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

Proceeding no.	91281307
Party	Defendant Tabacalera Palma, Ltd.
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Submission	Motion to Compel Discovery or Disclosure
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Date	06/22/2023
Attachments	motion to compel.pdf(494985 bytes) exhibit a cover.pdf(185744 bytes) Palma 1st set of RFPs 4 12 23.pdf(464139 bytes) Palma 1st set of Ilogs 4 12 23.pdf(455478 bytes) Palma 1st set of RFAs 4 12 23.pdf(474146 bytes) exhibit b cover.pdf(184930 bytes) Response to Palma 1st set of RFP 5 12 23.pdf(240540 bytes) Response to Palma 1st set of Interrogatories 5 12 23.pdf(413996 bytes) Response to Palma 1st set of RFAs 5 12 23.pdf(152373 bytes) exhibit c cover.pdf(185843 bytes) emails with oc re first discovery dispute.pdf(1184814 bytes)

UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK TRIAL AND APPEAL BOARD

J.C. Newman Cigar Company

Opposer,

v.

Opposition No. 91281307
Opposition to Serial No. 88866282
Cancellation of Registration No. 5998883

Tabacalera Palma, Ltd.

Applicant.

_____ /

MOTION TO COMPEL

Applicant, Tabacalera Palma, Ltd. (“Tabacalera Palma” or “Applicant”), by and through undersigned counsel, hereby files this Motion to Compel seeking complete responses to: 1) Tabacalera Palma LTD’s First Set of Requests for Production to J.C. Newman Cigar Company; 2) Tabacalera Palma LTD’s First Set of Interrogatories to J.C. Newman Cigar Company; and 3) Tabacalera Palma LTD’s First Set of Requests for Admissions to J.C. Newman Cigar Company. In support thereof, Applicant says as follows:

On April 12, 2023, Applicant served Opposer, J.C. Newman Cigar Company (hereinafter “Opposer”) with discovery requests titled Tabacalera Palma LTD’s First Set of Requests for Production to J.C. Newman Cigar Company, Tabacalera Palma LTD’s First Set of Interrogatories to J.C. Newman Cigar Company, and Tabacalera Palma LTD’s First Set of Requests for Admissions to J.C. Newman Cigar Company. See Exhibit A.

Opposer served its responses on May 12, 2023. See Exhibit B. Those responses are deficient for a number of reasons.

Opposer’s responses to requests for production generally promise that “[t]o the extent that non-privileged documents can be located after a reasonable search, Opposer will produce”

See Responses to RFP Nos. 1, 2, 4, 6, 10, 13, 14, 15, 16, 17, 18, 19, 20, 21, 27, and 30. However, no documents have been produced nor has there been any indication of whether responsive documents even exist or even if a search for such documents has been conducted. This is a violation of the rules of discovery. See TBMP §406.04(c) (“It is incumbent upon a responding party to respond to each request by stating whether or not responsive documents exist and, if so, whether they will be produced at a specified reasonable time for inspection or are being withheld based on a claim of privilege or a specified objection.”), see also TBMP §408.02 (“A party served with a request for discovery has a duty to thoroughly search its records for all information properly sought in the request, and to provide such information to the requesting party within the time allowed for responding to the request”). Opposer should be compelled to provide responses that clearly indicate whether a search has been conducted and whether responsive documents exist; and should be further compelled to produce responsive documents.

Throughout the responses to request for production, Opposer assert that the request is “overbroad” but that “[s]ubject to and without waiving this objection” As a general proposition, “such objections preserve[] nothing and serve[] only to waste the time and resources of both the Parties and the Court. Further, such practice leaves the requesting Party uncertain as to whether the question has actually been fully answered or whether only a portion of the question has been answered.” See Thermoset Corp. v. Bldg. Materials Corp. of Am., 2014 U.S. Dist. LEXIS 161343, *4 (S.D. Fla. Nov. 18, 2014)(quoting Cotracom Commodity Trading Co. v. Seaboard Corp., No. CIV. A 97-2391, 1998 U.S. Dist. LEXIS 6726, at *1 (D. Kan. May 6, 1998)). If Opposer has a genuine objection and is withholding documents or refusing to conduct a search based on that objection, Opposer must specifically say so – something that Opposer has not done.

Opposer’s responses to several Requests for Production claim that terms such as “types” (RFP Nos. 4 and 5), “sophisticated consumers” (RFP No. 7), and “significant” (RFP No. 16) are vague or ambiguous. However, each of these terms is, or should be, reasonably understood in the context of the request and applicable law. See Royal Crown Co. v. Coca-Cola Co., 892 F.3d 1358, 1371 (Fed. Cir. 2018)(“[s]econdary meaning is a time-related concept: it exists at a specific time, in a specific place, among a specific group of people who recognize that specified matter indicates commercial origin of a specified **type of product** or service from one unique commercial source.”)(emphasis added); CDOC, Inc. v. Liberty Bankers Life Ins. Co., No. 2020-1643, at *9 (Fed. Cir. Feb. 23, 2021)(“this *DuPont* factor [must] be analyzed based on the perspective of the least **sophisticated consumer**.”)(emphasis added); and In re Spirits Intern., N.V., 563 F.3d 1347, 1353 (Fed. Cir. 2009)(“However, *California Innovations* did not address the question of whether the materiality test of subsection (e)(3) embodies a `requirement that **a significant portion of the relevant consumers** be deceived. We hold that subsection (e)(3) does incorporate such a requirement, and that the appropriate inquiry for materiality purposes is whether a substantial portion of the relevant consumers is likely to be deceived”)(emphasis added). Opposer should be compelled to provide responses that clearly indicate whether a search has been conducted and whether responsive documents exist; and should be further compelled to produce responsive documents.

Opposer objects that RFP No. 15 is “overly broad” but does not say how or why. This is an improper objection. The request seeks documents “that show or tend to show that the term ‘AMERICAN STOGIES’ as used by [Applicant] is deceptive.” This is basic thrust of Opposer’s claim in this case, i.e. that Applicant’s mark is primarily geographically deceptively misdescriptive. There is nothing “overly broad” about this request. Opposer should be compelled

to provide responses that clearly indicate whether a search has been conducted and whether responsive documents exist; and should be further compelled to produce responsive documents.

In response to RFP No. 12, Opposer objects that documents relating to the acquired distinctiveness or secondary meaning of Opposer's "THE AMERICAN" trademark are not relevant. However, Opposer alleged, in support of its claim of standing, that "[i]f Applicant's Mark is allowed to register, it will impact [JC Newman's] ability to protect and enforce its own THE AMERICAN mark for cigars." (D.E. 1, para 24). If Opposer's "THE AMERICAN" trademark lacks acquired distinctiveness or secondary meaning, it is merely descriptive without secondary meaning and unenforceable – leaving Opposer without a basis for standing. As such, the documents are relevant. The request is also relevant to Applicant's counterclaim since it goes to the parties' respective trademark rights (if any in their marks), likelihood of confusion, and priority. Opposer should be compelled to provide responses that clearly indicate whether a search has been conducted and whether responsive documents exist; and should be further compelled to produce responsive documents.

In response to RFP 22-26, Opposer objects claiming that documents sufficient to show the geographic location of Opposer's "THE AMERICAN" cigars are not relevant. However, Opposer has made this issue directly relevant by alleging that "Opposer's cigars are made entirely in the United States from exclusively U.S. materials – from the tobacco to the cigar molds to the wood cabinet boxes. Opposer sells these goods under the mark THE AMERICAN." (D.E. 1, para 23). It is also potentially relevant to the meaning of the word "American" as used in the relevant industry. Opposer should be compelled to provide responses that clearly indicate whether a search has been conducted and whether responsive documents exist; and should be further compelled to produce responsive documents.

In response to RFPs 28 and 29, Opposer objects that they “call[] for documents that may be protected under the attorney work-product doctrine.” However, “[a] party withholding responsive documents on the basis of a claim of privilege must (i) expressly make the claim; and (ii) describe the nature of the documents, communications, or tangible things not produced or disclosed – and do so in a manner that, without revealing information itself privileged or protected, will enable other parties to assess the claim.” See TBMP §406.04(c). Opposer has not complied with this requirement. Opposer should be compelled to either withdraw the objection or produce a compliant privilege log.

In response to Interrogatory No. 9, Opposer claims that it “will produce documents from which Applicant can derive the answer to Interrogatory No. 9 pursuant to FRCP 33(d).” That response is all well and good if such documents are actually produced. To date, no documents have been produced nor has a date been offered for production. Even then, Rule 33(d) does not provide parties with a blank check to produce documents in lieu of a response to an interrogatory. Such production is only available “[i]f the answer to an interrogatory may be determined by examining, auditing, compiling, abstracting, or summarizing a party’s business records (including electronically stored information), and if the burden of deriving or ascertaining the answer will be substantially the same for either party” Unless Opposer maintains business records regarding “instances of consumer confusion or deception as to the geographic origin of Tabacalera Palma’s cigars bearing the “AMERICAN STOGIES” trademark”, production under Rule 33(d) is not an appropriate method of responding to the interrogatory. Opposer should be compelled to produce documents or more fully respond to the interrogatory consistent with the requirements of Rule 33(d) of the Federal Rules of Civil Procedure.

In response to Requests for Admission Nos. 3-8, 10, 12, and 14, Opposer objects “because ‘the Merriam-Webster dictionary’ is neither identified nor described in any manner that would allow Opposer to identify the dictionary.” However, Opposer admitted in response to RFA No. 2 that “<http://www.merriamwebster.com/dictionary/American> offers several definitions of the word ‘American’.” Because the request asks that Opposer “Admit that the definition of the word ‘American’ as provided by the Merriam Webster dictionary can be found at <https://www.merriam-webster.com/dictionary/American>,” Opposer’s subsequent claims to be unable to identify the Merriam-Webster Dictionary are disingenuous. This is especially true in response to RFA No. 6 which provides the same amount of information as RFA No. 2, to which Opposer had no trouble identifying the Merriam-Webster dictionary. Opposer should be deemed to have admitted RFA Nos. 3-8, 10, 12, and 14 or should be compelled to provide consistent responses.

