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

Proceeding	91179274
Party	Plaintiff George V Restauration, S.A.
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Submission	Motion to Compel Discovery
Filer's Name	Joseph A. Lopez
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Signature	/Joseph A. Lopez/
Date	02/14/2011
Attachments	Motion to Compel (91179274).pdf (26 pages)(190130 bytes)

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

GEORGE V. EATERTAINMENT,
S.A.
(f/k/a George V. Restauration, S.A.)
Opposer

v.

JD EQUITIES CORP.
Applicant

Opposition: 91179274
Serial Nos. 77094776 and 77094755
Marks: BUDDABAR;
NY BUDDABAR

MOTION TO COMPEL PURSUANT TO TRADEMARK RULE 2.120(E)

Opposer, GEORGE V. EATERTAINMENT, S.A. (“Opposer”), through its undersigned counsel, hereby moves for an Order compelling Applicant, JD EQUITIES CORP. (“Applicant”), to produce documents responsive to Opposer's timely served discovery.

Pursuant to Trademark Rule 2.120(e)(2), this motion stays all other proceedings herein.

Procedural Background

Opposer instituted these opposition proceedings on or about August 30, 2007. Opposer seeks to oppose and cause the abandonment of Applicant’s BUDDABAR mark bearing Serial No. 77094776, in class 35 for restaurant franchising and NY BUDDABAR mark bearing Serial No. 77094755, in class 35 for restaurant franchising. Opposer seeks to oppose these marks based upon its numerous BUDDHA-BAR trademarks federally registered with the USPTO including, but not limited to: (a) BUDDHA-BAR word mark, United States Registration No. 2,439,577, in Class 42 for restaurant and nightclub services; (b) BUDDHA-BAR word mark, United States Registration No. 3,159,703 in

Class 43 for restaurant services; (c) BUDDHA-BAR word mark, United States Registration No. 3,676,501 in Class 43 for hotel services; (d) BUDDHA BAR word mark, United States Registration No. 2,496,729 in Class 25 for clothing; (e) BUDDHA-BAR word mark, United States Registration No. 2,552,052 in Class 25 for clothing; (f) BUDDHA-BAR word mark, United States Registration No. 3,363,053 in Classes 14, 16, and 21 for jewelry, printed materials, and kitchen goods; (g) BUDDHA-BAR word mark, United States Registration No. 3,675,019 in Class 9 for pre-recorded music; (h) BUDDHA-BAR word mark, United States Registration No. 2978750 in Class 5 for nutritional food bar use; and (i) BUDDHA LOUNGE word mark, United States Registration No. 3,908,250 in Class 43 for restaurant services, bar services, catering services, providing facilities for social functions and banquets; Hotel services; as well as any and all common law trademark rights obtained by virtue of use in commerce therein (collectively, the “Buddha Marks”).

Opposer served on Applicant its First Set of Interrogatories, Requests for Production, and Requests for Admission (collectively, the “Discovery Requests”) on March 6, 2008. Following service of these Discovery Requests there were several developments, including the suspension of the proceedings pending disposition of a civil litigation on Applicant’s motion, granted on May 21, 2008. Following the failure of Applicant to update the Board on the status of those proceedings, the opposition proceedings were resumed by the Board on August 21, 2010.

The time for Applicant to timely respond to Opposer’s Discovery Requests has long since passed, and Applicant has routinely failed to produce responses as it is required to do. Without obtaining responses to these properly propounded Discovery

Requests, Opposer will be prejudiced because it will be unable to prosecute its case or rebut the defenses raised by Applicant in its answer.

Statement Pursuant to Trademark Rule 2.120(e)(1)

Counsel for Opposer served its Discovery Requests on March 6, 2008 on Michael R. Koblenz, Esq., Mound Cotton Wollan & Greengrass, One Battery Park Plaza, New York, NY 10004-1486 (“Koblenz”). Koblez is, as of the date of this motion, still the attorney of record for Applicant. No motion to withdraw has been filed, nor has any substitution of attorney been filed, nor has Applicant informed the Board as to the current status of its representation.

Opposer’s counsel wrote an e-mail to Koblenz informing him that the Board has resumed the opposition proceeding, that responses to the Discovery Requests were overdue, and that Applicant intended to bring a motion to compel. Koblenz wrote back and informed Applicant’s counsel that he no longer represents Applicant, despite the fact that his name still appears as counsel of record. A true and correct copy of this e-mail is attached hereto as “Exhibit A.” Opposer’s counsel is serving a copy of this motion on both Koblenz and Applicant’s address of record with the USPTO to avoid any potential service issues.

