



TTAB

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

INTERNATIONAL BEAUTY EXCHANGE, INC.]
]
 Petitioner,]
]
 v.]
]
 K & N DISTRIBUTORS,]
]
 Registrant.]

Cancellation No. 92063647

Reg. No. 4,818,656

86 150936

DOCKET # C16681825

MOTION TO COMPEL

Supplemental Submission of Missing Documents

Due to a clerical error, copies of certain required materials were omitted when the Motion to Compel was filed at the Board on September 16, 2016.

The Board is requested to consider the following materials that were required to have been submitted with the Motion.

- A letter from the undersigned to counsel for the Registrant dated August 29, 2016 which served as a good faith effort to resolve the discovery issues.
- A full copy of Petitioner's Interrogatories to the Registrant.
- A full copy of Petitioner's First Request for Production of Documents
- A copy of Registrant's Objections and Response to the above discovery requests.

Counsel for the Registrant is already in possession of these documents.



The omission of these required documents is regretted and the Board is respectfully requested to take them under consideration when ruling on the Motion to Compel.

Respectfully submitted,



Donald L. Dennison
Ladas & Parry LLP
Attorneys for Petitioner
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September 22, 2016



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INTELLECTUAL PROPERTY LAW

August 29, 2016

Keener and Associates, P.C.
161 North Clark Street
Suite 4700
Chicago, IL 60601

Attention: Rishi Nair, Esq.
Re: Trademark Cancellation # 92063647
International Beauty Exchange v. K&N Distributors, Inc.

Dear Mr. Nair:

I am in receipt of your responses and objections to my discovery requests and the same are in many instances unresponsive and contradictory and your boiler-plate objections are excessive and egregious.

I am particularly concerned with the "Verification" of the responses to the discovery requests purportedly signed by Jean Robert Cesar. I have serious and well-supported suspicions that this document was not signed by Mr. Cesar.

With respect to specific interrogatories, my comments are as follows:

Int. 6 - requests samples of documents that show your client's use of its mark prior to Registrant's claimed first use date. The response was "Documents have been produced". I can find no such documents.

Int. 7 - seeks information concerning your client's first use of its mark. You have refused to identify the name and address of the client's first customer for the goods. The cases are plentiful before the TTAB requiring disclosure of the first customer since this goes to the veracity of the party's claimed first use date¹. You have also stated that the information cannot be provided unless a protective order is in place. In fact the Board's Standard Protective Order applies in every case, unless you for some reason desire a different form of protective order. The client's answer also indicates that the goods were

¹For example - *Johnston Pump v. Chromalloy American* 10USPQ2d 1671 (TTAB 1989)

COPY

Page 2
August 29, 2016
Rishi Nair, Esq.,

first imported into United States in September 2015.

Int. 8 - This interrogatory asks if Registrant's marked goods have ever been sold or shipped to stores in the United States. Surprisingly, the answer was "NO". I have clear photographic evidence to contradict this answer.

Int. 9 - Seeks information about the circumstances under which the mark was selected. Your objections were grounded on privilege, work product and work in anticipation of litigation. Are you really serious about those grounds of objection?

Int. 12 - Requests identification of 5 current customers for Registrant's product. Again, we believe that we are entitled to this information or at least entitled to it under the Board's Standard Protective Order as noted above. Notwithstanding the objections, the Registrant answered this "None are known by Registrant". I would take this to mean that there are no customers of the product within the last 6 months going back prior to the date of the Interrogatory service.

Int. 15 - We are seeking information as to the manufacturer of the product and you have objected on the ground that the information is irrelevant to the proceeding. We are legally entitled to this information. See *American Optical Corp. v. Exomet, Inc.* 181UAPQ120 (TTAB-1974) and many others.

Int. 16 - Requests information concerning whether the country of manufacture is noted on your client's packaging. Again you have objected on the ground of irrelevance. If the packaging is not in compliance with federal law the question arises as to whether the use of the mark on the goods was lawful. This could raise a possible ground for cancellation based on illegality or fraud in the PTO.

Int. 18 - Nature Cosmetics LLC. is listed on your client's packaging and its identification and relationship have been sought. As with previous inquiries you have objected on the ground of irrelevance. Neither this or the previous such objections are believed to be proper.

Page 3
August 29, 2016
Nishi Nair, Esq.

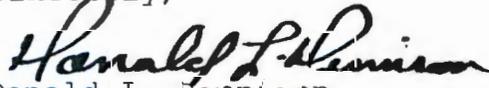
Int. 20 - You have stated that my client does not have seniority and that your client's use of the mark "predates that of Registrant (sic.)". When I queried as to what facts support your statement, you objected on the ground that it would "require an unreasonable and undue burden and expense on Registrant's part". You have raised the issue in your Answer to the Petition, and my client is entitled to find out what is the basis of this contention.

Int. 22 - This interrogatory seeks the names of those individuals who were consulted regarding the discovery responses. The answer provided was "Registrant and their employees". I believe that we are entitled to actual names of these individuals.

As a general criticism, your objections frequently state, "Petitioner responds as follows". Obviously you meant to state "Registrant responds as follows".

The foregoing comments concerning the discover matters are submitted in an effort in good faith to obtain the information that we are entitled to under the law. Your failure to comply will necessitate the filing of a Motion to Compel at the TTAB.

Sincerely,



Donald L. Dennison
Attorney for Petitioner

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

INTERNATIONAL BEAUTY EXCHANGE, INC.]

Petitioner,

v.

K & N DISTRIBUTORS,

Registrant.

] Cancellation No. 92063647

] Reg. No. 4,941,822

] **DOCKET # C16681825**

PETITIONER'S INTERROGATORIES TO REGISTRANT

Set No. 1

Pursuant to Rule 33, Federal Rules of Civil Procedure,
and Title 37 CFR 2.120, Petitioner directs the following
interrogatories to Registrant, K & N DISTRIBUTORS.

1

COPY

I.

As used herein:

A. "Registrant" refers to K & N DISTRIBUTORS, Inc., its predecessors in interest, businesses conducted by it, or its agents, employees and consultants.

B. "Petitioner" refers to INTERNATIONAL BEAUTY EXCHANGE, INC.

C. "Document" shall mean any written, printed, typed, drawn, taped, filmed, recorded, or other graphic or non-graphic matter of any kind or nature or any drawing, graph, chart, photograph, phono-record, tape recording, computer printout, e-mail, book, pamphlet, periodical, magazine, manual, article, letter, telegram, telephone records, memorandum, contract, invoice, purchase order, bulletin, study, survey, index, inter or intra company communication, report, plan, worksheet, note, bill, check, bank statement, travel record, ledger, desk calendar, minutes, transcript, specification, financial record, prospectus, 10-K statement, certificate, or other data compilation or tangible thing from which information can be obtained, which is in the possession, custody or control of Registrant or its employees or

(3) when used in reference to a business entity, to state its full name, type or entity (e.g., corporation, partnership, sole proprietorship) and its present or last known address;

(4) when used in reference to a product, to state the identity of the manufacturer of the product, the model number, trademark and other identifying indicia of the product, the generic name of the product, and the basic purpose or use of the product.

E. "Person" shall mean all beings, both natural and artificial, including individuals and entities recognized by a body politic.

II

DOCUMENTS

With respect to identifying any document which Registrant is requested herein to identify, Registrant may, alternatively

and at its option, produce said document rather than identifying the same.

III

SUPPLEMENTAL ANSWERS

In the event that, at any time between the answering of these interrogatories and the date of trial of this case, Registrant shall acquire any additional knowledge or information responsive to any such interrogatory, Registrant shall serve upon Petitioner immediately thereupon supplemental answers setting forth such additional knowledge or information.

I

INTERROGATORIES

1. State Registrant's full legal name and type of business entity and the location of all offices and any branch offices.

2. Identify each person who is an officer, director or chief operating official in Registrant's business who may have knowledge concerning the issues in this proceeding.

3. Identify the general nature of the business of Registrant.

4. Identify all goods manufactured, sold or distributed by Registrant by type and indicate what trademarks or service marks are used for each class of goods listed.

