ESTTA Tracking number: **ESTTA778706**

Filing date: **10/24/2016**

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

Proceeding	91208895
Party	Defendant Switch Communications Group LLC AKA Switch
Correspondence Address	LAURI S THOMPSON GREENBERG TRAURIG LLP 3773 HOWARD HUGHES PARKWAY, SUITE 400 N LAS VEGAS, NV 89169 UNITED STATES lvttab@gtlaw.com, ajemianp@gtlaw.com, neyc@gtlaw.com
Submission	Other Motions/Papers
Filer's Name	Shauna L. Norton
Filer's e-mail	lvlitdock@gtlaw.com,nortons@gtlaw.com, neyc@gtlaw.com, thompsonl@gtlaw.com
Signature	/s/ Shauna L. Norton
Date	10/24/2016
Attachments	Switch reply re motion for leave to amend.pdf(3291537 bytes)

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

Global Switch Limited Opposer, v. Switch Communications Group, LLC AKA Switch Applicant.	Opposition No.: 91208895 (Parent) Opposition No.: 91208897 Opposition No.: 91212892 Opposition No.: 91212894

APPLICANT'S REPLY IN SUPPORT OF ITS MOTION FOR LEAVE TO AMEND ITS ANSWER TO ASSERT A COUNTERCLAIM FOR CANCELLATION OF OPPOSER'S REGISTRATION NO. 3,956,756

Applicant, Switch Communications Group, LLC AKA Switch ("Switch" or "Applicant"), by and through its counsel, the law firm of Greenberg Traurig, LLP, hereby files its reply in support of its motion for leave to amend its answer to assert a counterclaim against Opposer Global Switch Limited's ("Opposer") U.S. Registration No. 3,956,756 (the "Reply"). This Reply is made pursuant to the following memorandum of points and authorities and the pleadings and papers on file in this action.

MEMORANDUM OF POINTS AND AUTHORITIES

In its Opposition brief, Opposer argues that it will suffer undue prejudice if Applicant's motion is granted because Applicant could have filed its motion earlier in the proceeding and it had no notice of Applicant's claims. These arguments should be rejected. Although Applicant's motion to amend could have been filed earlier in this proceeding, the parties were actively engaged in settlement discussions for significant periods of time and repeatedly agreed to suspend the proceedings, largely at the request of the Opposer. As part of its good faith efforts to settle this matter, Applicant did not seek to amend its counterclaims until it became clear that settlement discussions were at an impasse.

Opposer acknowledges that settlement discussions were ongoing throughout most of this proceeding, but Opposer is not forthcoming about the current status of those negotiations. Indeed, the parties have been unable to come to an agreement regarding material terms. In fact, on or about June 17, 2016, Applicant felt discussions were so far apart that it declined to stipulate to a further request to suspend the proceeding.

It is for this reason that Applicant decided to move forward with seeking to add a counterclaim for cancellation of Opposer's '756 Registration. On June 23, 2016, Opposer filed a unilateral request to suspend, based on a medical issue, which was granted on July 23, 2016. Once this suspension expired, Applicant filed its motion for leave to amend.

Furthermore, with respect to the '756 Registration, Opposer, as a foreign entity, was not required to submit evidence to the USPTO of actual trademark use of this mark in the United States until it was required to file its Section 8 declaration of use. The earliest date that Opposer could have filed its Section 8 declaration was May 10, 2016. Applicant first learned from Opposer's discovery responses that Opposer did not have any facilities in the U.S. in late January of 2015. Applicant also learned that Opposer did not have any plans for facilities in the U.S. and therefore could not possibly be using its mark, or even have had any bona fide intent to use its mark for all of the services listed in both of its GLOBAL SWITCH registrations. However, at the request of Opposer, Applicant acquiesced to settlement discussions and stipulated suspensions of the proceedings until June of 2016. It was then when negotiations were without momentum, that Applicant refused to consent to an additional suspension and prepared the instant counterclaims. For these reasons, Applicant submits that there was no unnecessary delay in bringing its counterclaim against the '756 Registration.

Additionally, Opposer complains that it will suffer prejudice if the Board grants the motion to amend at this stage of the proceeding because it did not have sufficient notice of Applicant's additional claims. Opposer's complaints are disingenuous and ignore the fact that the claims Applicant seeks to add against Opposer's '756 Registration are *identical* to the claims

against the '541 Registration. Furthermore, Applicant conducted discovery regarding both of Opposer's pleaded registrations and had discussions with Opposer regarding the same.

Opposer was on notice because Applicant's discovery requests clearly defined "Opposer's Marks" as "the trademark GLOBAL SWITCH (Registration Nos. 2,982,541 and 3,956,756) as alleged in the Notice of Opposition filed by Opposer on or about January 16, 2013." *See* Applicant's Requests for Admission, Interrogatories, and Requests for Production, attached hereto as **Exhibit A**. While Opposer objected to Applicant's definition of "Opposer's Marks," Opposer still provided responses to Applicant's discovery requests, addressing both of its pleaded registrations. *See* Opposer's Responses to Applicant's Interrogatories, Requests for Production and Requests for Admission, attached hereto as **Exhibit B**.

The discovery conducted to date is identical to the discovery that would be relevant to Applicant's counterclaims for cancellation of Opposer's '756 Registration. Therefore, even though Applicant only asserted formal counterclaims against Opposer's '541 Registration, Opposer was clearly on notice of the potential claims against the '756 Registration. Accordingly, Opposer cannot possibly claim that it would face prejudice if Applicant were allowed to assert an identical counterclaim against the '756 Registration, even at this point in the proceeding.

Based on the foregoing, and in light of the Board's liberal policy of granting motions for leave to amend pleadings at any stage of the proceeding, Applicant's request should be granted. *See, e.g., Space Base Inc. v. Stadis Corp.*, 17 U.S.P.Q.2d 1216, 1217 & n. 1 (TTAB 1990) (opposer's motion to amend its pleading during its testimony period granted in the interests of justice and judicial economy and since any prejudice could be mitigated by reopening discovery solely for applicant) (emphasis added); *Focus 21 International Inc. v. Pola Kasei Kogyo Kabushiki Kaisha*, 22 U.S.P.Q.2d 1316, 1318 (TTAB 1992) (motion to amend filed prior to opening of petitioner's testimony period permitted); *Boral Ltd. v. FMC Corp.*, 59 U.S.P.Q.2d 1701, 1703-04 (TTAB 2000) (no undue delay because motion to add claim of dilution was

promptly filed after such claim became available, albeit over two years after commencement of proceeding); *see also* TBMP § 507.02.

In addition, if the Board feels that additional discovery is warranted and to avoid any possible prejudice to Opposer, the Board in its discretion can reopen the discovery period to allow Opposer to conduct additional discovery related to the matters raised in the amended counterclaim. *See* TMBP § 507.02(a) ("In order to avoid prejudice to the adverse party when a motion for leave to amend under FRCP 15(a) is granted, the Board may, in its discretion, reopen the discovery period to all the adverse party to take discovery on the matters raised in the amended pleading."); *see also Black & Decker Corp. v. Emerson Electric Co.*, 84 USPQ2d 1482, 1486 (TTAB 2008). Applicant is not opposed to this but questions the need for continued discovery.

There is no undue delay, bad faith or dilatory motive in the Applicant's request to add a counterclaim for the cancellation of Opposer's '756 Registration due to nonuse and fraud. Rather, it is because of Applicant's good faith to attempt to reach a settlement that this matter has dragged on since its inception almost 5 years ago. Should the Board grant Applicant's Motion, discovery can be reopened in the Board's discretion, and any impending deadlines can easily be extended or reset, thus avoiding any possible prejudice to Opposer. Therefore, Applicant's Motion should be granted in the interests of justice and judicial economy.

Dated this 24th day of October, 2016.

GREENBERG TRAURIG, LLP

By: /s/ Shauna L. Norton
Lauri S. Thompson
Shauna L. Norton
3773 Howard Hughes Parkway
Suite 400 North
Las Vegas, Nevada 89169
(702) 792-3773
Attorneys for Applicant

CERTIFICATE OF FILING AND SERVICE

The undersigned hereby certifies that a true copy of the foregoing **APPLICANT'S REPLY IN SUPPORT OF ITS MOTION FOR LEAVE TO AMEND ITS ANSWER TO ADD A COUNTERCLAIM FOR CANCELLATION OF OPPOSER'S REGISTRATION NO. 3,956,756** is being filed electronically with the United States Patent and Trademark Office Trademark Trial and Appeals Board and being served by first class mail, postage prepaid, on October 24, 2016, on the following:

Davis S. Fleming
Andrew J. Avsec
Brinks Gilson & Lione
NBC Tower – Suite 3600
455 N. Cityfront Plaza Dr.
Chicago, IL 60611
Attorneys for Opposer

/s/ Cynthia L. Ney
An employee of Greenberg Traurig, LLP

EXHIBIT A

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

In the matter of trademark Serial No. 85/407557
Filed on August 25, 2011
For the mark SWITCH in Class 38
Published in the *Official Gazette* on October 16, 2012

Global Switch Limited, Opposer, v. Switch Communications Group, LLC AKA Switch, Applicant.	Opposition No.: 91208895

APPLICANT'S FIRST SET OF INTERROGATORIES TO OPPOSER

Pursuant to Rule 33 of the Federal Rules of Civil Procedure and Rule 2.120 of the Trademark Rules of Practice (37 C.F.R. § 2.120), Applicant Switch Communications Group, LLC AKA Switch ("Applicant"), hereby serves its First Set of Interrogatories to be answered by Opposer Global Switch Limited ("Opposer"). Opposer shall serve its written responses to these Interrogatories to Applicant within the time provided by the Federal Rules of Civil Procedure and the Trademark Rules of Practice upon Opposer at the address of its counsel: Lauri S. Thompson, Esq., Greenberg Traurig, LLP, 3773 Howard Hughes Parkway, Suite 400 North, Las Vegas, Nevada 89169.

DEFINITIONS

For the purposes of these Interrogatories, the following Definitions shall apply:

1. "Opposer," "You" and/or "Your" means Global Switch Limited, any and all predecessors-in-interest, employees, agents, representatives, attorneys, or other persons or entities acting or purporting to act for, on behalf of, or with, any or all of them.

2. "Applicant" and/or "Switch" means Switch Communications Group, LLC AKA Switch, and any and all predecessors-in-interest, and all of its past or present principals, members, employees, agents, representatives, attorneys, or other persons or entities acting or

purporting to act for, on behalf of, or with, any or all of them.

3. "Person" means any individual, sole proprietorship, partnership, firm, corporation, joint venture, association, or other entity.

4. "Documents" refers to all written, printed, recorded or graphic matter, photographic matter, sound reproductions or other retrievable data (whether recorded, taped, or coded electrostatically, electromagnetically, digitally or otherwise) and any other data compilation from which information can be obtained or translated, if necessary, by the respondent into reasonably useable form from whatever source derived and however and by whomever prepared, produced, disseminated or made; without limiting the generality of the foregoing, the word "documents" includes correspondence, memoranda, email, facsimiles, reports, transcripts, notes, diaries, calendars, notebooks, minutes, diagrams, computer printouts, diskettes, CD-ROMS, hard drives, drawings, graphs, charts, videotapes, artwork, and exemplars and any other writings of any nature whatsoever, whether or not divulged to other parties.

5. The term "communication" as used in these Interrogatories shall mean any exchange, transmission or receipt (whether as listener, addressee, person called or otherwise) of information, whether such exchange, transmission or receipt be oral, written, electronic or otherwise and includes, without limitation, any meeting, conversation, telephone call, letter, email, telegram and the exchange, transmission, or receipt of any document of any kind whatsoever.

6. The term "fact" as used in these Interrogatories shall include, without limitation, every matter, occurrence, act, event, transaction, occasion, instance, circumstance, representation or other happening, by whatever name it is known.

7. "Things" include objects, specimens, samples, products, labels, advertising, promotional materials, packaging and related items.

8. "Referred to" for the purposes of these requests except where otherwise defined, includes reading, reviewing, referencing, examining, evaluating or consulting.

9. "Applicant's Mark" means the trademark SWITCH (U.S. Ser. No. 85/407557) for providing "telecommunications connections to the Internet, local and long distance telephone services."

10. "Opposer's Marks" means the trademark GLOBAL SWITCH (Registration Nos. 2,982,541 and 3,956,756) as alleged in the Notice of Opposition filed by Opposer on or about January 16, 2013.

INSTRUCTIONS

A. Whenever in the following interrogatories a request is made to "identify" documents, the term "identify" means to tabulate each document in the designated category, supplying separately as to each such document the following information:

1. The type of document (e.g., letter, notebook, etc.) and the number of pages of which it consists:
2. The date of the document, if any (and if no date appears thereon, the answer shall so state and shall give the date or approximate date that such document was prepared);
3. The date on which the document came into Your possession or control, if different from the date appearing on the document itself;
4. The name and title of the signer of the document and the name and title of the author, if different from that of the signer, (and if it was not signed, the answer shall so state and shall give the name and title of the person who prepared it, if known, and if not known, the answer shall so state);
5. The name and title of each recipient or addressee of such document (whether specifically named therein or not), who received copies of the document, either at the time of initial distribution or any subsequent time;
6. A brief summary of the subject matter of the document; and
7. The present whereabouts of the document and the name and address of the custodian thereof.

B. Whenever in the following interrogatories a request is made to "identify" documents appears, Opposer may, if it wishes, produce within this judicial district for inspection and copying by Applicant's counsel, true and correct copies of the documents as they are kept in the usual course of business or organized and labeled to correspond with the categories in the request, of which a list is requested; and such production of copies will be accepted as compliance with such request.

C. Whenever in the following interrogatories a request is made to "identify" a person or entity, this shall mean to give the person or entity's name, company title if a person, contact address and telephone number sufficient for service of process.

D. Should Opposer deem to be privileged any documents concerning which information or inspection is requested by any of the following interrogatories, Opposer shall list

such documents and supply information as requested in Paragraph A above concerning such documents, and additionally shall indicate that it claims privilege therefore, briefly state the grounds on which the claim of privilege rests, identify who is making the claim of privilege, and identify the portion of the document to which the claim extends. Further, Opposer shall identify the extent, if any, that the document contains:

1. Authorizations to file applications and/or take other steps to obtain trademark registration;
2. Documents or information for submission of the U.S. Patent and Trademark Office and/or appearing in the public record of any application file;
3. Compendiums of filing fees and requirements for registration or applications for registration in the United States or any foreign country;
4. Resumes of applications filed or registrations obtained or rejected;
5. Information communicated to an attorney primarily for aid in completing or prosecuting trademark applications;
6. Business advice;
7. Communications not made in confidence or whose confidentiality has been waived;
8. Documents written by or obtained from third parties; taken to renew the agreement or to exercise an option to renew. If active steps toward renewal or the exercise of an option to renew have been taken, identify all correspondence relating thereto.

INTERROGATORIES

INTERROGATORY NO. 1:

State with specificity the nature of Your business, including a list of all products sold and services offered under each of Opposer's Marks, and for each mark, the first date You offered each product or service for sale before the public in the United States, within the past fifteen years.

INTERROGATORY NO. 2:

State with specificity the time frame that each product or service has been offered for sale in the United States under each of Opposer's Marks within the past fifteen years.

INTERROGATORY NO. 3:

State with specificity the manner in which each product or service has been offered for sale in the United States under each of Opposer's Marks is distributed or sold to the public for

the past fifteen years.

INTERROGATORY NO. 4:

For the past fifteen years, State with specificity the exact channels of trade in which each of the products or services offered under Opposer's Marks is or has been offered, including, but not limited to, a description of the type(s) of retail and/or wholesale outlets in which the goods or services will be offered to the public and a description of how sales are made to the ultimate user or consumer of Your goods and/or services.

INTERROGATORY NO. 5:

For the past fifteen years, State with specificity the types of customers (including the socioeconomic-demographics) to whom You target Your goods and/or services offered under each of Opposer's Marks.

INTERROGATORY NO. 6:

For the past fifteen years, Identify with particularity any third party uses of marks that include the word "SWITCH" or derivatives thereof in connection with goods and/or services that are provided under Opposer's Marks.

INTERROGATORY NO. 7:

State with specificity how You have advertised, marketed and promoted each and every product or service offered under Opposer's Marks in the United States, for the past fifteen years.

INTERROGATORY NO. 8:

Identify and describe with specificity each and every instance of actual confusion of which You are aware between Applicant's Mark and Opposer's Marks.

INTERROGATORY NO. 9:

State the total amount of annual expenditures dedicated to advertising and marketing the goods and/or services offered to the public in the United States under each of Opposer's Marks from 2005 to the present.

INTERROGATORY NO. 10:

Identify and describe with specificity each and every fact that supports Your contention that Applicant's use and registration of the SWITCH mark is likely to falsely suggest a connection with Opposer and Opposer's Marks.

INTERROGATORY NO. 11:

Identify and describe with specificity each and every fact that supports Your contention that the purchasing public is likely to be led to believe that goods bearing Applicant's Mark emanate from or are approved, licensed or sponsored by Opposer or that Applicant and its business are owned by or affiliated with Opposer and its business.

INTERROGATORY NO. 12:

Identify and describe with specificity each and every fact that supports Your contention that the contemporaneous use of Applicant's Mark and Opposer's Mark is likely to cause confusion and inevitably result in lost sales for Opposer.