Opposer makes similar objections to RFA Nos. 21 and 23 with respect to the American Heritage Dictionary and the McMillan Dictionary respectively, but like before, Opposer admitted RFA Nos. 20 and 22 which provide the very identification which Opposer claims is missing. Opposer should be deemed to have admitted RFA Nos. 21 and 23 or should be compelled to provide consistent responses.

In response to RFA No. 26, Opposer objects “because it does not provide a URL for ‘Wikipedia’s entry for ‘Americas’.” However, Opposer admitted in response to RFA No. 24 that the URL is found at <https://en.wikipedia.org/wiki/Americas>. Opposer should be deemed to have admitted RFA No. 26 or should be compelled to provide consistent responses.

STATEMENT OF GOOD FAITH EFFORT

On June 13, 2023, the undersigned emailed counsel for Opposer outlining the issues described in this motion and asked that counsel “either confirm in writing by Thursday, June 15,

2023, that these deficiencies will be corrected with amended responses and applicable production to be served not later than June 20, 2023; or let us know when you are available for a telephone conference to discuss whether this dispute can be resolved without the need for a motion to compel.” See Exhibit C.

Opposer’s counsel responded that “[w]e will review the issues raised in your email. We will not be able to meet your June 15 and June 20 deadlines, but will respond in writing once we have completed our analysis.” Id.

Applicant’s counsel was willing to provide Opposer a reasonable period of time to review the issues and to respond, and as indicated in the initial correspondence, was willing to schedule a telephone conference to discuss the issues. However, an open-ended time period without a deadline is not reasonable, and the undersigned advised counsel for Opposer as much on June 14, 2023. Id.

Opposer’s counsel did not respond to the undersigned’s request asking that they “[p]lease let me know when you expect to have a response to the substance of the correspondence” Id.

On June 21, 2023, the undersigned follow up with counsel for the Opposer again. But Opposer’s counsel has remained silent.

Applicant believes that it has made a good faith effort by correspondence to resolve with the other party or its attorneys the issues presented in this motion and has been unable to reach agreement.

WHEREFORE, Applicant requests that the Opposer’s objections described this motion be denied, that Opposer be compelled to respond to the requests as described above, and that Opposer be compelled to produce documents responsive to the requests described above.

Dated: June 22, 2023

Respectfully submitted,

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I hereby certify that a true and correct copy of the foregoing has been served on:

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by email on June 22, 2023

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EXHIBIT A

UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK TRIAL AND APPEAL BOARD

J.C. Newman Cigar Company

Opposer/Counterclaim Respondent,

v.

Proceeding No. 91281307

Tabacalera Palma, Ltd.

Opposition to Serial No. 88866282
Cancellation of Registration No. 5998883

Applicant/Counterclaim Petitioner.

**TABACALERA PALMA LTD.'S FIRST SET
OF REQUESTS FOR PRODUCTION TO J.C. NEWMAN CIGAR COMPANY**

Applicant/Counterclaim Petitioner, Tabacalera Palma, Ltd. (“Tabacalera Palma”), by and through undersigned counsel, pursuant to Rule 34 of the Federal Rules of Civil Procedure and TBMP §406, hereby propounds the following Requests for Production on Opposer/Counterclaim Respondent J.C. Newman Cigar Company (“Newman”) and asks that the same that the same be responded to and that requested documents be produced and returned to the undersigned within 30 days of service hereof.

1. Documents sufficient to establish the date of first use of your “THE AMERICAN” trademark that is the subject of United States Trademark Registration No. 5998883.
2. Representative samples of advertisements goods offered by Newman bearing its “THE AMERICAN” trademark that is the subject of United States Trademark Registration No. 5998883.
3. The results of any trademark searches conducted by Newman or on Newman’s behalf for trademarks that include the term “AMERICAN”.

4. Documents sufficient to identify the types of products offered by Newman under its “THE AMERICAN” trademark that is the subject of United States Trademark Registration No. 5998883.

5. Documents sufficient to identify the types of consumers to which Newman markets its products bearing the “THE AMERICAN” trademark that is the subject of United States Trademark Registration No. 5998883.

6. Documents sufficient to identify the channels of trade through which Newman offers its products bearing the “THE AMERICAN” trademark that is the subject of United States Trademark Registration No. 5998883.

7. Documents sufficient to establish whether the consumers of Newman’s goods bearing the “THE AMERICAN” trademark that is the subject of United States Trademark Registration No. 5998883 are or are not sophisticated consumers.

8. Documents sufficient to show the age range of typical consumers of Newman’s goods bearing the “THE AMERICAN” trademark that is the subject of United States Trademark Registration No. 5998883.

9. Documents sufficient to show the level of education of typical consumers of Newman’s goods bearing the “THE AMERICAN” trademark that is the subject of United States Trademark Registration No. 5998883.

10. Documents on which you intend to rely to show third party use of marks bearing the term “AMERICAN”, if any.

11. Documents, if any, to show the purported fame of Newman’s “THE AMERICAN” trademark that is the subject of United States Trademark Registration No. 5998883.

12. Documents, if any, to show the purported acquired distinctives or secondary meaning of Newman's "THE AMERICAN" trademark that is the subject of United States Trademark Registration No. 5998883.

13. Any evidence of actual consumer confusion or deception as to the geographic origin of Tabacalera Palma's cigars bearing the "AMERICAN STOGIES" trademark.

14. Any documents in your possession or control that show or tend to show actual confusion between the parties' respective "THE AMERICAN" and "AMERICAN STOGIES" trademarks.

15. Documents in your possession that show or tend to show that the term "AMERICAN STOGIES" as used by Tabacalera Palma is deceptive.

16. Documents in your possession or control that show or tend to show that a significant portion of the relevant U.S. consumers would be materially influenced in the decision to purchase Tabacalera Palma's "AMERICAN STOGIES" cigars by the geographic meaning of the mark.

17. Documents in your possession or control that show or tend to show that any portion of the relevant U.S. consumers would be materially influenced in the decision to purchase Tabacalera Palma's "AMERICAN STOGIES" cigars by the geographic meaning of the mark.

18. Documents in your possession or control that show or tend to show that any portion of the relevant U.S. consumers would be in any way influenced in the decision to purchase Tabacalera Palma's "AMERICAN STOGIES" cigars by the geographic meaning of the mark.

19. Documents in your possession or control that show or tend to show the meaning of the term "AMERICAN STOGIES".

20. Documents in your possession or control that show or tend to show the meaning of the term "AMERICAN".

21. Documents in your possession or control that show or tend to show that Tabacalera Palma has made any factual misrepresentations about the geographic origin of its “AMERICAN STOGIES” cigars.

22. Documents sufficient to show the geographic place of origin of the tobacco used in Newman’s cigars bearing the “THE AMERICAN” trademark that is the subject of United States Trademark Registration No. 5998883.

23. Documents sufficient to show the geographic place of origin of the boxes in which Newman’s cigars bearing the “THE AMERICAN” trademark that is the subject of United States Trademark Registration No. 5998883 are packaged and sold.

24. Documents sufficient to show the geographic place of origin of the cigar rings used on Newman’s cigars bearing the “THE AMERICAN” trademark that is the subject of United States Trademark Registration No. 5998883.

25. Documents sufficient to show the geographic location of the rolling facilities used for Newman’s cigars bearing the “THE AMERICAN” trademark that is the subject of United States Trademark Registration No. 5998883.

26. Documents sufficient to show the geographic location of the curing facilities used for the tobacco in Newman’s cigars bearing the “THE AMERICAN” trademark that is the subject of United States Trademark Registration No. 5998883.

27. Copies of any surveys or studies on which you may rely in this case.

28. Copies of any surveys or studies related to the meaning of the term “AMERICAN” or phrases that include the term “AMERICAN”, whether or not you intend to rely on them in this case.

29. Copies of any surveys or studies related to the meaning of the term “AMERICA” or phrases that include the term “AMERICA”, whether or not you intend to rely on them in this case.

30. Documents sufficient to show the price point of Newman’s cigars bearing the “THE AMERICAN” trademark that is the subject of United States Trademark Registration No. 5998883.

Dated: April 12, 2023

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served on:

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by email on April 12, 2023

By: s/GUSTAVO SARDIÑA
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UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK TRIAL AND APPEAL BOARD

J.C. Newman Cigar Company

Opposer/Counterclaim Respondent,

v.

Proceeding No. 91281307

Tabacalera Palma, Ltd.

Opposition to Serial No. 88866282
Cancellation of Registration No. 5998883

Applicant/Counterclaim Petitioner.

**TABACALERA PALMA LTD.'S FIRST SET
OF INTERROGATORIES TO J.C. NEWMAN CIGAR COMPANY**

Applicant/Counterclaim Petitioner, Tabacalera Palma, Ltd. (“Tabacalera Palma”), by and through undersigned counsel, pursuant to Rule 33 of the Federal Rules of Civil Procedure and TBMP §405, hereby propounds the following Interrogatories on Opposer/Counterclaim Respondent J.C. Newman Cigar Company (“Newman”) and asks that the same that the same be responded to, affirmed under oath, and returned to the undersigned within 30 days of service hereof.

