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

Proceeding	91237441
Party	Plaintiff Snap Inc.
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

SNAP INC.,	)	
	)	Opposition No. 91237441
Opposer/Counterclaim	)	
Respondent,	)	
	)	TM: MAPSNAPS
v.	)	(App. Serial No. 87344309)
	)	
MAD DOG SOFTWARE CORP.,	)	
	)	
Applicant/Counterclaim	)	
Petitioner.	)	
_____	)	

**OPPOSER’S RESPONSE IN OPPOSITION TO  
APPLICANT’S SECOND MOTION TO COMPEL**

Opposer/Counterclaim Respondent Snap Inc. (“Snap”) hereby responds in opposition to Applicant/Counterclaim Petitioner Mad Dog Software Corp.’s (“Applicant”) Second Motion to Compel Opposer’s Discovery Responses (Dkt. 28) (the “Second Motion”).

**I. FACTUAL BACKGROUND**

This is Applicant’s Second Motion to Compel. Applicant’s first motion to compel (the “First Motion”), Dkt. 24, was denied as untimely because it was filed during a suspension and for Applicant’s failure to meet and confer in good faith per Trademark Rule 2.120(f)(1). Dkt. 27, p.1. After the Board denied Applicant’s First Motion, Applicant emailed Snap’s counsel on May 30, 2019. Declaration of Kenesia L. Cook (“Cook Decl.”) ¶ 9, Ex. H. Applicant demanded that Snap cure its allegedly deficient responses without specifying any objections and, instead, merely pointed to Applicant’s denied first motion and reply brief. *Id.* On June 6, 2019, Snap responded to Applicant via letter and explained that Snap had “fully responded to [Applicant’s] discovery requests and explained the basis for its position.” *Id.* ¶ 10, Ex. I. To prevent unnecessary motion practice, Snap’s counsel suggested that the parties discuss Applicant’s objections in a telephone

conference. *Id.*

“[U]nclear how a phone call may resolve our differences,” Applicant only conditionally agreed to a phone call within a two hour window on June 11, 2019. *Id.* ¶ 11, Ex. J. Applicant demanded that, unless Snap “resolve[d] some easy deficiencies by June 10,” she would assume a phone call would be “unfruitful” and would refile the motion on June 12, 2019. *Id.* Snap’s counsel responded to Applicant on June 11 to communicate unavailability during Applicant’s proposed two hour window, and proposed three different time blocks on two different days to confer as alternatives. *Id.* ¶ 12, Ex. K. Applicant responded via email on June 11, 2019 to again demand answers to “easy deficiencies” by an artificial deadline of “11:59pm [on June 11, 2019] Eastern time” before refiling her motion to compel and described Snap’s attempts to confer as “quite hollow.” *Id.* ¶ 13, Ex. L. The “easy deficienc[y]” requested by Applicant was whether Evan Spiegel, Snap’s Chief Executive Officer, was aware of the Snap’s corporate name change from Snapchat, Inc. to Snap Inc. Snap’s counsel responded a few hours later, stating the obvious, that indeed Mr. Spiegel was aware of the corporate name change. *Id.* ¶ 14, Ex. M. Despite providing the answer to Applicant’s immediate question, Applicant continued to refuse to confer with Snap’s counsel on a call over the remaining discovery issues. *Id.* ¶ 15.

## II. ARGUMENT

Much like Applicant’s First Motion, Applicant’s Second Motion must fail because (1) Applicant failed to make a good faith effort to resolve its concerns before filing this motion and (2) Snap has fully complied with its discovery obligations.<sup>1</sup>

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<sup>1</sup> In addition to Applicant’s failure to meet and confer with Snap in good faith and Applicant’s meritless claims, the Second Motion exceeds the twenty-five (25) page limit requirement set forth in T.B.M.P. § 502.02(b) by *seventeen pages*.

**A. Applicant Failed to Make a Good Faith Effort to Resolve Its Concerns**

As the Board pointed out in its Order denying the First Motion, Trademark Rule 2.120(f)(1) requires a showing that the moving party has made a good faith effort, by conference or correspondence, to resolve the issues with the other party, but that the parties were unable to resolve their differences. Dkt. 27, p.1. The purpose of this requirement is to “promote *the frank exchange between counsel* to resolve issues by agreement or to at least narrow and focus the matters in controversy before judicial resolution is sought.” *Hot Tamale Mama . . . and More, LLC v. SF Invs., Inc.*, 110 U.S.P.Q.2d 1080, 1081 (T.T.A.B. 2014) (citing *Amazon Tech. Inc. v. Wax*, 93 U.S.P.Q.2d 1702, 1705 (T.T.A.B. 2009)).

Here, Applicant failed to confer with Snap in *good faith* before burdening the Board with the Second Motion. Applicant, with its First Motion denied on procedural grounds and easily converted into a Second Motion, likely was fully committed to filing it before the parties resumed their exchanges over the substance of this dispute. Applicant’s conduct in the period before it filed its Second Motion demonstrates its unwillingness to engage with Snap in good faith on the issues. *See* Dkt. 28, p. 1-6. Specifically, Applicant continuously refused to talk with counsel for Snap to resolve the dispute, despite Snap’s best efforts. *See generally* Cook Decl. ¶¶ 10-15, Exs. I-M.

In short, Applicant has not made a *good faith* effort to resolve the alleged discovery issues prior to filing its Second Motion as required under Trademark Rule 2.120(f)(1) and T.B.M.P. § 523.02. *See, e.g., Hot Tamale Mama*, 110 U.S.P.Q.2d at \*3 (finding minimal email exchanges insufficient for a showing of good faith effort to resolve the dispute before seeking Board intervention). The Board should deny Applicant’s Second Motion for the same reason it denied the First Motion.

**B. Snap Adequately Responded to Applicant’s Discovery Requests**

Applicant’s Motion raises two substantive issues: (1) Snap’s alleged failure to respond to

all of Applicant's requests over objections based on privilege and the work product doctrine and (2) the alleged insufficiency of some of Snap's responses to Applicant's interrogatories and document requests. Snap has fully complied with its discovery obligations and addresses each of the issues in the following sections.

**1. *Snap Did Not Improperly Withhold Documents or Information Based on Attorney-Client Privilege or the Work Product Doctrine***

Applicant asserts that Snap "has failed to respond to many interrogatories and requests for production based on attorney client privilege or the work product doctrine." Dkt. 28, p. 6. In actuality, many of Applicant's requests were worded broadly enough to include within their scope information and documents that would be protected by the attorney-client privilege or work product doctrine. Snap asserted its objections to these requests to preserve its right to do so. *See* Cook Decl. ¶¶ 3, 6, Exs. B, E. The one instance Applicant's Second Motion raises in which Snap refused to respond on the basis of the attorney-client privilege was an interrogatory that sought Snap's legal strategy in another proceeding, which is discussed more fully below.

Further, as Snap advised Applicant in correspondence dated January 25, 2019, Snap has not withheld any documents on the basis of privilege, aside from documents created since the initiation of this proceeding. *Id.*; *see also Ryan Inv. Corp. v. Pedregal de Cabo San Lucas*, No. C 06-3219 JW (RS), 2009 WL 5114077, at \*3 (N.D. Cal. Dec. 18, 2009) (noting that "counsel's communications with the client and work product developed once the litigation commences are presumptively privileged and need not be included on any privilege log").

**2. *Snap Has Fully Responded to Interrogatory Nos. 1, 3-4, 8, 10-12, 15-19, and 23 and Request for Production Nos. 2, 9-11, 14-15, and 17-18***

Both in its initial responses and in supplemental responses, Snap has complied with its discovery obligations. To demonstrate, the following are Applicant's discovery requests and Snap's initial and supplemental responses.

a. Snap Fully Responded to Interrogatory Nos. 1 and 4

Applicant's Interrogatory Nos. 1 and 4 and Snap's responses are set forth below:

**INTERROGATORY:**

*1. Identify and describe the date and circumstances of Opposer first becoming aware of Applicant's use and registration of Applicant's Mark.*

**RESPONSE:**

*In addition to the general objections, Snap objects to this interrogatory to the extent it seeks information protected from discovery by the attorney-client privilege, the work product doctrine, or Federal Rule of Civil Procedure 26(b).*

*Subject to these objections, Snap responds that it became aware of Applicant's use and attempt to register Applicant's Mark at some point after Applicant filed the Application. The exact date is unknown. Snap reserves the right to supplement and/or amend its response to this interrogatory during and upon the completion of discovery*

**INTERROGATORY:**

*4. Identify and describe in detail the date and circumstances of Opposer first becoming aware of Applicant's alleged infringement, dilution, and any other conduct complained of in this Opposition No. 91237441.*

**RESPONSE:**

*In addition to the general objections, Snap objects to this interrogatory to the extent it seeks information protected from discovery by the attorney-client privilege, the work product doctrine, or Federal Rule of Civil Procedure 26(b).*

*Subject to these objections, Snap responds that it became aware of Applicant, the Application, and the conduct complained of in this Opposition after the filing date of the Application. Snap reserves the right to supplement and/or amend its response to this interrogatory*

during and upon the completion of discovery.

Applicant complains about Snap's responses, but fails to explain why they are inadequate. As Snap explained to Applicant, it is unable to provide a precise date in response to these interrogatories because the precise date is unknown. Cook Decl. ¶ 3, Ex. B. Rather, relation to relevant events—here, the filing date of Applicant's application—provides the most accurate information available. *Id.*

b. Snap Fully Responded to Interrogatory No. 3

Applicant's Interrogatory No. 3 and Snap's response are set forth below:

**INTERROGATORY:**

*3. Describe each and every instance of which Opposer is aware in which any Person has been in any way confused, mistaken, or deceived as to the origin or sponsorship of any goods or services sold or offered for sale under or in connection with Applicant's Mark.*

**RESPONSE:**

*In addition to the general objections, Snap objects to this interrogatory to the extent it seeks information protected from discovery by the attorney-client privilege, the work product doctrine, or Federal Rule of Civil Procedure 26(b).*

*Subject to these objections, Snap responds that, based on information currently available to it, Applicant has used Applicant's Mark in commerce for only a fairly short period of time and with limited public exposure. Accordingly, consumers have not had a meaningful opportunity to be confused. Nonetheless, Snap believes that if and when Applicant resumes use of Applicant's Mark, confusion is likely and inevitable. Snap reserves the right to supplement and/or amend its response to this interrogatory during and upon the completion of discovery.*

In addition to its initial response, Snap's January 25, 2019, letter to Applicant explicitly stated that it is currently unaware of any incidents of actual confusion but that actual confusion

evidence is impossible to obtain at this time because, despite Applicant's claims that it has been using the mark since October 2017, Snap has found no evidence to support current use of Applicant's Mark. *Id.* Further, Applicant has produced no documents evidencing current use of the mark. *Id.* Snap, therefore, remains puzzled why Applicant insists that Snap's response is inadequate.<sup>2</sup>

c. Snap Fully Responded to Interrogatory No. 8

Applicant's Interrogatory No. 8 and Snap's responses are set forth below:

**INTERROGATORY:**

*8. Identify all agreements concerning the SNAP Marks by date, parties to the agreement, and the subject matter of the agreement.*

**RESPONSE:**

*In addition to the general objections, Snap objects to this interrogatory to the extent it seeks documents protected from discovery by the attorney-client privilege, the work product doctrine, or Federal Rule of Civil Procedure 26(b). Snap also objects to this interrogatory to the extent that it is overbroad and unduly burdensome because it does not include a reasonable limitation in scope. Snap further objects to this interrogatory to the extent it seeks documents that are confidential and proprietary and that are not relevant to any party's claim or defense.*

**SUPPLEMENTAL RESPONSE:**

*Subject to the above objections, Snap responds that, in accordance with Federal Rule of Civil Procedure 33(d), information responsive to this interrogatory can be derived or ascertained from the documents identified with Bates numbers SNAP0006668 – 6695 and SNAP0006724 – 6725, consisting of agreements concerning the SNAP Marks. Snap reserves the right to supplement*

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<sup>2</sup> Applicant claims use of the mark in commerce, but only points to use on Facebook and GitHub, neither of which constitutes use of the Applicant's Mark in connection with the goods and services identified in the application.



*and/or amend its response to this interrogatory during and upon the completion of discovery.*

Despite the questionable relevance of this request, Snap has already identified documents from which Applicant may derive or ascertain the information requested in this interrogatory and has accordingly complied with its discovery obligation. Further, Applicant admits in the Second Motion that Snap produced settlement agreements responsive to this Interrogatory. However, Applicant now argues in the Second Motion that Snap did not provide the specific agreements Applicant sought, including “partnership or co-marketing agreements.” Dkt. 28, p. 14. However, such agreements do not involve the SNAP Marks. Applicant’s Interrogatory cannot be read so broadly as to include every agreement in which Snap is a party, regardless of whether the agreement involves the SNAP Marks.

d. Snap Fully Responded to Interrogatory Nos. 10 and 11

Applicant’s Interrogatory Nos. 10 and 11 and Snap’s responses are set forth below:

**INTERROGATORY:**

*10. State the date Opposer claims the SNAP Marks became famous.*

**RESPONSE:**

*Subject to the general objections, Snap responds that the SNAPCHAT mark became famous at least as early as December 2015 and well before the filing date of the Application. Snap reserves the right to supplement and/or amend its response to this interrogatory during and upon the completion of discovery.*

**INTERROGATORY:**

*11. Describe in detail all facts and circumstances that support Opposer’s claim that the SNAP Marks were famous as of the date required to be identified in response to Interrogatory No.*

*10.*

**RESPONSE:**

*Subject to the general objections, Snap responds that it commissioned a fame survey for the SNAPCHAT mark in or around December 2015 in which the expert concluded that the SNAPCHAT mark is famous. Snap reserves the right to supplement and/or amend its response to this interrogatory during and upon the completion of discovery.*

Contrary to the assertions in the Second Motion, Snap did not object to either of these interrogatories on the basis of the attorney-client privilege, the work product doctrine, or Federal Rule of Civil Procedure 26(b). Nor did Snap fail to provide a date on which the SNAPCHAT mark became famous. Further, Snap has explained to Applicant that it contends that the SNAPCHAT mark is famous within the meaning of the dilution analysis and that the other SNAP Marks are famous within the meaning of the likelihood of confusion analysis. Cook Decl. ¶ 8, Ex. G. Snap has fully complied with its discovery obligation in this regard.

e. Snap Fully Responded to Interrogatory No. 12

Applicant's Interrogatory No. 12 and Snap's responses are set forth below:

**INTERROGATORY:**

*12. Identify and describe in detail all administrative proceedings and litigations related to any SNAP Marks other than this Opposition No. 91237441.*

**RESPONSE:**

*In addition to the general objections, Snap objects to this interrogatory to the extent it seeks information protected from discovery by the attorney-client privilege, the work product doctrine, or Federal Rule of Civil Procedure 26(b). Snap also objects to this interrogatory to the extent that it is overbroad and unduly burdensome without a reasonable limitation in scope. Snap further objects to this interrogatory to the extent it seeks information that is confidential and proprietary and that is not relevant to any party's claim or defense. Snap further objects to this interrogatory on the ground that responsive information is available to Applicant without*

*imposing an undue burden on Snap.*

*Subject to these objections, Snap responds that, in accordance with Federal Rule of Civil Procedure 33(d), it will produce notices of opposition filed with the Trademark Trial and Appeal Board related to the SNAP Marks from which Applicant can derive or ascertain responsive information. Snap reserves the right to supplement and/or amend its response to this interrogatory during and upon the completion of discovery.*

**SUPPLEMENTAL RESPONSE:**

*Subject to the above objections, Snap responds that, in accordance with Federal Rule of Civil Procedure 33(d), information responsive to this interrogatory can be derived or ascertained from the document identified with Bates numbers SNAP0002079 – 6620 and SNAP0006696 – 6723, consisting of notices of opposition filed with the Trademark Trial and Appeal Board and the complaint in *Snap Interactive, Inc. v. Snap Inc.* Snap is unaware of any other trademark infringement litigation involving its SNAP Marks. Snap reserves the right to supplement and/or amend its response to this interrogatory during and upon the completion of discovery.*

Snap has provided documents from which information responsive to this interrogatory can be derived or ascertained, including the only federal litigation Snap has identified that involved its SNAP Marks, and has therefore complied with its discovery obligation.<sup>3</sup> Applicant argues in its Second Motion that Snap produced a federal complaint for the case *Snap Interactive, Inc. v. Snap Inc.* only after Applicant “pointed it out.” Dkt. 28, p. 16. Applicant fails to mention that the document was publicly available—indeed, easily available on PACER and other case docket sources—and therefore Snap is not obligated to accept the burden of providing information equally accessible to Applicant.

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<sup>3</sup> Although Applicant’s deficiency letter also requested information concerning a federal case captioned *eyebobs, LLC v. Snap Inc.*, that case did not concern any of the SNAP Marks and is irrelevant to this proceeding.

f. Snap Fully Responded to Interrogatory No. 15

Applicant's Interrogatory No. 15 and Snap's responses are set forth below:

**INTERROGATORY:**

*15. Since the date identified in response to Interrogatory No. 14, and up to and including December 16, 2015, identify all Persons who were aware that Opposer was considering "Snap, Inc." as its company name.*

**RESPONSE:**

*In addition to the general objections, Snap objects to this interrogatory on the ground that it is overbroad and unduly burdensome in that it seeks identification of "all Persons." Snap further objects to this interrogatory to the extent it seeks information that is confidential and proprietary and that is not relevant to any party's claim or defense. Snap also objects to this interrogatory as vague and ambiguous in that "Snap, Inc." is not Snap's company name. Finally, Snap objects to the form of this interrogatory, as the date identified in Interrogatory No. 14 is after December 16, 2015.*

**SUPPLEMENTAL RESPONSE:**

*Subject to the above objections and based on Applicant's asserted definition of the word "consider" in its letter dated November 21, 2018, Snap responds that it is unable to identify with certainty the identities of people within the company who were aware that Snap was considering alternative names for the company from July 2013 until December 2015 because a potential corporate name change was a consideration from very early on, and many individuals are no longer with the company. Snap further responds, however, that on December 16, 2015, and for over 9 months after that date, its company name was Snapchat, Inc. Snap reserves the right to supplement and/or amend its response to this interrogatory during and upon the completion of discovery.*

Snap has provided the date that it considered alternative names for the company, including the name “Snap Inc.” and has therefore fully complied with its discovery obligations. Further, a potential corporate name change was a consideration from Snap’s early days, and there have been many personnel changes since that time. Thus, Snap is unable to identify which people within the company were aware that it was considering alternative names during the two-and-a-half-year period requested in Interrogatory No. 15. Finally, and most importantly, this request is *completely irrelevant* to any claim or defense in this proceeding. Applicant’s fraud claim is based on the allegation that Snap misled the PTO when it relied on the house mark status of its SNAPCHAT mark to overcome a rejection. This request, however, is directed to Snap’s corporate name change, not the house mark SNAPCHAT. Snap’s house mark was and continues to be SNAPCHAT. When Snap changed its corporate name is wholly irrelevant.

g. Snap Fully Responded to Interrogatory No. 16

Applicant’s Interrogatory No. 16 and Snap’s responses are set forth below:

**INTERROGATORY:**

*16. Describe with specificity the selection of “Snap, Inc.” as Opposer’s company name, including but not limited to the reason(s) for its selection, the approval process, and identifying all Persons involved in the approval process.*

**RESPONSE:**

*In addition to the general objections, Snap objects to this interrogatory to the extent it seeks information protected from discovery by the attorney-client privilege, the work product doctrine, or Federal Rule of Civil Procedure 26(b). Snap further objects to this interrogatory on the ground that it seeks information that is confidential and proprietary and that is not relevant to any party’s claim or defense. Snap also objects to this interrogatory as vague and ambiguous in that “Snap, Inc.” is not Snap’s company name.*

*Subject to these objections, Snap responds that it changed its name to Snap Inc. to reflect that the company is more than just the Snapchat app, the announcement of which coincided with the launch of Snap's "Spectacles" hardware product. Snap reserves the right to supplement and/or amend its response to this interrogatory during and upon the completion of discovery.*

Snap provided the reason for the corporate name change to Snap Inc. and subsequently advised the Applicant that it is unaware of any approval process for the name change. Contrary to Applicant's protestations that Snap must have had a particular approval process, Snap stands by its response that there was no formal approval process for a corporate name change, other than Board approval. Snap cannot make up an approval process in response to Applicant's Interrogatory to appease Applicant. Thus, Snap has fully complied with its discovery obligations. Here again, however, when Snap changed its corporate name has no bearing on when it allegedly changed its "house mark," which is the basis for Applicant's fraud claim. As noted above, Snap never changed its house mark. Accordingly, this request is irrelevant.

h. Snap Fully Responded to Interrogatory Nos. 17 and 18

Applicant's Interrogatory Nos. 17 and 18 and Snap's responses are set forth below:

**INTERROGATORY:**

*17. Identify and describe the subject matter of all agreements, between Opposer and a Third Party, concerning the rebrand from "Snapchat, Inc." to "Snap, Inc."*

**RESPONSE:**

*In addition to the general objections, Snap objects to this interrogatory to the extent it seeks information protected from discovery by the attorney-client privilege, the work product doctrine, or Federal Rule of Civil Procedure 26(b). Snap further objects to this interrogatory on the ground that it seeks information that is confidential and proprietary and that is not relevant to any party's claim or defense.*

**INTERROGATORY:**

18. *Identify all Persons who reviewed the agreements identified in response to Interrogatory No. 17.*

**RESPONSE:**

*In addition to the general objections, Snap objects to this interrogatory to the extent it seeks information protected from discovery by the attorney-client privilege, the work product doctrine, or Federal Rule of Civil Procedure 26(b). Snap further objects to this interrogatory on the ground that it seeks information that is confidential and proprietary and that is not relevant to any party's claim or defense.*

Applicant argues in its Second Motion that Snap's responses to Interrogatory Nos. 17 and 18 are "highly suspect," theorizing that an agreement must exist because Snap acquired the domain www.snap.com. Snap has the domain name acquisition agreement and informed Applicant that it is confidential attorneys' eyes only. Nevertheless, Snap fully described the details of the acquisition of the domain to Applicant. Cook Decl. ¶ 8, Ex. G. Accordingly, Snap has fully complied with its discovery obligations.

i. **Snap Fully Responded to Interrogatory No. 19**

Applicant's Interrogatory No. 19 and Snap's responses are set forth below:

**INTERROGATORY:**

19. *Identify all Persons who reviewed the office action response filed on December 16, 2015 in Serial No. 86/619,184, including all Persons who validated whether business statements (such as corporate name) were true in said office action response.*

**RESPONSE:**

*In addition to the general objections, Snap objects to this interrogatory as overbroad and unduly burdensome in that it seeks identification of "all Persons." Snap also objects to this*

*interrogatory to the extent it seeks information protected from discovery by the attorney-client privilege, the work product doctrine, or Federal Rule of Civil Procedure 26(b). Snap further objects to this interrogatory to the extent it seeks information that is confidential and proprietary and that is not relevant to any party's claim or defense. Finally, Snap objects to this interrogatory as vague and ambiguous because it does not define or identify the "business statements" it purports are in the office action. Snap's corporate name at the time the office action response was filed, i.e., Snapchat, Inc., would not reasonably be construed as a "business statement."*

*Subject to these objections, Snap responds that its in-house and outside legal counsel reviewed the office action response filed on December 16, 2015. Snap reserves the right to supplement and/or amend its response to this interrogatory during and upon the completion of discovery.*

**SUPPLEMENTAL RESPONSE:**

*Subject to the above objections, Snap responds that its in-house legal counsel Luke Yeh and outside legal counsel Jill Tomlinson reviewed the office action response filed on December 16, 2015. Both of these individuals can be contacted through counsel for Snap. Snap reserves the right to supplement and/or amend its response to this interrogatory during and upon the completion of discovery.*

Snap has identified the individuals who reviewed the office action response and has therefore complied with its discovery obligation.

