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

Proceeding no.	91273593
Party	Plaintiff Zerodensity Yazilim Anonim Sirketi
Correspondence address	FELICIA J. BOYD NORTON ROSE FULBRIGHT US LLP 98 SAN JACINTO BOULEVARD, SUITE 1100 AUSTIN, TX 78701 UNITED STATES Primary email: mnipdocket@nortonrosefulbright.com Secondary email(s): mplstrandsteam02@nortonrosefulbright.com, felicia.boyd@nortonrosefulbright.com, andrea.shannon@nortonrosefulbright.com 6123212800
Submission	Other Motions/Submissions
Filer's name	Andrea K. Shannon
Filer's email	mplstrandsteam02@nortonrosefulbright.com, felicia.boyd@nortonrosefulbright.com, andrea.shannon@nortonrosefulbright.com, mnipdocket@nortonrosefulbright.com
Signature	/Andrea K. Shannon/
Date	08/29/2022
Attachments	91273593 Opposer_s Motion to Deny Applicant_s Motion for Summary Judgment.pdf(565512 bytes ) 91273593 Declaration of Felicia J Boyd ISO Opposer_s Motion to Deny Applicant_s Motion for SJ.pdf(352817 bytes ) 91273593 Exhibits to Boyd Declaration.pdf(971319 bytes )

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

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In the matter of:

Application Serial No. 88/726,903

by The CALANY Holding S.a.r.l.

ZERODENSITY YAZILIM ANONIM  
SIRKETI,

Opposer,

Opposition No. 91273593

v.

The CALANY Holding S.a.r.l.,

Applicant

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**OPPOSER’S MOTION TO DENY APPLICANT’S MOTION FOR SUMMARY JUDGMENT  
OR, IN THE ALTERNATIVE, FOR NECESSARY DISCOVERY PURSUANT TO FED.  
RULE CIV. P. 56(d)**

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Pursuant to Trademark Trial and Appeal Board Manual of Procedure (“TBMP”) § 528.06 and Federal Rule of Civil Procedure 56(d), Opposer Zerodensity Yazilim Anonim Sirketi (“Zerodensity” or “Opposer”) hereby moves the Board for an order denying Applicant’s Combined Motion for Partial Summary Judgment and Memorandum in Support (Dkt. #12 July 28, 2022) (“Summary Judgment Motion”) or, in the alternative, permitting Opposer to obtain discovery relevant and necessary to Opposer’s grounds for opposition, so that Opposer can respond fully to Applicant’s Summary Judgment Motion. Opposer’s motion is supported by the Declaration of Felicia J. Boyd, counsel for Opposer (“Boyd Dec.”).

Applicant The CALANY Holding S.a.r.l. (“Applicant” or “CALANY”) has moved for summary judgment as an obvious ploy to avoid responding to any of Opposer’s discovery requests

as well as to avoid producing a corporate witness in response to Opposer's Rule 30(b)(6) deposition notice. The timing of the Applicant's motion alone, the day before Applicant's responses to Opposer's discovery requests were due, underscores the bad faith nature of Applicant's motion. Review of Applicant's motion itself serves only to confirm that Applicant is engaging in motion practice for the sole, and improper, purpose of delay and increased expense. Applicant, for example, does not even pay lip service to the legal standards that govern a summary judgment motion and miscites authority as Applicant tries to craft the novel argument that an Opposer must have all of the evidence it needs to meet its burden of proof at trial on the day it files its notice of opposition to avoid summary judgment. The argument is without any legal merit and would render meaningless the rules for discovery that govern this proceeding. Opposer is entitled to conduct discovery to obtain the evidence it needs, and which is in Applicant's sole possession, to prove its grounds for opposition. Accordingly, Opposer requests that the Board either grant Opposer's Rule 56(d) motion and summarily deny Applicant's Summary Judgment Motion in its entirety or, in the alternative, order Applicant to respond to Opposer's discovery requests, including the production of a corporate witness in response to Opposer's 30(b)(6) Notice of Deposition, so that Opposer can obtain the discovery necessary to respond to Applicant's Summary Judgment Motion on the merits.

### **STATEMENT OF RELEVANT FACTS**

Opposer filed the Notice of Opposition on December 22, 2021 opposing Applicant's U.S. Trademark Application Serial No. 88/726,903 ("the Application") for the mark REALITYOS ("Applicant's Mark"). (Dkt. #1). In its Notice of Opposition, Opposer has alleged three grounds for opposition:

- (i) Applicant's Mark is merely descriptive under Section 2(e)(1) of the Trademark Act;
- (ii) Applicant had no *bona fide* intention to use Applicant's Mark in commerce in connection with the identified goods or services at the time of filing in violation of Section 1(b) of the Trademark Act; and

(iii) Applicant committed fraud on the USPTO by representing that it had such an intention (when it did not) and by indicating in the Application that it was entitled to registration under Section 44(e) of the Trademark Act on the basis of EU Trademark Reg. No. 016933368.

(Dkt. #1 at ¶¶ 11, 29, 30, 31).

Applicant answered the Notice of Opposition on April 3, 2022 (Dkt. #9), and the parties held a discovery conference on May 2, 2022. (Boyd Dec. at ¶ 3). Applicant served its First Set of Interrogatories and Request for Production of Documents on May 16, 2022 and its Initial Disclosures on May 26, 2022. (Boyd Dec. at ¶ 4). Applicant re-served its First Set of Interrogatories and Request for Production of Documents on May 28, 2022. (Boyd Dec. at ¶ 6).

Opposer served its First Set of Interrogatories and First Set of Requests for Production of Documents and Things on May 20, 2022 and its Initial Disclosures on June 1, 2022. (*Id.* at ¶ 7, 8, Ex. D, E, B). In its discovery requests Opposer sought to obtain from Applicant information and documents, *inter alia*, directly related to Applicant's *bona fide* intention to use Applicant's Mark in commerce in connection with the identified goods or services at the time of filing in violation of Section 1(b) of the Trademark Act as well as Applicant's misrepresentations to the USPTO by representing that it had such an intention (when it did not) and by stating in the Application that it was entitled to registration under Section 44(e) of the Trademark Act on the basis of EU Trademark Reg. No. 016933368. (*See, e.g.* Boyd Dec. at ¶ 7, Ex. D, Interrogatory Nos. 6, 7, 8, 9, 10, 11, 16, and 21 and Ex. E, Document Request Nos. 4, 8, 9, 10, 11, 12, 23, and 32).<sup>1</sup>

Shortly thereafter, on June 27, 2022, Opposer also served a Notice of 30(b)(6) Deposition of The CALANY Holding S.a.r.l. seeking a deposition of Applicant on the topics identified therein to be held at a date agreed upon in view of the parties' and counsel's respective schedules. (Boyd Dec. at ¶ 9, Ex. C). Opposer requested Applicant's testimony on topics also relevant to the present Summary

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<sup>1</sup> Not surprisingly Opposer's discovery requests sought information and documents which Applicant itself had identified as relevant in its Initial Disclosures. (Boyd. Dec., at ¶ 7, Exs. D, E).

Judgment Motion, including:

1. CALANY's corporate structure and business, including employees and organizational chart.
2. The basis for each of CALANY's contentions contained in its Answer to Notice of Opposition.
3. CALANY's written responses and document production in response to Zero Density's written discovery requests, including CALANY's efforts to respond and locate documents in response to those requests.
4. CALANY's conception of and selection of Applicant's Mark, including alternatives considered.
5. CALANY's decision and instructions to prepare and file the Application and all other trademark applications for Applicant's Mark.
6. CALANY's preparations and plans to use Applicant's Mark, including the alleged or planned date of first use of the Applicant's Mark in connection with each of Applicant's goods and services, the creation of any business plans relating to the goods and services to be offered under Applicant's Mark, Applicant's attempts to seek investment funding in order to offer goods and services under Applicant's Mark, and each method and manner in which Applicant has used or plans to use Applicant's Mark in connection with Applicant's goods and services.
7. CALANY's goods and services offered for sale or planned to be offered for sale and sold in connection with Applicant's Mark, including the functional purposes of and technology behind the goods and/or services offered in connection with Applicant's Mark.
8. The relationship between Applicant's Mark and the goods and services offered for sale or planned to be offered for sale under Applicant's Mark.
- ...
10. The relationship, if any, between CALANY's goods and services offered for sale and sold in connection with Applicant's Mark, and Opposer's goods and services offered for sale and sold in connection with Opposer's Marks.
11. CALANY's sales of the goods and/or services identified by Applicant's Mark.
12. Channels of trade through which CALANY currently or intends to advertise, promote, market and sell goods and/or services offered in connection with Applicant's Mark.
13. The nature and identity of the customers and purchasers who currently or are likely to purchase the goods and/or services offered in connection with Applicant's Mark.
15. Applicant's awareness of Opposer's use of Opposer's Mark.

...

18. The types of documents maintained in connection with the offering of goods or services under Applicant's Mark or Applicant's other operations under Applicant's Mark; the locations where such documents are maintained; the persons responsible for maintaining the files for such documents; and Applicant's guidelines and practices regarding the retention or destruction of such documents.

(Boyd Dec. at ¶ 9, Ex. C). At no time has Applicant objected to Opposer's 30(b)(6) deposition notice or production of a witness on any of the topics set forth therein. Applicant has simply ignored the deposition notice.

Opposer timely responded to Applicant's First Set of Interrogatories and Request for Production of Documents on June 15, 2022. (*Id.* at ¶ 11). Applicant, however, did not serve any responses to Opposer's initial discovery requests and was silent regarding the requests both after they were served as well as after the lapse of the 30-day response period. Only after Opposer asked about the status of Applicant's responses did Applicant advise Opposer that Applicant would not provide any response to Opposer's initial discovery requests because the requests had been served days prior to service of Opposer's Initial Disclosures (as Applicant itself had done) contrary to TBMP § 401.02 and 37 C.F.R. § 2.120(a)(3). (*Id.* at ¶ 13).

Opposer immediately re-served its First Set of Interrogatories and Request for Documents the very next day on June 29, 2022, three months before the scheduled close of the discovery period on October 29, 2022. (Boyd Dec. at ¶ 14, Ex. D, E). Applicant's response to Opposer's Request for Documents and First Set of Interrogatories was therefore due on Friday, July 29, 2022, leaving ample time for depositions and any follow-up or contention discovery which may have been necessary. *See* TBMP § 403.03; 37 C.F.R. § 2.120(a)(3); Fed. R. Civ. P. 33(b)(2), Fed. R. Civ. P. 34(b)(2)(A), and Fed. R. Civ. P. 36(a)(3).

The day before Applicant's responses to Opposer's requests were due, Applicant filed the present Summary Judgment Motion, triggering an automatic suspension of the proceedings and all

ongoing discovery pursuant to 36 C.F.R. 2.127(d). (Dkt. # 12). Despite the automatic suspension of the proceedings, Applicant’s counsel served “Responses” to Opposer’s First Set of Interrogatories and First Set of Requests for Production the very next day on July 29, 2022. (Boyd Dec. at ¶ 17, Ex. F, G). There, Applicant refused to substantively respond to any of Opposer’s requests relating to Applicant’s *bona fide* intention, or lack thereof, to use Applicant’s Mark in commerce. Instead, Applicant repeatedly objected:

In addition, Opposer’s discovery responses demonstrate that Opposer never had a legitimate basis to challenge Applicant’s *bona fide* intentions to use Applicant’s Mark. Opposer has not established a *prima facie* case that Applicant’s application is invalid for lack of the requisite *bona fide* intention to use its mark. . . . This interrogatory is nothing more than an improper fishing expedition by Opposer and does not seek information relevant to any legitimate claim.

(Boyd Dec. at ¶ 18, Ex. F at pp. 9-14, with highlighting added for the convenience of the Board to Applicant objections made to Interrogatories Nos. 6, 7, 8, 9, 10, 11, 16, and 21).

Applicant’s “responses” to Opposer’s First Set of Requests for Production of Documents and Things were no different. There, Applicant repeated nearly identical language to assert objections to requests directed at gathering evidence related to Applicant’s *bona fide* intention to use Applicant’s Mark:

In addition, Opposer’s discovery responses demonstrate that Opposer never had a legitimate basis to challenge Applicant’s *bona fide* intentions to use Applicant’s Mark. Opposer has not established a *prima facie* case that Applicant’s application is invalid for lack of the requisite *bona fide* intention to use its mark. . . . This request is nothing more than an improper fishing expedition by Opposer and does not seek information relevant to any legitimate claim.

(Boyd Dec. at ¶ 19, Ex. G at pp. 8, 11-15, 23-24, and 30-31 with highlighting added for the convenience of the Board to Applicant objections made to Requests for Production of Documents and Things Nos. 4, 8, 9, 10, 11, 12, 23, and 32).

In short, Opposer has diligently sought through the discovery process evidence relevant to the grounds on which it has opposed registration of Applicant’s mark. Via the pretext of its “summary

judgment motion” Applicant has flat out refused to engage in the production of the requested information, documents and testimony, all of which is necessary to respond to the motion itself.

### **LEGAL STANDARD**

Under the Federal Rules of Civil Procedure, “the parties must be afforded adequate time for general discovery before being required to respond to a motion for summary judgment.” *Metro. Life. Ins. Co. v. Bancorp Servs. L.L.L.*, 527 F.3d 1330, 1336 (Fed. Cir. 2008) (internal citations omitted); *see also Kahn v. Parsons Global Servs., LTD.*, 428 F.3d 1079, 1088 (D.C. Cir. 2005) (stating that “[t]he court has long recognized that a party opposing summary judgment needs a ‘reasonable opportunity’ to complete discovery before responding to a summary judgment motion and that ‘insufficient time or opportunity to engage in discovery’ is cause to defer a decision on the motion.”). Thus, the Board may simply deny a motion for summary judgment where, as here, there has been a complete lack of discovery and the movant’s motion is plainly premature. *See Anderson v. Liberty Lobby*, 477 U.S. 242, 250 (1986). Indeed, according to the Supreme Court, a motion for summary judgment must “be refused where the nonmoving party has not had the opportunity to discover information that is essential to its opposition.” *Id.* at 250 n.5.

Federal Rule of Civil Procedure 56(d) provides that “[i]f a nonmovant shows by affidavit or declaration that, for specified reasons, it cannot present facts essential to justify its opposition [to a motion for summary judgment], the court may: (1) defer considering the motion **or deny it.**” (emphasis added). The purpose of Rule 56(d) is to ensure that the non-moving party is able to conduct necessary discovery and to prevent non-movants from being “railroaded” by premature summary judgment. *See Opryland USA, Inc. v. Great Am. Music Show, Inc.*, 970 F.2d 847, 852 (Fed. Cir. 1992).

Alternatively, the court may “allow time to obtain affidavits or declarations or to take discovery.” Fed. R. Civ. P. 56(d)(2). Thus, if a party believes that it cannot effectively oppose a



motion for summary judgment without first taking discovery, it may file a request with the Board for additional time to take the necessary discovery. TBMP § 528.06. “As a general rule, the Board is liberal in its treatment of requests for discovery in response to motions for summary judgment.” *U.S. Tennis Assoc., Inc. v. Veruba, LLC*, Opp. No. 91226656, 2017 WL 3670425, at \*5 (TTAB Jul. 31, 2017); *see also See Armida Winery, Inc. v. Graveyard Vineyards*, 2015 WL 9913831, at \*1 (TTAB Aug. 1, 2015) (Board stating that if the party demonstrates a need for discovery which is reasonably directed to the facts essential to its opposition to the motion, discovery will be permitted). This is especially true if the information sought is largely within the control of the party moving for summary judgment. TBMP § 528.06; *Orion Group Inc. v. Orion Insurance Co.*, 12 USPQ2d 1923, 1925-26 (TTAB 1989).

### **ARGUMENT**

Applicant has moved for summary judgment on the premise that Opposer bears the burden of proof and the burden of production at the pleading stage to support its claims that Applicant (i) lacked a *bona fide* intention to use Applicant’s Mark in commerce and (ii) committed fraud on the USPTO by declaring so in the Application. To date, Applicant has refused to provide Opposer any discovery on these issues because of the odd notion that Opposer was required to have evidence in hand to make a *prima facie* case for its claims at the time the notice of opposition was filed and that any attempt by Opposer to use the discovery mechanisms available to it to gather evidence relevant to making its *prima facie* case is nothing more than an “improper fishing expedition” to prove a claim that is not “legitimate.” With this barrier to discovery in place Applicant then proceeds to move to dispose of Opposer’s claims on the basis that Opposer cannot prove its claims without that discovery. Applicant’s arguments are simply without merit.

Opposer has every right to secure discovery from Applicant to meet its burdens of proof and production and Opposer has not cited any legal authority which supports the contrary. Opposer has

used the discovery devices available to it to seek information and documents from Applicant. Applicant, however, has opted to evade its discovery obligations by filing the Summary Judgment Motion. Applicant's motion is plainly premature and raises issues that Opposer has not had the opportunity to discover information about because of Applicant's failure to cooperate in discovery. For these reasons, Applicant's Summary Judgment Motion should be denied or, in the alternative, Opposer's Rule 56(d) Motion granted so that Opposer can respond on the merits.

**I. Opposer is Not Required to Establish a *Prima Facie* Case Without Any Opportunity for Discovery**

It is indeed well-settled that "Opposer has the initial burden of demonstrating by a preponderance of the evidence that applicant lacked a *bona fide* intent to use the mark on the identified goods." *Boston Red Sox Baseball Club Ltd. P'ship v. Brad Francis Sherman*, 88 U.S.P.Q.2d 1581, Opp. No. 91172268, 2008 WL 414900, at \*6 (T.T.A.B. Sept. 9, 2008). Evidence relevant to this inquiry is diverse as detailed in the Senate report on the Trademark Law Revision Act of 1988, which provides an illustrative, but not exhaustive, list of types of evidence that may indicate a lack of intent to use (*e.g.*, the filing of numerous intent-to-use applications). *See* "Senate Judiciary Committee Report on S. 1883," *S. Rep. No. 100-515*, pp. 23-25 (Sept. 15, 1988).<sup>2</sup> Indeed, there are a myriad of factors that courts consider to support or disprove a *bona fide* intent to use including, for example, "the absence of any documentary evidence of the part of an applicant regarding such intent is sufficient to prove that the applicant lacks a *bona fide* intention to use its mark in commerce as required by Section 1(b)." *Commodore Elecs. Ltd. v. Cbm Kabushiki Kaisha*, Opp. No. 86,336,26 U.S.P.Q.2d 1503, 1993 WL 156479 (T.T.A.B. 1993).

