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

Proceeding	91187342
Party	Defendant PACIFIC RIM MARKETING INC
Correspondence Address	PACIFIC RIM MARKETING INC 1306 VIA TORNASOL APTOS, CA 95003-5654 UNITED STATES fred@pacrim-marketing.com
Submission	Other Motions/Papers
Filer's Name	Fred Scherrer
Filer's e-mail	fred@pacrim-marketing.com
Signature	/fred scherrer 1024/
Date	05/31/2010
Attachments	Oppositions Inter and Req.pdf ( 18 pages )(622538 bytes ) Request to limit Interag001.pdf ( 2 pages )(59053 bytes )

Rec'd  
5/25/10

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

In re Application Ser. No. 78/615,932  
Published June 3, 2008  
Opposer's Reference: PFD USA TC-07/05683

-----X	:	
Sean Puffy Combs,	:	
	:	
Opposer,	:	
	:	Opposition No. 91187342
- against -	:	
	:	
Pacific Rim Marketing Inc.,	:	
	:	
Applicant.	:	
-----X	:	

**OPPOSER'S FIRST SET OF INTERROGATORIES AND  
FIRST REQUESTS FOR PRODUCTION OF DOCUMENTS AND THINGS**

Pursuant to Rule 2.120 of the Trademark Rules of Practice and Rules 33 and 34 of the Federal Rules of Civil Procedure, opposer Sean Puffy Combs requests that applicant Pacific Rim Marketing Inc. answer under oath the following interrogatories and respond to the following requests for production of documents by serving written responses thereto at the offices of opposer's attorneys, Fross Zelnick Lehrman & Zissu, P.C., 866 United Nations Plaza, New York, New York 10017, Attn: Robert A. Becker, Esq., within thirty-five (35) days after service of this request. Applicant is further required to produce those documents specified herein at the offices of Fross Zelnick Lehrman & Zissu, P.C. in accordance with the above rules.

## Definitions and Instructions

- A. The term “applicant” shall mean Pacific Rim Marketing Inc. and its predecessors, affiliates, and divisions and the officers, directors, employees, attorneys, agents, and representatives of the foregoing.
- B. The term “opposer” shall mean Sean Puffy Combs and his employees, attorneys, agents, and representatives.
- C. The term “person” shall mean natural persons and legal entities and includes firms, partnerships, corporations, and associations.
- D. The term “Mark” shall mean the mark IDIDDY shown in U.S. Application Serial No. 78/615,932 filed by applicant, any other name or mark incorporating the term IDIDDY, and any variants thereof.
- E. The term “Opposer’s Mark” shall mean the mark P.DIDDY used by Opposer.
- F. The term “document” is used in the broadest sense consistent with Fed. R. Civ. P. 34 and includes, without limitation, the original and any copy of the following items, whether printed, written, contained in a computer storage device such as a floppy disk or computer memory, and whether produced by and/or reproduced by any process, namely: printed matter, notes, correspondence, internal company communications, telegrams, cables, telexes, ledgers, calendars, diaries, books, statements, memoranda, summaries or records of conversations, minutes or records of meetings, reports, records, market surveys, market research, tabulations, contracts, invoices, receipts, vouchers, charges, labels, artwork, mockup labels, films, video tapes, photo boards, drawings, graphs, photographs, microfilms, tape recordings, reports and/or summaries of interviews or investigations, opinions or reports of consultants,

promotional literature, trade letters, press releases, drafts of documents and revisions of drafts of documents, notes or comments on or appended to requested documents, and other written or recorded material in the possession, custody, or control of applicant.

G. The term “market research” shall mean all surveys, polls, focus groups, market research studies, and other investigations conducted on behalf of applicant whether or not such investigations were completed, discontinued, or fully carried out.

H. The term “identify,” when used with respect to a person, means to state the full name of the person, the present or last known business address of the person, and the present or last known business affiliation including the position or title of said person.

I. The term “describe” means to state or identify the date, duration, location, nature, persons involved, witnesses, physical occurrences, and a summary of the substance of any conversations of the relevant item, person, or event.