- j. Snap Fully Responded to Interrogatory No 23 and Request for Production No. 2

Applicant's Interrogatory No. 23 and Request for Production No. 2 and Snap's responses are set forth below:

**INTERROGATORY:**



23. Describe in detail the acquisition of the domain “www.snap.com,” including identifying the Date that Opposer first decided to attempt to acquire the domain.

**RESPONSE:**

In addition to the general objections, Snap objects to this interrogatory on the ground that it seeks information that is confidential and proprietary and that is not relevant to any party’s claim or defense.

**SUPPLEMENTAL RESPONSE:**

Subject to the above objections, Snap responds that it acquired the snap.com domain name on November 13, 2014. The domain name was acquired in the name of a subsidiary business entity created for this purpose to keep the deal confidential. The domain name sat with the entity until the corporate name change to Snap Inc. in the fall of 2016. Snap reserves the right to supplement and/or amend its response to this interrogatory during and upon the completion of discovery.

**REQUEST FOR PRODUCTION:**

2. Documents concerning the acquisition of the domain “www.snap.com” by Opposer, including any agreements with any Third Parties.

**RESPONSE:**

In addition to the general objections, Snap objects to this request on the ground that it seeks documents that are confidential and proprietary and not relevant to any party’s claim or defense. Snap reserves the right to supplement and/or amend its response to this request during and upon the completion of discovery.

**SUPPLEMENTAL RESPONSE:**

Subject to the above objections, Snap responds that the agreement concerning the acquisition of the snap.com domain name contains highly sensitive business information and

*accordingly is designated attorneys' eyes only. Snap reserves the right to supplement and/or amend its response to this request during and upon the completion of discovery.*

Snap advised Applicant that the agreement concerning the snap.com acquisition is designated attorneys' eyes only. Nevertheless, Snap has described the details of the acquisition in response to Applicant's Interrogatory No. 23. Accordingly, Snap has fully complied with its discovery obligations.

k. Snap Has Responded to Request for Production No. 9

Applicant's Request for Production No. 9 and Snap's responses are set forth below:

**REQUEST FOR PRODUCTION:**

*9. Documents concerning both the marks "Snap Maps" and "MapSnaps," wherein "and" includes the conjunctive form only for this request only.*

**RESPONSE:**

*In addition to the general objections, Snap objects to this request to the extent it seeks documents protected from discovery by the attorney-client privilege, the work product doctrine, or Federal Rule of Civil Procedure 26(b). Snap further objects to this request as vague and ambiguous in that Snap is unaware of a mark "Snap Maps."*

*Subject to these objections, and to the extent Snap understands the request, Snap responds that it will produce the office action issued against U.S. Application No. 87727486, in which the USPTO notified Snap that its application to register SNAP MAP would be suspended pending the outcome of Applicant's application to register its MAPSNAPS mark. Snap reserves the right to supplement and/or amend its response to this request during and upon the completion of discovery.*

Snap explained in its response that the office action issued against U.S. Application No. 87727486 is the only non-privileged document in Snap's possession concerning both the SNAP

MAPS and MAPSNAPS Marks. In the Second Motion, Applicant argues that “if Opposer filed this opposition in response to learning that its Snap Map product may be infringing Applicant’s Mark, there is a strong case for unclean hands.” Dkt. 28, p. 26. However, Applicant premise is simply wrong; trademark applicants routinely “file an opposition to [an] earlier-filed conflicting mark” and the law provides the basis for doing so. T.M.E.P. § 716.02(c). Thus, Applicant’s argument that Snap has unclean hands is baseless.

1. Snap Has Responded to Request for Production No. 10

Applicant’s Request for Production No. 10 and Snap’s responses are set forth below:

**REQUEST FOR PRODUCTION:**

*10. Documents concerning any disputes, including actual or threatened litigation or administrative proceedings, involving allegations of trademark infringement, unfair competition, or dilution, to which Opposer is or was a party, except for this proceeding.*

**RESPONSE:**

*In addition to the general objections, Snap objects to this request to the extent it seeks documents protected from discovery by the attorney-client privilege, the work product doctrine, or Federal Rule of Civil Procedure 26(b). Snap also objects to this request to the extent that it is overbroad and unduly burdensome without a reasonable limitation in scope. Snap further objects to this request to the extent it seeks documents that are confidential and proprietary and that are not relevant to any party’s claim or defense. Snap further objects to this request on the ground that responsive documents are available to Applicant without imposing an undue burden on Snap.*

*Subject to these objections, Snap responds that it will produce notices of opposition filed with the Trademark Trial and Appeal Board related to the SNAP Marks, which will allow Applicant to obtain publicly filed documents concerning actual or threatened litigation or administrative proceedings involving allegations of trademark infringement, unfair competition,*

or dilution to which Snap is or was a party. Snap reserves the right to supplement and/or amend its response to this request during and upon the completion of discovery.

**SUPPLEMENTAL RESPONSE:**

*Subject to the above objections, Snap responds that it will produce the complaint in Snap Interactive v. Snap Inc., which will allow Applicant to obtain publicly filed documents regarding the litigation. Snap reserves the right to supplement and/or amend its response to this request during and upon the completion of discovery.*

Snap has produced documents regarding trademark disputes to which Snap was a party and the SNAP Marks were at issue.<sup>4</sup> In Applicant's Second Motion, Applicant is attempting to broaden the scope of this Document Request by citing settlement communications between Snap and third parties accusing Snap of trademark infringement, which are wholly irrelevant to this proceeding. Applicant cannot attempt to rewrite its Document Request after receiving responsive documents that it finds unsatisfactory.

m. **Snap Has Responded to Request for Production No. 11**

Applicant's Request for Production No. 11 and Snap's responses are set forth below:

**REQUEST FOR PRODUCTION:**

*11. Documents concerning and sufficient to identify any license, assignment, franchise, partnership, or any other agreement concerning the SNAP Marks, whether signed or unsigned, and whether in final or draft form.*

**RESPONSE:**

*In addition to the general objections, Snap objects to this request to the extent it seeks documents protected from discovery by the attorney-client privilege, the work product doctrine,*

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<sup>4</sup> Although Applicant's deficiency letter also requested documents concerning a federal case captioned *eyebobs, LLC v. Snap Inc.*, that case did not concern any of the SNAP Marks and is irrelevant to this proceeding.

*or Federal Rule of Civil Procedure 26(b). Snap also objects to this request to the extent that it is overbroad and unduly burdensome without a reasonable limitation in scope. Snap further objects to this request to the extent it seeks documents that are confidential and proprietary and that are not relevant to any party's claim or defense.*

*Subject to these objections, Snap responds that it will produce responsive, representative, non-privileged documents within its possession, custody, or control sufficient to identify any executed license, assignment, franchise or partnership between Snap and an unaffiliated third party where the use of the SNAP Marks was core to such agreement. Snap reserves the right to supplement and/or amend its response to this request during and upon the completion of discovery.*

Because the breadth of the request could cover documents that are privileged or confidential, Snap asserted the objections to preserve them. Nevertheless, Snap fully responded to the request despite the dubious relevance of any such documents to the claims asserted in this proceeding. Snap even supplemented its production to include additional agreements located in its files. Accordingly, Snap has complied with its discovery obligation.

n. Snap Has Responded to Request for Production No. 14

Applicant's Request for Production No. 14 and Snap's response are set forth below:

**REQUEST FOR PRODUCTION:**

*14. Documents concerning and sufficient to identify any formal or informal plan, policy, or understanding of Opposer concerning document retention or destruction.*

**RESPONSE:**

*In addition to the general objections, Snap objects to this request to the extent it seeks documents protected from discovery by the attorney-client privilege, the work product doctrine, or Federal Rule of Civil Procedure 26(b).*

*Subject to these objections, Snap responds that it will produce its Email Retention Plan.*

*Snap reserves the right to supplement and/or amend its response to this request during and upon the completion of discovery.*

Snap has responded to this request by providing its Email Retention Plan and advised Applicant that it is unaware of any other documents responsive to this request. Cook Decl. ¶ 8, Ex. G. Snap has therefore fully complied with its discovery obligation.

o. Snap Has Responded to Request for Production No. 15

Applicant's Request for Production No. 15 and Snap's response are set forth below:

**REQUEST FOR PRODUCTION:**

*15. All documents relied upon or referred to by Opposer in responding to Applicant's First Set of Interrogatories and in any supplementation thereof.*

**RESPONSE:**

*In addition to the general objections, Snap objects to this request to the extent it seeks documents protected from discovery by the attorney-client privilege, the work product doctrine, or Federal Rule of Civil Procedure 26(b). Snap also objects to this request to the extent that it is overbroad and unduly burdensome without a reasonable limitation in scope.*

*Subject to these objections, Snap responds that it will produce non-privileged documents responsive to this request within its possession, custody, or control, including file wrappers for the SNAP Marks, registration certificates for the SNAP Marks, and documents produced in response to Applicant's First Set of Interrogatories pursuant to Federal Rule of Civil Procedure 33(d). Snap reserves the right to supplement and/or amend its response to this request during and upon the completion of discovery.*

In Applicant's Second Motion, Applicant asks the Board to compel Snap to produce documents based on an assumption that Snap used such documents in preparing responses to Applicant's First Set of Interrogatories. However, Snap has produced all documents on which it

relied in responding to the interrogatories. Snap has fully responded to this document request.

p. Snap Has Responded to Request for Production No. 17

Applicant's Request for Production No. 17 and Snap's response are set forth below:

**REQUEST FOR PRODUCTION:**

*17. Documents concerning and sufficient to identify any formal or informal plan, policy, or understanding of Opposer concerning signature authority, and review of documents before they are signed.*

**RESPONSE:**

*In addition to the general objections, Snap objects to this request to the extent it seeks documents protected from discovery by the attorney-client privilege, the work product doctrine, or Federal Rule of Civil Procedure 26(b). Snap also objects to this request to the extent that it is overbroad and unduly burdensome without a reasonable limitation in scope in that it does not identify the type of documents to which any such policy would apply. Snap further objects to this request on the ground that it is not relevant to any party's claim or defense.*

Snap disagrees that this request is relevant but nevertheless has advised Applicant that there is no general policy, informal or formal, regarding signature authority and review of documents before they are signed.<sup>5</sup> Cook Decl. ¶ 8, Ex. G. Snap further advised that office action responses, in practice, are drafted by Snap's outside counsel and reviewed by Snap's in-house counsel. *Id.* Again, Snap cannot manufacture documents to appease Applicant's factual assumptions.

q. Snap Has Responded to Request for Production No. 18

Applicant's Request for Production No. 18 and Snap's response are set forth below:

**REQUEST FOR PRODUCTION:**

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<sup>5</sup> Snap has since identified documents regarding review of contracts before they are signed. While Snap believes them to be irrelevant, Snap will supplement its production.

18. Documents concerning the rebranding of Snapchat, Inc. to Snap, Inc, including all agreements with Third Parties concerning the rebranding.

**RESPONSE:**

*In addition to the general objections, Snap objects to this request to the extent it seeks documents protected from discovery by the attorney-client privilege, the work product doctrine, or Federal Rule of Civil Procedure 26(b). Snap also objects to this request to the extent that it is overbroad and unduly burdensome without a reasonable limitation in scope. Snap further objects to this request on the ground that it is not relevant to any party's claim or defense. Finally, Snap objects to this request as vague and ambiguous in that "Snap, Inc." is not Snap's company name.*

*Subject to these objections, and to the extent Snap understands the request, Snap responds that it will produce documents sufficient to identify the time at which Snap changed the company name to Snap Inc., including publicly available press releases and other industry articles. Snap reserves the right to supplement and/or amend its response to this request during and upon the completion of discovery.*

Although this request seeks irrelevant and highly sensitive documents, Snap nevertheless produced responsive documents, including its press releases and other industry articles regarding its corporate name change to Snap Inc. Thus, Snap has fully responded to this request. Here again, however, Snap's change in its corporate name has no bearing on when it allegedly changed its "house mark," which is the basis for Applicant's fraud claim.

**3. *Snap Properly Objected to Interrogatory No. 13 Because It Seeks Privileged Information Related to Legal Strategy Employed by Snap in Another Matter***

Applicant's Interrogatory No. 13 and Snap's response are set forth below:

**INTERROGATORY:**

13. Describe in detail why Opposer withdrew its opposition in Opposition No. 91214299.



**RESPONSE:**

*In addition to the general objections, Snap objects to this interrogatory to the extent it seeks information protected from discovery by the attorney-client privilege, the work product doctrine, or Federal Rule of Civil Procedure 26(b). Snap further objects to this interrogatory to the extent it seeks information that is confidential and proprietary and that is not relevant to any party's claim or defense.*

This interrogatory is inappropriate, as it seeks information regarding Snap's legal strategy. *See, e.g., Domond v. 37.37, Inc.*, 113 U.S.P.Q.2d 1264, \*5 (T.T.A.B. 2015) (finding similar interrogatories improper because "Petitioner is responsible for formulating his own case and cannot demand that Respondent prepare a comparison report, undertake legal research, or disclose its legal strategies. It is Petitioner's responsibility to prove his case."). The reason Snap withdrew Opposition No. 91214299 is protected by the attorney-client privilege. However, as Snap advised Applicant, the documents related to the opposition are publicly available for review. *Id.*

Applicant resorts to a baseless argument that attorney-client privilege should be vitiated in this proceeding under the crime-fraud exception. Dkt. 28, p. 17-18. In support of its claim, Applicant argues that Snap committed fraud by communicating the fame of the SNAP Marks to the Board and arguing that there is a likelihood of confusion between the SNAP Marks and Applicant's Mark. *Id.* Applicant further argues that Snap used its counsels' advice in furtherance of the fraud. *Id.* Applicant grossly misstates the law. As a preliminary matter, Applicant has not alleged fraud in connection with the named opposition as required for a crime-fraud exception to attorney-client privilege. Further "[a]llegations based solely on information and belief . . . do not constitute a pleading of fraud with particularity." *Asian and Western Classics B.V. v. Selkow*, 92 U.S.P.Q.2d 1478, 2009 WL 3678263, at \*1 (T.T.A.B. Oct. 22, 2009). Accordingly, Applicant's

claim that the attorney-client privilege should be vitiated due to its baseless fraud claim must fail.

**4. *Snap Properly Objected to Interrogatory No. 24 and Request for Production Nos. 20-24 as Overreaching and Irrelevant Discovery Requests to Which Snap Is Not Obligated to Respond***

Despite this being a trademark proceeding, Applicant requested documents regarding sexting, “bro” culture, the alleged sexist or toxic nature of the work environment at Snap, an SEC investigation, and a lawsuit that has nothing to do with the SNAP Marks (or any trademarks for that matter). These requests are irrelevant. They serve no purpose other than to harass and attempt to embarrass Snap. Applicant’s Second Motion still fails to demonstrate how such information and documents would help substantiate its case. Accordingly, Snap is not required to respond to these requests and stands by its objections. *See Domond*, 113 U.S.P.Q.2d at 1267-68 (discovery requests were irrelevant and improper because they went beyond what was necessary to prove the pending claims and were not appropriately tailored to elicit discoverable information); *Luehrmann v. Kwik Kopy Corp.*, 2 U.S.P.Q.2d 1303, 1305 (T.T.A.B. 1987) (each party has a duty not to make a good faith effort to seek only such discovery as is proper and relevant to the specific issues involved in the case).

**III. CONCLUSION**

Applicant improperly filed this Motion. It failed to make a meaningful effort to resolve this matter before burdening the Board with this Motion. Moreover, Snap has already fully responded to Applicant’s requests, save those requests that are inappropriate and irrelevant in this trademark proceeding. For the reasons set forth above, Snap respectfully requests that Applicant’s Second Motion be denied in its entirety.

Date: July 2, 2019

*/Kenesia L. Cook/*  
Tywanda H. Lord  
Rhojonda D.C. Thomas  
Kenesia L. Cook  
Kilpatrick Townsend & Stockton LLP

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rdthomas@kilpatricktownsend.com  
kcook@kilpatricktownsend.com  
*Counsel for Opposer*

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

SNAP INC.,	)	
	)	Opposition No. 91237441
Opposer/Counterclaim	)	
Respondent,	)	
	)	TM: MAPSNAPS
v.	)	(App. Serial No. 87344309)
	)	
MAD DOG SOFTWARE CORP.,	)	
	)	
Applicant/Counterclaim	)	
Petitioner.	)	
_____	)	

**CERTIFICATE OF SERVICE**

This is to certify that a true and correct copy of the foregoing OPPOSER’S RESPONSE IN OPPOSITION TO APPLICANT’S SECOND MOTION TO COMPEL was served on Applicant’s correspondent of record in the above-referenced opposition proceeding on July 2, 2019, via email addressed to [danielle@fullmoonfire.com](mailto:danielle@fullmoonfire.com).

/Kris Teilhaber/  
Kilpatrick Townsend & Stockton LLP

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

SNAP INC.,	)	
	)	Opposition No. 91237441
Opposer/Counterclaim	)	
Respondent,	)	
	)	TM: MAPSNAPS
v.	)	(App. Serial No. 87344309)
	)	
MAD DOG SOFTWARE CORP.,	)	
	)	
Applicant/Counterclaim	)	
Petitioner.	)	
_____	)	

**DECLARATION OF KENESIA L. COOK IN  
OPPOSITION TO APPLICANT’S MOTION TO COMPEL**

I, Kenesia L. Cook, declare:

1. I am an associate with the law firm Kilpatrick Townsend & Stockton LLP, which represents Opposer Snap Inc. (“Snap”) in the above-captioned action. I am over the age of twenty-one and competent to make this Declaration. The facts set forth herein are based on my person knowledge and documents maintained by my firm in the ordinary course of business.

2. On August 20, 2018, Applicant served its First Interrogatories and First Document Production Requests. True and correct copies of these discovery requests are attached as **Exhibit A**.

3. On September 19, 2018, Snap timely served its responses to Applicant’s discovery requests. True and correct copies of Snap’s Responses and Objections to Applicant’s First Set of Interrogatories and First Requests for Production of Documents are attached as **Exhibit B**.

4. On November 21, 2018, Applicant sent Snap a letter alleging deficiencies in Snap's responses to Applicant's discovery requests. A true and correct copy of Applicant's letter is attached as **Exhibit C**.

5. While Snap was gathering information and documents to supplement its responses to Applicant's first set of discovery requests, Applicant served its Second Document Requests on December 5, 2018, demanding a response by December 19, 2018, in contravention to Rules 33 and 34 of the Federal Rules of Civil Procedure. A true and correct copy of Applicant's Second Document Requests is attached as **Exhibit D**.

6. Snap timely served its responses to Applicant's Second Request for Documents on January 4, 2019. A true and correct copy of Snap's responses to Applicant's Second Request for Documents is attached as **Exhibit E**.

7. On January 14, 2019, Applicant sent Snap a letter alleging deficiencies in Snap's responses to the second discovery requests and requested Snap supplement its responses to both the first and second discovery requests by January 21, 2019. A true and correct copy of Applicant's letter is attached as **Exhibit F**.

8. On January 25, 2019, Snap served supplemental responses to Applicant's discovery requests and sent Applicant a letter further addressing all of Applicant's issues with Snap's discovery responses. True and correct copies of Snap's supplemental responses and letter are attached as **Exhibit G**.

9. Following the Board's denial of Applicant's First Motion to Compel Opposer's Discovery Responses, Applicant email Snap's counsel on May 30, 2019 requesting Snap's responses to the alleged deficiencies by June 6, 2019. A true and correct copy of Applicant's May 30, 2019 email is attached as **Exhibit H**.