1. Identify by name and provide contact information for every expert on whose opinion you intend to rely in this case. In doing so, please provide the subject and substance of the opinion on which the expert is expected to opine.
2. Identify any and all surveys on which you intend to rely in this case.
3. State the date of first use of your “THE AMERICAN” trademark that is the subject of United States Trademark Registration No. 5998883.
4. Describe the typical consumers of your cigars bearing the “THE AMERICAN” trademark that is the subject of United States Trademark Registration No. 5998883. In so doing,

please include a description of their average age, sex, level of education, demographic information, and any information which you may have with respect to the level of consumer sophistication.

5. Identify the price point of Newman's cigars bearing the "THE AMERICAN" trademark that is the subject of United States Trademark Registration No. 5998883.

6. Identify the types of goods which Newman offers bearing the "THE AMERICAN" trademark that is the subject of United States Trademark Registration No. 5998883. In so doing, identify whether the goods are "premium cigars" as that term is defined by the U.S. Food and Drug Administration (<https://www.fda.gov/tobacco-products/ctp-newsroom/ctp-statement-premarket-authorization-requirements-premium-cigars>).

7. Identify the channels of trade through which Newman offers cigars bearing the "THE AMERICAN" trademark that is the subject of United States Trademark Registration No. 5998883.

8. Identify any instances of consumer confusion as to the source sponsorship or affiliation of the parties' respective goods offered under the "THE AMERICAN" and "AMERICAN STOGIES" trademarks. In so doing, please identify the person so confused, the circumstances of the confusion, the date of said confusion, any documents evidencing the same, and the manner in which you learned of the confusion.

9. Identify any instances of consumer confusion or deception as to the geographic origin of Tabacalera Palma's cigars bearing the "AMERICAN STOGIES" trademark. In so doing, please identify the person so confused, the circumstances of the confusion or deception, the date of said confusion or deception, any documents evidencing the same, and the manner in which you learned of the confusion.

Dated: April 12, 2023

Respectfully submitted,

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CERTIFICATE OF SERVICE

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by email on April 12, 2023

By: s/GUSTAVO SARDIÑA

Gustavo Sardiña

UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK TRIAL AND APPEAL BOARD

J.C. Newman Cigar Company

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Tabacalera Palma, Ltd.

Opposition to Serial No. 88866282
Cancellation of Registration No. 5998883

Applicant/Counterclaim Petitioner.

**TABACALERA PALMA LTD.'S FIRST SET
OF REQUESTS FOR ADMISSIONS TO J.C. NEWMAN CIGAR COMPANY**

Applicant/Counterclaim Petitioner, Tabacalera Palma, Ltd. (“Tabacalera Palma”), by and through undersigned counsel, pursuant to Rule 36 of the Federal Rules of Civil Procedure and TBMP §407, hereby propounds the following Requests for Admissions on Opposer/Counterclaim Respondent J.C. Newman Cigar Company (“Newman”) and asks that the same that the same be admitted or denied and that such responses be returned to the undersigned within 30 days of service hereof.

1. Admit that you are aware that, on or about January 12, 2023 in its opinion in FCOA LLC v. Foremost Title & Escrow Services LLC, Case No. 19-13390, the United States Court of Appeals for the Eleventh Circuit said “[f]or example, American Airlines could theoretically refer to any airline based in North or South America.”

2. Admit that the definition of the word “American” as provided by the Merriam Webster dictionary can be found at <https://www.merriam-webster.com/dictionary/American>.

3. Admit that the first definition offered by the Merriam-Webster dictionary of the word “American” is “an American Indian of North America or South America”.

4. Admit that the second definition offered by the Merriam-Webster dictionary of the word “American” is “a native or inhabitant of North America or South America.”

5. Admit that, when defining the word “American” as an adjective, the first definition offered by the Merriam-Webster dictionary of the word “American” is “of or relating to America”.

6. Admit that the definition of the word “America” as provided by the Merriam-Webster dictionary can be found at <https://www.merriam-webster.com/dictionary/America>.

7. Admit that the first definition offered by the Merriam-Webster dictionary of the word “America” is “either continent (North America or South America) of the western hemisphere”.

8. Admit that the second definition offered by the Merriam-Webster dictionary of the word “America” is “or the Americas [] the lands of the western hemisphere including North, Central, and South America and the West Indies”.

9. Admit that Nicaragua is in the Americas.

10. Admit that Nicaragua is in America as “America” is primarily defined by the Merriam-Webster dictionary.

11. Admit that Honduras is in the Americas.

12. Admit that Honduras is in America as “America” is primarily defined by the Merriam-Webster dictionary.

13. Admit that the Dominican Republic is in the Americas.

14. Admit that the Dominican Republic is in America as “America” is primarily defined by the Merriam-Webster dictionary.

15. Admit that Columbus Day is a United States federal holiday.

16. Admit that Columbus Day was first proclaimed a United States holiday by proclamation of President Benjamin Harrison on or about July 21, 1892.

17. Admit that a true and correct copy of President Benjamin Harrison's proclamation on the celebration of Columbus Day can be found at <https://www.presidency.ucsb.edu/documents/proclamation-335-400th-anniversary-the-discovery-america-columbus>.

18. Admit that the first United States celebration of Columbus Day was "in observance . . . of the four hundredth anniversary of the discovery of America."

19. Admit that Christopher Columbus first landing in America was actually on an island in what is today part of the Bahamas.

20. Admit that the definition of "American" as provided by the American Heritage Dictionary can be found at <https://ahdictionary.com/word/search.html?q=American>.

21. Admit that the American Heritage Dictionary defines "American" as, including, "2. Of or relating to North or South America, the West Indies, or the Western Hemisphere. 3. Of or relating to any of the Native American peoples. 4. Indigenous to North or South America. Used of plants and animals."

22. Admit that the definition of "American" as provided by the MacMillan Dictionary can be found at https://www.macmillandictionary.com/us/dictionary/american/american_1.

23. Admit that the MacMillan Dictionary defines "American" as: "2 someone who is American is from North America, South America, or the Caribbean." "2a relating to North America, South America, or the Caribbean."

24. Admit that the entry in Wikipedia for "Americas" can be found at <https://en.wikipedia.org/wiki/Americas>.

25. Admit that Wikipedia defines “Americas” as “The **Americas** (sometimes collectively called **America**) are a landmass comprising the totality of North and South America. The Americas make up most of the land in Earth’s Western Hemisphere and comprise the New World.” (bold original).

26. Admit that Wikipedia’s entry for “Americas” includes a list of countries or territories that are in the Americas and that the Dominican Republic, Honduras, and Nicaragua are included in that list.

27. Admit that the CIA World Factbook identifies Dominican Republic, Nicaragua, and Honduras as part of “America,” namely, “Central America.” See <https://www.cia.gov/the-world-factbook/countries/nicaragua/>, <https://www.cia.gov/the-world-factbook/countries/dominican-republic/>, and <https://www.cia.gov/the-world-factbook/countries/honduras/>

28. Admit that your first use of the mark “THE AMERICAN” as registered in U.S. Trademark Application No. 5998883 is no earlier than May 31, 2019.

29. Admit that the parties’ respective trademarks (i.e., “THE AMERICAN” and “AMERICAN STOGIES”) share the dominant element “AMERICAN”.

30. Admit that the goods offered by the parties under their respective trademarks (i.e., “THE AMERICAN” and “AMERICAN STOGIES”) are the same (i.e., cigars).

31. Admit that the consumers of the parties’ respective goods are the same, namely, cigar smokers.

32. Admit that the channels of trade for the goods that the parties market as “THE AMERICAN” and “AMERICAN STOGIES” respectively are the same.

33. Admit that Newman’s President, Eric Newman appeared on the video found on <https://www.youtube.com/watch?v=ds2sf3QggtM>.

34. Admit that Tabacalera Palma's cigars bearing the "AMERICAN STOGIES" mark include a cigar ring with the design of a traditional native American headdress.

35. Admit that your cigars bearing the "THE AMERICAN" trademark are premium cigars.

36. Admit that Tabacalera Palma's cigars bearing the "AMERICAN STOGIES" mark are premium cigars.

37. Admit that premium cigars smokers tend to be sophisticated consumers.

38. Admit that premium cigar smokers tend to be older than the general population.

39. Admit that premium cigar smokers tend to be more highly educated than the general population.

40. Admit that premium cigar smokers tend to be more affluent than the general population.

41. Admit that premium cigar smokers tend to be older than the general population.

42. Admit that the price point for Newman's cigars bearing the "THE AMERICAN" trademark that is the subject of United States Trademark Registration No. 5998883 are higher than typical tobacco products.

Dated: April 12, 2023

Respectfully submitted,

By: s/GUSTAVO SARDIÑA

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served on:

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by email on April 12, 2023

By: s/GUSTAVO SARDIÑA
Gustavo Sardiña

EXHIBIT B

**UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK TRIAL AND APPEAL BOARD**

J.C. Newman Cigar Company,

Opposer/Counterclaim Respondent,

v.

Tabacalera Palma, Ltd.,

Applicant/Counterclaim Petitioner.

Proceeding No. 91281307

Opposition to Serial No. 88866282
Cancellation of Registration No. 5998883

**J.C. NEWMAN CIGAR COMPANY OBJECTIONS AND RESPONSES TO
APPLICANT/COUNTERCLAIM PETITIONER'S FIRST SET OF REQUESTS FOR
PRODUCTION (NOS. 1-30)**

Pursuant to Rules 26 and 34 of the Federal Rules of Civil Procedure, 37 C.F.R. § 2.120, and TBMP §406, Opposer/Counterclaim Respondent, J.C. Newman Cigar Company (“Newman”), by and through undersigned counsel, hereby responds to Applicant/Counterclaim Petitioner, Tabacalera Palma, Ltd.’s First Set of Requests for Production of Documents and Things (Nos. 1-30) (the “Requests”) as follows:

1. Documents sufficient to establish the date of first use of your “THE AMERICAN” trademark that is the subject of United States Trademark Registration No. 5998883.