The Requests at Issue

The requests at issue include a First Set of Interrogatories, Requests for Production of Documents, and Requests for Admission served on March 6, 2008. True and correct copies of these requests are attached hereto as “Exhibit B.” Opposer has received no responses to these requests, nor have any objections been raised by Applicant.

Relief Sought

Opposer seeks an order compelling Applicant to respond to Opposer's Discovery Requests without objection.

Conclusion

The responses sought are directly relevant to the claims made by Opposer. None of the Discovery Requests have been responded to thus far, nor has Applicant raised any objections upon which the failure to respond could be predicated. This leads to the conclusion that Applicant has simply ignored the requests, when responses are required. Opposer is entitled to responses to these requests. Accordingly, early and favorable action with respect to this Motion is requested.

/Joseph A. Lopez/
JOSEPH A. LOPEZ
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Attorneys for Opposer
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Suite 1201
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DATE: February 14, 2011

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing **MOTION TO COMPEL PURSUANT TO TRADEMARK RULE 2.120(E)** was served on Opposer on February 14, 2011

BY FIRST CLASS MAIL

Michael R. Koblenz
Mound Cotton Wollan & Greengrass
One Battery Park Plaza
New York, NY 10004-1486

JD EQUITIES, CORP.
119 W 72nd Str., #229
C/o Law Office of Sternik & Zeltser
New York, NY 10023

/Claire Paterson/
CLAIRE PATERSON

DATE: February 14, 2011

EXHIBIT A

From: Michael Koblenz [MKoblenz@moundcotton.com]
Sent: Friday, February 11, 2011 6:10 PM
To: Joseph Lopez; lawmail@rambler.ru
Subject: Re: Opposition No. 91179274 George V. v. J.D. Equities (3239-28)

We no longer represent this client

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

From: "Joseph Lopez" <Joseph@NovianLaw.com>
To: Koblenz, Michael <MKoblenz@moundcotton.com>
Cc: Paterson, Claire <Claire@Novianlaw.com>
Cc: Novian, Farhad <Farhad@Novianlaw.com>

Sent: 2/11/2011 8:34:58 PM
Subject: Opposition No. 91179274 George V. v. J.D. Equities (3239-28)

Mr. Koblenz:

The TTAB has resumed proceedings in this matter. We still have outstanding discovery to which we have not received a response. Accordingly, we intend to bring a motion to compel. You are still listed as the attorney of record. Please confirm whether or not you still represent J.D. Equities in this matter. Thank you.

Joseph Lopez

Attorney at law

Novian & Novian LLP
1801 Century Park East
Suite 1201
Los Angeles, CA 90067
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Fax: 310.553.0222
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2/14/2011

EXHIBIT B

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

In re Serial Nos: 77094776 and 77094755
Marks: BUDDABAR and NY BUDDAHBAR
Published in the Official Gazette for Opposition: August 7, 2007

GEORGE V. RESTAURATION S.A.)
)
Applicant)
v.)
)
JD EQUITIES CORP.)
)
Applicant)
)

**REGISTRANTS FIRST SET OF INTERROGATORIES REQUESTS FOR
PRODUCTION OF DOCUMENTS AND REQUESTS FOR ADMISSION**

Pursuant to Rule 2.120 of the Trademark Rules of Practice and Rules 33, 34 and 36 of the Federal Rules of Civil Procedure, Registrant, George V. Restauration, S.A., hereby requests that Applicant, JD EQUITIES CORP. respond to the following discovery requests under oath and forward copies of the documents requested to Registrant care of its attorneys of record.

i.

Introduction and Definitions

A. As used herein, the term "Applicant" includes not only Applicant JD EQUITIES CORP., but also his predecessors, if any, affiliates, related companies, licensees and persons and entities controlling or controlled by Applicant, including but not limited to companies, business organizations, officers, directors, employees, agents, representatives, and attorneys.

B. As used herein, the term "Registrant" means GEORGE V.

RESTAURATION, S.A.