10. On June 6, 2019, I responded to Applicant via letter explaining that, with the service of the supplemental discovery, Snap has “fully responded to [Applicant’s] discovery requests and explained the basis for its position.” I also suggested a phone call in an effort to resolve the discovery dispute. A true and correct copy of Snap’s June 6, 2019 letter is attached as **Exhibit I**.

11. On June 7, 2019, Applicant emailed Snap’s counsel on June 7, 2019 in which she indicated she was “unclear how a phone call may resolve our differences.” Applicant only conditionally agreed to have a phone call between a two hour window on June 11, 2019 if Snap would “resolve some easy deficiencies by June 10.” Applicant indicated that, unless Snap complied, she “will assume that any subsequent phone call will be just as unfruitful.” A true and correct copy of Applicant’s June 7, 2019 email is attached as **Exhibit J**.

12. Snap’s counsel emailed Applicant on June 11, 2019 to communicate unavailability for a call during Applicant’s proposed two hour window, but proposed three different time blocks on two different days to meet and confer with Applicant. A true and correct copy of Snap’s June 11, 2019 email is attached as **Exhibit K**.

13. Applicant responded via email on June 11, 2019 and again demanded answers to “easy deficiencies” by an artificial deadline of “11:59pm [on June 11, 2019] Eastern time” before refiling her motion to compel. A true and correct copy of Applicant’s June 11, 2019 email is attached as **Exhibit L**.

14. On June 11, 2019, before Applicant’s 11:59pm deadline, Snap’s counsel responded to Applicant via email and provided the answer to the alleged deficiency specified in Applicant’s previous email. A true and correct copy of Snap’s June 11, 2019 response is attached as **Exhibit M**.

15. Applicant refused to hold a phone call to meet and confer on the outstanding discovery disputes.

I declare under penalty of perjury under the laws of the United States and the State of Georgia that the foregoing is true and correct to the best of my knowledge.

DATED: July 2, 2019

*/Kenesia L. Cook/*  
Kenesia L. Cook



## **EXHIBIT A**

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

SNAP, INC.,	)	
	)	
Opposer/Counterclaim-	)	
Respondent	)	
	)	
v.	)	Opposition No. 91237441
	)	Serial No. 87344309
MAD DOG SOFTWARE CORP.,	)	
	)	
Applicant/Counterclaim-	)	
Petitioner	)	
	)	
	)	
_____	)	

**APPLICANT'S FIRST SET OF INTERROGATORIES**

Applicant/Counterclaim Petitioner Mad Dog Software Corp., (“Applicant”) hereby requests that Opposer/Counterclaim Respondent Snap, Inc., (“Opposer”) answer the following Interrogatories, under oath and in writing, within thirty (30) days after service.

DEFINITIONS

1. “Opposer” shall mean Snap Inc., its affiliated corporations and entities, and its officers, directors, employees, agents, attorneys, subsidiaries, predecessors in interest, and any other Person or entity acting on its behalf or subject to its control.
2. “Applicant” shall mean Mad Dog Software Corp. and any employees, agents, attorneys, and any other Person or entity acting on its behalf or subject to its control.
3. “Applicant’s Mark” shall mean the MAPSNAPS mark that is the subject of U.S. Application Serial No. 87344309.

4. “Application” shall mean U.S. Application Serial No. 87344309.

5. “SNAP Marks” shall mean all registered and unregistered trademarks and service marks owned and/or used by Snap consisting of or incorporating the term SNAP, either standing alone or in combination with other words and/or design elements, including but not limited to SNAPCHAT, SNAP INTERACTIVE, SNAP, SNAP MOBILE, SNAP CHANNEL, and SNAP CODE.

6. “Documents” is defined in the broadest sense permitted by the Federal Rules of Civil Procedure, including but not limited to, things, writings, drawings, graphs, charts, photographs, phone records, stored and retained electronic communications (including but not limited to electronic mail, applications, and instant messaging communications) and other data compilations from which information can be obtained and translated (if necessary) through detection devices into reasonably usable form, including but not limited to correspondence, memoranda (including internal memoranda), handwritten notes, rough drafts, business records, summaries, calendars, appointment books, expense vouchers, receipts, telephone records, message slips, logs, diaries, time sheets, time records, computer printouts, computer lists, computer drives and computer indices.

7. “Person” shall mean any natural person, group of natural persons, corporation, company, unincorporated association, partnership, joint venture, or other business, legal or governmental entity or association, including but not limited to any advertising, marketing, or public relations agencies, website designers, and competitors.

8. “Third Party” shall mean any Person other than Opposer or Applicant.

9. “Communication” shall mean any statement, representation, or other transmission of information from one Person to another and any questions posed by one Person to another in or

via any medium, including but not limited to, by personal meeting, telephone, letter, facsimile, or email.

10. “Concerning” shall mean connected with, dealing with, in reference to, referring to, regarding, relating to, relative to, respecting, touching, touching on, discussing, or referencing.

11. “Identify” or “specify” with respect to a Person who is an individual shall mean to provide the following information, to the extent known: the name, job title, current or last known home address and home telephone number, last known place of employment, and the address and telephone number of such place of employment.

12. “Identify” or “specify” with respect to a Person who is a corporation, company, unincorporated association, partnership, joint venture, or other business, legal or governmental entity or association shall mean to provide the name of such business entity, its last known address and telephone number, the jurisdiction under whose laws it is organized and the jurisdiction in which it maintains its principal place of business.

13. “Identify” or “specify” with respect to a document shall mean to provide, to the extent known, the following information: the title and date of the document (if any), the name of the publication (if any), the website domain name (if any), its author, addressees and recipients, and a description of its contents.

14. “Date” shall mean the exact day, month, and year, if ascertainable, or, if not, the best available approximation (including relationship to other events).

15. “Describe” shall mean to provide the Date and a full and complete narrative account of the information requested without omission of any information, whether or not deemed by Applicant to be admissible or inadmissible for purposes of this proceeding.

16. The conjunctive form “and” and the disjunctive form “or” shall be mutually interchangeable and shall not be construed to limit any Interrogatory.

17. The terms “any” and “all” shall be mutually interchangeable, and the use of words either in the singular or plural shall be mutually interchangeable and shall not be construed to limit any Interrogatory.

### INSTRUCTIONS

1. If Opposer refuses to answer any Interrogatory in whole or in part based on a claim that any privilege applies to the information sought, state the privilege and describe the factual basis for Opposer’s claim of privilege with such specificity as will permit the United States Patent and Trademark Office to determine the legal sufficiency of the claim of privilege.

2. Each paragraph and subparagraph and the definitions are to be construed independently and not by or with reference to any other paragraph or subparagraph or definition herein if such construction would limit the scope of any particular Interrogatory or the subject matter of such Interrogatory.

3. If any of these Interrogatories cannot be answered in full, answer to the fullest extent possible, specifying the reason for Opposer’s inability to answer the remainder and stating what information, knowledge or belief Opposer has concerning the unanswered portion.

4. These Interrogatories are continuing. Opposer is under a duty to supplement, correct or amend Opposer’s response to any of these Interrogatories if Opposer learns that any response is in some material respect incomplete or incorrect and if the additional or corrective information has not otherwise been made known to Applicant during the discovery process or in writing.

## INTERROGATORIES

### INTERROGATORY NO. 1:

Identify and describe the date and circumstances of Opposer first becoming aware of Applicant's use and registration of Applicant's Mark.

### INTERROGATORY NO. 2:

Identify all of the goods and services in connection with which Applicant has used, or is using any mark, that Opposer contends infringes or dilutes the SNAP Marks in any way.

### INTERROGATORY NO. 3:

Describe each and every instance of which Opposer is aware in which any Person has been in any way confused, mistaken, or deceived as to the origin or sponsorship of any goods or services sold or offered for sale under or in connection with Applicant's Mark.

### INTERROGATORY NO. 4:

Identify and describe in detail the date and circumstances of Opposer first becoming aware of Applicant's alleged infringement, dilution, and any other conduct complained of in this Opposition No. 91237441.

### INTERROGATORY NO. 5:

For each good or service that Opposer has offered, sold, or provided under or in connection with the SNAP Marks, state the date ranges of actual and planned use of the SNAP Marks in connection with the good or service, including the specific date of first use or intended first use of the mark for each good or service.

INTERROGATORY NO. 6:

For each good or service that Opposer has offered, sold, or provided under or in connection with the Asserted Marks, state the suggested or expected retail price of the good or service.

INTERROGATORY NO. 7:

Identify each trademark search, investigation, or any other inquiry conducted by or for Opposer concerning the availability to use or register the SNAP Marks.

INTERROGATORY NO. 8:

Identify all agreements concerning the SNAP Marks by date, parties to the agreement, and the subject matter of the agreement.

INTERROGATORY NO. 9:

Describe any Communications between Opposer and any Third Party concerning Applicant or Applicant's Mark, and any actions taken by Opposer as a result of such Communications.

INTERROGATORY NO. 10:

State the date Opposer claims the SNAP Marks became famous.

INTERROGATORY NO. 11:

Describe in detail all facts and circumstances that support Opposer's claim that the SNAP Marks were famous as of the date required to be identified in response to Interrogatory No. 10.

INTERROGATORY NO. 12:

Identify and describe in detail all administrative proceedings and litigations related to any SNAP Marks other than this Opposition No. 91237441.

INTERROGATORY NO. 13:

Describe in detail why Opposer withdrew its opposition in Opposition No. 91214299.

INTERROGATORY NO. 14:

State the date Opposer first considered “Snap, Inc.” as its company name.

INTERROGATORY NO. 15:

Since the date identified in response to Interrogatory No. 14, and up to and including December 16, 2015, identify all Persons who were aware that Opposer was considering “Snap, Inc.” as its company name.

INTERROGATORY NO. 16:

Describe with specificity the selection of “Snap, Inc.” as Opposer’s company name, including but not limited to the reason(s) for its selection, the approval process, and identifying all Persons involved in the approval process.

INTERROGATORY NO. 17:

Identify and describe the subject matter of all agreements, between Opposer and a Third Party, concerning the rebrand from “Snapchat, Inc.” to “Snap, Inc.”

INTERROGATORY NO. 18:

Identify all Persons who reviewed the agreements identified in response to Interrogatory No. 17.

INTERROGATORY NO. 19:

Identify all Persons who reviewed the office action response filed on December 16, 2015 in Serial No. 86/619,184, including all Persons who validated whether business statements (such as corporate name) were true in said office action response.



INTERROGATORY NO. 20:

Describe all steps taken by Opposer to determine whether the company name “Snap, Inc.” infringed or infringes the rights of any Third Party, including but not limited to any investigation or search that has been conducted.

INTERROGATORY NO. 21:

Identify all documents responsive to Applicant’s First Request for Production of Documents that have either been destroyed or are no longer within Opposer’s possession, custody, or control.

INTERROGATORY NO. 22:

Describe in detail the circumstances around the termination of Opposition No. 85905632.

INTERROGATORY NO. 23:

Describe in detail the acquisition of the domain “www.snap.com,” including identifying the Date that Opposer first decided to attempt to acquire the domain.

INTERROGATORY NO. 24:

Identify all current and former employees of Opposer who stated that Opposer’s culture is “toxic” or “sexist,” or Opposer is a “sexist” or “toxic” place to work.

Dated: 20<sup>th</sup> day of August, 2018,

*/Danielle Fujii/*

---

Danielle Fujii

CEO  
Mad Dog Software Corp.  
1261 Albion Lane  
Sunnyvale, CA 94087  
Danielle@fullmoonfire.com

## CERTIFICATE OF SERVICE

I hereby certify that the on this 20th day of August, 2018, a true and complete copy of the foregoing **APPLICANT'S FIRST SET OF INTERROGATORIES** was served on Austin Phillips, and Tywanda Harris Lord, *Counsel for Opposer Snap, Inc.* by forwarding said copy on August 20, 2018 via email at the addresses below:

Austin Phillips  
Kilpatrick Townsend & Stockton LLP  
Two Embarcadero Center, Suite 1900  
San Francisco, CA 94111  
[aphillips@kilpatricktownsend.com](mailto:aphillips@kilpatricktownsend.com)

Tywanda Harris Lord  
Kilpatrick Townsend & Stockton LLP  
1100 Peachtree Street, Suite 2800  
Atlanta, Georgia 30309  
[tlord@kilpatricktownsend.com](mailto:tlord@kilpatricktownsend.com)

*/Danielle Fujii/*

---

Danielle Fujii  
CEO  
Mad Dog Software Corp.  
[Danielle@fullmoonfire.com](mailto:Danielle@fullmoonfire.com)

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

SNAP, INC.,	)	
	)	
Opposer/Counterclaim-	)	
Respondent	)	
	)	
v.	)	Opposition No. 91237441
	)	Serial No. 87344309
MAD DOG SOFTWARE CORP.,	)	
	)	
Applicant/Counterclaim-	)	
Petitioner	)	
	)	
	)	
_____	)	

**APPLICANT'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS**

Applicant/Counterclaim Petitioner Mad Dog Software Corp., (“Applicant”) hereby requests that Opposer/Counterclaim Respondent Snap, Inc., (“Opposer”) produce for inspection and copying, at the offices of Applicant at 1261 Albion Lane, Sunnyvale, CA 94087, or at a location or method to which the parties mutually agree, within thirty (30) days after service of these requests, the documents identified below.

DEFINITIONS

Applicant incorporates by reference, as if fully set forth here, the Definitions set forth in Applicant’s First Set of Interrogatories, which are being served contemporaneously with these requests.

INSTRUCTIONS

1. Documents should be produced as they are kept in the usual course of business or organized and labeled to correspond with the numbered categories in these Requests.

2. With respect to any document withheld from production upon a claim of privilege, state for each such document: (i) the type of document; (ii) the date of the document; (iii) the name, address, and job title of the author of the document; (iv) the name, address, and job title of each recipient of the document; (v) a brief summary of the subject matter of the document; and (vi) the present whereabouts of the document and name, address, and title of the custodian thereof.

3. These Requests shall be deemed to be continuing. Opposer is under a duty to supplement, correct, or amend Opposer's responses to any of these Requests if Opposer learns that any response is in some material respect incomplete or incorrect and if the additional or corrective information has not otherwise been made known to Applicant during the discovery process or in writing. If, after producing documents, Opposer becomes aware of documents responsive to these Requests, such documents shall be produced whether such documents were newly discovered, newly created, or otherwise.

#### REQUESTS FOR PRODUCTION

1. Documents concerning any opinion that Opposer received regarding Opposer's right to adopt, use, and/or register the SNAP Marks.
2. Documents concerning the acquisition of the domain "www.snap.com" by Opposer, including any agreements with any Third Parties.
3. Documents concerning any instances of actual or purported confusion of any type between Opposer and goods and services offered or planned to be offered under the SNAP Marks, and any third party.
4. Documents concerning any Communication between Opposer and any Third Party concerning the subject matter of Opposition No. 91214299.

5. Documents concerning any Communication between Opposer and any Third Party concerning the subject matter of Opposition No. 85905632.
6. Documents sufficient to identify the Date on which Opposer first used, or intends to use, the SNAP Marks in commerce in connection with the specific goods and services listed in their respective trademark applications.
7. Documents concerning and sufficient to identify Opposer's business plans in connection with and concerning the SNAP Marks.
8. Documents concerning any research (including focus group studies, consumer surveys, test marketing, or other market evaluations,) performed concerning the rebranding of Snapchat, Inc. to Snap, Inc.
9. Documents concerning both the marks "Snap Maps" and "MapSnaps," wherein "and" includes the conjunctive form only for this request only.
10. Documents concerning any disputes, including actual or threatened litigation or administrative proceedings, involving allegations of trademark infringement, unfair competition, or dilution, to which Opposer is or was a party, except for this proceeding.
11. Documents concerning and sufficient to identify any license, assignment, franchise, partnership, or any other agreement concerning the SNAP Marks, whether signed or unsigned, and whether in final or draft form.
12. Documents concerning or generated by or from any Third Parties that Opposer has engaged to assist in the offering or Advertising of goods and/or services under the SNAP Marks, including but not limited to public relations and advertising agencies, application and website developers, and printers.

13. Documents concerning any meeting held by or on behalf of Opposer, at which any of Applicant's goods and services, Applicant's Mark, or this proceeding was discussed, including but not limited to any minutes, summaries, correspondence, notes, and/or reports recording the events, decisions, and/or discussion made at any such meetings.
14. Documents concerning and sufficient to identify any formal or informal plan, policy, or understanding of Opposer concerning document retention or destruction.
15. All documents relied upon or referred to by Opposer in responding to Applicant's First Set of Interrogatories and in any supplementation thereof.
16. All documents relied upon, referred to, or identified by Applicant in preparing its Initial Disclosures in this proceeding and in any supplementation thereof.
17. Documents concerning and sufficient to identify any formal or informal plan, policy, or understanding of Opposer concerning signature authority, and review of documents before they are signed.
18. Documents concerning the rebranding of Snapchat, Inc. to Snap, Inc, including all agreements with Third Parties concerning the rebranding.
19. All documents where Opposer asserted that Snapchat was a house mark.
20. Documents concerning the use of the Snapchat mobile application for sexting purposes.
21. Documents concerning Exhibit G in Applicant's counterclaim (the "Fuck Bitches Get Leid" article).
22. Documents concerning Opposer as being sexist or toxic.

Dated: 20th day of August, 2018

/Danielle Fujii/

Danielle Fujii, CEO  
Mad Dog Software Corp.

1261 Albion Lane  
Sunnyvale, CA 94087  
Danielle@fullmoonfire.com



## CERTIFICATE OF SERVICE

I hereby certify that the on this 20th day of August, 2018, a true and complete copy of the foregoing **APPLICANT'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS** was served on Austin Phillips, and Tywanda Harris Lord, *Counsel for Opposer Snap, Inc.* by forwarding said copy on August 20, 2018 via email at the addresses below:

Austin Phillips  
Kilpatrick Townsend & Stockton LLP  
Two Embarcadero Center, Suite 1900  
San Francisco, CA 94111  
[aphillips@kilpatricktownsend.com](mailto:aphillips@kilpatricktownsend.com)

Tywanda Harris Lord  
Kilpatrick Townsend & Stockton LLP  
1100 Peachtree Street, Suite 2800  
Atlanta, Georgia 30309  
[tlord@kilpatricktownsend.com](mailto:tlord@kilpatricktownsend.com)

*/Danielle Fujii/*

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Danielle Fujii  
CEO  
Mad Dog Software Corp.  
[Danielle@fullmoonfire.com](mailto:Danielle@fullmoonfire.com)

## **EXHIBIT B**

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

SNAP INC.,	)	
	)	
Opposer/Counterclaim Respondent,	)	Opposition No. 91237441
	)	
v.	)	TM: MAPSNAPS
	)	
MAD DOG SOFTWARE CORP.,	)	App. Serial No. 87344309
	)	
Applicant/Counterclaim Petitioner.	)	

**OPPOSER/COUNTERCLAIM RESPONDENT SNAP INC.’S OBJECTIONS AND  
RESPONSES TO APPLICANT/COUNTERCLAIM PETITIONER  
MAD DOG SOFTWARE CORP.’S FIRST SET OF INTERROGATORIES**

On the basis of information now known, and without waiving any objection or admitting the relevance or materiality of any of the information sought, Opposer/Counterclaim Respondent Snap Inc. (“Snap”) serves the following objections and responses to Applicant/Counterclaim Petitioner Mad Dog Software Corp.’s (“Applicant”) First Set of Interrogatories, pursuant to Rules 2.116 and 2.120 of the Trademark Rules of Practice and Federal Rules of Civil Procedure 26 and 33.

**PRELIMINARY STATEMENT**

Snap has made reasonable efforts to respond to the interrogatories, to the extent that they call for information that is not otherwise privileged or objectionable, as Snap understands and interprets them. If Applicant subsequently asserts a different interpretation, Snap reserves the right to supplement its objections and responses.

Snap’s objections and responses to these interrogatories are based upon facts and information presently known to Snap. Snap’s investigation and discovery, including the review of its own files, are continuing, and Snap may subsequently learn additional facts and uncover additional documents in its possession, custody, or control. Snap reserves the right to supplement

and/or amend its responses to the interrogatories, in accordance with Rule 26(e) of the Federal Rules of Civil Procedure, if Snap later discovers information in its possession, custody, or control that is responsive to the interrogatories. However, Snap undertakes no duty to supplement its objections or responses beyond what is required by the Trademark Rules of Practice, the Federal Rules of Civil Procedure, or applicable law. Snap reserves the right to rely upon all such evidence as may become available during the course of discovery and trial preparation and to use the same at trial or otherwise in this proceeding.

### **GENERAL OBJECTIONS**

1. Snap objects to each definition set forth in Applicant's First Set of Interrogatories to the extent that any such definition exceeds the scope of discovery permissible under Federal Rules of Civil Procedure or the Trademark Trial and Appeal Board Manual of Procedure (the "TBMP").

2. Snap objects to each interrogatory to the extent that it requests disclosure of information protected from discovery by the attorney-client privilege, the work product doctrine, or Federal Rule of Civil Procedure 26(b). Any disclosure of such information is strictly inadvertent and shall not be construed as a waiver of the applicable privilege(s).

3. Snap objects to each interrogatory to the extent that it requires disclosure of confidential, proprietary, trade secret, and other competitively sensitive business information. Snap only discloses non-privileged, responsive information pursuant to the Trademark Trial and Appeal Board's (the "Board") standard protective order.

4. Snap objects to each interrogatory to the extent that an appropriate answer may be determined by a review of Snap's documents, pursuant to Federal Rule of Civil Procedure 33(d)(2). In such cases, Snap will provide Applicant an opportunity to review the relevant

documents.

5. Snap objects to each interrogatory to the extent it seeks information that is neither relevant to any party's claim or defense nor 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.

