

ESTTA Tracking number: **ESTTA1092409**

Filing date: **10/30/2020**

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

Proceeding	91236715
Party	Plaintiff Robot Wars, LLC
Correspondence Address	ROBERT B. GOLDEN NOLTE LACKENBACH SIEGEL ONE CHASE ROAD SCARSDALE, NY 10583 UNITED STATES Primary Email: RGOLDEN@NLS.LAW Secondary Email(s): JROLLINGS@NLS.LAW, HARONSON@NLS.LAW, MDEL-COLLE@NLS.LAW, TMDOCKET@NLS.LAW 866-201-2030
Submission	Plaintiff's Notice of Reliance
Filer's Name	Jeffrey M. Rollings
Filer's email	JROLLINGS@NLS.LAW, RGOLDEN@NLS.LAW, HARONSON@NLS.LAW, MDEL-COLLE@NLS.LAW, TMDOCKET@NLS.LAW
Signature	/Jeffrey M. Rollings/
Date	10/30/2020
Attachments	Opposer Notice of Reliance 10-30-2020.pdf(146089 bytes ) Exhibit 20 - TSDR Record 1858931.pdf(109134 bytes ) Exhibit 21 - TSDR Record 5525941.pdf(100427 bytes ) Exhibit 22 - TSDR Record 3003683.pdf(99023 bytes ) Exhibit 23 - Mixxie Website.pdf(1066645 bytes ) Exhibit 24 - Loud Films Youtube Channel.pdf(827825 bytes ) Exhibit 25 - Applicant Objections and Responses to First Set of RFPs. pdf(953180 bytes ) Exhibit 26 - Applicant Amended Objections and Responses to Opposer First Set of RFPs.pdf(247435 bytes ) Exhibit 27 - Applicant Objections and Responses to Opposer First Set of Interrogatories.pdf(1004041 bytes ) Exhibit 28 - Applicant Amended Objections and Responses to Opposer First Set of Interrogatories.pdf(1730258 bytes ) Exhibit 29 - Wayback Machine Printout.pdf(565639 bytes ) Exhibit 30 - Theatricality Document Production.pdf(1010983 bytes )

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

**Application Serial No.:** 87/371,308  
**Mark:** WAR BOT  
**International Classes:** 16 & 28  
**Applicant:** Theatricality LLC  
**Published in *Official Gazette*:** July 18, 2017

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ROBOT WARS, LLC	:	
	:	
Opposer,	:	
	:	
v.	:	
	:	Opposition No. 91236715
THEATRICALITY LLC,	:	
	:	
Applicant.	:	
-----	X	

**OPPOSER'S NOTICE OF RELIANCE**

Pursuant to 37 C.F.R. §2.122(d) and (e), Opposer Robot Wars, LLC ( "Opposer") hereby submits their Notice of Reliance on Opposer's Exhibits 20 - 30 and hereby make these exhibits of record in connection with the above-captioned opposition proceeding.

**Opposer's Exhibit 20**

Opposer's Exhibit 20 is a true and correct copy of information from the electronic database records of the United States Patent and Trademark Office ("USPTO"), specifically TSDR, showing the current status and title (owner) of Opposer Robot Wars, LLC's registration for the trademark ROBOT WARS, which was downloaded and printed from the USPTO website on October 30, 2020 and which indicates current title to this registration to be in Opposer's name. Specifically, Opposer's Exhibit 20 is a copy of registration particulars for U.S. Trademark

Robot Wars, LLC v. Theatricality LLC Opposition No. 91236715 Opposer's Notice of Reliance  
Registration No. 1,858,931 for the mark ROBOT WARS for "entertainment services in the  
nature of competitions involving radio-controlled model vehicles" in International Class 41.

Exhibit 20 is relevant to this opposition to show that the mark ROBOT WARS, which is  
the subject of this opposition, was registered by Opposer prior to the filing of Applicant's  
application at issue, that ROBOT WARS is currently registered to Opposer, and that Opposer has  
prior rights to the mark, all supporting the allegations in the Second Amended Notice of  
Opposition.

**Opposer's Exhibits 21 and 22**

Opposer's Exhibits 21 and 22 are true and correct copies of information from the  
electronic database records of the USPTO, specifically TSDR, showing the current status and  
title (owner) of Applicant Theatricality LLC's registrations for the trademarks MIXXIE and  
LOUD FILMS, respectively, which information was downloaded and printed at the direction of  
Opposer from the USPTO website on October 30, 2020 and which indicates current titles to  
these registrations to be in the name of Applicant Theatricality LLC.

More specifically, Opposer's Exhibit 21 is a copy of registration particulars for U.S.  
Trademark Registration No. 5,525,941 for MIXXIE for "On-line retail store services featuring  
downloadable pre-recorded music and video" in International Class 35. Opposer's Exhibit 22 is  
a copy of registration particulars for U.S. Trademark Registration No. 3,003,683, for LOUD  
FILMS for "Production and Distribution of Motion Pictures" in International Class 41.

Opposer's Exhibits 21 and 22, Applicant Theatricality LLC's registrations for the marks  
MIXXIE and LOUD FILMS, are each relevant to this opposition as circumstantial evidence to  
support Opposer Robot Wars, LLC's claims that Applicant was not using its mark WAR BOT in

Robot Wars, LLC v. Theatricality LLC Opposition No. 91236715 Opposer's Notice of Reliance connection with the sales of goods in commerce prior to filing the subject application to register WAR BOT, which is a material allegation made in the Second Amended Notice of Opposition.

**Opposer's Exhibits 23 and 24**

Opposer's Exhibits 23 and 24 are true and correct copies of webpages from two of Applicant Theatricality's websites, [www.mixxietape.com](http://www.mixxietape.com) and [www.youtube.com/channel/UCg8j0XAO9oHQzDqJ1VnlmoA](http://www.youtube.com/channel/UCg8j0XAO9oHQzDqJ1VnlmoA). Each webpage was downloaded and printed at the direction of Opposer from the Internet on October 30, 2020, and display the relevant domain addresses in the upper left corner of the Exhibits.

Specifically, Opposer's Exhibit 23 contains pages from Applicant Theatricality LLC's website [www.mixxietape.com](http://www.mixxietape.com), which show Applicant's use of the mark MIXXIE which is the subject of U.S. Trademark Registration No. 5,525,941 and Opposer's Exhibit 21, introduced above. Opposer's Exhibit 24 contains pages from Applicant Theatricality LLC's Youtube channel website located at [www.youtube.com/channel/UCg8j0XAO9oHQzDqJ1VnlmoA](http://www.youtube.com/channel/UCg8j0XAO9oHQzDqJ1VnlmoA), which show Applicant's use of the mark LOUD FILMS which is the subject of U.S. Trademark Registration No. 3,003,683 and Opposer's Exhibit 22, introduced above.

Opposer's Exhibits 23 and 24 are each relevant to this opposition to provide further circumstantial evidence to support Opposer Robot Wars, LLC's claims that Applicant was not using its mark WAR BOT in connection with the sales of goods in commerce prior to filing the subject application to register WAR BOT, which is a material allegation made in the Second Amended Notice of Opposition.

**Opposer's Exhibits 25, 26, 27, and 28**

Opposer's Exhibits 25, 26, 27, and 28 are true and correct copies of Applicant

Theatricality's responses to the discovery requests propounded by Opposer during this opposition proceeding. Specifically, Opposer's Exhibit 25 is a true and correct copy of Applicant's Objections and Responses to Opposer's First Set of Requests for Production of Documents and Things, dated April 3, 2019. Opposer's Exhibit 26 is a true and correct copy of Applicant's Amended Responses to Opposer's First Set of Requests for Production of Documents and Things, dated October 28, 2019. Opposer's Exhibit 27 is a true and correct copy of Applicant's Objections and Responses to Opposer's First Set of Interrogatories, dated April 3, 2019. Opposer's Exhibit 28 is a true and correct copy of Applicant's Amended Objections and Responses to Opposer's First Set of Interrogatories, dated October 28, 2019.

Opposer's Exhibits 25, 26, 27, and 28, constituting Applicant Theatricality LLC's discovery responses in this opposition, are each relevant to numerous issues presented in this opposition as alleged by Opposer in its Second Amended Notice of Opposition. Specifically, Opposer's discovery responses are relevant to various aspects of likelihood of confusion, including without limitation the similarity of the marks at issue, ROBOT WARS and WAR BOT, similarities in channels of trade utilized by Opposer and Applicant, similarities in customer bases, and Applicant Theatricality's intent in adopting and commencing to use the mark WAR BOT. Applicant's discovery responses are also relevant to the issue of Opposer's claims that Applicant was not using its mark WAR BOT in connection with the sales of goods in commerce prior to filing the subject application to register WAR BOT, which is a material allegation made in the Second Amended Notice of Opposition. In particular, the responses are relevant to support and provide evidence of Applicant's failure to provide proof of making any sales of

WAR BOT goods prior to filing the subject Application, U.S. Trademark Application Serial No. 87/371,308.

**Opposer's Exhibit 29**

Opposer's Exhibit 29 is a true and correct copy of printout from the Internet website, web.archive.org, known as the Internet Archive or the "Wayback Machine," which catalogs and is able to display pages from websites in the past. Specifically, Opposer's Exhibit 29 is a copy of a search directed by Opposer and conducted on October 30, 2020, on the Internet Archive, located at <https://web.archive.org>, for past webpages from Applicant Theatricality's website located at [www.warbotrobots.com](http://www.warbotrobots.com). The domain address for the search appears at the top left corner of the Exhibit. These search results show that according to the Internet Archive, the first documented content posted to Applicant's website at [www.warrobots.com](http://www.warrobots.com) occurred in 2011.

Opposer's Exhibit 29 is relevant to this opposition as circumstantial evidence to support Opposer Robot Wars, LLC's claims that Applicant was not using its mark WAR BOT in connection with the sales of goods in commerce prior to filing the subject application to register WAR BOT, which is a material allegation made in the Second Amended Notice of Opposition. In particular, Opposer's Exhibit 29, which suggests that Applicant's website located at [www.warbotrobots.com](http://www.warbotrobots.com) was not "live" on the Internet until 2011, calls into question the date of first use date of July 1, 2009 sworn to by Applicant in the subject Application, U.S. Trademark Application Serial No. 87/371,308.

**Opposer's Exhibit 30**

Opposer's Exhibit 30 is a true and correct copy of the 16 pages of documents produced by Applicant Theatricality LLC which are allegedly responsive to Opposer Robot Wars, LLC's

First Request for Production of Documents and Things. These 16 pages of documents, bates numbered Theatricality 0001 through Theatricality 0016, were produced by Theatricality on October 28, 2019, directly in response to the Board's Order, dated October 8, 2019 (Docket No. 27), that Applicant produce documents responsive to certain of Opposer's document requests.

Opposer's Exhibit 30 is relevant to several issues raised by Opposer's allegations in its Second Amended Notice of Opposition, including the meaning of the mark WAR BOT and the related similarity of the marks ROBOT WARS and WAR BOTS. Also, to the extent that these documents contain the only sales records of WAR BOT goods documented by Applicant in this matter, Opposer's Exhibit 30 is relevant as it includes documents which constitute circumstantial evidence that Applicant was not using its mark WAR BOT in connection with the sales of goods in commerce prior to filing the subject Application to register WAR BOT.

Dated: October 30, 2020

Respectfully Submitted:

**Nolte Lackenbach Siegel**

/s/ Jeffrey M. Rollings

Jeffrey M. Rollings

Robert B. Golden

Howard N. Aronson

One Chase Road

Scarsdale, New York 10583

Phone: (866) 201-2030

Facsimile: (832) 201-8247

*Attorneys for Opposer*

**CERTIFICATE OF SERVICE**

I hereby certify that a true and accurate copy of the enclosed **OPPOSER'S NOTICE OF RELIANCE** was served on Counsel for Applicant via e-mail addressed to Counsel for Applicant as follows:

Willmore F Holbrow III  
Buchalter  
1000 Wilshire Blvd, Suite 1500  
Los Angeles, Ca 90017-1730  
United States  
wholbrow@buchalter.com, jgass@buchalter.com, ipdocket@buchalter.com  
Phone: 213-891-0700

Dated: Scarsdale, New York  
October 30, 2020

/s/ Marlana Del Colle  
Marlana Del Colle

**Generated on:** This page was generated by TSDR on 2020-10-30 14:46:09 EDT

**Mark:** ROBOT WARS

**US Serial Number:** 74415465

**Application Filing Date:** Jul. 21, 1993

**US Registration Number:** 1858931

**Registration Date:** Oct. 18, 1994

**Register:** Principal

**Mark Type:** Service Mark

**TM5 Common Status Descriptor:**



LIVE/REGISTRATION/Issued and Active

The trademark application has been registered with the Office.