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<sup>2</sup> Applicant's suggestion that the examples of evidence relevant to the inquiry of *bona fide* intent to use is limited to that listed in the Senate Report is incorrect. Summary Judgment Motion at 5 ("Here, Opposer does [not] [*sic*] present evidence of, or even allege, any of the circumstances described in the Senate Report"). The Senate Report explicitly notes that "[o]ther circumstances may also indicate the absence of genuine *bona fide* intent to actually use the mark." S. Rep. No. 100-515 at 24. *See also, Intel Corp. v. Ememy*, Opposition No. 91123312, 2007 WL 1520948, at \*4 (TTAB May 15, 2007) (stating that the "Senate Report in the legislative history of the TLRA provides **an illustrative list** of circumstances that may cast doubt on the *bona fide* nature of an applicant's stated intention.") (emphasis added).

Thus, in *Boston Red Sox*, the Board found that an opposer “satisfied its initial burden of showing the absence of any documentary evidence regarding applicant’s *bona fide* intention to use the mark” through evidence obtained from the applicant’s responses to opposer’s document production requests. 2008 WL 414900, at \*6 (“applicant produced no documents in response to opposer’s discovery requests”); *see also Lane Ltd. v. Jackson Int’l Trading Co.*, 33 USPQ2d 1351 (holding that “an opposer may prove that an applicant lacks the requisite *bona fide* intention to use the mark in commerce by establishing that the applicant does not possess and cannot produce *at trial* any documentary evidence supporting the applicant’s claimed intention to use a mark.”) (emphasis added).

The law is unequivocal: Opposer is entitled to conduct discovery to obtain evidence relevant to its claims and Applicant can cite to no legal authority to the contrary. Applicant’s reliance on *Intel Corp. v. Emeny*, Opposition No. 91123312, 2007 WL 1520948, at \*4 (TTAB May 15, 2007) is misplaced to the extent Applicant argues that the opinion precludes an opposer from seeking discovery on matters for which it has the burden of proof and the initial burden of production of evidence to support its claim. Summary Judgment Motion at 2-3. Even a cursory review of the *Intel Corp* decision shows that that the case was decided *after* discovery and a trial on the merits. In reviewing the evidence, the Board even observed that **the applicant** had “failed to cite to any evidence or testimony in support of his *bona fide* intent to use the IDEAS INSIDE mark” as evidence relevant to the inquiry and ultimately found that the applicant lacked the requisite *bona fide* intention to use the relevant mark in commerce. 2007 WL 1520948 at \*5.

Further, it appears that Applicant has improperly conflated and confused the standards for pleading a claim and surviving a dismissal motion under Rule 12(b)(6) and a summary judgment motion. Applicant’s reliance on *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009), one of the seminal Supreme Court cases on pleading a legally and factually plausible claim to survive a motion to

dismiss under Fed. R. Civ. P. 12 (b)(6) is confusing as the case has nothing to do with the factual or legal standards for avoiding entry of summary judgment under Fed. R. Civ. P. 56. Summary Judgment Motion at 5. Applicant could have asserted a Rule 12(b)(6) defense in its Answer, filed a timely Rule 12(b)(6) motion challenging the plausibility of the claims Opposer pled before answering the Notice of Opposition, or before entry of the Scheduling Order in this proceeding, or before the discovery conference or before the start of the discovery conference. It did not do so and has now waived the right to do so. *Advanced Cardiovascular Sys., Inc. v. Scimed Life Sys., Inc.*, 988 F.2d 1157, 1160 (Fed. Cir. 1993). Applicant's Summary Judgment Motion is nothing more than a back door attempt at a Rule 12(b)(6) motion (with the false label of a summary judgment motion) to avoid discovery.

Thus, Applicant's argument that Opposer's allegation in the Notice of Opposition that "on information and belief" Applicant does not have documents to support a *bona fide* intent to use" warrants entry of summary judgment is entirely off base. Summary Judgment Motion at 4, 5. The Board has unequivocally stated in *Commodore Elecs. Ltd. v. Cbm Kabushiki Kaisha* that "[a]n allegation to such effect [] states a claim upon which relief can be granted." 1993 WL 156479 at \*5. But there is no question that reliance on this allegation alone in response to a dispositive motion, *after discovery*, would not be sufficient to avoid entry of summary judgment as evidence, not allegations, must be introduced to support that which is pled.

## **II. Opposer Is Entitled to—And Has Not Received—Any Discovery**

Opposer has the burden to make a *prima facie* showing that Applicant lacked a *bona fide* intention to use its mark in commerce. To date, Applicant has refused to provide substantive responses to Opposer's discovery requests, including testimony, about Applicant's plans and intentions to use Applicant's Mark, crippling Opposer's ability to prepare for trial, let alone to respond to Applicant's Summary Judgment Motion. Applicant does not even contend that the

requests served clearly seek information directly relevant to the issue of Applicant's *bona fide* intent to use. Applicant would simply prefer not to respond. As detailed above, Opposer has used the discovery devices available to it to seek information and documents from Applicant. Applicant, however, ignored Opposer's requests, instead opting to evade its discovery obligations by filing their Motion. Applicant's Motion is plainly premature and raises issues that Opposer has not had the opportunity to discover information about because of Applicant's failure to cooperate in discovery. For these reasons, Applicant's Motion should be denied and, in the alternative, Opposer's Rule 56(d) Motion granted.

In light of Applicant's outright refusal to permit or provide any discovery to date on the issue of Applicant's intention to use Applicant's Mark in commerce, Opposer submits that a complete denial of Applicant's Summary Judgment Motion is appropriate. *See Anderson v. Liberty Lobby*, 477 U.S. 242, 250 (1986). However, to the extent the Board disagrees and chooses to order the discovery necessary for Opposer to respond to the Summary Judgment Motion, it is Opposer's understanding that, under Rule 56, the non-movant "must set out, usually in affidavit by one with knowledge of specific facts, what specific evidence could be offered at trial" to support its claims. *Pure Gold, Inc. v. Syntex (USA), Inc.*, 739 F.2d 624, 627 (Fed. Cir. 1984). Opposer has done so in the declaration filed with Opposer's Rule 56(d) Motion.

### **CONCLUSION**

For the foregoing reasons, Opposer respectfully requests that the Board deny Applicant's Motion for Summary Judgment, or in the Alternative, Grant Opposer's Motion for Necessary Discovery.

Dated: August 29, 2022

Respectfully submitted,

By /s/ Felicia J. Boyd

Felicia J. Boyd

Andrea K. Shannon

Norton Rose Fulbright US LLP

60 South Sixth Street, Suite 3100

Minneapolis, MN 55402

Tel: 612 321 2800

Fax: 612 321 2288

Felicia.Boyd@nortonrosefulbright.com

Andrea.Shannon@nortonrosefulbright.com

Attorneys for Opposer

*Zerodensity Yazilim Anonim Sirketi*

**CERTIFICATE OF SERVICE**

I hereby certify that on August 29, 2022, a true and correct copy of the foregoing document was served via email upon Applicant's counsel at the following:

Nicholas J. Gingo  
Mark C. Johnson  
Lauren K. Tagarao  
Renner, Otoo, Boisselle, & Sklar, LLP  
1621 Euclid Avenue, 19<sup>th</sup> Floor  
Cleveland, Ohio 44115  
ngingo@rennerotto.com  
mjohnson@rennerotto.com  
trademarks@rennerotto.com  
ip@rennerotto.com  
ltagarao@rennerotto.com  
sboone@rennerotto.com  
litigation@rennerotto.com

Dated: August 29, 2022

/s/ Andrea K. Shannon  
By: Andrea K. Shannon

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

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In the matter of:

Application Serial No. 88/726,903  
by The CALANY Holding S.a.r.l.

ZERODENSITY YAZILIM ANONIM  
SIRKETI,

Opposer,

Opposition No. 91273593

v.

The CALANY Holding S.a.r.l.,

Applicant

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**DECLARATION OF FELICIA J. BOYD IN SUPPORT OF OPPOSER’S  
MOTION TO DENY APPLICANT’S MOTION FOR SUMMARY JUDGMENT OR,  
IN THE ALTERNATIVE, FOR NECESSARY DISCOVERY PURSUANT TO  
FED. RULE CIV. P. 56(d)**

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I, **FELICIA J. BOYD**, declare as follows:

1. I am an attorney with the law firm of Norton Rose Fulbright US LLP and am counsel for Opposer Zerodensity Yazilim Anonim Sirketi (“Opposer”) in the above-identified matter.
2. Opposer filed the Notice of Opposition in Opposition No. 91273593 before the Trademark Trial and Appeal Board (Dkt. #1) on December 22, 2021 opposing Applicant’s U.S. Trademark Application Serial No. 88/726,903 (“the Application”) for the mark REALITYOS (“Applicant’s Mark”).
3. Applicant The CALANY Holding S.a.r.l. (“Applicant”) answered the Notice of Opposition on April 3, 2022 (Dkt. #9), and the parties held a discovery conference on May 2, 2022.



4. Applicant served its First Set of Interrogatories and Request for Production of Documents on May 16, 2022 and its Initial Disclosures on May 26, 2022.

5. Applicant served its Initial Disclosures on May 26, 2022. Attached hereto as **Exhibit A** is a true and correct copy of Applicant's Initial Disclosures, which were served on May 26, 2022.

6. Applicant re-served its First Set of Interrogatories and Request for Production of Documents on May 28, 2022.

7. Opposer served its First Set of Interrogatories and First Set of Requests for Production of Documents and Things on May 20, 2022.

8. Opposer first served its Initial Disclosures on June 1, 2022. Attached hereto as **Exhibit B** is a true and correct copy of Opposer's Initial Disclosures, which were served on June 1, 2022.

9. On June 27, 2022, Opposer served a Notice of 30(b)(6) Deposition of The CALANY Holding S.a.r.l. seeking a deposition of Applicant on the topics identified therein to be held at a date agreed upon in view of the parties' and counsel's respective schedules. Opposer requested Applicant's testimony on topics also relevant to the present Summary Judgment Motion. Attached hereto as **Exhibit C** is a true and correct copy of Opposer's Notice of 30(b)(6) Deposition of The CALANY Holding S.a.r.l., which was served on June 27, 2022.

10. At no time has Applicant objected to Opposer's 30(b)(6) deposition notice or production of a witness on any of the topics set forth therein. Applicant has simply ignored the deposition notice.

11. Opposer timely responded to Applicant's First Set of Interrogatories and Request for Production of Documents on June 15, 2022.

12. Applicant did not serve any responses to Opposer's initial discovery requests and was silent regarding the requests both after they were served as well as after the lapse of the 30-day response period.

13. Only after Opposer asked about the status of Applicant's responses did Applicant advise Opposer that Applicant would not provide any response to Opposer's initial discovery requests because the requests had been served days prior to service of Opposer's Initial Disclosures (as Applicant itself had done) contrary to TBMP § 401.02 and 37 C.F.R. § 2.120(a)(3).

14. Opposer immediately re-served its First Set of Interrogatories and Request for Documents the very next day on June 29, 2022, three months before the scheduled close of the discovery period on October 29, 2022. Attached hereto as **Exhibit D** and **Exhibit E**, respectively, are true and correct copies of Opposer's First Set of Interrogatories and Request for Documents, which were re-served on June 29, 2022.

15. Applicant's responses to Opposer's Request for Documents and First Set of Interrogatories were therefore due on Friday, July 29, 2022, leaving ample time for depositions and any follow-up or contention discovery which may have been necessary.

16. The day before Applicant's responses to Opposer's requests were due, Applicant filed the present Summary Judgment Motion, triggering an automatic suspension of the proceedings and all ongoing discovery pursuant to 36 C.F.R. 2.127(d). (Dkt. # 12).

17. Despite the automatic suspension of the proceedings, Applicant's counsel served "Responses" to Opposer's First Set of Interrogatories and First Set of Requests for Production the very next day on July 29, 2022. Attached hereto as **Exhibit F** is a true and correct copy of Applicant's Responses to Opposer's First Set of Interrogatories to Applicant, which were served on July 29, 2022. Attached hereto as **Exhibit G** is a true and correct copy of Applicant's Responses to Opposer's First Set of Requests for Production of Documents and Things, which were served on July 29, 2022.

18. In Applicant's Responses to Opposer's First Set of Interrogatories to Applicant, Applicant refused to substantively respond to any of Opposer's requests relating to Applicant's *bona fide* intention, or lack thereof, to use Applicant's Mark in commerce. Instead, Applicant repeatedly

objected:

In addition, Opposer's discovery responses demonstrate that Opposer never had a legitimate basis to challenge Applicant's *bona fide* intentions to use Applicant's Mark. Opposer has not established a prima facie case that Applicant's application is invalid for lack of the requisite *bona fide* intention to use its mark. . . . This interrogatory is nothing more than an improper fishing expedition by Opposer and does not seek information relevant to any legitimate claim.

(Ex. F at pp. 9-14, Nos. 6-11, 16, 21).

19. Applicant's "responses" to Opposer's First Set of Requests for Production of Documents and Things were no different. There, Applicant repeated nearly identical language to assert objections to requests directed at gathering evidence related to Applicant's *bona fide* intention to use Applicant's Mark:

In addition, Opposer's discovery responses demonstrate that Opposer never had a legitimate basis to challenge Applicant's *bona fide* intentions to use Applicant's Mark. Opposer has not established a prima facie case that Applicant's application is invalid for lack of the requisite *bona fide* intention to use its mark. . . . This request is nothing more than an improper fishing expedition by Opposer and does not seek information relevant to any legitimate claim.

(Ex. G at pp. 8, 11-15, 23-24, and 30-31, Nos. 4, 8, 9, 10, 11, 12, 23, 32).

20. Opposer has diligently sought through the discovery process evidence relevant to the grounds on which it has opposed registration of Applicant's mark, but Applicant has refused to engage in the production of the requested information, documents and testimony, all of which is necessary to respond to the motion itself.

21. To date, Applicant has not produced any information or documents in response to Opposer's interrogatories or requests for production of documents that support or refute Opposer's ground of opposition that Applicant lacked a *bona fide* intention to use Applicant's Mark at the time of filing the Application.

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

Dated: August 29, 2022

Respectfully submitted,

/s/ Felicia J. Boyd  
Felicia J. Boyd

# Exhibit A



The inclusion of any particular topic in connection with a witness in these disclosures is not a representation that the witness has knowledge about any particular piece of information that may be related to the topic.

In addition, Applicant does not represent that it is identifying every document or witness possibly relevant to this proceeding. Nor does Applicant waive its right to object to the production of any document disclosed on the basis of any privilege, the work-product doctrine, relevancy, undue burden, confidentiality, or any other valid objection. Applicant's initial disclosures are also made without in any way waiving: (1) the right to object on the grounds of competency, privilege, relevancy and materiality, hearsay, or any other grounds, to the use of such information for any purpose, in whole or in part, at any subsequent time in this action or in any other action; and (2) the right to object on any and all grounds, at any time, to any other discovery request or proceeding involving or relating to the subject matter of these disclosures.

**Individuals Likely to Have Discoverable Information (Fed. R. Civ. P. 26(A)(1)(A)(i))**

Based on information reasonably available to Applicant at this time, the following individuals are likely to have discoverable information that Applicant may use to support its claims or defenses, unless used solely for impeachment. A brief identification of the subjects on which each listed individual may have such discoverable information is also provided. This list does not include all of Opposer's employees, agents, or current or former attorneys who are likely to have discoverable information that Applicant may use to support its claims or defenses, as Opposer is fully knowledgeable concerning the identities of and the subject matter known to those individuals.

In addition, each individual identified below should be contacted only through the undersigned counsel.

Name	General Subject Matter
Javier Penalba, Intellectual Property Director  The CALANY Holding S.à r.l.	Applicant's conception, selection and adoption of the REALITYOS trademark; Applicant's application to register the REALITYOS trademark; Applicant's foreign registration of the REALITYOS trademark, ownership of the REALITYOS trademark; Applicant's bona fide intent to use the REALITYOS trademark in U.S. commerce; the goods and services Applicant intends to offer in connection with the REALITYOS trademark.
Thomas Adams, Former Attorney of Record for Applicant  Renner, Otto, Boisselle, & Sklar, LLP	The prosecution of Applicant's application to register the REALITYOS trademark; Lack of fraud on the United States Patent and Trademark Office in connection with the Applicant's application to register the REALITYOS trademark.

**Documents (Fed. R. Civ. P. 26(A)(1)(A)(ii))**

The initial disclosure requirements of Rule 26(a)(1)(A)(ii) are expressly limited to documents that are in the possession, custody, or control of the party and that the disclosing party may use to support its claims or defenses, unless solely for impeachment. Applicant reserves the right to supplement or amend the items identified under Rule 26(a)(1)(A)(ii), if necessary, at a later time, or to supplement through the course of discovery in this proceeding.

In accordance with the above, Applicant identifies the following categories of documents that Applicant may have in its possession, custody, or control and may use to support its claims or defenses:

1. Documents relating to Applicant's U.S. trademark application for the REALITYOS trademark and related foreign registrations.
2. Documents relating to the prosecution history of the REALITYOS trademark.
3. Documents relating to the ownership of the REALITYOS trademark.
4. Documents relating to Applicant's intent to use the REALITYOS trademark in U.S. commerce.

5. Documents relating to Applicant's conception, selection and adoption of the REALITYOS trademark.

6. Documents relating to the goods and services with which Applicant intends to offer in connection with the REALITYOS trademark.

7. Documents relating to the lack of fraud committed on the United States Patent and Trademark office in connection with the prosecution of the REALITYOS trademark.

To the extent the above-described documents are within the possession, custody, or control of Applicant, those documents will be made available for inspection and copying at the offices of Applicant's counsel, Renner Otto, 1621 Euclid Avenue, Floor 19, Cleveland, Ohio 44115. Furthermore, Applicant expects that other documents falling within the above-identified categories are within the possession, custody or control of Opposer or Opposer's counsel.

**FRCP 26(a)(1)(A)(iv): Insurance Agreements**

Applicant is not aware of any relevant insurance agreement which exist relating to this proceeding.

Nothing in this initial disclosure shall constitute a waiver of any claim, defense, or privilege, including, without limitation, the following: any claim or defense; any applicable privilege, including the attorney-client privilege, the work product doctrine privilege, or any other privilege; and the right to object to discovery requests that seek material, documents or information that is not relevant or sufficiently probative to justify the burden or expense of a response.

