the” Registrant’s Mark in the United States. The Registrant will make samples of “tags or labels” available for inspection at a

mutually convenient time for the Parties at the location where the tags or labels are kept during the ordinary course of business.

32. A sample of the complete packaging in which each and every Product sold or distributed by Registrant in the United States under the SUNKISS mark is:
- a. shipped from Registrant, or others authorized by Registrant, to customers;
 - b. displayed at the point of sale to the ultimate users; and/or
 - c. contained when sold or distributed to the ultimate users.

Response to Request No. 32

The Registrant objects to Document Request No. 32 as vague and ambiguous with respect to the terms “Product” and “SUNKISS mark.” The Registrant will respond to this document request applying the following definition to the term “Products:” space heaters as identified in Registration No. 1,200,333. The Registrant will respond to this document request applying the following definition, “the Registrant’s Mark,” to the term “SUNKISS mark.” The Registrant further objects to this document request as duplicative of at least Document Request Nos. 25 through 31. The Registrant further objects to this document request to the extent that it is unduly burdensome and oppressive in seeking “complete packaging.” Subject to these objections, the Registrant provides the following response.

The Registrant will produce photographs showing “sample[s] of the complete packaging.” The Registrant will make samples of “complete packaging” available for inspection at a mutually convenient time for the Parties at the location where the complete packaging are kept during the ordinary course of business.

33. Representative invoices evidencing Registrant's yearly sales (in dollars) in the United States, of Products bearing the SUNKISS mark.

Response to Request No. 33

The Registrant objects to Document Request No. 33 as vague and ambiguous with respect to the terms "Product" and "SUNKISS mark." The Registrant will respond to this document request applying the following definition to the term "Products:" space heaters as identified in Registration No. 1,200,333. The Registrant will respond to this document request applying the following definition, "the Registrant's Mark," to the term "SUNKISS mark." The Registrant further objects to this document request to the extent that it is unduly burdensome and oppressive in seeking the identification of or production of documents "representative invoices evidencing Registrant's yearly sales (in dollars)." The Registrant further objects to this document request to the extent that it seeks documents or information that contains or otherwise reveals any trade secrets or other proprietary business or financial information. Such documents or information will be provided pursuant to the terms of the Protective Order entered by the Board in this proceeding on August 6, 2015. Subject to these objections, the Registrant provides the following response.

The Registrant will provide responsive, non-privileged documents in its possession, custody and control located after a reasonable search.

34. Representative documents identifying the number of Products bearing the SUNKISS mark sold by Registrant in the United States.

Response to Request No. 34

The Registrant objects to Document Request No. 34 as vague and ambiguous with respect to the terms “Product” and “SUNKISS mark.” The Registrant will respond to this document request applying the following definition to the term “Products:” space heaters as identified in Registration No. 1,200,333. The Registrant will respond to this document request applying the following definition, “the Registrant’s Mark,” to the term “SUNKISS mark.” The Registrant further objects to this document request as duplicative of at least Document Request No. 33. The Registrant further objects to this document request to the extent that it seeks documents or information that contains or otherwise reveals any trade secrets or other proprietary business or financial information. Such documents or information will be provided pursuant to the terms of the Protective Order entered by the Board in this proceeding on August 6, 2015. Subject to these objections, the Registrant provides the following response.

The Registrant will provide responsive, non-privileged documents in its possession, custody and control located after a reasonable search.

35. Representative documents identifying the number of Products bearing the SUNKISS mark sold by Ayotte Techno-Gaz in the United States.

Response to Request No. 35

The Registrant objects to Document Request No. 35 as vague and ambiguous with respect to the terms “Product” and “SUNKISS mark.” The Registrant will respond to this document request applying the following definition to the term “Products:” space heaters as identified in Registration No. 1,200,333. The Registrant will respond to this document request applying the

following definition, “the Registrant’s Mark,” to the term “SUNKISS mark.” The Registrant further objects to this document request as duplicative of at least Document Request Nos. 33 and 34. The Registrant further objects to this document request to the extent that it seeks documents or information that contains or otherwise reveals any trade secrets or other proprietary business or financial information. Such documents or information will be provided pursuant to the terms of the Protective Order entered by the Board in this proceeding on August 6, 2015. Subject to these objections, the Registrant provides the following response.

The Registrant will provide responsive, non-privileged documents in its possession, custody and control located after a reasonable search.

36. Representative documents identifying the number of Products bearing the SUNKISS mark sold by American Industrial Ovens in the United States.

Response to Request No. 36

The Registrant objects to Document Request No. 36 as vague and ambiguous with respect to the terms “Product” and “SUNKISS mark.” The Registrant will respond to this document request applying the following definition to the term “Products:” space heaters as identified in Registration No. 1,200,333. The Registrant will respond to this document request applying the following definition, “the Registrant’s Mark,” to the term “SUNKISS mark.” The Registrant further objects to this document request as duplicative of at least Document Request Nos. 33 and 34. The Registrant further objects to this document request to the extent that it seeks documents or information that contains or otherwise reveals any trade secrets or other proprietary business or financial information. Such documents or information will be provided

pursuant to the terms of the Protective Order entered by the Board in this proceeding on August 6, 2015. Subject to these objections, the Registrant provides the following response.

The Registrant will provide responsive, non-privileged documents in its possession, custody and control located after a reasonable search.

37. Representative documents identifying the number of Products bearing the SUNKISS mark sold by other third-parties authorized by Registrant in the United States.

Response to Request No. 37

The Registrant objects to Document Request No. 37 as vague and ambiguous with respect to the terms “Product,” “SUNKISS mark,” and “other third-parties.” The Registrant will respond to this document request applying the following definition to the term “Products:” space heaters as identified in Registration No. 1,200,333. The Registrant will respond to this document request applying the following definition, “the Registrant’s Mark,” to the term “SUNKISS mark.” The Registrant will respond to this document request applying the following definition, “third-parties other than Ayotte Techno-Gaz and American Industrial Ovens,” to the term “other third-parties.” The Registrant further objects to this document request as duplicative of at least Document Request Nos. 33 and 34. The Registrant further objects to this document request to the extent that it seeks documents or information that contains or otherwise reveals any trade secrets or other proprietary business or financial information. Such documents or information will be provided pursuant to the terms of the Protective Order entered by the Board in this proceeding on August 6, 2015. Subject to these objections, the Registrant provides the following response.

The Registrant does not possess any responsive documents.

38. Representative documents identifying Products bearing the SUNKISS mark that are, or were, sold or advertised by Registrant in the United States.

Response to Request No. 38

The Registrant objects to Document Request No. 38 as vague and ambiguous with respect to the terms “Product” and “SUNKISS mark.” The Registrant will respond to this document request applying the following definition to the term “Products:” space heaters as identified in Registration No. 1,200,333. The Registrant will respond to this document request applying the following definition, “the Registrant’s Mark,” to the term “SUNKISS mark.” The Registrant further objects to this document request as duplicative of at least Document Request Nos. 5 through 32. The Registrant further objects to this document request to the extent that it seeks documents or information that is not relevant to the claims and defenses asserted in this proceeding and/or seeks documents or information not reasonably likely to lead to the discovery of admissible evidence, including information related to products or goods that are not space heaters as identified in U.S. Registration No. 1,200,333. The Registrant further objects to this document request to the extent that it seeks documents or information that contains or otherwise reveals any trade secrets or other proprietary business or financial information. Such documents or information will be provided pursuant to the terms of the Protective Order entered by the Board in this proceeding on August 6, 2015. Subject to these objections, the Registrant provides the following response.

The Registrant will provide responsive, non-privileged documents in its possession, custody and control located after a reasonable search.

39. Representative documents identifying Products bearing the SUNKISS mark that are, or were, sold or advertised by others authorized by or acting in conjunction with Registrant in the United States.

Response to Request No. 39

The Registrant objects to Document Request No. 39 as vague and ambiguous with respect to the terms “Product” and “SUNKISS mark.” The Registrant will respond to this document request applying the following definition to the term “Products:” space heaters as identified in Registration No. 1,200,333. The Registrant will respond to this document request applying the following definition, “the Registrant’s Mark,” to the term “SUNKISS mark.” The Registrant further objects to this document request as duplicative of at least Document Request Nos. 25 through 32 and 38. The Registrant further objects to this document request to the extent that it seeks documents or information that is not relevant to the claims and defenses asserted in this proceeding and/or seeks documents or information not reasonably likely to lead to the discovery of admissible evidence, including information related to products or goods that are not space heaters as identified in U.S. Registration No. 1,200,333. The Registrant further objects to this document request to the extent that it seeks documents or information that contains or otherwise reveals any trade secrets or other proprietary business or financial information. Such documents or information will be provided pursuant to the terms of the Protective Order entered by the Board in this proceeding on August 6, 2015. Subject to these objections, the Registrant provides the following response.

The Registrant will provide responsive, non-privileged documents in its possession, custody and control located after a reasonable search.

40. All documents identifying Products Registrant, or others authorized by or acting in conjunction with Registrant, plans to sell, market or develop in the United States under the SUNKISS mark in the future.

Response to Request No. 40

The Registrant objects to Document Request No. 40 as vague and ambiguous with respect to the terms “Product” and “SUNKISS mark.” The Registrant will respond to this document request applying the following definition to the term “Products:” space heaters as identified in Registration No. 1,200,333. The Registrant will respond to this document request applying the following definition, “the Registrant’s Mark,” to the term “SUNKISS mark.” The Registrant further objects to this document request as it seeks information and documents that are not relevant to the claims and defenses asserted in this proceeding and/or seeks information not reasonably likely to lead to the discovery of admissible evidence, including information related to Products for which there is a “plan” to sell, market, or develop, and not Products that are currently sold, marketed, or developed. The Registrant understands this document request to be seeking documents or information solely related to “new” goods or products, and not the Products currently sold and offered under the Registrant’s Mark. The Registrant further objects to this document request to the extent that it seeks documents or information that contains or otherwise reveals any trade secrets or other proprietary business or financial information.

41. Samples of promotional and advertising materials, created by or on behalf of Registrant, on which the term “Sunkiss” (alone or in connection with other elements) is printed, embossed, stamped, or otherwise affixed, whether or not such materials have been published or used in commerce.

Response to Request No. 41

The Registrant objects to Document Request No. 41 as vague and ambiguous with respect to the term “SUNKISS mark.” The Registrant will respond to this document request applying the following definition, “the Registrant’s Mark,” to the term “SUNKISS mark.” The Registrant further objects to this document request to the extent that it seeks information and documents in the Petitioner’s custody or control or that are publicly available and therefore publicly accessible to the Petitioner. The Registrant further objects to this document request to the extent that it is unduly burdensome and oppressive in seeking “samples of promotional and advertising materials.” The Registrant further objects to this document request to the extent it seeks information and documents that are not relevant to the claims and defenses asserted in this proceeding and/or seeks information not reasonably likely to lead to the discovery of admissible evidence, including information related to promotional and advertising materials that have not been published or used in commerce. Subject to these objections, the Registrant provides the following response.

The Registrant will produce photographs or other copies of “promotional and advertising materials.” The Registrant will make samples of “promotional and advertising materials” available for inspection at a mutually convenient time for the Parties at the location where the promotional and advertising materials” are kept during the ordinary course of business.

42. A representative sample of documents relating to the advertising in the United States of any Products sold by Registrant under the SUNKISS mark, including invoices for advertising services, for each year the mark has been used.

Response to Request No. 42

The Registrant objects to Document Request No. 42 as vague and ambiguous with respect to the terms “Product” and “SUNKISS mark.” The Registrant will respond to this document request applying the following definition to the term “Products:” space heaters as identified in Registration No. 1,200,333. The Registrant will respond to this document request applying the following definition, “the Registrant’s Mark,” to the term “SUNKISS mark.” The Registrant further objects to this document request to the extent that it seeks information and documents in the Petitioner’s custody or control or that are publicly available and therefore publicly accessible to the Petitioner. The Registrant further objects to this document request as duplicative of at least Document Request No. 41. The Registrant further objects to this document request to the extent that it is unduly burdensome and oppressive in seeking “invoices for advertising services.” The Registrant further objects to this document request to the extent that it seeks documents or information that contains or otherwise reveals any trade secrets or other proprietary business or financial information. Such documents or information will be provided pursuant to the terms of the Protective Order entered by the Board in this proceeding on August 6, 2015. Subject to these objections, the Registrant provides the following response.

The Registrant will provide responsive, non-privileged documents in its possession, custody and control located after a reasonable search.

43. A representative sample of documents relating to the promotion and marketing, including, but not limited to, point of sale and point of purchase materials, of any Products sold

by Registrant, in the United States under the SUNKISS mark, for each year the mark has been used.

Response to Request No. 43

The Registrant objects to Document Request No. 43 as vague and ambiguous with respect to the terms “Product” and “SUNKISS mark.” The Registrant will respond to this document request applying the following definition to the term “Products:” space heaters as identified in Registration No. 1,200,333. The Registrant will respond to this document request applying the following definition, “the Registrant’s Mark,” to the term “SUNKISS mark.” The Registrant further objects to this document request as vague and ambiguous with respect to the terms “point of sale and point of purchase materials.” The Registrant further objects to this document request to the extent that it seeks information and documents in the Petitioner’s custody or control or that are publicly available and therefore publicly accessible to the Petitioner. The Registrant further objects to this document request as duplicative of at least Document Request Nos. 41 and 42. The Registrant further objects to this document request to the extent that it is unduly burdensome and oppressive. Subject to these objections, the Registrant provides the following response.

The Registrant will provide responsive, non-privileged documents in its possession, custody and control located after a reasonable search.

