

ESTTA Tracking number: **ESTTA668728**

Filing date: **04/24/2015**

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

Proceeding	91218930
Party	Plaintiff University of Oregon
Correspondence Address	KEVIN M HAYES KLARQUIST SPARKMAN LLP ONE WORLD TRADE CENTER SUITE 1600, 121 SW SALMON STREET PORTLAND, OR 97204 UNITED STATES ptotmdocket@klarquist.com, kevin.hayes@klarquist.com
Submission	Motion to Compel Discovery
Filer's Name	Kevin M. Hayes
Filer's e-mail	ptotmdocket@klarquist.com, kevin.hayes@klarquist.com
Signature	/Kevin M. Hayes/
Date	04/24/2015
Attachments	Oregon_s Motion to Compel Discovery.pdf(113730 bytes) Declaration in Support of Motion to Compel with Exhibits 1-9.pdf(614565 bytes)

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

University of Oregon,)	
)	
Opposer,	)	OREGON'S MOTION TO COMPEL
v.	)	RESPONSES TO ITS FIRST SET OF
	)	REQUESTS FOR PRODUCTION OF
Capital Nine, Inc.,	)	DOCUMENTS AND THINGS AND
	)	INTERROGATORIES
)	
Applicant.	)	Opposition No.: 91218930
	)	App. No. 86239079
)	

OREGON'S MOTION TO COMPEL DISCOVERY

COMMISSIONER FOR TRADEMARKS
P.O. BOX 1451
ALEXANDRIA, VA 22313

Oregon has made a good faith effort to resolve this issue through correspondence and meeting and conferring with Capital Nine's counsel in compliance with 37 CFR §2.120(e)(1). However, Capital Nine has not responded to Oregon's discovery requests nor agreed to produce the requested discovery. Since Capital Nine has failed to resolve this matter with Oregon without the Board's involvement, Oregon has been forced to move to compel Capital Nine to respond to discovery. Pursuant to 37 CFR § 2.120(e) and Fed. R. Civ. P. 37, Oregon moves to compel discovery from Capital Nine, without objection, as follows:

- A. Production of documents and things in response to Opposer's First Set of Requests for Production of Documents and Things Nos. 1-2; and
- B. Answers to Opposer's First Set of Interrogatories Nos. 1-2.

**OREGON'S MEMORANDUM IN SUPPORT
OF ITS MOTION TO COMPEL DISCOVERY**

Capital Nine has failed to respond to the University of Oregon's ("Oregon") discovery requests despite responses being due last month. Oregon's first set of requests for the production of documents and things and its first set of interrogatories were served on February 17, 2015. Responses were due to be served by March 24, 2015 (accounting for the TTAB's 5 extra days due to mailing). *Declaration of Kevin Hayes*, ¶2. Accordingly, Oregon moves to compel responses, without objection.¹ Copies of the requests are attached as Exhibit 1 and 2 to the Declaration of Kevin Hayes in compliance with 37 C.F.R. § 2.120(e)(1).

Oregon has conferred with Applicant concerning its failure to respond to discovery, to no avail. In this regard, Oregon sent the attached emails to Capital Nine's counsel on March 27, April 1, April 8, and April 17 and sent the attached letter to Capital Nine's counsel on April 3, 2015 seeking to meet and confer. Capital Nine's counsel acknowledged receipt of the letter on April 8, 2015. *See Declaration of Kevin Hayes*, ¶¶3-5 (Exhibits 3-8). Capital Nine's counsel finally met and conferred with Oregon's counsel on April 21, but Capital Nine did not agree to produce any of the requested discovery. *See Declaration of Kevin Hayes*, ¶¶6-8 (Exhibit 9).

The only logical conclusion is that Capital Nine is willfully refusing to engage in discovery.

