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Filing date: **08/25/2008**

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

Proceeding	91183799
Party	Plaintiff Pure Entertainment, LLC
Correspondence Address	Anne L. Turner Phelps Dunbar LLP 111 East Capitol Street, Suite 600 Jackson, MS 39201 UNITED STATES anne.turner@phelps.com
Submission	Other Motions/Papers
Filer's Name	Anne L. Turner
Filer's e-mail	anne.turner@phelps.com
Signature	/ANNE L. TURNER/
Date	08/25/2008
Attachments	Pure Entertainment - Pleadings re Initial Disclosures.pdf (9 pages)(61641 bytes)

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

In the Matter of Trademark Registration No. 77/071,279
For the Mark BUTTER LOUNGE
Published in the Official Gazette on January 1, 2008

PURE ENTERTAINMENT, LLC,	:	
	:	
	:	Opposition No.: 91183799
Petitioner,	:	
v.	:	
	:	
BUTTER LICENSING, LLC,	:	
	:	
Respondent.	:	

United States Patent and Trademark Office
Trademark Trial and Appeal Board
BOX TTAB
2900 Crystal Drive
P.O. Box 1451
Alexandria, VA 22313-1451

**PETITIONER PURE ENTERTAINMENT, LLC's INITIAL PRE-DISCOVERY
DISCLOSURES**

Petitioner, Pure Entertainment, LLC, submits the following initial pre-discovery disclosures pursuant to 37 C.F.R. Part 2, § 2.120 and Federal Rule of Civil Procedure 26:

1. The following persons may have discoverable information:

- a. Mark Ligman
Pure Entertainment, LLC
354 Eleventh Street
San Francisco, California 94103

- b. Oliver Paine
Pure Entertainment, LLC
354 Eleventh Street
San Francisco, California 94103
Tel: (510) 387-9311

Mr. Ligman and Mr. Paine are currently the sole members of Pure Entertainment, LLC, the entity that owns and operates Butter, a restaurant, bar and nightclub in San Francisco, California ("Butter SF"). Messrs. Ligman and Paine are expected to have information regarding the continuous use in commerce of the trademark "BUTTER and DESIGN," the facts and circumstances relating to Registration No. 2395741 for the mark "BUTTER and DESIGN," the fame of the mark "BUTTER" and design as used by Butter SF and the local and national advertising and media coverage of Butter SF evidencing the same, the plans for expansion of the Butter SF brand, the awareness by the owners of Butter Restaurant and Butter Lounge in New York City, New York (collectively, "Butter NY") of the use of the trademark "BUTTER" and design by Butter SF, the likelihood of confusion by customers between Butter SF and Butter NY; the personal knowledge and awareness of Richie Akiva, Respondent, Varrick Group, LLC, Scott Sartiano and other associates Richie Akiva, Respondent, Varrick Group and Scott Sartiano, of the prior, senior use of the mark "BUTTER" and design by Butter SF; and the continued, valid registration of the mark "BUTTER" and design in California. Messrs. Ligman and Paine are also expected to have information regarding past interactions between the owners of Butter SF and Butter NY.

- c. Carlton Solle
One Tambor
Playa Tambor,
Puntarenas, Costa Rica
Tel: (506) 8.878.5896

- d. Christopher Solle
North Coast Mortgage Co
80 East Sir Francis Drake Blvd. Suite 3B
Larkspur, CA 94939
Tel: (415) 461-2070

Carlton and Christopher Solle are the brothers that conceptualized, opened and operated Butter SF until December 16, 2003, at which time Butter SF was sold to Messrs. Ligman and Paine.

The Solle brothers are expected to have information for the period on or about 1998 until

December 16, 2003, regarding the continuous use in commerce during that time of the trademark "BUTTER and DESIGN," the facts and circumstances relating to the preparation and filing of Registration No. 2395741 for the mark "BUTTER and DESIGN," the fame of the mark "BUTTER" and design as used by Butter SF and the local and national advertising and media coverage during the prescribed time of Butter SF evidencing the same, the plans for expansion of the Butter SF brand, the awareness by the owners of Butter NY of the use of the trademark "BUTTER" and design by Butter SF, the likelihood of confusion by customers between Butter SF and Butter NY; the personal knowledge and awareness of Richie Akiva, Respondent, Varrick Group, LLC, Scott Sartiano and other associates Richie Akiva, Respondent, Varrick Group and Scott Sartiano, of the prior, senior use of the mark "BUTTER" and design by Butter SF; and the preparation and filing of the application for the mark "BUTTER" and design in California. The Solle brothers are also expected to have information regarding past interactions between the owners of Butter SF and Butter NY.

e. Richie Akiva

On information and belief, Richie Akiva, whose address and contact information are currently unknown to Petitioner, is expected to have information regarding his personal awareness and knowledge at all times prior to and after his adoption, on his own behalf or on behalf of an entity or entities through which he does business, of the word mark "BUTTER" in connection with Butter NY of the senior, continuing use of the mark "BUTTER" and design by Butter SF; regarding the awareness and knowledge of Respondent, Varrick Group, LLC, Scott Sartiano and other associates of each of them, of the prior, senior use of the mark "BUTTER" and design by Butter SF; and regarding his receipt of correspondence regarding the infringing nature of Butter NY's use of the word mark "BUTTER."