44. A listing of the Registrant’s customers in the United States for Products sold under the SUNKISS mark.

Response to Request No. 44

The Registrant objects to Document Request No. 44 as vague and ambiguous with respect to the terms “Product” and “SUNKISS mark.” The Registrant will respond to this document request applying the following definition to the term “Products:” space heaters as identified in Registration No. 1,200,333. The Registrant will respond to this document request applying the following definition, “the Registrant’s Mark,” to the term “SUNKISS mark.” The Registrant further objects to this document request to the extent that it is unduly burdensome and oppressive in seeking the identification of or production of documents that are not kept in the Registrant’s ordinary course of business. [+assuming this is accurate+.] The Registrant further objects to this document request to the extent that it seeks documents or information that contains or otherwise reveals any trade secrets or other proprietary business or financial information. Such documents or information will be provided pursuant to the terms of the Protective Order entered by the Board in this proceeding on August 6, 2015. Subject to these objections, the Registrant provides the following response.

The Registrant will provide responsive, non-privileged documents in its possession, custody and control located after a reasonable search.

45. Samples of all marketing and promotional materials, including, without limitation, labels, tags, packaging, brochures, advertisements, pamphlets, manuals, product information sheets, and any other promotional merchandise or literature, on which the SUNKISS mark has been printed, embossed, stamped, or otherwise affixed, whether or not such materials have been published or used in commerce.

Response to Request No. 45

The Registrant objects to Document Request No. 45 as vague and ambiguous with respect to the term “SUNKISS mark.” The Registrant will respond to this document request applying the following definition, “the Registrant’s Mark,” to the term “SUNKISS mark.” The Registrant further objects to this document request as duplicative of at least Document Request Nos. 41 through 43. The Registrant further objects to this document request to the extent that it seeks information and documents in the Petitioner’s custody or control or that are publicly available and therefore publicly accessible to the Petitioner. The Registrant further objects to this document request to the extent that it is unduly burdensome and oppressive in seeking “samples of all marketing and promotional materials.” The Registrant further objects to this document request to the extent it seeks information and documents that are not relevant to the claims and defenses asserted in this proceeding and/or seeks information not reasonably likely to lead to the discovery of admissible evidence, including information related to promotional and advertising materials that have not been published or used in commerce. The Registrant further objects to this request to the extent that it seeks documents or information that is not within the Registrant’s possession, custody or control. The Registrant did not acquire ownership of the Registration until 2009. Subject to these objections, the Registrant provides the following response.

The Registrant will produce photographs or other copies of “marketing and promotional materials.” The Registrant will make samples of “marketing and promotional materials” available for inspection at a mutually convenient time for the Parties at the location where the “marketing and promotional materials” are kept during the ordinary course of business.

46. All documents that refer or relate to Petitioner.

Response to Request No. 46

The Registrant objects to Document Request No. 46 to the extent that it seeks information and documents in the Petitioner's custody or control or that are publicly available and therefore publicly accessible to the Petitioner. The Registrant further objects to this document request to the extent it seeks information protected by the attorney-client privilege, work product doctrine, and/or any other applicable privilege. Subject to these objections, the Registrant provides the following response.

The Registrant will provide responsive, non-privileged documents in its possession, custody and control located after a reasonable search.

47. All communications with any person other than Petitioner concerning a dispute or potential dispute regarding trademark ownership rights of the SUNKISS mark in the United States.

Response to Request No. 47

The Registrant objects to Document Request No. 47 as vague and ambiguous with respect to the term "SUNKISS mark." The Registrant will respond to this document request applying the following definition, "the Registrant's Mark," to the term "SUNKISS mark." The Registrant further objects to this document request to the extent that it seeks information and documents that are not relevant to the claims and defenses asserted in this proceeding and/or seeks information not reasonably likely to lead to the discovery of admissible evidence, including information related to a "potential dispute." The Registrant further objects to this document request to the extent that it seeks documents or information that contains or otherwise

reveals any trade secrets or other proprietary business or financial information. Such documents or information will be provided pursuant to the terms of the Protective Order entered by the Board in this proceeding on August 6, 2015. The Registrant further objects to this document request to the extent it seeks information protected by the attorney-client privilege, work product doctrine, and/or any other applicable privilege. Subject to these objections, the Registrant provides the following response.

The Registrant does not possess any responsive documents.

48. All documents which refer to, relate to, or concern a dispute or potential dispute regarding trademark ownership rights of the SUNKISS mark in the United States.

Response to Request No. 48

The Registrant objects to Document Request No. 48 as vague and ambiguous with respect to the term “SUNKISS mark.” The Registrant will respond to this document request applying the following definition, “the Registrant’s Mark,” to the term “SUNKISS mark.” The Registrant further objects to this document request to the extent that it seeks information and documents that are not relevant to the claims and defenses asserted in this proceeding and/or seeks information not reasonably likely to lead to the discovery of admissible evidence, including information related to a “potential dispute.” The Registrant further objects to this document request as duplicative of at least Document Request No. 47. The Registrant further objects to this document request to the extent that it seeks documents or information that contains or otherwise reveals any trade secrets or other proprietary business or financial information. Such documents or information will be provided pursuant to the terms of the Protective Order entered by the Board in this proceeding on August 6, 2015. The Registrant

further objects to this document request to the extent it seeks information protected by the attorney-client privilege, work product doctrine and/or any other applicable privilege. Subject to these objections, the Registrant provides the following response.

The Registrant does not possess any responsive documents.

49. All documents identifying any domain names or websites owned or operated by Registrant that include the Sunkiss Mark, or the term Sunkiss, alone or in combination with other words or elements.

Response to Request No. 49

The Registrant objects to Document Request No. 49 as vague and ambiguous with respect to the term “SUNKISS mark.” The Registrant will respond to this document request applying the following definition, “the Registrant’s Mark,” to the term “SUNKISS mark.” The Registrant further objects to this document request to the extent that it seeks information and documents in the Petitioner’s custody or control or that are publicly available and therefore publicly accessible to the Petitioner. Subject to these objections, the Registrant provides the following response.

The Registrant will provide responsive, non-privileged documents in its possession, custody and control located after a reasonable search.

50. All documents identifying any domain names or websites owned or operated by a third-party that include the Sunkiss Mark, or the term Sunkiss, alone or in combination with other words or elements.

Response to Request No. 50

The Registrant objects to Document Request No. 50 as vague and ambiguous with respect to the term “SUNKISS mark.” The Registrant will respond to this document request applying the following definition, “the Registrant’s Mark,” to the term “SUNKISS mark.” The Registrant further objects to this document request to the extent that it seeks information and documents in the Petitioner’s custody or control or that are publicly available and therefore publicly accessible to the Petitioner. The Registrant further objects to this document request to the extent that it seeks information or documents for which the Registrant does not have firsthand knowledge or that are not within the Registrant’s possession, custody, or control. Subject to these objections, the Registrant provides the following response.

The Registrant will provide responsive, non-privileged documents in its possession, custody and control located after a reasonable search.

51. Documents evidencing all other uses by Registrant of the term “Sunkiss,” alone or in combination with other elements.

Response to Request No. 51

The Registrant objects to Document Request No. 51 to the extent that it seeks information and documents that are not relevant to the claims and defenses asserted in this proceeding and/or seeks information not reasonably likely to lead to the discovery of admissible evidence, including information related to “all other uses . . . of the term ‘Sunkiss,’ alone or in combination with other elements.” The Registrant will respond to this document request to the extent that it seeks documents “evidencing” all uses by the Registrant of the Registrant’s Mark. The Registrant further objects to this document request as vague and ambiguous with respect to

the term “evidencing.” The Registrant further objects to this document request to the extent that it calls for a legal conclusion. Subject to these objections, the Registrant provides the following response.

The Registrant will provide responsive, non-privileged documents in its possession, custody and control located after a reasonable search.

52. All documents that constitute, evidence, reflect, describe, refer to, or relate to the first time Registrant used the SUNKISS mark on space heaters.

Response to Request No. 52

The Registrant objects to Document Request No. 52 as vague and ambiguous with respect to the term “SUNKISS mark.” The Registrant will respond to this document request applying the following definition, “the Registrant’s Mark,” to the term “SUNKISS mark.” The Registrant further objects to this document request to the extent that it is unduly burdensome and oppressive. The Registrant further objects to this document request to the extent that it seeks information and documents in the Petitioner’s custody or control or that are publicly available and therefore publicly accessible to the Petitioner. The Registrant further objects to this document request as duplicative of at least Document Request No. 1. The Registrant further objects to this document request to the extent that it seeks documents or information that contains or otherwise reveals any trade secrets or other proprietary business or financial information. Such documents or information will be provided pursuant to the terms of the Protective Order entered by the Board in this proceeding on August 6, 2015. The Registrant further objects to this request to the extent that it seeks documents or information that is not within the Registrant’s possession, custody or control. The Registrant did not acquire ownership

of the Registration until 2009. Subject to these objections, the Registrant provides the following response.

The Registrant will provide responsive, non-privileged documents in its possession, custody and control located after a reasonable search.

53. All documents that constitute, evidence, reflect, describe, refer to, or relate to the first time Registrant used the SUNKISS mark on air conditioners.

Response to Request No. 53

The Registrant objects to Document Request No. 53 as vague and ambiguous with respect to the term “SUNKISS mark.” The Registrant will respond to this document request applying the following definition, “the Registrant’s Mark,” to the term “SUNKISS mark.” The Registrant further objects to this document request to the extent that it is unduly burdensome and oppressive. The Registrant further objects to this document request to the extent that it seeks information and documents in the Petitioner’s custody or control or that are publicly available and therefore publicly accessible to the Petitioner. The Registrant further objects to this document request as duplicative of at least Document Request No. 1. The Registrant further objects to this document request to the extent that it seeks information and documents that are not relevant to the claims and defenses asserted in this proceeding and/or seeks information not reasonably likely to lead to the discovery of admissible evidence, including information related to use of the Registrant’s Mark “on air conditioners.” The Registration does not currently identify “air conditioners.”

54. All documents that constitute, evidence, reflect, describe, refer to, or relate to the first time Registrant used the SUNKISS mark on refrigerators.

Response to Request No. 54

The Registrant objects to Document Request No. 54 as vague and ambiguous with respect to the term “SUNKISS mark.” The Registrant will respond to this document request applying the following definition, “the Registrant’s Mark,” to the term “SUNKISS mark.” The Registrant further objects to this document request to the extent that it is unduly burdensome and oppressive. The Registrant further objects to this document request to the extent that it seeks information and documents in the Petitioner’s custody or control or that are publicly available and therefore publicly accessible to the Petitioner. The Registrant further objects to this document request as duplicative of at least Document Request No. 1. The Registrant further objects to this document request to the extent that it seeks information and documents that are not relevant to the claims and defenses asserted in this proceeding and/or seeks information not reasonably likely to lead to the discovery of admissible evidence, including information related to use of the Registrant’s Mark “on air conditioners.” The Registration does not currently identify “air conditioners.”

55. All documents that constitute, evidence, reflect, describe, refer to, or relate to the first time Registrant used the SUNKISS mark on goods in Class 011.

Response to Request No. 55

The Registrant objects to Document Request No. 55 as vague and ambiguous with respect to the term “SUNKISS mark.” The Registrant will respond to this document request applying the following definition, “the Registrant’s Mark,” to the term “SUNKISS mark.” The

Registrant further objects to this document request to the extent that it is unduly burdensome and oppressive. The Registrant further objects to this document request to the extent that it seeks information and documents in the Petitioner's custody or control or that are publicly available and therefore publicly accessible to the Petitioner. The Registrant further objects to this document request as duplicative of at least Document Request Nos. 1 and 52 through 54. The Registrant further objects to this document request to the extent that it seeks information and documents that are not relevant to the claims and defenses asserted in this proceeding and/or seeks information not reasonably likely to lead to the discovery of admissible evidence, including information related to use of the Registrant's Mark "on goods in Class 011." The Registrant will respond to this document request to the extent it seeks documents related to the Products currently identified in the Registration. The Registrant further objects to this document request to the extent that it seeks documents or information that contains or otherwise reveals any trade secrets or other proprietary business or financial information. Such documents or information will be provided pursuant to the terms of the Protective Order entered by the Board in this proceeding on August 6, 2015. The Registrant further objects to this request to the extent that it seeks documents or information that is not within the Registrant's possession, custody or control. The Registrant did not acquire ownership of the Registration until 2009. Subject to these objections, the Registrant provides the following response.

The Registrant will provide responsive, non-privileged documents in its possession, custody and control located after a reasonable search.

56. All documents that constitute, evidence, reflect, describe, refer to, or relate to the licensees that are allowed to sell goods bearing the SUNKISS mark.

Response to Request No. 56

The Registrant objects to Document Request No. 56 as vague and ambiguous with respect to the term “SUNKISS mark.” The Registrant will respond to this document request applying the following definition, “the Registrant’s Mark,” to the term “SUNKISS mark.” The Registrant further objects to this document request as duplicative of at least Document Request Nos. 2, 4, 6 through 15, and 19 through 24. The Registrant further objects to this document request to the extent that it seeks documents or information that contains or otherwise reveals any trade secrets or other proprietary business or financial information. Such documents or information will be provided pursuant to the terms of the Protective Order entered by the Board in this proceeding on August 6, 2015. The Registrant further objects to this document request to the extent it seeks information protected by the attorney-client privilege, work product doctrine and/or any other applicable privilege. The Registrant further objects to this request to the extent that it seeks documents or information that is not within the Registrant’s possession, custody or control. The Registrant did not acquire ownership of the Registration until 2009. Subject to these objections, the Registrant provides the following response.

The Registrant will provide responsive, non-privileged documents in its possession, custody and control located after a reasonable search.

57. All documents that constitute, evidence, reflect, describe, refer to or relate to yearly revenues that Registrant receives from licensees or other third-parties who sell Products bearing the SUNKISS mark.