C. As used herein, the terms "document" and "documents" include, but are not limited to. originals and copies of all writings, notes, notations, correspondence. invoices, contracts, purchase orders, memoranda. books, pamphlets. publications. studies. reports. labels, packaging, advertisements. brochures, price lists, artwork, tear sheets, proofs, displays, papers, diaries, ledgers, messages. photographs. videotapes, models. films, drawings, sketches. illustrative materials, magnetic recording tapes. microfilms, e-mails and other storage means by which information is retained in retrievable form, and all other materials whether printed, typewritten, handwritten, recorded, or reproduced by any mechanical, electronic, or magnetic process.

D. As used herein, the terms "identify" or give the "identity" of mean, in general, to give the fullest description and specifically:

1. In the case of a natural person, to state:
 - a. The person's full name;
 - b. The person's employer;
 - c. The person's present position or title; and
 - d. The person's last known address and telephone number.
2. In the case of a company or other business organization, to state:
 - a. The name of the company or business organization;
 - b. The place of incorporation;
 - c. The principal place of and nature of business;
 - d. The identity of persons having knowledge of the matter with respect to which the company or other business organization is named;
 - e. The executive officer or officers of the company; and
 - f. The relation, if any, to Applicant's goods or services.

3. In the case of a document, to state:
 - a. The identity of the person(s) preparing and sending it;
 - b. Its title or a description of the general nature of its subject matter;
 - c. Its date of preparation;
 - d. Its date and manner of distribution and publication, if any;
 - e. The location of each copy and identity of present custodian; and
 - f. The identity of persons who can identify it.

4. In the case of a trademark or trademark application or registration, to state:
 - a. Its country or state, registration number, and application number;
 - b. Its date of first use in that country or state;
 - c. The goods and/or services on which used; and
 - d. The identity of the trademark owner.

E. As used herein, the terms "person" and "persons" include, but are not limited to, any business, company, corporation, division, agency or other entity, as well as any individual.

F. The interrogatories and requests for documents shall be deemed to seek answers as of the date hereof, but shall also be deemed continuing. Therefore, any additional information relating in any way to the interrogatories and request for documents which Applicant acquires or which becomes known to Applicant up to and including the time of trial shall be furnished to Registrant immediately after such information is acquired or becomes known.

G. As used herein, if privilege is alleged as to information or materials or if an interrogatory is otherwise not answered in full, state the specific grounds for not answering in full and answer the interrogatory to the extent to which it is not objected, including the identification of all information or materials for which privilege is claimed.

H. If Applicant claims privilege with respect to any document that falls within any

request set forth below, the following information is requested:

1. The basis for the privilege;
2. The date of the document;
3. The originator of the document, to whom it is addressed and all persons who were given copies; and
4. A general description of the type of document and the subject matter to which it pertains.

II.

Interrogatories

1. Identify each trademark used by Applicant that includes the term BUDDABAR (based on the definition of the term "identify" in Definition D.4. stated above).
2. Describe by date and circumstance Applicant's creation, consideration, selection and adoption of each of Applicant's marks that include the term BUDDABAR.
3. Identify each trademark used by Applicant that includes the term NY BUDDAHBAR (based on the definition of the term "identify" in Definition D.4. stated above).
3. Describe by date and circumstance Applicant's creation, consideration, selection and adoption of each of Applicant's marks that include the term NY BUDDAHBAR.
4. Identify each person having knowledge or information relating to Applicant's creation, consideration, selection, adoption and use of each of Applicant's marks that include the term BUDDABAR.
5. Identify each person having knowledge or information relating to Applicant's creation, consideration, selection, adoption and use of each of Applicant's marks that include the term NY BUDDAHBAR.
6. Describe by date and circumstance Applicant's first use of each of Applicant's

marks that include the term BUDDABAR.

7. Describe by date and circumstance Applicant's first use of each of Applicant's marks that include the term NY BUDDAHBAR.

8. Identify each person having knowledge or information relating to Applicant's first use of each of Applicant's marks that include the term BUDDABAR.

9. Identify each person having knowledge or information relating to Applicant's current use of each of Applicant's marks that include the term NY BUDDAHBAR.

10. Identify each person having knowledge or information relating to Applicant's current use of each of Applicant's marks that include the term NY BUDDAHBAR.

11. Identify each document related to any search(es) that include the term BUDDABAR that Applicant has conducted or caused to be conducted.

12. Identify each document related to any search(es) that include the term NY BUDDAHBAR that Applicant has conducted or caused to be conducted.