J. The term “concerning” means relating to, referring to, describing, evidencing, or constituting.

K. Whenever the terms “and” or “or” are used they are to be construed both disjunctively and conjunctively as necessary to bring within the scope of the document request or interrogatory responses that might otherwise be construed to be outside of its scope.

L. The use of the singular form of any word includes the plural and vice-versa. Similarly, references to the masculine gender shall apply equally to the feminine gender.

M. In answering these discovery requests, even though the questions may be directed to “you,” furnish all information which is available to you, including information in the possession of your attorneys or investigators prepared on your behalf. If you cannot answer any of the following interrogatories in full after exercising due diligence to secure the information, so

state and answer to the extent possible, specifying your inability to answer the remainder and stating whatever information or knowledge you have concerning the unanswered portions.

N. If any of the following interrogatories calls for information subject to a claim of privilege or other objection, answer so much of each interrogatory and each part thereof as does not request privileged information. With respect to those portions of these interrogatories which do request privileged information, set forth the basis for your claim of privilege or any other objection you may have.

O. If any document responsive to the following document requests is withheld or not produced on the basis of a claim of privilege or any other objection, you shall provide a list containing the following information for each of the documents:

- (i) the date the document was prepared;
- (ii) the name, employment position, and address of the author(s) and/or preparer(s) of the document;
- (iii) a brief description of the document;
- (iv) the subject matter of the document;
- (v) the names of people to whom copies were distributed;
- (vi) the reasons for withholding production of the document and any supporting facts. The claim of privilege or any other objection must be made in sufficient detail so as to permit the Board to adjudicate the validity of the claim or objection;
- (vii) the number of the request under which the document would otherwise be produced.

P. These discovery requests are intended to be continuing. If, at any time

after you prepare and furnish the requested discovery you ascertain or acquire additional information or documents, you are required to produce such supplemental information or documents to opposer within thirty (30) days.

Q. For the convenience of the Board and the parties, each interrogatory and

document request should be quoted in full immediately preceding the response. You are also requested to order and label the materials produced in accordance with the final paragraph of Rule 34(b), Fed. R. Civ. P.

### INTERROGATORIES

Interrogatory No. 1: Describe in specific terms the nature of applicant's business

and identify the products or services applicant manufactures, sells, or offers and the persons to whom such products or services are provided.

Interrogatory No. 2: List and describe in detail the kinds of products or services

sold or to be sold by applicant under or in connection with the Mark. If the nature of the products or services sold under the Mark has changed, identify the period of and reasons for such change and the kinds of products or services previously so sold.

Interrogatory No. 3: For each kind of product or service in connection with which

applicant's Mark is now used:

- (a) State the volume of sales of that kind of product or service within the United States for each year since applicant commenced use of the Mark on that kind of product or service in terms of dollars (specifying whether the figure is based on retail or wholesale prices) and in terms of number of units; and

(b) Identify the kinds of purchasers or customers to whom such sales were made.

Interrogatory No. 4: (a) Identify by name and address all past, present, and former authorized users of the Mark including but not limited to all past and present licensees, franchisees, dealers, or distributors of applicant, and (b) indicate the goods or services in connection with which each such entity used or uses the Mark.

Interrogatory No. 5: Describe the channels of trade through which applicant's goods or services bearing or sold under the Mark are or will be sold or offered for sale.

Interrogatory No. 6: Describe each type of retail or other business outlet that sells or offers for sale or will sell or offer for sale applicant's goods or services bearing or sold under the Mark.

Interrogatory No. 7: Identify the geographic area(s) where applicant's goods or services bearing or sold under the Mark are or will be sold or distributed.

Interrogatory No. 8: Identify all versions of applicant's Mark that applicant has used or will use, including typeface, graphics, logos, design or other feature, and identify the kinds of goods or services on or in connection with which each version of applicant's Mark is or will be used and the period of use. In lieu of an answer, applicant may attach actual specimens of each version of the mark used and depictions of each version of the mark to be used, provided applicant identifies the kinds of goods or services on or in connection with which each specimen is or will be used and the period of use.