Response to Request No. 57

The Registrant objects to Document Request No. 57 as vague and ambiguous with respect to the terms “Product,” and “SUNKISS mark.” The Registrant will respond to this document request applying the following definition to the term “Products:” space heaters as identified in Registration No. 1,200,333. The Registrant will respond to this document request applying the following definition, “the Registrant’s Mark,” to the term “SUNKISS mark.” The Registrant further objects to this document request as duplicative of at least Document Request Nos. 33 through 37. The Registrant further objects to this document request to the extent that it is unduly burdensome and oppressive. The Registrant further objects to this document request to the extent that it seeks documents or information that contains or otherwise reveals any trade secrets or other proprietary business or financial information. Such documents or information will be provided pursuant to the terms of the Protective Order entered by the Board in this proceeding on August 6, 2015. Subject to these objections, the Registrant provides the following response.

The Registrant will provide responsive, non-privileged documents in its possession, custody and control located after a reasonable search.

58. All documents that constitute, evidence, reflect, describe, refer to or relate to yearly revenues that Registrant receives from Ayotte Techno-Gaz’s sale of Products bearing the SUNKISS mark.

Response to Request No. 58

The Registrant objects to Document Request No. 58 as vague and ambiguous with respect to the terms “Products” and “SUNKISS mark.” The Registrant will respond to this document request applying the following definition to the term “Products:” space heaters as identified in Registration No. 1,200,333. The Registrant will respond to this document request applying the following definition, “the Registrant’s Mark,” to the term “SUNKISS mark.” The Registrant further objects to this document request as duplicative of at least Document Request Nos. 33 through 35. The Registrant further objects to this document request to the extent that it is unduly burdensome and oppressive. The Registrant further objects to this document request to the extent that it seeks documents or information that contains or otherwise reveals any trade secrets or other proprietary business or financial information. Such documents or information will be provided pursuant to the terms of the Protective Order entered by the Board in this proceeding on August 6, 2015. Subject to these objections, the Registrant provides the following response.

The Registrant will provide responsive, non-privileged documents in its possession, custody and control located after a reasonable search.

59. All documents that constitute, evidence, reflect, describe, refer to or relate to the yearly revenue generated from Registrant’s direct sales of Products bearing the SUNKISS mark.

Response to Request No. 59

The Registrant objects to Document Request No. 59 as vague and ambiguous with respect to the terms “Product” and “SUNKISS mark.” The Registrant will respond to this document request applying the following definition to the term “Products:” space heaters as

identified in Registration No. 1,200,333. The Registrant will respond to this document request applying the following definition, “the Registrant’s Mark,” to the term “SUNKISS mark.” The Registrant further objects to this document request as vague and ambiguous with respect to the term “direct sales.” The Registrant further objects to this document request as duplicative of at least Document Request Nos. 33 through 34. The Registrant further objects to this document request to the extent that it is unduly burdensome and oppressive. The Registrant further objects to this document request to the extent that it seeks documents or information that contains or otherwise reveals any trade secrets or other proprietary business or financial information. Such documents or information will be provided pursuant to the terms of the Protective Order entered by the Board in this proceeding on August 6, 2015. Subject to these objections, the Registrant provides the following response.

The Registrant will provide responsive, non-privileged documents in its possession, custody and control located after a reasonable search.

60. All licenses, agreements, consents or other documents granting third-parties the right to use the SUNKISS mark.

Response to Request No. 60

The Registrant objects to Document Request No. 60 as vague and ambiguous with respect to the term “SUNKISS mark.” The Registrant will respond to this document request applying the following definition, “the Registrant’s Mark,” to the term “SUNKISS mark.” The Registrant further objects to this document request as duplicative of at least Document Request Nos. 2, 4, 6 through 15, 19 through 24, and 56. The Registrant further objects to this document request to the extent that it seeks information or documents for which the Registrant does not

have firsthand knowledge or that are not within the Registrant's possession, custody, or control. The Registrant further objects to this document request to the extent that it seeks documents or information that contains or otherwise reveals any trade secrets or other proprietary business or financial information. Such documents or information will be provided pursuant to the terms of the Protective Order entered by the Board in this proceeding on August 6, 2015. The Registrant further objects to this request to the extent that it seeks documents or information that is not within the Registrant's possession, custody or control. The Registrant did not acquire ownership of the Registration until 2009. Subject to these objections, the Registrant provides the following response.

The Registrant will provide responsive, non-privileged documents in its possession, custody and control located after a reasonable search.

61. All documents which refer to, relate to, or evidence Registrant's right to inspect its licensee's use of the SUNKISS mark.

Response to Request No. 61

The Registrant objects to Document Request No. 61 as vague and ambiguous with respect to the term "SUNKISS mark." The Registrant will respond to this document request applying the following definition, "the Registrant's Mark," to the term "SUNKISS mark." The Registrant further objects to this document request as duplicative of at least Document Request Nos. 2, 4, 6 through 15, 19 through 24, 56, and 60. The Registrant further objects to this document request with respect to the term "inspect." The Registrant further objects to this document request to the extent that it seeks documents or information that contains or otherwise reveals any trade secrets or other proprietary business or financial information. Such documents

or information will be provided pursuant to the terms of the Protective Order entered by the Board in this proceeding on August 6, 2015. The Registrant further objects to this document request to the extent it seeks information protected by the attorney-client privilege, work product doctrine and/or any other applicable privilege. Subject to these objections, the Registrant provides the following response.

The Registrant will provide responsive, non-privileged documents in its possession, custody and control located after a reasonable search.

62. All documents which refer to, relate to, or evidence the procedure by which Registrant monitors licensees' use(s) of the SUNKISS mark.

Response to Request No. 62

The Registrant objects to Document Request No. 62 as vague and ambiguous with respect to the term "SUNKISS mark." The Registrant will respond to this document request applying the following definition, "the Registrant's Mark," to the term "SUNKISS mark." The Registrant further objects to this document request as duplicative of at least Document Request Nos. 2, 4, 6 through 15, 19 through 24, 56, and 60 through 61. The Registrant further objects to this document request with respect to the term "monitors." The Registrant further objects to this document request to the extent that it seeks documents or information that contains or otherwise reveals any trade secrets or other proprietary business or financial information. Such documents or information will be provided pursuant to the terms of the Protective Order entered by the Board in this proceeding on August 6, 2015. The Registrant further objects to this document request to the extent it seeks information protected by the attorney-client privilege, work product

doctrine and/or any other applicable privilege. Subject to these objections, the Registrant provides the following response.

The Registrant will provide responsive, non-privileged documents in its possession, custody and control located after a reasonable search.

63. All documents which refer to, relate to, or evidence the frequency with which Registrant monitors licensees' use(s) of the SUNKISS mark.

Response to Request No. 63

The Registrant objects to Document Request No. 63 as vague and ambiguous with respect to the term "SUNKISS mark." The Registrant will respond to this document request applying the following definition, "the Registrant's Mark," to the term "SUNKISS mark." The Registrant further objects to this document request as duplicative of at least Document Request Nos. 2, 4, 6 through 15, 19 through 24, 56, and 60 through 62. The Registrant further objects to this document request with respect to the term "monitors." The Registrant further objects to this document request to the extent that it seeks documents or information that contains or otherwise reveals any trade secrets or other proprietary business or financial information. Such documents or information will be provided pursuant to the terms of the Protective Order entered by the Board in this proceeding on August 6, 2015. The Registrant further objects to this document request to the extent it seeks information protected by the attorney-client privilege, work product doctrine, and/or any other applicable privilege. Subject to these objections, the Registrant provides the following response.

The Registrant will provide responsive, non-privileged documents in its possession, custody and control located after a reasonable search.

64. All communications concerning the licensees' use(s) of the SUNKISS mark as it relates to Registrant's quality control standards.

Response to Request No. 64

The Registrant objects to Document Request No. 64 as vague and ambiguous with respect to the term "SUNKISS mark." The Registrant will respond to this document request applying the following definition, "the Registrant's Mark," to the term "SUNKISS mark." The Registrant further objects to this document request as duplicative of at least Document Request Nos. 60 through 63. The Registrant further objects to this document request with respect to the term "inspect." The Registrant further objects to this document request to the extent that it seeks documents or information that contains or otherwise reveals any trade secrets or other proprietary business or financial information. Such documents or information will be provided pursuant to the terms of the Protective Order entered by the Board in this proceeding on August 6, 2015. The Registrant further objects to this document request to the extent it seeks information protected by the attorney-client privilege, work product doctrine, and/or any other applicable privilege. Subject to these objections, the Registrant provides the following response.

The Registrant will provide responsive, non-privileged documents in its possession, custody and control located after a reasonable search.

65. All documents that evidence, reflect, describe, refer to or relate to any contracts or agreements made on behalf of Registrant with any third party regarding use of the SUNKISS mark.

Response to Request No. 65

The Registrant objects to Document Request No. 65 as vague and ambiguous with respect to the term “SUNKISS mark.” The Registrant will respond to this document request applying the following definition, “the Registrant’s Mark,” to the term “SUNKISS mark.” The Registrant further objects to this document request as duplicative of at least Document Request Nos. 2, 4, 6 through 15, 19 through 24, 56, and 60 through 64. The Registrant further objects to this document request to the extent that it seeks documents or information that contains or otherwise reveals any trade secrets or other proprietary business or financial information. Such documents or information will be provided pursuant to the terms of the Protective Order entered by the Board in this proceeding on August 6, 2015. The Registrant further objects to this document request to the extent it seeks information protected by the attorney-client privilege, work product doctrine, and/or any other applicable privilege. Subject to these objections, the Registrant provides the following response.

The Registrant will provide responsive, non-privileged documents in its possession, custody and control located after a reasonable search.

66. All documents that evidence, reflect, describe, refer to or relate to the termination of any licensee or agreement regarding use of the SUNKISS mark.

Response to Request No. 66

The Registrant objects to Document Request No. 66 as vague and ambiguous with respect to the term “SUNKISS mark.” The Registrant will respond to this document request applying the following definition, “the Registrant’s Mark,” to the term “SUNKISS mark.” The Registrant further objects to this document request to the extent that it seeks documents or information that contains or otherwise reveals any trade secrets or other proprietary business or financial information. Such documents or information will be provided pursuant to the terms of the Protective Order entered by the Board in this proceeding on August 6, 2015. The Registrant further objects to this document request to the extent it seeks information protected by the attorney-client privilege, work product doctrine, and/or any other applicable privilege. Subject to these objections, the Registrant provides the following response.

The Registrant does not possess any responsive documents.

67. All documents that evidence, reflect, describe, refer to or relate to any audit reports of Registrant’s licensees’ use of the SUNKISS mark.

Response to Request No. 67

The Registrant objects to Document Request No. 67 as vague and ambiguous with respect to the term “SUNKISS mark.” The Registrant will respond to this document request applying the following definition, “the Registrant’s Mark,” to the term “SUNKISS mark.” The Registrant further objects to this document request as duplicative of at least Document Request Nos. 60 through 66. The Registrant further objects to this document request as vague and ambiguous with respect to the term “audit reports.” The Registrant further objects to this document request to the extent that it seeks documents or information that contain or otherwise

reveal any trade secrets or other proprietary business or financial information. Such documents or information will be provided pursuant to the terms of the Protective Order entered by the Board in this proceeding on August 6, 2015. The Registrant further objects to this document request to the extent it seeks information protected by the attorney-client privilege, work product doctrine, and/or any other applicable privilege. Subject to these objections, the Registrant provides the following response.

The Registrant does not possess any responsive documents.

68. A representative sampling of documents that evidence, reflect, describe, refer to or relate to Registrant's efforts to monitor its licenses' use of the SUNKISS mark.

Response to Request No. 68

The Registrant objects to Document Request No. 68 as vague and ambiguous with respect to the term "SUNKISS mark." The Registrant will respond to this document request applying the following definition, "the Registrant's Mark," to the term "SUNKISS mark." The Registrant further objects to this document request as duplicative of at least Document Request Nos. 60 through 67. The Registrant further objects to this document request as vague and ambiguous with respect to the term "monitor." The Registrant further objects to this document request to the extent that it seeks documents or information that contain or otherwise reveal any trade secrets or other proprietary business or financial information. Such documents or information will be provided pursuant to the terms of the Protective Order entered by the Board in this proceeding on August 6, 2015. The Registrant further objects to this document request to the extent it seeks information protected by the attorney-client privilege, work product doctrine

and/or any other applicable privilege. Subject to these objections, the Registrant provides the following response.

The Registrant will provide responsive, non-privileged documents in its possession, custody and control located after a reasonable search.

69. A representative sampling of documents that evidence, reflect, describe, refer to or relate to Registrant's policing of the SUNKISS mark.

Response to Request No. 69

The Registrant objects to Document Request No. 69 as vague and ambiguous with respect to the term "SUNKISS mark." The Registrant will respond to this document request applying the following definition, "the Registrant's Mark," to the term "SUNKISS mark." The Registrant further objects to this document request as duplicative of at least Document Request Nos. 60 through 68. The Registrant further objects to this document request as vague and ambiguous with respect to the term "policing." The Registrant further objects to this document request to the extent that it seeks documents or information that contain or otherwise reveal any trade secrets or other proprietary business or financial information. Such documents or information will be provided pursuant to the terms of the Protective Order entered by the Board in this proceeding on August 6, 2015. The Registrant further objects to this document request to the extent it seeks information protected by the attorney-client privilege, work product doctrine and/or any other applicable privilege. Subject to these objections, the Registrant provides the following response.

The Registrant will provide responsive, non-privileged documents in its possession, custody and control located after a reasonable search.

70. All documents on which Registrant intends to rely in this proceeding, including all documents that Registrant intends to offer into evidence in this proceeding.

Response to Request No. 70

The Registrant objects to Document Request No. 70 as unduly burdensome and oppressive. The Registrant further objects to this document request to the extent that it purports to prohibit the Registrant's ability and rights to supplement its responses. The Registrant further objects to this document request to the extent that it seeks documents or information that contain or otherwise reveal any trade secrets or other proprietary business or financial information. Such documents or information will be provided pursuant to the terms of the Protective Order entered by the Board in this proceeding on August 6, 2015. The Registrant further objects to this document request to the extent it seeks information protected by the attorney-client privilege, work product doctrine, and/or any other applicable privilege. Subject to these objections, the Registrant provides the following response.