5. Identify each agent or employee of Registrant responsible for, authorized or permitted to select, designate or reject a particular trademark for Registrant's goods within the last five years, and also each person regardless of whether or not employed by Registrant, who has participated in the selection of the trademark "AFRICAN CLAIR FORMULA PLUS" for Registrant's goods.

6. Identify samples of documentary evidence relating to Registrant's use of its mark, "AFRICAN CLAIR FORMULA PLUS", on any goods manufactured, sold or distributed by Registrant prior to the date of first use as set forth by Registrant in its Statement of Use in the application which matured into the registration of its mark here sought to be canceled.

7. With regard to the alleged first date of use of Registrant's trademark, "AFRICAN CLAIR FORMULA PLUS", as set forth in its registration, indicate:

a. the date of the first shipment of goods in the United States bearing the mark;

b. the nature of any documentation which relates to such shipment and/or sale;

c. the name and address of the customer for the first shipment of such goods.

d. the date when Registrant's "AFRICAN CLAIR FORMULA PLUS" goods were first imported into the United States if they were manufactured abroad.

8. Have any of Registrant's "AFRICAN CLAIR FORMULA PLUS" goods ever been sold and shipped to stores in the United States, and if the answer is affirmative, provide the names and addresses of at least five such stores?

9. State the date and circumstances under which Registrant first selected "AFRICAN CLAIR FORMULA PLUS" as a trademark for its goods.

10. Prior to the filing of its application for Registration, did Registrant conduct any searches or surveys to determine if the proposed mark "AFRICAN CLAIR FORMULA PLUS" was available for use and free of conflict, and if the answer is affirmative, indicate the person or agency that conducted such a search and whether or not Petitioner's "AFRICAN FORMULA" mark was cited in any search report.

11. Did Registrant have knowledge of the business of Petitioner and of Petitioner's mark, "AFRICAN FORMULA", prior to the filing of its application to register the mark "AFRICAN CLAIR FORMULA PLUS"?

12. List 5 representative current retail store customers who have purchased "AFRICAN CLAIR FORMULA PLUS" goods manufactured, sold or distributed by Registrant within the past 6 months.

13. Did the Registrant know either Symcha Horowitz or John Graterol prior to the filing of its application resulting in the registration here in issue?

14. Does the registrant contend that skin and hair products are not considered as cosmetics?

15. Who is the manufacturer of Registrant's "AFRICAN CLAIR FORMULA PLUS" goods and where are they located?

16. If the goods noted in Interrogatory No. 15 are manufactured abroad, is there any notification of the country of manufacture on the product or its packaging?

17. Have Registrant's "AFRICAN CLAIR FORMULA PLUS" products ever been advertised in any periodicals or other media, and if affirmative, identify each such periodical, or other media form?

18. Are you aware of a company called Nature Cosmetics LLC?

(a) if the answer is affirmative state the address of that company and indicate what, if any, relationship you had or presently have with that company.

19. Disclose what facts support the affirmative defense of "unclean hands" set forth in Registrant's Answer.

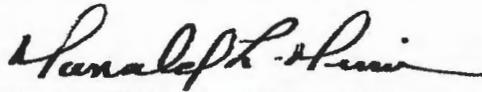
20. Disclose what facts Registrant is aware of to support its contention that Petitioner does not have seniority and that Registrant's use of the mark in issue predates that of the Petitioner.

21. Identify each document which is designated in Petitioner's request to Registrant for documents, served herewith, but which Registrant has not or does not intend to produce in response thereto under claim of privilege or other legal grounds for non-production, and with respect to each, give:

- (i) the date of the document;
- (ii) the name and employer of each author;
- (iii) a brief description of the subject matter,
and
- (iv) the nature of the privilege claimed or
grounds for non-production.

22. Identify each person who has been consulted with respect to Registrant's answers to any of the foregoing interrogatories.

Respectfully submitted,



Donald L. Dennison
Attorney for Petitioner
LADAS & PARRY LLP
1727 King Street, Suite 105
Alexandria, VA 22314
(703) 537-9600 Ext. 15

1. All documents and things identified or which should be identified in Registrant's Response to Petitioner's First Set of Interrogatories which are served concurrently herewith.

2. An example of each packaging or label applied by Registrant to each of its products that bear the "AFRICAN CLAIR FORMULA PLUS" trademark.

3. Copies of any advertising of the Registrant, if any, which relates or shows the "AFRICAN CLAIR FORMULA PLUS" mark as applied to cosmetic products or the like.

4. Copies of at least ten invoices issued within the last three years, to include the first such invoice showing the sale and shipment of Registrant's "AFRICAN CLAIR FORMULA PLUS" products.



Donald L. Dennison
Attorney for Petitioner
LADAS & PARRY LLP
1727 King Street, Suite 105
Alexandria, VA 22314

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing Discovery requests were sent by first class mail with proper postage affixed and electronically, this 12th day of July 2016, to counsel for Registrant, Rishi Nair, c/o Keener & Associates, P.C., 161 No. Clark Street, Suite 4700, Chicago, IL 60601.



Donald L. Dennison

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

_____)	
)	
INTERNATIONAL BEAUTY)	
EXCHANGE, INC.)	
)	
Petitioner,)	
)	
v.)	Cancellation No. 92063647
)	U.S. Reg. No. 4,941,822
)	Registered: April 19, 2016
K&N DISTRIBUTORS, INC.,)	Mark: AFRICAN CLAIR FORMULA
)	PLUS
)	
Registrant.)	
)	
_____)	

**REGISTRANT'S OBJECTIONS AND RESPONSE TO PETITIONER'S
INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS**

Pursuant to Rules 26, 33 and 34 of the Federal Rules of Civil Procedure and § 405 of the Trademark Trial and Appeal Board Manual of Procedure, K&N DISTRIBUTORS, INC. (hereinafter "Registrant") Responds to the Interrogatories and Requests for Production of Documents propounded on it July 12, 2016 by Petitioner, INTERNATIONAL BEAUTY EXCHANGE, INC., in the above-captioned proceeding, as follows:

PRELIMINARY STATEMENT

Registrant has not yet completed its investigation of the facts pertaining to this action and discovery is ongoing. All responses to the following Interrogatories are based on information currently known to Registrant after a reasonable effort to locate information called for by these Interrogatories. Accordingly, all responses are given without prejudice to Registrant's right to

produce evidence based on any additional information that may develop or come to Registrant's attention at a later time. In addition, Registrant's objections are made without prejudice to Registrant's right to assert any additional or supplemental objections should Registrant discover additional grounds for such objections. Finally, Registrant's agreement to produce documents in response to any Interrogatory does not constitute an admission that any such documents in fact exist or are in Registrant's possession, custody, or control.

Registrant makes its objections and responses without in any manner waiving: (1) the right to object to the use of any response for any purpose in this action or any other actions on grounds of privilege, relevancy, materiality, or any other appropriate basis; (2) the right to object to any other discovery involving or relating to the subject matter of the responses herein; and (3) the right to revise, correct, supplement, or clarify any of the responses provided below at any time. Registrant expressly reserves the right to further supplement its responses.

GENERAL OBJECTIONS

1. These General Objections are incorporated into each of the specific responses that follow. Notwithstanding those responses, Registrant does not waive any of these General Objections.
2. To the extent that the Interrogatories and Requests for Production call for information or documents covered by the attorney-client privilege, work product doctrine, or any other applicable privilege or doctrine, Registrant objects to each such request, and states that no such information or documents will be produced. By providing information in response to the Interrogatories or Requests for Production, or by stating that they will produce responsive documents in response to the request, Registrant does not intend to imply that it will produce any privileged documents. By producing documents or stating that it will produce documents, Registrant does not waive, intentionally or otherwise, its attorney-client privilege, work product

protection, joint defense privilege or any other privilege protecting its documents or information, and any production of documents or information inconsistent with the foregoing is wholly inadvertent and does not constitute a waiver of any such privilege or protection.