13. Identify each document related to any search(es) that include the term Buddha that Applicant has conducted or caused to be conducted.

14. Identify all persons having knowledge or information of each search identified in response to Interrogatory 11.

15. Identify all persons having knowledge or information of each search identified in response to Interrogatory 12

16. Identify all persons having knowledge or information of each search identified in response to Interrogatory 13.

17. (a) Has Applicant conducted or caused to be conducted, or does Applicant intend to conduct any marketing studies, focus group studies, polls or surveys relating to any use of the term BUDDABAR or marks including the term BUDDABAR?

(b) If the answer to Interrogatory 17(a) is other than an unqualified negative, identify: (i) all such marketing studies, focus group studies, polls or surveys: and (ii) all persons having knowledge or information of such marketing studies, focus group studies. polls or surveys.

18. (a) Has Applicant conducted or caused to be conducted, or does Applicant intend to conduct any marketing studies, focus group studies, polls or surveys relating to any use of the term NY BUDDAHBAR or marks including the term NY BUDDAHBAR?

(b) If the answer to Interrogatory 18(a) is other than an unqualified negative, identify: (i) all such marketing studies, focus group studies, polls or surveys: and (ii) all persons having knowledge or information of such marketing studies, focus group studies. polls or surveys.

19. Identify each person who is presently or has heretofore been responsible for the advertising and promotion of the goods and/or services used by Applicant under or in association with any of Applicant's marks that include the term BUDDAHBAR.

20. Identify each person who is presently or has heretofore been responsible for the advertising and promotion of the goods and/or services used by Applicant under or in association with any of Applicant's marks that include the term NY BUDDAHBAR.

21. Identify each person who is presently or has heretofore been responsible for the advertising and promotion of the goods and/or services used by Applicant under or in association with any of Applicant's marks that include the term BUDDHA.

22. Identify all types of advertising and promotion Applicant has used to advertise and promote goods and/or services under or in association with any mark that includes the term BUDDAHBAR, and state how much money Applicant has spent for each type of advertising and promotion for each year since the introduction of such goods and/or services.

23. Identify all types of advertising and promotion Applicant has used to advertise and promote goods and/or services under or in association with any mark that includes the term NY BUDDAHBAR, and state how much money Applicant has spent for each type of advertising and promotion for each year since the introduction of such goods and/or services.

24. Identify all types of advertising and promotion Applicant has used to advertise and promote goods and/or services under or in association with any mark that includes the term BUDDHA, and state how much money Applicant has spent for each type of advertising and promotion for each year since the introduction of such goods and/or services.

25. Identify each state of the United States where Applicant has marketed goods and/or services under or in association with any mark that includes the term BUDDAHBAR.

26. Identify each state of the United States where Applicant has marketed goods and/or services under or in association with any mark that includes the term NY BUDDAHBAR.

27. Identify each state of the United States where Applicant has marketed goods and/or services under or in association with any mark that includes the term BUDDHA.

28. Identify each person who has presently or who has heretofore been responsible for the marketing, provision or sale of the goods provided by Applicant under or in association with any mark that includes the term BUDDAHBAR, and as to each person so identified, state when and during what period of time each person had such responsibility.

29. Identify each person who has presently or who has heretofore been responsible for the marketing, provision or sale of the goods provided by Applicant under or in association with any mark that includes the term NY BUDDAHBAR, and as to each person so identified, state when and during what period of time each person had such responsibility.

30. Identify each person who has presently or who has heretofore been responsible for the marketing, provision or sale of the goods provided by Applicant under or in association with

any mark that includes the term BUDDHA, and as to each person so identified, state when and during what period of time each person had such responsibility.

31. Identify every person from whom Applicant has acquired, through assignment or any other transfer, any rights to any marks that include the term BUDDHA.

32. Identify every person from whom Applicant has acquired, through assignment or any other transfer, any rights to any marks that include the term BUDDAHBAR.

33. Identify every person from whom Applicant has acquired, through assignment or any other transfer, any rights to any marks that include the term NY BUDDAHBAR.

34. Identify every person from whom Applicant has acquired, through assignment or any other transfer, any rights to any marks that include the term BUDDHA.

35. Identify every person to whom Applicant has authorized, licensed, assigned, or granted the right to use any mark that includes the term BUDDAHBAR.

36. Identify every person to whom Applicant has authorized, licensed, assigned, or granted the right to use any mark that includes the term BUDDAHBAR.