INTERROGATORY NO. 13:

Identify with specificity any monetary damages, loss of good will or other injury You believe You have sustained or will sustain as a result of Applicant's use of Applicant's Mark.

INTERROGATORY NO. 14:

If You have licensed Opposer's Marks to any person or entity in the U.S. at any time since 2001 to the present, identify in detail all terms and conditions for each such license, including the name of the licensee, the nature of the license granted, the dates of the license, the goods and/or services for which the license was granted, and the geographic scope of use for each license.

INTERROGATORY NO. 15:

Identify with specificity Your business structure, including any affiliates, sister companies, subsidiaries, or parent companies.

INTERROGATORY NO. 16:

Identify the location of any brick and mortar facilities You currently own or operate in the United States.

INTERROGATORY NO. 17:

For any facilities identified in the previous Interrogatory, identify with specificity the goods and/or services provided therefrom.

…

…

INTERROGATORY NO. 18:

Identify all persons You intend to utilize as a witness in this matter, including in Your answer, the expected subject area of testimony for each witness.

INTERROGATORY NO. 19:

Identify all persons who were consulted, and/or furnished any information in connection with the preparation of Your answers to these interrogatories.

INTERROGATORY NO. 20:

If any of Your responses to Petitioner's First Set of Requests for Admissions was anything other than an unqualified admission, describe in detail all facts that support the basis of Your denial.

INTERROGATORY NO. 21:

Identify and describe with specificity each and every license that Opposer has showing that Opposer is duly licensed to do business in the U.S. as a provider or reseller of telecommunications services or otherwise, and/or that Opposer is duly licensed to sell or provide any of the goods and services listed in the registrations for Opposer's Marks.

INTERROGATORY NO. 22:

Identify each U.S. State within which Opposer has been qualified to do business as a foreign entity since 2001 until the present, specifically identifying each U.S. State and the exact date on which Opposer became qualified to do business there.

INTERROGATORY NO. 23:

Identify each U.S. State within which Opposer has received a Certificate of Public Convenience and Necessity or similar operating authority since 2001 until the present, specifically identifying each U.S. State and the exact date on which Opposer received such operating authority.

INTERROGATORY NO. 24:

Identify every U.S. entity owned and/or controlled by Opposer since 2001 up and until the present.

INTERROGATORY NO. 25:

Identify with specificity each of the telecommunications products and/or services

identified with Opposer's Marks.

INTERROGATORY NO. 26:

Identify with specificity each of the Internet (including voice over Internet) products and/or services and/or each information service identified with Opposer's Marks.

INTERROGATORY NO. 27:

Identify by corporate name and dba, as applicable, each facilities-based carrier providing each of the products and/or services identified by Opposer's Marks.

INTERROGATORY NO. 28:

Identify with specificity each physical location to which each telecommunications service identified in response to the previous Interrogatory was provided.

INTERROGATORY NO. 29:

Identify by corporate name and dba, as applicable, each purchaser of the products and/or services identified by Opposer's Marks.

DATED: November 26, 2014.

GREENBERG TRAURIG, LLP

/Peter H. Ajemian/

Lauri S. Thompson
Peter H. Ajemian
Shauna L. Welsh
3773 Howard Hughes Parkway
Suite 400 North
Las Vegas, Nevada 89169
Counsel for Applicant

CERTIFICATE OF SERVICE

I hereby certify that on November 26, 2014, I served the foregoing **APPLICANT'S FIRST SET OF INTERROGATORIES TO OPPOSER** on:

David S. Fleming
Christopher M. Dolan
Andrew J. Avsec
Brinks Hofer Gilson & Lione
NBC Tower – Suite 3600
455 N. Cityfront Plaza Drive
Chicago, Illinois 60610
dfleming@brinksgilson.com
aavsec@brinksgilson.com
cdolan@brinksgilson.com
Attorneys for Opposer

by causing a full, true, and correct copy thereof to be sent by the following indicated method or methods, on the date set forth below:

X by mailing in a sealed, first-class postage-prepaid envelope, addressed to the last-known office address of the attorney, and deposited with the United States Postal Service at Las Vegas, Nevada.

☐ by hand delivery.

☐ by sending via overnight courier in a sealed envelope.

☐ by faxing to the attorney at the fax number that is the last-known fax number.

X by electronic mail to the last known e-mail address.

/s/ Cynthia Ney/
An employee of Greenberg Traurig, LLP

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

In the matter of trademark Serial No. 85/407557
Filed on August 25, 2011
For the mark SWITCH in Class 38
Published in the *Official Gazette* on October 16, 2012

Global Switch Limited, Opposer, v. Switch Communications Group, LLC AKA Switch, Applicant.	Opposition No.: 91208895

APPLICANT'S FIRST SET OF REQUESTS FOR ADMISSIONS TO OPPOSER

Pursuant to Rule 36 of the Federal Rules of Civil Procedure and Rule 2.120 of the Trademark Rules of Practice (37 C.F.R. § 2.120), Applicant Switch Communications Group, LLC AKA Switch ("Applicant") hereby serves its First Set of Requests for Admissions to be answered by Opposer Global Switch Limited ("Opposer"). Opposer shall serve its written responses to these Requests to Applicant within the time provided by the Federal Rules of Civil Procedure and the Trademark Rules of Practice upon Petitioner at the address of its counsel: Lauri S. Thompson, Esq., Greenberg Traurig, LLP, 3773 Howard Hughes Parkway, Suite 400 North, Las Vegas, Nevada 89169.

DEFINITIONS

For the purposes of these Requests for Admissions the following Definitions shall apply:

1. "Opposer" "You" and/or "Your" means the Opposer Global Switch Limited, any and all predecessors-in-interest, employees, agents, representatives, attorneys, or other persons or entities acting or purporting to act for, on behalf of, or with, any or all of them.

2. "Applicant" or "Switch" means Applicant Switch Communications Group, LLC AKA Switch, and any and all predecessors-in-interest, and all of its past or present principals,

members, employees, agents, representatives, attorneys, or other persons or entities acting or purporting to act for, on behalf of, or with, any or all of them.

3. "Person" means any individual, sole proprietorship, partnership, firm, corporation, joint venture, association, or other entity.

4. "Documents" refers to all written, printed, recorded or graphic matter, photographic matter, sound reproductions or other retrievable data (whether recorded, taped, or coded electrostatically, electromagnetically, digitally or otherwise) and any other data compilation from which information can be obtained or translated, if necessary, by the respondent into reasonably useable form from whatever source derived and however and by whomever prepared, produced, disseminated or made; without limiting the generality of the foregoing, the word "documents" includes correspondence, memoranda, email, facsimiles, reports, transcripts, notes, diaries, calendars, notebooks, minutes, diagrams, computer printouts, diskettes, CD-ROMS, hard drives, drawings, graphs, charts, videotapes, artwork, and exemplars and any other writings of any nature whatsoever, whether or not divulged to other parties.

5. "Things" include objects, specimens, samples, products, labels, advertising, promotional materials, packaging and related items.

6. "Referred to" for the purposes of these requests except where otherwise defined, includes reading, reviewing, referencing, examining, evaluating or consulting.

7. "Applicant's Mark" means the trademark SWITCH (U.S. Ser. No. 85/407557) for providing "telecommunications connections to the Internet, local and long distance telephone services."

8. "Opposer's Marks" means the trademark GLOBAL SWITCH (Registration Nos. 2,982,541 and 3,956,756) as alleged in the Notice of Opposition filed by Opposer on or about January 16, 2013.

REQUESTS FOR ADMISSION

REQUEST NO. 1:

Admit that each and every document produced by You in response to Applicant's Requests for Production of Documents is authentic in that it is the original document, or a true

and accurate copy of the original document.

REQUEST NO. 2:

Admit that You do not currently use Opposer's Marks in commerce in the United States in connection with each and every good and service identified in the registrations for Opposer's Marks.

REQUEST NO. 3:

Admit that You have never used Opposer's Marks in commerce in the United States in connection with each and every good and service identified in the registrations for Opposer's Marks.

REQUEST NO. 4:

Admit that You are not aware of any instances of actual confusion caused by Applicant's use of Applicant's Marks.

REQUEST NO. 5:

Admit that You do not have any brick and mortar facilities located in the United States from which You provide any goods or services to U.S. consumers under Opposer's Marks.

REQUEST NO. 6:

Admit that Applicant has been using its mark SWITCH, as set forth in U.S. Application Serial No. 85/407557, in commerce for "Providing telecommunications connections to the Internet; local and long distance telephone services" since at least as early as November 30, 2003.

REQUEST NO. 7:

Admit that You had no bona fide use in commerce of Opposer's mark GLOBAL SWITCH (U.S. Reg. No. 2982541 under §44(e)) prior to the filing of the Combined Declaration of Use and Incontestability under Sections 8 & 15 on May 10, 2011.

REQUEST NO. 8:

Admit that You do not provide "Business management and administration services in respect of information technology" under Opposer's Marks in the United States.

REQUEST NO. 9:

Admit that You do not provide "facilities management, namely controlling building access and systems for security safety, electricity, gas, water, sanitation, telecommunications, internal transportation and environmental control" under Opposer's Marks in the United States.

REQUEST NO. 10:

Admit that You do not provide "Leasing of real estate; real estate brokerage; real estate management; electronic funds transfer; leasing of building space and operation facilities for telecommunications, multimedia and computing equipment and services; [or] provision of information on any of the foregoing" under Opposer's Marks in the United States.

REQUEST NO. 11:

Admit that You do not provide "Maintenance and repair of buildings and building services; installation, maintenance and repair of electrical and electronic equipment, telecommunications equipment, multimedia equipment and computer equipment; [or] provision of information on any of the foregoing" under Opposer's Marks in the United States.

REQUEST NO. 12:

Admit that You do not provide "Telecommunications and multimedia transmission services, namely, the provision and rental of telecommunications multimedia and computing equipment and links" under Opposer's Marks in the United States.

REQUEST NO. 13:

Admit that You do not provide "Application Provider Services, namely, hosting computer software, telecommunication and multimedia applications of others; [or] telecommunications security and monitoring services" under Opposer's Marks in the United States.

REQUEST NO. 14:

Admit that You do not provide "computer programming services; rental of computer hardware and software; provision of building space and operation facilities for computers; operation of computer and multimedia equipment for others; providing of catering facilities" under Opposer's Marks in the United States.

REQUEST NO. 15:

Admit that You are not licensed to do business in the U.S.

REQUEST NO. 16:

Admit that You are not licensed in the U.S. as a reseller of telecommunications services.

REQUEST NO. 17:

Admit that You do not hold valid license(s) in the U.S. to sell and/or provide any of the goods and services listed in the registrations for Opposer's Marks.

REQUEST NO. 18:

Admit that You have not licensed Opposer's Marks to any other person or entity for use in U.S. commerce.

REQUEST NO. 18:

Admit that You do not own and/or control any U.S. entities.

REQUEST NO. 19:

Admit that You do not own any telecommunications facilities located in the United States through which You provide any services to U.S. consumers under Opposer's Marks.

REQUEST NO. 20:

Admit that You have never made any filings, including without limitation any applications for authority to provide service, with the Federal Communications Commission and/or with any state telecommunications regulatory authority to provision any telecommunications service.

REQUEST NO. 21:

Admit that since the application filing date for Opposer's Mark in the United States, You have not paid any Universal Service Fund charges to the Universal Service Fund Administration Corporation or to any state agency responsible for the collection of universal service.

REQUEST NO. 22:

Admit that You have never paid any sales taxes associated with the provision of telecommunications services to any federal or state governmental authority.

REQUEST NO. 23:

Admit that You have never issued any invoices to customers located in the U.S. that allegedly received telecommunications services in the U.S. from Opposer.

REQUEST NO. 24:

Admit that You have never received any payments from customers located in the U.S. that allegedly received telecommunications services in the U.S. from Opposer.

DATED: November 26, 2014.

GREENBERG TRAURIG, LLP

/Peter H. Ajemian/

Lauri S. Thompson
Peter H. Ajemian
Shauna L. Welsh
3773 Howard Hughes Parkway
Suite 400 North
Las Vegas, Nevada 89169
Counsel for Applicant

CERTIFICATE OF SERVICE

I hereby certify that on November 26, 2014, I served the foregoing **APPLICANT'S FIRST SET OF REQUESTS FOR ADMISSIONS TO OPPOSER** on:

David S. Fleming
Christopher M. Dolan
Andrew J. Avsec
Brinks Hofer Gilson & Lione
NBC Tower – Suite 3600
455 N. Cityfront Plaza Drive
Chicago, Illinois 60610
Attorneys for Opposer

by causing a full, true, and correct copy thereof to be sent by the following indicated method or methods, on the date set forth below:

X by mailing in a sealed, first-class postage-prepaid envelope, addressed to the last-known office address of the attorney, and deposited with the United States Postal Service at Las Vegas, Nevada.

☐ by hand delivery.

☐ by sending via overnight courier in a sealed envelope.

☐ by faxing to the attorney at the fax number that is the last-known fax number.

X by electronic mail to the last known e-mail address.

/s/ Cynthia Ney/
An employee of Greenberg Traurig

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

In the matter of trademark Serial No. 85/407557
Filed on August 25, 2011
For the mark SWITCH in Class 38
Published in the *Official Gazette* on October 16, 2012

Global Switch Limited, Opposer, v. Switch Communications Group, LLC AKA Switch, Applicant.	Opposition No.: 91208895

APPLICANT'S FIRST SET OF REQUESTS FOR PRODUCTION

Pursuant to Rule 34 of the Federal Rules of Civil Procedure and Rule 2.120 of the Trademark Rules of Practice (37 C.F.R. § 2.120), Applicant Switch Communications Group, LLC AKA Switch ("Applicant") hereby serves its First Set of Requests for Production of Documents to be answered by Opposer Global Switch Limited ("Opposer"). Opposer shall serve its written reply to these Requests for Production to Applicant within the time provided by the Federal Rules of Civil Procedure and the Trademark Rules of Practice upon Applicant at the address of its counsel: Lauri S. Thompson, Esq., Greenberg Traurig, LLP, 3773 Howard Hughes Parkway, Suite 400 North, Las Vegas, Nevada 89169.

DEFINITIONS

For the purposes of these Requests for Production of Documents the following Definitions shall apply:

1. "Opposer," "You" and/or "Your" means Global Switch Limited, any and all predecessors-in-interest, employees, agents, representatives, attorneys, or other persons or entities acting or purporting to act for, on behalf of, or with, any or all of them.

2. “Applicant” and/or “Switch” means Switch Communications Group, LLC AKA Switch, and any and all predecessors-in-interest, and all of its past or present principals, members, employees, agents, representatives, attorneys, or other persons or entities acting or purporting to act for, on behalf of, or with, any or all of them.

3. “Person” means any individual, sole proprietorship, partnership, firm, corporation, joint venture, association, or other entity.

4. “Documents” refers to all written, printed, recorded or graphic matter, photographic matter, sound reproductions or other retrievable data (whether recorded, taped, or coded electrostatically, electromagnetically, digitally or otherwise) and any other data compilation from which information can be obtained or translated, if necessary, by the respondent into reasonably useable form from whatever source derived and however and by whomever prepared, produced, disseminated or made; without limiting the generality of the foregoing, the word “documents” includes correspondence, email, memoranda, facsimiles, reports, transcripts, notes, diaries, calendars, notebooks, minutes, diagrams, computer printouts, diskettes, CD-ROMS, hard drives, drawings, graphs, charts, videotapes, artwork, and exemplars and any other writings of any nature whatsoever, whether or not divulged to other parties.

5. The term "communication" as used in these Requests shall mean any exchange, transmission or receipt (whether as listener, addressee, person called or otherwise) of information, whether such exchange, transmission or receipt be oral, written, electronic or otherwise and includes, without limitation, any meeting, conversation, telephone call, letter, email, telegram and the exchange, transmission, or receipt of any document of any kind whatsoever.

6. “Things” include objects, specimens, samples, products, labels, advertising, promotional materials, packaging and related items.

7. “Referred to” for the purposes of these requests except where otherwise defined, includes reading, reviewing, referencing, examining, evaluating or consulting.

8. “Applicant’s Mark” means the trademark SWITCH (U.S. Ser. No. 85/407557) for providing “telecommunications connections to the Internet, local and long distance telephone

services."

9. "Opposer's Marks" means the trademark GLOBAL SWITCH (Registration Nos. 2,982,541 and 3,956,756) as alleged in the Notice of Opposition filed by Opposer on or about January 16, 2013.

INSTRUCTIONS

10. This request is continuing in nature and includes all documents and information prepared or received by you between the date of receipt of this request and the date of trial. Your responses to these requests should be supplemented not later than 30 days prior to any hearing addressing the merits of any parties' claims or defenses.

11. Documents that in their original condition were stapled, clipped or otherwise fastened together shall be produced in such form. Documents responsive to each numbered paragraph are to be grouped by paragraph. If any portion of a document is responsive to this request, the entire document shall be produced. In order to facilitate review and avoid any possibility of misinterpretation, place all documents produced in file folders bearing the number of the paragraph to which they are responsive.