f. Varrick Group, LLC

On information and belief, Varrick Group, LLC, the identity of whose members and managers and whose address and contact information are currently unknown to Petitioner, are expected to have information regarding its knowledgeable and awareness at all times prior to its adoption of the word mark "BUTTER" in connection with Butter NY of the senior, continuing use of the mark "BUTTER" and design by Butter SF; regarding the awareness and knowledge of Richie Akiva, Respondent, Scott Sartiano and other associates of each of them, of the prior, senior use of the mark "BUTTER" and design by Butter SF; and regarding its receipt of correspondence regarding the infringing nature of Butter NY's use of the word mark "BUTTER."

f. Michael Pierce Singsen
Law Offices of Michael Pierce Singsen
637 Carolina Street
San Francisco, California 94107
Tel: (415) 552-1177

Mr. Singsen is expected to have information regarding the personal awareness and knowledge of Richie Akiva and Varrick Group, LLC, of the prior, senior use of the mark "BUTTER" and design by Butter SF and of correspondence between himself, Richie Akiva and Varrick Group, LLC, regarding the same.

g. Toby M.J. Butterfield
Kay Collyer & Boose LLP
One Dag Hammarskjold Plaza
New York, New York 10017
(212) 940-8200

Mr. Butterfield is expected to have information regarding the personal awareness and knowledge of Richie Akiva, Respondent, Varrick Group, LLC, Scott Sartiano, and any other entity through which those persons or entities transacted or transact business regarding Butter NY, of the prior, senior use of the mark "BUTTER" and design by Butter SF and of correspondence between Mr. Singsen, himself, Richie Akiva and Varrick Group, LLC regarding the same.

- h. Scott Sartiano and other persons associated with Richie Akiva, Respondent, Varrick Group, LLC, and Scott Sartiano

Mr. Sartiano, and other persons associated with Richie Akiva, Respondent, Varrick Group, LLC, and Scott Sartiano, whose names or addresses are not presently known to Petitioner, are expected to have information regarding their personal awareness and knowledge of the prior, senior use of the mark "BUTTER" and design by Butter SF and of the knowledge and awareness of Richie Akiva, Respondent, Varrick Group, LLC, Scott Sartiano and other associates Richie Akiva, Respondent, Varrick Group and Scott Sartiano, of the prior, senior use of the mark "BUTTER" and design by Butter SF;

- i. Various customers of Butter SF and Butter NY

There may be various customers of Butter SF and Butter NY, whose identities and addresses have not yet been ascertained, who would be expected to have information regarding the senior and continuous use of the mark "BUTTER" and design by Butter SF and the reputation and quality of Butter SF and other information relevant to the use of and potential or actual confusion between the use of confusingly similar trademarks comprised principally of the word "BUTTER" as their dominant element by Butter SF and Butter NY.

2 The attached documents, Bates numbered Butter-SF 0000001 - SF 0000106, contain information that may be relevant to the claims or defenses asserted to this Opposition. Butter SF reserves the right to supplement these disclosures as additional documents become available or as may be required by responses to discovery.

3. Pure Entertainment, LLC, has not asserted a claim for damages in this proceeding.

4. There is no insurance agreement presently known to Pure Entertainment, LLC, that may be liable to satisfy part or all of a judgment which may be entered in this action.

DATED this 25th day of August, 2008.

Respectfully submitted,

PHELPS DUNBAR LLP

By:



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Attorneys for Petitioner PURE
ENTERTAINMENT, LLC

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Trademark Trial and Appeal Board
BOX TTAB
2900 Crystal Drive
P.O. Box 1451
Alexandria, VA 22313-1451

NOTICE OF SERVICE OF PETITIONER'S INITIAL DISCLOSURES

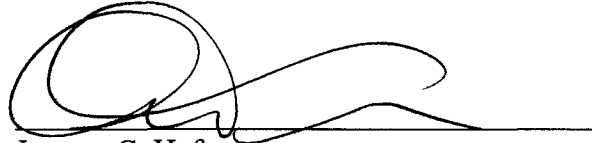
Notice is hereby given that on the date entered below, Pure Entertainment, LLC,
disclosed to all other parties of record in this Opposition the information required by 37 C.F.R.
Part 2, § 2.120 and Federal Rule of Civil Procedure 26.

DATED this 25th day of August, 2008.

Respectfully submitted,

PHELPS DUNBAR LLP

By:

A handwritten signature in black ink, appearing to be 'J. Hafter', written over a horizontal line.

Jerome C. Hafter

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Attorneys for Petitioner PURE
ENTERTAINMENT, LLC

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was served on the following counsel, this the 25th day of August, 2008:

Craig M. Spierer
McCue Sussmane & Zapfel, P.C.
521 5th Avenue, Floor 28
New York, NY 10175-2199



Anne L. Turner