Moreover, nothing in this initial disclosure shall constitute an admission or concession on the part of Applicant with respect to any issues of fact or law, including, but not limited to, the relevance, discoverability, or admissibility of any of the information set forth herein. The inclusion of or reference to any particular document category in these disclosures is not a representation that any



particular document currently exists or ever existed.

Applicant specifically reserves the right to challenge the discoverability or admissibility of any testimony or information.

Dated: May 26, 2022

Respectfully submitted,

/Mark C. Johnson/

Mark C. Johnson

mjohnson@rennerotto.com

Nicholas J. Gingo

ngingo@rennerotto.com

Lauren K. Tagarao

ltagarao@rennerotto.com

Renner, Otto, Boisselle, & Sklar, LLP

1621 Euclid Ave., Floor 19

Cleveland Ohio 44115

Phone: 216.621.1113

Fax: 216.621.6165

*Attorneys for Applicant*

*The CALANY Holding S.à r.l.*

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on May 26, 2022 a true and correct copy of the foregoing document is being served on the following by email:

Felicia J. Boyd ([Felicia.Boyd@nortonrosefulbright.com](mailto:Felicia.Boyd@nortonrosefulbright.com))

Andrea K. Shannon ([Andrea.Shannon@nortonrosefulbright.com](mailto:Andrea.Shannon@nortonrosefulbright.com))

*/ Sarah L. Boone /*  
\_\_\_\_\_  
An attorney for Applicant

# Exhibit B

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

In the matter of Application Serial No.: 88/726,903  
By The CALANY Holding S.a.r.l. (formerly TMRW Foundation IP & Holding S.a.r.l), for the  
Mark: REALITYOS  
Filed: December 13, 2019  
Published in the *Official Gazette* on August 24, 2021

Zerodensity Yazilim Anonim Sirketi,

Opposer,

v.

TMRW Foundation IP & Holding S.a.r.l,

Applicant.

Opposition No. 91273593

**OPPOSER’S INITIAL DISCLOSURES TO APPLICANT**

Pursuant to 37 C.F.R. § 2.120 and Rule 26(a)(1) of the Federal Rules of Civil Procedure, Zerodensity Yazilim Anonim Sirketi (“Opposer”) serves the following initial disclosures on The CALANY Holding S.a.r.l. (formerly TMRW Foundation IP & Holding S.a.r.l) (“Applicant”).

**(A) The name and, if known, the address and telephone number of each individual likely to have discoverable information—along with the subjects of that information—that the disclosing party may use to support its claims or defenses, unless the use would be solely for impeachment.**

**Name and Address:**

Kuban Altan, Founder and Vice President of  
Opposer

c/o Norton Rose Fulbright US LLP  
98 San Jacinto Blvd., Suite 1100  
Austin, Texas 78701  
612-321-2800

**Subjects:**

Zero Density’s use of the REALITY ENGINE, REALITY KEYSER, REALITY CONTROL, and REALITYHUB Marks (“Zero Density’s Marks”); Zero Density’s products and services; research and development of Opposer’s business; uses of terminology in the software industry

**Name and Address:**

Mustafa Ulaş Kaçmaz – Founder & Vice  
President of Opposer

c/o Norton Rose Fulbright US LLP  
98 San Jacinto Blvd., Suite 1100  
Austin, Texas 78701  
612-321-2800

Cevat Yerli, Founder and CEO of Applicant  
The CALANY Holding S.a.r.l.

John Rossant

Stephanie Weng

Thomas W. Adams, Former Attorney of Record  
for Applicant

Renner, Otto, Boisselle & Sklar, LLP  
1621 Euclid Avenue  
19<sup>th</sup> Floor  
Cleveland, OH 44115  
216-621-1113

Javier Penalba, Intellectual Property Director  
The CALANY Holding S.a.r.l.

**Subjects:**

Zero Density's business; the sales and marketing of Opposer's products and services; knowledge pertaining to Zero Density's Marks; knowledge pertaining to REALITY-formative trademarks and terminology used in the software industry; uses of terminology in Opposer's industry

Applicant's plans to use REALITYOS; the services and products that Applicant offers or intends to offer under the REALITYOS mark; Applicant's plans and efforts to solicit business partners and funding for products and services to be offered under the REALITYOS mark

Applicant's plans to use REALITYOS; the services and products that Applicant intends to offer under the REALITYOS mark; Applicant's plans and efforts to solicit business partners and funding for products and services to be offered under the REALITYOS mark

Applicant's plans to use REALITYOS; the services and products that Applicant intends to offer under the REALITYOS mark; Applicant's plans and efforts to solicit business partners and funding for products and services to be offered under the REALITYOS mark

Information regarding the declaration signed by Mr. Adams when submitting Applicant's Application; The prosecution of Applicant's application to register the REALITYOS trademark; Applicant's plans to use the REALITYOS mark

Applicant's conception, selection and adoption of the REALITYOS trademark; Applicant's application to register the REALITYOS trademark; Applicant's foreign registration of the REALITYOS trademark, ownership of the REALITYOS trademark; Applicant's lack of a bona fide intent to use the REALITYOS trademark in U.S. commerce; the goods and services Applicant intends to offer in connection with the REALITYOS trademark

**Name and Address:**

Abdel-Aziz Boutrik, Managing Director  
The CALANY Holding S.a.r.l.

Michael Schäfer, Director of Legal  
The CALANY Holding S.a.r.l.

**Subjects:**

Applicant's conception, selection and adoption of the REALITYOS trademark; Applicant's application to register the REALITYOS trademark; Applicant's foreign registration of the REALITYOS trademark, ownership of the REALITYOS trademark; Applicant's lack of a bona fide intent to use the REALITYOS trademark in U.S. commerce; the goods and services Applicant intends to offer in connection with the REALITYOS trademark

Applicant's conception, selection and adoption of the REALITYOS trademark; Applicant's application to register the REALITYOS trademark; Applicant's foreign registration of the REALITYOS trademark, ownership of the REALITYOS trademark; Applicant's lack of a bona fide intent to use the REALITYOS trademark in U.S. commerce; the goods and services Applicant intends to offer in connection with the REALITYOS trademark

**(B) A copy—or a description by category and location—of all documents, electronically stored information, and tangible things that the disclosing party has in its possession, custody, or control and may use to support its claims or defenses, unless the use would be solely for impeachment.**

Opposer expects that most, if not all, of the non-privileged documents and electronically stored information in its possession and control that are relevant to the disputed facts will be found at its business offices in Izmir, Turkey, and may be obtained through counsel for Opposer. Opposer reserves the right to supplement with additional documents as they become available. At this time, Opposer anticipates using the below-listed categories of documents, electronically stored information, and tangible things in its possession custody, or control to support its claims and defenses:

- Documents concerning Opposer's business activities and its use of Zero Density's Marks
- Publicly available documents concerning Applicant's use of the REALITYOS mark

- Documents concerning terminology used in the software industry relevant to the REALITYOS mark

**(C) A computation of each category of damages claimed by the disclosing party and any insurance agreement under which an insurance business may be liable to satisfy all or part of a possible judgment in the action**

Opposer is not aware of any relevant insurance agreement that relates to this proceeding, and damages do not apply to this proceeding.

Date: June 1, 2022

Respectfully,

By: /s/ Felicia J. Boyd

Felicia J. Boyd

Andrea K. Shannon

Norton Rose Fulbright US LLP

RBC Plaza

60 South Sixth Street, Suite 3100

Minneapolis, MN 55402

Tel: 612 321 2800

Fax: 612 321 2288

Felicia.Boyd@nortonrosefulbright.com

Andrea.Shannon@nortonrosefulbright.com

Attorneys for Opposer

**CERTIFICATE OF SERVICE**

I hereby certify that a true and complete copy of the foregoing OPPOSER'S INITIAL DISCLOSURES TO APPLICANT has been served via electronic mail to Applicant's attorney at the address below, today, June 1, 2022.

Nicholas J. Gingo  
Mark C. Johnson  
Renner, Otto, Boisselle, & Sklar, LLP  
1621 Euclid Avenue, 19<sup>th</sup> Floor  
Cleveland, Ohio 44115  
[ngingo@rennerotto.com](mailto:ngingo@rennerotto.com), [mjohnson@rennerotto.com](mailto:mjohnson@rennerotto.com), [trademarks@rennerotto.com](mailto:trademarks@rennerotto.com),  
[ip@rennerotto.com](mailto:ip@rennerotto.com), [ltagarao@rennerotto.com](mailto:ltagarao@rennerotto.com), [sboone@rennerotto.com](mailto:sboone@rennerotto.com),  
[litigation@rennerotto.com](mailto:litigation@rennerotto.com)

*/s/ Kelly Lopic*  
By: Kelly Lopic



# Exhibit C

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

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Zerodensity Yazilim Anonim Sirketi,

Opposer,

Opposition No. 91273593

v.

The CALANY Holding S.a.r.l.,

Applicant.

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**NOTICE OF 30(b)(6) DEPOSITION OF THE CALANY HOLDING S.A.R.L.**

To: Applicant The CALANY Holding S.a.r.l. and its attorney Mark C. Johnson, Renner, Otto, Boisselle & Sklar, LLP, 1621 Euclid Ave, 19<sup>th</sup> Floor, Cleveland, OH 44115.

Please take notice that pursuant to Rule 30(b)(6) of the Federal Rules of Civil Procedure and Rule 404.05 of the Trademark Trial and Appeal Board Manual of Procedure, Opposer, Zerodensity Yazilim Anonim Sirketi (“Zero Density”), through its undersigned attorneys, will take the oral deposition of one (or more) designee(s) from Applicant, The CALANY Holding S.a.r.l. (“CALANY”) on the topics identified on Attachment “A” hereto. The deposition will commence at such time and place as may be mutually agreed upon by the parties after Applicant provides written responses to Opposer’s discovery responses and produces documents responsive to those request. The deposition will be conducted remotely.

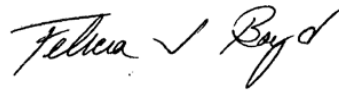
Pursuant to Rule 30(b)(6) of the Federal Rules of Civil Procedure, CALANY is hereby directed and required to designate one or more officers, directors, managing agents or other persons who consent to testify on CALANY’s behalf as to matters known or reasonably available to the company concerning the subjects identified in Attachment “A”.

NOTICE IS FURTHER GIVEN that we reserve the right to conduct this deposition utilizing the secure web-based deposition option afforded by Veritext or in the alternative video teleconferencing (VTC) services offered by Veritext (“Web Deposition”) or telephonically only to provide remote access for those parties wishing to participate in the deposition via the internet and/or telephone. Also take notice that, the court reporter may also be remote via one of the options above for the purposes of reporting the proceeding and may or may not be in the presence of the deponent. Please contact the noticing attorney at least five (5) calendar days prior to the deposition to advise that it is your desire to appear via this remote participating means so that the necessary credentials, call-in numbers, testing and information, if necessary, can be provided to you prior to the proceedings. In addition, we also reserve the right to utilize instant visual display technology such that the court reporter’s writing of the proceeding will be displayed simultaneous to their writing of same on one’s laptop, iPad, tablet or other type of display device connected to the court reporter.

The deposition shall be conducted before an officer appointed or designated under Fed. R. Civ. P. 28 and shall be recorded stenographically and by video recording. The deposition will continue until complete, or according to a schedule mutually agreed upon by the parties in advance of the appearance date, and will be taken for all purposes and uses authorized by the Federal Rules of Civil Procedure and the Trademark Trial and Appeal Board Manual of Procedure.

You are invited to attend and cross-examine.

DATED: June 27, 2022



By

---

Felicia J. Boyd  
Andrea K. Shannon  
NORTON ROSE FULBRIGHT US LLP  
60 South Sixth Street, Suite 3100  
Minneapolis, MN 55402  
Tel: 612.321.2800  
Fax: 612.321.2288

ATTORNEYS FOR OPPOSER  
Zerodensity Yazilim Anonim Sirketi

## ATTACHMENT A

### I. INSTRUCTIONS AND DEFINITIONS

Zero Density incorporates by reference the Definitions and Instructions contained in Opposer's First Set of Interrogatories to CALANY for use with the followings matters on which examination is requested.

### II. MATTERS ON WHICH EXAMINATION IS REQUESTED

1. CALANY's corporate structure and business, including employees and organizational chart.
2. The basis for each of CALANY's contentions contained in its Answer to Notice of Opposition.
3. CALANY's written responses and document production in response to Zero Density's written discovery requests, including CALANY's efforts to respond and locate documents in response to those requests.
4. CALANY's conception of and selection of Applicant's Mark, including alternatives considered.
5. CALANY's decision and instructions to prepare and file the Application and all other trademark applications for Applicant's Mark.
6. CALANY's preparations and plans to use Applicant's Mark, including the alleged or planned date of first use of the Applicant's Mark in connection with each of Applicant's goods and services, the creation of any business plans relating to the goods and services to be offered under Applicant's Mark, Applicant's attempts to seek investment funding in order to offer goods and services under Applicant's Mark, and each method and manner in which Applicant has used or plans to use Applicant's Mark in connection with Applicant's goods and services.
7. CALANY's goods and services offered for sale or planned to be offered for sale and sold in connection with Applicant's Mark, including the functional purposes of and technology behind the goods and/or services offered in connection with Applicant's Mark.
8. The relationship between Applicant's Mark and the goods and services offered for sale or planned to be offered for sale under Applicant's Mark.
9. Customers' current or likely understanding or perception of Applicant's Mark in connection with the goods and services CALANY offers or intends to offer.
10. The relationship, if any, between CALANY's goods and services offered for sale and sold in connection with Applicant's Mark, and Opposer's goods and services offered for sale and sold in connection with Opposer's Marks.

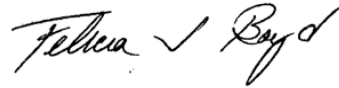
11. CALANY's sales of the goods and/or services identified by Applicant's Mark.
12. Channels of trade through which CALANY currently or intends to advertise, promote, market and sell goods and/or services offered in connection with Applicant's Mark.
13. The nature and identity of the customers and purchasers who currently or are likely to purchase the goods and/or services offered in connection with Applicant's Mark.
14. All studies relating to the Applicant's Mark, including any clearance opinion, search reports, market research or studies, surveys (formal or informal), interoffice memoranda, or public opinion polls relating to the selection, adoption, use or registration of the Applicant's Mark in connection with any product or service.
15. Applicant's awareness of Opposer's use of Opposer's Mark.
16. All information relating to disputes involving Applicant's Mark, whether it relates to Applicant's challenge of a third party's mark or a third party's challenge to Applicant's use or registration of Applicant's Mark.
17. Applicant's communications to date with Apple, Inc., Novel Brands USA LLC, or any other person discussing or relating to Applicant's Mark, Opposer, or any use of the term "reality."
18. The types of documents maintained in connection with the offering of goods or services under Applicant's Mark or Applicant's other operations under Applicant's Mark; the locations where such documents are maintained; the persons responsible for maintaining the files for such documents; and Applicant's guidelines and practices regarding the retention or destruction of such documents.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing **Notice of 30(b)(6) Deposition of The CALANY Holding S.a.r.l.** has been served via electronic mail on the following counsel at the address below on this 27th day of June, 2022.

Nicholas J. Gingo  
Mark C. Johnson  
Renner, Otto, Boisselle, & Sklar, LLP  
1621 Euclid Avenue, 19<sup>th</sup> Floor  
Cleveland, Ohio 44115  
[ngingo@rennerotto.com](mailto:ngingo@rennerotto.com), [mjohnson@rennerotto.com](mailto:mjohnson@rennerotto.com),  
[trademarks@rennerotto.com](mailto:trademarks@rennerotto.com), [ip@rennerotto.com](mailto:ip@rennerotto.com),  
[ltagarao@rennerotto.com](mailto:ltagarao@rennerotto.com), [sboone@rennerotto.com](mailto:sboone@rennerotto.com),  
[litigation@rennerotto.com](mailto:litigation@rennerotto.com)

DATED: June 27, 2022

A handwritten signature in cursive script, appearing to read "Felicia Boyd", with a checkmark symbol integrated into the signature.

# Exhibit D



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

Zerodensity Yazilim Anonim Sirketi,

Opposer,

v.

TMRW Foundation IP & Holding S.a.r.l,

Applicant.

Opposition No. 91273593

**OPPOSER’S FIRST SET OF INTERROGATORIES TO APPLICANT**

Opposer, Zerodensity Yazilim Anonim Sirketi (“Opposer”), by and through its attorneys, serves the following interrogatories under Fed. R. Civ. P. 33, and Rules 2.116 and 2.120 of the Trademark Rules of Practice (“Rules”), to be answered separately and fully in writing under oath by Applicant, TMRW Foundation IP & Holding S.a.r.l, now known as The CALANY Holding S.a.r.l. (“Applicant”).

**DEFINITIONS**

The following interrogatories are subject to the definitions set forth below:

A. The term “document” should be construed in its broadest sense permitted under the Rules, and includes any and all means of conveying, storing, or memorializing information, whether in paper, electronic or other tangible physical form in the possession, custody, or control of Applicant.

B. The term “person” includes, but is not limited to, any natural person; business or corporation, whether for profit or not; firm; partnership, or other non-corporate business organization; charitable, educational, governmental, or other non-profit institution, foundation, body, or other organization; or employee, agent, or representative of any of the foregoing.

C. The term “identify” when used in reference to a “person” (as defined above)

means to state: (a) the person's name; (b) the person's present or last-known address and telephone number; (c) if a business, governmental entity or association, the nature of the organization; and (d) if an individual, the person's place of employment and position. The term "identify" when used in reference to a "document" (as defined above) means to specify the document in sufficient detail to permit Opposer to locate, identify, and retrieve the record, which may include, but is not necessarily limited to, stating: (a) its date, or if it bears no date, the date when it was prepared; (b) the name and address of the person or persons who prepared it; and (3) the present location of the document and the name, address, and telephone number of its custodian.

D. "State" or "describe" means to set forth all facts discoverable under Rule 26(b), Fed. R. Civ. P., that are known to Applicant.

E. The terms "you," "your," and "Applicant" refer to the Applicant for the application involved in this opposition proceeding, TMRW Foundation IP & Holding S.a.r.l, now known as The CALANY Holding S.a.r.l., and all predecessors and successors in interest, directors, officers, agents, members, managers, partners, agents, employees, contractors, parent companies, sibling companies, subsidiaries, affiliates, and related companies thereof.

