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

Proceeding	91224422
Party	Plaintiff CareerBuilder, LLC
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Date	09/08/2016
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Application Serial No.:
86/134,485 for TALENTBUILDER

CAREERBUILDER, LLC,

Opposer,

v.

LEE HECHT HARRISON, LLC,

Applicant.

OPPOSITION NO. 91224422

OPPOSER'S MOTION TO COMPEL DISCOVERY
(PUBLIC VERSION)

Pursuant to Federal Rule of Civil Procedure 37(a) and 37 C.F.R. §2.120, Opposer, CareerBuilder, LLC (“CareerBuilder”), hereby requests that the Board enter an order compelling Applicant, Lee Hecht Harrison, LLC, to produce certain documents and information in response to CareerBuilder’s discovery requests and pursuant to Applicant’s obligations under the Federal Rules of Civil Procedure.

On October 19, 2015, CareerBuilder filed a Notice of Opposition against Applicant’s TALENTBUILDER mark (the “Mark”) based on likelihood of confusion with and dilution of CareerBuilder’s famous registered CAREERBUILDER marks and its common-law TALENT NETWORK mark. CareerBuilder was forced to file the Notice of Opposition because Applicant had been unresponsive to CareerBuilder’s proposed settlement terms sent more than six months prior. Applicant filed an Answer on November 30, 2015. Applicant’s counsel repeatedly represented to CareerBuilder’s counsel that the matter could be resolved via settlement, but Applicant made no counter-proposal or any other substantive response to CareerBuilder’s terms.

CareerBuilder nonetheless consented to a Joint Motion for Extension of Time filed on December 8, 2015.

As Applicant continued to obfuscate with regard to settlement terms, CareerBuilder was forced to serve Applicant with Opposer's First Set of Interrogatories, Opposer's First Set of Requests for the Production of Documents, and Opposer's First Set of Requests for Admissions on February 19, 2016. *See* Exs. A and B. CareerBuilder concurrently served Applicant with Opposer's Initial Disclosures. Applicant did not respond to CareerBuilder's discovery requests until April 1, 2016, nearly two weeks after responses were due. *See* Exs. C and D.

As set forth below, several of Applicant's responses to CareerBuilder's Interrogatories are deficient. In addition, Applicant indicated that it would produce various categories of documents but has failed to do so, most importantly with regard to the document upon which Applicant bases its claim of ownership of the Mark. CareerBuilder's counsel immediately notified Applicant's counsel of these deficiencies in Applicant's production. Applicant's counsel represented that Applicant would promptly set forth a substantive settlement proposal and that Applicant "may" produce a redacted version of the central document at issue. CareerBuilder agreed to further extensions on May 4, 2016 and June 28, 2016 with the hope that Applicant would follow through on these commitments. However, Applicant has failed to supplement its production and responses despite CareerBuilder's repeated requests that Applicant comply with its discovery obligations.

CareerBuilder has extended extraordinary patience to Applicant. However, CareerBuilder is not willing to further extend discovery at this time. With discovery now set to close on November 22, 2016, CareerBuilder is forced to file this Motion to Compel Applicant to produce all the relevant and responsive documents it has agreed to produce, or to state that no such

documents exist, and to provide sufficient responses to CareerBuilder's Interrogatories. Without such documents and information, CareerBuilder is unable to proceed in settlement discussions or to a resolution of this Opposition on the merits.

I. LEGAL STANDARD

When this Opposition was filed, Rule 26(b)(1) described the scope of discovery as “any non-privileged matter that is relevant to any party's claim or defense.” Rule 26(b)(1) was amended, effective December 1, 2015, to add a requirement that discovery be “proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties' relative access to relevant information, the parties' resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit.” Fed. R. Civ. P. 26(b)(1). Amended Rule 26(b)(1) is also applicable to already-pending actions to the extent just and practicable. 28 U.S.C. § 2074(a); Sup. Ct. Order April 29, 2015. The provisions of Rule 26 are applicable to Board proceedings. 37 C.F.R. § 2.120(a)(1).

II. RESPONSES TO INTERROGATORIES

As a threshold matter, “[p]arties should avoid over-designation of non-confidential information as confidential.” TBMP § 502.02(c). Here, Applicant designated the entirety of its Responses, including its General Objections, as either confidential or highly confidential. Although CareerBuilder submits Applicant's Responses under seal, CareerBuilder makes no representation as to the propriety of Applicant's designation and requests that the Board compel Applicant to submit Responses that are appropriately designated and address the deficiencies set forth below.