The Registrant will provide responsive, non-privileged documents in its possession, custody and control located after a reasonable search.

71. All documents identifying, referring to or relating to any person whom Registrant intends to call as a fact or expert witness in this proceeding.

Response to Request No. 71

The Registrant objects to Document Request No. 71 as unduly burdensome and oppressive. The Registrant further objects to this document request to the extent that it purports to prohibit the Registrant's ability and rights to supplement its responses. The Registrant further objects to this document request to the extent that it seeks documents or information that contain or otherwise reveal any trade secrets or other proprietary business or financial information. Such documents or information will be provided pursuant to the terms of the Protective Order entered by the Board in this proceeding on August 6, 2015. The Registrant further objects to this document request to the extent it seeks information protected by the attorney-client privilege, work product doctrine, and/or any other applicable privilege. The Registrant further objects to this document request to the extent that is untimely and seeks the production of documents in advance of the deadlines set by the FED. R. CIV. P. and the TBMP.

72. All documents Registrant has provided or shown to any person whom Registrant intends to call as a fact or expert witness in this proceeding.

Response to Request No. 72

The Registrant objects to Document Request No. 72 as unduly burdensome and oppressive. The Registrant further objects to this document request to the extent that it purports to prohibit the Registrant's ability and rights to supplement its responses. The Registrant further objects to this document request to the extent that it seeks documents or information that contains or otherwise reveals any trade secrets or other proprietary business or financial information. Such documents or information will be provided pursuant to the terms of the Protective Order entered by the Board in this proceeding on August 6, 2015. The Registrant

further objects to this document request to the extent it seeks information protected by the attorney-client privilege, work product doctrine and/or any other applicable privilege. The Registrant further objects to this document request to the extent that is untimely and seeks the production of documents in advance of the deadlines set by the FED. R. CIV. P. and the TBMP.

73. All documents relied upon, either in whole or in part, as a basis for any opinion rendered or to be rendered by an expert witness whom Registrant may call to testify in this proceeding.

Response to Request No. 73

The Registrant objects to Document Request No. 73 as unduly burdensome and oppressive. The Registrant further objects to this document request to the extent that it purports to prohibit the Registrant's ability and rights to supplement its responses. The Registrant further objects to this document request to the extent that it seeks documents or information that contain or otherwise reveal any trade secrets or other proprietary business or financial information. Such documents or information will be provided pursuant to the terms of the Protective Order entered by the Board in this proceeding on August 6, 2015. The Registrant further objects to this document request to the extent it seeks information protected by the attorney-client privilege, work product doctrine and/or any other applicable privilege. The Registrant further objects to this document request to the extent that is untimely and seeks the production of documents in advance of the deadlines set by the FED. R. CIV. P. and the TBMP.

74. All statements, affidavits, declarations, reports and communications you have received from any person who is expected to give expert testimony as an expert witness on behalf of Registrant in this proceeding.

Response to Request No. 74

The Registrant objects to Document Request No. 74 as unduly burdensome and oppressive. The Registrant further objects to this document request to the extent that it purports to prohibit the Registrant's ability and rights to supplement its responses. The Registrant further objects to this document request to the extent that it seeks documents or information that contain or otherwise reveal any trade secrets or other proprietary business or financial information. Such documents or information will be provided pursuant to the terms of the Protective Order entered by the Board in this proceeding on August 6, 2015. The Registrant further objects to this document request to the extent it seeks information protected by the attorney-client privilege, work product doctrine and/or any other applicable privilege. The Registrant further objects to this document request to the extent that is untimely and seeks the production of documents in advance of the deadlines set by the FED. R. CIV. P. and the TBMP.

75. All documents identified by Registrant in response to Petitioner's First Set of Interrogatories served contemporaneously herewith.

Response to Request No. 75

The Registrant objects to Document Request No. 75 to the extent that it seeks documents or information that contain or otherwise reveal any trade secrets or other proprietary business or financial information. Such documents or information will be provided pursuant to the terms of

the Protective Order entered by the Board in this proceeding on August 6, 2015. Subject to these objections, the Registrant provides the following response.

The Registrant will provide responsive, non-privileged documents in its possession, custody and control located after a reasonable search.

76. All documents that Registrant was required to identify, or from which Registrant obtained information, in responding to Petitioner's First Set of Interrogatories, served contemporaneously with these Requests, and which documents have not been otherwise produced in response to these Requests.

Response to Request No. 76

The Registrant objects to Document Request No. 76 as duplicative of at least Document Request No. 75. The Registrant further objects to this document request to the extent that it seeks documents or information that contain or otherwise reveal any trade secrets or other proprietary business or financial information. Such documents or information will be provided pursuant to the terms of the Protective Order entered by the Board in this proceeding on August 6, 2015. Subject to these objections, the Registrant provides the following response.

The Registrant will provide responsive, non-privileged documents in its possession, custody and control located after a reasonable search.

77. All documents that Registrant contends are relevant to this proceeding.

Response to Request No. 77

The Registrant objects to Document Request No. 77 as unduly burdensome and oppressive. The Registrant further objects to this document request to the extent that it purports

to prohibit the Registrant's ability and rights to supplement its responses. The Registrant further objects to this document request to the extent that it seeks documents or information that contain or otherwise reveal any trade secrets or other proprietary business or financial information. Such documents or information will be provided pursuant to the terms of the Protective Order entered by the Board in this proceeding on August 6, 2015. The Registrant further objects to this document request to the extent it seeks information protected by the attorney-client privilege, work product doctrine, and/or any other applicable privilege. Subject to these objections, the Registrant provides the following response.

The Registrant will provide responsive, non-privileged documents in its possession, custody and control located after a reasonable search.

These foregoing responses are submitted by counsel for Registrant, Sunkiss
Thermoreactors, Inc.

Respectfully submitted,

August 10, 2015
Date



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Attorneys for Registrant

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Registrant's Objections and Responses to Petitioner's First Set of Requests for the Production of Documents and Things was served this date by first class mail, postage prepaid, and e-mail on the Petitioner's attorneys as follows:

Ms. Kristen A. Mogavero
Ms. Jess M. Collen
COLLEN IP INTELLECTUAL PROPERTY LAW PC
The Holyoke-Manhattan Building
80 South Highland Avenue
Ossining, New York 10562
kmogavero@collenip.com

August 10, 2015
Date



Rebecca J. Stempien Coyle

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

FINAM,)	
)	
Petitioner,)	
)	Cancellation No. 92/060,849
v.)	
)	Reg. No. 1,200,333
Sunkiss Thermoreactors, Inc.,)	
)	Mark: SUNKISS
Registrant.)	

**REGISTRANT’S OBJECTIONS AND RESPONSES TO
PETITIONER’S FIRST SET OF REQUESTS FOR ADMISSION**

The Registrant, Sunkiss Thermoreactors, Inc. (“Registrant”), by and through counsel, responds to the Petitioner’s First Set of Requests for Admissions as follows.

These responses are made solely for purposes of this action. Each response is made subject to all objections as to competence, relevance, materiality, propriety, and admissibility, and all other objections and grounds which would require the exclusion of any statement contained herein, all of which objections and grounds are expressly reserved and may be interposed at the time of trial or during any other proceedings in this action.

The Registrant’s responses are based upon information currently available to it. The Registrant’s investigation and discovery in this action are ongoing, and the Registrant reserves the right to supplement these answers in the event that additional information is obtained through such investigation or discovery. The Registrant’s responses are made without prejudice to its rights to introduce any and all documents and other evidence of any kind in the proceedings in this action.

Unless otherwise explicitly stated to the contrary, nothing contained in these responses is intended to be or should be construed to be an admission by the Registrant of the relevance or admissibility at trial or on any motion of any information contained in these responses.

GENERAL OBJECTIONS AND RESPONSES

The Registrant's responses are made subject to, and without waiver of, the following general objections as well as any specific objection(s) stated for each request.

The Registrant's General Objections and Responses to Petitioner's First Set of Interrogatories, served contemporaneously herewith, are incorporated by reference and made a part hereof, as if fully stated herein.

SPECIFIC RESPONSES

The Registrant responds to the Petitioner's requests for admission as follows, subject to the General Objections stated above and in the Registrant's General Objections and Responses to Petitioner's First Set of Interrogatories.

1. All documents produced by Registrant in response to Petitioner's First Set of Requests for the Production of Documents and Things in this proceeding are genuine pursuant to the Federal Rules of Evidence.

Response to Request No. 1

The Registrant objects to Request No. 1 on the grounds set forth in the General Objections stated above and in the Registrant's General Objections and Responses to Petitioner's First Set of Interrogatories and incorporates those objections here. The Registrant further objects to this request to the extent it calls for a legal conclusion. The Registrant also objects to this request as vague and ambiguous with respect to the term "genuine." The Registrant further objects to this request to the extent that it encompasses any documents not yet reviewed or

produced by the Registrant. Without waiving those objections, the Registrant responds as follows:

The Registrant ADMITS that to the best of its knowledge, and unless otherwise noted or stated, the documents produced in response to Petitioner's First Set of Requests for the Production of Documents and Things in this proceeding are admissible and capable of authentication under the Federal Rules of Evidence, in particular Rules 901 through 903 and 1001 through 1007.

2. All documents produced by Registrant in response to Petitioner's First Set of Requests for the Production of Documents and Things in this proceeding are part of the business records of Registrant kept in the normal course of Registrant's business.

Response to Request No. 2

The Registrant objects to Request No. 2 on the grounds set forth in the General Objections stated above and in the Registrant's General Objections and Responses to Petitioner's First Set of Interrogatories and incorporates those objections here. The Registrant further objects to this request to the extent it calls for a legal conclusion. The Registrant further objects to this request as vague and ambiguous with respect to the term "normal course of business." The Registrant responds to the request applying the definition of "records of a regularly conducted activity" from FED. R. EVID. 803(6) to the term "normal course of business." The Registrant further objects to this request to the extent that it encompasses any documents not yet reviewed or produced by the Registrant. Without waiving those objections, the Registrant responds as follows:

The Registrant ADMITS IN PART and DENIES IN PART. Specifically, the Registrant ADMITS that to the best of its knowledge, that many of the documents produced in response to Petitioner's First Set of Requests for the Production of Documents and Things in this proceeding are records of a regularly conducted activity, pursuant to FED. R. EVID. 803(6). However, not all of the produced documents are records of a regularly conducted activity, for example some produced documents may be public records.

3. All documents produced by Registrant in response to Petitioner's First Set of Requests for the Production of Documents and Things in this proceeding are admissible as evidence in this proceeding under the Federal Rules of Evidence, subject to any objections of Registrant on the grounds of relevance.

Response to Request No. 3

The Registrant objects to Request No. 3 on the grounds set forth in the General Objections stated above and in the Registrant's General Objections and Responses to Petitioner's First Set of Interrogatories and incorporates those objections here. The Registrant further objects to this request to the extent it calls for a legal conclusion. The Registrant objects to this request to the extent that it is duplicative of at least Request Nos. 1 and 2. The Registrant further objects to this request to the extent that it encompasses any documents not yet reviewed or produced by the Registrant. Without waiving those objections, the Registrant responds as follows:

The Registrant ADMITS that to the best of its knowledge, and unless otherwise noted or stated, the documents produced in response to Petitioner's First Set of Requests for the Production of Documents and Things in this proceeding are admissible and capable of authentication under the Federal Rules of Evidence, in particular Rules 901-903, and 1001-1007.

4. Registrant has entered into agreement(s) with one or more third parties granting Registrant the right to use the SUNKISS mark.

Response to Request No. 4

The Registrant objects to Request No. 4 on the grounds set forth in the General Objections stated above and in the Registrant's General Objections and Responses to Petitioner's First Set of Interrogatories and incorporates those objections here. The Registrant further objects to this request as vague and ambiguous with respect to the term "SUNKISS mark." The Registrant will respond to this request applying the following definition, "the Registrant's Mark," to the term "SUNKISS mark." The Registrant objects to this request to the extent it seeks a legal conclusion or seeks to apply legal definitions, precedent or other interpretation, that are not common and customary in the United States, in particular to the words "agreement" and/or "right to use." For this response, the Registrant will apply the usual meaning, definitions, precedent and/or other interpretation found in the United States. Without waiving those objections, the Registrant responds as follows:

The Registrant ADMITS that it entered into an agreement to use the Registrant's Mark in the United States with Sunkiss Societe par Action Simplifiee; and then entered into an assignment agreement in 2009 with Sunkiss Societe par Action Simplifiee transferring ownership of the Registrant's Mark to the Registrant.

5. Registrant has entered into agreement(s) with one or more third parties granting Registrant the right to use the SUNKISS mark and such agreement(s) are still valid and in effect.

Response to Request No. 5

The Registrant objects to Request No. 5 on the grounds set forth in the General Objections stated above and in the Registrant's General Objections and Responses to Petitioner's First Set of Interrogatories and incorporates those objections here. The Registrant further objects to this request as vague and ambiguous with respect to the term "SUNKISS mark." The Registrant will respond to this request applying the following definition, "the Registrant's Mark," to the term "SUNKISS mark." The Registrant further objects to this request to the extent that it is duplicative of Request No. 4. The Registrant further objects to this request to the extent that it seeks information and documents that are not relevant to the claims and defenses asserted in this proceeding and/or seeks information not reasonably likely to lead to the discovery of admissible evidence, including information related to any agreements or parts of agreements that are not strictly related to the ownership and/or use of trademarks. The Registrant objects to this request to the extent it seeks a legal conclusion or seeks to apply legal definitions, precedent or other interpretation, that are not common and customary in the United States, in particular to the words "agreement" and/or "right to use." For this response, the Registrant will apply the usual meaning, definitions, precedent and/or other interpretation found in the United States. Without waiving those objections, the Registrant responds as follows:

The Registrant ADMITS that it entered into an agreement in 2008 to use the Registrant's Mark in the United States with Sunkiss Societe par Action Simplifiee and then entered into an assignment agreement in 2009 with Sunkiss Societe par Action Simplifiee transferring ownership of the Registrant's Mark to the Registrant. The Registrant further ADMITS that the 2009 assignment agreement remains valid and in effect and that the 2009 assignment agreement

had the effect of nullifying and/or making unnecessary any rights to use the Registrant's Mark from the 2008 agreement.