6. Snap objects to each interrogatory to the extent that it seeks information that is equally available to Applicant, on the grounds that such interrogatories subject Snap to unreasonable and undue annoyance, oppression, burden and expense.

7. Snap objects to each interrogatory to the extent that it seeks information that is not in Snap's possession, custody, or control.

8. Snap objects to each interrogatory to the extent that it is compound and contains impermissible subparts.

9. Snap has not completed its investigation into the subject matter of this action or the underlying facts or evidence. Snap's responses are therefore made to the best of Snap's current knowledge, information, and belief after good faith investigation of sources reasonably available to it. Snap reserves the right to conduct additional investigation and discovery, to rely on additional facts, information, documents or materials and to supplement its responses to the extent required by the Federal Rules of Civil Procedure and the TBMP.

10. The foregoing general objections apply to each interrogatory and are hereby specifically incorporated into each response to each such interrogatory.

## **SPECIFIC OBJECTIONS AND RESPONSES**

### **INTERROGATORY NO. 1:**

Identify and describe the date and circumstances of Opposer first becoming aware of Applicant's use and registration of Applicant's Mark.

### **RESPONSE:**

In addition to the general objections, Snap objects to this interrogatory to the extent it seeks information protected from discovery by the attorney-client privilege, the work product doctrine, or Federal Rule of Civil Procedure 26(b).

Subject to these objections, Snap responds that it became aware of Applicant's use and attempt to register Applicant's Mark at some point after Applicant filed the Application. The exact date is unknown. Snap reserves the right to supplement and/or amend its response to this interrogatory during and upon the completion of discovery.

### **INTERROGATORY NO. 2:**

Identify all of the goods and services in connection with which Applicant has used, or is using any mark, that Opposer contends infringes or dilutes the SNAP Marks in any way.

### **RESPONSE:**

In addition to the general objections, Snap objects to this interrogatory to the extent it seeks information protected from discovery by the attorney-client privilege, the work product doctrine, or Federal Rule of Civil Procedure 26(b). Snap further objects to this interrogatory to the extent it is irrelevant and overbroad because it is not tied to Applicant's Mark and is focused on use.

Subject to these objections, Snap responds that use of Applicant's Mark in connection

with Applicant's goods as described in its application, namely, "Computer software for communicating with users of hand-held computers; Computer software for organizing and viewing digital images and photographs; Downloadable cloud-based software for taking photos of locations, sharing said photos with other users, and identifying locations of photos taken by other users.; Downloadable mobile applications for taking photos of locations, sharing said photos with other users, and identifying locations of photos taken by other users," is likely to cause confusion with and dilutes the distinctiveness of the famous SNAP Marks. Snap reserves the right to supplement and/or amend its response to this interrogatory during and upon the completion of discovery.

INTERROGATORY NO. 3:

Describe each and every instance of which Opposer is aware in which any Person has been in any way confused, mistaken, or deceived as to the origin or sponsorship of any goods or services sold or offered for sale under or in connection with Applicant's Mark.

RESPONSE:

In addition to the general objections, Snap objects to this interrogatory to the extent it seeks information protected from discovery by the attorney-client privilege, the work product doctrine, or Federal Rule of Civil Procedure 26(b).

Subject to these objections, Snap responds that, based on information currently available to it, Applicant has used Applicant's Mark in commerce for only a fairly short period of time and with limited public exposure. Accordingly, consumers have not had a meaningful opportunity to be confused. Nonetheless, Snap believes that if and when Applicant resumes use of Applicant's Mark, confusion is likely and inevitable. Snap reserves the right to supplement and/or amend its

response to this interrogatory during and upon the completion of discovery.

**INTERROGATORY NO. 4:**

Identify and describe in detail the date and circumstances of Opposer first becoming aware of Applicant's alleged infringement, dilution, and any other conduct complained of in this Opposition No. 91237441.

**RESPONSE:**

In addition to the general objections, Snap objects to this interrogatory to the extent it seeks information protected from discovery by the attorney-client privilege, the work product doctrine, or Federal Rule of Civil Procedure 26(b).

Subject to these objections, Snap responds that it became aware of Applicant, the Application, and the conduct complained of in this Opposition after the filing date of the Application. Snap reserves the right to supplement and/or amend its response to this interrogatory during and upon the completion of discovery.

**INTERROGATORY NO. 5:**

For each good or service that Opposer has offered, sold, or provided under or in connection with the SNAP Marks, state the date ranges of actual and planned use of the SNAP Marks in connection with the good or service, including the specific date of first use or intended first use of the mark for each good or service.

**RESPONSE:**

In addition to the general objections, Snap objects to this interrogatory to the extent it seeks information that is not relevant to any party's claim or defense, especially in light of



Snap's priority over Applicant.

Subject to these objections, Snap responds that, without limitation, the dates of first use identified in U.S. Trademark Registration Nos. 4111563, 4111564, 4254466, 4345533, 4375712, 4439528, 4602541, 4925206, 4925610, 4933187, 4943051, 4967313, 4971934, 5022674, and 5046768 reflect the dates of first use for the goods and services identified in those registrations. Snap reserves the right to supplement and/or amend its response to this interrogatory during and upon the completion of discovery.

**INTERROGATORY NO. 6:**

For each good or service that Opposer has offered, sold, or provided under or in connection with the Asserted Marks, state the suggested or expected retail price of the good or service.

**RESPONSE:**

In addition to the general objections, Snap objects to this interrogatory to the extent it seeks information that is not relevant to any party's claim or defense, especially in light of Snap's priority over Applicant. Snap further objects to this interrogatory as vague and ambiguous in that the term "Asserted Marks" is undefined.

Subject to these objections, and to the extent Snap understands the interrogatory, Snap responds that it offers advertising services under the SNAP Marks, which are the primary source of Snap's revenue. The cost to advertise on Snapchat depends considerably on the nature and objectives of the ad campaign. Other goods and services offered or provided under the SNAP Marks are offered or provided at no cost. Snap reserves the right to supplement and/or amend its response to this interrogatory during and upon the completion of discovery.

**INTERROGATORY NO. 7:**

Identify each trademark search, investigation, or any other inquiry conducted by or for Opposer concerning the availability to use or register the SNAP Marks.

**RESPONSE:**

In addition to the general objections, Snap objects to this interrogatory to the extent that it seeks information that is protected from the attorney-client privilege, the work product doctrine, or Federal Rule of Civil Procedure 26(b). Snap further objects to this interrogatory to the extent it seeks information that is not relevant to any party's claim or defense, especially in light of Snap's priority over Applicant.

**INTERROGATORY NO. 8:**

Identify all agreements concerning the SNAP Marks by date, parties to the agreement, and the subject matter of the agreement.

**RESPONSE:**

In addition to the general objections, Snap objects to this interrogatory to the extent it seeks documents protected from discovery by the attorney-client privilege, the work product doctrine, or Federal Rule of Civil Procedure 26(b). Snap also objects to this interrogatory to the extent that it is overbroad and unduly burdensome because it does not include a reasonable limitation in scope. Snap further objects to this interrogatory to the extent it seeks documents that are confidential and proprietary and that are not relevant to any party's claim or defense.

**INTERROGATORY NO. 9:**

Describe any Communications between Opposer and any Third Party concerning Applicant or Applicant's Mark, and any actions taken by Opposer as a result of such Communications.

**RESPONSE:**

In addition to the general objections, Snap objects to this interrogatory to the extent it seeks documents protected from discovery by the attorney-client privilege, the work product doctrine, or Federal Rule of Civil Procedure 26(b).

Subject to these objections, Snap responds that it is unaware of any Communications with any Third Party aside from its outside legal counsel. Snap reserves the right to supplement and/or amend its response to this interrogatory during and upon the completion of discovery.

**INTERROGATORY NO. 10:**

State the date Opposer claims the SNAP Marks became famous.

**RESPONSE:**

Subject to the general objections, Snap responds that the SNAPCHAT mark became famous at least as early as December 2015 and well before the filing date of the Application. Snap reserves the right to supplement and/or amend its response to this interrogatory during and upon the completion of discovery.

**INTERROGATORY NO. 11:**

Describe in detail all facts and circumstances that support Opposer's claim that the SNAP Marks were famous as of the date required to be identified in response to Interrogatory No. 10.

**RESPONSE:**

Subject to the general objections, Snap responds that it commissioned a fame survey for the SNAPCHAT mark in or around December 2015 in which the expert concluded that the SNAPCHAT mark is famous. Snap reserves the right to supplement and/or amend its response to this interrogatory during and upon the completion of discovery.

INTERROGATORY NO. 12:

Identify and describe in detail all administrative proceedings and litigations related to any SNAP Marks other than this Opposition No. 91237441.

RESPONSE:

In addition to the general objections, Snap objects to this interrogatory to the extent it seeks information protected from discovery by the attorney-client privilege, the work product doctrine, or Federal Rule of Civil Procedure 26(b). Snap also objects to this interrogatory to the extent that it is overbroad and unduly burdensome without a reasonable limitation in scope. Snap further objects to this interrogatory to the extent it seeks information that is confidential and proprietary and that is not relevant to any party's claim or defense. Snap further objects to this interrogatory on the ground that responsive information is available to Applicant without imposing an undue burden on Snap.

Subject to these objections, Snap responds that, in accordance with Federal Rule of Civil Procedure 33(d), it will produce notices of opposition filed with the Trademark Trial and Appeal Board related to the SNAP Marks from which Applicant can derive or ascertain responsive information. Snap reserves the right to supplement and/or amend its response to this interrogatory during and upon the completion of discovery.

INTERROGATORY NO. 13:

Describe in detail why Opposer withdrew its opposition in Opposition No. 91214299.

**RESPONSE:**

In addition to the general objections, Snap objects to this interrogatory to the extent it seeks information protected from discovery by the attorney-client privilege, the work product doctrine, or Federal Rule of Civil Procedure 26(b). Snap further objects to this interrogatory to the extent it seeks information that is confidential and proprietary and that is not relevant to any party's claim or defense.

INTERROGATORY NO. 14:

State the date Opposer first considered "Snap, Inc." as its company name.

**RESPONSE:**

In addition to the general objections, Snap objects to this interrogatory to the extent it seeks information that is confidential and proprietary and that is not relevant to any party's claim or defense. Snap further objects to this interrogatory on the ground that it is vague and ambiguous in that "Snap, Inc." is not Snap's company name.

Subject to these objections, Snap responds that it first considered Snap Inc. as its company name on September 23, 2016. Snap reserves the right to supplement and/or amend its response to this interrogatory during and upon the completion of discovery.

INTERROGATORY NO. 15:

Since the date identified in response to Interrogatory No. 14, and up to and including December 16, 2015, identify all Persons who were aware that Opposer was considering "Snap,

Inc.” as its company name.

**RESPONSE:**

In addition to the general objections, Snap objects to this interrogatory on the ground that it is overbroad and unduly burdensome in that it seeks identification of “all Persons.” Snap further objects to this interrogatory to the extent it seeks information that is confidential and proprietary and that is not relevant to any party’s claim or defense. Snap also objects to this interrogatory as vague and ambiguous in that “Snap, Inc.” is not Snap’s company name. Finally, Snap objects to the form of this interrogatory, as the date identified in Interrogatory No. 14 is after December 16, 2015.

**INTERROGATORY NO. 16:**

Describe with specificity the selection of “Snap, Inc.” as Opposer’s company name, including but not limited to the reason(s) for its selection, the approval process, and identifying all Persons involved in the approval process.

**RESPONSE:**

In addition to the general objections, Snap objects to this interrogatory to the extent it seeks information protected from discovery by the attorney-client privilege, the work product doctrine, or Federal Rule of Civil Procedure 26(b). Snap further objects to this interrogatory on the ground that it seeks information that is confidential and proprietary and that is not relevant to any party’s claim or defense. Snap also objects to this interrogatory as vague and ambiguous in that “Snap, Inc.” is not Snap’s company name.

Subject to these objections, Snap responds that it changed its name to Snap Inc. to reflect that the company is more than just the Snapchat app, the announcement of which coincided with

the launch of Snap’s “Spectacles” hardware product. Snap reserves the right to supplement and/or amend its response to this interrogatory during and upon the completion of discovery.

**INTERROGATORY NO. 17:**

Identify and describe the subject matter of all agreements, between Opposer and a Third Party, concerning the rebrand from “Snapchat, Inc.” to “Snap, Inc.”

**RESPONSE:**

In addition to the general objections, Snap objects to this interrogatory to the extent it seeks information protected from discovery by the attorney-client privilege, the work product doctrine, or Federal Rule of Civil Procedure 26(b). Snap further objects to this interrogatory on the ground that it seeks information that is confidential and proprietary and that is not relevant to any party’s claim or defense.

**INTERROGATORY NO. 18:**

Identify all Persons who reviewed the agreements identified in response to Interrogatory No. 17.

**RESPONSE:**

In addition to the general objections, Snap objects to this interrogatory to the extent it seeks information protected from discovery by the attorney-client privilege, the work product doctrine, or Federal Rule of Civil Procedure 26(b). Snap further objects to this interrogatory on the ground that it seeks information that is confidential and proprietary and that is not relevant to any party’s claim or defense.

INTERROGATORY NO. 19:

Identify all Persons who reviewed the office action response filed on December 16, 2015 in Serial No. 86/619,184, including all Persons who validated whether business statements (such as corporate name) were true in said office action response.

**RESPONSE:**

In addition to the general objections, Snap objects to this interrogatory as overbroad and unduly burdensome in that it seeks identification of “all Persons.” Snap also objects to this interrogatory to the extent it seeks information protected from discovery by the attorney-client privilege, the work product doctrine, or Federal Rule of Civil Procedure 26(b). Snap further objects to this interrogatory to the extent it seeks information that is confidential and proprietary and that is not relevant to any party’s claim or defense. Finally, Snap objects to this interrogatory as vague and ambiguous because it does not define or identify the “business statements” it purports are in the office action. Snap’s corporate name at the time the office action response was filed, *i.e.*, Snapchat, Inc., would not reasonably be construed as a “business statement.”

Subject to these objections, Snap responds that its in-house and outside legal counsel reviewed the office action response filed on December 16, 2015. Snap reserves the right to supplement and/or amend its response to this interrogatory during and upon the completion of discovery.

INTERROGATORY NO. 20:

Describe all steps taken by Opposer to determine whether the company name “Snap, Inc.” infringed or infringes the rights of any Third Party, including but not limited to any investigation or search that has been conducted.



**RESPONSE:**

In addition to the general objections, Snap objects to this interrogatory to the extent it seeks information protected from discovery by the attorney-client privilege, the work product doctrine, or Federal Rule of Civil Procedure 26(b). Snap also objects to this interrogatory as vague and ambiguous in that its company name is not “Snap, Inc.” Snap further objects to this interrogatory on the ground that it seeks information that is confidential and proprietary and that is not relevant to any party’s claim or defense.

**INTERROGATORY NO. 21:**

Identify all documents responsive to Applicant’s First Request for Production of Documents that have either been destroyed or are no longer within Opposer’s possession, custody, or control.

**RESPONSE:**

Subject to the general objections, Snap responds that it is unaware of any documents that have been destroyed or are no longer within Snap’s possession, custody, or control that are responsive to Applicant’s First Request for Production of Documents. Snap notes, however, that some responsive documents may have been deleted before this matter was initiated pursuant to its retention policy. Snap reserves the right to supplement and/or amend its response to this interrogatory during and upon the completion of discovery.

**INTERROGATORY NO. 22:**

Describe in detail the circumstances around the termination of Opposition No. 85905632.

**RESPONSE:**

In addition to the general objections, Snap objects to this interrogatory to the extent it seeks information protected from discovery by the attorney-client privilege, the work product doctrine, or Federal Rule of Civil Procedure 26(b). Snap further objects to this interrogatory on the ground that it is not relevant to any party's claim or defense.

Subject to these objections, Snap responds that it did not terminate any proceeding identified as Opposition No. 85905632. Snap reserves the right to supplement and/or amend its response to this interrogatory during and upon the completion of discovery.

**INTERROGATORY NO. 23:**

Describe in detail the acquisition of the domain "www.snap.com," including identifying the Date that Opposer first decided to attempt to acquire the domain.

**RESPONSE:**

In addition to the general objections, Snap objects to this interrogatory on the ground that it seeks information that is confidential and proprietary and that is not relevant to any party's claim or defense.

**INTERROGATORY NO. 24:**

Identify all current and former employees of Opposer who stated that Opposer's culture is "toxic" or "sexist," or Opposer is a "sexist" or "toxic" place to work.

**RESPONSE:**

In addition to the general objections, Snap objects to this interrogatory on the ground that it is not relevant to either party's claim or defense and is calculated to harass and embarrass Snap.

Dated: September 19, 2018

KILPATRICK TOWNSEND & STOCKTON LLP

By: /R. Thomas/

Tywanda Harris Lord

Rhojonda D.C. Thomas

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*Counsel for Opposer/Counterclaim Respondent  
Snap Inc.*

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

SNAP INC.,	)	
	)	
Opposer/Counterclaim Respondent,	)	Opposition No. 91237441
	)	
v.	)	TM: MAPSNAPS
	)	
MAD DOG SOFTWARE CORP.,	)	App. Serial No. 87344309
	)	
Applicant/Counterclaim Petitioner.	)	

**CERTIFICATE OF SERVICE**

This is to certify that OPPOSER/COUNTERCLAIM RESPONDENT SNAP INC.’S OBJECTIONS AND RESPONSES TO APPLICANT/COUNTERCLAIM PETITIONER MAD DOG SOFTWARE CORP.’S FIRST SET OF INTERROGATORIES was served on Applicant’s correspondent of record on September 19, 2018, via her email address of record, danielle@fullmoonfire.com.

/R. Thomas/  
Kilpatrick Townsend & Stockton LLP

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

SNAP INC.,	)	
	)	
Opposer/Counterclaim Respondent,	)	Opposition No. 91237441
	)	
v.	)	TM: MAPSNAPS
	)	
MAD DOG SOFTWARE CORP.,	)	App. Serial No. 87344309
	)	
Applicant/Counterclaim Petitioner.	)	

**OPPOSER/COUNTERCLAIM RESPONDENT SNAP INC.’S OBJECTIONS AND  
RESPONSES TO APPLICANT/COUNTERCLAIM PETITIONER MAD DOG  
SOFTWARE CORP.’S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS**

On the basis of information now known, and without waiving any objection or admitting the relevance or materiality of any of the documents or information sought, Opposer/Counterclaim Respondent Snap Inc. (“Snap”) serves the following Responses and Objections to Applicant/Counterclaim Petitioner Mad Dog Software Corp.’s (“Applicant”) First Request for Production of Documents (“Requests”), pursuant to Rules 2.116 and 2.120 of the Trademark Rules of Practice and Federal Rules of Civil Procedure 26 and 34.

**PRELIMINARY STATEMENT**

Snap has made reasonable efforts to respond to the Requests served by Applicant, to the extent that they call for documents that are not otherwise privileged or objectionable, as Snap understands and interprets them. If Applicant subsequently asserts a different interpretation, Snap reserves the right to supplement its objections and responses.

Snap’s objections and responses to these Requests are based upon facts and information presently known to Snap. Snap’s investigation and discovery, including the review of its own files, are continuing, and Snap may subsequently learn additional facts and uncover additional documents in its possession, custody, or control. Snap reserves the right to supplement and/or

amend its responses to the Requests and its document production, in accordance with Rule 26(e) of the Federal Rules of Civil Procedure, if Snap later discovers documents in its possession, custody, or control that are responsive to these Requests. However, Snap undertakes no duty to supplement its objections, responses, or document production beyond what is required by the Trademark Rules of Practice, the Federal Rules of Civil Procedure, or applicable law. Snap reserves the right to rely upon all such evidence as may become available during the course of discovery and trial preparation and to use the same at trial or otherwise in this proceeding.

### **GENERAL OBJECTIONS**

1. Snap objects to each definition incorporated by reference in Applicant's First Request for Production of Documents to the extent that any such definition exceeds the scope of discovery permissible under the Federal Rules of Civil Procedure or the Trademark Trial and Appeal Board Manual of Procedure (the "TBMP").

2. Snap objects to each request to the extent that it requests production of documents protected from discovery by the attorney-client privilege, the work product doctrine, or Federal Rule of Civil Procedure 26(b). Any disclosure of such documents is strictly inadvertent and shall not be construed as a waiver of the applicable privilege(s).

3. Snap objects to each request to the extent that it requires disclosure of confidential, proprietary, trade secret, and other competitively sensitive business information. Snap only produces non-privileged, responsive documents containing such information pursuant to the Trademark Trial and Appeal Board's (the "Board") standard protective order.

4. Snap objects to each request to the extent it seeks documents that are neither relevant to any party's claim or defense nor 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.

5. Snap objects to each request to the extent that it seeks documents that are equally available to Applicant, on the grounds that such requests subject Snap to unreasonable and undue annoyance, oppression, burden and expense.

6. Snap objects to each request to the extent that it seeks documents that are not in Snap's possession, custody, or control.

7. In responding to the requests, production of any document by Snap shall not constitute a concession as to the veracity or admissibility of the document. Snap expressly reserves the right to assert any and all appropriate objections with respect to any document produced. A response that Snap will produce responsive documents shall not constitute or be considered a representation that responsive documents exist.

8. Snap has not completed its investigation into the subject matter of this action or the underlying facts or evidence. Snap's responses are therefore made to the best of Snap's current knowledge, information, and belief after good faith investigation of sources reasonably available to it. Snap reserves the right to conduct additional investigation and discovery, to rely on additional facts, information, documents or materials and to supplement its responses to the extent required by the Federal Rules of Civil Procedure and the TBMP.

9. The foregoing General Objections apply to each request and are hereby specifically incorporated into each response to each such request.

### **SPECIFIC OBJECTIONS AND RESPONSES**

1. Documents concerning any opinion that Opposer received regarding Opposer's right to adopt, use, and/or register the SNAP Marks.

