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

Proceeding	91240636
Party	Plaintiff Information Builders, Inc.
Correspondence Address	HOWARD F MANDELBAUM MANDELBAUM SILFIN ECONOMOU LLP 222 BLOOMINGDALE ROAD, SUITE 203 WHITE PLAINS, NY 10605 UNITED STATES hmandelbaum@msellp.com, docketing@msellp.com 914-421-0500
Submission	Motion to Compel Discovery or Disclosure
Filer's Name	Howard F. Mandelbaum
Filer's email	hmandelbaum@msellp.com, docketing@msellp.com
Signature	/Howard F. Mandelbaum/
Date	01/30/2019
Attachments	Motion to Determnie Sufficiency of Responses.pdf(839775 bytes) HFM Declaratoin in Motion to Determnie Sufficiency of Responses.pdf(1211450 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE COMMISSIONER OF PATENTS AND TRADEMARKS

INFORMATION BUILDERS, INC.	:	
Plaintiff,	:	
	:	Opposition No. 91240636
v.		
	:	Application Nos. 87/545,631 and 87/546877
SWMG PRODUCTIONS, INC.	:	
Defendant.	:	

MOTION TO DETERMINE THE SUFFICIENCY OF DEFENDANT'S RESPONSES TO PLAINTIFF'S FIRST REQUESTS FOR ADMISSIONS

Plaintiff moves for a determination by the Board of the sufficiency of Defendant's Responses to Plaintiff's First Requests for Admissions.

Submitted herewith is a copy of "Applicant's Responses to Opposer's First Set of Requests for Admissions" served by Defendant on Plaintiff. The document includes Plaintiff’s requests for admissions and Defendant's response to each request.

Each of the responses to the 42 requests for admissions begins with the phrase "Denied for the reasons set forth in the general objections." This phrase is followed by further objections including assertions that commonly used and understood terms are "vague". In some

cases, conditional admissions are made without stating whether the conditions for the admissions are satisfied.

The general objections assert that the term "software" is vague and ambiguous when the term has a clear meaning used by the Defendant, a producer of software, in its trademark and service mark applications and throughout its responses to the requests for admissions.

The Defendant did not consider the term "software" vague and ambiguous when, in the opposed applications, it described its goods and services as

> Computer **software** for use in data collection, tracking, and impact/outcome measurement for the public sector,

in class 9, and

> Providing temporary use of on-line non-downloadable **software** for tracking and measuring the impact of programs and services offered by public schools, nonprofit organizations, and government agencies.

in class 42.

Next, in the General Objections, the Defendant discusses how its trademarks are used and not used and how its customers refer to its products, all of which is extraneous to the requests for admissions. The Defendant further muddles up the requests by referring to the

trademarks GEOSUITE and TRAXSOLUTIONS, neither of which has any relevance to the requests for admissions.

Again, the Defendant objects to terms and phrases in the requests for admissions as ambiguous, namely,

promotes

data

a database

manages

filters

making decisions

decision making.

Defendant then argues that its software is different from Plaintiff’s software. The time and place for such argument is in Defendant's trial brief, not in a general objection to specific requests for admissions.

In addition to its general objections, Defendant makes the following individual objections to the requests for admission.

After broadly denying Requests Nos. 1, 2, 4-8, 10-13, 15, and 17-42 Defendant admits that

> "if the trademark is used, its use is deemphasized relative to at least one other of Defendant’s specialized and distinctly branded software products...

This response is deficient because the Defendant's comparison between a trademark and a product makes no sense. Moreover, the response is conditioned upon whether or not its own trademark is used.

In responding to Requests Nos. 3, 9, and 14 Defendant asserts that the word “distributed” is vague or ambiguous and ignores the word "download" in each request. As noted above, the opposed applications cover

> Computer software for use in data collection, tracking, and impact/outcome measurement for the public sector in lass 9

and

> Providing temporary use of on-line non-downloadable software for tracking and measuring the impact of programs and services offered by public schools, nonprofit organizations, and government agencies in class 42.

These requests ask the Defendant to admit that the class 9 software in its applications is distributed by download. Defendant's statements in reply are nonresponsive and, therefore, deficient.