A. Interrogatory No. 4

CareerBuilder's Interrogatory No. 4 requests Applicant to identify, *inter alia*, Applicant's annual volume of sales of products or services under the Mark in the U.S, the classes of purchasers of such products or services, and the channels of trade by which such products or services are offered. Such information relates directly to the likelihood of confusion factors set forth in *In re E.I. du Pont de Nemours & Co.*, 476 F.2d 1357, 177 USPQ 563 (CCPA 1973). In addition, it does not pose an undue burden on Applicant to identify its sales, purchasers and channels of trade. However, Applicant did not provide information regarding purchasers or channels of trade. In its Responses on April 1, 2016, Applicant stated that it is "in the process of determining the annual sales" of products under the Mark and would supplement its response accordingly, but has failed to do so. The Board should set a date by which Applicant must produce a fulsome response to this Interrogatory, including setting forth its sales under the Mark for each year in which Applicant claims use. This date should be set at least 45 days prior to the close of fact discovery to allow Opposer to review the response, and then notice and conduct depositions.

B. Interrogatory No. 17

Interrogatory No. 17 seeks information regarding Applicant's abandonment of the application at issue in October 2014 before petitioning to revive it in December 2014. Applicant objects to this Interrogatory as "argumentative" and further states that it has no responsive knowledge. Applicant's objection is specious, as the Interrogatory merely seeks information relating to an indisputable fact, namely that the instant application was the subject of a Notice of Abandonment mailed on October 14, 2014. The information requested is at least relevant to determining the purported value of Applicant's proclaimed rights in the Mark. Applicant's claim

not to have knowledge is not credible, as Applicant was the owner of the application at the time. Accordingly, the Board should compel Applicant to provide a substantive response.

C. Interrogatory No. 21

Interrogatory No. 21 requests that Applicant identify the date upon which it began use of the Mark. Applicant's priority date is plainly relevant to these proceedings, and the length of Applicant's use of the Mark also relates to the *du Pont* factors. Applicant responds that it "at present ... does not know the exact date." CareerBuilder does not seek to force Applicant to speculate as to an exact date. However, Applicant should, at a minimum, be compelled to provide the earliest date of use that it can support with evidence.

III. RESPONSES TO REQUESTS FOR PRODUCTION

As with Applicant's Interrogatory responses, Applicant has designated its entire response to CareerBuilder's Requests for Production as confidential. CareerBuilder submits Applicant's Requests under seal but makes no representation as to the propriety of Applicant's designation. Moreover, Applicant's responses to CareerBuilder's Requests for Production are deficient in many respects, including several Requests for which Applicant has agreed to produce responsive documents but has failed to do so. CareerBuilder requests that Applicant be compelled to produce such documents by a date certain or to affirmatively state that no such documents exist. The date for production should be set at least 45 days prior to the close of fact discovery to allow Opposer to review the documents, and then notice and conduct depositions.

A. Request No. 2

CareerBuilder's Request for Production No. 2 seeks documents sufficient to identify, *inter alia*, Applicant's first client for each product or service under the Mark or the TALENT BUILDER mark. As set forth above, Applicant's date(s) of first use and types of purchasers are

relevant to both the issue of priority and to the *du Pont* factors. These issues are central to this action, and CareerBuilder's Request is both proportional and not unduly burdensome. Applicant agreed to produce responsive documents but has not done so, nor has Applicant produced responsive documents concerning the TALENT BUILDER mark. The Board should compel Applicant to produce such documents by a date certain or to affirmatively state that no such documents exist. The date for production should be set at least 45 days prior to the close of fact discovery to allow Opposer to review the documents, and then notice and conduct depositions.

B. Request No. 4

Request for Production No. 4 seeks, *inter alia*, documents relating to Applicant's annual sales of products or services under the Mark. As set forth above, such sales are relevant to the *du Pont* factors. Applicant agreed to produce such documents but has failed to do so. The Board should compel Applicant to produce responsive documents by a date certain, or affirmatively state that no such documents exist. The date for production should be set at least 45 days prior to the close of fact discovery to allow Opposer to review the documents, and then notice and conduct depositions. Should Applicant fail to timely comply, the Board should take an inference that Applicant has made no sales under the Mark.