3. Registrant objects to the Interrogatories and Requests for Production to the extent they seek information, documents, or communications between Registrant's agents, representatives, or employees or any information, documents, or communications between Registrant and their agents, representatives, or employees, when made subsequent to the occurrences or transactions upon which the proceeding is based, and in anticipation of the proceeding, because such are protected from disclosure under the attorney-client privilege, the work product exemption from discovery, or both.

4. Registrant objects to the Interrogatories and Requests for Production to the extent they seek information, documents, or communications that are the work product of Registrant's lawyers or legal representatives, because such are privileged and therefore protected from disclosure.

5. Registrant objects to the Interrogatories and Requests for Production to the extent that any Interrogatory or Request for Production seeks information that is not in the possession, custody, or control of Registrant, to the extent that it purports to require Registrant to speculate about the identity of persons who might have responsive information, and to the extent that it purports to call for any accounting of information that Registrant no longer possesses and/or was under no obligation to maintain. Registrant will produce non-privileged relevant documents in the possession, custody, or control of Registrant, as required by the Federal Rules of Civil Procedure, the Trademark Trial and Appeal Board Manual of Procedure, or by any applicable order.

6. Registrant objects to each and every Interrogatory and Request for Production to the extent it seeks information that is already in the possession of Petitioner or that could more easily be obtained from other sources. Without limitation, Registrant specifically objects to each and every request to the extent that the information sought is publicly available and/or has been submitted or will be submitted to Petitioner in disclosures mandated by the Federal Rules of Civil Procedure, or the Trademark Trial and Appeal Board Manual of Procedure, or by any applicable order.

7. Registrant objects to the Interrogatories and Requests for Production to the extent that any request contains any factual or legal misrepresentations. Registrant's response that it will produce documents in response to an Interrogatory or Request for Production does not necessarily mean that responsive documents exist, but instead that Registrant will produce documents if such documents are located. Any statement made herein of an intent to produce documents is not, and shall not be deemed, an admission of any factual or legal contention contained in any individual Interrogatory.

8. Registrant objects to the Interrogatories and Requests for Production to the extent they seek information, documents, or communications that are or were made for the purpose of facilitating the rendition of legal services to Registrant and are or were made: (1) between Registrant or its representatives and Registrant's lawyer(s), (2) between Registrant's lawyer(s) and the lawyer's representative(s), (3) between Registrant and its representative(s), or (4) between lawyers when representing Registrant, because such are protected from disclosure by the attorney-client privilege and the work product exemption from discovery.

9. Registrant generally objects to the Interrogatories and Requests for Production to the extent they seek the disclosure of information, documents, or communications protected by the

attorney-client privilege, the work product exemption from discovery, the consulting expert exemption from discovery, the witness statement exemption from discovery, the party communications exemption from discovery, the investigative privilege, and/or any other applicable constitutional, statutory, or common law privilege. Documents resulting from investigations of facts related to the trademark and applications are protected by the attorney-client privilege, the work-product immunity, and related privileges or immunities. Registrant therefore objects to the Interrogatories and Requests for Production to the extent that they seek documents that contain privileged information, or are protected by the work-product immunity, or both. No privileged information, communication, or document will be provided in response to the Interrogatories. By responding to any particular Interrogatory or Request for Production, Registrant does not intend nor does it waive any applicable privilege that it may have, and Registrant specifically intends to assert the same.

10. By responding to the Interrogatories and Requests for Production or providing any information herewith, Registrant does not waive and expressly preserves the objections set forth herein and does not concede the relevance or admissibility of the responses.

11. Registrant objects to the Interrogatories and Requests for Production to the extent that they call for Registrant and/or its attorneys to categorize documents on a claim-by-claim basis or require Registrant and/or its attorneys to reveal their mental impressions as to whether a particular document supports a particular claim.

12. Registrant objects to any and all Interrogatories and Requests for Production to the extent they require the production of confidential, proprietary, and/or trade secret information without adequate protection.

13. * Registrant objects to each of the Interrogatories and Requests for Production to the extent that the documents and/or information requested constitutes confidential and/or proprietary information belonging to third parties with whom Registrant have entered into non-disclosure or confidentiality agreements that prohibit the disclosure by Registrant of the third-party signatories' confidential and/or proprietary information. To the extent that any such information is requested, it will only be provided subject to an agreeable and effective protective order covering such disclosure, and will not be provided unless and until Registrant have given notice to or obtained permission from the relevant third parties.

14. Registrant construes the Interrogatories and Requests for Production as not seeking identification of or information regarding the contents of legal memoranda, drafts of pleadings, attorney notes, letters exchanged between counsel for Registrant, or letters and communications between Registrant and its counsel. To the extent such Interrogatories and Requests for Production might be construed to seek such information, documents, communications, or lists thereof, Registrant object on the grounds of the attorney-client privilege, the work product exemption from discovery, the party communications exemption from discovery, and rules of confidentiality.

15. Registrant objects to each of Petitioner's requests and each of Petitioner's Definitions and Instructions to the extent that they seek electronically stored information that is not reasonably accessible because of the undue burden or cost associated with retrieving and producing such information, or that otherwise exceeds the requirements of the any standard for electronic discovery or any applicable court order.

16. * Registrant objects to each request that is unlimited in time as overly broad, unduly burdensome, and neither relevant to the issues in this action nor reasonably calculated to lead to the discovery of admissible evidence.

17. Registrant objects to the Interrogatories and Requests for Production to the extent that any Interrogatory or Request for Production seeks information outside the temporal and geographic scope of the proceeding on the grounds that any such Interrogatory is overbroad, oppressive, unduly burdensome, and seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.

18. Registrant objects to the Interrogatories and Requests for Production to the extent that they seek information that is entirely irrelevant to the present proceedings.

19. In light of the premature and overly burdensome nature of Petitioner's Interrogatories and Requests for Production, as well as the expense of producing redundant documents and materials, Registrant makes no representation that documents produced in response to a particular Interrogatory constitute all documents responsive to such Interrogatory or Request for Production. Instead, documents produced will be sufficient to illustrate the requested subject matter or topic.

OBJECTIONS TO DEFINITIONS AND INSTRUCTIONS

1. Registrant objects to the definition of "K&N Distributors, Inc." as being overly broad, unduly burdensome, vague, and ambiguous. Registrant also objects to the definition of "K&N Distributors, Inc." to the extent it seeks the disclosure of information, documents, or communications protected by the attorney-client privilege, the work product exemption from discovery, the consulting expert exemption from discovery, the witness statement exemption from discovery, the party communications exemption from discovery, the investigative privilege,

and/or any other applicable constitutional, statutory, or common law privilege. Registrant also objects to the definition to the extent that it includes any entities other than K&N Distributors, Inc..

2. Registrant objects to the definition of "Registrant" as being overly broad, unduly burdensome, vague, and ambiguous. Registrant also objects to the definition to the extent it seeks the disclosure of information, documents, or communications protected by the attorney-client privilege, the work product exemption from discovery, the consulting expert exemption from discovery, the witness statement exemption from discovery, the party communications exemption from discovery, the investigative privilege, and/or any other applicable constitutional, statutory, or common law privilege. Registrant also objects to the definition to the extent that it includes any entities other than K&N Distributors, Inc..

3. Registrant objects to the definitions of "you" and "your" as being overly broad, unduly burdensome, vague, and ambiguous. Registrant also objects to the definitions of "you" and "your" to the extent they seek the disclosure of information, documents, or communications protected by the attorney-client privilege, the work product exemption from discovery, the consulting expert exemption from discovery, the witness statement exemption from discovery, the party communications exemption from discovery, the investigative privilege, and/or any other applicable constitutional, statutory, or common law privilege. Registrant also objects to the definitions to the extent that they include any entities other than K&N Distributors, Inc.

4. Registrant objects to the definition of "person" as being overly broad, unduly burdensome, and as inquiring into matters that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Registrant also objects to the definition of "person" to the extent that it seeks the disclosure of information, documents, or communications

protected by the attorney-client privilege, the work product exemption from discovery, the consulting expert exemption from discovery, the witness statement exemption from discovery, the party communications exemption from discovery, the investigative privilege, and/or any other applicable constitutional, statutory, or common law privilege.