F. The term "Applicant's Mark" shall mean the mark REALITYOS as covered by Application Serial No. 88/726,903 ("the Application") and any variations thereof used by Applicant.

G. The term "Opposer's Marks" shall mean the marks REALITY ENGINE, REALITY KEYER, REALITY CONTROL, and REALITYHUB, as covered by U.S. Registration No. 6443512 and U.S. Application Nos. 90/061,530, 90/061,527, 79/272,376, 79/283,033, 79/269,543, and 79/254,744, as well as REALITYOS, as covered by Turkish App.

**INSTRUCTIONS**

1. If you refuse to answer an Interrogatory in whole or in part based on a claim that any privilege applies to the information sought, state the privilege and describe the basis for your claim of privilege with sufficient specificity to allow the Board to determine the legal sufficiency of the claim of privilege.

2. If any of these Interrogatories cannot be answered in full, you are to answer to the fullest extent possible, specifying the reason for your inability to answer the remainder, and stating what information, knowledge or belief you have concerning the unanswered portion.

3. These Interrogatories shall be deemed to be continuing. You are under a duty to supplement, correct or amend your response to any of these Interrogatories if you learn 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 Opposer during the discovery process or otherwise in writing.

## **INTERROGATORIES**

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

Describe in reasonable detail all the facts and circumstances surrounding the selection and adoption of Applicant's Mark, including, but not limited to, the identity of all persons involved in the selection process; any meetings in which the selection or adoption of Applicant's Mark was discussed, as well as a detailed account of such meetings.

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

Describe in reasonable detail all steps taken to clear Applicant's Mark, including all research conducted, alternative names considered, and an explanation of how and why Applicant's Mark was chosen.

### **INTERROGATORY NO. 3.**

Describe all market research conducted by or on behalf of Applicant concerning Opposer or Opposer's Marks or any goods or services marketed or proposed to be marketed under Opposer's Marks, including the results of such research.

### **INTERROGATORY NO. 4.**

Identify and explain Applicant's decision to seek federal registration of Applicant's Mark. Your answer should include Applicant's reasons for seeking federal registration of Applicant's Mark, the process that Applicant followed in reaching its decision, and the identity of the person(s) who made the decision.

### **INTERROGATORY NO. 5.**

Describe in reasonable detail your plans to use Applicant's Mark at the time you decided to seek federal registration of Applicant's Mark, and all preparations you had made in support of such plans prior to filing the Application.

**INTERROGATORY NO. 6.**

Identify documents supporting or refuting your declaration on the Application that Applicant had a bona fide intention to use Applicant's Mark in commerce in connection with the products and services identified in the Application.

**INTERROGATORY NO. 7.**

Identify all documents and their corresponding dates relating to your plans and preparations to use Applicant's Mark, including, but not limited to, business plans, investment or fundraising communications, product development, advertising plans and materials, and internal correspondence and notes.

**INTERROGATORY NO. 8.**

Identify all goods and services planned to be or that currently are advertised, distributed, sold, or offered by you using Applicant's Mark.

**INTERROGATORY NO. 9.**

For each good and service described in the answers to Interrogatory No. 8, describe in reasonable detail how you offer or intend to market and offer such goods and services, including the channels of trade through which each such good or service has been or will be sold or distributed by you, including the class(es) of customer(s) for each such good or service, and the geographic scope for each such channel of trade.

**INTERROGATORY NO. 10.**

Identify all locations where each good and service described in the answers to Interrogatory No. 8 has been or will be manufactured and/or sold.

**INTERROGATORY NO. 11.**

Describe in reasonable detail whether the goods and services identified in Interrogatory No. 8 have any relationship to the term "reality," as defined by common dictionaries, including

virtual or augmented reality technologies.

**INTERROGATORY NO. 12.**

Describe in reasonable detail whether the goods and services identified in Interrogatory No. 6 use, rely on, or provide an “operating system,” meaning system software that manages computer hardware, software resources, and/or provides common services for computer programs.

**INTERROGATORY NO. 13.**

Describe all facts and circumstances concerning your decision to incorporate the term “REALITY” in Applicant’s Mark.

**INTERROGATORY NO. 14.**

Describe all your past, present, and anticipated efforts to promote or advertise goods and services using Applicant’s Mark, including websites, social media accounts, and physical signage.

**INTERROGATORY NO. 15.**

Describe in reasonable detail how and why the original owners of EU Registration No. 016933368 were selected and why Applicant sought to rely on this registration as a registration basis for the Application.

**INTERROGATORY NO. 16.**

Identify whether and how the mark subject to EU Registration No. 016933368 has been used in commerce within the European Union.

**INTERROGATORY NO. 17.**

Explain Applicant’s relationship to the current owners of record of EU Registration No. 016933368.

**INTERROGATORY NO. 18.**

Identify the person who directed counsel to prepare and file the Application and describe in reasonable detail how the Application details, including the identification of goods and services, filing basis, and declaration signature, were determined and finalized.

**INTERROGATORY NO. 19.**

State by month the gross amount(s) of revenue, if any, from the sale of goods bearing Applicant's Mark from the date of first use to present.

**INTERROGATORY NO. 20.**

Identify all documents relating to or constituting any agreement made between you and any other entity regarding Applicant's Mark. This request should be interpreted broadly to include any manufacturing agreement relating to Applicant's Mark, any license agreement, or coexistence agreement, to give but a few examples.

**INTERROGATORY NO. 21.**

Identify and explain all relationships, agreements, or affiliations of any kind involving Applicant and any company that manufactures, provides, promotes, rents, or sells virtual reality, augmented reality, and computer software, hardware, and design products or services of any type.

**INTERROGATORY NO. 22.**

Identify all persons who have had primary supervisory responsibility for Applicant's sales and marketing efforts for the past five (5) years.

**INTERROGATORY NO. 23.**

Identify any and all persons with whom you have discussed selling, transferring, licensing, or assigning Applicant's rights in Applicant's Mark.

**INTERROGATORY NO. 24.**

Identify all persons likely to have knowledge of discoverable information related to the facts alleged in Opposer's Notice of Opposition, or Applicant's Answer to the Notice of Opposition.

**INTERROGATORY NO. 25.**

Identify the person with the most knowledge of the facts alleged in Applicant's trademark application that is the subject of this proceeding, and/or Applicant's Answer to the Notice of Opposition.

**INTERROGATORY NO. 26.**

Identify each person whom you may call as a fact witness in this proceeding and provide the expected subject matter of their testimony.

**INTERROGATORY NO. 27.**

Identify each lawsuit, administrative proceeding, or other dispute involving Applicant or Applicant's Mark.

**INTERROGATORY NO. 28.**

Identify all persons, including, but not limited to those from Apple, Inc., with whom you have discussed Opposer or Opposer's Mark.

**INTERROGATORY NO. 29.**

Identify all persons who participated in any way in the preparation of the answers or responses to these interrogatories and state by interrogatory the area of participation of each person.

**INTERROGATORY NO. 30.**

Identify all documents upon which you relied in answering these Opposer's First Set of Interrogatories to Applicant and identify the custodian(s) of such documents.



Date: June 29, 2022

Respectfully,

By: /s/ Felicia J. Boyd

Felicia J. Boyd

Andrea K. Shannon

Norton Rose Fulbright US LLP

RBC Plaza

60 South Sixth Street, Suite 3100

Minneapolis, MN 55402

Tel: 612 321 2800

Fax: 612 321 2288

Felicia.Boyd@nortonrosefulbright.com

Andrea.Shannon@nortonrosefulbright.com

ATTORNEYS FOR OPPOSER

### **CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the OPPOSER'S FIRST SET OF INTERROGATORIES TO APPLICANT has been served via electronic mail to Applicant's attorney at the address below, today, June 29, 2022:

Mark C. Johnson  
Nicholas J. Gingo  
Renner, Otto, Boisselle, & Sklar, LLP  
1621 Euclid Avenue, 19<sup>th</sup> Floor  
Cleveland, Ohio 44115  
[ngingo@rennerotto.com](mailto:ngingo@rennerotto.com)  
[trademarks@rennerotto.com](mailto:trademarks@rennerotto.com)  
[ip@rennerotto.com](mailto:ip@rennerotto.com)  
[ltagarao@rennerotto.com](mailto:ltagarao@rennerotto.com)  
[mjohnson@rennerotto.com](mailto:mjohnson@rennerotto.com)  
[sboone@rennerotto.com](mailto:sboone@rennerotto.com)  
[litigation@rennerotto.com](mailto:litigation@rennerotto.com)

/Andrea K. Shannon/

By: Andrea K. Shannon

# Exhibit E

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

Zerodensity Yazilim Anonim Sirketi,

Opposer,

v.

TMRW Foundation IP & Holding S.a.r.l,

Applicant.

Opposition No. 91273593

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

Opposer, Zerodensity Yazilim Anonim Sirketi (“Opposer”), by and through its attorneys, in accordance with Fed. R. Civ. P. 34 and Rules 2.116 and 2.120 of the Trademark Rules of Practice, requests that Applicant, TMRW Foundation IP & Holding S.a.r.l, now known as The CALANY Holding S.a.r.l. (“Applicant”), produce for inspection and copying the following documents and other tangible things within the possession, custody, or control of Applicant. Opposer requests that Applicant send copies or samples of the requested items to Opposer’s counsel, Norton Rose Fulbright US LLP, 1301 McKinney, Suite 5100, Houston, Texas 77010, accompanying service of Applicant’s responses to these requests, or as otherwise agreed by the parties.

**DEFINITIONS**

The definitions contained in Opposer’s First Set of Interrogatories to Applicant, served concurrently herewith, are hereby incorporated by reference.

**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 Requests.

2. With respect to any document withheld from production upon a claim of privilege, state for each such document:

- (a) The type of document;
- (b) The date of the document;
- (c) The name, address and job title of the author of the document;
- (d) The name, address and job title of each recipient of the document for purposes of permitting Applicant to evaluate the privilege claimed;
- (e) The name, address and job title of each person who received a copy of the documents;
- (f) A brief summary of the subject matter of the document; and
- (g) The present whereabouts of the document and name, address, and title of the custodian thereof.

(3) These Requests shall be deemed to be continuing. You are under a duty to supplement, correct or amend your response to any of these Requests if you learn any response is in some material respect incomplete or incorrect and if the additional or corrected information has not otherwise been made known to Opposer during the discovery process or in writing. If after producing documents, you become aware of documents responsive to these Requests, such documents shall be produced whether such documents were newly discovered, newly created or otherwise.

## **REQUESTS**

### **REQUEST NO. 1.**

Produce all documents and things relating to Applicant's selection and adoption of Applicant's Mark.

### **REQUEST NO. 2.**

Produce all documents relating to Application Serial No. 88/726,903, EU Registration No. 016933368, and/or any other application or registration owned by Applicant for any mark that includes any variation of Applicant's Mark.

### **REQUEST NO. 3.**

Produce all search reports, studies, surveys, and/or research that relate to Applicant's Mark including, without limitation, consumer surveys related to Applicant's Mark and/or the goods or services Applicant has offered or intends to offer using Applicant's Mark, market research relating to Applicant's Mark and/or the goods or services Applicant has offered or intends to offer using Applicant's Mark, and any other such study, survey, or research document.

### **REQUEST NO. 4.**

Produce documents sufficient to show how Applicant has used Applicant's Mark, or intends to use Applicant's Mark, since their first actual or anticipated uses on or in connection with Applicant's goods or services.

### **REQUEST NO. 5.**

Produce all documents that refer or relate to Applicant's decision to seek federal registration of Applicant's Mark, including Applicant's reasons for seeking federal registration of Applicant's Mark, the process that Applicant followed in reaching its decision, and the identity of the person(s) who made the decision.

**REQUEST NO. 6.**

Produce all documents relating to Applicant's preparation and direction of the filing of the Application.

**REQUEST NO. 7.**

Produce all documents sufficient to show the date(s) of Applicant's first use and date(s) of Applicant's first use in commerce of Applicant's Mark.

**REQUEST NO. 8.**

Produce representative samples of all actual or intended uses of Applicant's Mark, whether in the United States or any other country, including on each different product, and on each different advertisement, brochure, and the like advertising each different service. Photographs or color copies may be produced if the production of a sample is impossible or impractical under the circumstances.

**REQUEST NO. 9.**

Produce all business or marketing plans relating to Applicant's Mark and/or the goods or services Applicant sells or plans to sell using Applicant's Mark.

**REQUEST NO. 10.**

Produce all documents relating to your plans and preparations to use Applicant's Mark, including investment and fundraising communications, product development plans, and internal correspondence and notes.

**REQUEST NO. 11.**

Produce documents sufficient to identify all classes of persons to whom Applicant offers, has offered, or intends to offer its goods or services using Applicant's Mark.

**REQUEST NO. 12.**

Produce at least one original specimen of every version of advertising and promotional

materials you have used, currently use, and/or intend to use in relation to Applicant's use of Applicant's Mark on goods or services you have offered or intend to offer using that mark, including but not limited to web pages, advertisements, brochures, press releases, invoices, and other promotional material or literature. Include with each item documents that provide the date(s) of use, intended use or publication and, as appropriate, a description of where the advertisement or promotion appeared or will appear.

**REQUEST NO. 13.**

Produce all documents referring or relating to media coverage Applicant has received in connection with the goods and services offered or that you intend to offer under Applicant's Mark.

**REQUEST NO. 14.**

Produce documents sufficient to show Applicant's actual and anticipated sales of goods or services in the United States and elsewhere using Applicant's Mark.

**REQUEST NO. 15.**

Produce documents relating to the meaning or consumer perception of Applicant's Mark in relation to the goods or services identified in the Application.

**REQUEST NO. 16.**

Produce all documents that contain or refer to communications to or from consumers, and/or potential consumers, and/or any other third party regarding or referring to Applicant's Mark, or goods or services Applicant offers or plans to offer using those marks.

**REQUEST NO. 17.**

Produce all documents reviewed or relied upon by Applicant in answering Opposer's Interrogatories to Applicant, and not otherwise produced in response to a more specific request herein.

**REQUEST NO. 18.**

Produce all documents identified in response to any interrogatory served on Applicant in this proceeding. The documents produced in response to this request for production should be organized by interrogatory.

**REQUEST NO. 19.**

Produce documents that disclose the identity of representatives, agents, or other distribution mechanisms through which goods or services using Applicant's Mark are sold, have been offered or sold, or are intended to be offered or sold to consumers.

**REQUEST NO. 20.**

Produce all documents relating to the contemplation of or constituting any agreement, assignment, consent, authorization, permission, or license made between Applicant and any other entity, or made on Applicant's behalf, to use Applicant's Mark or any other mark incorporating the term REALITY.

**REQUEST NO. 21.**

Produce all documents relating to any communications between Applicant and Apple, Inc., Novel Brands USA LLC, or any other person discussing or relating to Applicant's Mark, Opposer, or any use of the term "reality."

**REQUEST NO. 22.**

Produce all documents that refer or relate to any and all relationships, agreements, or affiliations of any kind involving Applicant and any company that manufactures, provides, promotes, rents, or sells virtual reality, augmented reality, and computer software, hardware, and design products or services of any type.

**REQUEST NO. 23.**

Produce all documents that refer or relate to past, present, and/or future plans of



Applicant to be involved in any manner with virtual reality, augmented reality, and computer software, hardware and design products or services of any type.

**REQUEST NO. 24.**

For each fact witness whom Applicant intends to call in this proceeding, please produce the following:

- a. A resume or employment history; and
- b. All documents considered or reviewed by the witness in preparing to testify in this proceeding.

**REQUEST NO. 25.**

Produce all documents identified in any Federal Rule of Civil Procedure 26(a) disclosures.

**REQUEST NO. 26.**

Produce all documents in Applicant's possession, custody, or control that refer or relate to Opposer, or Opposer's use of Opposer's Mark.

**REQUEST NO. 27.**

Produce all documents concerning Applicant's knowledge of any person's use, attempted registration, or registration of any mark incorporating the term REALITY.

**REQUEST NO. 28.**

Produce all documents and things relating or referring to each conflict, dispute, consent, or litigation involving Applicant's Mark or any other mark incorporating the term REALITY, specifically including all related settlement documents and all related communications, both internal and external, whether such communications originated with you or a third party and whether or not suit was ever filed.

**REQUEST NO. 29.**

Produce all documents that refer or relate to any instance in which you have objected in any way to a third party's use, registration, or application for registration of a mark, product name, or designation that you claimed was confusingly similar to Applicant's Mark or that otherwise incorporated the term REALITY.

**REQUEST NO. 30.**

Produce all documents that refer or relate to any instances in which a third party has objected in any way to your use, registration, or application for registration of Applicant's Mark.

**REQUEST NO. 31.**

Produce all documents reviewed or relied upon by Applicant in answering Opposer's Notice of Opposition, and not otherwise produced in response to a more specific request herein.

**REQUEST NO. 32.**

Produce all documents reviewed or relied upon by Applicant in drafting any application for Applicant's Mark.

**REQUEST NO. 33.**

Produce all documents and things concerning any email or mailing lists used in connection with promoting any goods or services under Applicant's Mark.

**REQUEST NO. 34.**

Produce all documents that refer or relate to Applicant's past, present, and/or future plans to expand its business over the next five (5) years. Responsive documents include any and all plans or associated communications relating to expanded or different goods or services, new retail and business locations (including the location of any such new retail and business locations), new territories, or any other alteration or change to the business of Applicant.

**REQUEST NO. 35.**

Produce documents sufficient to describe any document retention policy or policies that would govern the documents requested herein, and that would identify the custodian(s) of such documents, including documents referring to your document destruction policies.

**REQUEST NO. 36.**

Produce all documents and things that Applicant intends to rely on or use in the examination of witnesses during depositions or at any proceeding in this Opposition.

**REQUEST NO. 37.**

To the extent not produced in response to the foregoing requests, all documents that support or refute Applicant's contentions in this proceeding, including, but not limited to, any documents that support or refute any factual allegations or legal theories or conclusions Opposer has presented in its Notice of Opposition.