C. Request No. 5

Request for Production No. 5 seeks, *inter alia*, documents indentifying the total amount spent on advertising of products and services under the Mark. Advertising expenditures are relevant to the *du Pont* factors and providing documents relating to annual sales expenditures since Applicant's purported acquisition of the Mark in 2014 cannot be considered burdensome. Applicant's statement that "documents evidencing the amount spent on advertisements of products and services sold under the Subject Mark do not exist" is not credible unless Applicant

has not spent any funds on advertising its products or services. The Board should compel Applicant to produce responsive documents by a date certain, or affirmatively state that no such documents exist. The date for production should be set at least 45 days prior to the close of fact discovery to allow Opposer to review the documents, and then notice and conduct depositions. Should Applicant fail to timely comply, the Board should take an inference that Applicant has not made any advertising expenditures for products under the Mark.

C. Request Nos. 6

Request No. 6 seeks documents sufficient to identify Applicant's purchasers for products or services under the Mark. The parties' types of consumers and channels of trade are among the relevant *du Pont* factors. Applicant has agreed to produce such documents, but has failed to do so. The Board should compel Applicant to produce responsive documents by a date certain, or affirmatively state that no such documents exist. The date for production should be set at least 45 days prior to the close of fact discovery to allow Opposer to review the documents, and then notice and conduct depositions. Should Applicant fail to timely comply, the Board should take an inference that Applicant does not have any consumers for products under the Mark.

D. Request No. 9

Request No. 9 seeks documents sufficient to identify when Applicant first became aware of CareerBuilder's use or registration of its CAREERBUILDER marks. Such documents are relevant to Applicant's intent in using its mark, which is among the *du Pont* factors. Applicant has agreed to produce such documents, but has failed to do so. The Board should compel Applicant to produce responsive documents by a date certain, or affirmatively state that no such documents exist. The date for production should be set at least 45 days prior to the close of fact discovery to allow Opposer to review the documents, and then notice and conduct depositions.

Should Applicant fail to timely comply, the Board should take an inference that Applicant was aware of CareerBuilder and its marks before Applicant began using the TALENTBUILDER mark.

E. Request No. 10

Request No. 10 seeks all documents consulted in the preparation of, or which are requested to be identified in, Applicant's Interrogatory responses. In response to CareerBuilder's Interrogatory No. 3, Applicant stated that it "acquired the rights to the Subject Mark and the mark TALENT BUILDER in connection with its purchase of substantially all of the assets of MasteryWorks, Inc. ... pursuant to an Asset Purchase Agreement dated January 28, 2014." Applicant again identified the Asset Purchase Agreement in response to Interrogatory Nos. 8 and 9. This document is central to Applicant's claims in these proceedings, as it sets forth the terms by which Applicant purportedly acquired ownership of the Mark. If Applicant did not actually acquire such rights through this Agreement, for example, the application at issue may be void *ab initio* due to fraudulent statements. CareerBuilder cannot prosecute its case without this document, and it should be produced in unredacted form. Despite multiple express requests from CareerBuilder's counsel, Applicant has not produced this document, and Applicant's counsel has merely suggested that Applicant may produce a redacted version. The Board should compel Applicant to produce responsive documents by a date certain, or affirmatively state that no such documents exist. The date for production should be set at least 45 days prior to the close of fact discovery to allow Opposer to review the documents, and then notice and conduct depositions. Should Applicant fail to timely comply, the Board should take an inference that Applicant received no rights in the Mark from MasteryWorks, Inc.

F. Request No. 14

Request No. 14 seeks documents relating to Applicant's assignment of trademarks to its parent, Adecco S.A. Such documents are relevant in that they may contain information regarding an assignment of rights in the Mark. Applicant agreed to produce such documents but has failed to do so. The Board should compel Applicant to produce responsive documents by a date certain, or affirmatively state that no such documents exist. The date for production should be set at least 45 days prior to the close of fact discovery to allow Opposer to review the documents, and then notice and conduct depositions.

G. Request No. 18

Request No. 18 seeks documents relevant to Applicant's purported continuous use of the Mark since Applicant's claimed date of January 1, 2005 for the services identified in Class 42. Such documents relate directly to Applicant's claim of rights in the Mark. Applicant agreed to produce such documents but has failed to do so. The Board should compel Applicant to produce responsive documents by a date certain, or affirmatively state that no such documents exist. The date for production should be set at least 45 days prior to the close of fact discovery to allow Opposer to review the documents, and then notice and conduct depositions. Should Applicant fail to timely comply, the Board should take an inference that MasteryWorks or Applicant abandoned their rights in the Mark in Class 42 prior to filing the subject application.