**Status:** The registration has been renewed.

**Status Date:** Nov. 01, 2014

**Publication Date:** Feb. 08, 1994

## Mark Information

**Mark Literal Elements:** ROBOT WARS

**Standard Character Claim:** No

**Mark Drawing Type:** 1 - TYPESET WORD(S) /LETTER(S) /NUMBER(S)

**Disclaimer:** "ROBOT"

## Goods and Services

**Note:**

The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis (..) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks \*..\* identify additional (new) wording in the goods/services.

**For:** entertainment services in the nature of competitions involving radio-controlled model vehicles

**International Class(es):** 041 - Primary Class

**U.S Class(es):** 107

**Class Status:** ACTIVE

**Basis:** 1(a)

**First Use:** Feb. 04, 1993

**Use in Commerce:** Feb. 04, 1993

## Basis Information (Case Level)

**Filed Use:** Yes

**Currently Use:** Yes

**Filed ITU:** No

**Currently ITU:** No

**Filed 44D:** No

**Currently 44E:** No

**Filed 44E:** No

**Currently 66A:** No

**Filed 66A:** No

**Currently No Basis:** No

Filed No Basis: No

## Current Owner(s) Information

Owner Name: ROBOT WARS, LLC

Owner Address: 740 BROADWAY  
NEW YORK, NEW YORK UNITED STATES 10003

Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country Where Organized: NEW YORK

## Attorney/Correspondence Information

### Attorney of Record

Attorney Name: Howard N. Aronson

Docket Number: 7787

Attorney Primary Email Address: [TMEFS@LSLLP.COM](mailto:TMEFS@LSLLP.COM)

Attorney Email Authorized: Yes

### Correspondent

Correspondent Name/Address: Howard N. Aronson  
LACKENBACH SIEGEL LLP  
One Chase Road  
Lackebach Siegel Building  
SCARSDALE, NEW YORK UNITED STATES 10583

Phone: 914-723-4300

Fax: 914-723-4301

Correspondent e-mail: [tmefts@LSLLP.com](mailto:tmefts@LSLLP.com)

Correspondent e-mail Authorized: Yes

### Domestic Representative

Domestic Representative Name: Howard N. Aronson

Phone: 914-723-4300

Fax: 914-723-4301

Domestic Representative e-mail: [TMEFS@LSLLP.COM](mailto:TMEFS@LSLLP.COM)

Domestic Representative e-mail Authorized: Yes

## Prosecution History

Date	Description	Proceeding Number
Nov. 01, 2014	NOTICE OF ACCEPTANCE OF SEC. 8 & 9 - E-MAILED	
Nov. 01, 2014	REGISTERED AND RENEWED (SECOND RENEWAL - 10 YRS)	67603
Nov. 01, 2014	REGISTERED - SEC. 8 (10-YR) ACCEPTED/SEC. 9 GRANTED	67603
Nov. 01, 2014	CASE ASSIGNED TO POST REGISTRATION PARALEGAL	67603
Oct. 17, 2014	TEAS SECTION 8 & 9 RECEIVED	
Jul. 20, 2007	CASE FILE IN TICRS	
Jun. 29, 2006	TEAS CHANGE OF CORRESPONDENCE RECEIVED	
Nov. 29, 2004	REGISTERED AND RENEWED (FIRST RENEWAL - 10 YRS)	
Nov. 29, 2004	REGISTERED - SEC. 8 (10-YR) ACCEPTED/SEC. 9 GRANTED	
Oct. 08, 2004	REGISTERED - COMBINED SECTION 8 (10-YR) & SEC. 9 FILED	
Oct. 08, 2004	TEAS SECTION 8 & 9 RECEIVED	
May 08, 2003	PAPER RECEIVED	
Mar. 08, 2001	REGISTERED - SEC. 8 (6-YR) ACCEPTED & SEC. 15 ACK.	
Oct. 23, 2000	REGISTERED - SEC. 8 (6-YR) & SEC. 15 FILED	
Oct. 18, 1994	REGISTERED-PRINCIPAL REGISTER	
Mar. 10, 1994	EXTENSION OF TIME TO OPPOSE RECEIVED	
Feb. 08, 1994	PUBLISHED FOR OPPOSITION	
Jan. 07, 1994	NOTICE OF PUBLICATION	
Nov. 24, 1993	APPROVED FOR PUB - PRINCIPAL REGISTER	
Nov. 17, 1993	EXAMINER'S AMENDMENT MAILED	
Nov. 15, 1993	ASSIGNED TO EXAMINER	59959

## TM Staff and Location Information

### TM Staff Information - None

#### File Location

Current Location: GENERIC WEB UPDATE

Date in Location: Nov. 01, 2014

## Assignment Abstract Of Title Information

### Summary

Total Assignments: 2

Registrant: Thorpe, Marc

### Assignment 1 of 2

Conveyance: ASSIGNS THE ENTIRE INTEREST

Reel/Frame: [1739/0875](#)

Pages: 10

Date Recorded: Jun. 08, 1998

Supporting Documents: [assignment-tm-1739-0875.pdf](#)

#### Assignor

Name: [THORPE, MARC](#)

Execution Date: Jul. 22, 1994

Legal Entity Type: UNKNOWN

State or Country Where Organized: No Place Where Organized Found

#### Assignee

Name: [ROBOT WARS, INC.](#)

Legal Entity Type: CORPORATION

State or Country Where Organized: NEW YORK

Address: 740 BROADWAY  
NEW YORK, NEW YORK 10003

#### Correspondent

Correspondent Name: ROGERS &amp; WELLS

Correspondent Address: RANDI S. MILLER ESQ.  
200 PARK AVENUE  
NEW YORK, NY 10166

### Domestic Representative - Not Found

### Assignment 2 of 2

Conveyance: ASSIGNS THE ENTIRE INTEREST

Reel/Frame: [1990/0735](#)

Pages: 5

Date Recorded: Nov. 15, 1999

Supporting Documents: [assignment-tm-1990-0735.pdf](#)

#### Assignor

Name: [ROBOT WARS, INC.](#)

Execution Date: Sep. 09, 1999

Legal Entity Type: CORPORATION

State or Country Where Organized: NEW YORK

#### Assignee

Name: [ROBOT WARS, LLC](#)

Legal Entity Type: NEW YORK LIMITED LIABILITY COMPANY

State or Country Where Organized: No Place Where Organized Found

Address: 740 BROADWAY  
NEW YORK, NEW YORK 10003

#### Correspondent

Correspondent Name: ROGERS &amp; WELLS LLP

Correspondent Address: CINDY D. CAREY  
TRADEMARK LEGAL ASSISTANT  
200 PARK AVENUE

NEW YORK, NY 10166

Domestic Representative - Not Found

## Proceedings

### Summary

Number of  
Proceedings: 1

### Type of Proceeding: Opposition

Proceeding  
Number: [91236715](#)

Filing Date: Sep 18, 2017

Status: Pending

Status Date: Apr 30, 2020

Interlocutory  
Attorney: JENNIFER ELGIN

### Defendant

Name: Theatricality LLC

Correspondent WILLMORE F HOLBROW III  
Address: BUCHALTER  
1000 WILSHIRE BLVD, SUITE 1500  
LOS ANGELES CA UNITED STATES , 90017-1730

Correspondent e-mail: [wholbrow@buchalter.com](mailto:wholbrow@buchalter.com) , [jgass@buchalter.com](mailto:jgass@buchalter.com) , [ipdocket@buchalter.com](mailto:ipdocket@buchalter.com)

### Associated marks

Mark	Application Status	Serial Number	Registration Number
WAR BOT	Opposition Pending	<a href="#">87371308</a>	

### Plaintiff(s)

Name: Robot Wars, LLC

Correspondent ROBERT B. GOLDEN  
Address: NOLTE LACKENBACH SIEGEL  
ONE CHASE ROAD  
SCARSDALE NY UNITED STATES , 10583

Correspondent e-mail: [RGOLDEN@NLS.LAW](mailto:RGOLDEN@NLS.LAW) , [JROLLINGS@NLS.LAW](mailto:JROLLINGS@NLS.LAW) , [HARONSON@NLS.LAW](mailto:HARONSON@NLS.LAW) , [MDELCOLLE@NLS.LAW](mailto:MDELCOLLE@NLS.LAW) , [TMDOCKET@NLS.LAW](mailto:TMDOCKET@NLS.LAW)

### Associated marks

Mark	Application Status	Serial Number	Registration Number
ROBOT WARS	REGISTERED AND RENEWED	<a href="#">74415465</a>	<a href="#">1858931</a>

### Prosecution History

Entry Number	History Text	Date	Due Date
1	FILED AND FEE	Sep 18, 2017	
2	NOTICE AND TRIAL DATES SENT; ANSWER DUE:	Sep 18, 2017	Oct 28, 2017
3	PENDING, INSTITUTED	Sep 18, 2017	
4	STIP FOR EXT	Oct 29, 2017	
5	EXTENSION OF TIME GRANTED	Oct 29, 2017	
6	ANSWER	Dec 06, 2017	
7	P MOT TO STRIKE	Dec 21, 2017	
8	D OPP/RESP TO MOTION	Jan 07, 2018	
9	SUSP PEND DISP OF OUTSTNDNG MOT	Jan 16, 2018	
10	D CHANGE OF CORRESP ADDRESS	Mar 23, 2018	
11	TRIAL DATES RESET	Apr 11, 2018	
12	P MOT TO AMEND PLEADING/AMENDED PLEADING	May 18, 2018	
13	TRIAL DATES REMAIN AS SET	Jun 05, 2018	
14	ANSWER	Jun 18, 2018	
15	P MOT TO STRIKE	Jun 29, 2018	
16	D OPP/RESP TO MOTION	Jul 15, 2018	
17	SUSP PEND DISP OF OUTSTNDNG MOT	Jul 17, 2018	

18	P REPLY IN SUPPORT OF MOTION	Aug 03, 2018
19	P REQ FOR RECON DENIED; PROCEEDINGS RESUMED	Oct 24, 2018
20	D APPEARANCE / POWER OF ATTORNEY	Feb 25, 2019
21	P CHANGE OF CORRESP ADDRESS	Apr 17, 2019
22	D MOT FOR SUMMARY JUDGMENT	Apr 23, 2019
23	P CHANGE OF CORRESP ADDRESS	Apr 24, 2019
24	SUSP PEND DISP OF OUTSTNDNG MOT	May 01, 2019
25	MOT FOR DISCOVERY AFTER MSJ - FRCP 56	May 23, 2019
26	D REPLY IN SUPPORT OF MOTION	Jun 13, 2019
27	MOT GRANTED, IN PART; RESPONSE DUE	Oct 08, 2019
28	P OPP/RESP TO MOTION	Dec 09, 2019
29	P MOT TO AMEND PLEADING/AMENDED PLEADING	Dec 09, 2019
30	D OPP/RESP TO MOTION	Dec 30, 2019
31	D REPLY IN SUPPORT OF MOTION	Dec 30, 2019
32	D REPLY IN SUPPORT OF MOTION	Dec 31, 2019
33	P REPLY IN SUPPORT OF MOTION	Jan 16, 2020
34	D MOT FOR SUMMARY JGT DENIED	Apr 30, 2020
35	ANSWER	Jun 01, 2020
36	P MOT FOR EXT W/ CONSENT	Jun 26, 2020
37	EXTENSION OF TIME GRANTED	Jun 29, 2020
38	P MOT FOR EXT W/ CONSENT	Sep 25, 2020
39	EXTENSION OF TIME GRANTED	Oct 01, 2020
40	P CHANGE OF CORRESP ADDRESS	Oct 14, 2020
41	P TESTIMONY	Oct 15, 2020

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Mark: MIXXIE

# MIXXIE

US Serial Number: 87461614

Application Filing Date: May 24, 2017

US Registration Number: 5525941

Registration Date: Jul. 24, 2018

Filed as TEAS Plus: Yes

Currently TEAS Plus: Yes

Register: Principal

Mark Type: Service Mark

TM5 Common Status Descriptor:



LIVE/REGISTRATION/Issued and Active

The trademark application has been registered with the Office.

Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.