Interrogatory No. 9: Identify and describe the categories of customers to whom applicant's goods or services are or will be promoted.

Interrogatory No. 10: Describe each means by which applicant advertises or

promotes or will advertise or promote goods or services under the Mark.

Interrogatory No. 11: Identify by name each magazine, newspaper, newsletter,

trade directory, website, or other publication in which applicants goods or services bearing or sold under the Mark have been advertised or promoted or will be advertised or promoted.

Interrogatory No. 12: Identify each kind of promotional material, including, but

not limited to, catalogs, brochures, posters, sales sheets, point of purchase displays, fliers, and price lists that refer to or will refer to applicant's goods or services offered under the Mark, and

for each such item state:

- (i) the inclusive dates during which that kind of promotional material was or is currently distributed;
- (ii) the categories of wholesalers, of retailers, and of customers to whom such promotional material was, is, or will be directed.

Interrogatory No. 13: State applicant's actual and projected advertising and

promotional expenditures in dollars for goods or services bearing or sold under the Mark by year.

Interrogatory No. 14: List all trade shows (including dates) at which applicant has

displayed literature, brochures, or other items promoting its goods or services sold in connection with the Mark or at which applicant is scheduled to promote such goods or services.

Interrogatory No. 15: Has applicant or its Mark been the subject of any coverage

in newspapers or other media? If so, identify each story about applicant and state the date and publication or other media involved.

Interrogatory No. 16: List and describe all ways in which applicant uses the Mark

or the words IDIDDY or variants thereof.



Interrogatory No. 17: Set forth the meaning and derivation of the Mark.

Interrogatory No. 18: Describe with particularity all facts and evidence

supporting your contention that your use of the Mark is not likely to cause confusion, mistake, or deception.

Interrogatory No. 19: Describe in detail the reason(s) applicant selected and

began using the Mark and state the times when applicant selected and began using the Mark.

Interrogatory No. 20: Identify each trademark search, clearance, or other inquiry

conducted by or on behalf of applicant or of which applicant has otherwise become aware that concerned the Mark by stating:

- (i) the date each such trademark search, clearance, or other inquiry was conducted;
- (ii) the persons who conducted each such trademark search, clearance, or other inquiry.

Interrogatory No. 21: Identify the natural persons responsible for the clearance of

the Mark, including obtaining or preparing reports.

Interrogatory No. 22: Describe all uses known to applicant of the terms “diddy”

and “ididdy” by any person and identify each such person.

Interrogatory No. 23: State when applicant first became aware of Opposer’s use

of Opposer’s Mark and identify the manner in which applicant became aware of opposer’s use of Opposer’s Mark.

Interrogatory No. 24: State whether applicant or any licensee, franchisee, dealer,

or distributor of applicant or authorized user of the Mark has ever witnessed or obtained any knowledge or information regarding possible confusion on the part of any person as to the

source, sponsorship, affiliation or approval of opposer's goods or services provided under

Opposer's Mark or applicant's goods or services provided under the Mark.

Interrogatory No. 25: If the answer to the preceding interrogatory is other than an unqualified negative, for each possible incident of confusion:

- (a) state the date and location and identify each person or entity that was or possibly was confused; and
- (b) identify each natural person who has knowledge of such confusion or possible confusion.

Interrogatory No. 26: State whether applicant or any licensee, franchisee, dealer, or distributor of applicant or authorized user of the Mark has ever received, orally, in writing, or by other means, communications intended for opposer.

Interrogatory No. 27: If the answer to the proceeding interrogatory is other than an unqualified negative:

- (a) state the date, location, means, and content of each such communication, the person from whom such communication was received and the company, if any, with whom such person was connected, and the person who received each communication and the company, if any, with whom such person was connected.
- (b) identify each natural person who has knowledge of such communication.

Interrogatory No. 28: State whether applicant or any licensee, franchisee, dealer, or distributor of applicant or authorized user of the Mark has ever received, orally, in writing, or by other means, product complaints or inquiries concerning opposer's products or services.