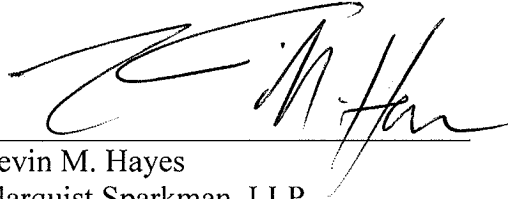
¹ The Board has held on numerous occasions that a party's failure to timely respond to discovery requests, constitutes a waiver of any objections thereto. *E.g., D.K. Jain d/b/a Luxor Pen Co. v. Ramparts, Inc.*, 49 U.S.P.Q. 2d 1429, n. 8 (TTAB 1998) ("[I]n view of applicant's initial failure to serve timely answers or objections to opposer's discovery requests, that applicant has waived its right to object to opposer's interrogatories and must respond to those interrogatories fully and without objection."): *Giant Food Inc. v. Standard Terry Mills, Inc.*, 229 U.S.P.Q. 955 (TTAB 1986) (ordering answers to the "first set of interrogatories as put, that is, without objection" because the answering party failed to timely respond to the interrogatories).

In view of the foregoing, Oregon requests that the Board compel Capital Nine to respond without objection and within 15 days to Oregon's: 1) First Set of Requests for Production of Documents and Things Nos. 1-2; and 2) First Set of Interrogatories Nos. 1-3.

Dated: April 24, 2015

Respectfully submitted,

By

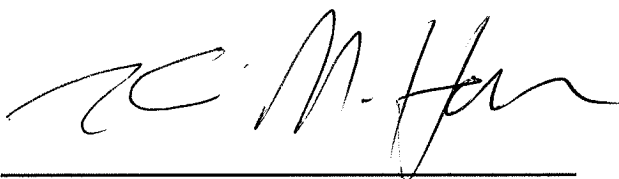


Kevin M. Hayes
Klarquist Sparkman, LLP
One World Trade Center, Suite 1600
121 S.W. Salmon Street
Portland, Oregon 97204
Telephone: (503) 226-7391
Attorneys for Opposer

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on April 24, 2015, a true copy of the foregoing **OREGON'S MOTION TO COMPEL** was served on Applicant at the address of its counsel, by first mail, postage prepaid, to:

Richard E. Billion, Esq.
Billion & Armitage
7401 Metro Blvd., Suite 425
Minneapolis, MN 55439

A handwritten signature in black ink, appearing to read "K. M. Hayes", written over a horizontal line.

Kevin M. Hayes

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

University of Oregon,)	
)	
Opposer,	)	Declaration of Kevin Hayes In Support of
v.	)	Oregon's Motion to Compel
)	
	)	Opposition No.: 91218930
Capital Nine, Inc.,	)	App. No. 86239079
)	
)	
Applicant.)	
)	
)	

DECLARATION OF KEVIN HAYES

I, Kevin M. Hayes, declare as follows:

1. I am an attorney with the law firm Klarquist Sparkman, LLP, counsel in this case for Opposer, University of Oregon ("Oregon").
2. Oregon served Opposer's First Set of Requests for Production of Documents and Things Nos. 1-2 and Opposer's First Set of Interrogatories Nos. 1-2 on Capital Nine on February 17, 2015. Capital Nine has not served responses to those discovery requests. Copies of these requests are attached as Exhs. 1 and 2.
3. I sent Mr. Richard Billion emails on March 27, April 1, April 8, and April 17 seeking responses and to confer about this case. True and correct copies of those emails are attached as Exhs. 3-6.
4. I sent Mr. Billion a letter seeking discovery or to meet and confer on April 3, 2015. A true and correct copy of this letter is attached as Exh. 7.
5. Mr. Billion acknowledged receipt of the letter on April 8, 2015, via

email. A true and correct copy of this email is attached as Exh. 8.

6. Mr. Billion finally contacted me on April 21, 2015, to discuss this case. We were able to meet and confer then, nearly a month after we began seeking what would have been late responses to Oregon's discovery requests.

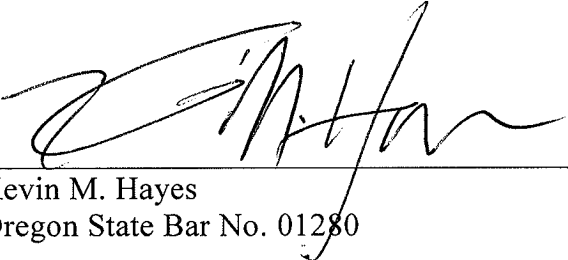
7. We were unable to resolve the discovery dispute because Mr. Billion's client had not authorized him to agree to produce any discovery.