The Defendant's responses to Plaintiff’s requests for admissions are a transparent attempt to withhold evidence of likelihood of confusion contrary to the letter and spirit of the rules of discovery.

For the foregoing reasons, plaintiff respectfully requests that the Board determine that Defendant's responses to Plaintiff's First Requests for Admission are deficient, and order Defendant to serve amended responses that comply with Fed. R. Civ. P. 36.

Respectfully submitted,

INFORMATION BUILDERS, INC.

/Howard F. Mandelbaum/
Howard F. Mandelbaum
Attorneys for Plaintiff
Mandelbaum Silfin Economou LLP
222 Bloomingdale Road
Suite 120
White Plains, NY 10605
(914) 421-0500

CERTIFICATE OF SERVICE

It is hereby certified that a copy of the foregoing Motion to Determine the Sufficiency of Defendant's Responses To Plaintiff's First Requests For Admissions has been forwarded January 30, 2019 by email to:

Michael F Campillo
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Phoenix, Az 85016at

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emistarz@nfocus.com

`/Howard F. Mandelbaum/
Howard F. Mandelbaum

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

Information Builders, Inc., Opposer, v. SWMG Productions, Inc., Applicant.	Opposition no. 91240636 Marks: SN 87/545,631 SN 87/546877

Applicant's Responses to Opposer's First Set Of Requests for Admission

General Objections

Defendant generally objects to the requests for admissions based on Plaintiff's use of the term, "software", which is vague and/or ambiguous in the contexts of the requests and Defendant's services. First, it is unclear whether the use of "software" in each of Plaintiff's interrogatories is referring to a single software product, more than one but less than all, or all of the Defendant's products, collectively, and the distinction matters as to whether a request is admitted or denied, or whether a request is a qualified admission or denial subject to this general objection.

nFocus Solutions is a dba of SWMG Productions, Inc., and "nfocus" or "nfocus solutions" is not used alone to promote software products. Neither nFocus Solutions nor its customers ever refer to any single software product using the "nfocus" or "nfocus solutions" trademarks but rather the distinct trademark under which the product is promoted. When "nfocus solutions" is used, it is deemphasized relative to another distinct trademark owned by SWMG Productions, Inc. As examples, both GEOSUITE™ and TRAXSOLUTIONS™ are marks used to promote and refer to software products, and which marks are always used and emphasized over the nfocus solutions brand (if it appears). Each of these software products described below refers to a specific software products that is designed and marketed to a public sector niche market and which includes functions such as data entry and management for smaller organizations.

Defendant also generally objects to the requests based on Plaintiff's use of the following terms or phrases, "promotes" "data", "a database", "manages", "filters", "making decisions", "decision making", which are ambiguous and can result in misleading answers. Such terms may be ambiguous in each request due to a lack of appropriate context. Plaintiff's description of

services in each mark describes general purpose computer program(s) for database use and management. Contrarily, Defendant's software services are not general purpose computer program(s) for database use and management. Defendant produces several distinctly branded software products that are each specifically designed for, marketed to, and purchased by a particular sector such as Communities, the Department of Defense, Non-Profits, and Public Safety agencies (e.g. "First Responder Agencies"). As such, Defendant denies any express or implied admission that its software products store, manage, filter, or are used for making decisions or decision making on non-specific, or general non-targeted sector data, or databases, but admits that each of its software products store, manage, filter, or are used for making decisions or decision making on data or databases involving or within a particular public sector entity such as Communities, the Department of Defense, Non-Profits, and Public Safety agencies, respectively.

Specific Responses

1. The trademark of U.S. Trademark Application Serial No. 87546877 is used to promote the sale of web-based software for accessing a database through a global computer network.

   Denied for the reasons set forth in the general objections. Defendant admits only that if the trademark is used, its use is deemphasized relative to at least one other of Defendant's specialized and distinctly branded software products for accessing a database through a global computer network .

2. The trademark of U.S. Trademark Application Serial No. 87545631 is used in an enterprise on software for generating reports based, at least in part, on the tracking of data.