5. Registrant objects to the definition of “document” to the extent it seeks the disclosure of information, documents, or communications protected by the attorney-client privilege, the work product exemption from discovery, the consulting expert exemption from discovery, the witness statement exemption from discovery, the party communications exemption from discovery, the investigative privilege, and/or any other applicable constitutional, statutory, or common law privilege.

Registrant further objects to the definition of the term “document” to the extent that it purports to impose conditions, obligations, or duties beyond those required by Rules 26, 33(d), and 34 of the Federal Rules of Civil Procedure, or the Trademark Trial and Appeal Board Manual of Procedure. For purposes of responding to these Interrogatories, Registrant interprets the term “document” in accordance with its ordinary meaning found in the Federal Rules of Civil Procedure, and the Trademark Trial and Appeal Board Manual of Procedure.

6. Registrant objects to each Interrogatory that seeks “all” information as overly broad and unduly burdensome. In response to such Interrogatories, and assuming no other objections or privileges apply, Registrant will provide representative information located after a reasonable search.

7. Registrant generally objects to the Definitions and Instructions contained in the Interrogatories to the extent such Definitions and Instructions differ from or purport to expand the requirements of the Trademark Trial and Appeal Board, any applicable order, and/or the

Federal Rules of Civil Procedure (the "Federal Rules"), including but not limited by purporting to supplement or enlarge terms that the Federal Rules and/or the Trademark Trial and Appeal Board Manual of Procedure define or describe. Registrant will disclose information and supplement its responses as required by the Federal Rules, the Trademark Trial and Appeal Board Manual of Procedure, and any applicable order.

RESPONSES TO INTERROGATORIES

1. State Registrant's full legal name and type of business entity and the location of all offices and any branch offices.

OBJECTIONS: Registrant specifically incorporates its Preliminary Statement, General Statements, and General Objections herein as if fully set forth in response to this Interrogatory. Registrant objects to the Interrogatory because it is overly broad, ambiguous, and vague in that it fails to sufficiently identify specific information that it seeks, failing to give adequate guidance to determine the proper scope of the sought after information.

Registrant further objects to this Interrogatory to the extent that it seeks information protected from disclosure by the attorney-client, work product, or other applicable privilege. Registrant further objects to this Interrogatory to the extent it seeks information irrelevant to the subject matter in the pending action. Registrant further objects to this Interrogatory to the extent it seeks information that is already in the possession of Petitioner and to the extent that the information sought has been or will be submitted to Petitioner in disclosures mandated by the Trademark Trial and Appeal Board.

Registrant further objects to this Interrogatory to the extent that it seeks information available in documents to be produced by Registrant to Petitioner on the grounds that it would require an unreasonable and undue burden and expense on Registrant's part, and the burden of

accessing the information from the documents to be produced is substantially the same for Petitioner as for Respondent within the meaning of Federal Rule of Civil Procedure 33(d). Registrant reserves the right to modify, amend, or supplement its response to this Interrogatory in view of, without limitation: (1) additional information provided by Petitioner concerning the mark, any allegations, theories, contentions, or facts supporting them; (2) information provided by the Trademark Trial and Appeal Board; (3) any other basis in law or in fact.

RESPONSE: Subject to the foregoing Preliminary Statement, General Statements, General Objections, and Specific Objections, Petitioner responds as follows: K&N Distributors, Inc., a Florida based corporation located at 12421 Equine Lane, Wellington, FL 33414.

2. Identify each person who is an officer, director or chief operating official in Registrant's business who may have knowledge concerning the issues in this proceeding.

OBJECTIONS: Registrant specifically incorporates its Preliminary Statement, General Statements, and General Objections herein as if fully set forth in response to this Interrogatory.

Registrant further objects to this Interrogatory to the extent it seeks information irrelevant to the subject matter in the pending action. Registrant further objects to this Interrogatory to the extent it seeks information that is already in the possession of Petitioner and to the extent that the information sought has been or will be submitted to Petitioner in disclosures mandated by the Trademark Trial and Appeal Board.

Registrant further objects to this Interrogatory to the extent that it seeks information available in documents to be produced by Registrant to Petitioner on the grounds that it would require an unreasonable and undue burden and expense on Registrant's part, and the burden of accessing the information from the documents to be produced is substantially the same for Petitioner as for Respondent within the meaning of Federal Rule of Civil Procedure 33(d).

Registrant reserves the right to modify, amend, or supplement its response to this Interrogatory in view of, without limitation: (1) additional information provided by Petitioner concerning the mark, any allegations, theories, contentions, or facts supporting them; (2) information provided by the Trademark Trial and Appeal Board; (3) any other basis in law or in fact.

RESPONSE: Subject to the foregoing Preliminary Statement, General Statements, General Objections, and Specific Objections, Petitioner responds as follows: Jean R. Cesar, President.

3. Identify the general nature of the business of Registrant.

OBJECTIONS: Registrant specifically incorporates its Preliminary Statement, General Statements, and General Objections herein as if fully set forth in response to this Interrogatory. Registrant objects to the Interrogatory because it is overly broad, ambiguous, and vague in that it fails to sufficiently identify specific information that it seeks, failing to give adequate guidance to determine the proper scope of the sought after information and fails to define "general nature" as a term.

Registrant further objects to this Interrogatory to the extent it seeks information irrelevant to the subject matter in the pending action. Registrant further objects to this Interrogatory to the extent it seeks information that is already in the possession of Petitioner and to the extent that the information sought has been or will be submitted to Petitioner in disclosures mandated by the Trademark Trial and Appeal Board.

Registrant further objects to this Interrogatory to the extent that it seeks information available in documents to be produced by Registrant to Petitioner on the grounds that it would require an unreasonable and undue burden and expense on Registrant's part, and the burden of accessing the information from the documents to be produced is substantially the same for Petitioner as for Respondent within the meaning of Federal Rule of Civil Procedure 33(d).

Registrant reserves the right to modify, amend, or supplement its response to this Interrogatory in view of, without limitation: (1) additional information provided by Petitioner concerning the mark, any allegations, theories, contentions, or facts supporting them; (2) information provided by the Trademark Trial and Appeal Board; (3) any other basis in law or in fact.

RESPONSE: Subject to the foregoing Preliminary Statement, General Statements, General Objections, and Specific Objections, Petitioner responds as follows: Distributor and marketer of skin care and hair care products in the United States.

4. Identify all goods manufactured, sold or distributed by Registrant by type and indicate what trademarks or service marks are used for each class of goods listed.

OBJECTIONS: Registrant specifically incorporates its Preliminary Statement, General Statements, and General Objections herein as if fully set forth in response to this Interrogatory. Registrant further objects to this Interrogatory to the extent it seeks information irrelevant to the subject matter in the pending action. Registrant further objects to this Interrogatory to the extent it seeks information that is already in the possession of Petitioner and to the extent that the information sought has been or will be submitted to Petitioner in disclosures mandated by the Trademark Trial and Appeal Board.

Registrant further objects to this Interrogatory to the extent that it seeks information available in documents to be produced by Registrant to Petitioner on the grounds that it would require an unreasonable and undue burden and expense on Registrant's part, and the burden of accessing the information from the documents to be produced is substantially the same for Petitioner as for Respondent within the meaning of Federal Rule of Civil Procedure 33(d).

Registrant reserves the right to modify, amend, or supplement its response to this Interrogatory in view of, without limitation: (1) additional information provided by Petitioner concerning the mark, any allegations, theories, contentions, or facts supporting them; (2) information provided by the Trademark Trial and Appeal Board; (3) any other basis in law or in fact.

RESPONSE: Subject to the foregoing Preliminary Statement, General Statements, General Objections, and Specific Objections, Petitioner responds as follows: TropicClair Plus, NeoPlus, DermoPlus, African Clair Formula+, NuBrite, CarroBrite, Island Spring, 7 Days Magic.

5. Identify each agent or employee of Registrant responsible for, authorized or permitted to select, designate or reject a particular trademark for Registrant's goods within the last five years, and also each person regardless of whether or not employed by Registrant, who has participated in the selection of the trademark "AFRICAN CLAIR FORMULA PLUS" for Registrant's goods.