8. Mr. Billion followed up our conversation with an email noting that we had met and conferred. A true and correct copy of that email is attached as Exh. 9.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on April 24, 2015.

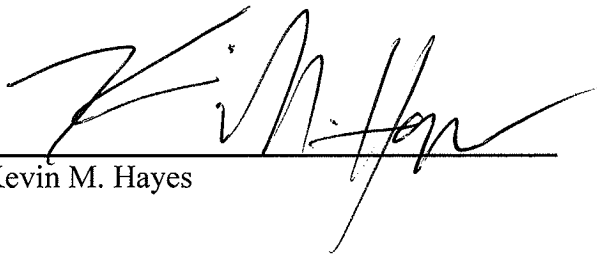
By: _____


Kevin M. Hayes
Oregon State Bar No. 01280

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on April 24, 2015, a true copy of the foregoing **DECLARATION OF KEVIN HAYES** was served on Applicant at the address of its counsel, by first mail, postage prepaid, to:

Richard E. Billion, Esq.
Billion & Armitage
7401 Metro Blvd., Suite 425
Minneapolis, MN 55439



Kevin M. Hayes

EXHIBIT 1

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

University of Oregon,)	
)	
	)	Opposer,
v.)	
	)	Capital Nine, Inc.,
)	
	)	Applicant.
)	

) OPPOSER'S FIRST SET OF REQUESTS
) FOR PRODUCTION OF DOCUMENTS
) AND THINGS)
) Opposition No.: 91218930
) App. No. 86239079

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

Pursuant to 37 C.F.R. § 2.120, and Fed. R. Civ. P. 34, Opposer University of Oregon, requests that Applicant, Capital Nine, Inc., produce the documents and things specified for production herein within 30 days for inspection and copying at the office of Klarquist Sparkman, LLP, One World Trade Center, 121 S.W. Salmon Street, Suite 1600, Portland, Oregon 97204, or such other place as mutually agreed to by counsel.

DEFINITIONS

For purposes of these requests:

- A. The term "U of O" refers to Opposer, University of Oregon.
- B. The term "Capital Nine" refers to Applicant, Capital Nine, Inc.
- C. The terms "person" and "persons" mean both natural persons and legal entities (e.g., corporations or other business entities). Unless noted otherwise, references to any person, entity or party include its, his or her agents, attorneys, employees, employers, officers, directors or others acting on behalf of said person, entity or party.
- D. The terms "writings," "recordings," or "documents" as used herein are used in their broadest sense and include, without limitation, the original and all non-identical copies of all documents of the types designated in Rule 34(a) of the Federal Rules of Civil Procedure and all writings and recordings as those terms are defined by Rule 1001 of the Federal Rules of Evidence. The term "document" shall include without limitation any book, pamphlet, periodical,

letter, record, memorandum, diary, file, note, calendar, newspaper, magazine, statement, bill, invoice, order, policy, telegram, correspondence, summary, receipt, opinion, investigation statement or report, schedule, manual, financing statement, audit report, report, record, study, handwritten note, drawing, working paper, chart, index, tape (audio or visual), microfilm, data sheet, e-mail, facsimile and all other electronic and digital forms of communication, however produced.

E. The term “opposed application” means and refers to trademark Application Serial No. 86239079. The “opposed mark” and “the mark of the opposed application” means the mark of the same, i.e., RUN OREGON. The term “Applicant’s goods” refers to the goods of Application Serial No. 86239079 (Athletic apparel, namely, shirts, pants, jackets, footwear, hats and caps, athletic uniforms; Body shirts; Clothing for babies, toddlers and children, treated with fire and heat retardants, namely, pajamas, jackets, shirts, pants, jumpers; Hooded sweat shirts; Long-sleeved shirts; Moisture-wicking sports shirts; Shirts and short-sleeved shirts; Short-sleeved or long-sleeved t-shirts; Short-sleeved shirts; Sport shirts; Sports shirts; Sports shirts with short sleeves; Sweat shirts; T-shirts; Tee shirts; Triathlon clothing, namely, triathlon tights, triathlon shorts, triathlon singlets, triathlon shirts, triathlon suits; Wearable garments and clothing, namely, shirts; Wind shirts; Yoga shirts).