12. For each document you contend you are entitled to withhold, identify the document and state with specificity the reason for withholding. For any document withheld under a claim of privilege, state:

a. The name and title of the author(s);

b. The name and title of the person(s) to whom a copy of the document or its contents, or any part thereof, was sent or conveyed or to whom the document or a copy, or any part thereof was showed;

c. Its date;

d. The name and title of the person(s) to whom the document was addressed;

e. The number of pages;

f. A brief description of the subject matter;

g. The nature of the privilege claimed;

h. The paragraph(s) to which the document is otherwise responsive;

i. The nature and basis of the privilege claimed.

13. If any document requested was formerly in the possession, custody or control of the recipient of these Requests for Production and has been lost or destroyed, the recipient is requested to submit in lieu of each document a written statement that:

a. Describes in detail the nature of the document and its contents;

b. Identifies the person who prepared or authorized the document and, if applicable, the person to whom the document was sent;

c. Specifies the date upon which the document was prepared or transmitted or both;

d. Specifies, to the extent possible, the date upon which the document was lost or destroyed, and, if destroyed, the conditions of or reasons for such destruction and the persons requesting and performing the destruction.

14. If an objection is made to any request herein, all documents covered by the request not subject to the objection should be produced. Similarly, if an objection is made to production of any portion of a document, the portion(s) subject to objection should be produced with the portion(s) objected to deleted and indicated clearly.

REQUESTS FOR PRODUCTION

REQUEST NO 1:

Produce complete and accurate copies of any and all documents, materials, and things referred to, or referenced by You in answering any of Applicant's First Set of Interrogatories and First Set of Requests for Admissions.

REQUEST NO. 2:

Produce complete and accurate copies of any and all documents, materials and things evidencing the legal formation of any business entity through which You are offering or have offered goods and services under Opposer's Marks in commerce in the United States.

REQUEST NO. 3:

Produce complete and accurate copies of any and all documents, materials and things evidencing use of each of Opposer's Marks in commerce in the United States for each and every

good or service identified by Opposer's Marks, including but not limited to, all specimens, labels, packaging, and advertising and marketing materials.

REQUEST NO. 4:

Produce complete and accurate copies of any documents, materials and things relating to or evidencing Opposer's selection and adoption of each of Opposer's Marks.

REQUEST NO. 5:

Produce complete and accurate copies of any documents, materials and things relating to or evidencing Opposer's first use in commerce in the United States of Opposer's Marks.

REQUEST NO. 6:

Produce complete and accurate copies of all documents, materials and things relating to or evidencing Your use in commerce in the United States of Opposer's Marks in connection with each of the goods and services identified in the respective registrations. For any documents produced, please identify the specific goods and/or services offered under each mark, the date those goods and/or services were first offered in commerce and whether each of the goods and/or services is still offered under the respective mark.

REQUEST NO. 7:

Produce complete and accurate copies of any and all documents, materials and evidencing, referring, or relating to the goods and services identified by each of Opposer's Marks.

REQUEST NO. 8:

Produce complete and accurate copies of any and all documents, materials and things relating to or evidencing the manner in which the goods and services offered under each of Opposer's Marks is distributed and sold to the public in the United States.

REQUEST NO. 9:

Produce complete and accurate copies of any and all documents, materials and things evidencing Opposer's ownership of each of Opposer's Marks.

REQUEST NO. 10:

Produce complete and accurate copies of any and all documents, materials and things evidencing the channels of trade utilized by Opposer to offer the goods and services provided under each of Opposer's Marks to the public in the United States.

REQUEST NO. 11:

Produce complete and accurate copies of any and all documents, materials and things relating to or evidencing instances of actual confusion with Opposer's Marks caused by Applicant's use of Applicant's Mark.

REQUEST NO. 12:

Produce complete and accurate copies of any and all documents, materials and things relating to or evidencing the level of sophistication of purchasers associated with the products and/or services identified by Opposer's Marks.

REQUEST NO. 13:

Produce complete and accurate copies of any and all documents, materials and things relating to or evidencing any third party uses of marks that include the word "SWITCH," or derivatives thereof.

REQUEST NO. 14:

Produce complete and accurate copies of any and all documents, materials and things relating to or evidencing a likelihood of confusion with Opposer's Marks caused by Applicant's use of Applicant's Mark.

REQUEST NO. 15:

Produce complete and accurate copies of any and all documents, materials and things relating to or evidencing sales of goods and/or services offered in connection with each of Opposer's Marks in the United States from 2005 to the present.

REQUEST NO. 16:

Produce complete and accurate copies of any and all documents, materials and things relating to or evidencing Opposer's expenditures for advertising and marketing in the United States in association with each of Opposer's Marks.

REQUEST NO. 17:

Produce complete and accurate copies of any and all documents, materials or things relating to or evidencing your contention that Applicant's use and registration of the SWITCH mark is likely to falsely suggest a connection with Opposer and Opposer's Marks.

REQUEST NO. 18:

Produce complete and accurate copies of any and all documents, materials or things relating or referring to or evidencing your contention that the purchasing public is likely to be led to believe that the goods bearing Applicant's Mark emanate from or are approved, licensed or sponsored by Opposer or that Applicant and its business are owned by or affiliated with Opposer and its business.

REQUEST NO. 19:

Produce complete and accurate copies of any and all documents, materials, or things evidencing, referring or relating to your contention that the contemporaneous use of Applicant's Mark and Opposer's Marks is likely to cause confusion and inevitably result in lost sales for Opposer.

REQUEST NO. 20:

Produce complete and accurate copies of any and all documents, materials, or things evidencing, referring or relating to any damages or loss in sales you have suffered as a result of Applicant's use of Applicant's Mark.

REQUEST NO. 21:

Produce complete and accurate copies of any and all documents, materials, or things evidencing Opposer's Marks being used in commerce in the United States in connection with "Business management and administration services in respect of information technology."

REQUEST NO. 22:

Produce complete and accurate copies of any and all documents, materials, or things evidencing Opposer's Marks being used in commerce in the United States in connection with "facilities management, namely controlling building access and systems for security safety,

electricity, gas, water, sanitation, telecommunications, internal transportation and environmental control."

REQUEST NO. 23:

Produce complete and accurate copies of any and all documents, materials, or things evidencing Opposer's Marks being used in commerce in the United States in connection with "Leasing of real estate; real estate brokerage; real estate management; electronic funds transfer; leasing of building space and operation facilities for telecommunications, multimedia and computing equipment and services; [or] provision of information on any of the foregoing."

REQUEST NO. 24:

Produce complete and accurate copies of any and all documents, materials, or things evidencing Opposer's Marks being used in commerce in the United States in connection with "Maintenance and repair of buildings and building services; installation, maintenance and repair of electrical and electronic equipment, telecommunications equipment, multimedia equipment and computer equipment; [or] provision of information on any of the foregoing."

REQUEST NO. 25:

Produce complete and accurate copies of any and all documents, materials, or things evidencing Opposer's Marks being used in commerce in the United States in connection with "Telecommunications and multimedia transmission services, namely, the provision and rental of telecommunications multimedia and computing equipment and links."

REQUEST NO. 26:

Produce complete and accurate copies of any and all documents, materials, or things evidencing Opposer's Marks being used in commerce in the United States in connection with "Application Provider Services, namely, hosting computer software, telecommunication and multimedia applications of others; [or] telecommunications security and monitoring services."

REQUEST NO. 27:

Produce complete and accurate copies of any and all documents, materials, or things evidencing Opposer's Marks being used in commerce in the United States in connection with "computer programming services; rental of computer hardware and software; provision of

building space and operation facilities for computers; operation of computer and multimedia equipment for others; providing of catering facilities."

REQUEST NO. 28:

Produce complete and accurate copies of any and all documents, materials, or things evidencing any and all licenses that Opposer has showing that Opposer is duly licensed to do business in the U.S.

REQUEST NO. 29:

Produce complete and accurate copies of any and all documents, materials, or things evidencing that Opposer is duly licensed in the U.S. as a provider and/or reseller of telecommunications services, including without limitation, any FCC domestic or international 214 authorizations.

REQUEST NO. 30:

Produce complete and accurate copies of any and all documents, materials, or things evidencing that Opposer is duly licensed in the U.S. to sell and/or provide any of the goods and services listed in the registrations for Opposer's Marks.

REQUEST NO. 31:

Produce complete and accurate copies of any and all documents, materials, or things evidencing any licenses You have granted regarding the use of Opposer's Marks in the U.S. to any person or entity since 2001 to the present.

REQUEST NO. 32:

Produce complete and accurate copies of any and all documents, materials, or things evidencing each U.S. State within which Opposer has been qualified to do business as a foreign entity since 2001 until the present.

/ / /

/ / /

/ / /

/ / /

/ / /

REQUEST NO. 33:

Produce complete and accurate copies of any and all documents, materials, or things evidencing each U.S. entity owned and/or controlled by Opposer since 2001 up and until the present.

REQUEST NO. 34:

Produce complete and accurate copies of any and all documents, materials, or things evidencing filings made by Opposer with the Federal Communications Commission and with any state telecommunications regulatory authority.

REQUEST NO. 35:

Produce complete and accurate copies of any and all documents, materials, or things, including without limitation, network diagrams and the like, evidencing the physical facilities owned or controlled by Opposer in the U.S. that are utilized in connection with the provision of any telecommunications service in the U.S.

REQUEST NO. 36:

Produce complete and accurate copies of any and all documents, materials, or things identifying each telecommunications service provided by Opposer in the U.S.

REQUEST NO. 37:

Produce complete and accurate copies of any and all documents, materials, or things identifying the facilities-based carrier providing each telecommunications service provided by Opposer in the U.S.

REQUEST NO. 38:

Produce complete and accurate copies of any and all agreements pursuant to which telecommunications service provided by Opposer in the U.S. were purchased.

REQUEST NO. 39:

Produce complete and accurate copies of any and all documents, materials, or things evidencing the payment of regulatory fees, including without limitation, Universal Service Fund charges to the Universal Service Fund Administration Corporation ("USAC") or to any state agency responsible for the collection of universal service or similar charges.

REQUEST NO. 40:

Produce complete and accurate copies of any and all documents, materials, or things evidencing the payment of sales taxes associated with the provision of telecommunications services to any federal or state governmental authority.

REQUEST NO. 41:

Produce complete and accurate copies of any and all documents, materials and things relating to or evidencing the identities of purchasers of the products and/or services identified by Opposer's Marks.

REQUEST NO. 42:

Produce complete and accurate copies of any and all documents, materials, or things evidencing the invoices or similar documents issued to customers located in the U.S. that allegedly receive telecommunications services from Opposer in the United States.

REQUEST NO. 43:

Produce complete and accurate copies of any and all documents, materials, or things evidencing all payments received by Opposer from customers located in the U.S. that allegedly receive telecommunications services from Opposer in the United States.

DATED: November 26, 2014.

GREENBERG TRAURIG, LLP

/Peter H. Ajemian/

Lauri S. Thompson
Peter H. Ajemian
Shauna L. Welsh
3773 Howard Hughes Parkway
Suite 400 North
Las Vegas, Nevada 89169
Counsel for Applicant

CERTIFICATE OF SERVICE

I hereby certify that on November 26, 2014, I served the foregoing **APPLICANT'S FIRST SET OF REQUESTS FOR PRODUCTION TO OPPOSER** on:

David S. Fleming
Christopher M. Dolan
Andrew J. Avsec
Brinks Hofer Gilson & Lione
NBC Tower – Suite 3600
455 N. Cityfront Plaza Drive
Chicago, Illinois 60610
Attorneys for Opposer

by causing a full, true, and correct copy thereof to be sent by the following indicated method or methods, on the date set forth below:

X by mailing in a sealed, first-class postage-prepaid envelope, addressed to the last-known office address of the attorney, and deposited with the United States Postal Service at Las Vegas, Nevada.

☐ by hand delivery.

☐ by sending via overnight courier in a sealed envelope.

☐ by faxing to the attorney at the fax number that is the last-known fax number.

X by electronic mail to the last known e-mail address.

/s/ Cynthia Ney/
An employee of Greenberg Traurig, LLP

EXHIBIT B

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

In the matter of trademark Serial No. 85/407557
Filed on August 25, 2011
For the mark SWITCH in Class 38
Published in the *Official Gazette* on October 16, 2012

Global Switch Limited, Opposer, v. Switch Communication Group, LLC AKA Switch Applicant.	Opposition No.: 91208895

OPPOSER'S ANSWERS TO APPLICANT'S FIRST SET OF INTERROGATORIES TO OPPOSER

Opposer Global Switch Limited ("Global Switch" or "Opposer") hereby responds to Switch Communication Group, LLC AKA Switch ("Applicant") First Set of Interrogatories to Opposer as follows:

GENERAL OBJECTIONS

1. Global Switch objects to Applicant's Definitions and Instructions to the extent they are unduly burdensome, vague, and seek to impose obligations on Global Switch beyond those imposed by the Federal Rules of Civil Procedure.

2. Global Switch objects to each and every interrogatory to the extent that the interrogatory calls for information subject to the attorney/client, work product, or any other applicable privilege or immunity. Any disclosure of such protected or privileged information is inadvertent and not intended to waive those privileges or protections. Global Switch will

exchange with Applicant at a mutually agreeable time a schedule of documents withheld on the grounds of privilege or immunity.

3. Global Switch generally objects to each and every interrogatory to the extent that it seeks information which is neither relevant to the subject matter of this action nor reasonably calculated to lead to the discovery of admissible evidence. The providing of information in response to any interrogatory is not to be deemed or construed as an admission by Global Switch that the information is in fact relevant to the subject matter of this action.

4. Global Switch generally objects to each and every interrogatory to the extent that it seeks information or documents that are not available to Global Switch, or that are not in Global Switch's current possession, custody or control. Responding to each interrogatory, Global Switch does not intend to provide information or produce documents not currently available to it or not in its possession, custody or control. Any objection or lack of objection to any of Applicant's interrogatories is not to be deemed or construed as an admission by Global Switch that it either possesses information or documents called for by any such interrogatory, or that such information or documents exist or do not exist.

5. Global Switch objects to each and every interrogatory to the extent that it seeks information that Global Switch is under an obligation to third parties to maintain in confidence.

6. Global Switch objects to each and every interrogatory to the extent that it seeks publicly-available information that Applicant could obtain through its own efforts.

7. The following responses are made subject to and without waiver of the foregoing General Objections, and such General Objections are incorporated into each response whether or not expressly mentioned in response to a particular interrogatory. To the extent particular General Objections are restated in a specific response, they are provided because they are

particularly applicable to the specific interrogatory as presently understood by Global Switch and such inclusion is not to be construed as a waiver of any other General Objection.

8. Global Switch objects to Applicant's Definition for the terms "Opposer", "you" and "your" as vague, ambiguous, overbroad, and unduly burdensome. In particular, Global Switch objects generally to the extent the definitions include: (a) predecessors in interest that are different juristic entities than Global Switch Limited; or (b) individuals and entities outside the scope of permissible discovery. In the context of these interrogatories, Global Switch construes the terms "Opposer", "you" and "your" to mean only the legal entity Global Switch Limited and its officers, directors, and employees when such persons are expressly acting on Plaintiff's behalf with respect to the subject matter at issue.

9. Global Switch objects to Applicant's Definition of "Opposer's Marks" as vague, ambiguous and unintelligible. Registration Nos. 2,982,541 and 3,956,756 cover two different marks subject to different basic facts.

10. Global Switch objects generally to all interrogatories in which the term "specificity" appears. This term is overly broad, vague, ambiguous, and unintelligible, requiring substantive judgment on the part of Global Switch and its counsel, and would require a conclusion or opinion of counsel in violation of the attorney work-product doctrine.

11. Global Switch objects generally to all interrogatory in which the terms "referred to." "relating to," "regarding," and "with respect to" or similar phrases appear. These terms are overly broad, vague, ambiguous, and unintelligible, requiring subjective judgment on the part of Global Switch and its counsel, would require a conclusion or opinion of counsel in violation of the attorney work-product doctrine.

ANSWERS TO INTERROGATORIES

INTERROGATORY NO. 1:

State with specificity the nature of Your business, including a list of all products sold and services offered under each of Opposer's Marks, and for each mark, the first date You offered each product or service for sale before the public in the United States, within the past fifteen years.

RESPONSE:

Global Switch specifically objects to this interrogatory as constituting at least five discrete interrogatories. Global Switch further objects to this interrogatory as overbroad, unduly burdensome, and vague and ambiguous. Global Switch further objects to the term "before the public" as vague and ambiguous. Subject to and without waiving the foregoing specific and general objections, Global Switch states as follows:

Global Switch owns, operates, and develops large scale carrier neutral, multi-tenanted data centers. Starting at least as early as 1999, Global Switch has offered for sale to its U.S. customers data centers and colocation facilities related services, including leasing and licensing space, capacity, and equipment, providing facility management services, providing security and monitoring services, providing access to a global information network, providing electronic funds transfer, storing data and managing databases, providing technical services, project management, administrative services, installation, maintenance, repair, equipment, consulting, advice and information, programming, catering facilities, and hosting computer software, telecommunication and multimedia applications under the mark depicted in Reg. No. 2,982,541.

Global Switch first used the mark referenced in Registration No. 3,956,756 at least as early as July 2010 for all of the services referenced in response Interrogatory 1.

INTERROGATORY NO. 2:

State with specificity the time frame that each product or service has been offered for sale in the United States under each of Opposer's Marks within the past fifteen years.