Date: June 29, 2022

Respectfully,

By: /s/ Felicia J. Boyd

Felicia J. Boyd

Andrea K. Shannon

Norton Rose Fulbright US LLP

RBC Plaza

60 South Sixth Street, Suite 3100

Minneapolis, MN 55402

Tel: 612 321 2800

Fax: 612 321 2288

Felicia.Boyd@nortonrosefulbright.com

Andrea.Shannon@nortonrosefulbright.com

ATTORNEYS FOR OPPOSER

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of OPPOSER’S FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS has been served via electronic mail to Applicant’s attorney at the address below, today, June 29, 2022.

Nicholas J. Gingo  
Mark C. Johnson  
Renner, Otto, Boisselle, & Sklar, LLP  
1621 Euclid Avenue, 19<sup>th</sup> Floor  
Cleveland, Ohio 44115  
[ngingo@rennerotto.com](mailto:ngingo@rennerotto.com)  
[trademarks@rennerotto.com](mailto:trademarks@rennerotto.com)  
[ip@rennerotto.com](mailto:ip@rennerotto.com)  
[ltagarao@rennerotto.com](mailto:ltagarao@rennerotto.com)  
[mjohnson@rennerotto.com](mailto:mjohnson@rennerotto.com)  
[sboone@rennerotto.com](mailto:sboone@rennerotto.com)  
[litigation@rennerotto.com](mailto:litigation@rennerotto.com)

*/Andrea K. Shannon/*  
By: Andrea K. Shannon

# Exhibit F

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

In the matter of Application No. 88726903

Zerodensity Yazilim Anonim Sirketi,

Opposer,

v.

The CALANY Holding S.à r.l. (formerly  
TMRW Foundation IP & Holding S.a.r.l),

Applicant.

Opposition No. 91273593

**APPLICANT’S RESPONSES TO OPPOSER’S FIRST SET OF INTERROGATORIES TO  
APPLICANT**

Pursuant to 37 CFR §2.120 and Rule 33 of the Federal Rules of Civil Procedure, The CALANY Holding S.à r.l. (“Applicant”) submits the following objections and responses to Opposer, Zerodensity Yazilim Anonim Sirketi, (“Opposer”) First Set of Interrogatories as follows. Applicant’s responses are based on information presently known to it, and Applicant reserves the right to assert additional objections, and to supplement these responses based on information that subsequently arises.

**GENERAL STATEMENTS**

Applicant’s responses are made without in any way waiving or intending to waive but, on the contrary, intending to preserve and preserving:

(1) The right to raise all questions of authenticity, relevancy, materiality, privilege, and admissibility as to evidence or documents or things produced and/or information provided for any purpose that may arise in any subsequent proceeding in, or hearing of, this or any action;

(2) The right to object on any grounds at any time to the use of the produced documents or things and/or information provided in any subsequent proceeding in, or hearing of, this or any other action on any other ground;

(3) The right to object on any grounds at any time to other interrogatories or requests for the production of documents and things or other discovery involving the produced documents or things, the subject matter thereof, and/or the information provided; and

(4) The right to make further answers if subsequent inspections of Applicant's files uncover additional documents, things, and/or information called for in these interrogatories, as Applicant's investigation of the facts and evidence pertinent to this action has not been completed.

Unless otherwise indicated, words and terms used in the following responses shall be construed in accordance with their normal meanings and connotations, and shall in no way be interpreted as terms of art used under contract or other laws, and Applicant specifically disavows any such meaning or connotation that might be accorded such terms.

Applicant's objections to the production of any documents or things, or category of documents or things called for by these requests for the production of documents or things, or category of documents or things are not to be construed as an admission by Applicant that any such documents or things, or category of documents or things exist.

The following responses are based upon information presently available to and located by Applicant and its attorneys. Applicant has not completed preparation for trial.

The identification of relevant documents pursuant to Fed. R. Civ. P. 33(d) provided in any response or supplemental response by Applicant is limited to the identification of documents produced by Applicant and does not include an identification of documents produced by

Opposer, as Opposer has full access to and is aware of all such requested relevant documents within its possession.

### **GENERAL OBJECTIONS**

1. Applicant objects to Opposer's Definitions and Interrogatories to the extent that any of them require or attempt to require responsive discovery in any matter beyond the scope of discovery permitted by the Federal Rules of Civil Procedure or purport to impose any requirement or burden that is beyond that imposed by the Federal Rules of Civil Procedure or applicable Trademark Trial and Appeal Board rules.

2. Applicant objects to Opposer's Instructions regarding privilege as imposing a burden on Applicant beyond that required by rule. To the extent Applicant provides a privilege log, it will provide information it deems sufficient.

3. Applicant objects to Opposer's Instructions to the extent they require Applicant to guess, approximate or estimate.

4. Applicant objects to Opposer's Definitions and Interrogatories to the extent that they inquire into information and/or events subject to the attorney-client privilege, the work-product doctrine, any other applicable privilege or protection, and/or any other applicable common law or statutory privileges, doctrines or immunities. If any such information is disclosed, except pursuant to a specific written agreement covering such information, the disclosure shall be deemed inadvertent and shall not be an intention to waive any applicable privilege or immunity.

5. Applicant objects to Opposer's Definitions and Interrogatories to the extent that they call for information that constitutes, contains, or discloses confidential trade secrets and/or



proprietary information of a non-public and commercially sensitive nature. Information responsive to such interrogatories will be provided subject to a protective order in this case.

6. Applicant objects to Opposer's Definitions and Interrogatories to the extent that they inquire into information and/or events not relevant to the subject matter of the pending litigation, are vague, overbroad, burdensome, not relevant to any party's claim or defense and proportional to the needs of the case, considering the importance of the issues at stake in the action, 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.

7. Applicant objects to Opposer's Definitions and Interrogatories on the grounds that they are unreasonably and unduly burdensome to the extent that responsive information is equally available to Opposer, thereby placing a burden and expense on Applicant that should be equitably borne by Opposer.

8. While Applicant has attempted to follow Opposer's Definitions and Interrogatories to the extent deemed appropriate, objection is made with respect to such Definitions and Interrogatories to the extent that they are inconsistent with, and attempt to expand upon, the scope of discovery properly affordable to Opposer under the Federal Rules of Civil Procedure.

9. Applicant objects to Opposer's Definitions and Interrogatories to the extent that they seek information not within the possession, custody or control of Applicant.

10. Applicant specifically objects to Opposer's Definitions and Interrogatories to the extent that the definition of "Applicant's Mark" includes any variations thereof used by

Applicant. Applicant limits the definition of “Applicant’s Mark” to only the mark REALITYOS as covered by Application Serial No. 88/726,903 and subject to Opposition No. 91273593.

11. Applicant specifically objects to Opposer’s Definitions and Interrogatories to the extent that the definition of “you,” “your,” or “Applicant” includes persons and/or entities that are not part of Applicant and/or outside of Applicant’s control. Applicant will respond to these Interrogatories and produce documents and things based on information in its possession, custody, and control.

12. Applicant objects to Opposer’s Definitions and Interrogatories to the extent they seek information or documents that Applicant is not permitted to disclose pursuant to confidentiality obligations or agreements with third parties.

13. The foregoing objections and limitations shall be applicable to, and included in, the response by Applicant to every Interrogatory. The following specific objections and responses are made to the Interrogatories.

## **INTERROGATORIES**

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

Describe in reasonable detail all the facts and circumstances surrounding the selection and adoption of Applicant’s Mark, including, but not limited to, the identity of all persons involved in the selection process; any meetings in which the selection or adoption of Applicant’s Mark was discussed, as well as a detailed account of such meetings.

### **RESPONSE:**

Applicant incorporates the General Objections as if fully rewritten herein. Applicant also objects to this request to the extent it seeks disclosure of information that contains confidential trade secrets and/or proprietary information of a non-public and commercially sensitive nature,

and further to the extent it seeks disclosure of information protected by attorney-client privilege and/or the work-product doctrine.

Subject to and without waiving the foregoing general and specific objections, Applicant selected Applicant's Mark in 2017 when Cevat Yerli was looking at a software brand that would allow for the handling of complex calculations in virtual/augmented and mixed reality spaces, especially in the context of 3D worlds. Cevat Yerli determined that he liked REALITYOS and was involved in obtaining protection in Europe for REALITYOS. In 2019, Applicant filed an application for registration of REALITYOS in the United States. The European and U.S. applications speak for themselves.

## **INTERROGATORY NO. 2.**

Describe in reasonable detail all steps taken to clear Applicant's Mark, including all research conducted, alternative names considered, and an explanation of how and why Applicant's Mark was chosen.

### **RESPONSE:**

Applicant incorporates the General Objections as if fully rewritten herein. Applicant further objects to the term "clear" as vague, ambiguous and overly broad. Applicant also objects to this request to the extent it seeks disclosure of information that contains confidential trade secrets and/or proprietary information of a non-public and commercially sensitive nature, and further to the extent it seeks disclosure of information protected by attorney-client privilege and/or the work-product doctrine.

Subject to and without waiving the foregoing general and specific objections, Applicant considered ROS as an alternative to REALITYOS. An in-house search was performed by Javier

Peñalba for ROS and REALITYOS. REALITYOS was chosen because Cevat Yerli preferred REALITYOS over ROS.

**INTERROGATORY NO. 3.**

Describe all market research conducted by or on behalf of Applicant concerning Opposer or Opposer's Marks or any goods or services marketed or proposed to be marketed under Opposer's Marks, including the results of such research.

**RESPONSE:**

Applicant incorporates the General Objections as if fully rewritten herein. Applicant also objects to this request to the extent it seeks disclosure of information that contains confidential trade secrets and/or proprietary information of a non-public and commercially sensitive nature.

Subject to and without waiving the foregoing general and specific objections, Applicant has not conducted market research concerning Opposer, Opposer's Marks or any goods or services marketed or proposed to be marketed under Opposer's Marks.

**INTERROGATORY NO. 4.**

Identify and explain Applicant's decision to seek federal registration of Applicant's Mark. Your answer should include Applicant's reasons for seeking federal registration of Applicant's Mark, the process that Applicant followed in reaching its decision, and the identity of the person(s) who made the decision.

**RESPONSE:**

Applicant incorporates the General Objections as if fully rewritten herein. Applicant also objects to this request to the extent it seeks disclosure of information that contains confidential trade secrets and/or proprietary information of a non-public and commercially sensitive nature,

and further to the extent it seeks disclosure of information protected by attorney-client privilege and/or the work-product doctrine.

Subject to and without waiving the foregoing general and specific objections, Applicant incorporates its response to Interrogatory Nos. 1 and 2. Cevat Yerli made the decision. Applicant sought protection of Applicant's Mark because it intended to use Applicant's Mark in connection with the goods and services identified in its Application and desired the protections afforded by federal registration of Applicant's Mark.

**INTERROGATORY NO. 5.**

Describe in reasonable detail your plans to use Applicant's Mark at the time you decided to seek federal registration of Applicant's Mark, and all preparations you had made in support of such plans prior to filing the Application.

**RESPONSE:**

Applicant incorporates the General Objections as if fully rewritten herein. Applicant also objects to this request to the extent it seeks disclosure of information that contains confidential trade secrets and/or proprietary information of a non-public and commercially sensitive nature, and further to the extent it seeks disclosure of information protected by attorney-client privilege and/or the work-product doctrine.

Subject to and without waiving the foregoing general and specific objections, pursuant to Fed. R. Civ. P. 33(d), Applicant will produce non-privileged documents within its possession custody, or control from which requested information may be derived.

**INTERROGATORY NO. 6.**

Identify documents supporting or refuting your declaration on the Application that Applicant had a bona fide intention to use Applicant's Mark in commerce in connection with the products and services identified in the Application.

**RESPONSE:**

Applicant incorporates the General Objections as if fully rewritten herein. Applicant also objects to this request to the extent it seeks disclosure of information that contains confidential trade secrets and/or proprietary information of a non-public and commercially sensitive nature, and further to the extent it seeks disclosure of information protected by attorney-client privilege and/or the work-product doctrine.

In addition, Opposer's discovery responses demonstrate that Opposer never had a legitimate basis to challenge Applicant's bona fide intentions to use Applicant's Mark. Opposer has not established a prima facie case that Applicant's application is invalid for lack of the requisite bona fide intention to use its mark. Opposer's interrogatory seeks information that is unduly burdensome and disproportional to the needs of the case, considering the importance of the issues at stake in the action, 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. This interrogatory is nothing more than an improper fishing expedition by Opposer and does not seek information relevant to any legitimate claim.

**INTERROGATORY NO. 7.**

Identify all documents and their corresponding dates relating to your plans and preparations to use Applicant's Mark, including, but not limited to, business plans, investment or

fundraising communications, product development, advertising plans and materials, and internal correspondence and notes.

**RESPONSE:**

Applicant incorporates the General Objections as if fully rewritten herein. Applicant also objects to the phrases “all documents” as vague, ambiguous, and overly broad. In addition, attempting to identify and collect “all” such documents and communications would be unduly burdensome to Applicant and is not proportional to the needs of the case. Applicant also objects to this request to the extent it seeks disclosure of information that contains confidential trade secrets and/or proprietary information of a non-public and commercially sensitive nature, and further to the extent it seeks disclosure of information protected by attorney-client privilege and/or the work-product doctrine.

In addition, Opposer’s discovery responses demonstrate that Opposer never had a legitimate basis to challenge Applicant’s bona fide intentions to use Applicant’s Mark. Opposer has not established a prima facie case that Applicant’s application is invalid for lack of the requisite bona fide intention to use its mark. Opposer’s interrogatory seeks information that is unduly burdensome and disproportional to the needs of the case, considering the importance of the issues at stake in the action, 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. This interrogatory is nothing

more than an improper fishing expedition by Opposer and does not seek information relevant to any legitimate claim.

**INTERROGATORY NO. 8.**

Identify all goods and services planned to be or that currently are advertised, distributed, sold, or offered by you using Applicant's Mark.

**RESPONSE:**

Applicant incorporates the General Objections as if fully rewritten herein.

In addition, Opposer's discovery responses demonstrate that Opposer never had a legitimate basis to challenge Applicant's bona fide intentions to use Applicant's Mark. Opposer has not established a prima facie case that Applicant's application is invalid for lack of the requisite bona fide intention to use its mark. Opposer's interrogatory seeks information that is unduly burdensome and disproportional to the needs of the case, considering the importance of the issues at stake in the action, 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. This interrogatory is nothing more than an improper fishing expedition by Opposer and does not seek information relevant to any legitimate claim.

**INTERROGATORY NO. 9.**

For each good and service described in the answers to Interrogatory No. 8, describe in reasonable detail how you offer or intend to market and offer such goods and services, including the channels of trade through which each such good or service has been or will be sold or distributed by you, including the class(es) of customer(s) for each such good or service, and the geographic scope for each such channel of trade.



**RESPONSE:**

Applicant incorporates the General Objections as if fully rewritten herein. Applicant also objects to this request to the extent it seeks disclosure of information that contains confidential trade secrets and/or proprietary information of a non-public and commercially sensitive nature.

In addition, Opposer's discovery responses demonstrate that Opposer never had a legitimate basis to challenge Applicant's bona fide intentions to use Applicant's Mark. Opposer has not established a prima facie case that Applicant's application is invalid for lack of the requisite bona fide intention to use its mark. Opposer's interrogatory seeks information that is unduly burdensome and disproportional to the needs of the case, considering the importance of the issues at stake in the action, 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. This interrogatory is nothing more than an improper fishing expedition by Opposer and does not seek information relevant to any legitimate claim.

**INTERROGATORY NO. 10.**

Identify all locations where each good and service described in the answers to Interrogatory No. 8 has been or will be manufactured and/or sold.

**RESPONSE:**

Applicant incorporates the General Objections as if fully rewritten herein. Applicant also objects to this request to the extent it seeks disclosure of information that contains confidential trade secrets and/or proprietary information of a non-public and commercially sensitive nature.

In addition, Opposer's discovery responses demonstrate that Opposer never had a legitimate basis to challenge Applicant's bona fide intentions to use Applicant's Mark. Opposer

has not established a prima facie case that Applicant's application is invalid for lack of the requisite bona fide intention to use its mark. Opposer's interrogatory seeks information that is unduly burdensome and disproportional to the needs of the case, considering the importance of the issues at stake in the action, 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. This interrogatory is nothing more than an improper fishing expedition by Opposer and does not seek information relevant to any legitimate claim.

**INTERROGATORY NO. 11.**

Describe in reasonable detail whether the goods and services identified in Interrogatory No. 8 have any relationship to the term "reality," as defined by common dictionaries, including virtual or augmented reality technologies.

**RESPONSE:**

Applicant incorporates the General Objections as if fully rewritten herein. Applicant also objects to this request to the extent it seeks disclosure of information that contains confidential trade secrets and/or proprietary information of a non-public and commercially sensitive nature. Applicant further objects to the term "common dictionaries" as vague, ambiguous and overly broad, as Applicant is unable to determine which dictionaries encompass "common dictionaries." Applicant additionally objects to this interrogatory as unduly burdensome, as it requires Applicant to review any and all dictionaries defining the term "reality" as well as determine whether any such dictionaries refer to "virtual or augmented reality technologies" as stated by Opposer. Applicant also objects to this request to the extent it seeks disclosure of information

that contains confidential trade secrets and/or proprietary information of a non-public and commercially sensitive nature.

In addition, Opposer's discovery responses demonstrate that Opposer never had a legitimate basis to challenge Applicant's bona fide intentions to use Applicant's Mark. Opposer has not established a prima facie case that Applicant's application is invalid for lack of the requisite bona fide intention to use its mark. Opposer's interrogatory seeks information that is unduly burdensome and disproportional to the needs of the case, considering the importance of the issues at stake in the action, 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. This interrogatory is nothing more than an improper fishing expedition by Opposer and does not seek information relevant to any legitimate claim.

**INTERROGATORY NO. 12.**

Describe in reasonable detail whether the goods and services identified in Interrogatory No. 6 use, rely on, or provide an "operating system," meaning system software that manages computer hardware, software resources, and/or provides common services for computer programs.

**RESPONSE:**

Applicant incorporates the General Objections as if fully rewritten herein. Applicant also objects to this request to the extent it seeks disclosure of information that contains confidential trade secrets and/or proprietary information of a non-public and commercially sensitive nature.

Subject to and without waiving the foregoing general and specific objections, Interrogatory No. 6 does not identify any goods or services.

**INTERROGATORY NO. 13.**

Describe all facts and circumstances concerning your decision to incorporate the term “REALITY” in Applicant’s Mark.