RESPONSE: To the extent that non-privileged documents can be located after a reasonable search, Opposer will produce sufficient to establish the date of first use of your “THE AMERICAN” trademark that is the subject of United States Trademark Registration No. 5998883.

2. Representative samples of advertisements goods offered by Newman bearing its “THE AMERICAN” trademark that is the subject of United States Trademark Registration No. 5998883.

RESPONSE: Opposer objects to the term “representative samples” as vague and ambiguous. Subject to and without waiving this objection, and to the extent that non-privileged documents can be located after a reasonable search, Opposer will produce samples of advertisements for goods offered by Newman bearing its “THE AMERICAN” trademark.

3. The results of any trademark searches conducted by Newman or on Newman’s behalf for trademarks that include the term “AMERICAN”.

RESPONSE: Opposer objects to Request No. 3 on the grounds that it is overbroad. Subject to and without waiving this objection, Opposer conducted a reasonable search for responsive records and did not identify any responsive documents that are non-privileged.

4. Documents sufficient to identify the types of products offered by Newman under its “THE AMERICAN” trademark that is the subject of United States Trademark Registration No. 5998883.

RESPONSE: Opposer objects to the term “types” as vague and ambiguous. Subject to and without waiving this objection, and to the extent that non-privileged documents can be located after a reasonable search, Opposer will produce documents sufficient to identify the general category or categories of Newman’s products offered under its “THE AMERICAN” trademark.

5. Documents sufficient to identify the types of consumers to which Newman markets its products bearing the “THE AMERICAN” trademark that is the subject of United States Trademark Registration No. 5998883.

RESPONSE: Opposer objects to the term “types” as vague and ambiguous. Subject to and without waiving this objection, Opposer conducted a reasonable search for responsive records and did not identify any responsive documents that are non-privileged.

6. Documents sufficient to identify the channels of trade through which Newman offers its products bearing the “THE AMERICAN” trademark that is the subject of United States Trademark Registration No. 5998883.

RESPONSE: To the extent that non-privileged documents can be located after a reasonable search, Opposer will produce documents sufficient to identify the channels of trade through which it offers products under “THE AMERICAN” trademark.

7. Documents sufficient to establish whether the consumers of Newman’s goods bearing the “THE AMERICAN” trademark that is the subject of United States Trademark Registration No. 5998883 are or are not sophisticated consumers.

RESPONSE: Opposer objects to this Request on the ground that it refers to “sophisticated consumers,” a term that Opposer does not define and that does not have a legal definition. Without waiving the foregoing objection, Opposer conducted a reasonable search for responsive records and did not identify any responsive documents that are non-privileged.

8. Documents sufficient to show the age range of typical consumers of Newman’s goods bearing the “THE AMERICAN” trademark that is the subject of United States Trademark Registration No. 5998883.

RESPONSE: Opposer conducted a reasonable search for responsive records and did not identify any responsive documents that are non-privileged.

9. Documents sufficient to show the level of education of typical consumers of Newman’s goods bearing the “THE AMERICAN” trademark that is the subject of United States Trademark Registration No. 5998883.

RESPONSE: Opposer conducted a reasonable search for responsive records and did not identify any responsive documents that are non-privileged.

10. Documents on which you intend to rely to show third party use of marks bearing the term “AMERICAN”, if any.

RESPONSE: To the extent that non-privileged documents can be located after a reasonable search, Opposer will produce documents on which it intends to rely to show third party use of marks bearing the term “AMERICAN,” if any.

11. Documents, if any, to show the purported fame of Newman’s “THE AMERICAN” trademark that is the subject of United States Trademark Registration No. 5998883.

RESPONSE: Opposer objects to Request No. 11 on the grounds that it asks for documents that are irrelevant to any issue in this opposition proceeding.

12. Documents, if any, to show the purported acquired distinctiveness or secondary meaning of Newman’s “THE AMERICAN” trademark that is the subject of United States Trademark Registration No. 5998883.

RESPONSE: Opposer objects to Request No. 12 on the grounds that it asks for documents that are irrelevant to any issue in this opposition proceeding.

13. Any evidence of actual consumer confusion or deception as to the geographic origin of Tabacalera Palma’s cigars bearing the “AMERICAN STOGIES” trademark.

RESPONSE: To the extent that non-privileged documents can be located after a reasonable search, Opposer will produce documents showing evidence of actual consumer confusion or deception as to AMERICAN STOGIES’ geographic origin.

14. Any documents in your possession or control that show or tend to show actual confusion between the parties’ respective “THE AMERICAN” and “AMERICAN STOGIES” trademarks.

RESPONSE: To the extent that non-privileged documents can be located after a reasonable search, Opposer will produce documents in its possession or control that show or tend to show actual confusion between the parties' respective "THE AMERICAN" and "AMERICAN STOGIES" trademarks.

15. Documents in your possession that show or tend to show that the term "AMERICAN STOGIES" as used by Tabacalera Palma is deceptive.

RESPONSE: Opposer objects to Request No. 15 on the grounds that it is overly broad. Subject to and without waiving this objection, and to the extent that non-privileged documents can be located after a reasonable search, Opposer will produce documents showing that the term "AMERICAN STOGIES" as used by Tabacalera Palma is geographically deceptive.

16. Documents in your possession or control that show or tend to show that a significant portion of the relevant U.S. consumers would be materially influenced in the decision to purchase Tabacalera Palma's "AMERICAN STOGIES" cigars by the geographic meaning of the mark.

RESPONSE: Opposer objects to the term "significant" as vague and ambiguous. Subject to and without waiving this objection, and to the extent that non-privileged documents can be located after a reasonable search, Opposer will produce documents that show or tend to show that relevant U.S. consumers would be materially influenced in the decision to purchase AMERICAN STOGIES cigars by the geographic meaning of the mark.

17. Documents in your possession or control that show or tend to show that any portion of the relevant U.S. consumers would be materially influenced in the decision to purchase Tabacalera Palma's "AMERICAN STOGIES" cigars by the geographic meaning of the mark.

RESPONSE: To the extent that non-privileged documents can be located after a reasonable search, Opposer will produce documents that show or tend to show that relevant U.S.

consumers would be materially influenced in the decision to purchase AMERICAN STOGIES cigars by the geographic meaning of the mark.

18. Documents in your possession or control that show or tend to show that any portion of the relevant U.S. consumers would be in any way influenced in the decision to purchase Tabacalera Palma's "AMERICAN STOGIES" cigars by the geographic meaning of the mark.

RESPONSE: To the extent that non-privileged documents can be located after a reasonable search, Opposer will produce documents that show or tend to show that relevant U.S. consumers would be in any way influenced in the decision to purchase AMERICAN STOGIES cigars by the geographic meaning of the mark.

19. Documents in your possession or control that show or tend to show the meaning of the term "AMERICAN STOGIES".

RESPONSE: To the extent that non-privileged documents can be located after a reasonable search, Opposer will produce documents that show or tend to show the meaning of the term "AMERICAN STOGIES".

20. Documents in your possession or control that show or tend to show the meaning of the term "AMERICAN".

RESPONSE: To the extent that non-privileged documents can be located after a reasonable search, Opposer will produce documents that show or tend to show the meaning of the term "AMERICAN."

21. Documents in your possession or control that show or tend to show that Tabacalera Palma has made any factual misrepresentations about the geographic origin of its "AMERICAN STOGIES" cigars.

RESPONSE: To the extent that non-privileged documents can be located after a reasonable search, Opposer will produce documents that show or tend to show that Applicant has made factual misrepresentations about the geographic origin of its “AMERICAN STOGIES” cigars.

22. Documents sufficient to show the geographic place of origin of the tobacco used in Newman’s cigars bearing the “THE AMERICAN” trademark that is the subject of United States Trademark Registration No. 5998883.

RESPONSE: Opposer objects to Request No. 22 on the grounds that it asks for documents that are irrelevant to any issue in this opposition proceeding.

23. Documents sufficient to show the geographic place of origin of the boxes in which Newman’s cigars bearing the “THE AMERICAN” trademark that is the subject of United States Trademark Registration No. 5998883 are packaged and sold.

RESPONSE: Opposer objects to Request No. 23 on the grounds that it asks for documents that are irrelevant to any issue in this opposition proceeding.

24. Documents sufficient to show the geographic place of origin of the cigar rings used on Newman’s cigars bearing the “THE AMERICAN” trademark that is the subject of United States Trademark Registration No. 5998883.

RESPONSE: Opposer objects to Request No. 24 on the grounds that it asks for documents that are irrelevant to any issue in this opposition proceeding.

25. Documents sufficient to show the geographic location of the rolling facilities used for Newman’s cigars bearing the “THE AMERICAN” trademark that is the subject of United States Trademark Registration No. 5998883.

RESPONSE: Opposer objects to Request No. 25 on the grounds that it asks for documents that are irrelevant to any issue in this opposition proceeding.

26. Documents sufficient to show the geographic location of the curing facilities used for the tobacco in Newman's cigars bearing the "THE AMERICAN" trademark that is the subject of United States Trademark Registration No. 5998883.

RESPONSE: Opposer objects to Request No. 26 on the grounds that it asks for documents that are irrelevant to any issue in this opposition proceeding.

27. Copies of any surveys or studies on which you may rely in this case.

RESPONSE: To the extent that non-privileged documents can be located after a reasonable search, Opposer will produce copies of any surveys or studies on which it intends to rely in this case.

28. Copies of any surveys or studies related to the meaning of the term "AMERICAN" or phrases that include the term "AMERICAN", whether or not you intend to rely on them in this case.