RESPONSE:

Global Switch specifically objects to this interrogatory as constituting multiple interrogatories. Global Switch further objects to this interrogatory as overbroad, unduly burdensome, and vague and ambiguous. Subject to and without waiving the foregoing specific and general objections, Global Switch states as follows:

Starting at least as early as 1999, Global Switch has offered for sale to its U.S. customers data centers and colocation facilities related services, including leasing and licensing space, capacity, and equipment, providing facility management services, providing security and monitoring services, providing access to a global information network, providing electronic funds transfer, storing data and managing databases, providing technical services, project management, administrative services, installation, maintenance, repair, equipment, consulting, advice and information, programming, catering facilities, and hosting computer software, telecommunication and multimedia applications under the mark depicted in Reg. No. 2,982,541.

Global Switch first used the mark referenced in Registration No. 3,956,756 in July 2010 for all of the services referenced in response Interrogatory 2.

INTERROGATORY NO. 3:

State with specificity the manner in which each product or service has been offered for sale in the United States under each of Opposer's Marks is distributed or sold to the public for the past fifteen years.

RESPONSE:

Global Switch specifically objects to this interrogatory as constituting multiple interrogatories, overly broad, unduly burdensome, vague and ambiguous, and not reasonably calculated to lead to the discovery of admissible evidence. This request is unintelligible, and therefore, Global Switch cannot provide a response.

INTERROGATORY NO. 4:

For the past fifteen years, State with specificity the exact channels of trade in which each of the products or services offered under Opposer's Marks is or has been offered, including, but not limited to, a description of the type(s) of retail and/or wholesale outlets in which the goods or services will be offered to the public and a description of how sales are made to the ultimate user or consumer of Your goods and/or services.

RESPONSE:

Global Switch specifically objects to this interrogatory as constituting multiple interrogatories, and as overly broad, unduly burdensome, vague, ambiguous and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing specific and general objections, Global Switch states that it offers its services in the typical manner in the industry through its data centers and via global communications networks and does not sell products through retail or wholesale outlet stores.

INTERROGATORY NO. 5:

For the past fifteen years, State with specificity the types of customers (including the socioeconomic-demographics) to whom You target Your goods and/or services offered under each of Opposer's Marks.

RESPONSE:

Global Switch specifically objects to this interrogatory as overbroad, unduly burdensome, vague and ambiguous, and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing specific and general objections, Global

Switch states, without limitation, that it provides services to a range of international and national companies and institutions including telecommunication carriers, government organizations, financial institutions, enterprises, systems integrators, managed service providers, other hosting businesses and any other such customer seeking multi tenanted carrier neutral data center facilities.

INTERROGATORY NO. 6:

For the past fifteen years, Identify with particularity any third party uses of marks that include the word "SWITCH" or derivatives thereof in connection with goods and/or services that are provided under Opposer's Marks.

RESPONSE:

Global Switch specifically objects to this interrogatory as constituting multiple interrogatories, overbroad, unduly burdensome, and vague and ambiguous. Global Switch further objects to this interrogatory to the extent it seeks third-party uses of the mark SWITCH or derivatives thereof outside of the United States as unduly burdensome, irrelevant, and not reasonably calculated to lead to the discovery of admissible evidence. Global Switch further objects to this interrogatory to the extent it seeks third-party uses of the mark SWITCH or derivatives thereof for the past fifteen years as unduly burdensome, irrelevant, and not reasonably calculated to lead to the discovery of admissible evidence. Global Switch further objects to this interrogatory as the term "derivatives" is vague and ambiguous as it is unclear what terms are derivatives of SWITCH. Global Switch also specifically objects to this interrogatory as calling for information protected by the attorney-client privilege and/or work product immunity. In addition, Global Switch specifically objects to this interrogatory as calling for information that is publicly available. Global Switch further objects to this interrogatory as requesting information outside of its possession, custody or control. Subject to and without

waiving the foregoing specific and general objections, Global Switch states that it is not currently aware of any third-parties in the United States that use SWITCH as a mark in connection with goods and/or services that are provided under Opposer's Marks other than the parties to this proceeding.

INTERROGATORY NO. 7:

State with specificity how You have advertised, marketed and promoted each and every product or service offered under Opposer's Marks in the United States, for the past fifteen years.

RESPONSE:

Global Switch specifically objects to this interrogatory as constituting multiple interrogatories, and as overly broad and unduly burdensome. Subject to and without waiving the foregoing specific and general objections, Global Switch states that it has advertised, marketed and promoted its products in the United States through its website globalswitch.com, through email advertisements, press releases, direct mailings, exhibitions at industry events, and onsite marketing visits. Subject to and without waiving the foregoing specific and general objections, pursuant to Fed.R.Civ.P. 33(d), Global Switch further states that responsive, non-privileged documents sufficient to answer this interrogatory will be produced to the extent such documents exist at a time and place mutually agreed upon by the parties.

INTERROGATORY NO. 8:

Identify and describe with specificity each and every instance of actual confusion of which You are aware between Applicant's Mark and Opposer's Marks.

RESPONSE:

Global Switch specifically objects to this interrogatory as calling for information protected by the attorney-client privilege and/or work product immunity. Subject to and without

waiving the foregoing specific and general objections, Global Switch states that it presently is unaware of any instances described in this interrogatory to date. Investigation continues.

INTERROGATORY NO. 9:

State the total amount of annual expenditures dedicated to advertising and marketing the goods and/or services offered to the public in the United States under each of Opposer's Marks from 2005 to the present.

RESPONSE:

Global Switch specifically objects to this interrogatory as overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing specific and general objections, pursuant to Fed.R.Civ.P. 33(d), Global Switch further states that responsive, non-privileged documents sufficient to answer this interrogatory will be produced to the extent such documents exist at a time and place mutually agreed upon by the parties.

INTERROGATORY NO. 10:

Identify and describe with specificity each and every fact that supports Your contention that Applicant's use and registration of the SWITCH mark is likely to falsely suggest a connection with Opposer and Opposer's Marks.

RESPONSE:

Global Switch specifically objects to this interrogatory as constituting multiple interrogatories, and as overly broad, unduly burdensome, vague and ambiguous. In addition, Global Switch specifically objects to this interrogatory as calling for information protected by the attorney-client privilege and/or work product immunity. Further, Global Switch objects to this request as premature as the parties are still in discovery. Subject to and without waiving the foregoing specific and general objections, pursuant to Fed.R.Civ.P. 33(d), Global Switch further states that responsive, non-privileged documents sufficient to answer this interrogatory will be

produced to the extent such documents exist at a time and place mutually agreed upon by the parties.

INTERROGATORY NO. 11:

Identify and describe with specificity each and every fact that supports Your contention that the purchasing public is likely to be led to believe that goods bearing Applicant's Mark emanate from or are approved, licensed or sponsored by Opposer or that Applicant and its business are owned by or affiliated with Opposer and its business.

RESPONSE:

Global Switch specifically objects to this interrogatory as constituting multiple interrogatories, and as overly broad, unduly burdensome, vague and ambiguous. In addition, Global Switch specifically objects to this interrogatory as calling for information protected by the attorney-client privilege and/or work product immunity. Further, Global Switch objects to this request as premature as the parties are still in discovery. Subject to and without waiving the foregoing specific and general objections, pursuant to Fed.R.Civ.P. 33(d), Global Switch further states that responsive, non-privileged documents sufficient to answer this interrogatory will be produced to the extent such documents exist at a time and place mutually agreed upon by the parties.

INTERROGATORY NO. 12:

Identify and describe with specificity each and every fact that supports Your contention that the contemporaneous use of Applicant's Mark and Opposer's Mark is likely to cause confusion and inevitably result in lost sales for Opposer.

RESPONSE:

Global Switch specifically objects to this interrogatory as constituting multiple interrogatories, and as overly broad, unduly burdensome, vague and ambiguous. In addition, Global Switch specifically objects to this interrogatory as calling for information protected by the attorney-client privilege and/or work product immunity. Further, Global Switch objects to

this request as premature as the parties are still in discovery. Subject to and without waiving the foregoing specific and general objections, pursuant to Fed.R.Civ.P. 33(d), Global Switch further states that responsive, non-privileged documents sufficient to answer this interrogatory will be produced to the extent such documents exist at a time and place mutually agreed upon by the parties.

INTERROGATORY NO. 13:

Identify with specificity any monetary damages, loss of good will or other injury You believe You have sustained or will sustain as a result of Applicant's use of Applicant's Mark.

RESPONSE:

Global Switch specifically objects to this interrogatory as constituting multiple interrogatories, and as overly broad, unduly burdensome, vague and ambiguous. In addition, Global Switch specifically objects to this interrogatory as calling for information protected by the attorney-client privilege and/or work product immunity. Further, Global Switch objects to this request as and not reasonably calculated to lead to the discovery of admissible evidence since damages are not awarded in proceedings before the Trademark Trial and Appeal Board.

INTERROGATORY NO. 14:

If You have licensed Opposer's Marks to any person or entity in the U.S. at any time since 2001 to the present, identify in detail all terms and conditions for each such license, including the name of the licensee, the nature of the license granted, the dates of the license, the goods and/or services for which the license was granted, and the geographic scope of use for each license.

RESPONSE:

Global Switch specifically objects to this interrogatory as constituting multiple interrogatories, and as overly broad, unduly burdensome, vague, and seeks information not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing specific and general objections, pursuant to Fed.R.Civ.P. 33(d), Global

Switch further states that responsive, non-privileged documents sufficient to answer this interrogatory will be produced to the extent such documents exist at a time and place mutually agreed upon by the parties.

INTERROGATORY NO. 15:

Identify with specificity Your business structure, including any affiliates, sister companies, subsidiaries, or parent companies.

RESPONSE:

Global Switch specifically objects to this interrogatory as constituting multiple interrogatories, and as overbroad, unduly burdensome, vague, and not reasonably calculated to lead to the discovery of admissible evidence.

INTERROGATORY NO. 16:

Identify the location of any brick and mortar facilities You currently own or operate in the United States.

RESPONSE:

Global Switch further objects to this interrogatory as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Global Switch further objects to this interrogatory as vague as the term "brick and mortar" is unclear and undefined. Subject to and without waiving the foregoing specific and general objections, Global Switch states that it does not own or operate a data center or colocation facility physically located in the United States.

INTERROGATORY NO. 17:

For any facilities identified in the previous Interrogatory, identify with specificity the goods and/or services provided therefrom.

RESPONSE:

Global Switch objects to this interrogatory as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing

specific and general objections, Global Switch states that it does not own or operate a data center or colocation facility physically located in the United States.

INTERROGATORY NO. 18:

Identify all persons You intend to utilize as a witness in this matter, including in Your answer, the expected subject area of testimony for each witness.

RESPONSE:

Global Switch objects to this interrogatory as a premature. Subject to and without waiving the foregoing specific and general objections, Global Switch states that it has not yet made a determination regarding the witnesses whose testimony will be offered in this proceeding.

INTERROGATORY NO. 19:

Identify all persons who were consulted, and/or furnished any information in connection with the preparation of Your answers to these interrogatories.

RESPONSE:

Global Switch specifically objects to this interrogatory as overly broad, vague and ambiguous. In addition, Global Switch specifically objects to this interrogatory as calling for information protected by the attorney-client privilege and/or work product immunity. Subject to and without waiving the foregoing specific and general objections, Global Switch states that the Group Marketing & Communications Director supplied information in connection with the preparation of answers to these interrogatories.

INTERROGATORY NO. 20:

If any of Your responses to Petitioner's First Set of Requests for Admissions was anything other than an unqualified admission, describe in detail all facts that support the basis of Your denial.

RESPONSE:

Global Switch specifically objects to this interrogatory as constituting multiple interrogatories, and as overly broad, unduly burdensome, vague, ambiguous and unintelligible. Global Switch specifically objects that "all facts" is overly broad and unduly burdensome. Global Switch hereby reincorporates the objections to each of Global Switch's Responses and Objections to Petitioner's First Set of Requests for Admission. Subject to and without waiving the foregoing specific and general objections, Global Switch states that it denied the following Requests for Admissions based on at least the following facts: Global Switch owns, operates, and develops large scale carrier neutral, multi-tenanted data centers. Global Switch has offered for sale to its U.S. customers data centers and colocation facilities related services, including leasing and licensing space, capacity, and equipment, providing facility management services, providing security and monitoring services, providing access to a global information network, providing electronic funds transfer, storing data and managing databases, providing technical services, project management, administrative services, installation, maintenance, repair, equipment, consulting, advice and information, programming, catering facilities, and hosting computer software, telecommunication and multimedia applications. Pursuant to Fed.R.Civ.P. 33(d), Global Switch further states that responsive, non-privileged documents sufficient to answer this interrogatory will be produced to the extent such documents exist at a time and place mutually agreed upon by the parties.

INTERROGATORY NO. 21:

Identify and describe with specificity each and every license that Opposer has showing that Opposer is duly licensed to do business in the U.S. as a provider or reseller of telecommunications services or otherwise, and/or that Opposer is duly licensed to sell or provide any of the goods and services listed in the registrations for Opposer's Marks.

RESPONSE:

Global Switch specifically objects to this interrogatory as constituting multiple interrogatories and as overbroad and unduly burdensome. Global Switch also objects that the interrogatory seeks irrelevant information that is not reasonably calculated to lead to the discovery of admissible evidence. Global Switch further objects that "or otherwise" and "telecommunication services" are vague and ambiguous. Subject to and without waiving the foregoing specific and general objections, pursuant to Fed.R.Civ.P. 33(d), Global Switch states that responsive, non-privileged documents sufficient to answer this interrogatory will be produced to the extent such documents exist at a time and place mutually agreed upon by the parties.

INTERROGATORY NO. 22:

Identify each U.S. State within which Opposer has been qualified to do business as a foreign entity since 2001 until the present, specifically identifying each U.S. State and the exact date on which Opposer became qualified to do business there.

RESPONSE:

Global Switch specifically objects to this interrogatory as constituting multiple interrogatories, and as overbroad, unduly burdensome, vague and ambiguous. Global Switch also objects that the interrogatory seeks irrelevant information that is not reasonably calculated to lead to the discovery of admissible evidence. Global Switch further objects that "or otherwise" is vague and ambiguous. Subject to and without waiving the foregoing specific and general objections, pursuant to Fed.R.Civ.P. 33(d), Global Switch further states that responsive, non-privileged documents sufficient to answer this interrogatory will be produced to the extent such documents exist at a time and place mutually agreed upon by the parties.

INTERROGATORY NO. 23:

Identify each U.S. State within which Opposer has received a Certificate of Public Convenience and Necessity or similar operating authority since 2001 until the present, specifically identifying each U.S. State and the exact date on which Opposer received such operating authority.

RESPONSE:

Global Switch specifically objects to this interrogatory as constituting multiple interrogatories, and as overbroad, unduly burdensome, vague and ambiguous. Global Switch also objects that the interrogatory seeks irrelevant information that is not reasonably calculated to lead to the discovery of admissible evidence. Global Switch further objects that "or similar operating authority" is vague and ambiguous. Subject to and without waiving the foregoing specific and general objections, pursuant to Fed.R.Civ.P. 33(d), Global Switch further states that responsive, non-privileged documents sufficient to answer this interrogatory will be produced to the extent such documents exist at a time and place mutually agreed upon by the parties.

INTERROGATORY NO. 24:

Identify every U.S. entity owned and/or controlled by Opposer since 2001 up and until the present.

RESPONSE:

Global Switch specifically objects to this interrogatory as constituting multiple interrogatories, and as overbroad, unduly burdensome, vague and ambiguous. Global Switch also objects that the interrogatory seeks irrelevant information that is not reasonably calculated to lead to the discovery of admissible evidence. Global Switch further objects that "or otherwise" is vague and ambiguous. Subject to and without waiving the foregoing specific and general objections, Global Switch states that it does not own or control a U.S. entity.

INTERROGATORY NO. 25:

Identify with specificity each of the telecommunications products and/or services identified with Opposer's Marks.

RESPONSE:

Global Switch specifically objects to this interrogatory as constituting multiple interrogatories, and as overbroad, unduly burdensome, vague, unintelligible and not reasonably calculated to lead to the discovery of admissible evidence. Global Switch specifically objects to this request as being overly broad and unduly burdensome in that the request is not limited in time or geography. Global Switch further objects to this interrogatory as vague as the term "specificity" is unclear and undefined. Global Switch further objects to this interrogatory as the terms "identified with" and "telecommunications products and/or services" are vague and ambiguous. Subject to and without waiving the foregoing specific and general objections, pursuant to Fed.R.Civ.P. 33(d), Global Switch states that responsive, non-privileged documents sufficient to answer this interrogatory will be produced to the extent such documents exist at a time and place mutually agreed upon by the parties. Global Switch further directs Applicant to its response to Interrogatory 1.

INTERROGATORY NO. 26:

Identify with specificity each of the Internet (including voice over Internet) products and/or services and/or each information service identified with Opposer's Marks.

RESPONSE:

Global Switch specifically objects to this interrogatory as constituting multiple interrogatories, and as overly broad, unduly burdensome, vague, and not reasonably calculated to lead to the discovery of admissible evidence. Global Switch specifically objects to this request as being overly broad and unduly burdensome in that the request is not limited in time or geography. Global Switch further objects to this interrogatory as vague as the term "specificity"

is unclear and undefined. Global Switch further objects to this interrogatory as vague as the term "information service" as vague and ambiguous. Global Switch further objects to this interrogatory as vague as the term "identified with" as vague and ambiguous. Subject to and without waiving the foregoing specific and general objections, pursuant to Fed.R.Civ.P. 33(d), Global Switch further states that responsive, non-privileged documents sufficient to answer this interrogatory will be produced to the extent such documents exist at a time and place mutually agreed upon by the parties.