**RESPONSE:**

Applicant incorporates the General Objections as if fully rewritten herein. Applicant also objects to this request to the extent it seeks disclosure of information that contains confidential trade secrets and/or proprietary information of a non-public and commercially sensitive nature, and further to the extent it seeks disclosure of information protected by attorney-client privilege and/or the work-product doctrine.

Subject to and without waiving the foregoing general and specific objections, Applicant included the term “REALITY” in Applicant’s Mark because it liked the term and believed the incorporation of the term “REALITY” in Applicant’s Mark would resonate with customers.

**INTERROGATORY NO. 14.**

Describe all your past, present, and anticipated efforts to promote or advertise goods and services using Applicant’s Mark, including websites, social media accounts, and physical signage.

**RESPONSE:**

Applicant incorporates the General Objections as if fully rewritten herein. Applicant also objects to this request to the extent it seeks disclosure of information that contains confidential trade secrets and/or proprietary information of a non-public and commercially sensitive nature.

Subject to and without waiving the foregoing general and specific objections, the efforts which Applicant promotes and advertises, and intends to promote and advertise, goods and services intended to be sold in connection with Applicant’s Mark include the following:

- <https://www.tmrw.com>
- <https://room3d.com/>
- Social media platforms including LinkedIn, Twitter, Facebook and Instagram.

In addition, Applicant's website and public social media platforms including LinkedIn and Twitter, which are readily accessible to Opposer, provide additional information regarding the efforts used by Applicant to promote and advertise, and intends to promote and advertise, goods and services intended to be sold in connection with Applicant's Mark.

**INTERROGATORY NO. 15.**

Describe in reasonable detail how and why the original owners of EU Registration No. 016933368 were selected and why Applicant sought to rely on this registration as a registration basis for the Application.

**RESPONSE:**

Applicant incorporates the General Objections as if fully rewritten herein. Applicant also objects to this request to the extent it seeks disclosure of information that contains confidential trade secrets and/or proprietary information of a non-public and commercially sensitive nature, and further to the extent it seeks disclosure of information protected by attorney-client privilege and/or the work-product doctrine.

Subject to and without waiving the foregoing general and specific objections, the original owners of EU Registration No. 016933368 were not selected. Applicant relied on EU Registration No. 016933368 as a registration basis for the Application because the Trademark Act permits the owner of foreign trademark to rely on the registration of a mark in the foreign applicant's country of origin to establish a basis for registration of a trademark under §44(e) (15 U.S.C. §1126).

**INTERROGATORY NO. 16.**

Identify whether and how the mark subject to EU Registration No. 016933368 has been used in commerce within the European Union.

**RESPONSE:**

Applicant incorporates the General Objections as if fully rewritten herein.

In addition, Opposer's discovery responses demonstrate that Opposer never had a legitimate basis to challenge Applicant's bona fide intentions to use Applicant's Mark. Opposer has not established a prima facie case that Applicant's application is invalid for lack of the requisite bona fide intention to use its mark. Opposer's interrogatory seeks information that is unduly burdensome and disproportional to the needs of the case, considering the importance of the issues at stake in the action, 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. This interrogatory is nothing more than an improper fishing expedition by Opposer and does not seek information relevant to any legitimate claim.

**INTERROGATORY NO. 17.**

Explain Applicant's relationship to the current owners of record of EU Registration No. 016933368.

**RESPONSE:**

Applicant incorporates the General Objections as if fully rewritten herein.

Subject to and without waiving the foregoing general and specific objections, the owner of EU Registration No. 016933368, CRAS Ventures DWC-LLC, is an affiliate of Applicant.

**INTERROGATORY NO. 18.**

Identify the person who directed counsel to prepare and file the Application and describe in reasonable detail how the Application details, including the identification of goods and services, filing basis, and declaration signature, were determined and finalized.

**RESPONSE:**

Applicant incorporates the General Objections as if fully written herein. Applicant incorporates the General Objections as if fully rewritten herein. Applicant also objects to this request to the extent it seeks disclosure of information that contains confidential trade secrets and/or proprietary information of a non-public and commercially sensitive nature, and further to the extent it seeks disclosure of information protected by attorney-client privilege and/or the work-product doctrine.

Subject to and without waiving the foregoing general and specific objections, Javier Peñalba directed counsel to prepare and file the Application.

**INTERROGATORY NO. 19.**

State by month the gross amount(s) of revenue, if any, from the sale of goods bearing Applicant's Mark from the date of first use to present.

**RESPONSE:**

Applicant incorporates the General Objections as if fully rewritten herein. Applicant also objects to this request to the extent it seeks disclosure of information that contains confidential trade secrets and/or proprietary information of a non-public and commercially sensitive nature.

Subject to and without waiving the foregoing general and specific objections, Applicant has not yet offered goods or services for sale in connection with Applicant's Mark.

**INTERROGATORY NO. 20.**

Identify all documents relating to or constituting any agreement made between you and any other entity regarding Applicant's Mark. This request should be interpreted broadly to include any manufacturing agreement relating to Applicant's Mark, any license agreement, or coexistence agreement, to give but a few examples.

**RESPONSE:**

Applicant incorporates the General Objections as if fully rewritten herein. Applicant also objects to the phrases "all documents relating to or constituting any agreement" as vague, ambiguous, and overly broad. In addition, attempting to identify and collect "all" such documents and communications would be unduly burdensome to Applicant and is not proportional to the needs of the case. Applicant also objects to this request to the extent it seeks disclosure of information that contains confidential trade secrets and/or proprietary information of a non-public and commercially sensitive nature, and further to the extent it seeks disclosure of information protected by attorney-client privilege and/or the work-product doctrine.

Subject to and without waiving the foregoing general and specific objections, pursuant to Fed. R. Civ. P. 33(d), Applicant will produce non-privileged documents within its possession custody, or control from which requested information may be derived.

**INTERROGATORY NO. 21.**

Identify and explain all relationships, agreements, or affiliations of any kind involving Applicant and any company that manufactures, provides, promotes, rents, or sells virtual reality, augmented reality, and computer software, hardware, and design products or services of any type.



**RESPONSE:**

Applicant incorporates the General Objections as if fully rewritten herein. Applicant also objects to the terms “all relationships, agreements and affiliations” as vague and overly broad as it is unclear the level of connection Applicant must have with a company for such relationship to rise to the level of a “relationship” or “affiliation.” In addition, attempting to identify “all” such relationships and affiliations would be unduly burdensome to Applicant and is not proportional to the needs of the case, as Applicant may have “relationships” and “affiliations” with numerous companies in the product industry which do not relate to the needs of the case and are not likely to lead to the discovery of relevant information. Applicant also objects to this request to the extent it seeks disclosure of information that contains confidential trade secrets and/or proprietary information of a non-public and commercially sensitive nature.

In addition, Opposer’s discovery responses demonstrate that Opposer never had a legitimate basis to challenge Applicant’s bona fide intentions to use Applicant’s Mark. Opposer has not established a prima facie case that Applicant’s application is invalid for lack of the requisite bona fide intention to use its mark. Opposer’s interrogatory seeks information that is unduly burdensome and disproportional to the needs of the case, considering the importance of the issues at stake in the action, 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. This interrogatory is nothing more than an improper fishing expedition by Opposer and does not seek information relevant to any legitimate claim.

**INTERROGATORY NO. 22.**

Identify all persons who have had primary supervisory responsibility for Applicant's sales and marketing efforts for the past five (5) years.

**RESPONSE:**

Applicant incorporates the General Objections as if fully rewritten herein.

Subject to and without waiving the foregoing general and specific objections, to the extent any person has primary supervisory responsibility for Applicant's sales and marketing efforts, such person would be Cevat Yerli.

**INTERROGATORY NO. 23.**

Identify any and all persons with whom you have discussed selling, transferring, licensing, or assigning Applicant's rights in Applicant's Mark.

**RESPONSE:**

Applicant incorporates the General Objections as if fully rewritten herein. Applicant also objects to this request to the extent it seeks disclosure of information that contains confidential trade secrets and/or proprietary information of a non-public and commercially sensitive nature, and further to the extent it seeks disclosure of information protected by attorney-client privilege and/or the work-product doctrine.

Subject to and without waiving the foregoing general and specific objections, Applicant has had discussions with Mario Cundari from Novel Brands.

**INTERROGATORY NO. 24.**

Identify all persons likely to have knowledge of discoverable information related to the facts alleged in Opposer's Notice of Opposition, or Applicant's Answer to the Notice of Opposition.

**RESPONSE:**

Applicant incorporates the General Objections as if fully rewritten herein.

Subject to and without waiving the foregoing general and specific objections, Applicant identifies the individuals identified in Opposer's Initial Disclosures and Applicant's Initial Disclosures.

**INTERROGATORY NO. 25.**

Identify the person with the most knowledge of the facts alleged in Applicant's trademark application that is the subject of this proceeding, and/or Applicant's Answer to the Notice of Opposition.

**RESPONSE:**

Applicant incorporates the General Objections as if fully rewritten herein.

Subject to and without waiving the foregoing general and specific objections, Javier Peñalba is most knowledgeable of the facts set forth in the Application.

**INTERROGATORY NO. 26.**

Identify each person whom you may call as a fact witness in this proceeding and provide the expected subject matter of their testimony.

**RESPONSE:**

Applicant incorporates the General Objections as if fully rewritten herein.

Subject to and without waiving the foregoing general and specific objections, Applicant identifies the individuals identified in Opposer's Initial Disclosures and Applicant's Initial Disclosures.

**INTERROGATORY NO. 27.**

Identify each lawsuit, administrative proceeding, or other dispute involving Applicant or Applicant's Mark.

**RESPONSE:**

Applicant incorporates the General Objections as if fully rewritten herein.

Subject to and without waiving the foregoing general and specific objections, the only lawsuit involving Applicant or Applicant's Mark is the present above-captioned opposition proceeding filed by Opposer.

**INTERROGATORY NO. 28.**

Identify all persons, including, but not limited to those from Apple, Inc., with whom you have discussed Opposer or Opposer's Mark.

**RESPONSE:**

Subject to and without waiving the foregoing general and specific objections, Applicant has discussed Opposer's Mark with the following individuals:

- Mehmet Özkan – mehmet.ozkan@zerodensity.tv
- Ulaş Kaçmaz – ulas.kacmaz@zerodensity.tv
- Kuban Altan – kuban.altan@zerodensity.tv
- Emre Berkin – emre@emreberkin.com.

**INTERROGATORY NO. 29.**

Identify all persons who participated in any way in the preparation of the answers or responses to these interrogatories and state by interrogatory the area of participation of each person.

**RESPONSE:**

Applicant incorporates the General Objections as if fully rewritten herein.

Subject to and without waiving the foregoing general and specific objections, Javier Peñalba assisted with the preparation of the responses to these interrogatories along with counsel for Applicant.

**INTERROGATORY NO. 30.**

Identify all documents upon which you relied in answering these Opposer's First Set of Interrogatories to Applicant and identify the custodian(s) of such documents.

**RESPONSE:**

Applicant incorporates the General Objections as if fully rewritten herein. Applicant also objects to this request to the extent it seeks disclosure of information that contains confidential trade secrets and/or proprietary information of a non-public and commercially sensitive nature, and further to the extent it seeks disclosure of information protected by attorney-client privilege and/or the work-product doctrine.

Subject to and without waiving the foregoing general and specific objections, Applicant will identify documents pursuant to Rule 33(d) to the extent such rule is invoked by Applicant in response to a particular interrogatory.

Dated: July 29, 2022

As to the objections,

*/Mark C. Johnson/*

Mark C. Johnson

mjohnson@rennerotto.com

Nicholas J. Gingo

ngingo@rennerotto.com

Lauren K. Tagarao

ltagarao@rennerotto.com

Renner, Otto, Boisselle, & Sklar, LLP

1621 Euclid Ave., Floor 19

Cleveland Ohio 44115

Phone: 216.621.1113

Fax: 216.621.6165

*Attorneys for Applicant*

*The CALANY Holding S.à r.l.*

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on July 29, 2022 a true and correct copy of the foregoing document is being served on the following by email:

Felicia J. Boyd ([Felicia.Boyd@nortonrosefulbright.com](mailto:Felicia.Boyd@nortonrosefulbright.com))

Andrea K. Shannon ([Andrea.Shannon@nortonrosefulbright.com](mailto:Andrea.Shannon@nortonrosefulbright.com))

*/ Sarah L. Boone/* \_\_\_\_\_  
An attorney for Applicant

# Exhibit G



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

In the matter of Application No. 88726903

Zerodensity Yazilim Anonim Sirketi,

Opposer,

v.

The CALANY Holding S.à r.l. (formerly  
TMRW Foundation IP & Holding S.a.r.l),

Applicant.

Opposition No. 91273593

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

Pursuant to 37 CFR § 2.120 and Rule 34 of the Federal Rules of Civil Procedure, The CALANY Holding S.à r.l. (“Applicant”) submits the following objections and responses to Opposer, Zerodensity Yazaki Anonim Sirketi’s, (“Opposer”) First Set of Requests for Production, served June 29, 2022, as follows:

**GENERAL STATEMENTS**

Applicant’s responses are made without in any way waiving or intending to waive but, on the contrary, intending to preserve and preserving:

(1) the right to raise all questions or relevancy, materiality, privilege, and admissibility into evidence of any documents or things produced and/or information provided for any purpose that may arise in any subsequent proceeding in, or hearing of, this or any action;

(2) the right to use of the produced documents or things and/or information provided in any subsequent proceeding in, or hearing of, this or any other action on any other ground; and

(3) the right to make further answers or to supplement or revise responses if Applicant's files uncover additional information called for in these requests for the production of documents and things, as Applicant's investigation of the facts and the evidence pertinent to this action has not been completed.

Unless otherwise indicated, words and terms used in the following responses shall be construed in accordance with their normal meanings and connotations, and shall in no way be interpreted as terms of art, and Applicant specifically disavows any such meaning or connotation that might be accorded such terms.

Applicant's objections to the production of any documents or things, or category of documents or things called for by these requests for the production of documents or things, or category of documents or things are not to be construed as an admission by Applicant that any such documents or things, or category of documents or things exist.

The following responses are based upon information presently available to and located by Applicant and its attorneys. Applicant has not completed its investigation of the facts relating to this case, has not completed discovery in this action, and has not completed preparation for trial.

### **GENERAL OBJECTIONS**

1. Applicant incorporates its objections to the definitions contained in Opposer's First Set of Interrogatories to Applicant set forth in its response to same, served herewith.

2. Applicant objects to Opposer's Instructions and Requests to the extent that any of them require or attempt to require responsive discovery in any matter beyond the scope of discovery permitted by the Federal Rules of Civil Procedure or purport to impose upon Applicant

any requirement or burden that is beyond that imposed by the Federal Rules of Civil Procedure or applicable Trademark Trial and Appeal Board rules.

3. While Applicant has attempted to follow Opposer's Instructions and Requests to the extent deemed appropriate, objection is made with respect to such Instructions and Requests to the extent that they are inconsistent with, and attempt to expand upon, the proper scope of discovery under the Federal Rules of Civil Procedure or applicable Trademark Trial and Appeal Board rules.

4. Applicant objects Opposer's Instructions and Requests to the extent that they inquire into information and/or events subject to the attorney-client privilege, the work-product doctrine, any other applicable privilege or protection, and/or any other applicable common law or statutory privileges, doctrines or immunities. If any such information is disclosed, except pursuant to a specific written agreement covering such information, the disclosure shall be deemed inadvertent and shall not be an intention to waive any applicable privilege or immunity.

5. Applicant objects to Opposer's Instructions and Requests to the extent that they call for information that constitutes, contains, or discloses confidential trade secrets and/or proprietary information of a non-public and commercially sensitive nature. Documents and things responsive to such Requests will be provided subject to a protective order in this case.

6. Applicant objects to Opposer's Instructions and Requests to the extent that they inquire into information and/or events not relevant to the subject matter of the pending proceeding, are vague, overbroad, burdensome, not relevant to any party's claim or defense and disproportional to the needs of the case, considering the importance of the issues at stake in the action, 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.

7. Applicant objects to the Instructions and Requests to the extent that they require Applicant to organize production by request or identify which requests correspond to which documents. Such requirement exceeds the limits of the Federal Rules of Civil Procedure.

8. Applicant objects to the Instructions and Requests to the extent that they require Applicant to provide more information relating to privileged documents and things than is required under the Federal Rules of Civil Procedure.

9. Applicant objects to the Instructions and Requests as being overly broad due to Opposer's failure to restrict the requests to a time frame relevant to the present dispute. Unless stated otherwise below, Applicant will limit its production of documents and things relating to Applicant's intention to use and ownership to a time period commencing one year prior to the filing of the subject trademark application and ending one year after the filing of the subject trademark application.

10. Applicant will not provide a privilege log for the time period commencing after December 12, 2021 or for documents solely related to the administration or defense of this lawsuit on the grounds that doing so would be unduly burdensome.

11. Applicant will produce non-privileged, responsive documents as specified below and as they are located on a rolling basis.

12. Applicant objects to all requests for documents and things relating in any way to Applicant's intention to use Applicant's Mark in connection with any goods or services. Opposer's discovery responses demonstrate that Opposer never had a legitimate basis to

challenge Applicant's bona fide intentions to use Applicant's Mark. Any such requests would be rendered moot if Applicant's motion for partial summary judgment is granted.

13. The foregoing objections and limitations shall be applicable to, and included in, the response by Applicant to every Request propounded by Opposer. The following specific objections and responses are made to the Requests propounded by Opposer.

### **REQUESTS**

#### **REQUEST NO. 1.**

Produce all documents and things relating to Applicant's selection and adoption of Applicant's Mark.

#### **RESPONSE:**

Applicant incorporates the General Objections as if fully rewritten herein. Applicant further objects to the phrase "all documents and things" as vague, ambiguous, and overly broad. Attempting to identify and collect "all documents and things" would be unduly burdensome to Applicant and not proportional to the needs of the case. Applicant also objects to this request as overly broad in that it is not limited to activity relating to Applicant's rights in the United States and to the extent purports to require disclosure of information that constitutes, contains, or discloses confidential trade secrets and/or proprietary information of a non-public and commercially-sensitive nature, or that is protected by the attorney-client privilege, the work product doctrine or any other applicable protection from discovery. Applicant further objects to the extent this Request seeks documents that are publicly available or otherwise available to Opposer.