Interrogatory No. 29: If the answer to the proceeding interrogatory is other than

an unqualified negative:

- (a) state the date, location, means of communication, and content of each such complaint or inquiry, the person from whom such complaint or inquiry was received and the company, if any, with whom such person was connected, and the person who received such complaint or inquiry and the company, if any, with whom such person was connected.
- (a) identify each natural person who has knowledge of such complaint or inquiry.

Interrogatory No. 30: For the purpose of this interrogatory, a “claim” shall be

defined as a demand brought by or against applicant or any authorized user of the Mark, relating to the Mark, which either has or has not resulted in a litigation or a Patent and Trademark Office (“inter partes”) proceeding. Identify each person or entity against which applicant or any authorized user of the Mark has asserted a claim or which has asserted a claim against applicant or any authorized user based on the Mark.

Interrogatory No. 31: For each court litigation or inter partes proceeding relating

to the Mark to which applicant or any party whose use applicant contends inures to its benefit was or is a party, or of which applicant has knowledge, other than this proceeding:

- (a) Identify the proceeding by name, tribunal, and index number; and
- (b) Identify all documents concerning each proceeding identified above.

Interrogatory No. 32: Has applicant conducted or caused to be conducted any

market research regarding its Mark? If so:

- (a) state the date on which it was initiated and if it was completed, the date on which it was completed;
- (b) identify the person or persons requesting the survey, inquiry, poll, market research, or investigation;
- (c) identify each person who performed the survey, inquiry, poll, market research, or investigation;
- (d) state the purposes or objectives of the survey, inquiry, poll, market research, or investigation;
- (e) state all information found as a result of the survey, inquiry, poll, market research, or investigation;
- (f) identify each document relating to the survey, inquiry, poll, market research, or investigation; and
- (g) describe any actions taken by applicant as a result of any such survey, inquiry, poll, market research, or investigation.

Interrogatory No. 33: Does applicant plan to conduct or cause to be conducted

any survey or market research for possible use in this proceeding? If so, describe such survey or market research.

Interrogatory No. 34: Describe any actual or proposed plans for use of the Mark

or variants thereof.

Interrogatory No. 35: Identify each person applicant expects to call as an expert

witness at trial and for each such person state:

- (a) the subject matter on which the expert is expected to testify; and

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

Interrogatory No. 36: State the basis for applicant's claim of ownership of applicant's Mark.

Interrogatory No. 37: Identify each person who supplied information for any of the answers to the preceding interrogatories or to the following document requests, or who was consulted, or whose documents or files were consulted in the preparation of those answers and identify the interrogatories and/or document requests for which the person supplied information, was consulted, or had his or her documents or files consulted.

Interrogatory No. 38: Does the word "diddy" mean or is the word "diddy" intended to refer to a kind of bag or container of any kind? If so, please describe the type of bag or container.

Interrogatory No. 39: Does the Mark IDIDDY mean or is the Mark IDIDDY intended to refer to a kind of bag or container of any kind? If so, please describe the type of bag or container.

Interrogatory No. 40: Does the term DIDDY as used in the Mark IDIDDY mean or is the term DIDDY as used in the Mark IDIDDY intended to refer to a kind of bag or container of any kind? If so, please describe the type of bag or container.

REQUEST FOR PRODUCTION OF DOCUMENTS AND THINGS

Request No. 1: All documents identified in response to Opposer's First Set of

Interrogatories.

Request No. 2: Two specimens of:

- a) each product sold or to be sold by applicant under or in connection with the Mark;
- b) the packaging therefor;
- c) any labels or hangtags bearing the mark that have been or will be distributed by applicant; and
- d) any display pieces on which the mark appears that have been or will be distributed by applicant.

Request No. 3: Documents sufficient to show applicant's dollar and unit sales of

each product or service sold by applicant under the Mark.

Request No. 4: All documents concerning or embodying any license, franchise,

grant of permission, or assignment that involves or concerns applicant's Mark.

Request No. 5: Documents sufficient to identify all types of customers or

purchasers of goods or services bearing, sold under, to bear, or to be sold under the Mark.

Request No. 6: Documents sufficient to identify all channels of trade through

which applicant's goods or services bearing or sold under the Mark are sold or offered for sale or will be sold or offered for sale.