F. As used herein, use of a mark “on” goods or services means: a) on goods – when the mark is placed in any manner on the goods or their containers or the displays associated therewith or on the tags or labels affixed thereto, or on documents associated with the goods or their sale and the goods are sold or transported in commerce; and b) on services – when the mark is used or displayed in the sale or advertising of services.

INSTRUCTIONS

A. These document requests call for all documents within the scope of the requests that are known or available to Capital Nine, including all documents in the possession of or available to Capital Nine’s attorneys, agents, employees or representatives, or any investigators or any other person acting on behalf of Capital Nine or under the direction or control of Capital Nine or its attorneys or agents.

B. If Applicant withholds any documents responsive, in whole or in part, to any

document request on the basis of privilege or immunity from discovery, identify: (1) the privilege or immunity asserted; (2) all documents or things which contain or refer to the withheld document; (3) all individuals having knowledge of the document or the information contained therein; (4) the subject matter and general nature of the document; and (5) all facts which support the assertion of privilege or immunity.

DOCUMENTS AND THINGS TO BE PRODUCED

DOCUMENT REQUEST NO. 1:

Please produce all documents and things showing Capital Nine's *bona fide* intent to use the mark RUN OREGON as of April 1, 2014, on each of athletic apparel, namely, shirts, pants, jackets, footwear, hats and caps, athletic uniforms; Body shirts; Clothing for babies, toddlers and children, treated with fire and heat retardants, namely, pajamas, jackets, shirts, pants, jumpers; Hooded sweat shirts; Long-sleeved shirts; Moisture-wicking sports shirts; Shirts and short-sleeved shirts; Short-sleeved or long-sleeved t-shirts; Short-sleeved shirts; Sport shirts; Sports shirts; Sports shirts with short sleeves; Sweat shirts; T-shirts; Tee shirts; Triathlon clothing, namely, triathlon tights, triathlon shorts, triathlon singlets, triathlon shirts, triathlon suits; Wearable garments and clothing, namely, shirts; Wind shirts; Yoga shirts

RESPONSE TO REQUEST NO. 1:

DOCUMENT REQUEST NO. 2:

Please produce all documents and things comprising agreements in which Capital Nine licenses a third party to use the mark RUN OREGON as of April 1, 2014, on each of athletic apparel, namely, shirts, pants, jackets, footwear, hats and caps, athletic uniforms; Body shirts; Clothing for babies, toddlers and children, treated with fire and heat retardants, namely, pajamas, jackets, shirts, pants, jumpers; Hooded sweat shirts; Long-sleeved shirts; Moisture-wicking sports shirts; Shirts and short-sleeved shirts; Short-sleeved or long-sleeved t-shirts; Short-sleeved shirts; Sport shirts; Sports shirts; Sports shirts with short sleeves; Sweat shirts; T-shirts; Tee shirts; Triathlon clothing, namely, triathlon tights, triathlon shorts, triathlon singlets, triathlon shirts, triathlon suits; Wearable garments and clothing, namely, shirts; Wind shirts; Yoga shirts


RESPONSE TO REQUEST NO. 2:

Dated: February 17, 2015

Respectfully submitted,

One World Trade Center, Suite 1600
121 S.W. Salmon Street
Portland, Oregon 97204
Telephone: (503) 595-5300
Facsimile: (503) 595-5301

KLARQUIST SPARKMAN, LLP

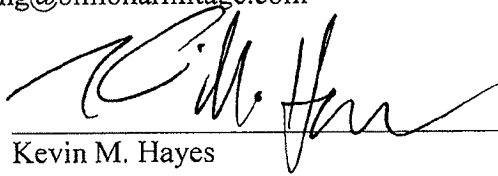
By 

Kevin M. Hayes
Oregon State Bar No. 01280

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on February 17, 2015, a true copy of the foregoing OPPOSER'S FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS AND THINGS was served on Applicant by first class mail, postage prepaid to:

Richard E Billion
Billion & Armitage
7401 Metro Blvd, Ste 425
Minneapolis, MN 55439-3011
Docketing@billionarmitage.com



Kevin M. Hayes

EXHIBIT 2

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

University of Oregon,)	
)	
Opposer,	)	OPPOSER’S FIRST SET OF
v.	)	INTERROGATORIES
	)	Opposition No.: 91218930
Capital Nine, Inc.,	)	App. No. 86239079
)	
Applicant.)	
)	

OPPOSER’S FIRST SET OF INTERROGATORIES

Pursuant to 37 C.F.R. § 2.120 and Rules 26 and 33 of the Federal Rules of Civil Procedure, Opposer, University of Oregon, requests that Applicant, Capital Nine, Inc., answer the following interrogatories. Applicant is to respond to these interrogatories in writing, under oath within thirty (30) days from the date of service. These interrogatories are deemed to be continuing in nature to the full extent required under the Federal Rules so as to require a prompt supplemental answer should Plaintiff obtain further information relating thereto between the time the answers are served and the time of trial.