H. Request No. 22

Request No. 22 seeks documents relating to Applicant's document retention policy or destruction of documents. Such requests are routine in Opposition proceedings as they seek to identify potential issues of spoliation of evidence. Applicant agreed to produce such documents but has failed to do so. The Board should compel Applicant to produce responsive documents by

a date certain, or affirmatively state that no such documents exist. The date for production should be set at least 45 days prior to the close of fact discovery to allow Opposer to review the documents, and then notice and conduct depositions.

IV. CONCLUSION

For the foregoing reasons, CareerBuilder requests that the Board issue an order compelling Applicant to supplement its Responses to CareerBuilder's Interrogatories and Requests for Production with properly designated responses that remedy the specific deficiencies above and to promptly produce responsive documents as requested or accept the negative inferences set forth above.

Respectfully submitted,

By: /Mike R. Turner/
One of the Attorneys for Opposer,
CareerBuilder, LLC
Mike R. Turner
Jessica Rissman Cohen
Andrew S. Fraker
NEAL, GERBER & EISENBERG LLP
Two North LaSalle Street, Suite 1700
Chicago, IL 60602-3801

Date: September 8, 2016

EXHIBIT A

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

In the Matter of Application Serial No.:
86/134,485 for TALENTBUILDER

CAREERBUILDER, LLC

Opposer,

v.

LEE HECHT HARRISON, LLC,

Applicant.

OPPOSITION NO. 91224422

OPPOSER’S FIRST SET OF INTERROGATORIES

Pursuant to Rule 33 of the Federal Rules of Civil Procedure and Rule 2.120 of the Trademark Rules of Practice, Opposer, CareerBuilder, LLC, hereby requests that Applicant, Lee Hecht Harrison, LLC, serve Opposer’s attorneys sworn answers to the interrogatories set forth below within thirty (30) days after the service hereof. These interrogatories are intended to be continuing in nature and any information which may be discovered subsequent to the service of Opposer’s initial answers should be brought to the attention of Applicant’s attorneys through supplemental answers within thirty (30) days following such discovery.

Definitions and Instructions

As used herein, the words and phrases set out below shall have the following meaning or meanings prescribed for them:

1. The term “Opposer” shall mean CareerBuilder, LLC, as well as its subsidiaries, divisions, officers, directors, employees, licenses, agents and assignees.
2. The term “Applicant” or “You” shall mean Lee Hecht Harrison, LLC, as well as its subsidiaries, divisions, officers, directors, employees and predecessors-in-interest.
3. The term “MasteryWorks” shall mean MasteryWorks, Inc.

4. The term “Subject Application” shall mean U.S. trademark application serial number 86/134,485.

5. The term “Subject Mark” shall mean the TALENTBUILDER mark as set forth in the Subject Application.

6. The term “person” shall mean any individual, firm, partnership, corporation, proprietorship, association, or other organization or entity.

7. The term “identify” shall mean:

- (a) in connection with natural persons, state their full names, titles and job descriptions, if applicable, and their present or last known business and home addresses;
- (b) in connection with firms, partnerships, corporations, proprietorships, associations or other entities, state their name, and each of their present or last known addresses;
- (c) in connection with documents, describe the documents, setting forth their dates, titles, authors, addresses, parties thereto and the substance thereof, with such reasonable particularity as would be sufficient to permit them to be sought by subpoenas *duces tecum* or under the provisions of Rule 34 of the Federal Rules of Civil Procedure. Documents to be identified shall include both documents in your possession, custody and control and all other documents of which you have knowledge;
- (d) in connection with oral statements and communications, (i) state when and where they were made; (ii) identify each of the makers and recipients thereof as well as all others present at the time such statement or communication was made; (iii) indicate the medium of communication; and (iv) state their substance.

8. The term “documents” shall mean any and all writings of any nature whatsoever or other means by which information is retained in retrievable form, as well as drafts and all non-identical copies thereof, including but not limited to memoranda, stenographic or handwritten notes, contracts, agreements, records, audio and video recordings, correspondence, communications, reports, studies, summaries, surveys, statistical compilations, minutes, charts, manuals, brochures, schedules, price lists, telegrams, teletypes, facsimiles, E-mail, signage,

certificates of registration, labels, specimens, writings, sketches, and computer disks, and any other documents as defined in Rule 34 of the Federal Rules of Civil Procedure.