#### **RESPONSE:**

In addition to the general objections, Snap objects to this request to the extent it seeks documents protected from discovery by the attorney-client privilege, the work product doctrine, or Federal Rule of Civil Procedure 26(b). Snap further objects to this request to the extent it

seeks documents that are confidential and proprietary and that are not relevant to any party's claim or defense, especially in light of Snap's priority over Applicant. Snap also objects to this request to the extent that it is overbroad and unduly burdensome without a reasonable limitation in scope.

Subject to these objections, Snap responds that it is unaware of any non-privileged documents responsive to this request within its possession, custody, or control. Snap reserves the right to supplement and/or amend its response to this request during and upon the completion of discovery.

2. Documents concerning the acquisition of the domain "www.snap.com" by Opposer, including any agreements with any Third Parties.

**RESPONSE:**

In addition to the general objections, Snap objects to this request on the ground that it seeks documents that are confidential and proprietary and not relevant to any party's claim or defense. Snap reserves the right to supplement and/or amend its response to this request during and upon the completion of discovery.

3. Documents concerning any instances of actual or purported confusion of any type between Opposer and goods and services offered or planned to be offered under the SNAP Marks, and any third party.

**RESPONSE:**

In addition to the general objections, Snap objects to this request to the extent it seeks documents protected from discovery by the attorney-client privilege, the work product doctrine,



or Federal Rule of Civil Procedure 26(b). Snap also objects to this request on the ground that it is overbroad in that it seeks documents regarding confusion with any third party. Snap further objects to this request on the ground that responsive documents may be in the possession, custody, or control of third parties, including Applicant. Finally, Snap objects to this request to the extent that it is not relevant to any party's claim or defense.

Subject to these objections, Snap responds that it currently is unaware of any documents evidencing instances of actual confusion, which is unsurprising given that Applicant's use of Applicant's Marks was limited in time and channel. Snap reserves the right to supplement and/or amend its response to this request during and upon the completion of discovery.

4. Documents concerning any Communication between Opposer and any Third Party concerning the subject matter of Opposition No. 91214299.

**RESPONSE:**

In addition to the general objections, Snap objects to this request to the extent it seeks documents protected from discovery by the attorney-client privilege, the work product doctrine, or Federal Rule of Civil Procedure 26(b). Snap also objects to this request on the ground that it is overbroad in that it seeks documents concerning any communication with any third party. Snap further objects to this request on the ground that responsive documents may be in the possession, custody, or control of third parties. Finally, Snap objects to this request to the extent that it is not relevant to any party's claim or defense.

5. Documents concerning any Communication between Opposer and any Third Party concerning the subject matter of Opposition No. 85905632.

**RESPONSE:**

In addition to the general objections, Snap objects to this request to the extent it seeks documents protected from discovery by the attorney-client privilege, the work product doctrine, or Federal Rule of Civil Procedure 26(b). Snap also objects to this request on the ground that it is overbroad in that it seeks documents concerning any communication with any third party. Snap further objects to this request on the ground that responsive documents may be in the possession, custody, or control of third parties. Finally, Snap objects to this request to the extent that it is not relevant to any party's claim or defense.

6. Documents sufficient to identify the Date on which Opposer first used, or intends to use, the SNAP Marks in commerce in connection with the specific goods and services listed in their respective trademark applications.

**RESPONSE:**

In addition to the general objections, Snap objects to this request to the extent it seeks documents protected from discovery by the attorney-client privilege, the work product doctrine, or Federal Rule of Civil Procedure 26(b). Snap further objects to this request to the extent it seeks documents that are confidential and proprietary and that are not relevant to any party's claim or defense, especially in light of Snap's priority over Applicant. Snap also objects to this request to the extent that it is overbroad and unduly burdensome without a reasonable limitation in scope.

Subject to these objections, Snap responds that it will produce the registration certificates for U.S. Registration Nos. 4111563, 4111564, 4254466, 4345533, 4375712, 4439528, 4602541, 4925206, 4925610, 4933187, 4943051, 4967313, 4971934, 5022674, and 5046768, which reflect

the dates of first use for the goods and services identified in those registrations. Snap reserves the right to supplement and/or amend its response to this request during and upon the completion of discovery.

7. Documents concerning and sufficient to identify Opposer's business plans in connection with and concerning the SNAP Marks.

**RESPONSE:**

In addition to the general objections, Snap objects to this request to the extent it seeks documents protected from discovery by the attorney-client privilege, the work product doctrine, or Federal Rule of Civil Procedure 26(b). Snap also objects to this request to the extent that it is overbroad and unduly burdensome without a reasonable limitation in scope. Snap further objects to this request to the extent it seeks documents that are confidential and proprietary and that are not relevant to any party's claim or defense.

Subject to these objections, Snap responds that it will produce documents, including annual reports, from which Applicant can ascertain publicly available Snap business plans. Snap reserves the right to supplement and/or amend its response to this request during and upon the completion of discovery.

8. Documents concerning any research (including focus group studies, consumer surveys, test marketing, or other market evaluations,) performed concerning the rebranding of Snapchat, Inc. to Snap, Inc.

**RESPONSE:**

In addition to the general objections, Snap objects to this request to the extent it seeks

documents protected from discovery by the attorney-client privilege, the work product doctrine, or Federal Rule of Civil Procedure 26(b). Snap also objects to this request on the ground that it seeks documents that are confidential and proprietary and not relevant to any party's claim or defense. Snap further objects to this request on the ground that it is vague and ambiguous in that "Snap, Inc." is not Snap's company name.

Subject to these objections, and to the extent Snap understands the request, Snap responds that it is unaware of any documents within its possession, custody, or control responsive to this request. Snap reserves the right to supplement and/or amend its response to this request during and upon the completion of discovery.

9. Documents concerning both the marks "Snap Maps" and "MapSnaps," wherein "and" includes the conjunctive form only for this request only.

**RESPONSE:**

In addition to the general objections, Snap objects to this request to the extent it seeks documents protected from discovery by the attorney-client privilege, the work product doctrine, or Federal Rule of Civil Procedure 26(b). Snap further objects to this request as vague and ambiguous in that Snap is unaware of a mark "Snap Maps."

Subject to these objections, and to the extent Snap understands the request, Snap responds that it will produce the office action issued against U.S. Application No. 87727486, in which the USPTO notified Snap that its application to register SNAP MAP would be suspended pending the outcome of Applicant's application to register its MAPSNAPS mark. Snap reserves the right to supplement and/or amend its response to this request during and upon the completion of discovery.

10. Documents concerning any disputes, including actual or threatened litigation or administrative proceedings, involving allegations of trademark infringement, unfair competition, or dilution, to which Opposer is or was a party, except for this proceeding.

**RESPONSE:**

In addition to the general objections, Snap objects to this request to the extent it seeks documents protected from discovery by the attorney-client privilege, the work product doctrine, or Federal Rule of Civil Procedure 26(b). Snap also objects to this request to the extent that it is overbroad and unduly burdensome without a reasonable limitation in scope. Snap further objects to this request to the extent it seeks documents that are confidential and proprietary and that are not relevant to any party's claim or defense. Snap further objects to this request on the ground that responsive documents are available to Applicant without imposing an undue burden on Snap.

Subject to these objections, Snap responds that it will produce notices of opposition filed with the Trademark Trial and Appeal Board related to the SNAP Marks, which will allow Applicant to obtain publicly filed documents concerning actual or threatened litigation or administrative proceedings involving allegations of trademark infringement, unfair competition, or dilution to which Snap is or was a party. Snap reserves the right to supplement and/or amend its response to this request during and upon the completion of discovery.

11. Documents concerning and sufficient to identify any license, assignment, franchise, partnership, or any other agreement concerning the SNAP Marks, whether signed or unsigned, and whether in final or draft form.

**RESPONSE:**

In addition to the general objections, Snap objects to this request to the extent it seeks documents protected from discovery by the attorney-client privilege, the work product doctrine, or Federal Rule of Civil Procedure 26(b). Snap also objects to this request to the extent that it is overbroad and unduly burdensome without a reasonable limitation in scope. Snap further objects to this request to the extent it seeks documents that are confidential and proprietary and that are not relevant to any party's claim or defense.

Subject to these objections, Snap responds that it will produce responsive, representative, non-privileged documents within its possession, custody, or control sufficient to identify any executed license, assignment, franchise or partnership between Snap and an unaffiliated third party where the use of the SNAP Marks was core to such agreement. Snap reserves the right to supplement and/or amend its response to this request during and upon the completion of discovery.

12. Documents concerning or generated by or from any Third Parties that Opposer has engaged to assist in the offering or Advertising of goods and/or services under the SNAP Marks, including but not limited to public relations and advertising agencies, application and website developers, and printers.

**RESPONSE:**

In addition to the general objections, Snap objects to this request to the extent it seeks documents protected from discovery by the attorney-client privilege, the work product doctrine, or Federal Rule of Civil Procedure 26(b). Snap also objects to this request to the extent that it is overbroad and unduly burdensome without a reasonable limitation in scope. Snap further objects

to this request to the extent it seeks documents that are confidential and proprietary and that are not relevant to any party's claim or defense.

Subject to these objections, Snap responds that it will produce representative examples of advertising and promotions, including printouts of its websites. Snap reserves the right to supplement and/or amend its response to this request during and upon the completion of discovery.

13. Documents concerning any meeting held by or on behalf of Opposer, at which any of Applicant's goods and services, Applicant's Mark, or this proceeding was discussed, including but not limited to any minutes, summaries, correspondence, notes, and/or reports recording the events, decisions, and/or discussion made at any such meetings.

**RESPONSE:**

In addition to the general objections, Snap objects to this request to the extent it seeks documents protected from discovery by the attorney-client privilege, the work product doctrine, or Federal Rule of Civil Procedure 26(b). Snap further objects to this request to the extent it seeks documents that are confidential and proprietary and that are not relevant to any party's claim or defense.

Subject to these objections, Snap responds that it is unaware of any non-privileged documents responsive to this request within its possession, custody, or control. Snap reserves the right to supplement and/or amend its response to this request during and upon the completion of discovery.

14. Documents concerning and sufficient to identify any formal or informal plan,

policy, or understanding of Opposer concerning document retention or destruction.

**RESPONSE:**

In addition to the general objections, Snap objects to this request to the extent it seeks documents protected from discovery by the attorney-client privilege, the work product doctrine, or Federal Rule of Civil Procedure 26(b).

Subject to these objections, Snap responds that it will produce its Email Retention Plan. Snap reserves the right to supplement and/or amend its response to this request during and upon the completion of discovery.

15. All documents relied upon or referred to by Opposer in responding to Applicant's First Set of Interrogatories and in any supplementation thereof.

**RESPONSE:**

In addition to the general objections, Snap objects to this request to the extent it seeks documents protected from discovery by the attorney-client privilege, the work product doctrine, or Federal Rule of Civil Procedure 26(b). Snap also objects to this request to the extent that it is overbroad and unduly burdensome without a reasonable limitation in scope.

Subject to these objections, Snap responds that it will produce non-privileged documents responsive to this request within its possession, custody, or control, including file wrappers for the SNAP Marks, registration certificates for the SNAP Marks, and documents produced in response to Applicant's First Set of Interrogatories pursuant to Federal Rule of Civil Procedure 33(d). Snap reserves the right to supplement and/or amend its response to this request during and upon the completion of discovery.



16. All documents relied upon, referred to, or identified by Applicant in preparing its Initial Disclosures in this proceeding and in any supplementation thereof.

**RESPONSE:**

In addition to the general objections, Snap objects to this request to the extent it seeks documents protected from discovery by the attorney-client privilege, the work product doctrine, or Federal Rule of Civil Procedure 26(b). Snap also objects to this request to the extent that it is overbroad and unduly burdensome without a reasonable limitation in scope.

Subject to these objections, Snap responds that it will produce representative, non-privileged documents responsive to this request within its possession, custody, or control. Snap reserves the right to supplement and/or amend its response to this request during and upon the completion of discovery.

17. Documents concerning and sufficient to identify any formal or informal plan, policy, or understanding of Opposer concerning signature authority, and review of documents before they are signed.

**RESPONSE:**

In addition to the general objections, Snap objects to this request to the extent it seeks documents protected from discovery by the attorney-client privilege, the work product doctrine, or Federal Rule of Civil Procedure 26(b). Snap also objects to this request to the extent that it is overbroad and unduly burdensome without a reasonable limitation in scope in that it does not identify the type of documents to which any such policy would apply. Snap further objects to this request on the ground that it is not relevant to any party's claim or defense.

18. Documents concerning the rebranding of Snapchat, Inc. to Snap, Inc, including all agreements with Third Parties concerning the rebranding.

**RESPONSE:**

In addition to the general objections, Snap objects to this request to the extent it seeks documents protected from discovery by the attorney-client privilege, the work product doctrine, or Federal Rule of Civil Procedure 26(b). Snap also objects to this request to the extent that it is overbroad and unduly burdensome without a reasonable limitation in scope. Snap further objects to this request on the ground that it is not relevant to any party's claim or defense. Finally, Snap objects to this request as vague and ambiguous in that "Snap, Inc." is not Snap's company name.

Subject to these objections, and to the extent Snap understands the request, Snap responds that it will produce documents sufficient to identify the time at which Snap changed the company name to Snap Inc., including publicly available press releases and other industry articles. Snap reserves the right to supplement and/or amend its response to this request during and upon the completion of discovery.

19. All documents where Opposer asserted that Snapchat was a house mark.

**RESPONSE:**

In addition to the general objections, Snap objects to this request to the extent it seeks documents protected from discovery by the attorney-client privilege, the work product doctrine, or Federal Rule of Civil Procedure 26(b). Snap also objects to this request to the extent that it is overbroad and unduly burdensome without a reasonable limitation in scope. Snap further objects to this request on the ground that it is not relevant to any party's claim or defense.

Subject to these objections, Snap responds that it will produce documents sufficient to

demonstrate use of the SNAPCHAT mark as a house mark as that term is commonly used in the trademark context. Snap reserves the right to supplement and/or amend its response to this request during and upon the completion of discovery.

20. Documents concerning the use of the Snapchat mobile application for sexting purposes.

**RESPONSE:**

In addition to the general objections, Snap objects to this request on the ground that it is not relevant to either party's claim or defense and is calculated to harass and embarrass Snap.

21. Documents concerning Exhibit G in Applicant's counterclaim (the "Fuck Bitches Get Leid" article).

**RESPONSE:**

In addition to the general objections, Snap objects to this request on the ground that it is not relevant to either party's claim or defense and is calculated to harass and embarrass Snap. Snap further objects to this request to the extent that it seeks documents in the possession, custody, or control of Third Parties.

22. Documents concerning Opposer as being sexist or toxic.

**RESPONSE:**

In addition to the general objections, Snap objects to this request on the ground that it is not relevant to either party's claim or defense and is calculated to harass and embarrass Snap.

Dated: September 19, 2018

Respectfully submitted,

KILPATRICK TOWNSEND & STOCKTON LLP

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*Counsel for Opposer/Counterclaim Respondent  
Snap Inc.*

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

SNAP INC.,	)	
	)	
Opposer/Counterclaim Respondent,	)	Opposition No. 91237441
	)	
v.	)	TM: MAPSNAPS
	)	
MAD DOG SOFTWARE CORP.,	)	App. Serial No. 87344309
	)	
Applicant/Counterclaim Petitioner.	)	

**CERTIFICATE OF SERVICE**

This is to certify that OPPOSER/COUNTERCLAIM RESPONDENT SNAP INC.'S OBJECTIONS AND RESPONSES TO APPLICANT/COUNTERCLAIM PETITIONER MAD DOG SOFTWARE CORP.'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS was served on Applicant's correspondent of record on September 19, 2018, via her email address of record, danielle@fullmoonfire.com.

/R. Thomas/  
Kilpatrick Townsend & Stockton LLP

## **EXHIBIT C**

November 21, 2018

Ms. Rho Thomas  
1100 Peachtree Street NE, Suite 2800  
Atlanta, GA 30309-4528  
RDThomas@kilpatricktownsend.com

Re: Snap Inc. (“Snap”) v. Mad Dog Software Corp. (“Applicant”)

Dear Rho:

We have reviewed Snap’s responses to Applicant’s First Interrogatories and First Request for Production of Documents. We are concerned that Snap’s responses to many of Applicant’s requests are woefully insufficient.

#### General Matters

Snap has objected to almost every interrogatory or request for production based on the attorney client privilege, or attorney work product doctrine. Applicant addresses each in turn.

As Snap is aware, the attorney client privilege only extends to:

- 1) A communication;
- 2) Made in confidence;
- 3) Between a lawyer and the lawyer’s client; and
- 4) For the purpose of seeking or obtaining legal advice.

Applicant would like to take this opportunity to remind Snap that Applicant’s interrogatories and requests for production extend to all communications between all employees of Snap—not just those between a lawyer and the lawyer’s client. Such non-lawyer to non-lawyer communication clearly do not fall under the attorney client privilege. Further, to the extent there are any privileged communications between “a lawyer and the lawyer’s client,” Applicant respectfully requests a privilege log for all such privileged communication.

Since the privilege only extends to communications, Applicant reminds Snap that metadata, such as date, time, sender, recipient(s), subject line of emails, etc., are not “communications” for “seeking or obtaining legal advice.” Indeed, it would be nonsensical that such metadata could constitute any intelligible communication, let alone communication for seeking or obtaining legal advice.

As Snap is most likely aware, the work product doctrine only protects documents or material things prepared in anticipation of litigation, or for trial. Applicant reminds Snap that Applicant’s interrogatories and requests for production extend to many communications and documents that were not created in anticipation of litigation or for trial.

Applicant would also like to take this opportunity to note Snap's production of a voluminous amount of already public, and otherwise non-responsive documents, which can also be characterized as "burying Applicant in discovery." Applicant can only hope that Snap will be just as diligent in producing relevant documents as it has been with its burying effort.

Furthermore, Applicant mistakenly identified Snap as "Snap, Inc." For all Interrogatories and all Requests for Productions, please interpret "Snap, Inc." as "Snap Inc."

### Request for Complete Responses

Applicant requests complete responses to Interrogatory Nos. 1, 3, 4, 8, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 23, 24, and Request for Production Nos. 2, 9, 10, 11, 14, 15, 17, 18, 19, 20, 21, 22.

#### Interrogatory No. 1

Interrogatory No. 1 requests that Snap "identify and describe the date and circumstances of Opposer first becoming aware of Applicant's use and registration of Applicant's Mark." Snap has objected based on attorney-client privilege, the work product doctrine, or Federal Rule of Civil Procedure 26(b). The objections are not well taken. See General Matters section for why the attorney client privilege and work product doctrine are not applicable. For example, Interrogatory No. 1 requests Snap to identify the date of first becoming aware of Applicant's use. It is hard to imagine how a date could constitute a communication asking for legal advice. It is difficult to imagine how a date could be considered attorney work product created in anticipation of litigation. Similarly, the circumstances around becoming aware do not implicate any privilege. For example, "Snap became aware on XXX date after receiving an office action" could not implicate any privilege. Finally, the date and circumstances are wholly relevant to the issues in this case (i.e. likelihood of confusion). Snap has produced documents indicating that Snap was denied a trademark application for SNAP MAP based on the likelihood of confusion of SNAP MAP with Applicant's Mark. The date and circumstances surrounding such an awareness may lead one to believe Snap filed this opposition with unclean hands.

Snap responded to this interrogatory with "at some point after Applicant filed the Application." Clearly. There was no actual or anticipated likelihood of confusion between the SNAP Marks or Applicant's Mark, so one can only assume Snap learned of Applicant's Mark after an office action response. Applicant requests that Snap completely respond to Interrogatory No.1.

#### Interrogatory No. 3

Interrogatory No. 3 requests that Snap "describe each and every instance of which Opposer is aware in which any Person has been in any way confused, mistaken, or deceived as to the origin or sponsorship of any goods or services sold or offered for sale under or in connection with Applicant's Mark." Snap has objected based on attorney-client privilege, the work product doctrine, or Federal Rule of Civil Procedure 26(b). The objections are not well taken. See



General Matters section for why the attorney client privilege and work product doctrine are not applicable. In addition, this interrogatory goes right to the issue of likelihood of confusion.

Snap's response seems to indicate that it is unaware of any instance of confusion, but Applicant requests a more complete answer from Snap.

#### Interrogatory No. 4

Interrogatory No. 4 requests that Snap "identify and describe in detail the date and circumstances of Opposer first becoming aware of Applicant's alleged infringement, dilution, and any other conduct complained of in this Opposition No. 91237441." Snap has objected based on attorney-client privilege, the work product doctrine, or Federal Rule of Civil Procedure 26(b). The objections are not well taken. See General Matters section for why the attorney client privilege and work product doctrine are not applicable. In addition, this interrogatory goes right to the issue of likelihood of confusion and dilution. It is hard to fathom how this is not relevant to the issues of the case.

Snap said that that it became aware of Applicant, the Application, and the conduct complained of in this Opposition after the filing date of the Application. Clearly. There was no actual or anticipated likelihood of confusion between the SNAP Marks or Applicant's Mark, and no dilution of the SNAP Marks, so one can only assume Snap learned of Applicant's Mark after an office action response. Applicant requests that Snap completely respond to Interrogatory No. 4.

#### Interrogatory No. 8

Interrogatory No. 8 requests that Snap "identify all agreements concerning the SNAP Marks by date, parties to the agreement, and the subject matter of the agreement." Snap has objected based on attorney-client privilege, the work product doctrine, or Federal Rule of Civil Procedure 26(b). The objections are not well taken. See General Matters section for why the attorney client privilege and work product doctrine are not applicable. For example, "Trademark License for Snapchat, between Snap and XYZ, dated XXX for logo sharing" is not "communication asking for legal advice." Further, such identification of agreement would not be content created in "anticipation of litigation." Further, the number of licenses given out on the SNAP Marks is wholly relevant to the issue in this case (likelihood of confusion). If there is a large number of agreements in place, it would lead to a conclusion that the SNAP Marks can peacefully coexist with Applicant's Mark. Applicant requests Snap to fully respond to Interrogatory No. 8.