RESPONSE: Opposer objects to Request No. 28 on the grounds that it is overly broad and it calls for documents that may be protected under the attorney work-product doctrine. Opposer will not produce copies of surveys or studies on which it will not rely in this case. Subject to these objections, Opposer will produce copies of any surveys or studies on which it intends to rely in this case.

29. Copies of any surveys or studies related to the meaning of the term "AMERICA" or phrases that include the term "AMERICA", whether or not you intend to rely on them in this case.

RESPONSE: Opposer objects to Request No. 29 on the grounds that it is overly broad and it calls for documents that may be protected under the attorney work-product doctrine. Opposer will not produce copies of surveys or studies on which it will not rely in this case. Subject to these objections, Opposer will produce copies of any surveys or studies on which it intends to rely in this case.

30. Documents sufficient to show the price point of Newman’s cigars bearing the “THE AMERICAN” trademark that is the subject of United States Trademark Registration No. 5998883.

RESPONSE: To the extent that non-privileged documents can be located after a reasonable search, Opposer will produce documents sufficient to show the price point of Newman’s cigars bearing the “THE AMERICAN” trademark.

Dated: May 12, 2023

Respectfully submitted,

By: / Michelle M. Mikol /

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Attorneys for Opposer/Counterclaim Respondent

CERTIFICATE OF SERVICE

I hereby certify that on May 12, 2023, I caused a true and correct copy of Opposer/Counterclaim Respondent, J.C. Newman Company's Objections and Responses to Applicant/Counterclaim Petitioner's First Set of Requests for Production of Documents and Things (Nos. 1-30) to be served by email on Frank Herrera (fherrera@hnewmedia.com) and Gustavo Sardiña (g.sardina@hnewmedia.com).

/Michelle M. Mikol/
Michelle M. Mikol

**UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK TRIAL AND APPEAL BOARD**

J.C. Newman Cigar Company,

Opposer/Counterclaim Respondent,

v.

Tabacalera Palma, Ltd.,

Applicant/Counterclaim Petitioner.

Proceeding No. 91281307

Opposition to Serial No. 88866282
Cancellation of Registration No. 5998883

**J.C. NEWMAN CIGAR COMPANY OBJECTIONS AND RESPONSES TO
APPLICANT/COUNTERCLAIM PETITIONER'S FIRST SET OF
INTERROGATORIES (NOS. 1-9)**

Pursuant to Rules 26 and 33 of the Federal Rules of Civil Procedure, 37 C.F.R. § 2.120, and TBMP §405, Opposer/Counterclaim Respondent, J.C. Newman Cigar Company (“Newman”), by and through undersigned counsel, hereby responds to Applicant/Counterclaim Petitioner, Tabacalera Palma, Ltd.’s First Set of Interrogatories (Nos. 1-9).

1. Identify by name and provide contact information for every expert on whose opinion you intend to rely in this case. In doing so, please provide the subject and substance of the opinion on which the expert is expected to opine.

RESPONSE: Opposer has not yet identified experts, if any, on which it intends to rely in this case. Opposer will supplement its answer as this information becomes available.

2. Identify any and all surveys on which you intend to rely in this case.

RESPONSE: Opposer has not yet identified surveys, if any, on which it intends to rely in this case. Opposer will supplement its answer as this information becomes available.

3. State the date of first use of your “THE AMERICAN” trademark that is the subject of United States Trademark Registration No. 5998883.

RESPONSE: August 1, 2016.

4. Describe the typical consumers of your cigars bearing the “THE AMERICAN” trademark that is the subject of United States Trademark Registration No. 5998883. In so doing, please include a description of their average age, sex, level of education, demographic information, and any information which you may have with respect to the level of consumer sophistication.

RESPONSE: Opposer does not gather or maintain information on the average age, sex, level of education, or demographics of the typical consumers of THE AMERICAN cigars. The typical consumers of THE AMERICAN cigars are adult males.

5. Identify the price point of Newman’s cigars bearing the “THE AMERICAN” trademark that is the subject of United States Trademark Registration No. 5998883.

RESPONSE: As of the date of the submission of these answers, the suggested retail prices of THE AMERICAN cigars are \$17.50 and \$22.00 per cigar.

6. Identify the types of goods which Newman offers bearing the “THE AMERICAN” trademark that is the subject of United States Trademark Registration No. 5998883. In so doing, identify whether the goods are “premium cigars” as that term is defined by the U.S. Food and Drug Administration (<https://www.fda.gov/tobacco-products/ctp-newsroom/ctp-statement-premarket-authorization-requirements-premium-cigars>).

RESPONSE: Opposer objects to Interrogatory No. 6 on the grounds that it constitutes two separate interrogatories. Opposer also objects on the grounds that this Interrogatory is irrelevant because Applicant does not allege that it sells “premium cigars” and thus, the categorization of Opposer’s cigars as “premium” is immaterial to any issue in this proceeding. Opposer further objects to the Interrogatory as inaccurate and lacking foundation by stating that the FDA has defined “premium cigars” as set forth in the cited webpage. The webpage expressly

states that the definition comes only from an August 19, 2020, ruling of the U.S. District Court for the District of Columbia. Nothing in the webpage states or suggests that the FDA has adopted that definition. Subject to, and without waiving this objection, Opposer responds as follows: under THE AMERICAN mark, Opposer offers cigars, humidors, ashtrays, hats, pennants, and booklets.

7. Identify the channels of trade through which Newman offers cigars bearing the “THE AMERICAN” trademark that is the subject of United States Trademark Registration No. 5998883.

RESPONSE: THE AMERICAN cigars are sold exclusively in America by retailers in brick and mortar stores, online, and through mail orders.

8. Identify any instances of consumer confusion as to the source sponsorship or affiliation of the parties’ respective goods offered under the “THE AMERICAN” and “AMERICAN STOGIES” trademarks. In so doing, please identify the person so confused, the circumstances of the confusion, the date of said confusion, any documents evidencing the same, and the manner in which you learned of the confusion.

RESPONSE: Opposer is not aware of any instance of consumer confusion as to the source, sponsorship, or affiliation of the parties’ respective goods offered under the “THE AMERICAN” and “AMERICAN STOGIES” trademarks.

9. Identify any instances of consumer confusion or deception as to the geographic origin of Tabacalera Palma’s cigars bearing the “AMERICAN STOGIES” trademark. In so doing, please identify the person so confused, the circumstances of the confusion or deception, the date of said confusion or deception, any documents evidencing the same, and the manner in which you learned of the confusion.

RESPONSE: Opposer will produce documents from which Applicant can derive the answer to Interrogatory No. 9, pursuant to FRCP 33(d).

Dated: May 12, 2023

As to objections,

By: /Michelle M. Mikol/

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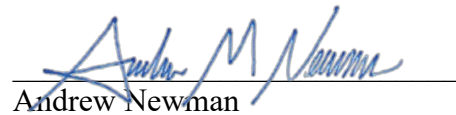
tmindocket@btlaw.com

Attorneys for Opposer/Counterclaim Respondent

VERIFICATION

Andrew Newman, declares under penalty of perjury, pursuant to 28 U.S.C. § 1746, that he is the Vice President and General Counsel of Opposer/Counterclaim Respondent, J.C. Newman Company, that he has read the foregoing J.C. Newman Cigar Company Objections And Responses To Applicant's First Set Of Interrogatories (Nos. 1-9) and that the facts therein asserted are true and correct to the best of his knowledge, information, or belief.

Executed on: May 12, 2023


Andrew Newman

CERTIFICATE OF SERVICE

I hereby certify that on May 12, 2023, I caused a true and correct copy of Opposer/Counterclaim Respondent, J.C. Newman Company's Objections and Responses to Applicant/Counterclaim Petitioner's First Set Of Interrogatories (Nos. 1-9) to be served by email on Frank Herrera (fherrera@hnewmedia.com) and Gustavo Sardiña (g.sardina@hnewmedia.com).

/Michelle M. Mikol/

Michelle M. Mikol

**UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK TRIAL AND APPEAL BOARD**

J.C. Newman Cigar Company

Opposer/Counterclaim Respondent,

v.

Proceeding No. 91281307

Tabacalera Palma, Ltd.

Opposition to Serial No. 88866282
Cancellation of Registration No. 5998883

Applicant/Counterclaim Petitioner.

**J.C. NEWMAN CIGAR COMPANY’S RESPONSE TO TABACALERA
PALMA, LTD.’S FIRST SET OF REQUESTS FOR ADMISSIONS**

J.C. Newman Cigar Company (“Opposer”) responds to Tabacalera Palma, Ltd.’s First Set of Requests for Admissions as follows.

1. Admit that you are aware that, on or about January 12, 2023 in its opinion in FCOA LLC v. Foremost Title & Escrow Services LLC, Case No. 19-13390, the United States Court of Appeals for the Eleventh Circuit said “[f]or example, American Airlines could theoretically refer to any airline based in North or South America.”

RESPONSE: Opposer admits that the 11th Circuit’s opinion at *FCOA LLC v. Foremost Title & Escrow Servs. LLC*, 57 F.4th 939, 949 (11th Cir. 2023), includes the following: “For example, American Airlines could theoretically refer to any airline based in North or South America.” Opposer otherwise denies this Request.

2. Admit that the definition of the word “American” as provided by the Merriam Webster dictionary can be found at <https://www.merriam-webster.com/dictionary/American>.

RESPONSE: Opposer admits that <http://www.merriam-webster.com/dictionary/American> offers several definitions of the word “American”. Opposer otherwise denies this Request.

3. Admit that the first definition offered by the Merriam-Webster dictionary of the word “American” is “an American Indian of North America or South America”.