Status Date: Jul. 24, 2018

Publication Date: Oct. 03, 2017

Notice of Allowance Date: Nov. 28, 2017

## Mark Information

Mark Literal Elements: MIXXIE

Standard Character Claim: Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

Mark Drawing Type: 4 - STANDARD CHARACTER MARK

## Goods and Services

### Note:

The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((.)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks \*..\* identify additional (new) wording in the goods/services.

For: On-line retail store services featuring downloadable pre-recorded music and video

International Class(es): 035 - Primary Class

U.S Class(es): 100, 101, 102

Class Status: ACTIVE

Basis: 1(a)

First Use: May 21, 2017

Use in Commerce: May 20, 2018

## Basis Information (Case Level)

Filed Use: No

Currently Use: Yes

Filed ITU: Yes

Currently ITU: No

Filed 44D: No

Currently 44E: No

Filed 44E: No

Currently 66A: No

Filed 66A: No

Currently No Basis: No

Filed No Basis: No

## Current Owner(s) Information

**Owner Name:** Theatricality LLC**Owner Address:** PO BOX 49788  
LOS ANGELES, CALIFORNIA UNITED STATES 90049**Legal Entity Type:** LIMITED LIABILITY COMPANY**State or Country** CALIFORNIA  
**Where Organized:**

## Attorney/Correspondence Information

**Attorney of Record - None****Correspondent****Correspondent** THEATRICALITY LLC  
**Name/Address:** THEATRICALITY LLC  
PO BOX 49788  
LOS ANGELES, CALIFORNIA UNITED STATES 90049**Domestic Representative - Not Found**

## Prosecution History

Date	Description	Proceeding Number
Jul. 24, 2018	REGISTERED-PRINCIPAL REGISTER	
Jun. 20, 2018	NOTICE OF ACCEPTANCE OF STATEMENT OF USE E-MAILED	
Jun. 19, 2018	ALLOWED PRINCIPAL REGISTER - SOU ACCEPTED	
Jun. 12, 2018	STATEMENT OF USE PROCESSING COMPLETE	65362
May 23, 2018	USE AMENDMENT FILED	65362
Jun. 12, 2018	CASE ASSIGNED TO INTENT TO USE PARALEGAL	65362
May 23, 2018	TEAS STATEMENT OF USE RECEIVED	
Nov. 28, 2017	NOA E-MAILED - SOU REQUIRED FROM APPLICANT	
Oct. 03, 2017	OFFICIAL GAZETTE PUBLICATION CONFIRMATION E-MAILED	
Oct. 03, 2017	PUBLISHED FOR OPPOSITION	
Sep. 13, 2017	NOTIFICATION OF NOTICE OF PUBLICATION E-MAILED	
Aug. 24, 2017	APPROVED FOR PUB - PRINCIPAL REGISTER	
Aug. 24, 2017	ASSIGNED TO EXAMINER	74662
May 31, 2017	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
May 27, 2017	NEW APPLICATION ENTERED IN TRAM	

## TM Staff and Location Information

**TM Staff Information - None****File Location****Current Location:** PUBLICATION AND ISSUE SECTION**Date in Location:** Jun. 19, 2018

**Generated on:** This page was generated by TSDR on 2020-10-30 14:55:24 EDT

**Mark:** LOUD FILMS

**Loud Films**

**US Serial Number:** 78350173

**Application Filing Date:** Jan. 09, 2004

**US Registration Number:** 3003683

**Registration Date:** Oct. 04, 2005

**Register:** Principal

**Mark Type:** Service Mark

**TM5 Common Status Descriptor:**



LIVE/REGISTRATION/Issued and Active

The trademark application has been registered with the Office.

**Status:** The registration has been renewed.

**Status Date:** May 22, 2015

**Publication Date:** Jul. 12, 2005

## Mark Information

**Mark Literal Elements:** LOUD FILMS

**Standard Character Claim:** Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

**Mark Drawing Type:** 4 - STANDARD CHARACTER MARK

**Disclaimer:** "FILMS"

## Goods and Services

### Note:

The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis (()) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks \*..\* identify additional (new) wording in the goods/services.

**For:** Production and Distribution of Motion Pictures

**International Class(es):** 041 - Primary Class

**U.S Class(es):** 100, 101, 107

**Class Status:** ACTIVE

**Basis:** 1(a)

**First Use:** Jun. 05, 1991

**Use in Commerce:** Oct. 01, 2000

## Basis Information (Case Level)

**Filed Use:** Yes

**Currently Use:** Yes

**Filed ITU:** No

**Currently ITU:** No

**Filed 44D:** No

**Currently 44E:** No

**Filed 44E:** No

**Currently 66A:** No

**Filed 66A:** No

**Currently No Basis:** No

**Filed No Basis:** No

## Current Owner(s) Information

**Owner Name:** Theatricality LLC

**Owner Address:** P.O. Box 49788  
Los Angeles, CALIFORNIA UNITED STATES 90049

**Legal Entity Type:** LIMITED LIABILITY COMPANY

**State or Country** CALIFORNIA  
**Where Organized:**

## Attorney/Correspondence Information

### Attorney of Record - None

#### Correspondent

**Correspondent** THEATRICALITY LLC  
**Name/Address:** P.O. Box 49788  
LOS ANGELES, CALIFORNIA UNITED STATES 90049  
**Phone:** (310) 260-3980

### Domestic Representative - Not Found

## Prosecution History

Date	Description	Proceeding Number
May 22, 2015	NOTICE OF ACCEPTANCE OF SEC. 8 & 9 - E-MAILED	
May 22, 2015	REGISTERED AND RENEWED (FIRST RENEWAL - 10 YRS)	76533
May 22, 2015	REGISTERED - SEC. 8 (10-YR) ACCEPTED/SEC. 9 GRANTED	76533
May 22, 2015	CASE ASSIGNED TO POST REGISTRATION PARALEGAL	76533
May 06, 2015	TEAS SECTION 8 & 9 RECEIVED	
Apr. 09, 2012	NOTICE OF ACCEPTANCE OF SEC. 8 - E-MAILED	
Apr. 09, 2012	REGISTERED - SEC. 8 (6-YR) ACCEPTED	76985
Mar. 23, 2012	CASE ASSIGNED TO POST REGISTRATION PARALEGAL	76985
Jan. 31, 2012	TEAS SECTION 8 RECEIVED	
Jan. 31, 2012	TEAS CHANGE OF CORRESPONDENCE RECEIVED	
Oct. 04, 2005	REGISTERED-PRINCIPAL REGISTER	
Jul. 12, 2005	PUBLISHED FOR OPPOSITION	
Jun. 22, 2005	NOTICE OF PUBLICATION	
Apr. 07, 2005	LAW OFFICE PUBLICATION REVIEW COMPLETED	70217
Apr. 07, 2005	ASSIGNED TO LIE	70217
Mar. 23, 2005	APPROVED FOR PUB - PRINCIPAL REGISTER	
Mar. 23, 2005	AMENDMENT FROM APPLICANT ENTERED	73787
Mar. 17, 2005	CORRESPONDENCE RECEIVED IN LAW OFFICE	73787
Mar. 17, 2005	TEAS RESPONSE TO OFFICE ACTION RECEIVED	
Mar. 17, 2005	PETITION TO REVIVE-GRANTED	88888
Mar. 17, 2005	TEAS PETITION TO REVIVE RECEIVED	
Mar. 17, 2005	TEAS/EMAIL CORRESPONDENCE ENTERED	74189
Mar. 03, 2005	CORRESPONDENCE RECEIVED IN LAW OFFICE	74189
Mar. 16, 2005	TEAS CHANGE OF OWNER ADDRESS RECEIVED	
Mar. 16, 2005	TEAS CHANGE OF CORRESPONDENCE RECEIVED	
Mar. 03, 2005	TEAS RESPONSE TO OFFICE ACTION RECEIVED	
Aug. 01, 2004	NON-FINAL ACTION E-MAILED	6325
Aug. 01, 2004	ASSIGNED TO EXAMINER	73711
Jan. 14, 2004	NEW APPLICATION ENTERED IN TRAM	

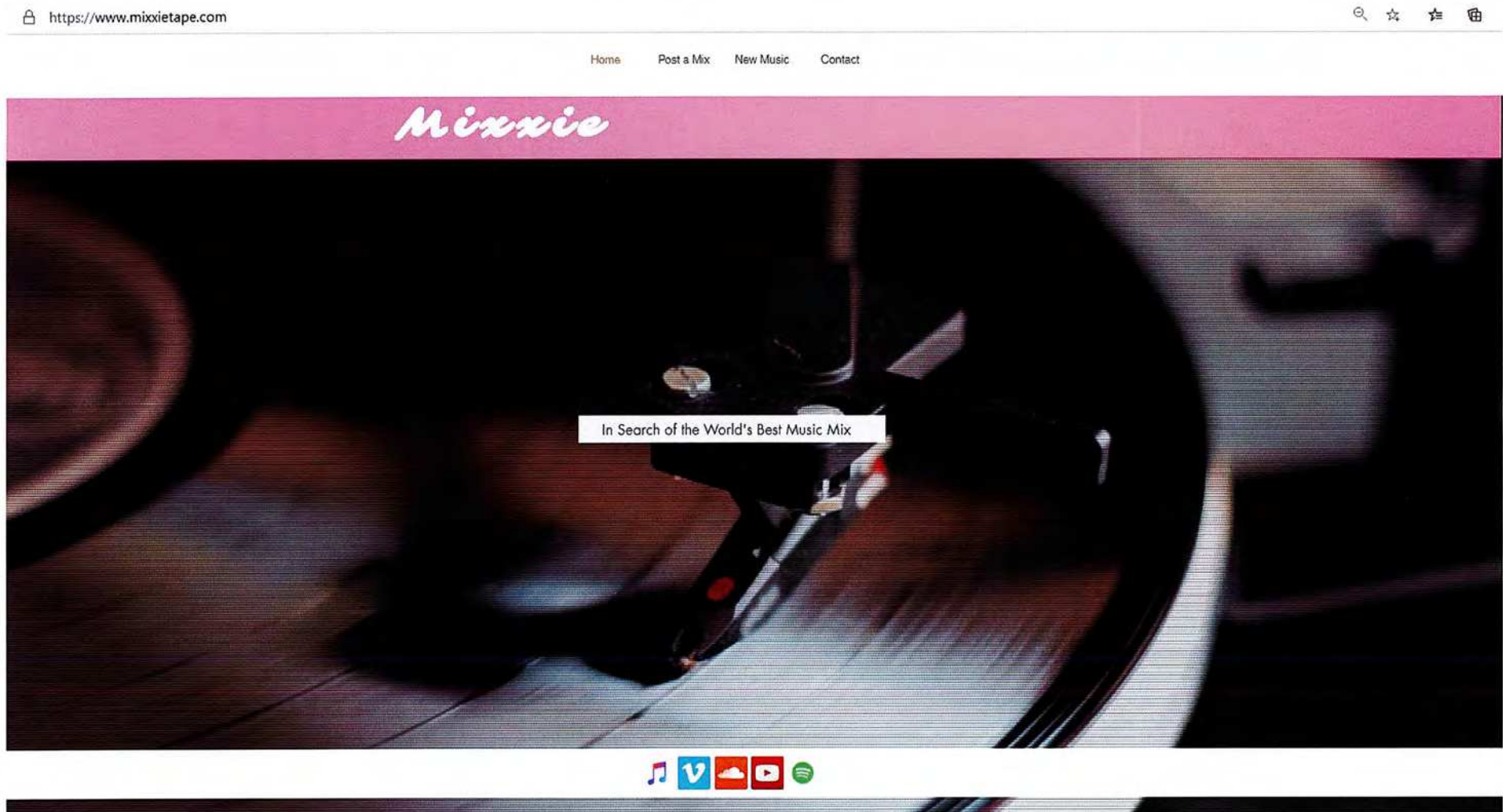
## TM Staff and Location Information

### TM Staff Information - None

#### File Location

**Current Location:** GENERIC WEB UPDATE

**Date in Location:** May 22, 2015



https://www.mixxietape.com/post-a-mix



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mrcbird

### BIRDY'S BOOMBOXARAMA

Discussion

DISTORTION (BABY METAL) NEW  
LIGHT (JOHN MAYER) HI (LITTLE  
JUNIOR) BLACK OUT THE SKY  
(STRUNG OUT) TOO MUCH FUN (SE...

6 0

0

Recent Activity May 16, 2018

christopherbird8

### Manny's Not Too Mellow Yellow Mix

Discussion

Voicenotes (Chris Puth) New Light (John  
Mayer) Back to You (Selena Gomez) Girls  
(Rita Ora) This Is America (Childish  
Gambino) Whatever It Takes (Imagine...