DEFINITIONS

For purposes of these requests:

- A. The term “U of O” refers to Opposer, University of Oregon.
- B. The terms “Capital Nine” and “Applicant” refer to Applicant, Capital Nine, Inc..
- C. The terms “person” and “persons” mean both natural persons and legal entities (*e.g.*, corporations or other business entities). Unless noted otherwise, references to any person, entity or party include its, his or her agents, attorneys, employees, employers, officers, directors or others acting on behalf of said person, entity or party.
- D. The terms “writings,” “recordings,” or “documents” as used herein are used in their broadest sense and include, without limitation, the original and all non-identical copies of all documents of the types designated in Rule 34(a) of the Federal Rules of Civil Procedure and all writings and recordings as those terms are defined by Rule 1001 of the Federal Rules of Evidence. The term “document” shall include without limitation any book, pamphlet, periodical,

letter, record, memorandum, diary, file, note, calendar, newspaper, magazine, statement, bill, invoice, order, policy, telegram, correspondence, summary, receipt, opinion, investigation statement or report, schedule, manual, financing statement, audit report, report, record, study, handwritten note, drawing, working paper, chart, index, tape (audio or visual), microfilm, data sheet, e-mail, facsimile and all other electronic and digital forms of communication, however produced.

E. The term "opposed application" means and refers to trademark Application Serial No. 86239079. The "opposed mark" and "the mark of the opposed application" means the mark of the same, i.e., RUN OREGON. The term "Applicant's goods" refers to the goods of Application Serial No. 86239079 (Athletic apparel, namely, shirts, pants, jackets, footwear, hats and caps, athletic uniforms; Body shirts; Clothing for babies, toddlers and children, treated with fire and heat retardants, namely, pajamas, jackets, shirts, pants, jumpers; Hooded sweat shirts; Long-sleeved shirts; Moisture-wicking sports shirts; Shirts and short-sleeved shirts; Short-sleeved or long-sleeved t-shirts; Short-sleeved shirts; Sport shirts; Sports shirts; Sports shirts with short sleeves; Sweat shirts; T-shirts; Tee shirts; Triathlon clothing, namely, triathlon tights, triathlon shorts, triathlon singlets, triathlon shirts, triathlon suits; Wearable garments and clothing, namely, shirts; Wind shirts; Yoga shirts).

F. As used herein, use of a mark "on" goods or services means: a) on goods – when the mark is placed in any manner on the goods or their containers or the displays associated therewith or on the tags or labels affixed thereto, or on documents associated with the goods or their sale and the goods are sold or transported in commerce; and b) on services – when the mark is used or displayed in the sale or advertising of services.

INSTRUCTIONS

1. These interrogatories call for information (including any information contained in or on any document or thing) that is known or available to Applicant, or in its possession, custody or control including all information known or available to, or in the possession, custody or control of, Applicant's attorneys, agents, representatives, investigators or any other person acting on behalf of Applicant or under the direction or control of Applicant, or its attorneys or agents.

2. If Applicant cannot answer any interrogatory fully and completely after exercising

due diligence to make inquiry and secure the information necessary to do so, please so state and answer each such interrogatory to the fullest extent possible, specify the portion of such interrogatory that Applicant claims it is unable to answer fully and completely, state the facts upon which Applicant relies to support its contention that it is unable to answer that interrogatory fully and completely and state what knowledge, information and belief Applicant has concerning the unanswered portion of each such interrogatory.

3. If Applicant withholds information responsive, in whole or in part, to any interrogatory on any basis, please identify: (a) any privilege or immunity from discovery asserted; (b) all documents or things which contain or refer to the information; (c) all individuals having knowledge of the information; (d) the subject matter and general nature of the information; and (e) all facts which are alleged to support the assertion of privilege or immunity.