INTERROGATORY NO. 27:

Identify by corporate name and dba, as applicable, each facilities-based carrier providing each of the products and/or services identified by Opposer's Marks.

RESPONSE:

Global Switch specifically objects to this interrogatory as constituting multiple interrogatories, and as overbroad, unduly burdensome, vague, and not reasonably calculated to lead to the discovery of admissible evidence. Global Switch specifically objects to this request as being overly broad and unduly burdensome in that the request seeks "each" carrier and is not limited in time or geography. Global Switch further objects to this interrogatory as vague as the term "specificity" is unclear and undefined. Global Switch further objects to this interrogatory as vague as the term "facilities-based carrier" as vague and ambiguous. Global Switch further objects to this interrogatory as vague as the term "identified by" as vague and ambiguous. Subject to and without waiving the foregoing specific and general objections, pursuant to Fed.R.Civ.P. 33(d), Global Switch further states that responsive, non-privileged documents sufficient to answer this interrogatory will be produced to the extent such documents exist at a time and place mutually agreed upon by the parties.

INTERROGATORY NO. 28:

Identify with specificity each physical location to which each telecommunications service identified in response to the previous Interrogatory was provided.

RESPONSE:

Global Switch specifically objects to this interrogatory as overbroad, unduly burdensome, vague and ambiguous, and not reasonably calculated to lead to the discovery of admissible evidence. Global Switch specifically objects to this request as being overly broad and unduly burdensome in that the request is not limited in time or geography. Global Switch specifically objects on the ground that "telecommunications service" is vague and ambiguous. Subject to and without waiving the foregoing specific and general objections, Global Switch states that the previous interrogatory did not call for Global Switch to identify a telecommunications service.

INTERROGATORY NO. 29:

Identify by corporate name and dba, as applicable, each purchaser of the products and/or services identified by Opposer's Marks.

RESPONSE:

Global Switch specifically objects to this interrogatory as constituting multiple interrogatories, and as overbroad, unduly burdensome, vague, and ambiguous. Global Switch specifically objects to this request as being overly broad and unduly burdensome in that the request asks for "each" purchaser and is not limited in time or geography. Global Switch further objects to this interrogatory as vague as the term "specificity" is unclear and undefined. Global Switch further objects to this interrogatory as vague as the term "identified by" as vague and ambiguous. Subject to and without waiving the foregoing specific and general objections, pursuant to Fed.R.Civ. P. 33(d), Global Switch further states that responsive, non-privileged documents sufficient to answer this interrogatory will be produced to the extent such documents exist at a time and place mutually agreed upon by the parties.

DATED: January 26, 2015.

As to objections:

David S. Fleming
Christopher M. Dolan
Andrew J. Avsec
Brinks Gilson & Lione
NBC Tower – Suite 3600
455 N. Cityfront Plaza Drive
Chicago, Illinois 60611
dfleming@brinksgilson.com
cdolan@brinksgilson.com
aavsec@brinksgilson.com

Attorneys for Opposer

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing **RESPONSE TO APPLICANT'S FIRST SET OF INTERROGATORIES TO OPPOSER** has been served on Applicant's counsel by mailing said copy on January 26, 2015, via First Class Mail, postage prepaid, to :

Lauri S. Thompson
3773 Howard Hughes Parkway
Suite 400 North
Las Vegas, Nevada 89169

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

In the matter of trademark Serial No. 85/407557
Filed on August 25, 2011
For the mark SWITCH in Class 38
Published in the *Official Gazette* on October 16, 2012

Global Switch Limited, Opposer, v. Switch Communication Group, LLC AKA Switch Applicant.	Opposition No.: 91208895

OPPOSER'S ANSWERS TO APPLICANT'S FIRST SET OF REQUESTS FOR ADMISSIONS TO OPPOSER

Opposer Global Switch Limited ("Global Switch" or "Opposer") hereby responds to Switch Communication Group, LLC AKA Switch ("Applicant") First Set of Requests for Admissions to Opposer as follows:

GENERAL OBJECTIONS

1. Global Switch objects to Applicant's Definitions and Instructions to the extent they are unduly burdensome, vague, and seek to impose obligations on Global Switch beyond those imposed by the Federal Rules of Civil Procedure.

2. Global Switch objects to each and every request for admission to the extent that the request for admission calls for information subject to the attorney/client, work product, or any other applicable privilege or immunity. Any disclosure of such protected or privileged

information is inadvertent and not intended to waive those privileges or protections. Global Switch will exchange with Applicant at a mutually agreeable time a schedule of documents withheld on the grounds of privilege or immunity.

3. Global Switch generally objects to each and every request for admission to the extent that it seeks information which is neither relevant to the subject matter of this action nor reasonably calculated to lead to the discovery of admissible evidence. The providing of information in response to any request for admission is not to be deemed or construed as an admission by Global Switch that the information is in fact relevant to the subject matter of this action.

4. Global Switch generally objects to each and every request for admission to the extent that it seeks information or documents that are not available to Global Switch, or that are not in Global Switch's current possession, custody or control. Responding to each request, Global Switch does not intend to provide information or produce documents not currently available to it or not in its possession, custody or control. Any objection or lack of objection to any of Applicant's requests is not to be deemed or construed as an admission by Global Switch that it either possesses information or documents called for by any such request for admission, or that such information or documents exist or do not exist.

5. Global Switch objects to each and every request for admission to the extent that it seeks information that Global Switch is under an obligation to third parties to maintain in confidence.

6. Global Switch objects to each and every request for admission to the extent that it seeks publicly-available information that Applicant could obtain through its own efforts.

7. The following responses are made subject to and without waiver of the foregoing General Objections, and such General Objections are incorporated into each response whether or not expressly mentioned in response to a particular request. To the extent particular General Objections are restated in a specific response, they are provided because they are particularly applicable to the specific request for admission as presently understood by Global Switch and such inclusion is not to be construed as a waiver of any other General Objection.

8. Global Switch objects to Applicant's Definition for the terms "Opposer", "you" and "your" as vague, ambiguous, overbroad, and unduly burdensome. In particular, Global Switch objects generally to the extent the definitions include: (a) predecessors in interest that are different juristic entities than Global Switch Limited; or (b) individuals and entities outside the scope of permissible discovery. In the context of these requests, Global Switch construes the terms "Opposer", "you" and "your" to mean only the legal entity Global Switch Limited and its officers, directors, and employees when such persons are expressly acting on Plaintiff's behalf with respect to the subject matter at issue.

9. Global Switch objects to Applicant's Definition of "Opposer's Marks" as vague, ambiguous and unintelligible. Registration Nos. 2,982,541 and 3,956,756 cover two different marks subject to different basic facts.

10. Global Switch objects generally to all requests in which the terms "referred to," "relating to," "regarding," and "with respect to" or similar phrases appear. These terms are overly broad, vague, ambiguous, and unintelligible, requiring subjective judgment on the part of Global Switch and its counsel, would require a conclusion or opinion of counsel in violation of the attorney work-product doctrine.

ANSWERS TO REQUESTS FOR ADMISSION

REQUEST NO. 1:

Admit that each and every document produced by You in response to Applicant's Requests for Production of Documents is authentic in that it is the original document, or a true and accurate copy of the original document.

RESPONSE:

Global Switch objects to this request as vague and ambiguous. Global Switch objects to this request as premature as Global Switch has not yet produced documents in response to Applicant's Requests for Production of Documents.

REQUEST NO. 2:

Admit that You do not currently use Opposer's Marks in commerce in the United States in connection with each and every good and service identified in the registrations for Opposer's Marks.

RESPONSE:

Global Switch specifically objects to this request as vague and ambiguous. Global Switch further objects to the terms "in commerce" and "in the United States" as they have different meanings and thus this request is vague and ambiguous. Global Switch further objects in that the request impermissibly calls for a conclusion of law. Global Switch objects to Applicant's Definition of "Opposer's Marks" as vague, ambiguous and unintelligible as Registration Nos. 2,982,541 and 3,956,756 cover two different marks subject to different basic facts. Global Switch further objects to this request as vague as the terms "use," "currently," "in connection," and "each and every" are unclear and undefined in that it is unclear whether Switch is asking if Global Switch used its mark on each good or service, every good or service, or both. Subject to and without waiving the foregoing specific and general objections, admitted.

REQUEST NO. 3:

Admit that You have never used Opposer's Marks in commerce in the United States in connection with each and every good and service identified in the registrations for Opposer's Marks.

RESPONSE:

Global Switch objects to this request as vague and ambiguous. Global Switch further objects to the terms "in commerce" and "in the United States" as they have different meanings and thus this request is vague and ambiguous. Global Switch further objects in that the request impermissibly calls for a conclusion of law. Global Switch objects to Applicant's Definition of "Opposer's Marks" as vague, ambiguous and unintelligible as Registration Nos. 2,982,541 and 3,956,756 cover two different marks subject to different basic facts. Global Switch further objects to this request as vague as the terms "use," "currently," "in connection," and "each and every" are unclear and undefined in that it is unclear whether Switch is asking if Global Switch used its mark on each good or service, every good or service, or both. Subject to and without waiving the foregoing specific and general objections, admitted.

REQUEST NO. 4:

Admit that You are not aware of any instances of actual confusion caused by Applicant's use of Applicant's Marks.

RESPONSE:

Subject to and without waiving the foregoing general objections, admitted. Investigation continues.

REQUEST NO. 5:

Admit that You do not have any brick and mortar facilities located in the United States from which You provide any goods or services to U.S. consumers under Opposer's Marks.

RESPONSE:

Global Switch specifically objects to this request as vague and ambiguous, and not reasonably calculated to lead to the discovery of admissible evidence. Global Switch further objects to this request as vague as the terms "brick and mortar" is unclear and undefined. Subject to and without waiving the foregoing specific and general objections, Global Switch admits that it does not have a colocation facility or data center from which it provides goods or services to U.S. consumers under Opposer's Marks. Except as admitted above, denied.

REQUEST NO. 6:

Admit that Applicant has been using its mark SWITCH, as set forth in U.S. Application Serial No. 85/407557, in commerce for "Providing telecommunications connections to the Internet; local and long distance telephone services" since at least as early as November 30, 2003.

RESPONSE:

Global Switch objects to this request as requesting information solely in Applicant's possession, custody and control. Subject to and without waiving the foregoing specific and general objections, Global Switch states that having made reasonable inquiry, the information Global Switch knows or can readily obtain is insufficient to enable it to admit or deny, and Global Switch therefore states that it lacks knowledge or information sufficient to admit or deny this request, and thus denies this request.

REQUEST NO. 7:

Admit that You had no bona fide use in commerce of Opposer's mark GLOBAL SWITCH (U.S. Reg. No. 2982541 under §44(e)) prior to the filing of the Combined Declaration of Use and Incontestability under Sections 8 & 15 on May 10, 2011.

RESPONSE:

Subject to and without waiving the foregoing general objections, denied.

REQUEST NO. 8:

Admit that You do not provide "Business management and administration services in respect of information technology" under Opposer's Marks in the United States.

RESPONSE:

Global Switch specifically objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Global Switch specifically objects to this request as vague and ambiguous with respect to "in the United States" because it is unclear whether the requests asks whether Opposer provides services in commerce that Congress can regulate or out of a building located in the United States. Global Switch further objects that the request is vague as to time. Subject to and without waiving the foregoing specific and general objections, denied.

REQUEST NO. 9:

Admit that You do not provide "facilities management, namely controlling building access and systems for security safety, electricity, gas, water, sanitation, telecommunications, internal transportation and environmental control" under Opposer's Marks in the United States.

RESPONSE:

Global Switch objects to this request as vague and ambiguous, irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Global Switch specifically objects to this request as vague and ambiguous with respect to "in the United States" because it is unclear whether the requests asks whether Opposer provides services in commerce that Congress can regulate or out of a building located in the United States. Global Switch further objects that the request is vague as to time. Subject to and without waiving the foregoing specific and general objections, Global Switch admits that it does not have a colocation facility or data center located in the United States from which it provides "facilities management, namely controlling building access and systems for security safety, electricity, gas, water, sanitation,

telecommunications, internal transportation and environmental control" under Opposer's Marks. Except as admitted above, denied.

REQUEST NO. 10:

Admit that You do not provide "Leasing of real estate; real estate brokerage; real estate management; electronic funds transfer; leasing of building space and operation facilities for telecommunications, multimedia and computing equipment and services; [or] provision of information on any of the foregoing" under Opposer's Marks in the United States.

RESPONSE:

Global Switch specifically objects to this request as vague and ambiguous, irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Global Switch specifically objects to this request as vague and ambiguous with respect to "in the United States" because it is unclear whether the requests asks whether Opposer provides services in commerce that Congress can regulate or out of a building located in the United States. Global Switch further objects that the request is vague as to time. Subject to and without waiving the foregoing specific and general objections, denied.

REQUEST NO. 11:

Admit that You do not provide "Maintenance and repair of buildings and building services; installation, maintenance and repair of electrical and electronic equipment, telecommunications equipment, multimedia equipment and computer equipment; [or] provision of information on any of the foregoing" under Opposer's Marks in the United States.

RESPONSE:

Global Switch objects to this request as vague and ambiguous, irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Global Switch specifically objects to this request as vague and ambiguous with respect to "in the United States" because it is unclear whether the requests asks whether Opposer provides services in commerce that

Congress can regulate or out of a building located in the United States. Global Switch further objects that the request is vague as to time. Subject to and without waiving the foregoing specific and general objections, Global Switch admits that it does not have a colocation facility or data center located in the United States from which it provides "maintenance and repair of buildings and building services; installation, maintenance and repair of electrical and electronic equipment, telecommunications equipment, multimedia equipment and computer equipment; [or] provision of information on any of the foregoing" under Opposer's Marks. Except as admitted above, denied.

REQUEST NO. 12:

Admit that You do not provide "Telecommunications and multimedia transmission services, namely, the provision and rental of telecommunications multimedia and computing equipment and links" under Opposer's Marks in the United States.

RESPONSE:

Global Switch objects to this request as vague and ambiguous, irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Global Switch specifically objects to this request as vague and ambiguous with respect to "in the United States" because it is unclear whether the requests asks whether Opposer provides services in commerce that Congress can regulate or out of a building located in the United States. Global Switch further objects that the request is vague as to time. Subject to and without waiving the foregoing specific and general objections, denied.

REQUEST NO. 13:

Admit that You do not provide "Application Provider Services, namely, hosting computer software, telecommunication and multimedia applications of others; [or] telecommunications security and monitoring services" under Opposer's Marks in the United States.

RESPONSE:

Global Switch objects to this request as vague and ambiguous, irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Global Switch specifically objects to this request as vague and ambiguous with respect to "in the United States" because it is unclear whether the requests asks whether Opposer provides services in commerce that Congress can regulate or out of a building located in the United States. Global Switch further objects that the request is vague as to time. Subject to and without waiving the foregoing specific and general objections, denied.

REQUEST NO. 14:

Admit that You do not provide "computer programming services; rental of computer hardware and software; provision of building space and operation facilities for computers; operation of computer and multimedia equipment for others; providing of catering facilities" under Opposer's Marks in the United States.

RESPONSE:

Global Switch objects to this request as vague and ambiguous, irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Global Switch specifically objects to this request as vague and ambiguous with respect to "in the United States" because it is unclear whether the requests asks whether Opposer provides services in commerce that Congress can regulate or out of a building located in the United States. Global Switch further objects that the request is vague as to time. Subject to and without waiving the foregoing specific and general objections, denied.

REQUEST NO. 15:

Admit that You are not licensed to do business in the U.S.

RESPONSE:

Global Switch objects to this request as vague as the term "licensed" is unclear and undefined. Global Switch further objects to this request as irrelevant to the question of trademark or service mark use, and therefore this request is unlikely to lead to the discovery of admissible evidence, and on that basis, denied.

REQUEST NO. 16:

Admit that You are not licensed in the U.S. as a reseller of telecommunications services.

RESPONSE:

Global Switch specifically objects to this request as vague and ambiguous with respect to "telecommunications services". Global Switch further objects to this request as irrelevant to the question of trademark or service mark use, and therefore this request is unlikely to lead to the discovery of admissible evidence, and on that basis, denied.

REQUEST NO. 17:

Admit that You do not hold valid license(s) in the U.S. to sell and/or provide any of the goods and services listed in the registrations for Opposer's Marks.

RESPONSE:

Global Switch objects to this request as the use of the term "and/or" is vague and ambiguous, and the request has multiple, different meanings. Global Switch further objects to this request as irrelevant to the question of trademark or service mark use and therefore is unlikely to lead to the discovery of admissible evidence, and on that basis, denied.

REQUEST NO. 18:

Admit that You have not licensed Opposer's Marks to any other person or entity for use in U.S. commerce.

RESPONSE:

Subject to and without waiving the foregoing general objections, admitted.

REQUEST NO. 18: [DUPLICATED]

Admit that You do not own and/or control any U.S. entities.

RESPONSE:

Global Switch objects to this request as the use of the term "and/or" is vague and ambiguous, and the request has multiple, different meanings. Global Switch objects to this request as vague and ambiguous, irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing general objections, admitted.