6. Registrant has entered into licensing agreement(s) granting third-parties the right to use the SUNKISS mark.

Response to Request No. 6

The Registrant objects to Request No. 6 on the grounds set forth in the General Objections stated above and in the Registrant's General Objections and Responses to Petitioner's First Set of Interrogatories and incorporates those objections here. The Registrant further objects to this request as vague and ambiguous with respect to the term "SUNKISS mark." The Registrant will respond to this request applying the following definition, "the Registrant's Mark," to the term "SUNKISS mark." The Registrant objects to this request to the extent it seeks a legal conclusion or seeks to apply legal definitions, precedent or other interpretation, that are not common and customary in the United States, in particular to the words "licensing agreement" and/or "right to use." For this response, the Registrant will apply the usual meaning, definitions, precedent and/or other interpretation found in the United States. Without waiving those objections, the Registrant responds as follows:

The Registrant ADMITS that it has entered into distribution agreement(s), which include granting these third-parties the right to use the Registrant's Mark in the United States.

7. Registrant has entered into licensing agreement(s) with Ayotte Techno-Gaz Inc. regarding use of the SUNKISS mark in the United States.

Response to Request No. 7

The Registrant objects to Request No. 7 on the grounds set forth in the General Objections stated above and in the Registrant's General Objections and Responses to Petitioner's First Set of Interrogatories and incorporates those objections here. The Registrant further objects to this request as vague and ambiguous with respect to the term "SUNKISS mark." The Registrant will respond to this request applying the following definition, "the Registrant's Mark," to the term "SUNKISS mark." The Registrant objects to this request to the extent it seeks a legal conclusion or seeks to apply legal definitions, precedent or other interpretation, that are not common and customary in the United States, in particular to the words "licensing agreement" and/or "regarding use." For this response, the Registrant will apply the usual meaning, definitions, precedent and/or other interpretation found in the United States. Without waiving those objections, the Registrant responds as follows:

The Registrant ADMITS that it has entered into a distribution agreement with Ayotte Techno-Gaz Inc., which includes granting Ayotte Techno-Gaz Inc. the right to use the Registrant's Mark in the United States.

8. Registrant has entered into licensing agreement(s) with American Industrial Ovens regarding use of the SUNKISS mark in the United States.

Response to Request No. 8

The Registrant objects to Request No. 8 on the grounds set forth in the General Objections stated above and in the Registrant's General Objections and Responses to Petitioner's First Set of Interrogatories and incorporates those objections here. The Registrant further objects to this request as vague and ambiguous with respect to the term "SUNKISS mark." The

Registrant will respond to this request applying the following definition, “the Registrant’s Mark,” to the term “SUNKISS mark.” The Registrant objects to this request to the extent it seeks a legal conclusion or seeks to apply legal definitions, precedent or other interpretation, that are not common and customary in the United States, in particular to the words “licensing agreement” and/or “regarding use.” For this response, the Registrant will apply the usual meaning, definitions, precedent and/or other interpretation found in the United States. Without waiving those objections, the Registrant responds as follows:

The Registrant and American Industrial Ovens share a common owner, who is also the Director of both companies, Mr. Daniel Ayotte. While there are no written agreements between the Registrant and American Industrial Ovens, there is an oral understanding and implied license between the companies allowing American Industrial Ovens to use the Registrant’s Mark in the United States. Therefore, the Registrant ADMITS this request.

9. All of Registrant’s licensing agreements which grant a third-party the right to use the SUNKISS mark reserve Registrant’s right to monitor the licensee’s use of the SUNKISS mark.

Response to Request No. 9

The Registrant objects to Request No. 9 on the grounds set forth in the General Objections stated above and in the Registrant’s General Objections and Responses to Petitioner’s First Set of Interrogatories and incorporates those objections here. The Registrant further objects to this request as vague and ambiguous with respect to the term “SUNKISS mark.” The Registrant will respond to this request applying the following definition, “the Registrant’s Mark,” to the term “SUNKISS mark.” The Registrant further objects to this request to the extent

it calls for a legal conclusion. The Registrant further objects to this request as vague and ambiguous with respect to the term “right to monitor.” The Registrant objects to this request to the extent it seeks a legal conclusion or seeks to apply legal definitions, precedent or other interpretation, that are not common and customary in the United States, in particular to the words “licensing agreements,” “right to use,” “right to monitor,” and/or “licensee’s use.” For this response, the Registrant will apply the usual meaning, definitions, precedent and/or other interpretation found in the United States. Without waiving those objections, the Registrant responds as follows:

The Registrant ADMITS that its agreement with Ayotte Techno-Gaz Inc. and American Industrial Ovens include provisions permitting the Registrant to verify compliance with performance and quality standards and that the Registrant may inspect premises, in addition to other provisions to assure the quality of the products offered by Ayotte Techno-Gaz Inc. and American Industrial Ovens under the Registrant’s Mark.

10. All of Registrant’s licensing agreements which grant a third-party the right to use the SUNKISS mark reserve Registrant’s right to inspect the licensee’s use of the SUNKISS mark.

Response to Request No. 10

The Registrant objects to Request No. 10 on the grounds set forth in the General Objections stated above and in the Registrant’s General Objections and Responses to Petitioner’s First Set of Interrogatories and incorporates those objections here. The Registrant further objects to this request as vague and ambiguous with respect to the term “SUNKISS mark.” The Registrant will respond to this request applying the following definition, “the Registrant’s

Mark,” to the term “SUNKISS mark.” The Registrant also objects to this request to the extent it calls for a legal conclusion. The Registrant further objects to this request to the extent that it is duplicative of at least Request No. 9. The Registrant further objects to this request as vague and ambiguous with respect to the term “right to inspect.” The Registrant objects to this request to the extent it seeks a legal conclusion or seeks to apply legal definitions, precedent or other interpretation, that are not common and customary in the United States, in particular to the words “licensing agreements,” “right to use,” “right to inspect,” and/or “licensee’s use.” For this response, the Registrant will apply the usual meaning, definitions, precedent and/or other interpretation found in the United States. Without waiving those objections, the Registrant responds as follows:

The Registrant ADMITS that its agreements with Ayotte Techno-Gaz Inc. and American Industrial Ovens include provisions permitting the Registrant to verify compliance with performance and quality standards and that the Registrant may inspect premises, in addition to other provisions to assure the quality of the products offered by Ayotte Techno-Gaz Inc. and American Industrial Ovens under the Registrant’s Mark.

11. Registrant has investigated its licensees’ use of the SUNKISS mark.

Response to Request No. 11

The Registrant objects to Request No. 11 on the grounds set forth in the General Objections stated above and in the Registrant’s General Objections and Responses to Petitioner’s First Set of Interrogatories and incorporates those objections here. The Registrant further objects to this request as vague and ambiguous with respect to the term “SUNKISS mark.” The Registrant will respond to this request applying the following definition, “the Registrant’s

Mark,” to the term “SUNKISS mark.” The Registrant also objects to this request to the extent it calls for a legal conclusion. The Registrant further objects to this request as vague and ambiguous with respect to the term “investigated.” The Registrant objects to this request to the extent it seeks a legal conclusion or seeks to apply legal definitions, precedent or other interpretation, that are not common and customary in the United States, in particular to the words “investigated” and/or “licensee’s use.” For this response, the Registrant will apply the usual meaning, definitions, precedent and/or other interpretation found in the United States. Without waiving those objections, the Registrant responds as follows:

The Registrant ADMITS that it is aware of and has first-hand knowledge as to what products are offered under the Registrant’s Mark, how those products are made, the quality of those products, the pricing of those products, and the majority if not all of the details associated with the products offered under the Registrant’s Mark in the United States by Ayotte Techno-Gaz Inc. and American Industrial Ovens. The Registrant further admits that its awareness and knowledge are obtained, achieved, and otherwise realized on a consistent and regular basis.

12. Registrant has monitored its licensees’ use of the SUNKISS mark.

Response to Request No. 12

The Registrant objects to Request No. 12 on the grounds set forth in the General Objections stated above and in the Registrant’s General Objections and Responses to Petitioner’s First Set of Interrogatories and incorporates those objections here. The Registrant further objects to this request as vague and ambiguous with respect to the term “SUNKISS mark.” The Registrant will respond to this request applying the following definition, “the Registrant’s Mark,” to the term “SUNKISS mark.” The Registrant also objects to this request to the extent it

calls for a legal conclusion. The Registrant further objects to this request as vague and ambiguous with respect to the term “monitored.” The Registrant further objects to this request to the extent it is duplicative of at least Request No. 11. The Registrant objects to this request to the extent it seeks a legal conclusion or seeks to apply legal definitions, precedent or other interpretation, that are not common and customary in the United States, in particular to the words “monitored” and/or “licensee’s use.” For this response, the Registrant will apply the usual meaning, definitions, precedent and/or other interpretation found in the United States. Without waiving those objections, the Registrant responds as follows:

The Registrant ADMITS that it is aware of and has first-hand knowledge as to what products are offered under the Registrant’s Mark, how those products are made, the quality of those products, the pricing of those products, and the majority if not all of the details associated with the products offered under the Registrant’s Mark in the United States by Ayotte Techno-Gaz Inc. and American Industrial Ovens. The Registrant further admits that its awareness and knowledge are obtained, achieved, and otherwise realized on a consistent and regular basis.

13. Registrant has a standard procedure for monitoring its licensees’ use(s) of the SUNKISS mark.

Response to Request No. 13

The Registrant objects to Request No. 13 on the grounds set forth in the General Objections stated above and in the Registrant’s General Objections and Responses to Petitioner’s First Set of Interrogatories and incorporates those objections here. The Registrant further objects to this request as vague and ambiguous with respect to the term “SUNKISS mark.” The Registrant will respond to this request applying the following definition, “the Registrant’s

Mark,” to the term “SUNKISS mark.” The Registrant further objects to this request to the extent it calls for a legal conclusion. The Registrant also objects to this request as vague and ambiguous with respect to the term “standard procedure for monitoring.” The Registrant further objects to this request to the extent that it is duplicative of at least Request Nos. 11 and 12. The Registrant objects to this request to the extent it seeks a legal conclusion or seeks to apply legal definitions, precedent or other interpretation, that are not common and customary in the United States, in particular to the words “standard procedure,” “monitoring” and/or “licensees’ use.” For this response, the Registrant will apply the usual meaning, definitions, precedent and/or other interpretation found in the United States. Without waiving those objections, the Registrant responds as follows:

The Registrant ADMITS that it is aware of and has first-hand knowledge as to what products are offered under the Registrant’s Mark, how those products are made, the quality of those products, the pricing of those products, and the majority if not all of the details associated with the products offered under the Registrant’s Mark in the United States by Ayotte Techno-Gaz Inc. and American Industrial Ovens. The Registrant further admits that its awareness and knowledge are obtained, achieved, and otherwise realized on a consistent and regular basis. The Registrant further ADMITS that it has a “checklist,” that is first used when the Registrant’s Product is assembled that employees refer to, in order to ensure that the Product respects the quality control measures imposed by the Registrant. The Registrant further ADMITS that as a final check of quality control there is verification to confirm that the Product is emitting heat in a uniform fashion with the goal of ensuring that there are no cold spots.

14. Registrant monitors its licensees' use of the SUNKISS mark to ensure compliance with Registrant's quality control standards.

Response to Request No. 14

The Registrant objects to Request No. 14 on the grounds set forth in the General Objections stated above and in the Registrant's General Objections and Responses to Petitioner's First Set of Interrogatories and incorporates those objections here. The Registrant further objects to this request as vague and ambiguous with respect to the term "SUNKISS mark." The Registrant will respond to this request applying the following definition, "the Registrant's Mark," to the term "SUNKISS mark." The Registrant further objects to this request to the extent it calls for a legal conclusion. The Registrant also objects to this request as vague and ambiguous with respect to the terms "monitors" and "quality control standards." The Registrant further objects to this request to the extent that it is duplicative of at least Request Nos. 11, 12, and 13. The Registrant objects to this request to the extent it seeks a legal conclusion or seeks to apply legal definitions, precedent or other interpretation, that are not common and customary in the United States, in particular to the words "monitors," "licensees' use," "compliance," and/or "quality control standards." For this response, the Registrant will apply the usual meaning, definitions, precedent and/or other interpretation found in the United States. Without waiving those objections, the Registrant responds as follows:

The Registrant ADMITS that it is aware of and has first-hand knowledge as to what products are offered under the Registrant's Mark, how those products are made, the quality of those products, the pricing of those products, and the majority if not all of the details associated with the products offered under the Registrant's Mark in the United States by Ayotte Techno-Gaz Inc. and American Industrial Ovens. The Registrant further admits that its awareness and

knowledge are obtained, achieved, and otherwise realized on a consistent and regular basis. The Registrant further ADMITS that it has a “checklist,” that is first used when the Registrant’s Product is assembled that employees refer to, in order to ensure that the Product respects the quality control measures imposed by the Registrant. The Registrant further ADMITS that as a final check of quality control there is verification to confirm that the Product is emitting heat in a uniform fashion with the goal of ensuring that there are no cold spots.

15. Registrant has hired a third-party to monitor its licensees’ use of the SUNKISS mark to ensure that the licensees’ use complies with Registrant’s quality control standards.