6 0

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Recent Activity May 15, 2018

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First Name

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10 songs only. Formatted like so: Song Title (Artist)

Filter: All posts Sort by: Newest Create New Post

**BIRDY'S BOOMBOXARAMA**  
Discussion

DISORTION (BABY METAL) NEW LIGHT (JOHN MAYER) HI (LITTLE JUNIOR) BLACK OUT THE SKY (STRUNG OUT) TOO MUCH FUN (SE...

Recent Activity May 16, 2018

**Manny's Not Too Mellow Yellow Mix**  
Discussion

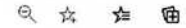
Voicenotes (Chris Puth) New Light (John Mayer) Back to You (Selena Gomez) Girls (Rita Ora) This Is America (Childish Gambino) Whatever It Takes (Imagine...

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Filter: All posts Sort by: Most Liked

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3 0

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Filter: All posts Sort by: Most Viewed Create New Post

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Post a 10 Song Mix

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Filter: All posts Sort by: Most Comments

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- SyrebralVibes
- Mariah Carey
- princeyg18
- JustCa11M3R3d
- Tinie
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Uploads

PLAY ALL

Switched at Love Trailer

33K views • 6 months ago

Truth or Double Dare Official Trailer

6.5K views • 2 years ago

Pitch Promo

156 views • 3 years ago

TRUTH OR DOUBLE DARE- [Official Teaser]

8.1K views • 3 years ago

PUSH 2015 - Sneak Peek #2

115 views • 5 years ago

PUSH 2015 - Sneak Peek Scene

24K views • 5 years ago

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Pitch Promo  
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TRUTH OR DOUBLE DARE- [Official Teaser]  
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PUSH 2015 - Sneak Peek #2  
115 views • 5 years ago

PUSH 2015 - Sneak Peek Scene  
24K views • 5 years ago

PUSH - Official Trailer 2015  
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SyrebralVibes

Mariah Carey

princeyg18

JustCa11M3R3d

Tinie

Nelly Furtado

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Description

Synopsis: Serenity has spent months orchestrating an identity theft heist that will payoff big but when a friend goes missing and the police get involved she has to make a decision to risk it all.

www.facebook.com/PushTheMovie

www.instagram.com/PushTheMovie

Starring:

Shaquita Smith, Patrick Walker, Sayyed Shabazz, Blue Kimble, Jael Roberson, Jamal McWhorter, Allan Ansell, Jaye Taylor and Dj Babey Drew

Exec Producer: Marcus Collins

Producers: Jamal McWhorter, Shaquita Smith

Writer: Tammi Latela

Director/Editor: Tery Wilson

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

**Application Serial No.:** 87/371,308  
**Mark:** WAR BOT  
**International Classes:** 16 & 28  
**Applicant:** Theatricality LLC  
**Published in *Official Gazette*:** July 18, 2017

ROBOT WARS, LLC,

Opposer,

vs.

THEATRICALITY LLC,

Applicant.

**Opposition No. 91236715**

**APPLICANT'S OBJECTIONS AND RESPONSES TO OPPOSER'S**

**FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS AND THINGS**

Pursuant to the provisions of 37 C.F.R. § 2:120, Fed R. Civ. P. 26 and 33, Applicant THEATRICALITY LL, hereby responds to Opposer ROBOT WARS, LLC's First Set of Requests for Production of Documents and Things.

**RESPONSES TO REQUESTS FOR PRODUCTION OF DOCUMENTS**

**REQUEST FOR PRODUCTION NO. 1:**

All trademark searches, whether formal or informal, conducted by or on behalf of Applicant in connection with Applicant's Mark and/or Applicant's Goods, together with all Documents and Things related thereto.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 1:**

Applicant objects to this request on the grounds it is vague and ambiguous. Subject to and without waiving the foregoing objections, Applicant responds as follows: None.

**REQUEST FOR PRODUCTION NO. 2:**

All opinions of counsel referring/relating to Applicant's Mark and/or any trademark search or searches conducted in connection with Applicant's Mark and/or Applicant's Goods.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 2:**

Applicant objects to this request on the grounds it is vague and ambiguous. Subject to and without waiving the foregoing objections, Applicant responds as follows: None.

**REQUEST FOR PRODUCTION NO. 3:**

All Documents and Things related/referring to any assessment of risk made by or on behalf of Applicant, and/or any potential risk, arising from Applicant's adoption and/or use of Applicant's Mark.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 3:**

Applicant objects to this request on the grounds it is vague and ambiguous. Subject to and without waiving the foregoing objections, Applicant responds as follows: None.

**REQUEST FOR PRODUCTION NO. 4:**

All Documents and Things referencing, or otherwise referring or related to Applicant's adoption of Applicant's Mark.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 4:**

Applicant objects to this request on the grounds it is vague and ambiguous. Subject to and without waiving the foregoing objections, Applicant responds as follows: None.

**REQUEST FOR PRODUCTION NO. 5:**

All Documents and Things referencing, or otherwise referring or related to Applicant's first use of Applicant's Mark.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 5:**

Applicant objects to this request on the grounds it is vague and ambiguous. Subject to and without waiving the foregoing objections, Applicant responds as follows: Applicant will produce representative documentation.

**REQUEST FOR PRODUCTION NO. 6:**

All Documents and Things referencing, or otherwise referring or related to the date Applicant alleges or believes Opposer made first use of Opposer's Mark in connection with Opposer's Services.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 6:**

Applicant objects to this request on the grounds it is vague and ambiguous. Subject to and without waiving the foregoing objections, Applicant responds as follows: None.

**REQUEST FOR PRODUCTION NO. 7:**

All Documents and Things referencing, or otherwise referring or related to the date Applicant alleges or believes Opposer made first use of Opposer's Mark in connection with Opposer's Goods.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 7:**

Applicant objects to this request on the grounds it is vague and ambiguous. Subject to and without waiving the foregoing objections, Applicant responds as follows: None.

**REQUEST FOR PRODUCTION NO. 8:**

All Documents and Things referencing, or otherwise referring or related to Applicant's prior registration for Applicant's Mark, including without limitation any Documents and Things related to Applicant's failure to maintain such prior registration and/or the cancellation of such prior registration by the PTO.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 8:**

Applicant objects to this request on the grounds it is vague and ambiguous. Subject to and without waiving the foregoing objections, Applicant responds as follows: Applicant will produce any responsive documents.

**REQUEST FOR PRODUCTION NO. 9:**

All Documents and Things that support or evidence Applicant's bona fide intent to use Applicant's Mark in connection with Applicant's Goods in International Class 16, including without limitation, comic books, prior to Applicant's filing of the Application.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 9:**

Applicant objects to this request on the grounds it is vague and ambiguous. Subject to and without waiving the foregoing objections, Applicant responds as follows: Applicant will produce any documents responsive to this request.

**REQUEST FOR PRODUCTION NO. 10:**

Representational samples of all Documents and Things upon which Applicant has ever placed Applicant's Mark, including, without limitation, Applicant's Goods, other goods and services, each label, hangtag, container, package, stationary, business form, advertising or marketing material or the like.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 10:**

Applicant objects to this request on the grounds it is vague and ambiguous. Subject to and without waiving the foregoing objections, Applicant responds as follows: Applicant will produce any documents responsive to this request.

**REQUEST FOR PRODUCTION NO. 11:**

All Documents and Things that evidence Applicant's marketing and/or advertising utilized in connection with Promoting Applicant's Mark, including without limitation any Documents and Things which evidence the types, channels, and forms of marketing and/or advertising utilized or sought to be utilized by Applicant, the money spent by Applicant on such marketing and/or advertising, and the marketing and/or advertising placements, placement plans, and the like, utilized by Applicant.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 11:**

Applicant objects to this request on the grounds it is vague and ambiguous. Subject to and without waiving the foregoing objections, Applicant responds as follows: Applicant will produce any documents responsive to this request.

**REQUEST FOR PRODUCTION NO. 12:**

Documents sufficient to evidence the amounts, in dollars per year, that Applicant has expended, expends, and/or intends to expend, on Promoting Applicant's Mark in the U.S., inclusive of marketing and advertising expenditures.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 12:**

Applicant objects to this request on the grounds it is vague and ambiguous. Subject to and without waiving the foregoing objections, Applicant responds as follows: Applicant will produce any documents responsive to this request.

**REQUEST FOR PRODUCTION NO. 13:**

All Documents and Things that evidence where and when Applicant has sold, sells, and/or intends to sell, Applicant's Goods, including, without limitation, invoices, purchase orders, shipping documents, solicitations, business plans, and the like.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 13:**

Applicant objects to this request on the grounds it is vague and ambiguous. Subject to and without waiving the foregoing objections, Applicant responds as follows: Applicant will produce any documents responsive to this request.

**REQUEST FOR PRODUCTION NO. 14:**

Documents and Things sufficient to evidence all of Applicant's sales of Applicant's Goods by units sold.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 14:**

Applicant objects to this request on the grounds it is vague and ambiguous. Subject to and without waiving the foregoing objections, Applicant responds as follows: Applicant will produce any documents responsive to this request.

**REQUEST FOR PRODUCTION NO. 15:**

Documents and Things sufficient to evidence all of Applicant's sales of Applicant's Goods by revenue in dollars received for such sales.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 15:**

Applicant objects to this request on the grounds it is vague and ambiguous. Subject to and without waiving the foregoing objections, Applicant responds as follows: Applicant will produce any documents responsive to this request.

**REQUEST FOR PRODUCTION NO. 16:**

Documents and Things sufficient to evidence all of Applicant's sales of Applicant's Goods by the costs incurred by Applicant associated with such sales.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 16:**

Applicant objects to this request on the grounds it is vague and ambiguous. Subject to and without waiving the foregoing objections, Applicant responds as follows: Applicant will produce any documents responsive to this request.

**REQUEST FOR PRODUCTION NO. 17:**

All Documents and Things that reference, and/or refer or relate to, the end-consumers, i.e. retail-purchasers, of Applicant's Goods.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 17:**

Applicant objects to this request on the grounds it is vague and ambiguous. Subject to and without waiving the foregoing objections, Applicant responds as follows: Applicant will produce any documents responsive to this request.

**REQUEST FOR PRODUCTION NO. 18:**

All Documents and Things that reference, and/or refer or relate to, Applicant's desired or intended end-consumers, i.e. retail-purchasers, for Applicant's Goods.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 18:**

Applicant objects to this request on the grounds it is vague and ambiguous. Subject to and without waiving the foregoing objections, Applicant responds as follows: Applicant will produce any documents responsive to this request.

**REQUEST FOR PRODUCTION NO. 19:**

All Documents and Things that reference, and/or relate or refer to, the quality of Applicant's Goods.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 19:**

Applicant objects to this request on the grounds it is vague and ambiguous. Subject to and without waiving the foregoing objections, Applicant responds as follows: None.

**REQUEST FOR PRODUCTION NO. 20:**

All Documents and Things that reference, and/or relate or refer to, any complaints about Applicant's Goods, including without limitation, Documents evidencing or referring to defective goods, returns, and the like.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 20:**

Applicant objects to this request on the grounds it is vague and ambiguous. Subject to and without waiving the foregoing objections, Applicant responds as follows: None.

**REQUEST FOR PRODUCTION NO. 21:**

All Documents that constitute Applicant's financials prepared and/or kept by or on behalf of Applicant in connection with Applicant's Goods, including without limitation, financials prepared and/or kept in connection with the manufacture, production, packaging, storage, offer for sale, sale, distribution, and/or shipment of Applicant's Goods, or otherwise in connection with Applicant's Mark or Applicant's Goods, and including, without limitation, corporate documents, invoices, profit and loss statements, accounts receivable reports, accounts payable reports, tax documents, bookkeeping records, spreadsheets, manufacturing costs, shipping costs, payroll, and the like.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 21:**

Applicant objects to this request on the grounds it is vague and ambiguous. Subject to and without waiving the foregoing objections, Applicant responds as follows: None.

**REQUEST FOR PRODUCTION NO. 22:**

All Documents and Things that constitute, relate to, or otherwise evidence or imply a connection, or in any way evidence confusion, between Applicant's Mark and Opposer's Mark.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 22:**

Applicant objects to this request on the grounds it is vague and ambiguous. Subject to and without waiving the foregoing objections, Applicant responds as follows: None.

**REQUEST FOR PRODUCTION NO. 23:**

All Documents and Things that constitute, comprise, relate to, or otherwise evidence or imply a connection, or in any way evidence confusion, between Applicant's Goods and Opposer's Goods.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 23:**

Applicant objects to this request on the grounds it is vague and ambiguous. Subject to and without waiving the foregoing objections, Applicant responds as follows: None.