RESPONSE: Opposer objects to this Request because “the Merriam-Webster dictionary” is neither identified nor described in any manner that would allow Opposer to identify the dictionary. Opposer therefore denies this Request.

4. Admit that the second definition offered by the Merriam-Webster dictionary of the word “American” is “a native or inhabitant of North America or South America.”

RESPONSE: Opposer objects to this Request because “the Merriam-Webster dictionary” is neither identified nor described in any manner that would allow Opposer to identify the dictionary. Opposer therefore denies this Request.

5. Admit that, when defining the word “American” as an adjective, the first definition offered by the Merriam-Webster dictionary of the word “American” is “of or relating to America”.

RESPONSE: Opposer objects to this Request because “the Merriam-Webster dictionary” is neither identified nor described in any manner that would allow Opposer to identify the dictionary. Opposer therefore denies this Request.

6. Admit that the definition of the word “America” as provided by the Merriam-Webster dictionary can be found at <https://www.merriam-webster.com/dictionary/America>.

RESPONSE: Opposer objects to this Request because “the Merriam-Webster dictionary” is neither identified nor described in any manner that would allow Opposer to identify the dictionary. Opposer therefore denies this Request.

7. Admit that the first definition offered by the Merriam-Webster dictionary of the word “America” is “either continent (North America or South America) of the western hemisphere”.

RESPONSE: Opposer objects to this Request because “the Merriam-Webster dictionary” is neither identified nor described in any manner that would allow Opposer to identify the dictionary. Opposer therefore denies this Request.

8. Admit that the second definition offered by the Merriam-Webster dictionary of the word “America” is “or the Americas [] the lands of the western hemisphere including North, Central, and South America and the West Indies”.

RESPONSE: Opposer objects to this Request because “the Merriam-Webster dictionary” is neither identified nor described in any manner that would allow Opposer to identify the dictionary. Opposer therefore denies this Request.

9. Admit that Nicaragua is in the Americas.

RESPONSE: Opposer admits that Nicaragua is in Central America. Opposer otherwise denies this request.

10. Admit that Nicaragua is in America as “America” is primarily defined by the Merriam-Webster dictionary.

RESPONSE: Opposer objects to this Request because “the Merriam-Webster dictionary” is neither identified nor described in any manner that would allow Opposer to identify the dictionary. Opposer therefore denies this Request.

11. Admit that Honduras is in the Americas.

RESPONSE: Opposer admits that Honduras is in Central America. Opposer otherwise denies this request.

12. Admit that Honduras is in America as “America” is primarily defined by the Merriam-Webster dictionary.

RESPONSE: Opposer objects to this Request because “the Merriam-Webster dictionary” is neither identified nor described in any manner that would allow Opposer to identify the dictionary.

13. Admit that the Dominican Republic is in the Americas.

RESPONSE: Opposer admits that the Dominican Republic is in North America. Opposer otherwise denies this request.

14. Admit that the Dominican Republic is in America as “America” is primarily defined by the Merriam-Webster dictionary.

RESPONSE: Opposer objects to this Request because “the Merriam-Webster dictionary” is neither identified nor described in any manner that would allow Opposer to identify the dictionary. Opposer therefore denies this Request.

15. Admit that Columbus Day is a United States federal holiday.

RESPONSE: Opposer admits that the U.S. Department of Commerce lists Columbus Day as a federal holiday. *See* <https://www.commerce.gov/hr/employees/leave/holidays>. Opposer otherwise denies this Request.

16. Admit that Columbus Day was first proclaimed a United States holiday by proclamation of President Benjamin Harrison on or about July 21, 1892.

RESPONSE: After making reasonable inquiry and based on information Opposer knows or can readily obtain, Opposer lacks knowledge or information sufficient to enable Opposer to admit or deny this Request. *See* FRCP 36(a)(4).

17. Admit that a true and correct copy of President Benjamin Harrison’s proclamation on the celebration of Columbus Day can be found at <https://www.presidency.ucsb.edu/documents/proclamation-335-400th-anniversary-the-discovery-america-columbus>.

RESPONSE: After making reasonable inquiry and based on information Opposer knows or can readily obtain, Opposer lacks knowledge or information sufficient to enable Opposer to admit or deny this Request. *See* FRCP 36(a)(4).

18. Admit that the first United States celebration of Columbus Day was “in observance . . . of the four hundredth anniversary of the discovery of America.”

RESPONSE: After making reasonable inquiry and based on information Opposer knows or can readily obtain, Opposer lacks knowledge or information sufficient to enable Opposer to admit or deny this Request. *See* FRCP 36(a)(4). Opposer also objects to this Request because it does not refer to the source of the quoted language.

19. Admit that Christopher Columbus first landing in America was actually on an island in what is today part of the Bahamas.

RESPONSE: After making reasonable inquiry and based on information Opposer knows or can readily obtain, Opposer lacks knowledge or information sufficient to enable Opposer to admit or deny this Request. *See* FRCP 36(a)(4).

20. Admit that the definition of “American” as provided by the American Heritage Dictionary can be found at <https://ahdictionary.com/word/search.html?q=American>.

RESPONSE: Opposer admits that <https://ahdictionary.com/word/search.html?q=American> offers definitions of the word “American”. Opposer otherwise denies this Request.

21. Admit that the American Heritage Dictionary defines “American” as, including, “2. Of or relating to North or South America, the West Indies, or the Western Hemisphere. 3. Of or relating to any of the Native American peoples. 4. Indigenous to North or South America. Used of plants and animals.”

RESPONSE: Opposer objects to this Request because “the American Heritage Dictionary” is neither identified nor described in any manner that would allow Opposer to identify the dictionary. Opposer therefore denies this Request.

22. Admit that the definition of “American” as provided by the MacMillan Dictionary can be found at https://www.macmillandictionary.com/us/dictionary/american/american_1.

RESPONSE: Opposer admits that https://www.macmillandictionary.com/us/dictionary/american/american_1 offers definitions of the word “American.” Opposer otherwise denies this Request.

23. Admit that the MacMillan Dictionary defines “American” as: “2 someone who is American is from North America, South America, or the Caribbean.” “2a relating to North America, South America, or the Caribbean.”

RESPONSE: Opposer objects to this Request because “the MacMillan Dictionary” is neither identified nor described in any manner that would allow Opposer to identify the dictionary. Opposer therefore denies this Request.

24. Admit that the entry in Wikipedia for “Americas” can be found at <https://en.wikipedia.org/wiki/Americas>.

RESPONSE: Opposer admits that <https://en.wikipedia.org/wiki/Americas> has an entry for “Americas.” Opposer otherwise denies this Request.

25. Admit that Wikipedia defines “Americas” as “The **Americas** (sometimes collectively called **America**) are a landmass comprising the totality of North and South America. The Americas make up most of the land in Earth’s Western Hemisphere and comprise the New World.” (bold original).

RESPONSE: Opposer objects to this Request because it does not refer to the specific source of the quoted language. Opposer therefore denies this Request.

26. Admit that Wikipedia’s entry for “Americas” includes a list of countries or territories that are in the Americas and that the Dominican Republic, Honduras, and Nicaragua are included in that list.

RESPONSE: Opposer objects to this Request because it does not provide a URL for “Wikipedia’s entry for ‘Americas.’” Opposer therefore denies this Request.

27. Admit that the CIA World Factbook identifies Dominican Republic, Nicaragua, and Honduras as part of “America,” namely, “Central America.” See <https://www.cia.gov/the-world-factbook/countries/nicaragua/>, <https://www.cia.gov/the-world-factbook/countries/dominican-republic/>, and <https://www.cia.gov/the-world-factbook/countries/honduras/>

RESPONSE: Opposer objects to this Request because the first two links are broken (they return “404 Error” messages). Opposer denies that the last link identifies the Dominican Republic or Nicaragua as part of America or as part of Central America. Opposer admits that the last link identifies Honduras as part of Central America. Opposer denies this Request in all other respects.

28. Admit that your first use of the mark “THE AMERICAN” as registered in U.S. Trademark Application No. 5998883 is no earlier than May 31, 2019.

RESPONSE: Denied.

29. Admit that the parties’ respective trademarks (i.e., “THE AMERICAN” and “AMERICAN STOGIES”) share the dominant element “AMERICAN”.

RESPONSE: Opposer admits that “THE AMERICAN” and “AMERICAN STOGIES” both include the word AMERICAN. Opposer denies this Request in all other respects.

30. Admit that the goods offered by the parties under their respective trademarks (i.e., “THE AMERICAN” and “AMERICAN STOGIES”) are the same (i.e., cigars).

RESPONSE: Opposer admits that Opposer offers THE AMERICAN cigars and that Applicant offers AMERICAN STOGIES cigars. Opposer denies this Request in all other respects.

31. Admit that the consumers of the parties’ respective goods are the same, namely, cigar smokers.

RESPONSE: Opposer admits that consumers can purchase, and do purchase, Opposer’s THE AMERICAN cigars. After making reasonable inquiry and based on information Opposer knows or can readily obtain, Opposer lacks knowledge or information sufficient to enable Opposer to admit or deny the remainder of this Request. *See* FRCP 36(a)(4).

32. Admit that the channels of trade for the goods that the parties market as “THE AMERICAN” and “AMERICAN STOGIES” respectively are the same.

RESPONSE: After making reasonable inquiry and based on information Opposer knows or can readily obtain, Opposer lacks knowledge or information sufficient to enable Opposer to admit or deny this Request. *See* FRCP 36(a)(4).

33. Admit that Newman’s President, Eric Newman appeared on the video found on <https://www.youtube.com/watch?v=ds2sf3QggtM>.

RESPONSE: Admitted.

34. Admit that Tabacalera Palma’s cigars bearing the “AMERICAN STOGIES” mark include a cigar ring with the design of a traditional native [*sic*] American headdress.