OBJECTIONS: Registrant specifically incorporates its Preliminary Statement, General Statements, and General Objections herein as if fully set forth in response to this Interrogatory.

Registrant further objects to this Interrogatory to the extent it seeks information irrelevant to the subject matter in the pending action. Registrant further objects to this Interrogatory to the extent it seeks information that is already in the possession of Petitioner and to the extent that the information sought has been or will be submitted to Petitioner in disclosures mandated by the Trademark Trial and Appeal Board.

Registrant further objects to this Interrogatory to the extent that it seeks information available in documents to be produced by Registrant to Petitioner on the grounds that it would

require an unreasonable and undue burden and expense on Registrant's part, and the burden of accessing the information from the documents to be produced is substantially the same for Petitioner as for Respondent within the meaning of Federal Rule of Civil Procedure 33(d).

Registrant reserves the right to modify, amend, or supplement its response to this Interrogatory in view of, without limitation: (1) additional information provided by Petitioner concerning the mark, any allegations, theories, contentions, or facts supporting them; (2) information provided by the Trademark Trial and Appeal Board; (3) any other basis in law or in fact.

RESPONSE: Subject to the foregoing Preliminary Statement, General Statements, General Objections, and Specific Objections, Petitioner responds as follows: Jean R. Cesar, President.

6. Identify samples of documentary evidence relating to Registrant's use of its mark, "AFRICAN CLAIR FORMULA PLUS", on any goods manufactured, sold or distributed by Registrant prior to the date of first use as set forth by Registrant in its Statement of Use in the application which matured into the registration of its mark here sought to be canceled.

OBJECTIONS: Registrant specifically incorporates its Preliminary Statement, General Statements, and General Objections herein as if fully set forth in response to this Interrogatory. Registrant further objects to this Interrogatory to the extent it seeks information irrelevant to the subject matter in the pending action.

Registrant further objects to this Interrogatory to the extent it seeks information that is already in the possession of Petitioner and to the extent that the information sought has been or will be submitted to Petitioner in disclosures mandated by the Trademark Trial and Appeal Board.

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• Registrant further objects to this Interrogatory to the extent that it seeks information available in documents to be produced by Registrant to Petitioner on the grounds that it would require an unreasonable and undue burden and expense on Registrant's part, and the burden of accessing the information from the documents to be produced is substantially the same for Petitioner as for Respondent within the meaning of Federal Rule of Civil Procedure 33(d).

Registrant reserves the right to modify, amend, or supplement its response to this Interrogatory in view of, without limitation: (1) additional information provided by Petitioner concerning the mark, any allegations, theories, contentions, or facts supporting them; (2) information provided by the Trademark Trial and Appeal Board; (3) any other basis in law or in fact.

RESPONSE: Subject to the foregoing Preliminary Statement, General Statements, General Objections, and Specific Objections, Petitioner responds as follows: Responsive Documents have been produced.

7. With regard to the alleged first date of use of Registrant's trademark, "AFRICAN CLAIR FORMULA PLUS", as set forth in its registration, indicate:

- a. the date of the first shipment of goods in the United States bearing the mark;
- b. the nature of any documentation which relates to such shipment and/or sale;
- c. the name and address of the customer for the first shipment of such goods.
- d. the date when Registrant's "AFRICAN CLAIR FORMULA PLUS" goods were first imported into the United States if they were manufactured abroad.

OBJECTIONS: Registrant specifically incorporates its Preliminary Statement, General Statements, and General Objections herein as if fully set forth in response to this Interrogatory.

Registrant further objects to this Interrogatory to the extent it seeks information irrelevant to the subject matter in the pending action. Registrant further objects to this Interrogatory to the extent it seeks information that is already in the possession of Petitioner and to the extent that the information sought has been or will be submitted to Petitioner in disclosures mandated by the Trademark Trial and Appeal Board.

Registrant further objects to this Interrogatory to the extent that it seeks information available in documents to be produced by Registrant to Petitioner on the grounds that it would require an unreasonable and undue burden and expense on Registrant's part, and the burden of accessing the information from the documents to be produced is substantially the same for Petitioner as for Respondent within the meaning of Federal Rule of Civil Procedure 33(d).

Registrant reserves the right to modify, amend, or supplement its response to this Interrogatory in view of, without limitation: (1) additional information provided by Petitioner concerning the mark, any allegations, theories, contentions, or facts supporting them; (2) information provided by the Trademark Trial and Appeal Board; (3) any other basis in law or in fact.

RESPONSE: Subject to the foregoing Preliminary Statement, General Statements, General Objections, and Specific Objections, Petitioner responds as follows:

- a. June 2015; ?
- b. No documents have been located as of yet.
- c. Without a protective order in place, Respondent cannot provide such information.
- d. September 2015 ?

8. Have any of Registrant's "AFRICAN CLAIR FORMULA PLUS" goods ever been sold and shipped to stores in the United States, and if the answer is affirmative, provide the names and addresses of at least five such stores?

OBJECTIONS: Registrant specifically incorporates its Preliminary Statement, General Statements, and General Objections herein as if fully set forth in response to this Interrogatory. Registrant further objects to this Interrogatory to the extent it seeks information irrelevant to the subject matter in the pending action.

Registrant objects because the Interrogatory is vague and ambiguous.

Registrant reserves the right to modify, amend, or supplement its response to this Interrogatory in view of, without limitation: (1) additional information provided by Petitioner concerning the mark, any allegations, theories, contentions, or facts supporting them; (2) information provided by the Trademark Trial and Appeal Board; (3) any other basis in law or in fact.

RESPONSE: Subject to the foregoing Preliminary Statement, General Statements, General Objections, and Specific Objections, Petitioner responds as follows: No. ?

9. State the date and circumstances under which Registrant first selected "AFRICAN CLAIR FORMULA PLUS" as a trademark for its goods.

OBJECTIONS: Registrant specifically incorporates its Preliminary Statement, General Statements, and General Objections herein as if fully set forth in response to this Interrogatory.

Registrant further objects to this Interrogatory to the extent it seeks information that is already in the possession of Petitioner and to the extent that the information sought has been or will be submitted to Petitioner in disclosures mandated by the Trademark Trial and Appeal Board.

Registrant further objects to this Interrogatory to the extent that it seeks information that is attorney work product or attorney-client privilege or any other privilege.

Registrant further objects to this Interrogatory to the extent that it seeks information available in documents to be produced by Registrant to Petitioner on the grounds that it would require an unreasonable and undue burden and expense on Registrant's part, and the burden of accessing the information from the documents to be produced is substantially the same for Petitioner as for Respondent within the meaning of Federal Rule of Civil Procedure 33(d).

Registrant reserves the right to modify, amend, or supplement its response to this Interrogatory in view of, without limitation: (1) additional information provided by Petitioner concerning the mark, any allegations, theories, contentions, or facts supporting them; (2) information provided by the Trademark Trial and Appeal Board; (3) any other basis in law or in fact.

RESPONSE: Subject to the foregoing Preliminary Statement, General Statements, General Objections, and Specific Objections, Petitioner responds as follows: April 2013. The circumstances of the selection of the Mark is privileged and confidential under attorney-client privileged, work product doctrine, and company work product in anticipation of litigation.

10. Prior to the filing of its application for Registration, did Registrant conduct any searches or surveys to determine if the proposed mark "AFRICAN CLAIR FORMULA PLUS" was available for use and free of conflict, and if the answer is affirmative, indicate the person or agency that conducted such a search and whether or not Registrant's "AFRICAN FORMULA" mark was cited in any search report.

OBJECTIONS: Registrant specifically incorporates its Preliminary Statement, General Statements, and General Objections herein as if fully set forth in response to this Interrogatory.

Registrant further objects to this Interrogatory to the extent it seeks information irrelevant to the subject matter in the pending action.

Registrant further objects because the entire aim of this Interrogatory is to obtain privileged documents (either work product or attorney-client communication). It is entirely inappropriate.

Registrant reserves the right to modify, amend, or supplement its response to this Interrogatory in view of, without limitation: (1) additional information provided by Petitioner concerning the mark, any allegations, theories, contentions, or facts supporting them; (2) information provided by the Trademark Trial and Appeal Board; (3) any other basis in law or in fact.