4. Whenever Applicant identifies or is asked to describe an event or a chain of events please (1) state the date or dates of each occurrence relevant to the event; (2) identify all individuals having knowledge of any occurrence or aspect of the event, including but not limited to those involved in, witnessing, supervising, controlling, supporting, requesting or otherwise participating in the event; (3) describe the role and contribution of each person identified; (4) describe all related events and all previous or subsequent related attempts whether or not completed and whether or not successful; and (5) describe the motivation and causation for the event.

5. Whenever Applicant is asked to identify a person, please state the person's name, title, address, and telephone number, to the extent known.

6. The use of the singular shall include the plural, and vice versa.

7. These discovery requests are intended as continuing, requiring Applicant to supplement Applicant answers and responses, setting forth any information within the scope of the discovery requests that may be acquired by Applicant or by Applicant employees, agents, attorneys or representatives subsequent to Applicant's original answers, all as required by Federal Rules of Civil Procedure 26 and 33.

INTERROGATORIES

INTERROGATORY NO. 1

Please state Capital Nine's *bona fide* intention as of April 1, 2014, to use the Opposed Mark.

RESPONSE:

INTERROGATORY NO. 2

Please identify each document demonstrating Capital Nine's *bona fide* intention as of April 1, 2014, to use the Opposed Mark.

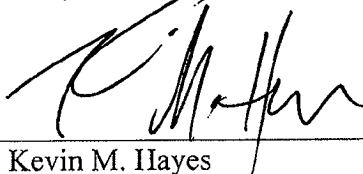
RESPONSE:

Dated: February 17, 2015

Respectfully submitted,

One World Trade Center, Suite 1600
121 S.W. Salmon Street
Portland, Oregon 97204
Telephone: (503) 595-5300
Facsimile: (503) 595-5301

KLARQUIST SPARKMAN, LLP

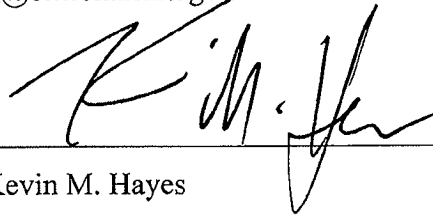
By 

Kevin M. Hayes
Oregon State Bar No. 01280

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on February 17, 2015, a true copy of the foregoing OPPOSER'S FIRST SET OF INTERROGATORIES was served on Applicant by first class mail, postage prepaid to:

Richard E Billion
Billion & Armitage
7401 Metro Blvd, Ste 425
Minneapolis, MN 55439-3011
Docketing@billionarmitage.com



A handwritten signature in black ink, appearing to read "Kevin M. Hayes", is written over a horizontal line. The signature is stylized and cursive.

Kevin M. Hayes

EXHIBIT 3

From: Kevin M. Hayes
Sent: Friday, March 27, 2015 4:16 PM
To: Rich Billion
Cc: Heidi N. Van Baalen
Subject: RE: Capital Nine Inc.'s Trademark Application for RUN OREGON

Dear Mr. Billion:

Capital Nine's discovery responses were due to be served on March 24. We have not received them yet, though we would expect to have received mail sent on March 24 by now.

We assume that Capital Nine has decided not to respond. Thus, it has admitted Oregon's Requests for Admission. However, it must also still answer Oregon's Requests for Production and Interrogatories, although now without objections. Please serve responses right away and send us copies of the response via email to decrease the delay. If Capital Nine will not serve its responses, please let me know a convenient time to meet and confer.

Best regards, Kevin
Kevin Hayes
Klarquist Sparkman, LLP
503-226-7391

EXHIBIT 4

From: Kevin M. Hayes
Sent: Wednesday, April 01, 2015 2:46 PM
To: Rich Billion
Cc: Heidi N. Van Baalen
Subject: RE: Capital Nine Inc.'s Trademark Application for RUN OREGON

Dear Mr. Billion:

Capital Nine's discovery responses were due to be served on March 24. We have not received them yet, though we would expect to have received mail sent on March 24 by now.

Please let me know a convenient time this week to meet and confer.