9. The singular shall include the plural and the plural shall include the singular.

10. A masculine, feminine or neuter pronoun shall not exclude the other genders.

11. The terms “and” as well as “or” shall be construed disjunctively or conjunctively as necessary in order to bring within the scope of the interrogatory all responses which might otherwise be construed to be outside its scope.

12. All objections or answers to interrogatories which fail or refuse to fully respond to any interrogatory on the ground of any claim of privilege of any kind whatever shall:

- (a) state the nature of the claim of privilege;
- (b) state all facts relied upon in support of the claim of privilege or related thereto;
- (c) identify all documents related to the claim of privilege;
- (d) identify all persons having knowledge of any facts related to the claim of privilege; and
- (e) identify all events, transactions or occurrences related to the claim of privilege.

Interrogatories

1. State the full name and place of incorporation or organization of all corporations or other legal entities that are a parent, subsidiary or affiliate of Applicant, or that are controlled by Applicant, and all corporations or other legal entities that exert control over Applicant.

2. State the full name of each business, company, person, or other entity affiliated with Applicant that has at any time used the Subject Mark or the mark TALENT BUILDER, and for each, identify any documents that controlled or governed such use.

3. Identify each transaction by which You claim to have obtained any rights or license in the Subject Mark or the mark TALENT BUILDER, including setting forth the date of each such transaction and identifying the parties to the transaction and all documents related thereto.

4. Identify by common commercial name each and every product or service marketed, distributed, sold or offered for sale by Applicant under or in connection with the Subject Mark or the mark TALENT BUILDER within the U.S., and with respect to each such product or service, identify:

- (a) the price at which the product or service is sold within the U.S.;
- (b) the annual volume of sales of the product or service within the U.S.;
- (c) each class of purchasers of the product or service within the U.S.;
- (d) the channels of trade by which the product or service is or has been offered or sold within the U.S.; and
- (e) the three persons most knowledgeable of such use.

5. With respect to each product or service identified in response to Interrogatory No. 4, identify all means by which the product or service is or has been advertised or promoted within the U.S., and set forth the annual expenditures for each from the date of first use to the present.

6. Identify the employee of Applicant that has primary responsibility for the following services or functions with respect to Applicant's products or services sold under or in connection with the designation TALENTBUILDER or TALENT BUILDER in the U.S.:

- (a) packaging design;
- (b) advertising and marketing; and
- (c) product functionality.

7. Identify each package or label designer, advertising agency, market research expert or consultant who is not an employee of Applicant, who has performed services in connection with products or services promoted or sold by Applicant in association with the Subject Mark or the mark TALENT BUILDER, and for each such entity, describe in detail the services performed and the inclusive dates of such services.

8. Explain the reason(s) for Applicant's adoption of the Subject Mark for each product or service identified in response to Interrogatory No. 4, as well as the procedure followed by Applicant in its decision to adopt such designation for each product or service, and identify all persons who participated in each such decision.

9. Identify each term, symbol, or designation other than the Subject Mark considered for use on or in connection with each product or service identified in response to Interrogatory No. 4.

10. Describe in detail each poll, survey, consumer study or market research effort initiated by or on behalf of Applicant relating in any way to the Subject Mark or the mark TALENT BUILDER, and identify all persons involved in or knowledgeable of such poll, survey, consumer study or market research, as well as all documents relating thereto.

11. Describe in detail how Applicant first became aware of Opposer's use or registration of its CAREERBUILDER marks, including but not limited to stating the date of first becoming aware and the persons most knowledgeable of how such knowledge was acquired.

12. Describe in detail each incident in which Applicant has received any mail, inquiries, complaints, requests for refunds, orders, checks, or other communications which in any manner were intended for Opposer or which in any way indicated an association or connection between Applicant and Opposer. Your Response should:

- (a) identify:
 - (i) each such caller, sender, addresser, or communicator;
 - (ii) the date and place of occurrence;
 - (iii) the substance of such communication;
 - (iv) the person receiving the communication;
- (b) state whether or not any response to, or record of, the communication was made; and
- (c) identify all persons knowledgeable thereof.

13. State whether Applicant has ever received any objection to its use or registration of the Subject Mark other than the instant proceedings, and with respect to each such objection, identify: (a) the nature and basis of the objection, (b) when the objection was made, (c) the disposition of the objection, (d) the persons most knowledgeable about the objection, and (e) all documents relating to the objection.