#### Interrogatory Nos. 10 and 11

Interrogatory No. 10 requests that Snap "state the date Opposer claims the SNAP Marks became famous," and Interrogatory No. 11 requests that Snap "describe in detail all facts and circumstances that support Opposer's claim that the SNAP Marks were famous as of the date required to be identified in response to Interrogatory No. 10," respectively. Snap has objected based on attorney-client privilege, the work product doctrine, or Federal Rule of Civil Procedure 26(b). The objections are not well taken. See General Matters section for why the attorney

client privilege and work product doctrine are not applicable. Further, the interrogatories go right to the issue of dilution in this case.

Snap has only responded by saying it conducted a “fame survey” with respect to the SNAPCHAT mark, but did not include evidence of other SNAP Marks being famous. It is telling that, despite objections, Snap identified the fame survey for the SNAPCHAT mark, but not for any other mark, including the SNAP mark. Applicant requests Snap to fully respond to Interrogatory Nos. 10 and 11.

#### Interrogatory No. 12

Interrogatory No. 12 requests that Snap “Identify and describe in detail all administrative proceedings and litigations related to any SNAP Marks other than this Opposition No. 91237441.” Snap has objected based on attorney-client privilege, the work product doctrine, or Federal Rule of Civil Procedure 26(b). The objections are not well taken. See General Matters section for why the attorney client privilege and work product doctrine are not applicable. Identification of administrative proceedings and litigation, such as “eyebobs, LLC. v. Snap Inc.” could not be considered “communication seeking legal advice.” Further, such identification cannot be said to be produced “in anticipation of litigation.” It is also highly relevant to the issues at this case (i.e. the validity and fame of the Snap marks) because such allegations would undermine the validity and fame of the SNAP marks

Snap has agreed to produce notices of oppositions filed with the TTAB related to the SNAP Marks. However, it is unclear to Applicant why Snap would purposely choose to leave out other public instances where Snap was accused of trademark infringement. For example, see Snap Interactive, Inc. v. Snap Inc. (Case 1:16-cv-08313) Southern District of New York and eyebobs, LLC. v. Snap Inc. (Case 0:16-cv-04276) District Court of Minnesota. Applicant reminds Snap that the Request for Production No. 10 includes “actual or threatened litigation” in a judicial venue, not just matters before an administrative agency.

Applicant requests Snap to completely respond to the request and identify and describe in detail all administrative proceedings and litigations related to any SNAP Marks, not just TTAB proceedings.

#### Interrogatory No. 13

Interrogatory No. 13 requests that Snap “describe in detail why Opposer withdrew its opposition in Opposition No. 91214299.” Snap has objected based on attorney-client privilege, the work product doctrine, or Federal Rule of Civil Procedure 26(b). The objections are not well taken. See General Matters section for why the attorney client privilege and work product doctrine are not applicable. It is also highly relevant to the issues at this case (i.e. likelihood of confusion) because such withdrawal would show how Snap allowed other marks to peacefully coexist with the SNAP marks. Applicant requests Snap to fully respond to this Interrogatory No. 13.

#### Interrogatory No. 14

Interrogatory No. 14 requests that Snap “State the date Opposer first considered “Snap, Inc.” as its company name.” Snap has objected based on confidentiality, relevancy, and vagueness. The objections are not well taken. As stated in the General Matters section, Applicant corrects each instance of “Snap, Inc.” with “Snap Inc.” This request is wholly relevant to the issue of fraud, as a date identified in response to this request that is before the December 16, 2015 office action would support a finding of willfulness. It is incredulous that the date requested in this Interrogatory is “confidential and proprietary.” The company already changed its name. The change is public, and has been for over two years. It is unclear what business advantage is retained by keeping this date from Applicant.

Snap’s response is inadequate. “Considered” does not mean when Snapchat Inc. changed to Snap Inc. Consider means “to think carefully about (something), typically before making a decision.” (emphasis added) See Google search results for “consider.” Applicant asks Snap to respond to this Interrogatory No. 14 with this definition of “consider.” For the sake of clarity, this means the first date that any employee of Snapchat Inc. brought up the possibility of changing the name of Snapchat Inc. to Snap Inc.

#### Interrogatory No. 15

Interrogatory No. 15 requests that Snap “since the date identified in response to Interrogatory No. 14, and up to and including December 16, 2015, identify all Persons who were aware that Opposer was considering “Snap, Inc.” as its company name.” Snap has objected based on overly broad and unduly burdensome, confidentiality, relevancy, form and vagueness. The objections are not well taken. As stated in the General Matters section, Applicant corrects each instance of “Snap, Inc.” with “Snap Inc.” Applicant has clarified the definition of “consider” in Interrogatory No. 14, such that the form objection is addressed. This request is wholly relevant to the issue of fraud, as a finding of many Persons who knew about the coming name change before the December 16, 2015 office action would support a finding of willfulness. The request is not unduly burdensome or overly broad—it simply asks for the identify of Persons who knew about the name change. If law firms, advertising agencies, engineers, lawyers, accountants, IP counsel, etc. all knew about the name change, then that would support a finding that the December 16, 2015 statement was made fraudulently.

Applicant requests Snap to respond completely to this Interrogatory No. 15, with the definition of “consider” described above, and with the corrected date identified in response to clarified Interrogatory No. 14.

#### Interrogatory No. 16

Interrogatory No. 16 requests that Snap “Describe with specificity the selection of “Snap, Inc.” as Opposer’s company name, including but not limited to the reason(s) for its selection, the approval process, and identifying all Persons involved in the approval process.” Snap has objected based on attorney-client privilege, work product doctrine, Rule 26(b), confidentiality, vagueness, and relevancy. The objections are not well taken. As stated in the General Matters section, Applicant corrects each instance of “Snap, Inc.” with “Snap Inc.” As also stated in the General Matters, attorney client privilege only covers communication between a lawyer and

the lawyer's client seeking legal advice. Describing the approval process, identifying reasons for the name "Snap Inc." and identification of Persons involved in the process are not communication seeking legal advice. Further, the approval process and reasons for the name cannot be said to be created in "anticipation of litigation." Finally, it is wholly relevant to the issues at this case (i.e. fraud). If the approval process and selection involved a great number of people, it would support a finding that many people knew, or potentially knew, about the name change prior to the December 16, 2015 office action.

Snap responded that it changed its name to Snap Inc to reflect that the company is more than just the Snapchat app. However, if this is the true and only reasons, Snap still has not identified the approval process, or who was involved in the approval process. Applicant requests that Snap fully respond to this Interrogatory No. 16.

#### Interrogatory Nos. 17 and 18

Interrogatory No. 17 requests that Snap "identify and describe the subject matter of all agreements, between Opposer and a Third Party, concerning the rebrand from "Snapchat, Inc." to "Snap, Inc, and "identify all Persons who reviewed the agreements identified in response to Interrogatory No. 17," respectively. Snap has objected based on attorney-client privilege, work product doctrine, Rule 26(b), confidentiality, and relevancy. The objections are not well taken. See General Matters section for why the attorney client privilege and work product doctrine are not applicable. For example, "Marketing Agreement for Snapchat, between Snapchat Inc. and XYZ, dated XXX for rebrand study" is not "communication asking for legal advice." Further, such identification of agreement would not be content created in "anticipation of litigation." Further, agreements entered into with regard to the rebranding would indicate the number of people familiar with the rebrand, who was familiar with the rebrand, and when they were familiar with the rebrand. All of this goes to willfulness, and is relevant to the fraud issue in this case. Applicant requests that Snap completely respond to these Interrogatory Nos. 17 and 18.

#### Interrogatory No. 19

Interrogatory No. 19 requests that Snap "identify all Persons who reviewed the office action response filed on December 16, 2015 in Serial No. 86/619,184, including all Persons who validated whether business statements (such as corporate name) were true in said office action response." Snap has objected based on attorney-client privilege, work product doctrine, Rule 26(b), confidentiality, vagueness, broadness, and relevancy. The objections are not well taken. See General Matters section for why the attorney client privilege and work product doctrine are not applicable. For example, "Dennis Wilson reviewed the December 16, 2015 office action" is not "communication asking for legal advice." Further, such identification would not be content created in "anticipation of litigation." Further, it is wholly relevant to the issue of fraud. If Dennis Wilson, or anyone else who reviewed the office action also knew about the rebranding, it would strongly support a finding of fraud.

"Business statement," as common sense would dictate, means statements concerning the business. Applicant even gave an example of such a statement in the Interrogatory itself "(such as corporate name)." Snap's assertion to the contrary is ridiculous. Even if one would not reasonably construe corporate name as a "business statement" in a vacuum, a reasonable

person would construe corporate name as a business statement if “(such as corporate name)” followed.

Snap responded by stating its in-house and outside legal counsel reviewed the office action. This is woefully inadequate. “Persons,” as defined by Applicant and Snap, means any natural person, group of natural persons, corporation, company, unincorporated association, partnership, joint venture, or other business, legal or governmental entity or association, “Identify,” as defined by Applicant and Snap, and as it relates to natural persons, means to include the name, job title, current or last known home address and home telephone number, last known place of employment, and the address and telephone number of such place of employment. “Identify,” as defined by Applicant and Snap, and as it relates to non-natural persons, means to provide the name of such business entity, its last known address and telephone number, the jurisdiction under whose laws it is organized and the jurisdiction in which it maintains its principal place of business. In-house and outside legal counsel does not satisfy the definition of “Identify.” Applicant requests Snap to fully respond to this Interrogatory No. 19.

#### Interrogatory No. 23

Interrogatory No. 23 requests that Snap “describe in detail the acquisition of the domain “www.snap.com,” including identifying the Date that Opposer first decided to attempt to acquire the domain.” Snap has objected based confidentiality, and relevancy. The objections are not well taken. The fact that Snap owns [www.snap.com](http://www.snap.com) is already public knowledge, and has been for over two years. It is unclear what commercial advantage Snap maintains by keeping the details of its acquisition of [www.snap.com](http://www.snap.com), including the date Snap first attempted to acquire the domain, confidential. It is also incredibly relevant to the fraud issue in this case. If Snap attempted to acquire the domain before December 16, 2015, it would indicate that some persons inside Snapchat Inc. already knew about the rebranding. Applicant requests that Snap fully respond to this Interrogatory No. 23.

#### Interrogatory No. 24

Interrogatory No. 24 requests that Snap “Identify all current and former employees of Opposer who stated that Opposer’s culture is “toxic” or “sexist,” or Opposer is a “sexist” or “toxic” place to work.” Snap has objected based on relevancy and calculated to harass and embarrass. The objections are not well taken. The issue of Snap’s culture and employee morale is relevant to the issue of fame and dilution, and whether Applicant wanted to ride on the coat tails of such fame (or infamy). The request is not calculated to harass or embarrass—it is to make it abundantly clear that Applicant wants no association with such a toxic or sexist company. Applicant requests that Snap respond fully to this Interrogatory No. 24.

#### Request for Production No. 2

Request for Production No. 2 requests documents “concerning the acquisition of the domain “www.snap.com” by Opposer, including any agreements with any Third Parties.” Snap objected based on confidentiality and relevancy. Such objections are not well taken. The domain acquisition is already public, and has been for over two years. It is incredibly relevant, because

the date of such documents, signature block of agreements, and sender/receiver information in emails, among others, would help show who knew about the rebranding, and when. Applicant requests Snap to fully comply with Request for Production No. 2.

#### Request for Production No. 9

Request for Production No. 9 requests documents “concerning both the marks “Snap Maps” and “MapSnaps,” wherein “and” includes the conjunctive form only for this request only.” Applicant mistakenly referenced “Snap Map” as “Snap Maps.” Applicant thanks Snap for construing this request with “Snap Map.” Snap objected based on attorney client privilege, work product doctrine, or 26(b). See General Matters section for response to general objections and various privileges. To the extent that any privilege applies, Applicant requests Snap to produce the documents requested, with any privileged information redacted, along with identifying the basis of each privilege for each redaction, and a privilege log.

#### Request for Production No. 10

Request for Production No. 10 requests documents “concerning any dispute, including actual or threatened litigation or administrative proceedings, involving allegations of trademark infringement, unfair competition, or dilution, to which Opposer is or was a party, except for this proceeding.”

Snap objected based on attorney client privilege, work product doctrine, or 26(b). As addressed in the general matters, the attorney client privilege and work product doctrine only extend to a limited number of documents. For example, an email from a third party alleging Snap infringed the third party’s trademark would not fall under either privilege. It is also highly relevant to the issues at this case (i.e. the validity and fame of the Snap marks) because such allegations would undermine the validity and fame of the SNAP marks. Settlements of the suits would also show how Snap allowed other marks to peacefully coexist with the SNAP marks, which wholly go to the issue of likelihood of confusion.

Snap has agreed to produce notices of oppositions filed with the TTAB related to the SNAP Marks. However, it is unclear to Applicant why Snap would purposely choose to leave out other public instances where Snap was accused of trademark infringement. For example, see *Snap Interactive, Inc. v. Snap Inc.* (Case 1:16-cv-08313) Southern District of New York and *eyebobs, LLC. v. Snap Inc.* (Case 0:16-cv-04276) District Court of Minnesota. Applicant reminds Snap that the Request for Production No. 10 includes “actual or threatened litigation” in a judicial venue, not just matters before an administrative agency.

Applicant requests Snap to completely respond to the request by also including all documents concerning any dispute, including actual or threatened litigation or administrative proceedings, involving allegations of trademark infringement, unfair competition, or dilution, to which Snap is or was a party, except for this proceeding, including email communication from a third party alleging trademark infringement and agreements that settled all such matters. To make this

clear, include, among other types of documentation, email communication from eyebobs, LLC. and Snap Interactive, Inc. alleging trademark infringement.

#### Request for Production No. 11

Request for Production No. 11 requests documents “concerning and sufficient to identify any license, assignment, franchise, partnership, or any other agreement concerning the SNAP Marks, whether signed or unsigned, and whether in final or draft form.”

Snap objected based on attorney client privilege, work product doctrine, or 26(b). As addressed in the general matters, the attorney client privilege and work product doctrine only extend to a limited number of documents. For example, an email from an employee in the Strategy ORG to an employee in the Finance & Accounting ORG would not be subject to the attorney client privilege. Agreements, aside from settlement negotiations, would not fall under the work product doctrine because such agreements were not made in “anticipation of litigation.” It is also highly relevant to the issues at this case (i.e. likelihood of confusion) because such agreements would show how Snap allowed other marks to peacefully coexist with the SNAP marks.

Snap also objected based on confidentiality. However, the needs of resolving the likelihood of confusion issue, which is the core of Snap’s case against Applicant, prevail. As stated above, agreements concerning the SNAP marks show how Snap allowed other marks to peacefully coexist with the SNAP marks. Snap, the instigator in this case (and many others before the TTAB), cannot bring suit and then hide behind a curtain of confidentiality.

Snap has produced some boiler plate and public EULAs or other similar type agreements. These agreements are woefully inadequate. Applicant requests that Snap completely respond to Request for Production No. 11.

#### Request for Production No. 14

Request for Production No. 14 requests documents “concerning and sufficient to identify any formal or informal plan, policy, or understanding of Opposer concerning document retention or destruction.” Snap objected based on attorney client privilege, work product doctrine, or 26(b). Applicant is surprised by such objections, and the objections are not well taken. Document retention or destruction plans are, or should be, company wide. Such a wide distribution would surely constitute a waiver of the attorney client privilege. Further, such a generic legal notice would surely not be done in anticipation of any litigation. The document retention plans are also relevant to the issues at this case because Snap is in total control of documents related to its fraudulent statements to the USPTO, and as such, could delete such documents at any time. Understanding Snap’s document retention policies would aid in determining whether such documents still exist, assuming that Snap is in compliance with any such retention policy.

Snap has only produced its email retention policy. However, many documents, such as power point presentations, pdf files, and word documents, fall outside of the email retention policy. Applicant requests Snap to fully comply with Request for Production No. 14, and produce

documents concerning and sufficient to identify any formal or informal plan, policy, or understanding of Opposer concerning document retention or destruction, where such plans cover, at a minimum, power point presentations, pdf files and word documents.

#### Request for Production No. 15

Request for Production No. 15 requests documents “All documents relied upon or referred to by Opposer in responding to Applicant’s First Set of Interrogatories and in any supplementation thereof.” As stated in response to each objection to each interrogatory above, Snap has so far been woefully inadequate in its responses to Applicant’s First Set of Interrogatories, and such objections are not well taken. These Interrogatories and Requests for Production are ongoing. When Snap has satisfactorily responded to each interrogatory, it is also required to produce all documents relied upon or referred to in responding to said interrogatories.

Applicant requests Snap to fully comply with this Request for Production No. 15.

#### Request for Production No. 17

Request for Production No. 17 requests documents “concerning and sufficient to identify any formal or informal plan, policy, or understanding of Opposer concerning signature authority, and review of documents before they are signed.” Snap objected based on attorney client privilege, work product doctrine, or 26(b). Applicant is surprised by such objections, and the objections are not well taken. Policies, such as signature authority and review of documents before final execution are, or should be, company wide. Such a wide distribution would surely constitute a waiver of the attorney client privilege. Further, such a generic policy would surely not be done in anticipation of any litigation. The signature authority and review of documents before final execution policies also relevant to the issues at this case because such a policy would show who knew what at the time each agreement was executed or when an office action was filed, or when a corporate name change was to go into effect. To make it clear for Snap, agreements that are signed by the General Counsel would show that the General Counsel knew, or should have known, the contents of the agreement. A review by Matt Stratton of an office action response to a trademark application rejection would show that the Associate General Counsel, IP of Snap knew, or should have known, the contents of the office action response.

Snap also claims the request is overly broad and unduly burdensome. Such an objection, and subsequent production of no documents, is laughable. Snap could have produced its signature authority policy. There is, or should only be, one signature authority policy for the company. Applicant fails to see how producing this one document is “overly broad and unduly burdensome.” Similarly, Applicant fails to see how producing a review policy is overly broad and burdensome.

Applicant requests Snap to fully comply with Request for Production No. 17, and produce documents concerning and sufficient to identify any formal or informal plan, policy, or understanding of Opposer concerning signature authority, and review of documents before they are signed, including, at a minimum, Snap’s signature authority policy.



#### Request for Production No. 18

Request for Production No. 18 requests documents “concerning the rebranding of Snapchat, Inc. to Snap, Inc, including all agreements with Third Parties concerning the rebranding” Snap objected based on attorney client privilege, work product doctrine, or 26(b), burden, vagueness, and relevancy. See General Matters section for response to the general objections, and to consider “Snap, Inc.” as “Snap Inc” in the request for productions and interrogatories. To the extent that any privilege applies, Applicant requests Snap to produce the documents requested, with any privileged information redacted, along with identifying the basis of each privilege for each redaction, and a privilege log.

The request is relevant because such documents can give insight into who knew about the rebranding, and when. This goes to the willfulness element of the fraud issue in this case. The request is not overly broad or burdensome because it seeks to provide documents to support who knew about the rebranding, and when.

Snap responded by providing press releases and industry articles. This is wholly inadequate, as it does not reveal anything about who in Snapchat Inc. knew about the rebranding. Further, as discussed in the General Matters section, email correspondence between a non-lawyer employee and another non-lawyer employee of Snapchat would not fall under the attorney client privilege. Neither would such email, or any attached documents, constitute work product since obviously an attorney wasn’t involved in the creation of such email or such documents.

Applicant request Snap to fully comply with this Request for Production No. 18.

#### Request for Production No. 19

Request for Production No. 19 requests “all documents where Opposer asserted that Snapchat was a house mark.” See General Matters for response to general objections. Snap objected based on attorney client privilege, work product doctrine, or 26(b), and unduly burdensome. The objections are not well taken. Frankly, Applicant is surprised by the objections. The December 16, 2015 office action response is a document “where Opposer asserted that Snapchat was a house mark.” This document, clearly, is not subject to the attorney client privilege, or work product doctrine, or 26(b). Applicant is simply asking for other such documents where Snap has made similar statements.

Perhaps Snap misunderstood Request for Production No. 19. Applicant did not ask for documents that “demonstrate use of the SNAPCHAT mark as a house mark.” Applicant asked Snap for all documents where Opposer “asserted that Snapchat was a house mark” (i.e. there was an affirmative statement from Snap that said Snapchat is a house mark, or similar effect). Applicant requests Snap fully comply with this Request for Production No. 19.

#### Request for Production No. 20

Request for Production No. 20 requests documents “concerning the use of the Snapchat mobile application for sexting purposes.” See General Matters for response to general objections.

Snap has objected based on relevancy and calculated to harass and embarrass. The objections are not well taken. The issue of Snap's toxic culture and unwholesome use of its main mobile application is relevant to the issue of fame and dilution, and whether Applicant wanted to mimic or be associated with such a company. The request is not calculated to harass or embarrass—it is to make it abundantly clear that Applicant wants no association with such a toxic or sexist company. Applicant requests that Snap fully comply with this Request for Production No. 20.

Request for Production No. 21

Request for Production No. 21 requests documents “concerning Exhibit G in Applicant’s counterclaim (the “Fuck Bitches Get Leid” article).” See General Matters for response to general objections. Snap has objected based on relevancy and calculated to harass and embarrass. Snap also objects that it seeks documents in the possession of third parties. The objections are not well taken. The issue of Snap’s toxicity and “bro” culture is relevant to the issue of fame and dilution, and whether Applicant wanted to mimic or be associated with such a company. The request is not calculated to harass or embarrass—it is to make it abundantly clear that Applicant wants no association with such a toxic or sexist company. Further, internal (to Snap) emails, power point presentations, word documents, etc. are clearly not in the possession of third parties. Applicant requests that Snap fully comply with this Request for Production No. 21.