Response to Request No. 15

The Registrant objects to Request No. 15 on the grounds set forth in the General Objections stated above and in the Registrant’s General Objections and Responses to Petitioner’s First Set of Interrogatories and incorporates those objections here. The Registrant further objects to this request as vague and ambiguous with respect to the term “SUNKISS mark.” The Registrant will respond to this request applying the following definition, “the Registrant’s Mark,” to the term “SUNKISS mark.” The Registrant also objects to this request to the extent it calls for a legal conclusion. The Registrant further objects to this request as vague and ambiguous with respect to the terms “monitor” and “quality control standards.” The Registrant further objects to this request to the extent that it is duplicative of at least Request Nos. 11, 12, 13, and 14. The Registrant further objects to this request to the extent that it asserts or implies that a third party is required “to monitor [the Registrant’s] licensees’ use of” the Registrant’s Mark. The Registrant objects to this request to the extent it seeks a legal conclusion or seeks to apply legal definitions, precedent or other interpretation, that are not common and customary in

the United States, in particular to the words “monitors,” “licensees’ use,” “complies,” and/or “quality control standards.” For this response, the Registrant will apply the usual meaning, definitions, precedent and/or other interpretation found in the United States. Without waiving those objections, the Registrant responds as follows:

The Registrant DENIES that it is required to, or that it has, “hired a third-party to monitor its licensees’ use of the [Registrant’s Mark] mark to ensure that the licensees’ use complies with Registrant’s quality control standards.”

16. The third-party hired by Registrant to monitor its licensees’ use(s) of the SUNKISS mark reviews the licensees’ use(s) of the SUNKISS mark on a regularly scheduled basis.

Response to Request No. 16

The Registrant objects to Request No. 16 on the grounds set forth in the General Objections stated above and in the Registrant’s General Objections and Responses to Petitioner’s First Set of Interrogatories and incorporates those objections here. The Registrant further objects to this request as vague and ambiguous with respect to the term “SUNKISS mark.” The Registrant will respond to this request applying the following definition, “the Registrant’s Mark,” to the term “SUNKISS mark.” The Registrant also objects to this request to the extent it calls for a legal conclusion. The Registrant further objects to this request as vague and ambiguous with respect to the terms “monitor” and “quality control standards.” The Registrant further objects to this request to the extent that it is duplicative of at least Request Nos. 11, 12, 13, and 14. The Registrant further objects to this request to the extent that it asserts or implies that a third party is required “to monitor [the Registrant’s] licensees’ use of” the Registrant’s

Mark. The Registrant further objects to this request to the extent that it assumes facts not in evidence or otherwise asserts or implies that the Registrant has hired a “third party” for “monitor[ing] its licensees’ use(s) of the” Registrant’s Mark. The Registrant objects to this request to the extent it seeks a legal conclusion or seeks to apply legal definitions, precedent or other interpretation, that are not common and customary in the United States, in particular to the words “monitors,” “licensees’ use,” and/or “regularly scheduled basis.” For this response, the Registrant will apply the usual meaning, definitions, precedent and/or other interpretation found in the United States. Without waiving those objections, the Registrant responds as follows:

The Registrant does not employ a “third-party hired by Registrant to monitor its licensees’ use of the” Registrant’s Mark. The Registrant therefore DENIES this request.

17. The third-party hired by Registrant to monitor its licensees’ use(s) of the SUNKISS mark employs a standard procedure for monitoring the licensees’ use of the SUNKISS mark.

Response to Request No. 17

The Registrant objects to Request No. 17 on the grounds set forth in the General Objections stated above and in the Registrant’s General Objections and Responses to Petitioner’s First Set of Interrogatories and incorporates those objections here. The Registrant further objects to this request as vague and ambiguous with respect to the term “SUNKISS mark.” The Registrant will respond to this request applying the following definition, “the Registrant’s Mark,” to the term “SUNKISS mark.” The Registrant further objects to this request to the extent it calls for a legal conclusion. The Registrant also objects to this request as vague and ambiguous with respect to the terms “monitor” and “standard procedure.” The Registrant

further objects to this request to the extent that it is duplicative of at least Request Nos. 11, 12, 13, and 14. The Registrant further objects to this request to the extent that it asserts or implies that a third-party is required “to monitor [the Registrant’s] licensees’ use of” the Registrant’s Mark. The Registrant also objects to this request to the extent that it assumes facts not in evidence or otherwise asserts or implies that the Registrant has hired a “third-party” for “monitor[ing] its licensees’ use(s) of the” Registrant’s Mark. The Registrant objects to this request to the extent it seeks a legal conclusion or seeks to apply legal definitions, precedent or other interpretation, that are not common and customary in the United States, in particular to the words “monitors,” “licensees’ use,” “employs” and/or “standard procedure.” For this response, the Registrant will apply the usual meaning, definitions, precedent and/or other interpretation found in the United States. Without waiving those objections, the Registrant responds as follows:

The Registrant does not employ a “third-party hired by Registrant to monitor its licensees’ use of the” Registrant’s Mark. The Registrant therefore DENIES this request.

18. The third-party hired by Registrant to monitor its licensees’ use(s) of the SUNKISS mark provides reports to Registrant regarding the licensees’ use(s) of the SUNKISS mark.

Response to Request No. 18

The Registrant objects to Request No. 18 on the grounds set forth in the General Objections stated above and in the Registrant’s General Objections and Responses to Petitioner’s First Set of Interrogatories and incorporates those objections here. The Registrant further objects to this request as vague and ambiguous with respect to the term “SUNKISS mark.” The

Registrant will respond to this request applying the following definition, “the Registrant’s Mark,” to the term “SUNKISS mark.” The Registrant further objects to this request to the extent it calls for a legal conclusion. The Registrant also objects to this request as vague and ambiguous with respect to the term “monitor.” The Registrant further objects to this request to the extent that it is duplicative of at least Request Nos. 11, 12, 13, and 14. The Registrant further objects to this request to the extent that it asserts or implies that a third-party is required “to monitor [the Registrant’s] licensees’ use of” the Registrant’s Mark. The Registrant further objects to this request to the extent that it assumes facts not in evidence or otherwise asserts or implies that the Registrant has hired a “third-party” for “monitor[ing] its licensees’ use(s) of the” Registrant’s Mark. The Registrant objects to this request to the extent it seeks a legal conclusion or seeks to apply legal definitions, precedent or other interpretation, that are not common and customary in the United States, in particular to the words “monitors,” and/or “licensees’ use.” For this response, the Registrant will apply the usual meaning, definitions, precedent and/or other interpretation found in the United States. Without waiving those objections, the Registrant responds as follows:

The Registrant does not employ a “third-party hired by Registrant to monitor its licensees’ use of the” Registrant’s Mark. The Registrant therefore DENIES this request.

19. Registrant does not monitor its licensees’ use of the SUNKISS mark.

Response to Request No. 19

The Registrant objects to Request No. 19 on the grounds set forth in the General Objections stated above and in the Registrant’s General Objections and Responses to Petitioner’s First Set of Interrogatories and incorporates those objections here. The Registrant further objects

to this request as vague and ambiguous with respect to the term “SUNKISS mark.” The Registrant will respond to this request applying the following definition, “the Registrant’s Mark,” to the term “SUNKISS mark.” The Registrant further objects to this request to the extent it calls for a legal conclusion. The Registrant further objects to this request as vague and ambiguous with respect to the term “monitor.” The Registrant also objects to this request to the extent that it is duplicative of at least Request Nos. 11 through 18. The Registrant objects to this request to the extent it seeks a legal conclusion or seeks to apply legal definitions, precedent or other interpretation, that are not common and customary in the United States, in particular to the words “monitors,” and/or “licensees’ use.” For this response, the Registrant will apply the usual meaning, definitions, precedent and/or other interpretation found in the United States. Without waiving those objections, the Registrant responds as follows:

The Registrant DENIES this request.

20. Registrant does not police the SUNKISS mark.

Response to Request No. 20

The Registrant objects to Request No. 20 on the grounds set forth in the General Objections stated above and in the Registrant’s General Objections and Responses to Petitioner’s First Set of Interrogatories and incorporates those objections here. The Registrant further objects to this request as vague and ambiguous with respect to the term “SUNKISS mark.” The Registrant will respond to this request applying the following definition, “the Registrant’s Mark,” to the term “SUNKISS mark.” The Registrant also objects to this request to the extent it calls for a legal conclusion. The Registrant further objects to this request as vague and ambiguous with respect to the term “police.” The Registrant further objects to this request to

the extent that it is duplicative of at least Request Nos. 11 through 19. The Registrant further objects to this request to the extent that it asserts, implies, or otherwise suggests the Registrant is aware of any uses of the Registrant's Mark in the United States by third parties other than Ayotte Techno-Gaz Inc. and American Industrial Ovens. The Registrant objects to this request to the extent it seeks a legal conclusion or seeks to apply legal definitions, precedent or other interpretation, that are not common and customary in the United States, in particular to the word "police." For this response, the Registrant will apply the usual meaning, definitions, precedent and/or other interpretation found in the United States. Without waiving those objections, the Registrant responds as follows:

The Registrant DENIES this request.

21. Registrant has documents evidencing Registrant's policing of the SUNKISS mark.

Response to Request No. 21

The Registrant objects to Request No. 21 on the grounds set forth in the General Objections stated above and in the Registrant's General Objections and Responses to Petitioner's First Set of Interrogatories and incorporates those objections here. The Registrant further objects to this request as vague and ambiguous with respect to the term "SUNKISS mark." The Registrant will respond to this request applying the following definition, "the Registrant's Mark," to the term "SUNKISS mark." The Registrant further objects to this request to the extent it calls for a legal conclusion. The Registrant further objects to this request as vague and ambiguous with respect to the term "policing." The Registrant further objects to this request to the extent that it asserts or implies that a "documents evidencing Registrant's policing of the"

Registrant's mark are required. The Registrant further objects to this request to the extent that it asserts, implies or otherwise suggests the Registrant is aware of any uses of the Registrant's Mark in the United States by third parties other than Ayotte Techno-Gaz Inc. and American Industrial Ovens. The Registrant objects to this request to the extent it seeks a legal conclusion or seeks to apply legal definitions, precedent or other interpretation, that are not common and customary in the United States, in particular to the word "policing." For this response, the Registrant will apply the usual meaning, definitions, precedent and/or other interpretation found in the United States. Without waiving those objections, the Registrant responds as follows:

The Registrant ADMITS that it has documents pertaining to its "checklist" and other quality control measures. The Registrant further ADMITS that Ayotte Techno-Gaz Inc. and American Industrial Ovens are all primarily owned by Mr. Daniel Ayotte. Mr. Ayotte is the President for each of these three companies as well. Mr. Ayotte, as the Registrant, rarely, if ever, required documents to "evidence" his knowledge of how he was "using" the Registrant's Mark in his capacity with Ayotte Techno-Gaz Inc. and/or American Industrial Ovens.

22. Registrant is aware of instances of a licensee's use of the SUNKISS mark which does not conform to Registrant's quality control standards.

Response to Request No. 22

The Registrant objects to Request No. 22 on the grounds set forth in the General Objections stated above and in the Registrant's General Objections and Responses to Petitioner's First Set of Interrogatories and incorporates those objections here. The Registrant further objects to this request as vague and ambiguous with respect to the term "SUNKISS mark." The Registrant will respond to this request applying the following definition, "the Registrant's

Mark,” to the term “SUNKISS mark.” The Registrant further objects to this request to the extent it calls for a legal conclusion. The Registrant also objects to this request as vague and ambiguous with respect to the terms “does not conform” and “quality control standards.” The Registrant further objects to this request to the extent that it assumes facts not in evidence or asserts or implies that the Registrant has documented “quality control standards” applicable solely to licensees. The Registrant further objects to this request to the extent that it asserts, implies, or otherwise suggests the Registrant is aware of any licensees granted the right to use the Registrant’s Mark in the United States other than Ayotte Techno-Gaz Inc. and American Industrial Ovens. The Registrant objects to this request to the extent it seeks a legal conclusion or seeks to apply legal definitions, precedent or other interpretation, that are not common and customary in the United States, in particular to the words “licensee’s use,” “conform,” and/or “quality control standards.” For this response, the Registrant will apply the usual meaning, definitions, precedent and/or other interpretation found in the United States. Without waiving those objections, the Registrant responds as follows:

The Registrant DENIES this request.

23. Registrant has taken steps to prevent a licensee’s use of the SUNKISS mark which does not conform to Registrant’s quality control standards.

Response to Request No. 23

The Registrant objects to Request No. 23 on the grounds set forth in the General Objections stated above and in the Registrant’s General Objections and Responses to Petitioner’s First Set of Interrogatories and incorporates those objections here. The Registrant further objects to this request as vague and ambiguous with respect to the term “SUNKISS mark.” The

Registrant will respond to this request applying the following definition, “the Registrant’s Mark,” to the term “SUNKISS mark.” The Registrant further objects to this request to the extent it calls for a legal conclusion. The Registrant also objects to this request as vague and ambiguous with respect to the terms “taken steps,” “does not conform,” and “quality control standards.” The Registrant further objects to this request to the extent that it assumes facts not in evidence or asserts or implies that the Registrant is aware of a licensee using the Registrant’s Mark in a manner that “does not conform to Registrant’s quality control standards,” or that the Registrant has documented “quality control standards” applicable solely to licensees. The Registrant further objects to this request to the extent that it asserts, implies, or otherwise suggests the Registrant is aware of any licensees granted the right to use the Registrant’s Mark in the United States other than Ayotte Techno-Gaz Inc. and American Industrial Ovens. The Registrant objects to this request to the extent it seeks a legal conclusion or seeks to apply legal definitions, precedent or other interpretation, that are not common and customary in the United States, in particular to the words “licensee’s use,” “conform,” and/or “quality control standards.” For this response, the Registrant will apply the usual meaning, definitions, precedent and/or other interpretation found in the United States. Without waiving those objections, the Registrant responds as follows:

The Registrant ADMITS IN PART and DENIES IN PART. The Registrant is not aware of any uses of the Registrant’s Mark by Ayotte Techno-Gaz Inc. or American Industrial Ovens that would violate any “quality control standards,” and therefore DENIES this request to the extent it concerns addressing violations of “quality control standards” that have occurred. However, the Registrant supplies Ayotte Techno-Gaz Inc. and American Industrial Ovens with the Goods offered under the Registrant’s Mark, as well as specification, instructions, suggested

retail price lists, marketing, promotion and advertising materials for the Registrant's Mark; and the Registrant fulfills warranty obligations for the Goods offered under the Registrant's Mark. Therefore, the Registrant ADMITS this request to the extent it concerns preventing a lack of "quality" beneath those required by the Registrant.