REQUEST NO. 19:

Admit that You do not own any telecommunications facilities located in the United States through which You provide any services to U.S. consumers under Opposer's Marks.

RESPONSE:

Global Switch objects to this request as vague and ambiguous, irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Global Switch objects to this request as irrelevant to the question of trademark or service mark use and therefore is unlikely to lead to the discovery of admissible evidence, and on that basis, denied.

REQUEST NO. 20:

Admit that You have never made any filings, including without limitation any applications for authority to provide service, with the Federal Communications Commission and/or with any state telecommunications regulatory authority to provision any telecommunications service.

RESPONSE:

Global Switch objects to this request as the use of the term "and/or" is vague and ambiguous, and the request has multiple, different meanings. Global Switch objects to this request as vague and ambiguous, irrelevant and not reasonably calculated to lead to the discovery of admissible evidence as not limited by time. Global Switch objects to this request as irrelevant to the question of trademark or service mark use and therefore is unlikely to lead to the discovery of admissible evidence, and on that basis, denied.

REQUEST NO. 21:

Admit that since the application filing date for Opposer's Mark in the United States, You have not paid any Universal Service Fund charges to the Universal Service Fund Administration Corporation or to any state agency responsible for the collection of universal service.

RESPONSE:

Global Switch objects to this request as vague and ambiguous, irrelevant and not reasonably calculated to lead to the discovery of admissible evidence as not limited by time. Global Switch objects to this request as irrelevant to the question of trademark or service mark use and therefore is unlikely to lead to the discovery of admissible evidence, and on that basis, denied.

REQUEST NO. 22:

Admit that You have never paid any sales taxes associated with the provision of telecommunications services to any federal or state governmental authority.

RESPONSE:

Global Switch objects to this request as vague and ambiguous, irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Global Switch objects to this request as vague and ambiguous with respect to "telecommunications services". Global

Switch further objects as overly broad and unduly burdensome as not limited by time or jurisdiction. Global Switch objects to this request as irrelevant to the question of trademark or service mark use and therefore is unlikely to lead to the discovery of admissible evidence, and on that basis, denied.

REQUEST NO. 23:

Admit that You have never issued any invoices to customers located in the U.S. that allegedly received telecommunications services in the U.S. from Opposer.

RESPONSE:

Global Switch objects to this request as vague and ambiguous with respect to "telecommunications services" and "received telecommunications services in the U.S.". Subject to and without waiving the foregoing specific and general objections, denied.

REQUEST NO. 24:

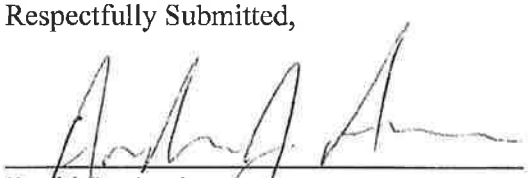
Admit that You have never received any payments from customers located in the U.S. that allegedly received telecommunications services in the U.S. from Opposer.

RESPONSE:

Global Switch objects to this request as vague and ambiguous with respect to "telecommunications services" and "received telecommunications services in the U.S.". Subject to and without waiving the foregoing specific and general objections, denied.

DATED: January 26, 2015

Respectfully Submitted,



David S. Fleming
Christopher M. Dolan
Andrew J. Avsec
Brinks Gilson & Lione
NBC Tower – Suite 3600
455 N. Cityfront Plaza Drive

Chicago, Illinois 60611
dfleming@brinksgilson.com
cdolan@brinksgilson.com
aavsec@brinksgilson.com

Attorneys for Opposer

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and complete copy of the foregoing **RESPONSE TO APPLICANT'S FIRST SET OF REQUESTS FOR ADMISSIONS TO OPPOSER** has been served on Applicant's counsel by mailing said copy on January 26, 2015, via First Class Mail, postage prepaid, to:

Lauri S. Thompson
3773 Howard Hughes Parkway
Suite 400 North
Las Vegas, Nevada 89169

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

In the matter of trademark Serial No. 85/407557
Filed on August 25, 2011
For the mark SWITCH in Class 38
Published in the *Official Gazette* on October 16, 2012

Global Switch Limited, Opposer, v. Switch Communication Group, LLC AKA Switch Applicant.	Opposition No.: 91208895

OPPOSER'S RESPONSES AND OBJECTIONS TO APPLICANT'S FIRST SET OF REQUESTS FOR PRODUCTION TO OPPOSER

Opposer Global Switch Limited ("Global Switch" or "Opposer") hereby responds to Applicant's First Set of Requests for Production as follows:

GENERAL OBJECTIONS

1. Global Switch objects to Applicant's Definitions and Instructions, as well as each and every request, to the extent that they are unduly burdensome, vague, and seek to impose obligations on Opposer not required by the Federal Rules of Civil Procedure.

2. Global Switch objects to each and every request to the extent that the request calls for information subject to the attorney/client, work product, or any other applicable privilege or immunity. Any disclosure of such protected or privileged information is inadvertent and not intended to waive those privileges or protections. Global Switch will exchange with Applicant at

a mutually agreeable time a schedule of documents withheld on the grounds of privilege or immunity.

3. Global Switch generally objects to each and every request to the extent that it seeks information that is neither relevant to the subject matter of this action nor reasonably calculated to lead to the discovery of admissible evidence. The providing of information in response to any request is not to be deemed or construed as an admission by Global Switch that the information is in fact relevant to the subject matter of this action.

4. Global Switch generally objects to each and every request to the extent that it seeks information or documents that are not available to Global Switch, or that are not in Global Switch's current possession, custody or control. Responding to each request, Global Switch does not intend to provide information or produce documents not currently available to it or not in its possession, custody or control. Any objection or lack of objection to any of Applicant's requests for production is not to be deemed or construed an admission by Global Switch that it either possesses information or documents called for by any such request, or that such information or documents exist or do not exist.

5. Global Switch objects to each and every request to the extent that it seeks information which Global Switch is under an obligation to third parties to maintain in confidence.

6. Global Switch objects to each and every request to the extent that it seeks publicly-available information that Applicant could obtain through its own efforts.

7. The following responses are made subject to and without waiver of the foregoing General Objections, and such General Objections are incorporated into each response whether or not expressly mentioned in response to a particular request. To the extent particular General

Objections are restated in a specific response, they are provided because they are particularly applicable to the specific request as presently understood by Global Switch and such inclusion is not to be construed as a waiver of any other General Objection.

8. Global Switch objects to Applicant's Definition for the terms "Opposer", "you" and "your" as vague, ambiguous, overbroad, and unduly burdensome. In particular, Global Switch objects generally to the extent the definitions include: (a) predecessors in interest that are different juristic entities than Global Switch Limited; or (b) individuals and entities outside the scope of permissible discovery. In the context of these requests, Global Switch construes the terms "Opposer", "you" and "your" to mean only the legal entity Global Switch Limited and its officers, directors, and employees when such persons are expressly acting on Plaintiff's behalf with respect to the subject matter at issue.

9. Global Switch objects to Applicant's Definition of "Opposer's Marks" as vague, ambiguous and unintelligible. Registration Nos. 2,982,541 and 3,956,756 cover two different marks subject to different basic facts.

10. Global Switch objects generally to all requests in which the terms "referred to," "relating to," "regarding," and "with respect to" or similar phrases appear. These terms are overly broad, vague, and ambiguous, and unintelligible, require subjective judgment on the part of Global Switch and its counsel, would require a conclusion or opinion of counsel in violation of the attorney work-product doctrine.

11. Global Switch objects generally to all requests in which Applicant requests "all" or "any" documents, materials, or things, because such requests are overbroad, and unduly burdensome and seek documents not reasonably calculated to lead to the discovery of admissible evidence.

RESPONSES AND OBJECTIONS TO REQUESTS FOR PRODUCTION

REQUEST NO 1:

Produce complete and accurate copies of any and all documents, materials, and things referred to, or referenced by You in answering any of Applicant's First Set of Interrogatories and First Set of Requests for Admissions.

RESPONSE:

Global Switch specifically objects to this request as overly broad and unduly burdensome. In addition, Global Switch specifically objects to this request to the extent this request seeks information protected by the attorney-client privilege and/or work product immunity. Subject to and without waiving the foregoing specific and general objections, Global Switch states that it shall produce non-privileged documents sufficient to respond to this request, to the extent they exist and are in Global Switch's possession, custody, or control, and can be located through a reasonable search of its files, at a time and place mutually agreed upon by the parties.

REQUEST NO. 2:

Produce complete and accurate copies of any and all documents, materials and things evidencing the legal formation of any business entity through which You are offering or have offered goods and services under Opposer's Marks in commerce in the United States.

RESPONSE:

Global Switch specifically objects to this request as overbroad, unduly burdensome, vague and ambiguous, and not reasonably calculated to lead to the discovery of admissible evidence. Global Switch further objects to this request on the ground that the request for "any and all documents, materials, and things" referring or relating to this subject is unlimited in time, overbroad, and unduly burdensome and seeks documents not reasonably calculated to lead to the discovery of admissible evidence. Global Switch further objects to the terms "in commerce" and "in the United States" as they have different meanings and thus this request is vague and

ambiguous. In addition, Global Switch specifically objects to this request to the extent this request seeks information protected by the attorney-client privilege and/or work product immunity. Subject to and without waiving the foregoing specific and general objections, Global Switch states that it shall produce non-privileged documents sufficient to respond to this request, to the extent they exist and are in Global Switch's possession, custody, or control, and can be located through a reasonable search of its files, at a time and place mutually agreed upon by the parties.

REQUEST NO. 3:

Produce complete and accurate copies of any and all documents, materials and things evidencing use of each of Opposer's Marks in commerce in the United States for each and every good or service identified by Opposer's Marks, including but not limited to, all specimens, labels, packaging, and advertising and marketing materials.

RESPONSE:

Global Switch specifically objects to this request as overbroad, unduly burdensome, vague and ambiguous, and not reasonably calculated to lead to the discovery of admissible evidence. Global Switch further objects to this request on the ground that the request for "any and all documents, materials, and things" referring or relating to this subject is unlimited in time, overbroad, and unduly burdensome and seeks documents not reasonably calculated to lead to the discovery of admissible evidence. Global Switch further objects to the terms "in commerce" and "in the United States" as they have different meanings and thus this request is vague and ambiguous. In addition, Global Switch specifically objects to this request to the extent this request seeks information protected by the attorney-client privilege and/or work product immunity. Subject to and without waiving the foregoing specific and general objections, Global Switch states that it shall produce non-privileged documents sufficient to respond to this request, to the extent they exist and are in Global Switch's possession, custody, or control, and can be

located through a reasonable search of its files, at a time and place mutually agreed upon by the partics.

REQUEST NO. 4:

Produce complete and accurate copies of any documents, materials and things relating to or evidencing Opposer's selection and adoption of each of Opposer's Marks.

RESPONSE:

Global Switch specifically objects to this request as overbroad, unduly burdensome, vague and ambiguous, and not reasonably calculated to lead to the discovery of admissible evidence. Global Switch further objects to this request on the ground that the request for "any documents, materials, and things relating to and evidencing" is unlimited in time, overbroad, and unduly burdensome and seeks documents not reasonably calculated to lead to the discovery of admissible evidence. Global Switch specifically objects to this request to the extent this request seeks information protected by the attorney-client privilege and/or work product immunity. Subject to and without waiving the foregoing specific and general objections, Global Switch states that it shall produce non-privileged documents sufficient to respond to this request, to the extent they exist and are in Global Switch's possession, custody, or control, and can be located through a reasonable search of its files, at a time and place mutually agreed upon by the partics.

REQUEST NO. 5:

Produce complete and accurate copies of any documents, materials and things relating to or evidencing Opposer's first use in commerce in the United States of Opposer's Marks.

RESPONSE:

Global Switch specifically objects to this request as overbroad, unduly burdensome, vague and ambiguous, and not reasonably calculated to lead to the discovery of admissible evidence. Global Switch further objects to this request on the ground that the request for "any

documents, materials, and things relating to and evidencing" is unlimited in time, overbroad, and unduly burdensome and seeks documents not reasonably calculated to lead to the discovery of admissible evidence. Global Switch further objects to the terms "in commerce" and "in the United States" as they have different meanings and thus this request is vague and ambiguous. In addition, Global Switch specifically objects to this request to the extent this request seeks information protected by the attorney-client privilege and/or work product immunity. Subject to and without waiving the foregoing specific and general objections, Global Switch states that it shall produce non-privileged documents sufficient to respond to this request, to the extent they exist and are in Global Switch's possession, custody, or control, and can be located through a reasonable search of its files, at a time and place mutually agreed upon by the parties.

REQUEST NO. 6:

Produce complete and accurate copies of all documents, materials and things relating to or evidencing Your use in commerce in the United States of Opposer's Marks in connection with each of the goods and services identified in the respective registrations. For any documents produced, please identify the specific goods and/or services offered under each mark, the date those goods and/or services were first offered in commerce and whether each of the goods and/or services is still offered under the respective mark.

RESPONSE:

Global Switch specifically objects to this request as overbroad, unduly burdensome, vague and ambiguous, and not reasonably calculated to lead to the discovery of admissible evidence. Global Switch further objects to this request on the ground that the request for "all documents, materials, and things relating to and evidencing" is unlimited in time, overbroad, and unduly burdensome and seeks documents not reasonably calculated to lead to the discovery of admissible evidence. Global Switch specifically objects to the extent this request imposes obligations beyond those of Fed. R. Civ. P. 34. Global Switch further objects to the terms "in commerce" and "in the United States" as they have different meanings and thus this request is

vague and ambiguous. In addition, Global Switch specifically objects to this request to the extent this request seeks information protected by the attorney-client privilege and/or work product immunity. Subject to and without waiving the foregoing specific and general objections, Global Switch states that it shall produce non-privileged documents sufficient to respond to this request, to the extent they exist and are in Global Switch's possession, custody, or control, and can be located through a reasonable search of its files, at a time and place mutually agreed upon by the parties.

REQUEST NO. 7:

Produce complete and accurate copies of any and all documents, materials and evidencing, referring, or relating to the goods and services identified by each of Opposer's Marks.

RESPONSE:

Global Switch specifically objects to this request as overbroad, unduly burdensome, vague and ambiguous, and not reasonably calculated to lead to the discovery of admissible evidence. Global Switch further objects to this request on the ground that the request for "any and all documents, materials, and things evidencing, referring, or relating to" is unlimited in time, overbroad, and unduly burdensome and seeks documents not reasonably calculated to lead to the discovery of admissible evidence. In addition, Global Switch specifically objects to this request to the extent this request seeks information protected by the attorney-client privilege and/or work product immunity. Subject to and without waiving the foregoing specific and general objections, Global Switch states that it shall produce non-privileged documents sufficient to respond to this request, to the extent they exist and are in Global Switch's possession, custody, or control, and can be located through a reasonable search of its files, at a time and place mutually agreed upon by the parties.

REQUEST NO. 8:

Produce complete and accurate copies of any and all documents, materials and things relating to or evidencing the manner in which the goods and services offered under each of Opposer's Marks is distributed and sold to the public in the United States.

RESPONSE:

Global Switch specifically objects to this request as overbroad, unduly burdensome, vague and ambiguous, and not reasonably calculated to lead to the discovery of admissible evidence. Global Switch further objects to this request on the ground that the request for "any and all documents, materials, and things relating to or evidencing" is unlimited in time, overbroad, and unduly burdensome and seeks documents not reasonably calculated to lead to the discovery of admissible evidence. In addition, Global Switch specifically objects to this request to the extent this request seeks information protected by the attorney-client privilege and/or work product immunity. Subject to and without waiving the foregoing specific and general objections, Global Switch states that it shall produce non-privileged documents sufficient to respond to this request, to the extent they exist and are in Global Switch's possession, custody, or control, and can be located through a reasonable search of its files, at a time and place mutually agreed upon by the parties.

REQUEST NO. 9:

Produce complete and accurate copies of any and all documents, materials and things evidencing Opposer's ownership of each of Opposer's Marks.

RESPONSE:

Global Switch specifically objects to this request as overbroad, unduly burdensome, vague and ambiguous, and not reasonably calculated to lead to the discovery of admissible evidence. Global Switch further objects to this request on the ground that the request for "any

and all documents, materials and things evidencing" is unlimited in time, overbroad, and unduly burdensome and seeks documents not reasonably calculated to lead to the discovery of admissible evidence. Global Switch specifically objects to this request as calling for information that is publicly available. In addition, Global Switch specifically objects to this request to the extent this request seeks information protected by the attorney-client privilege and/or work product immunity. Subject to and without waiving the foregoing specific and general objections, Global Switch states that it shall produce non-privileged documents sufficient to respond to this request, to the extent they exist and are in Global Switch's possession, custody, or control, and can be located through a reasonable search of its files, at a time and place mutually agreed upon by the parties.

REQUEST NO. 10:

Produce complete and accurate copies of any and all documents, materials and things evidencing the channels of trade utilized by Opposer to offer the goods and services provided under each of Opposer's Marks to the public in the United States.