Subject to and without waiving the foregoing general and specific objections, Applicant will produce, subject to a protective order, responsive nonprivileged documents limited to the relevant time frame within its possession, custody, or control obtained through a reasonable search.

**REQUEST NO. 2.**

Produce all documents relating to Application Serial No. 88/726,903, EU Registration No. 016933368, and/or any other application or registration owned by Applicant for any mark that includes any variation of Applicant's Mark.

**RESPONSE:**

Applicant incorporates the General Objections as if fully rewritten herein. Applicant further objects to the phrase "all documents" as vague, ambiguous, and overly broad. Attempting to identify and collect "all documents" would be unduly burdensome to Applicant and not proportional to the needs of the case. Applicant also objects to this request to the extent it purports to require disclosure of information that constitutes, contains, or discloses confidential trade secrets and/or proprietary information of a non-public and commercially-sensitive nature, or that is protected by the attorney-client privilege, the work product doctrine or any other applicable protection from discovery. Applicant further objects to the extent this Request seeks documents that are publicly available or otherwise available to Opposer.

Subject to and without waiving the foregoing general and specific objections, Applicant will produce, subject to a protective order, responsive nonprivileged documents limited to the relevant time frame within its possession, custody, or control obtained through a reasonable search.

**REQUEST NO. 3.**

Produce all search reports, studies, surveys, and/or research that relate to Applicant's Mark including, without limitation, consumer surveys related to Applicant's Mark and/or the goods or services Applicant has offered or intends to offer using Applicant's Mark, market research relating to Applicant's Mark and/or the goods or services Applicant has offered or intends to offer using Applicant's Mark, and any other such study, survey, or research document.

**RESPONSE:**

Applicant incorporates the General Objections as if fully rewritten herein. Applicant also objects to this request as overly broad in that it is not limited to activity relating to Applicant's rights in the United States and to the extent purports to require disclosure of information that constitutes, contains, or discloses confidential trade secrets and/or proprietary information of a non-public and commercially-sensitive nature, or that is protected by the attorney-client privilege, the work product doctrine or any other applicable protection from discovery.

Subject to and without waiving the foregoing general and specific objections, Applicant will produce, subject to a protective order, responsive nonprivileged documents limited to the relevant time frame within its possession, custody, or control obtained through a reasonable search.

**REQUEST NO. 4.**

Produce documents sufficient to show how Applicant has used Applicant's Mark, or intends to use Applicant's Mark, since their first actual or anticipated uses on or in connection with Applicant's goods or services.

**RESPONSE:**

Applicant incorporates the General Objections as if fully rewritten herein. Applicant also objects to this request as overly broad in that it is not limited to activity relating to Applicant's rights in the United States and further to the extent it involves activity outside the relevant time frame, which is at the time the U.S. application was filed. Applicant further objects to this request to the extent it purports to require disclosure of information that constitutes, contains, or discloses confidential trade secrets and/or proprietary information of a non-public and commercially-sensitive nature, or that is protected by the attorney-client privilege, the work product doctrine or any other applicable protection from discovery.

In addition, Opposer's discovery responses demonstrate that Opposer never had a legitimate basis to challenge Applicant's bona fide intentions to use Applicant's Mark. Opposer has not established a prima facie case that Applicant's application is invalid for lack of the requisite bona fide intention to use its mark. Opposer's request seeks information that is unduly burdensome and disproportional to the needs of the case, considering the importance of the issues at stake in the action, 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. This request is nothing more than an improper fishing expedition by Opposer and does not seek information relevant to any legitimate claim.

**REQUEST NO. 5.**

Produce all documents that refer or relate to Applicant's decision to seek federal registration of Applicant's Mark, including Applicant's reasons for seeking federal registration



of Applicant's Mark, the process that Applicant followed in reaching its decision, and the identity of the person(s) who made the decision.

**RESPONSE:**

Applicant incorporates the General Objections as if fully rewritten herein. Applicant further objects to the phrase "all documents" as vague, ambiguous, and overly broad. Attempting to identify and collect "all documents" would be unduly burdensome to Applicant and not proportional to the needs of the case. Applicant also objects to this request to the extent it purports to require disclosure of information that constitutes, contains, or discloses confidential trade secrets and/or proprietary information of a non-public and commercially-sensitive nature, or that is protected by the attorney-client privilege, the work product doctrine or any other applicable protection from discovery.

Subject to and without waiving the foregoing general and specific objections, Applicant will produce, subject to a protective order, responsive nonprivileged documents limited to the relevant time frame within its possession, custody, or control obtained through a reasonable search.

**REQUEST NO. 6.**

Produce all documents relating to Applicant's preparation and direction of the filing of the Application.

**RESPONSE:**

Applicant incorporates the General Objections as if fully rewritten herein. Applicant further objects to the phrase "all documents" as vague, ambiguous, and overly broad. Attempting to identify and collect "all documents" would be unduly burdensome to Applicant and not proportional to the needs of the case. Applicant also objects to this request to the extent it

purports to require disclosure of information that constitutes, contains, or discloses confidential trade secrets and/or proprietary information of a non-public and commercially-sensitive nature, or that is protected by the attorney-client privilege, the work product doctrine or any other applicable protection from discovery.

Subject to and without waiving the foregoing general and specific objections, Applicant will produce, subject to a protective order, responsive nonprivileged documents limited to the relevant time frame within its possession, custody, or control obtained through a reasonable search.

**REQUEST NO. 7.**

Produce all documents sufficient to show the date(s) of Applicant's first use and date(s) of Applicant's first use in commerce of Applicant's Mark.

**RESPONSE:**

Applicant incorporates the General Objections as if fully rewritten herein. Applicant further objects to the phrase "all documents" as vague, ambiguous, and overly broad. Attempting to identify and collect "all documents" would be unduly burdensome to Applicant and not proportional to the needs of the case. Applicant further objects to this request as overly broad in that it is not limited to activity relating to Applicant's rights in the United States. Applicant also objects to this request to the extent it purports to require disclosure of information that constitutes, contains, or discloses confidential trade secrets and/or proprietary information of a non-public and commercially-sensitive nature, or that is protected by the attorney-client privilege, the work product doctrine or any other applicable protection from discovery.

Subject to and without waiving the foregoing general and specific objections, Applicant will produce, subject to a protective order, responsive nonprivileged documents limited to the

relevant time frame within its possession, custody, or control obtained through a reasonable search.

**REQUEST NO. 8.**

Produce representative samples of all actual or intended uses of Applicant's Mark, whether in the United States or any other country, including on each different product, and on each different advertisement, brochure, and the like advertising each different service.

Photographs or color copies may be produced if the production of a sample is impossible or impractical under the circumstances.

**RESPONSE:**

Applicant incorporates the General Objections as if fully rewritten herein. Applicant further objects to this request as overly broad in that it is not limited to activity relating to Applicant's rights in the United States, and unduly burdensome to the extent it requires production of actual samples.

In addition, Opposer's discovery responses demonstrate that Opposer never had a legitimate basis to challenge Applicant's bona fide intentions to use Applicant's Mark. Opposer has not established a prima facie case that Applicant's application is invalid for lack of the requisite bona fide intention to use its mark. Opposer's request seeks information that is unduly burdensome and disproportional to the needs of the case, considering the importance of the issues at stake in the action, 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. This request is nothing more than an improper fishing expedition by Opposer and does not seek information relevant to any legitimate claim.

**REQUEST NO. 9.**

Produce all business or marketing plans relating to Applicant's Mark and/or the goods or services Applicant sells or plans to sell using Applicant's Mark.

**RESPONSE:**

Applicant incorporates the General Objections as if fully rewritten herein. Applicant also objects to this request to the extent it purports to require disclosure of information that constitutes, contains, or discloses confidential trade secrets and/or proprietary information of a non-public and commercially-sensitive nature, or that is protected by the attorney-client privilege, the work product doctrine or any other applicable protection from discovery.

In addition, Opposer's discovery responses demonstrate that Opposer never had a legitimate basis to challenge Applicant's bona fide intentions to use Applicant's Mark. Opposer has not established a prima facie case that Applicant's application is invalid for lack of the requisite bona fide intention to use its mark. Opposer's request seeks information that is unduly burdensome and disproportional to the needs of the case, considering the importance of the issues at stake in the action, 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. This request is nothing more than an improper fishing expedition by Opposer and does not seek information relevant to any legitimate claim.

**REQUEST NO. 10.**

Produce all documents relating to your plans and preparations to use Applicant's Mark, including investment and fundraising communications, product development plans, and internal correspondence and notes.

**RESPONSE:**

Applicant incorporates the General Objections as if fully rewritten herein. Applicant further objects to the phrase “all documents” as vague, ambiguous, and overly broad. Attempting to identify and collect “all documents” would be unduly burdensome to Applicant and not proportional to the needs of the case. Applicant further objects to this request as overly broad in that it is not limited to activity relating to Applicant’s rights in the United States. Applicant also objects to this request to the extent it purports to require disclosure of information that constitutes, contains, or discloses confidential trade secrets and/or proprietary information of a non-public and commercially-sensitive nature, or that is protected by the attorney-client privilege, the work product doctrine or any other applicable protection from discovery.

In addition, Opposer’s discovery responses demonstrate that Opposer never had a legitimate basis to challenge Applicant’s bona fide intentions to use Applicant’s Mark. Opposer has not established a prima facie case that Applicant’s application is invalid for lack of the requisite bona fide intention to use its mark. Opposer’s request seeks information that is unduly burdensome and disproportional to the needs of the case, considering the importance of the issues at stake in the action, 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. This request is nothing more than an improper fishing expedition by Opposer and does not seek information relevant to any legitimate claim.

**REQUEST NO. 11.**

Produce documents sufficient to identify all classes of persons to whom Applicant offers, has offered, or intends to offer its goods or services using Applicant’s Mark.

**RESPONSE:**

Applicant incorporates the General Objections as if fully rewritten herein. Applicant further objects to this request as seeking information not relevant to the present action.

In addition, Opposer's discovery responses demonstrate that Opposer never had a legitimate basis to challenge Applicant's bona fide intentions to use Applicant's Mark. Opposer has not established a prima facie case that Applicant's application is invalid for lack of the requisite bona fide intention to use its mark. Opposer's request seeks information that is unduly burdensome and disproportional to the needs of the case, considering the importance of the issues at stake in the action, 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. This request is nothing more than an improper fishing expedition by Opposer and does not seek information relevant to any legitimate claim.

**REQUEST NO. 12.**

Produce at least one original specimen of every version of advertising and promotional materials you have used, currently use, and/or intend to use in relation to Applicant's use of Applicant's Mark on goods or services you have offered or intend to offer using that mark, including but not limited to web pages, advertisements, brochures, press releases, invoices, and other promotional material or literature. Include with each item documents that provide the date(s) of use, intended use or publication and, as appropriate, a description of where the advertisement or promotion appeared or will appear.

**RESPONSE:**

Applicant incorporates the General Objections as if fully rewritten herein. Applicant further objects to this request as overly broad in that it is not limited to activity relating to Applicant's rights in the United States and further to the extent it involves activity outside the relevant time frame, which is at the time the U.S. application was filed. Applicant also objects to this request to the extent it purports to require disclosure of information that constitutes, contains, or discloses confidential trade secrets and/or proprietary information of a non-public and commercially-sensitive nature.

In addition, Opposer's discovery responses demonstrate that Opposer never had a legitimate basis to challenge Applicant's bona fide intentions to use Applicant's Mark. Opposer has not established a prima facie case that Applicant's application is invalid for lack of the requisite bona fide intention to use its mark. Opposer's request seeks information that is unduly burdensome and disproportional to the needs of the case, considering the importance of the issues at stake in the action, 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. This request is nothing more than an improper fishing expedition by Opposer and does not seek information relevant to any legitimate claim.

**REQUEST NO. 13.**

Produce all documents referring or relating to media coverage Applicant has received in connection with the goods and services offered or that you intend to offer under Applicant's Mark.

**RESPONSE:**

Applicant incorporates the General Objections as if fully rewritten herein. Applicant further objects to this request as overly broad in that it is not limited to activity relating to Applicant's rights in the United States and further to the extent it involves activity outside the relevant time frame, which is at the time the U.S. application was filed. Applicant also objects to this request to the extent it purports to require disclosure of information that constitutes, contains, or discloses confidential trade secrets and/or proprietary information of a non-public and commercially-sensitive nature, or that is protected by the attorney-client privilege, the work product doctrine or any other applicable protection from discovery.

Subject to and without waiving the foregoing general and specific objections, Applicant will produce, subject to a protective order, responsive nonprivileged documents limited to the relevant time frame within its possession, custody, or control obtained through a reasonable search.

**REQUEST NO. 14.**

Produce documents sufficient to show Applicant's actual and anticipated sales of goods or services in the United States and elsewhere using Applicant's Mark.

**RESPONSE:**

Applicant incorporates the General Objections as if fully rewritten herein. Applicant further objects to this request as overly broad in that it is not limited to activity relating to Applicant's rights in the United States and further to the extent it involves activity outside the relevant time frame, which is at the time the U.S. application was filed. Applicant also objects to this request to the extent it purports to require disclosure of information that constitutes, contains,



or discloses confidential trade secrets and/or proprietary information of a non-public and commercially-sensitive nature.

Subject to and without waiving the foregoing general and specific objections, Applicant will produce, subject to a protective order, responsive nonprivileged documents limited to the relevant time frame within its possession, custody, or control obtained through a reasonable search.

**REQUEST NO. 15.**

Produce documents relating to the meaning or consumer perception of Applicant's Mark in relation to the goods or services identified in the Application.

**RESPONSE:**

Applicant incorporates the General Objections as if fully rewritten herein. Applicant further objects to this request as overly broad in that it is not limited to activity relating to Applicant's rights in the United States and further to the extent it involves activity outside the relevant time frame, which is at the time the U.S. application was filed. Applicant also objects to this request to the extent it purports to require disclosure of information that constitutes, contains, or discloses confidential trade secrets and/or proprietary information of a non-public and commercially-sensitive nature, or that is protected by the attorney-client privilege, the work product doctrine or any other applicable protection from discovery.

Subject to and without waiving the foregoing general and specific objections, Applicant will produce, subject to a protective order, responsive nonprivileged documents limited to the relevant time frame within its possession, custody, or control obtained through a reasonable search.

**REQUEST NO. 16.**

Produce all documents that contain or refer to communications to or from consumers, and/or potential consumers, and/or any other third party regarding or referring to Applicant's Mark, or goods or services Applicant offers or plans to offer using those marks.

**RESPONSE:**

Applicant incorporates the General Objections as if fully rewritten herein. Applicant further objects to the phrase "all documents" as vague, ambiguous, and overly broad. Attempting to identify and collect "all documents" would be unduly burdensome to Applicant and not proportional to the needs of the case. Applicant also objects to this request to the extent it purports to require disclosure of information that constitutes, contains, or discloses confidential trade secrets and/or proprietary information of a non-public and commercially-sensitive nature, or that is protected by the attorney-client privilege, the work product doctrine or any other applicable protection from discovery.

Subject to and without waiving the foregoing general and specific objections, Applicant will produce, subject to a protective order, responsive nonprivileged documents limited to the relevant time frame within its possession, custody, or control obtained through a reasonable search.

**REQUEST NO. 17.**

Produce all documents reviewed or relied upon by Applicant in answering Opposer's Interrogatories to Applicant, and not otherwise produced in response to a more specific request herein.

**RESPONSE:**

Applicant incorporates the General Objections as if fully rewritten herein. Applicant further objects to the phrase “all documents” as vague, ambiguous, and overly broad. Attempting to identify and collect “all documents” would be unduly burdensome to Applicant and not proportional to the needs of the case. Applicant also objects to this request to the extent it purports to require disclosure of information that constitutes, contains, or discloses confidential trade secrets and/or proprietary information of a non-public and commercially-sensitive nature, or that is protected by the attorney-client privilege, the work product doctrine or any other applicable protection from discovery.

Subject to and without waiving the foregoing general and specific objections, Applicant will produce, subject to a protective order, responsive nonprivileged documents limited to the relevant time frame within its possession, custody, or control obtained through a reasonable search.

**REQUEST NO. 18.**

Produce all documents identified in response to any interrogatory served on Applicant in this proceeding. The documents produced in response to this request for production should be organized by interrogatory.

**RESPONSE:**

Applicant incorporates the General Objections as if fully rewritten herein. Applicant further objects to the phrase “all documents” as vague, ambiguous, and overly broad. Attempting to identify and collect “all documents” would be unduly burdensome to Applicant and not proportional to the needs of the case. Applicant also objects to this request to the extent it purports to require disclosure of information that constitutes, contains, or discloses confidential

trade secrets and/or proprietary information of a non-public and commercially-sensitive nature, or that is protected by the attorney-client privilege, the work product doctrine or any other applicable protection from discovery. Applicant additionally objects to Opposer's instruction to organize documents by category as unduly burdensome.

Subject to and without waiving the foregoing general and specific objections, Applicant will produce, subject to a protective order, responsive nonprivileged documents limited to the relevant time frame within its possession, custody, or control obtained through a reasonable search.

**REQUEST NO. 19.**

Produce documents that disclose the identity of representatives, agents, or other distribution mechanisms through which goods or services using Applicant's Mark are sold, have been offered or sold, or are intended to be offered or sold to consumers.

**RESPONSE:**

Applicant incorporates the General Objections as if fully rewritten herein. Applicant also objects to this request to the extent it purports to require disclosure of information that constitutes, contains, or discloses confidential trade secrets and/or proprietary information of a non-public and commercially-sensitive nature, or that is protected by the attorney-client privilege, the work product doctrine or any other applicable protection from discovery.

Subject to and without waiving the foregoing general and specific objections, Applicant will produce, subject to a protective order, responsive nonprivileged documents limited to the relevant time frame within its possession, custody, or control obtained through a reasonable search.

**REQUEST NO. 20.**

Produce all documents relating to the contemplation of or constituting any agreement, assignment, consent, authorization, permission, or license made between Applicant and any other entity, or made on Applicant's behalf, to use Applicant's Mark or any other mark incorporating the term REALITY.

**RESPONSE:**

Applicant incorporates the General Objections as if fully rewritten herein. Applicant further objects to the phrase "all documents" as vague, ambiguous, and overly broad. Attempting to identify and collect "all documents" would be unduly burdensome to Applicant and not proportional to the needs of the case. Applicant also objects to this request to the extent it purports to require disclosure of information that constitutes, contains, or discloses confidential trade secrets and/or proprietary information of a non-public and commercially-sensitive nature, or that is protected by the attorney-client privilege, the work product doctrine or any other applicable protection from discovery.