24. Registrant has terminated a license agreement because the licensee did not meet Registrant's quality control standards for the SUNKISS mark.

Response to Request No. 24

The Registrant objects to Request No. 24 on the grounds set forth in the General Objections stated above and in the Registrant's General Objections and Responses to Petitioner's First Set of Interrogatories and incorporates those objections here. The Registrant further objects to this request as vague and ambiguous with respect to the term "SUNKISS mark." The Registrant will respond to this request applying the following definition, "the Registrant's Mark," to the term "SUNKISS mark." The Registrant further objects to this request to the extent it calls for a legal conclusion. The Registrant further objects to this request as vague and ambiguous with respect to the terms "did not meet" and "quality control standards." The Registrant also objects to this request to the extent that it assumes facts not in evidence or asserts or implies that the Registrant is aware of a licensee using the Registrant's Mark in a manner that "did not meet Registrant's quality control standards," or that the Registrant has documented "quality control standards" applicable solely to licensees. The Registrant further objects to this request to the extent that it asserts, implies, or otherwise suggests the Registrant is aware of any licensees granted the right to use the Registrant's Mark in the United States other than Ayotte Techno-Gaz Inc. and American Industrial Ovens. The Registrant objects to this request to the

extent it seeks a legal conclusion or seeks to apply legal definitions, precedent or other interpretation, that are not common and customary in the United States, in particular to the words “license agreement,” “license” and/or “quality control standards.” For this response, the Registrant will apply the usual meaning, definitions, precedent and/or other interpretation found in the United States. Without waiving those objections, the Registrant responds as follows:

The Registrant is not aware of any violations by Ayotte Techno-Gaz Inc. or American Industrial Ovens of any “quality control standards” such that the “terminat[ion of] a license agreement” would be required or warranted, and therefore DENIES this request.

25. A third-party has taken steps on Registrant’s behalf to prevent a licensee’s use of the SUNKISS mark which does not conform to Registrant’s quality control standards.

Response to Request No. 25

The Registrant objects to Request No. 25 on the grounds set forth in the General Objections stated above and in the Registrant’s General Objections and Responses to Petitioner’s First Set of Interrogatories and incorporates those objections here. The Registrant further objects to this request as vague and ambiguous with respect to the term “SUNKISS mark.” The Registrant will respond to this request applying the following definition, “the Registrant’s Mark,” to the term “SUNKISS mark.” The Registrant further objects to this request to the extent it calls for a legal conclusion. The Registrant also objects to this request as vague and ambiguous with respect to the terms “taken steps,” “does not conform,” and “quality control standards.” The Registrant further objects to this request to the extent that it assumes facts not in evidence or asserts or implies that the Registrant is aware of a licensee using the Registrant’s Mark in a manner that “does not conform to Registrant’s quality control standards,” or that the

Registrant has documented “quality control standards” applicable solely to licensees. The Registrant further objects to this request to the extent that it asserts, implies, or otherwise suggests the Registrant is aware of any licensees granted the right to use the Registrant’s Mark in the United States other than Ayotte Techno-Gaz Inc. and American Industrial Ovens. The Registrant further objects to this request to the extent that it asserts or implies that a third-party is required to “take steps on Registrant’s behalf.” With The Registrant objects to this request to the extent it seeks a legal conclusion or seeks to apply legal definitions, precedent or other interpretation, that are not common and customary in the United States, in particular to the words “licensee’s use,” “conform,” and/or “quality control standards.” For this response, the Registrant will apply the usual meaning, definitions, precedent and/or other interpretation found in the United States. Without waiving those objections, the Registrant responds as follows:

The Registrant is not aware of any uses of the Registrant’s Mark by Ayotte Techno-Gaz Inc. or American Industrial Ovens that would violate any “quality control standards,” and therefore DENIES this request.

26. Registrant does not sell watches bearing the SUNKISS mark directly.

Response to Request No. 26

The Registrant objects to Request No. 26 on the grounds set forth in the General Objections stated above and in the Registrant’s General Objections and Responses to Petitioner’s First Set of Interrogatories and incorporates those objections here. Without waiving those objections, the Registrant responds as follows:

The Registrant’s Mark and the Registration at issue are directed to space heaters. Therefore, the Registrant ADMITS this request.

27. Registrant has authorized a licensee to manufacture goods bearing the SUNKISS mark.

Response to Request No. 27

The Registrant objects to Request No. 27 on the grounds set forth in the General Objections stated above and in the Registrant's General Objections and Responses to Petitioner's First Set of Interrogatories and incorporates those objections here. The Registrant further objects to this request as vague and ambiguous with respect to the term "SUNKISS mark." The Registrant will respond to this request applying the following definition, "the Registrant's Mark," to the term "SUNKISS mark." The Registrant further objects to this request as vague and ambiguous with respect to the terms "authorized a licensee to manufacture goods bearing" the Registrant's Mark. The Registrant does not understand if the request is directed to the manufacturing of goods by a licensee that can then later be offered under the Registrant's Mark or directed to licensee's applying the Registrant's Mark to goods during manufacturing. The Registrant objects to this request to the extent it seeks a legal conclusion or seeks to apply legal definitions, precedent or other interpretation, that are not common and customary in the United States, in particular to the words "licensee," "manufacture," and/or "bearing." For this response, the Registrant will apply the usual meaning, definitions, precedent and/or other interpretation found in the United States. Without waiving those objections, the Registrant responds as follows:

The Registrant DENIES this request.

28. Registrant has authorized a licensee to sell goods bearing the SUNKISS mark.

Response to Request No. 28

The Registrant objects to Request No. 28 on the grounds set forth in the General Objections stated above and in the Registrant's General Objections and Responses to Petitioner's First Set of Interrogatories and incorporates those objections here. The Registrant further objects to this request as vague and ambiguous with respect to the term "SUNKISS mark." The Registrant will respond to this request applying the following definition, "the Registrant's Mark," to the term "SUNKISS mark." The Registrant also objects to this request as vague and ambiguous with respect to the term "goods" without any limitation on the type of goods. The Registrant further objects to this request to the extent that it is duplicative of at least Request Nos. 5 through 8. The Registrant objects to this request to the extent it seeks a legal conclusion or seeks to apply legal definitions, precedent or other interpretation, that are not common and customary in the United States, in particular to the words "licensee," "sell," and/or "bearing." For this response, the Registrant will apply the usual meaning, definitions, precedent and/or other interpretation found in the United States. Without waiving those objections, the Registrant responds as follows:

The Registrant ADMITS that it has entered into distribution agreement(s) with third-parties, which include granting these third-parties the right to sell goods in the United States that bear the Registrant's Mark.

29. Registrant's only sales in the United States are through a third party.

Response to Request No. 29

The Registrant objects to Request No. 29 on the grounds set forth in the General Objections stated above and in the Registrant's General Objections and Responses to Petitioner's

First Set of Interrogatories and incorporates those objections here. The Registrant further objects to this request as vague and ambiguous with respect to the term “only sales” without any limitation on the type of sales. The Registrant will respond to this request applying the following definition, “space heaters as identified in Registration No. 1,200,333.” The Registrant objects to this request to the extent it seeks a legal conclusion or seeks to apply legal definitions, precedent or other interpretation, that are not common and customary in the United States, in particular to the word “sales.” For this response, the Registrant will apply the usual meaning, definitions, precedent and/or other interpretation found in the United States. Without waiving those objections, the Registrant responds as follows:

The Registrant DENIES this request.

30. Registration does not directly sell any goods bearing the SUNKISS mark in the United States.

Response to Request No. 30

The Registrant objects to Request No. 30 on the grounds set forth in the General Objections stated above and in the Registrant’s General Objections and Responses to Petitioner’s First Set of Interrogatories and incorporates those objections here. The Registrant objects to this request as vague and ambiguous in that it seeks an admission or denial that “Registration does not directly sell . . .” The Registrant will respond to this request with the understanding it seeks an admission or denial that “The Registrant does not directly sell . . .” The Registrant will respond to this request applying the following definition, “the Registrant’s Mark,” to the term “SUNKISS mark.” The Registrant further objects to this request as vague and ambiguous with respect to the term “goods.” The Registrant will respond to this request applying the following

definition, “space heaters as identified in Registration No. 1,200,333,” to the term “goods.” The Registrant further objects to this request to the extent that it is duplicative of at least Request No. 29. The Registrant objects to this request to the extent it seeks a legal conclusion or seeks to apply legal definitions, precedent or other interpretation, that are not common and customary in the United States, in particular to the words “directly sell” and/or “bearing.” For this response, the Registrant will apply the usual meaning, definitions, precedent and/or other interpretation found in the United States. Without waiving those objections, the Registrant responds as follows:

The Registrant DENIES this request.

31. Registrant has provided all evidence in its custody, control or possession which would support a claim that Registrant has continuously used the SUNKISS mark in commerce on space heaters since 1983.

Response to Request No. 31

The Registrant objects to Request No. 31 on the grounds set forth in the General Objections stated above and in the Registrant’s General Objections and Responses to Petitioner’s First Set of Interrogatories and incorporates those objections here. The Registrant further objects to this request as vague and ambiguous with respect to the term “SUNKISS mark.” The Registrant will respond to this request applying the following definition, “the Registrant’s Mark,” to the term “SUNKISS mark.” The Registrant further objects to this request to the extent that it calls for a legal conclusion. The Registrant further objects to this request to the extent that it encompasses any documents not yet reviewed or produced by the Registrant. The Registrant further objects to this request to the extent it asserts, implies, or suggests that the Registrant is

not permitted and/or obligated to produce additional evidence discovered as part of the Registrant's ongoing obligations under the Federal Rules of Civil Procedure and/or TBMP. The Registrant further objects to this request to the extent that it assumes, implies or otherwise suggests that the Registrant has possession, custody, or control of evidence that pre-dates Sunkiss Thermoreactors, Inc.'s acquisition of the ownership of the Registration. Without waiving those objections, the Registrant responds as follows:

The Registrant ADMITS that to the best of its knowledge it has provided all evidence it is currently aware of within its possession, custody, and control and which is not subject to an applicable privilege or other doctrine preventing disclosure, that "support[s] a claim that Registrant has continuously used the [Registrant's Mark] mark in commerce on space heaters since 1983."

32. Registrant has provided all evidence in its custody, control or possession which would support a claim that Registrant has continuously used the SUNKISS mark in commerce on air conditioners since 1983.

Response to Request No. 32

The Registrant objects to Request No. 32 on the grounds set forth in the General Objections stated above and in the Registrant's General Objections and Responses to Petitioner's First Set of Interrogatories and incorporates those objections here. The Registrant further objects to this request as vague and ambiguous with respect to the term "SUNKISS mark." The Registrant will respond to this request applying the following definition, "the Registrant's Mark," to the term "SUNKISS mark." The Registrant further objects to this request to the extent that it calls for a legal conclusion. The Registrant also objects to this request to the extent that it

encompasses any documents not yet reviewed or produced by the Registrant. The Registrant further objects to this request to the extent it asserts, implies, or suggests that the Registrant is not permitted and/or obligated to produce additional evidence discovered as part of the Registrant's ongoing obligations under the Federal Rules of Civil Procedure and/or TBMP. The Registrant further objects to this request to the extent that it assumes, implies, or otherwise suggests that the Registrant has possession, custody, or control of evidence that pre-dates the Sunkiss Thermoreactors, Inc.'s acquisition of the ownership of the Registration. The Registrant further objects to this request to the extent that it seeks information and documents that are not relevant to the claims and defenses asserted in this proceeding and/or seeks information not reasonably likely to lead to the discovery of admissible evidence, including information related to air conditioners. Without waiving those objections, the Registrant responds as follows:

Sunkiss Thermoreactors, Inc., acquired ownership of the Registration in 2009. The prior owner of the Registration, Calinter S.A., deleted "air conditioners" from the identification of goods for the Registration in 1987 with the submission of its Combined Declaration Under Sections 8 & 15. The Registrant responds that it is unable to admit or deny Request No. 32 based upon information available to it, after reasonable investigation, and the same is therefore DENIED.

33. Registrant has provided all evidence in its custody, control or possession which would support a claim that Registrant has continuously used the SUNKISS mark in commerce on refrigerators since 1983.