RESPONSE:

Global Switch specifically objects to this request as overbroad, unduly burdensome, vague and ambiguous, and not reasonably calculated to lead to the discovery of admissible evidence. Global Switch further objects to this request on the ground that the request for "any and all documents, materials and things evidencing" is unlimited in time, overbroad, and unduly burdensome and seeks documents not reasonably calculated to lead to the discovery of admissible evidence. In addition, Global Switch specifically objects to this request to the extent this request seeks information protected by the attorney-client privilege and/or work product immunity. Subject to and without waiving the foregoing specific and general objections, Global Switch states that it shall produce non-privileged documents sufficient to respond to this request,

to the extent they exist and are in Global Switch's possession, custody, or control, and can be located through a reasonable search of its files, at a time and place mutually agreed upon by the parties.

REQUEST NO. 11:

Produce complete and accurate copies of any and all documents, materials and things relating to or evidencing instances of actual confusion with Opposer's Marks caused by Applicant's use of Applicant's Mark.

RESPONSE:

Global Switch specifically objects to this request as overbroad, unduly burdensome, vague and ambiguous, and not reasonably calculated to lead to the discovery of admissible evidence. Global Switch further objects to this request on the ground that the request for "any and all documents, materials and things relating to or evidencing" is unlimited in time, overbroad, and unduly burdensome and seeks documents not reasonably calculated to lead to the discovery of admissible evidence. In addition, Global Switch specifically objects to this request to the extent this request seeks information protected by the attorney-client privilege and/or work product immunity. Subject to and without waiving the foregoing specific and general objections, Global Switch states that it is not currently unaware of documents sufficient to respond to this request as such documents are likely to be in the possession of Switch. Investigation is ongoing.

REQUEST NO. 12:

Produce complete and accurate copies of any and all documents, materials and things relating to or evidencing the level of sophistication of purchasers associated with the products and/or services identified by Opposer's Marks.

RESPONSE:

Global Switch objects to this request as overbroad, unduly burdensome, vague and ambiguous, and not reasonably calculated to lead to the discovery of admissible evidence. Global

Switch further objects to this request on the ground that the request for "any and all documents, materials and things relating to or evidencing" is unlimited in time, overbroad, and unduly burdensome and seeks documents not reasonably calculated to lead to the discovery of admissible evidence. In addition, Global Switch specifically objects to this request to the extent this request seeks information protected by the attorney-client privilege and/or work product immunity. Global Switch specifically objects to this request as not being limited to purchasers in the United States. Subject to and without waiving the foregoing specific and general objections, Global Switch states that it is unaware of documents in its possession, custody, or control sufficient to respond to this request.

REQUEST NO. 13:

Produce complete and accurate copies of any and all documents, materials and things relating to or evidencing any third party uses of marks that include the word "SWITCH," or derivatives thereof.

RESPONSE:

Global Switch objects to this request as overbroad, unduly burdensome, vague and ambiguous, and not reasonably calculated to lead to the discovery of admissible evidence. Global Switch further objects to this request on the ground that the request for "of any and all documents, materials and things relating to or evidencing" is unlimited in time, overbroad, and unduly burdensome and seeks documents not reasonably calculated to lead to the discovery of admissible evidence. Global Switch further objects to this interrogatory as the term "derivatives" is vague and ambiguous as it is unclear what terms are derivatives of SWITCH. Global Switch specifically objects to this request as not being limited to third party uses of marks that include the word SWITCH in the United States. In addition, Global Switch specifically objects to this request to the extent this request seeks information protected by the attorney-client privilege

and/or work product immunity. Subject to and without waiving the foregoing specific and general objections, Global Switch states that it is unaware of documents in its possession, custody, or control sufficient to respond to this request.

REQUEST NO. 14:

Produce complete and accurate copies of any and all documents, materials and things relating to or evidencing a likelihood of confusion with Opposer's Marks caused by Applicant's use of Applicant's Mark.

RESPONSE:

Global Switch specifically objects to this request as overbroad, unduly burdensome, vague and ambiguous, and not reasonably calculated to lead to the discovery of admissible evidence. Global Switch further objects to this request on the ground that the request for "any and all documents, materials and things relating to or evidencing" is unlimited in time, overbroad, and unduly burdensome and seeks documents not reasonably calculated to lead to the discovery of admissible evidence. In addition, Global Switch specifically objects to this request to the extent this request seeks information protected by the attorney-client privilege and/or work product immunity. Subject to and without waiving the foregoing specific and general objections, Global Switch states that it shall produce non-privileged documents sufficient to respond to this request, to the extent they exist and are in Global Switch's possession, custody, or control, and can be located through a reasonable search of its files, at a time and place mutually agreed upon by the parties.

REQUEST NO. 15:

Produce complete and accurate copies of any and all documents, materials and things relating to or evidencing sales of goods and/or services offered in connection with each of Opposer's Marks in the United States from 2005 to the present.

RESPONSE:

Global Switch specifically objects to this request as overbroad, unduly burdensome, vague and ambiguous, and not reasonably calculated to lead to the discovery of admissible evidence. Global Switch further objects to this request on the ground that the request for "of any and all documents, materials and things relating to or evidencing" is unlimited in time, overbroad, and unduly burdensome and seeks documents not reasonably calculated to lead to the discovery of admissible evidence. In addition, Global Switch specifically objects to this request to the extent this request seeks information protected by the attorney-client privilege and/or work product immunity. Subject to and without waiving the foregoing specific and general objections, Global Switch states that it shall produce non-privileged documents sufficient to respond to this request, to the extent they exist and are in Global Switch's possession, custody, or control, and can be located through a reasonable search of its files, at a time and place mutually agreed upon by the parties.

REQUEST NO. 16:

Produce complete and accurate copies of any and all documents, materials and things relating to or evidencing Opposer's expenditures for advertising and marketing in the United States in association with each of Opposer's Marks.

RESPONSE:

Global Switch specifically objects to this request as overbroad, unduly burdensome, vague and ambiguous, and not reasonably calculated to lead to the discovery of admissible evidence. Global Switch further objects to this request on the ground that the request for "any and all documents, materials and things relating to or evidencing" is unlimited in time, overbroad, and unduly burdensome and seeks documents not reasonably calculated to lead to the discovery of admissible evidence. In addition, Global Switch specifically objects to this request to the extent this request seeks information protected by the attorney-client privilege and/or work

product immunity. Subject to and without waiving the foregoing specific and general objections, Global Switch states that it shall produce non-privileged documents sufficient to respond to this request, to the extent they exist and are in Global Switch's possession, custody, or control, and can be located through a reasonable search of its files, at a time and place mutually agreed upon by the parties.

REQUEST NO. 17:

Produce complete and accurate copies of any and all documents, materials or things relating to or evidencing your contention that Applicant's use and registration of the SWITCH mark is likely to falsely suggest a connection with Opposer and Opposer's Marks.

RESPONSE:

Global Switch specifically objects to this request as overbroad, unduly burdensome, vague and ambiguous, and not reasonably calculated to lead to the discovery of admissible evidence. Global Switch further objects to this request on the ground that the request for "any and all documents, materials or things relating to or evidencing" is unlimited in time, overbroad, and unduly burdensome and seeks documents not reasonably calculated to lead to the discovery of admissible evidence. In addition, Global Switch specifically objects to this request to the extent this request seeks information protected by the attorney-client privilege and/or work product immunity. Subject to and without waiving the foregoing specific and general objections, Global Switch states that it shall produce non-privileged documents sufficient to respond to this request, to the extent they exist and are in Global Switch's possession, custody, or control, and can be located through a reasonable search of its files, at a time and place mutually agreed upon by the parties.

REQUEST NO. 18:

Produce complete and accurate copies of any and all documents, materials or things relating or referring to or evidencing your contention that the purchasing public is likely to be led to believe that the goods bearing Applicant's Mark emanate from or are approved, licensed or sponsored by Opposer or that Applicant and its business are owned by or affiliated with Opposer and its business.

RESPONSE:

Global Switch specifically objects to this request as overbroad, unduly burdensome, vague and ambiguous, and not reasonably calculated to lead to the discovery of admissible evidence. Global Switch further objects to this request on the ground that the request for "any and all documents, materials or things relating or referring to or evidencing" is unlimited in time, overbroad, and unduly burdensome and seeks documents not reasonably calculated to lead to the discovery of admissible evidence. In addition, Global Switch specifically objects to this request to the extent this request seeks information protected by the attorney-client privilege and/or work product immunity. Subject to and without waiving the foregoing specific and general objections, Global Switch states that it shall produce non-privileged documents sufficient to respond to this request, to the extent they exist and are in Global Switch's possession, custody, or control, and can be located through a reasonable search of its files, at a time and place mutually agreed upon by the parties.

REQUEST NO. 19:

Produce complete and accurate copies of any and all documents, materials, or things evidencing, referring or relating to your contention that the contemporaneous use of Applicant's Mark and Opposer's Marks is likely to cause confusion and inevitably result in lost sales for Opposer.

RESPONSE:

Global Switch specifically objects to this request as overbroad, unduly burdensome, vague and ambiguous, and not reasonably calculated to lead to the discovery of admissible

evidence. Global Switch further objects to this request on the ground that the request for "any and all documents, materials, or things evidencing, referring or relating to" is unlimited in time, overbroad, and unduly burdensome and seeks documents not reasonably calculated to lead to the discovery of admissible evidence. In addition, Global Switch specifically objects to this request to the extent this request seeks information protected by the attorney-client privilege and/or work product immunity. Subject to and without waiving the foregoing specific and general objections, Global Switch states that it shall produce non-privileged documents sufficient to respond to this request, to the extent they exist and are in Global Switch's possession, custody, or control, and can be located through a reasonable search of its files, at a time and place mutually agreed upon by the parties.

REQUEST NO. 20:

Produce complete and accurate copies of any and all documents, materials, or things evidencing, referring or relating to any damages or loss in sales you have suffered as a result of Applicant's use of Applicant's Mark.

RESPONSE:

Global Switch objects to this request on the ground that the request for "any and all documents, materials, or things evidencing, referring or relating to" is unlimited in time, overbroad, and unduly burdensome and seeks documents not reasonably calculated to lead to the discovery of admissible evidence. Global Switch specifically objects to this request to the extent this request seeks information protected by the attorney-client privilege and/or work product immunity. Global Switch specifically objects to this request as overbroad, unduly burdensome, vague and ambiguous, irrelevant and not reasonably calculated to lead to the discovery of admissible evidence in a proceeding before the Trademark Trial and Appeal Board.

REQUEST NO. 21:

Produce complete and accurate copies of any and all documents, materials, or things evidencing Opposer's Marks being used in commerce in the United States in connection with "Business management and administration services in respect of information technology."

RESPONSE:

Global Switch specifically objects to this request as overbroad, unduly burdensome, vague and ambiguous, and not reasonably calculated to lead to the discovery of admissible evidence. Global Switch objects to this request on the ground that the request for "any and all documents, materials, or things evidencing" is unlimited in time, overbroad, and unduly burdensome and seeks documents not reasonably calculated to lead to the discovery of admissible evidence. Global Switch further objects to the terms "in commerce" and "in the United States" as they have different meanings and thus this request is vague and ambiguous. In addition, Global Switch specifically objects to this request to the extent this request seeks information protected by the attorney-client privilege and/or work product immunity. Subject to and without waiving the foregoing specific and general objections, Global Switch states that it shall produce non-privileged documents sufficient to respond to this request, to the extent they exist and are in Global Switch's possession, custody, or control, and can be located through a reasonable search of its files, at a time and place mutually agreed upon by the parties.

REQUEST NO. 22:

Produce complete and accurate copies of any and all documents, materials, or things evidencing Opposer's Marks being used in commerce in the United States in connection with "facilities management, namely controlling building access and systems for security safety, electricity, gas, water, sanitation, telecommunications, internal transportation and environmental control."

RESPONSE:

Global Switch specifically objects to this request as overbroad, unduly burdensome, vague and ambiguous, and not reasonably calculated to lead to the discovery of admissible

evidence. Global Switch objects to this request on the ground that the request for "any and all documents, materials, or things evidencing" is unlimited in time, overbroad, and unduly burdensome and seeks documents not reasonably calculated to lead to the discovery of admissible evidence. Global Switch further objects to the terms "in commerce" and "in the United States" as they have different meanings and thus this request is vague and ambiguous. In addition, Global Switch specifically objects to this request to the extent this request seeks information protected by the attorney-client privilege and/or work product immunity. Subject to and without waiving the foregoing specific and general objections, Global Switch states that it shall produce non-privileged documents sufficient to respond to this request, to the extent they exist and are in Global Switch's possession, custody, or control, and can be located through a reasonable search of its files, at a time and place mutually agreed upon by the parties.

REQUEST NO. 23:

Produce complete and accurate copies of any and all documents, materials, or things evidencing Opposer's Marks being used in commerce in the United States in connection with "Leasing of real estate; real estate brokerage; real estate management; electronic funds transfer; leasing of building space and operation facilities for telecommunications, multimedia and computing equipment and services; [or] provision of information on any of the foregoing."

RESPONSE:

Global Switch specifically objects to this request as overbroad, unduly burdensome, vague and ambiguous, and not reasonably calculated to lead to the discovery of admissible evidence. Global Switch objects to this request on the ground that the request for "any and all documents, materials, or things evidencing" is unlimited in time, overbroad, and unduly burdensome and seeks documents not reasonably calculated to lead to the discovery of admissible evidence. Global Switch further objects to the terms "in commerce" and "in the United States" as they have different meanings and thus this request is vague and ambiguous. In

addition, Global Switch specifically objects to this request to the extent this request seeks information protected by the attorney-client privilege and/or work product immunity. Subject to and without waiving the foregoing specific and general objections, Global Switch states that it shall produce non-privileged documents sufficient to respond to this request, to the extent they exist and are in Global Switch's possession, custody, or control, and can be located through a reasonable search of its files, at a time and place mutually agreed upon by the parties.

REQUEST NO. 24:

Produce complete and accurate copies of any and all documents, materials, or things evidencing Opposer's Marks being used in commerce in the United States in connection with "Maintenance and repair of buildings and building services; installation, maintenance and repair of electrical and electronic equipment, telecommunications equipment, multimedia equipment and computer equipment; [or] provision of information on any of the foregoing."

RESPONSE:

Global Switch specifically objects to this request as overbroad, unduly burdensome, vague and ambiguous, and not reasonably calculated to lead to the discovery of admissible evidence. Global Switch objects to this request on the ground that the request for "any and all documents, materials, or things evidencing" is unlimited in time, overbroad, and unduly burdensome and seeks documents not reasonably calculated to lead to the discovery of admissible evidence. Global Switch further objects to the terms "in commerce" and "in the United States" as they have different meanings and thus this request is vague and ambiguous. In addition, Global Switch specifically objects to this request to the extent this request seeks information protected by the attorney-client privilege and/or work product immunity. Subject to and without waiving the foregoing specific and general objections, Global Switch states that it shall produce non-privileged documents sufficient to respond to this request, to the extent they

exist and are in Global Switch's possession, custody, or control, and can be located through a reasonable search of its files, at a time and place mutually agreed upon by the parties.

REQUEST NO. 25:

Produce complete and accurate copies of any and all documents, materials, or things evidencing Opposer's Marks being used in commerce in the United States in connection with "Telecommunications and multimedia transmission services, namely, the provision and rental of telecommunications multimedia and computing equipment and links."

RESPONSE:

Global Switch specifically objects to this request as overbroad, unduly burdensome, vague and ambiguous, and not reasonably calculated to lead to the discovery of admissible evidence. Global Switch objects to this request on the ground that the request for "any and all documents, materials, or things evidencing" is unlimited in time, overbroad, and unduly burdensome and seeks documents not reasonably calculated to lead to the discovery of admissible evidence. Global Switch further objects to the terms "in commerce" and "in the United States" as they have different meanings and thus this request is vague and ambiguous. In addition, Global Switch specifically objects to this request to the extent this request seeks information protected by the attorney-client privilege and/or work product immunity. Subject to and without waiving the foregoing specific and general objections, Global Switch states that it shall produce non-privileged documents sufficient to respond to this request, to the extent they exist and are in Global Switch's possession, custody, or control, and can be located through a reasonable search of its files, at a time and place mutually agreed upon by the parties.

REQUEST NO. 26:

Produce complete and accurate copies of any and all documents, materials, or things evidencing Opposer's Marks being used in commerce in the United States in connection with "Application Provider Services, namely, hosting computer software, telecommunication and multimedia applications of others; [or] telecommunications security and monitoring services."

RESPONSE:

Global Switch specifically objects to this request as overbroad, unduly burdensome, vague and ambiguous, and not reasonably calculated to lead to the discovery of admissible evidence. Global Switch objects to this request on the ground that the request for "any and all documents, materials, or things evidencing" is unlimited in time, overbroad, and unduly burdensome and seeks documents not reasonably calculated to lead to the discovery of admissible evidence. Global Switch further objects to the terms "in commerce" and "in the United States" as they have different meanings and thus this request is vague and ambiguous. In addition, Global Switch specifically objects to this request to the extent this request seeks information protected by the attorney-client privilege and/or work product immunity. Subject to and without waiving the foregoing specific and general objections, Global Switch states that it shall produce non-privileged documents sufficient to respond to this request, to the extent they exist and are in Global Switch's possession, custody, or control, and can be located through a reasonable search of its files, at a time and place mutually agreed upon by the parties.

REQUEST NO. 27:

Produce complete and accurate copies of any and all documents, materials, or things evidencing Opposer's Marks being used in commerce in the United States in connection with "computer programming services; rental of computer hardware and software; provision of building space and operation facilities for computers; operation of computer and multimedia equipment for others; providing of catering facilities."