**REQUEST FOR PRODUCTION NO. 24:**

All Documents and Things comprising, describing, referencing, or otherwise relating to any instances of actual confusion between Opposer and Applicant.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 24:**

Applicant objects to this request on the grounds it is vague and ambiguous. Subject to and without waiving the foregoing objections, Applicant responds as follows: None.

**REQUEST FOR PRODUCTION NO. 25:**

All Documents and Things that relate to the enforcement, policing, or efforts to protect Applicant's Mark, including without limitation, cease and desist correspondence and any responses thereto.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 25:**

Applicant objects to this request on the grounds it is vague and ambiguous. Subject to and without waiving the foregoing objections, Applicant responds as follows: None.

**REQUEST FOR PRODUCTION NO. 26:**

All Documents and Things that comprise, refer, or relate to any agreement pertaining in whole or in part to Applicant's Mark, inclusive (without limitation) of licenses, settlement agreements, coexistence agreements, manufacturer agreements, re-seller agreements, retailer agreements, and/or distributor agreements.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 26:**

Applicant objects to this request on the grounds it is vague and ambiguous. Subject to and without waiving the foregoing objections, Applicant responds as follows: None.

**REQUEST FOR PRODUCTION NO. 27:**

All Documents and Things not otherwise produced in response to any other Requests herein and referring or relating to Opposer.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 27:**

Applicant objects to this request on the grounds it is vague and ambiguous. Subject to and without waiving the foregoing objections, Applicant responds as follows: None.

**REQUEST FOR PRODUCTION NO. 28:**

All Documents and Things not otherwise produced in response to any other Requests herein and referring or relating to Opposer's Mark.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 28:**

Applicant objects to this request on the grounds it is vague and ambiguous. Subject to and without waiving the foregoing objections, Applicant responds as follows: None.

**REQUEST FOR PRODUCTION NO. 29:**

All Documents and Things not otherwise produced in response to any other Requests herein and referring or relating to Opposer's Goods and Services.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 29:**

Applicant objects to this request on the grounds it is vague and ambiguous. Subject to and without waiving the foregoing objections, Applicant responds as follows: None.

**REQUEST FOR PRODUCTION NO. 30:**

All Documents and Things not otherwise produced in response to any other Requests herein but referenced, consulted, or otherwise used in connection with responding to Opposer's First Set of Interrogatories.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 30:**

Applicant objects to this request on the grounds it is vague and ambiguous. Subject to and without waiving the foregoing objections, Applicant responds as follows: Applicant will produce any documents responsive to this request.

**REQUEST FOR PRODUCTION NO. 31:**

Any and all Documents that evidence Applicant's document retention policy.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 31:**


Applicant objects to this request on the grounds it is vague and ambiguous. Subject to and without waiving the foregoing objections, Applicant responds as follows: None.

**Respectfully submitted,**

DATED: April 3, 2019

**BUCHALTER**  
A Professional Corporation

By: \_\_\_\_\_

  
WILLMORE F. HOLBROW III  
1000 Wilshire Boulevard, Suite 1500  
Los Angeles, CA 90017-1730  
Telephone: 213.891.0700  
Fax: 213.896.0400

*Attorneys for Applicant*

**PROOF OF SERVICE**

I am employed in the County of Los Angeles , State of California. I am over the age of 18 and not a party to the within action. My business address is at BUCHALTER, A Professional Corporation, 1000 Wilshire Boulevard, Suite 1500, Los Angeles, CA 90017-1730.

On the date set forth below, I served the foregoing documents described as:

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

on all other parties and/or their attorney(s) of record to this action by ☐ faxing, ☒ e-mailing, ☐ electronic transmission and/or ☐ placing a true copy thereof in a sealed envelope as follows:

Robert B. Golden  
Lackebach Siegel LLP  
One Chase Road  
Lackebach Siegel Bldg., Penthouse Floor  
Scarsdale, NY 10583

Email: [RGolden@LSLLP.com](mailto:RGolden@LSLLP.com); [HAronson@LSLLP.com](mailto:HAronson@LSLLP.com); [EMenist@LSLLP.com](mailto:EMenist@LSLLP.com);  
[TMEFS@LSLLP.com](mailto:TMEFS@LSLLP.com)

☒ **BY EMAIL** On April 3, 2019, I caused the above-referenced document(s) to be sent in electronic PDF format as an attachment to an email addressed to the person(s) on whom such document(s) is/are to be served at the email address(es) shown above, as last given by that person(s) or as obtained from an internet website(s) relating to such person(s), and I did not receive an email response upon sending such email indicating that such email was not delivered.

☒ I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct to the best of my knowledge. Executed on April 3, 2019, at Los Angeles, California.

☒ I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made. Executed on April 3, 2019, at Los Angeles, California.

Janet E Gass

  
(Signature)

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

**Application Serial No.:** 87/371,308  
**Mark:** WAR BOT  
**International Classes:** 16 & 28  
**Applicant:** Theatricality LLC  
**Published in *Official Gazette*:** July 18, 2017

ROBOT WARS, LLC,

Opposer,

vs.

THEATRICALITY LLC,

Applicant.

**Opposition No. 91236715**

**APPLICANT'S AMENDED RESPONSES TO OPPOSER'S**

**FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS AND THINGS**

Pursuant to the provisions of 37 C.F.R. § 2:120, Fed R. Civ. P. 26 and 33, Applicant THEATRICALITY LL, hereby responds to Opposer ROBOT WARS, LLC's First Set of Requests for Production of Documents and Things.

**RESPONSES TO REQUESTS FOR PRODUCTION OF DOCUMENTS**

**REQUEST FOR PRODUCTION NO. 1:**

All trademark searches, whether formal or informal, conducted by or on behalf of Applicant in connection with Applicant's Mark and/or Applicant's Goods, together with all Documents and Things related thereto.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 1:**

Applicant responds as follows: None.

**REQUEST FOR PRODUCTION NO. 10:**

Representational samples of all Documents and Things upon which Applicant has ever placed Applicant's Mark, including, without limitation, Applicant's Goods, other goods and services, each label, hangtag, container, package, stationary, business form, advertising or marketing material or the like.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 10:**

Applicant has produced documents responsive to this request, including images from its website, product packaging and business cards.

**REQUEST FOR PRODUCTION NO. 11:**

All Documents and Things that evidence Applicant's marketing and/or advertising utilized in connection with Promoting Applicant's Mark, including without limitation any Documents and Things which evidence the types, channels, and forms of marketing and/or advertising utilized or sought to be utilized by Applicant, the money spent by Applicant on such marketing and/or advertising, and the marketing and/or advertising placements, placement plans, and the like, utilized by Applicant.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 11:**

Applicant has produced all documents in its possession or control responsive to this request, including images from its website, product packaging, business cards and costs associated with operating its website.

**REQUEST FOR PRODUCTION NO. 12:**

Documents sufficient to evidence the amounts, in dollars per year, that Applicant has expended, expends, and/or intends to expend, on Promoting Applicant's Mark in the U.S., inclusive of marketing and advertising expenditures.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 12:**

Applicant has produced all documents in its possession or control responsive to this request, including the costs associated with operating the website.

**REQUEST FOR PRODUCTION NO. 13:**

All Documents and Things that evidence where and when Applicant has sold, sells, and/or intends to sell, Applicant's Goods, including, without limitation, invoices, purchase orders, shipping documents, solicitations, business plans, and the like.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 13:**

Applicant has produced all documents in its possession or control responsive to this request, including images from its website, which evidence where Applicant has sold and intends to sell Applicant's goods.

**REQUEST FOR PRODUCTION NO. 17:**

All Documents and Things that reference, and/or refer or relate to, the end-consumers, i.e. retail-purchasers, of Applicant's Goods.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 17:**

Applicant has produced all documents in its custody or control responsive documents to this request, including images from its website which are viewed by end user consumers. Applicant does not maintain documents or things containing private information relating to its customers.

DATED: October 28, 2019

**Respectfully submitted,**

**BUCHALTER**

A Professional Corporation

By: 

WILLMORE F. HOLBROW III

1000 Wilshire Boulevard, Suite 1500

Los Angeles, CA 90017-1730

Telephone: 213.891.0700/Fax: 213.896.0400

*Attorneys for Applicant*

**PROOF OF SERVICE**

I am employed in the County of Los Angeles , State of California. I am over the age of 18 and not a party to the within action. My business address is at BUCHALTER, A Professional Corporation, 1000 Wilshire Boulevard, Suite 1500, Los Angeles, CA 90017-1730.

On the date set forth below, I served the foregoing documents described as:

**APPLICANT'S AMENDED OBJECTIONS AND RESPONSES TO OPPOSER'S FIRST SET OF PRODUCTION OF DOCUMENTS AND THINGS**

on all other parties and/or their attorney(s) of record to this action by ☐ faxing, ☒ e-mailing, ☐ electronic transmission and/or ☐ placing a true copy thereof in a sealed envelope as follows:

Robert B. Golden  
Lackebach Siegel LLP  
One Chase Road  
Lackebach Siegel Bldg., Penthouse Floor  
Scarsdale, NY 10583

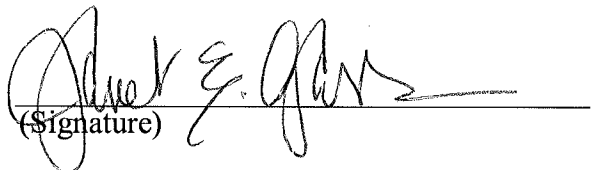
Email: [RGolden@LSLLP.com](mailto:RGolden@LSLLP.com); [HAronson@LSLLP.com](mailto:HAronson@LSLLP.com); [mdelcolle@lsllp.com](mailto:mdelcolle@lsllp.com); [TMEFS@LSLLP.com](mailto:TMEFS@LSLLP.com); [jrollings@LSLLP.com](mailto:jrollings@LSLLP.com)

☒ **BY EMAIL** On October 28, 2019, I caused the above-referenced document(s) to be sent in electronic PDF format as an attachment to an email addressed to the person(s) on whom such document(s) is/are to be served at the email address(es) shown above, as last given by that person(s) or as obtained from an internet website(s) relating to such person(s), and I did not receive an email response upon sending such email indicating that such email was not delivered.

☒ I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct to the best of my knowledge. Executed on October 28, 2019, at Los Angeles, California.

☒ I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made. Executed on October 28, 2019, at Los Angeles, California.

Janet E Gass

  
(Signature)

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

**Application Serial No.:** 87/371,308  
**Mark:** WAR BOT  
**International Classes:** 16 & 28  
**Applicant:** Theatricality LLC  
**Published in *Official Gazette*:** July 18, 2017

ROBOT WARS, LLC,

Opposer,

vs.

THEATRICALITY LLC,

Applicant.

**Opposition No. 91236715**

**APPLICANT'S OBJECTIONS AND RESPONSES TO OPPOSER'S  
FIRST SET OF INTERROGATORIES**

Pursuant to the provisions of 37 C.F.R. § 2:120, Fed R. Civ. P. 26 and 33, Applicant THEATRICALITY LL, hereby responds to Opposer ROBOT WARS, LLC's First Set of Interrogatories.

**OBJECTIONS AND RESPONSES TO INTERROGATORIES**

**INTERROGATORY NO. 1:**

Identify all persons who to Your understanding may have knowledge of any matter relevant to this proceeding.

**RESPONSE TO INTERROGATORY NO. 1:**

Applicant objects to this interrogatory on the grounds it is vague and ambiguous. Subject to and without waiving the foregoing objections, Applicant responds as follows: Christopher Bird.

**INTERROGATORY NO. 2:**

Describe the business of Applicant.

**RESPONSE TO INTERROGATORY NO. 2:**

Applicant objects to this interrogatory on the grounds it is vague and ambiguous. Subject to and without waiving the foregoing objections, Applicant responds as follows: Toy robots and comic books.

**INTERROGATORY NO. 3:**

Identify all persons who participated in the selection and adoption of Applicant's Mark.

**RESPONSE TO INTERROGATORY NO. 3:**

Applicant objects to this interrogatory on the grounds it is vague and ambiguous. Subject to and without waiving the foregoing objections, Applicant responds as follows: Christopher Bird.

**INTERROGATORY NO. 4:**

Describe, in detail, how Applicant made the decision to select/adopt Applicant's Mark for use anywhere, inclusive of the reliance on the results of any and all trademark searches that were conducted.