RESPONSE: Subject to the foregoing Preliminary Statement, General Statements, General Objections, and Specific Objections, Petitioner responds as follows: See objections. No response to inappropriate Interrogatory.

11. Did Registrant have knowledge of the business of Registrant and of Registrant's mark, "AFRICAN FORMULA", prior to the filing of its application to register the mark "AFRICAN CLAIR FORMULA PLUS"?

OBJECTIONS: Registrant specifically incorporates its Preliminary Statement, General Statements, and General Objections herein as if fully set forth in response to this Interrogatory. Registrant further objects to this Interrogatory to the extent it seeks information irrelevant to the subject matter in the pending action.

Registrant further objects to this Interrogatory to the extent it seeks information that is already in the possession of Petitioner and to the extent that the information sought has been or

will be submitted to Petitioner in disclosures mandated by the Trademark Trial and Appeal Board.

Registrant further objects to this Interrogatory to the extent that it seeks information available in documents to be produced by Registrant to Petitioner on the grounds that it would require an unreasonable and undue burden and expense on Registrant's part, and the burden of accessing the information from the documents to be produced is substantially the same for Petitioner as for Respondent within the meaning of Federal Rule of Civil Procedure 33(d).

Registrant reserves the right to modify, amend, or supplement its response to this Interrogatory in view of, without limitation: (1) additional information provided by Petitioner concerning the mark, any allegations, theories, contentions, or facts supporting them; (2) information provided by the Trademark Trial and Appeal Board; (3) any other basis in law or in fact.

RESPONSE: Subject to the foregoing Preliminary Statement, General Statements, General Objections, and Specific Objections, Petitioner responds as follows: Registrant was aware of Registrant generally but did not have knowledge of Registrant's Mark.

12. List 5 representative current retail store customers who have purchased "AFRICAN CLAIR FORMULA PLUS" goods manufactured, sold or distributed by Registrant within the past 6 months.

OBJECTIONS: Registrant specifically incorporates its Preliminary Statement, General Statements, and General Objections herein as if fully set forth in response to this Interrogatory. Registrant further objects to this Interrogatory to the extent it seeks information irrelevant to the subject matter in the pending action.

Registrant further objects to this Interrogatory to the extent it seeks information that is already in the possession of Petitioner and to the extent that the information sought has been or will be submitted to Petitioner in disclosures mandated by the Trademark Trial and Appeal Board.

Registrant further objects to this Interrogatory to the extent that it seeks information available in documents to be produced by Registrant to Petitioner on the grounds that it would require an unreasonable and undue burden and expense on Registrant's part, and the burden of accessing the information from the documents to be produced is substantially the same for Petitioner as for Respondent within the meaning of Federal Rule of Civil Procedure 33(d).

Registrant reserves the right to modify, amend, or supplement its response to this Interrogatory in view of, without limitation: (1) additional information provided by Petitioner concerning the mark, any allegations, theories, contentions, or facts supporting them; (2) information provided by the Trademark Trial and Appeal Board; (3) any other basis in law or in fact.

RESPONSE: Subject to the foregoing Preliminary Statement, General Statements, General Objections, and Specific Objections, Petitioner responds as follows: None are known by Registrant.

13. Did the Registrant know either Symcha Horowitz or John Graterol prior to the filing of its application resulting in the registration here in issue?

OBJECTIONS: Registrant specifically incorporates its Preliminary Statement, General Statements, and General Objections herein as if fully set forth in response to this Interrogatory. Registrant further objects to this Interrogatory to the extent it seeks information irrelevant to the subject matter in the pending action.

Registrant further objects to this Interrogatory to the extent it seeks information that is already in the possession of Petitioner and to the extent that the information sought has been or will be submitted to Petitioner in disclosures mandated by the Trademark Trial and Appeal Board.

Registrant further objects to this Interrogatory to the extent that it seeks information available in documents to be produced by Registrant to Petitioner on the grounds that it would require an unreasonable and undue burden and expense on Registrant's part, and the burden of accessing the information from the documents to be produced is substantially the same for Petitioner as for Respondent within the meaning of Federal Rule of Civil Procedure 33(d).

Registrant reserves the right to modify, amend, or supplement its response to this Interrogatory in view of, without limitation: (1) additional information provided by Petitioner concerning the mark, any allegations, theories, contentions, or facts supporting them; (2) information provided by the Trademark Trial and Appeal Board; (3) any other basis in law or in fact.

RESPONSE: Subject to the foregoing Preliminary Statement, General Statements, General Objections, and Specific Objections, Petitioner responds as follows: Registrant is aware of Symcha Horowitz but uncertain as to the timing of this knowledge. Registrant is not aware or cannot say they are aware of John Graterol, much less at the time of the filing of the application for the trademark at issue in this proceeding.

14. Does the registrant contend that skin and hair products are not considered as cosmetics?

OBJECTIONS: Registrant specifically incorporates its Preliminary Statement, General Statements, and General Objections herein as if fully set forth in response to this Interrogatory.

OBJECTIONS: Registrant specifically incorporates its Preliminary Statement, General Statements, and General Objections herein as if fully set forth in response to this Interrogatory. Registrant further objects to this Interrogatory to the extent it seeks information irrelevant to the subject matter in the pending action.

Registrant further objects to this Interrogatory to the extent it seeks information that is already in the possession of Petitioner and to the extent that the information sought has been or will be submitted to Petitioner in disclosures mandated by the Trademark Trial and Appeal Board.

Registrant further objects to this Interrogatory to the extent that it seeks information available in documents to be produced by Registrant to Petitioner on the grounds that it would require an unreasonable and undue burden and expense on Registrant's part, and the burden of accessing the information from the documents to be produced is substantially the same for Petitioner as for Respondent within the meaning of Federal Rule of Civil Procedure 33(d).

Registrant reserves the right to modify, amend, or supplement its response to this Interrogatory in view of, without limitation: (1) additional information provided by Petitioner concerning the mark, any allegations, theories, contentions, or facts supporting them; (2) information provided by the Trademark Trial and Appeal Board; (3) any other basis in law or in fact.

RESPONSE: Subject to the foregoing Preliminary Statement, General Statements, General Objections, and Specific Objections, Petitioner responds as follows: This information is irrelevant to a cancellation proceeding and therefore is outside the scope of discovery.

16. If the goods noted in Interrogatory No. 15 are manufactured abroad, is there any notification of the country of manufacture on the product or its packaging?

Registrant further objects to this Interrogatory to the extent it seeks information irrelevant to the subject matter in the pending action.

Registrant further objects to this Interrogatory to the extent it seeks information that is already in the possession of Petitioner and to the extent that the information sought has been or will be submitted to Petitioner in disclosures mandated by the Trademark Trial and Appeal Board.

Registrant further objects to this Interrogatory to the extent that it seeks information available in documents to be produced by Registrant to Petitioner on the grounds that it would require an unreasonable and undue burden and expense on Registrant's part, and the burden of accessing the information from the documents to be produced is substantially the same for Petitioner as for Respondent within the meaning of Federal Rule of Civil Procedure 33(d).

Registrant reserves the right to modify, amend, or supplement its response to this Interrogatory in view of, without limitation: (1) additional information provided by Petitioner concerning the mark, any allegations, theories, contentions, or facts supporting them; (2) information provided by the Trademark Trial and Appeal Board; (3) any other basis in law or in fact.

RESPONSE: Subject to the foregoing Preliminary Statement, General Statements, General Objections, and Specific Objections, Petitioner responds as follows: Subject to and limited to this proceeding, Registrant does not, at this time, make any such contention.

15. Who is the manufacturer of Registrant's "AFRICAN CLAIR FORMULA PLUS" goods and where are they located?

OBJECTIONS: Registrant specifically incorporates its Preliminary Statement, General Statements, and General Objections herein as if fully set forth in response to this Interrogatory. Registrant further objects to this Interrogatory to the extent it seeks information irrelevant to the subject matter in the pending action.