   Denied for the reasons set forth in the general objections. Defendant admits only that if the trademark is used, its use is deemphasized relative to at least one other of Defendant's specialized and distinctly branded software products, which may be used within a public sector entity to create reports on non-general data.

3. The trademark of U.S. Trademark Application Serial No. 87546877 is used on software which is distributed over the Internet for download.

   Denied for the reasons set forth in the general objections and also because the word "distributed" is vague or ambiguous. Defendant admits only that its software services are web-based and only small components of each software product may be downloadable to mobile devices and/or desktop computers.

4. The trademark of U.S. Trademark Application Serial No. 87545631 is used on software which analyzes collected data.

   Denied for the reasons set forth in the general objections. Defendant admits only that that if the trademark is used, its use is deemphasized relative to at least one other of Defendant's

specialized and distinctly branded software products that may be used to analyze non-general data within its database.

5. The trademark of U.S. Trademark Application Serial No. 87546877 is used on software which is sold to computer users for use in making decisions based on collected data.

   Denied for the reasons set forth in the general objections. Defendant admits only that if the trademark is used, its use is deemphasized relative to at least one other of Defendant's specialized and distinctly branded software products that may be used in making decisions based on non-general collected data within its database.

6. The trademark of U.S. Trademark Application Serial No. 87545631 is used on software which generates reports based, at least in part, on collected data.

   Denied for the reasons set forth in the general objections. Defendant admits only that if the trademark is used, its use is deemphasized relative to at least one other of Defendant's specialized and distinctly branded software products that may be used to generate reports based on non-general collected data within its database

7. The trademark of U.S. Trademark Application Serial No. 87545631 is used on software which sorts data stored in a database.

   Denied for the reasons set forth in the general objections. Defendant admits only that if the trademark is used, its use is deemphasized relative to at least one other of Defendant's specialized and distinctly branded software products that may be used to sort non-general data within its database

8. The trademark of U.S. Trademark Application Serial No. 87545631 is used on software sold for enterprise use.

   Denied for the reasons set forth in the general objections. Defendant admits only that if the trademark is used, its use is deemphasized relative to at least one other of Defendant's specialized and distinctly branded software products that may be used within public sector entities.

9. The trademark of U.S. Trademark Application Serial No. 87546877 is used on software which is distributed by download.

   Denied for the reasons set forth in the general objections and also because Defendant's software products are web-based and also because the word "distributed" is vague or ambiguous. Defendant admits that its software services are web-based and only small components of each software product may be downloadable to mobile devices and/or desktop computers.

10. The trademark of U.S. Trademark Application Serial No. 87545631 is used to promote the sale of web-based software for accessing data over a global computer network.

Denied for the reasons set forth in the general objections. Defendant admits only that that if the trademark is used, its use is deemphasized relative to at least one other of Defendant's specialized and distinctly branded software products, which may each access non-general data over a global computer network.

11. The trademark of U.S. Trademark Application Serial No. 87545631 is used on software which is sold to government agencies within the U.S.

    Denied for the reasons set forth in the general objections. Defendant admits only that that if the trademark is used, its use is deemphasized relative to at least one other of Defendant's specialized and distinctly branded software products, which may be sold to government agencies within the U.S.

12. The trademark of U.S. Trademark Application Serial No. 87545631 is used on software which is sold to agencies of the U.S. government.

    Denied for the reasons set forth in the general objections. Defendant admits only that that if the trademark is used, its use is deemphasized relative to at least one other of Defendant's specialized and distinctly branded software products, which may be sold to agencies of the U.S. government.

13. The trademark of U.S. Trademark Application Serial No. 87545631 is used on software for tracking of data in an enterprise.

    Denied for the reasons set forth in the general objections. Defendant admits only that that if the trademark is used, its use is deemphasized relative to at least one other of Defendant's specialized and distinctly branded software products that can track data in public sector organizations.

14. The trademark of U.S. Trademark Application Serial No. 87545631 is used on software which is distributed by download.

    Denied for the reasons set forth in the general objections and also because Defendant's software products are web-based and also because the word "distributed" is vague or ambiguous. Defendant admits that its software services are web-based and only small components of each software product may be downloadable to mobile devices and/or desktop computers. .