14. State whether Applicant has ever objected to the use or registration of any mark comprising the term “talent” or “builder,” and if so, with respect to each such objection, identify (a) the mark or term to which the objection was made, (b) the nature of the objection, (c) the disposition of the objection, (d) the persons most knowledgeable about the objection, and (e) all documents relating to the objection.

15. Explain in detail the relationship between Applicant and MasteryWorks.

16. Explain in detail why MasteryWorks failed to renew its federal Registration No. 2,414,060, and identify the person responsible for the decision not to renew or any alleged error associated therewith.

17. Explain in detail why You allowed the Subject Application to become abandoned, and identify the person responsible for the decision to allow abandonment or any alleged error associated therewith.

18. Identify all persons associated with the decision to file the petition to revive the Subject Application.

19. Explain in detail how, and with respect to what products and services, MasteryWorks and/or Applicant was using the Subject Mark or the TALENT BUILDER mark between September 28, 2012 and December 4, 2013.

20. Explain the rationale or reason why You applied for a federal registration for the TALENTBUILDER mark in the U.S. on December 4, 2013.

21. Identify the date upon which You started using the mark TALENTBUILDER as a single word.

22. Identify any instances where MasterWorks ever used the mark TALENTBUILDER as a single word.

23. Identify any gaps in use of the Subject Mark between June 15, 1998 and the present.

24. Describe in detail Your use of the Subject Mark in association with any interactive websites featuring technology that allows users to enter, access, track, monitor and generate career development information and reports for individuals, managers and organizations, including:

(a) the uniform resource locator associated with the website;

(b) the date upon which You began using the Subject Mark in association with that website to offer such technology; and

(c) the person most knowledge about such use.

25. Explain Your basis for using the ® symbol in association with the Subject Mark at any time between September 28, 2012 and the present.

26. Explain in detail Your basis for Your affirmative defense of estoppel pled in this Opposition.

27. Explain in detail Your relationship with Adecco S.A., including your decision whether or not to include any rights You believe You have in the Subject Mark in Your assignment of trademarks to Adecco S.A. on or about November 12, 2004.

28. Identify how You determined the amount of \$57,252,700 as compensation for the trademarks You assigned to Adecco, S.A. on or about November 12, 2004.

Respectfully submitted,

Date: February 19, 2016

/Mike R. Turner/

One of the Attorneys for Opposer,
CareerBuilder, LLC

Michael G. Kelber
Mike R. Turner
Jessica Rissman Cohen
Neal, Gerber & Eisenberg LLP
2 N. LaSalle Street, Suite 2300
Chicago, Illinois 60602
312.269.8000

CERTIFICATE OF SERVICE

I, Jessica Rissman Cohen, an attorney, state that I served a copy of *Opposer's First Set of Interrogatories* upon Applicant's counsel of record in these proceedings:

Ava K Doppelt
Allen Dyer Doppelt Milbrath & Gilchrist PA
255 S. Orange Avenue, Suite 1401
Orlando, Florida 32801

via First Class U.S. Mail, with a courtesy copy via email, on February 19, 2016.

/Jessica Rissman Cohen/

Jessica Rissman Cohen

EXHIBIT B

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

In the Matter of Application Serial No.:
86/134,485 for TALENTBUILDER

CAREERBUILDER, LLC

Opposer,

v.

LEE HECHT HARRISON, LLC,

Applicant.

OPPOSITION NO. 91224422

**OPPOSER'S FIRST SET OF REQUESTS FOR
THE PRODUCTION OF DOCUMENTS**

Pursuant to Rule 34 of the Federal Rules of Civil Procedure and Rule 2.120 of the Trademark Rules of Practice, Opposer, CareerBuilder, LLC, hereby requests that Applicant, Lee Hecht Harrison, LLC, produce to Opposer's attorneys the items described hereafter for inspection and copying at the offices of Neal, Gerber & Eisenberg LLP, Two North LaSalle Street, Suite 1700, Chicago, Illinois, 60602, within thirty (30) days after the service hereof. These document requests are intended to be continuing in nature and shall include documents that are discovered subsequent to any initial compliance herewith. Such later discovered documents shall be produced within thirty (30) days after their discovery.