Request for Production No. 22

Request for Production No. 22 requests documents “concerning Opposer as being sexist or toxic.” See General Matters for response to general objections. Snap has objected based on relevancy and calculated to harass and embarrass. The objections are not well taken. The issue of Snap’s culture and employee morale is relevant to the issue of fame and dilution, and whether Applicant wanted to ride on the coat tails of such fame (or infamy). The request is not calculated to harass or embarrass—it is to make it abundantly clear that Applicant wants no association with such a toxic or sexist company. Applicant requests that Snap fully comply with Request for Production No. 22.

Applicant looks forward to receiving amended responses to Applicant’s discovery requests by **December 5, 2018**. Please do not hesitate to contact me if you have any questions or would like to discuss this matter further.

Warm regards,



Danielle Fujii

## **EXHIBIT D**

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

SNAP, INC.,	)	
	)	
Opposer/Counterclaim-	)	
Respondent	)	
	)	
v.	)	Opposition No. 91237441
	)	Serial No. 87344309
MAD DOG SOFTWARE CORP.,	)	
	)	
Applicant/Counterclaim-	)	
Petitioner	)	
	)	
	)	
<hr style="width: 40%; margin-left: 0;"/>		

**APPLICANT'S SECOND REQUEST FOR PRODUCTION OF DOCUMENTS**

Applicant/Counterclaim Petitioner Mad Dog Software Corp., (“Applicant”) hereby requests that Opposer/Counterclaim Respondent Snap, Inc., (“Opposer”) produce for inspection and copying via the same method Opposer responded to Applicant’s First Request for Production of Documents, or at a location or method to which the parties mutually agree, within fourteen (14) days after service of these requests, the documents identified below.

DEFINITIONS

Applicant incorporates by reference, as if fully set forth here, the Definitions set forth in Applicant’s First Set of Interrogatories.

INSTRUCTIONS

Applicant incorporates by reference, as if fully set forth here, the Instructions set forth in Applicant’s First Request for Production of Documents.

REQUESTS FOR PRODUCTION

23. Documents concerning the U.S. Department of Justice and Securities and Exchange Commission investigation into Opposer's March 2017 initial public offering, including, but not limited to, the subpoenas Opposer received from the U.S. Department of Justice and Securities and Exchange Commission regarding the same.
24. Documents concerning the lawsuits filed by Anthony Pompliano against Opposer.

Dated: 5th day of December, 2018

/Danielle Fujii/

Danielle Fujii, CEO  
Mad Dog Software Corp.  
1261 Albion Lane  
Sunnyvale, CA 94087  
Danielle@fullmoonfire.com

## CERTIFICATE OF SERVICE

I hereby certify that the on this 5th day of December, 2018, a true and complete copy of the foregoing **APPLICANT'S SECOND REQUEST FOR PRODUCTION OF DOCUMENTS** was served on Rho Thomas, Austin Phillips, and Tywanda Harris Lord, *Counsel for Opposer Snap, Inc.* by forwarding said copy on December 5th, 2018 via email at the addresses below:

Rho Thomas  
Kilpatrick Townsend & Stockton LLP  
1100 Peachtree Street, Suite 2800  
Atlanta, Georgia 30309  
[rdthomas@kilpatricktownsend.com](mailto:rdthomas@kilpatricktownsend.com)

Austin Phillips  
Kilpatrick Townsend & Stockton LLP  
Two Embarcadero Center, Suite 1900  
San Francisco, CA 94111  
[aphillips@kilpatricktownsend.com](mailto:aphillips@kilpatricktownsend.com)

Tywanda Harris Lord  
Kilpatrick Townsend & Stockton LLP  
1100 Peachtree Street, Suite 2800  
Atlanta, Georgia 30309  
[tlord@kilpatricktownsend.com](mailto:tlord@kilpatricktownsend.com)

*/Danielle Fujii/*

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Danielle Fujii  
CEO  
Mad Dog Software Corp.  
[Danielle@fullmoonfire.com](mailto:Danielle@fullmoonfire.com)

## **EXHIBIT E**

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

SNAP INC.,	)	
	)	
Opposer/Counterclaim Respondent,	)	Opposition No. 91237441
	)	
v.	)	TM: MAPSNAPS
	)	
MAD DOG SOFTWARE CORP.,	)	App. Serial No. 87344309
	)	
Applicant/Counterclaim Petitioner.	)	

**OPPOSER/COUNTERCLAIM RESPONDENT SNAP INC.’S OBJECTIONS AND  
RESPONSES TO APPLICANT/COUNTERCLAIM PETITIONER MAD DOG  
SOFTWARE CORP.’S SECOND REQUEST FOR PRODUCTION OF DOCUMENTS**

On the basis of information now known, and without waiving any objection or admitting the relevance or materiality of any of the documents or information sought, Opposer/Counterclaim Respondent Snap Inc. (“Snap”) serves the following Responses and Objections to Applicant/Counterclaim Petitioner Mad Dog Software Corp.’s (“Applicant”) Second Request for Production of Documents (“Requests”), pursuant to Rules 2.116 and 2.120 of the Trademark Rules of Practice and Federal Rules of Civil Procedure 26 and 34.

**PRELIMINARY STATEMENT**

Snap incorporates by reference, as if fully set forth herein, the Preliminary Statement from its responses to Applicant’s First Request for Production of Documents.

**GENERAL OBJECTIONS**

Snap incorporates by reference, as if fully set forth herein, its General Objections from its responses to Applicant’s First Request for Production of Documents. Snap further objects to Applicant’s attempt to place a greater burden on Snap than that imposed by the Federal Rules of Civil Procedure and the Trademark Trial and Appeal Board Manual of Procedure by requesting that Snap respond to its Second Request for Production of Documents within 14 days.



## **SPECIFIC OBJECTIONS AND RESPONSES**

23. Documents concerning the U.S. Department of Justice and Securities and Exchange Commission investigation into Opposer's March 2017 initial public offering, including, but not limited to, the subpoenas Opposer received from the U.S. Department of Justice and Securities and Exchange Commission regarding the same.

### **RESPONSE:**

In addition to the general objections, Snap objects to this request to the extent it seeks documents protected from discovery by the attorney-client privilege, the work product doctrine, or Federal Rule of Civil Procedure 26(b). Snap also objects to this request on the ground that it is not relevant to either party's claim or defense and is calculated to harass and embarrass Snap. Snap further objects to this request to the extent that it seeks documents in the possession, custody, or control of Third Parties.

24. Documents concerning the lawsuits filed by Anthony Pompliano against Opposer.

### **RESPONSE:**

In addition to the general objections, Snap objects to this request to the extent it seeks documents protected from discovery by the attorney-client privilege, the work product doctrine, or Federal Rule of Civil Procedure 26(b). Snap also objects to this request on the ground that it is not relevant to either party's claim or defense and is calculated to harass and embarrass Snap. Snap further objects to this request to the extent that it seeks documents in the possession, custody, or control of Third Parties.

Dated: January 4, 2019

Respectfully submitted,

KILPATRICK TOWNSEND & STOCKTON LLP

By: /R. Thomas/

Tywanda Harris Lord

Rhojonda D.C. Thomas

1100 Peachtree Street NE, Suite 2800

Atlanta, Georgia 30306

Telephone: (404) 815-6500

Facsimile: (404) 815-6555

tlord@kilpatricktownsend.com

rdthomas@kilpatricktownsend.com

*Counsel for Opposer/Counterclaim Respondent  
Snap Inc.*

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

SNAP INC.,	)	
	)	
Opposer/Counterclaim Respondent,	)	Opposition No. 91237441
	)	
v.	)	TM: MAPSNAPS
	)	
MAD DOG SOFTWARE CORP.,	)	App. Serial No. 87344309
	)	
Applicant/Counterclaim Petitioner.	)	

**CERTIFICATE OF SERVICE**

This is to certify that OPPOSER/COUNTERCLAIM RESPONDENT SNAP INC.'S OBJECTIONS AND RESPONSES TO APPLICANT/COUNTERCLAIM PETITIONER MAD DOG SOFTWARE CORP.'S SECOND REQUEST FOR PRODUCTION OF DOCUMENTS was served on Applicant's correspondent of record on January 4, 2019, via her email address of record, danielle@fullmoonfire.com.

/Kris Teilhaber/  
Kilpatrick Townsend & Stockton LLP

## **EXHIBIT F**

January 14, 2018

Ms. Rho Thomas  
1100 Peachtree Street NE, Suite 2800  
Atlanta, GA 30309-4528  
RDThomas@kilpatricktownsend.com

Re: Snap Inc. (“Snap”) v. Mad Dog Software Corp. (“Applicant”)

Dear Rho:

We have reviewed Snap’s responses to Applicant’s Second Request for Production of Documents. We are concerned that Snap’s responses to Applicant’s requests are woefully insufficient.

#### General Matters

Snap has objected to every request for production based on the attorney client privilege, or attorney work product doctrine. Applicant addresses each in turn.

As Snap is aware, the attorney client privilege only extends to:

- 1) A communication;
- 2) Made in confidence;
- 3) Between a lawyer and the lawyer’s client; and
- 4) For the purpose of seeking or obtaining legal advice.

Applicant would like to take this opportunity to remind Snap that Applicant’s interrogatories and requests for production extend to all communications between all employees of Snap—not just those between a lawyer and the lawyer’s client. Such non-lawyer to non-lawyer communication clearly do not fall under the attorney client privilege. Further, to the extent there are any privileged communications between “a lawyer and the lawyer’s client,” Applicant respectfully requests a privilege log for all such privileged communication.

Since the privilege only extends to communications, Applicant reminds Snap that metadata, such as date, time, sender, recipient(s), subject line of emails, etc., are not “communications” for “seeking or obtaining legal advice.” Indeed, it would be nonsensical that such metadata could constitute any intelligible communication, let alone communication for seeking or obtaining legal advice.

As Snap is most likely aware, the work product doctrine only protects documents or material things prepared in anticipation of litigation, or for trial. Applicant reminds Snap that Applicant’s interrogatories and requests for production extend to many communications and documents that were not created in anticipation of litigation or for trial.

Snap curiously states that Applicant attempted “to place a greater burden on Snap than that imposed by the Federal Rules of Civil Procedure and the Trademark Trial and Appeal Board Manual of Procedure by requesting that Snap respond to its Second Request for Production of Documents within 14 days.” Applicant sent its Second Request for Production of Documents on December 5, 2018. Snap responded on January 4, 2019—30 days after Applicant sent its Second Request. Between December 5, 2018 and January 4, 2019, Applicant had not pressed Snap to respond to its Second Request for Production of Documents. If Applicant did attempt to place a “greater burden” on Snap, Applicant would have pressed for responses by January 18<sup>th</sup>.

### Request for Complete Responses

Applicant requests complete responses Request for Production Nos. 23 and 24.

#### Request for Production No. 23

Request for Production No. 23 requests documents “concerning the U.S. Department of Justice and Securities and Exchange Commission investigation into Opposer’s March 2017 initial public offering, including, but not limited to, the subpoenas Opposer received from the U.S. Department of Justice and Securities and Exchange Commission regarding the same.” See General Matters for response to general objections. Snap has objected based on relevancy and calculated to harass and embarrass. The objections are not well taken. The issue of Snap’s previous fraudulent statements is relevant to the present issue of fraud. The request is not calculated to harass or embarrass—it is to show a pattern of fraudulent statements, and a company culture of dishonesty.

Snap further objects to this request to the extent that it seeks documents in the possession, custody, or control of Third Parties. As stated in the actual request, one such document that Applicant seeks is the subpoena [Snap] actually received from the U.S. DOJ and SEC. Clearly, Snap has those actual subpoenas in its custody.

Further, subpoenas are clearly not subject to the attorney client privilege since it was a third party issuing the subpoenas. The subpoenas clearly are also not subject to the work product doctrine, since the subpoenas were not produced by Snap’s attorneys.

Applicant requests that Snap fully comply with Request for Production No. 23.

#### Request for Production No. 24

Request for Production No. 24 requests documents “concerning the lawsuits filed by Anthony Pompliano against Opposer.” See General Matters for response to general objections. Snap has objected based on relevancy and calculated to harass and embarrass. The objections are not well taken. Pompliano’s suit alleged that Snap misled investors on Snap’s growth metrics. Indeed, given Snap’s declining users, it seems like Snap did mislead investors before the IPO. The issue of Snap’s previous fraudulent statements is relevant to the present issue of fraud.

The request is not calculated to harass or embarrass—it is to show a pattern of fraudulent statements, and a company culture of dishonesty and suppressing the truth.

Snap further objects to this request to the extent that it seeks documents in the possession, custody, or control of Third Parties. This is a ridiculous objection. Clearly, Snapchat's user metrics, Pompliano's termination, internal Snapchat discussions, etc. are in Snap's possession.


Further, true user metrics, for example, are clearly not subject to the attorney client privilege if those metrics were shared with a non-attorney, and if those metrics were discussed not in the context of seeking legal advice. The true user metrics, for example, are also not subject to the work product doctrine, since the metrics were not produced by Snap's attorneys.

Applicant requests that Snap fully comply with Request for Production No. 24.

Applicant looks forward to receiving amended responses to Applicant's discovery requests by **January 21, 2019**. Please do not hesitate to contact me if you have any questions or would like to discuss this matter further.

Applicant further reminds Snap that it has yet to substantively respond to Applicant's November 21<sup>st</sup>, 2018 letter, which detailed the massive shortcomings in Snap's discovery responses. Snap was initially given a deadline of December 5<sup>th</sup>, 2018, which Applicant graciously extended. On December 7<sup>th</sup>, 2018, Ms. Thomas indicated that a substantive response would come "next week." It is now over a month after the initial deadline of December 5<sup>th</sup>, 2018, and Snap has seemingly not engaged in good faith efforts to respond. Although Applicant agreed to a 60 day extension for discovery, which was made moot by the Board, Applicant did not agree to give a 60 day extension to its November 21<sup>st</sup>, 2018 letter. If Applicant does not receive a satisfactory response to *all* of its discovery requests by **January 21, 2019**, Applicant will bring this to the attention of the Board.

Warm regards,



Danielle Fujii

## **EXHIBIT G**



Suite 2800, 1100 Peachtree Street NE  
Atlanta, GA 30309-4528  
t 404 815 6500 f 404 815 6555

January 25, 2019

direct dial 404 815 6638  
direct fax 404 601 5429  
RDThomas@kilpatricktownsend.com

Ms. Danielle Fujii, CEO  
Mad Dog Software Corp.  
1261 Albion Lane  
Sunnyvale, California 94087  
danielle@fullmoonfire.com

Re: Snap / Mad Dog Software Corp.

Dear Danielle:

Thank you for your letters regarding Snap's discovery responses. We address the concerns raised in your letters below and concurrently serve supplemental responses to your company's discovery requests.

Objections Based on Attorney-Client Privilege and Work Product Doctrine

Generally, these objections lie in the broad scope of the requests. Given the breadth of the requests, they could encompass information or documents that would be privileged and protected from discovery. As you may be aware, such objections are necessary to preserve our client's ability to withhold information or documents that, while responsive, can be excluded from discovery.

Further, we note you have assumed that communications between employees of Snap are automatically not privileged. That assumption is incorrect and such communications can be protected by the attorney-client privilege based on the substance of the communications. *See, e.g., U.S. v. ChevronTexaco Corp.*, 241 F. Supp. 2d 1065, 1077 (N.D. Cal. 2002).

Nevertheless, we are unaware of any relevant, responsive information or documents that have been withheld on the basis of privilege, aside from documents created since the initiation of this proceeding. *See Ryan Inv. Corp. v. Pedregal de Cabo San Lucas*, No. C. 06-3219, 2009 WL 5114077, at \*3 (N.D. Cal. Dec. 18, 2009) (noting that "counsel's communications with the client and work product developed once the litigation commences are presumptively privileged and need not be included on any privilege log"). If any documents are withheld on the basis of privilege, we will supplement Snap's responses with a privilege log.

Interrogatory Nos. 1 and 4

Unfortunately, Snap is unable to provide precise dates in response to these interrogatories because the precise dates are unknown. Rather, relation to relevant events—in this case, the filing date of Applicant's application—provides the most accurate information available. Snap has

responded to these interrogatories advising that it became aware of Applicant, the Application, the conduct complained of in this Opposition, and use and registration of Applicant's Mark after the filing date of the Application.

Interrogatory No. 3

Snap is currently unaware of any incidents of actual confusion. We note, however, that Applicant is no longer using the mark, so actual confusion evidence is impossible to obtain at this time.

Interrogatory No. 8

In accordance with Federal Rule of Civil Procedure 33(d), Snap has amended its response to this interrogatory to identify documents from which information responsive to this interrogatory can be derived or ascertained.

Interrogatory Nos. 10 and 11

Snap contends that the SNAPCHAT mark is famous within the meaning of the dilution analysis and that the SNAPCHAT mark and the other SNAP Marks are famous within the meaning of the likelihood of confusion analysis. The SNAP Marks became famous well before the filing date of the Application, but Snap is unable to provide a precise date.

Interrogatory No. 12

In accordance with Federal Rule of Civil Procedure 33(d), Snap will amend its response to this interrogatory to include the complaint in *Snap Interactive, Inc. v. Snap Inc.* The *eyebobs* litigation did not involve any SNAP Marks and is irrelevant to this proceeding. Snap is unaware of any other trademark infringement litigation involving its SNAP Marks.

Interrogatory No. 13

Snap stands by its objection; the reason it withdrew the opposition is protected from disclosure by the attorney-client privilege. The documents related to the opposition are publicly available for your review.

Interrogatory Nos. 14 and 15

Snap notes that every employee's actions cannot be imputed to a corporation. Accordingly, the clarification of the intended meaning of the word "consider" is overly broad. Nevertheless, Snap has amended its responses to these interrogatories in light of the clarification.

Interrogatory No. 16

Snap is unaware of an approval process for the change of its corporate name to Snap Inc.

Interrogatory Nos. 17 and 18

Snap is unaware of any agreements related to the change of its corporate name to Snap Inc.

Interrogatory No. 19

Snap has amended its response to this interrogatory to identify the in-house and outside legal counsel who reviewed the office action response.

Interrogatory No. 23

Snap has amended its response to this interrogatory to provide information regarding the acquisition of the snap.com domain name.

Interrogatory No. 24, Request for Production Nos. 20-24

Despite Applicant's arguments, the requested information and documents are not relevant to a trademark infringement matter before the Board. Snap stands by its objections.

Request for Production No. 2

The agreement concerning the acquisition of the snap.com domain name contains highly commercially sensitive business information, and accordingly, Snap is designating this agreement attorneys' eyes only. Nevertheless, Snap has provided information regarding the acquisition of the snap.com domain name in response to Interrogatory No. 23.

Request for Production No. 9

Snap has responded to this request.

Request for Production No. 10

Snap has supplemented its production to include the complaint in *Snap Interactive v. Snap Inc.*

Request for Production No. 11

Snap has supplemented its production to include agreements concerning the SNAP Marks.

Request for Production No. 14

Snap has responded to this request and has produced its Email Retention Plan. Snap will continue to review its files but is unaware of any other documents responsive to this request at this time.

Request for Production No. 15

Applicant simply makes a statement about the perceived inadequacies of Snap's

Ms. Danielle Fujii, CEO

Page 4

interrogatory responses and does not appear to contend that Snap's response to this request for production is insufficient.

Request for Production No. 17

There is no policy, informal or formal, regarding signature authority and review of documents before they are signed. With regard to office action responses, in practice, the outside counsel drafting the office action response signs the document after it is reviewed by Snap's in-house counsel.

Request for Production No. 18

Snap has responded to this request.

Request for Production No. 19

Applicant already has Snap's office action response. Snap is unaware of any other responsive documents at this time.

We trust that we have addressed your concerns. Should you have any further questions, please don't hesitate to contact me.

Kind regards,



Rho Thomas

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

SNAP INC.,	)	
	)	
Opposer/Counterclaim Respondent,	)	Opposition No. 91237441
	)	
v.	)	TM: MAPSNAPS
	)	
MAD DOG SOFTWARE CORP.,	)	App. Serial No. 87344309
	)	
Applicant/Counterclaim Petitioner.	)	

**OPPOSER/COUNTERCLAIM RESPONDENT SNAP INC.’S FIRST  
SUPPLEMENTAL OBJECTIONS AND RESPONSES TO  
APPLICANT/COUNTERCLAIM PETITIONER MAD DOG  
SOFTWARE CORP.’S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS**

On the basis of information now known, and without waiving any objection or admitting the relevance or materiality of any of the documents or information sought, Opposer/Counterclaim Respondent Snap Inc. (“Snap”) serves the following supplemental objections and responses to Applicant/Counterclaim Petitioner Mad Dog Software Corp.’s (“Applicant”) First Request for Production of Documents (“Requests”), pursuant to Rules 2.116 and 2.120 of the Trademark Rules of Practice and Federal Rules of Civil Procedure 26 and 34.

**PRELIMINARY STATEMENT**

Snap incorporates by reference, as if fully set forth herein, the Preliminary Statement from its responses to Applicant’s First Request for Production of Documents.

**GENERAL OBJECTIONS**

Snap incorporates by reference, as if fully set forth herein, its General Objections from its responses to Applicant’s First Request for Production of Documents.

**SPECIFIC OBJECTIONS AND RESPONSES**

2. Documents concerning the acquisition of the domain “www.snap.com” by

Opposer, including any agreements with any Third Parties.