15. The trademark of U.S. Trademark Application Serial No. 87545631 is used on software which queries data stored in a database.

    Denied for the reasons set forth in the general objections. Defendant admits only that if the trademark is used, its use is deemphasized relative to at least one other of Defendant's specialized and distinctly branded software products that may each be used to query non-general data stored in its specific database.

16. The trademark of U.S. Trademark Application Serial No. 87545631 is used on software which is distributed over the Internet for download.

    Denied for the reasons set forth in the general objections and also because Defendant's software services are web-based and only small components of the software is available for download. Defendant admits only that if the trademark is used, its use is deemphasized relative to at least one other of Defendant's specialized and distinctly branded software products that

17. The trademark of U.S. Trademark Application Serial No. 87545631 is used on software which is sold computer users for use in decision making.

    Denied for the reasons set forth in the general objections. Defendant admits only that if the trademark is used, its use is deemphasized relative to at least one other of Defendant's specialized and distinctly branded software products that may be used for decision making.

18. The trademark of U.S. Trademark Application Serial No. 87545631 is used on software which is useful for making decisions.

    Denied for the reasons set forth in the general objections. Defendant admits only that if the trademark is used, its use is deemphasized relative to at least one other of Defendant's specialized and distinctly branded software products that may be used for making decisions.

19. The trademark of U.S. Trademark Application Serial No. 87545631 is used on software which is sold to computer users for use in making decisions based on collected data.

    Denied for the reasons set forth in the general objections. Defendant admits only that if the trademark is used, its use is deemphasized relative to at least one other of Defendant's specialized and distinctly branded software products that may be used for making decisions based on collected non-general data.

20. The trademark of U.S. Trademark Application Serial No. 87546877 is used on software which manages data stored in a database.

    Denied for the reasons set forth in the general objections. Defendant admits only that if the trademark is used, its use is deemphasized relative to at least one other of Defendant's specialized and distinctly branded software products that may be used for managing non-general data stored in its database.

21. The trademark of U.S. Trademark Application Serial No. 87545631 is used on software which filters data stored in a database.

    Denied for the reasons set forth in the general objections. Defendant admits only that if the trademark is used, its use is deemphasized relative to at least one other of Defendant's specialized and distinctly branded software products that may be used for managing non-

general data stored in its database.

22. The trademark of U.S. Trademark Application Serial No. 87546877 is used on software which stores collected data.

    Denied for the reasons set forth in the general objections. Defendant admits only that if the trademark is used, its use is deemphasized relative to at least one other of Defendant's specialized and distinctly branded software products that may be used to store collected non-general data in its database.

23. The trademark of U.S. Trademark Application Serial No. 87546877 is used on software which sorts data stored in a database.

    Denied for the reasons set forth in the general objections. Defendant admits only that if the trademark is used, its use is deemphasized relative to at least one other of Defendant's specialized and distinctly branded software products that may be used to sort non-general data in its database.

24. The trademark of U.S. Trademark Application Serial No. 87545631 is used on software which is used for making decisions.

    Denied for the reasons set forth in the general objections. Defendant admits only that if the trademark is used, its use is deemphasized relative to at least one other of Defendant's specialized and distinctly branded software products that may be used in making decisions on non-general data in its database.

25. The trademark of U.S. Trademark Application Serial No. 87546877 is used on software which queries data stored in a database.

    Denied for the reasons set forth in the general objections. Defendant admits only that if the trademark is used, its use is deemphasized relative to at least one other of Defendant's specialized and distinctly branded software products that may be used to query non-general data in its database.

26. The trademark of U.S. Trademark Application Serial No. 87546877 is used on software which stores collected data in a database.

    Denied for the reasons set forth in the general objections. Defendant admits only that if the trademark is used, its use is deemphasized relative to at least one other of Defendant's specialized and distinctly branded software products that may store collected non-general data in a database.

27. The trademark of U.S. Trademark Application Serial No. 87546877 is used on software which is useful for making decisions.

    Denied for the reasons set forth in the general objections. Defendant admits only that if the

trademark is used, its use is deemphasized relative to at least one other of Defendant's specialized and distinctly branded software products that may be used in making decisions on non-general data in its database.