37. Identify all documents relating to investigations into the goods and/or services of Registrant which are sold or provided under marks that include the term BUDDHA.

38. Identify all documents relating to investigations into the goods and/or services of Registrant which are sold or provided under marks that include the term NY BUDDAHBAR.

39. Identify all documents relating to investigations into the goods and/or services of Registrant which are sold or provided under marks that include the term BUDDHA.

40. Identify any plans of Applicant to expand its use of any marks that include the term BUDDAHBAR, including, but not limited to expansion of marketing lines, goods, services, customer base, similar marks or geographical areas served.

41. Identify any plans of Applicant to expand its use of any marks that include the term

NY BUDDAHBAR, including, but not limited to expansion of marketing lines, goods, services, customer base, similar marks or geographical areas served.

42. Identify any plans of Applicant to expand its use of any marks that include the term BUDDHA, including, but not limited to expansion of marketing lines, goods, services, customer base, similar marks or geographical areas served.

43. For each of Registrant's interrogatories and requests for production of documents in this opposition proceeding, identify the persons who participated in compiling the information used to prepare Applicant's answers and the persons most knowledgeable on behalf of Applicant regarding the subject matter of the answers.

44. For each of Registrant's interrogatories and requests for production of documents in this opposition proceeding, identify the documents, other than the documents listed above, used to prepare Applicant's answers.

III.

Documents Requested

1. Specimens of each label, tag, trade dress, package, sign, letterhead, envelope, business card, circular, invoice, statement, advertising specialty item, newspaper or magazine advertisement, telephone directory advertisement, internet advertisement, office display, window display, promotional item, or any other item ever used by Applicant in connection with the sale, advertisement and promotion of goods or services under or in association with the term BUDDHA.

2. Specimens of each label, tag, trade dress, package, sign, letterhead, envelope, business card, circular, invoice, statement, advertising specialty item, newspaper or magazine advertisement, telephone directory advertisement, internet advertisement, office display, window display, promotional item, or any other item ever used by Applicant in connection with the sale,

advertisement and promotion of goods or services under or in association with the term BUDDAHBAR.

3. Specimens of each label, tag, trade dress, package, sign, letterhead, envelope, business card, circular, invoice, statement, advertising specialty item, newspaper or magazine advertisement, telephone directory advertisement, internet advertisement, office display, window display, promotional item, or any other item ever used by Applicant in connection with the sale, advertisement and promotion of goods or services under or in association with the term NY BUDDAHBAR.

4. All documents that refer or relate to Applicant's creation, consideration, selection, adoption, and first use of any mark containing the term Buddha.

5. All documents that refer or relate to Applicant's creation, consideration, selection, adoption and first use of the term BUDDAHBAR and/or any mark that includes the term BUDDAHBAR.

6. All documents that refer or relate to Applicant's creation, consideration, selection, adoption and first use of the term NY BUDDAHBAR and/or any mark that includes the term NY BUDDAHBAR.

7. All documents that refer or relate to marketing studies, focus group studies, polls or surveys conducted by, or caused to be conducted by or obtained for Applicant that relate to the term Buddha and/or any mark that includes the term Buddha.

8. All documents that refer or relate to marketing studies, focus group studies, polls or surveys conducted by, or caused to be conducted by or obtained for Applicant that relate to the term BUDDAHBAR and/or any mark that includes the term BUDDAHBAR.

9. All documents that refer or relate to marketing studies, focus group studies, polls or surveys conducted by, or caused to be conducted by or obtained for Applicant that

relate to the term NY BUDDAHBAR and/or any mark that includes the term NY BUDDAHBAR.

3. All documents that refer or relate to any trademark or service mark search conducted or caused to be conducted by Applicant relating to the term BUDDHA.

4. All documents that refer or relate to any trademark or service mark search conducted or caused to be conducted by Applicant relating to the term BUDDAHBAR.

5. All documents that refer or relate to any trademark or service mark search conducted or caused to be conducted by Applicant relating to the term NY BUDDAHBAR.

6. All documents that refer or relate to the date and manner of first use of any mark containing the term the term BUDDHA by Applicant.

7. All documents that refer or relate to the date and manner of first use of any mark containing the term BUDDAHBAR by Applicant.