Request No. 7: Documents sufficient to identify each type of retail or other

business outlet that sells or offers for sale or will sell or offer for sale applicant's goods or services bearing or sold under the Mark.

Request No. 8: Documents sufficient to show all marks that are owned, used,

registered by, or the subject of a trademark application by applicant that incorporate the term

IDIDDY or any variant thereof.

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Request No. 9: Exemplars of all advertisements, brochures, catalogs, or other promotional materials that contain any reference to the Mark, including all drafts, mock-ups, or proposals therefor.

Request No. 10: Documents sufficient to show applicant's past, present, and future expenditures for advertising or promotion of its goods or services bearing or sold under the Mark.

Request No. 11: All documents referring or relating to any planned or actual trade show at which applicant has displayed literature, brochures, or other items promoting its goods or services bearing or sold under the Mark.

Request No. 12: Copies of all newspaper, magazine, newsletter, trade journal, web page, and other articles concerning, referring to, or otherwise relating to applicant's goods or services bearing, sold under, to bear, or to be sold under the Mark.

Request No. 13: All documents referring or relating to the meaning or significance of the terms "diddy" and "ididdy."

Request No. 14: All documents concerning the first use of the term IDIDDY as a trademark by applicant or its licensees.

Request No. 15: All documents concerning any public recognition of the term IDIDDY as used by applicant or its licensees.

Request No. 16: All documents concerning any use by the trade or public of the term IDIDDY to refer to applicant or to signify goods or services originating from applicant.

Request No. 17: All documents showing that consumers or the trade identify goods or services sold under the Mark or bearing the term IDIDDY as emanating from applicant.

Request No. 18: All documents concerning applicant's selection, creation, and/or

adoption of the Mark or in which the planned or possible selection, creation, and/or adoption of the Mark was discussed or mentioned.

Request No. 19: Copies of all trademark searches by applicant for any mark

consisting of or containing the term IDIDDY or any variant thereof.

Request No. 20: All documents concerning any opinion letter or other analysis

regarding the registrability of the Mark, including all documents concerning who requested the opinion, when the opinion was requested, who prepared the opinion, and the substance thereof.

Request No. 21: All documents concerning, evidencing, referring to, or relating

to any confusion or possible confusion on the part of any person as to the source, sponsorship, affiliation or approval of applicant's goods or services provided under the Mark and/or the goods or services of opposer.

Request No. 22: All documents relating to all incidents of confusion or possible

confusion, communications, complaints, and inquiries described in applicant's answers to Interrogatory Nos. 24-29.

Request No. 23: All documents referring or relating to opposer or his use of

Opposer's Mark or to applicant's awareness of opposer or his use of Opposer's Mark.

Request No. 24: Copies of all trademark watching service or trademark

surveillance notices concerning or relating to applicant's Mark.

Request No. 25: All documents referring or relating to applicant's awareness of

any third party who is using, or who formerly used, the terms "diddy" or "ididdy."

Request No. 26: All cease-and-desist or demand letters sent by or on behalf of

applicant or received by applicant that concern the Mark.



Request No. 27: Copies of all documents pertaining to any litigation or inter

partes proceeding (other than this one) involving applicant's Mark, including, but not limited to, all pleadings, motions, investigators' reports, responses, deposition transcripts, decisions, opinions, judgments on consent, and orders.

Request No. 28: All documents concerning any claim, complaint, objection,

opposition, cancellation, administrative proceeding, legal opinion, or civil action involving applicants use of the Mark (other than this proceeding), or any third-party uses, registrations, or applications for marks deemed to be confusingly similar to applicant's Mark, including, but not limited to, all correspondence or communications relating thereto, demand letters, replies, documentation regarding settlement proposals, settlement agreements, and settlement letters.

Request No. 29: All reports or summaries of reports as well as all other

documents, including notes and memoranda, concerning any market research or testing relating to applicant's Mark or Opposer's Mark.

Request No. 30: Copies of all documents concerning any market research

identified in response to Interrogatory Nos. 32-33.