28. The trademark of U.S. Trademark Application Serial No. 87546877 is used on software which filters data stored in a database.

    Denied for the reasons set forth in the general objections. Defendant admits only that if the trademark is used, its use is deemphasized relative to at least one other of Defendant's specialized and distinctly branded software products that may be used to filter non-general data in its database.

29. The trademark of U.S. Trademark Application Serial No. 87546877 is used on software which is used for making decisions.

    Denied for the reasons set forth in the general objections. Defendant admits only that if the trademark is used, its use is deemphasized relative to at least one other of Defendant's specialized and distinctly branded software products that may be used in making decisions on non-general data in its database.

30. The trademark of U.S. Trademark Application Serial No. 87545631 is used on software which stores collected data in a database.

    Denied for the reasons set forth in the general objections. Defendant admits only that if the trademark is used, its use is deemphasized relative to at least one other of Defendant's specialized and distinctly branded software products that may store collected non-general data in its database.

31. The trademark of U.S. Trademark Application Serial No. 87546877 is used on software which analyzes collected data.

    Denied for the reasons set forth in the general objections. Defendant admits only that if the trademark is used, its use is deemphasized relative to at least one other of Defendant's specialized and distinctly branded software products that may be used to analyze non-general data in its database.

32. The trademark of U.S. Trademark Application Serial No. 87546877 is used on software which is sold to computer users for use in decision making.

    Denied for the reasons set forth in the general objections. Defendant admits only that if the trademark is used, its use is deemphasized relative to at least one other of Defendant's specialized and distinctly branded software products that may be used in decision making on non-general data in its database.

33. The trademark of U.S. Trademark Application Serial No. 87546877 is used on software which generates reports based, at least in part, on collected data.

Denied for the reasons set forth in the general objections. Defendant admits only that if the trademark is used, its use is deemphasized relative to at least one other of Defendant's specialized and distinctly branded software products that may be used to create reports on non-general collected data.

34. The trademark of U.S. Trademark Application Serial No. 87546877 is used on software sold for enterprise use.

Denied for the reasons set forth in the general objections. Defendant admits only that if the trademark is used, its use is deemphasized relative to at least one other of Defendant's specialized and distinctly branded software products that may be used within a public sector entity.

35. The trademark of U.S. Trademark Application Serial No. 87546877 is used on software for tracking of data in an enterprise.

Denied for the reasons set forth in the general objections. Defendant admits only that if the trademark is used, its use is deemphasized relative to at least one other of Defendant's specialized and distinctly branded software products that may be used within a public sector entity to create general reports.

36. The trademark of U.S. Trademark Application Serial No. 87545631 is used on software which manages data stored in a database.

Denied for the reasons set forth in the general objections. Defendant admits only that if the trademark is used, its use is deemphasized relative to at least one other of Defendant's specialized and distinctly branded software products that may be used to manage non-general data in its database.

37. The trademark of U.S. Trademark Application Serial No. 87546877 is used in an enterprise on software for generating reports based, at least in part, on the tracking of data.

Denied for the reasons set forth in the general objections. Defendant admits only that if the trademark is used, its use is deemphasized relative to at least one other of Defendant's specialized and distinctly branded software products that may be used within a public sector entity to create reports based on tracked non-general data.

38. The trademark of U.S. Trademark Application Serial No. 87545631 is used to promote the sale of web-based software for accessing a database through a global computer network.

Denied for the reasons set forth in the general objections. Defendant admits only that if the trademark is used, its use is deemphasized relative to at least one other of Defendant's specialized and distinctly branded software products that may access a database through a global computer network.

39. The trademark of U.S. Trademark Application Serial No. 87546877 is used to promote the sale of web-based software for accessing data over a global computer network.

    Denied for the reasons set forth in the general objections. Defendant admits only that if the trademark is used, its use is deemphasized relative to at least one other of Defendant's specialized and distinctly branded software products that may access data over a global network.

40. The trademark of U.S. Trademark Application Serial No. 87545631 is used on software which stores collected data.

    Denied for the reasons set forth in the general objections. Defendant admits only that if the trademark is used, its use is deemphasized relative to at least one other of Defendant's specialized and distinctly branded software products that may store collected non-general data in its database.