Registrant further objects to this Interrogatory to the extent it seeks information that is already in the possession of Petitioner and to the extent that the information sought has been or will be submitted to Petitioner in disclosures mandated by the Trademark Trial and Appeal Board.

Registrant further objects to this Interrogatory to the extent that it seeks information available in documents to be produced by Registrant to Petitioner on the grounds that it would require an unreasonable and undue burden and expense on Registrant's part, and the burden of accessing the information from the documents to be produced is substantially the same for Petitioner as for Respondent within the meaning of Federal Rule of Civil Procedure 33(d).

Registrant reserves the right to modify, amend, or supplement its response to this Interrogatory in view of, without limitation: (1) additional information provided by Petitioner concerning the mark, any allegations, theories, contentions, or facts supporting them; (2) information provided by the Trademark Trial and Appeal Board; (3) any other basis in law or in fact.

RESPONSE: Subject to the foregoing Preliminary Statement, General Statements, General Objections, and Specific Objections, Petitioner responds as follows: This information is wholly irrelevant to the nature and scope of this proceeding. No response is required nor will be provided.

17. Have Registrant's "AFRICAN CLAIR FORMULA PLUS" products ever been advertised in any periodicals or other media, and if affirmative, identify each such periodical, or other media form?

OBJECTIONS: Registrant specifically incorporates its Preliminary Statement, General Statements, and General Objections herein as if fully set forth in response to this Interrogatory. Registrant further objects to this Interrogatory to the extent it seeks information irrelevant to the subject matter in the pending action.

Registrant further objects to this Interrogatory to the extent it seeks information that is already in the possession of Petitioner and to the extent that the information sought has been or will be submitted to Petitioner in disclosures mandated by the Trademark Trial and Appeal Board.

Registrant further objects to this Interrogatory to the extent that it seeks information available in documents to be produced by Registrant to Petitioner on the grounds that it would require an unreasonable and undue burden and expense on Registrant's part, and the burden of accessing the information from the documents to be produced is substantially the same for Petitioner as for Respondent within the meaning of Federal Rule of Civil Procedure 33(d).

Registrant reserves the right to modify, amend, or supplement its response to this Interrogatory in view of, without limitation: (1) additional information provided by Petitioner concerning the mark, any allegations, theories, contentions, or facts supporting them; (2) information provided by the Trademark Trial and Appeal Board; (3) any other basis in law or in fact.

RESPONSE: Subject to the foregoing Preliminary Statement, General Statements, General Objections, and Specific Objections, Petitioner responds as follows: No.

18. Are you aware of a company called Nature Cosmetics LLC?

- a. if the answer is affirmative state the address of that company and indicate what, if any, relationship you had or presently have with that company.

OBJECTIONS: Registrant specifically incorporates its Preliminary Statement, General Statements, and General Objections herein as if fully set forth in response to this Interrogatory. Registrant further objects to this Interrogatory to the extent it seeks information irrelevant to the subject matter in the pending action.

Registrant further objects to this Interrogatory to the extent it seeks information that is already in the possession of Petitioner and to the extent that the information sought has been or will be submitted to Petitioner in disclosures mandated by the Trademark Trial and Appeal Board.

Registrant further objects to this Interrogatory to the extent that it seeks information available in documents to be produced by Registrant to Petitioner on the grounds that it would require an unreasonable and undue burden and expense on Registrant's part, and the burden of accessing the information from the documents to be produced is substantially the same for Petitioner as for Respondent within the meaning of Federal Rule of Civil Procedure 33(d).

Registrant reserves the right to modify, amend, or supplement its response to this Interrogatory in view of, without limitation: (1) additional information provided by Petitioner concerning the mark, any allegations, theories, contentions, or facts supporting them; (2) information provided by the Trademark Trial and Appeal Board; (3) any other basis in law or in fact.

RESPONSE: Subject to the foregoing Preliminary Statement, General Statements, General Objections, and Specific Objections, Petitioner responds as follows: This is irrelevant to this proceeding.

19. Disclose what facts support the affirmative defense of "unclean hands" set forth in Registrant's Answer.

OBJECTIONS: Registrant specifically incorporates its Preliminary Statement, General Statements, and General Objections herein as if fully set forth in response to this Interrogatory. Registrant further objects to this Interrogatory to the extent it seeks information irrelevant to the subject matter in the pending action.

Registrant further objects to this Interrogatory to the extent it seeks information that is already in the possession of Petitioner and to the extent that the information sought has been or will be submitted to Petitioner in disclosures mandated by the Trademark Trial and Appeal Board.

Registrant further objects to this Interrogatory to the extent that it seeks information available in documents to be produced by Registrant to Petitioner on the grounds that it would require an unreasonable and undue burden and expense on Registrant's part, and the burden of accessing the information from the documents to be produced is substantially the same for Petitioner as for Respondent within the meaning of Federal Rule of Civil Procedure 33(d).

Registrant reserves the right to modify, amend, or supplement its response to this Interrogatory in view of, without limitation: (1) additional information provided by Petitioner concerning the mark, any allegations, theories, contentions, or facts supporting them; (2) information provided by the Trademark Trial and Appeal Board; (3) any other basis in law or in fact.

RESPONSE: Subject to the foregoing Preliminary Statement, General Statements, General Objections, and Specific Objections, Petitioner responds as follows: Petitioner has engaged in a pattern and practice of deceptive conduct including, but not limited to, contacting Registrant's customers and threatening frivolous litigation based solely on conclusory accusations. Petitioner has not and is not comporting itself in an equitable or reasonable manner. Further facts will be provided as Registrant's investigation further bears fruit.

20. Disclose what facts Registrant is aware of to support its contention that Registrant does not have seniority and that Registrant's use of the mark in issue predates that of the Registrant.

OBJECTIONS: Registrant specifically incorporates its Preliminary Statement, General Statements, and General Objections herein as if fully set forth in response to this Interrogatory. Registrant further objects to this Interrogatory to the extent it seeks information irrelevant to the subject matter in the pending action.

Registrant further objects to this Interrogatory to the extent it seeks information that is already in the possession of Petitioner and to the extent that the information sought has been or will be submitted to Petitioner in disclosures mandated by the Trademark Trial and Appeal Board.

Registrant further objects to this Interrogatory to the extent that it seeks information available in documents to be produced by Registrant to Petitioner on the grounds that it would require an unreasonable and undue burden and expense on Registrant's part, and the burden of accessing the information from the documents to be produced is substantially the same for Petitioner as for Respondent within the meaning of Federal Rule of Civil Procedure 33(d).

Registrant reserves the right to modify, amend, or supplement its response to this Interrogatory in view of, without limitation: (1) additional information provided by Petitioner concerning the mark, any allegations, theories, contentions, or facts supporting them; (2) information provided by the Trademark Trial and Appeal Board; (3) any other basis in law or in fact.

RESPONSE: Subject to the foregoing Preliminary Statement, General Statements, General Objections, and Specific Objections, Petitioner responds as follows: None at this time, Respondent's investigation continues. Further discovery in this matter is required.

21. Identify each document which is designated in Registrant's request to Registrant for documents, served herewith, but which Registrant has not or does not intend to produce in response thereto under claim of privilege or other legal grounds for non-production, and with respect to each, give:

- a. the date of the document;
- b. the name and employer of each author;
- c. a brief description of the subject matter, and
- d. the nature of the privilege claimed or grounds for non-production.

OBJECTIONS: Registrant specifically incorporates its Preliminary Statement, General Statements, and General Objections herein as if fully set forth in response to this Interrogatory. Registrant further objects to this Interrogatory to the extent it seeks information irrelevant to the subject matter in the pending action.

Registrant further objects to this Interrogatory to the extent it seeks information that is already in the possession of Petitioner and to the extent that the information sought has been or

will be submitted to Petitioner in disclosures mandated by the Trademark Trial and Appeal Board.

Registrant further objects to this Interrogatory to the extent that it seeks information available in documents to be produced by Registrant to Petitioner on the grounds that it would require an unreasonable and undue burden and expense on Registrant's part, and the burden of accessing the information from the documents to be produced is substantially the same for Petitioner as for Respondent within the meaning of Federal Rule of Civil Procedure 33(d).