**RESPONSE:**

In addition to the general objections, Snap objects to this request on the ground that it seeks documents that are confidential and proprietary and not relevant to any party's claim or defense. Snap reserves the right to supplement and/or amend its response to this request during and upon the completion of discovery.

**SUPPLEMENTAL RESPONSE:**

Subject to the above objections, Snap responds that the agreement concerning the acquisition of the snap.com domain name contains highly sensitive business information and accordingly is designated attorneys' eyes only. Snap reserves the right to supplement and/or amend its response to this request during and upon the completion of discovery.

10. Documents concerning any disputes, including actual or threatened litigation or administrative proceedings, involving allegations of trademark infringement, unfair competition, or dilution, to which Opposer is or was a party, except for this proceeding.

**RESPONSE:**

In addition to the general objections, Snap objects to this request to the extent it seeks documents protected from discovery by the attorney-client privilege, the work product doctrine, or Federal Rule of Civil Procedure 26(b). Snap also objects to this request to the extent that it is overbroad and unduly burdensome without a reasonable limitation in scope. Snap further objects to this request to the extent it seeks documents that are confidential and proprietary and that are not relevant to any party's claim or defense. Snap further objects to this request on the ground that responsive documents are available to Applicant without imposing an undue burden on

Snap.

Subject to these objections, Snap responds that it will produce notices of opposition filed with the Trademark Trial and Appeal Board related to the SNAP Marks, which will allow Applicant to obtain publicly filed documents concerning actual or threatened litigation or administrative proceedings involving allegations of trademark infringement, unfair competition, or dilution to which Snap is or was a party. Snap reserves the right to supplement and/or amend its response to this request during and upon the completion of discovery.

**SUPPLEMENTAL RESPONSE:**

Subject to the above objections, Snap responds that it will produce the complaint in *Snap Interactive v. Snap Inc.*, which will allow Applicant to obtain publicly filed documents regarding the litigation. Snap reserves the right to supplement and/or amend its response to this request during and upon the completion of discovery.

Dated: January 25, 2019

Respectfully submitted,

KILPATRICK TOWNSEND & STOCKTON LLP

By: /R. Thomas/

Tywanda Harris Lord  
Rhojonda D.C. Thomas  
1100 Peachtree Street NE, Suite 2800  
Atlanta, Georgia 30306  
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rdthomas@kilpatricktownsend.com

*Counsel for Opposer/Counterclaim Respondent  
Snap Inc.*

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

SNAP INC.,	)	
	)	
Opposer/Counterclaim Respondent,	)	Opposition No. 91237441
	)	
v.	)	TM: MAPSNAPS
	)	
MAD DOG SOFTWARE CORP.,	)	App. Serial No. 87344309
	)	
Applicant/Counterclaim Petitioner.	)	

**CERTIFICATE OF SERVICE**

This is to certify that OPPOSER/COUNTERCLAIM RESPONDENT SNAP INC.'S OBJECTIONS AND RESPONSES TO APPLICANT/COUNTERCLAIM PETITIONER MAD DOG SOFTWARE CORP.'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS was served on Applicant's correspondent of record on January 25, 2019, via her email address of record, danielle@fullmoonfire.com.

/R. Thomas/  
Kilpatrick Townsend & Stockton LLP



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

SNAP INC.,	)	
	)	
Opposer/Counterclaim Respondent,	)	Opposition No. 91237441
	)	
v.	)	TM: MAPSNAPS
	)	
MAD DOG SOFTWARE CORP.,	)	App. Serial No. 87344309
	)	
Applicant/Counterclaim Petitioner.	)	

**OPPOSER/COUNTERCLAIM RESPONDENT SNAP INC.’S FIRST SUPPLEMENTAL  
OBJECTIONS AND RESPONSES TO APPLICANT/COUNTERCLAIM  
PETITIONER MAD DOG SOFTWARE CORP.’S FIRST SET OF INTERROGATORIES**

On the basis of information now known, and without waiving any objection or admitting the relevance or materiality of any of the information sought, Opposer/Counterclaim Respondent Snap Inc. (“Snap”) serves the following supplemental objections and responses to Applicant/Counterclaim Petitioner Mad Dog Software Corp.’s (“Applicant”) First Set of Interrogatories, pursuant to Rules 2.116 and 2.120 of the Trademark Rules of Practice and Federal Rules of Civil Procedure 26 and 33.

**PRELIMINARY STATEMENT**

Snap incorporates by reference, as if fully set forth herein, the Preliminary Statement from its responses to Applicant’s First Set of Interrogatories.

**GENERAL OBJECTIONS**

Snap incorporates by reference, as if fully set forth herein, its General Objections from its responses to Applicant’s First Set of Interrogatories.

**SPECIFIC OBJECTIONS AND RESPONSES**

**INTERROGATORY NO. 8:**

Identify all agreements concerning the SNAP Marks by date, parties to the agreement,

and the subject matter of the agreement.

**RESPONSE:**

In addition to the general objections, Snap objects to this interrogatory to the extent it seeks documents protected from discovery by the attorney-client privilege, the work product doctrine, or Federal Rule of Civil Procedure 26(b). Snap also objects to this interrogatory to the extent that it is overbroad and unduly burdensome because it does not include a reasonable limitation in scope. Snap further objects to this interrogatory to the extent it seeks documents that are confidential and proprietary and that are not relevant to any party's claim or defense.

**SUPPLEMENTAL RESPONSE:**

Subject to the above objections, Snap responds that, in accordance with Federal Rule of Civil Procedure 33(d), information responsive to this interrogatory can be derived or ascertained from the documents identified with Bates numbers SNAP0006668 – 6695 and SNAP0006724 – 6725, consisting of agreements concerning the SNAP Marks. Snap reserves the right to supplement and/or amend its response to this interrogatory during and upon the completion of discovery.

**INTERROGATORY NO. 12:**

Identify and describe in detail all administrative proceedings and litigations related to any SNAP Marks other than this Opposition No. 91237441.

**RESPONSE:**

In addition to the general objections, Snap objects to this interrogatory to the extent it seeks information protected from discovery by the attorney-client privilege, the work product doctrine, or Federal Rule of Civil Procedure 26(b). Snap also objects to this interrogatory to the

extent that it is overbroad and unduly burdensome without a reasonable limitation in scope. Snap further objects to this interrogatory to the extent it seeks information that is confidential and proprietary and that is not relevant to any party's claim or defense. Snap further objects to this interrogatory on the ground that responsive information is available to Applicant without imposing an undue burden on Snap.

Subject to these objections, Snap responds that, in accordance with Federal Rule of Civil Procedure 33(d), it will produce notices of opposition filed with the Trademark Trial and Appeal Board related to the SNAP Marks from which Applicant can derive or ascertain responsive information. Snap reserves the right to supplement and/or amend its response to this interrogatory during and upon the completion of discovery.

**SUPPLEMENTAL RESPONSE:**

Subject to the above objections, Snap responds that, in accordance with Federal Rule of Civil Procedure 33(d), information responsive to this interrogatory can be derived or ascertained from the document identified with Bates numbers SNAP0002079 – 6620 and SNAP0006696 – 6723, consisting of notices of opposition filed with the Trademark Trial and Appeal Board and the complaint in *Snap Interactive, Inc. v. Snap Inc.* Snap is unaware of any other trademark infringement litigation involving its SNAP Marks. Snap reserves the right to supplement and/or amend its response to this interrogatory during and upon the completion of discovery.

**INTERROGATORY NO. 14:**

State the date Opposer first considered “Snap, Inc.” as its company name.

**RESPONSE:**

In addition to the general objections, Snap objects to this interrogatory to the extent it

seeks information that is confidential and proprietary and that is not relevant to any party's claim or defense. Snap further objects to this interrogatory on the ground that it is vague and ambiguous in that "Snap, Inc." is not Snap's company name.

Subject to these objections, Snap responds that it first considered Snap Inc. as its company name on September 23, 2016. Snap reserves the right to supplement and/or amend its response to this interrogatory during and upon the completion of discovery.

**SUPPLEMENTAL RESPONSE:**

Subject to the above objections and based on Applicant's asserted definition of the word "consider" in its letter dated November 21, 2018, Snap responds that it considered alternative names for the company, including the name "Snap Inc.," as early as July 2013. Snap reserves the right to supplement and/or amend its response to this interrogatory during and upon the completion of discovery.

**INTERROGATORY NO. 15:**

Since the date identified in response to Interrogatory No. 14, and up to and including December 16, 2015, identify all Persons who were aware that Opposer was considering "Snap, Inc." as its company name.

**RESPONSE:**

In addition to the general objections, Snap objects to this interrogatory on the ground that it is overbroad and unduly burdensome in that it seeks identification of "all Persons." Snap further objects to this interrogatory to the extent it seeks information that is confidential and proprietary and that is not relevant to any party's claim or defense. Snap also objects to this interrogatory as vague and ambiguous in that "Snap, Inc." is not Snap's company name. Finally,

Snap objects to the form of this interrogatory, as the date identified in Interrogatory No. 14 is after December 16, 2015.

**SUPPLEMENTAL RESPONSE:**

Subject to the above objections and based on Applicant's asserted definition of the word "consider" in its letter dated November 21, 2018, Snap responds that it is unable to identify with certainty the identities of people within the company who were aware that Snap was considering alternative names for the company from July 2013 until December 2015 because a potential corporate name change was a consideration from very early on, and many individuals are no longer with the company. Snap further responds, however, that on December 16, 2015, and for over 9 months after that date, its company name was Snapchat, Inc. Snap reserves the right to supplement and/or amend its response to this interrogatory during and upon the completion of discovery.

**INTERROGATORY NO. 19:**

Identify all Persons who reviewed the office action response filed on December 16, 2015 in Serial No. 86/619,184, including all Persons who validated whether business statements (such as corporate name) were true in said office action response.

**RESPONSE:**

In addition to the general objections, Snap objects to this interrogatory as overbroad and unduly burdensome in that it seeks identification of "all Persons." Snap also objects to this interrogatory to the extent it seeks information protected from discovery by the attorney-client privilege, the work product doctrine, or Federal Rule of Civil Procedure 26(b). Snap further objects to this interrogatory to the extent it seeks information that is confidential and proprietary

and that is not relevant to any party's claim or defense. Finally, Snap objects to this interrogatory as vague and ambiguous because it does not define or identify the "business statements" it purports are in the office action. Snap's corporate name at the time the office action response was filed, *i.e.*, Snapchat, Inc., would not reasonably be construed as a "business statement."

Subject to these objections, Snap responds that its in-house and outside legal counsel reviewed the office action response filed on December 16, 2015. Snap reserves the right to supplement and/or amend its response to this interrogatory during and upon the completion of discovery.

**SUPPLEMENTAL RESPONSE:**

Subject to the above objections, Snap responds that its in-house legal counsel Luke Yeh and outside legal counsel Jill Tomlinson reviewed the office action response filed on December 16, 2015. Both of these individuals can be contacted through counsel for Snap. Snap reserves the right to supplement and/or amend its response to this interrogatory during and upon the completion of discovery.

**INTERROGATORY NO. 23:**

Describe in detail the acquisition of the domain "www.snap.com," including identifying the Date that Opposer first decided to attempt to acquire the domain.

**RESPONSE:**

In addition to the general objections, Snap objects to this interrogatory on the ground that it seeks information that is confidential and proprietary and that is not relevant to any party's claim or defense.

**SUPPLEMENTAL RESPONSE:**

Subject to the above objections, Snap responds that it acquired the snap.com domain name on November 13, 2014. The domain name was acquired in the name of a subsidiary business entity created for this purpose to keep the deal confidential. The domain name sat with the entity until the corporate name change to Snap Inc. in the fall of 2016. Snap reserves the right to supplement and/or amend its response to this interrogatory during and upon the completion of discovery.

Dated: January 25, 2019

KILPATRICK TOWNSEND & STOCKTON LLP

By: /R. Thomas/  
Tywanda Harris Lord  
Rhojonda D.C. Thomas  
1100 Peachtree Street NE, Suite 2800  
Atlanta, Georgia 30309  
Telephone: (404) 815-6500  
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tlord@kilpatricktownsend.com  
rdthomas@kilpatricktownsend.com

*Counsel for Opposer/Counterclaim Respondent  
Snap Inc.*

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

SNAP INC.,	)	
	)	
Opposer/Counterclaim Respondent,	)	Opposition No. 91237441
	)	
v.	)	TM: MAPSNAPS
	)	
MAD DOG SOFTWARE CORP.,	)	App. Serial No. 87344309
	)	
Applicant/Counterclaim Petitioner.	)	

**CERTIFICATE OF SERVICE**

This is to certify that OPPOSER/COUNTERCLAIM RESPONDENT SNAP INC.’S  
FIRST SUPPLEMENTAL OBJECTIONS AND RESPONSES TO  
APPLICANT/COUNTERCLAIM PETITIONER MAD DOG SOFTWARE CORP.’S FIRST  
SET OF INTERROGATORIES was served on Applicant’s correspondent of record on January  
25, 2019, via her email address of record, danielle@fullmoonfire.com.

/R. Thomas/  
Kilpatrick Townsend & Stockton LLP



## **EXHIBIT H**

Inicio del mensaje reenviado:

**De:** danielle é fujii <[danielle@fullmoonfire.com](mailto:danielle@fullmoonfire.com)>

**Fecha:** 30 de mayo de 2019, 3:20:04 p. m. EDT

**Para:** "'Thomas, Rho'" <[RDThomas@kilpatricktownsend.com](mailto:RDThomas@kilpatricktownsend.com)>

**Asunto:** Snap Inc. v. Mad Dog Software Corp. (Opp. No. 91237441)

Hello Rho,

The Board denied my motion to compel discovery inasmuch as the proceedings were suspended. See Docket 27. The Board did not discuss the merits of the motion.

I am extending to you an offer to respond to all of my outstanding discovery requests, outside of the motion to compel. My motion to compel, along with the reply in support of my motion, give ample examples of what I'd like for Snap to produce. If you can produce these to me by **June 6, 2019**, I will hold off on refiling essentially the same motion. If Snap does not substantially produce the materials requested, I will file a new motion on June 7, 2019.

Regards,

Danielle

# **EXHIBIT I**

Suite 2800, 1100 Peachtree Street NE  
Atlanta, GA 30309-4528  
t 404 815 6500 f 404 815 6555

June 6, 2019

direct dial 404 815 6043  
direct fax 404 541 3185  
KCook@kilpatricktownsend.com

***Via Email (danielle@fullmoonfire.com)***

Danielle Fujii  
Mad Dog Software Corp.  
1261 Albion Lane  
Sunnyvale, California 94087

Re: *Snap Inc. v. Mad Dog Software Corp.*, Opposition No. 91237441 - Applicant's  
Motion to Compel Discovery

Dear Ms. Fujii:

We are in receipt of your email dated May 30, 2019 in which you requested amended responses from Snap in response to Applicant's discovery requests by **June 6, 2019**. In your email, you did not provide any particular objection or alleged deficiency. Instead, you directed us to your motion to compel, which was filed before we supplemented Snap's discovery responses, and your reply brief in support of the motion to compel.

We have now reviewed the documents you filed with the Board in an attempt to compel additional discovery. In addition, we have reviewed the Snap's discovery responses, its supplemental responses and the response filed in objection to the Motion to Compel. Having done so, we can confirm that Snap has fully responded to your discovery requests and explained the basis for its position. Nothing in your documents has moved Snap from the positions it has outlined in detail in response to discovery requests and the motion to compel.

We believe that a phone call may be a more productive means of resolving any perceived deficiency regarding Snap's discovery responses. Please advise if you would like to discuss.

Sincerely,



Kenesia L. Cook

cc: Ty Lord, Esq.

## **EXHIBIT J**

---

**From:** danielle é fujii <[danielle@fullmoonfire.com](mailto:danielle@fullmoonfire.com)>

**Sent:** Friday, June 7, 2019 7:33 PM

**To:** Cook, Kenesia <[kcook@kilpatricktownsend.com](mailto:kcook@kilpatricktownsend.com)>

**Subject:** RE: Snap Inc. v. Mad Dog Software Corp - Letter re: Applicant's Motion to Compel

Hello Ms. Cook,

Thank you for your email dated June 6, 2019. It is very unfortunate that, despite multiple back and forth emails with multiple attorneys, a motion to compel and a reply motion, Snap still has not moved a bit in response to Interrogatories 1, 3, 4, 8, 10, 11 - 19, 23, 24, and Requests for Production 2, 9, 10, 11, 14, 15, 17, 18, 20 - 24.

With such a gaping difference in discovery expectations after almost a year of discovery, it is unclear how a phone call may resolve our differences. Based on my past experiences dealing with your firm on the phone (for example, calls with Mr. Dennis Wilson before this opposition was filed), I am incredibly skeptical of the utility of any such call, particularly given Snap's uncompromising posture.

Applicant's Reply Motion and Motion to Compel clearly lay out the deficiencies in Snap's responses. I am happy to have a call on June 11 between the hours of 10am and noon (Pacific) if Snap is able to resolve some easy deficiencies by June 10th (i.e. at least say that Evan Spiegel knew about the name change in response to Interrogatory 15). However, if I do not receive satisfactory responses by June 10th, I will assume that any subsequent phone call will be just as unfruitful, and will refile essentially the same motion on June 12.

s

Regards,  
Danielle

# **EXHIBIT K**



---

**From:** Lord, Ty <[tlord@kilpatricktownsend.com](mailto:tlord@kilpatricktownsend.com)>

**Sent:** Tuesday, June 11, 2019 10:47 AM

**To:** Cook, Kenesia <[kcook@kilpatricktownsend.com](mailto:kcook@kilpatricktownsend.com)>; [danielle@fullmoonfire.com](mailto:danielle@fullmoonfire.com)

**Cc:** Lord, Ty <[tlord@kilpatricktownsend.com](mailto:tlord@kilpatricktownsend.com)>

**Subject:** RE: Snap Inc. v. Mad Dog Software Corp - Letter re: Applicant's Motion to Compel

Dear Ms. Fujii,

Kenesia is out of the office so I am responding to your email.

Unfortunately, Kenesia is unavailable today and I am booked today with other meetings. I can speak with you tomorrow, June 12<sup>th</sup> between 3-5 pm and June 13<sup>th</sup> between 11-12 and 3:30-6 pm (Eastern).

Please advise if you are available during any of those time.

Kind regards,

Ty

# **EXHIBIT L**

---

**From:** danielle é fujii <danielle@fullmoonfire.com>

**Sent:** Tuesday, June 11, 2019 4:52 PM

**To:** Lord, Ty <tlord@kilpatricktownsend.com>

**Subject:** RE: Snap Inc. v. Mad Dog Software Corp - Letter re: Applicant's Motion to Compel

Hello Ty,

Thank you for your email. Please note that I sent my email last Friday evening to Ms. Cook, and did not receive an out of office message. She could have emailed me yesterday saying she was going to be out of the office, and asked for an

extension. I also received no such reply from anyone at your firm by the requested date (June 10th, 2019). Not to appear uncooperative, but the constant disregard of my dates, and the general unresponsiveness to my concerns do not give me any confidence that a phone call will be productive. As I said in my last email to Ms. Cook, I am happy to have a call if **Snap is able to resolve some easy deficiencies** (i.e. at least say that Evan Spiegel knew about the name change in response to Interrogatory 15).

If you are unable to resolve something as easy as Interrogatory 15 by 11:59pm tonight Eastern time, I will refile essentially the same motion tomorrow. I realize it is already late your time, but I have been patiently waiting for some good faith effort by your firm since May 30th, 2019 (more accurately since August 20th, 2018). The offer of phone calls, frankly, is quite hollow without Snap showing the slightest movement in response to, among others, Interrogatory 15. The Board will also see through such a transparent attempt to appear cooperative.

Regards,  
Danielle

## **EXHIBIT M**

**From:** Lord, Ty  
**Sent:** Tuesday, June 11, 2019 10:06 PM  
**To:** danielle é fujii  
**Cc:** Cook, Kenesia; Thomas, Rho; Teilhaber, Kris  
**Subject:** RE: Snap Inc. v. Mad Dog Software Corp - Letter re: Applicant's Motion to Compel

**Categories:** Snap

Dear Danielle,

Of course Evan Spiegel, the Chief Executive Office of Snapchat, Inc. and later Snap Inc., was one of the people aware that the company was considering a corporate name change before it went into effect in September 2016. That is obvious given his role and publicly available documents quoting Mr. Spiegel discussing the rationale behind the corporate name change. See <https://www.vanityfair.com/culture/2016/09/snapchat-is-now-snap-inc>; <https://www.snap.com/en-US/news/page/4/>

Your Interrogatory, however, asks for **ALL PERSONS** that were **aware** that Snapchat was **considering** changing its name during a two-year block of time. If you are narrowing your request to ask whether Mr. Spiegel was aware of a potential change in the corporate name before it occurred in 2016, then you have your answer. Either way, your insistence that Snap agree with this point does little to advance the issues in this opposition.

We remain willing and available to discuss your objections to discovery, but have no obligation to adhere to your arbitrary and unreasonably short deadlines. Your protestations about our unavailability at a single time on a single business days' notice are not well taken. By contrast, we suggested several blocks of time over a two-day period during which we would be available to discuss your objections.

Finally, we would like to remind you that you too have an outstanding deficiency letter to which you have yet to respond. That letter was sent to you in January. Consider it renewed. We trust you will provide us responses by the end of this week. Alternatively, we can discuss your deficiencies along with the above issues during a conference call should you choose to participate.

Kind regards, Ty

**Ty Lord**  
**Kilpatrick Townsend & Stockton LLP**  
Suite 2800 | 1100 Peachtree Street NE | Atlanta, GA 30309-4528  
office 404 745 2597 | fax 404 541 3235  
[tlord@kilpatricktownsend.com](mailto:tlord@kilpatricktownsend.com) | [My Profile](#) | [vCard](#)