41. The trademark of U.S. Trademark Application Serial No. 87546877 is used on software which is sold to government agencies within the U.S.

    Denied for the reasons set forth in the general objections. Defendant admits only that if the trademark is used, its use is deemphasized relative to at least one other of Defendant's specialized and distinctly branded software products that may be sold to a government agency.

42. The trademark of U.S. Trademark Application Serial No. 87546877 is used on software which is sold to agencies of the U.S. government.

    Denied for the reasons set forth in the general objections. Defendant admits only that if the trademark is used, its use is deemphasized relative to at least one other of Defendant's specialized and distinctly branded software products that may be sold to agencies of the U.S. Government.

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing Applicant's Responses to Opposer's First Set Of Requests for Admission has been served on

Howard F. Mandelbaum

by forwarding said copy on October 18, 2018, via email to: mail@levman.com.

VENJURIS P.C.

Attorneys for Applicant

By /Michael F. Campillo/

Michael F. Campillo
Joseph R. Meaney

Venjuris P.C.
1938 E. Osborn Rd
Phoenix AZ 85016

Signature: /Michael F. Campillo/

Printed Name: Michael F. Campillo

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE COMMISSIONER OF PATENTS AND TRADEMARKS

INFORMATION BUILDERS, INC.	:	
Plaintiff,	:	
	:	Opposition No. 91240636
v.		
	:	Application Nos. 87/545,631 and 87/546877
SWMG PRODUCTIONS, INC.	:	
Defendant.	:	

DECLARATION OF HOWARD F. MANDELBAUM IN SUPPORT OF MOTION TO DETERMINE THE SUFFICIENCY OF DEFENDANT'S RESPONSES TO PLAINTIFF'S FIRST REQUESTS FOR ADMISSIONS

Howard F. Mandelbaum of Mandelbaum Silfin Economou LLP, 222 Bloomingdale Road, White Plains, NY 10605 declares as follows:

1. I am an attorney at law duly admitted to practice before the courts of New York and the U.S. Patent and Trademark Office, and Plaintiff's attorney in the above captioned opposition proceeding.

2. This declaration is submitted to demonstrate that reasonable efforts were made to resolve the issue of the sufficiency of Defendant's Responses To Plaintiff's First Requests For Admissions before submitting the accompanying motion to the Board.

3. Annexed hereto is a copy of a chain of email communications between counsel for the parties which I initiated in order to obtain proper responses to requests for admissions. The accompanying motion is being made after Defendant's attorney told me to "Proceed with your motion".

The signatory being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001, and that such willful false statements and the like may jeopardize the validity of the application or submission or any registration resulting therefrom, declares that all statements made of his own knowledge are true and all statements made on information and belief are believed to be true.

Dated: January 30, 2019 /Howard F. Mandelbaum/

Howard F. Mandelbaum
Attorneys for Plaintiff
Mandelbaum Silfin Economou LLP
222 Bloomingdale Road
Suite 120
White Plains, NY 10605
(914) 421-0500

CERTIFICATE OF SERVICE

It is hereby certified that a copy of the foregoing Declaration of Howard F. Mandelbaum in Support of Motion to Determine the Sufficiency of Defendant's Responses to Plaintiff's First Requests For Admissions has been forwarded January 30, 2019 by email to:

Mchael F Campillo
Venjuris PC
1938 E Osborn Rd
Phoenix, Az 85016at

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aroberts@nfocus.com
dray@nfocus.com
emistarz@nfocus.com

/Howard F. Mandelbaum/
Howard F. Mandelbaum

Howard Mandelbaum

From: Michael Campillo <mcampillo@venjuris.com>
Sent: Monday, January 28, 2019 7:12 PM
To: Howard Mandelbaum
Subject: RE: Information Builders Inc. v. SWMG Productions, Inc.; U.S. Trademarks: NFOCUS and Design and NFOCUS SOLUTIONS and Design (87546877); IBI B970US

Howard,

Proceed with your motion.