Definitions and Instructions

As used herein, the words and phrases set out below shall have the following meaning or meanings prescribed for them:

1. The term "Opposer" shall mean CareerBuilder, LLC, as well as its subsidiaries, divisions, officers, directors, employees, licenses, agents and assignees.

2. The term “Applicant” or “You” shall mean Lee Hecht Harrison, LLC, as well as its subsidiaries, divisions, officers, directors, employees and predecessors-in-interest.

3. The term “MasteryWorks” shall mean MasteryWorks, Inc.

4. The term “Subject Application” shall mean U.S. trademark application serial number 86/134,485.

5. The term “Subject Mark” shall mean the TALENTBUILDER mark as set forth in the Subject Application.

6. The term “person” shall mean any individual, firm, partnership, corporation, proprietorship, association, or other organization or entity.

7. The term “documents” shall mean any and all writings of any nature whatsoever or other means by which information is retained in retrievable form, as well as drafts and all non-identical copies thereof, including but not limited to memoranda, stenographic or handwritten notes, contracts, agreements, records, audio and video recordings, correspondence, communications, reports, studies, summaries, surveys, statistical compilations, minutes, charts, manuals, brochures, schedules, price lists, telegrams, teletypes, facsimiles, e-mail, signage, certificates of registration, labels, specimens, writings, sketches, and computer disks, and any other documents as defined in Rule 34 of the Federal Rules of Civil Procedure.

8. The terms “relate to,” “related to,” or “relating to” shall mean directly or indirectly mentioning or describing, pertaining to, connected with, or reflecting upon a state subject matter.

9. The singular shall include the plural and the plural shall include the singular.

10. A masculine, feminine or neuter pronoun shall not exclude the other genders.

11. The terms “and” as well as “or” shall be construed disjunctively or conjunctively as necessary in order to bring within the scope of the document request all responses which might otherwise be construed to be outside its scope.

12. All objections to document requests in which Applicant fails or refuses to fully respond on the ground of any claim of privilege of any kind whatever shall:

- (a) state the nature of the claim of privilege;
- (b) state all facts relied upon in support of the claim of privilege or related thereto;
- (c) identify all documents related to the claim of privilege;
- (d) identify all persons having knowledge of any facts related to the claim of privilege; and
- (e) identify all events, transactions or occurrences related to the claim of privilege.

Requests for Production

1. Documents sufficient to fully describe the following:
 - (a) when and where Applicant first obtained a license to do business, was registered to do business or was qualified to do business;
 - (b) when and where MasteryWorks first obtained a license to do business, was registered to do business or was qualified to do business; and
 - (c) all corporations or other entities in which Applicant has a controlling interest.
2. Documents sufficient to identify:
 - (a) all products and services offered by Applicant under the Subject Mark or the mark TALENT BUILDER in the U.S.;
 - (b) all manners in which Applicant has used the Subject Mark or the mark TALENT BUILDER in the U.S.;
 - (c) for each product and service identified in documents responsive to Request 2(a), the date on which Applicant first marketed or offered to provide the product or service under the Subject Mark or the mark TALENT BUILDER in the U.S.; and

- (d) the client to whom You first sold each product and service identified in documents responsive to Request 2(a).
3. Documents sufficient to identify:
- (a) all products and services offered by MasteryWorks under the Subject Mark or the mark TALENT BUILDER in the U.S.;
 - (b) all manners in which MasteryWorks has used the Subject Mark or the mark TALENT BUILDER in the U.S.;
 - (c) for each product and service identified in documents responsive to Request 3(a), the date on which MasteryWorks first marketed or offered to provide the product or service under the Subject Mark or the mark TALENT BUILDER in the U.S.; and
 - (d) the client to whom MasteryWorks first sold each product and service identified in documents responsive to Request 3(a).
4. For each product and service identified in documents responsive to Request 2(a), documents sufficient to identify:
- (a) the price Applicant charges for each such product or service; and
 - (b) Applicant's annual sales (in units and dollars) of each such product or service since the date of Applicant's first sale of such product or service to the present.
5. All documents that identify, constitute, disclose, depict or otherwise relate to:
- (a) the manner by which Applicant advertises or promotes, or has advertised or promoted, its products or services under the Subject Mark or the mark TALENT BUILDER in the U.S.;
 - (b) any publications in which Applicant has placed print advertisements, articles or other information concerning Applicant's products or services offered using the Subject Mark or the mark TALENT BUILDER in the U.S.;
 - (c) any Internet website referencing Applicant's use of the Subject Mark or the mark TALENT BUILDER in the U.S., including but not limited to printouts of all such website pages; and
 - (d) the total amount spent on advertisements of products and services sold under the Subject Mark or the mark TALENT BUILDER for each year since You first sold such products and services.