Response to Request No. 33

The Registrant objects to Request No. 33 on the grounds set forth in the General Objections stated above and in the Registrant's General Objections and Responses to Petitioner's First Set of Interrogatories and incorporates those objections here. The Registrant further objects to this request as vague and ambiguous with respect to the term "SUNKISS mark." The Registrant will respond to this request applying the following definition, "the Registrant's Mark," to the term "SUNKISS mark." The Registrant further objects to this request to the extent that it calls for a legal conclusion. The Registrant also objects to this request to the extent that it encompasses any documents not yet reviewed or produced by the Registrant. The Registrant further objects to this request to the extent it asserts, implies or suggests that the Registrant is not permitted and/or obligated to produce additional evidence discovered as part of the Registrant's ongoing obligations under the Federal Rules of Civil Procedure and/or TBMP. The Registrant further objects to this request to the extent that it assumes, implies, or otherwise suggests that the Registrant has possession, custody, or control of evidence that pre-dates Sunkiss Thermoreactors, Inc.'s acquisition of the ownership of the Registration. The Registrant further objects to this request to the extent that it seeks information and documents that are not relevant to the claims and defenses asserted in this proceeding and/or seeks information not reasonably likely to lead to the discovery of admissible evidence, including information related to refrigerators. Without waiving those objections, the Registrant responds as follows:

Sunkiss Thermoreactors, Inc., acquired ownership of the Registration in 2009. The prior owner of the Registration, Calinter S.A., deleted "refrigerates" from the identification of goods for the Registration in 1987 with the submission of its Combined Declaration Under

Sections 8 & 15. The Registrant responds that it is unable to admit or deny Request No. 32 based upon information available to it, after reasonable investigation, and the same is therefore DENIED.

Respectfully submitted,

August 10, 2015
Date



Rebecca J. Stempien Coyle
Paul Grandinetti
LEVY & GRANDINETTI
P.O. Box 18385
Washington, D.C. 20036-8385
Telephone (202) 429-4560
Facsimile (202) 429-4564

Attorneys for Registrant

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing REGISTRANT'S OBJECTIONS AND RESPONSES TO PETITIONER'S FIRST SET OF REQUESTS FOR ADMISSION was served this date by first class mail, postage prepaid, and e-mail on the Petitioner's attorneys as follows:

Ms. Kristen A. Mogavero
Ms. Jess M. Collen
COLLEN IP INTELLECTUAL PROPERTY LAW PC
The Holyoke-Manhattan Building
80 South Highland Avenue
Ossining, New York 10562
kmogavero@collenip.com

August 10, 2015

Date



Rebecca J. Stempien Coyle

EXHIBIT 3

Cancellation No. 92/060,849

FINAM v. Sunkiss Thermoreactors, Inc.

Registrant's Motion to Quash

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

FINAM,

Petitioner,

v.

SUNKISS THERMOREACTORS, INC.,

Registrant.

Mark: SUNKISS

Canc. No.: 92/060,849

Reg. No.: 1,200,333

**PETITIONER'S SECOND SET OF REQUESTS FOR THE PRODUCTION
OF DOCUMENTS AND THINGS**

Pursuant to Rule 34 of the Federal Rules of Civil Procedure and Rule 2.120 of the Trademark Rules of Practice for the United States Patent and Trademark Office, Petitioner FINAM (“Petitioner”) submits herewith for production by Sunkiss Thermoreactors, Inc. (“Registrant”) these Requests for the Production of Documents and Things.

Petitioner hereby requests that Registrant produce the following documents and tangible things to the attention and at the address of the Petitioner’s undersigned counsel’s offices at Collen *IP*, THE HOLYOKE-MANHATTAN BUILDING, 80 South Highland Avenue, Ossining, New York, 10562 within thirty (30) days after service of these requests. These requests shall be deemed continuing, and require production of any documents called for herein or any such documents which shall come within the custody or control of Registrant, or its agents or representatives at any time between Registrant’s initial production and the further prosecution of this action.

Please note the instructions and definitions included in the Petitioner's Second Set of Interrogatories which are incorporated by reference and made a part hereof, as if fully stated herein.

DOCUMENTS TO BE PRODUCED

1. All documents which refer to the goods sold by Registrant under the SUNKISS Mark as "space heaters."
2. All documents which refer to the goods sold by Ayotte Techno-Gaz under the SUNKISS Mark as "space heaters."
3. All documents which refer to the goods sold by American Industrial Ovens under the SUNKISS Mark as "space heaters."
4. All brochures, promotional materials, or other marketing materials used by Registrant, Ayotte-Techno Gaz, or American Industrial Ovens which includes the phrase "space heater."
5. All invoices or other documents evidencing sales of goods sold under the SUNKISS Mark by Registrant in the United States from 2008 to present.
6. All invoices or other documents evidencing sales of goods sold under the SUNKISS Mark by Ayotte Techno-Gaz in the United States from 2008 to present.
7. All invoices or other documents evidencing sales of goods sold under the SUNKISS Mark by American Industrial Ovens in the United States from 2008 to present.
8. All documents evidencing distributors which sold space heaters under the SUNKISS mark from 2008 to present.
9. All documents which evidence use of the SUN-SPOT mark by Registrant, Ayotte Techno-Gaz, or American Industrial Ovens in association with space heaters in the United States

since 2008.

10. All documents which evidence use of the SUN-SPOT mark by Registrant, Ayotte Techno-Gaz, or American Industrial Ovens in association with catalytic infrared emitters in the United States since 2008.

11. The minutes from meetings of Registrant's Board of Directors from 2008 to present.

12. The minutes from meetings of Registrant's shareholders from 2008 to present.

Respectfully Submitted,

By: 

Jess M. Collen
Kristen A. Mogavero
COLLEN IP
THE HOLYOKE-MANHATTAN BUILDING
80 South Highland Avenue
Ossining, NY 10562
(914) 941-5668 Tel.
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Counsel for Petitioner FINAM

Date: September 10, 2015

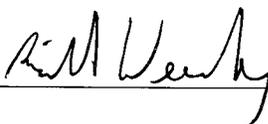
CERTIFICATE OF SERVICE

I, Richard Weinberg, hereby certify that on September 10, 2015, I caused true and correct copies of "Petitioner's Second Set of Request for the Production of Documents and Things" to be served upon Registrant's Attorney of Record at the following addresses:

Ms. Rebecca J. Stempien Coyle
Levy & Grandinetti
PO Box 18385
Washington, DC 20036-8385
mail@levygrandinetti.com

Via first-class mail, postage pre-paid and by e-mail.

Said service having taken place this 10th day of September, 2015



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

FINAM,

Petitioner,

v.

SUNKISS THERMOREACTORS, INC.,

Registrant.

Mark: SUNKISS

Canc. No.: 92/060,849

Reg. No.: 1,200,333

PETITIONER'S SECOND SET OF INTERROGATORIES

Pursuant to Rule 33 of the Federal Rules of Civil Procedure and Rule 2.120 of the Trademark Rules of Practice for the United States Patent and Trademark Office, Petitioner FINAM (hereafter, "Petitioner") hereby requests that Registrant Sunkiss Thermoreactors, Inc. ("Registrant") respond under oath or by affirmation to the following Interrogatories within thirty (30) days after service of these requests. These Interrogatories shall be deemed continuing and Registrant is requested to serve upon Petitioner, in the form of supplementary Answers, any additional information requested herein that may be known to Registrant after the date of its Answers to these Interrogatories.

INSTRUCTIONS AND DEFINITIONS

The following definitions and instructions are applicable to Petitioner's First Set of Interrogatories, Petitioner's First Request for Production of Documents and Petitioner's First Request for Admissions:

A. "Petitioner" means the named Petitioner in this action, FINAM, including its divisions, departments, subsidiaries, parents, partners, joint venture partners, officers, directors, owners, agents, employees, accountants, attorneys, any predecessor or successor in interest thereof, and all other persons acting on behalf of or for the benefit of FINAM.

B. "Registrant" or "you" shall mean the named Registrant, Sunkiss Thermoreactors, Inc., including all partners, joint venture partners, agents, employees, accountants, attorneys, any predecessor or successor in interest thereof, and all other persons acting on behalf of or for the benefit of Sunkiss Thermoreactors, Inc.

C. The term "Registration" means United States Trademark Registration No. 1,200,333.

D. The term "Registrant's Mark" means the trademark identified in United States Trademark Registration No. 1,200,333.

E. The terms "Goods" and "Products" means the items marketed and distributed or intended to be marketed and distributed by Registrant and/or the services provided.

F. The terms "data," "document" and "documents" means any writing of any kind, in any form or format, including all originals, copies, non-identical copies of all correspondence, papers, books, messages, publications, recordings, literature, letters, email communications, photographs, price lists, brochures, memoranda, notes, reports, drawings, diaries, graphic, aural, mechanical or electronic records, or any information that is stored electronically or otherwise and is capable of being retrieved, and any other writings whether in final or draft form and whether or not such draft was actually used or completed, or any "document" as otherwise described in Federal Rule of Civil Procedure 34 which is in your actual or constructive possession, custody or control.

G. "Person" means any individual, firm, corporation, partnership, proprietorship, cooperative, association, joint venture, organization, governmental body, group of natural persons, or any other entity.

H. The term "identify" or "specify" and "state the identity of" shall mean a complete identification to the full extent known or ascertainable by Registrant, whether or not in possession of Registrant, and whether or not alleged to be privileged, including the following information:

- 1) The present depository or depositories and the name and address of the person or persons having custody of any item to be identified unless the item is a patent, public document or person;
- 2) If the item to be identified is a person, his or her full name, address, job title, and present employers;
- 3) If the item to be identified is a document or paper, its character, title, date, addressee or recipient and author, signatory, or sender;
- 4) If the item to be identified is printed material, its title, author, publication date, volume and relevant page numbers;
- 5) If the identity sought is information about a situation or set of circumstances, all of the facts relating to or relevant to such a situation including the identity of persons with knowledge of

such situation and the identity of all documents relating to, referring to, or otherwise pertinent to such a situation.

6) If the person to be identified is a corporation, or other legal entity, the laws under which it is organized, and the date of organization.

I. The term "mark(s)" means and includes trademarks, service marks, trade names, corporation names, and any other symbol or device used to identify the source, affiliation, or identity of any product, service or person.

J. The term "advertisement" means and includes all communications to third parties fixed in a tangible medium of expression and intended to promote or encourage the purchase or sale of goods or services in the United States.

K. The term "advertising" means and includes all advertisement and all other communications to third parties intended to promote or encourage the purchase or sale of goods or services in the United States.

L. The term "media outlet" is defined as any individual printed publication such as a newspaper or magazine; broadcast television or radio station; cable channel; or Internet website.

M. If in the following Interrogatories, Document Requests and Requests for Admission, privilege is alleged as to information or materials, or if an Interrogatory, Document Request or Request for Admission is otherwise not answered in full, state the specific grounds for not answering in full, and answer said Interrogatory, Document Request or Request for Admission to the extent to which it is not objected, including the identification of all information or material for which privilege may be claimed.

N. All questions are to be read so as to give the question the broadest possible meaning, so that, for example, when either of the terms "and" or "or" is used, it is to be construed as "and/or." Similarly use of the singular also includes the plural, use of any female pronouns also includes the male, and so forth.

O. Unless otherwise noted, the terms "sell," "advertise," "market," and "promote" are to be interpreted as encompassing both the present act and the future intended act (e.g., "sell" shall also mean "intend to sell").

P. Unless otherwise noted, the geographic scope of these discovery requests is limited to the United States.

INTERROGATORIES

1. Identify the documents identified as Bates Nos. SUNKISS000224 through SUNKISS000246.
2. Identify the documents identified as Bates Nos. SUNKISS000004 through SUNKISS000005.
3. Identify the documents identified as Bates Nos. SUNKISS000295 through SUNKISS000306.
4. Identify the documents identified as Bates Nos. SUNKISS000222 through SUNKISS000223.
5. Identify any other trademarks under which catalytic infrared emitters are sold or have been sold since 2008 by Registrant, or any third party on behalf of Registrant, in the United States.
6. Identify all Goods on which Registrant, Ayotte Techno-Gaz, or American Industrial Ovens has used the SUN-SPOT mark in the United States.
7. Identify the date of first use of the SUN-SPOT mark in association with the Goods identified in response to Interrogatory No. 6.
8. Identify the date of last use of the SUN-SPOT mark in association with the Goods identified in response to Interrogatory No. 6.
9. Identify the amount of sales (in U.S. dollars) of the goods Goods identified in response to Interrogatory No. 6 sold by Registrant, or any third party on behalf of Registrant, broken down by year from the date of the first sale to present.
10. Identify the corporate officers of Registrant and their positions.
11. Identify the corporate officers of Ayotte Techno-Gaz and their positions.

12. Identify the corporate officers of American Industrial Ovens and their positions.
13. Identify the corporate officers of 9140-3543 Quebec Inc.
14. Identify the corporate officers of 9063-8974 Quebec Inc.
15. Identify the amount of sales (in U.S. dollars) of any product which includes a catalytic infrared emitter sold by Registrant, or any third party on behalf of Registrant, broken down by year from 2008 to present.

Respectfully Submitted,

By: 

Jess M. Collen
Kristen A. Mogavero
COLLEN *IP*
THE HOLYOKE-MANHATTAN BUILDING
80 South Highland Avenue
Ossining, NY 10562
(914) 941-5668 Tel.
(914) 941-6091 Fax
Counsel for Petitioner FINAM

Date: September 10, 2015

CERTIFICATE OF SERVICE

I, Richard Weinberg, hereby certify that on September 10, 2015, I caused true and correct copies of "Petitioner's Second Set of Interrogatories" to be served upon Registrant's Attorney of Record at the following addresses:

Ms. Rebecca J. Stempien Coyle
Levy & Grandinetti
PO Box 18385
Washington, DC 20036-8385
mail@levygrandinetti.com

Via first-class mail, postage pre-paid and by e-mail.

Said service having taken place this 10th day of September, 2015



CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Registrant's MOTION TO QUASH NOTICE OF RULE 30(b)(6) DEPOSITION UPON WRITTEN QUESTIONS AND FOR PROTECTIVE ORDER was served this date by first class mail, postage prepaid, on the Petitioner's attorneys as follows:

Ms. Kristen A. Mogavero
Mr. Jess M. Collen
COLLEN IP INTELLECTUAL PROPERTY LAW PC
The Holyoke-Manhattan Building
80 South Highland Avenue
Ossining, New York 10562
kmogavero@collenip.com

October 14, 2015
Date

/s/ Rebecca J. Stempien Coyle
Rebecca J. Stempien Coyle