Request No. 31: All business plans or other planning documents concerning use

or registration of the Mark.

Request No. 32: All documents relating to complaints concerning applicant's

goods, services, or advertising.

Request No. 33: All documents relating to investigations or complaints by the

FDA, consumer protection agencies, or any other agencies relating to applicant's goods, services, or advertising.

Request No. 34: All documents and things upon which applicant intends to rely

in this proceeding.

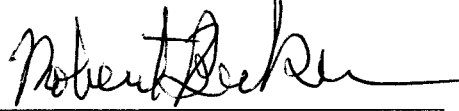
Request No. 35: Produce all documents showing that the word “diddy” means or is intended to refer to a kind of bag or container of any kind.

Request No. 36: Produce all documents showing that the Mark IDIDDY or the term DIDDY as used in the Mark IDIDDY means or is intended to refer to a kind of bag or container of any kind.

Dated: New York, New York  
May 21, 2010

Respectfully submitted,

FROSS ZELNICK LEHRMAN & ZISSU, P.C.

By: 

Robert A. Becker

866 United Nations Plaza  
New York, New York 10017  
212-813-5900

Attorneys for Opposer

CERTIFICATE OF SERVICE

I hereby certify that I caused a copy of OPPOSER'S FIRST SET OF INTERROGATORIES AND FIRST REQUESTS FOR PRODUCTION OF DOCUMENTS AND THINGS to be served by prepaid, first-class mail on this 21<sup>ST</sup> day of May, 2010, upon applicant, Pacific Rim Marketing Inc., at 1051 Leslie Street, La Habra, CA 90631, and at 1306 Via Tornasol, Aptos, CA 95003-5654.

A handwritten signature in black ink, appearing to read "Robert Becker", written over a horizontal line.

Robert A. Becker

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

In the Matter of Application Serial No. 78/615932  
Published in the Official Gazette of June 3, 2008

Sean P Combs )  
 ) Opposition No. 9118742  
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 ) Opposer,  
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 ) VS. )  
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 ) Pacific Rim Marketing )  
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 ) Applicant,  
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Request to Limit Number of Interrogatories by Opposer

Pacific Rim Marketing, the "Applicant" filed for the mark ididdy on April 25, 2005 in international class 9 with application number 78/615932 to the USPTO.

Opposer has asked the defendant to respond to "Opposer's First Set of Interrogatories and First Requests for production of Documents and Things", that consists of 40 different Interrogatories and 36 requests for Documents. Defendant feels that this is excessive. In addition, defendant believes that many of the requests are irrelevant to the basis of the Opposer's claims as filed, and that the Opposer has created excessive requests for the defendant.

Defendant believes the Opposer is asking for many things that are not relevant to their Opposition to the Defendants Application. The Opposer has requested a response to 40 Interrogatories, many of which the defendant believes are not relevant to this matter.

Defendant requests a conference call with the Opposer's Attorney, Mr. Robert Becker and Interlocutory Attorney Mr. Michael B Adlin, to discuss limiting the number and type of Interrogatories requested by Opposer at the earliest possible date. The defendant is available to the Interlocutory Attorney and the Opposer's Attorney at any time and date with the exception of June 4, and June 17, 2010 when he has a previous schedule which can not be altered.

Respectfully submitted,

Fred Scherrer  
/fred Scherrer 1024/  
June 1, 2010

Attachment: Opposer's First Set of Interrogatories and First Requests for  
Production of Documents and Things.

**Confirmation of Proof of Service to Opposer**

This will confirm that Defendant has served the Opposer Sean Puffy Combs as represented  
by

Fross Zelnick Lehrman & Zissu, P.C.  
866 United Nations Plaza  
New York, NY 10017  
UNITED STATES  
[rbecker@frosszelnick.com](mailto:rbecker@frosszelnick.com)

that a true and correct copy of the foregoing "Request to Limit the Number of Interrogatories"  
was served upon opposer by forwardingsaid copy, via email, to Mr. Robert Becker, at the  
email address [rbecker@frosszelnick.com](mailto:rbecker@frosszelnick.com) on June 1, 2010

/fred scherrer 1024/