6. Documents sufficient to disclose, describe, or otherwise relate to the characteristics or profiles of the type of person or entity that purchases or otherwise receives products or services sold and/or provided by Applicant under the Subject Mark or the mark TALENT BUILDER in the U.S.

7. All documents that disclose, describe, or otherwise relate to:

- (a) any incident(s) wherein any persons or entities have indicated that they understood or believed that Applicant's business, products or services, and Opposer's business, products, or services were in any way affiliated, associated or connected with one another; and
- (b) with regard to any such incident(s), produce all documents that disclose, describe or are related to:
 - (i) the place of such incident;
 - (ii) the date of such incident;
 - (iii) the identify of all persons or entities involved in or having knowledge of such incident, and the nature of their involvement or knowledge;
 - (iv) the products or services involved in such incident;
 - (v) the nature of the incident;
 - (vi) how the incident came to the attention of Applicant; and
 - (vii) any efforts by Applicant to monitor for or learn of such incidents.

8. All documents that disclose, describe, constitute or otherwise relate to:

- (a) any search, investigation or other inquiry, including any trademark search in the United States Patent and Trademark Office, concerning whether any marks similar to the Subject Mark or the mark TALENT BUILDER had been or were being used by other parties, or whether other parties had applied for or received registrations for such designations;
- (b) Your decision to apply for registration of the Subject Mark, including but not limited to all documents related to any discussions concerning such decision; and
- (c) all documents filed with either the United States Patent and Trademark Office or any state's trademark office concerning any attempted

registration by Applicant of the Subject Mark or the mark TALENT BUILDER.

9. Documents sufficient to identify the date on which Applicant first became aware of Opposer's use or registration of its CAREERBUILDER marks.

10. All documents consulted in the preparation of, or which are requested to be identified in, Applicant's responses to Opposer's First Set of Interrogatories.

11. All press releases announcing the introduction of any products or services offered or sold under the Subject Mark or the mark TALENT BUILDER.

12. All press releases announcing any merger, acquisition, partnership or other alliance between You and MasteryWorks.

13. All agreements between You and any other entity that license or assign any right in or to, or otherwise places controls on the use of, the Subject Mark or the mark TALENT BUILDER.

14. All documents relating to your assignment of trademarks to Adecco S.A.

15. All documents evidencing Your use of the ® symbol with the Subject Mark or the mark TALENT BUILDER between July 22, 2011 and present.

16. All documents evidencing your use of the mark TALENT DEVELOPMENT BUILDER as a trademark.

17. Documents sufficient to evidence your alleged provision of an interactive website featuring technology that allows users to enter, access, track, monitor and generate career development information and reports for individuals, managers and organizations on or about January 1, 2005.

18. Documents sufficient to evidence your continuous and uninterrupted provision of an interactive website featuring technology that allows users to enter, access, track, monitor and

generate career development information and reports for individuals, managers and organizations since January 1, 2005, and to identify the uniform resource locators for all such websites.

19. All documents that include the mark CAREERBUILDER or that refer to Opposer in any way that were in Your possession prior to the filing of this Opposition.

20. All documents that refer to or otherwise mention CareerBuilder's Talent Network or TalentStream services.

21. Documents sufficient to identify all other marks You consider for use in association with the products and services identified in documents responsive to Request 2(a).

22. All documents relating to any document retention policy of Applicant or the destruction of documents by Applicant at any time.

Respectfully submitted,

Date: February 19, 2016

/Mike R. Turner/
One of the Attorneys for Opposer,
CareerBuilder, LLC

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CERTIFICATE OF SERVICE

I, Jessica Rissman Cohen, an attorney, state that I served a copy of *Opposer's First Set of Requests for the Production of Documents* upon Applicant's counsel of record in these proceedings:

Ava K. Doppelt
Allen Dyer Doppelt Milbrath & Gilchrist PA
255 S. Orange Avenue, Suite 1401
Orlando, Florida 32801

via First Class U.S. Mail, with a courtesy copy via email, on February 19, 2016.

/Jessica Rissman Cohen/

Jessica Rissman Cohen

EXHIBIT C
FILED UNDER SEAL

EXHIBIT D
FILED UNDER SEAL