Subject to and without waiving the foregoing general and specific objections, Applicant will produce, subject to a protective order, responsive nonprivileged documents limited to the relevant time frame within its possession, custody, or control obtained through a reasonable search.

**REQUEST NO. 21.**

Produce all documents relating to any communications between Applicant and Apple, Inc., Novel Brands USA LLC, or any other person discussing or relating to Applicant's Mark, Opposer, or any use of the term "reality."

**RESPONSE:**

Applicant incorporates the General Objections as if fully rewritten herein. Applicant further objects to the phrase “all documents” as vague, ambiguous, and overly broad. Attempting to identify and collect “all documents” would be unduly burdensome to Applicant and not proportional to the needs of the case. Applicant also objects to this request to the extent it purports to require disclosure of information that constitutes, contains, or discloses confidential trade secrets and/or proprietary information of a non-public and commercially-sensitive nature, or that is protected by the attorney-client privilege, the work product doctrine or any other applicable protection from discovery. In addition, any communications between Applicant and Opposer are equally accessible to Opposer. Applicant will not produce such documents.

Subject to and without waiving the foregoing general and specific objections, Applicant will produce, subject to a protective order, responsive nonprivileged documents limited to the relevant time frame within its possession, custody, or control obtained through a reasonable search.

**REQUEST NO. 22.**

Produce all documents that refer or relate to any and all relationships, agreements, or affiliations of any kind involving Applicant and any company that manufactures, provides, promotes, rents, or sells virtual reality, augmented reality, and computer software, hardware, and design products or services of any type.

**RESPONSE:**

Applicant incorporates the General Objections as if fully rewritten herein. Applicant further objects to the phrase “all documents” as vague, ambiguous, and overly broad. Attempting to identify and collect “all documents” would be unduly burdensome to Applicant and not

proportional to the needs of the case. Applicant also objects to this request to the extent it purports to require disclosure of information that constitutes, contains, or discloses confidential trade secrets and/or proprietary information of a non-public and commercially-sensitive nature, or that is protected by the attorney-client privilege, the work product doctrine or any other applicable protection from discovery.

Subject to and without waiving the foregoing general and specific objections, Applicant will produce, subject to a protective order, responsive nonprivileged documents limited to the relevant time frame within its possession, custody, or control obtained through a reasonable search.

**REQUEST NO. 23.**

Produce all documents that refer or relate to past, present, and/or future plans of Applicant to be involved in any manner with virtual reality, augmented reality, and computer software, hardware and design products or services of any type.

**RESPONSE:**

Applicant incorporates the General Objections as if fully rewritten herein. Applicant further objects to the phrase “all documents” as vague, ambiguous, and overly broad. Attempting to identify and collect “all documents” would be unduly burdensome to Applicant and not proportional to the needs of the case. Applicant also objects to this request to the extent it purports to require disclosure of information that constitutes, contains, or discloses confidential trade secrets and/or proprietary information of a non-public and commercially-sensitive nature, or that is protected by the attorney-client privilege, the work product doctrine or any other applicable protection from discovery.

In addition, Opposer's discovery responses demonstrate that Opposer never had a legitimate basis to challenge Applicant's bona fide intentions to use Applicant's Mark. Opposer has not established a prima facie case that Applicant's application is invalid for lack of the requisite bona fide intention to use its mark. Opposer's request seeks information that is unduly burdensome and disproportional to the needs of the case, considering the importance of the issues at stake in the action, 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. This request is nothing more than an improper fishing expedition by Opposer and does not seek information relevant to any legitimate claim.

**REQUEST NO. 24.**

For each fact witness whom Applicant intends to call in this proceeding, please produce the following:

- a. A resume or employment history; and
- b. All documents considered or reviewed by the witness in preparing to testify in this proceeding.

**RESPONSE:**

Applicant incorporates the General Objections as if fully rewritten herein. Applicant further objects to the phrase "all documents" as vague, ambiguous, and overly broad. Attempting to identify and collect "all documents" would be unduly burdensome to Applicant and not proportional to the needs of the case. Applicant further objects to this request to the extent it seeks information outside the custody or control of Applicant. Applicant also objects to this request to the extent it purports to require disclosure of information that constitutes, contains, or discloses confidential trade secrets and/or proprietary information of a non-public and



commercially-sensitive nature, or that is protected by the attorney-client privilege, the work product doctrine or any other applicable protection from discovery.

Subject to and without waiving the foregoing general and specific objections, Applicant will produce, subject to a protective order, responsive nonprivileged documents limited to the relevant time frame within its possession, custody, or control obtained through a reasonable search.

**REQUEST NO. 25.**

Produce all documents identified in any Federal Rule of Civil Procedure 26(a) disclosures.

**RESPONSE:**

Applicant incorporates the General Objections as if fully rewritten herein. Applicant further objects to the phrase “all documents” as vague, ambiguous, and overly broad. Attempting to identify and collect “all documents” would be unduly burdensome to Applicant and not proportional to the needs of the case. Applicant also objects to this request to the extent it purports to require disclosure of information that constitutes, contains, or discloses confidential trade secrets and/or proprietary information of a non-public and commercially-sensitive nature, or that is protected by the attorney-client privilege, the work product doctrine or any other applicable protection from discovery. Moreover, Applicant identified broad categories of documents, not specific documents, and expressly indicated that such identification of categories of documents did not necessarily mean any such documents exist.

Subject to and without waiving the foregoing general and specific objections, Applicant will produce, subject to a protective order, responsive nonprivileged documents limited to the

relevant time frame within its possession, custody, or control obtained through a reasonable search.

**REQUEST NO. 26.**

Produce all documents in Applicant's possession, custody, or control that refer or relate to Opposer, or Opposer's use of Opposer's Mark.

**RESPONSE:**

Applicant incorporates the General Objections as if fully rewritten herein. Applicant further objects to the phrase "all documents that refer or relate to Opposer, or Opposer's use of Opposer's Mark" as overly broad. Attempting to identify and collect "all" such documents would be unduly burdensome to Applicant and not proportional to the needs of the case. Applicant also objects to this request to the extent it purports to require disclosure of information that constitutes, contains, or discloses confidential trade secrets and/or proprietary information of a non-public and commercially-sensitive nature, or that is protected by the attorney-client privilege, the work product doctrine or any other applicable protection from discovery. In addition, any communications between Applicant and Opposer are equally accessible to Opposer. Applicant will not produce such documents.

Subject to and without waiving the foregoing general and specific objections, Applicant will produce, subject to a protective order, responsive nonprivileged documents limited to the relevant time frame within its possession, custody, or control obtained through a reasonable search.

**REQUEST NO. 27.**

Produce all documents concerning Applicant's knowledge of any person's use, attempted registration, or registration of any mark incorporating the term REALITY.

**RESPONSE:**

Applicant incorporates the General Objections as if fully rewritten herein. Applicant further objects to the phrase “all documents” as vague, ambiguous, and overly broad. Attempting to identify and collect “all documents” would be unduly burdensome to Applicant and not proportional to the needs of the case. Applicant also objects to this request to the extent it purports to require disclosure of information that constitutes, contains, or discloses confidential trade secrets and/or proprietary information of a non-public and commercially-sensitive nature, or that is protected by the attorney-client privilege, the work product doctrine or any other applicable protection from discovery.

Subject to and without waiving the foregoing general and specific objections, Applicant will produce, subject to a protective order, responsive nonprivileged documents limited to the relevant time frame within its possession, custody, or control obtained through a reasonable search.

**REQUEST NO. 28.**

Produce all documents and things relating or referring to each conflict, dispute, consent, or litigation involving Applicant’s Mark or any other mark incorporating the term REALITY, specifically including all related settlement documents and all related communications, both internal and external, whether such communications originated with you or a third party and whether or not suit was ever filed.

**RESPONSE:**

Applicant incorporates the General Objections as if fully rewritten herein. Applicant further objects to the phrase “all documents” as vague, ambiguous, and overly broad. Attempting to identify and collect “all documents” would be unduly burdensome to Applicant and not

proportional to the needs of the case. Applicant also objects to this request to the extent it purports to require disclosure of information that constitutes, contains, or discloses confidential trade secrets and/or proprietary information of a non-public and commercially-sensitive nature, or that is protected by the attorney-client privilege, the work product doctrine or any other applicable protection from discovery.

Subject to and without waiving the foregoing general and specific objections, Applicant will produce, subject to a protective order, responsive nonprivileged documents limited to the relevant time frame within its possession, custody, or control obtained through a reasonable search.

**REQUEST NO. 29.**

Produce all documents that refer or relate to any instance in which you have objected in any way to a third party's use, registration, or application for registration of a mark, product name, or designation that you claimed was confusingly similar to Applicant's Mark or that otherwise incorporated the term REALITY.

**RESPONSE:**

Applicant incorporates the General Objections as if fully rewritten herein. Applicant further objects to the phrase "all documents" as vague, ambiguous, and overly broad. Attempting to identify and collect "all documents" would be unduly burdensome to Applicant and not proportional to the needs of the case. Applicant also objects to this request to the extent it purports to require disclosure of information that constitutes, contains, or discloses confidential trade secrets and/or proprietary information of a non-public and commercially-sensitive nature, or that is protected by the attorney-client privilege, the work product doctrine or any other applicable protection from discovery.

Subject to and without waiving the foregoing general and specific objections, Applicant will produce, subject to a protective order, responsive nonprivileged documents limited to the relevant time frame within its possession, custody, or control obtained through a reasonable search.

**REQUEST NO. 30.**

Produce all documents that refer or relate to any instances in which a third party has objected in any way to your use, registration, or application for registration of Applicant's Mark.

**RESPONSE:**

Applicant incorporates the General Objections as if fully rewritten herein. Applicant further objects to the phrase "all documents" as vague, ambiguous, and overly broad. Attempting to identify and collect "all documents" would be unduly burdensome to Applicant and not proportional to the needs of the case. Applicant also objects to this request to the extent it purports to require disclosure of information that constitutes, contains, or discloses confidential trade secrets and/or proprietary information of a non-public and commercially-sensitive nature, or that is protected by the attorney-client privilege, the work product doctrine or any other applicable protection from discovery.

Subject to and without waiving the foregoing general and specific objections, Applicant will produce, subject to a protective order, responsive nonprivileged documents limited to the relevant time frame within its possession, custody, or control obtained through a reasonable search.

**REQUEST NO. 31.**

Produce all documents reviewed or relied upon by Applicant in answering Opposer's Notice of Opposition, and not otherwise produced in response to a more specific request herein.

**RESPONSE:**

Applicant incorporates the General Objections as if fully rewritten herein. Applicant further objects to the phrase “all documents” as vague, ambiguous, and overly broad. Attempting to identify and collect “all documents” would be unduly burdensome to Applicant and not proportional to the needs of the case. Applicant also objects to this request to the extent it purports to require disclosure of information that constitutes, contains, or discloses confidential trade secrets and/or proprietary information of a non-public and commercially-sensitive nature, or that is protected by the attorney-client privilege, the work product doctrine or any other applicable protection from discovery.

Subject to and without waiving the foregoing general and specific objections, Applicant will produce, subject to a protective order, responsive nonprivileged documents limited to the relevant time frame within its possession, custody, or control obtained through a reasonable search.

**REQUEST NO. 32.**

Produce all documents reviewed or relied upon by Applicant in drafting any application for Applicant’s Mark.

**RESPONSE:**

Applicant incorporates the General Objections as if fully rewritten herein. Applicant further objects to the phrase “all documents” as vague, ambiguous, and overly broad. Attempting to identify and collect “all documents” would be unduly burdensome to Applicant and not proportional to the needs of the case. Applicant also objects to this request to the extent it purports to require disclosure of information that constitutes, contains, or discloses confidential trade secrets and/or proprietary information of a non-public and commercially-sensitive nature,

or that is protected by the attorney-client privilege, the work product doctrine or any other applicable protection from discovery.

In addition, Opposer's discovery responses demonstrate that Opposer never had a legitimate basis to challenge Applicant's bona fide intentions to use Applicant's Mark. Opposer has not established a prima facie case that Applicant's application is invalid for lack of the requisite bona fide intention to use its mark. Opposer's request seeks information that is unduly burdensome and disproportional to the needs of the case, considering the importance of the issues at stake in the action, 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. This request is nothing more than an improper fishing expedition by Opposer and does not seek information relevant to any legitimate claim.

**REQUEST NO. 33.**

Produce all documents and things concerning any email or mailing lists used in connection with promoting any goods or services under Applicant's Mark.

**RESPONSE:**

Applicant incorporates the General Objections as if fully rewritten herein. Applicant further objects to the phrase "all documents" as vague, ambiguous, and overly broad. Attempting to identify and collect "all documents" would be unduly burdensome to Applicant and not proportional to the needs of the case. Applicant also objects to this request to the extent it purports to require disclosure of information that constitutes, contains, or discloses confidential trade secrets and/or proprietary information of a non-public and commercially-sensitive nature,

or that is protected by the attorney-client privilege, the work product doctrine or any other applicable protection from discovery.

Subject to and without waiving the foregoing general and specific objections, Applicant will produce, subject to a protective order, responsive nonprivileged documents limited to the relevant time frame within its possession, custody, or control obtained through a reasonable search.

**REQUEST NO. 34.**

Produce all documents that refer or relate to Applicant's past, present, and/or future plans to expand its business over the next five (5) years. Responsive documents include any and all plans or associated communications relating to expanded or different goods or services, new retail and business locations (including the location of any such new retail and business locations), new territories, or any other alteration or change to the business of Applicant.

**RESPONSE:**

Applicant incorporates the General Objections as if fully rewritten herein. Applicant further objects to the phrase "all documents" as vague, ambiguous, and overly broad. Attempting to identify and collect "all documents" would be unduly burdensome to Applicant and not proportional to the needs of the case. Applicant also objects to this request to the extent it purports to require disclosure of information that constitutes, contains, or discloses confidential trade secrets and/or proprietary information of a non-public and commercially-sensitive nature, or that is protected by the attorney-client privilege, the work product doctrine or any other applicable protection from discovery.

Subject to and without waiving the foregoing general and specific objections, Applicant will produce, subject to a protective order, responsive nonprivileged documents limited to the



relevant time frame within its possession, custody, or control obtained through a reasonable search.

**REQUEST NO. 35.**

Produce documents sufficient to describe any document retention policy or policies that would govern the documents requested herein, and that would identify the custodian(s) of such documents, including documents referring to your document destruction policies.

**RESPONSE:**

Applicant incorporates the General Objections as if fully rewritten herein. Applicant also objects to this request to the extent it purports to require disclosure of information that constitutes, contains, or discloses confidential trade secrets and/or proprietary information of a non-public and commercially-sensitive nature, or that is protected by the attorney-client privilege, the work product doctrine or any other applicable protection from discovery.

Subject to and without waiving the foregoing general and specific objections, Applicant will produce, subject to a protective order, responsive nonprivileged documents limited to the relevant time frame within its possession, custody, or control obtained through a reasonable search.

**REQUEST NO. 36.**

Produce all documents and things that Applicant intends to rely on or use in the examination of witnesses during depositions or at any proceeding in this Opposition.

**RESPONSE:**

Applicant incorporates the General Objections as if fully rewritten herein. Applicant further objects to the phrase “all documents and things” as vague, ambiguous, and overly broad. Attempting to identify and collect “all documents and things” would be unduly burdensome to

Applicant and not proportional to the needs of the case. Applicant further objects to this request as premature given the early stages of discovery. Applicant also objects to this request to the extent it purports to require disclosure of information that constitutes, contains, or discloses confidential trade secrets and/or proprietary information of a non-public and commercially-sensitive nature, or that is protected by the attorney-client privilege, the work product doctrine or any other applicable protection from discovery.

Subject to and without waiving the foregoing general and specific objections, Applicant will produce, subject to a protective order, responsive nonprivileged documents limited to the relevant time frame within its possession, custody, or control obtained through a reasonable search.

**REQUEST NO. 37.**

To the extent not produced in response to the foregoing requests, all documents that support or refute Applicant's contentions in this proceeding, including, but not limited to, any documents that support or refute any factual allegations or legal theories or conclusions Opposer has presented in its Notice of Opposition.

**RESPONSE:**

Applicant incorporates the General Objections as if fully rewritten herein. Applicant further objects to the phrase "all documents" as vague, ambiguous, and overly broad. Attempting to identify and collect "all documents" would be unduly burdensome to Applicant and not proportional to the needs of the case. Applicant also objects to this request to the extent it purports to require disclosure of information that constitutes, contains, or discloses confidential trade secrets and/or proprietary information of a non-public and commercially-sensitive nature,

or that is protected by the attorney-client privilege, the work product doctrine or any other applicable protection from discovery.

In addition, Opposer's discovery responses demonstrate that Opposer never had a legitimate basis to challenge Applicant's bona fide intentions to use Applicant's Mark. Opposer has not established a prima facie case that Applicant's application is invalid for lack of the requisite bona fide intention to use its mark. Opposer's request seeks information that is unduly burdensome and disproportional to the needs of the case, considering the importance of the issues at stake in the action, 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.

Subject to and without waiving the foregoing general and specific objections, Applicant will produce, subject to a protective order, responsive nonprivileged documents relating to Opposer's additional legal theories and conclusions and limited to the relevant time frame within its possession, custody, or control obtained through a reasonable search.

Dated: July 29, 2022

As to the objections,

*/Mark C. Johnson/*

Mark C. Johnson

mjohnson@rennerotto.com

Nicholas J. Gingo

ngingo@rennerotto.com

Lauren K. Tagarao

ltagarao@rennerotto.com

Renner, Otto, Boisselle, & Sklar, LLP

1621 Euclid Ave., Floor 19

Cleveland Ohio 44115

Phone: 216.621.1113

***Attorneys for Applicant***

***The CALANY Holding S.à r.l.***

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on July 29, 2022 a true and correct copy of the foregoing document is being served on the following by email:

Felicia J. Boyd ([Felicia.Boyd@nortonrosefulbright.com](mailto:Felicia.Boyd@nortonrosefulbright.com))

Andrea K. Shannon ([Andrea.Shannon@nortonrosefulbright.com](mailto:Andrea.Shannon@nortonrosefulbright.com))

*/Sarah L. Boone/* \_\_\_\_\_  
An attorney for Applicant