Michael F. Campillo
Registered Patent Attorney
Managing Partner

VENJURIS
INNOVATION COUNSEL
CAMPILLO LOGAN MEANEY PC

INTELLECTUAL PROPERTY ATTORNEYS
Direct Line: 602.635.4503
E-mail: mcampillo@venjuris.com

This electronic mail transmission contains information from the law firm of **VENJURIS | Campillo Logan Meaney PC** that may be confidential or privileged.

From: Howard Mandelbaum [mailto:hmandelbaum@msellp.com]
Sent: Monday, January 28, 2019 4:01 PM
To: Michael Campillo
Subject: Information Builders Inc. v. SWMG Productions, Inc.; U.S. Trademarks: NFOCUS and Design and NFOCUS SOLUTIONS and Design (87546877); IBI B970US

Michael,

Please let me hear from you.

Regards

Howard

Howard F. Mandelbaum
Mandelbaum Silfin Economou LLP
222 Bloomingdale Road, Suite 120
White Plains, NY 10605
Tel: (914) 421-0500 X102
Direct: (914) 432-2019,
Fax: (914) 840-1234
hmandelbaum@msellp.com

From: Howard Mandelbaum
Sent: Wednesday, January 23, 2019 5:36 PM
To: 'Michael Campillo' <mcampillo@venjuris.com>

Subject: RE: Information Builders Inc. v. SWMG Productions, Inc.; U.S. Trademarks: NFOCUS and Design and NFOCUS SOLUTIONS and Design (87546877); IBI B970US

Michael,

If you are going to serve revised responses to the requests for admissions, we will need additional time to consider them. Will you, therefore, consent to a 30 day extension of the case schedule. If you do not intend to serve revised responses to the requests for admissions please let me know so that I may proceed with a motion to test the sufficiency of the responses. If I do not receive your consent to an extension of time or your refusal to serve revised responses by Tuesday, January 29, 2019, I will assume the latter and proceed with the motion.

Regards

Howard

Howard F. Mandelbaum
Mandelbaum Silfin Economou LLP
222 Bloomingdale Road, Suite 120
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Direct: (914) 432-2019,
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hmandelbaum@msellp.com

From: Michael Campillo <mcampillo@venjuris.com>
Sent: Monday, January 21, 2019 3:49 PM
To: Howard Mandelbaum <hmandelbaum@msellp.com>
Subject: RE: Information Builders Inc. v. SWMG Productions, Inc.; U.S. Trademarks: NFOCUS and Design and NFOCUS SOLUTIONS and Design (87546877); IBI B970US

Howard,

Thank you for your email. I will review the responses and consider your request.

Michael F. Campillo
Registered Patent Attorney
Managing Partner

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INNOVATION COUNSEL
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INTELLECTUAL PROPERTY ATTORNEYS
Direct Line: 602.635.4503
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This electronic mail transmission contains information from the law firm of **VENJURIS | Campillo Logan Meaney PC** that may be confidential or privileged.

From: Howard Mandelbaum [mailto:hmandelbaum@msellp.com]
Sent: Friday, January 18, 2019 3:19 PM
To: Michael Campillo

Subject: Information Builders Inc. v. SWMG Productions, Inc.; U.S. Trademarks: NFOCUS and Design and NFOCUS SOLUTIONS and Design (87546877); IBI B970US

Dear Michael,

I am writing to request that you specifically admit or deny each of the statements in Plaintiff's First Requests for Admissions. I believe your responses are insufficient for the following reasons.

You have denied each statement on the basis of general objections which question the definition of the term "software" and seek to complicate a simple and straightforward statement of fact by introducing extraneous verbiage about your client's products and how its customers refer to them, the public to whom they are marketed, and the use of other trademarks by the defendant. You also object to commonly understood terms and phrases including “promotes”, “data”, “a database”, “manages”, “filters”, “making decisions”, and “decision making”. The general objections do not justify a denial in response to each request.

After having denied each assertion that the trademark of the opposed applications is used on software for some purpose, you make an admission conditioned upon whether there is such use leaving unsettled the very fact that the request seeks to establish.

I am hopeful that a motion to test the sufficiency of your responses can be avoided. Please let me know whether you are willing to provide admissions, where appropriate, without convoluting the requests with extraneous and confusing matter.

Regards.

Howard

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