RESPONSE:

Global Switch specifically objects to this request as overbroad, unduly burdensome, vague and ambiguous, and not reasonably calculated to lead to the discovery of admissible evidence. Global Switch objects to this request on the ground that the request for "of any and all documents, materials, or things evidencing" is unlimited in time, overbroad, and unduly burdensome and seeks documents not reasonably calculated to lead to the discovery of

admissible evidence. Global Switch further objects to the terms "in commerce" and "in the United States" as they have different meanings and thus this request is vague and ambiguous. In addition, Global Switch specifically objects to this request to the extent this request seeks information protected by the attorney-client privilege and/or work product immunity. Subject to and without waiving the foregoing specific and general objections, Global Switch states that it shall produce non-privileged documents sufficient to respond to this request, to the extent they exist and are in Global Switch's possession, custody, or control, and can be located through a reasonable search of its files, at a time and place mutually agreed upon by the parties.

REQUEST NO. 28:

Produce complete and accurate copies of any and all documents, materials, or things evidencing any and all licenses that Opposer has showing that Opposer is duly licensed to do business in the U.S.

RESPONSE:

Global Switch specifically objects to this request as overbroad, unduly burdensome, vague and ambiguous, and not reasonably calculated to lead to the discovery of admissible evidence. Global Switch objects to this request on the ground that the request for "any and all documents, materials, or things evidencing" is unlimited in time, overbroad, and unduly burdensome and seeks documents not reasonably calculated to lead to the discovery of admissible evidence. In addition, Global Switch specifically objects to this request to the extent this request seeks information protected by the attorney-client privilege and/or work product immunity. Global Switch objects to this request as irrelevant to the question of trademark or service mark use and the proceedings before the Board, and therefore is unlikely to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing specific and general objections, Global Switch states that it shall produce non-privileged documents sufficient

to respond to this request, to the extent they exist and are in Global Switch's possession, custody, or control, and can be located through a reasonable search of its files, at a time and place mutually agreed upon by the parties.

REQUEST NO. 29:

Produce complete and accurate copies of any and all documents, materials, or things evidencing that Opposer is duly licensed in the U.S. as a provider and/or reseller of telecommunications services, including without limitation, any FCC domestic or international 214 authorizations.

RESPONSE:

Global Switch objects to this request as overly broad, unduly burdensome, and vague and ambiguous. Global Switch objects to this request on the ground that the request for "any and all documents, materials, or things evidencing" is unlimited in time, overbroad, and unduly burdensome and seeks documents not reasonably calculated to lead to the discovery of admissible evidence. In addition, Global Switch specifically objects to this request to the extent this request seeks irrelevant information not reasonably calculated to lead to the discovery of admissible evidence. In addition, Global Switch specifically objects to this request to the extent this request seeks information protected by the attorney-client privilege and/or work product immunity. Global Switch objects to this request as irrelevant to the question of trademark or service mark use and the proceedings before the Board, and therefore is unlikely to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing specific and general objections, Global Switch states that it shall produce non-privileged documents sufficient to respond to this request, to the extent they exist and are in Global Switch's possession, custody, or control, and can be located through a reasonable search of its files, at a time and place mutually agreed upon by the parties.

REQUEST NO. 30:

Produce complete and accurate copies of any and all documents, materials, or things evidencing that Opposer is duly licensed in the U.S. to sell and/or provide any of the goods and services listed in the registrations for Opposer's Marks.

RESPONSE:

Global Switch objects to this request as overly broad, unduly burdensome, and vague and ambiguous. Global Switch objects to this request on the ground that the request for "any and all documents, materials, or things evidencing" is unlimited in time, overbroad, and unduly burdensome and seeks documents not reasonably calculated to lead to the discovery of admissible evidence. In addition, Global Switch specifically objects to this request as calling for irrelevant information not reasonably calculated to lead to the discovery of admissible evidence. In addition, Global Switch specifically objects to this request to the extent this request seeks information protected by the attorney-client privilege and/or work product immunity. Global Switch objects to this request as irrelevant to the question of trademark or service mark use and the proceedings before the Board, and therefore is unlikely to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing specific and general objections, Global Switch states that it shall produce non-privileged documents sufficient to respond to this request, to the extent they exist and are in Global Switch's possession, custody, or control, and can be located through a reasonable search of its files, at a time and place mutually agreed upon by the parties.

REQUEST NO. 31:

Produce complete and accurate copies of any and all documents, materials, or things evidencing any licenses You have granted regarding the use of Opposer's Marks in the U.S. to any person or entity since 2001 to the present.

RESPONSE:

Global Switch objects to this request as overly broad, unduly burdensome, and vague and ambiguous. Global Switch objects to this request on the ground that the request for "any and all documents, materials, or things evidencing" is unlimited in time, overbroad, and unduly burdensome and seeks documents not reasonably calculated to lead to the discovery of admissible evidence. In addition, Global Switch specifically objects to this request as calling for irrelevant information not reasonably calculated to lead to the discovery of admissible evidence. In addition, Global Switch specifically objects to this request to the extent this request seeks information protected by the attorney-client privilege and/or work product immunity. Subject to and without waiving the foregoing specific and general objections, Global Switch states that it shall produce non-privileged documents sufficient to respond to this request, to the extent they exist and are in Global Switch's possession, custody, or control, and can be located through a reasonable search of its files, at a time and place mutually agreed upon by the parties.

REQUEST NO. 32:

Produce complete and accurate copies of any and all documents, materials, or things evidencing each U.S. State within which Opposer has been qualified to do business as a foreign entity since 2001 until the present.

RESPONSE:

Global Switch objects to this request as overly broad, unduly burdensome, and vague and ambiguous. Global Switch objects to this request on the ground that the request for "any and all documents, materials, or things evidencing" is unlimited in time, overbroad, and unduly burdensome and seeks documents not reasonably calculated to lead to the discovery of admissible evidence. In addition, Global Switch specifically objects to this request as calling for irrelevant information not reasonably calculated to lead to the discovery of admissible evidence. In addition, Global Switch specifically objects to this request to the extent this request seeks

information protected by the attorney-client privilege and/or work product immunity. Global Switch objects to this request as irrelevant to the question of trademark or service mark use and the proceedings before the Board, and therefore is unlikely to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing specific and general objections, Global Switch states that it shall produce non-privileged documents sufficient to respond to this request, to the extent they exist and are in Global Switch's possession, custody, or control, and can be located through a reasonable search of its files, at a time and place mutually agreed upon by the parties.

REQUEST NO. 33:

Produce complete and accurate copies of any and all documents, materials, or things evidencing each U.S. entity owned and/or controlled by Opposer since 2001 up and until the present.

RESPONSE:

Global Switch objects to this request as overly broad, unduly burdensome, and vague and ambiguous. Global Switch objects to this request on the ground that the request for "any and all documents, materials, or things evidencing" is unlimited in time, overbroad, and unduly burdensome and seeks documents not reasonably calculated to lead to the discovery of admissible evidence. In addition, Global Switch specifically objects to this request as calling for irrelevant information not reasonably calculated to lead to the discovery of admissible evidence. In addition, Global Switch specifically objects to this request to the extent this request seeks information protected by the attorney-client privilege and/or work product immunity. Global Switch objects to this request as irrelevant to the question of trademark or service mark use and the proceedings before the Board, and therefore is unlikely to lead to the discovery of admissible evidence.

REQUEST NO. 34:

Produce complete and accurate copies of any and all documents, materials, or things evidencing filings made by Opposer with the Federal Communications Commission and with any state telecommunications regulatory authority.

RESPONSE:

Global Switch objects to this request as overly broad, unduly burdensome, and vague and ambiguous. Global Switch objects to this request on the ground that the request for "any and all documents, materials, or things evidencing" is unlimited in time, overbroad, and unduly burdensome and seeks documents not reasonably calculated to lead to the discovery of admissible evidence. In addition, Global Switch specifically objects to this request as calling for irrelevant information not reasonably calculated to lead to the discovery of admissible evidence. In addition, Global Switch specifically objects to this request to the extent this request seeks information protected by the attorney-client privilege and/or work product immunity. Global Switch objects to this request as irrelevant to the question of trademark or service mark use and the proceedings before the Board, and therefore is unlikely to lead to the discovery of admissible evidence.

REQUEST NO. 35:

Produce complete and accurate copies of any and all documents, materials, or things, including without limitation, network diagrams and the like, evidencing the physical facilities owned or controlled by Opposer in the U.S. that are utilized in connection with the provision of any telecommunications service in the U.S.

RESPONSE:

Global Switch objects to this request as overly broad, unduly burdensome, and vague and ambiguous. Global Switch objects to this request on the ground that the request for "any and all documents, materials, or things... evidencing" is unlimited in time, overbroad, and unduly burdensome and seeks documents not reasonably calculated to lead to the discovery of

admissible evidence. In addition, Global Switch specifically objects to this request as calling for irrelevant information not reasonably calculated to lead to the discovery of admissible evidence. Global Switch specifically objects on the ground that "telecommunications service" is vague and ambiguous. In addition, Global Switch specifically objects to this request to the extent this request seeks information protected by the attorney-client privilege and/or work product immunity. Subject to and without waiving the foregoing specific and general objections, Global Switch states that it is unaware of documents in its possession, custody, or control sufficient to respond to this request.

REQUEST NO. 36:

Produce complete and accurate copies of any and all documents, materials, or things identifying each telecommunications service provided by Opposer in the U.S.

RESPONSE:

Global Switch objects to this request as overbroad, unduly burdensome, vague and ambiguous, and not reasonably calculated to lead to the discovery of admissible evidence. Global Switch objects to this request on the ground that the request for "any and all documents, materials, or things" is unlimited in time, overbroad, and unduly burdensome and seeks documents not reasonably calculated to lead to the discovery of admissible evidence. Global Switch specifically objects on the ground that "telecommunications service" is vague and ambiguous. In addition, Global Switch specifically objects to this request to the extent this request seeks information protected by the attorney-client privilege and/or work product immunity. Subject to and without waiving the foregoing specific and general objections, Global Switch states that it shall produce non-privileged documents sufficient to respond to this request, to the extent they exist and are in Global Switch's possession, custody, or control, and can be

located through a reasonable search of its files, at a time and place mutually agreed upon by the parties.

REQUEST NO. 37:

Produce complete and accurate copies of any and all documents, materials, or things identifying the facilities-based carrier providing each telecommunications service provided by Opposer in the U.S.

RESPONSE:

Global Switch objects to this request as overbroad, unduly burdensome, vague and ambiguous, and not reasonably calculated to lead to the discovery of admissible evidence. Global Switch objects to this request on the ground that the request for "any and all documents, materials, or things" is unlimited in time, overbroad, and unduly burdensome and seeks documents not reasonably calculated to lead to the discovery of admissible evidence. Global Switch further objects to this request as vague as the term "facilities-based carrier" as vague and ambiguous. Global Switch also objects on the ground that "telecommunications service" is vague and ambiguous. In addition, Global Switch specifically objects to this request to the extent this request seeks information protected by the attorney-client privilege and/or work product immunity. Subject to and without waiving the foregoing specific and general objections, Global Switch states that it shall produce non-privileged documents sufficient to respond to this request, to the extent they exist and are in Global Switch's possession, custody, or control, and can be located through a reasonable search of its files, at a time and place mutually agreed upon by the parties.

REQUEST NO. 38:

Produce complete and accurate copies of any and all agreements pursuant to which telecommunications service provided by Opposer in the U.S. were purchased.

RESPONSE:

Global Switch specifically objects to this request as overbroad, unduly burdensome, vague and ambiguous, and not reasonably calculated to lead to the discovery of admissible evidence. Global Switch objects to this request on the ground that the request for "any and all agreements" is unlimited in time, overbroad, and unduly burdensome and seeks documents not reasonably calculated to lead to the discovery of admissible evidence. In addition, Global Switch specifically objects to this request to the extent this request seeks information protected by the attorney-client privilege and/or work product immunity. Subject to and without waiving the foregoing specific and general objections, Global Switch states that it shall produce non-privileged documents sufficient to respond to this request, to the extent they exist and are in Global Switch's possession, custody, or control, and can be located through a reasonable search of its files, at a time and place mutually agreed upon by the parties.

REQUEST NO. 39:

Produce complete and accurate copies of any and all documents, materials, or things evidencing the payment of regulatory fees, including without limitation, Universal Service Fund charges to the Universal Service Fund Administration Corporation ("USAC") or to any state agency responsible for the collection of universal service or similar charges.

RESPONSE:

Global Switch specifically objects to this request as overbroad, unduly burdensome, vague and ambiguous, and not reasonably calculated to lead to the discovery of admissible evidence. Global Switch objects to this request on the ground that the request for "any and all documents, materials, or things evidencing" is unlimited in time, overbroad, and unduly burdensome and seeks documents not reasonably calculated to lead to the discovery of admissible evidence. In addition, Global Switch specifically objects to this request to the extent this request seeks information protected by the attorney-client privilege and/or work product

immunity. Global Switch objects to this request as irrelevant to the question of trademark or service mark use and the proceedings before the Board, and therefore is unlikely to lead to the discovery of admissible evidence.

REQUEST NO. 40:

Produce complete and accurate copies of any and all documents, materials, or things evidencing the payment of sales taxes associated with the provision of telecommunications services to any federal or state governmental authority.

RESPONSE:

Global Switch objects to this request as overly broad, unduly burdensome, and vague and ambiguous. Global Switch objects to this request on the ground that the request for "any and all documents, materials, or things evidencing" is unlimited in time, overbroad, and unduly burdensome and seeks documents not reasonably calculated to lead to the discovery of admissible evidence. In addition, Global Switch specifically objects to this request as calling for irrelevant information not reasonably calculated to lead to the discovery of admissible evidence. In addition, Global Switch specifically objects to this request to the extent this request seeks information protected by the attorney-client privilege and/or work product immunity. Global Switch objects to this request as irrelevant to the question of trademark or service mark use and the proceedings before the Board, and therefore is unlikely to lead to the discovery of admissible evidence.

REQUEST NO. 41:

Produce complete and accurate copies of any and all documents, materials and things relating to or evidencing the identities of purchasers of the products and/or services identified by Opposer's Marks.

RESPONSE:

Global Switch specifically objects to this request as overly broad and unduly burdensome. Global Switch objects to this request on the ground that the request for "any and all documents, materials and things relating to or evidencing" is unlimited in time, overbroad, and unduly burdensome and seeks documents not reasonably calculated to lead to the discovery of admissible evidence. In addition, Global Switch specifically objects to this request to the extent this request seeks information protected by the attorney-client privilege and/or work product immunity. Subject to and without waiving the foregoing specific and general objections, Global Switch states that it shall produce non-privileged documents sufficient to respond to this request, to the extent they exist and are in Global Switch's possession, custody, or control, and can be located through a reasonable search of its files, at a time and place mutually agreed upon by the parties.

REQUEST NO. 42:

Produce complete and accurate copies of any and all documents, materials, or things evidencing the invoices or similar documents issued to customers located in the U.S. that allegedly receive telecommunications services from Opposer in the United States.

RESPONSE:

Global Switch specifically objects to this request as overly broad and unduly burdensome. Global Switch objects to this request on the ground that the request for "any and all documents, materials, or things evidencing" is unlimited in time, overbroad, and unduly burdensome and seeks documents not reasonably calculated to lead to the discovery of admissible evidence. In addition, Global Switch specifically objects to this request to the extent this request seeks information protected by the attorney-client privilege and/or work product immunity. Subject to and without waiving the foregoing specific and general objections, Global Switch states that it shall produce non-privileged documents sufficient to respond to this request,

to the extent they exist and are in Global Switch's possession, custody, or control, and can be located through a reasonable search of its files, at a time and place mutually agreed upon by the parties.

REQUEST NO. 43:

Produce complete and accurate copies of any and all documents, materials, or things evidencing all payments received by Opposer from customers located in the U.S. that allegedly receive telecommunications services from Opposer in the United States.

RESPONSE:

Global Switch specifically objects to this request as overly broad and unduly burdensome. Global Switch objects to this request on the ground that the request for "any and all documents, materials, or things evidencing" is unlimited in time, overbroad, and unduly burdensome and seeks documents not reasonably calculated to lead to the discovery of admissible evidence. In addition, Global Switch specifically objects to this request to the extent this request seeks information protected by the attorney-client privilege and/or work product immunity. Subject to and without waiving the foregoing specific and general objections, Global Switch states that it shall produce non-privileged documents sufficient to respond to this request, to the extent they exist and are in Global Switch's possession, custody, or control, and can be located through a reasonable search of its files, at a time and place mutually agreed upon by the parties.

January 26, 2015

Respectfully Submitted,

David S. Fleming
Christopher M. Dolan
Andrew J. Avsec

Brinks Gilson & Lione
NBC Tower – Suite 3600
455 N. Cityfront Plaza Drive
Chicago, Illinois 60611
dfleming@brinksgilson.com
cdolan@brinksgilson.com
aavsec@brinksgilson.com

Attorneys for Opposer

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing **RESPONSE TO APPLICANT'S FIRST SET OF REQUESTS FOR PRODUCTION** has been served on Applicant's counsel by mailing said copy on January 26, 2015, via First Class Mail, postage prepaid, to:

Lauri S. Thompson
3773 Howard Hughes Parkway
Suite 400 North
Las Vegas, Nevada 89169