**RESPONSE TO INTERROGATORY NO. 4:**

Applicant objects to this interrogatory on the grounds it is vague and ambiguous. Subject to and without waiving the foregoing objections, Applicant responds as follows: Applicant was looking for a distinctive and catchy name for its products and came up with War Bot.

**INTERROGATORY NO. 5:**

Describe, in detail, the results of all trademark searches made by or on behalf of Applicant for Applicant's Mark.

**RESPONSE TO INTERROGATORY NO. 5:**

Applicant objects to this interrogatory on the grounds it is vague and ambiguous. Subject to and without waiving the foregoing objections, Applicant responds as follows: Applicant searched the mark War Bot on the USPTO website and found that no active similar marks appeared.

**INTERROGATORY NO. 6:**

State all the facts that support Applicant's bona fide intent to use Applicant's Mark in Commerce in connection with goods in International Class 16, including without limitation comic books, prior to Applicant's filing of the Application.

**RESPONSE TO INTERROGATORY NO. 6:**

Applicant objects to this interrogatory on the grounds it is vague and ambiguous. Subject to and without waiving the foregoing objections, Applicant responds as follows: Applicant has an intent to use the mark on comic books, has developed the storyline of the comic book and is working on the art for the first volume.

**INTERROGATORY NO. 7:**

State Applicant's date of first use of Applicant's Mark in Commerce.

**RESPONSE TO INTERROGATORY NO. 7:**

Applicant objects to this interrogatory on the grounds it is vague and ambiguous. Subject to and without waiving the foregoing objections, Applicant responds as follows: July 1, 2009.

**INTERROGATORY NO. 8:**

Identify all individuals and/or entities that make use, on behalf of Applicant or otherwise, of Applicant's Mark in Commerce.

**RESPONSE TO INTERROGATORY NO. 8:**

Applicant objects to this interrogatory on the grounds it is vague and ambiguous. Subject to and without waiving the foregoing objections, Applicant responds as follows: Only Applicant.

**INTERROGATORY NO. 9:**

Identify any period during which Applicant's Mark was not in consistent or continuous use in the United States by, on behalf of, or with the authorization of Applicant after the date of first use.

**RESPONSE TO INTERROGATORY NO. 9:**

Applicant objects to this interrogatory on the grounds it is vague and ambiguous. Subject to and without waiving the foregoing objections, Applicant responds as follows: None.

**INTERROGATORY NO. 10:**

Identify all goods, inclusive of Applicant's Goods, that Applicant currently uses on or in connection with Applicant's Mark in Commerce.

**RESPONSE TO INTERROGATORY NO. 10:**

Applicant objects to this interrogatory on the grounds it is vague and ambiguous. Subject to and without waiving the foregoing objections, Applicant responds as follows: toy robots.

**INTERROGATORY NO. 11:**

Describe how Applicant, inclusive of third parties on behalf of Applicant, Promotes Applicant's Mark.

**RESPONSE TO INTERROGATORY NO. 11:**

Applicant objects to this interrogatory on the grounds it is vague and ambiguous. Subject to and without waiving the foregoing objections, Applicant responds as follows: Applicant promotes Applicant's products through the internet and word of mouth.

**INTERROGATORY NO. 12:**

In connection with Applicant's use of Applicant's Mark in Commerce, describe the channels of trade, or industry channels, in and/or through which Applicant offers, sells, and/or distributes Applicant's Goods.

**RESPONSE TO INTERROGATORY NO. 12:**

Applicant objects to this interrogatory on the grounds it is vague and ambiguous. Subject to and without waiving the foregoing objections, Applicant responds as follows: Applicant promotes and sells Applicant's products through the internet/individual sales.

**INTERROGATORY NO. 13:**

Describe each type of point of purchase at which Applicant's Goods are sold at retail.

**RESPONSE TO INTERROGATORY NO. 13:**

Applicant objects to this interrogatory on the grounds it is vague and ambiguous. Subject to and without waiving the foregoing objections, Applicant responds as follows: Applicant promotes Applicant's products and services, through the internet/individual sales.

**INTERROGATORY NO. 14:**

Identify the retail prices charged for each of Applicant's Goods.

**RESPONSE TO INTERROGATORY NO. 14:**

Applicant objects to this interrogatory on the grounds it is vague and ambiguous. Subject to and without waiving the foregoing objections, Applicant responds as follows: \$4.99 / \$39.00 / \$99.00.

**INTERROGATORY NO. 15:**

Identify the wholesale price charged for each of Applicant's Goods.

**RESPONSE TO INTERROGATORY NO. 15:**

Applicant objects to this interrogatory on the grounds it is vague and ambiguous. Subject to and without waiving the foregoing objections, Applicant responds as follows: \$4.99 / \$39.00 / \$99.00.

**INTERROGATORY NO. 16:**

In connection with Applicant's use of Applicant's Mark in Commerce, describe the degree of care that customers for Applicant's Goods in the U.S., inclusive of retail and wholesale buyers, use when purchasing Applicant's Goods.

**RESPONSE TO INTERROGATORY NO. 16:**

Applicant objects to this interrogatory on the grounds it is vague and ambiguous. Subject to and without waiving the foregoing objections, Applicant responds as follows: Customers have a typical degree of care when purchasing Applicant's goods.

**INTERROGATORY NO. 17:**

In connection with Applicant's use of Applicant's Mark in Commerce, describe, by types and/or classes of consumer, the target market in the U.S. for Applicant's Goods.

**RESPONSE TO INTERROGATORY NO. 17:**

Applicant objects to this interrogatory on the grounds it is vague and ambiguous. Subject to and without waiving the foregoing objections, Applicant responds as follows: primarily people interested in the Applicant's products, including children and young adults.

**INTERROGATORY NO. 18:**

In connection with Applicant's use of Applicant's Mark in Commerce, state or identify the amount by total volume, in dollars, per year, of Applicant's Goods that have been sold by or on behalf of Applicant.

**RESPONSE TO INTERROGATORY NO. 18:**

Applicant objects to this interrogatory on the grounds it is vague and ambiguous. Subject to and without waiving the foregoing objections, Applicant responds as follows: Applicant will produce any documents reflecting the requested information pursuant to FRCP 33(d).

**INTERROGATORY NO. 19:**

In connection with Applicant's use of Applicant's Mark in Commerce, state or identify the total volume, in units, per year, of Applicant's Goods that have been sold by or on behalf of Applicant.

**RESPONSE TO INTERROGATORY NO. 19:**

Applicant objects to this interrogatory on the grounds it is vague and ambiguous. Subject to and without waiving the foregoing objections, Applicant responds as follows: Applicant will produce any documents reflecting the requested information pursuant to FRCP 33(d).

**INTERROGATORY NO. 20:**

In connection with Applicant's use of Applicant's Mark in Commerce, state or identify the total amount, in dollars, per year, that Applicant has expended to Promote Applicant's Mark.

**RESPONSE TO INTERROGATORY NO. 20:**

Applicant objects to this interrogatory on the grounds it is vague and ambiguous. Subject to and without waiving the foregoing objections, Applicant responds as follows: Applicant will produce any documents reflecting the requested information pursuant to FRCP 33(d).

**INTERROGATORY NO. 21:**

In connection with Applicant's use of Applicant's Mark in Commerce, state or identify the total amount, in dollars, per year, that Applicant has expended to Promote Applicant's Goods.

**RESPONSE TO INTERROGATORY NO. 21:**

Applicant objects to this interrogatory on the grounds it is vague and ambiguous. Subject to and without waiving the foregoing objections, Applicant responds as follows: Applicant will produce any documents reflecting the requested information pursuant to FRCP 33(d).

**INTERROGATORY NO. 22:**

Describe any instances of actual confusion that have occurred between Applicant and Opposer.

**RESPONSE TO INTERROGATORY NO. 22:**

Applicant objects to this interrogatory on the grounds it is vague and ambiguous. Subject to and without waiving the foregoing objections, Applicant responds as follows: None

**INTERROGATORY NO. 23:**

Describe all instances of actual confusion that have occurred between Applicant's Mark and Opposer's Mark.

**RESPONSE TO INTERROGATORY NO. 23:**

Applicant objects to this interrogatory on the grounds it is vague and ambiguous. Subject to and without waiving the foregoing objections, Applicant responds as follows: None.

**INTERROGATORY NO. 24:**

Describe how and when Applicant first learned of Opposer's use of Opposer's Mark.

**RESPONSE TO INTERROGATORY NO. 24:**

Applicant objects to this interrogatory on the grounds it is vague and ambiguous. Subject to and without waiving the foregoing objections, Applicant responds as follows: Applicant believes that Opposer may have sent a letter, shortly before it filed the subject opposition.

**INTERROGATORY NO. 25:**

Identify all agreements that include or reference, or are related to, Applicant's Mark, inclusive of (without limitation) licenses, manufacturing agreements, settlement agreements, coexistence agreements, re-seller agreements, retailer agreements, and/or distributor agreements.

**RESPONSE TO INTERROGATORY NO. 25:**

Applicant objects to this interrogatory on the grounds it is vague and ambiguous. Subject to and without waiving the foregoing objections, Applicant responds as follows: None.

**INTERROGATORY NO. 26:**

Describe with particularity each type of toy bearing Applicant's Mark that was offered for sale by Applicant as of the date of first use stated in the Application.

**RESPONSE TO INTERROGATORY NO. 26:**

Applicant objects to this interrogatory on the grounds it is vague and ambiguous. Subject to and without waiving the foregoing objections, Applicant responds as follows: Generally speaking, the toys move mechanically and are equipped with various shields, tools and weapons.

**INTERROGATORY NO. 27:**

Describe with particularity each type of toy bearing Applicant's Mark that was offered for sale by Applicant in each calendar year following the date of first use stated in the Application, up to the date of the filing of the Application.

**RESPONSE TO INTERROGATORY NO. 27:**

Applicant objects to this interrogatory on the grounds it is vague and ambiguous. Subject to and without waiving the foregoing objections, Applicant responds as follows: Generally speaking, the toys move mechanically and are equipped with various shields, tools and weapons

**INTERROGATORY NO. 28:**

Describe with particularity each type of toy bearing Applicant's Mark that was offered for sale by Applicant as of the date of the filing of the Application.

**RESPONSE TO INTERROGATORY NO. 28:**

Applicant objects to this interrogatory on the grounds it is vague and ambiguous. Subject to and without waiving the foregoing objections, Applicant responds as follows: Generally speaking, the toys move mechanically and are equipped with various shields, tools and weapons.

**INTERROGATORY NO. 29:**

Identify all entities that are affiliated, or have common ownership, with Applicant.

**RESPONSE TO INTERROGATORY NO. 29:**

Applicant objects to this interrogatory on the grounds it is vague and ambiguous. Subject to and without waiving the foregoing objections, Applicant responds as follows: None

**INTERROGATORY NO. 30:**

Identify all entities that have been or are involved in the manufacture of Applicant's Goods.

**RESPONSE TO INTERROGATORY NO. 30:**

Applicant objects to this interrogatory on the grounds it is vague and ambiguous. Subject to and without waiving the foregoing objections, Applicant responds as follows: other than Applicant, none.

**INTERROGATORY NO. 31:**

Identify all entities that have been or are involved in the distribution of Applicant's Goods.

**RESPONSE TO INTERROGATORY NO. 31:**

Applicant objects to this interrogatory on the grounds it is vague and ambiguous. Subject to and without waiving the foregoing objections, Applicant responds as follows: Shipping companies – i.e., USPS

**INTERROGATORY NO. 32:**

Identify all entities that have been or are involved in the Promotion of Applicant's Goods.

**RESPONSE TO INTERROGATORY NO. 32:**

Applicant objects to this interrogatory on the grounds it is vague and ambiguous. Subject to and without waiving the foregoing objections, Applicant responds as follows: None

**INTERROGATORY NO. 33:**

Identify all entities that have been or are involved in the sale of Applicant's Goods.

**RESPONSE TO INTERROGATORY NO. 33:**

Applicant objects to this interrogatory on the grounds it is vague and ambiguous. Subject to and without waiving the foregoing objections, Applicant responds as follows: other than Applicant, none.

**INTERROGATORY NO. 34:**

Describe how and why Applicant lost its prior U.S. trademark registration for Applicant's Mark.

**RESPONSE TO INTERROGATORY NO. 34:**

Applicant objects to this interrogatory on the grounds it is vague and ambiguous. Subject to and without waiving the foregoing objections, Applicant responds as follows: Inadvertent failure to timely file documents with the Trademark Office.