8. All documents that refer or relate to the date and manner of first use of the term NY BUDDAHBAR by Applicant.

9. All documents that refer or relate to Applicant's use of any mark containing the term BUDDHA.

10. All documents that refer or relate to Applicant's use of any mark containing the term BUDDAHBAR.

11. All documents that refer or relate to Applicant's use of any mark containing the term NY BUDDAHBAR.

12. All documents that refer or relate to use of the term THRIVE by anyone other than Applicant or Registrant

13. All documents that refer or relate to use of any mark containing the term BUDDHA in connection with restaurant services/franchising by anyone other than

Applicant.

14. All documents that refer or relate to likelihood of confusion or instances of actual confusion caused by Applicant's or Registrant's use of any mark containing the term BUDDHA.

15. All documents that refer or relate to likelihood of confusion or instances of actual confusion caused by Applicant's or Registrant's use of any mark containing the term BUDDAHBAR.

16. All documents that refer or relate to likelihood of confusion or instances of actual confusion caused by Applicant's or Registrant's use of any mark containing the term NY BUDDAHBAR.

17. All documents that refer or relate to any trademark or service mark registration or application to register a mark including the term BUDDHA that has ever been granted to, considered, applied for, sought, or acquired by Applicant.

18. All documents that refer or relate to any trademark or service mark registration or application to register a mark including the term BUDDAHBAR that has ever been granted to, considered, applied for, sought, or acquired by Applicant

19. All documents that refer or relate to any trademark or service mark registration or application to register a mark including the term NY BUDDAHBAR that has ever been granted to, considered, applied for, sought, or acquired by Applicant

20. All documents that refer or relate to any acquisition of any rights in any mark containing the term BUDDHA by Applicant.

21. All documents that refer or relate to any acquisition of any rights in any mark containing the term BUDDAHBAR by Applicant.

22. All documents that refer or relate to any acquisition of any rights in any mark

containing the term NY BUDDAHBAR by Applicant.

23. All documents that refer or relate to any grant of any rights in any mark containing the term BUDDHA by Applicant.

24. All documents that refer or relate to any grant of any rights in any mark containing the term NY BUDDAHBAR by Applicant.

25. All documents that refer or relate to any grant of any rights in any mark containing the term BUDDAHBAR by Applicant.

26. All documents that refer or relate to each complaint, objection, opposition, administrative or civil action or other controversy involving Applicant's use of any mark containing the term NY BUDDAHBAR.

27. All documents that refer or relate to each complaint, objection, opposition, administrative or civil action or other controversy involving Applicant's use of any mark containing the term BUDDAHBAR.

28. A sample of each advertising or promotional material ever used by Applicant that refers or relates to Applicant's use of any mark containing the term BUDDHA.

29. A sample of each advertising or promotional material ever used by Applicant that refers or relates to Applicant's use of any mark containing the term NY BUDDAHBAR.

30. A sample of each advertising or promotional material ever used by Applicant that refers or relates to Applicant's use of any mark containing the term BUDDAHBAR.

31. All documents summarizing or memorializing Applicant's sales of each good or service of Applicant bearing the any mark containing term BUDDHA commencing with the date of first use of said term on Applicant's good or service.

32. All documents summarizing or memorializing Applicant's sales of each good or service of Applicant bearing the any mark containing term BUDDAHBAR commencing with the

date of first use of said term on Applicant's good or service.

33. All documents summarizing or memorializing Applicant's sales of each good or service of Applicant bearing the any mark containing term NY BUDDAHBAR commencing with the date of first use of said term on Applicant's good or service.

34. All documents disclosing the class or type of customers to whom Applicant has sold goods or services under or in association with any mark containing the term BUDDHA since the introduction of such goods or services.

35. All documents disclosing the class or type of customers to whom Applicant has sold goods or services under or in association with any mark containing the term BUDDAHBAR since the introduction of such goods or services.

36. All documents disclosing the class or type of customers to whom Applicant has sold goods or services under or in association with any mark containing the term NY BUDDAHBAR since the introduction of such goods or services.

37. All documents that refer or relate to any plans of Applicant to expand its use of any mark containing the term BUDDHA, including, but not limited to, expansion of marketing lines. goods. services, customer base, similar marks, or geographical areas served.

38. All documents that refer or relate to any plans of Applicant to expand its use of any mark containing the term BUDDAHBAR, including, but not limited to, expansion of marketing lines. goods. services, customer base, similar marks, or geographical areas served.