RESPONSE: Opposer objects to this Request because it is vague and ambiguous by using the phrase “the design of a traditional native American headdress.” Opposer therefore denies this Request.

35. Admit that your cigars bearing the “THE AMERICAN” trademark are premium cigars.

RESPONSE: Opposer objects to this Request as vague and ambiguous by using the phrase “premium cigars,” which Applicant does not define and which does not have a uniform or

universally accepted definition. Opposer admits that it sometimes refer to its THE AMERICAN cigars as “premium cigars.” Opposer denies this Request in all other respects.

36. Admit that Tabacalera Palma’s cigars bearing the “AMERICAN STOGIES” mark are premium cigars.

RESPONSE: Opposer objects to this Request as vague and ambiguous by using the phrases “premium cigars,” which Applicant does not define and which does not have a uniform or universally accepted definition. After making reasonable inquiry and based on information Opposer knows or can readily obtain, Opposer lacks knowledge or information sufficient to enable Opposer to admit or deny this Request. *See* FRCP 36(a)(4).

37. Admit that premium cigars [*sic*] smokers tend to be sophisticated consumers.

RESPONSE: Opposer objects to this Request as vague and ambiguous by using the phrases “premium cigar smokers” and “sophisticated consumers.” Opposer therefore denies this Request.

38. Admit that premium cigar smokers tend to be older than the general population.

RESPONSE: Opposer objects to this Request as vague and ambiguous by using the phrase “premium cigar smokers.” After making reasonable inquiry and based on information Opposer knows or can readily obtain, Opposer lacks knowledge or information sufficient to enable Opposer to admit or deny this Request. *See* FRCP 36(a)(4).

39. Admit that premium cigar smokers tend to be more highly educated than the general population.

RESPONSE: Opposer objects to this Request as vague and ambiguous by using the phrase “premium cigar smokers.” After making reasonable inquiry and based on information Opposer knows or can readily obtain, Opposer lacks knowledge or information sufficient to enable Opposer to admit or deny this Request. *See* FRCP 36(a)(4).

40. Admit that premium cigar smokers tend to be more affluent than the general population.

RESPONSE: Opposer objects to this Request as vague and ambiguous by using the phrases “premium cigar smokers” and “affluent.” After making reasonable inquiry and based on information Opposer knows or can readily obtain, Opposer lacks knowledge or information sufficient to enable Opposer to admit or deny this Request. *See* FRCP 36(a)(4).

41. Admit that premium cigar smokers tend to be older than the general population.

RESPONSE: See Response to No. 38.

42. Admit that the price point for Newman’s cigars bearing the “THE AMERICAN” trademark that is the subject of United States Trademark Registration No. 5998883 are higher than typical tobacco products.

RESPONSE: Opposer objects to this Request as vague and ambiguous by using the phrase “typical tobacco products.” After making reasonable inquiry and based on information Opposer knows or can readily obtain, Opposer lacks knowledge or information sufficient to enable Opposer to admit or deny this Request. *See* FRCP 36(a)(4).

By: / Michelle M. Mikol /
BARNES & THORNBURG LLP
11 S. Meridian St.
Indianapolis, IN 46204
Sarah P. Harrell
Michelle M. Mikol
John Gabrielides
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sharrell@btlaw.com
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crosas@btlaw.com
tmindocket@btlaw.com

Attorneys for Opposer/Counterclaim Respondent

CERTIFICATE OF SERVICE

I hereby certify that on May 12, 2023, I caused a true and correct copy of J.C. NEWMAN CIGAR COMPANY'S RESPONSE TO TABACALERA PALMA, LTD.'S FIRST SET OF REQUESTS FOR ADMISSIONS to be served by email on Frank Herrera (fherrera@hnewmedia.com) and Gustavo Sardiña (g.sardina@hnewmedia.com).

/Michelle M. Mikol/
Michelle M. Mikol

EXHIBIT C

Re: J.C. Newman Cigar Company v. Tabacalera Palma, Ltd., Proceeding No. 91281307

g.sardina hnewmedia.com <g.sardina@hnewmedia.com>

Wed 6/21/2023 11:26 AM

To: Gabrielides, John <JGabrielides@btlaw.com>; Mikol, Michelle <MMikol@btlaw.com>

Cc: fherrera hnewmedia.com <fherrera@hnewmedia.com>; s.zywczyk hnewmedia.com <s.zywczyk@hnewmedia.com>; e.noyes hnewmedia.com <e.noyes@hnewmedia.com>; Rosas, Cony <Cony.Rosas@btlaw.com>; Harrell, Sarah <Sarah.Harrell@btlaw.com>; Martin, Sherry <Sherry.Martin@btlaw.com>; Docket - TMIN <TMINDocket@btlaw.com>

John:

We did not receive the courtesy of a response to our last email and you have not provided any sort of timeline for when you might substantively respond to our concerns about JC Newman's deficient discovery responses.

We would prefer to work this out without Board intervention, but will be left with no choice but to file a motion to compel if we do not hear from you.

Sincerely,

Gus

From: g.sardina hnewmedia.com <g.sardina@hnewmedia.com>

Sent: Wednesday, June 14, 2023 9:18 AM

To: Gabrielides, John <JGabrielides@btlaw.com>; Mikol, Michelle <MMikol@btlaw.com>

Cc: fherrera hnewmedia.com <fherrera@hnewmedia.com>; s.zywczyk hnewmedia.com <s.zywczyk@hnewmedia.com>; e.noyes hnewmedia.com <e.noyes@hnewmedia.com>; Rosas, Cony <Cony.Rosas@btlaw.com>; Harrell, Sarah <Sarah.Harrell@btlaw.com>; Martin, Sherry <Sherry.Martin@btlaw.com>; Docket - TMIN <TMINDocket@btlaw.com>

Subject: Re: J.C. Newman Cigar Company v. Tabacalera Palma, Ltd., Proceeding No. 91281307

John:

We are willing to give you a reasonable amount of time to respond, but not an open-ended deadline. Please let me know when you expect to have a response to the substance of the correspondence - perhaps a week (June 20)?

Sincerely,

Gus

From: Gabrielides, John <JGabrielides@btlaw.com>

Sent: Tuesday, June 13, 2023 7:31 PM

To: g.sardina hnewmedia.com <g.sardina@hnewmedia.com>; Mikol, Michelle <MMikol@btlaw.com>

Cc: fherrera hnewmedia.com <fherrera@hnewmedia.com>; s.zywczyk hnewmedia.com <s.zywczyk@hnewmedia.com>; e.noyes hnewmedia.com <e.noyes@hnewmedia.com>; Rosas, Cony <Cony.Rosas@btlaw.com>; Harrell, Sarah <Sarah.Harrell@btlaw.com>; Martin, Sherry <Sherry.Martin@btlaw.com>; Docket - TMIN <TMINDocket@btlaw.com>

Subject: RE: J.C. Newman Cigar Company v. Tabacalera Palma, Ltd., Proceeding No. 91281307

Mr. Sardina –

We will review the issues raised in your email. We will not be able to meet your June 15 and June 20 deadlines, but will respond in writing once we have completed our analysis.

John

John Gabrielides | Partner

Barnes & Thornburg LLP

One North Wacker Drive Suite 4400, Chicago, IL 60606

Direct: (312) 338-5913 | Mobile: (312) 543-0209



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From: g.sardina hnewmedia.com <g.sardina@hnewmedia.com>

Sent: Tuesday, June 13, 2023 2:29 PM

To: Mikol, Michelle <MMikol@btlaw.com>

Cc: fherrera hnewmedia.com <fherrera@hnewmedia.com>; s.zywczyk hnewmedia.com <s.zywczyk@hnewmedia.com>; e.noyes hnewmedia.com <e.noyes@hnewmedia.com>; Gabrielides, John <JGabrielides@btlaw.com>; Rosas, Cony <Cony.Rosas@btlaw.com>; Harrell, Sarah <Sarah.Harrell@btlaw.com>; Martin, Sherry <Sherry.Martin@btlaw.com>; Docket - TMIN <TMINDocket@btlaw.com>

Subject: [EXTERNAL] Re: J.C. Newman Cigar Company v. Tabacalera Palma, Ltd., Proceeding No. 91281307

Caution: This email originated from outside the Firm.

Counsel:

We have received JC Newman's discovery responses dated May 12, 2023 and write regarding the same. We have waited until now to communicate on the issue since your responses to requests for production indicated that responsive documents would be produced. Since your production might have resolved some of these issues, we wanted to give you a reasonable chance to produce documents first. Unfortunately, it has been a month and no documents have been produced.

1) Responses to Requests for Production

A number of JC Newman's responses state that "[t]o the extent that non-privileged documents can be located after a reasonable search, Opposer will produce" See RFP Nos. 1, 2, 4, 6, 10, 13, 14, 15, 16, 17, 18, 19, 20, 21, 27, and 30.

This is improper for a number of reasons.

- First, "[i]t is incumbent upon a responding party to respond to each request by stating whether or not responsive documents exist and, if so, whether they will be produced at a specified reasonable time for inspection or are being withheld based on a claim of privilege or a specified objection." See TBMP

§406.04(c); see also TBMP §408.02 (“A party served with a request for discovery has a duty to thoroughly search its records for all information properly sought in the request, and to provide such information to the requesting party within the time allowed for responding to the request”). None of JC Newman’s responses to requests for production comply with these requirements.

- Second, either documents are privileged, or they are not. If they are, a privilege log must be timely produced. *Id.* JC Newman has not asserted privilege or produced a privilege log, but yet appears to be trying to preserve privilege anyway. This is improper.