**INTERROGATORY NO. 35:**

Identify all persons with knowledge of any information relevant to Applicant's loss of its prior U.S. trademark registration for Applicant's Mark.

**RESPONSE TO INTERROGATORY NO. 35:**

Applicant objects to this interrogatory on the grounds it is vague and ambiguous. Subject to and without waiving the foregoing objections, Applicant responds as follows: Chris Bird and counsel.

**INTERROGATORY NO. 36:**

Identify all experts with whom Applicant has conferred with, or intends to confer with, in connection with this matter.

**RESPONSE TO INTERROGATORY NO. 36:**

Applicant objects to this interrogatory on the grounds it is vague and ambiguous. Subject to and without waiving the foregoing objections, Applicant responds as follows: Presently, none.

**INTERROGATORY NO. 37:**

Identify all persons involved in the preparation of answers to the foregoing interrogatories and the answers to which each such person contributed.

**RESPONSE TO INTERROGATORY NO. 37:**

Applicant objects to this interrogatory on the grounds it is compound, vague and ambiguous. Subject to and without waiving the foregoing objections, Applicant responds as follows: Chris Bird and counsel assisted with the preparation of the answers.

**INTERROGATORY NO. 38:**

Identify all persons involved in the preparation of responses to Opposer's First Set of Document Requests, including the identification, location, and retrieval of documents, and the responses to which each such person contributed.

**RESPONSE TO INTERROGATORY NO. 38:**

Applicant objects to this interrogatory on the grounds it is compound, vague and ambiguous. Subject to and without waiving the foregoing objections, Applicant responds as follows: Chris Bird and counsel assisted with the preparation.

**INTERROGATORY NO. 39:**

Identify all places where Applicant's business records are located and the language(s) in which the business records are kept.

**RESPONSE TO INTERROGATORY NO. 39:**

Applicant objects to this interrogatory on the grounds it is vague and ambiguous. Subject to and without waiving the foregoing objections, Applicant responds as follows: West Los Angeles, California/English.

**INTERROGATORY NO. 40:**

Describe Applicant's document retention policy or policies.

**RESPONSE TO INTERROGATORY NO. 40:**

Applicant objects to this interrogatory on the grounds it is vague and ambiguous. Subject to and without waiving the foregoing objections, Applicant responds as follows: Applicant does not have a formal document retention policy.

**Respectfully submitted,**

**BUCHALTER**  
A Professional Corporation

DATED: April 3, 2019

By: 

WILLMORE F. HOLBROW III  
1000 Wilshire Boulevard, Suite 1500  
Los Angeles, CA 90017-1730  
Telephone: 213:891:0700  
Fax: 213:896:0400

*Attorneys for Applicant*

**PROOF OF SERVICE**

I am employed in the County of Los Angeles , State of California. I am over the age of 18 and not a party to the within action. My business address is at BUCHALTER, A Professional Corporation, 1000 Wilshire Boulevard, Suite 1500, Los Angeles, CA 90017-1730.

On the date set forth below, I served the foregoing documents described as:

**APPLICANT'S OBJECTIONS AND RESPONSES TO OPPOSER'S  
FIRST SET OF INTERROGATORIES**

on all other parties and/or their attorney(s) of record to this action by ☐ faxing, ☒ e-mailing, ☐ electronic transmission and/or ☐ placing a true copy thereof in a sealed envelope as follows:

Robert B. Golden  
Lackenbach Siegel LLP  
One Chase Road  
Lackenbach Siegel Bldg., Penthouse Floor  
Scarsdale, NY 10583

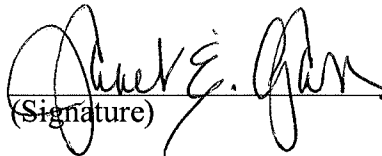
Email: [RGolden@LSLLP.com](mailto:RGolden@LSLLP.com); [HAronson@LSLLP.com](mailto:HAronson@LSLLP.com); [EMenist@LSLLP.com](mailto:EMenist@LSLLP.com);  
[TMEFS@LSLLP.com](mailto:TMEFS@LSLLP.com)

☒ **BY EMAIL** On April 3, 2019, I caused the above-referenced document(s) to be sent in electronic PDF format as an attachment to an email addressed to the person(s) on whom such document(s) is/are to be served at the email address(es) shown above, as last given by that person(s) or as obtained from an internet website(s) relating to such person(s), and I did not receive an email response upon sending such email indicating that such email was not delivered.

☒ I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct to the best of my knowledge. Executed on April 3, 2019, at Los Angeles, California.

☒ I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made. Executed on April 3, 2019, at Los Angeles, California.

Janet E Gass

  
(Signature)

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

**Application Serial No.:** 87/371,308  
**Mark:** WAR BOT  
**International Classes:** 16 & 28  
**Applicant:** Theatricality LLC  
**Published in *Official Gazette*:** July 18, 2017

ROBOT WARS, LLC,

Opposer,

vs.

THEATRICALITY LLC,

Applicant.

**Opposition No. 91236715**

**APPLICANT'S AMENDED OBJECTIONS AND RESPONSES TO OPPOSER'S  
FIRST SET OF INTERROGATORIES**

Pursuant to the provisions of 37 C.F.R. § 2:120, Fed R. Civ. P. 26 and 33, Applicant THEATRICALITY LL, hereby responds to Opposer ROBOT WARS, LLC's First Set of Interrogatories.

**RESPONSES TO INTERROGATORIES**

**INTERROGATORY NO. 11:**

Describe how Applicant, inclusive of third parties on behalf of Applicant, Promotes Applicant's Mark.

**RESPONSE TO INTERROGATORY NO. 11:**

Applicant promotes Applicant's products through word of mouth, the internet via a Google business listing, its website (see produced pages) and by the owner of Theatricality personally promoting the products offered for sale on the website, under the WAR BOT mark.

**INTERROGATORY NO. 12:**

In connection with Applicant's use of Applicant's Mark in Commerce, describe the channels of trade, or industry channels, in and/or through which Applicant offers, sells, and/or distributes Applicant's Goods.

**RESPONSE TO INTERROGATORY NO. 12:**

Applicant offers, sells and distributes Applicant's products online through its website (see produced pages from website) and by fulfilling requests made directly to Theatricality and its personnel.

**INTERROGATORY NO. 13:**

Describe each type of point of purchase at which Applicant's Goods are sold at retail.

**RESPONSE TO INTERROGATORY NO. 13:**

Applicant offers, sells and distributes Applicant's products online through its website (see produced pages from website) and by fulfilling requests made directly to Theatricality and its personnel.

**INTERROGATORY NO. 17:**

In connection with Applicant's use of Applicant's Mark in Commerce, describe, by types and/or classes of consumer, the target market in the U.S. for Applicant's Goods.

**RESPONSE TO INTERROGATORY NO. 17:**

The target market for Applicant's products is children.

**INTERROGATORY NO. 26:**

Describe with particularity each type of toy bearing Applicant's Mark that was offered for sale by Applicant as of the date of first use stated in the Application.

**RESPONSE TO INTERROGATORY NO. 26:**

Small toys that moved mechanically based on manual inputs (not mechanized) and equipped with various shields, cups, tools and weapons. (see e.g., pages from Applicant's website.)

**INTERROGATORY NO. 27:**

Describe with particularity each type of toy bearing Applicant's Mark that was offered for sale by Applicant in each calendar year following the date of first use stated in the Application, up to the date of the filing of the Application.

**RESPONSE TO INTERROGATORY NO. 27:**

Small toys that moved mechanically based on manual inputs (not mechanized) and equipped with various shields, cups, tools and weapons. (see e.g., images from Applicant's website.)

**INTERROGATORY NO. 28:**

Describe with particularity each type of toy bearing Applicant's Mark that was offered for sale by Applicant as of the date of the filing of the Application.

**RESPONSE TO INTERROGATORY NO. 28:**

Small toys that moved mechanically based on manual inputs (not mechanized) and equipped with various shields, cups, tools and weapons. (see e.g., images from Applicant's website.)

**Respectfully submitted,**

**BUCHALTER**

A Professional Corporation

DATED: October 28, 2019

By: 

WILLMORE F. HOLBROW III  
1000 Wilshire Boulevard, Suite 1500  
Los Angeles, CA 90017-1730  
Telephone: 213:891:0700  
Fax: 213:896:0400

*Attorneys for Applicant*

**VERIFICATION**

I, Christopher Bird, declare:

I am President of Applicant Theatricality LLC. I am authorized to make this verification on behalf of Applicant.

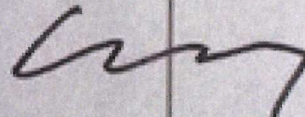
I have read **APPLICANT'S AMENDED OBJECTIONS AND RESPONSES TO OPPOSER'S FIRST SET OF INTERROGATORIES**, and do hereby certify that the statements in the attached responses are accurate to the best of my knowledge, information and/or belief.

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

Executed at *Los Angeles, CA*

on

*October 28*, 2019.



Christopher Bird

JEN 38163239v1

**PROOF OF SERVICE**

I am employed in the County of Los Angeles , State of California. I am over the age of 18 and not a party to the within action. My business address is at BUCHALTER, A Professional Corporation, 1000 Wilshire Boulevard, Suite 1500, Los Angeles, CA 90017-1730.

On the date set forth below, I served the foregoing documents described as:

**APPLICANT'S AMENDED OBJECTIONS AND RESPONSES TO OPPOSER'S FIRST SET OF INTERROGATORIES**

on all other parties and/or their attorney(s) of record to this action by ☐ faxing, ☒ e-mailing, ☐ electronic transmission and/or ☐ placing a true copy thereof in a sealed envelope as follows:

Robert B. Golden  
Lackebach Siegel LLP  
One Chase Road  
Lackebach Siegel Bldg., Penthouse Floor  
Scarsdale, NY 10583

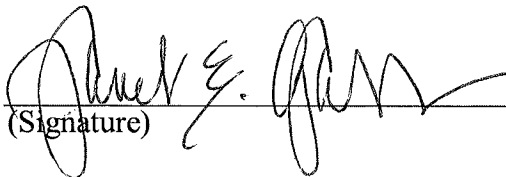
Email: [RGolden@LSLLP.com](mailto:RGolden@LSLLP.com); [HAronson@LSLLP.com](mailto:HAronson@LSLLP.com); [mdelcolle@lsllp.com](mailto:mdelcolle@lsllp.com); [TMEFS@LSLLP.com](mailto:TMEFS@LSLLP.com); [jrollings@LSLLP.com](mailto:jrollings@LSLLP.com)

☒ **BY EMAIL** On October 28, 2019, I caused the above-referenced document(s) to be sent in electronic PDF format as an attachment to an email addressed to the person(s) on whom such document(s) is/are to be served at the email address(es) shown above, as last given by that person(s) or as obtained from an internet website(s) relating to such person(s), and I did not receive an email response upon sending such email indicating that such email was not delivered.

☒ I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct to the best of my knowledge. Executed on October 28, 2019, at Los Angeles, California.

☒ I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made. Executed on October 28, 2019, at Los Angeles, California.

Janet E Gass

  
(Signature)

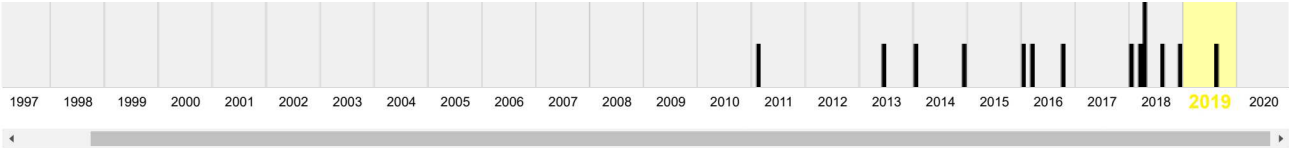
DONATE

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Saved 14 times between February 2, 2011 and August 29, 2019.