Registrant reserves the right to modify, amend, or supplement its response to this Interrogatory in view of, without limitation: (1) additional information provided by Petitioner concerning the mark, any allegations, theories, contentions, or facts supporting them; (2) information provided by the Trademark Trial and Appeal Board; (3) any other basis in law or in fact.

RESPONSE: Subject to the foregoing Preliminary Statement, General Statements, General Objections, and Specific Objections, Petitioner responds as follows: A privilege log is still being drafted and will be provided as soon as it is completed.

22. Identify each person who has been consulted with respect to Registrant's answers to any of the foregoing interrogatories.

OBJECTIONS: Registrant specifically incorporates its Preliminary Statement, General Statements, and General Objections herein as if fully set forth in response to this Interrogatory. Registrant further objects to this Interrogatory to the extent it seeks information irrelevant to the subject matter in the pending action.

Registrant further objects to this Interrogatory to the extent it seeks information that is privileged.

Registrant further objects to this Interrogatory to the extent that it seeks information available in documents to be produced by Registrant to Petitioner on the grounds that it would require an unreasonable and undue burden and expense on Registrant's part, and the burden of accessing the information from the documents to be produced is substantially the same for Petitioner as for Respondent within the meaning of Federal Rule of Civil Procedure 33(d).

Registrant reserves the right to modify, amend, or supplement its response to this Interrogatory in view of, without limitation: (1) additional information provided by Petitioner concerning the mark, any allegations, theories, contentions, or facts supporting them; (2) information provided by the Trademark Trial and Appeal Board; (3) any other basis in law or in fact.

RESPONSE: Subject to the foregoing Preliminary Statement, General Statements, General Objections, and Specific Objections, Petitioner responds as follows: Registrant and their employees.

RESPONSES TO REQUESTS FOR PRODUCTION OF DOCUMENTS

1. All documents and things identified or which should be identified in Registrant's Response to Petitioner's First Set of Interrogatories which are served concurrently herewith.
2. An example of each packaging or label applied by Registrant to each of its products that bear the "AFRICAN CLAIR FORMULA PLUS" trademark.
3. Copies of any advertising of the Registrant, if any, which relates or shows the "AFRICAN CLAIR FORMULA PLUS" mark as applied to cosmetic products or the like.
4. Copies of at least ten invoices issued within the last three years, to include the first such invoice showing the sale and shipment of Registrant's "AFRICAN CLAIR FORMULA PLUS" products.

DATED: August 25, 2016

Respectfully Submitted,

/Rishi Nair/

Rishi Nair

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Attorneys for Registrant K&N DISTRIBUTORS, INC.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the forgoing REGISTRANT'S OBJECTIONS AND RESPONSE TO PETITIONER'S INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS was served upon Registrant by e-mail per agreement, on this August 25, 2016, at the following address:

Donald L. Dennison <DDennison@ladas.com>
Ladas & Parry
1727 King Street, Suite 105
Alexandria, VA 22314
Attorney for Registrant International Beauty Exchange, Inc.

/Rishi Nair/

Rishi Nair

AFRICAN-FORMULA-PLUS.jpg



HIGHLY CONFIDENTIAL

KNDIST0001



1AFS-ALOE

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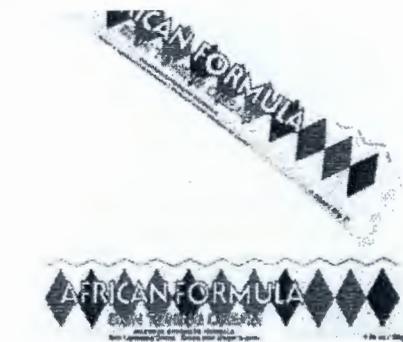
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AFRICAN FORMULA C...

Please login



1AFC

AFRICAN FORMULA C...

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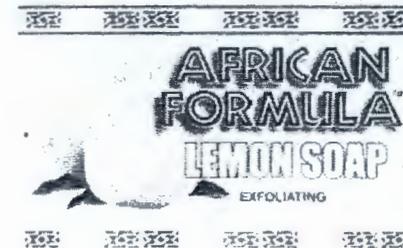
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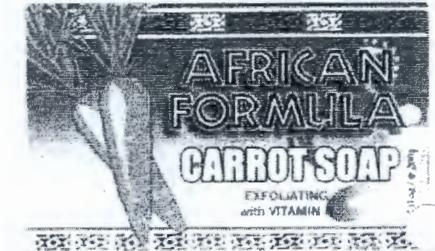
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AFRICAN FORMULA E...

Please login



1AFS-CARROT

AFRICAN FORMULA E...

Please login

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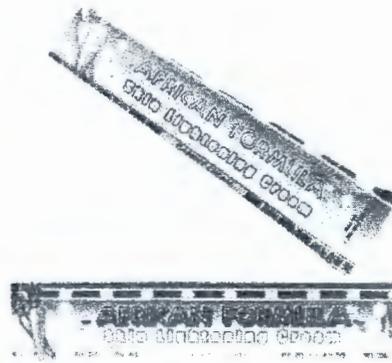
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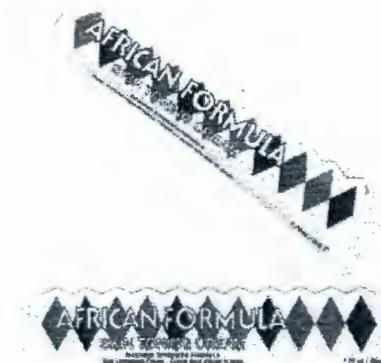
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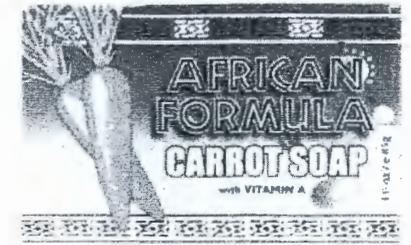
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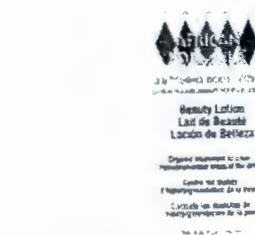
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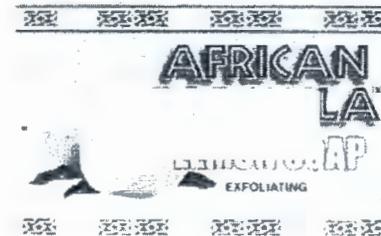
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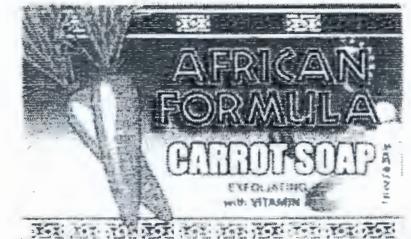
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1AFS-LEMON

AFRICAN FORMULA E...

Please login



1AFS-CARROT

AFRICAN FORMULA E...

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KNDIST0004

5000TSDN

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Invoice

K&N DISTRIBUTORS, INC

12421 EQUINE LANE
WELLINGTON, FL 33414

Date	Invoice #
6/2/2015	86

Bill To
TRIUMPH WHOLESAL

P.O. No.	Terms	Project

Quantity	Description	Rate	Amount
5,000	7 DAY MAGIC CREME 50GR/100 - 50 CS	1.80	9,000.00T
8,000	DERMO GEL PLUS 100PC/50ML - 80 CS	1.80	14,400.00T
15,500	AFRICAN CLAIRE CREAM 100PC/50ML - 155 CS	1.80	27,900.00T
	Out-of-state sale, exempt from sales tax	0.00%	0.00
		Total	\$51,300.00

CERTIFICATE OF SERVICE

I hereby certify that a copy of the forgoing VERIFICATION was served upon Registrant
by e-mail per agreement, on this August 17, 2016, at the following address:

Donald L. Dennison <DDennison@ladas.com>
Ladas & Parry
1727 King Street, Suite 105
Alexandria, VA 22314
Attorney for Registrant International Beauty Exchange, Inc.

/Rishi Nair/

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