Several responses assert that the request is “overbroad” but that “[s]ubject to and without waiving this objection” As a general proposition, “such objections preserve[] nothing and serve[] only to waste the time and resources of both the Parties and the Court. Further, such practice leaves the requesting Party uncertain as to whether the question has actually been fully answered or whether only a portion of the question has been answered.” See *Thermoset Corp. v. Bldg. Materials Corp. of Am.*, 2014 U.S. Dist. LEXIS 161343, *4 (S.D. Fla. Nov. 18, 2014)(quoting *Cotracom Commodity Trading Co. v. Seaboard Corp.*, No. CIV. A 97-2391, 1998 U.S. Dist. LEXIS 6726, at *1 (D. Kan. May 6, 1998)). If JC Newman has a genuine objection and is withholding documents or refusing to conduct a search based on that objection, JC Newman must specifically say so – something that JC Newman has not done.

JC Newman’s responses to several RFP’s claim that terms such as “types” (RFP Nos. 4 and 5), “sophisticated consumers” (RFP No. 7), and “significant” (RFP No. 16) are vague or ambiguous. We disagree. Each of these terms is, or should be, reasonably understood in the context of the request and applicable law. See *Royal Crown Co. v. Coca-Cola Co.*, 892 F.3d 1358, 1371 (Fed. Cir. 2018)(“[s]econdary meaning is a time-related concept: it exists at a specific time, in a specific place, among a specific group of people who recognize that specified matter indicates commercial origin of a specified **type of product** or service from one unique commercial source.”)(emphasis added); *CDOC, Inc. v. Liberty Bankers Life Ins. Co.*, No. 2020-1643, at *9 (Fed. Cir. Feb. 23, 2021)(“this *DuPont* factor [must] be analyzed based on the perspective of the least **sophisticated consumer**.”)(emphasis added); and *In re Spirits Intern., N.V.*, 563 F.3d 1347, 1353 (Fed. Cir. 2009)(“However, *California Innovations* did not address the question of whether the materiality test of subsection (e)(3) embodies a requirement that **a significant portion of the relevant consumers** be deceived. We hold that subsection (e)(3) does incorporate such a requirement, and that the appropriate inquiry for materiality purposes is whether a substantial portion of the relevant consumers is likely to be deceived”)(emphasis added).

JC Newman objects that RFP No. 15 is “overly broad” but does not say how or why. This is an improper objection. The objection is also odd considering that JC Newman’s position appears to be that Tabacalera Palma’s use of “AMERICAN STOGIES” deceived consumers. Surely, JC Newman understands its own allegations sufficiently well to be able to find and produce documents that allegedly support its claims.

In response to RFP No. 12, JC Newman objects that documents relating to the acquired distinctiveness or secondary meaning of JC Newman’s “THE AMERICAN” trademark are not relevant. We disagree. JC Newman alleged, in support of its claim of standing, that “[i]f Applicant’s Mark is allowed to register, it will impact [JC Newman’s] ability to protect and enforce its own THE AMERICAN mark for cigars.” (D.E. 1, para 24). However, if JC Newman’s “THE AMERICAN” trademark lacks acquired distinctiveness or secondary meaning, it is merely descriptive without secondary meaning and unenforceable – leaving JC Newman without a basis for standing. As such, the documents are relevant.

In response to RFP 22-26, JC Newman objects claiming that documents sufficient to show the geographic location of JC Newman’s THE AMERICAN cigars are not relevant. We disagree. JC Newman has made this issue directly relevant by alleging that “Opposer’s cigars are made entirely in the United States from exclusively U.S. materials – from the tobacco to the cigar molds to the wood cabinet boxes. Opposer sells these goods under the mark THE AMERICAN.” (D.E. 1, para 23). It is also potentially relevant to the meaning of the word

“American” as used in the relevant industry.

In response to RFPs 28 and 29, JC Newman objects that they “call[] for documents that may be protected under the attorney work-product doctrine.” However, “[a] party withholding responsive documents on the basis of a claim of privilege must (i) expressly make the claim; and (ii) describe the nature of the documents, communications, or tangible things not produced or disclosed – and do so in a manner that, without revealing information itself privileged or protected, will enable other parties to assess the claim.” See TBMP §406.04(c). JC Newman has not complied with this requirement. Either withdraw the objection or produce a compliant privilege log.

2) Responses to Interrogatories.

In response to Interrogatory No. 9, JC Newman claims that it “will produce documents from which Applicant can derive the answer to Interrogatory No. 9 pursuant to FRCP 33(d).” That response is all well and good if such documents are actually produced. To date, no documents have been produced nor has a date been offered for production. Even then, Rule 33(d) does not provide parties with a blank check to produce documents in lieu of a response to an interrogatory. Such production is only available “[i]f the answer to an interrogatory may be determined by examining, auditing, compiling, abstracting, or summarizing a party’s business records (including electronically stored information), and if the burden of deriving or ascertaining the answer will be substantially the same for either party” Unless JC Newman maintains business records regarding “instances of consumer confusion or deception as to the geographic origin of Tabacalera Palma’s cigars bearing the “AMERICAN STOGIES” trademark”, production under Rule 33(d) is not an appropriate method of responding to the interrogatory.

3) Responses to Requests for Admissions

In response to RFA Nos. 3-8, 10, 12, and 14, JC Newman objects “because ‘the Merriam-Webster dictionary’ is neither identified nor described in any manner that would allow Opposer to identify the dictionary.” However, JC Newman admitted in response to RFA No. 2 that “<http://www.merriamwebster.com/dictionary/American> offers several definitions of the word ‘American’.” Because the request asks that JC Newman “Admit that the definition of the word ‘American’ as provided by the Merriam Webster dictionary can be found at <https://www.merriam-webster.com/dictionary/American>,” JC Newman’s subsequent claims to be unable to identify the Merriam-Webster Dictionary are disingenuous. This is especially true in response to RFA No. 6 which provides the same amount of information as RFA No. 2, to which JC Newman had no trouble identifying the Merriam-Webster dictionary.

JC Newman makes similar objections to RFA Nos. 21 and 23 with respect to the American Heritage Dictionary and the McMillan Dictionary respectively, but like before, JC Newman admitted RFA Nos. 20 and 22 which provide the very identification which JC Newman claims is missing.

In response to RFA No. 26, JC Newman objects “because it does not provide a URL for ‘Wikipedia’s entry for ‘Americas’.” However, JC Newman admitted in response to RFA No. 24 that the URL is found at <https://en.wikipedia.org/wiki/Americas>.

Please consider this our good faith effort to resolve this discovery dispute. Please either confirm in writing by Thursday, June 15, 2023, that these deficiencies will be corrected with amended responses and applicable production to be served not later than June 20, 2023; or let us know when you are available for a telephone conference to discuss whether this dispute can be resolved without the need for a motion to compel.

Sincerely,

s/Gus
Gustavo Sardina

From: Mikol, Michelle <MMikol@btlaw.com>
Sent: Friday, May 12, 2023 10:22 PM
To: g.sardina [hnewmedia.com](mailto:g.sardina@hnewmedia.com) <g.sardina@hnewmedia.com>
Cc: fherrera [hnewmedia.com](mailto:fherrera@hnewmedia.com) <fherrera@hnewmedia.com>; s.zywczyk [hnewmedia.com](mailto:s.zywczyk@hnewmedia.com) <s.zywczyk@hnewmedia.com>; e.noyes [hnewmedia.com](mailto:e.noyes@hnewmedia.com) <e.noyes@hnewmedia.com>; Gabrielides, John <JGabrielides@btlaw.com>; Rosas, Cony <Cony.Rosas@btlaw.com>; Harrell, Sarah <Sarah.Harrell@btlaw.com>; Martin, Sherry <Sherry.Martin@btlaw.com>; Docket - TMIN <TMINDocket@btlaw.com>
Subject: RE: J.C. Newman Cigar Company v. Tabacalera Palma, Ltd., Proceeding No. 91281307

Counsel:

Attached for service, please find J.C. Newman Cigar Company's responses to Tabacalera Palma Ltd.'s:

- First Set of Requests for Production,
- First Set of Requests for Admissions, and
- First Set of Interrogatories.

Regards,

Michelle Mikol | Partner
Barnes & Thornburg LLP
555 12th Street, N.W., Suite 1200, Washington, DC 20004-1275
Direct: (202) 371-6356 | Mobile: (215) 378-3772



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From: g.sardina [hnewmedia.com](mailto:g.sardina@hnewmedia.com) <g.sardina@hnewmedia.com>
Sent: Wednesday, April 12, 2023 5:19 PM
To: Harrell, Sarah <Sarah.Harrell@btlaw.com>; Mikol, Michelle <MMikol@btlaw.com>; Docket - TMIN <TMINDocket@btlaw.com>; Martin, Sherry <Sherry.Martin@btlaw.com>
Cc: fherrera [hnewmedia.com](mailto:fherrera@hnewmedia.com) <fherrera@hnewmedia.com>; s.zywczyk [hnewmedia.com](mailto:s.zywczyk@hnewmedia.com) <s.zywczyk@hnewmedia.com>; e.noyes [hnewmedia.com](mailto:e.noyes@hnewmedia.com) <e.noyes@hnewmedia.com>
Subject: [EXTERNAL]J.C. Newman Cigar Company v. Tabacalera Palma, Ltd., Proceeding No. 91281307

Counsel:

Attached for service, please find Tabacalera Palma Ltd.'s:

- Initial Disclosures,
- First Set of Requests for Production,

- First Set of Requests for Admissions, and
- First Set of Interrogatories.

Please confirm receipt of this email and the attachments.

Sincerely,

s/Gus

Gustavo Sardiña, Esq.

H New Media Law

113 South Monroe Street, First Floor

Tallahassee, Florida 32301

Direct Tel.: (561) 285-4763



www.hnewmedia.com

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