39. All documents that refer or relate to any plans of Applicant to expand its use of any mark containing the term NY BUDDAHBAR, including, but not limited to, expansion of marketing lines. goods, services, customer base, similar marks, or geographical areas served.

40. All documents that refer or relate to any instance of confusion, deception or mistake that has or may have occurred regarding the source, sponsorship, or approval of

Applicant's goods or services such that individuals believe or may believe that Applicant's goods or services sold in association with any mark containing the term BUDDHA are provided by Registrant, sold by Registrant, licensed by Registrant, or are in some way legitimately connected with Registrant.

41. All documents that refer or relate to any instance of confusion, deception or mistake that has or may have occurred regarding the source, sponsorship, or approval of Applicant's goods or services such that individuals believe or may believe that Applicant's goods or services sold in association with any mark containing the term BUDDAHBAR are provided by Registrant, sold by Registrant, licensed by Registrant, or are in some way legitimately connected with Registrant.

42. All documents that refer or relate to any instance of confusion, deception or mistake that has or may have occurred regarding the source, sponsorship, or approval of Applicant's goods or services such that individuals believe or may believe that Applicant's goods or services sold in association with any mark containing the term NY BUDDAHBAR are provided by Registrant, sold by Registrant, licensed by Registrant, or are in some way legitimately connected with Registrant.

43. All documents not otherwise specified herein that relate or refer to Applicant's answers to Registrant's First Set of Interrogatories to Applicant, including, but not limited to, all documents used to prepare answers to the aforementioned Interrogatories.

IV.

Requests for Admission

1. Admit that Applicant does not have priority over Registrant with respect to any marks that include the term BUDDHA.

2. Admit that Applicant does not have priority over Registrant with respect to

any marks that include the term BUDDAHBAR.

3. Admit that Applicant does not have priority over Registrant with respect to any marks that include the term NY BUDDAHBAR.

4. Admit the mark BUDDAHBAR is confusingly similar to Registrant's BUDDHA-BAR mark.

5. Admit the mark NY BUDDAHBAR is confusingly similar to Registrant's BUDDHA-BAR mark.

6. Admit that Applicant is not using and has not used any mark that includes the term BUDDHA.

7. Admit that Applicant is not using and has not used any mark that includes the term NY BUDDAHBAR outside the state of New York.

8. Admit that Applicant is not using and has not used any mark that includes the term BUDDAHBAR outside the state of New York.

9. Admit that Applicant is not using and has not used any mark that includes the term NY BUDDAHBAR in interstate commerce.

10. Admit that Applicant is not using and has not used any mark that includes the term BUDDAHBAR in interstate commerce.

11. Admit that Applicant is not using and has not used any mark that includes the term BUDDHA in interstate commerce.

12. Admit that Applicant has not continuously used any mark that includes the term BUDDHA on or before Registrant's date of first use of its BUDDHA BAR mark depicted in United States Registration No. 2439577.

13. Admit that Applicant has not continuously used any mark that includes the term NY BUDDAHBAR on or before Registrant's date of first use of its BUDDHA BAR

mark depicted in United States Registration No. 2439577.

14. Admit that Applicant has not continuously used any mark that includes the term BUDDAHBAR on or before Registrant's date of first use of its BUDDHA BAR mark depicted in United States Registration No. 2439577.

15. Admit that Applicant has not continuously used any mark that includes the term BUDDHA on or prior to Registrant's date of first use of its BUDDHA BAR mark depicted in United States Registration No. 2439577.

16. Admit that Applicant has not continuously used any mark that includes the term NY BUDDAHBAR on or prior to Registrant's date of first use of its BUDDHA BAR mark depicted in United States Registration No. 2439577.

17. Admit that Applicant has not continuously used any mark that includes the term BUDDAHBAR on or prior to Registrant's date of first use of its BUDDHA BAR mark depicted in United States Registration No. 2439577.

Dated: March 5, 2008

NOVIAN & NOVIAN LLP

Josh Mendelsohn

By: _____
JOSH MENDELSON

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the REGISTRANT'S FIRST SET OF INTERROGATORIES, REQUEST FOR PRODUCTION OF DOCUMENTS AND REQUEST FOR ADMISSIONS was served by First Class Mail on this 6th day of March 2007, on the following attorney of record for Applicant:

Michael R. Koblenz, Esq.
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