Best regards, Kevin
Kevin Hayes
Klarquist Sparkman, LLP
503-226-7391

EXHIBIT 5

From: Kevin M. Hayes
Sent: Wednesday, April 08, 2015 1:59 PM
To: Rich Billion
Cc: Heidi N. Van Baalen
Subject: RE: Capital Nine Inc.'s Trademark Application for RUN OREGON opposed by Oregon in Opposition No. 91218930
Attachments: Letter to Billion.pdf; RE: Capital Nine Inc.'s Trademark Application for RUN OREGON

Dear Mr. Billion:

Thank you for acknowledging receipt of our letter of April 3. We have requested a time to meet and confer regarding Capital Nine's failure to serve discovery responses several times to no avail. We believe that we have made a good faith effort to resolve this issue pursuant to 37 CFR 2.120(e).

We would prefer that Capital Nine not force Oregon to go through the Motion to Compel process and that it would sign the settlement proposal that it agreed to (a clean version of which is attached with our email of January 10 – though it would now be counter-offer on Capital Nine's part since the time to accept has passed).

Best regards, Kevin
Kevin Hayes
Klarquist Sparkman, LLP
Main 503-226-7391
Direct 503-473-0863

From: Rich Billion [mailto:rbillion@billionarmitage.com]
Sent: Wednesday, April 08, 2015 11:28 AM
To: Kevin M. Hayes
Subject: letter

Got your letter. Will get them moving.

Richard E. Billion
Billion & Armitage
7401 Metro Blvd, Ste 425
Minneapolis, MN 55439
952-697-2633 (direct dial)//952-697-2630 (office) // 952-697-2631 (fax)
rbillion@billionarmitage.com
www.billionarmitage.com/

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EXHIBIT 6

From: Kevin M. Hayes
Sent: Friday, April 17, 2015 11:04 AM
To: Rich Billion
Cc: Heidi N. Van Baalen
Subject: RE: Capital Nine Inc.'s Trademark Application for RUN OREGON opposed by Oregon in Opposition No. 91218930

Dear Mr. Billion:

We request for the final time that you meet and confer with us. Please call me today.

Best regards, Kevin
Kevin Hayes
Klarquist Sparkman, LLP
Main 503-226-7391
Direct 503-473-0863

Klarquist

April 3, 2015

KEVIN M. HAYES
Attorney
kevin.hayes@klarquist.com

*VIA CERTIFIED MAIL
Return Receipt Requested*

Richard E. Billion, Esq.
Billion & Armitage
7401 Metro Blvd., Suite 425
Minneapolis, MN 55439

RE: University of Oregon v. Capital Nine Inc.
Trademark Opposition No. 91218930 against Pending Trademark Application No.
86239079 for RUN OREGON

Dear Mr. Billion:

Following up on our emails of March 27, 2015, and April 1, 2015, we have not received any response to the University of Oregon's Request for Admission (which are now admitted), Requests for Production, and Interrogatories served on February 17, 2015. Responses were due to be served on Oregon on March 24, 2015 (accounting for the additional days for mailing delay permitted under the TTAB rules). Also, Capital Nine has not responded to our requests on March 27 and April 1, 2015, to meet and confer.

Please respond immediately, or we will have choice but to assume that Capital Nine is willfully avoiding meeting and conferring with us.

Sincerely yours,

KLARQUIST SPARKMAN, LLP



Kevin M. Hayes
kevin.hayes@klarquist.com

KMII:hnv



EXHIBIT 8

From: Rich Billion [mailto:rillion@billionarmitage.com]
Sent: Wednesday, April 08, 2015 11:28 AM
To: Kevin M. Hayes
Subject: letter

Got your letter. Will get them moving.

Richard E. Billion
Billion & Armitage
7401 Metro Blvd, Ste 425
Minneapolis, MN 55439
952-697-2633 (direct dial)//952-697-2630 (office) // 952-697-2631(fax)
rillion@billionarmitage.com
www.billionarmitage.com/

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EXHIBIT 9

From: Rich Billion <rillion@billionarmitage.com>
Sent: Tuesday, April 21, 2015 12:09 PM
To: Kevin M. Hayes
Subject: RE: Capital Nine Inc.'s Trademark Application for RUN OREGON opposed by Oregon in Opposition No. 91218930

Thanks for meeting and conferring.