JAN						FEB						MAR						APR									
	1	2	3	4	5					1	2				1	2		1	2	3	4	5	6				
6	7	8	9	10	11	12	3	4	5	6	7	8	9	3	4	5	6	7	8	9	10	11	12	13			
13	14	15	16	17	18	19	10	11	12	13	14	15	16	10	11	12	13	14	15	16	17	18	19	20			
20	21	22	23	24	25	26	17	18	19	20	21	22	23	17	18	19	20	21	22	23	24	25	26	27			
27	28	29	30	31			24	25	26	27	28			24	25	26	27	28	29	30	28	29	30				
														31													
MAY						JUN						JUL						AUG									
	1	2	3	4						1		1	2	3	4	5	6				1	2	3				
5	6	7	8	9	10	11	2	3	4	5	6	7	8	7	8	9	10	11	12	13	4	5	6	7	8	9	10
12	13	14	15	16	17	18	9	10	11	12	13	14	15	14	15	16	17	18	19	20	11	12	13	14	15	16	17
19	20	21	22	23	24	25	16	17	18	19	20	21	22	21	22	23	24	25	26	27	18	19	20	21	22	23	24
26	27	28	29	30	31		23	24	25	26	27	28	29	28	29	30	31				25	26	27	28	29	30	31
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SEP						OCT						NOV						DEC									
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8	9	10	11	12	13	14	6	7	8	9	10	11	12	3	4	5	6	7	8	9	8	9	10	11	12	13	14
15	16	17	18	19	20	21	13	14	15	16	17	18	19	10	11	12	13	14	15	16	15	16	17	18	19	20	21
22	23	24	25	26	27	28	20	21	22	23	24	25	26	17	18	19	20	21	22	23	22	23	24	25	26	27	28
29	30						27	28	29	30	31			24	25	26	27	28	29	30	29	30	31				

Note

This calendar view maps the number of times **www.warbotrobots.com** was crawled by the Wayback Machine, *not* how many times the site was actually updated. More info in the FAQ.

[FAQ](#) | [Contact Us](#) | [Terms of Service](#) (Dec 31, 2014)

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# WAR BOT

Custom Robot Toys



Pencil Robot  
(with sharpener)



Robo Soldier



Mini Bot



Mini Drum Bot



Mini Cymbal Bot

PURCHASE

[info@warbotrobots.com](mailto:info@warbotrobots.com)

## PENCIL ROBOT



Our pencil robot stands at ready with a cup of sharpened pencils and a sharpener on his back. Point him toward your homework and he will walk across the desk to deliver pencils where needed!

BACK

---

## ROBO SOLDIER



Our Robo Soldier employs a multifunction, R-sapien type body structure to deliver a remote-controlled fighting machine, armed to the teeth and ready for action!

BACK

---

## MINI BOTS



Our adorable mini bots are fun-filled playthings which waddle to and fro while they perform their designated robo functions!

BACK

## WARBOT PRICE LIST:

ROBO SOLDIER	\$99.00
PENCIL ROBOT	\$39.00
MINI BOTS	\$ 4.99

Please include \$11.00 shipping charge for standard delivery orders.

## To Order By Fax:

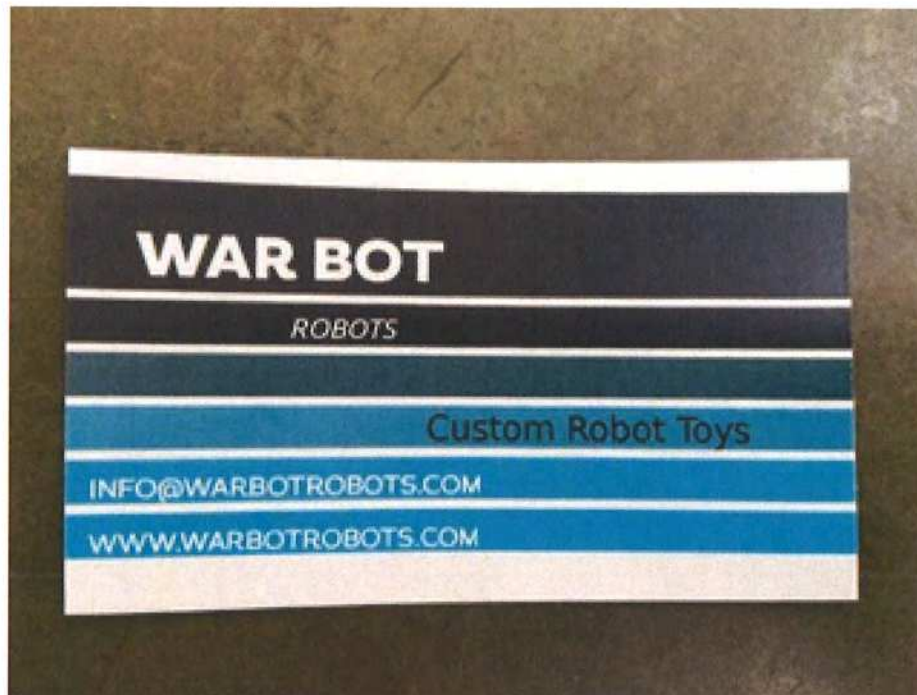
Include, Name, Credit Card Number, Security Code number from back of card, Billing address and phone, and email address for confirmation

## To Order By Mail:

Send check or money order to: War Bot Toys, P.O. Box 49788, Los Angeles, CA 90049

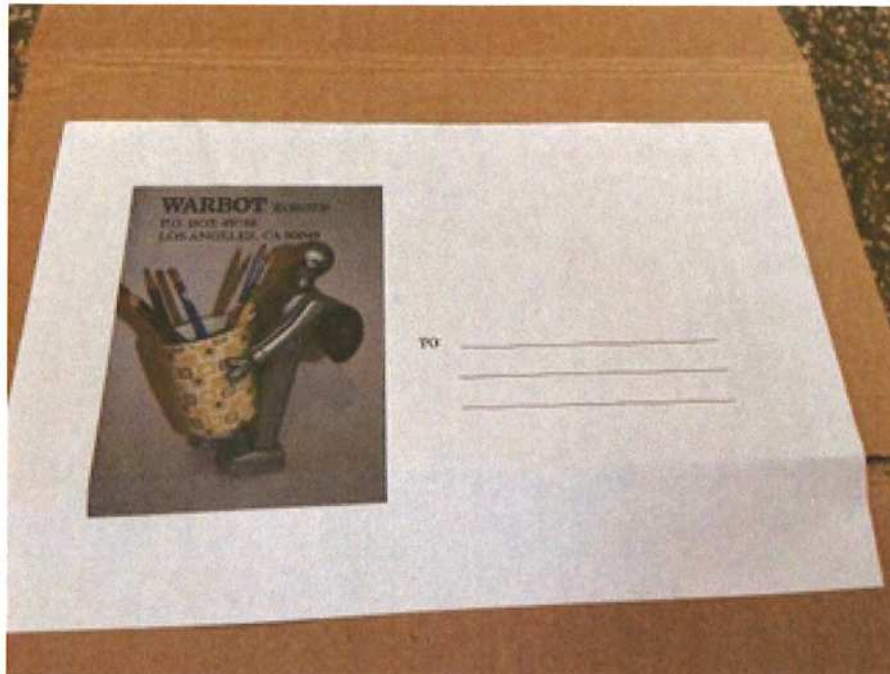
We ship by U.S. Priority mail. For overnight delivery or international orders please email: [info@warbotrobots.com](mailto:info@warbotrobots.com)

[BACK](#)













NEW

DOMAINS

WEBSITE

CLOUD

HOSTING

SERVERS

EMAIL

SECURITY

WHOIS

# warbotrobots.com

Updated 1 second ago ↻



## Domain Information

Domain:	warbotrobots.com
Registrar:	Register.com, Inc.
Registered On:	2009-09-14
Expires On:	2020-09-14
Updated On:	2019-08-16
Status:	clientTransferProhibited
Name Servers:	ns1.dreamhost.com ns2.dreamhost.com ns3.dreamhost.com

Home

Domains

Manage Domains

Registrations

Reg. Transfer

SSL/TLS Certificates

One-Click Installs

WordPress

Mail

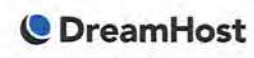
Users

Billing & Account

RECORD  
(WARBOTROBOTS.COM  
ZONE)

TYPE	VALUE
A	208.113.161.16
MX	0 mx1.dreamhost.com.
MX	0 mx2.dreamhost.com.
TXT	v=spf1 mx include:netblocks.dreamhost.com include:spf1.mailchannels.net include:spf2.mailchannels.net -all
NS	ns1.dreamhost.com.
NS	ns2.dreamhost.com.
NS	ns3.dreamhost.com.
TXT	o=~; r=postmaster@warbotrobots.com

\_domainkey



- [Home](#)
- [Domains](#)
- [WordPress](#)
- [Mail](#)
- [Users](#)
- [Billing & Account](#) [^](#)
  - Manage Account**
  - Privacy Settings
  - Manage Payments
  - View Invoices
  - Security

# Manage Account

## Overview

### ACCOUNT

**Start Date:** 2007-10-01  
**ID:** #352868  
**Name:** christopher's Account

Rename

Close Account\*

\*Includes option to keep domain registrations accessible.

### BILLING CYCLE

**2019-10-01** thru **2019-10-31**  
  
You are rebilled on **day 1** of each month if you owe more than \$4.95.

### AMOUNT DUE

**\$0** **AUTOPAY ACTIVE** [View Invoice](#)  
  
Your account is set up to automatically pay your bill every month!

Manage Autopay

Apps

Sam H.

Pro

IMDb Pro

Map of hotels dan...

N

Netflix

Sportophile Site

Intellicast - Weath...

Add To MyRegistr...

Entertainment

Log In

DreamHost

Home

Domains

Manage Domains

Registrations

Reg. Transfer

SSL/TLS Certificates

One-Click Installs

WordPress

Mail

Users

Billing & Account

Change warbotrobots.com's whois nameservers

To modify your domain's whois information, please visit the registrar you registered warbotrobots.com with (looks like it's not us!)

Add a custom DNS record to warbotrobots.com:

Name:

(leave blank for just 'warbotrobots.com')

Type:

A

(Want MX? [Go here!](#))

Value:

Comment:

(optional)

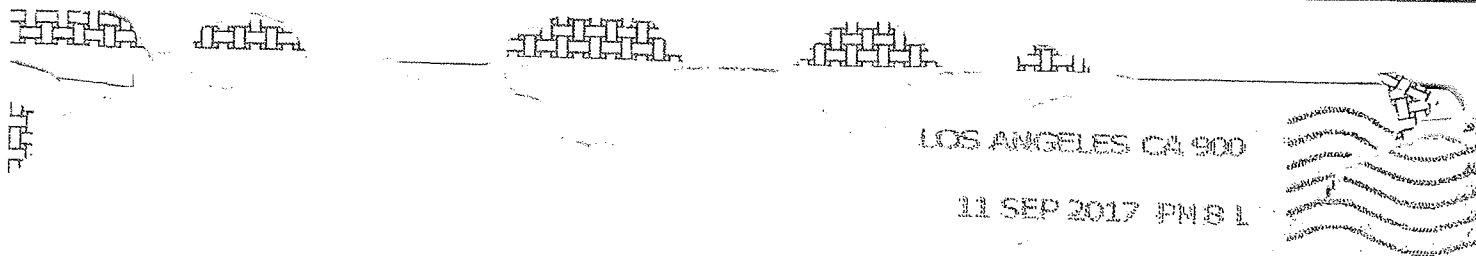
Add Record Now!

Non-editable DreamHost DNS records for warbotrobots.com:

These records were added automatically by DreamHost to provide services (such as web hosting or mail) which are active for this domain.

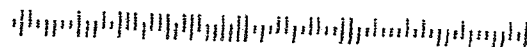
RECORD (WARBOTROBOTS.COM ZONE)	TYPE	VALUE
--------------------------------------	------	-------

THEATRICALITY 0014



War Bot Toys  
P.O. Box 49788  
Los Angeles, CA. 90049

90049-078888



[Redacted]		548
SANTA MONICA, CA 90402		16-1806/1220 661
Pay to the Order of <u>Chris Bird</u>		Date <u>9/10/17</u>
<u>One hundred three + 99/100</u>		\$ <u>103.99</u>
		Dollars <input checked="" type="checkbox"/> Security Features Details on Back.
CITY NATIONAL BANK Entertainment Division 310-559-4282 400 N. Roxbury Dr. Beverly Hills, CA 90210		
For <u>WAR - BOTS</u>		
[Redacted]		

**WARBOT** ROBOTSP.O. BOX 49788  
LOS ANGELES, CA 90049

www.warbotrobots.com

DATE:  
INVOICE #:

9/21/17

Bill To:



Ship To:

Santa Monica, CA 90402

Product ID	Description	Quantity	Unit Price	Line Total
	ROBO SOLDIER	1	99.00	99.00
	MINI BOT	1	4.99	4.99
SUBTOTAL				103.99
SHIPPING & HANDLING				-
TOTAL				-
PAID				-
TOTAL DUE				103.99

NOTES:

NO WEAPONS

THANK YOU FOR YOUR BUSINESS!